

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
AUGUST 23, 2022

CALL TO ORDER

Chairman Abruzzo called the August 23, 2022 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:13 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 completed. He noted the Board met in executive session at 6:00 p.m. to discuss legal and personnel matters.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary
Richard D. Zmuda
Michael P. Corado

ALSO PRESENT:

Christopher Christman, Township Manager
Patrick Armstrong, Solicitor
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Company
Zachary Jackson, Director of Parks & Recreation
Alison Trautmann, Director of Hershey Public Library
Corrinne Cook, HRG Engineer
Julie Echterling, Recording Secretary

Public in Attendance:

Wendy Melhorn, Cathy McCorkel, Jolene Beard, Elyse Rode, Chandneary Buck, Daryl Barry, William Helmer, Robert Davis, Neal & Sam Goulet, Sam Reed, Pat Leonard, Austin Crawford, Jason Jianh, Marilynn Purcell, Patrick Muldoon, Gabe Kerchner, Colton Leonard, Bobby Ray Davis, Rodney Sonderman, Kenny Hinebaugh, Jeff Roth, Matt Luttrell, Louis Paoletti, Geoffrey Crout, Melissa Miller, Rich Gamble, Patrick Rudisill, Tracy Brown

VISITOR/PUBLIC COMMENTS:

Mr. Robert Davis, 1768 Church Road, spoke about his concerns with the speeding on Church Road and stated something has to be done. He spoke about the trucks and that it is dangerous. He said something has to be done now, without a 6 month study, as it has been three months since he came to the Board about the problem.

Mr. William Helmer, 1758 Church Road, spoke about the increased volume of traffic and speeding on their road. He spoke about the black box that was put on the sign in his yard which he assumed was to monitor speeds. He asked if they could consider a four-way stop at Lexington which could help slow traffic down. He spoke about the tourist traffic and how once they get off Route 743 its open road and they speed. He spoke about the site distance with the bushes and the stop signs on Church and asked if something could be done before someone gets hurt.

Chairman Abruzzo asked Staff for an update on what has been done to address this issue. Chief Warner spoke about the black box placed on the sign today and how it needed to be updated. They are down in personnel and very busy on calls. He spoke about the criteria that needs to be met for a stop sign. He spoke about pavement markers on the road to help the situation. They are working on solutions that take time.

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CONSENT CALENDAR

Supervisor Carter made a motion to approve the following items on the Consent Calendar:

1. Adoption of the Board of Supervisors Minutes for the July 26, 2022 Regular Meeting.
2. Authorize the release of \$18,464, which is the remaining balance of the financial security provided in the form of Fulton Bank Letter of Credit No. STB288 for the Stormwater Management Plan for Hemlock Court, S-2018-024.
3. Authorize the release of \$469,963 from the performance security provided as The Hanover Insurance Company Bond No. 1088981 for the Preliminary/Final Land Development Plan for Troegs Independent Brewing, Plat 1341, resulting in a new balance of \$355,628.
4. Approval of August 9, 2022 Accounts Payable- \$368,002.70, Payroll - \$350,825.01 and August 23, 2022 Accounts Payable - \$820,069.45, Payroll - \$376,451.53.

Supervisor Zmuda made seconded the motion. **Motion carried 5-0.**

NEW BUSINESS:

DEMOLITION REQUEST-150 WEST CHOCOLATE AVENUE:

Mr. Emerick discussed the proposed demolition of an existing structure and the proposal of a new restaurant with associated improvements at 150 West Chocolate Ave. This is in the Downtown Core Overlay zoning district. This is at the Board for two purposes. First, the Board has sole approval authority for any new construction of a principal building located within the Downtown Core Overlay and demolition of existing buildings or structures comprising 50% or more of the visible area of the building or structure. Second, when an applicant does not accept in writing the recommendation of the Downtown Core Design Board (DCDB), the application is automatically brought to the Board for consideration.

In this case, the owner, Jeffery Roth of TKS Hershey Realty, LLC, proposes to demolish the existing building and construct a new single-story restaurant building branded as Tikka Shack. He stated a portion of the property shown for development is owned by Derry Township, that was acquired in 1996 to allow the realignment of Ridge Road. A portion of the parking area that supports the use of the building is leased from the Township. The plans include an expansion of the parking area, installation of bicycle racks, construction of an accessible ramp from the public sidewalk to the back of the restaurant, and modifications to the retaining wall, all on Township property. He noted that, if the plan is approved, the Township and property owner will need to amend the 2008 Parking Easement Agreement.

He stated the Zoning Ordinance states that “all buildings in the downtown should relate to and respect the continuity and character of existing block fronts and adjacent buildings that are such a strong determinant of the character of the overlay. The goal is to maintain quality, character, and spatial continuity.” In addition, it states that “Adaptive reuse of existing buildings shall be utilized to the greatest extent possible.” When demolition is proposed, it is the burden of the applicant to demonstrate the infeasibility of adaptive reuse by providing relevant information about the structure(s), based on the following criteria:

1. The structural integrity of the building is beyond repair or reuse and as a result, the demolition of the existing building is in the best interest of public safety and welfare. The applicant shall provide a structural engineer's report to demonstrate structural disrepair.
2. The desired general aesthetics and compatibility of design with surrounding uses will be more achievable with demolition of the existing structure and construction of a new building.
3. The safety of vehicular and/or pedestrian access to the building will be more achievable with construction of a new building.

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He noted the applicant has provided color renderings of the proposed restaurant for the Board's consideration. The Board needs to decide as to whether the new building is designed to "relate to and respect the continuity and character of existing block fronts and adjacent buildings that are such a strong determinant of the character of the overlay." The project was presented to the DCDB at their meeting on July 25, 2022. They made the following recommendations for DCDB Application No. 471:

- Regarding the demolition of the existing structure: They made a recommendation to the Board that approval of the demolition be denied, as the applicant did not provide credible testimony that the application satisfied the requirements of Section 225-429.G.1
- Regarding the design standards for the construction of the new building: They made the following recommendations to the Board: Approval of the construction of a new building be denied, as the applicant did not provide credible testimony that the application satisfied the requirements of Section 225-429.G.1 related to demolition of the existing building, which denial would preclude construction of a new building.
- Regarding the site features:
 - Signs. The applicant withdrew this portion of the application during the DCDB meeting.
 - Site elements and exterior lighting devices. The DCDB made a recommendation to the Board that approval of the proposed site elements and exterior lighting devices be denied, as the applicant did not provide credible testimony that the application satisfied the requirements of Section 225-429.G.1 related to demolition of the existing building, which denial would preclude installation of site elements and exterior lighting devices.

Mr. Emerick noted that without an extension of time, the Board must act tonight. He stated, barring any new compelling testimony, he supported the DCDB's written recommendations for all the elements of DCDB's Application No. 471.

Mr. Mark Luttrell provided the history of the house and property owner (a local businessman). He spoke about the way the ordinance is written and confusion with the words including feasible for demolition of structures. He spoke about the complexity of structure as is and changing a duplex home into a restaurant with load bearing walls, height of the basement, stairs, and the outside improvements. He noted they would have 13 parking spaces and would make it ADA compliant. He stated they are maintaining the site lines, porch, and roof lines of the other homes. Mr. Jeff Roth, owner of the home, spoke about being in the community for the past 20 years. He believes the restaurant will be a great addition to the downtown. He spoke about the home being out of code and the challenges they face with converting the duplex into the business. He has explored options for two years and believes this is the best for the property and location. He believes it will dress up the corner of the street.

Vice Chairwoman Nutt noted the difference in the look of the proposed restaurant versus the five homes there now. She noted an independent restaurant would provide different layout options versus a franchise. She expressed concern about the structures of the other homes and being a slippery slope downtown with changes like the proposed. Supervisor Carter asked about the business and Mr. Roth noted the majority of the business is to-go with some seating. Chairman Abruzzo asked about the changes in the ordinance over the years. Mr. Emerick went over the changes. Chairman Abruzzo noted there have been 471 applications and only three appeals including this one. Solicitor Armstrong asked if they had additional documentation for the structure other than the one letter from WBCM and they stated no. The Board and the owner spoke about the alley and parking spaces. They also discussed making a decision versus providing a time extension. Solicitor Armstrong provided the form for a time extension

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for a decision on this matter until the end of September. Mr. Roth signed the time extension and provided it back to Solicitor Armstrong. No additional action was taken or required.

Mr. Rich Gamble, 39 Hockersville Road, stated the owner knew what he bought and what he was getting into with the purchase. He does not believe it is the responsibility of the Board to make it work for him outside the ordinance. He stated there are other areas this proposed restaurant could be built. He spoke of preserving as much of the downtown as they can. He wants to keep the buildings and not change the rules.

RESOLUTION 2022-16-AGREEMENT-COLLECTION OF REAL ESTATE/LIGHT TAXES:

Mr. Christman stated at the Board's July 12 meeting, Dauphin County Treasurer Janis Creeson detailed how Dauphin County could collect both real estate taxes and Street Light Assessments. He stated the Board could adopt Resolution 2022-16 and an agreement with Dauphin County, the Derry Township Tax Collector and Derry Township to formally move tax collection services to Dauphin County beginning January 01, 2023. Vice Chairwoman Nutt noted that this decision was not because of any actions of the current collectors but as a way to save money for the taxpayers. Chairman Abruzzo also noted they respect the work the Association has done, and it was not an easy decision. Mr. Lou Paoletti, Township Tax Collector, appreciated the work the Association has done. He spoke about the process and has read the agreement and is agreeable to it.

Vice Chairwoman Nutt made a motion to adopt Resolution 2022-16, Authorizing and Designating Dauphin County and the County Treasurer to Act as the Collector, Depository and Agent for the Collection of Real Estate Taxes for the Township of Derry, the Derry Township Tax Collector and Dauphin County and Further Authorizing and Designating Dauphin County and the County Treasurer to act as the Collector, Depository and Agent for the collection of the Street Light Assessments within Derry Township. Supervisor Carter seconded the motion. **Motion carried 5-0.**

Vice Chairwoman Nutt made a motion to approve the agreement between the Township of Derry, the Township of Derry Tax Collector and Dauphin County to deputize the Dauphin County Treasurer's Office to collect all Real Estate Taxes and Street Light Assessments for the Township of Derry effective January 01, 2023. Supervisor Corado seconded the motion. **Motion carried 5-0.**

PURCHASE OF ENGINE 48-1:

Mr. Christman stated the Hershey Volunteer Fire Company (HVFC) is looking to replace the current Engine 48-1, which was put into service sixteen years ago in 2006. They have applied for the Dauphin County grant and need this action for their grant application. He noted once the Board approves HVFC to spec and order a new Engine, through Piece Manufacturing, the lead time for the build is 25-months. The approximate total cost for the new Engine is \$954,000.00. The Administration, in consultation with our financial advisors at Raymond James, has identified a funding source through the establishment of a Line of Credit (LOC) to cover the costs associated with the purchase of this apparatus. Since this vehicle has a 25-month build, the initial payment will be due within 12-months from the date of order. He spoke of the timing of the order, grant and financing. The Board asked about the ISO number for the Township and how it helps the residents. Mr. Rodney Sonderman explained the number, the process, the work it takes for them to achieve this number (3), and the monetary impact on residents and businesses in the Township.

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Supervisor Wyckoff made a motion to approve and authorize the specification and purchase of a new fire apparatus to replace Hershey Volunteer Fire Company Engine 48-1. Supervisor Corado seconded the motion. **Motion carried 5-0.**

RESOLUTION 2022-15: 2023 DAUPHIN COUNTY LOCAL SHARE MUNICIPAL GRANT PROGRAM:

Mr. Christman stated at the Board's July 26, 2022 meeting, applicants presented projects for Board consideration and ranking. He noted that Cocoa Packs met with Dauphin County and will be submitting their request through the County instead of the Township. The Administration is recommending the following ranking for Board consideration:

1. Hershey Volunteer Fire Company – Engine 48-1 Replacement Project - \$150,000
2. Township of Derry – Total Request - \$363,458
 - a. PD Interactive Training Simulator - \$56,458
 - b. PD Civil Disobedience Equipment Replacement - \$60,000
 - c. PWD – Two (2) F550 Trucks with plows and spreaders - \$247,000
3. Downtown Hershey Association – Audio Upgrade & Tent Project - \$23,000
4. The Vista School – ADA Safety Replacement Project - \$31,564
5. Hershey History Center – Energy Savings and Infrastructure Upgrade Project - \$50,000
6. Mary’s Training Center – Underwater Treadmill - \$120,000
7. Hidden Still – Construction of Cigar/Bourbon Tasting Lounge, Event Space and Development of Distillery Tour and Distillation Educational Programs - \$75,000
8. Linlo Properties – Governor Crossing Project - \$125,000
9. The Hershey Partnership – Website and Publication Improvements - \$55,000

Supervisor Zmuda made a motion to adopt Resolution 2022-15, Authorizing the Sponsorship and Submission of Requests for Funding for the 2022-2023 Dauphin County Local Share Municipal Grant Program, with a condition for the Linlo Properties project to secure relief with the Township zoning. Supervisor Corado seconded the motion. **Motion carried 5-0.**

Chairman Abruzzo spoke about the good projects and requests they receive every year for these grants. He stated they prioritize projects based on the benefits of taxpayers. He noted that Public Safety and Public Works receive top priority with the Board. Second priority is for nonprofits that provide services to the community. The third priority is for for-profits that are able to show benefits to the taxpayers.

PLAN-WEST HERSHEY PLANT BUILDING EXPANSION-PLAT 1355:

Mr. Emerick stated the parcel on which the West Hershey Plant is located contains 202.44 acres of land, with this project disturbing less than four acres. This plan is the construction of a 23,000-square-foot addition to the existing West Hershey Plant facility and an extension of the existing bike path along Old West Chocolate Avenue. Stormwater management for the addition to the building will be managed on site by an existing basin. Stormwater management for the bike path will be managed by porous pavement and a subsurface infiltration system. He read each of the waivers and conditions for the plan.

Vice Chairwoman Nutt made a motion to approve the following waivers and deferments are granted from the Subdivision and Land Development Ordinance for the Preliminary/Final Land Development and Stormwater Management Site Plan for West Hershey Plant Building Expansion, Plat 1355:

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1. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) regarding plan scale for the overall site plans.
2. Waivers from Sections 185-12.D.(3).(a).[7] and 185-13.E.(4).(a).[7] regarding providing metes and bounds for existing street centerlines along Hersheypark Drive and Old West Chocolate Avenue.
3. Waivers from Sections 185-12.D.(3).(a).[9] and 185-13.E.(4).(a).[9] regarding providing all existing structures, wooded areas, watercourses, rock outcrops, culverts, utilities, fire hydrants, streets and their established grade and width, within 200 feet and 50 feet of the entire property.
4. Waivers from Sections 185-12.D.(3).(a).[21] and 185-13.E.(4).(a).[19] regarding providing profiles of existing stormwater sewer and conveyance systems that will be unaffected by the proposed work.
5. Waivers from Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] regarding providing profiles of existing sanitary sewer systems that will be unaffected by the proposed work.
6. Waivers from Sections 185-12.D.(3).(a).[23] and 185-13.E.(4).(a).[21] regarding profiles of existing gas and water systems that will be unaffected by the proposed work.
7. Deferment from Section 185-22.E.(5) regarding installing curbing along Hersheypark Drive and Old West Chocolate Avenue adjacent to the project--subject to and conditional on the property owner agreeing to and executing a Declaration of Covenants, in a manner and form acceptable to the Township, to be recorded against the property, that would allow the Township to require the installation of curbing in the future if deemed necessary.
8. Deferment from Section 185-34.A.(1) regarding sidewalk, walkway, and/or bicycle path installation along Hersheypark Drive adjacent to the property--subject to and conditional on the property owner agreeing to and executing a Declaration of Covenants, in a manner and form acceptable to the Township, to be recorded against the property, that would allow the Township to require the installation of sidewalks, walkways, and/or bicycle paths along Hersheypark Drive in the future if deemed necessary.
9. Waiver from Section 185-31 regarding providing shade trees along Hersheypark Drive and Old West Chocolate Avenue adjacent to the project.

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

Vice Chairwoman Nutt made a motion to approve the Preliminary/Final Land Development and Stormwater Management Site Plan for West Hershey Plant Building Expansion, Plat 1355, subject to compliance with following items being satisfactorily addressed:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than October 6, 2022. 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 a manner and form acceptable to the Township no later than February 23, 2023, 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 February 23, 2023.
3. The Applicant shall provide a copy of the proposed pedestrian easement for review by the Township no later than February 23, 2023.
4. The Applicant shall revise the numbering for the lighting plan in the sheet index no later than February 23, 2023.
5. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated August 2, 2022, a copy of which is attached hereto and specifically

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incorporated herein by reference, as may be amended to account for the review of the August 12, 2022 Grove Miller Engineering, Inc. Memorandum addressing HRG's traffic-related comments, no later than February 23, 2023.

6. The Applicant shall comply with and/or otherwise satisfy the comments in the DTMA review letter dated August 17, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than February 23, 2023.
7. The Applicant shall comply with and/or otherwise satisfy Comment 3 in the Dauphin County Planning Commission review report dated May 24, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than February 23, 2023.
8. The Applicant shall provide the completed MS4 Post-Construction Stormwater BMP Inventory Form as an Excel file via e-mail to jenelles@derrytownship.org no later than February 23, 2023.
9. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than February 23, 2023.
10. The Applicant shall provide 2 originals of the signed and notarized Development and Financial Security Agreement no later than February 23, 2023.
11. The Applicant shall agree to, execute, and have notarized 2 originals of a Declaration of Covenants for the deferred improvements regarding curbing installation and sidewalk, walkway, and/or bicycle path installation in a manner and form acceptable to the Township no later than February 23, 2023.
12. The Applicant shall agree to, execute, and have notarized 2 originals of a Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township no later than February 23, 2023.
13. The Applicant shall agree to and execute a property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and for acceptable to the Township and provide a copy of the same no later than February 23, 2023.
14. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
15. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.
16. The Applicant shall record the Declaration of Covenants for the deferred improvements regarding curbing installation and sidewalk, walkway, and/or bicycle path installation concurrently with the Plan.
17. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
18. The Applicant shall record the property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.

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

SALE OF TOWNSHIP PROPERTY:

Chief Warner discussed the online bidding system for selling old equipment with bids ending August 16, 2022. The total bids were \$450 for the equipment.

Supervisor Corado made a motion to approve and authorize the disposition of surplus equipment to the highest bidders as noted in the Police Department Memorandum dated August 19, 2022. Supervisor Carter seconded the motion. **Motion carried 5-0.**

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SECURITY-STORMWATER MANAGEMENT PLAN-1068 FAIRDELL DRIVE, S-2022-018:

Vice Chairwoman Nutt made a motion to accept cash financial security in the amount of \$20,027 and enter into the Agreement to Provide Financial Security with Anthony E. Tyree and Angela Bontempo for the Stormwater Management Plan for 1068 Fairdell Drive, S-2022-018. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda and Vice Chairwoman Nutt attended the transportation meeting. She stated there will be road closings for the large upcoming concerts. They are prioritizing the Hershey Transportation Study, working on Church Road issues, and working on Pedestrian Safety issues on Chocolate. They appreciate Sarah from DTMA attending the meetings and providing updates on their projects. Chairman Abruzzo asked about the left turn for Governor. The Board and Staff discussed the issues with one person getting through the light, the requirements for a light change, funding, timing, responsibilities for the Township. Chairman Abruzzo asked that it be considered for the 2023 budget process. Supervisor Wyckoff and Corado were at the DTMA meeting and were provided updates on projects and three resolutions were passed.

REPORTS:

<u>Fire:</u>	Mr. Sassaman thanked the Board for their support and grant approval.
<u>Public Works</u>	Mr. Clark stated the landfill job is completed except for a few loads and seeding. He will follow up about the concerns with the bushes on church Road.
<u>Library:</u>	Mrs. Trautmann stated the library will be closed August 29-30 with curbside service available. She spoke about the success of the book sale.
<u>Recreation</u>	Mr. Jackson stated school is back in session and they need lifeguards. They are providing training.

VISITOR/PUBLIC COMMENTS:

There were no public comments offered.

ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 9:25 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary