

**DERRY TOWNSHIP  
ZONING HEARING BOARD MEETING MINUTES  
April 19, 2023**

**CALL TO ORDER**

The Wednesday, April 19, 2023, Derry Township Zoning Hearing Board meeting was called to order at 6:00 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 Chairman Tom DeDonatis; Secretary Lindsay Drew; Member Mike Angello; Member Bill Tafuto

Board members absent: None

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

Public registering attendance: Bobbie Holland, 1231 Swatara Road; Kyle D'Angelo, 1251 Swatara Road; Deborah Hamilton, 135 Needlewood Drive; Brenda Peffley, 1091 Swatara Road

**APPROVAL OF MINUTES**

On a motion made by Secretary Drew, seconded by Chairman Seidl, and a unanimous vote, the March 15, 2023, minutes were approved as written.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**A. Hearing in the Case of Kyle D'Angelo (2023-02)  
Property location: 1251 Swatara Road, Hershey**

The property is located in the Conservation zoning district. It is improved with a single-family detached dwelling and associated accessory structures. The applicant desires to erect a fence on the property. Relief is sought in the form of a special exception to erect a fence greater than six feet in height on a residential property. Additionally, the applicant is challenging the validity of Section §225-407 of the Zoning Ordinance as it relates to the manner of approval for fences higher than six feet on properties used for residential purposes.

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Kyle D'Angelo of 1251 Swatara Road was sworn in. Mr. D'Angelo seeks to construct a fence greater than six feet in height on his property and explained where the fence will be located. The purpose of the fence is to keep animals, namely deer and bear, out of an orchard he has started. Mr. D'Angelo stated that he will not be removing any trees in relation to the fence installation. However, he will remove trees if they are dead or hazardous. Mr. D'Angelo described what the fence will look like. It will be constructed of wooden posts, a decorative header, and welded wire panels. The header will be designed to look like a trellis. He is also planning to add shelving along the panels for flower boxes so that the fence looks more appealing. All materials for the fence will be compliant with the Zoning Ordinance.

In response to a question from Chairman Seidl, Mr. D'Angelo stated that no part of the fence will encroach on neighboring properties.

*Public Comment:*

Brenda Peffley, who resides at 279 East Canal Street, Hershey, and owns the property at 1091 Swatara Road, was sworn in. Ms. Peffley asked what the regulations are on setbacks for fences in the Conservation zoning district. David Habig confirmed there are no setbacks for fences on the side and rear property lines. Fences may be erected on the property line if they do not encroach onto the neighboring property. Ms. Peffley feels the proposed fence will not deter the deer.

Bobbie Holland of 1231 Swatara Road was sworn in. Ms. Holland was concerned about the fence being placed between their homes; however, Mr. D'Angelo confirmed that the fence would not interfere with her line of site to leave her property. Ms. Holland is also concerned that the trellis that hangs out will be an obstruction for the farmer who plants and harvests crops in the field. She also feels the fence will not deter the deer and in fact, she has witnessed deer get stuck in fences.

Mr. D'Angelo requested confirmation that this hearing is for a fence over six feet in height and that it does not exclude him from putting additional fencing on the property that is six feet or less in height. Chairman Seidl confirmed that Mr. D'Angelo would not need to come to the Zoning Hearing Board for fencing under six feet in height.

The second part of the Application challenges the validity of Section §225-407 of the Zoning Ordinance as it relates to the manner of approval for fences higher than six feet on properties used for residential purposes. Mr. D'Angelo was not happy with the process he had to go through to get this relief. He requested to have the filing fee waived; however, the Zoning Hearing Board does not have the authority to waive or refund any fees that are set by Resolution of the Board of Supervisors. Mr. D'Angelo submitted a letter regarding why he believes this is not a good Zoning Ordinance and does not meet all the requirements of the community.

Chuck Emerick, Director of Community Development for Derry Township, was sworn in. Mr. Emerick believes the Zoning Ordinance's Special Exception process is a fair process for

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residents to go through, as their neighbors may have concerns about what is being constructed and they have the opportunity to voice their opinions and concerns. The six-foot height limit is what most municipalities in the area use. As to the filing fee, Derry Township's fees are considerably less than most municipalities in the area. The filing fee is based on the cost incurred by the Township to have a hearing. Mr. Emerick noted that Mr. D'Angelo referenced East Hanover Township in his letter. East Hanover Township has an entirely different community than Derry Township; they do not have a lot of residential areas. They are much more spread out and have a lot of farmland.

Ms. Peffley commented that she is not opposed to Mr. D'Angelo's proposed fence. What she is questioning is whether or not his request qualifies as a special need that needs to be met in order to obtain the relief.

In response to a question from Secretary Drew, Solicitor Megan Huff clarified what the Board can do regarding the challenge to the validity of the Zoning Ordinance.

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

**OTHER BUSINESS**

None.

**ADJOURNMENT**

On a motion made by Secretary Drew, seconded by Vice Chairman DeDonatis, and a unanimous vote, the meeting was adjourned at 7:04 p.m.

**DELIBERATION**

The Board met to deliberate in the case of Kyle D'Angelo (2023-02) and directed the Solicitor to prepare the draft decision on the case for formal action at the May 2023 meeting.

Submitted by:

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Lindsay Drew, Secretary