

**BEFORE THE
ZONING HEARING BOARD OF
FAIRVIEW TOWNSHIP, ERIE COUNTY, PENNSYLVANIA**

IN THE MATTER OF	:	
	:	Premises at 4674 Avonia Road
Property owner:	:	Fairview Township, PA
Joseph Hanlin	:	
483 Dorothy Avenue	:	Index No. 83-23.00-19.01
Fairview, PA 16415	:	

FINDINGS OF FACT

1. The Applicant is Phoebe Kutterna, 7686 West Ridge Road, Fairview, Pennsylvania, 16415.
2. Applicant rents property from Joseph Hanlin, owner of the subject property located at 4674 Avonia Road, Fairview, Pennsylvania, 16415.
3. The subject property is located in Fairview Township, Pennsylvania, and is identified by the Erie County Index No. 83-23.00-19.01. The parcel is currently zoned R-3.
4. The building on the property is currently used for industrial manufacturing. This use is not permitted in the R-3 Zone but exists as a lawful non-conforming use.
5. Applicant is requesting a special exception in accordance with Section 903 of Fairview Township's Zoning Ordinance to change the use from industrial manufacturing to a chiropractic office.
6. Chiropractic Offices are not permitted in the R-3 Zone.
7. The Applicant is requesting permission to erect a 3' x 4' sign in front of her chiropractic business.
8. The matter was referred to the Fairview Township Zoning Hearing Board ("Board"). The Board held a public hearing on Applicant's request on Tuesday, October 1, 2013.
9. Joseph Hanlin testified that he is the owner of the subject property. He has used the property for industrial manufacturing. He desires to lease the building to Applicant to allow her to relocate her chiropractic business to the subject property.
10. Applicant testified that the proposed use of the subject property would be more compatible with the R-3 Zone in that it would change from a noisy business to a professional office. She estimated that there would be no more than four patients at the subject property at any one time along with a chiropractor, office manager, and massage therapist.

11. Applicant testified that the business would be open on Monday, Wednesday, and Friday from 9:00 a.m. to 12:00 p.m. and from 2:00 p.m. to 6:00 p.m. and on Tuesday and Thursday from 9:00 a.m. to 12:00 p.m. She confirmed that there would be no medical waste associated with the business and that the existing parking lot (eleven parking spaces) was sufficient for her business needs.

11. Applicant requested permission to erect a three foot by four foot sign advertising the business.

12. James Cardman, Fairview Township Zoning Officer, testified that business signs are not permitted in the R-3 Zone but noted that civic buildings and churches are permitted to have similar signs in the R-3 Zone.

12. There was no other testimony offered either in favor of or in opposition to Applicant's request.

APPLICABLE SECTIONS OF LAW

Section 702 R-3 Suburban Multi District

A. Principal Uses

1. Single-family detached dwellings.
2. Multiple-family dwellings.
3. Parks, playgrounds and other publicly owned and/or operated, and subdivision association owned and/or operated recreational uses.
4. Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board.
5. Municipal or civic buildings, public libraries and museums, and fire and police stations.
6. Group homes, independent and assisted living residences, skilled nursing care homes, and resident hospitals may be permitted as a special exception by the Zoning Hearing Board . . .

Section 903 Changes

A non-conforming building, structure or use may be changed to another non-conforming use of the same type of use in a permitted zoning district or to a use in another zoning district that is more compatible with its adjacent zoning district as a special exception.

Section 1103 Powers and Duties

C. 2. No special permit shall be granted by the Zoning Hearing Board unless it finds that the use for which such permit is sought will not be injurious to the neighborhood or otherwise detrimental to the public welfare and will be in harmony with the general purpose of this Ordinance.

CONCLUSION OF LAW

Applicant has met the requirements for a special exception to change the use of the subject property from industrial manufacturing to a chiropractic office and to erect a 3' x 4' sign advertising her chiropractic business.

DECISION

AND NOW, this _____ day of _____, 2013, it is ordered that the application for a special exception to change the use of the subject property from industrial manufacturing to a chiropractic office and to erect a 3' x 4' sign advertising her chiropractic business is granted.

These Findings of Fact, Conclusions of Law, and Decision are signed this _____ day of _____, 2013.

Judy Miller, Chairperson

Brian McGrain

Keith Farnham

David Biletnikoff