

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
April 21, 2021

CALL TO ORDER

The Wednesday, April 21, 2021 Derry Township Zoning Hearing Board meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was called to order at 6:00 p.m. by Chairman Steve Seidl.

ROLL CALL

Board members in attendance (*via video conference*): Chairman Steve Seidl; Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Lindsay Drew; Member Michael Angello

Board members absent: None

Also present (*via video conference*): Megan Huff, Solicitor to the Board; Chuck Emerick, Director of Community Development; David Habig, Assistant Director of Community Development; Maria O'Donnell, Court Reporter; Tracy Telesha, Stenographer

Public attendance (*via video conference*): Charlie Suhr, Stevens & Lee; Holly Evans, Evans Engineering; Pablo Medeiros, Hershey Square 2014, LP; Dave Buffington, *The Sun*; Sam Saxton

APPROVAL OF MINUTES

On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and a unanimous vote, the March 17, 2021 minutes were approved as written.

OLD BUSINESS

A. Adoption of Decision in the Case of The McNaughton Company (2020-18)
Property location: Lucy Avenue, Hummelstown

Chairman Seidl read the terms of the Decision into the record as follows:

- “1. *The applicant’s request for a variance from §225-307, Table 13, Item A, regarding minimum lot width, is GRANTED. The minimum lot width for the subject property may be a minimum width of 50 feet.*
2. *The applicant’s request for a variance from §225-307, Table 13, Item E, regarding side yard setback, is GRANTED. The applicant may encroach to within 11 feet of each side yard property line for the single family detached dwelling.*
3. *The applicants shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as*

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finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.

4. *Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.*
5. *Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.”*

On a motion made by Member Drew, seconded by Member Angello, and a vote of 5-0, the Decision was adopted as written.

B. Adoption of Decision in the Case of Kevin and Heather Hollenbush (2021-01)
Property location: 2054 Church Road, Hummelstown

Chairman Seidl read the terms of the Decision into the record as follows:

- “1. *The applicants’ request for a variance from §225-401.2.1.B, regarding construction on areas with slopes in excess of 20% is GRANTED. The applicants may construct the single-family residence while disturbing no more than 2,296 square feet of the property with slopes in excess of 20% except as otherwise permitted by the Ordinance.*
2. *In addition, the relief granted herein is strictly contingent upon the following:*
 - A. *The property’s other 66,989 square feet with slopes in excess of 20% remaining undisturbed or wooded except as otherwise permitted by the Ordinance.*
 - B. *The applicants obtaining approval of their storm water management plan.*
 - C. *The applicants identifying all trees having a caliber of 18 inches or more that will be removed as a result of the construction of the single-family residence and replacing each such tree with shade trees having a minimum trunk diameter of 2 inches as measured 6” above the root collar or evergreen trees being at least eight feet tall.*
 - D. *The applicants obtaining approval of an erosion and sedimentation control plan prepared and proposed by a registered Professional Engineer in Pennsylvania, which plan provides for the means and measures necessary to*

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stabilize the disturbed slope during construction and thereafter in perpetuity.

3. *The applicants' request for a variance from §225-303, Table 5, Item E, regarding the side yard setback for a principal use is GRANTED. The applicants may encroach to within 15 feet of the northeast side yard property line and 38 feet of the southwest side yard property line for the single-family detached dwelling.*
4. *The applicants shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.*
5. *Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.*
6. *Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.*

On a motion made by Secretary Morgan, seconded by Member Angello, and a vote of 3-1, the Decision was adopted as written. Chairman Seidl voted in the affirmative and Vice Chairwoman Ballard voted in opposition of the adoption of the Decision as written. Member Drew abstained from voting to ensure there is no appearance of conflict of interest because of information she disclosed during the hearing.

On a motion made by Member Angello, seconded by Secretary Morgan, and a unanimous vote, Chairman Seidl was authorized to execute the Decisions on behalf of the Board.

NEW BUSINESS

A. Hearing in the Case of Hershey Square 2014, LLP (2021-02)
Property location: 1154 Mae Street, Hummelstown

This property is located in the General Commercial zoning district. The upper portion of the property is currently improved with a shopping center and several detached commercial buildings. The applicant desires to develop the vacant lower portion of the property with a 7,150-square-foot multi-tenant commercial building with associated parking and access drive. Relief was sought from maximum impervious coverage in the General Commercial zoning district.

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Charles Suhr, Stevens & Lee; Holly Evans, Evans Engineering; and Pablo Medeiros, Hershey Square 2014, LP, were sworn in and gave testimony. Mr. Suhr clarified that the proposed building would house two or three commercial tenants with one being a fast casual drive-thru restaurant and the other potentially being a doctor's office. Forty-one parking spaces are proposed for the lot with two additional ADA compliant spaces. The parking needs to be on site due to the location of the property which sits lower than the larger portion that contains the existing shopping center and parking. The access drive to the property will cross an existing creek and will feature a tunnel water channel under the roadway. There is not direct roadway access to Hersheypark Drive due to the traffic ramp off Route 322. The proposal would create 61.8% impervious coverage.

Member Angello questioned what size building could be created if zoning requirements were adhered to. Mr. Suhr replied that the building would be half the size as is being proposed.

Member Angello asked what traffic flow considerations had been made. Ms. Evans stated that stop signs will be used and expectations are that the majority of the traffic will come off Mae Street.

Vice Chairwoman Ballard inquired whether any other development options were considered. Ms. Evans stated that use needs to be taken into consideration and explained that if some other use such as an office building were put on the lot, the same general development of the site would need to occur.

Vice Chairwoman Ballard asked what buffers will be maintained along the creek. Ms. Evans replied that there will be 50-foot buffers on either side of the creek.

Chairman Seidl stated that the area is prone to flooding and questioned what considerations have been made to prepare for that possibility. Ms. Evans stated that the nearby existing Weis Markets sign was not inundated during the 2011 flood. In addition, the 2017 floodplain maps were reviewed and Ms. Evans believes major flooding would not be an issue.

Vice Chairwoman Ballard questioned whether one or two tenants rather than the proposed two or three tenants would be possible. Ms. Evans stated that it would be difficult to find a single tenant who would need such a large space (7,000+ square feet).

Chuck Emerick added that the creek has been named Bullfrog Valley Creek.

No other person offered testimony.

Chairman Seidl informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, they have 30 days to appeal the decision.

Hearings closed at 7:25 p.m.

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DELIBERATIONS

The Board met to deliberate in the case of Hershey Square 2014, LLC (2021-02) and directed the Solicitor to prepare the draft decision on the case for formal action at the May 2021 meeting.

Submitted by:

Dean Morgan, Secretary