

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

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planning@altocnapa.gov



Michael Halloran
Horace McAnuff
Richard Andrews
Donna Royer
Cory Gehret
Julie Hirschak, Alternate

ALTOONA ZONING HEARING BOARD

Chris Weidley
104 Dogwood Drive
Hollidaysburg, PA 16648

Greg Coldwell
1905 - 20th Street
Altoona, PA 16601

Charles Kelly
1911 - 20th Street
Altoona, PA 16601

RE: 1918- 20th Street, a request to establish a student home through special exception Code 800-48C (7) on premises in a single household residential zone.

Your petitioner appeared on his own behalf.

Greg Coldwell and Charles Kelly appeared as neighbors in interest.

From the testimony presented at the hearing of March 14, 2018 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Your petitioner has an ownership interest in the subject property.

2.

Requisite notices were made and the property posted.

3.

Your petitioner has indicated that he desires to rent to four (4) students, there being four (4) bedrooms in existence in the subject property, which of course is still yet to be inspected for purposes of student housing.



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4.

He has indicated that while previously and presently the subject property is being rented by cosmetologists, who are pursuing their training and studies, he wishes to rent to undergraduate students in and from the School of Engineering of Penn-State University, indicating that his experience with them as tenants is excellent.

5.

He indicates that he has been in student housing previously, as a landlord.

6.

He indicates that from his experience and the written leases that he has, including restrictive clauses of no pets, no alcohol, and no visitors exceeding ten (10) in number, that he is able to maintain great control and peace in the neighborhood, indicating that violations of the same would result in ejection which, of course, are all contained in signed and written leases, which he indicates he will have here for all tenants as well.

7.

Questions have arisen as to whether the previous cosmetologists being involved at the subject property were "students" as defined under the Ordinance and the Board in its interpretation of the Ordinance finds that they were not.

8.

As to the subject request, there is adequate off-street paved parking that can accommodate two and even four cars if stacked.

9.

Due to the number of parking spaces available and bedrooms in existence, he has indicated that he will have no more than four (4) students, however, he recognizes that he will be governed by the building inspector of the City of Altoona to determine the allowable number, at his or her initial inspection.

10.

There is no other student home located within 250 feet to the subject property.

11.

No more than one dwelling unit is being used as a student home on the lot.

12.

No more than one building, obviously, on this lot is being used as a student home, this being the one and only.

13.

A minimum of two (2) paved parking spaces is and shall be provided and your petitioner indicates he will direct and require, by lease, that they utilize the same rather than park off-street.

14.

The student home shall not be occupied by said "students" until the appropriate zoning permit and residential rental unit has first been issued.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

That your petitioner has adequately proven compliance in, with, and to that set forth and required for such a special exception under and by virtue of Article 5, Section 800-48C(7).

DECISION

WHEREFORE, THIS 23rd DAY OF MARCH, A.D., 2018, THE BOARD GRANTS AND APPROVES THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER; THAT HE SHALL HAVE NO MORE THAN FOUR (4) STUDENTS IN AND ABOUT THE SUBJECT PROPERTY AS TENANTS, AND THAT HE SHALL HAVE EVEN LESS, IF SO DETERMINED BY THE CITY INSPECTOR YET TO BE PERFORMED; PROVIDED FURTHER: THAT YOUR PETITIONER SHALL HAVE A WRITTEN LEASE WITH HIS TENANTS;
PROVIDED FURTHER: THAT SAID WRITTEN LEASE SHALL REQUIRE THE STUDENTS TO PARK IN THE AREAS DESIGNATED FOR THEM;
PROVIDED FURTHER: THAT THE LEASE SHALL REQUIRE THAT NO MORE THAN TEN (10) VISITORS, TOTAL, INCLUSIVE OF THE TENANTS, BE IN THE SUBJECT PROPERTY AT ANY ONE TIME;
PROVIDED FURTHER: THAT THERE SHALL BE NO ALCOHOL HAD ON PREMISES;
PROVIDED FURTHER: THAT SHOULD THEY VIOLATE THESE TERMS OR ANY TERMS OF THE LEASE OR SHALL THEY VIOLATE ANY POLICE ORDINANCE APPLICABLE TO AND/OR PERTAINING TO NOISE AND/OR NUISANCES APPLICABLE THERETO, THAT EJECTMENT SHALL OCCUR;
PROVIDED FURTHER: THAT THE LANDLORD HIMSELF SHALL AS INDICATED BE RESPONSIBLE FOR ANY AND ALL TRASH REMOVAL, AND LAWN CARE, AND SNOW REMOVAL OVER THREE (3) INCHES; AND THAT THE TENANTS SHALL, AT ALL TIMES, MAINTAIN SNOW REMOVAL LESS THEREOF;
PROVIDED FURTHER: THE PROPERTY SHALL AT ALL TIMES BE MAINTAINED IN A FIT AND PROPER APPEARANCE AS A SINGLE FAMILY RESIDENTIAL HOME AS IT DOES INDEED PRESENTLY APPEAR;
PROVIDED FINALLY: THAT THE USE SHALL TERMINATE SHOULD USE OR OWNERSHIP OF THE PROPERTY CHANGE.

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

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.

THE ZONING HEARING BOARD OF THE CITY OF ALTOONA,

Michael Halloran 3/19/18
Michael Halloran, Chairman

Horace McAnuff 3-22-18
Horace McAnuff

Richard Andrews 3/19/18
Richard Andrews

Cory Gehret 3/23/18
Cory Gehret

Donna Royer 3-23-18
Donna Royer

MAILED TO YOUR PETITIONER: March 23 2018
Date

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

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Altoona, Pennsylvania 16601

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ALTOONA ZONING HEARING BOARD

Walter Bruce Koller
4221 Fifth Avenue (4241 Fifth Avenue)
Altoona, PA 16602

RE: Request for a side yard setback variance for purposes of building addition and driveways in and on premises in a suburban residential zone.

Your petitioner appeared on his own behalf.

From the uncontradicted testimony presented at the hearing of March 14, 2018 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Your petitioner has an ownership interest in the subject property.

2.

Requisite notices were made and the property posted.

3.

In the course of utilizing the subject property in and as his residence, it has become necessary and desirable to expand and improve upon the same to accommodate not only himself and his wife, but his children and grandchildren, especially when said grandchildren wish to come, visit, and/or stay with him, numbering seven (7) in total (grandchildren).

4.

The property itself is now presently subject to a merger.



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5.

Your petitioner had some time after acquiring the lot within which he resides, thereafter acquired the adjacent lot.

6.

This lot is deceptively smaller than it appears as the lot itself, as the recent survey reveals, is grass and dirt covering, what is otherwise a right-of-way, greatly cutting into the area within which said expansion could and can occur.

7.

Interestingly enough, the lot which is the present subject of a merger, is of such an extraordinarily small size, that it could never realistically be used or developed as a stand alone lot.

8.

In other words, this stand alone lot is so small that once the setback requirements would be complied with, would leave approximately seven feet (7') for a structure, which, of course, is an otherwise deprivation or denial of any reasonable use.

9.

By the combination of these two lots, however, reasonable expansion of the pre-existing primary residence can occur, and reasonable use of both thereby realized.

10.

Therefore, the expansion as requested, and a variance therefor, are both reasonable and necessary to enable some reasonable use of the property to be made.

11.

This is especially true when its location is examined.

12.

The subject properties, even though merged, are at a corner of a T-intersection.

13.

The T-intersection is rarely used whatsoever or howsoever.

14.

The expansion therefore would affect little, if anyone, except the actual streets themselves.

15.

The subject properties face out across the avenue to Seymore Brothers and all that is involved with that manufacturing, coming and going, loading and unloading, and the trucks associated therewith.

16.

Testimony has been presented that it has and/or may be sold, or abandoned or moved.

17.

Notwithstanding, that use alone as zoned, would hardly be interfered by any of the variances as requested by your petitioner.

18.

In allowing the request of your petitioner, therefore, reasonable use of both properties as one, can be made without any real negative impact in and to the surrounding properties, especially, because the expansion is along and adjacent to no other properties other than the subject streets and/or alleys pertinent thereto.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately shown that there exists such unique circumstances and conditions peculiar to the property, under and by virtue of which an unnecessary hardship has been created due to which there is little or no possibility that the properties can otherwise be realistically used or developed in strict conformity with the provisions of the Zoning Ordinance.

2.

The grant of a variance is therefore necessary to enable a reasonable use of the properties to be made.

3.

The relevant hardship was not created by your petitioner as applicable hereto.

4.

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

The variance as authorized will not be detrimental to the public health, welfare, and safety, and will reasonably afford relief to the hardship otherwise applicable hereto.

DECISION

WHEREFORE, THIS 23RD DAY OF MARCH, A.D., 2018, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER.

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

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THE ZONING HEARING BOARD OF THE
CITY OF ALTOONA,

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Michael Halloran, Chairman

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