

AUSTINTOWN TOWNSHIP

MAHONING COUNTY, OHIO
82 OHLTOWN ROAD
AUSTINTOWN, OH 44515

SPECIAL MEETING OF MARCH 30, 2017

The Special Meeting of the Board of Trustees of Austintown Township was held Thursday, March 30, 2017, at Town Hall, 82 Ohltown Road, Austintown, Ohio.

The meeting opened at 8:00 A.M. with a salute to the flag led by Chairman Richard Stauffer. Roll Call was as follows: Mr. Davis, present; Mr. Carano, present; and Mr. Stauffer, present.

Mr. Stauffer introduced Police Chief Robert Gavalier, Zoning Inspector Darren Crivelli, and Township Administrator Michael B. Dockry.

RESOLUTION #17-03-30-01: Motion by Mr. Davis to approve the 2017 Permanent Appropriations as noted in the handout and available to the public in the amount of \$20,339,987.68.

Mr. Carano seconded the motion. Roll Call Vote: Mr. Stauffer, Yes; Mr. Davis, Yes; and Mr. Carano, Yes.

RESOLUTION #17-03-30-02: Motion by Mr. Carano to recess into executive session for conference with legal counsel for the public body concerning disputes involving the public body that are the subject of pending court action at 8:03 A.M.

Mr. Davis seconded the motion. Roll Call Vote: Mr. Davis, Yes; Mr. Carano, Yes; and Mr. Stauffer, Yes.

Present in executive session were:

Fiscal Officer Laurie Wolfe
Trustee James Davis
Trustee Kenneth A. Mr. Carano
Trustees Richard Stauffer
Police Chief Robert Gavalier
Zoning Inspector Darren Crivelli
Township Administrator Michael B. Dockry
Mahoning County Prosecuting Attorney Gina Bricker-Gzawrotuk, and
Mahoning County Prosecuting Attorney Karen Markulin Gaglione

RESOLUTION #17-03-30-03: Motion by Mr. Davis to reconvene from executive session at 8:36 A.M.

Mr. Carano seconded the motion. Roll Call Vote: Mr. Stauffer, Yes; Mr. Davis, Yes; and Mr. Carano, Yes.

Mr. Stauffer stated the Board of Trustees is here to consider a motion to approve or deny a massage parlor application for Jean Derrico.

Zoning Inspector Crivelli provided the following information:

R.C. 503.43 authorizes a Board of Trustees to request information determined by the Board to be necessary to determine whether an applicant is entitled to obtain a massage establishment permit.

Under R.C. 503.42 and the Austintown Township Massage Establishment Regulations (hereinafter “Trustees Regulations”), any individual who performs massage services shall be licensed. It is unlawful for a massage establishment to employ an unlicensed masseuse.

Under Section V(B)(5)(d) of the Trustees Regulations governing massage establishments, an applicant is required to state whether any masseur or masseuse employed at the Massage Establishment has been convicted of or plead guilty to a violation of R.C. 503.42(D).

Under Section VI(F) of the Trustees Regulations governing massage establishments and their employees– A Board of Trustees may deny the issuance of a massage license if the Board determines that any of the findings identified in Section VI(F)(1)-(8) are true:

Based on the application submitted by Ms. Derrico, she does not meet the criteria in section 2 or 4.

Section 2 provides that a permit shall not be issued if “any one of the person named on the application has failed to provide all information and documents required for issuance of the license on the application form, or has provided information or documents as requested on the application that are insufficient on their face”

Section 4 provides that a permit shall not be issued if a masseur or masseuse performing services or work of the same has been convicted of or pleaded guilty to a violation of Division (D) of section 503.42 of the Ohio Revised Code.

In her application, Ms. Derrico signed a release of information on her application. In this release, Ms. Derrico authorized the Township to investigate

her past record and character and ascertain any and all information which may concern her record and character.

In accordance with its investigation, the Township requested via Resolution No. 16-12-12-09 copies of the lease agreement between the applicant and the proposed landlord and information on who the masseuses were who were going to file for permits.

As of the present date, the lease has not been provided.

Currently, the property for which the permit is sought has no massage therapist licenses on file. As such, to determine whether Ms. Derrico meets the criteria in section 4, the names of these individuals is necessary. Because Ms. Derrico failed to provide this information, I believe she is disqualified from obtaining the permit under Sections 2 and 4 adopted July 14, 2014.

Currently, property located at 5325 76 Drive, Unit #1, Parcels 48-090-0-006.04 & 48-090-0-006.05, Lot No. 4, Irregular Replat of Lot No. 1 Rebel Plat No. 1, Austintown Township, Mahoning County, State of Ohio does not meet the locational requirements for the operation of a sexually oriented business under the Austintown Township Zoning Ordinance and the specific location has been classified as a non-conforming use.

In Ohio, a non-conforming use is permitted to continue so long as it is based upon a lawful use of the property. The Austintown Township Zoning Resolution, as amended through November 25, 2014 defines a non-conforming as any building or land lawfully occupied by a use on the effective date of these resolutions or any amendment or supplement thereto, which does not conform to the use resolutions of the district in which it is situated.

It is my determination that the above property is no longer entitled to be operated under a non-conforming use exemption as the property is not being used for a lawful purpose. Based upon the information provided, it is my determination that this property is being used for prostitution and to promote prostitution. As of today, there have been two separate criminal convictions for crimes occurring on or within this property. In addition, there is another case pending where three other individuals have been charged with promoting prostitution, money laundering, and engaging in a pattern of corrupt activity. All convictions and pending crimes occurred on this property.

On December 29, 2016, Grace Sciarra was indicted on charges of promoting prostitution, engaging in a pattern of corrupt activity and money laundering. The indictment, among other things, stated that property located at 5325 76 Drive was being operated as a brothel in violation of R.C. 2907.22. Ms. Sciarra plead guilty to and was convicted of promoting prostitution and money

laundering. She was sentenced on August 27, 2016. Copies of all pleadings will be provided to the Trustees.

On August 11, 2016, Miyong Kim was charged with a violation of R.C. 503.42 for wearing improper massage clothing. Incidentally, a conviction of this statute disqualifies an applicant from obtaining a license to operate a massage establishment. Ms. Kim plead guilty to this crime on December 28, 2016. Copies of all pleadings will be provided to the Trustees.

Finally, on July 28, 2016, three individuals/business operated out of the location under which the non-conforming use exemption applied were indicted for additional crimes occurring on or within the permit premises. The docket indicates that some or all of these individuals/business will enter pleas on these charges this coming May. The indictment will be provided to the Trustees.

These factors demonstrate that the premises for which Ms. Derrico wants to operate a sexually oriented business is no longer entitled to a non-conforming use exemption. Without this exemption, the premises is not in compliance with all applicable zoning codes.

Zoning Inspector Crivelli advised the removal of the non-conforming status will be dealt with in the near future but was provided to the Board as background information and this meeting is for the massage license application only.

Zoning Inspector Darren Crivelli asked the Board of Trustees to consider passing a resolution denying the massage establishment license.

Atty. Michel B. Dockry stated on December 12th at their regular meeting the Board of Trustees requested a copy of the lease for the premises and the applications for the masseuses that would be employed there. After the trustees meeting that information was forwarded to the applicant's legal counsel advising that information would be required. Subsequent to that, the township received a letter from the landlord disputing the Trustees right to ask for the lease. To date neither the lease nor information about any masseuse has been provided.

RESOLUTION #17-03-30-04: Mr. Davis made a motion to deny the application submitted by Jean S. Derrico to operate a non-therapeutic massage/spa at 5325 76 Drive, Austintown, OH 44515 based on the following:

1. That the person named on the application has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face;

2. Failure to disclose the identities of individuals who will perform massage services at the premises to enable to township to determine whether any such individuals have been convicted of or pleaded guilty to a violation of Division (D) of section 503.42 of the Ohio Revised Code; and
3. That the premises at which the massage license is sought is not in compliance with applicable zoning codes.

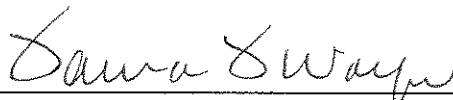
Mr. Carano seconded the motion. Roll Call Vote: Mr. Carano, Yes; Mr. Stauffer, Yes; and Mr. Davis, Yes.

RESOLUTION #17-03-30-05: Motion by Mr. Carano to adjourn the special meeting at 8:46 A.M.

Mr. Davis seconded the motion. Roll Call vote: Mr. Carano, Yes; Mr. Davis, Yes; and Mr. Stauffer, Yes.

This is to certify that the foregoing is an accurate record of the proceedings of the board of township trustees at its meeting held on the date listed above.

Date: 04-10-17



Fiscal Officer

Approved:


Chairperson Board of Trustees