

**CITY OF O’FALLON ZONING HEARING OFFICER**

IN RE THE MATTER OF:	)	
	)	
<b>Request for Use Variance for auto repair (auto body)</b>	)	ZHO2013-10
<b>Located in a “B-1(P)” Planned Community Business</b>	)	
<b>District; located at 1290 Central Park Drive; Petitioner</b>	)	
<b>Is Lechner Realty Group, Inc., agent for the owner,</b>	)	
<b>Peoples National Bank.</b>	)	

**FINDING OF FACTS**

In the matter of the City of O’Fallon Zoning Hearing, Cause No. ZHO2013-10, the Zoning Hearing Officer, Douglas C. Gruenke, makes the following findings of fact:

- 1) The Petitioner for the variance is Lechner Realty Group, Inc. The property is located at 1290 Central Park Dr., O’Fallon, Illinois (“Property”), and is owned by Peoples National Bank. Petitioner is the agent for the owner.
- 2) The Petitioner and the owner signed the Petition for Use Variance.
- 3) Notice of the hearing was given to all required parties by the Petitioner, and the City of O’Fallon published notice of the hearing in the O’Fallon Progress, pursuant to 65 ILCS 5/11-13-6 and 65 ILCS 5/11-13-7.
- 4) The hearing was held on January 28, 2014, and was called to order at 5:00 p.m. by Zoning Hearing Officer Gruenke.
- 5) The City of O’Fallon, by and through Justin Randall, presented the project background summary for the application. Said background summary is, and the ZHO finds as conclusive, as follows:
  - a) The parcel is approximately 2.05 acres.
  - b) The Property is currently zoned B-1(P) and previously housed a Subaru new car dealership.
  - c) The building currently situated on the Property is vacant and is 11,866 square feet and contains 15 repair bays. The parcel also contains 149 parking spaces.
  - d) The applicant is proposing to block off approximately 24 double-spaced parking spaces (12 on both sides of the building) enclosed with privacy fencing made of 8’ decorative vinyl fencing with brick pillars matching the building exterior.

6) Automotive repair use is not a permitted use, a planned use, or a special use in a B-1(P) zoning classification.

7) Mr. Steve Lechner of Lechner Realty Group, Inc., after being duly sworn, provided the following testimonial evidence, and the ZHO finds as conclusive:

- a) The owner acquired the Property in 2009.
- b) Petitioner listed the Property for sale in December 2011.
- c) Potential buyers have attempted to obtain, without success, another Subaru franchise for the Property. Subaru has stated that it likely will not have enough new vehicles to supply another dealership and that it would also have to determine if another dealership is warranted.
- d) Petitioner has contacted several other auto dealerships and manufacturers to determine if a different dealership would be interested in the Property. Petitioner believes that it is difficult to obtain a new vehicle franchise for the Property. Other dealers have told Petitioner that the building is too small for an expansion.
- e) Petitioner has attempted to market the Property as a sales facility for boats, recreational vehicles, and motorcycles, but has been unsuccessful in finding a buyer.
- f) Petitioner has discussed a lower asking price than the current \$1,600,000.
- g) Petitioner has not marketed the Property for used car sales.

8) Scott Schaefer, Vice President of Schaefer Autobody Centers, was sworn in and testified that he would like to purchase the Property and use it as an auto body shop.

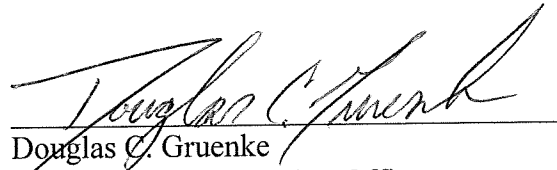
9) No other members of the public were present to cross-examine the Petitioner or to present additional evidence or testimony.

10) Although it is true that the current state of the Property lends itself to automotive uses, the B-1 Community Business District zoning classification contains 16 general categories of permitted uses, containing no less than 115 specific permitted uses. The B-1 Community Business District zoning classification also contains 10 special uses, one of which is used car sales.

11) The City of O'Fallon Zoning Code permits automotive repair garages only in conjunction with car sales, and specifically excludes the use in other automotive uses.

12) The ZHO takes judicial notice of the City of O'Fallon Zoning Code and finds that it is presumptively valid under Illinois law.

Dated: January 31, 2014

A handwritten signature in black ink, appearing to read "Douglas C. Gruenke", written over a horizontal line.

Douglas C. Gruenke  
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