

**NORTH FAYETTE TOWNSHIP  
ZONING HEARING BOARD**

**THURSDAY, OCTOBER 23, 2014  
7:30 P.M.**

The meeting was called to order with Vice Chairman Chip McCarthy presiding.

**MEMBERS PRESENT:**

Chip McCarthy, Vice Chairman  
Jim Bruni, Member  
Tim Bish, Solicitor  
Cheryl Cherico, Secretary

**MEMBERS ABSENT:**

George Bartha, Chairman

**OTHERS PRESENT:**

Robert Grimm, Township Manager  
Laura Ludwig, Township Community Development Director  
Leah Attanucci, Pittsburgh Reporting Service  
Nilesh Vadalia, Shiv Hospitality LLC  
Juan Duque, Zilka and Associates Architects  
Karey Pogonovich, 104 Pinoak Lane  
Stacy Pierce, 104 Pinoak Lane  
Sharon Loftus, Heritage Valley Health System  
Gary Hamilton, North Fayette Township VFD  
Marco Pompeo, Penn Lincoln Associates  
Christina Pompeo, Penn Lincoln Associates  
Paul Williams, Advanced Sign Company  
Shawn Jones, Heritage Valley Health System  
Wayne Cook, 8034 Steubenville Pike  
Deb DeBlander, 8034 Steubenville Pike  
Jess Vishner, 102 Pinoak Lane  
Katie Mazzocco, 102 Pinoak Lane  
Georgia Meyers, 107 Pinoak Lane  
Dan Augustin, 105 Pinoak Lane  
Martin & Nancy Cwynar, 103 Pinoak Lane

**ADMINISTRATIVE:**

Mr. McCarthy called for a motion to approve minutes from the Sept. 25, 2014, meeting.

**A MOTION WAS MADE BY MR. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO APPROVE THE MINUTES FROM THE SEPTEMBER 25, 2014, MEETING.**

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

Mr. McCarthy announced that prior to this meeting, the Board held an executive session to receive advice of the Solicitor.

Mr. McCarthy said notice of tonight's hearing was advertised and the subject property posted pursuant to the requirements of the PA Municipalities Planning Code.

Mr. McCarthy asked the Court Reporter to swear in witnesses and any members of the public wishing to comment during the hearings.

**UNFINISHED BUSINESS:**

**1. Karey Pogonovich and Stacy Pierce Setback Variance Request (Continued Hearing).**

Karey Pogonovich and Stacy Pierce are requesting a variance from the 10 foot minimum principal building side yard setback requirement of Section 27-205.3.A and Table 27-2 of Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended, to permit the construction of an addition (for purposes of a garage) to the existing single-family dwelling on property located at 104 Pinoak Lane in the Township R-3 Medium Density Residential District, currently designated as Allegheny County Block/Lot No. 690-b-15.

Mr. McCarthy said notice of this continued hearing was announced at the initial hearing on September 25, 2014, which was advertised, and the subject property posted, pursuant to the requirements of the Pennsylvania Municipalities Planning Code.

Mr. McCarthy entered Exhibits 19 through 23 referenced on the Exhibit List into the record of this hearing. He asked the court reporter to insert those exhibits into the transcript as if the exhibit list was read into the record.

Mr. Bish said the Board also needed to enter Exhibit No. 24 into the record. He said that is Phase 1 of Walden 2 Plan of Lots recorded with the Allegheny County Department of Real Estate at Plan Book Volume 107, Pages 1-5.

**Exhibits Entered at September 25, 2014 Hearing:**

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated August 24, 2014, along with the following attachments:
  - a. List of additional adjacent property owners in response to Application Item No. 9.

- b. Explanation of need for requested variance in response to Application Item No. 6 (dated August 6, 2014).
  - c. Aerial map dated August 5, 2014 showing parcel boundaries with subject property, currently designated as Allegheny County Block/Lot No. 690-B-15, highlighted.
  - d. Special Warranty Deed dated May 16, 2007 between First American Asset Closing Services as Attorney in Fact for Citimortgage, Inc. by Reason of Merger with Citifinancial Mortgage Company Inc., by Power of Attorney Recorded November 8, 2006 Instrument #2006-2406 (Grantor) and Karey L. Pogonovich and Stacy Pierce (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 13248, Page 415.
  - e. Plan entitled "Plan of Property", dated July 2010, prepared by Lawrence R. Elliott Surveying, Inc. with handwritten notations of the location of the proposed addition (for purposes of a garage) on the subject property.
3. Allegheny County Property Assessment Office webpages dated August 19, 2014 for property designated as Allegheny County Block/Lot No. 690-B-15 and providing aerial map showing parcel boundaries with subject property highlighted (4 pages).
  4. Public Notice and Proof of Publication for tonight's public hearing.
  5. Letter from Board Secretary dated September 8, 2014 to Karey Pogonovich and Stacy Pierce regarding notice of hearing.
  6. Letters from Board Secretary dated September 8, 2014 to neighboring property owners regarding notice of hearing (6 letters).
  7. Letters from Board Secretary dated September 11, 2014 to neighboring property owners regarding notice of hearing (7 letters).
  8. Photograph of Notice of Posting.
  9. E-mail from neighboring property owners Charles Meyers and Georgia Meyers dated September 19, 2014 objecting to the setback variance request.
  10. E-mail from neighboring property owner Janet Babski dated September 19, 2014 objecting to the setback variance request.
  11. E-mail from neighboring property owner Dan Augustin dated September 22, 2014 objecting to the setback variance request.
  12. E-mail from neighboring property owner Blanche Y. Sherman dated September 23, 2014 objecting to the setback variance request.

13. Photograph taken by Katie Mazzocco on September 25, 2014 at 3 p.m. from her property line at 102 Pinoak Lane showing the privacy fence located on her property and the railroad ties and retaining wall located on the subject property.
14. Photograph taken by Katie Mazzocco on September 25, 2014 at 3 p.m. from her property line at 102 Pinoak Lane with measuring tape showing proximity of the privacy fence located on her property to the railroad ties and retaining wall located on the subject property.
15. Photographs taken by Katie Mazzocco on September 25, 2014 at 3 p.m. from the deck on her property at 102 Pinoak Lane showing the cement pad and rear yard of the subject property (2 photos).
16. Petition submitted by Georgia Meyers.
17. Photographs taken by Charles Meyers approximately one week prior to hearing from Pinoak Lane showing the single-family dwelling located on the subject property (3 photos).
18. Survey, dated April 16, 1984, of property owned by Albert Mazzocco and Gloria Mazzocco located at 102 Pinoak Lane.

Exhibits Entered at October 23, 2014 Hearing:

19. Letter from Board Secretary dated October 9, 2014 to Karey Pogonovich and Stacy Pierce regarding notice of continued hearing.
20. Letters from Board Secretary dated October 9, 2014 to neighboring property owners regarding notice of continued hearing (8 letters).
21. Plans (undated) illustrating the design and building materials for the proposed addition on the subject property (3 pages).
22. E-mail dated October 22, 2014 from JoAnn Truchan, President of the Walden Woods Community Service Association Board of Directors, to Robert Grimm, Township Manager, stating the Walden Woods Community Service Association would not be involved in the variance application hearing since it involves a neighbor dispute
23. Walden Woods Community Service Association, Inc's Declaration of Covenants, Conditions, and Restrictions, By-Laws and Policy Resolution.
24. Phase 1 of Walden 2 Plan of Lots recorded with the Allegheny County Department of Real Estate at Plan Book Volume 107, Pages 1-5.
25. Letter from Gloria Mazzocco of 102 Pinoak Lane, dated Oct. 14, 2014 (4 pages - Submitted during hearing).
26. Photographs submitted by Katie Mazzocco taken Sept. 25, 2014, showing tilted retaining wall (2 photos - Submitted during hearing).

27. Photographs taken by Mr. Pogonovich on Oct. 14, 2014, showing different angles of the house at 104 Pinoak Lane. (5 photos - Submitted during hearing).

Mr. McCarthy said he would like to add that he was not present at the September 25, 2014, Zoning Hearing Board meeting, but has read the full transcript and has been fully briefed by the Solicitor, Mr. Bruni and Mr. Bartha. He said he is aware of all of the evidence and testimony that was presented and ready to hear more tonight. He asked Mr. Bish if he had any comments before he calls on the applicant.

Mr. Bish said at the end of the initial hearing, the Board requested that Mr. Pogonovich provide plans demonstrating the size of the proposed garage addition, length, width, height and number of stories of the proposed addition, the design of the proposed addition and building materials to be used for the proposed addition. He said Mr. Pogonovich did submit to the Township plans which comply with that request and the Board has inserted those plans into the record as Exhibit 21. He said he would also like to note for the record that the Township Manger received an email from the President of the Walden Woods Homeowners' Association, called the Walden Woods Community Service Association, dated October 22, 2014, that stated the Walden Woods Community Service Association would not be involved in the variance application hearing since it involved a neighbor dispute. He said the email also indicates that the HOA documents do not permit an addition on the side of the house in case Mr. Pogonovich was not aware of that and that the HOA documents do not permit a business to be operated within the house on the property. He said that email was entered into the record as Exhibit No. 22.

Mr. McCarthy said there are a lot of people here tonight as well so he asked that everyone please be patient so everybody has a change to say everything they want to say. He asked that the members of the public not talk over each other and be cordial so they can get through this. He said when someone has something to say, he asked that they rise and state and spell their name clearly for the court reporter. He asked Mr. Pogonovich if he had anything more to add.

Mr. Pogonovich said he submitted his plans and this is the first he has heard about not being able to add onto the side. He said he added onto the other side of the house 7 ½ years ago. He said he had nothing further.

Mr. McCarthy asked if Ms. Pierce had anything to add.

Ms. Pierce said no, nothing.

Mr. McCarthy asked if the board had any questions or comments at this time.

There were none.

Mr. McCarthy asked if the Township had any comments or questions.

Ms. Ludwig said she did want to note for the record that she and Mr. Saville, Township Code Enforcement Official, met with Mr. Pogonovich on Oct. 6, 2014, to discuss the Conditional Use application process and his various options. She said at that meeting, Mr. Pogonovich did mention that he has been looking for alternate space for quite some time. She said he has storage

space at Aunt Minnie's Storage and that is where he keeps most of his items related to his business. At that meeting, she said they basically advised him that the Township would be willing to work with him and give him some additional time before they moved forward with any cease and desist order since he did seem to be looking for space. Since then, through some of the Township's contacts in the area instead of going through some of the larger broker's like Mr. Pogonovich had been using, she said he may have found a location and may end up leasing some space next to Carbucks on Steubenville Pike. She said the Township intends to give him some additional time to work out the details and get it all together. She said typically, the Township gives 30 to 60 days. On the 60<sup>th</sup> day if there has been no progress on a lease, she said then the Township would expect Mr. Pogonovich to file a Conditional Use application for the Home Based Occupation and go through the proper steps to get that approval from the Township. She understands this is a separate issue from the garage, but she did want to note this for the record.

Mr. Pogonovich said thank you.

Mr. Bish asked if the Township was taking an official position on this application.

Ms. Ludwig said no, the Township was not.

Mr. McCarthy said at this time, the meeting was open to public comment. Again, he asked those wishing to comment to not speak over each other. He also asked the audience to not be repetitive from last month's meeting as all of those comments are already on the record.

Ms. Meyers approached the Board. She said she had a copy of a complaint that her husband submitted to Walden Woods Association that is very to the point. "Mr. 'P' (Pogonovich) at 104 Pinoak Lane is requesting a variance to the township's 10 foot minimum clearance regulation so he can construct a garage beside the house's existing garage. She said they were hoping to see a committee representative at the township meeting on Sept. 25 to inform (an apparently uniformed) Mr. Pogonovich of the Bylaws as follows: Walden Woods Bylaws: Policy Resolution, Article II. Environmental Protection Provision, Section 2.01 General Requirements (c) . . .

Mr. McCarthy said he wanted to stop her for a moment to see if they had a copy.

Ms. Meyers said there is relevance to this and she could skip the alterations that the Board already knows are not permitted. She continued reading the letter: "Mr. Pogonovich has constructed a gravel, two-lane wide, four (4) space parking lot on his front lawn. I can't imagine the EPB approving of a plan submitted for such a grotesque eye sore. Mr. Pogonovich has also constructed what amounts to a retaining wall composed of cement block on the garage side of the house. I can't imagine the EPB approving of such a plan. Covering the face of this wall with stone would seem to make it look like a regular landscape feature." She said the point of this is for the gravel driveway, the plan was submitted to the EPB and the EPB said no, that is not an acceptable situation and they denied it per the president and Mr. Pogonovich went ahead and built it any way. She said that is her point, it just seems that 104 Pinoak is above the law. She said it is a planned community and we all abide and all pay our dues and this is somebody that doesn't abide by anything. She said he goes ahead and does what he wants."

Mr. McCarthy asked if there was anyone else.

Mr. Augustin, 105 Pinoak Lane, said “Mr. P” as Ms. Meyers referred to is a good guy, hard worker, employs other guys and he likes the guy. He said they work sometimes six days a week and he admires their work ethic. He said his house was for sale two or three years ago and he had a lot of people like his house but said they couldn’t buy it because the house across the street is an eyesore. He said he thinks it is an eyesore. He said the other thing is that it is zoned residential and he is running a commercial business out of there. He said he didn’t know how the township lets that go.

Mr. McCarthy said again, that is outside of what the Board is dealing with. He said they are strictly dealing with the garage addition to the property.

Mr. Augustin said the only other thing he had to say was that his property value is being affected by what is across the street.

Mr. McCarthy asked if there was anyone else.

Ms. Mazzocco said she lives next door. She said she sent Ms. Ludwig an email late this afternoon with two different videos. In the prior meeting, the question was posed as to whether or not there was space on the other side of their house for a garage and whether the land was level. She said she took a video showing just their street, the proximately of her house and fence to the property line, how close the garage would look to the property line and also how on the other side of the house there is probably 25’ to 35’ that is completely flat. She said she doesn’t understand why that isn’t taken into consideration. She said she knows the garage is currently on the other side of the property, but the driveway could always be moved to the other side and make it an even bigger garage with a room downstairs if that is what he wants to do and if that is what he could be approved to do. She said she sent the video this afternoon, but Ms. Ludwig had also asked her to bring it with her tonight. Ms. Mazzocco she had it on her computer in case the Board wanted to take a look at it.

Mr. McCarthy said he wanted to be clear. He asked if the video was brought to illustrate the fact that Ms. Mazzocco believes there are other areas of the property where the garage could be located.

Ms. Mazzocco said it is also just to show how close it is to her property.

Mr. McCarthy said he understands. From reading the transcript of last month’s meeting, Mr. Saville testified that there are other spots on the property where that garage could be placed.

Ms. Ludwig said correct.

Mr. McCarthy said without having the proper video equipment or being prepared to show a video to the entire crowd where everybody would have a chance to view it and Mr. Pogonovich would have a chance to view it and respond to it, the Board could not submit that into evidence. He said it is already on the record what Ms. Mazzocco wants to illustrate with it.

Mr. Mazzocco said one of the other main things she wanted to talk about was at the last meeting, Mr. Pogonovich said that when he moved in he was given the blurry plan from Walden Woods Association which totally makes sense. She said he couldn't find anywhere in the County where they had plans that he could base the survey off of so he did the best he could off the blurry image that he had. She said she knows absolutely nothing about land and plans and surveys and things like that but she Googled "Real Estate Allegheny County" and got the phone number for the real estate department yesterday and called them. Within 10 minutes she said she was on the phone with a nice man named Jeff who talked her through how she could access it online. She said she went on line through the county's free search and within less than 2 minutes she had the plans for Walden Woods that had all of the same numbers on it as her survey. She said she understands that is the basis for why he feels he moved ahead with the garage and based his mortgage on it or whatever happens to be the situation. She said he also could have asked her mother to see her survey so there are two other ways that he could have gotten the plans to base the survey. She said he didn't do his due diligence seven years ago and that does not need to affect her family's property value, they shouldn't be responsible for his mistake. She said she took a video of the screen shot that she also sent to Ms. Ludwig. She said in less than four minutes and \$4 later, she had the plans to the property.

Ms. Mazzocco she just had a few more things she wanted to quickly say and one of those was that her mother wrote a letter that she wanted her to read. She asked if the Board wanted her to read it or just photocopy it and submit it to the Board.

Mr. Bish said she could just submit it to the Board. He asked if her mother was the owner of the adjacent property and not her.

Ms. Mazzocco said yes, her mother is the owner of the property, but she has power of attorney for her mother. She said her mother wrote the letter and signed it herself.

Mr. Bish said the Board would accept the letter into the record if Ms. Mazzocco had additional copies.

Ms. Mazzocco said she didn't have copies, but asked if she could make some.

Mr. Bish asked Ms. Cherico to make copies during a break in the hearing. He asked for the original copy now so it could be entered into the record.

Ms. Mazzocco asked if the Board already had copies of the Walden Woods plans.

Mr. Bish said yes. He said Exhibit 25 would be a written statement dated October 14, 2014, signed by Gloria Mazzocco, 102 Pinoak Lane (4 pages).

Ms. Mazzocco said she also wanted to comment about the railroad tie retaining wall that was built in order to support the expansion of the driveway. She said prior to the driveway being expanded, it was just a gentle grade – a normal slope of a hill. She said the retaining wall is, other than not being that attractive looking, already starting to lean towards her fence and towards her property. She said she feels if the board was to approve a garage and that was going to be the base and support for further driveway expansion and possibly for the garage, she didn't

feel that it was safe and that should be taken into consideration. She said she took a picture of it and tried to get it at the angle where the Board could see the tilting.

Mr. McCarthy said Mr. Pogonovich could come up and see the photos as well. He said there are two pictures.

Mr. Bish asked when the pictures were taken.

Ms. Mazzocco said the photos were taken Sept. 25, 2014.

Mr. Pogonovich said he had more pictures of his house if the Board . . .

Mr. Bish said hold on a second. He asked Mr. Pogonovich if he wanted to look at the photos presented by Ms. Mazzocco. He asked if that was a survey pin showing in the foreground of one of the photos.

Mr. Pogonovich said yes, it is.

Mr. Bish asked if both Ms. Mazzocco and Mr. Pogonovich agreed that it was a survey pin.

Ms. Mazzocco said yes.

Mr. Pogonovich said that was what the surveyor put in, but he wasn't saying it was correct.

Mr. Bish said okay. He said Exhibit 26 would be the two photos taken by Ms. Mazzocco on Sept. 25, 2014, showing the railroad tie retaining wall.

Ms. Mazzocco said she understands the Board was not going to accept a video, but there is a better shot of the retaining wall on the video showing how it is leaning.

Mr. Pogonovich asked if he could show his pictures.

Mr. McCarthy asked him to wait until the public comment section was concluded.

Ms. Mazzocco said her final comment was that her parents moved into the neighborhood in 1984 and have owned the house ever since. She said her parents moved here from Bloomfield where houses are built right on top of each other and it is an urban area. She said they moved to North Fayette because they wanted to have space and wanted the property line to be spacious between houses. She believed it was a disservice to her family and to their property value for there to be an exemption that they could build within 10' of the property line. She said that was all she had.

Mr. McCarthy asked if anyone else had anything.

Mr. Augustin said he was a little confused with the Board's reply to him. He said the number one issue here is that there is a commercial entity in a residential area.

Mr. McCarthy said his reply was meant as no disrespect to him or his concern. He was just saying that issue was not governed under the auspice of this hearing. He said this Board was not here to determine whether he's running a business out of his house.

Mr. Augustin said to him it is being used as a commercial property in a residential area. He asked how they could let him build a commercial building in a residential area.

Mr. McCarthy said that's not the issue at all, that's not what the hearing is about.

Mr. Augustin asked if that would be part of the determination when the Board says yes or no that he can build this.

Mr. McCarthy said the point of the Board's determination is based on the evidence presented and whether the applicant has met the requirements to obtain a variance.

Ms. Ludwig said she would like to add for the record that the business is a completely separate issue from the garage variance request. She said the first the Township heard of any complaints was when residents started receiving notification letters about the variance hearing. Someone running a business out of their home is not something that the Township building inspectors and code enforcement officials can tell from driving by a house. Again, she said the Township is working with Mr. Pogonovich. He says he is actively looking for space and it looks like he may have found some space to rent. She said the Township has given him a certain time period of an addition 30 to 60 days before he would have to file a Conditional Use application. She said there are two definitions in the zoning ordinance for businesses in the home. One is a home based business with no impact that is like when someone works from home for an insurance company and sits in front of a computer. The other is a home occupation where employees or customers are coming and going and that is a Conditional Use in all of the residential zoning districts. For a Conditional Use, it would need to through a public approval process as a completely separate process. She said they have given him some extra time to try to find other space. If he does not find said space within 60 days, she said he would need to apply for that Conditional Use and go through that process.

Mr. Augustin said this has been going on for seven years.

Ms. Ludwig said again, the first the Township heard of this was just a few months ago and staff has been actively trying to work with Mr. Pogonovich to find other space to help him out. She said she understands Mr. Augustin's concerns, but nobody called that she is aware of and she has been with the Township for a little over two years. Once the Township was made aware, Mr. Pogonovich was sent a letter asking him to cease and desist and letting him know that it is a Conditional Use and that he would need to file a Conditional Use application. Again, the Township met with him on Oct. 6 to talk about that process and to see if Township staff could assist with finding him some alternate space. She said she believed he may have found alternate space and it wouldn't have to get to the pointe of a Conditional Use application. She said hopefully they would soon see that there are no other business operations going on out of there.

Mr. Augustin said thank you.

Mr. McCarthy asked for further public comment.

Ms. Meyers said she had one quick comment. She said she spoke to the president of Walden Woods this week personally and she said whether or not he does or does not get the variance, he still has to put in a request through the EPB (Walden Woods Environmental Protection Board). She said the president also said because of the bylaws not allowing any additions put in the front or side of a home, it would have to be totally in the back, and it would not be approved.

Mr. McCarthy said he appreciated what Ms. Meyers is saying, but as the Board's Solicitor Mr. Bish already mentioned, that information was presented to the Zoning Hearing Board by the Walden Woods Association.

Ms. Meyers said she just wanted to be clear that variance or no variance the EPB will not give him permission to that. She said nobody in that plan of 700 or 800 homes have put another garage onto the side of their property. She said it is just not permitted and the reason that it wouldn't be is there is no room there for it.

Mr. McCarthy asked if there were any further public comments or questions.

There were none.

Mr. McCarthy asked Mr. Pogonovich if he had something further to add.

Mr. Pogonovich said these are pictures of his eyesore that he lives in. He pointed to a particular picture and said this is where the garage would go here and that is what was originally on the original set of plans when they first got the building permit.

Mr. Bish said Mr. Pogonovich was going to have to describe the photo to the Court Reporter.

Mr. Pogonovich said it was a photo of a foundation wall that is 1' out of the ground on one side and 4' in the back that was approved on the original building permit and that is the site where the garage is going.

Mr. Bish asked when the photos were taken.

Mr. Pogonovich said they were taken last Tuesday, October 14. He pointed to other photographs and said these are the stakes and the neighbor's fence. He said there are two different sets of pictures.

Mr. McCarthy said he wanted to be clear, the first set of pictures are of the house from various angles and of his yard, front, back, side and of the area where the garage would be located.

Mr. Pogonovich said that was correct.

Mr. McCarthy asked what the second set of pictures depicted.

Mr. Pogonovich said they are of the stakes that the surveyor put in and the Mazzocco's fence.

Mr. McCarthy asked who the surveyor was.

Mr. Pogonovich said it was the surveyor that he hired that only had the plans that he came up with as property files.

Mr. Bish asked if he utilized the recorded plans.

Mr. Pogonovich said he didn't know what he did. He said he was a part of the original surveying company that originally surveyed Walden Woods in the beginning.

Mr. McCarthy said so this is not pursuant to an official survey that has been entered into the record.

Mr. Pogonovich said yes.

Mr. Bish said what has been entered into the record is a survey that was provided by Ms. Mazzocco and a copy of the recorded plan.

Mr. Pogonovich said there was a . . .

Ms. Pierce said with the application.

Mr. Bish said he was sorry, Exhibit 2E is the survey dated July, 2010, provided by the applicant.

Mr. McCarthy said from this survey, the stakes that were put in . . .

Mr. Pogonovich said were put in by that company, North . . .

Mr. Bruni asked what the point was that he was trying to make.

Mr. Pogonovich said that is the fence line (he pointed to a picture). He said he doesn't agree with this to start with.

Mr. McCarthy asked then why was he submitting it as evidence.

Mr. Pogonovich said because Ms. Mazzocco said the fence was a foot away from the property line.

Mr. McCarthy said maybe according to their survey, they are a foot away from the property line. He said they aren't disputing this and doesn't want to get into the weeds on this. He said they aren't going to dispute where their fence is.

Mr. Pogonovich said that's fine.

Mr. Bish said Exhibit 27 would be five pictures submitted by Mr. Pogonovich taken Oct. 14, 2014.

Mr. Pogonovich said he had one more point to make. He said from this window from the first pane over to this side of the house is all brand new and was part of the original plans.

Mr. Bish asked if he could explain for the court reporter.

Mr. Pogonovich said if someone was looking at the left side of the house, the first window on the left of the set of three from there over is brand new extension to his house. He said he lives on a corner lot so he really has no back yard and no side yard.

Mr. Bish said no, he has two front yards and two side yards and no rear yard.

Mr. Pogonovich said right, that is what he meant. He said the association approved everything he has done up to this point. He said he can't go to the association without a building permit first. He said that is why the association was never talked to yet.

Ms. Pierce said they need the variance to get the building permit to get the association to approve it.

Mr. McCarthy said okay. He asked if anyone had anything else.

There was no response.

Mr. McCarthy announced the Board would go into Executive Session at 8:05 p.m.

The Board resumed at 8:11 p.m.

Mr. McCarthy asked if there were any further questions or comments on the application. Hearing none, he asked for a motion to close the public hearing.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO CLOSE THE PUBLIC HEARING.**

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

Mr. McCarthy asked for a motion on the application.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO DENY THE APPLICATION FILED BY KAREY POGONOVICH AND STACY PIERCE REQUESTING A VARIANCE FROM THE 10-FOOT MINIMUM PRINCIPAL BUILDING SIDE YARD SETBACK REQUIREMENT OF SECTION 27-205.3.A. AND TABLE 27-2 OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, RELATED TO CONSTRUCTION OF AN ADDITION (FOR PURPOSE OF A GARAGE) TO THE EXISTING SINGLE-FAMILY DWELLING ON THE SUBJECT PROPERTY DUE TO THE APPLICANTS' FAILURE TO SATISFY THE CRITERIA FOR THE GRANT OF A VARIANCE UNDER SECTION 910.2 OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE.**

**ROLL CALL:**

**JIM BRUNI  
CHIP McCARTHY**

**YES  
YES**

**NEW BUSINESS:**

**1. Heritage Valley Medical Group, Inc. and/or Heritage Valley Health System Sign Variance Request.**

Heritage Valley Medical Group, Inc. and/or Heritage Valley Health System is requesting a variance from the maximum number of business identification wall signs restriction and the maximum business identification wall sign size restriction of Section 27-1007.1.A and Table 27-11 of the Zoning Ordinance to permit the installation of a second business identification wall sign for Heritage Valley Health System located within the unit known as 400 Penn Lincoln Drive within the existing building located on property known as 200 West Allegheny Road in the B-1 Neighborhood Commercial District, currently designated as Allegheny County Block/Lot No. 799-D-13.

Mr. McCarthy entered Exhibits 1 through 13 referenced on the Exhibit List into the Record of this hearing. He asked the Court Reporter to insert the Exhibits into the transcript as if the Exhibit List was read into the Record.

**Exhibits Entered at October 23, 2014 Hearing:**

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated September 19, 2014, along with the following attachments:
  - a. Aerial map dated August 28, 2014 showing parcel boundaries with subject property, currently designated as Allegheny County Block/Lot No. 799-D-13, highlighted.
  - b. Third Amendment to Lease dated March 2014 between Penn Lincoln Associates (Landlord) and Heritage Valley Medical Group, Inc (Tenant).
3. Site Plan, dated December 7, 2001, prepared by Morris Knowles & Associates, Inc. with a handwritten notation of the location of the subject unit within the existing building located on the subject property.
4. Sign plans, dated September 10, 2014, prepared by Advance Sign illustrating the dimensions, design, and proposed location of the new business identification wall signs on the subject unit within the existing building located on the subject property (2 pages).
5. Letter from Marco Pompeo of Penn Lincoln Associates dated September 22, 2014 authorizing Heritage Valley Medical Group, Inc. to seek the requested sign variances.
6. Letter from Dan Murphy, Vice President, of Heritage Valley Health System dated October 3, 2014 authorizing Advance Sign to act as Heritage Valley Medical Group, Inc.'s agent for purposes of submitting applications for necessary sign permits and variances.

7. Allegheny County Property Assessment Office webpages dated October 2, 2014 for property designated as Allegheny County Block/Lot No. 799-D-13 and providing aerial map showing parcel boundaries with subject property highlighted (4 pages).
8. Public Notice and Proof of Publication for tonight's public hearing.
9. Letter from Board Secretary dated October 9, 2014 to Heritage Valley Health System regarding notice of hearing.
10. Letter from Board Secretary dated October 9, 2014 to Penn Lincoln Associates regarding notice of hearing.
11. Letter from Board Secretary dated October 9, 2014 to Advance Sign Co. regarding notice of hearing.
12. Letters from Board Secretary dated October 9, 2014 to neighboring property owners regarding notice of hearing (15 letters).
13. Photographs of Notice of Posting (3 pages).

Mr. McCarthy asked a representative to approach the Board.

Mr. Jones approached the Board.

Mr. McCarthy said before he presented his case, the board's solicitor had a question as to the status of who was the applicant for this request.

Mr. Bish said the application didn't clearly define who the applicant was whether it was the Heritage Valley Health System or if it was the Heritage Valley Medical Group. He said the Medical Group is the tenant to the building and the Health System obviously has an affiliation with the Medical Group, but the application did not indicate who the applicant was.

Ms. Loftus of Heritage Valley Health System said the tenant, Heritage Valley Medical Group, Inc., would be the applicant. She said services would be provided in the building by Heritage Valley Health System as well as Heritage Valley Medical Group, Inc.

Mr. Bish asked if they consent on the record to revise the application to say Heritage Valley Medical Group, Inc. is the applicant for the application.

Mr. Jones and Ms. Loftus said yes.

Mr. McCarthy asked if there was anything else to add.

Mr. Jones said they put the application through for the signage. He said they have had a medical office in another building within that plaza, 300 Penn Lincoln Drive, for 18 years. He said they decided to expand to increase the size and move some of the modality out of that location. He said they leased space across the parking lot at 400 Penn Lincoln Drive and have moved over the

rehab facility and other modality to that space, freeing up some space in the other building. He said when they put in the application for the signage at 400 Penn Lincoln Drive, it came to light that the amount of signage for the whole plaza was above the 200 square foot maximum for a building. He said the amount included the whole building so it kind of left their space at the end with no signage unless they requested a variance. At the same time, he said it looks like the way that it reads on the chart for the signage with 58 square foot of building frontage they should have 116 square foot for signage. He said they would like a sign on the front obviously, but also on the side of the building. As someone comes on the drive, they would like an additional sign on that side because it would be easier for patients and elderly patients when they first pull into the plaza to go straight to that building and not go to the other location by mistake. He said with both signs, the total square footage is under the 116 square feet, but it is over when considering the whole plaza. He said that is basically why they are here.

Mr. McCarthy asked if the Board had any questions or comments.

Mr. Bruni asked if they had any other signs on the property.

Mr. Jones said not on the 400 Penn Lincoln property. He said they do have signage on the building at 300 Penn Lincoln. He said on the building that they just moved into they have no signage. He said that was incorrect, they do have a temporary vinyl banner hanging there now.

Mr. Bruni asked if that would be removed.

Mr. Jones said yes, it would be removed if and when the other signs would be approved.

Mr. McCarthy asked if the solicitor had any questions or comments.

Mr. Bish said no, he had no questions on the material that has been entered into the record.

Mr. McCarthy asked if the Township had any questions or comments.

Ms. Ludwig said she had been working with the applicant and their sign company representative, Mr. Williams, who was also here tonight. She said they originally wanted to have larger signs and to have more signs. Per her recommendation to scale it down a notch, she said they are now requesting to only have the two signs. She said this is becoming a common, reoccurring theme with these applications for signage variances that exceed square footage for plazas, the retail and commercial plazas throughout the township. She said she didn't have any issues with this application and they have worked well with the Township and took her recommendation to heart and scaled it down. She said the frontage does allow for signage and given the typography and such of that location, it is a reasonable request.

Mr. McCarthy asked if the signs would be illuminated.

Mr. Jones said yes, they would be.

Mr. McCarthy asked if there were any public comments or questions. Hearing none, he asked for a motion to close the public hearing.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO CLOSE THE PUBLIC HEARING.**

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

Mr. McCarthy asked for a motion on the application.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO APPROVE THE APPLICATION FILED BY HERITAGE VALLEY MEDICAL GROUP, INC. (THE “APPLICANT”) REQUESTING A VARIANCE FROM THE MAXIMUM NUMBER OF BUSINESS IDENTIFICATION WALL SIGNS RESTRICTION AND THE MAXIMUM BUSINESS IDENTIFICATION WALL SIGN SIZE RESTRICTION OF SECTION 27-1007.1.A AND TABLE 27-11 OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, (THE “ZONING ORDINANCE”) RELATED TO THE INSTALLATION OF A SECOND BUSINESS IDENTIFICATION WALL SIGN FOR HERITAGE VALLEY HEALTH SYSTEM LOCATED WITHIN THE UNIT KNOWN AS 400 PENN LINCOLN DRIVE (HERINAFTER REFERRED TO AS “UNIT 400”) WITHIN THE EXISTING BUILDING LOCATED ON PROPERTY KNOWN AS 200 WEST ALLEGHENY ROAD IN THE B-1 NEIGHBORHOOD COMMERCIAL DISTRICT, CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NO. 799-D-13, (THE “SUBJECT PROPERTY”) IN ACCORDANCE WITH THE APPLICATION MATERIALS, PLANS, AND TESTIMONY ACCEPTED INTO THE HEARING RECORD BY THE BOARD AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. Compliance with Laws.** The Applicant and the use and development of the Subject Property shall comply with all applicable Federal, State, County, and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.
- 2. Permits and Approvals.** The Applicant shall apply for and obtain any and all necessary Federal, State, County, and Township permits and approvals for the installation of the proposed wall signs on the Subject Property. The Applicant and the use and development of the Subject Property shall comply with all such Federal, State, County, and Township permits and approvals.
- 3. Sign Variance Scope.** The variance from the maximum number of business identification wall signs restriction and the maximum business identification wall sign size restriction of Section 27-1007.1A and Table 27-11 of the Zoning Ordinance is strictly limited to permitting two (2) business identification wall signs (the “Proposed Wall Signs”) for the Applicant on Unit 400 within the existing building located on the Subject Property in accordance with the designs, sizes, and locations shown on the sign plans, dated September 10, 2014, prepared by Advance Sign and entered into the hearing record as Exhibit “4.” (hereinafter referred to as the “Sign Plans”).

4. **Sign Installation.** The Proposed Wall Signs shall strictly conform to the Sign Plans, except as revisions are necessary to comply with this decision and other necessary Township permits and approvals.
5. **Sign Location.** The Proposed Wall Signs shall be located on Unit 400 within the existing building located on the Subject Property in a location consistent with the Sign Plans.
6. **Sign Size.** The size of the Proposed Wall Signs shall strictly conform to the Sign Plans except as revisions are necessary to comply with this decision and other necessary Township permits and approvals.
7. **Sign Restriction.** In light of the grant of this variance for the Proposed Wall Signs, no further permanent or temporary signs on the Subject Property shall be installed, applied, or placed which do not comply with applicable Federal, State, County and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.
8. **Installation Deadline.** The installation of the Proposed Wall Signs shall be completed no later than six (6) months from the date of this decision.
9. **Variance Termination.** The variance granted by this decision is specific to the Proposed Wall Signs as referenced in the exhibits and testimony entered into the hearing record by the Board. This decision shall have no precedential value for similar applications by the Applicant or any other applicant at any location in the Township. The variance granted by this decision shall automatically expire and terminate immediately upon the Applicant ceasing to operate within Unit 400 in the existing building located on the Subject Property.
10. **Failure to Comply.** Failure to comply with the above referenced terms and conditions of this decision shall result in the variances being rendered null and void.

<b>ROLL</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

**2. SHIV Hospitality, LLC Sign Variance Requests.**

SHIV Hospitality, LLC variance requests is requesting variances from the following requirements of the Zoning Ordinance to permit the installation of additional business identification wall signs on the existing building for the hotel located at 1000 Park Lane in the B-2 General Business District, currently designated as Allegheny County Block/Lot Nos. 498-L-260: (1) a variance from the maximum signs per street frontage restriction of Section 27-1006.1 of the Zoning Ordinance; (2) a variance from the maximum business identification wall sign size restriction of Section 27-1007.1.A. and Table 27-11 of the Zoning Ordinance; and (3) a variance from the maximum number of business identification wall signs restriction of Section 27-1007.1.A. and Table 27-11 of the Zoning Ordinance.

Mr. McCarthy entered exhibits 1 through 12 referenced on the Exhibit List into the record of this hearing. He asked the Court Reporter to insert those exhibits into the transcript as if the Exhibit List was read into the Record.

Exhibits Entered at October 23, 2014 Hearing:

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated September 25, 2014, along with the following attachments:
  - a. List of adjacent property owners in response to Application Item No. 9.
  - b. Explanation of need for requested variances in response to Application Item No. 6 (dated September 25, 2014).
  - c. Special Warranty Deed dated March 21, 2014 between Park Lane Drive Hotel Development, LLC (Grantor) and SHIV Hospitality LLC (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 15550, Page 446.
3. Plan entitled “Partial Site Drawing – Proposed Canopy” (undated) illustrating the location of the proposed canopy on the subject property.
4. Plan, Drawing No. A2.1, entitled “Elevations”, dated September 10, 2014 and prepared by Zilka and Associates, Inc. illustrating the location of the proposed business identification wall signs on the existing building located on the subject property.
5. Plan, Drawing No. L1.1, entitled “Existing Site”, dated September 10, 2014 and prepared by Zilka and Associates, Inc. illustrating the existing improvements on the subject property with handwritten notations showing the location of the existing business identification wall signs on the existing building located on the subject property.
6. Letter from Kaushik P. Patel, President of SHIV Hospitality, LLC dated October 6, 2014 authorizing Zilka and Associates, Inc. to act as SHIV Hospitality LLC’s agent for purposes of submitting applications for necessary sign permits and variances.
7. Allegheny County Property Assessment Office webpages dated October 2, 2014 for property designated as Allegheny County Block/Lot No. 498-L-260 and providing aerial map showing parcel boundaries with subject property highlighted (4 pages).
8. Public Notice and Proof of Publication for tonight’s public hearing.
9. Letter from Board Secretary dated October 9, 2014 to SHIV Hospitality, LLC regarding notice of hearing.
10. Letter from Board Secretary dated October 9, 2014 to Zilka and Associates, Inc. regarding notice of hearing.

11. Letters from Board Secretary dated October 9, 2014 to neighboring property owners regarding notice of hearing (12 letters).

12. Photographs of Notice of Posting (3 pages).

Mr. McCarthy said before he asks a representative to approach the Board and present their case, the solicitor had some questions regarding the variances that were listed on the application.

Mr. Bish said he wasn't sure if this was addressed with Ms. Ludwig or not, but they had requested a variance from the setback requirements, and it appears that when the plans were prepared it was not with the correct setback listed on the plans. He said they do not need a variance from that setback. For purposes of the record, the applicant would need to withdraw that variance request from the setback on the record of this hearing.

Mr. Duque said yes.

Mr. Bish asked if he agreed to withdraw that request.

Mr. Duque said yes, that is correct. He said thank you for the clarification.

Mr. McCarthy asked Mr. Duque to present his case.

Mr. Duque said Mainstay Suites is in the process of double branding their property. He said the Mainstay is part of Choice Hotels and they want to bring two brands together which would be the Mainstay and Sleep Inn. He said they are two different types of accommodations, the Mainstay has an extended stay and with that extended stay request the pricing gets less expensive the longer they stay, and Sleep Inn is more of a constant. As part of the upgrade of that property and adding the Sleep Inn, they are requested to put in the signature tower with signs on two sides of that tower. Right now, he said they have two building signs.

Mr. McCarthy said they currently have two signs on the building as it stands right now.

Mr. Duque said that is correct.

Mr. McCarthy asked Mr. Duque if he could tell and show the Board location of each of the signs he is referencing.

Mr. Duque said one sign is on the west elevation. He said the south is the main entrance to the hotel and the existing second sign is on the north elevation. He pointed out the existing sign locations on the site plan.

Mr. McCarthy said those are the two existing signs now that say "Mainstay Suites".

Mr. Duque said that was correct.

Mr. McCarthy asked the existing square footage of those two signs.

Ms. Ludwig said they currently have two 60 square foot signs to be replaced with two 50 square foot signs.

Mr. Duque said they are lowering the size of those two signs and that would bring the total square footage of all four signs to under 200 square feet maximum sign size.

Mr. Bish said they would not need that variance request either if they are going to be under 200 square feet. He said they can discuss that a little later on.

Mr. Duque said the request is to have two additional building signs.

Mr. Bish said the plan that is marked Exhibit 5, drawing 1.1, there is a building sign designation that is shown on the plans which appears to indicate there would be three signs.

Mr. Duque said that is incorrect.

Mr. Bish said okay.

Mr. Duque said these were not his drawings and that should have been crossed out.

Mr. McCarthy said okay, thank you. He said for clarification, it is going to be one building that is running two different franchises.

Mr. Duque said brands, the franchise is Choice Hotels but it would have two brands.

Mr. Vadalia said Choice has ten brands and they are going to accommodate two of those brands with the extended and transient customer base in one building.

Mr. McCarthy asked if Mr. Vadalia was the owner.

Mr. Vadalia said he is part owner.

Mr. McCarthy asked the Exhibit number for this drawing.

Mr. Bish said it is Exhibit 4.

Mr. McCarthy asked Mr. Duque to approach the Board. He pointed to Exhibit 4 and asked if this was what the new signage was going to look like, or if this was the existing signage.

Mr. Duque said this is the size dimensions of the new signs.

Mr. McCarthy said the way this looks, there is a south elevation and a rear elevation. He asked if the signs were going to be on four sides of the building or if they were going to be on the same side of the building.

Mr. Duque pointed to the drawing and said this is the main entrance, south side, here. He said the new tower is going to be right here with a sign above here and here.

Mr. McCarthy said it wouldn't be a sign on top of the other; it would be one sign above and one sign below.

Mr. Duque said this tower at the top elevation would have a sign on two sides with the Mainstay signs resized and placed underneath.

Mr. Vadalía said the existing signage that is already there would be resized smaller but in same place.

Mr. Duque said the existing signage is going to be resized, but the location remains.

Mr. McCarthy said the tower is going to go right there with one sign facing out to Park Lane and one sign facing Summit Park Drive.

Mr. Duque said that was correct with a smaller version of the Mainstay sign under each of those.

Mr. McCarthy said the signs that are on the back of the building would remain as existing.

Mr. Duque said yes, only those signs would be resized smaller.

Mr. Bruni asked if all of these signs would be internally lit.

Mr. Duque said yes.

Mr. Bruni asked if this was the standard formatting that the franchise or brand requires.

Mr. Vadalía said yes, if someone wants to go to a Sleep Inn, they look for the Sleep Inn tower.

Mr. McCarthy asked if the Township had any comments or questions.

Ms. Ludwig said no, she has been speaking to Mr. Duque as the main contact with this application. She said they did clarify the setback issue and she believed he was just looking at the wrong column in the setback requirements. She said they would refund the \$50 to them for the size since they are under the 200 square feet.

Mr. Duque said the \$50 was the second variance which they no longer need.

Mr. McCarthy asked if they need to be on the record for withdrawing.

Mr. Bish said yes, they need to be on the record for withdrawing the maximum wall sign size variance request.

Mr. Duque said yes.

Mr. Bish said to confirm for the record, they have withdrawn the setback variance and the maximum wall sign size variance.

Mr. McCarthy announced the Board would go into Executive Session at 8:38 p.m.

The Board resumed at 8:41 p.m.

Mr. McCarthy asked if there was any public comment. Hearing none, he asked for a motion to close the public hearing.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO CLOSE THE PUBLIC HEARING.**

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

Mr. McCarthy asked for a motion on the application.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO APPROVE THE APPLICATION FILED BY SHIV HOSPITALITY, LLC (THE “APPLICANT”) REQUESTING A VARIANCE FROM THE MAXIMUM SIGNS PER STREET FRONTAGE, AND MAXIMUM NUMBER OF BUSINESS IDENTIFICATION WALL SIGNS REQUIREMENTS OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, (THE “ZONING ORDINANCE”) RELATED TO THE INSTALLATION OF BUSINESS IDENTIFICATION WALL SIGNS (THE “PROPOSED WALL SIGNS”) ON THE EXISTING HOTEL BUILDING LOCATED AT 1000 PARK LANE IN THE B-2 GENERAL BUSINESS DISTRICT, CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NOS. 498-L-260, (THE “SUBJECT PROPERTY”) IN ACCORDANCE WITH THE APPLICATION MATERIALS, PLANS, AND TESTIMONY ACCEPTED INTO THE HEARING RECORD BY THE BOARD AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. Compliance with Laws.** The Applicant and the use and development of the Subject Property shall comply with all applicable Federal, State, County, and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.
- 2. Permits and Approvals.** The Applicant shall apply for and obtain any and all necessary Federal, State, County, and Township permits and approvals for the installation of the Proposed Wall Signs on the Subject Property. The Applicants and the use and development of the Subject Property shall comply with all such Federal, State, County, and Township permits and approvals.
- 3. Maximum Number of Wall Signs Variance.** The variance from the maximum number of business identification wall signs restriction of Section 27-1007.1.A and Table 27-11 of the Zoning Ordinance permits the installation of four (4) business identification wall signs on the existing building located on the Subject Property in accordance with the designs, sizes, and locations shown on the plan identified as Drawing No. A2.1 entitled “Elevations”, dated September 10, 2014 and prepared by

Zilka and Associates, Inc., entered into the hearing record as Exhibit “3” (hereinafter referred to as the “Sign Plan”).

4. **Maximum Signs Per Street Frontage Variance.** The variance from the maximum signs per street frontage restriction of Section 27-1006.1 of the Zoning Ordinance permits the Applicant to install two (2) business identification wall signs on the western side of the existing building located on Subject Property facing Summit Park Drive in accordance with the designs, sizes, and locations shown on the Sign Plans.
5. **Sign Installation.** The Proposed Wall Signs shall strictly conform to the Sign Plans, except as revisions are necessary to comply with this decision and other necessary Township permits and approvals.
6. **Sign Location.** The Proposed Wall Signs shall be located on the existing building on the Subject Property in a location consistent with the Sign Plan.
7. **Proposed Wall Sign Design.** The Proposed Wall Signs shall be designed and constructed in a manner consistent with the Sign Plan, except as modifications are necessary to comply with this decision and other necessary Township permits and approvals.
8. **Sign Restriction.** In light of the grant of this variance for the Proposed Wall Signs, no further permanent or temporary signs on the Subject Property shall be installed, applied, or placed which do not comply with applicable Federal, State, County and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.
9. **Installation Deadline.** The installation of the Proposed Wall Signs shall be completed no later than six (6) months from the date of this decision.
10. **Variance Scope.** The variance granted by this decision is specific to the Proposed Wall Signs as referenced in the exhibits and testimony entered into the hearing record by the Board. This decision shall have no precedential value for similar applications by the Applicant or any other applicant at any location in the Township. The variance granted by this decision shall automatically expire and terminate immediately upon the Applicant ceasing to operate on the Subject Property.
11. **Failure to Comply.** Failure to comply with the above referenced terms and conditions of this decision shall result in the variances being rendered null and void.

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

### 3. North Fayette Township variance requests.

North Fayette Township is requesting the following variances from Section 27-205.6.B.(4) of the Zoning Ordinance to permit the construction of a privacy fence on property located at 8036 Steubenville Pike in the V Village District, currently designated as Allegheny County

Block/Lot No. 799-B-6: (1) a variance to permit the location of a portion of the proposed fence in the required front yard of the subject property; and (2) a variance from the maximum fence opening restriction to permit a fence with no openings on the subject property.

Mr. McCarthy entered Exhibits 1 through 9 referenced on the Exhibit List into the Record of this hearing. He asked the Court Reporter to insert those Exhibits into the transcript as if the Exhibit List was read into the Record.

Exhibits Entered at October 23, 2014 Hearing:

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated September 25, 2014, along with the following attachments:
  - a. Aerial map (undated) with subject property, currently designated as Allegheny County Block/Lot No. 799-B-6, highlighted illustrating adjacent properties in response to Application Item No. 9.
  - b. Allegheny County Property Assessment Office webpages dated September 23, 2014 for adjacent properties in response to Application Item No. 9 (8 pages).
  - c. Deed dated November 30, 1989 between Community Baptist Church of North Fayette Township (Grantor) and North Fayette Township (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 8148, Page 301.
3. Estimate dated August 3, 2014 from Metro Fence Co., Inc. providing the proposed layout, height, color, style, type, and length of the proposed fence.
4. Plan entitled "Existing Conditions", dated July 2012, prepared by Lennon, Smith, Souleret Engineering, Inc. illustrating the existing improvements on the subject property.
5. Allegheny County Property Assessment Office webpages dated October 2, 2014 for property designated as Allegheny County Block/Lot No. 799-B-6 and providing aerial map showing parcel boundaries with subject property highlighted (4 pages).
6. Public Notice and Proof of Publication for tonight's public hearing.
7. Letter from Board Secretary dated October 9, 2014 to North Fayette Township regarding notice of hearing.
8. Letters from Board Secretary dated October 9, 2014 to neighboring property owners regarding notice of hearing (6 letters).
9. Photographs of Notice of Posting (3 pages).

Mr. McCarthy asked a representative to approach the Board.

Mr. Grimm approached the Board.

Mr. McCarthy asked the Court Reporter to please swear in Mr. Grimm since he was not in the Board Room at the beginning of the meeting.

The Court Reporter swore in the witness.

Mr. Grimm said the Township and the North Fayette Township Volunteer Fire Department have been discussing an ongoing issue for a number of years that issue being that when volunteer arrive at the station 2 the way they are pulling in and parking is causing a couple of issues for the neighbor Mr. Cook. At night, there are lights shining into their home. At all times, there is that risk of somebody proceeding across the parking lot through the grass strip and God forbid they were pulling out of their driveway potentially having a conflict there. He said he had spoken to Mr. Bish about this. He said he knows that Mr. Cook and the Fire Department have done what they could to either back into the spaces, but in their defense they are trying to hurry to get to a call. The problem has become a little bit more exacerbated now because Northwest EMS has located in Station 2 in an effort to address the Township's overall construction plans on this site. He said the problem has just mushroomed. He said they looked at the possibility of shrubbery as opposed to a fence, but the problem with shrubbery is being able to get the number of shrubs and size of shrubs not to mention maintenance long term for everybody so they felt in the end the best solution would be to have a fence placed on the Township property between the two properties in such a way as to be able to block those lights. He asked Mr. Hamilton if he had anything to add after he was sworn in.

The Court Reporter swore in the witness.

Mr. Hamilton, Fire Chief of NFVFD, said he concurs with what Mr. Grimm has proposed. He said the fire department is absolutely 100 percent committed to making sure that Mr. & Mrs. Cook get the privacy that they deserve. He said he knows that living next to a fire station can't be easy. If this measure helps them, the fire department is 100 percent behind it.

Mr. Grimm said he thinks ultimately when the Township is completed with all of its moves and more public safety activity occurring there, this fence would become even more important.

Mr. McCarthy asked what the fence would look like. He asked if it was going to be a PVC fence.

Mr. Hamilton said he believed it was a PVC fence; it is on the spec sheet.

Mr. Grimm said it is a white fence.

Mr. Hamilton said it is PVC on both sides.

Mr. McCarthy asked if any light can get through it.

Mr. Hamilton said that is correct.

Mr. McCarthy asked how high the fence would be.

Mr. Grimm said 6’.

Mr. McCarthy asked if the Board had any further questions or comments.

Mr. Bruni asked if that would be adequate to address their concerns.

Mr. Grimm said they believe it would be. He said it is going to exceed the height of any vehicle headlights. He said obviously they can’t do away with the noise, can’t do away with the emergency lights shining at times, but they want to do what they can to help them out.

Mr. McCarthy asked if there were any comments or questions from the Township.

Ms. Ludwig no.

Mr. McCarthy asked if there was any public comment.

Mr. Cook said he agrees with everything that was said.

Mr. McCarthy asked for a motion to close the public hearing.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, TO CLOSE THE PUBLIC HEARING.**

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

Mr. McCarthy asked for a motion on the application.

**A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, APPROVE THE APPLICATION FILED BY NORTH FAYETTE TOWNSHIP (THE “APPLICANT”) REQUESTING VARIANCES FROM THE FENCE SETBACK LOCATION AND MAXIMUM FENCE OPENING RESTRICTIONS OF SECTION 27-205.6.B.(4) OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, (THE “ZONING ORDINANCE”) TO PERMIT THE CONSTRUCTION OF A PRIVACY FENCE (THE “PROPOSED FENCE”) ON PROPERTY LOCATED AT 8036 STEUBENVILLE PIKE IN THE V VILLAGE DISTRICT, CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NO. 799-B-6, (THE “SUBJECT PROPERTY”) IN ACCORDANCE WITH THE APPLICATION MATERIALS, PLANS, AND TESTIMONY ACCEPTED INTO THE HEARING RECORD BY THE BOARD AND SUBJECT TO THE FOLLOWING CONDITIONS.**

- 1. Compliance with Laws.** The Applicant and the use and development of the Subject Property shall comply with all applicable Federal, State, County, and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.

2. **Permits and Approvals.** The Applicant shall apply for and obtain any and all necessary Federal, State, County, and Township permits and approvals for the Proposed Fence on the Subject Property. The Applicant and the use and development of the Subject Property shall comply with all such Federal, State, County, and Township permits and approvals.
3. **Fence Setback Location Variance.** The variance from the fence setback location restriction of Section 27-205.6.B.(4) of the Zoning Ordinance permits the Proposed Fence to be located in the front yard setback of the Subject Property, as depicted on the “Proposed Layout” portion of the Metro Fence Co., Inc. estimate dated August 3, 2014 entered into the hearing record as Exhibit “3” (the “Metro Fence Estimate”).
4. **Minimum Fence Opening Variance.** The variance from the 50% fence opening requirement under Section 27-205.6.B.(4) of the Zoning Ordinance permits the Proposed Fence to have no openings.
5. **Fence Location and Construction.** The Proposed Fence shall be located and constructed on the Subject Property in a location consistent with the drawing on the Metro Fence Estimate, except as revisions are necessary to comply with this decision and any other necessary Township permits and approvals.
6. **Installation Deadline.** The installation of the Proposed Fence shall be completed no later than one (1) year from the date of this decision.
7. **Failure to Comply.** Failure to comply with the above referenced terms and conditions of this decision shall result in the variances being rendered null and void.

<b>ROLL CALL:</b>	<b>JIM BRUNI</b>	<b>YES</b>
	<b>CHIP McCARTHY</b>	<b>YES</b>

**COMMENTS:**

Mr. McCarthy asked if anyone had any questions or comments about anything. There were none.

**ADJOURNMENT:**

**A MOTION WAS MADY BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO ADJOURN THE MEETING AT 9 P.M.**

Respectfully submitted,

Cheryl Cherico  
Zoning Hearing Board Secretary