

**DERRY TOWNSHIP
ZONING HEARING BOARD MEETING MINUTES
December 18, 2024**

CALL TO ORDER

The Wednesday, December 18, 2024, Derry Township Zoning Hearing Board meeting was called to order at 6:00 p.m. by Vice Chairman Tom DeDonatis in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA.

ROLL CALL

Board members in attendance: Vice Chairman Tom DeDonatis; Secretary Mike Angello; Member Bill Tafuto (via phone).

Board members absent: Chairman Steve Seidl; Member Joe Nocera

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

Public registering attendance: Ashley Hiestand, BMK Construction; Brett Kain, BMK Construction; Scott Rothrock, 1038 Mae Street; Matt Luttrell, ThYNK Design; Danielle Newkam, 1676 Sand Hill Road; Justin Newkam, 1676 Sand Hill Road; Nathan Wenger, 410 Wolever Road; Christopher Gabner, 1012 Southfield Court, Harrisburg; James Gabner, Jr., 1026 Mae Street

APPROVAL OF MINUTES

On a motion made by Member Angello, seconded by Member Tafuto, and a unanimous vote, the November 20, 2024, minutes were approved as written.

OLD BUSINESS

None.

NEW BUSINESS

Due to unexpected Board member absences, a quorum could not be established. Solicitor Huff explained the procedure to appoint hearing officers to hear the cases.

On a motion made by Member Angello, seconded by Vice Chairman DeDonatis, and a unanimous vote, Member Angello and Vice Chairman DeDonatis were sworn in as hearing officers for the meeting.

Applicants were given the following options for proceeding with their case:

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1. Waive their right to a full panel Board hearing and allow the appointed hearing officers to hear the case and render a decision.
2. Allow the hearing officers to hear the case and then present the testimony and exhibits to the full Board to render a decision.
3. Request a continuance to bring their case at the next meeting on January 15, 2025.

Each applicant will be asked to state on the record the option they choose to proceed with.

A. Hearing in the Case of Justin and Danielle Newkam (2024-22)
Property location: 1676 Sand Hill Road, Hershey

The applicant waived their right to have a decision rendered by the full Board and instead will allow the appointed hearing officers to hear the case and render a decision.

The property is located in the R-1 zoning district. It is improved with a single-family detached dwelling, a detached garage, and a shed. The applicant desires to raze the existing shed to build new living space attached to their detached garage.

Justin Newkam of 1676 Sand Hill Road, Hershey, and Nathan Wenger of 410 Wolever Road, Myerstown, were sworn in. Mr. Newkam explained that he is seeking a special exception for his property to construct an accessory dwelling attached to his existing garage for his wife's aging parents. Mr. Wenger added that the proposed structure meets all the criteria for an accessory dwelling. It is over 1,200 square feet and less than 50% of the mean primary dwelling floor area.

Vice Chairman DeDonatis asked about the criteria for a special exception for an Accessory Dwelling Unit. David Habig read through the 14 criteria and confirmed that each was met. Mr. Wenger added that there was already a stormwater management plan completed two years ago and the area where the addition will be positioned is on an existing stone pad that was included in that plan.

Secretary Angello questioned if the new plan will have 1,670 square feet of impervious coverage while the existing coverage is 1,867 square feet. Mr. Wenger explained that an existing stone walkway will be removed and will create a net gain of 197 square feet.

No one else offered testimony.

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

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B. Hearing in the Case of ThYNK Design, LLC (2024-23)
Property location: 460 Henry Lane, Hummelstown

The applicant waived their right to have a decision rendered by the full Board and instead will allow the appointed hearing officers to hear the case and render a decision.

The property is in the Planned Campus West and General Sign District Overlay zoning districts. The new Cocoa Packs building is under construction on the property. The applicant desires to place signage on the new building. Relief is sought in the form of a special exception for the location of a wall sign above the lower sill of an upper story window.

Matt Luttrell of 1332 East Chocolate Avenue was sworn in. Mr. Luttrell, speaking on behalf of Cocoa Packs, is seeking a Special Exception for an elevated wall sign on the exterior of the building located above the sill line. The sign is illuminated, approximately three feet in diameter, and will be placed on the building façade that faces the highway approximately 800 feet away. The sign size and distance to the highway are in line with the current Zoning Ordinance and would not modify the character of the existing neighborhood. All other aspects of the sign are in compliance with the Zoning Ordinance.

Secretary Angello asked if the applicant had received any opposition or feedback from neighboring property owners and Mr. Luttrell replied no.

No one else offered testimony.

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

C. Hearing in the Case of BMK Construction (2024-24)
Property location: 35 Almond Drive, Hershey

The applicant waived their right to have a decision rendered by the full Board and instead will allow the appointed hearing officers to hear the case and render a decision.

The property is in the Hershey Mixed Use zoning district. It is improved with a single-family semidetached dwelling. The applicant desires to expand the existing patio. Relief is sought from the front setback requirement.

Brett Kain of 9117 Elizabethtown Road, Elizabethtown, was sworn in. Mr. Kain, speaking on behalf of Kevin Murray (the property owner), proposed a variance to allow for 17 feet of relief from the required 50-foot setback on the side of the property facing Glen Road. The purpose of the relief is to create a second wheelchair accessible means of egress in place of an existing patio, with 200 square feet of expanded outdoor entertaining space.

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In response to a question from Secretary Angello, Mr. Kain explained that the layout and materials of the patio have already been approved by the Cocoa Townes Homeowners Association, and he provided a letter of approval for verification.

Vice Chairman DeDonatis asked what the setbacks are on this property, and Mr. Kain stated they were told 50 feet for the accessory patio. Mr. Kain went on to explain that the entire property is not in compliance with the Zoning Ordinance due to the location of the dwelling on the lot.

Secretary Angello noted that he read there are some easements on the property, and Mr. Kain confirmed that there is an easement at the back of the property, which left them with a challenge when determining the placement for the new egress and patio.

Solicitor Huff questioned the need for relief on the side of the property facing Almond Drive. Mr. Kain explained that the revised design did not extend beyond the front of the house and therefore, no relief was needed on that setback.

No one else offered testimony.

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

D. Hearing in the Case of Scott Rothrock (2024-25)
Property location: 1038 Mae Street, Hummelstown

The applicant waived their right to have a decision rendered by the full Board and instead will allow the appointed hearing officers to hear the case and render a decision.

The property is in the General Commercial zoning district. It is improved with a single-family detached dwelling. The applicant desires to place a new carport on the side of the dwelling. Relief is sought from the side and front setbacks requirements.

Scott Rothrock of 1038 Mae Street, Hummelstown, was sworn in. Mr. Rothrock stated that he is seeking a variance to build a carport that would extend over an existing deck and paved driveway to protect his cars from inclement weather. The lot is 50 feet wide, and the existing house sits on an angle that makes a variance necessary for any improvements made on the property. The existing carport, a temporary structure installed by the applicant, is in violation of the Zoning Ordinance and needs to be removed.

Vice Chairman DeDonatis and Secretary Angello questioned the drawings and asked for exact measurements. Secretary Angello suggested that Mr. Rothrock consider pursuing a

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continuance so that he can come back with more detailed drawings and exact measurements that better define his hardship and the need for relief from the setbacks.

Solicitor Huff reiterated the need to get the request for a continuance on the record. Mr. Rothrock stated that he agrees to a continuance and waives all deadlines required by the Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

Secretary Angello asked how long Mr. Rothrock has to comply with the existing roof structure violation. Mr. Habig stated that the Township usually stays a violation while a hearing is ongoing; however, because the roof structure that is in violation was a temporary fix and not what the applicant intends to keep in place, it would be in the applicant's best interest to remove the roof structure so that the violation is no longer on his property and proceed with the continuance.

Public Comment:

Christopher Gabner, 1012 Southfield Court, Harrisburg, speaking on behalf of his uncle, James Gabner, Jr., 1026 Mae Street, were sworn in. Mr. C. Gabner asked for confirmation that the structure in violation will be taken down. Mr. Habig said yes and added that when the case comes back before the Board, Mr. J. Gabner will be notified of the hearing date and there will be public comment available at that hearing.

No one else offered testimony.

OTHER BUSINESS

John Bekelja, 445 East Main Street, Hummelstown, was sworn in for public comment. Mr. Bekelja stated that he was late to the meeting and wanted to comment on the special exception for the signage at 460 Henry Lane, Hummelstown (2024-23). Solicitor Huff informed Mr. Bekelja that the hearing on the case was already closed and Mr. Bekelja replied that he did not expect his comments to change any decisions.

Mr. Bekelja explained that he feels that asking for a variance after everything was already approved is underhanded and he wants to ensure that allowing this special exception does not open the door to future sign congestion. Mr. Habig shared the plans and exhibits for the 460 Henry Lane signage and explained how the request for relief in this case was for a height restriction and not size. He went on to say that the Zoning Ordinance regulations regarding signage are strictly enforced and that the special exception, if granted, does not set precedent for signage moving forward.

ADJOURNMENT

On a motion made by Vice Chairman DeDonatis, seconded by Secretary Angello, and a unanimous vote, the meeting was adjourned at 6:51 p.m.

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DELIBERATION

The Board met to deliberate in the cases of Justin and Danielle Newkam (2024-22), ThYNK Design, LLC (2024-23), and BMK Construction (2024-24) and directed the Solicitor to prepare the draft decisions on the cases for formal action at the January 2025 meeting.

Submitted by:

Mike Angello, Secretary