

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

CALL TO ORDER

The Wednesday, March 16, 2022, Derry Township Zoning Hearing Board meeting was called to order at 6:01 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: Lieutenant Girard Hughes, Pennsylvania State Police Bureau of Communications and Information Systems; Ken Stuck, Pennsylvania State Police Bureau of Communication and Information Systems; Vincent Uglialoro, Pennsylvania State Police Bureau of Communications and Information Systems; David Narkiewicz, DGS; George Bivens, Pennsylvania State Police; Daniel Panchik, 341-343 Laudermilch Road; Dan Hess, 1040 Swatara Road; Tim McClure, Dialysis Care Center; Melinda Curran, 2046 Joann Avenue; Matthew Curran, 2046 Joann Avenue; Nathaniel Broughton, 150 East 93rd Street, 7A, New York, New York

APPROVAL OF MINUTES

On a motion made by Vice Chairwoman Ballard, seconded by Member Angello, and a unanimous vote, the February 16, 2022, minutes were approved as written.

OLD BUSINESS

On a motion made by Chairman Seidl, seconded by Vice Chairwoman Ballard, and a unanimous vote, the reading of the Orders will only include the substantial parts and not the entire Order.

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

Chairman Seidl read a portion of the Decision's Order into the record as follows:

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1. *The applicant's request for a variance from §225-401.2.1.B, regarding construction on areas with slopes in excess of 20% is GRANTED. The applicant may construct the single-family residence while disturbing no more than .406 acres of the property with slopes in excess of 20% except as otherwise permitted by the Ordinance.*
2. *The relief granted herein is strictly contingent on the property's other 3.425 acres with slopes in excess of 20% remaining undisturbed or wooded.*
3. *In addition, the relief granted herein is strictly contingent upon the applicant maintaining the 100 feet wooded buffer from the Jonathan Eshenour Memorial Trail in a natural state.*

On a motion made by Secretary Drew, seconded by Vice Chairwoman Ballard, and a unanimous vote, the Decision was adopted as written.

B. Adoption of Decision in the Case of Drury Southwest, Inc. (2021-17)
Property location: A currently unaddressed parcel in close proximity to 1214 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 §225-501.58.A.7.d.iii regarding maximum height is DENIED.*
2. *The applicant's request from §225-1007.9.C regarding an extension of time to a secure a zoning permit, building permit, or certificate of use and occupancy is MOOT.*

On a motion made by Vice Chairwoman Ballard, seconded by Member DeDonatis, and a unanimous vote, the Decision was adopted as written.

C. Adoption of Decision in the Case of Daniel J. Smith (2022-01)
Property location: 1426 Church Road, Hershey

Chairman Seidl read a portion of the Decision's Order into the record as follows:

1. *The applicant's request for a special exception from §225-502.1, regarding the operation of a bed and breakfast is GRANTED. The applicant may establish a bed and breakfast at the subject property as represented during the hearing of this matter.*
2. *The relief granted herein shall be strictly contingent upon there being no parking spaces on the lot between the front façade and the front lot line.*

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On a motion made by Member DeDonatis, seconded by Vice Chairwoman Ballard, and a unanimous vote, the Decision was adopted as written.

D. Adoption of Decision in the Case of Dialysis Care Center (aka Home Dialysis Center), LLC (2022-02)
Property location: 555 East Chocolate Avenue, Suite 100, Hershey

Chairman Seidl read a portion of the Decision's Order into the record as follows:

1. *The applicant's request for a special exception from §225-602.B regarding expansion of nonconforming use of land by between 25% and 50% of the nonconforming of the floor area or land use area is GRANTED. The applicant may construct the proposed expansion, containing 1,714 square feet, or 46% of the building's existing floor area.*

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

E. Adoption of Decision in the Case of RPM Signs and Lighting (2022-03)
Property location: 651 West Areba Avenue, Hershey

Chairman Seidl read a portion of the Decision's Order into the record as follows:

1. *The applicant's request for a variance from §225-401.4.F.C.1 – Table 38, Special Note #2, regarding the location of a wall sign is GRANTED.*
2. *The applicant's request for a variance from §225-401.4.F.C.1 – Table 38, regarding the height of a wall sign is WITHDRAWN.*

On a motion made by Secretary Drew, seconded by Vice Chairwoman Ballard, and a unanimous vote, the Decision was adopted as written.

NEW BUSINESS

A. Hearing in the Case of Matthew and Melinda Curran (2022-04)
Property location: 2046 Joann Avenue, Hummelstown

The property is located in the R-2 zoning district. It is improved with a single-family detached dwelling. The applicants seek to build an attached garage and expand the footprint of the dwelling. Relief is sought from, but not necessarily limited to, minimum side yard setback requirements.

Matthew and Melinda Curran of 2046 Joann Avenue, Hummelstown, were sworn in.

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After review by Township staff, it was determined that an addition to the bedroom would not require a variance. The house is an existing nonconformity, as it encroaches into one side setback. The proposed addition is permitted by right, as the expansion is less than 25% of the total floor area and does not encroach further into the setback. The applicants verbally withdrew the variance request for the bedroom addition.

Mrs. Curran explained that multiple variables were considered when placing the proposed garage. The variables considered by the applicants were the existing driveway connection, the ability to have a sight line to the backyard, and to add as little impervious coverage to the site as possible. Mrs. Curran provided the Board with a letter she received from her next-door neighbors at 2070 Joann Avenue, who have no problems with the proposed addition.

In response to questions from the Board, Mrs. Curran explained on the rear elevation perspective where the garage will be. She explained the reason and hardship for the variance is that their house is on an angle on the property, which makes an expansion in any direction difficult. The dwelling was built in 1963 so the Currans inherited the hardship, they did not create it. The addition will not alter the character of the neighborhood and they are trying to keep the same style of house that already exists in the area. The dimensions from the property line to the corner of the garage is twelve point six feet. Mrs. Curran confirmed the requested relief from the side setback will be two point four feet.

No one else offered testimony.

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

**B. Hearing in the Case of Commonwealth of Pennsylvania (2022-05)
Property location: 175 East Hersheypark Drive and 187 Police Academy Drive,
Hershey**

The property is partially located in the Planned Campus North zoning district and partially in the Conservation zoning district; however, there is a pending zoning map amendment to place all the landholdings in the Planned Campus North zoning district. It is improved with buildings and structures related to the Pennsylvania State Police Academy and the Pennsylvania State Police – Historical, Educational, and Memorial Center. The applicant desires to add new signage to the property. Relief is sought from, but not necessarily limited to, the maximum sign area for a ground sign; the maximum horizontal dimension of a ground sign face; the maximum horizontal dimension of a free-standing sign face; and the maximum sign area for a free-standing sign.

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**C. Hearing in the Case of Commonwealth of Pennsylvania (2022-06)
Property location: 175 East Hersheypark Drive, Hershey**

The property is located in the Planned Campus North zoning district and is improved with buildings and structures related to the Pennsylvania State Police Academy. The applicant desires to add a new communication tower. Relief is sought in the form of a special exception for a communication tower greater than 50 feet in height.

Chairman Seidl asked the applicant if they are willing to consolidate the hearings for their two cases into one hearing. The parties will be sworn in once and the background information presented will pertain to both cases. Two separate decisions will be issued for the cases. The applicant agreed to consolidate the cases into one hearing for these reasons.

Lieutenant Girard M. Hughes, Ken Stuck, Vincent Ugliodoro, David Narkiewicz, Major George Bivens, and Nathaniel Broughton were sworn in.

David Narkiewicz testified about the project the State Police is currently planning. It will be a state-of-the-art training facility used by the State Police and other agencies.

Major George Bivens detailed the plans for the new training academy. He explained to the Board where the new buildings will be located and what they will contain.

Secretary Drew requested clarification on the new construction as opposed to what is existing. Major Bivens confirmed on the drawings where the new buildings are going to be located.

In response to Chairman Seidl, Major Bivens confirmed the tree line will remain and explained where the building will be in relation to that tree line.

In relation to the communications tower proposed, Major Bivens confirmed that one of the existing water tanks will be removed and an outdoor amphitheater will be constructed in its place. The communications tower will be closer to the Pennsylvania American Water tank.

In response to Secretary Drew's questions, Major Bivens explained that the new main building will be visible from the road whereas the current main building is not visible from the road. The rest of the buildings on the campus will not be visible from the road. The existing facilities were built in the 1950s and the Pennsylvania State Police are hoping to create a more professional-looking facility and one that is appealing to the public.

Major Bivens confirmed the location of the existing sign that they wish to replace. In response to a question from Mr. Narkiewicz, Major Bivens explained where the entrances to the academy are and how the new campus will not allow for through traffic.

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Major Bivens explained the existing signs are very easy to miss by people who are not from the area. The proposed signs are larger, so they are more visible, but not large enough to be distracting or detrimental to the area.

Additional information was provided to the Board by the applicant in reference to the size of the signs.

In response to a question from Chairman Seidl, Major Bivens confirmed that the intention of the proposed signs is to get the attention of visitors coming to the facility. The delivery trucks that come to the academy are already familiar with the area and know where they are going.

Mr. Narkiewicz confirmed the boundaries of land the Commonwealth owns as compared to what Hershey Trust Company owns.

Nathaniel Broughton, architect from SOM Engineering of New York, testified to the plans for the signs, including their locations, materials, and colors. The proposed signs will be placed at Hersheypark Drive and Police Academy Drive, Police Academy Drive and Swatara Road, and the new service drive and Kieffer Road. The signs on Hersheypark Drive and Swatara Road will be the same size and the sign on Kieffer Road will be slightly smaller. The primary purpose of the signs is to identify the access points to the academy. The two freestanding signs are 72.57 square feet. The variance is required due to the proposals exceeding the maximum sign face area in this sign district. The intention is for the signs to be visible but discrete and to not be detrimental to the appearance or sight line of Hersheypark Drive. The smaller sign on Kieffer Road has a total area of 36.45 square feet.

Mr. Narkiewicz and Mr. Broughton described the visibility of the academy buildings when traveling Hersheypark Drive and compared the uses of the buildings across Hersheypark Drive from the academy.

In response to Member DeDonatis's question about the placement of the existing sign, Mr. Broughton explained where the setback lines are in relation to the roads, noting that they did not want to place the proposed signs within the setbacks.

Member Drew asked about the visibility in relation to the colors of the signs. Mr. Broughton explained what colors are being used and how they contrast with each other to create a sign that grabs attention.

In response to Chairman Seidl, Mr. Narkiewicz explained the routes traffic will take from the public access to the delivery access points and why directional signs are not being proposed. Major Bivens testified to the amount of traffic the museum receives and the number of deliveries the academy receives.

There was discussion regarding the specific relief requested for each sign.

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Mr. Narkiewicz explained where the communication tower will be placed and its distance from other buildings and roads.

Ken Stuck, Site Development and Maintenance Manager for the Pennsylvania State Police Bureau of Communication and Information Systems, gave an overview of the purpose of the communication tower.

In response to a question from Chairman Seidl, Mr. Stuck explained the current structure of towers for the Pennsylvania State Police and how they work. Mr. Stuck also explained the obstructions between the two towers, which is the reason for the request for a Special Exception.

In response to a question from Secretary Drew, Mr. Stuck replied that the tower will be close to the top of the existing tree line, but the microwave dish will clear the tree line, eliminating the obstruction. Tree growth is considered when the tower height is requested.

Chairman Seidl asked for clarification in reference to what will be at the top of the tower. Mr. Stuck replied the antennas are not on the top of the tower, but there will be a light and a lightning rod at the top of the tower. The microwave dish will be no larger than six feet, and it will be attached to the side of the tower. The other antennas would be near the top of the tower, but because all the towers are registered with the Federal Aviation Administration, it will be registered at 130 feet but will not exceed 130 feet. Mr. Habig confirmed that the Township would consider the height of the tower to be 123 feet, which includes the lightning rod. The Township measures height from the average grade to the highest point of the tower. If any equipment is placed that extends above the lightning rod, a new Special Exception will be required. Mr. Stuck ensured the tower and attachments will not exceed the 123 feet proposed. Currently there is no operational need to extend beyond that point. The 130-foot height was to ensure there were no issues with the Federal Aviation Administration.

In response to a question from Mr. Narkiewicz, Mr. Stuck explained that the Federal Aviation Administration does not require lighting for this kind of tower; however, because of the activity around this area, the applicant feels it should be lighted. It will be a dual mode lighting, meaning there will be a medium intensity red beacon at night and a medium intensity white beacon during the day. The operation of the light will be monitored all day and in case of malfunction, the network center will be notified immediately.

Secretary Drew asked Mr. Stuck to confirm that there will be no public access to the tower. It will only be accessible to maintenance personnel.

Mr. Narkiewicz asked Mr. Stuck for clarification on the fall radius of the tower. On the plans there is a circle drawn around the tower, indicating the fall radius. If something were to happen to the tower, it would not hit any structure or fence that is in place.

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Mr. Stuck confirmed there is routine maintenance performed on the towers. The towers are inspected on a yearly basis from the ground and are climbed every five years for a major inspection based on industry standards.

Vince Uglialoro, Radio Communication Specialist with the Pennsylvania State Police, provided testimony on the Special Exception request. The Pennsylvania State Police discourages the use of evergreen screenings for safety and security reasons and therefore do not intend to put an evergreen screen around the ancillary structures to the tower. The entire tower and structures will be enclosed by an eight-foot fence.

In response to a question from Chairman Seidl, Mr. Narkiewicz confirmed the height of the tower will be 123 feet, including all attachments.

Public Comment

Dan Panchik, 950 Front Street, Hershey, was sworn in. Mr. Panchik owns property at 341 and 343 Laudermilch Road. He requested verification about the lighting for the signs. Mr. Broughton confirmed that there will be low level lighting to highlight the face of the sign. Mr. Panchik asked if the communications tower is going to be leased for cellular use. Mr. Narkiewicz confirmed that the Commonwealth does sometimes lease towers to cellular companies, but this one will primarily be used for police communications. Mr. Panchik had questions about the recent zoning map changes and Mr. Narkiewicz explained the recent changes involving the Commonwealth's land.

Daniel Hess, 1040 Swatara Road was sworn in. Mr. Hess showed on the map where his house is in relation to the State Police Academy. Mr. Hess stated that the new communications tower would be right in the line of sight of his property, and he is fine with that if the water tower is removed. Mr. Hess expressed concern for more traffic on Kieffer Road due to its lack of maintenance. He is also concerned about the intersection of Laudermilch and Swatara Roads that it is a sharp quick left turn and is a hazard but believes the sign will be a great improvement to the intersection. In response to a question from Secretary Drew, Mr. Hess confirmed he is in support of the new signs.

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

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On a motion made by Secretary Drew, seconded by Vice Chairwoman Ballard, and a unanimous vote, the discussion regarding Hearing Officers and remote attendance was tabled until the April meeting.

ADJOURNMENT

On a motion made by Vice Chairwoman Ballard, seconded by Secretary Drew, and a unanimous vote, the meeting was adjourned at 8:16 p.m.

DELIBERATION

The Board met to deliberate in the cases of Matthew and Melinda Curran (2022-04), Commonwealth of Pennsylvania (2022-05), and Commonwealth of Pennsylvania (2022-06).

Submitted by:

Lindsay Drew, Secretary