

Paul G. Clark
County Executive

Gregg E. Wilson
County Attorney



OFFICE OF LAW

December 12, 2011

Adria Charles and Gary Staffieri
100 Sackville Mills Lane
Wallingford, PA 19086

Re: *202AutoSpa (1707 Concord Pike)*

Dear Mr. and Mrs. Staffieri,

I am in receipt of your letter dated October 29, 2011 to County Executive Paul Clark who has requested that I look into the land use matter referenced above and respond on his behalf. While I can appreciate your frustration in not getting a final approval to open your new automotive detailing business, please be aware that I found no evidence of disparate treatment in the application of the County Code by our Land Use Department.

It is my understanding that your application for a change of use from a check cashing business (i.e. a general office use) to an automotive detailing business (i.e. a light automotive service use) required additional parking per §40.03.521 of the County Code. That section provides that "should a lot or building owner or occupant change the use of said lot or building, the new use shall conform with this Chapter's off-street parking provisions."

The number of parking spaces required by Table 40.03.522 for the prior check cashing business is 3.5 spaces per 1,000 square feet of gross floor area, which translates to 3 required parking spaces based on the square footage of the building. Automotive detailing requires 1.5 spaces per 1,000 square feet of gross floor area, or four per bay, whichever is greater. Based on one bay, you would need to provide four parking spaces for your new business. Because the adjacent commercial businesses are not proposing to change their use, they can continue to use the original nonconforming parking arrangement, even if that falls short of the number of overall parking spaces now required by the County Code.

After your parking plan showing the four parking spaces was approved by the County, a neighboring landowner installed a cement barrier between your property and the adjacent commercial properties. Because the barrier does not alter the parking configuration on the adjacent commercial properties, the County is unable to compel its removal. Because the barrier makes the parking spaces on your site inaccessible, the Land Use Department is unable to grant final approval for your change of use. Whether you have a legal or equitable right to use of the common driveway and common parking, giving you the right to demand its removal, is a civil matter that can only be determined by the courts.

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With regard to signage, a sign permit for the newly installed "202AutoSpa" wall sign is required because of its change of location from a lower area on the front of the building to a higher point on the front of the building. While the County does not require a permit for the re-facing of a sign, such an exemption does not apply where the sign changes location. Because it appears that the lack of useable parking spaces will remain an issue until resolved by the courts, the unpermitted sign is required to be covered should you decide not to seek the required sign permit at this time.

In conclusion, the Land Use Department properly applied the County Code in requiring (i) four parking spaces for the new business you propose; (ii) a sign permit for the relocated wall sign and (iii) that the four parking spaces be accessible before final approval for the change of use. While the County is empathetic to your situation, it is one that unfortunately has to be resolved by the courts.

Sincerely,



Wendy R. Danner, Esq.
County Solicitor

Cc: Paul Clark, County Executive
David Culver, Land Use G.M.
James Smith, Asst. Land Use G.M.
George Haggerty, Asst. Land Use G.M,
W. J. Rhodunda, Esquire