

Borough of Lodi  
Zoning Board Minutes  
April 23, 2009

The meeting was called to order by Chairperson Mr. Inserra at 7:30 p.m.

Members Present: Mr. Bene  
Mr. Staine  
Mr. Gilson  
Mr. Gaciofano  
Mr. Pinto  
Mr. Schrieks  
Mr. Avola  
Mr. Inserra

Also Present: Zoning Board Attorney Marcel Wurms  
Zoning Board Secretary Marlene Muska

Members Absent: Mr. Paladino

Also Absent: Zoning Board Planner Gary Pappozzi  
Zoning Board Engineer Thomas Solfaro

There was a motion by Mr. Gaciofano, seconded by Mr. Gilson to approve the minutes of the March 26, 2009 meeting. There was a correction to the minutes – Mr. Inserra voted on the application as a no vote with a reason. All members present voted in favor of the motion, with the exception of Mr. Staine who abstained from the vote.

**Application:** 020609Z  
Chabuel/Emmanouilidis  
11 Avenue E

The attorney for this application, Mr. Andrew Cimilucca gave to Mr. Wurms the proof of publication, and would like to mark that into evidence as A1. The site plan prepared by Mr. Militio would be marked as A2.

Mr. Avola questioned the application, as a non-conforming continuing use, why is this application before this board.

Mr. Wurms stated Mr. Melfi feels the car wash was pre-existing, by adding the detailing shop it is expanding the use and Mr. Melfi denied the application. The applicant is here to appeal Mr. Melfi's decision and the alternative if the board agrees with Mr. Melfi there is a D Variance involved and Mr. Melfi feels the zoning board will have jurisdiction over this application.

Mr. Cimilucca stated the actual application was for a Certificate of Occupancy. The zoning approval was denied dated 12/8/08, however the detailing was not denied the only things crossed

off was the window tinting, sale of auto accessories, and stereo equipment. Mr. Cimilucca is looking for conformation from the board to continue the car wash/detailing business, and in addition and the main thing that Mr. Melfi denied was the other use that wants to be in there, the sale of Auto Accessories is not a permitted use. The applicant wants to appeal that decision. The applicant feels Mr. Melfi was in error in not recognizing what the applicant wants to do is a permitted use. According to the C & R Zone it is encouraged to have small businesses, the retail trade is permitted there, which is what the additional use is.

Mr. Wurms stated he sat with Mr. Melfi and Mr. Melfi questioned if the installation of the car accessories is a permitted use.

Mr. Cimilucca stated personnel services are listed in the retail services.

Mr. Inserra questioned if there are three businesses in that building. The answer was yes.

Mr. Cimilucca called Carol D'Amico as a witness. Mrs. D'Amico's husbands along with Mr. Fiorenzi are the property owners for approximately 20 years. The original business was a beer distribution center. Mrs. D'Amico described the building as it was for the beer distribution center. The property owners as stated by Mrs. D'Amico are a partnership. The property was cleaned and vacant for a few years and the owners had a problem renting the building. The building department decided to separate the building into 3 sections, and labeled the sections A, B, and C. Mrs. D'Amico stated once the building was separated all sections were rented. Section A is close to the residential buildings on Avenue E and has always been a deli/grocery store.

Section C is close to Main Street and has always been a detail shop from the first tenant.

Section B has had a number of tenants, (i.e. Karate School, Car Stereo Business, Tee Shirt Business, and again a Car Stereo Business.) The last car stereo business was in 1999. All three businesses were in business most of the time.

Section A is still a deli/grocery store and sometime ago the wall was taken down between sections B & C when the detailing shop took over. They made a waiting room located in Section B and the rest of the building is an "L" shape.

Mr. Pinto questioned if the property is going from 3 businesses down to 2.

Mr. Gilson questioned if all the businesses received Certificate of Occupancies from the borough.

Mr. Schrieks questioned how many employees are in the building.

Mrs. D'Amico answered Mr. Schrieks only with the number of employees at the deli and that is two.

Mr. Gaciofano questioned how long was the car wash vacant, and that answer was maybe a month.

Mr. Cimilucca called Joseph Chabuel one of the occupants of the building. Mr. Chabuel is one of the applicants this evening and is here to appeal the denial for the Certificate of Occupancy. Mr. Cimilucca asked the applicant what he would be selling and installing. Mr. Chabuel stated he would be selling car stereos, grills, mud flaps, IPOD's, blue tooth, DVD installations, back up cameras and sensors. The percentage of sales of car alarms would be very small. Mr. Chabuel has been in the automotive accessory sales for approximately 12 years and started at 11 Avenue E for Mr. Walker. Mr. Walker sold car stereos and alarms. It is undetermined how much walk in traffic will be done. There will be one employee with Mr. Chabuel. At least one person will be there at all times, and for right now the most will be 2. There will be a small percentage again of counter sales.

Mr. Gaciovano questioned if he will be going to homes to install. From the deli side there is a fire exit that is locked, Mr. Gaciovano would like to see the door unlocked.

Mr. Cimilucca stated the fire marshal is not in favor of unlocking the door and he will bring back Mrs. D'Amico to answer the question.

Mr. Gaciovano stated it may not be mandatory, but if a car goes into the building, or there is a fire there is no other exit. There is a sign that says fire exit but the door is locked.

Mr. Cimilucca stated they will abide by all the required codes instituted by the borough.

Mr. Bene asked if there will be any tires or wheel sales.

Mr. Schriecks asked about parking.

Mr. Chabuel stated there are 8 parking spaces inside the building.

Mr. Avola understands the detailing will be done by appointment only and most of the auto accessory sales will be done by appointment. However, Mr. Chabuel stated if someone comes in off the street and bought something small and easy to install he would be able to do it immediately. Mr. Avola also stated Mr. Wanco stated the locked door does not have to be opened.

Mr. Gilson questioned if the fire marshal deemed a sprinkler system is necessary. His concern was there are only exits in the front of the building. Mr. Gilson also questioned again if the property owners are cooperation and it is an S-Corporation.

Mr. Gaciovano stated the applicant is taking down the chain and front door, what else will be done. Mr. Gaciovano requested bollards be placed along with the yellow striping.

Mr. Wurms stated we should be concerned at this time, if a use variance is required. The additional testimony given is basically dealing with the site plan.

There was a five minute recess.

## Roll Call

Members Present: Mr. Bene  
Mr. Staine  
Mr. Gilson  
Mr. Gaciofano  
Mr. Pinto  
Mr. Schrieks  
Mr. Avola  
Mr. Inserra

Also Present: Zoning Board Attorney Marcel Wurms  
Zoning Board Secretary Marlene Muska

Members Absent: Mr. Paladino

Also Absent: Zoning Board Planner Gary Paporozzi  
Zoning Board Engineer Thomas Solfaro

Mr. Cimilucca called the next applicant John Emmanouilidis, who does 80% of his business on detailing cars. He does have to wash the cars prior to detailing. The average number of cars he details is 4 to 5 cars with the most being 8 to 10 cars per day. His hours of operation are Monday through Saturday 8 a.m. to 6 p.m. The only mechanical operations would be buffers and a vacuum used. Mr. Emmanouilidis feels the two operations would work well together. There was outside work done on the building replacing gutters so no water runs on Mr. Norieka's property. There are 3 employees including Mr. Emmanouilidis at the establishment. Mr. Emmanouilidis took over an on going business.

Mr. Schrieks there are 3 employees; there is only 1 parking space

Mr. Gilson does anyone park across the street.

Mr. Emmanouilidis stated they do not park across the street, which is why he likes to run his business by appointment only.

Mr. Gaciofano asked if the buses were from the prior tenant.

Mr. Gilson is there starters going to be installed. Mr. Chabuel will have to answer that question. Will there be a lift in the building?

Mr. Chabuel stated a remote starter only. Application stated automatic starters.

Mr. Staine asked again to state what the accessories are. Spoilers, mud flaps, back up sensors, blue tooth, DVD players and mostly by appointment.

Mr. Bene what will be done is a person comes in picks out the equipment and then makes an appointment to install.

Mr. Gilson also asked Mr. Chabuel if there is no parking from his appointments across the street.

Mr. Cimilucca called Mr. Mileto, the planner and architect. The first part of this application is an appeal. He spoke to Mr. Melfi and there was no particular feeling from Mr. Melfi he felt it is the board decision. Mr. Mileto reviewed all the Certificate of Occupancy on the property. Based on the testimony there has been continuous use of this building and none of the uses were abandoned. The other observation is the applicant is installing small accessories that basically go with detailing. This is light equipment installations. Most of the people visiting this site will be by appointment only. Mr. Mileto stated the bollards are a good point, he feels the exit between the two building stays closes and it should state this is NOT AN EXIT. The deli only needs a single egress. There was a certified survey prepared by Mr. Hunt. The uses here are compatible to the zone. It is Mr. Mileto's opinion that the applicant is proposing a retail trade.

Mr. Schrieks questioned the parking spaces on the drawing and the actual site shows parking space 12 has a dumpster on it. Is that were the dumpster will stay. All the employees we have here are 3. How many people go there every day to work? There are 2 in the deli – maximum of 2 for the radio accessory and 3 in the detailing. There will be a maximum of 7 people with 2 vehicles, and there can be parking in the building.

Mr. Gaciofano stated how you can not be concerned with a second egress.

Mr. Schrieks stated there is no exits from the back of the building, so if there is a fire in the front of building.

Mr. Inserra stated it is a fire department issue.

Mr. Wurms stated on the appeal issue, he disagreed with Mr. Melfi, it is a retail use that is a permitted use. Mr. Melfi made the right decision to make the applicant come before the board. The retail use is permitted in the zone.

Mr. Avola agrees with Mr. Wurms, the use that they have had and the use that has come before this board is the same use.

There was no one from the audience wishing to be heard for or against this application.

Mr. Avola made the motion to over rule the zoning official, this is a non-conforming continued use and Mr. Melfi should issue the Certificate of Occupancy. Mr. Pinto seconded the motion. All members voted in favor of the motion, with the exception of Mr. Gaciofano and Mr. Schrieks. Mr. Bene abstained. The motion passed with a 5 – 2 vote.

Mr. Wurms stated we will now determine the site plan issue.

Mr. Cimilucca read the ordinance from the Borough of Lodi regarding the Site Plan Waiver.

One tenant leaves, the other tenant comes in, there is no change to the building. The only change Mr. Inserra sees is the additional parking inside the building.

Mr. Wurms stated you can approve the site plan waiver; however you can state what you want done to the site.

Mr. Gaciofano asked if we can have two bollards in the front of the building, can the dumpster be fenced in as per the ordinance, can a buffer be put in by the homeowner, and the Avenue E deli has a front door with plywood on it for 4-5 months. Can we put a little greenery around? There is no striping, can the façade be painted.

Mr. Cimilucca requested a 5 minute recess.

#### Roll Call

Members Present: Mr. Bene  
Mr. Staine  
Mr. Gilson  
Mr. Gaciofano  
Mr. Pinto  
Mr. Schrieks  
Mr. Avola  
Mr. Inserra

Also Present: Zoning Board Attorney Marcel Wurms  
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Members Absent: Mr. Paladino

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Mr. Cimilucca stated he spoke to the applicants and they spoke to the property owner and the applicants are willing to paint the façade of the building, they agree to place the bollards in the front of the building, the front door of the deli will be repaired, the fence with Mr. Norieka's permission will repair and paint the fence. They will also stripe the parking lot

Mr. Staine questioned diagonal parking. Mr. Mileto stated they will lose approximately 6 spaces. Just re-stripe and leave it alone.

Mr. Schrieks stated he knows for a fact there are people parking across the street and it is illegal as there is a NO PARKING sign.

Mr. Mileto stated if it is illegal they it becomes the police departments issue.

Mr. Gaciofano stated there are three doors. Will there be some shrubs by Mr. Norieka? The applicants will repair and paint. Maybe a planter can be used as the buffer, to dress it up and make it look a little better.

Mr. Cimilucca stated the applicant will put some greenery along the fence.

Mr. Staine stated the dumpster will be fence in. The applicant and property owner agrees.

Mr. Avola feels the applicant has nothing to do with the dumpster; they do not share in the dumpster.

Mr. Inserra stated the ordinance for the dumpsters is 808-23 which really has nothing to do with the application.

Mr. Mileto stated the dumpster will be placed in space 11, close to the building.

Mr. Inserra stated ordinance 808-23 stated the property maintenance must enforce this.

Mr. Wurms asked if Mr. D'Amico can give testimony.

Mr. D'Amico heard testimony from the applicant and agrees with all the requirements pertaining to the conditions of the site plan waiver.

Mr. Wurms stated he would like to read the requirements for the site plan waiver, they will ask Mr. Norieka to fix and paint the fence, the bollards will be installed by all 3 doors, they will paint the façade of the building, the dumpster will be placed in space 11 in accordance with ordinance 808-23, they will stripe the parking lot according to the site plan submitted by Mr. Mileto, they will fix the deli door. They will put some sort of greenery near the fence.

Mr. Avola entertained the motion with the above mentioned requirements, seconded by Mr. Gilson. All members voted in favor of the motion, with the exception of Mr. Bene who abstained.

**Resolution:** 052808Z  
Klein Outdoor Signs

Mr. Wurms stated there was a discussion with Mr. Toronto regarding the digital format of the sign.

Mr. Schrieks questioned the height of the sign.

Mr. Avola stated they were supposed to get back to us with an engineer report, regarding the height.

Mr. Inserra stated they conferred with the 49 feet.

Mr. Wurms will delete in paragraph 3 everything after the 49 feet and numbers 3 4 and 5 of the resolution will be in bold print.

There was a motion by Mr. Avola, seconded by Mr. Gaciofano to approve the resolution with the corrections. All those members present voted in favor of the resolution.

There was a motion by Mr. Staine, seconded by Mr. Schrieks to adjourn.

Respectfully submitted,

Marlene Muska