

5.

The property is at or about the block immediately adjacent in and to 17th Street whereat pizzerias, such as Dominos, restaurants, and Sheetz businesses are located.

6.

Immediately across Sixth Avenue, is the Salvation Army.

7.

The property itself is an almost stand alone building on a corner lot, fronting the street and the avenue.

8.

Testimony has been given that there would be little, if any more odors emanating from the subject use than from the other restaurants, pizzerias, etc. in and about the subject area.

9.

The use, itself, is not what is recognized as a traditional "manufacturing plant", but more a liken to a butcher shop, as your petitioner will receive prime rounds of beef, which they will then cut for sale therefrom, either directly at their retail site or to be picked up and/or distributed therefrom.

10.

Your petitioner has indicated that they will be obtaining state of the art machinery so that there are little or no emissions that would interfere with surrounding uses and/or violate federal emission and/or state emission standards.

11.

A similar process was observed by your petitioner with similar equipment and he testifies there was little, if any, smoke or odor emitted whatsoever therein or therefrom. Likewise, he has been conducting such from his home/garage and has had no complaints by or from his neighbors.

12.

The process involves a venting of warm moist air, but on a very minimal basis.

13.

The process is an integrated return process, again, de minimizing the emission of any smoke or odors.

14.

The vent process occurs in the making of the jerky for only about three (3) to five (5) minutes at a time, maybe once a day, for approximately thirty (30) minutes per shift, the process itself taking approximately two (2) hours of self-contained "smoking" for the production of beef sticks, should and when they ever produce those over, above and in addition to the making of the beef jerky.

15.

Since there is involved a processing and "making" of this jerky from otherwise beef rounds, and, thereafter, packaged and distributed, it is more indeed a "manufacturing" process than simply retail.

16.

The result in and about the neighborhood, however, would be de minimis, than say a Burger King retail-outlet which could otherwise be allowed in that very area, and/or perhaps even a pizzeria.

17.

As such, the only characteristic inherent in and with this particular manufacturing process, is that which would otherwise be found to a greater degree in a retail operation as above indicated, for example, a Burger King.

18.

Notwithstanding, your petitioner has indicated that it will be de minimis at most if any at all.

19.

There is adequate off-street parking for the employees and customers in and about the subject lot.

20.

Signage by relocation can be effectuated without the need of a further variance as explained by your petitioner.

21.

The delivery and/or distribution can be from the existing dock by a box truck which occurs once and/or maybe twice a week only.

22.

The garbage that is generated is de minimis as almost all of the subject beef is

utilized with little if any bi-product that needs to be disposed of.

23.

While your petitioner has indicated the slicing and causing of waste can occur on the very day of the actual trash pickup, and will thus insure that the waste materials be kept inside until the day of trash pickup.

24.

As the process involves chemical curing and evaporation more so than long term "smoking", there will be little if any nuisance characteristics generated therefrom that would be greater than or different from the otherwise permitted retail businesses as above mentioned.

25.

The days and hours of operation will be Monday through Friday, 8:00 a.m. until 6:00 p.m. and there will be but six (6) employees, including the owners, several of which are "ride-sharers" and/or will be working off-premises.

26.

Notwithstanding the same, there is adequate off-street parking for customers and employees alike.

27.

Any and all lighting will be contained within the four corners of the lot and not be shining off the subject property.

28.

Your petitioners will be able to and must comply with land use and development rules and regulations.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately shown that there exists unique circumstances and conditions peculiar to the property under which an unnecessary hardship has been created due to which there is little or no possibility that the property can otherwise be realistically used to develop in strictest conformity with the provisions of the zoning ordinance.

2.

A grant of a variance is therefore necessary to enable a reasonable use of the

property to be made.

3.

The subject hardship was not created by your petitioner.

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 properties adjacent thereto.

5.

The variance as authorized will not be detrimental to the public health, welfare and safety and will reasonably afford relief to the petitioner herein.

DECISION

WHEREFORE, THIS 21st DAY OF MAY, A.D., 2018, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER; THAT THE DAYS AND HOURS OF OPERATION SHALL BE NO GREATER THAN MONDAY TO FRIDAY, 8:00 A.M. UNTIL 6:00 P.M. AND, PROVIDED FURTHER: THAT THERE SHALL BE NO LESS THAN TWO (2) GARBAGE PICKUPS A WEEK AND THAT IN CONNECTION THEREWITH, ALL MEAT DISPOSAL WILL BE KEPT WITHIN THE SUBJECT BUILDING UNTIL SUCH TIME THAT THE GARBAGE PICKUP IS TO TAKE PLACE AND, PROVIDED FURTHER: THAT ANY AND ALL LIGHTING SHALL BE SELF-CONTAINED, THAT IS, SHALL BE DIRECTED AND MAINTAINED ENTIRELY WITHIN THE FOUR CORNERS OF THE SUBJECT PROPERTY AND, PROVIDED FINALLY: THAT THE PETITIONER MUST AND SHALL COMPLY WITH ANY AND ALL LAND USE, DEVELOPMENT, RULES AND/OR REGULATIONS.

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 5/11/18
Michael Halloran, Chairman

Richard Andrews 5/24/18
Richard Andrews

Cory Gehret 5/15/18
Cory Gehret

Dissent Donna Royer 5/14/18
Donna Royer

MAILED TO YOUR PETITIONER: May 21, 2018
Date

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