

**DERRY TOWNSHIP PLANNING COMMISSION  
MEETING MINUTES  
February 2, 2021**

**CALL TO ORDER**

The Tuesday, February 2, 2021 Derry Township Planning Commission meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was called to order at 6:01 p.m. by Chairman Tom Wilson.

**ROLL CALL**

Commission Members Present (*via video conference*): Tom Wilson, Chairman; Glenn Rowe, Vice Chairman; Matt Tunnell, Secretary; Don Santostefano; Joyce St. John

Commission Members Absent: None

Also Present (*via video conference*): Chuck Emerick, Director of Community Development; Jenelle Stumpf, Planning/Zoning Coordinator; Diane Myers-Krug, Dauphin County Planning Commission staff representative

Public Attendance (*via video conference*): Michele Buck; Charlie Courtney – McNees, Wallace & Nurick; David Buffington, *The Sun*; Filip J. Malysz; Daniel Urie; Steven Seidl

**APPROVAL OF MINUTES**

On a motion made by Secretary Tunnell, seconded by Member Santostefano, and a unanimous vote, the Planning Commission approved the minutes from the January 5, 2021 meeting, with the following revision:

- Page 4, paragraph 4, line 1 – Change ‘Chairman Santostefano’ to ‘Member Santostefano’

**OLD BUSINESS**

**A. Report on the Board of Supervisors’ action regarding the Preliminary/Final Subdivision and Lot Consolidation Plan for Ronald McDonald House Charities of Central Pennsylvania and Parcel ‘D’ of The Crest of Hershey, Plat 1335**

Chuck Emerick reported that the Board of Supervisors approved the plan as recommended by the Planning Commission, with the exception of the applicant requesting a waiver of road widening instead of a deferment. The reason was because The Crest of Hershey would have been responsible for that deferment, and they had only a minor role in the plan.

**NEW BUSINESS**

**A. Review and recommendation of Zoning Amendment Petition No. 2020-01, as filed by Michele G. Buck, to amend the text of the Zoning Ordinance by permitting disturbance of slopes greater than 20% for residential structures, subject to certain standards**

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Mr. Emerick explained that the applicant is requesting a text amendment to §225-401.2.1 of the Zoning Ordinance regarding the preservation of “sensitive environmental resources.” This section regulates uses of land that are:

- a. Land areas having slopes in excess of 20% which are not the result of man-made changes to the natural terrain.
- b. Wetlands.
- c. Areas of quarries, streams, lakes, dams or ponds and all areas within 50 feet of such features.
- d. Cemeteries and all areas within 50 feet of a cemetery.
- e. Landfills and areas within 50 feet of landfills.

In each of the cases noted above, the Zoning Ordinance notes that *“Sensitive environmental areas shall not be physically disturbed or used for any use other than agricultural uses, natural conservation areas and uses for the conservation of open space, water, soil and wildlife resources, except as may be necessary to provide ingress, egress and regress to a property or to enable utility placement.”*

Mr. Emerick noted that over the years there have been various variances granted by the Zoning Hearing Board related to the restrictions of natural steep slopes. Some variances have involved areas for new homes on existing lots, additions to existing homes, and relief to construct stormwater management basins. Additionally, some developments proposed expensive retaining walls to avoid the disturbance of steep slope areas. Other desired improvements/expansions on existing residential lots have been simply abandoned due to the restrictions. This proposed amendment will solve some of the issues where the steep slope “pockets” are more of a nuisance than a true “environmental feature” by requiring regulated areas to contain at least 200 square feet. The amendment also proposes that *“the lesser of 10% or 6,000 square feet of non-man-made slopes in excess of 20% slope existing on each lot as of the date of enactment of this Zoning Ordinance shall be permitted to be disturbed for residential structure(s)”* and although that may sound like a large area, a lot entitled to disturb 6,000 square feet of steep slope area would need to be a minimum of 1.38 acres in size.

To help describe the scale that is being permitted to be disturbed by this amendment, Mr. Emerick explained that a recent Zoning Hearing Board case (Case No. 2020-15) related to this type of relief was approved in January 2021. It was for a proposed new dwelling on Lot 1210 of the Roseland Subdivision, a lot originally created in 1985 which was expanded in 1992 to contain 3.831 acres. The only areas on the lot with less than 20% slopes were subject to easements and floodplain. The Zoning Hearing Board granted relief to allow 17,685.36 square feet (10.6%) of the steep slopes to be disturbed.

Mr. Emerick stated that the proposed amendment includes requirements to ensure that areas of steep slopes that are permitted to be disturbed for residential structures are appropriately stabilized. It

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requires a detailed survey carrying a professional seal and a geotechnical report prepared by a registered professional providing for the “*means and measures necessary to stabilize the disturbed slope.*”

Mr. Emerick shared a map of the Township showing areas of steep slopes.

Diane Myers-Krug, staff representative for the Dauphin County Planning Commission, reported that at their meeting on February 1, 2021, the Commission took action to support the proposed amendment as presented. They had two considerations: Considering the total amount of land that may be impacted by the amendment; and the tradeoffs between handling these kinds of requests through the Zoning Hearing Board versus administratively. Administratively, with this proposal, the Township will also be receiving more detailed topographic and geotechnical information to help understand any potential adverse impacts. With those considerations, the County Planning Commission was comfortable in supporting the proposed amendment.

Charlie Courtney with McNees, Wallace & Nurick, LLC represented the applicant. He commented that the way the Derry Township Zoning Ordinance is written that steep slopes cannot be disturbed or used except for limited purposes, when someone goes to the Zoning Hearing Board to request relief from these regulations, it is not a dimensional variance, it is a use variance, and the hardship for a use variance is difficult to prove. Many other municipalities’ Zoning Ordinances provide some flexibility in terms of allowing a reasonable level of disturbance of steep slopes. Some Zoning Ordinances are more permissive with respect to residential uses, recognizing that, unlike larger commercial uses, residential uses can be developed on slopes. Other Zoning Ordinances simply make no distinction and cap the percentage. Mr. Courtney stated that he and the applicant worked with Mr. Emerick to come up with a reasonable standard that is tied to residential and a cap. Mr. Courtney thinks the proposed amendment its fair and will be beneficial.

Chairman Wilson inquired if the intent of the amendment is for single-family residential structures or all residential structures, including multi-family residential. Mr. Courtney responded that as drafted, the amendment would apply to any residential structure. It would not be limited to single-family detached structures. Mr. Emerick commented that Chairman Wilson brought up a good point. Consistent with the Dauphin County Planning Commission’s comments of offering a variety of residential uses and what the Derry Township Comprehensive Plan looks at for providing growth in the community, Mr. Emerick does not think that a distinction other than residential is necessary.

Member St. John referenced a proposal that came before the Planning Commission a couple of years ago in which the applicant wanted to reduce the offset from the street because the back side was sloped. She asked if the adoption of the proposed amendment would mean that the owner of a property that has greater than a 20% slope would have to build their dwelling against that slope instead of giving up the frontage off the street. Mr. Emerick replied that it would be up to the property owner’s discretion as to where they think the dwelling should be located. They could seek a front setback variance to avoid the steep slopes. It is not the intention of the proposed amendment to promote the disturbance of steep slopes.

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Member Santostefano asked if there is a specific project that brought this proposal forward or if it is just for future planning. Mr. Courtney responded that the applicant is looking to add some outdoor living area in the back of her property and would not be able to do so without the amendment. Mr. Emerick added that Ms. Buck has a fairly large lot containing 2.4 acres and much of that acreage is unusable because of the steep slope restriction. However, even with this proposed amendment, there will still be limits to what she can do on the property.

Public comment

Steve Seidl, 450 West Granada Avenue, stated that he is a member of the Derry Township Zoning Hearing Board; however, he is not representing the Zoning Hearing Board but rather himself as a Township citizen. The Zoning Hearing Board recently heard a case for relief from steep slopes. He is a little surprised to see the proposed amendment on the Planning Commission agenda because it will have pretty wide impacts in environmentally sensitive areas of the community. To amend the Zoning Ordinance as requested without a more rigorous review could lead to trouble in some areas of the Township. Mr. Seidl encouraged the Planning Commission to look at the request more closely in terms of what the impacts will be. He asked how the amendment will factor in to the Township's approval of new subdivision plans and if there will be consistency. Are we making sure we are not encouraging development on steep slopes? The Zoning Hearing Board has the ability to apply conditions to an approval on a case-by-case basis, and Mr. Seidl does not think opening this up would give that same ability, nor would neighboring property owners be able to have a say.

MOTION

On a motion made by Member Santostefano, seconded by Secretary Tunnell, and a unanimous vote, the Planning Commission made a recommendation to the Board of Supervisors that the requested text amendment to the Zoning Ordinance be adopted as written.

**B. Review and recommendation of the Preliminary/Final Land Development Plan for Milton Hershey School Essential Employee Dwellings – Main Campus, Plat 1337**

This plan was withdrawn by the applicant prior to the meeting.

**OTHER BUSINESS**

None.

**ADJOURNMENT**

On a motion made by Member St. John, seconded by Vice Chairman Rowe, and a unanimous vote, the meeting adjourned at 6:27 p.m.

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Respectfully submitted,

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Matthew Tunnell  
Planning Commission Secretary

Submitted by:

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Jenelle Stumpf  
Planning/Zoning Coordinator (*acting as stenographer*)