

IN RE: : BEFORE THE ZONING HEARING BOARD
: OF EAST HANOVER TOWNSHIP
APPLICATION FOR SPECIAL :
EXCEPTION OF MALAKIN : HEARING: July 1, 2015
MOTORS LLC :
: DECISION: July 1, 2015
No. 2015.02 :
: WRITTEN DECISION MAILED:
: August 14, 2015
:

DECISION OF THE ZONING HEARING BOARD

The Zoning Hearing Board of East Hanover Township, Dauphin County, Pennsylvania, conducted a properly advertised and properly posted public hearing on July 1, 2015, commencing at approximately 7:00 P.M., upon the Application for a Special Exception of Malakin Motors LLC, with respect to the property which was the subject of the hearing, to wit: 9889 Allentown Boulevard, East Hanover Township, Grantville, PA, 17028.

Notice of the hearing was published in *The Patriot News* on June 16, 2015, and June 23, 2015, in accordance with the requirements of the Pennsylvania Municipalities Planning Code and the East Hanover Township Zoning Ordinance. Additionally, in compliance with Section 603.1.1 of the Zoning Ordinance, written notice of the hearing was conspicuously posted on June 17, 2015, on and about the tract of land which is the subject of the hearing. Jackie Wilbern, the East Hanover Township Zoning Officer, was present at the hearing and confirmed that the notice was posted. A photograph of said posting has been admitted as part of the record. Furthermore, Ms. Wilbern confirmed that she had provided written and mailed notices on June 17, 2015, of the hearing to those property owners adjacent to the subject property as identified in the Application for a Special Exception as well as to the Applicant.

All members of the Zoning Hearing Board, being JoLynn M. Stoy, Chairperson, Shirley Allison, Mark Stremmel and alternate Member Kenneth Wolensky were present throughout the hearing. Also present were David Malakin and Alex Daubert, owners and operators of Malakin Motors LLC. All of the foregoing individuals were dually sworn and offered testimony during the course of the hearing.

FINDINGS OF FACT

The property which is the subject of this Application is located within a Highway Commercial Zone at 9889 Allentown Boulevard, Grantville, Pennsylvania, being Parcel No. 25-011-026 on the southeast corner of the intersection of Allentown Boulevard and Laudermilch Road. A single story commercial building and garage with three (3) bays is situated on a lot having a total area of 1.31 acres. A used car sales business has been operated on this property for more than fifteen (15) years.

Applicant acquired the property in July 2014 and has continued the prior use of used car sales. Automobiles are purchased by the Applicant at auction or other public sales. Various automotive mechanical and repair services, with the exception of body work, are provided on site by the Applicant for the purchased vehicles prior to their resale.

As part of the Application, Applicant has submitted twenty-five (25) photographs depicting all areas of Applicant's lot, paved and unpaved, parking areas, adjoining properties, as well as the interior and exterior of the existing commercial building and garage. A copy of a Preliminary Final Land Development Plan recorded at Plan Book O, Volume 6, Page 72 of the Dauphin County Recorder of Deeds Office on September 3, 1997, which provides a site plan of all features which are part of the subject property, has been admitted as part of the record.

No additional off-street parking shall be required for the existing use as well as the proposed general automobile repair services to be provided to the public. All parking is located on site as designated on Applicant's site plan. Overhead light standards are positioned throughout the used car public sales area which are turned off approximately 10:00 P.M. daily. Accent lights are located on the front of the building which are operated dusk to dawn. Hours of operation for the current and proposed expanded use shall be Monday through Friday, 9:00 A.M. to 7:00 P.M. and Saturday, 10:00 A.M. to 5:00 P.M. The Applicant maintains a used car dealer license and likewise a Highway Occupancy Permit has been issued for the premises.

Applicant proposes to expand the use on the property by the addition of automotive repairs and related services for the general public in addition to the continued used car sales. Five employees shall form the core of the business operation which includes one general manager/owner, one sales manager/owner, one salesperson and two mechanic/auto detailers. Applicant further proposes to apply with the Commonwealth of Pennsylvania for certification as a state inspection facility. No expansion or alteration of the existing structure is proposed to accommodate operating an automotive repair service business open to the general public.

A freestanding sign for the business operation is located on the property and shall be maintained in accordance with zoning ordinance requirements. The property is serviced by a private well and on-lot septic system. A small shed and canvas type portable carport are located abutting the commercial building on its southern side. These enclosed structures provide for the storage of miscellaneous but nominal items relative to the maintenance of the property and partial operation of the business being a few tires and a waste oil storage container.

Located to the north across Allentown Boulevard is a family restaurant known as Villa Rosa. To the west of Applicant's property is an RV storage facility known as Camping World.

Private residential uses are located to the south of Applicant's property at a distance of approximately three hundred (300') feet. And finally, to the east of Applicant's property is located an apartment building.

DISCUSSION AND CONCLUSIONS

Applicant has applied for a special exception pursuant to Section 210.3 of the East Hanover Township Zoning Ordinance in order to provide for the addition of an automobile service and repair facility on the property. Such a use is permitted by Section 210.3.3. In addition to the general requirements of Section 604.3 of the Zoning Ordinance, Applicant must also satisfy the specific requirements of Section 405 thereof pertaining to automobile service and repair facilities. Upon consideration of the testimony and evidence presented, the Board is persuaded that these requirements are satisfied.

The Board recognizes that the retail sale of automobiles is a use permitted pursuant to Section 210.2 of the Zoning Ordinance within a Highway Commercial Zone. A used car lot has been operated on this property for a substantial period of time prior to its acquisition by Applicant and continues to the present.

Applicant is already providing automobile services and repairs on the premises, but at the present time only with respect to those vehicles which are acquired by the Applicant for purposes of resale. Applicant will expand that particular use to make it available to the general public, however, as defined by the Zoning Ordinance this is to be regulated as a separate use from that of retail car sales. All services and/or repair activities shall be conducted by the Applicant within the completely enclosed and existing commercial building which has been specifically designed and constructed for this purpose. Applicant shall not be providing any drive-thru services. The

Board is persuaded therefore that the requirements of Section 401.5 through 405.3 have been met.

There shall be no outdoor exposed storage of parts, equipment, lubricants, fuel or other materials to be used or discarded as part of the service operations on the property. All of Applicant's lubricants, parts and waste shall be kept inside the building or within the existing enclosed shelter. A waste disposal summary has been submitted by Applicant as part of the Application to identify that contractors are in place and shall be utilized for the removal of used car batteries, used oil, tires, antifreeze, recycled materials and residual waste. The Board finds that the requirements of Section 405.4 have been satisfied.

In addition, all exterior vehicle storage areas shall be screened from adjoining residential properties and roads. Only one adjoining residential property is in proximity to the subject property, however, an existing tree line obstructs a direct line of sight of the commercial operation. No storage of any unlicensed or "junk" cars shall be permitted on the premises. Applicant shall own title to all vehicles which they are providing for sale on the property, in the process of preparation for sale, or otherwise would be titled to customers.

Ventilation equipment outlets which were associated with the three bay work areas shall be rented toward Lauder Milch Road. Therefore, exhaust system outlets for vehicle emissions shall not be directly ventilated toward residential neighborhoods.

All repair services shall be scheduled by Applicant in a manner for prompt delivery and pickup by customers. All other service may be "walk-ins" and also completed promptly such that vehicle storage will not be provided or required. There will be no demolition, dismantling or junking of vehicles on the premises. Applicant shall continue to furnish evidence as presented at the hearing that storage and disposal of materials and waste will be accomplished in manners that

are compliant with applicable regulations. By reason of all the foregoing, the Board is persuaded that the requirements of Sections 405.6 through 405.10 of the Zoning Ordinance are satisfied.

In order to grant a special exception, Applicant's proposed use must be in accordance with the general criteria set forth in Section 604.3 of the Zoning Ordinance. The Board is persuaded that the proposed use shall be consistent with the purposes and intent of the Zoning Ordinance. Both automobile sales and repair services are uses permitted respectively by right and special exception within this zone. Both uses involve retail sales which are already permitted on the premises for used cars. The Board notes that various uses comparable to that proposed by the Applicant is located within the vicinity of the subject property. These include automobile filling (gas) stations, repair and service garages, used car lots, recreational vehicle storage and related services. Therefore, the Board finds that the proposed automotive repair use shall not detract from the use and enjoyment of adjoining or nearby properties.

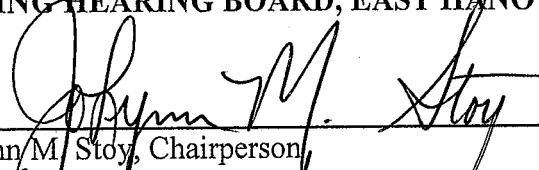
Accordingly, by reason of the foregoing, the Board finds that the proposed automobile repair service use will not substantially change the character of the subject property or neighborhood. The Board is further persuaded adequate public facilities shall continue to be available to serve the proposed use which includes the existing on-site sewer system, storm drainage and retention pond as well as other features as noted on the Land Development Plan that has been submitted as part of the record. It is also noted that the expanded use as an automotive repair facility was contemplated when this property was originally developed to comply with the floodplain requirements of Section 230.11 with the approval of the prior Preliminary/Final Land Development Plan.

Upon consideration of Applicant's existing use and the nature and location of comparable uses within the vicinity of this property, the Board finds that the proposed use will not substantially impair the integrity of the Township's Comprehensive Plan.


DECISION

For all the reasons previously set forth, evidence and testimony presented, the East Hanover Township Zoning Hearing Board does hereby GRANT the Applicant's request for a special exception pursuant to the requirements of Section 604.3 and 405 in order to add general automotive repairs and service to an existing used car lot in accordance with the specifications and drawings as set forth in the Application and made a part of the record before the Board.

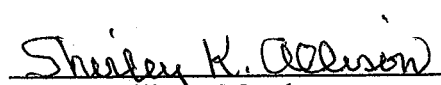
ZONING HEARING BOARD, EAST HANOVER TOWNSHIP



JoLynn M. Stoy, Chairperson



Mark Stremmel, Member



Shirley Allison, Member

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