

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of April 24, 2008

Members in Attendance

Jeffrey Staub, Chairman  
Sara Jane Cate, Vice Chairperson  
David Dowling  
Richard Freeburn  
Gregory Sirb

Also in Attendance

James Turner, Solicitor  
Lori Wissler, Planning & Zoning Officer

**Special Exception #08-01**

Applicant: Advantage Ambulance, Inc.  
Advantage Medical Transport, Inc.

Address: 5450 Derry Street, Harrisburg, PA 17111

Property: 733 Firehouse Lane, Harrisburg, PA 17109  
35-071-049

Interpretation: Emergency Service Station is a Special Exception in the Institutional District.  
Applicant proposes to operate a non-emergency patient transport service.

Grounds: Section 306.B.1.C of the Lower Paxton Township Codified Ordinances pertains to this application.

The following were sworn in: Serge Sivchuk, 920 Old Dolington Road, Newtown PA 18940; and Lori Wissler, Lower Paxton Township Planning and Zoning Officer.

The applicant had no objection to entering the application, site plans and attachments as exhibits.

Ms. Wissler testified that the appropriate fees were paid on April 4, 2008. Proper advertisements were made in The Paxton Herald on April 16 & 23, 2008. The property was posted April 14, 2008.

Ms. Wissler stated that Article 306.B.1.C states that an emergency service station requires special exception approval in the IN, Institutional District.

Mr. Sivchuk stated Advantage is a non-emergency ambulance service. He felt that the property in question would fit their needs really well. They would be able to move right in and begin business. The property was a firehouse, so no renovations would be necessary.

Mr. Staub asked if the applicant occupies the building currently. Mr. Sivchuk answered no, and stated that they have a sales agreement in place.

Mr. Staub asked Mr. Turner about the letter from South Central Emergency Medical Services, Inc. (SCEMS). Mr. Turner stated they are present and can offer testimony.

Mr. Tuner asked for information regarding vehicles, hours of operation, what the business involves. Mr. Sivchuk stated there are 5 licensed ambulances in the fleet. They also have one wheelchair van, which is licensed under the PUC. There are some vehicles that are not currently in service. There are about 10-12 vehicles total. The warehouse portion of the building will be sufficient for all of the vehicles in the fleet. The hours of operation are from 4:30 am to 9:00 pm Monday through Friday. On Saturday, they operate from 4:30 am to 7:00 pm. Advantage is not currently a 24-hour service business. They utilize an on-call basis, meaning that they could get a call to transport someone for that day, and they may or may not be able to accommodate them, based on their schedule.

Mr. Turner questioned the types of calls. Mr. Sivchuk stated they do non-emergency transports, typically from a hospital to a nursing home. No lights or sirens are used. Mr. Turner asked if all the calls are "no lights and sirens". Mr. Sivchuk stated that is correct.

Ms. Cate asked if Advantage has ever used lights and sirens. Mr. Sivchuk stated the only time lights and sirens would be used is if a non-emergency call turns into an emergency call en route.

Mr. Sirb asked if the applicant can use lights and sirens legally. Mr. Sivchuk stated they are allowed to use them because they are a licensed BLS (Basic Life Support) ambulance company.

Mr. Sirb asked staff if this applicant even meets the criteria for a special exception for an emergency service station since they are only a non-emergency transport, regardless of hours. Ms. Wissler stated the definition for emergency service station does include this applicant's use.

Ms. Cate asked if the applicant is licensed as a BLS for non-emergency only. Mr. Sivchuk stated that as a BLS provider, they can do emergency calls, but at this time they do only non-emergency calls, and are not part of the 9-1-1 system. Ms. Cate questioned the statement that they do sometimes do emergency calls. Mr. Sivchuk stated that is only done when a non-emergency call turns into an emergency en route.

Ms. Cate asked if there are nurses on the ambulances. Mr. Sivchuk stated there are no nurses, they have trained EMTs (Emergency Medical Technicians) certified by the State. Ms. Cate asked about first responders, and what the difference is between them and an EMT. Mr. Sivchuk stated an EMT has a broader scope of practice. Ms. Cate asked in what way. Mr. Sivchuk stated they can provide more services to a patient. Ms. Cate asked for an example. Mr. Sivchuk stated that a first responder can help an EMT.

Ms. Cate asked if Mr. Sivchuk is an EMT. He answered no. Ms. Cate stated that Mr. Sivchuk doesn't know what an EMT does. Mr. Sivchuk stated he knows what they do, but wasn't able to explain it.

Ms. Cate questioned the number of vehicles in the fleet. Mr. Sivchuk answered 10-12.

Ms. Cate asked about the other facility in the area. Mr. Sivchuk stated that they rent a premises. Ms. Cate asked about the vehicles at that location. Mr. Sivchuk stated the business and the vehicles will be moved entirely from that location to the firehouse location.

Mr. Turner asked the location of the business presently. Mr. Sivchuk stated it is at 5450 Derry Street in Swatara Township.

Mr. Turner asked who the applicant is licensed with. Mr. Sivchuk stated that they are licensed with the PA Department of Health.

Mr. Sirb stated that if they are licensed as a BLS, they do qualify as an emergency service station, even though that is not their main goal.

Ms. Cate asked if emergency medical services have nurses, or if an emergency ambulance service would have nurses involved. Mr. Sivchuk stated it is typical to have EMTs, paramedics, or first responders, and not nurses. Ms. Cate asked if that meant that in an emergency, if a nurse were not available an EMT would have to do it. Mr. Sivchuk agreed.

Ms. Cate asked hypothetically if the applicant would be willing to fill in if there were a major emergency in the Township that required additional ambulances,. Mr. Sivchuk answered yes. Ms. Cate asked if that was in writing in any way. Mr. Sivchuk stated that if there were a major emergency they would definitely be there for the Township.

Mr. Staub asked if PEMA would take advantage of Advantage's resources if there was a serious emergency. Mr. Sivchuk was not sure. Mr. Staub asked if PEMA knows Advantage exists. Mr. Sivchuk answered yes. Mr. Turner asked if the County 9-1-1

system knows they exist and how to contact them if they need them. Mr. Sivchuk answered yes.

Ms. Cate asked how many fire trucks were housed at the firehouse when Colonial Park owned it. Ms. Wissler did not know. Mr. Cate felt that 10-12 vehicles seems like a lot, and didn't think the fire company used that many vehicles.

Mr. Sirb asked for a definition for emergency service station. Ms. Wissler read the following from Article 2, Definitions, on page 2-9: a building for the housing of fire, emergency medical or police equipment and for related activities. It may include housing for emergency personnel while on call.

Mr. Sirb stated this is definitely related activities.

Ms. Cate asked if housing will be provided for the staff. Mr. Sivchuk answered no, because they have set schedules and shifts so there is no need for on-call housing.

Ms. Cate asked about a typical shift. Mr. Sivchuk stated 8-hour or 12-hour shift, depending on the schedule.

With regard to the concern over number of vehicles, Mr. Sivchuk gave an example of a 4:30 shift: the vehicles would go out about 4:45, and would not return to the building until all of the runs are completed for the day. They do not go out for a run and come back repeatedly.

Mr. Turner stated this company is like a taxi service, but the passengers are more incapacitated. He stated that when the employees arrive for the day, their schedule is already set for the day, they do not wait around for a call to come in.

Ms. Cate asked what the upper level will be used for. Mr. Sivchuk stated he lives in Newtown now, but stays at the station on Derry Street. Mr. Sivchuk stated he is hoping to live on the second level.

Ms. Cate asked if this is the only location. Mr. Sivchuk answered yes.

Mr. Turner asked Mr. Sivchuk's position with Advantage. Mr. Sivchuk stated he is the president.

Mr. Turner asked how long they operated in the Derry Street location. Mr. Sivchuk answered a year and a half.

Mr. Sirb asked why they want to move. Mr. Sivchuk stated they rent the facility on Derry Street, and it would be more beneficial to own a location. Mr. Sivchuk stated

that if they get a mortgage he hopes it will only be a little more than they pay in rent now. He added that the property would be ideal for his business.

Mr. Staub asked how many full and part time employees they have. Mr. Sivchuk stated they have about 20 full time employees.

Ms. Cate asked where employees will park their cars. Mr. Sivchuk stated there are about 36 parking spaces at the property.

Mr. Turner asked if the business would receive deliveries other than typical neighborhood UPS type trucks. Mr. Sivchuk answered no, that most deliveries are by UPS, FedEx or USPS.

Ms. Cate asked about maintenance of vehicles. Mr. Sivchuk stated they have a mechanic on staff. Ms. Cate stated that mechanical work will be done there as well. Mr. Sivchuk stated that was right. Mr. Staub asked what type of maintenance is done on site. Mr. Sivchuk stated oil changes, tire changes, and basic maintenance.

Mr. Staub asked if the fire company did their own vehicle maintenance. Ms. Wissler did not know.

Mr. Staub called for comments from the audience.

Ms. Christie Mellott, counsel for SCEMS, objected to the granting of the special exception. She stated that SCEMS has been providing emergency and non-emergency transportation for this community for over 51 years. SCEMS has 75 employees on staff and enough ambulances to adequately meet all of the needs of the residents. SCEMS plans to put a station less than a mile from this location. Ms. Mellott stated there is no need for this type of service.

Ms. Mellott questioned how many people are on the wheelchair van. Mr. Sivchuk answered one. Ms. Mellott presented a copy of the PUC Authority for Advantage, which is what they operate their wheelchair van with. A requirement of a special exception is to be in compliance with other laws. The laws of the PUC require that you follow the terms granted by the PUC, and if you operate for a medical purpose, you have to have two people on a wheelchair vehicle at all times.

Ms. Mellott stated that the Authority limits them to originating at the Spring Creek Rehabilitation and Healthcare Center.

Ms. Mellott presented copies of the assessment report, which says when a certificated carrier can deduct PUC covered transports of ill, injured and deceased

persons. It specifically says there must be a medical attendant other than the driver on board the wheelchair van.

Ms. Mellott presented a copy of the inspection manual that the PUC inspectors carry when they inspect the vehicles.

Ms. Mellott stated that this is not the type of service that would be in the best interest of the community. Ms. Mellott stated that that statement is made both as a representative of SCEMS and as a Township resident for over 10 years.

Mr. Turner marked the PUC tentative order as SCEMS Exhibit #1, the letter dated February 25, 2008 from the PUC with the attached assessment report as SCEMS Exhibit #2, and the page from the manual identified as exemptions continued, YZ 18 as SCEMS Exhibit #3.

Mr. Turner offered the applicant the exhibits for review.

Mr. Turner asked the location of the proposed SCEMS location. Ms. Mellott answered it will be on East Park Drive. Mr. Turner asked what the zoning designation is, and if it will be a permitted use. Ms. Wissler stated it is CN, Neighborhood Commercial District, and the use is a special exception.

Mr. Sirb asked what SCEMS opposes other than competition. Mr. Sirb asked what about the company makes them not an emergency service or why they shouldn't be granted a special exception. He noted that this is the Zoning Hearing Board, not the PUC. Ms. Mellott stated they do not do emergency transports. Mr. Sirb stated they are related services. Ms. Mellott stated it is not just about competition, and there are dozens of other ambulance services that SCEMS would not object to. It is about savory businesses in the community, and this business isn't going to operate in accordance with the law.

Mr. Turner stated that the Zoning Hearing Board has to make a determination based on if the use will create a problem in that location. Mr. Turner asked what about this business in this location would be detrimental to Lower Paxton Township.

Mr. Sirb stated that if Advantage is not operating properly, it will be out of business in 6-8 months. Ms. Cate stated they are applying for something for non-emergency service, yet they are getting a special exception for an emergency service. Mr. Sirb stated that the definition says emergency or related.

Mr. Turner asked about the geographic territory for Advantage. Mr. Sivchuk stated Harrisburg and surrounding areas, primarily transportation for dialysis patients and discharges from hospitals to nursing homes. Typical transports are from Harrisburg

Hospital, Osteopathic Hospital, or Holy Spirit Hospital, to nursing homes in the local area.

Mr. Turner asked the geographic territory of SCEMS. Ms. Mellott stated SCEMS is the primary ALS and BLS transportation for all of Lower Paxton Township.

Mr. Barry Calhoun was sworn in. Mr. Calhoun stated that SCEMS has 9-1-1 responsibilities for 8 municipalities: Lower Paxton Township, West Hanover Township, East Hanover Township, South Hanover Township, Londonderry Township, Middletown, Highspire, and Royalton. They serve as a second response for the City of Harrisburg, Susquehanna Township, Swatara Township, Hershey, Lebanon County and Lancaster County. With regard to non-emergency service, SCEMS operates in Dauphin, Cumberland, York, Lebanon and Lancaster Counties. Mr. Calhoun stated they cover 9-1-1 for 129 square miles, and a population of 81,000.

Ms. Cate asked how many vehicles SCEMS has. Mr. Calhoun answered 17. Ms. Cate asked about their locations. Mr. Calhoun stated there are three: Lower Paxton Township, West Hanover Township, Middletown, and a proposed fourth station on East Park Drive.

Mr. Turner asked about the Authority that seems to say the activities are restricted to going to and from Spring Creek Manor. Mr. Sivchuk stated he is not restricted to Spring Creek. The PUC authority is restricted to Spring Creek. That means that they can have one driver providing wheelchair services to Spring Creek. Anyone else must have a driver, and attendant and oxygen and first aid bag on board, which they do. If they provide services to another nursing home, they have a driver and an EMT or first responder on board. For Spring Creek they have one driver.

Mr. Turner asked if the PUC regulates the type of activity for Spring Creek to be like a taxi service, and the more medical activity is not regulated by the PUC. Mr. Sivchuk stated it is still regulated by the PUC, but it is under an exemption, that says if it is to a medical facility and there is a driver and an EMT or first responder, then the PUC does not have any authority. That has to do with wheelchair vehicles.

Ms. Mellott asked if when she asked the number of people on the wheelchair van if Mr. Sivchuk wasn't really answering that question. Mr. Sivchuk stated the question was asked under PUC Authority, and that is only Spring Creek.

Mr. Sivchuk asked the Zoning Hearing Board to grant the special exception. He stated they do provide non-emergency services to the community, and there obviously is a need for the service, since they have 20 full time EMTs, and they are going to expand their services.

Ms. Mellott stated that SCEMS has provided services for the area for half a century and is planning a station less than a mile away. She stated that Advantage is not currently operating in compliance with the law. She asked that the Board support SCEMS, and not grant the special exception.

Mr. Sirb asked that the definition be read again, and asked if it says anything about profit versus non-profit. Ms. Wissler read the following from Article 2, Definitions, on page 2-9: "An emergency services station is a building for the housing of fire, emergency medical or police equipment and for related activities. The use may include housing for emergency personnel while on call."

Ms. Cate stated she was having difficulty with "related services". Mr. Turner stated the term "emergency services" doesn't appear in the definition at all, except in the title, and it describes the housing for equipment. Mr. Turner stated it is clearly emergency equipment, whether it is an emergency service or not.

Mr. Freeburn raised the issue of housing for personnel while on call, and that the applicant wants to live there. Mr. Freeburn asked if that is an issue for granting the special exception. Mr. Turner asked if a residential use is a permitted use in the IN, Institutional District. Ms. Wissler stated it is not. Mr. Turner stated a variance would be required to establish a residence there. Ms. Wissler stated that is correct. Mr. Turner stated that the action taken tonight is related to the operation of the medical facility, but if the applicant wishes to put an apartment on the second floor, he will have to apply for a zoning variance. Mr. Sivchuk stated there is already a full kitchen, and living quarters. Mr. Turner stated that living quarters is limited to people there on duty. If someone establishes a residence there, and are not on duty, a variance would be needed. Mr. Sivchuk stated he lives in Newtown and will still live there, but may stay at the station while at work. Ms. Cate stated he could be there for the length of a shift. Mr. Sirb stated that wherever you get mail is your residence. Mr. Freeburn stated there is a legal way to establish residence, and a mailing address somewhere else does not say this is not your legal residence.

Mr. Staub asked what the Planning Commission said about the application. Ms. Wissler stated it was reviewed by the Planning Commission at their April meeting, and they supported the application.

Mr. Freeburn made a motion to grant the special exception, conditioned upon the applicant only staying at the facility while on duty. Mr. Sirb seconded the motion, with the condition that the applicant keep the BLS certification, if it is lost, the service is not an emergency service, and be kept in good standing with the PUC so that if needed, could provide emergency services. Mr. Freeburn stated the definition is about the housing of the emergency equipment. Mr. Turner stated that if the vehicles are not BLS certified, they are not emergency vehicles, they are taxis. That is Mr. Sirb's point as well. Mr.

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Turner corrected Mr. Sirb that the governing body is the Department of Health not the PUC. Mr. Freeburn was agreeable to Mr. Sirb's condition. A roll call vote followed: Mr. Freeburn-Aye; Mr. Staub -Aye; Mr. Sirb. -Aye; and Ms. Cate-Aye. The special exception was granted.

The hearing ended at 7:55 pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary