



ZONING HEARING BOARD APPLICATION

YORK COUNTY, PENNSYLVANIA



❖ **Part 1:**

APPLICANT(S)/EQUITABLE OWNER

Name: Austin and Mervin Smith, John Dunkle
Address: 438 Big Spring Road
New Cumberland, PA 17070
Phone: 717-460-7154

PROPERTY LOCATION:

Address: 438 Big Spring Road
New Cumberland, PA
Lot Size: 1.2 acres
Date Purchased: 2016
Location: 438 Big Spring Road

EXISTING OWNER OF PROPERTY:

Name: Same as Applicant
Address: _____

PRESENT USE OF PROPERTY:

Automobile Service Facility

EXISTING ZONE: RS, Residential Single

❖ **Part 2:**

ZONING REQUEST (Identification of the applicable request(s)):

- SUBSTANTIVE CHALLENGE
- SPECIAL EXCEPTION
- VARIANCE
- APPEAL OF THE ZONING OFFICERS DECISION

SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request:

300-80.B - Expansion of a non conforming use

❖ **Part 3:**

DESCRIPTION OF REQUEST:

The applicant is respectfully requesting to expand the existing building located at 438 Big Spring Road in order to add a state-of-the-art paint spraying booth. The proposed addition (20' x 40') will consist of 800 square feet and is proposed to be located along the southern end of the existing building. The expansion will not create any new dimensional nonconformities.

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
AUSTIN SMITH, MERVIN SMITH & : **YORK COUNTY, PENNSYLVANIA**
JOHN DUNKLE : **DOCKET NO. 2017-05**

**DECISION GRANTING A SPECIAL EXCEPTION TO SECTION 300-80(B)(1),
OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE**

The Applicants applied for a special exception to Section 300-80.(B)(1), Existing nonconforming uses and structures, extensions, expansions and enlargements, of the Fairview Township Zoning Ordinance for their property in the Single-Family Residential (RS) Zoning District located at 438 Big Spring Road, New Cumberland, Fairview Township, PA 17070. A hearing on the application was held on November 16, 2017, at 7:00 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The Applicants are Austin Smith, Mervin Smith and John Dunkle with a business address of 438 Big Spring Road, New Cumberland, PA 17070. The Applicants are the owners of the premises at 438 Big Spring Road, New Cumberland, PA 17070 which was the subject of the application.
2. Testifying for the Applicants were Mervin W. Smith of 190 Spanglers Mill Rd., New Cumberland, PA 17070, owner; Austin Smith of 2955 Old Trail Rd., York Haven, PA 17370, owner; and John Dunkle of 45 Pheasant Run Rd., York Haven, PA 17370, owner.
3. The Applicants own the property, which has a body shop, a nonconforming use

CONCLUSIONS

1. The Applicants have the burden of establishing their entitlement to the requested special exception and demonstrating that the requirements of the Fairview Township Zoning Ordinance are met.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicants have established entitlement to the requested special exception to allow for construction of the proposed 20' x 40' paint spraying booth along the southern end of the existing building; subject, however, to those conditions of the existing zoning permit from Case Number 366 which are still applicable continuing in place, as set forth below.

DECISION

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for a special exception to allow construction of 20' x 40' paint spraying booth along the southern end of the existing building is granted subject to the following conditions:

1. An enclosed storage area shall be maintained surrounding the building with a fence at least six (6) feet in height, constructed of material which precludes vision of materials behind the fencing;

2. There shall be no storage on the site of vehicle parts outside the fenced area;

3. The Applicants shall comply at all times with all hazardous waste disposal regulations of federal, state and local authorities having jurisdiction; and

4. The addition to the structure shall establish it as a single, unified structure from a visual perspective.

The Application was granted as stated upon the motion of Mr. Perry, seconded by Mr. Maxwell, and adopted 3-0 by the Board Members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING BOARD

Dated: December 21, 2017

By: *Keith L. Bashore*
Keith Bashore, Vice-Chairman

Distribution: Applicants