

**TOWNSHIP OF DERRY**  
**BOARD OF SUPERVISORS MEETING MINUTES**  
**SEPTEMBER 14, 2021**

**CALL TO ORDER**

Chairman Abruzzo called the September 14, 2021, Regular Meeting of the Township of Derry Board of Supervisors to order at 7:10 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. He advised that all public meetings are recorded for providing accurate notes. After the Pledge of Allegiance, a roll call was performed. He announced the Board met in Executive Session at 6:30 p.m. to discuss a legal issue.

**IN ATTENDANCE:**

**SUPERVISORS**

E. Christopher Abruzzo, Chairman  
Natalie L. Nutt, Vice Chairwoman  
Carter E. Wyckoff, Secretary  
Richard D. Zmuda  
Susan M. Cort

**ALSO PRESENT:**

Christopher Christman, Township Manager  
William Oetinger, Township Solicitor  
Chuck Emerick, Director of Community Development  
Thomas Clark, Director of Public Works  
Garth Warner, Chief of Police  
David Sassaman, Hershey Volunteer Fire Department  
Zach Jackson, Director of Parks and Recreation  
Jeffrey Cothren, Assistant Director of Hershey Public Library  
Matt Bonanno, HRG Engineer  
Julie Echterling, Recorder

**Public in Attendance:**

The following were in attendance: Olivia Lewis, Charleton Zimmerman, Alison Trautmann, Michael Corado, Rich Gamble, Mike Graly

**VISITOR/PUBLIC COMMENTS:**

Mr. Charleton Zimmerman, 119 Roosevelt Ave., spoke about the most recent rainstorm, Tropical Storm Ida, which produced flooding. He spoke about the flooding from Tropical Storm Lee in 2011 and the impact of this most recent storm. He came to the Police Department and had to call Dauphin County to report his concerns with the water rising and flooding. He was told an officer would call him back. He emailed the manager. He spoke about his concern with the trailer park with how and where the main electrical line is coming in and how it could electrify the water. He was concerned that he was reaching out and could not get a response to his call and concerns. Chairman Abruzzo stated they would look into his concerns and get back to him and reach out to PPL if necessary.

**CONSENT CALENDAR:**

Supervisor Cort made a motion to authorize action on the following Consent Calendar:

1. Adoption of Board of Supervisors Meeting Minutes for the August 24, 2021 Public Hearing.
2. Adoption of Board of Supervisors Meeting Minutes for the August 24, 2021 Regular Meeting.
3. Authorize the release of \$31,991.72, which is the remaining balance of the performance security provided as Fidelity and Deposit Company of Maryland Bond No. 9257079 for the Preliminary/Final Land Development Plan for U-GRO Learning Centre Addition, Plat 1271.
4. Authorize the release of \$10,087.00 from the cash financial security provided for the Post Construction Stormwater Management & Erosion and Sediment Pollution Control Site Plan for Carl L. Romig, 85 South Hills Drive, S-2019-010, resulting in a new balance of \$4,271.00.
5. Authorize the full release of financial security in the amount of \$6,798.00, which had been provided as cash for the Post Construction Stormwater Management Plan for Ford/Carpenter Property (1605 Landvater Road), S-2021-004.
6. Approval of Accounts Payable \$1,730,082.24 and Payroll of \$295,824.50.

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Vice Chairwoman Nutt seconded the motion. **Motion passed 5-0.**

**NEW BUSINESS:**

**DIRECTOR OF LIBRARY SERVICES:**

Mr. Christman stated in June, Mrs. O'Grady resigned from the position of Director of Library Services. The search committee would like to nominate Ms. Alison Trautmann to be appointed to the position of Director of Library Services. She comes from the Berks County Library System, where she currently serves as an Outreach Services Coordinator managing programming for 23 libraries in the Berks County system.

Supervisor Zmuda made a motion to appoint Ms. Alison A. Trautmann to the position of Director of Library Services effective Monday September 27, 2021. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

**CONDITIONAL USE APP 2021-03--1533 E. CHOCOLATE AVE-K&N PROPERTY'S LLC:**

Mr. Emerick stated there was a public hearing on August 24, 2021, where the applicant, K&N Property's LLC, proposed to operate a short-term rental on the property located at 1533 East Chocolate Avenue, Hershey. The property is in the Palmdale Mixed Use and East Chocolate Avenue Overlay zoning districts. The Derry Township Planning Commission, at their August meeting, recommended that the Conditional Use authorization be granted, with conditions.

Vice Chairwoman Nutt made a motion to adopt the Decision for Conditional Use Application No. 2021-03, subject to the conditions. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**PLAN WAIVER FOR NEW HOME-1410 SANDHILL ROAD:**

Mr. Emerick stated the Streepers own a 27,253-square-foot parcel of land fronting on Sand Hill Road, located in the R-1 zoning district and the Sand Hill Road Overlay. The property is presently improved with a single-family dwelling and a detached garage. The Streepers desire to construct a new dwelling attached to the existing garage on the property while living in the existing dwelling. They then propose to demolish the existing dwelling. Their application indicates that only one dwelling will be occupied at any one time. By this application, they are requesting waivers of Sections 185-12 and 185-13 of the Subdivision and Land Development Ordinance. This type of waiver has typically been approved when the applicant enters into an agreement with the Township, citing a time of completion of the improvements and demolition of the dwelling, accompanied by performance security for the cost of demolition of the existing structure. They propose to construct a new dwelling on the lot, incorporating an existing garage. The existing detached garage is a nonconforming structure, as it is closer to the side property line than the 10-foot side yard setback required for accessory structures. Principal structures, in this zoning district, are required to be 20 feet from the side property line. The applicant has filed for a variance with the Derry Township Zoning Hearing Board.

In reviewing the plan accompanying the waiver request, he noted the following items need to be addressed and included in the land development plan waiver agreement: *The plan must clearly show what areas are to be removed from the property and what area will be constructed; and it appears that the proposed dwelling encroaches on the minimum rear yard setback. Verify and revise if necessary.*

Solicitor Oetinger noted three additional conditions to add to the approval which the Board agreed to add them to the motion.

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Chairman Abruzzo made a motion to grant the waivers from Sections 185-12 and 185-13 of the Derry Township Subdivision and Land Development Ordinance to not require a land development plan to be filed for the proposed construction of a new home at 1410 Sand Hill Road while temporarily retaining the existing dwelling, subject to the following conditions:

1. The Streeperers provide performance security in the amount necessary for the Township to demolish the existing dwelling and other improvements intended to be demolished if the Streeperers fail to do so in accordance with the conditions as determined by the Board of Supervisors.
2. The Streeperers enter into an agreement with the Township in a manner and form acceptable to the Township which states, at a minimum, a timeframe for the completion of the demolition of the existing dwelling (suggested to be within 30 days of the issuance of the Temporary Certificate of Occupancy for the new dwelling) and authorization for the Township to demolish the existing dwelling if the Streeperers fail to complete the work within the agreed upon timeframe.
3. The proposed single-family dwelling is constructed substantially in compliance with the Plan of Property for Kevin E. and Beth A. Streeper, prepared by The Lexis Group, dated July 5, 2021, except as may need to be amended if the Streeperers fail to receive the necessary relief from the Zoning Hearing Board for the side yard setback of the existing garage.
4. The Streeperers obtain approval for and record any required stormwater management plan.
5. Compliance with zoning ordinances secured from the Zoning Hearing Board.
6. Compliance with Stormwater Management Ordinance Requirements.
7. Entering into Professional Services Contract. Supervisor Zmuda seconded the motion.

**Motion carried 5-0.**

**EXTENSION-HERSHEY WEST END-STREETS & INFRASTRUCTURE PHASE-PLAT 1330:**

Mr. Emerick stated Plat 1330 represents the first final plan after the January 22, 2019 approval of Conditional Use Application No. 2018-01 for the Hershey West End Master Plan, as filed by Hershey Trust Company. The Board of Supervisors approved Plat 1330 on March 23, 2021, conditional upon several items being addressed by the applicant no later than September 23, 2021. To date, two of the conditions have been addressed. The applicant, by way of their legal counsel, has requested an extension of time until October 29, 2021 to address the remaining conditions of approval. The extension request proposes no changes to the details of the previously approved plan or to the waivers that were granted.

Vice Chairwoman Nutt made a motion that the approved the Final Lot Consolidation and Land Development Plan for Hershey West End – Streets and Infrastructure Phase, Plat 1330, is extended to October 29, 2021, subject to compliance with following items:

1. The Applicant shall reimburse the Township for costs incurred in reviewing the Plan no later than October 14, 2021. The Applicant shall continue to satisfy and pay all outstanding Township Professional Consultant invoices in relation to the Plan in accordance with §503 of the MPC.
2. The Applicant shall provide financial security to guarantee the completion of the proposed improvements depicted on the Plan, in the amount of \$13,087,737.00 and in a manner acceptable to the Township, no later than October 29, 2021, and the Applicant shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than October 29, 2021.
3. The Applicant shall provide deeds of dedication and accompanying exhibits for additional right-of-way along Bullfrog Valley Road, Wood Road, and Waltonville Road in a manner and form acceptable to the Township no later than October 29, 2021 for review/approval by the Township.

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4. The Applicant shall agree to and execute a recordable document in a manner and form acceptable to the Township establishing maintenance and related requirements of the Applicant to ensure that the Applicant will maintain in perpetuity the “green island” within the roundabout no later than October 29, 2021.
5. The Applicant shall comply with and/or otherwise satisfy all the comments and requirements set forth in the Township Engineer’s review letter dated February 25, 2021 no later than October 29, 2021.
6. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than October 29, 2021.
7. The Applicant shall agree to and execute a Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township and provide 2 signed and notarized originals of the same no later than October 29, 2021.
8. The Applicant shall agree to, execute, and have notarized and thereafter have recorded a Declaration of Covenants for Deferment of Roadway Widening in a manner and form acceptable to the Township no later than October 29, 2021.
9. The Applicant shall agree to and execute a Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than October 29, 2021.
10. The Applicant shall acknowledge and agree in writing in a manner and form acceptable to the Township no later than October 29, 2021 that the Township’s instant conditional approval of Plat 1330 in no way, in and of itself, modifies any conditions, waives any rights, or extends any timelines that are related to and/or incorporated into the Master Plan Conditional Use approval granted by the Township on January 22, 2019. The Applicant shall not be entitled to any additional protection of its right to proceed with the future phases of the Master Plan Conditional Use approval solely because of the Township’s instant conditional approval of Plat 1330. If the Applicant proceeds with the construction of the roads and infrastructure depicted on the conditionally approved Plan for Plat 1330, the Applicant shall still be required and obligated to satisfy and comply with the conditions and restrictions set forth in the Master Plan Conditional Use Decision and may not rely on the instant approval as a basis to proceed with future improvements and/or phases if not done in accordance with the Master Plan Conditional Use Decision. The Township’s instant conditional approval shall not relieve the Applicant from filing and having the Township approve any permit, land development, subdivision, site plan, or other approvals which may be required by other Township, state, or federal regulations, or from otherwise complying with all other applicable conditions of the Master Plan Conditional Use Decision. The Applicant shall comply with all the conditions and requirements set forth within the Master Plan Conditional Use Decision.
11. The Applicant shall submit the requisite application/submission to the Township for adjustments to the conditions noted in the January 22, 2019 Master Plan Conditional Use Decision prior to the submission of another phase of the Hershey West End land development. The anticipated adjustments are necessary due to existing timelines within the Decision, potential adjustments to the proposed phasing schedule, and any additional relevant issues.
12. The dedication of the roads depicted on the Plan shall take place in a manner and form and within a timeframe acceptable to the Township.
13. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
14. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.

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15. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
16. The Applicant shall record the Agreement for Deferment of Roadway Widening concurrently with the Plan.
17. The Applicant shall record the Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
18. The Applicant shall record the deeds of dedication for additional right-of-way along Bullfrog Valley Road, Wood Road, and Waltonville Road concurrently with the Plan.

Supervisor Cort seconded the motion. **Motion carried 5-0.**

**FINANCIAL SECURITY-SPONAUGLE PROPERTIES-1016 EAST GOVERNOR ROAD:**

Vice Chairwoman Nutt made a motion to accept a cash financial security in the amount of \$14,699 and enter into the Agreement to Provide Financial Security with Glen R. Sponaugle for the Stormwater Management Plan for Sponaugle Properties (1016 East Governor Road), S2021-015. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**WIRELESS FACILITIES UPDATES-LEGAL SERVICES AGREEMENT:**

Mr. Emerick stated there have been recent changes in the laws governing how municipal regulations apply to wireless facilities. The PA General Assembly approved the “Small Wireless Facilities Deployment Act” (PA Act 50) and the Governor signed it into law on June 30, 2021. Act 50 adds a new set of regulations to municipal management of small cell wireless facilities in the public rights-of-way, including timing for permit approvals, permissible fees for review and permitting, dimensions of “small wireless facilities”, and the ability to enact local design standards for these facilities. Additionally, in June, the U.S. Supreme Court let stand the Federal Communications Commission’s Third Report and Order of 2018. Importantly, the Act states that if a municipality has not adopted a wireless ordinance that complies with the Act by October 28, 2021, then the Act alone will govern the review, approval/denial, and management of wireless facilities in the right-of-way without any municipal involvement. The Capital Region Council of Governments (CAPCOG) has contacted the Cohen Law Group, asking that they provide a proposal to update municipal ordinances as they relate to the new laws governing regulations for wireless facilities. The Cohen Law Group has specialized exclusively in representing municipalities in cable, wireless, and broadband matters for over 23 years. Cohen Law Group has provided the attached scope of services and estimated fee schedule. Working with the CAPCOG, there is a potential to realize a savings of \$900 to \$1,200.

The Board discussed their concerns with locations and aesthetics with the small cell wireless placements in the Township. They discussed using the Cohen Group versus the Solicitor’s firm to work out the specific changes and details needed to address these recent changes in the law/act. Discussion ensued.

Chairman Abruzzo made a motion to direct Grim, Biehn & Thatcher perform the legal services relative to the revisions/additions to the Township regulations related to wireless facilities. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

**ADVERTISE CHANGE-ESTABLISH 3-WAY STOP AT JOANN AVE & LOCUST ST.:**

Chief Warner stated they received a request to make the intersection of JoAnn Ave. and Locust St. a multi-way stop. This request was made due to a specific complaint stating that residents believe that the intersection has become dangerous and that stop signs would improve this intersection. There was also a complaint stating that vehicles are not turning when they are required and are either going down private

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driveways or having to turn around at the dead-end street. During the traffic study of the intersection, there were two issues that were observed:

1. Motorists traveling west on JoAnn Ave. have an obstructed view when looking to the right (north). The sight distance was measured at 106 ft. This is less than the required 147 ft. This issue can be addressed with the property owner by having the shrubbery cleared and/or trimmed.
2. Without stops signs, there are left turn conflicts for motorists traveling South on Locust St. and traveling West on JoAnn Ave. There are also potential issues for traffic traveling North on Locust St. with cross traffic. This issue is addressed by Section 2B.07 Multi-Way Stop Applications of the Federal MUTCD. This section lists “the need to control left-turn conflicts” as an option to consider when looking into establishing a multi-way stop. The establishment of a multi-way stop at this intersection would address left turn conflicts and would ensure the safe navigation of the intersection. The addition of stop signs may help ensure that motorists do not turn down private driveways and/or dead-end streets.

Supervisor Cort made a motion to approve the authorization to advertise an ordinance amending the Code of the Township of Derry (Ordinance No. 553) Chapter 210 § 210-24. Stop intersections established by establishing a multi-way (3-way) stop sign controlled intersection at the intersection of JoAnn Ave. and Locust St. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**HERSHEY HALLOWEEN PARADE ON WEDNESDAY, OCTOBER 13, 2021 AT 7:00 P.M**

Supervisor Zmuda made a motion to approve the authorization to conduct the 73rd Annual Hershey Halloween Parade on Wednesday, October 13, 2021 at 7:00 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.** The Board discussed the lack of a candy donation for the event. They will reach out to determine if candy can be obtained.

**PIAA CROSS COUNTRY INVITATIONAL- SEPTEMBER 25, 2021:**

Vice Chairwoman Nutt made a motion to approve the request to close North Hockersville Road (SR2011) from Old West Chocolate Avenue to Hersheypark Drive from 7:00 a.m. to 4:00 p.m. on Saturday, September 25, 2021 for the Annual PIAA Cross Country Invitational being held on the grounds of the Hershey Entertainment Complex. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

**ANTIQUA AUTOMOBILE CLUB OF AMERICA - FALL MEET - OCTOBER 9, 2021:**

Chairman Abruzzo made a motion to approve the request to close North Hockersville Road from Old West Chocolate Avenue to Hersheypark Drive from 11:00 p.m. on Friday, October 8, 2021 to 5:00 p.m. on Saturday, October 9, 2021 for the Annual Antiqua Automobile Club of America Fall Meet being held on the grounds of the Hershey Entertainment Complex. Supervisor Cort seconded the motion. **Motion carried 5-0.**

**CORRESPONDENCE BOARD/COMMITTEE INFORMATION:**

Supervisor Zmuda attended the transportation meeting at the end of August, met with the State Police about their expansion plans, and spoke about the upcoming Choctoberfest.

Supervisor Cort spoke about the upcoming All Things Diversity on October 13. Vice Chairwoman Nutt spoke about discussions in regard to the Greater Hershey Regional Transportation Study at the transportation meeting. The committee has finished the order of importance and are almost ready to bring it to the Board. Supervisor Wyckoff welcomed Mrs. Trautmann, spoke about the moving Tunnel to Towers Event, and asked Chief Warner to talk about the issues with the flooding with the officers.

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Chairman Abruzzo spoke about the moving Tunnel to Towers Event and thanked the Fire and Police Departments for a job well done.

**REPORTS:**

<u>Police:</u>	Chief Warner stated they sent officers down to the trailers during Tropical Storm Ida and the residents refused to evacuate, so they kept checking on them throughout the event. He noted during the night of the storm they had trees down, flooding, wires down plus watching flooded areas. He spoke about Police, Fire and Public Works all working together to get roads reopened and serve the community that night. Chairman Abruzzo thanked them all for their efforts that night. He asked Mr. Christman to reach out to PPL and officially register our safety concerns about what was discussed tonight. Supervisor Cort thanked them for their communication during the storm.
<u>Fire:</u>	Mr. Sassaman stated there were 15 members at the Fire House during the storm. He spoke about the Tunnel to Towers Event.
<u>Recreation:</u>	Mr. Jackson spoke about the work being done by the contractors including lighting, dry wall, and exterior glass for doors. New pictures were posted on the web today to show the progress.
<u>Engineer:</u>	Mr. Bonanno spoke about all the stormwater and DTMA project improvements in the Township since Tropical Storm Lee in 2011. He congratulated the Board for the projects they approved. They all paid off with this past storm.
<u>Manager:</u>	<p>Mr. Christman spoke about the delayed pick-ups with trash collections from Waste Management. He read an email he received from Waste Management and their driver shortage they have been experiencing. They outlined the steps they are taking to obtain and keep good drivers for their routes including \$7,500 sign on bonuses, referral bonuses and offering education benefits to families. Waste Management will be at the September 28 meeting to address the Board.</p> <p>He noted an RFP would go out at the end of the year for this service. The Board discussed the communication of skipped routes and how important it is for residents to be made aware and asked about an adjustment to their invoices.</p>

**VISITOR/PUBLIC COMMENTS:**

There were no comments offered.

**ADJOURNMENT:**

Supervisor Cort made a motion to adjourn the meeting at 8:39 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

**SUBMITTED BY:**

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Carter E. Wyckoff  
Township Secretary