

**TOWNSHIP OF DERRY
BOARD OF SUPERVISORS**

**PUBLIC HEARING
Tuesday, February 10, 2015**

600 Clearwater Road, Hershey, Pennsylvania 17033

CALL TO ORDER

The February 10, 2015 Public Hearing of the Township of Derry Board of Supervisors was called to order at 6:35 p.m. by Chairman John W. Foley.

ROLL CALL

Supervisors Present:

Sandy A. Ballard
Justin C. Engle, Secretary
John W. Foley, Chairman
Marc A. Moyer, Vice-Chairman
Matthew A. Weir

Also Present:

Charles E. Emerick, Director of Community Development
Jill E. Henry, Assistant Township Manager
James N. Negley, Township Manager/Township Treasurer
Jon Yost, Solicitor
Patrick O'Rourke, Chief of Police
Brenda Van Deursen, Recorder

Public Present: Dale Holte, Connie Verdelli, Anne Newman, Lou Verdelli, Sr., Rich Gamble, AJ Troncelliti, Jack MacBurt, Scott Stein

NEW BUSINESS:

The purpose of this hearing is to receive public comment regarding Conditional Use Request No. 2014-01, as filed by Catherine E. R. Wagner, Esq. on behalf of A.J. Troncelliti. The petitioner requests that a Conditional Use authorization be granted under the provisions of Chapter 225 (Zoning), Section 225-123.2 of the Derry Township Code of Ordinances to permit Pennsylvania state inspections to be conducted at the Jiffy Lube facility located at 1900 Kaylor Road, Hummelstown, PA.

Charles Emerick –Director of Community Development – A Conditional Use Request No. 2006-01 was granted for Zimmerman Automotive to operate an automotive car wash facility and an automotive lubrication facility under the provisions of our Zoning Ordinance. Since then, the lubrication facility has been leased to AJ Troncelliti who now operates the Jiffy Lube. In addition to the services of a lubrication facility, Mr. Troncelliti began doing state inspection services which resulted in an ordinance violation notice. Mr. Troncelliti responded by appealing before the Zoning Hearing Board and then a request for an ordinance amendment. The Board

adopted this amendment as Ordinance No. 651 at their January 27, 2015 meeting. The amendment defines an automotive lubrication facility and makes provisions for offering PA State safety and emissions inspections so long as no minor repairs are done. Automotive lubrication facilities may be permitted as a conditional use in Neighborhood Commercial zoning district when approved by the Board of Supervisors. Mr. Emerick reviewed the 9 specific standards required by this ordinance.

Catherine E. R. Wagner, attorney for AJ Troncelliti – Attorney Wagner stated the following and Mr. Troncelliti confirmed each statement and exhibit.

- The property is located in the Neighborhood Commercial District on Kaylor Road next to an existing Turkey Hill and the Goddard School.
- Mr. Troncelliti has operated a Jiffy Lube at 1900 Kaylor Road since May 2013 and in the fall began doing state inspections unaware it was against the ordinance.
- On February 6, 2014, Mr. Troncelliti received a Notice of Violation of Section 225-228 for conducting PA State Vehicle Inspections on this property. It was discovered that Section 225-8 of the Zoning Ordinance did not define automotive lubrication facility, motor vehicular repair garages, or motor vehicular sales and service.
- The Board of Supervisors granted a Conditional Use in 2006 to Zimmerman Automotive.
- A traffic study was completed in 2007.
- Exhibit A – Decision Regarding Applicant’s Request for Conditional Use in 2006.
- Exhibit B - A lease for the property at 1900 Kaylor Road was signed by Mr. Troncelliti on May 1, 2013.
- Exhibit C - A franchise agreement for the Jiffy Lube service signed April 30, 2013.
- Exhibit D - Notice of Violation to Jiffy Lube dated February 6, 2014.
- Exhibit E - The Zoning Hearing Board’s decision to Mr. Troncelliti’s appeal to the Zoning Hearing Board.
- Exhibit F - Mr. Troncelliti read a letter of support from the Goddard School and a letter of support from Turkey Hill.
- Exhibit G - Mr. Troncelliti reviewed all the services that he is permitted to do as a Jiffy Lube and the services for inspection.
- Exhibit H – A Jiffy Lube service order with language stating “vehicles dropped off for service must be picked up the same day.”
- A google map was shown for the Jiffy Lube site at 1900 Kaylor Road.
- Decibel readings were done. Findings indicated at 200 feet you can not hear an air gun, but you could hear the traffic on the road. At 100 feet away with the doors open, the cars on the road were close to 90 decibels and an air gun reading was at 74 decibels.

Attorney Wagner moved for admission of all exhibits. Chairman Foley admitted without exception.

Discussion:

Supervisor Ballard asked if there is any reason for the road test to go over 20 mph. Mr. Troncelliti said there is no requirement of speed other than 20 mph.

Supervisor Ballard questioned if you need to go over 20mph to test the wobbling and shimmy of a vehicle. Mr. Troncelliti said not in his opinion.

Vice-Chairman Moyer asked about individual inspection certificates and facility issued certificates. Mr. Troncelliti said he has had an individual inspection certification for about 10 years.

Vice-Chairman Moyer asked Mr. Troncelliti if he had a contract with the owner of the road to allow state inspection test driving. Mr. Troncelliti responded that he did not.

Vice-Chairman Moyer asked Mr. Troncelliti who performed the decibel test. Mr. Troncelliti responded that he did with an app. that he downloaded on his phone. Vice-Chairman Moyer asked if it was calibrated and Mr. Troncelliti responded that it was not.

PUBLIC COMMENT:

Dale Holte, 2279 Southpoint Drive – Mr. Holte is President of the Deer Run Homeowners Association. A group of residents from 9 Homeowners Association formed the Middletown Road Interest Group to work with the Township on the Comprehensive Plan that is being developed. Middletown Road has about 1500 residents up and down the roadway. The group is focusing on attracting economic activity suited for this zoning district. It will also look at the traffic issues on Middletown Road and the flooding concerns. On behalf of the Middletown Interest Group, Mr. Holte asked that a decision regarding this be delayed. The group would like an opportunity to discuss and come back to the Board with feedback.

Jack MacBurt, 2354 Raleigh Road, Southpoint Commons – Mr. MacBurt is the Vice President of the Southpoint Commons Homeowners Association and a member of the Middletown Interest Group. He pointed out that there are 112 households in Southpoint Commons. He is in support and agreement with Mr. Holte.

Robert Smith, Hershey PA – Mr. Smith is in strict opposition to allow state inspections at the Jiffy Lube site in Neighborhood Commercial. These inspections should be done in General Commercial zoning. In 2007 the director of community development at that time stated commercial automotive uses should be kept in General Commercial. If this is granted, the character of the community will be changed. Mr. Smith does not agree that you can test the braking power and shimmy of a car in 200 feet. The air guns produce noise each time a lug is removed when removing tires on a car.

Nancy Stohler, 2095 Raleigh Road, Southpoint Commons – Ms. Stohler stated that the area is a quiet and safe residential community and to have this added service would be wrong. Traffic is already congested on Middletown Road.

Rich Gamble, Hockersville Road – Mr. Gamble asked: Are we opening a door? What prevents a mile down the road another station opening up? Why is there such a need to change it now?

Attorney Wagner said the public notice has been on the table for awhile. They applied for conditional use on August 5, 2014. There has been ample notice to the public. A conditional use is already permitted in Neighborhood Commercial. The petition to amend is to include state inspection and emission testing. The air gun is already used at Jiffy Lube and there have been no complaints. Mr. Troncelliti added that you can hear the shooting range all day long. He was asked how many additional vehicles per week would state inspections initiate. Mr. Troncelliti said he would be providing state inspections to about 2/3 of his current customers.

Vice-Chairman Moyer asked that the comments heard tonight be incorporated in the record. Attorney Wagner disagreed and said they are not on the record now. Vice-Chairman Moyer said they pertain to this conditional use request and should be incorporated. Attorney Wagner stated her objection. Her objection was noted.

ADJOURNMENT

Vice-Chairman Moyer moved to adjourn this hearing at 7:28 p.m. Supervisor Weir seconded. *The motion carried, 5-yes 0-no.*

SUBMITTED BY:

Justin C. Engle
Township Secretary

Brenda Van Deursen
Recording Secretary