

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  
Donna Royer  
Cory Gehret

**ALTOONA ZONING HEARING BOARD**

Mark Moschella and  
J. Mark Moschella  
The Ravine Inc.  
610 Seventh Street  
Altoona, PA 16602

**In Re: Request to replace a shed for storage inventory of medical uniforms to support the main retail location in an approximate 12 x 30 size, requesting a setback reduction for the said accessory structure in its rear yard on premises located in a mixed residential commercial zone.**

Your petitioners appeared by and through the aforementioned individuals.

From the testimony presented at the hearing of September 12, 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 made and the property posted.

3.

The subject property is one in which the petitioners acquired the same, and has continuously conducted a business of a retail nature, at which a shed had already been in existence, and now is in need of replacement.

4.

The proposed use of said shed is indeed permitted in the subject zone.

5.

There already exists a shed, which has existed continuously since the time of the purchase and never been abandoned, which is within approximately one foot of the subject structure and closer than the one requested herein.

6.

Your petitioners in the normal and ordinary course and conduct of its business, has grown to a point where it has become both reasonable and necessary in order to continue the operation of said business thereat. to expand the subject shed in size to accommodate its needs and reasonable continued use of the business therein.

7.

Your petitioners will, therefore, remove and in its place have a larger one constructed and built.

8.

However, the shed will not be ten (10) feet from the subject structure, but will be only three (3) feet.

9.

While this is a seven (7) foot deviation from that normal and ordinarily required, it will be two (2) feet further than the structure which presently exists, thus, becoming more conforming than the use and structure which it is to replace.

10.

This is indeed both reasonable and necessary in order to maintain compliance with setback with existing easements, and provide reasonable space for dumpsters and parking, otherwise, necessary for the reasonable continuation of the business therein and thereat to be conducted.

11.

Furthermore, the commercial property insurance agent has indeed received approval for the insurance company for such a shed being but three feet from the building, evidencing lack of any fire danger.

12.

This is further evidenced that the normal concern in general with such setbacks from a dominant structure would be not really applicable or pertinent to the nature of the business in such a zone and as proposed.

From the foregoing testimony, the Board makes the following:

**CONCLUSIONS OF LAW**

1.

Your petitioner had a pre-existing nonconforming structure and condition which has never been abandoned.

2.

The change in structure and use thereof therefore is more consistent than the use and structure which it is to replace.

3.

The change of structure and its placement is more conforming to the Zoning Ordinance than the use and setback which it is replacing.

**DECISION**

WHEREFORE, THIS 12 DAY OF September, A.D., 2018, THE BOARD GRANTS AND APPROVES THE REQUEST OF YOUR PETITIONER.

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 DTE OF THIS NOTICE, IN THE MANNER SO PROVIDED.

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 AUTHORIZATIONS SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA

Richard Andrews 9/21/18  
Richard Andrews

Horace McAnuff 9/17/2018  
Horace McAnuff

Donna Royer 9-21-18  
Donna Royer

Cory Gehret 9/20/18  
Cory Gehret

DISSENT:

Michael Halloran 9/17/18  
Michael Halloran, Chairman

MAILED TO YOUR PETITIONER: September 21, 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**

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

**In Re: 4719 Fifth Avenue (4400 Lynndale Rd.): Request for special exception to add a generator and upgrade antenna equipment at the existing water tank in Highland Park on premises in a suburban residential zone.**

Your petitioner appeared by and through the above identified individual.

From the testimony presented at the hearing of September 12, 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 in which your petitioner has long maintained equipment for communication purposes in and upon the subject water tank and tower.



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4.

In direct connection with, and the necessity for the continuation of use thereat, due to changes in technology, it is now become necessary to take down six (6) and replace them with three (3) new units thereat, for optimal use and effect.

5.

In direct connection therewith, it is also necessary that a generator be provided for backup power in the event of power failure.

6.

All of the same complies with the requirements of the FCC Rules and Regulations.

7.

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

8.

None of the same will be or create danger to the public health, welfare, and safety.

9.

The use of the aforesaid equipment has continuously been in 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 continue the subject use that has been continuously in existence without abandonment thereat.

3.

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

Wherefore, the Board makes the following:

**DECISION**

WHEREFORE, THIS 21<sup>st</sup> DAY OF September, A.D., 2018, THE REQUEST OF YOUR PETITIONER IS GRANTED, PROVIDED, OF COURSE, THAT THE SAME SHALL TERMINATE SHOULD USE OR OWNERSHIP OF THE SUBJECT PROPERTY CHANGE.

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,

Michael Halloran 9/17/18  
Michael Halloran, Chairman

Richard Andrews 9/21/18  
Richard Andrews

Horace McAnuff 9-17-2018  
Horace McAnuff

Donna Royer 9.21.18  
Donna Royer

Cory Gehret 9/20/18  
Cory Gehret

MAILED TO YOUR PETITIONER: September 21, 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

J. R. Brown Property Management, LLC  
119 Broad Street  
Hollidaysburg, PA 16648

**In Re: Request for a special exception for use of a student home in a multiple household residential zone, in and at 1229 - 17th Avenue, Altoona, PA**

Your petitioner appeared on his own behalf.

From the uncontradicted testimony presented at the hearing of September 12, 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 property posted.

3.

The subject property is one in which a previous grant for a student housing had been made but never fulfilled.

4.

Your petitioner has an ownership interest in the subject property and wants to now utilize the same for a student home.



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5.

The premises has three (3) bedrooms and your petitioner plans to lease to three (3) different students.

6.

The premises will contain two (2) paved off-street parking spaces prior to occupancy, which apparently is on an adjacent lot according to tax maps but is uncertain whether it is one large lot and/or two (2) separate ones.

7.

Notwithstanding the same, your petitioner has indicated that it will, should this request be granted, go to subdivision and merge the properties into one lot so that off-street parking can be had and paved prior to occupancy.

8.

Your petitioner is looking to lease the premises for the Spring, 2018 school session.

9.

No other student homes are located on a lot or portion of which is within a 200 feet radius of the subject property.

10.

Your petitioner has indicated that it will take care of all garbage removal, lawn care, and/or snow removal.

11.

Your petitioner has also indicated that he will provide leases that will be enforceable so as to prevent violations with the ordinances pertinent to police powers, noise, and nuisance laws, such that violations would and can result in ejectment should they be found to exist.

From the foregoing testimony, the Board makes the following:

#### **CONCLUSIONS OF LAW**

1.

Your petitioner has adequately satisfied the burden of proof entitling it to a special exception under and by virtue of Section 800-50 C 8, pertinent to student housing.

2.

Your petitioner shall further comply with Chapter 4, Section 404 of the applicable version of the International Property Maintenance Code, and any and all other requirements set forth by the City's Inspection Department.

3.

The parking spaces on the premises shall be paved prior to any student taking possession of the premises and shall have the lot merged prior thereto if and as necessary.

4.

The property shall not be occupied or used until such a Zoning Permit and residential rental unit licenses has as first been issued.

Wherefore, the Board makes the following:

#### DECISION

THIS 21<sup>st</sup> day of September, A.D., 2018, THE BOARD GRANTS THE REQUEST OF YOUR PETITIONER, PROVIDED, HOWEVER; THAT YOUR PETITIONER SHALL FIRST HAVE THE SUBJECT PROPERTY MERGED UNDER ANY AND ALL APPLICABLE SUBDIVISION ORDINANCES OF THE CITY;

PROVIDED, FURTHER; THE LANDLORD SHALL MAINTAIN A VALID WRITTEN LEASE IN WHICH THE TENANTS MUST ABIDE, IN WHICH THE LANDLORD SHALL HAVE THE POWER TO EVICT ANY SUCH TENANT, IF SAID TENANT BE FOUND TO VIOLATE ANY POLICE ORDINANCE, AND/OR ANY OTHER ORDINANCE PERTAINING TO NOISE AND/OR NUISANCES APPLICABLE THERETO;

PROVIDED FURTHER; THAT THE OFF-STREET PARKING SHALL BE PAVED PRIOR TO OCCUPANCY AND;

PROVIDED, FURTHER; THE LANDLORD ITSELF SHALL BE RESPONSIBLE FOR ANY AND ALL NECESSARY TRASH, AND/OR SNOW REMOVAL, AS WELL AS LAWN CARE, AND, PROVIDED, FURTHER;

THAT THE PETITIONER SHALL MAINTAIN A FIT AND PROPER APPEARANCE OF THE PROPERTY AS A SINGLE FAMILY RESIDENCE OR HOME AS IT APPEARS AT THE PRESENT TIME.

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.

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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,

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Michael Halloran, Chairman

Richard Andrews 9/21/18  
Richard Andrews

Horace McAnuff 9/17/2018  
Horace McAnuff

Donna Royer 9-21-18  
Donna Royer

Cory Gehret 9/20/18  
Cory Gehret

MAILED TO YOUR PETITIONER: Sept. 21, 2018

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