

Paul G. Clark
County Executive



David M. Culver
General Manager

Department of Land Use

September 10, 2012

Richard L. Abbott
Abbott Law Firm, LLC
724 Yorklyn Road, Suite 240
Hockessin, DE 19707

RE: BLIR Appeal No. 2012-055 - 1707 Concord Pike

Dear Mr. Abbott:

I am writing to you in reference to your correspondence of September 6, 2012 regarding the above captioned matter. In your correspondence you request that I issue a stay of the change of use permit issued by the Department in the above matter pursuant to *New Castle County Code*, § 6.11.003(F). As is discussed below, the code does not allow me to issue a stay on a certificate of occupancy or certificate of use that is already issued.

Assuming the Board of License, Inspection and Review has jurisdiction over this matter, the only way to reverse the issuance of a certificate of occupancy or use is to revoke it pursuant to *New Castle County Code*, § 6.03.019(E). That section states:

Revocation. The Code Official is authorized to, in writing, suspend or revoke a certificate of occupancy or use issued under the provisions of this Chapter wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is in violation of the provisions of the *New Castle County Code*.

It is the Department's position that the certificate was not issued in error, on the basis of incorrect information, or in violation of the *New Castle County Code*. As such, the Department is not in a position to revoke the certificate of use.

Even if there was a way to stay a permit that has already been issued pursuant to *New Castle County Code*, § 6.11.003(F), it is the Department's position that the Board of License, Inspection and Review does not have jurisdiction in this case. Since they are not vested with jurisdiction to hear zoning matters, this section does not apply.

If I can be of any further assistance, please feel free to contact me at 87 Reads Way, New Castle, Delaware 19720, or call me at 395-5463. Thank you.

RECEIVED

SEP 11 2012

RICHARD L. ABBOTT

Sincerely,

A handwritten signature in black ink, appearing to read 'D M Culver', written in a cursive style.

David M. Culver
Land Use General Manager

Cc: James H. Edwards, Assistant County Attorney
Brian Merritt, Assistant County Attorney
File