

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

Voice - 814/949-2470
Fax - 814/949-0372
TDD - 711

planning@altoonapa.gov



Michael Halloran
Horace McAnuff
Richard Andrews
Eric Wible
Donna Royer
Julie Hirschak, Alternate
Sherry Peck, Alternate
Anthony Rhine, Alternate

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

Darryl Little
306 E. Southey Avenue
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.

Charles Kranich and Ken Beldin appeared on behalf of petitioner, as well as Darryl Little for the neighborhood.

From the uncontradicted testimony presented at the hearing of May 10, 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.

A grant of that request with conditions therein and thereon imposed was granted by a decision following the hearing of April 12, 2017.

5.

Specifically, the Zoning Hearing Board required that there be no access whatsoever in and along or to East Southey Avenue from the subject property.



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6.

This hearing was conducted to particularly review that and specifically discussed testimony concerning the same.

7.

Your petitioner has indeed presented that the imposition of such curbing along the entire lane and the prohibition of ingress and egress in, to, or along East Southey Avenue, would be a particular hardship, while in reality, by and through its study, present little, if any, true interference in and/or with the adjacent residential neighborhood, particularly, considering the one-way nature thereof, and especially compared with other legitimate uses, such as a Sheetz

8.

Furthermore, the evidence was produced that most of the ingress and egress would be in and to the main entrance along Plank Road.

9.

A traffic study was had and obtained and presented to the Board verifying the de-minimus impact and the importance therein and thereto of and for traffic circulation.

10.

Quite obviously, the nature of this commercial and retail establishment when compared to the previous use of a Sheetz, will be far more de-minimus and accommodating of traffic than the use which it is to replace, namely, a 24-7 convenience store.

11.

Due to the nature of the request and the complications of considerations remaining hereto and the surrounding neighborhood, it would appear more realistic to be an issue of planning and land use development than zoning.

12.

The findings of fact, testimony, and evidence presented at the hearing of April 12, 2017, and the findings associated therewith are herein and hereby incorporated by reference as though set forth at length herein.

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.

This hardship was not created by your petitioner, i.e., the layout and shape of the subject property all being pre-existing.

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 4TH DAY OF June, 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 PREMISES 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 THE HOURS OF 9:00 A.M. AND 10:00 P.M., AND NO EARLIER OR NO LATER, SO AS TO DEMINIMIZE INTERFERENCE WITH THE ADJACENT RESIDENTIAL NEIGHBORHOOD TO THE REAR AND, PROVIDED FURTHER, THAT THERE BE CURBING IN AND ALONG ANY AND ALL PARKING SPACES, WHERE SAID PARKING ADJOINS EAST SOUTHEY AVENUE, PROVIDED, FURTHER, YOUR PETITIONER MAXIMIZES LANDSCAPING ESPECIALLY AT THE AREA OF THE CLOCK TOWN AND, PROVIDED, FINALLY THAT YOUR PETITIONER MUST COMPLY WITH ANY AND ALL REQUIREMENTS IMPOSED UPON IT BY THE PLANNING COMMISSION AND, FINALLY, BE COMPLIANT WITH ANY AND ALL LAND USE, RULES, REGULATIONS, AND PLANNING OF THE CITY AS RELATES HERETO, WHICH WILL BE THE MORE APPROPRIATE STUDY AND APPLICATION PERTINENT TO INGRESS AND EGRESS FROM THE SUBJECT LOT AND PARTICULARLY IN, ON AND/OR ALONG EAST SOUTHEY AVENUE.

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,**

Richard J. Andrews 6/04/17
Richard Andrews, Acting Chairman

Horace McAnuff 5-15-17
Horace McAnuff

Donna Royer 5-12-17
Donna Royer

Cory R. Gehret 5/12/17
Cory Gehret

MAILED TO YOUR PETITIONER: June 5, 2017
Date

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