



Wayne C. Luker, President
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1176 Old York Road Abington PA 19001-3713 Telephone: 267-536-1000

Zoning Hearing Notice

Notice is hereby given that the Zoning Hearing Board of the Township of Abington will hold a meeting as required by the Township's Zoning Ordinance at the Abington Township Administration Building, 1176 Old York Road, Abington, Pennsylvania, on:

Tuesday, December 13, 2016 at 7:00 p.m., at which time a public hearing will commence on the following application:

16-32: This is the application of **Igor Avagimyan, Sereja Chalumyan & Nina Avagimyan**, applicants for the property located at 1560 Old York Road, Abington, Pa. The applicants have requested a dimensional variance from Section 706.E, Use E-3.a of the zoning ordinance and seek relief from the limitation of 10 children per one half acre of lot area. A day care is a use-by-right within the Special Commercial District.

The property is zoned within the (SC) Special Commercial District of Ward #10 of the Township of Abington. A copy of the application and site plan are on file with the Planning & Zoning Office and is available for review during normal business hours.

By Order of the Zoning Hearing Board.

Mark A. Penecale
Planning & Zoning Officer

Note: There is a 30 day period after the date the decision is rendered for any and all aggrieved persons to file an appeal in the appropriate court to contest the actions of the Zoning Hearing Board. Applicants that take action on a Zoning Hearing Board Approval during the 30 day appeal period, do so at their own risk. If there are questions that you may have, please feel free to contact the Zoning Officer at 267-536-1014. If you are unable to attend the hearing, written comment may be entered into the record by submitting them in advance of the hearing to the Planning & Zoning Officer.



A-2

Zoning Hearing Board Application

Abington Township, PA

1176 Old York Road, Abington PA 19001, Fax: 215-884-8271, Telephone: 267-536-1000



This application must be accompanied by a minimum of ten (10) copies of the plot plan of the property, prepared and signed by a registered land surveyor or professional engineer. The plan must include lot area, lot dimensions, coverage percentages, existing structures, other improvements, proposed improvements, off-street parking, buffers and all characteristics on the site.

The Undersigned herein makes application for:

- Request for Variance from the Zoning Ordinance.
- Request for a Special Exception as provided by the Zoning Ordinance.
- Appeal from the actions of the Zoning Officer.

1. Name and address of the owner of the land: Phone number:

1560 OYR, LP Craig Lerch Jr.
PO Box ~~125~~ 246
Abington, PA 19001

2. Name and address of the applicant: Phone number:

Igor Avagimyan and Sereja Chalunyan
and Nina Avagimyan

3. Name and address of the attorney: Phone number:

4. If the applicant is not the owner of the property, list the applicant's interest in filing this application. Example: equitable owner, agent, lessee, etc.

lessee

5. Description of the property:

Address/location 1560 Old York Road, Abington, PA

Present use Commercial, Special Business

Proposed improvement Variance from Use E-3(a) "Adult/Child Day Care"

Zoning Hearing Board Application

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- 6. State briefly the reasons for which the proposed improvements or use does not meet the requirements of the Zoning Ordinance, and the nature of relief you are seeking:

Relief being sought is a variance to Abington Code Section E-3(a). Applicants seek to open a child care center for greater than ten (10) individuals. PA Code section 3270.61(b) dictates that the total number of children in a space is divided by 40 square feet, which is in contradiction to the 1/2 (.5) acre per ten children requirement that Abington Code Section E-3(a) requires. Additionally, PA Code section 3270.62(b) (1), (2) dictates that indoor or outdoor playspace is measured at 65 sqft per child on average, and slightly less for younger children. This is also in direct contradiction to Abington Code Section E-3.

- 7. List the specific section of the Zoning Ordinance upon which the application for a variance or special exception is based:

Section "Use E-3(a)"

- 8. Describe in detail the grounds for the appeal, or the reasons both in law and in fact for the granting of the variance or special exception, describing in detail the nature of the unique circumstances, and the specific hardship justifying your request for approval of the application.

It is not feasible nor reasonable to require 1/2 acre of land per ten children in a child care center. Without such variance, applicants (lessees), will not be able to open their business and bring revenue to the township. Further, the code section is an unreasonable restraint and too restrictive, prohibitive, and unduly burdensome.

- 9. List any and all prior Zoning Hearing Board action regarding the property. List the date, case number and the nature of the zoning relief granted.

none.

- 10. List any and all additional information, records, transcripts which may be helpful to the Zoning Hearing Board in rendering a decision: A minimum of eight (8) copies are required to be submitted.

Please see attached Pa Code applicable sections.

Signature of Applicant

Signature of Owner

Internal Validation:

Date Received:

Fee Paid: \$1500.00

Case: 16-32

Cash

Rec # 183102

Signature of the Zoning Officer

Mark Penecale

From: Kuhls Law <jckuhls@kuhlslaw.com>
Sent: Monday, November 14, 2016 8:37 AM
To: Mark Penecale
Cc: bjeckel@netzero.com; jckuhls@kuhlslaw.com
Subject: 1560 Old York Road

Mark,

As you know, this firm was retained late last week to represent Igor Avagimyan and other applicants in their pending application to the Abington Township Zoning Hearing Board for a day care center at 1560 Old York Road. A hearing on this matter was commenced before the Board on October 18, 2016. The transcript reveals the matter was continued, on the record, until November 15, 2016.

Upon my very recent introduction to this matter, it became immediately apparent to me that careful preparation (not yet complete) will be essential to establishing entitlement to the relief requested. To that end, I am now requesting, on behalf of the Applicants, that this matter now be continued further, until the Board's meeting on December 13, 2016.

Please accept this as a waiver of any and all time limitations set forth in the Pennsylvania Municipalities Planning Code, or elsewhere, for the holding of initial and/or continued hearings in this matter, and for the rendering of any decision in this matter. Any revocation of this waiver may only occur by 90-day prior written notice to you as Zoning Officer, copied to Mr. Eckel as ZHB Solicitor.

Thank you very much for your time and consideration, I'm sure we'll be speaking in the upcoming weeks. Please don't hesitate to give me a call if you have any questions at all.

Sincerely,

Joe

Joseph C. Kuhls, Esq.

KUHLS LAW PLLC

500 Office Center Drive, Suite 400
Fort Washington PA 19034
215.277.5536

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