

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: : NO. 2023 – 07
:
Milton Hershey School :
:
: PREMISES LOCATION:
: 1201 Homestead Lane
: Hershey, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of the Milton Hershey School with regard to the property located at 1201 Homestead Lane, Hershey Derry Township, which is owned by the Hershey Trust Company as Trustee for the Milton Hershey School. A hearing in this matter was held on July 19, 2023, after proper advertising. At that time, Jim Wenger, P.E., of Derck & Edson, and John Osmolinski appeared, were sworn, and Mr. Wenger testified at the hearing. No members from the public testified at the hearing.

The application indicates that the subject property, over 2,500 acres, is located in the Planned Campus South, General Sign Overlay, and South Master Plan Approval Area zoning districts. The property is improved with the Milton Hershey School educational facilities. The application seeks a variance from the front yard setback to construct a gateway structure at the Bachmanville Roundabout. The applicant previously obtained zoning relief from the Zoning Hearing Board (No. 2017-10) to construct decorative wall structures with attached signage along Governor Road at the entrances to the school campus.

The applicant proposes to construct a gateway feature at the Bachmanville Roundabout, which will be located at the intersection of Bachmanville Road and Homestead Road. The applicant owns all four corners of the intersection. Therefore, Mr. Wenger argued that the gateway structure would not have an impact on the surrounding properties. The gateway structure will be 5 feet from the road right-of-way and 24 feet from the edge of the cartway. Mr. Wenger explained that if the structure was constructed in compliance with the Ordinance's required setback, the gateway would not have the same visible effect. The proposed gateway is intended to serve as a wayfinding marker to guide visitors efficiently to and through the campus, which requires that the signage be clearly visible from the road. Moreover, the testimony indicated that the 50 foot setback is applicable throughout the entire property, and as a result, there is no other option available regarding placement of the gateway structure. The structure will be the same height, 14'8", as the gateway structures approved in 2017. According to Mr. Wenger, it will blend in with the overall character of the campus. David Habig, Assistant Director of Community Development, confirmed the proposed gateway structure will not cause any sight line issues.

The Ordinance requires a front yard setback of 50 feet. *See* Ordinance, §225-309, Table 17. The criteria for issuing zoning variances are set forth in §225-1007.9.A of the Derry Township Zoning Ordinance. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;

2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and that the authorization of the variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief. Initially, the Board finds that the property is unique given its size and a hardship exists in directing guests around the subject property in strict compliance with the Ordinance. There is no evidence on the record that the applicant created this hardship. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or to the public welfare. Indeed, the proposed gateway will serve as a wayfinding marker to benefit the public and visitors to the Milton Hershey School. The Board finds that the proposed relief will not alter the essential character of the neighborhood. There is no testimony in the record to indicate that the requested variance would negatively impact surrounding properties as the applicant owns the adjacent lands to the proposed gateway location. No neighbors testified

in opposition to the application. Finally, the Board finds that this represents the minimum relief necessary.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *Ordinance*, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

AND NOW, this 16th day of August, 2023:

1. The applicant's request for a variance from §225-309, Table 17 regarding the front yard setback for an accessory structure is GRANTED. The applicant may encroach to within 5 feet of the road right-of-way for the proposed gateway structure.


2. The applicant shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.

3. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicant shall be required to comply with the then existing terms of the Zoning Ordinance.

4. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.



Steven Seidl



Thomas DeDonatis

William Tafuto