

AGENDA
ZONING HEARING BOARD
September 14, 2016

820 12th Street / Lindsey Vesey

CONTINUANCE from 8/10/16 - Request to create a child care center in a vacant building on premises in a General Industrial Zone, Code §535-77 B, Permitted Uses

511-19 N 4th Avenue / Patricia Watt

Request for a variance, or an appeal to the zoning officer's determination, to create storage units at 511-19 N 4th Avenue in a Commercial-Central Business Zone, Code 535-75 B (2), Permitted Uses

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

Lindsay Vesey
D1117 Ninth Avenue
Altoona, PA 16602

Judith S. Coutts
409 Jayne Lane
Altoona, PA 16601

RE: 820 – 12th Street, Lindsey Vesey and Judith S. Coutts, request to create a child care center in a vacant building on premises in a General Industrial zone, Code §535-77 B, permitted uses.

Per Board request, Judith Coutts appeared on her own behalf, as well as Lindsey Vesey, who had petitioned the Board to create a childcare center in the premises.

From the uncontradicted testimony presented at the hearing of September 14, 2016 and the Board's view of the subject premises, the Board makes the following:

FINDINGS OF FACT

1.

Judith S. Coutts has an ownership interest in the subject property. Lindsey Vesey had petitioned the Board to create a child care center at the subject property.

2.

Requisite notices were made and property posted.

3.

Lindsey Vesey, petitioner, appeared on August 10, 2016 before the Board, but Judith S. Coutts did not appear at that time. Accordingly, the Board tabled the request so that the owner could appear to address various issues, including structural questions about the premises and the proposed changes to the premises.

4.

The subject structure had previously housed Dunmire Printing Company.



Printed on Recycled Paper

5.

Judith Coutts stated she had attempted the marketing of the subject property for the last five (5) years, during which sixteen (16) individuals had discussions with her; but the subject structure requires renovations, and these individuals were not willing to wait for the renovations to be performed.

6.

Judith Coutts stated that only two (2) of these potential tenants would have met the Zoning requirements for General Industrial zone.

7.

There is an existing child care center, Touch of Love, being currently operated by the said Lindsey Vesey, at 1117 Ninth Avenue, Altoona, PA 16602; which is located approximately one-half block from the subject structure.

8.

The proposed child care operation would serve up to forty (40) children, from kindergarten to age 12.

9.

The child care center will be open Monday through Friday only, between the hours of 6:30 a.m. and 7:00 p.m.

10.

The child care center will be required to have five (5) staff employees, per state regulations, according to Lindsey Vesey.

11.

Given the staffing requirements, and the potential number of school-age children present at the child care center, the Board had concerns with respect to parking, including potential traffic congestion with drop-off of the children.

12.

The subject structure at 820 – 12th Street occupies 96% of the property parcel.

13.

Judith Coutts stated that there are four (4) parking spaces on the adjoining lot.

14.

In addition, Linsey Vesey, the operator of the child care center stated that a local business, Santella Funeral Home, has verbally agreed to provide some off-street parking spaces, for the staff of the child care center.

15.

In addition, another local business, EADS, has also verbally agreed to provide additional off-street parking spaces. The subject EADS lot is across 12th Street from the subject property.

16.

The Board considered, and concluded that there would not be any significant adverse impact upon the surrounding neighborhood businesses, including Altoona Pipe and Steel.

17.

The Board considered, but determined that the subject proposed variance could not be considered an extension of the non-conforming use established for the main daycare center operated by Lindsey Vesey, since the properties do not abut.

18.

No signage shall be necessary beyond the replacement of the existing Dunmire Printing Company sign.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has adequately shown there exists unique circumstances and conditions peculiar to the subject property.

2.

An unnecessary hardship exists due to which there is little or no realistic possibility that the property can otherwise be used or developed within strict conformity with the provisions of the Zoning Ordinance.

3.

A variance is necessary for reasonable use of the property to be made.

4.

The hardship was not created by your petitioner.

5.

The variance as authorized will not alter the nature or character of the neighborhood, nor impair appropriate use or development of the properties adjacent thereto.

6.

The variance as authorized is a slight modification of the regulations and/or plan(s) at issue, while providing relief to your petitioner.

WHEREFORE, the Board makes the following:

DECISION

WHEREFORE, THIS 26th DAY OF September, A.D., 2016, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONERS FOR A VARIANCE FOR THE SUBJECT PREMISES FOR THE PURPOSES OF THE OPERATION OF A CHILD CARE CENTER BY LINDSAY VESEY, LIMITED TO THE FIRST/GROUND FLOOR OF THE SUBJECT PREMISES. THE GRANT OF THIS VARIANCE BY THE BOARD IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. THAT THE CHILD CARE CENTER WILL BE OPERATED BETWEEN THE HOURS OF 6:30 A.M. TO 7:00 P.M., MONDAY THROUGH FRIDAY ONLY.

2. THAT THE PETITIONERS SHALL OBTAIN SIGNED LEASES FOR ADDITIONAL PARKING REQUIRED FOR THE CHILD CARE CENTER; SPECIFICALLY, PARKING REQUIRED FOR THE STAFF EMPLOYEES, PURSUANT TO THE LAWS AND REGULATIONS OF THE COMMONWEALTH OF PENNSYLVANIA.

3. PETITIONERS MUST MEET IN ADDITION 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. THIS INCLUDES SPECIFICALLY THE STATUTORY PROVISIONS, REGULATIONS AND/OR REQUIREMENTS OF THE PA DEPARTMENT OF HUMAN SERVICES.

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 9/26/16
Michael Halloran, Chairman

Horace McAnuff 9-22-2016
Horace McAnuff

Donna Royer 9-22-16
Donna Royer

Julie Hirschak 09-21-2016
Julie Hirschak

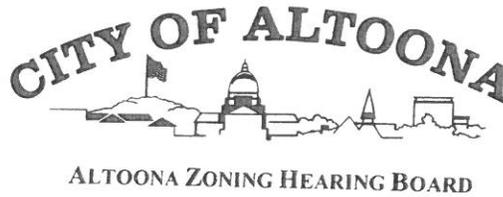
MAILED TO YOUR PETITIONERS: September 26, 2016
Date

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

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Altoona, Pennsylvania 16601

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Patricia Watt
1012 LaSalle Lane
Altoona, PA 16602

RE: 511-519 N. 4th Avenue, request for a variance or an appeal to the zoning officer's determination, to create storage units in a Commercial-Central Business zone, Code 535-75 B(2), permitted uses.

Your Petitioner appeared on her own behalf.

From the uncontradicted testimony presented at the hearing of September 14, 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 premises, 511-519 N. 4th Avenue (Juniata), Altoona, consists of a total of five (5) lots. Presently, three (3) lots consist of a black-topped parking area; and the remaining two (2) lots consist of a concrete pad and an existing storage building.

4.

The existing storage structure is utilized by Patricia Watt for storage of appliances and other items. Previously, the structure was attached to a main building which was demolished. The main building had previously been operated as a pool hall, and then the West End Market.

5.

Patricia Watt stated that consistent with the subject premises being within the Central Business Commercial zone, there had been a proposal for a convenience retail store which fell through. The only other potential use was for a garage or parking lot, which she indicated had



an offer for purchase which was far too low.

6.

Patricia Watt confirmed that there was nothing unique or unusual about the subject premises, like a spring or a right-of-way, that would compromise the viability of the property to be utilized within the zoning requirements.

7.

Patricia Watts' proposal was to utilize the subject premises by placement of pre-fabricated metal storage sheds. She stated that she believes these storage units would improve the appearance of the property.

8.

Patricia Watts acknowledged that she had not sought any additional businesses which would have conformed to the Central Business Commercial zone.

9.

Patricia Watts acknowledged that otherwise there is no reason why the subject premises could not be utilized consistent with one of the conforming uses set forth in the zoning requirements.

From the foregoing findings, the Board makes the following:

CONCLUSIONS OF LAW

1.

Your petitioner has failed to adequately prove that there exists such unique circumstances or conditions peculiar to the property/properties that there is little or no possibility that the property/properties could be used or developed in conformity with the provisions of the Zoning Ordinance.

2.

To the contrary from a physical and topographical approach the property/properties can obviously be used for permitted uses allowed in such a zone.

3.

Reasonable use of the property/properties can obviously be made and had, which would otherwise conform with the requirements of the Commercial-Central Business Zone.

4.

The variance if granted may well impair use and development of the properties in

said zone and/or adjacent thereto.

5.

The variance, if granted, would represent both a modification of the regulations and plan(s) at issue.

6.

The Board concludes that the petitioner has failed to satisfy the requirements for a grant of variance for the subject premises.

DECISION

WHEREFORE, THIS 26th DAY OF September, A.D., 2016, THE BOARD DENIES THE REQUEST OF THE PETITIONER FOR A VARIANCE FOR THE SUBJECT PREMISES, HAVING DETERMINED THAT THE SUBJECT PREMISES CAN BE UTILIZED FOR ONE OF THE PERMITTED OR CONFORMING USES, IN THE COMMERCIAL CENTRAL BUSINESS ZONE;

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 9/26/16
Michael Halloran, Chairman

Horace McAnuff 9-22-2016
Horace McAnuff

Donna Royer 9-22-2016
Donna Royer

Julie Hirschak 09-21-2016
Julie Hirschak

MAILED TO YOUR PETITIONERS: September 26, 2016
Date

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