

**TOWNSHIP OF DERRY**  
**ZONING HEARING BOARD MEETING MINUTES**  
**May 19, 2010**

**CALL TO ORDER**

The May 19, 2010 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Angello in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

**ROLL CALL**

Board members in attendance: Chairman Michael Angello; Vice Chairman Frank Nardo; Secretary Matthew Davies; Member Dennis Maloskey; Member William Tafuto

Board members absent: none

Also Present: Anthony Nestico, Solicitor to the Board; Charles Emerick, Assistant Director of Community Development; Pam Packer, Court Reporter; Tracy Telesha, Stenographer

Public registering attendance: Ron & Goldie Clemson, 710 Sand Hill Road; Frank Fenari, 7 Millard Road; Karen Green, Farmers' Market in Hershey; Anne Searer, 866 Sand Hill Road, Todd Pagliarulo, 321 Concord Court; Steve Todd, 629 Bullfrog Valley Road; Jack B. Billmyer, 337 W. Chocolate Avenue; Sandy Ballard, 650 Cocoa Avenue

**APPROVAL OF MINUTES**

On a motion by Secretary Davies, seconded by Vice Chairman Nardo, and a unanimous vote, the April 21, 2010 minutes were approved as presented.

**OLD BUSINESS**

**A. Adoption of Decision in the Case of 2144 Associates (2010-09)**  
**Property location: 610 Walton Avenue, Hershey**

On a motion by Secretary Davies, seconded by Member Tafuto, the Board approved the Decision as drafted.

**B. Adoption of Decision in the Case of Dena Crawford (2010-11)**  
**Property location: 2132 Swatara Creek Road, Hummelstown**

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On a motion by Member Tafuto, seconded by Vice Chairman Nardo, and a majority vote, the Board approved the Decision as drafted. Member Maloskey abstained.

**C. Continuance in the Case of Amy H. Backenstose (2010-02)**  
**Property location: 731 Sand Hill Road, Hershey**

Upon a motion made by Member Tafuto, second by Vice Chairman Nardo, this hearing was continued.

**D. Continuance in the Case of Case of 2144 Associates (2010-08)**  
**Property location: 610 Walton Avenue, Hershey**

The applicant requested this hearing to be continued.

**E. Continuance in the Case of Environmental Controls and Services (2010-10)**  
**Property location: 30 Baum Street, Hershey**

The applicant requested this petition be withdrawn.

**F. Continuance in the Case of Daniel Sheffey (2010-12)**  
**Property location: 1601, 1603, 1609 and 1611 E. Chocolate Avenue, Hershey**

This property, located in the Neighborhood Commercial zoning district is currently improved with residential uses. The applicant is proposing to demolish the residential structures and to establish a 6,760 square foot commercial building, parking area, and other amenities.

Relief is sought as follows:

- a. A Variance from Article 225, Section 208(c) regarding "nunc pro tunc" extension of expired relief/decision

Applicant Daniel Sheffey was sworn in and gave testimony. This site had previously received approval for relief in cases 2006-46 and 2007-49. Case

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2007-49 has expired. Mr. Sheffey asked that case 2007-49 be allowed in the current hearing and also stated that no changes to case 2007-49 were added.

Member Maloskey questioned if any proposed construction would impede sight lines at Howard Avenue and East Chocolate Avenue intersection. Mr. Sheffey replied that sight distance would not be affected and further clarified that the denotations on plan are sewer drains.

Member Maloskey questioned why the applicant is seeking a 3-year extension. Mr. Sheffey replied that due to the nature of the project and the current state of the economy, he would prefer to not have to return for a fourth time to the Zoning Hearing Board.

On a motion made by Vice Chairman Nardo, second by Secretary Davies and a unanimous vote, Case 2007-49 was incorporated into Case 2010-12.

No other persons provided testimony at this hearing.

Chairman Angello 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.

**NEW BUSINESS**

**A. Hearing in the Case of Michael D. Berner (2010-13)**  
**Property location: 810 West Chocolate Avenue, Hershey**

This property, located in the Industrial zoning district is improved with a building used for storage which formerly housed a mill. The applicant received approval in cases 2006-13 and 2007-53 to convert the building into a restaurant and bar. The applicant is proposing to enclose an area previously proposed as an open porch and to define the floor area to be used.

Relief is sought as follows:

- a. A Variance from Article 18, Section 225-76.D.2 regarding rear yard setback.

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Michael Berner was sworn in and gave testimony. Mr. Berner is proposing to enclose a rear porch area along the train tracks for both safety considerations and noise reduction.

Mr. Berner further clarified that the basement and third floors would be used for storage only. Restaurant seating would be based on parking availability in the nearly completely impervious lot.

No other persons provided testimony at this hearing.

Chairman Angello 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.

**B. Hearing in the Case of Robert and Deborah Bethards (2010-14)**  
**Property location: 216 Java Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family semi-detached dwelling. The applicants are proposing to construct a sunroom and patio.

Relief is sought as follows:

- a. A Variance from Section 225-36.D(1)(c) regarding side yard setback.
- b. A Variance from Section 225-36.F regarding maximum coverage.

Robert Bethards was sworn in and gave testimony. Mr. Bethards stated that he would like to add a 485 square foot sunroom and a patio that will come within 10 feet, 8 inches of the side property line and on the other side property line due to the duplex style of dwelling.

No other persons provided testimony at this hearing.

Chairman Angello 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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**C. Hearing in the Case of Jack B. Billmyer, Inc. (2010-15)**  
**Property location: 1602 East Caracas Avenue, Hershey**

This property, located in the Village Residential zoning district, is improved with a single family dwelling. The applicant is proposing to construct a foyer and carport, and convert an attached garage into living space.

Relief is sought as follows:

- a. A Variance from Article 8, Section 225-36.D.(1)(c) regarding side yard setback.

Applicant Jack Billmyer was sworn in and gave testimony. Mr. Billmyer stated that the front porch is deteriorating and the home owner is interested in adding a foyer and additional porch. The current garage would be converted into a dining room and utility room and a carport would be added to the west side of the property which would come within 11 feet of the side property line. The proposed carport would be 12 feet in width to accommodate an average size vehicle.

Mr. Billmyer submitted a letter from the adjacent neighbor, William Price, stating his approval of the proposed improvement.

No other persons provided testimony at this hearing.

Chairman Angello 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 Karen Green (2010-16)**  
**Property location: 1215 Research Boulevard, Hummelstown**

This property, located in the Business Office zoning district, is improved with a barn. The applicant is proposing to establish a farm market in the barn and on the surrounding grounds.

Relief is sought as follows:

- a. A Variance from Article 11, Section 225-45 regarding permitted uses.

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- b. A Variance from Article 28, Section 225-131 regarding parking.

Karen Green and Todd Pagliarulo were sworn in and gave testimony. Ms. Green stated that a survey of employees at the Hershey Medical Center revealed an interest in having a farmers' market nearby. Ms. Green anticipates most of the customers would be employees who would walk along existing pathways and sidewalks or would be shuttled to the market. Ms. Green envisions that market being open seasonally (May through October/November) for one or two days per week from about 3pm until 7pm.

Most goods will be grown or made by the vendors with at least 80% of the products sold made by the vendors.

Ms. Green stated that cooking demonstrations and classes and possible wandering minstrel types of entertainment could also be added to the farmers' market.

Ms. Green said that parking would be available for 30 proposed vendor spots and 30 customers. Ms. Green clarified that additional parking would be available at the nearby Research Center and Cocoa Beanery after business hours which is when the peak hours for the farmers' market are anticipated.

Chairman Angello questioned if the days or hours would be expanded during peak summer and harvest months. Ms. Green replied that she would prefer to start with minimal hours with permission to expand as the market grows.

Member Maloskey asked for further clarification of the entertainment proposed. Ms. Green replied that entertainment encompasses the cooking demonstrations and possible acoustic, strolling musicians.

Public Comment

Steve Todd, who is a resident of Bullfrog Valley Road and Chair of the Derry Township Environmental Action Group, was sworn in and stated that as a civil engineer he is of the opinion that the existing parking and traffic flow will be sufficient to accommodate the farmers' market. Mr. Todd further stated that he is pleased with a proposed farmers' market in the area.

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No other persons provided testimony at this hearing.

Chairman Angello 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.

Hearings closed at 7:25 p.m.

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**DELIBERATIONS**

The Board met to deliberate in the cases of Daniel Sheffey (2010-12); Michael D. Berner (2010-13); Robert & Deborah Bethards (2010-14); Jack B. Billmyer, Inc. (2010-15); and Karen Green (2010-16), and directed the Solicitor to prepare the draft decisions on each case for formal action at the June, 2010 meeting.

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