

MINUTES
DILLSBURG BOROUGH ZONING HEARING BOARD
APRIL 26, 2007
7:00 PM

The Dillsburg Borough Zoning Hearing Board held their business meeting at the Dillsburg Borough Office on the above-mentioned date. Zoning Hearing Board Members in attendance were Donald Will, Doug Boelhouwer and Jeff Beitzel. Also present were Solicitor Lisa Greason, Borough Manager Karen Deibler and Borough Secretary/Treasurer Debbi Beitzel.

The following visitors were present: Bill Wessels, Clint Brenizer and Daniel Schmick and Dillsburg Borough Residents, Barbara Virtue, David Brenizer, Alyce and George Jackson.

First item of business was the election of a Chairman. Member Will nominated Doug Boelhouwer. Seconded by Member Beitzel. – Motion Carried.

Chairman Boelhouwer indicated the purpose of this hearing was a request for a use variance was received from Bill Wessels, Clint Brenizer and Daniel Schmick to use the property at 5 Harrisburg Pike for a motorcycle business where there would be sales, service and other additional vehicles, such as scooters, ATV's, etc.

Solicitor Greason had sworn in the five (5) persons that planned on speaking on behalf of the applicants.

Chairman Boelhouwer asked the applicants to present their case requesting a use variance for a motorcycle business located at 5 Harrisburg Pike. Mr. Dan Schmick stated they have a motorcycle repair, sales, service and accessories shop and have been in business for one year. He indicated they are looking into upgrading to a larger building and better area. Mr. Clint Brenizer stated throughout the winter months they do a lot of internet sales and are closed on Mondays and Tuesdays. He stated the summer hours would be Monday through Friday open from 9 AM – 7PM and on Saturdays from 9 AM – 2 PM and closed on Sundays and all major holidays. He indicated they would do state inspections, service bikes, and as far as sales go, at the present time there are two (2) bikes for sale. Mr. Wessels stated he was aware of one neighbor having an issue with the business moving in and indicated her input is very valuable to him. He presented a copy of the lease to the ZHB. Mrs. Virtue stated she had no objections with the applicants directly, her concern was the noise and the place of a dumpster. Mr. Clint Brenizer indicated they would use the normal curbside trash pickup, because most of the trash contents are boxes from shipments, which are used for the internet sales. Mr. David Brenizer asked what the hours would be for the bike shop? Mr. Clint Brenizer stated they would be 9AM-7PM. Mr. David Brenizer indicated that most people wouldn't be sleeping during those hours. He continued by stating the noise wouldn't be any worse than motorcycles going around the corner normally. He indicated that everyone should work together to do something with the building and promote business within the

borough. Mr. Clint Brenizer commented as far as the after hours of 9 AM-7 PM, motorcycles wouldn't be dropped off because there is no key drop-off and if left outside, the applicant would be responsible and the bikes could be stolen. Member Will asked how large of business would there be anticipated? Mr. Clint Brenizer indicated, as the business stands now, there are approximately five bikes a week coming in for service. Mr. Schmick stated that there are only two employees and wouldn't be able to handle a huge workload. Member Beitzel indicated his major concern was with the noise level and how the neighbors felt and the traffic flow in that area, because the corner is very dangerous to be coming in and out of. He also stated Dillsburg needs more businesses in town for the tax dollars. Chairman Boelhouwer indicated a use variance is very difficult to get within the variance category. He stated the district purpose of the RU zoning district is to exclude activities of a commercial or other nature not compatible with the residential environment. He indicated a request was submitted to allow a small commercial business occupy the property. He stated there are two parts to the basic use regulations: first is the basic uses by right and second the uses by special exceptions, which is where the applicant would be plugging in. He stated this request would be allowed into the CH (Commercial Highway) district, which states to provide reasonable standards for the development of highway-oriented commercial uses along the roadside in areas where such uses already exist and where, due to the character of undeveloped land, the development of highway commercial uses are feasible. The standards of this district are designed to separate access roads. Chairman Boelhouwer indicated according to the application, this would be where the applicant's business could be located, under vehicle sales, rental, service and/or repair facility. He indicated each case must be evaluated and compared on the facts. Use variances have been granted and upheld in some circumstances such as: irregular property shape, an abandoned building or an unmarketed area. Chairman Boelhouwer commented on the issue of noise and levels, the issue of licensing, and disposal of flammable and oils. More discussion on the noise levels from the Borough and State's standards. He indicated a visit was to Appalachian Motorcycles and talked with the manager regarding some issues and what needed to be done in order to have a motorcycle business. He indicated there were many problems, with the main one being able to uphold the code. Chairman Boelhouwer asked the applicants if they would have a franchised dealership there? Mr. Clint Brenizer indicated the property wasn't big enough. Chairman Boelhouwer commented on the issue of air exchange being a problem. Mr. David Brenizer stated when the applicants run bikes indoors; they are hooked up to a system that takes the exhaust outside by use of fans. Chairman Boelhouwer indicated a special exception is a permission of an approval granted an applicant to use land in a district for a purpose other than that generously permitted outright in that district. The permission or special exception is granted by the Zoning Hearing Board in accordance with the standards contained in the zoning ordinance, provided generally that specific application of use wouldn't prove injurious to the public interest. Special exceptions compared with uses permitted by the right they have: If the use an applicant desires isn't permitted in the zone by right and isn't specifically listed as a special exception, an application can't be granted. Chairman Boelhouwer stated there was no right listed for vehicles and there is no listing for vehicles in the special exceptions, but are listed under Commercial Highway. Mr. Schmick indicated the noise and emissions are a large part of this issue, however, most of

the business is retail and oil changes. He also stated there would be no reason to run motorcycles in the shop other than at an idle position. Chairman Boelhouwer indicated another factor is traffic. Discussion. Mr. Schmick indicated 99% of their customer base are locally in the Dillsburg area. Member Will asked if there was any thing to gain by delaying the decision? Chairman Boelhouwer indicated only to review the information and findings that was presented. Solicitor Greason stated the only way the Board could approve the variance is if the applicants could show them that this is the only way to develop the property, but it isn't. Solicitor Greason shared a story about a church requesting a use variance to have a Day Care. She stated that under the zoning in the area, it would be very difficult for approval. Mrs. Virtue indicated when the building was used as a car sales lot; Harrisburg Pike was then Route 15. Mr. Wessel indicated irregardless of the decision, the research is very important and the objectivity is also important and thanked the board for their time and information that was shared. Mr. David Brenizer asked since this property is zoned residential, and businesses aren't allowed, would apartments have to go in this area? Solicitor Greason stated regardless how the property is zoned according to the ordinance states things that are allowed by right and then there is a special exception category which allows things with special concerns and then there is a variance which means asking the board to disregard the listing and allow something else. Chairman Boelhouwer moved to decline the applicants' request. Seconded by Member Beitzel. – Motion Carried.

Chairman Boelhouwer adjourned the meeting at 7:50 PM.

Respectfully Submitted,


Debbi L. Beitzel, Secretary/Treasurer

cc: Zoning Hearing Board Members
Solicitor Greason
Dillsburg Borough Council Members
Mayor Snyder
Manager Deibler
Solicitor Allshouse
Engineer Knoebel
Dillsburg Borough Planning Commission