

Legal Notice Zoning Hearing Board

Notice is hereby given of an application to be considered at a public hearing of the Zoning Hearing Board of Lower Moreland Township to be held on **Thursday, August 16, 2018 at 7:00PM** in the Meeting Room of the Lower Moreland Township Municipal Building, 640 Red Lion Road, Huntingdon Valley, PA 19006.

18-09 The application of European Auto Repair, Inc., 2711 Philmont Avenue, Huntingdon Valley, PA, appeals from the zoning officer's May 30, 2018 denial of a Use and Occupancy Permit request for an auto repair use at 2711 Philmont Avenue. The property is situated within the Mixed Use Revitalization District (MU-REV) and the applicant requests recognition of a "general automotive repair use" either as a continuation of a pre-existing non-conforming use or in the alternative, a variance to permit the use within the MU-REV.

The Zoning Board may also consider action on any pending court appeals.

Full opportunity to be heard regarding the above-referenced application will be given to any citizens and parties in interest in attendance. Copies of the applications including any plans or explanatory materials are available for public review in the Township Municipal Building, 640 Red Lion Road, Huntingdon Valley, PA 19006 between the hours of 8:30AM and 4:00PM, Monday through Friday, holidays excepted.

**BY ORDER OF THE LOWER MORELAND TOWNSHIP
ZONING HEARING BOARD
MERYLE TWERSKY, SECRETARY**

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18-10 The application of New Cingular Wireless PCS, LLC dba AT&T Mobility c/o Christopher H. Schubert, Esquire, Riley Riper Hollin and Colagreco, 717 Constitution Drive, Suite 201, Exton, PA 19341 who seeks relief from the terms of the Zoning Ordinance of Lower Moreland Township, Chapter 208, Section 803.I.1(e) and Table 3-3.2 a Special Exception to allow modification and upgrade with repairs to an existing Non-Tower Wireless Telecommunication Facility (WTF) including an increase of the height to 79 feet, located inside the public right-of-way, north side of Philmont Avenue, between Parkside Avenue and Byberry Road. In the alternative the applicant requests the following: Approval of the upgraded WTF as a continuation of a non-conforming use of the ROW pursuant to Section 208-511 and approval of the upgraded WTF as an expansion or extension of a non-conforming structure within the ROW pursuant to Section 208-511.C and approval of the upgraded WTF as an expansion of a non-conforming business use within the MU-REV district pursuant to Section 208.511.D (4) (c) and grant any and all required variances from Section 208-803.I.1 of the Township Code for use of the upgraded WTF within the ROW and a use variance from Section 208-803.I.1(f) to allow use of part of the property located in the ROW for placement of a new wooden utility pole, with attachment of an antenna there and ancillary radio equipment to establish an upgraded WTF for enhanced wireless capacity service in the Township and a height variance from Section 208-803.I.1(g)(1) which restricts heights of applicable WTFs to 60 feet above the ground, to allow a height of 82 feet and a validity variance pursuant to the Communication Act of 1934 as amended by the Telecommunication Act of 1996, which provides that "No State or local statute or regulation or other State or local legal requirement may prohibit or have the effect of prohibiting the ability of an entity to provide an interstate or intrastate telecommunications service." Refer to Section 47 U.S.C § 253(a) and Section 47 U.S.C. § 332(c) (7) (B) (II). If relief in the affirmative is not granted the Township Code will have the effect of prohibiting personal wireless services facilities in all areas of the Township within the ROW. In addition, to the extent that variance relief from the code as stated herein is needed to establish personal wireless services facilities throughout the Township within the ROW, such regulations result in (1) effective prohibition of personal wireless services in the Township; and (2) unreasonable barriers to entry of personal wireless services in the Township. Consequently, the code violates the Federal Telecommunications Act. The available Federal remedy allows site specific relief, which would authorize the applicant to proceed with development of the ROW for the upgraded WTF and applicant also applies for such other interpretations, waivers and/or variances as may ultimately be required.

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