

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES
July 19, 2012**

**12-BA-2
Newark Toyota World
400 Ogletown Road**

Those present at 7:00 p.m.:

Presiding: Clay Foster

Members Present: Jeff Bergstrom
Kevin Hudson
Howard Smith

Absent: Paul Faust

Staff Members: Paul Bilodeau, Deputy City Solicitor
Maureen Feeney-Roser, Planning & Development Director

1. APPROVAL OF MINUTES FROM MEETINGS HELD JUNE 21, 2012

There being no additions or corrections, the minutes were approved as received.

2. THE APPEAL OF NEWARK TOYOTA WORLD FOR THE PROPERTY AT 400 OGLETOWN ROAD FOR THE INTERPRETATION OF THE FOLLOWING:

A) CH. 32 SEC.19 (a)(2)(j) – HYDRAULIC HOISTS, PITS, AND ALL LUBRICATION, GREASING, WASHING AND REPAIR EQUIPMENT SHALL BE ENTIRELY ENCLOSED. APPLICANT PLANS TO INSTALL A TWO-CAR AND/OR FOUR-CAR STACKER HYRAULIC SYSTEM WHICH WOULD NOT BE PERMITTED OUTDOORS UNDER THIS SECTION OF THE CODE.

Ms. Schiano read the above appeal and stated it was advertised in the *Newark Post* and direct notices were mailed. No letters in favor of or in opposition of were received.

Ken Shader, 82 Lynam Lookout Drive, Newark, DE representing Newark Toyota World, was sworn in. Mr. Shader stated the purpose for installing the hydraulic car stackers was to display more vehicles on their site. The hydraulic stackers enable one car to be stacked on top of another thereby doubling their display capabilities and to accomplish this there are two options. Two car stackers and four car stackers. The four car stackers are either hydraulic or electric and the double car stackers are electric. It was Mr. Shader's opinion the electric double car stackers were a much larger apparatus and very unsightly. He further stated it was important to Newark Toyota that their property continues to look good and remain compliant with all City regulations. Mr.

Shader stated after discussing his proposal with City staff members, it was determined it appeared the reason the restriction was written in the Code was to prohibit outside car repairs. Mr. Shader provided drawings to the Board to show comparisons between the electric stackers and hydraulic stackers. He stated the plan was to install 10 stackers and determine how they worked out (i.e. the ease or difficulty of bringing the cars up and down) and the long term market needs before installing a large number of lifts. Mr. Shader claimed the Planning Department did not have a problem with the project being accomplished in a “staged” process.

Mr. Smith asked if the stackers would create a sight problem to vehicles travelling on the road in front of the dealership. Mr. Shader stated they would fit in the existing parking area and would not create any sight difficulties for vehicles.

Warren Price, owner of Newark Toyota World, 1203 Delaware Avenue, Wilmington, DE, was sworn in. Mr. Price advised that several other Toyota dealerships in the tri-state were utilizing with success the hydraulic stackers for display purposes. He believed the Code was written (prohibiting outside hydraulic lifts) with the intent to not permit outside car repairs and considered that to be their hardship.

Mr. Foster stated the lot was non-conforming and asked if the lot was non-conforming when Mr. Price purchased the lot. Mr. Price stated he leased the property from Mr. Danneman.

Mr. Hudson addressed the Kwik Check factors:

- The nature of the zone which in which the property was located was zoned BC and would remain so.
- The character of the immediate vicinity of the subject property and the use of the properties within that immediate vicinity was consistent with neighboring properties (businesses) and would remain so.
- The request for interpretation of the Code (to install hydraulic stackers for display of vehicles) would not negatively affect or diminish neighboring property values as the area is zoned business.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed as the applicant would have limitations on displaying their vehicles based on the “presumed interpretation of the Code” that hydraulic lifts are not permitted to restrict outdoor car repairs using such equipment.

Messrs. Bergstrom, Foster and Smith agreed with Mr. Hudson’s comments regarding the Kwik Check factors and stated they would support the applicant’s request.

MOTION BY MR. FOSTER, SECONDED BY MR. HUDSON: THAT SECTION 19 (a)(2)(j) PERMITS HYDRAULIC STACKERS FOR CAR DISPLAY PURPOSES ONLY.

MOTION PASSED UNANIMOUSLY: VOTE: 4 to 0.

Aye: Bergstrom, Foster, Hudson, Smith

Absent: Faust

The meeting was adjoined at 7:17 p.m.

Tara A. Schiano
Secretary

/ts