

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

**CALL TO ORDER**

The Wednesday, September 15, 2021, Derry Township Zoning Hearing Board meeting was called to order at 6:00 p.m. by Chairman Steve Seidl in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA.

**ROLL CALL**

Board members in attendance: Chairman Steve Seidl; Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Lindsay Drew

Board member absent: Member Mike Angello

Also present: Megan Huff, Solicitor to the Board; David Habig, Assistant Director of Community Development; Maria O'Donnell, Court Reporter; Jenelle Stumpf, Planning/Zoning Coordinator; Valerie Wood, Community Development Secretary

Public registering attendance: Rick Russell, Loto Station, LLC; Scott Campbell, Todd Lechleitner – Brownstone Brokers, LLC; Joy Trout, 2154 Deer Run Drive; Brian Kagarise, Livic Civil; Maryann and Sidney Keller, Briarcrest Drive; Jason McNicholl, Briarcrest Drive; Chuck Kray, Hershey Care; Karla Farrell, The Lexis Group, LLC; S. J. Kim, Kima; Justin Morell, 1012 Greenlea Road

**APPROVAL OF MINUTES**

On a motion made by Chairman Seidl, seconded by Vice Chairwoman Ballard, and a unanimous vote, the August 18, 2021 minutes were approved with the following revision:

- Page 1 - Add Charleton Zimmerman and Sandra Arndt to the list of attendees under 'Public Registering Attendance.' Although these individuals did not sign in, they provided testimony so they should be listed as being in attendance at the meeting.

**OLD BUSINESS**

- A. Adoption of Decision in the Case of G and Z Investments, LLC (2021-05)  
Property location: Rear East McKinley Avenue and Rear East Derry Road  
(Dauphin County Tax Map Parcel Numbers 24-006-060 and 24-060-282)**

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

1. *The applicant's request for a special exception from §225-502.12 regarding reestablishing a discontinued nonconforming use is **DENIED**.*
2. *The applicant's request for a variance from §225-314, Table 26 regarding*

**DERRY TOWNSHIP**  
**ZONING HEARING BOARD MEETING MINUTES**  
**September 15, 2021**

*permitted uses in the Palmdale Mixed Use zoning district is **DENIED**.<sup>1</sup>*

On a motion made by Chairman Seidl, seconded by Member Drew, and a unanimous vote, the Decision was adopted as written.

**NEW BUSINESS**

**A. Hearing in the Case of The Lexis Group, LLC (2021-06)**  
**Property location: 1410 Sand Hill Road, Hummelstown**

The property is located in the R-1 zoning district and the Sand Hill Road Overlay (O12). It is improved with a single-family detached dwelling and a detached garage. The applicant desires to raze the existing single-family dwelling and construct a new single-family detached dwelling that is attached to the existing detached garage. Relief was sought from side yard setbacks for a principal structure.

Karla Farrell of The Lexis Group, LLC was sworn in. Ms. Farrell testified that the Streepers are building a new home to replace the existing dwelling, which will then be demolished. The proposed dwelling will be attached to the existing garage, which is currently in the side setback. Ms. Farrell explained that when the existing accessory building becomes attached to the proposed principal structure, it becomes part of the principal structure which results in a principal structure that does not meet the minimum side yard setback. She noted that by demolishing the existing dwelling, the Streepers will be removing an existing nonconformity because the dwelling is in the front yard setback.

Ms. Farrell stated that the physical circumstance that is peculiar to this particular property is that the existing garage is an accessory structure that will become part of the proposed principal structure. The hardship is generated by the definition of existing garage as a principal structure. The variance is necessary for the reasonable use of the property. The new dwelling will meet the provisions of the Zoning Ordinance and the authorization of the variance will allow a connection between the existing garage and the new dwelling. The hardship is in the location of the existing accessory structure because it was built prior to the creation of side yard setbacks for accessory structures. The proposal will not alter the character of the neighborhood or zoning district because the garage is an existing structure. This is the minimum variance that will afford relief. The project does not expand the nonconformance, it only allows the existing garage to remain.

Chairman Seidl inquired why the existing garage is not being demolished in addition to the existing dwelling, or why the Streepers would not consider other options such as constructing a new garage that is attached to the proposed dwelling in a conforming location, or keeping the existing garage as a detached structure and building the new dwelling a few feet away

---

<sup>1</sup> The application erroneously references §225-315, Table 28, which sets forth uses in the Hershey Mixed Use zoning district.

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

from it. Ms. Farrell responded that the proposal will not make the side yard encroachment any worse and it seems unnecessary to build the new dwelling several feet away from the existing garage and require the Streepers to go outside in the weather to access the garage. Additionally, because the garage is already an existing nonconforming building that is in good condition, it does not make sense to demolish it only because it does not meet an updated side yard setback.

Solicitor Huff asked how far the existing garage is from the property line. Ms. Farrell stated that at its closest point, the garage is 8.5789 feet from the property line.

Chairman Seidl inquired about the use of the adjacent property to the south. Ms. Farrell replied that the property is currently vacant.

No one else 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.

**B. Hearing in the Case of Joy S. Trout (2021-07)**  
**Property location: 2154 Deer Run Drive, Hummelstown**

The property is in the R-3 zoning district. It is improved with a single-family attached dwelling (townhouse). The applicant desires to build an eight-foot-high privacy fence to the rear of their property. Relief was sought from maximum height of a fence panel.

Joy Trout was sworn in. She testified that the reason for the variance request is because her neighbor's patio is elevated more than two feet above grade. Ms. Trout has also had a patio installed, and she would like to place an eight-foot-high fence from the rear of her house to the corner of the neighbor's patio to provide adequate privacy from her neighbor's patio and for safety reasons so that someone on her neighbor's elevated patio cannot fall onto Ms. Trout's patio. If a compliant fence was installed on the neighbor's elevated patio, it would be even higher than the eight-foot fence Ms. Trout is proposing on her property. Ms. Trout has looked at other options and this seems to be the best option. She has received permission from her homeowners' association for the placement, color, and height of the fence.

Chairman Seidl asked if Ms. Trout's unit is a middle unit or an end unit. Ms. Trout stated that she has an end unit. Chairman Seidl inquired about the length of the proposed fence. Ms. Trout responded that it will be 12 feet in length. She added that her neighbor is in agreement with the proposal.

In answer to inquiries from Member Drew, Ms. Trout testified that she did not create the hardship. The neighbor's elevated patio existed when she bought the property. She is not changing the grade of her property. The fence will not interfere with stormwater drainage because Ms. Trout's downspouts were relocated with the installation of her patio.

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

No one else 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.

**C. Hearing in the Case of Brownstone Brokers, LLC (2021-08)  
Property location: 501 West Governor Road, Hershey**

The property is in the Hershey Mixed Use zoning district. It is improved with a building that is partially used as a real estate office. The applicant desires to lease a portion of their building to a closed-door pharmacy and a martial arts studio. Relief was sought in the form of a special exception for the substitution of a nonconforming use.

Member Drew recused herself from participating in the hearing because one of the proposed tenants is a personal family friend.

Solicitor Huff disclosed that her firm, Nestico Druby, has represented Brownstone Real Estate Company but not for anything related to zoning issues, so she does not believe her participation in this hearing is a conflict of interest.

Scott Campbell and Todd Lechleitner of Brownstone Brokers, LLC, and Brownstone Real Estate Company (hereafter collectively "Brownstone"); Suk Kim of Kim's Institute of Martial Arts; and Chuck Kray of Hershey Care were sworn in. Mr. Campbell testified that he and Mr. Lechleitner purchased the subject 15,000-square-foot building from the Antique Automobile Club of America (AACA) in 2020. The original building was constructed in 1936 and was used as Milton Hershey School student home Rolling Green from 1936 until the early 1970s. The AACA purchased the building in 1971 and used it for their national headquarters. In 1985 the AACA built an addition onto the building that was approved by the Township for use as the AACA's library. Brownstone has renovated the old part of the building for their real estate offices, which is a grandfathered use.

Mr. Campbell stated that Brownstone has plenty of space for their offices. They have 7,420 square feet of vacant space in the building that they would like to rent to Hershey Care on the upper and mid-levels of the space. Hershey Care is a closed-door pharmacy; they do not see customers. They mostly service nursing homes. Hershey Care is presently located nearby in the Blue Barn building at 475 West Governor Road, but they need more space for a growing business. Brownstone would also like to rent approximately 3,200 square feet of space in the lower level of the building to Kim's Institute of Martial Arts, which is currently located on Route 743 in Conewago Township.

Mr. Campbell testified that the existing nonconformity was the library, which was used by the AACA and visitors. The new tenants would have the use of people who work in the building, just like the library. The closed-door pharmacy would not see customers. The martial arts

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

studio would see students. At any one time there is a maximum of 4 instructors and 15 students. Mr. Campbell does not see how the proposed uses are much different than the previous use in terms of effects on the neighborhood.

In response to questions from Secretary Morgan and Chairman Seidl, Mr. Campbell stated that the proposed uses will not create any new nonconformities on the property. Brownstone will have to make interior renovations to create the tenant spaces but there will not be any exterior construction, with the exception of alterations to a couple of the entrances to make them ADA compliant. Additional relief from the Zoning Ordinance would not be required for the entrance alterations.

Chairman Seidl asked if additional parking is required. Mr. Campbell responded that Brownstone built an 81-space parking lot with the idea that they would be able to utilize the entire building. Twelve spaces would be required for the martial arts studio and 22 spaces would be needed for the pharmacy. The grandfathered real estate office use requires 25 spaces, resulting in a grand total of 59 required spaces for the current use and the two proposed uses. Mr. Campbell noted that even if the real estate office use was not grandfathered, a grand total of 72 spaces would be needed.

In response to questions from Secretary Morgan, Mr. Campbell testified that the proposal will not adversely affect the health or safety of the residents in the neighborhood. The pharmacy will have the appropriate security necessary to protect controlled substances in compliance with the State's requirements. The proposed uses will not overburden existing public services. Mr. Campbell does not know if there will be approximately the same number of people working in the building as before, because he does not know how many people worked in the library.

Vice Chairwoman Ballard inquired if the proposed uses will change the essential character of the neighborhood. Mr. Campbell replied that Hershey Care is already in the neighborhood, so relocating it to Brownstone's building would not change the character of the neighborhood. The martial arts studio is a place for youngsters to go and learn but they will be learning indoors. There may be concern that some of the classes will be held outdoors but Mr. Campbell has confirmed with Mr. Kim that it is not his intention to have outdoor classes.

Chairman Seidl asked if the martial arts studio holds exhibitions in addition to classes. Mr. Kim testified that he only teaches martial arts classes. He does not hold tournaments. He has had camps before but not for the past couple of years.

Vice Chairwoman Ballard asked if Mr. Campbell has talked to the neighbors. Mr. Campbell responded that he attempted to do that today.

Vice Chairwoman Ballard inquired if Brownstone is not able to rent the space to other uses. Mr. Campbell stated that they would be amenable to other tenants but that is a matter of the

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

current marketplace. In 10 years maybe that will change based on the market; however, at the moment there are no other prospective tenants that Brownstone has turned down.

Public comment

Sidney Keller, 963 Briarcrest Drive, Hershey, was sworn in. He testified that he has talked to all his neighbors and has not found anyone who is happy about this proposal. Mr. Keller has lived in the neighborhood for 15 years and in that time, the AACA had a meeting once a year that resulted in cars being parked up and down the street. Other than that yearly meeting, no one would know there was a tenant in the building. Mr. Keller stated that some of the Hershey Care employees seem to think Briarcrest Drive is their own speedway. Mr. Keller and his neighbors are concerned there will be more traffic with this proposal. He is not opposed to the two tenants being discussed now, but he is concerned about additional tenants Brownstone may want to rent to in the future. He also has concerns about the hours of operation and exterior lighting.

Mr. Campbell commented that they did not want to have that many lights but they were required to. The lights are on a timer and are not on all night except for around the building for security purposes. In response to questions from Secretary Morgan, Mr. Campbell stated that the timing of the lights can be adjusted. The lease agreements for the two proposed tenants are still in negotiation; however, the length of the terms will probably be several years.

Mr. Kim stated that his martial arts studio's current hours of operation are 4:30-7:30. The last customers are done at 7:30 p.m. and everyone, with the exception of Mr. Kim, is gone by 7:45 p.m. There will not be any classes after 8:30 p.m. The students are primarily children who are dropped off and picked up by their parents so there will not be many vehicles occupying the parking lot.

Mr. Keller said he does not know all the tenants at the Blue Barn, but someone is there late at night, coming and going at all hours. He expects the hours of operation of the proposed tenants are going to be quite a bit more than the AACA's. Mr. Kray stated that Hershey Care typically works daily for 11 hours Monday through Friday; 5 hours on Saturday; and 3 hours on Sunday. Occasionally employees will be there after hours for emergencies but that is relatively infrequent. Hershey Care fills the orders and then sends them to the long-term care facilities. The products are delivered to most of the facilities as opposed to someone coming to pick them up.

Justin Morell, 1012 Greenlea Road, was sworn in and stated he can appreciate that Brownstone wants to lease their available space. He did not know that a new parking lot was going to be constructed for Brownstone until the work started. Mr. Morell has lived at his property for six years and testified that when the AACA occupied the building, they had almost no traffic. Now there is the potential for 19 vehicles at any given time for the martial arts studio use and the neighborhood is not used to that kind of activity. Mr. Morell does not

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

think it is realistic to describe the proposed uses as being the same as what used to be in the building. He asked if new entrances will be added to the exterior of the building for ADA compliance.

Mr. Campbell responded that the ADA adjustments would be to the existing entrance that was not redone as part of the alterations for the Brownstone portion of the building. No new entrances are being added. In fact, both tenants would probably use the same entrance.

Jason McNicholl, 975 Briarcrest Drive, Hershey, was sworn in. He commented that there have been a lot of changes on the subject property in the last two to three years with the new parking lot and lighting, and he thinks Brownstone has done a phenomenal job on the improvements to the building. Mr. McNicholl believes that if the special exception is granted, it should be limited to the specified tenants and their uses, and other nonconforming uses should not be allowed without further approval. He noted that there has not been any discussion about signage. Also, he is not clear about how many employees Hershey Care will have. It sounds like Hershey Care will be in the building seven days a week, and that is an exceptional change from what used to be in the building. Mr. McNicholl asked if the increase in traffic has been considered and if there will be delivery trucks for the pharmacy.

Mr. Campbell said he is expecting that if the special exception is granted, it will be specific to these tenants and if that changes in the future, he will need to seek further approval. In response to questions from Secretary Morgan, Mr. Campbell stated that the terms of the leases will be approximately two years to five years. Brownstone will lease 3,200 square feet of space to the martial arts studio and 4,220 square feet of space to the pharmacy. There are certain things in the tenant fit out for the pharmacy that will be specific to their use. Brownstone did not receive many inquiries from tenants seeking office space.

In response to Mr. McNicholl's comments about signage and a significant change from the previous use to the proposed uses, Mr. Campbell stated that the martial arts studio is a bit of a change. The pharmacy is a change for the building but not for the area since they are already in the neighborhood. Signage for the tenants would comply with Township regulations.

Mr. Kray noted that Hershey Care is a closed-door pharmacy. They do not have customers coming in so they will not be advertising with signage. Their number of employees ranges from four to five employees at quiet times to 10 to 12 employees at busy times. There are drivers who are in and out four to five times a day to pick up products and deliver them to long-term facilities. The vehicles they use for deliveries are Priuses, Ravs, and a truck. Most of the deliveries that Hershey Care receives are from FedEx or UPS. There are no tractor trailer deliveries.

Mr. McNicholl wanted to know if any of the Hershey Care delivery vehicles will be stored in the parking lot. Mr. Kray responded that they have four vehicles that are parked at the facility at night. Mr. McNicholl noted that the vehicles parked at the Blue Barn are not as visible to

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

him as the vehicles in the Brownstone parking lot, which is directly in front of his house. To have vehicles parked there overnight, seven days a week, will be a change for him.

Mr. Campbell commented that he hopes that in approximately 10 years their landscaping buffer will have grown to the point that the parking lot is not visible to the neighbors.

Mr. Keller stated that there are vehicles in and out of the Blue Barn's parking lot all day, and he thinks they are for the pharmacy. If the pharmacy moves into a larger facility, will they have more orders, resulting in the need for more employees and vehicles? Mr. Kray explained that Hershey Care has been at the Blue Barn for the last two and a half to three years. The character of the building changed 12 to 18 months ago when alterations were made and more tenants were added, including the blood bank and MaidPro. Mr. Kray stated that not all of the vehicles in the Blue Barn's parking lot are from the pharmacy. In particular, MaidPro has many cars in and out of the parking lot in the morning.

In response to a question from Chairman Seidl, Mr. Kray testified that Hershey Care has four daily outgoing deliveries during the week. There are six to seven routes per day during the week. On the weekend there are two routes.

No one else 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.

**D. Hearing in the Case of Loto Station, LLC, d/b/a The Englewood (2021-09)  
Property location: 1219 Research Boulevard, Hummelstown**

The property is in the Planned Campus West zoning district and the Planned Campus West Future Development Area Overlay (O7). It is improved with a restored barn containing a restaurant and music venue. The applicant desires to affix a lighted sign to the porte-cochere. Relief was sought regarding interior illumination of a canopy sign.

Richard Russell, owner of The Englewood, was sworn in. He testified that the proposed sign itself conforms with the Zoning Ordinance but they are seeking a variance for the manner in which the sign is illuminated. They would like to internally illuminate the sign as opposed to providing exterior illumination. Mr. Russell testified that the area has some unique physical circumstances. It is a very hilly area, particularly at the northwest corner of the property, and it is difficult to see the building when approaching from the west until it is almost too late. The Englewood currently does not have a sign for the building.

Mr. Russell explained that another unique characteristic of the property is that it is a condominium parcel. Because of that, sign regulations apply to the entire site and limits what The Englewood is allowed to have on their specific condominium unit. The proximity of the U-GRO structure is unique and blocks portions of The Englewood. The condominium



**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

arrangement with Hershey Trust Company, the improvements to the other buildings in the area, the hill, the trees, and the location of the barn all pre-existed the redevelopment of The Englewood, so Mr. Russell believes they did not create the hardship associated with their request for relief.

Mr. Russell testified that the variance request does not alter the essential character of the neighborhood. U-GRO is the closest neighbor, and they have an internally illuminated wall sign. He stated that only the letter and the circle in The Englewood sign will be internally illuminated, not the entire sign. The internal illumination will result in less light pollution than the use of exterior spotlights. This will be the only sign on The Englewood building. The West End development will probably have a group sign that The Englewood may be a part of in the future.

No one else 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.

**OTHER BUSINESS**

Redaction of certain testimony presented in the case of Brownstone Brokers, LLC (2021-08)  
Secretary Morgan made a motion to remove testimony from the minutes regarding the times deliveries are made to and from Hershey Care for security reasons, given the nature of the business. Chairman Seidl amended the motion to also remove reference to the times of deliveries from the Decision. Secretary Morgan concurred with the amendment and added that reference to the times of deliveries should be removed from all public disclosures. Chairman Seidl seconded the amended motion, which was passed by a unanimous vote. Member Drew made a motion to remove from any public disclosure reference to any hours of operation and times that employees are in and out of the pharmacy, for security reasons. Chairman Seidl seconded the motion, which was passed by a unanimous vote.

Modifications to the Zoning Hearing Board Application

Chairman Seidl made a motion that he and Township staff work together to make necessary modifications to the Zoning Hearing Board Application for the Board's approval at the next meeting. Vice Chairwoman Ballard seconded the motion, which was passed by a unanimous vote.

**ADJOURNMENT**

On a motion made by Member Drew, seconded by Chairman Seidl, and a unanimous vote, the meeting was adjourned at 7:34 p.m.

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
September 15, 2021**

**DELIBERATION**

The Board met to deliberate in the cases of The Lexis Group, LLC (2021-06), Joy S. Trout (2021-07), Brownstone Brokers, LLC (2021-08), and Loto Station, LLC, d/b/a The Englewood (2021-09) and directed the Solicitor to prepare the draft decisions on the cases for formal action at the October 2021 meeting.

Submitted by:

---

Dean Morgan, Secretary