

**AGENDA
ZONING HEARING BOARD
January 13, 2016**

4th Floor Conference Room at City Hall - 1:15 pm

418 26th Ave aka 2600 5th St / Kevin Dellape

Request to construct a residential addition within the side yard setback on premises in a Single Household Residential zone, Code 535-68 K. *Continued to Feb.*

1401-19 Van Buren Ave /1400-14 Harrison Ave / Unter Uns Society

Request for Expansion of a Nonconforming Use, Code 535-40 A, at a private club (musical and entertainment society) on premises in a Suburban Residential Zone.

811-19, 901 S 9th Street / Matt & Joyce Smyser

Request for Expansion of a Nonconforming Use, Code 535-40 A, continued use of auto sales lot on premises in a Commercial-Highway Business zone.

4400 Lynndale Road, Highland Park / T-Mobile USA

Request for Special Exception to add microwave dish with radio and line to antenna equipment array on water tank at Highland Park on premises in a Suburban Residential Zone, Code 535-62 D(2), E F.

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

Voice - 814/949-2470
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planning@altoonapa.gov



ALTOONA ZONING HEARING BOARD

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

Unter Uns Society
c/o Attorney James Adams
917 Pleasant Valley Boulevard
Altoona, PA 16602

RE: 1401-19 Van Buren Avenue/1400-14 Harrison Avenue
Unter Uns Society request for expansion of a nonconforming
use, Code 535-40 A, at a private club (musical and entertainment
society) on premises in a suburban residential zone.

The petitioner appeared on its own behalf by and through its Attorney and
representative member, James Adams, as well as various other members who attended the hearing.

From the testimony presented at the hearing of January 13, 2016 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.

The subject property is a private non-profit club/association.

4.

Your petitioner has been in existence as such a club in and about the subject area
long before it was zoned residential.

5.

In fact, your petitioner having owned so much of the property in that area, literally
was the seller to the property owners that have now developed their properties into residential.



6.

As such, your petitioner existed and conducted its activities in and about the subject location before other residences were even built or maintained in the area, providing notice in and to all such occupants, past, present and future, that such a club/association exists, in and about that zoned area.

7.

As such, your petitioner having continuously maintained and operated its facility at its location is a legitimate pre-existing nonconforming use.

8.

In the normal and ordinary course of its conduct as an association/club, it from time to time, needs to make membership increases in order that it can continue its operation.

9.

While it is noted, it is a non-profit organization; it does need to raise money in order to maintain its facility, including, for example, but not limited to its room, restrooms and the like.

10.

In light of some recent club drop-off, of membership, your petitioner is attempting to attract new members not only through guests but allowing it to be open to the public for eating purposes in connection and conjunction with the lease that it wants to maintain with a separate kitchen operator/restaurantur known as Jacks Grubb Shack, which will lease the kitchen and cook for not only its members and guests, but if approved by this Board, members of the public, which will thereby hopefully increase its membership rolls.

11.

The opening to the public will be chiefly by word of mouth through its members and through very small localized notices, such as the club's website, in its efforts to attract people to the club, in hopes that they will want to apply for membership, once they see and realize its benefits.

12.

While being opened to the public for food, one must be a "member" in order to drink any alcoholic beverages, and/or to eat at hours other than the limited hours and days of operation at which it will be opened to the public, therein and thereby hopefully attracting new memberships, as above related.

13.

There is quite adequate off-street parking and interior room to accommodate those individuals, that is, members of the public.

14.

The days and hours of operation will be open to the public only Sunday through Friday, 4:00 p.m. to 9:00 p.m.

15.

There will be no exterior signage indicating that there is anything other than the club itself.

16.

Petitions have been presented, and signed by individuals that live throughout the neighborhood, representing over 60 in number, all who are favor of the subject request.

17.

Off-street parking is paved for some 70 vehicles, with an overflow lot that would accommodate an additional 35 to 50, 120 in total.

18.

Your petitioner at all times will strive not to operate this in any way, shape or form as an "independent restaurant" but rather simply operate the same in and as part of its club on such a limited basis in an effort to continue to attract other new members as its sole purpose and goal, not to attempt to make and raise monies by an independent operation of a restaurant that would otherwise be in violation of its very non-profit status.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately shown that it is, and has been a legitimate pre-existing nonconforming use.

2.

In and as part and parcel of its ability to continue and reasonably operate as such a pre-existing use to wit, a private non-profit club, and association/organization, and in an effort to obtain additional membership, the subject request is necessary, reasonable and incidental to its continued use thereat.

WHEREFORE, the Board makes the following:

DECISION

NOW, THIS 22nd DAY OF January, A.D., 2016, THE REQUEST OF

YOUR PETITIONER IS GRANTED, PROVIDED, HOWEVER, THAT AT ALL TIMES SAID RESTAURANT SHALL BE FOR THE PURPOSE OF MEMBERSHIP INCREASE, AND OPERATE AT ALL TIMES WITHIN ITS SUBJECT NON-PROFIT STATUS; AND, PROVIDED, FURTHER THAT THE DAYS AND HOURS OF OPERATION OPEN TO THE PUBLIC FOR SAID PURPOSES, SHALL BE LIMITED TO SUNDAY THROUGH FRIDAY, 4:00 P.M. TO 9:00 P.M., AND THAT THEY SHALL NOT BE ENTITLED TO DRINK ALCOHOLIC BEVERAGES BUT RATHER THE RULES AND BY-LAWS OF THE CLUB BE AT ALL TIMES MAINTAINED AND COMPLIED WITH IN RELATIONSHIP THERETO; AND, PROVIDED, FURTHER THERE SHALL BE NO EXTERIOR SIGNAGE; AND, PROVIDED, FURTHER THERE SHALL BE NO ADVERTISING OF A "RESTAURANT" UNLESS FOR CLUB RELATED FUNCTIONS, THAT IS, NOT ADVERTISED AS AN INDEPENDENT RESTAURANT BUT AT ALL TIMES BE RELATED TO BEING PART AND PARCEL OF THE CLUB; AND, FINALLY, OF COURSE, SAID USE BEING AN EXPANSION OF A NON-CONFORMING USE, SHALL TERMINATE SHOULD USE OR OWNERSHIP OF THE PROPERTY CHANGE.

PETITIONERS MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PREMISES, 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 1-20-16
Michael Halloran, Chairman

Richard J. Andrews 1-22-16
Richard Andrews

Horace McAnuff 1-20-16
Horace McAnuff

Recused/Abstained Donna Royer 1-22-16
Donna Royer

Julie Hirschak 1-20-16
Julie Hirschak

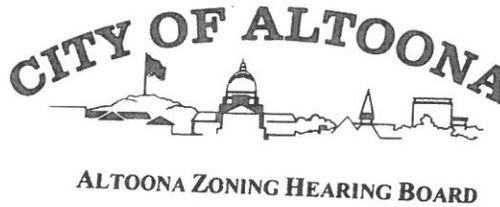
MAILED TO YOUR PETITIONER: 1-22-16
Date

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

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

Matt and Joyce Smyser
900 South 10th Street
Altoona, PA 16602

RE: 811-19, 901 S.9th Street. Request for an expansion of a pre-existing nonconforming use of an auto sales lot on premises in and about a commercial highway business zone.

The petitioners appeared on their own behalf.

From the testimony presented at the hearing of January 13, 2016 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 properties posted.

3.

The subject properties are ones in which your petitioners have continuously, and without abandonment operate a used car sales business.

4.

The lots upon which they have been conducting the subject display and sales of used cars have grown to such a degree that it has become necessary to park other cars on a "waiting lot" to be detailed and/or displayed for sale, until other cars in the other lots are sold.

5.

The subject lot is, indeed, as the other lots, in a commercial highway business zone.



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6.

Since the other lots already have a sales building, it is requested that they be allowed to expand upon the subject lot even though it is adjacent to by definition, the other lot, albeit across an alley otherwise presently opened to the public, without a building having to be constructed thereon.

7.

If the lots were merged by petition, at an increased cost, the same would obviously be permitted.

8.

If a small building were placed on the subject lot, an independent business for the sale of used cars could be conducted thereon, including the parking of vehicles thereon.

9.

Since it is indeed part and parcel of the other lots adjacent thereto, and since your petitioners own the lots that surround the subject lot at issue, to simply require your petitioner to place a small structure thereon makes little or no common sense.

10.

Rather than require a formal petition, the subject relief being granted is both appropriate and reasonable.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately proven that it is indeed a pre-existing legitimate nonconforming use.

2.

In connection with the ordinary and reasonable use thereof, the subject request has become incidentally necessary to, and for the reasonable continuation of the use of the subject lots and specifically subject lot at issued.

WHEREFORE, the Board makes the following:

DECISION

WHEREFORE, THIS 22nd DAY OF January, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THAT IT

SHALL, OF COURSE, MAINTAIN NO CAR THEREON FOR MORE THAN 120 DAYS; PROVIDED, FURTHER, THAT ONLY VEHICLES SHALL BE PARKED THEREON WHICH ARE DIRECTLY EITHER FOR SALE OR TO BE PLACED FOR SALE BY YOUR SUBJECT PETITIONER; AND, PROVIDED, FURTHER THAT THE SUBJECT LOT AT NO TIME SHALL BE MAINTAINED FOR THE ALLOWANCE OF "A JUNKYARD", OR BE USED FOR THE ACCUMULATION OF TRASH OR OTHER JUNK-VEHICLES, NOT INTENDED FOR SALE AND, OF COURSE, SAID GRANT SHALL TERMINATE SHOULD USE OR OWNERSHIP OF THE SUBJECT PROPERTY CHANGE.

PETITIONERS MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PREMISES, 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.

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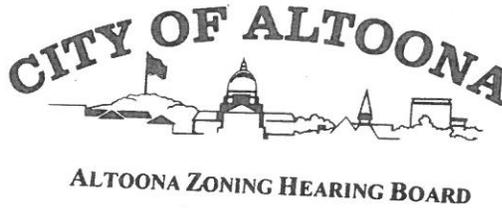
MAILED TO YOUR PETITIONER: 1-22-16
Date

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

1301 Twelfth Street, Suite 400
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Michael Halloran
Horace McAnuff
Richard Andrews
Eric Wible
Donna Royer
Julie Hirschak, Alternate
Sherry Peck, Alternate
Anthony Rhine, Alternate

T-Mobile
Attention: Dave Chrzan
179 Cruikshank Road
Sarver, PA 16055

RE: 4400 Lynndale Road, T-Mobile USA, Request for a special exception to add a microwave dish with radio and line antenna equipment array on a water tank at Highland Park in premises in a suburban residential zone.

The petitioners appeared by and through the above identified individual representative by and for T-Mobile USA.

From the testimony presented at the hearing of January 13, 2016 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Your petitioner had an ownership interest in the subject property.

2.

Requisite notices were made and property posted.

3.

The subject property is one in which your petitioner has long maintained equipment for communication purposes in and upon the subject water tank/tower.

4.

In direct connection with and the necessity of the continuation of use thereof due to changes in technology, it has now become necessary to expand and/or change some of the units provided thereof for optimal use and effect.



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5.

All of the same complies in and with the requirements of FCC.

6.

All of the subject equipment has been represented to comply with Section 535-62 pertinent to wireless telecommunications facilities.

7.

In order to reasonably continue use of the subject equipment thereat, the subject addition of a 2 foot microwave to the top, and providing and running of coaxial in and to the ground is necessary.

8.

The use of the aforesaid equipment has continuously been in existence without abandonment or cessation for more than a year.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has established compliance with the FCC and the subject Acts, rules and/or regulations pertinent thereto.

2.

The requested use is necessary to reasonably continue the subject use that has been in existence without abandonment.

WHEREFORE, the Board makes the following:

DECISION

WHEREFORE, THIS 22ND DAY OF January, A.D., 2016, THAT THE REQUEST OF YOUR PETITIONER IS GRANTED; PROVIDED, OF COURSE, THAT THE SAME SHALL TERMINATE SHOULD USE, OR OWNERSHIP OF SAID SUBJECT PROPERTY CHANGE.

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

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SIX (6) MONTHS FROM THE DATE OF THIS NOTICE, OR THE AUTHORIZATION SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

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