

AGENDA
ZONING HEARING BOARD
May 11, 2016
4th floor Conference Room – 1:15 pm

112-16 Byron Ave / Lawruk Realty Limited Partnership

Request for a Special Exception for additional parking for existing fast food franchise on premises in a Mixed Residential-Commercial zone, Code §535-72 C 4 –Off-Site Parking.

2200 Broad Ave / Jaffa Temple Imp. Assn.

Request for LED signage for existing freestanding sign on premises in a Commercial-Neighborhood Business zone, Code §535-83–Sign Characteristics; also Height and Sign Area, Code 535-82 F.

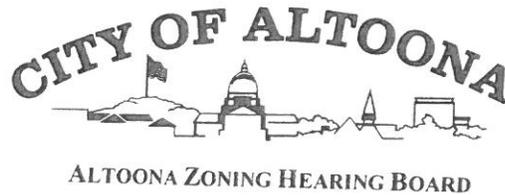
1701 3rd Avenue / Randall Green, Solarshield

Request for LED message board on premises in a Commercial-Neighborhood Business Zone, Code §535-83–Sign Characteristics

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

Lawruk Realty Limited Partnership
c/o Attorney Jackie Bernard
411 South Logan Boulevard, Suite 1
Altoona, PA 16602

RE: 112-16 Byron Avenue/Lawruk Realty Limited Partnership.
Request for a special exception for additional parking for existing
fast food franchise on premises in a mixed residential commercial
zone.

Your Petitioner appeared by and through their attorney, Jackie Bernard and the
representative, Vice President of Lawruk, your petitioner.

From the uncontradicted testimony presented at the hearing of May 11, 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 dominant structure that fronts the Boulevard is indeed and has been
legitimately and properly zoned and continuously used for commercial purpose, being most
recently operated as a Wendy's Restaurant.

4.

Immediately adjacent and part of the subject property is parking, and a
drive-through area.

5.

To the rear of the same, is the subject property which has likewise continuously



been used in and as commercial purposes.

6.

The previous zone was indeed prior hereto commercial.

7.

As such, the properties have been and are continuing non-conforming uses.

8.

In the normal and customary operation of the same, it indeed has become necessary to expand parking in and as the Wendy's Restaurant intends to expand its seating capacity and remodel and, furthermore, it desires to remove, for health and safety purposes, parking that otherwise presently exists in and along the ingress from the Boulevard to the restaurant, wherefrom people who park must then cross the driveway to enter the subject restaurant, more dangerous than parking as proposed herein.

9.

To provide additional and safer parking, it is requested that the subject building be demolished and in its place parking and buffer, and ingress and egress be provided.

10.

Furthermore, lighting that will be entirely "on premises" and not shine off the four (4) corners of the lot, as indeed likewise requested to be provided.

11.

The area where the building is in existence will be razed, paved, and striped together with appropriate buffers to de minimize interference with any adjacent properties.

12.

As such, minimal interference with properties surrounding it, which its most immediate adjacent property is likewise commercial, can be accommodated by buffering, and a requirement that any light be at all times maintained in and only upon the subject four corners of the lot.

13.

The center of the lot is within 400 feet of potential use.

14.

The petitioner is willing to require that this parking at all time be not an independent parking lot, but at all times be subject to, and connect with only the use of the

dominant business, for instance, at the present time, Wendy's.

15.

Space is sufficient to allow full compliance with land development standards.

16.

No space exists on the principal lot for adequate expansion of parking especially once the same is removed.

17.

The lot will not allow the principal use to exceed maximum parking allowances in and for the land development standards.

18.

Installation of parking at this location will not have a deleterious effect on the overall neighborhood.

19.

The property at issue while previously housing various businesses will be demolished and no businesses had therein.

20.

The subject building is in a state of disrepair and basically unsound and capable due to its structure, construction, and dimensions to even comply with the ADA requirements imposed upon such structures.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

The petitioner has adequately proven no space exists on the principal lot for adequate parking.

2.

The center of the lot is within 400 feet of the principal use.

3.

There is adequate space to allow full compliance with the land development

standards pertinent thereto.

4.

The lot will not allow principal use to exceed the maximum parking allowances set forth in the land development standards.

5.

The installation of parking at this location will not have a deleterious effect on the overall neighborhood.

6.

The installation of the parking facility does not necessitate the demolition of a viable and structurally sound building but rather is one that is unsound and will remove further business use ingress and egress that had previously existed therefrom.

7.

The previous uses are legitimate and non-conforming and the request as indicated is a reasonable expansion of the same, considering it will not be a stand alone parking lot but will be subject to the dominant use of all kinds from hereinafter and in to the future.

WHEREFORE, the Board makes the following:

DECISION

NOW, THIS 19TH DAY OF MAY, A.D., 2016, THE REQUEST OF YOUR PETITIONER IS GRANTED; PROVIDED, HOWEVER, THAT THE USE OF THE SUBJECT LOT SHALL BE LIMITED TO PARKING, DRIVE THROUGH AND NO BUILDINGS WILL BE CONSTRUCTED THEREON; AND, PROVIDED, FURTHER, THAT THE PARKING IN AND THERE PROVIDED SHALL AT ALL TIMES, NOW AND INTO THE FUTURE BE SUBJECT TO AND AT ALL TIMES CONNECTED WITH THE DOMINANT USE OF THE LOT AND BUSINESS FOR WHICH THIS PARKING IS PROVIDED, FOR EXAMPLE, AT THE PRESENT TIME THE BUSINESS KNOWN AS WENDY'S AND THEREAFTER ANY BUSINESS THEREIN PROVIDED; AND, PROVIDED FURTHER, THAT YOUR PETITIONER MUST AT ALL TIMES PRIOR TO USE BUILD AND MAINTAIN A SOLID BUFFER INCLUDING A MIXTURE OF EVERGREENS AND DECIDIOUS PLANTINGS OF PETITIONER'S CHOOSING, AS WELL AS OTHER GREENERY, SUCH AS GRASS AND PLACED AND PLANTED IN SUCH A MANNER SO AS TO PREVENT LIGHT SHINING THROUGH IT ONTO THE PROPERTY THAT ABUTS IT TO ITS REAR, SPECIFICALLY, SUCH BUFFER SHALL BE NO LESS THAN SIX (6) FEET IN DEPTH, "L" SHAPED IN AND ALONG THE ENTIRE SIDE AND REAR BOUNDARY OF LOT 142, THAT IS ALONG THE LOT 142 AS IT ABUTS THE ALLEY AT AND/OR CLOSEST TO THE PROPERTIES OF CLAIR AND PATRICIA TREXLER, LOT 131, AND LIKEWISE IN AND ALONG ITS ENTIRE PROPERTY LINE THAT ABUTS LOT 141 WHEREIN A PORTION OF THE FAMILY CHRISTIAN BOOK STORE IS PRESENTLY SITUATE, AND, PROVIDED, FURTHER, THAT ANY AND ALL LIGHTING SET IN AND

UPON THESE LOTS SHALL BE SHIELDED AND DESIGNED SO AS TO SHINE ONLY IN AND UPON YOUR PETITIONER'S OWN PROPERTY AND NOT OUTSIDE THE FOUR CORNERS THEREOF ONTO, FOR EXAMPLE, ANY RESIDENTIAL PROPERTIES, AND, PROVIDED, FINALLY, THERE SHALL BE SIGNAGE TO OTHERWISE PROHIBIT CUSTOMERS FROM THE SUBJECT WENDY'S FROM UTILIZING THE COMMON AREA, I.E. THE COMMON ALLEY THAT RUNS TO THE REAR OF LOT 142, 141, AND 140, DIRECTING ALL EXIT, TO BE UPON BYRON AVENUE ONLY.

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 5-16-16
Michael Halloran, Chairman

Eric Wible 5-17-16
Eric Wible

Donna Royer 5-18-16
Donna Royer

Julie Hirschak 5-19-16
Julie Hirschak

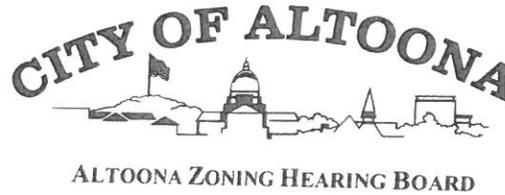
MAILED TO YOUR PETITIONER: MAY 19, 2016
Date

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

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

Randall Green
Solarshield
1701 Third Avenue
Altoona, PA 16602

RE: Randall Green, Solarshield, 1701 Third Avenue, request for an LED message board on premises in a commercial neighborhood, business zone.

Your Petitioner appeared on his own behalf.

From the uncontradicted testimony presented at the hearing of May 11, 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 petitioner has continuously conducted, traded, and done business in and upon the subject property, from a time or preceding 1990.

4.

During such time, such a use was indeed appropriate and zoned accordingly.

5.

Since then, apparently, zoning has changed and sign ordinances created, none of which as present were in existence in and at the time of 1990.



6.

Your petitioner has continuously traded and done business there.

7.

It has become reasonable and necessary for the petitioner to continue to trade and do business there to have some signage indicating the new change of products provided, prices and the same.

8.

Your petitioner proposes no greater amount of signage than otherwise provided and allowed for.

9.

Your petitioner proposes a sign known as a "gray scale" sign, basically with black background and amber lettering only.

10.

Such a sign allows for messages to be displayed without strobe or brightness of background coloring, otherwise being that which is usually the most objectionable in and for drivers that pass by and/or neighbors that live in close proximity to such signage.

11.

As such, the subject sign is to be placed in a V-shape so as to deminimize any exposures of the sign to any residents that are anywhere near the subject property, and to face basically only vehicle proceeding in and along both ways of 17th Street.

12.

Your petitioner furthermore has indicated that it can and will comply with the 500 and 5,000 nits limitation as well as other rules and regulations pertinent to such LED signage.

13.

Your petitioner to deminimize any type of interference with other uses in the neighborhood as indicated only wants the sign on from 8:00 a.m. to 8:00 p.m. Monday through Saturday, during his business hours.

14.

There will be no strobes.

15.

There will be no off-premises advertising displayed on the sign.

16.

The sign will be limited to information pertinent to and specifically for the business on the premises, namely, Solarshield.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

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

2.

The subject sign requested is reasonable and necessary to replace that which had previously existed.

3.

The approval given subject to the restrictions herein imposed allow reasonable use of the property to be made and continued while being de minimis.

DECISION

WHEREFORE, THIS 19TH DAY OF MAY, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THAT THE SUBJECT SIGN SHALL BE "GRAY SCALE" AND SHALL BE IN A V DIRECTION SO AS TO DEMINIMIZE INTERFERENCE WITH SURROUNDING RESIDENCES, AND, PROVIDED, FURTHER, THAT THERE SHALL BE NO OFF-PREMISES ADVERTISING WHATSOEVER OR HOWSOEVER DISPLAYED OR THEREON CONTAINED, AND, PROVIDED, FURTHER, THE SAID SIGN SHALL NOT CONTAIN ANY FLASHING OR STROBE LIGHTS IN ITS DISPLAY OR 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 OF 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, FINALLY, THAT THE SUBJECT SIGN SHALL BE ALLOWED TO OPERATE ONLY FROM THE HOURS OF 8:00

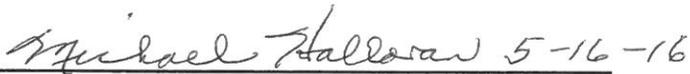
A.M. UNTIL 8:00 P.M. AND ONLY MONDAY THROUGH SATURDAY.

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, Chairman


Eric Wible


Donna Royer


Julie Hirschak

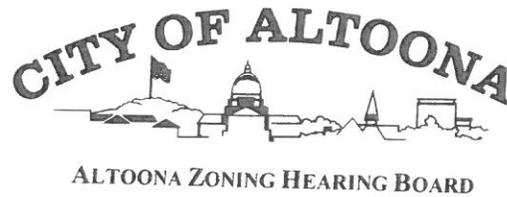
MAILED TO YOUR PETITIONER: MAY 19, 2016
Date

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

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

Jaffa Temple Imperial Association
c/o Dan Kindle
P.O. Box 1984
Altoona, PA 16603

RE: Jaffa Temple Imperial Association, 2200 Broad Avenue, request for a LED signage for an existing freestanding sign in and premises located in a commercial neighborhood business zone.

Your Petitioner appeared by and through Dan Kindle, an authorized representative of your petitioner.

From the uncontradicted testimony presented at the hearing of May 11, 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, Jaffa Mosque, has been in continuous use and operation of the subject site previously within a zone known as "institutional", from 1903 through the present.

4.

There has been no abandonment of the property and/or signage which pre-exist any signage ordinance pertinent to the sign and/or property, which is the subject herein.

5.

As such, your petitioner had requested that it be permitted to update and replace its previously existing sign, with one that is LED in nature.



6.

Through the years it has become necessary for the subject property to notify individuals by and through such signage of events limited in, for and to the subject property and not outside advertising.

7.

In order to do so, your petitioner has requested it be permitted to place the subject sign.

8.

Your petitioner is willing to abide by any and all rules and regulations pertinent to such signs, including the nits to be emitted, the times and days of operation to be "neighborhood friendly".

9.

As such, it indicated that it was willing to have the signs on only from the hours of 8:00 a.m. to 9:00 p.m., seven (7) days a week.

10.

There will be no off-premises advertising and all signage will be displayed for no less than thirty (30) seconds before changing and will all related to on-premises and owner information only.

11.

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

12.

Since the sign can be remotely controlled as to interval of message change and emission of brightness and nits, there is no problem in being able to comply continuously with these requirement.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner is indeed a pre-existing non-conforming use which is continued without abandonment through the present time, in and from a time existing prior to the regulation of any signage or ordinance as 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 previously thereon contained.

3.

The approval given as requested, together with the conditions herein imposed, allow a reasonable use and change to be made while being de minimis variation otherwise pertinent hereto.

DECISION

WHEREFORE, THIS 19th DAY OF MAY, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, THAT THE SUBJECT SIGN SHALL CONTAIN NO "OFF-PREMISES ADVERTISING", WHATSOEVER OR HOWSOEVER DISPLAYED ON THE SIGN, AND, PROVIDED, FURTHER, THE SUBJECT SIGN SHALL NOT CONTAIN ANY FLASHING OR STROBE LIGHTS 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 OF 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 DURING DAYLIGHT HOURS AND NON-DAYLIGHT HOURS RESPECTIVELY, AND, PROVIDED, FURTHER, THAT THE SUBJECT SIGN SHALL BE ALLOWED TO OPERATE ONLY FROM THE HOURS OF 8:00 A.M. TO 9:00 P.M. DAILY.

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 5-16-16
Michael Halloran, Chairman

E. W. Wible 5-17-16
Eric Wible

Donna Royer 5-18-16
Donna Royer

Julie Hirschak 6-19-16
Julie Hirschak

MAILED TO YOUR PETITIONER: May 19, 2016
Date

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