

**NORTH FAYETTE TOWNSHIP
ZONING HEARING BOARD**

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

The meeting was called to order with Mr. George Bartha presiding.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

John Scott, Alternate Member

OTHERS PRESENT:

Laura Ludwig, North Fayette Community Development Director
Bernie Roney, USA Special Services
Richard Smith, USA Special Services
Dr. Del Richard Boni, Boni Orthodontics

REORGANIZATION:

Mr. Bartha asked for a motion for the nomination of Chairman for the Zoning Hearing Board for the year 2014.

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. CHIP McCARTHY, AND CARRIED, TO NOMINATE MR. GEORGE BARTHA AS CHAIRMAN OF THE ZONING HEARING BOARD FOR THE YEAR 2014.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha asked for a motion for the nomination of Vice Chairman for the Zoning Hearing Board for the year 2014.

A MOTION WAS MADE BY Mr. JIM BRUNI, SECONDED BY Mr. GEORGE BARTHA, AND CARRIED, TO NOMINATE Mr. CHIP McCARTHY AS VICE CHAIRMAN OF THE ZONING HEARING BOARD FOR THE YEAR 2014.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha asked for a motion to appoint Timothy J. Bish and the law firm of Babst, Calland, Clements & Zomnir, P.C. as Solicitor for the Zoning Hearing Board for the year 2014.

A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO APPOINT TIMOTHY J. BISH AND THE LAW FIRM OF BABST, CALLAND, CLEMENTS & ZOMNIR, P.C. AS SOLICITOR FOR THE ZONING HEARING BOARD FOR THE YEAR 2014.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha asked for a motion for the nomination of Secretary for the Zoning Hearing Board for the year 2014.

A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO NOMINATE Ms. CHERYL CHERICO AS SECRETARY FOR THE ZONING HEARING BOARD FOR THE YEAR 2014.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha asked for a motion to appoint each zoning hearing board member as a hearing officer for the year 2014.

A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO APPOINT EACH ZONING HEARING BOARD MEMBER AS A HEARING OFFICER FOR THE YEAR 2014.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

ADMINISTRATIVE:

Mr. Bartha asked for a motion to approve minutes from the November 21, 2013, meeting.

A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO APPROVE THE MINUTES FROM THE NOVEMBER 21, 2013, MEETING.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

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

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

Mr. Bartha asked Mr. Bish to swear in the witnesses and any members of the public wishing to comment during the hearing.

Mr. Bish swore in the witnesses.

NEW BUSINESS:

1. Bill Chen Variance Requests (USA Special Services, LLC)

Bill Chen 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 1006.A(1) and Table 11 of the North Fayette Township Zoning Ordinance, Ordinance No. 360, as amended, in order to permit the installation of a business identification wall sign for USA Special Services, LLC on the existing building located at 610 Old Steubenville Pike in the B-1 Neighborhood Commercial District, currently designated as a portion of Allegheny County Block/Lot No. 799-D-6.

Mr. Bartha entered Exhibits 1 through 12 referenced on the Exhibit List into the hearing record. He asked that the Exhibits were entered into the transcript as if the list was read into the record. The applicant was given a copy of the Exhibit List.

The Exhibit List included:

1. Township Zoning Ordinance, Ordinance No. 360, as amended.
2. Application to Zoning Hearing Board dated January 2, 2014.
3. Aerial photographs (undated) demonstrating the location of the USA Special Services, LLC unit within the existing building located on the subject property (2 photographs).
4. Color photographs (undated) demonstrating the location of the currently installed business identification wall signs on the existing building located on the Subject Property and the currently installed pole sign on the Subject Property (11 photographs).

5. Lease dated November 17, 2012 between Bill Chen (Lessor) and Richard C. Smith and USA Special Services, LLC (Tenants) for the subject unit.
6. Plan (undated) prepared by FastSigns International, Inc illustrating the dimensions, design, and proposed location of the new wall sign.
7. Allegheny County Property Assessment Office webpage dated January 3, 2014 for property designated as Allegheny County Block/Lot No. 799-D-6 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 January 10, 2014 to Bill Chen regarding notice of hearing.
10. Letter from Board Secretary dated January 10, 2014 to USA Special Services, LLC regarding notice of hearing.
11. Letter from Board Secretary dated January 10, 2014 to neighboring property owner regarding notice of hearing (6 letters).
12. Photographs of Notice of Postings.
13. Township Exhibit - Signage size chart for businesses of the plaza (entered during the hearing).
14. Township Exhibit - Photographs (4 pages) of signage at the plaza (entered during the hearing).

Mr. Bartha asked a representative to approach the Board.

Mr. Smith, president and owner of USA Special Services, approached the Board. He said they have had an issue since they moved into the space in January of 2013. Throughout the last year, the issue has been when perspective clients, employees and some representatives of the other services that the company provides have tried to find them at that location, they can't. He said his receptionist would be on the phone for a period of time trying to direct them to the business because they cannot locate it. He said visitors have actually pulled into the parking lot and pulled right back out because they see all of the signs to identify the other businesses in the plaza, but nothing to identify his business. He said they have had potential clients give up and leave because they couldn't find it and this has been very frustrating and ongoing since they moved there. He said that is why they decided they needed an identification sign on the building. He said the other tenants in the plaza have frontage but his business is located in an office suite in the corner that has no frontage. He said Boni Orthodontics is also located in the suite, but he has an identification sign on the building face. He said he doesn't want to lose business because someone couldn't find him so he is asking the Board to grant the variances to be able to install a sign.

Mr. McCarthy asked if the 4' x 4' sign they are proposing would be an illuminated wooden structure.

Mr. Smith said it would be a hard plastic type material that can handle the weather, it doesn't warp and would not be illuminated. He said he didn't need for it to be lit because he is only open during daylight hours from 9 a.m. to 5 p.m. He said they kept the dimensions of the sign so it would be nothing out of the ordinary in terms of size. As a matter of fact, he said Dr. Boni is going to replace his sign and intends to move it over a little so the two signs could be centered over the end area they occupy.

Dr. Boni said essentially, there is a design flaw in the complex. Everybody has frontage except at that end. He said there are three businesses on the end of that plaza that don't have frontage on the building. He said he is on the corner and the business directly behind him still has some frontage towards the parking lot. He said the last piece of real estate within that professional plaza is where Mr. Smith is located. He said that is the design flaw that whatever business is located in that last suite is not directly facing the parking lot. He said he is changing his sign to one that is illuminated because he has been there 17 years and people still don't know where he is located and it is frustrating. He said when someone drives past in the evening, a hand carved redwood sign doesn't help. He said he talked with Ms. Ludwig concerning the guidelines for his new illuminated sign and how much frontage he had for placement.

Mr. Smith said unfortunately, the main sign on the road is missed when people drive by there because it blends in and they just don't see it. When they pull in the plaza, they just see all of the other businesses with signs on the building and just assume they are in the wrong place.

Dr. Boni said there are a few signs on that building that he and Mr. Smith are trying to have removed and they have entered into negotiations about it with Mr. Chen, the owner of the plaza. He said some of the signs are broken and in disrepair. He said the Eye Care Center sign is broken and is an eyesore; the chiropractor left so that sign needs to come down; the fitness center, Curves, sign needs to come down because they have been gone for a while and the new tenant in that spot has a ripped vinyl sign there now.

Mr. McCarthy said that is a question for the Township.

Dr. Boni said they have been trying to get the property owner to clean it up and have been on him about it since Mr. Smith moved in. He said it has always been him pushing the property owner by himself, but now he has another tenant working with him so they are starting to see some improvement.

Mr. Smith said the owner claims that he is going to take the signs down where there are no tenants, but said the winter weather has prohibited removal at this time. He said his concern is that people can't find him and he doesn't want to lose business over lack of identification.

Dr. Boni said his sign is centrally located on the wall and he plans to slide his over so Mr. Smith's sign and his could be equally centered over the area.

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

Ms. Ludwig said for the record, the Township doesn't have a problem per se with the application. She said they feel that with any business in the Township they want them to do well

and for people to know that they are there to provide services. She said the Township's concerns are more with some of the existing signage that could be removed, some of which adds to the total square footage creating the need for requesting a variance. She said there are others on the property that are illegal signs that actually violate Ordinance No. 360. She said in the past, the Board of Supervisors has been somewhat lax in enforcing the sign ordinance. She said it is a goal in the comprehensive plan that will be on public display and hopefully approved in a couple of months to really start to crack down on this type of thing and start to improve the Township's image.

Just for the record, Ms. Ludwig said she wanted to present the Board with two Township exhibits. She said there was a question as to the total square footage of all of the signs on the building. She said they only had certain ones in the Township's GeoPlan Software which is the permitting software. She said Dr. Boni's new sign would be added there. She said the total square footage of all of the signs is roughly 268.5 sq. ft. She said the total is based on what exists now including any banners which are illegal signage. She said that also includes as the applicant mentioned, Curves, the Robinson Eye Center and the Chiropractor's signs which are closed businesses so those signs should be removed as well as two illegal banners, one for the Tanning Salon and one for Cooked Goose Catering. She said the salon and the catering business just relocated there so the Township wanted to give them a little time before they were notified that they shouldn't be using banners. She didn't believe the applicant would actually need a variance for being over the square footage if the signs for vacated businesses were removed. She said Mike Saville, the Township Building Inspector, attempted to measure the signs that were not in GeoPlan from ground level, but those size dimensions are estimated. She said the signs that have a star on the sign chart are actual size dimensions on file with the Township. She said the ones that don't have a star are the estimated totals.

Mr. Bartha said they would enter the sign size chart into the record as Exhibit 13.

Ms. Ludwig said her second exhibit was pictures that Mr. Saville took of the signs earlier today. She said USA Special Services are not violators in any way and don't have any illegal stick in the ground signs like some other businesses do. She said they need to get Mr. Chen to crack down on some of his other tenants and get them to remove the illegal stick in the ground signs.

Mr. Smith said they have insisted on that with Mr. Chen. He said a couple of those signs are going to be removed.

Dr. Boni said they have had many meetings with Mr. Chen over recent weeks and those signs should be removed soon. He said he also spoke to the owner of the new tanning salon and believed his existing banner should be coming down soon because his new sign was being fabricated now and should be ready in the next couple of weeks. As far as the catering place, he didn't know what they had planned for signage. He said that banner is torn and crooked and has become an eyesore.

Mr. Bartha entered the 4 pages of colored photographs of signage into the record as Exhibit 14.

Ms. Ludwig said that was all she had for the Board unless anyone had any questions for her.

Mr. Bartha said the Zoning Hearing Board had no jurisdiction for enforcement of the illegal signs or the signs that should be removed due to no tenants so these gentlemen should be pursuing that back through the Township Supervisors and Ms. Ludwig on behalf of the Township for enforcement. He said that was not really for this Board to act or decide upon tonight and what the Board needed to do was act on the request for approximately 16 sq. ft. of new signage that the applicant was applying for tonight. He asked Mr. Bish if that was correct.

Mr. Bish said that was correct.

Ms. Ludwig said she did have one more comment. She said originally when the applicant called about this last November, they wanted to have two signs, one 16 sq. ft. and one 25 sq. ft. She said she did not recommend two signs given the lack of frontage and that the other tenants only had one sign. She wanted to note for the Board that they followed her recommendation and scaled it back to just one 16 sq. ft. sign.

Mr. Bartha asked if the Board had any further questions or comments for the Township.

There were none.

Mr. Bartha asked if there were any public comments or questions.

There were none.

Mr. Smith said he wanted to make one more comment. He said before he even went to the steps of requesting a sign on the building, he first took the necessary steps to put his business on the pylon sign for the plaza. He said it is on there but nobody ever sees that sign because it is baby blue and blends into the sky.

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

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

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

Mr. Bartha 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 BILL CHEN (HEREINAFTER REFERRED TO AS 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 1006.a(1) AND TABLE 11 OF THE NORTH FAYETTE TOWNSHIP ZONING ORDINANCE, ORDINANCE NO. 360, AS AMENDED, (HERINAFTER REFERRED TO AS THE "ZONING ORDINANCE") IN ORDER

TO PERMIT THE INSTALLATION OF A BUSINESS IDENTIFICATION WALL SIGN FOR USA SPECIAL SERVICES, LLC (HERINAFTER REFERRED TO AS THE “BUSINESS”) ON THE EXISTING BUILDING LOCATED AT 610 OLD STEUBENVILLE PIKE IN THE B-1 NEIGHBORHOOD COMMERCIAL DISTRICT, CURRENTLY DESIGNATED AS A PORTION OF ALLEGHENY COUNTY BLOCK/LOT NO. 799-D-6 (HERINAFTER REFERRED TO AS 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 sign 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 1006.A(1) and Table 11 of the Zoning Ordinance is strictly limited to permitting one (1) wall sign for the Business on the front wall of the existing building located on the Subject Property in accordance with the design, size and location shown on the Plan prepared by FastSigns International, Inc. (undated) entered into the hearing record as Exhibit 3 (hereinafter referred to as the “Sign Plan”).
4. **Sign Installation.** The proposed sign shall strictly conform to the Sign Plan, except as revisions are necessary to comply with this decision and other necessary Township permits and approvals (hereinafter referred to as the “Proposed Sign”).
5. **Sign Location.** The Proposed Sign shall be located on the front wall of the existing building on the Subject Property in a location consistent with the Sign Plan and otherwise in a location consistent with the current wall signs of the subject building.
6. **Sign Size.** The size of the Proposed Sign shall strictly conform to the Sign Plan 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 Sign, no further permanent or temporary signs for the Business 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 Sign 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 Sign 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 Business ceasing to operate within the subject tenant space of the unit 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 variance being rendered null and void.

ROLL CALL:	CHIP McCARTHY	YES
	JIM BRUNI	YES
	GEORGE BARTHA	YES

COMMENTS:

Mr. Bartha asked if anyone had any further comments or questions about anything.

Ms. Ludwig said she had two quick announcements. She said the draft of the Comprehensive Plan is almost done. She said she would be distributing a draft to everyone next Tuesday in person or via mail because that is the Board of Supervisor’s payroll meeting for the month. She said Township Department Heads, the Board of Supervisors, the Comprehensive Plan Steering Committee and the Planning Commission as well as the Zoning Hearing Board would all be getting a copy of the draft. She said she would love to have comments and feedback. She said the schedule for approval is very aggressive at this point. February 20 it would go on public display, the Planning Commission would hold its public meeting the first week of March at PTI and then the Board of Supervisors would hopefully hold its public hearing on April 8 with approval possibly by April 22. She gave a brief explanation about the Comprehensive Plan to the audience members.

Ms. Ludwig said her second announcement was requested by the Public Works Director Pat Felton. She said the Township is looking to expand the recycling program so a new recycling truck is being purchased that would have an arm that would lift the recycling container up to the truck. She said the truck is on order and is being built right now. She said the new program should start sometime in April but an actual date depends on delivery of the new truck. She said the containers in the corner of the room are examples of the containers that could be used with the new truck. She said there are condos and townhomes in the community where the smallest 35 gallon bin is going to suit them best because of condo and homeowner associations that wouldn’t allow the containers to be stored outside or they wouldn’t have garage space. She said they are currently trying to determine how many of what sizes they should order. The Township staff is looking for input from board members and residents. She said the new program would allow residents to recycle everything they do now as well as paper and cardboard into this one container.

ADJOURNMENT:

A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO ADJOURN THE MEETING AT 7:59 P.M.

Respectfully submitted,

Cheryl Cherico
Zoning Hearing Board Secretary