

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 3/10/2020

Case #:	BZA 2020-4 Modern Classic Motorcars, Use Variance			
Petitioner's Name:	Paul Dillow & Dan Duran			
Owner's Name:	Modern Classic Motorcars			
Petitioner's Representative:	Paul Dillow & Dan Duran			
Address of Property:	38 West Franklin Street			
Subject Property Zoning Classification:	BC – Business Central			
Comprehensive Future Land use:	Gateway Mixed Use			
	North	South	East	West
Surrounding Properties' Zoning Classifications:	R1 – Single Family Residential	BC – Business Central	BC – Business Central	BC – Business Central
Surrounding Properties' Future Land Use	Central Business District	Central Business District	Central Business District	Central Business District
History:	National Automotive operated out of the building from 2006 until 2019 when it was sold to Modern Classic Motorcar. National Automotive sold auto parts, both walk-in customers and internet orders. Modern Classic Motorcar plans to use the building to restore cars.			
Vicinity Map:				
Action Requested:	Approval for a use variance to allow for <i>Auto-Oriented Uses: Large Scale</i> at the site.			

1. Modern Classic Motorcars would like to use the building to restore antique and classic cars. The property is currently zoned BC – Business Central. The Business Central zoning district does not allow any auto-oriented uses by right, but does allow small and medium scale auto-oriented uses by special exception. The property maintains a “Legal Non-Conforming” status with the previous use of the property as an auto-oriented use (medium scale) in order to sell automotive parts. Modern Classis Motorcars would like to purchase cars from automobile auctions in order to restore them. In order to be able to purchase cars from an auction, an Indiana Auto Dealer license is required. In order to obtain an auto dealer license, the property needs to allow for auto-oriented uses (large scale). This is the only use in the Unified Development Ordinance that allows for the sale of automobiles.
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Use Variance Findings of Fact

Finding of Fact #1 – General Welfare: Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

Applicant provided the following response to Finding of Fact #1 “To the public eye nothing will change. There will be no outdoor activity related to our business. No noise or waste of any significance. Most doors are locked.”

The planning staff has determined that a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville, if none of the uses are occurring outdoors. Staff is recommending that a condition be applied to the approval that all operation of the business, from the restoration of automobiles to any potential sales shall occur inside the existing structure.

Finding #1 has been satisfied by the petitioner if staff recommended conditions are met

Finding of Fact #2 – Adjacent Property: Explain why the use variance should not affect the use and value of adjacent properties.

Applicant provided the following response to Finding of Fact #2 “The surrounding properties will see no change in routine. We will be remodeling the façade and side walls ASAP, but there will be nothing different from a functional standpoint.

The planning staff has determined the use variance should not affect use and value of adjacent properties. The use of the building continues the historic use of the building – auto-oriented uses. The petitioner intends to restore the south and west façade of the building. This will likely have a positive impact on their property and surrounding property values.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – Practical Difficulty: Explain why the conditions that are peculiar to this property create a hardship from using it for the permitted uses in the zoning district.

Applicant provided the following response to Finding of Fact #3 “The current use excludes auto dealership. We need the dealer licenses to buy cars, not to sell them. Everything else is perfectly acceptable for our use.”

The planning staff has determined that not allowing the use variance does provide practical difficulty in the use of the property. The original intent of the ordinance, in limiting auto-oriented uses, was to limit the conversion and/or demolition of buildings in a historic downtown to a more suburban-sprawl landscape that is typical with car dealerships and auto-part supply stores. However, since the property has historically been used for auto-oriented uses, and the petitioner needs the use variance in order to operate his business successfully, the owner's intent to maintain all business operations within the building, and the owner's desire to improve the façade and appearance of the building, the historic fabric of the downtown will be retained. A strict application of the ordinance would not allow the structure to be reused for this purpose, which could result in a vacant structure in the downtown, the use variance should be granted.

Finding #3 has been satisfied by the petitioner

Finding of Fact #4 – Unnecessary Hardship: Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

Applicant provided the following response to Finding of Fact #4 “It is actually perfect for the permitted uses. We are only missing the one piece that precludes us from buying cars.

The planning staff has determined that not allowing the use variance will create an unnecessary hardship in the use of the property within the Business Central zoning district. Due to the fact that the building was remodeled to allow for auto-oriented uses, including over-head garage doors and auto-repair bays, the conversion back to any of the permitted uses allowed in the district would be cost prohibitive, creating the unnecessary hardship. The building is already ideally suited for the requested use, and given the petitioners willingness to restore the outside of the building to become an integral part of the downtown fabric, will not result in a negative impact to the downtown maintaining the intent of the ordinance.

Finding #4 has been satisfied by the petitioner

Finding of Fact #5 – Comprehensive Plan: Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and future land use map from the Comprehensive Plan that support your argument.)

Applicant provided the following response to Finding of Fact #5 “The appearance of the building from all sides will remain that of a professional building. Unless you know already, it won't be clear what the use of the site is. No changes from current.

The planning staff has determined the use variance does not interfere with the intent of the Comprehensive Plan. The future land use map contained in the Comprehensive Plan identified the subject property as part of the downtown district. The built environment goals of the plan promote the development and redevelopment of existing sites. The petitioner is continuing an auto-oriented use of this site. The commerce and economy goals of the plan support local business creation and retention. The petitioner is starting a new business at the subject property.

Finding #5 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS:

- 1) The use variance is solely associated with the building at this site, no other properties owned by the applicant or adjacent properties.
- 2) The use variance will expire if and when the approved use (auto-oriented use large scale) ceases to operate in the structure.
- 3) All auto-oriented uses shall be contained to the building.
- 4) No outside storage of vehicles.

SPECIAL EXCEPTION USE: BZA 2020-4 Modern Classic Motorcars, Use Variance

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion: (I) would like to make a motion to approve the requested use variance to allow the subject property to be used for auto-oriented use large scale, pursuant to the findings of fact presented in the planning staff's report and conditions outlined therein.

- 1. The proposed Use Variance **will not** be harmful to the public health, safety and general welfare of the City of Shelbyville, pursuant to the planning staff's report.
 The proposed Use Variance **will** be harmful to the public health, safety and general welfare of the City of Shelbyville, pursuant to the planning staff's report.
- 2. The proposed Use Variance **will not** affect the use and value of adjacent properties, pursuant to the planning staff's report.
 The proposed Use Variance **will** affect the use and value of adjacent properties, pursuant to the planning staff's report.
- 3. The strict application of the terms of the Shelbyville Zoning Ordinance **will not** result in a practical difficulty in the use of the property, pursuant to the planning staff's report.
 The strict application of the terms of the Shelbyville Zoning Ordinance **will** result in a practical difficulty in the use of the property, pursuant to the planning staff's report.
- 4. The strict application of the terms of the Shelbyville Zoning Ordinance **will** result in unnecessary hardship for the permitted uses in the zoning district, pursuant to the planning staff's report.
 The strict application of the terms of the Shelbyville Zoning Ordinance **will not** result in unnecessary hardship for the permitted uses in the zoning district, pursuant to the planning staff's report.
- 5. The proposed Use Variance **is consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.
 The proposed Use Variance **is not consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson / Presiding Officer

Attest: _____

Adam M. Rude, Secretary



USE VARIANCE APPLICATION

Shelbyville Planning & Building Department
44 West Washington Street
Shelbyville, IN 46176
P: 317.392.5102

RECEIVED / FILED

FEB 25 2020

For Office Use Only:	
Case #: BZA	<u>2020 04</u>
Hearing Date:	<u>03-10-2020</u>
Fees Paid: \$	<u>425.00</u>
Final Decision:	
Approved	Denied

1.

Applicant

Name: PAUL DILLON / DAN DURAN
 Address: 798 W. 250 S.
SHELBYVILLE 46176
 Phone Number: 317502 1872
 Fax Number: _____
 Email: PAULDILLON@TDS.NET
DR DANIEL DURAN@YAHOO.COM

Property Owners Information (if different than Applicant)

Name: MODERN CLASSIC MOTORCAR
 Address: 38 W. FRANKLIN ST
46176
 Phone Number: SAME
 Fax Number: _____
 Email: ↓

2.

Applicant's Attorney/Representative

Name: _____
 Address: _____
 Phone Number: _____
 Fax Number: _____
 Email: _____

Project Engineer

Name: _____
 Address: _____
 Phone Number: _____
 Fax Number: _____
 Email: _____

3. Project Information:

General Location of Property (and address is applicable): 38 W. FRANKLIN ST.
SHELBYVILLE 46176
 Current Zoning: Business Central Existing Use of Property: Auto-Oriented Use: Medium Scale
 Proposed Use of Property: Auto-Oriented Use: Large Scale

4. Attachments

- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent
- Supporting Documentation and Exhibits (Optional)
- Vicinity Map
- Application Fee
- Findings of Fact

The undersigned states the above information is true and correct as s/he is informed and believes.

Applicant: [Signature] Date: 2-25-20

State of Indiana
County of Shelby SS:

Subscribed and sworn to before me this 25 day of Feb., 2020

KASSY MARIE WILSON, Notary Public
Shelby County, State of Indiana

Kassymarie / Kassy Wilson
Notary Public Printed

My Commission Expires January 24, 2025

Residing in Shelby County.

My Commission Expires: 1-24-25





USE VARIANCE
FINDINGS OF FACT

Petitioner's Name: PAUL DILLOW & DAN DURAN
Location: 38 W FRANKLIN ST. 46176
Special Exception for: AUTO DEALERS LICENSE

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

TO THE PUBLIC EYE - NOTHING WILL CHANGE
THERE WILL BE NO OUTDOOR ACTIVITY RELATED
TO OUR BUSINESS. NO NOISE OR WASTE OF
ANY SIGNIFICANCE. MOST DOORS ARE LOCKED.

2. **Adjacent Property:** Explain why the use variance should not affect the use and the value of adjacent properties.

THE SURROUNDING PROPERTIES WILL SEE NO
CHANGE IN ROUTINE. WE WILL BE REMODELING
THE FACADE & SIDE WALLS ASAP. BUT THERE
WILL BE NOTHING DIFFERENT FROM A FUNCTIONALITY STANDPOINT.

3. **Practical Difficulty:** Explain the conditions that are peculiar to this property that create a hardship from using it for the permitted uses in the zoning district.

THE CURRENT USAGE EXCLUDES AUTO DEALERSHIP.
WE NEED THE DEALERS LICENSE TO BUY
CARS, NOT SELL THEM. EVERYTHING ELSE IS
PERFECTLY ACCEPTABLE FOR OUR USE.

4. **Unnecessary Hardship:** Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

IT IS ACTUALLY PERFECT FOR THE PERMITTED USES.
WE ARE ONLY MISSING THE ONE PIECE THAT
PRECLUDES US FROM BUYING CARS.

5. **Comprehensive Plan:** Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and Future Land Use map from the Comprehensive Plan that support your argument)

THE APPEARANCE OF THE BUILDING FROM
ALL SIDES WILL REMAIN THAT OF A
PROFESSIONAL BUILDING. UNLESS YOU KNOW ALREADY,
IT WON'T BE CLEAR WHAT THE USE OF
THE SITE IS. NO CHANGES FROM CURRENT.



LETTER OF INTENT
BOARD OF ZONING APPEALS

Please write a brief summary of the project and the variance(s) requested. You may submit on this form or on your own letterhead.

TO: CITY OF SHELBYVILLE / BZA

NATIONAL AUTOMOTIVE HAS OWNED AND OPERATED A WHOLESALE AUTO PARTS SALES & DISTRIBUTION COMPANY AT THIS SITE SINCE 1969.

PAUL DICKOW & DAN DURAN PURCHASED THE BUILDINGS IN MARCH OF 2019, & NATIONAL CONSOLIDATED TO 1/3 OF THE SITE WHERE THEY CONTINUE TO DO BUSINESS.

PAUL & DAN STARTED MODERN CLASSIC MOTORCAR AFTER THE PURCHASE OF THE PROPERTIES. "MCM" WILL BUILD AND OR RESTORE SEVERAL CARS A YEAR HERE, AND THEN SELL SOME OF THESE CARS FOR AUCTION. IN ORDER TO BUY SOME OF THE CARS WE WILL USE, WE MUST MAINTAIN A DEALERS LICENSE.

THERE WILL BE NO REAL EVIDENCE FROM OUTSIDE OUR DOORS THAT WE SELL ANY CARS. NO CARS WILL BE SITTING OUTSIDE FOR SALE, AND THERE WILL BE NO EVIDENCE OF SALES OR MARKETING ON THE BUILDING.

Paul Dickow

AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS

STATE OF Indiana)
COUNTY OF Shelby) SS:

I, DANIEL P. DURAN, AFTER BEING DULY SWORN, DEPOSE AND SAY THE
(Name of property owner)
FOLLOWING:

1. That I am the owner of real estate located at 38 W FRANKLIN ST. SHELBYVILLE 46176
(Address of subject property)
2. That I have read and examined the Application made to the Shelbyville Board of Zoning Appeals by:
PAUL DILLON / DAN DURAN
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the Shelbyville Board of Zoning Appeals.

Daniel P. Duran
Owner's Name (Please Print)

[Signature]
Owner's Signature



KASSY MARIE WILSON, Notary Public
Shelby County, State of Indiana
My Commission Expires January 24, 2025

Subscribed and sworn to before me this 25 day of Feb., 2020.

Kassymarie Wilson / Kassymarie Wilson
Notary Public / Printed

Residing in Shelby County My Commission expires 1-24-25