

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA  
LINA ABDUL-NABI,

*Appellant*

v.

CIVIL ACTION NO. 17 - 793

WILLIAMSPORT ZONING HEARING  
BOARD,

*Appellees*

And

CITY OF WILLIAMSPORT,

*Intervenor*

ZONING APPEAL - REMAND

### OPINION AND ORDER

Appellant Lina Abdul-Nabi appeals from the grant of a change from a nonconforming use to another nonconforming use to allow the property of 1026 Franklin Street to be used as a car care shop for washing and detailing vehicles. The property was the site of an outdoor power equipment store for a long time period, and a warehouse after that for a relatively short period of time, the length of which is unclear from the record.

Appellant contends that the nonconforming power equipment use was abandoned and the new use should be compared to the warehouse in order to determine whether the new nonconforming use is permitted as equally or less intense under section 1323.02 of the applicable zoning ordinance.<sup>1</sup> The record is not adequate to determine abandonment under section 1323.04 of the applicable ordinance. “[I]t is the policy of the law to closely restrict such nonconforming

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<sup>1</sup> The zoning ordinance provides that a non-conforming use shall “not be enlarged, reconstructed, substituted, moved so as to extend or increase the non-conformity other than as specified herein.” § 1323.02. The Ordinance further provides the following in relevant part.

“(f) A non-conforming use may be replaced by a non-conforming use that is equally intense or less intense. The Zoning Administrator shall have the authority to approve a change within the same type of non-conforming use, such as from one personal service use to another personal service use; provided, the applicant agrees to comply with all of the same conditions that applied to the previous use. This Zoning Administrator approval may be permitted by right. If the Zoning Administrator has doubts about the comparative intensity of the new use versus the prior use, special exception approval shall be required. All other proposed changes in a non-conforming use shall need special exception approval by the Zoning Hearing Board.” City of Williamsport Zoning Ordinance § 1323.02.

uses and to strictly construe provisions in zoning ordinances which provide for the continuance of nonconforming uses.” Hanna v. Board of Adjustment, 408 Pa. 306, 183 A.2d 539 (Pa. 1962).<sup>2</sup>

ORDER

AND NOW, this        day of **December, 2017**, this case is remanded to the board for further findings and testimony if needed as to whether the lawn mower shop use was abandoned under the most recently updated version of section 1323.04. New findings shall include when Thompson ceased operation, time period when vacant and precise time periods when the warehouse operated. The board shall apply facts to section 1323.04 and consider whether the owner submitted any letters of intent to continue the nonconforming use as referenced in subsection (e).

BY THE COURT,

December 8, 2017  
Date

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Richard A. Gray, J.

- c:     Lina Abdul-Nabi, 308 Lyons Ave, Williamsport, PA 17701  
       Joseph Musto, Esquire (for Zoning Board)  
       Norman M. Lubin, Esquire (for City)  
       Mike and Sharon McGee, Cascade Homes, 2710 Brook St., Duboistown, PA 17702  
       Raymon Hall, 1026 Franklin St., Williamsport, PA 17701

<sup>2</sup> In Hanna, the Pennsylvania Supreme Court stated the following.

A basic purpose of zoning is to ensure an orderly physical development of the city, borough, township or other community by confining particular uses of property to certain defined areas. With such a purpose nonconforming uses are inconsistent. (citation omitted) The continuance of nonconforming uses under zoning ordinances is countenanced because it avoids the imposition of a hardship upon the property owner and because the refusal of the continuance of a nonconforming use would be of doubtful constitutionality. Even though zoning ordinances permit the continuance of nonconforming uses, it is the policy of the law to closely restrict such nonconforming uses and to strictly construe provisions in zoning ordinances which provide for the continuance of nonconforming uses. **Nonconforming uses, inconsistent with a basic purpose of zoning, represent conditions which should be reduced to conformity as speedily as is compatible with the law and the Constitution.** Hanna v. Board of Adjustment, 408 Pa. 306 at 312-313, 183 A.2d 539 at 543 (Pa. 1962)