

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
Wednesday, October 18, 2017

Present: Joseph Blaney
Jeffrey Johnson
Bruce Kmosko
Charles Lavine

Absent: Samuel Pangaldi

Excused Absence: Sheila Grant
Christine Hultholm, Vice Chairperson
Peter Kremer, Chairperson
James Kochenour, Traffic Consultant

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slaugh, Planning Consultant
Edwin Schmierer, Zoning Board Attorney
Susan Snook, Recording Secretary

Mr. Blaney was appointed as the Acting Chairperson for the October 18, 2017 meeting.

Statement of Adequate Notice:

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building and mailing to the Trenton Times and the Trentonian newspapers.

Public Participation (for items not on agenda): None

Resolutions:

Resolution of Memorialization 17-17z for Extension of Period of Protection; Use Variance Application No. ZB-3/16; **Concentra Health Services, Inc.**, 2542 Brunswick Avenue; Tax Map Page 22, Block 22, Lot 21 was unanimously approved.

Applications:

Mr. Schmierer stated proof of notice and publication was submitted and everything was in order and the Board can accept jurisdiction.

Use Variance Application No. ZB-4/17; **TLV Parts Restoration, Ltd.**; 40 Enterprise Avenue; Tax Map Page 6, Block 601, Lot 6.

Ilana Rozentsvayg represented the applicant and stated it is for an existing use and for the organization of the storage on the outside.

Mr. Schmierer stated we have a basic Board tonight and if the applicant needs a use variance they would have to get five affirmative votes out of seven and normally we would say to the applicant that they have the right to carry over until we have a full board. The applicant suggested that they share some of the plans they have prepared showing how they are addressing some of the issues raised by the Zoning

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Officer and then that would give us an opportunity to adhere that explanation and if it merits further investigation, carry the hearing to either November or December and will not be any zoning enforcement in between. We could work with the Zoning Officer to consider what they are proposing to do for their space but more importantly find out what everyone else is doing out there in renting space or perhaps creating some of the problem that we see from the aerial. It could be that once the Zoning Officer entertains their proposal on how they are going to conduct their affairs, there will not be a need for a variance and the matter could be just dismissed.

Witness #1 - James Kyle, PP presented Exhibit A1 – 2015 Aerial Photo, dated October 18, 2017 of the tax parcel which shows the block and lot in question which depicts the least area that the applicant has on this property and a portion that they control. There is an awful lot going on with trucks, trailers, boats and cars. He made a site inspection and noted that on the map that shows the actual area he is leasing and the portion of the property he is utilizing.

Exhibit A2 – 2015 Aerial Photo with a Parking Concept Plan, dated October 18, 2017 that one of the concerns of the fire marshal that the applicant does not have clear access into and out of the site for emergency vehicles. A concept parking plan prepared shows that they can accommodate 71 spaces within the lease area and also accommodate a 25' drive aisle that goes entirely through the lease area. There are cars that are parked along the building and will only park cars in spaces that are delineated to keep that drive isle free.

The flood plain and the extent of that to the Assunpink Creek and how that impacted the property. This property consists of a number of lots (6.01) and held by two different companies but the address is the same. It includes Lots 1 -7 and the Assunpink Creek floodway and the 100-year floodplain but the applicant's area is not in any portion of the 500-year floodplain which is published by FEMA and data recently updated, 2016 mapping. The applicant brings automobiles to the site by which some are purchased at an auction or by other means. They are brought in to the site, generally for a period of no more than three weeks at a time. When a vehicle is brought in that vehicles might be repaired and resold, or it may be taken and the parts removed from the vehicles, sometimes exported for sale around the world and then the vehicle, whatever is left, and not be reused will be recycled two doors down. Once the car comes out of processing it might be located outside for a period of a day or two, put on a flat bed and taken next door and recycled.

There are a few exceptions to that for the vehicles that are there for more than three weeks, those are generally used for parts to repair or replace on their company vehicles. The parking plan that has been presented is something that the applicant can adhere to and this is an issue of public safety. Any of the work that occurs, the client understands that he has to do any and all work within the compounds of the structure. All the fluids that come out of the vehicles are recycled in accordance with State and Federal laws, so any brake fluid, oil, antifreeze is all picked up by State licensed handlers. The applicant is also licensed to remove the fluids out and recycle them. There will be no outside activity other than the storage of the vehicles that are either brought in and will be processed inside or are taken out and processed or waiting to be recycled. The concept parking plan shows 71 9x18 spaces within the lease area and maintain a 25' drive isle.

Mr. Blaney asked how many clients are there at this location. Mr. Kyle stated a lot of the structure is empty and not being used. There is some sort of automotive use, one similar to TLV Parts and cannot speak about what the other tenants have.

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Mr. Slauch stated there was no indication on a license to handle refrigeration and air conditioners; is the lease in writing; the lease area was. His other concerns were overlapping leases; there has been spills and pieces of cars that have been impeded into the soil and what will the applicant do about that; the roof of the car cut off and the body is there or the engine has been taken out and the chassis is sitting there and so it is not clear on what kind of vehicles are coming in and store vehicle does that mean exposed to the eliminates; does that mean it is an intake vehicle or one partial dismantled; vehicles will be exposed to the weather and mosquito's will start to infest.

Mr. Kyle stated his client does have a license and has a written lease. The lease area was told by the applicant and not delineated in the lease; the applicant knows where his begins and ends; the applicant has been working with the Township to abate the spilling and will not store anything outside (tires, rims) just vehicles; the applicant will agree to clean up; it could be both and come in in various stages where it could be a vehicles purchased in an accident and the parts that remain could be of value so in order for his operation to run smoothly or to be economical it does not pay for him to have the vehicles on the site for more than a three week period then he is not bringing in other vehicles in and other things are not being processed so it is an ever changing thing; once the parts are taken off and the fluids are taken out they are recycled next door to Trenton Metal; there are tiny holes in the floor from the wires so the water will drain out.

Mr. Blaney asked the professionals is there any other salvage / junk yard in the Township. Mr. Slauch stated a junk yard is not a permitted use per the ordinance. Ms. Kraemer commented than what is this use. Mr. Kyle stated there are elements of the definition are underway on this property, but when you think of a junk yard, you go to a place where cars are parked on a property and purchase a part, this is a junk yard; there are certain elements of the definition in the ordinance that are occurring on this site. The difference is that that time period is greatly compressed, the three weeks that the car comes in is gone and this is the only way it is economical for the applicant. He does not have customers that come to the site and pick parts off of the cars like you would at a traditional junk yard or auto salvage facility. Mr. Slauch stated there are different versions of auto wrecking, it is like what the applicant is doing. People are not coming off the street to purchase parts at this location.

Ms. Rozentsvayg stated the main goal is to restore the vehicles it is a continuous operation of restoring and refurbishing vehicles and exporting them out. It is only the storage for their use and it is limited for three weeks and it is only after a car is stored or refurbished and replaced in the delineated parking space and await pickup and export. The remaining scraps are recycled if not used on a continued basis. Mr. Slauch stated he did not see a painting facility. Mr. Kyle stated there is not painting or heavy body work that occurs and no paint booth.

Mr. Lavine stated exporting parts and restoration and how is this delineate between restoration if the parts are being sold, what is being resold. Mr. Kyle stated if a vehicle comes in and puts money into the vehicle and then turns around and sells it for a profit. The other part is there is a demand for parts in other parts of the country and the parts are removed and shipped.

Ms. Kraemer wants to know how this fits into the definition of the zone and whether it is a permitted use. Mr. Slauch stated he does not think it is a permitted use and it meets the definition of a junk yard and continued "any space, whether inside or outside a building, used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, salvage, resale or abandonment of automobiles or other vehicles or machinery or parts thereof". He continued that this is what this business is doing.

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Mr. Kyle stated elements are occurring and the permitted uses are light industrial uses and wholesale distribution center and warehouse, it is hybrid of three things and does not fit partially within that box but fits within light industrial use and wholesale distribution center because that is what is occurring. If the Board determines they are not comfortable with fitting this into one of the other definitions, then a use variance is necessary and come back.

The user does not have a Certificate of Occupancy for this use because the Zoning Officer did not give it approval. Mr. Schmierer stated because we have the minimum here and put this on the record. The person to make the call on whether this should go forward is a use variance application is the Zoning Officer. So he suggested would be for us to summarize what was heard this evening, present that to the Zoning Officer, together with the exhibits, and if there are any additional questions that the Zoning Officer has and the applicant, his attorney and planner will be willing to answer those, and then perhaps the Zoning Officer might be satisfied, that with regard to the area they control and we may want a request a copy of the lease to see if there is a map and all that stuff, if they are willing to do it the way they are describing it, the Zoning officer might be satisfied that at least on the portion of the property that they control, what they are doing is acceptable (either light industrial or warehousing or something else) and as long as they are pulling the stuff in and not putting the tires outside and doing the work indoors, which is differently than what currently occurs, then maybe the Zoning Officer would dismiss the complaint, issue a Certificate of Occupancy. A summary will be prepared and submitted to the Zoning Officer and then suggest that the Board, the Zoning Officer would need a month or so to review it and have additional questions and carry the matter to the December meeting that would give us two months to investigate it. The meeting will be December 20th and if the Zoning Officer says this requires a use variance, then they would have to come back.

Ms. Kraemer stated the last correspondence from the Zoning Officer was in December of last year and it states a salvage / junk yard is not a permitted use so he would have to be persuaded it is not. Mr. Schmierer asked if the applicant could start implementing the practices now in case there is another inspection to see if there is a difference and what is proposing to do. Mr. Kyle stated this would be a chance to document the conditions at that time and show the Board more on how it would be intended to be run and better to put it into practice.

A motion was made to continue the hearing to the December 20, 2017 meeting.

Minutes:

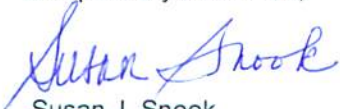
The September 20, 2017 minutes were approved per unanimous vote.

Adjournment:

There being no further business to come before the Board, the meeting was adjourned at 7:48 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,



Susan J. Snook
Recording Secretary

Minutes approved: 12/20/17