

1301 Twelfth Street, Suite 400  
Altoona, Pennsylvania 16601

Voice - 814/949-2470  
Fax - 814/949-0372  
TDD - 711

[planning@altoonapa.gov](mailto:planning@altoonapa.gov)



Michael Halloran, Chairman  
Richard Andrews  
Horace McAnuff  
Donna Royer  
Cory Gehret

ALTOONA ZONING HEARING BOARD

4719 5<sup>th</sup> Ave

T-Mobile  
Attention: Dave Chrzan  
179 Cruikshank Road  
Sarver, PA 16055

**In Re: Request for special exception for microwave dish,  
radio and line on water tank in Highland Park on premises  
in a suburban residential zone.**

Your petitioner appeared by and through Dave Chrzan.

From the testimony presented at the hearing of November 14, 2018 and the Board's view of the subject premises, the Board makes the following:

**FINDINGS OF FACT**

1.

Your petitioner has an ownership interest on the subject property.

2.

Requisite notices were made and the property posted.

3.

The subject request is in and per a special exception under Section 800-42.



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4.

There is property control in and pursuant to a lease agreement from 1998, which has continuously remained in effect and operation.

5.

In order to update the equipment thereon, it is necessary to add a secondary dish in and upon the structure as technology has changed, making the continued use therein and thereat both reasonable and necessary.

6.

The said use in and at the subject tower has never been abandoned nor ceased in operation.

7.

The applications and materials therein and thereto attached, were accepted into evidence and herein and hereby incorporated by reference.

8.

All of the subject request complies with the requirements of the FCC Rules and Regulations pertinent thereto.

9.

In order to reasonably continue use of the subject equipment and services thereat, the proposed changes and replacements are indeed both necessary and reasonable.

10.

None of the same will be or create any danger to the public health, welfare and safety, as the subject tower is structurally sound and able to allow the same, with adequate and safe room thereon existing for the proposal.

11.

All of the use of the equipment and services therefrom have been continuingly in use and existence without abandonment or cessation.

From the foregoing testimony, the Board makes the following:

**CONCLUSIONS OF LAW**

1.

Your Petitioner has established compliance with the FCC and the requisite acts, rules, and regulations pertinent thereto.

2.

The requested uses indeed are necessary to reasonably allow and continue the subject use that has been in existence without abandonment therefrom.

3.

The same is indeed reasonable and necessary without the creation of any danger to the public health, welfare, and safety thereby.

4.

Your petitioner has shown compliance with that as required by these special exceptions set forth in and at the applicable Section 800-42 of the Altoona Zoning Ordinance.

Wherefore, the Board makes the following:

**DECISION**

WHEREFORE, THIS 29<sup>th</sup> DAY OF November, A.D., 2018, THE REQUEST OF YOUR PETITIONER IS GRANTED, PROVIDED, HOWEVER, THAT THE SAME SHALL TERMINATE SHOULD USE OR OWNERSHIP OF THE SUBJECT PROPERTY CHANGE;

AND, PROVIDED FURTHER, THAT; YOUR PETITIONER SHALL, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE, AND FEDERAL REGULATIONS AND THE REQUIREMENTS PERTINENT THERETO.

ANY PERSON AGGRIEVED BY THE DECISION OF THE ZONING HEARING BOARD MAY APPEAL HEREFROM TO THE COURT OF COMMON PLEAS WITHIN

THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE, IN THE MANNER SO PROVIDED BY LAW.

YOUR PETITIONER MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PROPERTY, 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.

THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA,

Richard Andrews 11/26/18  
Richard Andrews, Chairman

Horace McAnuff 11-21-18  
Horace McAnuff

Donna Royer 11-29-18  
Donna Royer

Cory Gehret 11/28/18  
Cory Gehret

MAILED TO YOUR PETITIONER: November 29, 2018  
Date

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

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**ALTOONA ZONING HEARING BOARD**

FUR LOGAN  
BLVD

Stuckey Buick GMC Inc.  
c/o Craig Hetrick  
1007 East Pleasant Valley Blvd.  
Altoona, PA 16602

**In Re: Request for 80 Foot flagpole for USA flag on premises in  
Highway business zone.**

Your petitioner appeared by and through Craig Hetrick.

From the testimony presented at the hearing of November 14, 2018 and the Board's view of the subject premises, the Board makes the following:

**FINDINGS OF FACT**

1.

Your petitioner has an ownership interest on the subject property.

2.

Requisite notices were made and the property posted.

3.

The subject property is one on which there exists a car dealership formerly known as Fiore Buick, including without limitation to an "auto outlet" building of which is soon to be razed.

4.

In and about that subject location, there is a request for an 80-foot flag pole, rather than a 50-foot flag pole, otherwise properly designated as the height for structures in said zone.

5.

There is a pre-existing non-conformity immediately across the street, to wit a large and higher than currently zoned billboard, which said billboard will indeed interfere with the visibility of the proposal.

6.

While your petitioner had initially contemplated and was going to request a 100-foot pole, it believes that 80 feet will be sufficient for the purposes of adequate display, considering the size of the lot and businesses of your petitioner, thereon, otherwise contained that to be only 50 feet would pale in comparison to the business for which it is associated.

7.

As the circumstances and conditions are peculiar to the property as it relates to where it is situate, to what the flag is exposed, and to otherwise reasonably display such a flag in proportion to the business upon which it is situate, the same would indeed be reasonable and appropriately necessary.

From the foregoing testimony, the Board makes the following:

#### CONCLUSIONS OF LAW

1.

Your Petitioner has adequately shown there exists such unique circumstances and conditions peculiar to the property that an unnecessary hardship has been created due to which there is little probability that the subject request could otherwise be realistically used to develop, as to the flag pole, in the strictest conformity with the provisions of the Zoning Ordinance.

2.

A variance is, therefore, necessary to enable reasonable use to be made, vis-a-vis signage/flag.

3.

This hardship was not created by your petitioner.

4.

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

5.

This variance as authorized is only a slight modification of the regulation and/or plan at issue while providing relief to your petitioner.

#### DECISION

WHEREFORE, THIS 29<sup>th</sup> DAY OF November, A.D., 2018, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER, PROVIDED, SAID FLAG POLE BE NO GREATER THAN 80-FEET IN TOTAL HEIGHT.

YOUR PETITIONER SHALL, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE, AND FEDERAL REGULATIONS AND THE REQUIREMENTS PERTINENT THERETO.

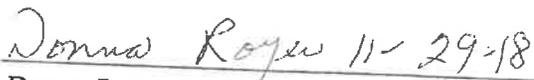
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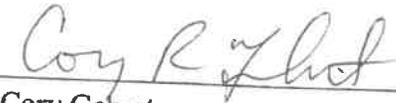
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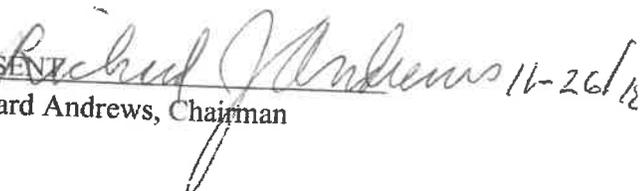
ANY AND ALL NECESSARY PERMITS INVOLVED MUST BE SECURED WITHIN SIX (6) MONTHS FROM THE DATE OF THIS NOTICE, OR THE AUTHORIZATION SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA,

 11-20-18  
Horace McAnuff

 11-29-18  
Donna Royer

 11/28/18  
Cory Gehret

~~DISSENT~~  11-26/18  
Richard Andrews, Chairman

MAILED TO YOUR PETITIONER: November 29, 2018  
Date

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

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Cory Gehret

**ALTOONA ZONING HEARING BOARD**

5410 6th Me

Competitive Sports Academy  
Attention: Gene Adams  
1121 - 26<sup>th</sup> Avenue  
Altoona, PA 16601

**In Re: Request for business identification sign due to pre-existing billboards and its effect and/or preclusion on business identification signs in and at premises in a light industrial zone.**

Your petitioners appeared by and through Carey Gority and Gene Adams.

From the testimony presented at the hearing of November 14, 2018 and the Board's view of the subject premises, the Board makes the following:

**FINDINGS OF FACT**

1.

Your petitioner has an ownership interest on the subject property.

2.

Requisite notices were made and the property posted.

3.

Your petitioner is presented with a unique and unusual circumstance and condition peculiar to its property.



4.

Your petitioner is located at and in a light industrial zone, which makes this situation quite different in and about the exposure thereof, and the impact of the request thereon, much different and unique than it would in a neighborhood business zone, highway business zone, or other zone in which businesses are found.

5.

This request, therefore, is focused upon, and subject to, the unique layout, and totality of the individual's circumstances, peculiar hereto.

6.

There exists in and upon an easement of the dominant property, "billboards" that have been in existence and are of such a size, that being on the "property", precludes any and all other signage to and/or for the businesses and the buildings and structure in which said businesses are contained.

7.

The subject property being in said industrial zone, sits back and away from the access highway, Pennsylvania Route 764.

8.

The said highway, of course, is indeed a Pennsylvania highway and not simply a City street or avenue.

9.

As such, and recognizing the nature of such a highway, there indeed is the associated traffic and speed of vehicles utilizing the same.

10.

While flat wall signage is permitted, as presently exists, and could otherwise be greater, your petitioner has, in lieu thereof, requested that signage be allowed, wherever appropriate and permitted by Penn-Dot and the City, to be in and at its driveway intersection with the highway, so that people attempting to come to the subject businesses can do so safely as the driveway is otherwise difficult to ascertain in and along such a highway at the speeds otherwise permitted

thereon, creating dangers in and to the traveling public and petitioners customers, without reasonable notification and business identification as requested.

11.

The Board believes that this danger that can easily, by the grant of this request, be prevented is, therefore, reasonable and necessary under the unique circumstances particular and peculiar hereto, notwithstanding, the otherwise existing billboards which advertise and are owned by LaMar and not your petitioner, and, is therefore, able to advertise anything and everything it wishes, and not "identify" the property and/or driveway, in and for the subject business.

12.

The amount of the signage requested is less than that which, if said billboards were not present, would otherwise have been permitted.

13.

As such, the request and grant hereinafter set forth, is somewhat of a compromise, as it will eliminate other flat wall signage and allow a lesser amount of signage to be placed as requested by your petitioner to safely identify the location of the driveway for users coming to the same.

14.

Your petitioner indicates that the 9 ½ x 10 total signage, two-sided, will be adequate to afford relief for its needs.

15.

If a variance as hereinafter set forth was not granted, the result would be somewhat absurd and/or unreasonable and dangerous in and for the general public, health, welfare, and safety.

16.

In order to accommodate both the property owner and provide a de minimis variance, the Board believes that the compromise is necessary as hereinafter provided.

From the foregoing testimony, the Board makes the following:

**CONCLUSIONS OF LAW**

1.

Your Petitioner has adequately shown there exists such unique circumstances and conditions peculiar to the property that an unnecessary hardship has been created due to which there is little or no possibility that the property can otherwise be reasonably used or safely developed, relative to the signage, in strict conformity with the provisions of the Zoning Ordinance.

2.

A variance is, therefore, necessary to enable reasonable use of the property to be made, vis-a-via signage.

3.

The variance as authorized will not alter the nature or character of the neighborhood, nor will it impair appropriate use or development of properties adjacent thereto, being recognized as such an "industrial zone".

4.

This variance as authorized hereinafter conditioned as a slight modification of the regulation and/or plan at issue while affording relief to your petitioner.

5.

The same is reasonable and necessary and able to insure the public health, welfare, and safety, from the hardship pertinent thereto, not having been created by your petitioner.

Wherefore, the Board makes the following:

**DECISION**

WHEREFORE, THIS 29<sup>th</sup> DAY OF November, A.D., 2018, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER, PROVIDED, THAT, YOUR PETITIONER SIGN IS NO GREATER IN SIZE THAN 9 ½ X 10, TWO-SIDED, AND THAT THIS SIGNAGE IS AND SHALL BE THE ONLY SIGNAGE PERMITTED; OTHER THAN

THE EXISTING FLAT WALL SIGNAGE, THAT IS ALREADY IN AND UPON THE PREMISES;

PROVIDED FURTHER, **NO OTHER** FLAT WALL SIGNS SHALL BE PERMITTED AS THE REQUESTED SIGN BEING GRANTED IN LIEU THEREOF;

PROVIDED FURTHER; THE EXTERNAL ILLUMINATION OF SAID SIGN SHALL BE **ONLY** UPON THE SIGN ITSELF;

AND, PROVIDED, FURTHER, THAT; THE SUBJECT SIGN SHALL BE PLACED ONLY AS PERMITTED BY THE CITY OF ALTOONA AND THE COMMONWEALTH OF PENNSYLVANIA AS TO ITS LOCATION AND SETBACK;

AND, PROVIDED, FINALLY, THAT; THE SUBJECT SIGN SHALL COMPLY WITH THE LINE OF SIGHT AS REQUIRED BY THE SUBJECT EASEMENT AND/OR COMPLY WITH ANY AND ALL OTHER EASEMENTS, IF AND AS APPLICABLE HERETO.

YOUR PETITIONER SHALL, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE, AND FEDERAL REGULATIONS AND THE REQUIREMENTS PERTINENT THERETO.

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Richard Andrews, Chairman

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Donna Royer 11-29-18  
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Cory Gehret 11/28/18  
Cory Gehret

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