

BEFORE THE ZONING HEARING BOARD
OF
SCHUYLKILL COUNTY

RE: Request for a Special Exception made by James N. Pester.

BEFORE: Daniel Daub, Mary Jo Moss, and Dave Ambrose, Members of the Schuylkill County Zoning Hearing Board (“Board”).

MINUTES OF HEARING

Name of Applicant	James N. Pester 19 West Main Street Quakake, PA 18245
Location of Subject Property	Pine and Mahanoy Streets Mahanoy City Borough Schuylkill County UPI No. 48-09-0038.001 and 48-09-0038.000
Owners of Property	Justin D. Blume and Washington Hook and Ladder
Zoning Classification	C1- Local Commercial
Date of Hearing	August 4, 2016
Place of Hearing	Commissioners Board Room Schuylkill County Courthouse Pottsville, Pennsylvania
Appearances (Board)	Shane H. Hobbs, Esquire
Appearances (Applicant)	Thomas Pellish, Esquire
Protestants	Residents of Mahanoy City Borough

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FINDINGS OF FACT

After a hearing involving all interested parties and in consideration of the evidence presented, the Board finds as follows:

1. James N. Pester (hereinafter referred to as “Applicant”), desires to operate an Auto Repair Garage on the subject parcels and properties (the “Property”) located at 35 E Mahanoy Street & 40 E Pine Street, Mahanoy City Borough, Schuylkill County, uniform parcel identification numbers 48-09-0038.000 & 48-09-0038.000.
2. Applicant seeks a Special Exception pursuant to Section 306.I.2.b of the Schuylkill County Zoning Ordinance (“Ordinance”), where he propose to operate an Auto Repair Garage.
3. Applicant has entered into an agreement of sale for the Property: Justin Blume is the record owner of 40 E Pine Street & Washington Hook & Ladder is the record owner of 35 E Mahanoy Street.
4. The Property is currently being used for storage as well as a firehouse.
5. The Property is located in a Local Commercial (C-1) under the Ordinance.
6. Public notice of the Hearing was given by advertisement in the Pottsville Republican Newspaper on July 18, 2016 and July 25, 2016.
7. Notice of the Hearing was posted on the Property on July 16, 2016.
8. Notice of hearing was mailed to all property owners adjacent to the Property.
9. The application, Zoning Board file, and exhibits introduced during the hearing were accepted and made part of the record.
10. Applicant testified that he plans to renovate the building into an Auto Repair Garage, and that all construction will be compliant with applicable state and federal law.

11. Applicant testified that all repair work will be completed inside the building, and that no work or storage will take place outside the building.
12. The Property, in its existing state, is suitable for Applicant's renovations and business plans.
13. Applicant does not desire off-street parking for employee or customers.
14. Applicant stated, in conjunction with his application, that the proposed use will not impact traffic or parking in the surrounding area.
15. Applicant currently operates an Auto Repair Garage in Schuylkill County where he has been in business – the Auto Repair business – for more than fifteen years.
16. The proposed use is consistent with the neighborhood's commercial/business characteristics.
17. Several citizens ("objectors") from Mahanoy City appear at the hearing and offered public comment and certain objections to Applicant's planned use.
18. The objectors offered testimony concerning the Property's noise levels, parking, the surrounding neighborhood's characteristics, and the possibility of value decreases to the surrounding area.
19. The objectors offered documentary evidence in the form of a petition titled: "Neighbors Against Putting A Private Auto Repair In A Residential Neighborhood."
20. No other documentation or expert or scientific evidence was offered by the objectors.

CONCLUSIONS OF LAW

1. The Board is empowered with exclusive jurisdiction to hear and render final adjudications in Special Exception Use requests. Ordinance, § 116.
2. The Board shall only permit a special exception that is authorized by the Ordinance, and it may attach reasonable conditions and safeguards in granting the special exception request. Ordinance, § 111 D.4.

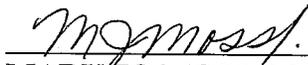
3. The Board finds that the Applicant satisfies the pertinent criteria outlined in the Ordinance to approve the Special Exception Use of the Property.
4. The Board finds the Property's proposed use does not have potential of conflicts with adjacent uses or individuals in the area.
5. The testimony offered by the objectors lacks evidence sufficient to defeat the Applicant's Special Exception request.
6. The Board Grants Applicant's special exception request with the attached conditions that all repair work be done within the confines of the building, that the air compressor be located in the basement or in a location where the noise would be most suppressed, that no vehicle parts or equipment are stored outside the building, and that the Property's signage does not go against the underlying purpose of Article 7 of the Ordinance which is to "promote and maintain overall community aesthetic quality[.]". Ordinance, § 701 A.

DECISION

AND NOW, this 1st day of September, 2016, the Schuylkill County Zoning Hearing Board hereby **GRANTS** and **APPROVES** the Special Exception request made by James N. Pester, which allows the applicant to operate an Auto Repair Garage within parcels 48-09-0038.000 & 48-09-0038.01.



DANIEL DAUB, Chairman



MARY JO MOSS, Member



DAVE AMBROSE, Member