

AGENDA
ZONING HEARING BOARD
October 12, 2016
4th Floor Conference Room at City Hall – 1:15 pm

4001 Broad Ave / Brian & Pamela Schuh

Request for change of nonconforming use, parking and maintenance of personal FedEx vehicles from auto repair garage, in a Neighborhood Business Zone.
Nonconforming Buildings & Structures Used For Nonconforming Uses, Code 535-41 E.

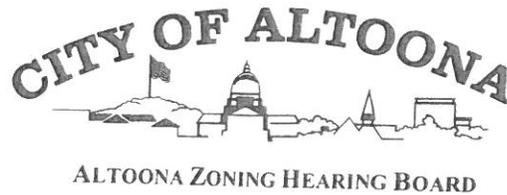
411 Hudson Ave / Gary & Lynn Emerson

Request for a front setback variance for a carport/garage at 411 Hudson Avenue in a Single Household Residential zone, Code 535-68 K, L.

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

Voice - 814/949-2470
Fax - 814/949-0372
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planning@altoonapa.gov



Michael Halloran
Horace McAnuff
Richard Andrews
Eric Wible
Donna Royer
Julie Hirschak, Alternate
Sherry Peck, Alternate
Anthony Rhine, Alternate

Gary and Lynn Emerson
411 Hudson Avenue
Altoona, PA 16602

RE: Request for a front yard setback variance for a carport and/or garage at 411 Hudson Avenue in a single household residential zone.

Your Petitioners appeared on their own behalf.

From the uncontradicted testimony presented at the hearing of October 12, 2016 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Your petitioners have an ownership interest in the subject property.

2.

Requisite notices were made and property posted.

3.

Your petitioners acquired the subject property as recently as April.

4.

Your petitioner has various health conditions peculiar to him for which he has requested that a garage and/or carport be allowed to be placed in the front yard, that would basically once built, do away with and be totally contrary to the setback requirements otherwise applicable to the subject property, and the zone and neighborhood in which it is set.

5.

Your petitioner continues to utilize the same for its intended use, namely, as their residence and the very same use which pre-existed their purchase.



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6.

When your petitioners purchased the same, the property had neither a garage nor a carport.

7.

The subject property can obviously be used for a permitted use and purpose, namely, a residence.

8.

While, of course, the property may otherwise be more valuable and more enjoyable if it had a carport or garage, the same is certainly not necessary to enable a continued reasonable use of the property to be made.

9.

While the subject Board would love to accommodate the petitioner's unique problems and needs, it is not such a basis that could otherwise justify a change in and to the zoning appropriately applicable to the subject property/neighborhood/zone.

10.

While more expensive, a change could be made to even accommodate a garage as it was noted that the present living room had formerly been a garage, and could physically be converted back into one. (i.e. garage)

11.

Therefore, changes to the property could be made although at a greater financial detriment to your petitioner and at an economic cost, greater than the building of a garage in the front yard setback.

12.

Notwithstanding, the expense, however, such a change could be made and could still comply with the otherwise applicable setbacks and zoning requirements pertinent to the subject property.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has failed to adequately prove that there exists such unique circumstances, conditions peculiar to the **property** that the subject property cannot be otherwise

adequately used or developed.

2.

On the contrary, the property is, has been and can be utilized for uses permitted in the subject zone.

3.

Reasonable use of the property therefore can obviously be made without the grant of a variance.

4.

The variance if granted may well impair appropriate use and development of the properties adjacent thereto.

5.

The variance, if granted, would represent both a modification of the regulations and plan(s) at issue.

DECISION

WHEREFORE, THIS 20TH DAY OF October, A.D., 2016, THE BOARD DENIES THE REQUEST OF THE PETITIONER FOR A VARIANCE.

ANY PERSON AGGRIEVED BY A DECISION OF THE ZONING HEARING BOARD MAY APPEAL THEREFROM TO THE COURT OF COMMON PLEAS WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE, IN THE MANNER SO PROVIDED BY LAW.

**THE ZONING HEARING BOARD OF THE
CITY OF ALTOONA,**

Michael Halloran 10/17/16
Michael Halloran, Chairman

Horace McAnuff 10-20-2016
Horace McAnuff

Donna Royer 10-19-16

Donna Royer

Julie K Hirschak 10/19/16

Julie Hirschak

MAILED TO YOUR PETITIONERS: October 20, 2016
Date

cc: William J. Stokan, Zoning Board Solicitor
Lee Slusser, Director of Planning
Marilyn Morgan, Planner II, Zoning Office

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

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Anthony Rhine, Alternate

Brian & Pamela Schuh
5001 Walnut Avenue
Altoona, PA 16601

RE: Request for a change of nonconforming use, parking and maintenance of personal FedEx vehicles from and in an auto repair garage, in a neighborhood business zone.

Your Petitioners appeared on their own behalf.

From the uncontradicted testimony presented at the hearing of October 12, 2016 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Your petitioners have a conditional ownership interest in the subject property.

2.

Requisite notices were made and property posted.

3.

Your petitioner is a sub-contractor/independent contractor with FedEx Ground and his business is one in which he has twenty (20) vehicles, with which he contracts with FedEx for ground deliveries.

4.

The subject vehicles are kept at a terminal in Duncansville, within locked gates.

5.

He hires various employees to drive the same.

6.

From time to time, the vehicles are in need of repair, which he must attend and



perform.

7.

The subject property was one in which a variance was given allowing mechanical repairs.

8.

The subject property itself is located directly across the street from the Allegro and another business which apparently is a dance studio.

9.

The subject property is indeed located in and at a corner.

10.

The property will not be one open for general repairs to the public but will only be utilized for repair of this particular petitioner's private vehicles.

11.

Your petitioner requests that he be permitted to perform repairs on only his vehicles and only mechanic repairs indicating that any and all body repairs will be done at premises other than the subject request.

12.

There shall be no other employees other than your petitioner himself who will perform the repairs on these vehicles.

13.

No sign is necessary as a result of not being open to the general public.

14.

The hours proposed will be seven (7) days a week but only 9:00 a.m. until 7:00 p.m.

15.

Your petitioner has indicated that he will forthwith perform painting and general repairs to the subject property and improve its appearance.

16.

Your petitioner has also indicated that he will add no exterior lighting and perform most if not all repairs inside the subject property indicating that he will be able to get all of his

vehicles inside once he changes one and/or both garage doors.

17.

As such, while he has requested to perform some repairs outside the subject property, it would be most appropriate to the surrounding neighborhood and the surrounding uses if ALL were done inside, which he can accommodate with the mere changing of the garage doors as he indicated.

18.

As such, considering the change in hours the limited use to his own trucks rather than the general public, the change in use is much more conforming to the area than the use to which it is to replace.

Wherefore the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately proven that the use is a pre-existing nonconforming use.

2.

The change in use will be more conforming to the neighborhood especially with the conditions hereinafter imposed than the use which it is to replace.

DECISION

WHEREFORE, THIS 20th DAY OF October, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER AND CHANGE OF NONCONFORMING USE; PROVIDED, HOWEVER: THAT THERE SHALL BE NO SIGNAGE; THERE SHALL BE NO BODY WORK PERFORMED AT THE PREMISES; THAT ANY AND ALL WORK MUST AND SHALL BE INSIDE THE SUBJECT FACILITY AND, PROVIDED FURTHER, THAT THE HOURS OF OPERATION SHALL BE 9:00 A.M. UNTIL 7:00 P.M., SEVEN (7) DAYS A WEEK, AND, PROVIDED, FURTHER, THAT THE EXTERIOR SHALL BE FORTHWITH FIXED UP AND PAINTED AND GARAGE DOOR CHANGED SO AS TO ACCOMMODATE AND ALLOW ANY AND ALL OF HIS VEHICLES TO BE WORKED UPON INSIDE.

PETITIONER MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PREMISES, WHICH ARE OUTSIDE THE JURISDICTION OF THE ALTOONA ZONING HERING BOARD.

ANY AND ALL NECESSARY PERMITS INVOLVED MUST BE SECURED WITHIN

SIX (6) MONTHS FROM THE DATE OF THIS NOTICE, OR THE AUTHORIZATION SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

ANY PERSON AGGRIEVED BY A DECISION OF THE ZONING HEARING BOARD MAY APPEAL THEREFROM TO THE COURT OF COMMON PLEAS WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE, IN THE MANNER SO PROVIDED BY LAW.

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