

TOWNSHIP OF DERRY
BOARD OF SUPERVISORS PUBLIC HEARING MINUTES
JANUARY 31, 2023 6:00 PM

CALL TO ORDER

Vice Chairwoman Nutt called the January 31, 2023 Public Hearing of the Township of Derry Board of Supervisors to order at 6:10 p.m. in the meeting room of the Township of Derry Municipal Complex, 600 Clearwater Road, Hershey, PA. After the pledge of Allegiance, a roll call was performed. She reminded the public that the meetings are recorded. She noted Chairman Abruzzo was running late.

IN ATTENDANCE:

SUPERVISORS

E. Christopher Abruzzo, Chairman-*arrived at 6:43pm*
Natalie L. Nutt, Vice Chairwoman
Carter E. Wyckoff, Secretary
Richard D. Zmuda
Michael P. Corado

ALSO PRESENT:

Christopher Christman, Township Manager
Chuck Emerick Director of Community Development
Peter Nelson, Township Solicitor
Scott MacNair, Township Solicitor
Eric Stump, HRG Engineer
Nancy Baker, Stenographer
Becky Sweigart, Public Outreach Coordinator
Julie Echterling, Recording Secretary

PUBLIC IN ATTENDANCE:

See attached pages.

INTRODUCTION:

Vice Chairwoman Nutt stated this is the reconvened public hearing regarding Conditional Use Application No. 2022-06 (Plat 1359), as filed by equitable owner Linlo Governor Crossing, LLC and Sheetz, Inc., regarding a Master Plan Development. She asked that everyone identify themselves when they speak at the podium. She turned the meeting over to Solicitor Nelson. Solicitor Nelson spoke about the need for scheduling additional meetings. He offered February 21, 22 and March 21 and 29. Attorney Strong asked that all these dates be used for the hearing to keep this process moving. Attorneys Crist, Getz and Greenburg stated the dates will work. Attorney Winter and Mr. Blumberg objected to February 21 because they are unavailable.

Township Attorney MacNair continued to cross examine Traffic Engineer Mr. Gregory Creasy, Grove Miller Engineering, Inc. During his questioning, Attorney Strong objected to the questioning because the Master Plan requires a Traffic Study be submitted, which has PennDOT approval. He does not see the relevance of the line of questioning. He stated the ordinance only states they need to submit a study. Solicitor Nelson noted his objection and overruled it. Attorney MacNair continued his questioning.

Attorney Crist, representing Mary Backenstose, questioned Mr. Creasy. During the questioning, Attorney Strong objected because Attorney Crist was not asking a question. Solicitor Nelson sustained and instructed him to ask questions of the witness and not present testimony.

RECESS & RECONVENMENT

The public hearing recessed for a break at 7:33 p.m. The public hearing was reconvened at 7:43 p.m.

Attorney Crist continued his cross examination of Mr. Creasy. During his examination, throughout the hearing, Attorney Strong objected because Attorney Crist was not asking a question of Mr. Creasy but was testifying or asking Mr. Creasy to read evidence. At each objection raised by Attorney Strong, Solicitor

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Nelson sustained and instructed Mr. Crist to ask a question and not testify. Attorney Crist provided handouts to the Board and Attorney Strong. Some were copies of the previously entered evidence. Solicitor Nelson entered the following items into evidence from Attorney Crist:

1. Back#1=Aerial shot of the area
2. Back#2=Fuel distance shot of the area
3. Back#3=Scope application comment sheet
4. Back#4=Email from Mr. Hughes to Mr. Eric Knard (PennDOT)
5. Back#5=PA Department of Transportation Access Management Document

Attorney Strong objected to Back #4 & Back #5 because they have the conditional PennDOT approval, and the emails cannot be confirmed. He believes it is not relevant. Solicitor Nelson upheld his objection to Back#4. He noted for Back#5, the Board will weigh it and noted the rules of evidence are looser and overturned his objection. Attorney Crist continued his cross examination. Solicitor Nelson asked about the email from Hughes (Back#4) and if the sections in the email were in the Access Management Document. Mr. Creasy stated yes. Solicitor Nelson stated the Board would like it admitted into the record. Attorney Strong stated he cannot confirm the email because Mr. Creasy started the email but is not in the last part of the email. In addition, the individuals in the email have not been questioned. Solicitor Nelson stated it will be taken into consideration when weighing the evidence.

Attorney Crist continued his cross examination of Mr. Creasy. Back#6 Packet from Jacob Hughes to Dean Noles dated 1/17/2022 was entered. Attorney Strong objected to the emails. Solicitor Nelson stated the Board accepted it and will give it weight when evaluating them. Attorney Crist offered Back#7 which included his handwritings on the exhibit. Solicitor Nelson asked for an unmarked copy of Back #7.

Attorney Crist continued his cross examination. Attorney Strong objected to the questioning as being relevant as the scope and study are done. Solicitor Nelson overruled it stating there are looser rules of evidence for these hearings and the Board will attach the appropriate weight to things. Attorney Crist continued his cross examination. Attorney Crist reached a point where he could stop because it was close to 9 p.m. Solicitor Nelson asked Attorney Crist if the other handouts provided tonight were from the revised traffic study and he stated they were.

Solicitor Nelson stated they will hold the hearing on February 22 of which Township Attorney MacNair may not be able to attend. He asked Attorney Strong if additional witnesses testify, could those witnesses come back for the next hearing for Attorney MacNair. Attorney Strong stated they would. Attorney Winters will try to be at the February 22 hearing. Solicitor Nelson stated the next hearings will be February 22, March 21 and March 29.

ADJOURNMENT TO EXECUTIVE SESSION:

Chairman Abruzzo adjourned the hearing at 9:01 p.m. to executive session for the Board to discuss legal issues.

SUBMITTED BY:

Carter E. Wyckoff, Township Secretary

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Derry Township Board of Supervisors Reconvened Public Hearing
January 31, 2023, 6:00 p.m.
Conditional Use Application No. 2022-06 for Governor Crossing

| <u>Name</u> | <u>Address or Company</u> |
|-------------------------|------------------------------|
| Ed Greenberg | Ward Greenberg, Philadelphia |
| Doug Miller | SEEDLINGS ACADEMY |
| Ronald Blumberg | 637 FISHBURN RD |
| Annetta M. Scott Marato | A to Z 725 FISH |
| Loretha M. Crist, Esq. | 2865 CHURCH RD |
| MARK WINTER | JSDC LAW HERSHEY |
| Dave Getz | Wip Way of Hershey |
| Jean May | JMK Circle, Hershey |
| Erin W. Lytle | 307 Hochensulter Rd |
| Craig Rozinski | Pennoni Assoc. |
| Anne Newman | 533 Elm Ave |
| Jim Stang | 76 Almond Dr. Hershey |
| Zach Youngst | HRG |

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| <u>Name</u> | <u>Address or Company</u> |
|---|---------------------------|
| Steven Lee | 530 Maple |
| Madelyn Tuxman | Almond Dr |
| Cary Tuxman | |
| Mary E. Baker | 218 W. Gov. Hensley |
|  | The Inn |
| Matt Hitchcock | 110 Peach Ave |
| John Miller | 329 Cocoa |
| ROBERT SMITH | 101 ALMOND DR |
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