1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

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

CITY OF ALTOONA

ALTOONA ZONING HEARING BOARD

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

William A. Kech
2543 Union Avenue
Altoona, PA 16602

RE: 2543 Union Avenue, request for business expansion of a Non-conforming use in and on premises in a multiple Household residential zone.

Your Petitioner appeared on his own behalf.

From the uncontradicted testimony presented at the hearing of March 9, 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 petitions circulated.

3.

The property at issue which was formerly known and operated by Hite Locksmith

4.

The business had been a continuous non-conforming use that had been abandoned for than a year.

5.

The subject circumstances and conditions peculiar to this property, is the building of your petitioner known as Shields Trophy and the building at issue in which Hite Locksmith had been is a property that has a common wall which crosses property lines that had been two (2) separate lots in and at that point of connection of the buildings.

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6.

In the normal and ordinary course and use of the subject Shields Trophy business, which has been pre-existing and continuously non-conforming without abandonment, your petitioner has indicated that as part and parcel thereof, he has been able to acquire a sports collectibles business that had formerly been at the Logan Valley Mall.

7.

He wishes to continue to use the second floor as a residential apartment as it had been in the past.

8.

He wishes to physically connect the two (2) structures in business so that the same can only be accessed in and through the Shields Trophy location, maintaining the other ingress and egress to be compliant with fire and safety codes, but conduct both businesses basically as one.

9.

He intends, of course, to principally continue his Shields Trophy business, but that when people come to buy and/or order these type of trophies and memorabilia, they can also look in and at by simply walking from one show room into the other to explore possibilities of buying at that point in time individual memorabilia to be stocked and sold at the same property.

10.

The hours of operation, except during seasonal interest of memorabilia for Christmas, will be identical and not be changed.

11.

While there may be an additional employee, your petitioner does not foresee the need for any additional parking that he already has, verifying that he has additional 3 to 5 parking spaces on this newly acquired property, as well as the existing parking that he has had for Shields Trophy, such that he can accommodate approximately 16 off-street parking needs.

12.

This, as he indicated, should be more than enough as he is a destination business not simply one that people come to browse and generically "shop", as one would, say for example at the mall.

13.

He has only the need for the one internal sign that he had from the sports collectibles store.

14.

He indicates he needs no other signage and, as such, will have none.

15.

His hours of operation therefore will continue Monday through Saturday, 10:00 a.m. to 5:30 p.m., excepting only the seasonal hours of November and December.

16.

In order, however, to proceed, he obviously recognizes now the need to obtain City sub-division approval of such a merger, and, the same has to be first had and obtained before he can proceed with this request.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner is a legitimate pre-existing non-conforming use.

2.

It is indeed reasonable and incidental as continued use and operation of the properties in and for his business that he be allowed to expand in such a limited manner as he has requested.

DECISION

WHEREFORE, THIS 22ND DAY OF March, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THAT THE HOURS OF OPERATION SHALL BE MONDAY THROUGH SATURDAY, 10:00 A.M. TO 5:30 P.M., WITH SEASONAL HOURS EXCEPTED FOR AND IN THE MONTHS OF NOVEMBER AND DECEMBER, AND, PROVIDED, FURTHER, THAT THE ENTIRE GRANT IS SUBJECT TO SUB-DIVISION APPROVAL BEING FIRST HAD AND OBTAINED, AND, PROVIDED, FURTHER; THAT HE COMPLY WITH ANY AND ALL REQUIREMENTS OF LAND USE DEVELOPMENT OF THE CITY OF ALTOONA, AND, PROVIDED, FURTHER; THAT THERE SHALL BE NO OTHER SIGNAGE IN AND ABOUT THE HITE LOCKSMITH BUILDING, PERMITTING ONLY THEREFORE HIS INSIDE BUSINESS IDENTIFICATION SIGN THAT HE HAS DISPLAYED BY PHOTOGRAPH WHICH HE HAD PREVIOUSLY ACQUIRED FROM THE BUSINESS FROM THE LOGAN VALLEY MALL STORE.

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 3-16-16
Michael Halloran, Chairman

Horace McAnuff 3-17-16
Horace McAnuff

Richard J Andrews 3/21/16
Richard Andrews

Donna Royer 3-17-16
Donna Royer

Recuse
Richard J Andrews Sherry Peck
Sherry Peck

MAILED TO YOUR PETITIONER: MARCH 23 2016
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

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Julie Hirchak, Alternate
Sherry Peck, Alternate
Anthony Rhine, Alternate

Emanuel Nichols
Clear Creek Company
911 Burns Avenue
Altoona, PA 16601

RE: 2927 W. Chestnut Avenue, request for change of non-conforming use to a construction/environmental property maintenance business on premises in a multiple household residential zone.

Your Petitioner appeared on his own behalf.

From the uncontradicted testimony presented at the hearing of March 9, 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 property posted.

3.

Your petitioner proposes to basically utilize the subject property which had been granted permission of use and by variance for an art school and gallery, to a change into a working classroom shop and art studio in and of the Penn-State University through the present time, which was therein and thereby acquired by your petitioner and used for storage, for which he now indicates he needs approval before proceeding further.

4.

The change in this use is from one that had many people coming and going in and for lessons on a regular basis to his request to just use the same for storage with a de minimis coming and going, and only class, perhaps two (2) total times a year for a de minimis hours to recertify his employees in and of the rules and regulations pertinent to his company.

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5.

Your petitioner, while proposing fixing up and particularly making nice the windows and exterior of the property, proposes no other real changes whatsoever or howsoever, other than to provide for appropriate storage within the same for the materials that he utilizes in his environmental property maintenance business.

6.

He has indicated there will be no hazardous materials whatsoever, poisons, or toxins, therein stored at any time.

7.

The only items that he proposes storing are absorbent "clean-up" materials, such as pillows, cushions, socks, and the like, basically being materials that he utilizes to "absorb" spills which he will take off-premises and dispose of off-premises, and at no times bring any of the materials once used, back to this area or facility and is to at all times dispose of elsewhere and off-site.

8.

While he maintains an individual office therein and uses the same from time to time, he has other locations at which he normally conducts his business as well.

9.

He wishes this location for storage so that if and when he may need in close proximity thereto, additional materials to take off-site to jobs, he can do so, in a much faster and more expedient manner and time.

10.

He will, therefore, have no employees in or at the building, other than himself, unless it is to deliver and/or pick-up materials from the warehouse in question.

11.

He indicates that if he were to ever have to access the property for materials after normal business hours, he would do so in a stealth manner, that is, he will not sound sirens nor maintain flashing lights.

12.

Also, he indicates that there would only be one vehicle at a time coming to obtain and/or deliver these subject materials that he intends to store therein.

13.

For a personal use, he will use the woodshop therein contained but he will not and cannot and is not allowed to utilize the same for any commercial or money-making use unless he would first come to the Board for permission therefore.

14.

When this is compared to previous uses that were permitted, the traffic noise and interference with the neighborhood, including but not limited to parking, is obviously recognized as being less than the use that it is to replace.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

The subject property by variance and thereafter continued use has now become a pre-existing non-conforming use by permission.

2.

This change in use is less deleterious to the neighborhood than the use for which it is to replace and is indeed generally more conforming in that it has less traffic, noise, and nuisance characteristics than the use for which it is to replace.

DECISION

WHEREFORE, THIS 22ND DAY OF MARCH, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THERE WILL BE NO CONSTRUCTION EQUIPMENT, STORED OR MAINTAINED, IN AND ON THE SUBJECT PROPERTY OR PARKING LOT; PROVIDED FURTHER, THAT WAREHOUSING ONLY IS PERMITTED; PROVIDED, FURTHER; THAT SAID WAREHOUSING SHALL ONLY BE OF ENVIRONMENTAL CLEAN-UP MATERIALS, SUCH AS THAT, WHICH YOUR PETITIONER BROUGHT TO THE HEARING AND WHICH IS HEREIN AND HEREBY INCORPORATED BY REFERENCE; AND, PROVIDED FURTHER, THAT THERE SHALL BE NO HAZARDOUS MATERIALS ON-SITE EVER, THAT IS, NO HAZARDOUS MATERIALS SHALL BE STORED NOR DISPOSED OF IN AND AT THE SUBJECT PROPERTY; AND, PROVIDED FURTHER, THAT ACCORDINGLY THERE SHALL BE NO DUMPSTERS IN AND AT THE PROPERTY; AND, PROVIDED FURTHER, THERE SHALL BE NO SIGNAGE WHATSOEVER INDICATING ANY COMMERCIAL BUSINESS THEREIN CONTAINED; AND, PROVIDED FURTHER, THERE SHALL BE NO COMMERCIAL USE WHATSOEVER OF THE WOOD SHOP THEREIN CONTAINED, WHILE IT WOULD BE ALLOWED TO BE USED BY YOUR PETITIONER/OWNER FOR HIS PERSONAL USE AND PLEASURE; AND, PROVIDED FURTHER, THAT CLASSROOM INSTRUCTION IS THEREIN ALLOWED, PROVIDED, AND LIMITED TO THAT OF EMPLOYEE CERTIFICATIONS/TRAINING ONLY, WHICH AS PREDICTED BY YOUR PETITIONER WILL BE NO MORE THAN TWO TO THREE TIMES A YEAR; AND,

PROVIDED FURTHER, THAT AT SUCH TIME, ALL PARKING MUST BE OFF-STREET AND ON THE SUBJECT PARKING LOT OWNED BY YOUR PETITIONER; AND PROVIDED FURTHER, THAT ANY AND ALL SECURITY LIGHTING THAT YOUR PETITIONER MAINTAINS OR PROVIDES, SHALL BE AT ALL TIMES SHINING ONLY WITHIN THE FOUR-CORNERS OF THE PROPERTY ITSELF AND NOT OUT ONTO OTHER PEOPLES PROPERTIES OR HOUSES; AND, PROVIDED FURTHER, THAT IF AND WHEN THE SUBJECT WAREHOUSE IS ACCESSED AT ANY HOUR OTHER THAN GENERAL BUSINESS HOURS, AND, PARTICULARLY, AT ANY TIME AT NIGHT, THAT ANY COMING AND/OR GOING SHALL BE "STEALTH-LIKE", THAT IS, NO SIRENS OR FLASHING LIGHTS AND SHALL ONLY BE ACCESSED ONE TRUCK AT A TIME; AND PROVIDED, FINALLY, THAT YOUR PETITIONER MUST COMPLY WITH ALL LAND USE DEVELOPMENT RULES AND REGULATIONS.

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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THE ZONING HEARING BOARD OF THE CITY OF ALTOONA,

Michael Halloran 3-16-16
Michael Halloran, Chairman

3-17-16
Horace McAnuff

Richard J Andrews 3/21/16
Richard Andrews

Donna Royer 3-17-16

Donna Royer

Sherry Peck 3-22-16

Sherry Peck

MAILED TO YOUR PETITIONER: March 23, 2016
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

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Sherry Peck, Alternate
Anthony Rhine, Alternate

Copy

Penn Public Springs
714 – 11th Street
Altoona, PA 16602
Attention: Mike Ventre

RE: 714 – 11th Street/Penn Public Springs, request for a freestanding sign exceeding the height limit and an LED Board for a truck and equipment business on premises in a commercial neighborhood business zone.

Mr. Thomas Bennett and Brad Evans of Altoona Neon Sign Company, and Michael Ventre, on behalf of the owner, appeared on petitioner's behalf.

From the uncontradicted testimony presented at the hearing of March 9, 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 property posted.

3.

The subject business, Penn Public, is and has been continuously on the subject property and conducting its business in and for general repairs and, particularly, in and of large trucks, semi, tractor-trailers and the like.

4.

It has continuously without abandonment from the 1940s, conducted business therein and thereat.

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5.

As such, it is a pre-existing legitimate non-conforming use, which pre-existed the present Zoning Ordinance and especially and particularly the sign ordinance pertinent hereto.

6.

It had previously, until damaged and destroyed, had such signage in and at the very Same location at which this sign is requested.

7.

What makes this particular request unique in and to the properties in the area is the combination of the student traffic, that apparently and allegedly has damaged their signage in the past but of most persuasive unique character is the type of vehicle which is, has been, and will be the type repaired at the subject facility.

8.

The height of most of these vehicles that are towed to or parked in the lot for repair are of such a height that the traditional 15 foot sign as otherwise allowed, would not be of sufficient height to be able to be seen over and above the height of the very vehicles that they wish to attract to be repaired.

9.

Furthermore, the nature and continuous reasonable use of the property for its prior and continual business necessitates such signage in order to reasonably trade and continue to do business upon such vehicles in the subject area.

10.

A mere 3½ feet is therefore requested so that the signage can be reasonably seen in and by traffic passing by so as to be able to identify the business and attract even further business of such larger semi and tractor-trailer type vehicles.

11.

The small reader board LED sign is to further accommodate these particular customers and as already indicated, is reasonable and necessary in the normal and ordinary and incidental use, continued use of this business which preceded the subject sign ordinance.

12.

It has indeed been indicated that not only is it reasonable but will comply with all other aspects of said LED signs, including but not limited to the limitation of 30 second change in message and 500 and 5,000 nits in and at the particular times of day/night.

13.

Furthermore, as to the LED, it is agreeable that it would be off after the hours of operation allowing the larger ID sign to remain lit as they deem necessary due to the times of days and/or nights at which vehicles may be brought to their facility so as to properly identify the location in either direction of their approach.

14.

On the other hand the LED sign to particularly note particular messages to new customers are only necessary while they are opened and only necessary to be one-faced directing the one-way traffic otherwise approaching their property.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

The petitioner is indeed a pre-existing non-conforming use which has continued without abandonment through the present time, from a time prior to any regulation of signage, or ordinances pertinent thereto.

2.

The new sign will be to replace that which had previously existed and to add a newer state of the art message board in lieu of the former magnetic lettering type devices that had previously existed.

3.

The slight approval given as requested within the conditions herein imposed allow reasonable use of the property to be made and continued, while being a de minimis amount of variation in and to the act as otherwise required, i.e., 18½ feet to the top of the sign rather than 15 feet to the top otherwise permitted in the zone.

DECISION

WHEREFORE, THIS 22ND DAY OF March, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THAT THE LED SIGN SHALL BE ONE-SIDED ONLY AND SHALL ONLY FACE THE 7TH AVENUE TRAFFIC, WHILE THE OTHER INTERNALLY ILLUMINATED SIGN CAN AND IS PERMITTED TO BE DOUBLE-FACED; PROVIDED, FURTHER, HOWEVER, THAT THE SIGN SHALL BE NO HIGHER NOR LARGER THAN THAT AS PROVIDED BY THE DRAWINGS HEREIN AND HEREBY INCORPORATED BY REFERENCE THAT WERE MADE A PART OF THE RECORD, AND, PROVIDED FURTHER, THAT THE TOTAL TOP/HEIGHT OF THE SIGN SHALL BE ONLY 18½ FEET AND, PROVIDED FURTHER, THAT SAID SIGN SHALL NOT DISPLAY ANY OTHER MESSAGES WHATSOEVER OR HOWSOEVER UNLESS THEY ARE DIRECTLY CONNECTED WITH AND FOR THE USE

AND SERVICES CONDUCTED BY YOUR PETITIONER ITSELF; THEREFORE, THERE SHALL BE NO OFF-PREMISES ADVERTISING WHATSOEVER OR HOWSOEVER DISPLAYED ON THE LED SIGN AND, PROVIDED FURTHER, THAT SAID LED SIGN SHALL NOT CONTAIN ANY FLASHING OR STROB LIGHT IN ITS DISPLAY OR IN ITS MESSAGES AND, PROVIDED FURTHER, THAT IN CONNECTION THEREWITH, NO MESSAGE SHALL BE DISPLAYED LESS THAN 30 SECONDS IN DURATION AND, PROVIDED FURTHER; THE SUBJECT LED SIGN AND LIGHTS THEREIN CONTAINED SHALL AND MUST COMPLY WITH ALL THE REQUIREMENTS PERTINENT TO SUCH SIGNAGE IN AND BY THE ORDINANCES OF THE CITY OF ALTOONA, INCLUDING SPECIFICALLY BUT NOT LIMITED TO THE REQUIREMENT PERTINENT TO 5,000 AND 500 NITS IN AND AT DAYLIGHT HOURS AND NON-DAYLIGHT HOURS RESPECTIVELY AND, PROVIDED FURTHER, THAT SAID SIGN SHALL BE ALLOWED TO OPERATE ONLY DURING THE BUSINESS HOURS OF 6:00A.M. TO 8:00P.M. MONDAY THROUGH SATURDAY AS TO THE LED SIGN AND THE OTHER SIGNAGE IN AND AT THE DESIRE OF YOUR PETITIONER, TO WIT, THE NON-LED SIGN.

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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THE ZONING HEARING BOARD OF THE CITY OF ALTOONA,

DISSENT Michael Halloran 3-16-16
Michael Halloran, Chairman

3-17-16
Horace McAnuff

Richard J Andrews 3/21/16
Richard Andrews

Donna Royer 3-17-16

Donna Royer

Sherry Peck 3-22-16

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MAILED TO YOUR PETITIONER: March 23, 2016
Date

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