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Kranbros, LLC  
5580 Goods Lane, Suite 1079  
Altoona, PA 16602

RE: Request to reduce the required ten (10) foot rear yard building setback in the commercial highway business zoning district, remove the five (5) foot landscape and screening buffer requirements and reduce the required five (5) foot paving buffer.

Michael Kranich and Ken Beldin appeared on behalf of petitioner.

From the uncontradicted testimony presented at the hearing of April 12, 2017 and the Board's view of the subject premises, the Board makes the following:

**FINDINGS OF FACT**

1.

Your petitioners have an ownership interest in the subject property.

2.

Requisite notices were made and the property posted.

3.

Your petitioner wishes to develop the area for a Kranich's store as well as additional retail space(s).

4.

The subject location is that which was previously known and operated by a Sheetz convenience store with groceries, food, fast foods, and gasoline sales.

5.

The subject building had been previously placed in and along various property lines consistent with such pre-existing uses.



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6.

The former use was indeed a "24-7" operation, with a great deal of traffic coming and going.

7.

The previous store had setbacks as little as .61 of a foot from the property line.

8.

Most germane to the subject request is that the building, being proposed is both a reasonable, normal and customary size for its permitted and intended use, but yet is being placed in and upon a lot of an irregular shape and dimension, quasi triangular, in shape and layout (trapezoid in shape).

9.

As such, setbacks to a reasonably placed and reasonably sized building are next to impossible to achieve, while still providing for the statutorily required off-street parking, with ingress and egress.

10.

The use as being requested is much more appropriate and conforming to the neighboring uses than the use which it is to replace.

11.

The rear of the building per the plans, while encroaching upon the rear yard setback, (defining the rear yard setback as that which is paralleled to the front/boulevard frontage as situated and built) will provide a good sound barrier and buffer to the properties which sit across the rear alley from it.

12.

Furthermore, the enclosed disposal/garbage area can, shall, and must herein and hereby be solid to the rear and be attended only during business hours so as to further deminimize interference, and can thereby provide further barrier and buffer to the residential properties and zoned to its rear.

13.

The alley itself separates the zone of the subject property from the adjacent residential zone.

14.

The providing of curbing so as to prevent ingress and/or egress to East Southey Avenue will further deminimize interference with and to the Garden Heights residential zone to

which East Southey Avenue otherwise leads, and will therein and thereby prevent further traffic flow into or from the subject property to the adjacent neighboring residential area.

15.

The provision of curbing while deminimizing interference with the adjacent properties will have no negative impact in or to the parking otherwise being made and provided.

16.

As the structure is not yet built, it can be laid out so as to place any and all garbage/disposal areas and fencing to the opposite corner of the lot, and thus not be interfered with by the appropriate curbing.

17.

Considering the layout an area, the granting of the setback requirements will allow reasonable use of the property to be made while having little, if any impact, upon adjacent uses considering the layout, fencing and conditions otherwise being imposed and the size and placement of the building as being proposed by your petitioner.

18.

As such reasonable use of the property can obviously be made within said conditions while allowing de minimis variances to be granted in order to reasonably accommodate the same.

From the foregoing testimony, the Board makes the following:

### CONCLUSIONS OF LAW

1.

Your petitioners have adequately proven there exist unique circumstances and conditions peculiar to the property, whereby the subject property could not otherwise be realistically used or developed in strictest conformity with the provisions of the Zoning Ordinance, particularly the nature, size, shape, and layout of the subject property.

2.

A variance is therefore necessary for reasonable use of the property to be made.

3.

The hardship was not created by your petitioner, to wit, the layout and shape of the subject property.

4.

The variance as authorized will not alter the nature or character of the neighborhood, nor impair appropriate uses or development of properties adjacent thereto.

5.

The variance as authorized and conditioned is a slight modification of the regulations and/or plans at issue, while allowing relief to your petitioner.

Wherefore the Board makes the following:

### DECISION

WHEREFORE, THIS 5<sup>th</sup> DAY OF April, A.D., 2017, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER, PROVIDED, THAT THE HOURS OF OPERATION SHALL BE 9:00 A.M. TO 10:00 P.M. AND, PROVIDED FURTHER, THAT ANY AND ALL LIGHTING SHALL REMAIN WITHIN THE FOUR (4) CORNERS OF THE PROPERTY AND, PROVIDED FURTHER, THAT THE DUMPSTER TO BE UTILIZED FOR THE SUBJECT USES AND PROPERTY SHALL AND MUST BE ENCLOSED WITH FENCING ALONG THE REAR PROPERTY LINE TO BE SOLID AND SAID DUMPSTER SHALL BE SERVICED ONLY **DURING BUSINESS HOURS**, THAT IS, SAID TRASH MUST BE PICKED UP BETWEEN 9:00 A.M. AND 10:00 P.M. AND NO EARLIER NOR NO LATER SO AS TO DEMINIMISE INTERFERENCE WITH THE RESIDENTIAL NEIGHBORHOOD TO THE REAR AND, PROVIDED FURTHER, THERE SHALL BE CONTINUOUS CURBING IN AND ALONG THE SUBJECT PROPERTY AS IT ADJOINS EAST SOUTHEY AVENUE AND AS SUCH, THERE SHALL BE NO INGRESS NOR EGRESS TO EAST SOUTHEY AVENUE WHATSOEVER OR HOWSOEVER FROM THE SUBJECT PROPERTY IN ORDER TO DEMINIMISE INTERFERENCE WITH OR TRAFFIC FLOW INTO THE ADJACENT RESIDENTIAL ZONE (GARDEN HEIGHTS); FINALLY, YOUR PETITIONER MUST COMPLY WITH ANY AND ALL PERTINENT LAND USE, RULES AND REGULATIONS OF THE CITY AS IT RELATES HERETO.

YOUR PETITIONER MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PROPERTY, WHICH ARE OUTSIDE THE JURISDICTION OF THE ALTOONA ZONING HEARING BOARD.

ANY AND ALL NECESSARY PERMITS INVOLVED MUST BE SECURED WITHIN SIX (6) MONTHS FROM THE DATE OF THIS NOTICE, OR THE AUTHORIZATION SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

ANY PERSON AGGRIEVED BY A DECISION OF THE ZONING HEARING BOARD MAY APPEAL THEREFROM TO THE COURT OF COMMON PLEAS WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE, IN THE MANNER SO PROVIDED BY LAW.

THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA,

Michael Halloran 4/20/17  
Michael Halloran, Chairman

Richard J. Andrews 4-20-17  
Richard Andrews

Donna Royer 4-21-17  
Donna Royer

Cory Gehret 4/20/17  
Cory Gehret

MAILED TO YOUR PETITIONER: APRIL 21, 2017  
Date

cc: William J. Stokan, Zoning Board Solicitor  
Lee Slusser, Director of Planning  
Marilyn Morgan, Planner II, Zoning Office