

**LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS BUSINESS MEETING
DECEMBER 21, 2017**

Call to Order: Chairwoman Eckman called the meeting to order at 7:30 p.m.

Pledge of Allegiance

Roll Call:

- a. The following members were in attendance: Chairwoman Eckman, Duffy, Zimmerman and MacFarland.
 - b. Also in attendance were: John Rice, Township Solicitor; Don Delamater, Township Manager; William Roth, Director of Special Projects and Technology; Mike Mrozinski, Community Development Director; Tim Woodrow, Township Engineer; Geri Golas, Assistant Township Manager; John Primus, Director of Public Works; Lt. Mike Jackson and Jennifer Reed, Student Representative
- Chairwoman Eckman announced that prior the meeting the Board held an executive session to legal and personnel matters.

1) Consent Agenda

- A) **MOTION:** Supervisor Zimmerman made a motion to approve the consent agenda items 1(a), 1(b), 1(c) and 1(d), including moving the minutes of December 7, 2017, as amended, into the record. Supervisor MacFarland seconded the motion. The motion *passed* 4-0.

2) Presentation

- A) Presentation to Jill Zimmerman recognizing her service to Lower Providence Township as supervisor.

3) New Business

- A) Consideration of a zoning text amendment ordinance concerning auto repair garages in the Industrial Park (IP) District.
 - i) Solicitor Rice reviewed the ordinance amendment. He noted that the ordinance change has been advertised and reviewed by both the County and Township Planning Commissions.
 - ii) Supervisor MacFarland said that the Township has met with the business owners and said their website has a good description of the business. He said they are a well-established and respected business and will be an asset to the Township.
 - iii) **MOTION:** Supervisor Duffy made a motion to approve Ordinance No. 647 amending the zoning text ordinance concerning auto repair garages and the Industrial Park (IP) District. Supervisor Zimmerman seconded the motion. The motion *passed* 4-0.
- B) Consideration of an ordinance amending the Subdivision and Land Development Ordinance with regard to stormwater provisions.
 - i) Solicitor Rice reviewed the ordinance amendment. He said this was a technical cleanup amendment. He noted that the ordinance has been publicly advertised.
 - ii) **MOTION:** Supervisor MacFarland made a motion to approve Ordinance No. 648 amending the Subdivision and Land Development Ordinance. Supervisor Duffy seconded the motion. The motion *passed* 4-0.
- C) Consideration of an ordinance restricting parking on Clearfield Avenue.
 - i) Solicitor Rice reviewed the ordinance. He said this is the result of a study done by the Lower Providence Township Police Department. Lt. Jackson confirmed that this study was done as a result of complaints by residence.

- ii) Supervisor MacFarland asked if this would have any significant impact on the residents of Clearfield Avenue. Lt. Jackson said that he did not believe it would as most residents have driveways. Supervisor MacFarland clarified the location of the parking restrictions.
 - iii) **MOTION:** Supervisor MacFarland made a motion to approve Ordinance No. 649 which is an amendment to the code with regard to the parking on Clearfield Avenue. Supervisor Duffy seconded the motion. The motion *passed 4-0*
- D) Consideration of Planning Commission ordinance.
- i) Solicitor Rice reviewed the ordinance. He said that the Municipality Planning Code, which this is based upon, has been amended several times by state law and this ordinance reflects those changes. He noted that this has been advertised.
 - ii) Chairwoman Eckman stated that this change was a result of both comments from the Planning Commission members and the observation that when dealing with detailed plans, nine members can make the process more difficult. She said they took the matter under advisements and will be returning to the seven members that were originally set for this commission.
 - iii) Supervisor MacFarland said that on several instances this year a quorum was not reached because, with nine members, a quorum of five was needed and with fewer planners on the board a quorum will be more easily reached. Solicitor Rice also noted that between five and seven members is typically the size of Planning Commissions.
 - iv) Chairwoman Eckman said that through attrition there are currently two seats available so no current members will be removed to allow this change.
 - v) **MOTION:** Supervisor Zimmerman made a motion to approve Ordinance No. 650. Supervisor MacFarland seconded the motion. The motion *passed 4-0*.
- E) Approval of 2018 Equipment Rental contract.
- i) Mr. Primus reviewed the equipment rental contract. After requesting quotes, he recommended the Board award the rental agreement contract to James R. Kenney.
 - ii) Supervisor MacFarland noted that the schedule of equipment prices was not in the packet. He asked Mr. Primus to review the equipment that would be rented. Mr. Delamater said that the schedule was sent to all companies for quotes and the recommended company has also been utilized for Township paving and snow removal. He said the schedule spells out, per hour, the cost of the equipment.
 - iii) Supervisor Duffy confirmed that they've used Mr. Kenney for several years for this contract and Chairwoman Eckman noted that they were a Township business.
 - iv) **MOTION:** Supervisor MacFarland made a motion to approve the 2018 Equipment Rental contract. Supervisor Zimmerman seconded the motion. The motion *passed 4-0*.
- F) Pension distribution authorization.
- i) Ms. Golas reviewed the authorization request.
 - ii) **MOTION:** Supervisor Duffy made a motion to approve the pension distribution authorization for Thomas Sztubinski. Supervisor MacFarland seconded the motion. The motion *passed 4-0*.
- G) Conditional use hearing for 2830 West Ridge Pike to establish multiple uses on the property.
Ms. Paula Meszaros was present to take a complete record of testimony
- i) Solicitor Rice reviewed the procedure for a conditional use and the request for the conditional use.
 - ii) Kent Conway, solicitor for the applicant, presented the applicants case for a conditional use. Yong Joo, the applicant, and Joseph Vargo, the property owner, were sworn into testimony.

- (1) Mr. Joo explained the nature of his business. He said that his lease to use the property is contingent upon getting the relief requested. He said the business will be open seven days per week from 9 a.m. to 10 p.m. He said he would be willing to curtail the hours if the Board should so request. Mr. Conway entered the cover letter, the conditional use application and copy of the filing fee check as Exhibit A1
- (a) Solicitor Rice asked the name of the applicant's spa in Patterson, NJ. Mr. Joo said it was called Main Spa and it has been in operation for 10 months. He said he did not operate any other spas nor operated any spas prior to 10 months ago. Mr. Joo said he had a nail salon in West Chester County, NY but sold that and opened Main Spa. He said he has never operated any other spas or nail salons. Mr. Joo said there are two employees at the Main Spa and the spa's hours are 9 a.m. to 10 p.m.
 - (b) Solicitor Rice confirmed that the Lower Providence Township spa would have two employees from 9 a.m. to 10 p.m. He questioned the employees working 13 hours per day. Mr. Joo said that his wife, who is not an employee, would be available to give a three-hour break each day. He said that she will be the manager at the front desk and noted that he is currently the manager in Patterson.
 - (c) Solicitor Rice confirmed that the building is two stories and that people will be hired to do massages and operate the dry sauna. He asked Mr. Joo if he was licensed in Pennsylvania and if he was familiar with Pennsylvania's licensing procedures. Mr. Joo said that he was and is also licensed in New Jersey.
 - (d) Solicitor Rice asked if there were any other employees other than the two proposed and Mr. Joo's wife and if there would be any other services or special massages. Mr. Joo said there would not be any other services and there would only be the two employees. Solicitor Rice asked if the saunas were already in existence at the property and, when Mr. Vargo confirmed that they were, clarified their location in the building. He confirmed that all massages and saunas would be on the first floor of the building.
 - (e) Solicitor Rice confirmed that Mr. Joo would have a written lease with Mr. Vargo. Mr. Joo said that if the business grows he may add more employees. He also stated that he currently rents a floor of a multi-story building in Patterson, NJ for the Main Spa.
 - (f) In response to Supervisor Duffy, Mr. Joo said he and his wife live in New York City but will move to Pennsylvania when they open the business. He said his sister will manage the Main Spa in New Jersey. Mr. Joo said he became aware of the building when visiting Lower Providence Township
 - (g) Supervisor MacFarland questioned the operating hours saying it would not seem reasonable to operate 13 hours a day, 7 days per week with only two employees. Mr. Conway clarified that Mr. Joo would hire more employees if the business grows. Mr. Joo said that Sunday is slow so they will switch off Sundays as an off day.
 - (h) Supervisor Duffy asked if he provides medically necessary massages or can bill health insurance carriers for services. Mr. Joo said he provides general massage, not physical therapy massages. He said he accepts credit cards or cash for payment.
 - (i) Mr. Conway confirmed that there would be no residential use to the building and no one will live on site.
- (2) Mr. Vargo reviewed his tenant history. He described how the building was laid out and the approvals for the previous spa that located the building. Mr. Vargo said that he has only had clients interested in a spa-type of business. He said there are 10 to 15 parking

spots and does not anticipate any parking issues. He said there is no other use for the building without significant renovation.

- (a) Solicitor Rice requested copies of the building drawings be entered as Exhibit A2. He reviewed the drawings and the uses of each room. Solicitor Rice reviewed the term of tenancy of the previous spa tenant. Mr. Vargo said he believes the previous spa business was closed down because of immigration issues. He believes Mr. Joo's sister heard about the property and referred Mr. Joo. He said he was advertising it as an office space but was unable to rent it as such. Mr. Vargo described the offices and uses of the electric company on site. He confirmed that the last tenant for the spa was Hanna Spa and prior to that was Rose Corporation. He said that 2013 to 2016 the tenant was a spa with different owners.
 - (b) Solicitor Rice confirmed that Mr. Joo would have both floors of the building: the first floor for the spa, the second floor for kitchen and employee use. Mr. Vargo confirmed that no one would be living in the facility and that condition is in the lease. Mr. Vargo said the additional upstairs rooms, including the kitchen would be rented by Mr. Joo. He said there are shower facilities on site and that the full kitchen was built under a prior building permit.
 - (c) Supervisor MacFarland asked if Mr. Joo had any intention of using the two large rooms upstairs for his business. Mr. Joo said he did not but if his business grows they may utilize the second floor. He said that the condition of the lease gave him no choice but to lease both floors. Supervisor MacFarland asked if there were separate facilities for men and women. Mr. Vargo said there was only single facilities and clients would have to take turn.
 - (d) Supervisor Duffy asked Mr. Vargo if there was anything in the lease to insure that the tenant did not become a nuisance business or a nuisance to the community. Mr. Vargo said there is standard language in the lease as he uses the Pennsylvania realtors' standard form. Supervisor Duffy asked if that gave him the right to go in and inspect the business to make sure the business is being used as stated. Mr. Vargo said that it did. Supervisor Duffy asked if he had plans to make sure the use is being used as stated. Mr. Vargo said he would have to have a reason, such as a complaint, to initiate an inspection. He said he is on the property regularly as he has a small office in the building.
 - (e) Mr. Conway said they are asking for the conditional use as per the application as the building is not set up to be used as anything else a spa and they are asking that it be utilized for what it is set up to be.
- iii) Solicitor Rice said the Board has 45 days to render a decision.
 - iv) Chairwoman Eckman closed the hearing.

4) Announcements

- A) The Planning Commission meeting for December 27th is cancelled
- B) The Zoning Hearing Board meeting for December 28th is cancelled.

5) Comments and Other Business

- A) Supervisor Duffy publicly thanked Supervisor Zimmerman for serving with him the Board and serving as an example to him and other board members.
- B) Supervisor MacFarland echoed the other Board members and said Supervisor Zimmerman's knowledge, professionalism and patience will be missed.

- C) Solicitor Rice reviewed a resolution deed for the dedication for Stella's Way at the 324 Level Way subdivision from Mikelen, LLC to Lower Providence Township.
 - i) Solicitor Rice said that the only administrative issue on the developer's end is the title insurance policy and the deed will be recorded once that is received.
 - ii) **MOTION:** Supervisor Zimmerman made a motion to approve Resolution 2017-36 approving the deed of dedication from Mikelen, LLC to Lower Providence Township. Supervisor Duffy seconded the motion. The motion *passed* 4-0.
- D) Jennifer Reed said that held this week was the music performance at Arcola by the High School's orchestra, band and chorus. She said it was a wonderful show and recommended everyone go to the spring performance.
- E) Chairwoman Eckman wished everyone happy holidays and a good new year. She said that the Township staff has worked hard to promote the Township and thanked Township businesses and residents for their support.

6) Adjournment

- A) **MOTION:** Supervisor Zimmerman made a motion to adjourn the meeting. Supervisor Duffy seconded the motion. The motion *passed* 5-0. The meeting adjourned at 8:50 p.m.

Next Business Meeting: January 2, 2018

Reorganization Meeting: January 18, 2018