

**AGENDA  
ZONING HEARING BOARD**

**July 13, 2016**

**4<sup>th</sup> Floor Conference Room at City Hall – 1:15 pm**

**207 Howard Ave / Brian Tocco**

**Request for a Student Home, a Special Exception, on premises in a Multiple Household Residential Zone, Code 535-70 C 8**

**2711-27 W Chestnut Ave / Diocese of Altoona-Johnstown Charitable Trust**

**Request for change of nonconforming use, daycare to office building, in a nonconforming structure on premises in a Multiple Household Residential Zone, Code 535-41 E**

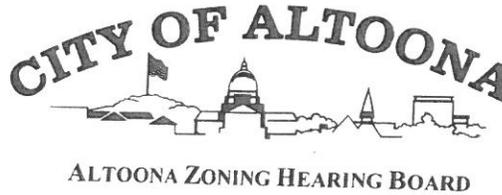
**538-42 22<sup>nd</sup> Ave / ABT Properties, William Kitt**

**Request to create a 3-unit apartment building in a single house attached to commercial store with an apartment on premises in a Single Household Residential Zone, Code 535-68 B**

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

Altoona-Johnstown Diocese  
927 South Logan Boulevard  
Hollidaysburg, PA 16648

Shawn P. Sullivan, Esquire  
3515 Burgoon Road  
Altoona, PA 16602

RE: Request for change of nonconforming use from a presently existing daycare to an office building in a "school building"/ non-conforming structure on premises in a multiple household residential zone.

Your Petitioner appeared by and through Matthew Stever, CFO of the Diocese and their attorney, Shawn P. Sullivan.

From the uncontradicted testimony presented at the hearing of July 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.

The subject property is and has been in an existence and continued through the present time thereat, owned by your petitioner without abandonment, from 1926 through the present.

4.

As such, the said use and property predates the zoning ordinances of the City of Altoona.



5.

The property and building is indeed therefore a pre-existing non-conforming use.

6.

The last use therein and thereby constituted with a daycare utilizing all of the subject structure and property for parking adjacent thereto, and for a playground.

7.

The subject use was a daycare, known as Kids First.

8.

Your petitioner proposes the termination of that use and immediately placing its administrative offices and personnel therein.

9.

In comparing the prior use with that proposed, the hours and days of operation will be substantially less noting that the daycare was from 6:00 a.m. until 6:30 p.m., as compared to the new offices which will be 8:30 a.m. until 4:30 p.m.

10.

Unlike the school/daycare, the administrative offices of The Dioceses will be closed for any and all church holidays and Holy Days, as well as National Holidays.

11.

There will be less traffic generated by the new use as there will be less "coming and going", basically the personnel coming, parking at the beginning of the day and simply leaving at the end, as opposed to the daycare, where not only the same occurred for the employees but the parents and student were coming and going throughout the day dropping off and picking up children accordingly, as the respective needs of the individuals warranted.

12.

There is quite adequate off-street parking, there being noted already 40 existing, paved, and lined off-street parking spaces, inclusive therein being 2 for handicap.

13.

Where the playground had been in existence, the same can be utilized for additional off-street parking if and as the need arises, there being, however, only some 33 employees at the present time, 7 of which being religious who tend to sometimes be there and sometime not, and but 26 lay employees allowing the obvious differential parking space for people that may visit or have business at the subject administrative offices.

14.

Furthermore, the offices are noted to be “administrative” in nature and, as such, little, if any, true traffic is generated in and by the use thereof.

From the foregoing testimony, the Board makes the following:

**CONCLUSIONS OF LAW**

1.

The subject property is indeed a pre-existing non-conforming use.

2.

The proposed new use will be more conforming to the neighborhood and surrounding them the actual use it is replacing in having considered such factors as traffic generated, nuisance characteristics, and the hours and manner of operation.

**DECISION**

WHEREFORE, THIS 28<sup>th</sup> DAY OF July, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER; PROVIDED, HOWEVER, AND CONDITIONED UPON THE FOLLOWING: THE SUBJECT AND ADMINISTRATIVE OFFICES IS AND SHALL BE AS REQUESTED THE SOLE USE, THAT IS, IT SHALL NOT BE IN ADDITION TO THE DAYCARE BUT SHALL BE IN PLACE THEREOF AND, PROVIDED, FURTHER, THAT SHOULD ADDITIONAL OFF-STREET PARKING BECOME NECESSARY AND NEEDED, THE AREA PRESENTLY BEING USED AS A PLAYGROUND SHALL BE CONVERTED INTO AND UTILIZED FOR SAID PARKING.

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 7/19/2016  
Michael Halloran, Chairman

Horace C. McAnuff 7-19-2016  
Horace McAnuff

Richard Andrews 7-28-16  
Richard Andrews

Donna Royer 7-28-16  
Donna Royer

Julie K. Hirschak 07-25-16  
Julie Hirschak

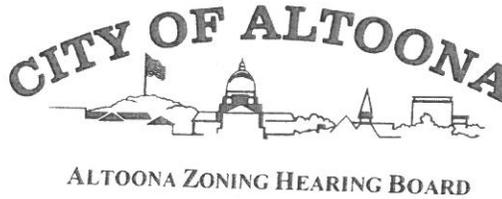
MAILED TO YOUR PETITIONER: August 1, 2016  
Date

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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Richard Andrews  
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Donna Royer  
Julie Hirschak, Alternate  
Sherry Peck, Alternate  
Anthony Rhine, Alternate

William Kitt  
625 Hawthorne Drive  
Hollidaysburg, PA 16648

James & Linda Bacza  
534 - 22<sup>nd</sup> Avenue  
Altoona, PA 16601

David Blake  
2211 Ninth Street  
Altoona, PA 16601

RE: 538-40-42 -22<sup>nd</sup> Avenue, ABT Properties, request to create a three unit apartment building in a single house attached to a commercial store with an apartment in and at premises, single Household residential zone.

Your Petitioner appeared on his own behalf, as well as several neighbors above identified.

From the testimony presented at the hearing of July 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.

The subject property is and has continuously existed at the subject property, but has recently become unable to be leased for a commercial purpose.



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4.

Particularly in question, is the first floor which had been last known as the Front Street Deli and previously therein been utilized as a pizza shop/convenience store and for a long time prior thereto known as Sarah's, which was a local convenience store and delicatessen

5.

Despite earnest efforts to lease the property, the petitioner has been unable to and now requests the Board permission to convert the same into an apartment, as is the other half of his duplex, and as is the second floor of the subject property, which has long been an apartment and is to continue to be utilized for the same.

6.

The subject use of the first floor is obviously a pre-existing non-conforming use.

7.

There is adequate space for additional off-street parking according to your petitioner, which, if understood by this Board is to the rear and/or side.

8.

Notwithstanding, there does indeed appear to be room to the rear for an additional off-street parking space, accessed from the alley.

9.

Such a provision for an additional off-street parking would de minimize interference and provide for a particular space dedicated for the new tenant.

10.

Furthermore, the first floor would be accessible and be utilized for handicap access leasing and can provide for a two-bedroom apartment, in a sense almost mirroring the second floor apartment.

11.

Quite obviously, as your petitioner has indicated, anything he does will and shall be in compliance with code.

12.

Your petitioner in discussions at the hearing with the neighbors that attended were indeed in agreement that it would be better and more desirable to lease the subject first floor apartment to non-students and shall continue to therefore be considered in the same category as it has been prior hereto, as a "**duplex**" for all legal effects should such a grant be provided and

obtained.

13.

There will be far less traffic generated in and about the neighborhood by a 2-bedroom apartment for such a couple than two (2) students and even more so than to a business when customers are coming and going during all the times and days that such a business is conducted.

14.

As such, an apartment with non-student use, there shall be less noise and nuisance characteristics than traditionally from student housing and/or a business, particularly such a business that had odors such as pizza or grease smells, and noises associated with customers coming and going, slamming doors, conversing and the like.

From the foregoing testimony, the Board makes the following:

#### **CONCLUSIONS OF LAW**

1.

The subject property is indeed a pre-existing non-conforming use.

2.

The proposed new use would be more conforming to the neighborhood and surroundings than the use it is to replace, considering such factors as traffic generated, nuisance, characteristics, such as noise, odors, and smoke, vibrations and fire hazards, as well as the hours and manner of operation.

#### **DECISION**

WHEREFORE, THIS 28<sup>TH</sup> DAY OF July, A.D., 2016, THE REQUEST OF YOUR PETITIONER IS APPROVED, PROVIDED, HOWEVER, THAT ONE ADDITIONAL OFF-STREET PARKING SPACE SHALL BE PROVIDED TO THE REAR ACCESSIBLE FROM THE ALLEY ONLY, SAID PARKING TO BE PAVED PRIOR TO OCCUPANCY AND PROVIDED, FURTHER, THAT THE SUBJECT APARTMENT SHALL NOT BE FOR STUDENT HOUSING AND PROVIDED; AND CONDITIONED FINALLY, THAT FOR ALL INTENTS AND PURPOSES, THE SUBJECT PROPERTY SHALL BE TREATED AND CONSIDERED A "DUPLEX" NOTWITHSTANDING THE PERMISSION AND USE OF THE FIRST FLOOR.

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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**THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA,**

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Michael Halloran, Chairman

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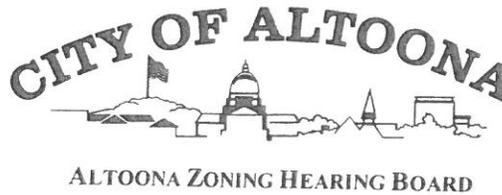
MAILED TO YOUR PETITIONER: Aug 1, 2016  
Date

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

1301 Twelfth Street, Suite 400  
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Anthony Rhine, Alternate

Brian Tocco  
1342 Steven Lane  
Lansdale, PA 19446

James DeGennaro  
2900 Eighth Avenue, 2<sup>nd</sup> Floor  
Altoona, PA 16602

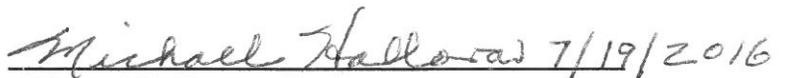
Dennis Holland  
202 Lexington Avenue  
Altoona, PA 16601

RE: Brian Tocco, request for student home, a special exception on  
Premises in a multiple household residential zone, Code 535-70 C8

**Petitioner has contacted City Hall and the same is accordingly  
WITHDRAWN.**

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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

  
Horace McAnuff

  
Richard Andrews



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Donna Royer 7-28-16

Donna Royer

Julie K. Hirschak 07-25-16

Julie Hirschak

MAILED TO YOUR PETITIONER: August 1, 2014  
Date

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