

AGENDA
ZONING HEARING BOARD
April 13, 2016

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

1201-03 Logan Blvd / Mark & Rachel Gingrich

Request for Change of Nonconforming Use to a travel agency on premises in a Single Household Residential zone, Code 535-41 E, and 535-68 B, Permitted Uses.

3001 6th Ave / Blair County Federal Credit Union / Altoona Neon

Request to install LED board on a new sign on premises in a Neighborhood Business Zone, Sign Characteristics, Code 535-83 B.

2415 17th Avenue / Ashley Cambridge

Request for a Special Exception, a Major-Impact Home-Based Business, 'Pawkeepers' dog day care, on premises at a Suburban Residential Zone, Code 535-67 C 4.

1519 11th St / The Nehemiah Project, John Gray, Robert James Balzano

Request for a home wherein there are more than four unrelated persons on premises in a Multiple Household Residential zone, Permitted Uses, Code 535-70 B, Definition of "family", "household"; Code 535-276.

1301 Twelfth Street, Suite 400
Altoona, Pennsylvania 16601

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



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

Mark and Rachel Gingrich
168 Stonehedge Road
Hollidaysburg, PA 16648

RE: 1201-03 Logan Boulevard, request for a change of non-conforming use to a travel agency on premises in a single household residential zone.

Your Petitioners appeared on their own behalf.

From the uncontradicted testimony presented at the hearing of April 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 property posted.

3.

The subject structure has continuously through the present time been used in commercial capacities.

4.

Not only had the original structure been used in and as an insurance agency but continuously changed without abandonment, including a travel agency and was last a hair salon, as presently identified by the signage which is still in and about the subject property.

5.

Your petitioners have themselves conducted a travel agency and indeed your petitioner actually utilized the services of the subject hair salon and is well acquainted with its operation as a result.



6.

The hair salon business had been open from 9:00 a.m. to 9:00 p.m., Tuesday through Friday, and Saturday from 9:00 a.m. to 4:00 p.m.

7.

The prior business/hair salon had no less than six (6) employees and could thereby accommodate an additional six (6) individuals at any one time, putting a maximum coming and going of between one to six customers at a time together with anywhere between one and six hair stylists.

8.

The proposed operation shall only have two (2) maybe three (3) employees total, which is half or less than the use that it is to replace.

9.

As such, there will be less traffic generated and less accordingly parking necessitated.

10.

There is adequate off-street parking, obviously, not only for the past hair salon, which had a greater density of travel, but for the proposed uses will.

11.

Furthermore, the hours of operation shall be less, being Monday through Friday, 9:00 a.m. to 5:00 p.m., with hours on rare occasions between 5:00 p.m. and 7:00 p.m. by personal appointment only.

12.

Furthermore, the subject business is going to be closed on weekends, causing even less interference with and to the surrounding neighborhood and zone, then the use it is replacing.

13.

Regardless, the property itself does front Logan Boulevard and is across the street from the Martin Plaza being adjacent to other business uses.

14.

There will be no nuisance characteristics such as odors, excessive noise, dust, etc., generated by this use of the subject property.

15.

No signage shall be necessary other than to replace with a non LED sign the “face” of the sign already and previously existing.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

The subject property is and was a legitimate pre-existing non-conforming use, which has not been abandoned.

2.

The change in the subject non-conforming use is more conforming than the use that is to replace to the zoning in which the property is set.

DECISION

WHEREFORE, THIS 21st DAY OF APRIL, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONERS; PROVIDED, HOWEVER, THAT THE SIGNAGE IN AND AT THE PROPERTY SHALL NOT EXCEED THE SIGNAGE ALLOWED IN SUCH A ZONE, RECOGNIZING THAT THERE WILL BE NO LED SIGNAGE AND THAT YOUR PETITIONER HAS INDICATED THAT IT WILL SIMPLY USE THE EXSISTING SIGNAGE IN AND UPON THE PROPERTY, CHANGING OBVIOUSLY THE IDENTIFICATION NAME, AND INFORMATION THEREON.

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 4/20/16
Michael Halloran, Chairman

Richard Andrews 4/20/16
Richard Andrews

McA 4-20-16
Horace McAnuff

Donna Royer 4-21-16
Donna Royer

Julie Hirschak 04/21/16
Julie Hirschak

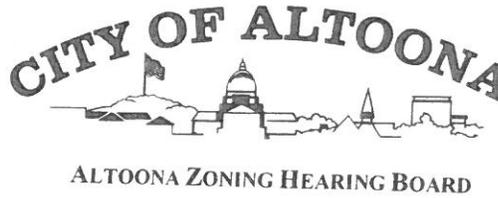
MAILED TO YOUR PETITIONER: April 22, 2016
Date

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

Blair County Federal Credit Union
3001 Sixth Avenue
Altoona, PA 16602
Attention: Mildred Pincher

RE: Request to install an LED board and a new sign on premises
in a neighborhood business zone.

Your Petitioner appeared by and through Mildred Pincher, as well as Tom Bennett.

From the uncontradicted testimony presented at the hearing of April 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 property posted.

3.

Your petitioner has traded and done business in and as such a credit union
continuously for over some twenty-one (21) years without abandonment.

4.

In the normal and ordinary course of trading and doing business therein, it has
become a much more competitive business and much more necessary to apprise its various
customers of the banking opportunities available to their membership, which it does by various
methods, including the requested exterior signage.

5.

The previous signage that had been there is outdated and is in need of replacement.



Printed on Recycled Paper

6.

As such, your petitioner requests a change over to the newest technology.

7.

The actual premises itself fronts and is surrounded by other non residential business uses.

8.

The proposed sign will be one-sided only so as to face traffic coming toward it only along the one-way street of Sixth Avenue.

9.

Immediately across the street is Kings Restaurant and it is also adjacent to a bar and pizza business to either side.

10.

As such, reasonable use of the property can be made by the simple change in and of the signage while providing little interference with other surrounding property uses.

11.

The sign ordinance subject hereto was not entered or created until 2003 and, obviously, the property owner pre-existed through the present time its existence and location thereat.

12.

Furthermore, it has been indicated that the hours of signage would only be from 6:00 to 9:00 p.m., seven (7) days a week.

13.

There will be no exterior advertising for third parties all such messages to be contained in and of the sign to relate only to and solely for the business conducted in and at Blair County Federal Credit Union.

14.

In all other aspects, the signage will comply with the Zoning Ordinance as to height, size, amount, brightness, etc.

15.

Furthermore, it is agreed that the signage will be remotely controlled and can

therefore require thirty (30) second interval of message changes, and comply with the NITS pertinent to daylight and nighttime allowance as set by the existing Ordinance, as well as any and all of its other requirements.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

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

2.

The new sign is to replace that which had previously existed and to provide a newer state of the art type in lieu of the former sign that had previously existed.

3.

The site approval given as requested from the conditions herein imposed, allow reasonable use of the property to be made and continued while being a de minimis variance in and to the act as otherwise pertinent hereto.

DECISION

WHEREFORE, THIS 21st DAY OF APRIL, 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 SIXTH AVENUE TRAFFIC, AND, PROVIDED, FURTHER, HOWEVER; THAT THERE SHALL BE NO OFF-PREMISES ADVERTISING WHATSOEVER OR HOWSOEVER DISPLAYED ON THE SIGN, AND, PROVIDED, FURTHER; THE SAID SIGN SHALL NOT CONTAIN ANY FLASHING OR STROBE LIGHT IN ITS DISPLAY OR IN ITS MESSAGES, AND, PROVIDED, FURTHER; THAT IN CONNECTION THEREWITH, NO MESSAGE SHALL BE DISPLAYED THEREON FOR LESS THAN THIRTY (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 BUT NOT LIMITED TO, THE REQUIREMENTS 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 FROM THE HOURS OF 6:00 A.M. TO 9:00 P.M.

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,**

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Michael Halloran, Chairman

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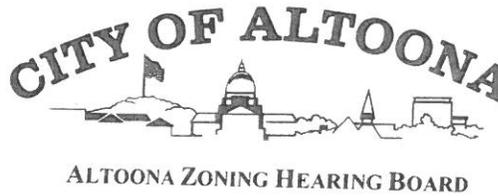
MAILED TO YOUR PETITIONER: April 20, 2016
Date

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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Anthony Rhine, Alternate

Ashley C. Cambridge
2415 – 17th Avenue
Altoona, PA 16601

Greg Querry/for neighbors
2416 – 16th Avenue
Altoona, PA 16601

RE: 2415 – 17th Avenue, a request for special exception, a major-impact home-based business, “Pawkeepers” dog day care, in and at premises in a suburban residential zone.

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

FINDINGS OF FACT

1.

Your Petitioner appeared on her own behalf, together with various witnesses, which she presented in favor of her request.

2.

Numerous neighbors appeared in opposition, including but not limited to Greg Querry, who the neighbors agreed could be sent the petition which he then agreed to circulate with the neighbors that attended to advise of the Board’s decision and accept notice thereof.

3.

Your petitioner has failed to properly prove that she is the owner or that she has an adequate ownership interest in the subject property.

4.

The property itself was identified as being owned by the mother of your petitioner’s fiancé with whom she resides.

5.

As such, your petitioner does not have the requisite standing to obtain the request



that she seeks.

6.

Requisite notices were made and property posted.

7.

The subject property is one as above indicated in which your petitioner, Ashley Cambridge, resides with her fiancé, in a house owned by her fiancé's mother.

8.

They have operated prior hereto and now request permission to operate, pursuant to the Zoning Ordinance, a "doggie day care", as the petitioner phrases it.

9.

The proposal, regardless, of how it is presented, nevertheless, does indeed appear to fall within the definition of a kennel, and kennels, by provisions in the Ordinance, are only to be in a light industrial zone and not a residential zone at issue herein, due to the nature of such a business and the nuisance characteristics associated therewith.

10.

Your petitioner had requested that since she resides there that she should be allowed to also operate a business therein, under the home based business provisions of the Zoning Ordinance.

11.

There are, however, several problems with that request.

12.

The first is the number of people coming and going, being that a business is actually being conducted therein is violative and contrary to what is traditionally recognized as a legitimate home based business.

13.

The traffic generated is the coming and going of customers picking up and dropping off their subject dogs in, at, and from the subject property.

14.

This increase in traffic, quite obviously, interferes with the otherwise residential nature and character of the neighborhood as zoned.

15.

In addition, thereto, the request is for a number of dogs in addition to the three that your petitioner already owns, which by her testimony alone, could be anywhere to a total of nine (9) to ten (10), at anyone time, considering how many “day care” dogs she has in addition to her own, and in addition to those that may be staying “over night”.

16.

The evident fact that she loves her dogs that she cares for, and houses them in her own bedroom and other areas of her house, as opposed to “cages” does not change the fact that it is otherwise in essence a “kennel”, although a much more loving and free roaming one.

17.

While the particular treatment of your petitioner’s clients and dogs is quite admirable, and one to be complimented, it is still, nevertheless, of such a business, that it is not otherwise fit for a residential area, but more so in the appropriate zone in which it is already provided for and required.

18.

Obviously, adequate use of the property can otherwise be made by your petitioner for its intended use, that is residential, which it has been and continues to be through the present.

19.

Furthermore, it has been provided that the fencing that surrounds the property in which she keeps her dogs contained is not one that is otherwise compliant with such a request for a home based business.

20.

The fencing is opened and not “screened” as otherwise required by the Zoning Ordinance.

21.

Indeed, testimony was presented that dogs have actually entered and exited the subject property and have almost “broken through” the subject fencing creating fear in and to the property owners in and about the neighborhood.

22.

Further objections were voiced indicating the number of dogs and the total barking noise and other interferences that such a number of dogs concentrated in but one yard present in and otherwise quiet residential zone.

23.

While testimonials were provided by other witnesses as to what a good job your petitioner does indeed provide, it is not a basis for otherwise allowing a “business” to be run and maintained 24/7 in a otherwise residential zone.

24.

Furthermore, to compound the request further, there is already another business being apparently maintained by the petitioner’s fiancé in and at the same premises, i.e., a computer type-business operated therein one more aptly appropriate should he be a homeowner within definitional applicability of home based businesses.

25.

However, the fact that he is also running a business therein, would further interfere with the ability to otherwise contribute to this subject business, that is being requested, and would now be in effect allowing two (2) home based businesses in a property, owned by neither of the residents.

From the foregoing testimony, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has failed to adequately prove that she has an ownership interest in the subject property.

2.

Your petitioner has further failed to prove the necessary compliance with the Ordinance applicable to “home based businesses”.

3.

As your petitioner and her fiancé are not married, there is no requisite satisfaction of the limitation of businesses to be therein contained.

4.

There is more than one lone family member of the actual owner who would be on the premises assisting or engaging in the business.

5.

As the space outside the principal structure is more often than not used in the conduct of the business, as described by your petitioner, this space must be screened from the street and abutting properties, which, by the evidence presented at the hearing, it is not.

7.

Traffic is noticeably increased above that normally associated with the use of the subject single household dwelling.

DECISION

WHEREFORE, THIS 21st DAY OF APRIL, A.D., 2016, THE BOARD DENIES THE REQUEST OF YOUR PETITIONER;

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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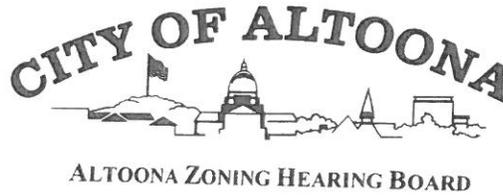
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cc: William J. Stokan, Zoning Board Solicitor
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Sherry Peck, Alternate
Anthony Rhine, Alternate

James Balzano
1001 South First Street
Altoona, PA 16602

RE: 1519 – 11th Street, The Nehemiah Project, John Gray/
Robert James Balzano, request for a home wherein there were
more than 4 unrelated persons in and at premises in a
multiple household residential zone.

Your Petitioners appeared by and through John Gray and James Balzano.

From the testimony presented at the hearing of April 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 property posted.

3.

The request is that your petitioners have a "shelter-like" residence for
approximately nine (9) individuals, together with a tenth resident/supervisor.

4.

The property has some six (6) bedrooms on the second floor and a handicap one,
available on the first.

5.

Your petitioners describe by and through its testimony a charitable project in which
they are attempting to help individuals that have no other home or have problems in and from the
home that they do have.



6.

They will insist of all residents that counseling be had and that a good faith effort be made by each to obtain a job as a condition of their staying in the property.

7.

Other conditions would likewise be imposed upon their coming and going and upon whom they may be visited by, requiring community service, counseling, and the like.

8.

However, no more than four (4) unrelated people to an owner may, in that zone, occupy such a structure, house and/or building.

9.

Obviously, the same service can be, in fact, provided to four unrelated people and/or can otherwise be used for any other permitted use in the subject zone.

10.

As such, there is indeed no basis for a variance, as reasonable use of the property can be made without the grant thereof.

11.

However, in hearing the definitions and testimony, the property does indeed itself sound as though it is truly for “definitional purposes” under the Zoning Ordinance, either a half-way house or group home, and/or is in the nature thereof.

12.

If and as this is the case, and the request falls within that definition, the Ordinance provides that the request should and shall be presented to City Council for an approval thereof by and through the “conditional-use” provisions therein contained, and set forth.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

A variance is not appropriate in and for the subject property as reasonable use of the same can be made, without the granting of one.

2.

The subject property falls within definitions of group home and/or half-way house

and as such should be presented to the City Council per the provisions of the Zoning Ordinance for a request for approval by and through the "conditional use" provisions therein contained.

WHEREFORE, THE BOARD MAKES THE FOLLOWING:

DECISION

WHEREFORE, THIS 21ST DAY OF APRIL, A.D., 2016, THE BOARD DENIES THE REQUEST OF YOUR PETITIONERS AS TO A VARIANCE, BUT DEFINES THE SAME AS TO REQUIRE AND REFER TO CITY COUNCIL FOR TREATMENT AND CONSIDERATION OF A CONDITONAL USE.

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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Michael Halloran, Chairman

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Donna Royer

Julie Hirschak 04/21/16
Julie Hirschak

MAILED TO YOUR PETITIONER: April 21, 2016
Date

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