

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
February 16, 2022**

**CALL TO ORDER**

The Wednesday, February 16, 2022, Derry Township Zoning Hearing Board meeting was called to order at 6:02 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 Lindsay Drew, Member Mike Angello, Member Tom Dedonatis

Board members absent: None

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

Public registering attendance: Jonathan M Crist, 2865 Church Road; Dave Getz, 508 North 2<sup>nd</sup> Street, Harrisburg; Hanna Smith 1426 Church Road, Hummelstown; Daniel Smith, 1426 Church Road, Hummelstown; Larry Westrich, 381 Royal Lake; Ken Gall, Hershey Trust Company; Sheri Mower, Dialysis Care Center; Brittany Jones, Dialysis Care Center; Michelle, Dialysis Care Center; Babajide Salako, Dialysis Care Center; Asim Shazzad, Dialysis Care Center; Tim McClure, Dialysis Care Center; David Tshudy, Troutman Pepper HTC; Dave Alberson, Drury Southwest; Eduardo Robinson, Drury Southwest; Bryan Wehler, ARM Group LLC; Jim Webb, Drury Southwest; William Fredericks, RGS; Justin Davidson, Drury Southwest; Justin Shelton, Springwood FHP LP

**APPROVAL OF MINUTES**

On a motion made by Member Angello, seconded by Vice Chairwoman Ballard, and a unanimous vote, the January 19, 2022, minutes were approved as written with the following changes: page 3, line 7, word 3 should read "unlikely" and page 3, line 18, word 3 should read "unlikely".

**OLD BUSINESS**

**A. Continuance in the Case of Bryan M. Wehler (2021-16)  
Property location: 1130 Wood Road, Hummelstown**

The property is located in the R-1 zoning district. It is currently unimproved. Applicant seeks to construct a single-family detached dwelling on the property. Relief is sought from, but not necessarily limited to, the disturbance of slopes 20% or greater.

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Bryan M. Wehler of 504 David Dr, Mechanicsburg, was sworn in. Mr. Wehler testified to his previous appearance to the ZHB in December of 2020 in reference to slopes greater than 20%. That request was granted. However, due to COVID, and prices being driven up, the project was put on hold. It has been redesigned to be more in line with current pricing. The current design has a smaller home than the previous design. A different driveway alignment that follows the existing access road is proposed. The home has the same grading plan and location. The applicant is not seeking any additional relief than what was previously sought. Testimony was given on the current state of the land in the area and what the project entails.

In response to questions from the Board, Mr. Wehler stated the home size previously proposed was four thousand three hundred square feet and the current proposal is three thousand two hundred square feet. Square footage of the retaining walls has decreased as well by about 50%. Mr. Wehler also requested a reduction of the setback from the Eshenour Trail from one hundred twenty feet to one hundred feet.

Vice Chairwoman Ballard asked staff to read the current section of the Zoning Ordinance pertaining to this case, David Habig read the section.

In response to questions from the Board, Mr. Wehler reiterated the updates to the proposed plan. Mr. Wehler stated he did not consider decreasing the disturbance because in redeveloping the plan he went with what he had already been granted.

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. Continuance in the Case of Drury Southwest, Inc (2021-17)  
Property location: A currently unaddressed parcel in close proximity to 1214  
Research Boulevard, Hummelstown**

The property is located in the Planned Campus West zoning district, the Planned Campus West Future Development Overlay (O7), and the Community Heritage Buffer Overlay (O1). The property is currently an unimproved portion of property in the Hershey West End development. The applicant desires to build a new hotel on the site. Relief is sought from, but not necessarily limited to, the maximum height of a nonresidential building as part of a Master Plan. Applicant is also requesting a two-year time period to implement the proposed improvements if the relief is granted.

All parties were sworn in. David Tshudy explained the focus of tonight's case. He explained the current conditions of the land being developed. Proposed is a one hundred eighty-four room hotel with conference room and meeting room no greater than five thousand square feet. Drury is proposing a max height for the hotel to be seventy-five feet. The height variance

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request is going to be for the parapet walls and mechanical equipment. If the height variance is granted, Drury would also like to request relief on the length of time to apply for a permit from one year to two years.

Ken Gall, director of real estate for Hershey Trust, answered questions from Mr. Tshudy in reference to the development of Drury Southwest Inc's hotel. The hotel height would be consistent with the rest of the development and the Hershey Medical Center in the area. There would be no issues with health, safety, or be a detriment to property values in the area. As part of the Master Plan approval process there is a pattern book for development which every building in the development must be consistent with. Mr. Gall spoke with the fire chief for Derry Township who said the fire department would have no issues in servicing the building at seventy-five feet.

In response to questions from the Board, Mr. Gall confirmed the room count for the hotel is one hundred eighty-four rooms and a conference room no greater than five thousand square feet.

Dave Alberson, Vice President of Architecture & Design for Drury Southwest, responded to Board Member Dedonatis's question that code does require access to the roof whether it be through a hatch or through a stair tower. In his opinion, the stair tower is a much safer way to gain access to the roof. Other means would not be as effective.

Larry Westrich, Senior Vice President of Drury Southwest Corporation, offered testimony on the history of Drury Hotels and what attracted the company to Hershey. Mr. Westrich confirmed Drury hired RGS to prepare civil engineering services and a site plan. Drury provided its own internal architectural services for the plan.

William Fredericks, a professional engineer registered in the state of Pennsylvania working for RGS Associates, gave testimony as to his part in developing the plan for Drury Hotel in reference to the grading, parking, elevations, and impervious coverage. Currently he is working on developing the site plan and land development plan for the Drury Hotel. Mr. Fredericks explained the grading elevations for the site. Mr. Fredericks also explained the difference in previous plans in reference to impervious coverage and parking as opposed to the new plan. There is an additional acre of open space as opposed to taking up all five acres.

In response to questions from the Board, Mr. Fredericks confirmed the parking is sufficient for the hotel by Derry Township Zoning Ordinance standards. He also confirmed the elevation numbers between the proposed hotel and the existing buildings already on the site. The open space between the previous proposed design and the current design was clarified.

Mr. Alberson explained his position with Drury. Testimony was given about the architecture of the building and why it was designed the way it was designed. In his opinion, it is safer for the guests to have a taller building than to have a spread out building. It is more accessible to

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guests and emergency services in his opinion. The parapet walls around the building are four feet which addresses the code and OSHA requirements for fall protection from the roof.

Jim Webb, architect with Drury Southwest, gave testimony on the parapets for the building regarding safety requirements according to the building code and OSHA regulations.

In response to questions from the Board, Mr. Alberson confirmed the safety reasons for the height of the building as opposed to building laterally. Mr. Alberson confirmed they could meet the sixty-five-foot height requirement, but it would be without the safety requirements for the roof. They would not be able to meet the design standards of the pattern book they are working with. Mr. Fredericks confirmed the footprint of the previous design is eighteen thousand two hundred square feet and the conference room is twenty-four thousand seventy-five square feet for a total of forty-two thousand two hundred seventy-five square feet. The proposed square footage is sixteen thousand five hundred, including the meeting space. The previously approved design has four point one acres of impervious coverage. The proposed impervious coverage is two point eight nine acres that includes all the parking. The number of parking spaces for this site will be reduced from the one hundred ninety-nine originally proposed, to one hundred eighty-six spaces.

Mr. Alberson explained that taking a floor off the building from their standard design added forty more feet to the building length. If they were to take another floor off the building it would add another one hundred feet in length to the building in order to keep the same amount of rooms.

Chairman Seidl requested to know what elements of the pattern book required Drury to do what they are doing as opposed to what was originally anticipated in the Master Plan. Mr. Gall explained that the pattern book does require articulation in both the roof and design. Mr. Tshudy explained the Master Plan shows a five-story building with one hundred forty rooms at sixty-five feet in height and an accessory structure of twenty-four thousand seventy-five square feet of conference area, one story and eighteen feet in height. The pattern book was shown and explained to the Board.

Mr. Tshudy explained the last three exhibits in the paperwork provided to the Board in reference to previous court cases in Pennsylvania.

*Public Comment:*

Jonathan Crist of 2865 Church Rd was sworn in. Mr. Crist owns several commercial properties in Derry Township and gave testimony about Master Plans and opening potential issues for other properties. Mr. Crist stated there has been no testimony on a hardship which is the standard for a variance. Mr. Crist is concerned about the helipad for Life Lion that has a flight path over the hotel.

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In response to Mr. Crist, Mr. Tshudy replied this is a case-by-case basis and this variance does not apply to any other building in the Hershey West End Development.

Mr. Gall addressed the heliport issue stating he has spoken with the Medical Center and the height of the building is not an issue.

In response to a question from Member Drew, Mr. Westrich stated he could build a one-story hotel with the same number of rooms but it would not be safe to the guests, it would not be good for water retention and green space.

Chairman Seidl asked Mr, Westrich if he could build a one hundred forty room hotel that is compliant with the sixty-five-foot height requirement and not sacrifice the safety issues discussed, to which Mr. Westrich replied that somebody could, but Drury could not and still honor all their companies' beliefs.

Mr. Alberson responded to Member Angello's question by stating that the hotel could be built the way it was approved on the Master Plan, but again brings back the health and safety issues as well as environmental issues.

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.

A short recess was taken.

**NEW BUSINESS**

**A. Hearing in the Case of Daniel J. Smith (2022-01)  
Property location: 1426 Church Road, Hershey**

The property is located in the Hershey Mixed Use zoning district. It is improved with a single-family detached dwelling and a barn. The applicant seeks to use the dwelling as a Bed and Breakfast Home. Relief is sought in the form of a special exception regarding the establishment of a Bed and Breakfast Home.

Daniel and Hannah Smith of 1426 Church Rd, Hummelstown were sworn in. Mr. Smith gave testimony on the history of his home and the direction they want to move with a Bed & Breakfast. There would be five rentable bedrooms and they would live in the sixth bedroom.

Mr. Habig read the ordinance specific to this case per Vice Chairwoman Ballard's request. In response, Mr. Smith testified that there would be no adverse effects to the neighborhood. Mrs. Smith testified that they are on a two-acre property, so their neighbors are not right against their property. The addition has already been approved for permits. Mr. Smith stated

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the addition will not create any more noise, dust, or hazards to the neighborhood or community. The property will not be used for any kind of events. The lot currently meets the requirements of the Hershey Mixed Use zoning district. The parking will remain on the property, and it will maintain a residential appearance. There will be 8 parking spaces, which is one per bedroom and two spare spaces, although the parking has not been finalized yet.

Chairman Seidl asked for clarification on the drawings. Mr. Smith responded that there will be an addition to the rear that is twenty feet. Height will remain under thirty-five feet.

Chairman Seidl asked about the floodplain. Mr. Habig responded that the addition is completely outside the floodplain and will not impact the proposal. Parking is not required to be outside the floodplain although the Township's recommendation would be to keep parking out of the floodplain.

Mr. Smith confirmed on the plans where the bedrooms are in the house and that they will be rented individually not as a whole house.

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 Dialysis Care Center, a/k/a Home Dialysis Center, LLC  
(2022-02)  
Property location: 555 East Chocolate Avenue, Hershey**

The property is located in the Hershey Mixed Use zoning district and the East Chocolate Avenue Overlay (O10). It is improved with a commercial building that is partially used as a dialysis treatment center. The applicant desires to expand their business into a vacant suite. Relief is sought in the form of a special exception for the expansion of a nonconforming use.

All parties were sworn in. Dave Getz gave testimony about the existing building and the existing nonconformity. When the Dialysis Care Center first occupied the building, it was a conforming use but because of the Zoning Ordinance changes it is now considered a nonconforming use.

Brittany Jones gave testimony on the use of the building and when patients are seen at the facility. Currently the facility sees about eighteen patients total on Mondays, Wednesdays, and Fridays. There is also a home therapy program where patients are required to be seen in the office twice a month. The days these patients are seen are varied by the physician they see. Ms. Jones testified to the amount of time it takes to see a patient at the facility for their appointments. Most of their patients are from the Hershey/Hummelstown area and since they must spend several hours at the facility it is convenient that they do not have to travel far as

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well. Expanding will allow them to spread out more and see additional patients to meet the growing need in the community.

Mr. Getz confirmed for Chairman Seidl that they will be going from six chairs to twelve chairs. The existing first floor space used by Dialysis Center is three thousand thirty-three square feet. The current floor space being used by Dialysis Center on the second story of the building is six hundred ninety-three square feet giving a total of three thousand seven hundred twenty-six square feet. The proposed plan is to expand on the first floor and vacate the second-floor space for a net increase of one thousand seven hundred fourteen square feet. That would be less than the 50% increase that is allowed by the special exception requirement. Mr. Getz explained there would be no changes to the exterior of the building and no hazards or negative impact to the neighborhood.

Mr. Habig confirmed the parking will be sufficient for the expansion and not be detrimental to the area. Mr. Habig also confirmed the history of the building in that there was a physical therapy office including pool. The 2017 Ordinance changed the permitted uses in that Zoning District.

Babajide Salako testified that the Dialysis Center moved into the building in 2016, prior to the zoning ordinance change.

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 RPM Signs & Lighting (2022-03)**  
**Property location: 651 West Areba Avenue, Hershey**

The property is located in the Hershey Mixed Use zoning district, and the Downtown Core Overlay (O9.1). It is improved with a hotel. The applicant desires to replace a wall sign on the north side of the building. Relief is sought from, but not necessarily limited to, the location and size of the sign.

Justin Shelton, manager of Springwood FHP LP, was sworn in. Testimony was given on the history of the building and hotel. The concern is that customers will not be able to see the sign if it is conforming to the current zoning ordinance because the hotel is lower in elevation than the adjacent shopping center. The shopping center blocks the view of the hotel.

Mr. Habig explained the current Ordinance on signs. When a sign is nonconforming, any alterations to that sign need to be brought into conformity. A new variance would still need to be granted because the sign is being altered from what was previously approved.

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Mr. Shelton confirmed that he is seeking relief on the height of the sign and to be able to put it above the windowsill.

Mr. Habig confirmed the sign is compliant in height per the Ordinance, therefore, a variance for height is not needed.

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**

**A. Discussion regarding Hearing Officers and remote attendance**

Motion was made by Chairman Seidl, seconded by Secretary Drew, and a unanimous vote, the discussion regarding hearing officers and remote attendance will be tabled until next month.

**ADJOURNMENT**

On a motion made by Secretary Drew, seconded by Chairman Seidl, and a unanimous vote, the meeting was adjourned at 9:08 p.m.

**DELIBERATION**

The Board met to deliberate in the cases of Bryan M. Wehler (2021-16), Drury Southwest, Inc (2021-17), Daniel J. Smith (2022-01), Dialysis Care Center a/k/a Home Dialysis Center LLC (2022-02), and RPM Signs (2022-03).

Submitted by:

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Lindsay Drew, Secretary

**PLEASE SIGN IN**  
**Derry Township Zoning Hearing Board Meeting**  
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(PLEASE PRINT)

<u>Name</u>	<u>Address or Company</u>
John M. Gutz	2865 Church Road
Dave Getz	508 N 2d St Hbg
Hannah Smith	1426 Church Road
LARRY Westrich	381 Royal Lake
Ken Gull	Hershey Trust Co,
Sheri Mauer	Dialysis Care Center
Brittany Jones	Dialysis Care Center
Mickelle Maselan	Dialysis Care Center
Barbara De Salas	DCC
Asim Shazzad	DCC
Tim McClure	DCC
David Shvedy	Troutman Pepper HTC
DAVE ALBERSON	DERRY SOUTHWEST
Eduardo Robinson	Derry Southwest
Bryan Wehler	ARM Group LLC
JIM WEBB	DAUPHIN SOUTHWEST
William Fredericks	RGS

