

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS MEETING MINUTES
DECEMBER 6, 2022

CALL TO ORDER

Chairman Abruzzo called the December 6, 2022 Regular Meeting of the Township of Derry Board of Supervisors to order at 7:04 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 land and legal 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
William Oetinger, Township Solicitor
Chuck Emerick, Director of Community Development
Thomas Clark, Director of Public Works
Chief Garth Warner, Police Department
David Sassaman, Hershey Volunteer Fire Company
Amy Walker, Parks & Recreation
Alison Jacobnie, Director of Hershey Public Library
Matthew Bonanno, HRG Engineer
Julie Echterling, Recording Secretary

Public in Attendance:

Kody Ierley and family, Pablo Medeira, Bill Fredericks, Holly Evans, Michael Kushner, Olivia Lewis, Rich Gamble.

VISITOR/PUBLIC COMMENTS:

There were no public comments offered.

CONSENT CALENDAR

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

1. Authorize the full release of financial security in the amount of \$7,461, which had been provided in the form of cash for the Stormwater Management Plan for 619 Glen Road, S-2022-010.
2. Authorize the full release of financial security in the amount of \$35,634, which had been provided in the form of Members 1st Federal Credit Union Letter of Credit No. 10A-0813-2021 for the Stormwater Management Site Plan for Hollenbush Residence, S-2021-016.
3. Adoption of the Board of Supervisors Meeting Minutes for the November 21, 2022 6:00 PM Public Hearing.
4. Adoption of the Board of Supervisors Meeting Minutes for the November 22, 2022 7:00 PM Regular Meeting.
5. Adoption of the Board of Supervisors Meeting Minutes for the November 29, 2022 6:00 PM Public Hearing.
6. Approved December 6, 2022 Accounts Payable of \$486,335.15 and Payroll of \$348,783.84.

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

NEW BUSINESS:

SWEARING IN OF OFFICER KODY IERLEY:

Chief Warner spoke about Kody Ierley. Recently, he was serving Dauphin County as a Deputy Sheriff, a position he has held for the past two years. He has a bachelor's degree from Lancaster Bible College.

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Kody will be enrolled in the upcoming Act 120 Police Academy at HACC, starting in January. Chairman Abruzzo swore Officer Lerley in.

RESOLUTION 2022-23 FY 2023 BUDGET:

Mr. Christman stated the FY2023 budget is ready for adoption as it has been on display for 20 days as required. He went over the budget highlights including a no tax increase budget. The projected general fund operating reserve ending balance for FY2023 is nearly \$8 million. Staff was thanked for all their hard work this year.

Supervisor Corado made a motion to adopt Resolution No. 2022-23 - Adopting the FY2023 Budget. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

RESOLUTION 2022-24 – STREET LIGHTS:

Vice Chairwoman Nutt made a motion to adopt Resolution No. 2022-24 - Assessment of the cost and expense of the maintenance of streetlights for various streets within the Township of Derry. Supervisor Corado seconded the motion. **Motion carried 5-0.**

RESOLUTION 2022-25 TAX LEVY FOR FY2023:

Supervisor Corado made a motion to adopt Resolution No. 2022-25 - Tax Levy Resolution for FY2023. Supervisor Zmuda seconded the motion. **Motion carried 5-0.**

LIGHTING -ESHENOUR TRAIL CROSSING ON WOOD RD:

Mr. Christman stated as part of making safety improvements to the Eshenour Trail, the Administration is recommending the installation of lighting at the trail crossing located along Wood Road near the Oakmont development. PPL would need to install a junction box for the new light, and it is estimated to cost \$715-\$750. PPL would install the lighting fixture and Derry Township would be responsible for the ongoing electrical expense to power the light.

Chairman Abruzzo made a motion to authorize the Administration to work with PPL to install the appropriate lighting hardware to facilitate the illumination of the Eshenour Trail Crossing located on Wood Road near the Oakmont Subdivision. Supervisor Corado seconded the motion. **Motion carried 5-0.**

PLAN-HERSHEY SQUARE, PLAT 1353:

Mr. Emerick stated this plan was tabled at the November meeting for the Board to have more time to consider the traffic issues.

Ms. Holly Evans, Evans Engineering, spoke about the proposed changes to address the Board's concern about traffic. They proposed the following:

- removing the “no right turn” out of the Weis exit in the Square allowing local traffic to exit.
- Provide signage at the hotel driveway letting patrons know that they can turn right and exit at the Weis exit in the Square.
- Provide the rights of way and easements required for the HATS plan to expand Hershey Park Drive to six lanes.
- Provide up to \$35,000 (cost of a traffic study)
- Provide \$3,800 for the timing improvements once Starbucks is built.

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Chairman Abruzzo spoke about his concerns with traffic and stacking. He feels like they are squeezing this Starbucks in and knows it will draw more traffic to this intersection. He noted that any issues with this will come to this Board after its built.

She noted they are working with the Township but cannot solve all the problems of the intersection. She and Greg Creasey, Traffic Engineer, have worked on this and came up with ways to help relieve their traffic concerns. Vice Chairwoman Nutt asked if the Starbucks could be put further back on the Square. Mr. Medeira, developer, stated they want to be at that location. The Board discussed other options with another driveway, concerns about driving through the parking lot, concerns for Weis's patrons with using the parking lot to exit, and wanting a study that could let them know the impact. They discussed options for a traffic study including using data from the 2018 study. Concerns were expressed because of the changes to the Square and Township since 2018. Mr. Creasey noted that a full traffic study would need to be done in June when the park is open. He discussed the elements that have changed since 2018. He stated a lot of the business would be in AM peak hours instead of PM peak hours. Solicitor Oetinger spoke about splitting the Preliminary and Final approval process to allow the plan to continue pending a final approval once the traffic study is completed. Extensive discussion ensued. Ms. Evans asked if they could discuss this with her client and come back later in the meeting. The Board agreed.

PLAN FOR HERSHEY WEST END – FINAL PHASE J, PLAT 1361:

Mr. Emerick stated approval has been obtained for the revised Conditional Use for the Hershey West End Master Plan (filed under Conditional Use Application No. 2022-01), Hankin/Hershey West End Apartments Venture-Unit J, LLC, and now have submitted the final plan for Phase J. The application and plan propose the development of 336 apartment units and 12 single-family attached (townhome) units. Other amenities include a dog park, an extension of the trail system, and a private swimming pool and pool house. He went over the waivers and conditions.

Supervisor Zmuda made a motion to grant the following waivers from the Subdivision and Land Development Ordinance for the Final Land Development and Subdivision Plan for Hershey West End – Final Phase J, Plat 1361:

1. Waiver from Section 185-13.E.(3) – Plan scale
2. Waiver from Section 185-13.E.(4).(a).[9] – Existing features within 50 feet
3. Waiver from Section 185-13.E.(4).(a).[36] – Existing contours within 50 feet.
4. Waivers from Sections 185-13.E.(4).(a).[19], [20], and [21] – Profiles of existing utilities

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

Supervisor Zmuda made a motion to approve the Final Land Development and Subdivision Plan for Hershey West End – Final Phase J, Plat 1361, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than January 20, 2023. 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 June 6, 2023, and the Applicant and Owner shall agree to and execute a Development and Financial Security Agreement in a manner and form acceptable to the Township no later than June 6, 2023.

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3. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's review letter dated November 21, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than June 6, 2023.
4. The Applicant shall provide 4 paper copies of the Erosion and Sediment Control Plan for Hershey West End – Final Phase 1 (NPDES Phase 4) no later than June 6, 2023.
5. The Applicant shall provide payment of a \$555,853.44 fee in lieu of Township acceptance of land for park, recreation, and open space uses no later than June 6, 2023. .
6. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than June 6, 2023.
7. The Applicant shall provide 3 originals of the signed and notarized Development and Financial Security Agreement no later than June 6, 2023.
8. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
9. The Applicant shall record the Final Subdivision and Land Development Plan for Hershey West End – Final Phase J and the Erosion and Sediment Control Plan for Hershey West End – Final Phase 1 (NPDES Phase 4) [collectively “the Plan”]
10. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.
11. The Applicant complies with and ensures that the plan and construction entitled by the plan is consistent with the conditional use approvals granted under Application 2018-01 as supplemented and amended under applicational Conditional Use 2022-01.

Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

EXTENSION: PA STATE POLICE ACADEMY AND BESO – MODERNIZATION, PLAT 1352:

Mr. Emerick spoke about the Board's June 2022 approval of the reconstruction and modernization of the Pennsylvania State Police Academy and Bureau of Emergency and Special Operations (BESO) plan. He stated the applicant has requested an extension of time until March 23, 2023 to address the remaining conditions of approval. *During this discussion, Supervisor Corado left the meeting briefly.*

Chairman Abruzzo made a motion that the approval of the Preliminary/Final Subdivision and Land Development Plan for PA State Police Academy and BESO – Modernization, Plat 1352, is extended to March 23, 2023, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than January 20, 2023. 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 agree to and execute a Development Agreement in a manner and form acceptable to the Township no later than March 23, 2023.
3. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer's 'Land Development Review Letter #4', dated October 6, 2022, and 'Roadway Plan Review Letter #1', dated November 1, 2022, copies of which are attached hereto and specifically incorporated herein by reference, no later than March 23, 2023.
4. The Applicant shall provide 2 originals of the signed and notarized Development Agreement no later than March 23, 2023.
5. The Applicant shall agree to, execute, and have notarized 2 originals of a Declaration of Covenants for the deferred improvements regarding additional right of-way and/or cartway widening and curbing installation in a manner and form acceptable to the Township no later than March 23, 2023.

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6. The Applicant shall agree to and execute an agreement with the requisite accompanying exhibit for a right-of-way easement along Swatara Road in a manner and form acceptable to the Township no later than March 23, 2023.
 7. 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 March 23, 2023.
 8. The Applicant shall agree to and execute a property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement in a manner and form acceptable to the Township and provide a copy of the same no later than March 23, 2023.
 9. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
 10. The Applicant shall record the Development Agreement, or a Memorandum of the same, concurrently with the Plan.
 11. The Applicant shall record the Declaration of Covenants for the deferred improvements regarding additional right-of-way and/or cartway widening and curbing installation concurrently with the Plan.
 12. The Applicant shall record the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
 13. The Applicant shall record the property Declaration referencing the Stormwater Operation and Maintenance Agreement and Access Easement concurrently with the Plan.
 14. The Applicant shall record the agreement and exhibit for a right-of-way easement along Swatara Road concurrently with the Plan.
 15. The Applicant shall record the Landscaping Plans (Sheets STE-L-001 through STE-L-511) and Lighting Plans (STE-L-601 through STE-L-611 and STE-E-102 through STE-E-113) concurrently with the Subdivision and Land Development Plan.
 16. The Applicant shall comply with all the conditions and requirements set forth in the Derry Township Zoning Hearing Board Decisions under Case Numbers 2022-05 and 2022-06.
- Supervisor Zmuda seconded the motion. **Motion carried 4-0.** *Supervisor Corado returned to the meeting after this vote.*

EXTENSION: PLAN FOR OAK SPRINGS PHASE III BUILDING EXPANSION, PLAT 1227:

Mr. Emerick stated Plat 1227 was submitted in 2013. The plan is for approximately 2.71 acres, which presently is improved with 2 buildings, each containing 6 townhouse dwelling units; parking areas, including a detached carport structure; and a driveway that provides access to the buildings and parking areas. He went over the history of approvals and extensions.

Vice Chairwoman Nutt made a motion that the approval of the Preliminary/Final Land Development and Stormwater Site Management Plan for Oak Springs Phase III Building Expansion, Plat 1227, is extended for an additional three years, subject to compliance with the following items:

1. A performance security is provided in an amount equal to the original approved amount PLUS 10% for each one-year period beyond the first anniversary date establishing the amount (not to exceed 110%) OR in a new amount established in accordance with the requirements of the Subdivision and Land Development Ordinance to guarantee the completion of required improvements, and that the accompanying Agreement is signed no later than January 2, 2026.
2. The comments in the May 30, 2013 HRG letter (attached) are satisfactorily addressed no later than January 2, 2026.

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3. The Applicant drafts a Common Lateral Agreement for the six new units for approval by the Derry Township Municipal Authority no later than January 2, 2026.
4. The Applicant ensures the renewal of any expired approvals (Dauphin County Conservation District, DEP, etc.) or permits originally required for the project no later than January 2, 2026.
5. Two (2) originals of the signed and notarized Stormwater Best Management Practices Operation and Maintenance Agreement are provided no later than January 2, 2026.
6. The completed BMP Inventory Form is provided digitally as an Excel file to jenelles@derrytownship.org no later than January 2, 2026.
7. The Stormwater Best Management Practices Operation and Maintenance Agreement is recorded concurrently with the Plan.
8. A revised property deed referencing the Stormwater Best Management Practices Operation and Maintenance Agreement is recorded concurrently with the Plan.

Chairman Abruzzo seconded the motion. **Motion carried 5-0.**

EXTENSION: PLAN 1106 COCOA AVE FOR NAGILLUM PROPERTIES, LLC, PLAT 1333:

Mr. Emerick stated the applicant has requested a third extension of time until July 4, 2023. This will allow them to address the outstanding conditions of the June 14, 2022 extended approval.

Supervisor Zmuda made a motion that the approval of the Preliminary/Final Land Development Plan for 1106 Cocoa Avenue for Nagillum Properties, LLC, Plat 1333, is extended to July 4, 2023, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for costs incurred in reviewing the Plan no later than July 4, 2023. 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 the amount of \$135,950 and in a manner acceptable to the Township, no later than July 4, 2023. Additionally, the Applicant shall execute the Development and Financial Security Agreement no later than July 4, 2023.
3. The Applicant shall revise Sheet C3.0 of the Plan so that all occurrences of “Central Master Plan Approval Area” are changed to “Hershey Mixed Use Zoning District” no later than July 4, 2023.
4. The Applicant shall provide the Township administrative fee of \$26.00 for the sewage facility planning module application mailer request for sewage planning exemption no later than July 4, 2023.
5. The Applicant shall address and/or comply with the comments in the April 28, 2021 HRG, Inc. letter in a manner and form acceptable to the Township no later than July 4, 2023.
6. The Applicant shall provide the Township with a CD containing a digital file of the final plan in Auto CAD or DXF compatible format no later than July 4, 2023.
7. The Applicant shall provide the Township with 2 originals of the signed Development and Financial Security Agreement no later than July 4, 2023.
8. The Applicant shall agree to and execute a Deed of Dedication with the requisite accompanying exhibits for additional right-of-way along Cocoa Avenue in a manner and form acceptable to the Township no later than July 4, 2023.
9. The Applicant shall provide title insurance no later than July 4, 2023 for the Cocoa Avenue right-of-way to be dedicated to the Township.
10. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.

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11. The Applicant shall record the Development and Financial Security Agreement, or a Memorandum of the same, concurrently with the Plan.

12. The Applicant shall record the Deed of Dedication and exhibits for additional right-of-way along Cocoa Avenue concurrently with the Plan.

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

PLAN WITHDRAWAL AND SECURITY RELEASE PLAN-593 HILLTOP ROAD, S-2021-018:

Mr. Emerick stated the Mackneers submitted a plan to detail the design of stormwater management facilities for a swimming pool at 593 Hilltop Road. The plan was approved by the Township on August 10, 2022 and the Mackneers posted cash financial security in the amount of \$4,807. On August 26, 2022, Mr. Mackneer informed us that they are abandoning the project.

Vice Chairwoman Nutt made a motion acknowledging the plan withdrawal and release of cash financial security in the amount of \$4,807 for the Stormwater Management and ESC Plan for 593 Hilltop Road, S-2021-018. Supervisor Corado seconded the motion. **Motion carried 5-0.**

RECESS TO EXECUTIVE SESSION:

The Board went into Executive Session at 8:54 p.m. to discuss land and legal issues.

RECONVENING OF MEETING:

The Board reconvened the meeting at 9:07 p.m.

PLAN-HERSHEY SQUARE, PLAT 1353:

Ms. Evans proposed doing a smaller traffic study since the park is now open. Mr. Bonanno stated the study needs to be a holistic view with all the moves and they need AM peak numbers. He stated he would need to talk to Eric Stumpf about this before committing to anything. Mr. Creasy stated the peak hours are 6 a.m. to 9 a.m. and the park opens at 10 a.m. in the summer. The Board, Solicitor and Applicant discussed options on the study and approving a preliminary and deferring action on the final approval.

Chairman Abruzzo made a motion to grant the following requested waivers and a deferment from the Subdivision and Land Development Ordinance and Stormwater Management Ordinance for the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353:

1. Waivers from Sections 185-12.D.(2) and 185-13.E.(3) – Plan scale.
2. Waivers from Sections 185-12.D.(3).(a).[7] and 185-13.E.(4).(a).[7] – Metes and bounds of street rights-of-ways, centerlines, and easements.
3. Waiver from Section 185-12.D.(3).(a).[9] - Existing structures within 200 feet, including pipe sizes and materials.
4. Waivers from Sections 185-12.D.(3).(a).[21] and 185-13.E.(4).(a).[19] – Stormwater plan and profiles (existing systems).
5. Waivers from Sections 185-12.D.(3).(a).[22] and 185-13.E.(4).(a).[20] – Sanitary plan and profiles (existing systems).
6. Waivers from Sections 185-12.D.(3).(a).[23] and 185-13.E.(4).(a).[21] – Utility plan and profiles (existing systems).
7. Waiver from Section 185-18 – Monuments and markers.

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8. Deferment from Section 185-22.E.(5) – Curbing (along Hersheypark Drive and Route 422), subject to and conditional on the Applicant 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 along Hersheypark Drive and Route 422 in the future if deemed necessary.
9. Waiver from Section 185-34 – Sidewalks, walkways, and bicycle paths.
10. Waivers from Sections 174-17.B.(1) and 174-17.B.(2) – Emergency spillways.
11. Waiver from Section 174-17.B.(10) – Stormwater management facility bottom elevations greater than adjacent floodplain elevation.

AND approve the Preliminary Land Development and Stormwater Management Site Plan for Hershey Square Proposed Outparcel Development, Plat 1353, deferring action on the Final Land Development Plan until 60 days after the submission of an HRG & Applicant agreed upon traffic study, subject to compliance with the following items:

1. The Applicant shall reimburse the Township for all costs incurred in reviewing the Plan no later than January 20, 2023. 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 identify the condition of all property markers and monuments on the Plan no later than June 6, 2023.
3. The Applicant shall revise Sheet C1.1 of the Plan to remove the waiver from Section 174-14.A.(1) - Rate Controls (100 Year) from the ‘Design Waivers Requested’ table (because the waiver was withdrawn at the April 5, 2022 Planning Commission meeting) no later than June 6, 2023.
4. The Applicant shall comply with and/or otherwise satisfy the comments in the Township Engineer’s review letter dated November 1, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than June 6, 2023.
5. The Applicant shall comply with and/or otherwise satisfy the comments in the DTMA review letter dated November 2, 2022, a copy of which is attached hereto and specifically incorporated herein by reference, no later than June 6, 2023.
6. 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 June 6, 2023.
7. The Applicant shall provide a CD of a DXF or AutoCAD digital file of the final plan no later than June 6, 2023.
8. The Applicant shall comply with all outside agency requirements, including, but not limited to, PennDOT, PADEP, FAA, and EPA, if applicable.
9. The Applicant shall record the Plan.

Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

CORRESPONDENCE BOARD/COMMITTEE INFORMATION:

Supervisor Zmuda wished everyone happy holidays.

REPORTS:

<u>Police:</u>	Chief Warner thanked the Board for the new officer. He stated they have two officers graduating December 12 from the Academy and will start field training. They will be hiring an additional officer in 2023 because of a recent retirement.
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<u>Fire:</u>	Mr. Sassaman thanked the Board for their support this year. He spoke about Santa coming to town.
<u>Library:</u>	Mrs. Jacobine stated the library is going fine free. She thanked the Library Board for voting to remove fines for residents.
<u>Recreation</u>	Ms. Walker spoke about the Santa swim fest. She stated the Recreation Center would be closing at noon on Christmas and New Years Eve and closed Christmas and New Year's Day.
<u>Manager</u>	Mr. Christman stated the December 20 meeting is cancelled and the next meeting will be January 3.

VISITOR/PUBLIC COMMENTS:

Mr. Rich Gamble spoke about his concerns with the Hershey Square and all the traffic. He spoke about the intersection with Hershey Park Drive and a fatal accident. He discussed his concerns with the increased traffic with the full parking lot with all the new stores. He noted that it is almost impossible to make a left turn out of the Bob Evans with all the traffic.

ADJOURNMENT:

Supervisor Zmuda made a motion to adjourn the meeting at 9:31 p.m. Vice Chairwoman Nutt seconded the motion. **Motion carried 5-0.**

SUBMITTED BY:

Carter E. Wyckoff
Township Secretary