

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

CALL TO ORDER

The Wednesday, October 20, 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 Mike Angello; Member Lindsay Drew

Board members absent: None

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: Elwood Pfau Miller, Mountain View Bible Church; Paul Furniss, 125 Robin Road; Tony Trost, Melham & Associates

APPROVAL OF MINUTES

On a motion made by Chairman Seidl, seconded by Vice Chairwoman Ballard, and a unanimous vote, the September 15, 2021, minutes were approved with the following revisions:

- Page 3, paragraph 2 under Item B, line 6: The sentence should read as follows: "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."

OLD BUSINESS

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

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

1. *The applicant's request for a variance from §225-304, Table 7, Item E regarding the side yard setback for a principal structure is GRANTED. The applicant may encroach to within 8.5789 feet of the side property line for the existing garage.*
2. *The relief granted herein is strictly contingent on the existing garage not being expanded, including its height, without further relief from this Board.*

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

3. *The applicant 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.*
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 applicant has 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 applicant 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 Secretary Morgan, and a majority vote, the Decision was adopted as written. Member Angello abstained from voting because he was not present at the hearing.

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

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

1. *The applicant's request for a variance from §225-407. A.1. regarding the maximum height of a fence is GRANTED. The applicant may construct a fence that is 8 feet in height.*
2. *The applicant 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.*
3. *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 applicant has 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 applicant shall be required to comply with the then existing terms of the Zoning Ordinance.*

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

4. *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 Vice Chairwoman Ballard, and a majority vote, the Decision was adopted as written. Member Angello abstained from voting because he was not present at the hearing.

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

This case has been withdrawn by the applicant. No action by the Zoning Hearing Board is necessary.

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

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

1. *The applicant's request for a variance from §225-401.4.F, Table 36 regarding illumination of the canopy sign is GRANTED. The applicant may install the interior illuminated canopy sign.*
2. *The applicant 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.*
3. *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 applicant has 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 applicant shall be required to comply with the then existing terms of the Zoning Ordinance.*
4. *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 Vice Chairwoman Ballard, and a majority vote, the Decision was adopted as written. Member Angello abstained from voting because he was not present at the hearing.

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

NEW BUSINESS

**A. Hearing in the Case of Mountain View Bible Church (2021-10)
Property location: 64 and 74 Sipe Avenue, Hummelstown**

The properties are located in the General Commercial zoning district. They are each improved with a single-family detached dwelling. The applicant desires to relocate the property line which separates the two properties. Relief is sought from minimum lot width requirements.

Tony Trost, Director of Surveying at Melham & Associates and Elwood Pfaunmiller, Pastor of Mountain View Bible Church, were sworn in.

Mr. Trost provided copies of deeds to the Board members. He explained that 64 and 74 Sipe Avenue are two adjacent residential properties that Mountain View Bible Church currently owns. One parcel is currently used as a parsonage. The church intends to sell off one of the lots and the purpose of relocating the property line is so that the land is more equitably distributed between the two lots. Currently one of the lots meets the Zoning Ordinance requirements in terms of lot frontage and one does not. What the applicant is proposing would result in both lots having less than the minimum required 100-foot-wide lot frontage. There are a number of existing nonconformities on these two lots now and the proposal would eliminate some of those nonconformities. The shed to the rear of the lots sits on both lots, so it is currently violating the setback requirements. The proposed property line change would still not meet the minimum width requirements but the shed would be within the setback and would remain on one property instead of both properties. There is also a large parking lot to the rear of the parsonage at 64 Sipe Avenue that was probably used for meetings and the only access to the parking lot was through the church's property along the rear of the property at 50 Sipe Avenue. Moving the property line will allow a driveway to be built from Sipe Avenue to the parsonage parking lot.

Chairman Seidl asked Mr. Trost to address the requirements under Section 225-1007.9 of the Zoning Ordinance regarding the variance request.

Regarding Section 225-1007.9.A.1, Mr. Trost stated that there were no minimum lot requirements when the lot was created, and the nonconformity was created when the Zoning Ordinance was adopted. Mountain View Bible Church is now looking to remedy or improve the existing nonconformities to the extent possible and in the most logical manner.

In response to a question from Chairman Seidl, Mr. Pfaunmiller stated that the property was ceded to the church when the parsonage was built, which he estimates was in 1971.

Member Angello asked if the driveway is the primary driver for the relief request. Mr. Trost replied that the primary reason for requesting the relief is to make the existing

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

nonconformities better and to equitably distribute the ground. Mr. Pfaunmiller added that the southeast corner of the parsonage is currently only 12 feet from the property line and the southwest corner of the parsonage is seven feet from the property line, so if a fence were to be constructed on the property at 74 Sipe Avenue (Lot 1) and the property is sold, the fence constructed there would be very uncomfortable to the residents at 64 Sipe Avenue.

Regarding Section 225-1007.9.A.2, Mr. Trost stated they cannot do the project without violating the Zoning Ordinance because the total frontage for both lots is only 186 feet, so there is no way to get two lots out of 186 feet and meet the minimum lot width requirement.

Regarding Section 225-1007.9.A.3, Mr. Trost stated that the houses were built in compliance with the ordinances in place at the time. The nonconformities were created at the time the Zoning Ordinance was adopted, so that is a hardship that was not created by the applicant.

Regarding Section 225-1007.9.A.4, Mr. Trost argued that the requested relief will make the properties better for the residential neighborhood. Relocating the property line would give each property a decent size side yard.

Regarding Section 225-1007.9.A.5, Mr. Trost said the required frontage is 100 feet. One lot as proposed will have a frontage of 92.97 feet and the other lot will have a frontage of 93.41 feet, so the applicant is actually requesting a variance for seven and a half feet or eight feet on one lot.

Chairman Seidl asked if part of the drive for the request for relief is because the church is selling the lower lot. Mr. Trost replied that is correct. The church wants to move the property line prior to selling the lot.

Chairman Seidl asked where the utility pole is in reference to the property lines. Mr. Trost replied that the proposed property line will be outside of the utility pole. The pole is currently on Lot 1 and if the variance is granted and the property line is adjusted, the pole would be on Lot 2.

Secretary Morgan asked why the church is not consolidating the properties together. Mr. Trost replied that the church is only looking to sell one property, not both.

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 Paul Furniss (2021-11)
Property location: 125 Robin Road, Hershey**

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

The property is located in the Hershey Mixed Use zoning district. It is improved with a single-family detached dwelling. The applicant desires to place a shed on the property. Relief is sought from front setback requirements for an accessory structure.

Paul Furniss, owner of 125 Robin Road, was sworn in. He testified that the property is unique to the Hershey area and the development. It was built in 1964 along with other homes within a two- to three-year period. It has exposed side and front yards surrounded with street. The reason for the shed is because the Mr. Furniss has a desire to enhance the property and make it attractive by storing his items inside the shed instead of leaving them out in the yard. The Furnisses do not have a fence that would screen the items. This size of the proposed shed is eight feet by ten feet. Mr. Furniss believes the best location for the shed is on the north side of the property. He has spoken with the neighbors and none of them have expressed any issues with the shed.

Mr. Furniss stated that the hardship was created by the nature of the neighborhood. The variance would not affect the neighborhood very much, and Mr. Furniss thinks it would enhance the curb appeal and the properties around it. Mr. Furniss will be able to meet the front setback requirement for a portion of Robin Road but will not be able to meet the other setback requirements because they are all considered front setbacks based on the interpretation of the Zoning Ordinance.

Chairman Seidl commented that the drawing Mr. Furniss provided only showed the house and the side of the property facing the shed; however, it appears as though any other proposed location for the shed on the property would require the same amount of relief. Mr. Furniss agreed.

Chairman Seidl asked what kind of landscaping Mr. Furniss is planning on placing around the shed. Mr. Furniss explained that he is looking to place some small bushes around the shed to make it look more attractive and finished.

In response to a question from Chairman Seidl, David Habig stated that the proposed location of the shed will not create site distance issues.

Member Drew asked how far the shed will be from the fire hydrant on the property. Mr. Furniss stated he believes the shed will be about 17 feet from the hydrant.

Chairman Seidl asked Mr. Furniss if he knows where the property line is versus the curb line. Mr. Furniss replied that he is not sure what the standard is; however, he is aware that when the natural gas line was put in, the contractor went four feet in on the property, assuming that was all part of the public right-of-way.

Member Angello asked Mr. Furniss if he maintains the property up to the curb. Mr. Furniss replied that yes, he does.

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

Chairman Seidl asked Mr. Habig to confirm the right-of-way. Mr. Habig stated that Robin Road has a right-of-way of 40 feet. The pavement from curb to curb measures 30 feet, so the right-of-way extends five feet into the property, and it would be measured 20 feet from the street centerline in each direction.

Chairman Seidl asked if Mr. Furniss had considered turning the shed. Mr. Furniss replied that the only problem with turning it is the drainage would be directed toward the house. He also felt it would look better with the door of the shed facing toward the street.

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 Thaddeus Stager (2021-12)
Property location: 8 Edgehill Drive, Hershey**

Chairman Seidl reported that the applicant has requested a continuance.

On a motion made by Secretary Morgan, seconded by Vice Chairwoman Ballard, and a unanimous vote, the continuance was granted.

OTHER BUSINESS

A. Discussion regarding revisions to the Zoning Hearing Board Application

Chairman Seidl has been working with Township staff to improve the application process and is presenting the new application for the Board's approval.

Secretary Morgan asked for a summary of what changes were made to the application. Chairman Seidl replied the most significant thing is for the applicant to be able to distinguish and be clear about what relief they are asking for and what criteria apply. The first section of the application, Section A, will be the general information, name, location, and so on. The applicant will be able to select what their application is for, and it will direct them to the section they need to complete. From there some wording changes were made on some things that may not have been clear. The structure of the application was the biggest change that was made.

Member Drew asked if a section could be added to the application that states who will be presenting the case for the applicant. Solicitor Huff stated the Board can ask who will be presenting but if someone else shows up, the Board cannot hold the applicant to the person they stated would be presenting the case. She added that Township staff can ask the applicant who will be presenting the case and advise the Board in the event there are any

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
October 20, 2021**

conflicts of interest. After discussion, the Board decided that staff can advise the Board on who will be presenting the case instead of making it a part of the application.

Member Angello asked if attorneys needed to be sworn in. Solicitor Huff stated if they are providing testimony then yes, they need to be sworn in. If they are just walking the applicant through the testimony and asking questions, then they do not need to be sworn in, as they are officers of the court.

On a motion made by Vice Chairwoman Ballard, seconded by Member Drew, and a unanimous vote, the Board adopted the revisions to the Zoning Hearing Board Application.

ADJOURNMENT

On a motion made by Vice Chairwoman Ballard, seconded by Secretary Morgan, and a unanimous vote, the meeting was adjourned at 6:55 p.m.

DELIBERATION

The Board met to deliberate in the cases of Mountain View Bible Church (2021-10) and Paul Furniss (2021-11) and directed the Solicitor to prepare the draft decisions on the cases for formal action at the November 2021 meeting.

Submitted by:

Dean Morgan, Secretary