

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Arinsburg Associates, Inc. d/b/a Bucks County Auto Care

Appeal No. 2021-006

A hearing was held in the above matter on Thursday June 4, 2021 at 7:00 p.m. at the Hilltown Township Municipal Building. Notice of the hearing was published in The Intelligencer advising that all parties in interest might appear and be heard. In addition, the property was posted, and written notice was provided to neighboring property owners as required by the Zoning Ordinance.

The matter was heard before John Snyder, Chairman, David Hersh, and Stephen C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and represented by Edward Wild, Esquire. Paul Lapinski, owner of 1003 Middle Road, Hilltown, requested and was granted, party status.

The following exhibits were admitted and accepted into evidence:

Zoning Hearing Board's Exhibits

B-1 Proof of Publication

B-2 Posting Certification

B-3 Letter with enclosure dated May 10, 2021 to Neighbors from K.  
Eberle

B-4 Entry of Appearance of Paul Lapinski

Applicant's Exhibits

A-1 Application with all attachments

A1.a Color copy of Zoning Plan prepared by R. L. Showalter & Associates, Inc., dated January 5, 2021 and last revised March 30, 2021

A-2 Deed dated September 20, 2012

A-3 Certificate of Use and Occupancy Permit No. 2013-7560

A-4 Sign Permit No. 2013-538-S

A-5.a Photographs of Bucks County Auto Care

A-5.b Photographs of Bucks County Auto Care

A-6 Bucks County Tax Map for Parcel 15-035-044

A-7 Portion of Hilltown Township Zoning Map regarding PC-2 District

A-8 Aerial Photograph of Property

No other documentary evidence was submitted or received by the Hilltown Township Zoning Hearing Board. After weighing the credibility of the testimony and documents offered, the Hilltown Township Zoning Hearing Board renders its Decision on the above Application as more fully set forth below.

I. FINDINGS OF FACT

The Hilltown Township Zoning Hearing Board (the "Board"), having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, and a quorum of members present, hereby makes the following Findings of Fact:

1. Applicant is Arinsburg Associates, Inc. d/b/a Bucks County Auto.
2. Applicant is the owner of the real property located at 232 Dublin Pike, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-035-044.

3. The Property is located in the PC-2 (Planned Commercial-2) Zoning District in Hilltown Township and is served by onsite water and sewer.

4. The Property is long and narrowing with approximately 100 feet of road frontage and extending back approximately 548 feet.

5. The Property currently contains an existing, non-conforming B-1 Single Family Dwelling use and an E-12 Automotive Repair Facility use.

6. In connection with the B-1 use, the Property is improved by a single-family dwelling and car port, both of which are located at the front of the Property.

7. The rear of the Property is improved by two adjoining buildings containing 1,895 square feet and 2,123 square feet respectively (collectively, the "Auto Repair Facility") and which are used in connection with the E-12 use.

8. There are two driveways, one on either side of the Property, which provide access to the Auto Repair Facility.

9. There is an office space located in the front of the Auto Repair Buildings and 4 repair bays at the rear.

10. There are currently 46 parking spaces for the auto repair facility, 9 of which are paved and located across from the existing Auto Repair Facility, abutting the east side property line.

11. The remaining parking spaces are located in an existing stone lot located at the rear of the Auto Repair Facility.

12. On average, the Auto Repair Facility services about 20 cars per day and has 5 employees, 3 of which are technicians.

13. Applicant wishes to construct a 1,280 square foot addition onto the rear of the existing Auto Repair Facility and a 2,021 square foot standalone storage building at the rear of the Property.

14. The addition onto the Auto Repair Facility will allow for 2 more repair bays next to the existing bays and will reduce the need to shuffle vehicles around during the course of a workday.

15. At this time, Applicant does not anticipate increasing the number of technicians, but stated that it may be a possibility in the future.

16. The proposed storage building will be located 50 feet from the rear property line and will provide Applicant with a place to store tools and equipment that are currently being stored outside on the Property.

17. Moving the equipment from the exterior of the Property to a storage building will improve the appearance of the Property.

18. The wooded area located behind the proposed storage building will remain largely undisturbed.

19. In connection with the proposed construction, Applicant wishes to extend the existing stone parking area to the end of the proposed storage building and create 16 unpaved parking spots, which will continue in line with the existing paved parking spaces.

20. Like the existing paved parking spaces, the proposed stone parking spaces will abut the side property line to the east and will not have a buffer yard.

21. Applicant will maintain the required 20-foot buffer at the rear of the Property.

22. Despite the additional 16 parking spaces, because of the location of the proposed buildings, the total number of spaces shown on Applicant's plan is 46, which is the same amount of parking spaces currently available for the Auto Repair Facility.

23. The proposed construction does not increase the amount of parking spaces required.

24. Michael Arinsberg, owner of Property and the principal of Arinsberg Associates, Inc., testified that based on the current usage, he believes 35 total parking spots would be sufficient.

25. The Board finds Mr. Arinsberg's testimony to be credible.

26. Accordingly, Applicant requests the following variances:

a. from §160-23.E.(12)(c), which would require a total of 77 parking spaces, to exclude the gross floor area of the proposed storage building from the calculation and to permit a total of 46 parking spaces;

b. from §160-33.C to permit the existing parking spaces along the southern boundary border to encroach into the required type 5 buffer yard; and

c. from §160-46.B.(7) to permit the parking spaces in the rear of the site to consist of crushed stone as opposed to the required asphalt paving.

27. The Property as such cannot meet any of the parking requirements, already doesn't meet buffer yard requirements and so this would be an expansion of the pre-existing condition.

28. Applicant has attempted to revise the improvements and/or the location of the improvements. However, the current plan and proposed improvements require the least amount of zoning relief.

29. Paul Lapinski is the owner of real property located at 1005 Middle Road, Hilltown Township, which is located at the rear of the Property.

30. Though Mr. Lapinski's residence is located significant distance from the rear property line, Mr. Lapinski expressed concerns about the lights presently in place on Applicant's Property and the impact that Applicant's proposed construction may have on Mr. Lapinski's property's value.

## II. DISCUSSION:

Applicant is before this Board requesting relief in connection with the construction of a 1,280 square foot addition onto an existing building and a 2,021 square foot standalone storage building. Applicant seeks the following variances: 1) from §160-23.E.(12)(c), which would require a total of 77 parking spaces, to exclude the gross floor area of the proposed storage building from the calculation and to permit a total of 46 parking spaces; 2) from §160-33.C to permit the existing parking spaces along the southern boundary border to encroach into the required type 5 buffer yard; and 3) from §160-46.B.(7) to permit the parking spaces in the rear of the site to consist of crushed stone as opposed to the required asphalt paving.

In considering applications for a variance, this Board is required to apply the provisions of Section 10910.2 of the Municipalities Planning Code. The Board has the authority to grant a variance if it finds that an applicant has met its burden of

proof for the following five elements: first, that the property has unique physical circumstances, peculiar to the property, and not generally created by the Zoning Ordinance; second, that an unnecessary hardship exists, due to the uniqueness of the property, resulting in an applicant's inability to develop or have any reasonable use of the property; third, that the applicant did not create the hardship; fourth, that the grant of a variance will not alter the character of the neighborhood or be a detriment to the public welfare; and fifth, that the variance is the minimum necessary to afford relief. 53 P.S. § 10910.2(a). In the case of *Hertzberg vs. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A. 2d 43 (S. Ct. – 1998), the Supreme Court of Pennsylvania held that the grant of a dimensional variance is of lesser moment than the grant of a use variance, and the proof required to establish unnecessary hardship is lesser when a dimensional, as opposed to a use variance, is sought.

Based on the above, the Board finds that Applicant has shown the existence of a hardship, not self-created, and unique and peculiar to the Property, which requires the grant of the variances from Zoning Ordinance §160-23.E.(12)(c), §160-33.C and §160-46.B.(7). Additionally, the Board finds that the variances as requested would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicant the opportunity to reasonably use the Property.

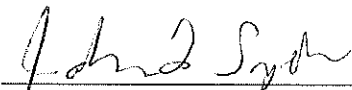
**DECISION AND ORDER**

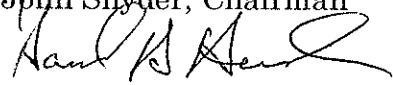
AND NOW, this 16<sup>th</sup> day of July, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing.
2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

The Hilltown Township Zoning Hearing Board hereby deems the foregoing conditions as necessary and warranted under the terms of the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

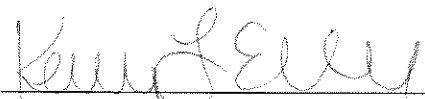
HILLTOWN TOWNSHIP ZONING  
HEARING BOARD

By:   
John Snyder, Chairman

By:   
David Hersh

By: \_\_\_\_\_  
Stephen Yates

GRIM, BIEHN & THATCHER

By:   
Kelly L. Eberle, Solicitor  
104 South Sixth Street  
Perkasie, PA 18944

Date of Mailing: 7-16-21