

**NORTH FAYETTE TOWNSHIP  
ZONING HEARING BOARD**

**THURSDAY, APRIL 23, 2015  
7:30 P.M.**

The meeting was called to order by Chairman George Bartha.

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

John Scott, Alternate Member

**OTHERS PRESENT:**

Laura Ludwig, Community Development Director  
Leah M. Attanucci, Pittsburgh Reporting Service  
Joyce Bashioum, 7402 Steubenville Pike, Oakdale  
Ed Bashioum, 7402 Steubenville Pike, Oakdale  
Rick Navickas, 7227 Steubenville Pike (Floral Magic)  
Rich Neville, 348 Harris, Buffalo, NY  
Ken Wolfe, 535 Forest Ave., Carnegie  
Dimitrios Pantzoulas, 7012 Steubenville Pike (Scoops & More)  
David Chavara, Hampton Technical, 35 Wilson St., Pittsburgh  
Brian & Jen Riley, Petallurgy (Flower Tent)  
Kurt Meeske, Clover Group  
John Kreutzman, 7411 Steubenville Pike, Oakdale  
Richard Neville, Clover Group

**ADMINISTRATIVE:**

Mr. Bartha asked for a motion to approve the minutes from the March 26, 2015, meeting.

**A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, TO APPROVE THE MINUTES FROM THE MARCH 26, 2015, MEETING. MOTION CARRIED.**

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

Mr. Bartha asked the court reporter to swear in witnesses and any members of the public wishing to comment during any of the hearings.

The court reporter swore in the witnesses.

**UNFINISHED BUSINESS:**

**1. Lancaster Land, L.P. Variance Request (Continued Hearing).**

Lancaster Land, L.P. and/or Clover Group are requesting variances from the following requirements of Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended (the “Zoning Ordinance”) to permit the construction of a senior housing development in the form of garden apartments and related appurtenances on certain property owned by Catholic Institute of Pittsburgh located at 7430 Steubenville Pike in the B-2 General Business District, currently designated as Allegheny County Block/Lot Nos. 496-A-1: (1) a variance from the minimum parking space requirement of Section 27-302.D and Table 27-6 of the Zoning Ordinance; (2) a variance from the maximum number of units per apartment building restriction of Section 27-703.B.(5) of the Zoning Ordinance; (3) a variance from the one tree per dwelling unit requirement of Section 27-207.1.D of the Zoning Ordinance; (4) a variance from the minimum number of interior landscape islands required by Section 27-207.2.B.(2)(b) of the Zoning Ordinance; (5) a variance from the minimum number of shade trees per landscape island required by Section 27-207.2.B.(2)(d); and (6) a variance from the minimum percentage of shade per parking area required by Section 27-207.2.B.(2)(h).

Mr. Bartha said notice of this continued hearing was announced at the initial hearing on March 26, 2015, which was advertised, and the subject property posted, pursuant to the requirements of the Pennsylvania Municipalities Planning Code.

Exhibits 1 through 17 were entered into the record during the March 26, 2015, hearing.

Mr. Bartha entered Exhibits 18 through 26 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.

The Exhibit List included:

18. Landscape Plan, Sheet L.101, dated April 22, 2015, prepared by Hampton Technical Associates Inc., illustrating landscaping for the proposed senior housing development and related appurtenances on the subject property.
19. Letter from David P. Chavara, Senior Project Manager with Hampton Technical Associates, dated April 16, 2015, explaining submittal of supplemental documentation and information requested at March 26, 2015, hearing.

20. Chart entitled "Clover Senior Communities Parking Information", dated April 10, 2015, providing list of Applicant's senior development properties opened 3 or more years with occupancy and parking counts.
21. Parking Generation Report, dated April 16, 2015, Prepared by Hampton Technical Associates, providing information on average peak period parking demand versus dwelling units on a weekday.
22. Letter from Board Secretary dated April 9, 2015, to Lancaster Land, L.P. /Clover Group regarding notice of hearing.
23. Letter from Board Secretary dated April 9, 2015, to Catholic Institute of Pittsburgh regarding notice of hearing.
24. Letter from Board Secretary dated April 9, 2015, to Hampton Technical Associates regarding notice of hearing.
25. Letter from Board Secretary dated April 9, 2015, to neighboring property owners regarding notice of hearing.
26. Photographs of Notice of Posting (2 pages).

Mr. Bish asked if Mr. Bartha had a copy of the minutes from last month.

Mr. Bartha said yes. He said he wanted to confirm that from the continued hearing last month, there were some commitments on additional documents that would be provided to the Board to be entered into the record. He asked the solicitor to revisit that list of documents.

Mr. Bish said there were four items that the applicant was requested to address. He said the first item was the applicant indicated they would check with their corporate office on whether or not they could agree to a restriction on the number of individuals living within a dwelling unit.

Mr. Bartha asked if whenever someone wanted to speak, if they could please stand, state their name and spell it the first time for the accuracy of the court reporter's record.

Mr. Meeske said he did speak to the corporate office relating to that situation and they follow the Fair Housing Act of two occupants per bedroom; however, that is not the living count that they experience in their senior housing projects.

Mr. Bruni asked if they were precluded by some law from saying two people per unit.

Mr. Meeske said he didn't ask that specific question of his counsel as to if he could agree to that.

Mr. Neville said per their leases, when they sign the leases, they are allowed to possibly have their grandkids stay for a limited number of nights.

Mr. McCarthy said right, they understand that.

Mr. Neville said that is it. He said they sign the lease and if it says a single woman is in there, then they are the only occupant. He said they are not allowed to have people come and stay so it is restricted in that manner.

Mr. McCarthy said they were under the impression from the last meeting that there was going to be two occupants maximum per unit.

Mr. Bish said he believed that was stated at the Planning Commission meeting.

Mr. Meeske said that is their typical occupant, yes.

Mr. McCarthy said now they are saying if they have two bedrooms, they could have four people.

Mr. Meeske said their experience is that they typically do not have more than two residents whether it is one bedroom or two.

Mr. Bartha said he wanted to be clear, is it two per bedroom or two per unit.

Mr. Neville said two per unit. He said there would be one bedroom units and two bedroom units.

Mr. Bartha said so, Mr. Neville is saying it would be two full time occupants per unit no matter how many bedrooms and not counting grandchildren staying overnight.

Mr. Neville said that was correct.

Mr. Bish asked if they would consent to a condition of the variance that would limited to two persons per unit.

Mr. Meeske and Mr. Neville said yes.

Mr. Bish said the second item, the applicant agreed to provide a list of their properties open for three or more years with the number of units, occupancy ratio and parking spaces at those facilities. He said the applicant did provide a table that was submitted into the record. He said it listed 11 facilities that have been open ranging from 1999 to 2014 with an average of 1.19 spaces per unit provided and an average of 0.93 spaces per unit utilized. At each of those facilities, the occupancy rate was between 91 percent and 100 percent with an average age between 76 and 84 years old.

Mr. Bish said the third outstanding item was that the applicant would provide the ITE Parking Generation Manual for the related use to this plan. He said it was provided and inserted into the record. He said they provided material from Hampton Technical in addition to an excerpt from the Parking Generation manual. He said that parking manual stated that the average parking supply ratio for senior adult housing is 1.0 space per dwelling unit.

Mr. Bish said with the fourth item, the applicant agreed to provide data whether a table or a chart on the revised landscape plan showing the number of required plantings under the zoning ordinance versus the number of plantings proposed. He said they were also to provide a landscape plan with a new revision date on it. He said they have submitted a revised landscape plan dated April 22, 2015, which includes a landscape requirement table. For the trees per dwelling unit

requirement, he said they have listed 128 trees would be required if they were going to have 128 dwelling units. He said the applicant stated they were going to have between 119 and 132 units.

Mr. Meeske said yes, he stated that.

Mr. Bish asked if there was a specific number they are requesting.

Mr. Meeske said they are currently dialed into pretty close to 126 units.

Mr. Bartha asked for clarification on “dialed into”, is 126 the number or is it not the number?

Mr. Meeske said it is the number.

Mr. Bish said they are providing 53 trees on the landscape plan which are outside the other landscaping requirements. For internal landscape islands, 16 islands would be required and the applicant provided 12 islands with one tree per island for a total of 12 trees. He said the islands that they are referring to on the landscape plan would be the end caps or end segments on the parking lot.

Mr. Meeske said yes, that is correct.

Mr. Bish said for shade tree percentage, the plan stated the township would require 20 percent of the parking area be shaded. He said it shows the applicant has provided 12 percent.

Mr. Meeske said that was correct.

Mr. Bish said the applicant also listed the bufferyard information but those are not subject of the hearing tonight.

Mr. Bartha asked Mr. Bish if he was satisfied that the outstanding requirements were satisfied.

Mr. Bish said yes, the applicant satisfied the outstanding issues requested by the Board.

Mr. Bartha asked if there were any questions or comments from the Board.

There were none.

Mr. Bartha asked if the applicant had anything further to ad.

Mr. Meeske said one of the issues in general . . .

The Court Reporter asked Mr. Meeske to please raise his voice so she could hear him.

Mr. Meeske said one of the issues that had been addressed previously was the proximately of the detention pond to the neighboring property. He pointed to the drawing and said there was a very limited area for buffering and he believed that was addressed at the previous meeting. He said they had refined the engineering and were able to pick up 10' additional.

Mr. Chavara said they have also reduced the size of the pond area by approximately 17 percent and moved the pond in 10' to provide those two rows of tree buffer. He said the pond did not grow in height or depth.

Mr. McCarthy asked if they still planned on keeping the pond in that area because they had talked about another location.

Mr. Meeske said yes, they are going to keep it in that area.

Mr. McCarthy said on the same lines, he asked the applicant to talk about a second access road.

Mr. Meeske said they are taking a look at all of the opportunities. He said there is quite a bit of a grade differential on one end of the site, about 15' and it would be a very limited area. He said they did find that the best they could do would be to provide another stabilized pathway in case there would be an accident at the main entrance. He said this secondary access point would be about 50' down from the main entrance and would at least provide another ingress and egress.

Mr. Bish asked if that would be grass creep or some other base.

Mr. Meeske said yes, or some other stabilized based that would be seeded. He said it would be kept clear of plantings and be gated to prevent people from using it as a main access. He said it would require a small paved apron from the right of way.

Mr. Chavara said Mr. Meeske said secondary access, but he preferred to call it an emergency access.

Mr. Bartha said thanks for the clarification.

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

Ms. Ludwig said the Township had nothing to add and was satisfied with the additional information that was provided.

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

There were none.

Ms. Ludwig said she did want to note for any of the neighboring residents in attendance that the applicant did submit their land development application and that would go before the Planning Commission at the May 19 meeting at 7:30 p.m. She said that meeting doesn't get advertised and notification letters are not sent which is why she wanted to announce it in case they wanted to attend.

Mr. Bartha asked if there were any more comments or questions from anyone.

Mr. Bruni said he just wanted to confirm that the number of units is 126.

Mr. Meeske said yes, that is correct.

Mr. Bartha said he wanted to make one more statement before they closed the record of this hearing. He said he as Chairman George Bartha was not in attendance for the last meeting, but has read the minutes from that meeting and examined all of the documentation that were provided so he did intend to vote on this application this evening. Even though he wasn't at the last meeting, he said he felt he was fully up to speed on it from everything he has read and the executive session prior to the meeting to be able to render an opinion on the decision. He asked Mr. Bish if that was satisfactory.

Mr. Bish said yes, it is.

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.**

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

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 LANCASTER LAND, L.P. (THE "APPLICANT") REQUESTING VARIANCES FROM THE MINIMUM PARKING SPACE, MAXIMUM NUMBER OF UNITS PER APARTMENT BUILDING, ONE TREE PER DWELLING UNIT, MINIMUM NUMBER OF INTERIOR LANDSCAPE ISLANDS, MINIMUM NUMBER OF SHADE TREES PER LANDSCAPE ISLAND, AND MINIMUM PERCENTAGE OF SHADE PER PARKING AREA REQUIRMENTS OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, (THE "ZONING ORDINANCE") RELATED TO THE CONSTRUCTION OF A SENIOR HOUSING DEVELOPMENT IN THE FORM OF GARDEN APARTMENTS AND RELATED APPURTENANCES (THE "PROPOSED DEVELOPMENT") ON CERTAIN PROPERTY OWNED BY CATHOLIC INSTITUTE OF PITTSBURGH LOCATED AT 7430 STEUBENVILLE PIKE IN THE B-2 GENERAL BUSINESS DISTRICT, CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NO. 496-A-1, (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 construction of the Proposed Development on the Subject Property, including but not limited to conditional use approval and land development plan approval from the Township Board of Supervisors. 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. **Restrictions on Proposed Development.** The Proposed Development on the Subject Property shall be subject to the following restrictions, as consented to by the Applicant on the record of the public hearing:
  - (a) All residents of the Proposed Development, except the on-site property manager, shall be age 55 or older; and
  - (b) Each dwelling unit within the Proposed Development shall have a maximum occupancy of two (2) persons.
4. **Off-Street Parking Variance.** The variance from the minimum off-street parking space requirement of § 27-302.D and Table 27-6 of the Zoning Ordinance relieves the Applicant of the requirement to provide one (1) parking space for each 200 square feet of gross floor area of the Proposed Development on the Subject Property. The off-street parking spaces provided and maintained for the Proposed Development shall, at any and all times, exceed the ratio of 1.2 parking spaces per occupied dwelling unit within the Proposed Development.
5. **Units Per Apartment Building Variance.** The variance from the maximum number of units per garden apartment building restriction of § 27-703.B.(5) of the Zoning Ordinance permits the Applicant to provide no more than 126 units in the Proposed Development on the Subject Property.
6. **One Tree Per Dwelling Unit Variance.** The variance from the one deciduous tree per dwelling unit requirement of § 27-207.1.D of the Zoning Ordinance relieves the Applicant of the requirement to plant one deciduous tree per dwelling unit on the Subject Property. The Applicant shall provide and maintain landscape plantings (trees, shrubs, perennials, etc.) on the Subject Property consistent with the Landscape Plan dated April 22, 2015 prepared by Hampton Technical Associates, Inc., entered into the hearing record as Exhibit “18”, except as modifications are necessary to comply with this decision and other necessary Township permits and approvals (the “Landscape Plan”). To the extent that the Landscape Plan does not include the number of deciduous trees required by the Zoning Ordinance, then the Applicant shall install the balance of the deciduous trees required by the Zoning Ordinance on Township property or other property in the Township acceptable to the Township Community Development Director.
7. **Surface Parking Area Interior Landscape Island Variance.** The variance from the minimum surface parking area interior landscape island requirements under §§ 27-207.2.B(2)(b) and (d) of the Zoning Ordinance relieves the Applicant of the requirement to locate interior landscape islands within the Proposed Development’s

surface parking areas. The Applicant shall provide and maintain landscape plantings (trees, shrubs, perennials, etc.) on the Subject Property consistent with the Landscape Plan. To the extent that the Landscape Plan does not include the number of interior landscape island plantings (trees, shrubs, perennials, etc.) required by the Zoning Ordinance, then the Applicant shall install the balance of the interior landscape island plantings (trees, shrubs, perennials, etc.) required by the Zoning Ordinance on Township property or other property in the Township acceptable to the Township Community Development Director.

8. **Surface Parking Area Shade Variance.** The variance from the minimum percentage of shade per surface parking area requirements under § 27-207.2.B(2)(h) of the Zoning Ordinance relieves the Applicant of the requirement to shade 20% of the Proposed Development's surface parking areas. The Applicant shall provide and maintain landscape plantings (trees, shrubs, perennials, etc.) on the Subject Property consistent with the Landscape Plan. To the extent that the Landscape Plan does not include the number of landscape plantings (trees, shrubs, perennials, etc.) required by the Zoning Ordinance, then the Applicant shall install the balance of the landscape plantings required by the Zoning Ordinance on Township property or other property in the Township acceptable to the Township Community Development Director.
9. **Construction Deadline.** The construction of the Proposed Development shall be commenced within one (1) year of the date of this decision and completed within two (2) years of the date of this decision.
10. **Variance Scope.** The variances granted by this decision are specific to the Proposed Development 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. No modification or change in the terms of this decision shall be effective unless approved by the Board through an amended variance.
11. **Variance Termination.** The variances granted by this decision shall automatically expire and terminate immediately upon the Applicant ceasing to own and/or operate the Proposed Development on the Subject Property.
12. **Failure to Comply.** Failure to comply with the above referenced terms and conditions of this decision shall result in the variances granted by this decision being rendered null and void.

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

**NEW BUSINESS:**

1. **Bob's Discount Furniture, LLC Variance Request**

Bob's Discount Furniture, LLC is requesting 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 to permit the installation of a business identification wall sign for Bob's Discount Furniture on the existing building located at 162 Quinn Drive in the B-2 General Business District, currently designated as Allegheny County Block/Lot No. 412-J-8.

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 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 April 23, 2015 Hearing:

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated March 16, 2015, along with the following attachments:
  - a. Sign plan dated February 25, 2015 prepared by Ace Signs, Incorporated illustrating the dimensions, design, and proposed location of the proposed business identification wall sign.
  - b. Sign installation plan dated August 1, 2014 prepared by Ace Signs, Incorporated illustrating the dimensions and installation details of the proposed business identification wall sign.
  - c. Color photograph (undated) of the existing building located on the subject property with handwritten notation indicating the location of the proposed business identification wall sign on the same.
  - d. Land Title Survey, dated March 28, 2013, most recently revised May 23, 2013, prepared by Morris Knowles & Associates, Inc. illustrating the location and dimensions of the existing building and associated parking located on the subject property.
3. Lease dated November 25, 2014 between WP Plaza Pointe Associates, L.P. (Landlord) and Bob's Discount Furniture, LLC (Tenant) for a unit within the existing building located on the subject property.
4. Letter from John Byrne, Regional Property Manager, WP Realty Inc., dated March 23, 2015, to Zoning Hearing Board authorizing Bob's Furniture Discount Furniture to seek the requested sign variance.
5. Letter from Andy Tate, Construction Manager, Bob's Discount Furniture, Inc., dated March 23, 2015, to Zoning Hearing Board authorizing Shamrock Signs to seek the requested sign variance on behalf of Bob's Discount Furniture, Inc.

6. Allegheny County Property Assessment Office webpages dated April 2, 2015 for property designated as Allegheny County Block/Lot No. 412-J-8 and providing aerial map showing parcel boundaries with subject property highlighted (5 pages).
7. Public Notice and Proof of Publication for tonight's public hearing.
8. Letter from Board Secretary dated April 9, 2015 to Bob's Discount Furniture regarding notice of hearing.
9. Letter from Board Secretary dated April 9, 2015 to Shamrock Building Services regarding notice of hearing.
10. Letter from Board Secretary dated April 9, 2015 to WP Plaza Pointe Associates, LP regarding notice of hearing.
11. Letters from Board Secretary dated April 9, 2015 to neighboring property owners regarding notice of hearing.
12. Photographs of Notice of Posting (2 pages).

Mr. Bartha asked a representative to approach the Board and state their case.

Mr. Wolfe approached the Board and said he was in attendance representing the applicant in order to be able to place a business identification sign on the building. He said the ordinance states only one sign per building or business and this plaza already has 10 other businesses in one continuous strip mall. He said this would be the 11<sup>th</sup> business in there and one of the larger tenants at 104 feet long in this strip mall. He said they want to install a 177 square foot sign for identification because this is a new business and the site is almost 600 feet from the road; they are only asking for decent identification to let people know where they are located. He said he submitted drawings with the application to show what the LED lit sign would look like and where they want to place it. He said this would be under the 200 square foot requirement of the ordinance. He said with the ordinance stating there can only be one sign per building, the hardship was not created by the applicant and they are just asking for relief from the ordinance to be able to identify the business.

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

Mr. Bish said he wanted to note that the Zoning Hearing Board had previously granted a sign variance to Mattress World just a couple of doors down from this business and that was for a 192.47 square foot sign.

Mr. Wolfe said there are other, larger signs in that plaza, too.

Mr. Bartha said for the record, this sign is 177 square feet.

Mr. Wolfe said correct.

Mr. Bartha asked if there would be any external lights shining from the sign.

Mr. Wolfe said it would be internally lit with LED, low voltage.

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

Ms. Ludwig said no, but she did want to note for the record that similar variance requests have been approved in the past. She said the Township realizes the ordinance as it is written does not really cater to retail plazas where multiple businesses are in a building that is considered one building. She said they will be looking to address that as the ordinances is updated so businesses would not have to go before the Board for this type of issue.

Mr. Bartha said that would be the Board's recommendation so they are glad she is already ahead of that recommendation.

Ms. Ludwig said the Township doesn't have any issues with this request. She said she also wanted to note for the record that she did speak with Andrew Tate, the contact on the application, because if any of the Board members have heard any of their advertisements either on the radio or the television, they were advertising as being in Robinson Township. She said she believed their radio ad had actually been updated since her email to him to get on board with their efforts in trying to reverse the trend at the Pointe at North Fayette. She said the radio ad has been updated and hopeful they will do the same with the television ad once they actually open. The ads state coming soon to Monroeville and Robinson and hopeful they will change to they are open in Monroeville and North Fayette.

Mr. Wolfe said they are working to identify the plaza on Quinn Drive since there are several other retail plazas in the area. He said the Pointe Plaza is a large place anyway with several out parcels.

Mr. Bartha said the Board appreciated their willingness to recognize that.

Mr. Wolfe said a lot of times this area is perceived at Pittsburgh because of the zip code. He said they do a lot of signs and work for some big chains that call and say they need a sign for Pittsburgh, and they tell them this is not Pittsburgh.

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

There were none.

Mr. Bartha asked if anyone had any further comments or questions. Hearing none, he 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.**

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

Mr. Bartha called for a motion on the application.

**A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO APPROVE THE APPLICATION FILED BY BOB'S DISCOUNT FURNITURE, LLC ("THE APPLICANT") REQUESTING A VARIANCE FROM 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 BUSINESS IDENTIFICATION WALL SIGN (THE "PROPOSED SIGN") FOR BOB'S DISCOUNT FURNITURE ON THE EXISTING BUILDING LOCATED AT 162 QUINN DRIVE IN THE B-2 GENERAL BUSINESS DISTRICT, CURRENTLY DESIGNATED AS ALLEGHENY COUNTY BLOCK/LOT NO. 412-J-8, (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 construction of 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 Size.** The variance from the maximum business identification wall sign size restriction of § 27-1007.1.A. and Table 27-11 of the Zoning Ordinance is strictly limited to permitting the installation of the Proposed Sign on the Subject Property in accordance with the 177 square foot size shown on the sign plan, dated February 25, 2015, prepared by Ace Signs, Incorporated entered into the hearing record as Exhibit "2.a." (the "Sign Plan"), except as revisions are necessary to comply with this decision and other necessary Township permits and approvals.
4. **Sign Location.** The Proposed Sign shall be located on the front wall of the existing building on the Subject Property in the location consistent with the Sign Plan and the color photograph of the Subject Property containing handwritten notation indicating the location of the Proposed Sign on the existing building on the Subject Property entered into the hearing record as Exhibit "2.c.", and otherwise in a location consistent with the wall signs currently installed on the subject building.
5. **Sign Installation.** The Proposed Sign shall strictly conform to the plan dated August 1, 2014 prepared by Ace Signs, Incorporated entered into the hearing record as Exhibit "2.b.", except as revisions are necessary to comply with this decision and other necessary Township permits and approvals.

6. **Sign Restriction.** In light of the grant of this variance for the Proposed Sign, no further permanent or temporary signs on the Subject Property shall be installed, applied, or placed that do not comply with applicable Federal, State, County and Township laws, statutes, ordinances, resolutions, and regulations, including but not limited to the Zoning Ordinance.
7. **Installation Deadline.** The installation of the Proposed Sign shall be completed no later than six (6) months from the date of this decision.
8. **Variance Scope and Termination.** The variance granted by this decision is specific to the Proposed 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 the existing building located on the Subject Property.
9. **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.

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

**2. Petallurgy, LLC d/b/a Flower Tent Variance Request**

Petallurgy, LLC d/b/a Flower Tent is requesting a variance from the maximum number of cumulative special event days permitted on a lot under Section 27-205.6(8)(c) of the Zoning Ordinance to permit the installation of a seasonal flower tent on property located at 7012-7014 Steubenville Pike in the B-2 General Business District, currently designated as Allegheny County Block/Lot No. 412-R-11.

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 entered Exhibits 1 through 13 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 April 23, 2015 Hearing:

1. Chapter 27 of the North Fayette Township Code of Ordinances, Zoning, as amended.
2. Application to Zoning Hearing Board dated March 23, 2015, along with the following attachments:

- a. Letter (undated) from Brian Riley and Jennifer Riley, owners of Petallurgy, LLC d/b/a Flower Tent explaining variance request.
  - b. Color aerial photograph illustrating adjacent properties (with handwritten markups) in response to Application Item No. 9.
  - c. Color aerial photograph (undated) of the subject property with handwritten notation indicating the location of the proposed flower tent and associated parking for the same on the subject property.
3. Deed dated January 28, 2014 between Marie Saveikis (Grantor) and Marie Saveikis, As Trustee Pursuant to the terms of the Marie Saveikis Trust Agreement dated May 29, 2012, (Grantee) recorded with the Allegheny County Department of Real Estate at Deed Book Volume 15509, Page 436.
  4. Installment Land Sales Agreement dated July 9, 2013 between Samuel J. Pasquarelli, Esq., as Trustee of the Trust for the Children of Richard Saveikis (Seller) and Dimitrios J. Pantzoulas (Buyer).
  5. Lease Agreement dated December 9, 2014 between Dimitrios Pantzoulas (Lessor) and Petallurgy, LLC (Lessee) for a portion of property located at 7012 Steubenville Pike, Oakdale, PA 15071.
  6. Letter from Dimitrios Pantzoulas dated November, 2014 to Zoning Hearing Board authorizing Petallurgy, LLC d/b/a Flower Tent to construct the proposed flower tent on the subject property and seek the requested sign variance.
  7. Color photographs of flower tents similar to the proposed flower tent on the subject property (3 photographs).
  8. Allegheny County Property Assessment Office webpages dated April 2, 2015 for property designated as Allegheny County Block/Lot No. 412-R-11 and providing aerial map showing parcel boundaries with subject property highlighted (5 pages).
  9. Public Notice and Proof of Publication for tonight's public hearing.
  10. Letter from Board Secretary dated April 9, 2015 to Petallurgy, LLC d/b/a Flower Tent regarding notice of hearing.
  11. Letter from Board Secretary dated April 9, 2015 to Marie Saveikis Trust/Angela Saveikis regarding notice of hearing.
  12. Letters from Board Secretary dated April 9, 2015 to neighboring property owners regarding notice of hearing.
  13. Photographs of Notice of Posting (2 pages).

Mr. Bartha asked a representative to approach the Board.

Mr. Riley approached the Board.

Mr. Bish said there was a typo on the second page of that application. Mr. Riley had stated on the first page that he was requesting a variance and then on the second page checked the temporary use permit or extension.

Mr. Riley said correct.

Mr. Bish said that box was a typo on the application form and it has been revised since then. He asked the applicant to withdraw their request for that temporary use permit or extension because they don't have that under the zoning ordinance. He said they are still requesting the variance.

Mr. Riley said they are requesting the variance for the event to go beyond the 14 days.

Mr. Bish said correct, but there is no jurisdiction of the Zoning Hearing Board related to a temporary use permit or extension.

Mr. Riley said okay and he asked to withdraw that request.

Mr. Bish said thank you.

Mr. Bartha asked the applicant to present his case.

Mr. Riley said he wanted to thank the Board for allowing them the temporary permit that they did utilize to open for Easter. He said they had only used 7 of the 14 days that they were permitted to remain open for Easter. During that time, it gave them a good opportunity to see how the Township and customers within the community responded to their product and business plan. It also gave the opportunity for the Board and members of the community to see how they run their business. He said as a franchise, they have 100 locations and granted, they are a little bit odd in how they go about their business by being a temporary, seasonal business out of a tent; but, it is how they go about their business. Many communities that they go to don't have limits such as this so it was the first time they have come across this as a franchise in Pittsburgh. He said there may be some on the east coast and other locations but this is the first time they have kind of had to deal with this, so they are looking to extend it for an additional 54 days so they can be open from April 30 through June 21<sup>st</sup> at the absolute latest.

Mr. Bartha said as he understands, part of what would be their justification for granting a variance like this would be a hardship.

Mr. Bish said correct.

Mr. Bartha asked if he could make sure the applicant understands fully what the requirements are for granting a hardship variance like this tonight.

Mr. Bish said yes, on page two of the application form is a summary of the five criteria that are required by the Municipalities Planning Code for the grant of a variance. He said the first requirement is there has to be hardship resulting from unique physical conditions on the property

that is the subject of the application. He asked the applicant what is the unnecessary hardship which results from unique physical conditions of the property.

Mr. Riley said he wasn't seeing how the property . . . not understanding how a hardship applies in this case where they are just putting up a tent in a parking lot for a temporary time.

Mr. Bish said under the Municipalities Planning Code they have to prove all five, so they need to prove that they have an unnecessary hardship and that hardship has to relate to a unique physical condition on the property. He said usually, it is like the narrowness of the lot, terrain of the property and he believed that is a flat lot.

Mr. Riley said correct.

Mr. Bish said that is the first requirement. The second requirement is that due to a unique physical condition of the property, the subject property cannot be developed in conformity with the zoning ordinance and the variance is necessary for the reasonable use of the property. He asked if the property was currently being used.

Mr. Riley said it is being used as a parking lot, as empty space. Whenever he applied for the original special event permit, he said he provided an overlay and a map of the land and the proposed use of the tent, where it would be located and where all parking spaces would be. He said he worked with Mike Saville, Building Code Enforcement Official, who came out and visited the tent to make sure that everything was fine with parking and handicapped accessibility, fire extinguishers and everything necessary for it being a temporary use.

Mr. Bish said the lot that they are proposing to be located on has existing businesses on it.

Mr. Riley said right.

Mr. Bish asked what businesses are those.

Mr. Pantzoulas said he is the owner of the property and also owns the business, Scoops & More, at 7012 Steubenville Pike.

Mr. Bish said in addition to Scoops & More, are there any other businesses on that property, a barber shop?

Mr. Pantzoulas said yes, there are on the other side of the property, Plush Salon & Spa, Tonidale Barber Shop and Tonidale Yarn Shop.

Mr. Bish said so the property currently is being used for uses that are permitted by the zoning ordinance.

Mr. Pantzoulas said correct.

Mr. Bish said the third requirement is that if there is a necessary hardship, that hardship has not been created by the applicant. The fourth requirement is that the requested variance will not alter

the essential character of the district or neighborhood nor substantial impair the development or use of adjacent property, nor be detrimental to the public welfare.

Mr. Riley said correct, and having been open for those seven days, there was nothing detrimental with any parking issues, traffic issues, with any neighboring businesses. He said he stopped and spoke to many of them and they had no issues with where they are located. He said the only thing that is the closest to it is the Quality Inn and that's just an entrance to their parking.

Mr. Bish said the last requirement is that the requested variance is the minimum necessary to afford relief. He said the applicant requested an additional 54 days.

Mr. Riley said correct.

Mr. Bish said to approve that requirement, the applicant would have to show how they need 54 days and not 50 days or 40 days.

Mr. Riley said the business plan the Flower Tent franchise offers to them is to be open from 10 days before Easter until Easter, close until 10 days before Mother's Day and then stay open until mid-June. He said they say mid-June because the closing date is very fluid, depending on how business is going. If it starts to get really hot with the weather, he said people are done planting and they stop coming in. Luckily, he said they have the option to close at any point in time whenever business starts to get slow. He said he used June 21<sup>st</sup> as an example of the absolute latest date that they would be occupying the property, including tear down.

Mr. McCarthy said just to be clear, the reason they only used 7 out of the 14 days is that would meet the business model.

Mr. Riley said correct, it was supposed to be 10 days before Easter, until and including Easter Sunday, but because of the cold weather that came in that weekend before, it would have killed all of their inventory. He said they delayed their delivery trucks so they could get everything in after the cold snap came through.

Mr. McCarthy said so in theory, if there was some sort of weather related event in the middle of the targeted time frame that would preclude them from flower sales such as a bad storm, the applicant then would want to extend the time frame.

Mr. Riley said absolutely not. He said at some point in time after the middle of June, there's no use in even being open anyway.

Mr. Bruni said he mentioned that there are other franchises in this area.

Mr. Riley said yes, there are two other locations in the Pittsburgh area.

Mr. Bruni asked where they are located.

Mr. Riley said in Bridgeville, their second year in Bridgeville and their third year in North Strabane in Washington.

Mr. Bruni asked where in Bridgeville.

Mr. Riley said right across from the Home Depot where it goes from four lanes down into two on Route 50, the Thomas Dance Studio.

Mr. Bruni said he knows where they are there.

Mr. Riley said it is right in that lot.

Mr. McCarthy asked if it was in the shopping center lot.

Mr. Riley said no, it is in the lot of the Thomas Dance Studio. He said there is a Thomas Dance studio right across from this location, too.

Mr. Bartha said for his clarification, the reason that the applicant is required to file for this variance is because the tent is not a permanent structure that's being constructed on an existing business lot, and then that required him to meet the five criteria that Mr. Bish defined for the Board to be able to grant this variance. He asked Mr. Bish if that was correct.

Mr. Bish said correct, he is requesting an extension of the time period that's authorized for the seasonal sales for a special event. He said he believed it was called special event days.

Mr. Bartha said so again, the zoning ordinance does allow for special event days, the Township granted that so this is a request for an extension of that.

Mr. Bish said correct. The problem is that the MPC requires the applicant to show all five criteria. The first criteria that was mentioned is the unnecessary hardship resulting from the unique physical conditions of the property. If that's not proven to the Board, he said the Board cannot grant a variance.

Mr. Riley said it's not a permanent structure and he doesn't own the land. He said that's how he was having a hard time seeing how what he is trying to do with just extending a Special Event Permit . . . Because it doesn't fall within specific categories that the Township has, he said that is why he's not understanding the hardship. He said his issue is that they put up temporary tent structures in parking lots and they do this all up and down the East Coast. He said he's not understanding how because they don't own the land, how the land creates a hardship for a seasonal tent based business.

Mr. Bish said correct; if they can't prove the hardship, then the Board can't grant a variance.

Mr. Riley said because he doesn't own the land, he didn't know how to answer that.

Mr. Bartha said his interpretation of what Mr. Bish is telling the Board is that MPC requires, whether it's B or C or D or other on the application, all of them must meet those criteria.

Mr. Bish said a request for a variance has to meet the five criteria required by the MPC.

Mr. Bartha said including those for the temporary use permit or extension thereof.

Mr. Bish said that was a typo; this is a variance.

Mr. Bartha said okay.

Mr. Riley said whenever he filed, he filed everything appropriately per the paperwork.

Mr. Bish said correct.

Mr. Riley said the paperwork changed since he turned everything in and now he has to prove hardships. He asked if he would not have had to do that if it was still in there (on the application).

Mr. McCarthy said that part of the paperwork was always in there. Those five requirements were always there as far as the variance. It's that temporary use box that shouldn't have been there.

Mr. Bish said correct. He said that was from another sample application that came from another municipality that was used when preparing the application form. He said the other option would be for the applicant to request an amendment of the Zoning Ordinance. The problem with Zoning Ordinance amendments is that they generally take three months. He said three months would take the applicant outside of the request period.

Mr. Riley said certainly.

Mr. McCarthy said when he applied for the special use, or Special Event Permit, did he just apply for it with Mike Saville?

Mr. Riley said he applied for it with Ms. Ludwig and had several conversations with Ms. Ludwig, e-mails back and forth. He said he provided all the necessary information to do that.

Mr. McCarthy asked if he had to go in front of the Township Board after that.

Mr. Riley said no. When they were erecting the tent, Ms. Ludwig suggested that he contact Mike Saville to look at the tent to make sure that it was fire rated and had all of the necessary aisle widths for handicap accessibility, a space for handicap accessibility, the fire extinguisher. He said everything that Mr. Saville required was taken care of and it wasn't a problem.

Mr. McCarthy said it's almost along the lines of a building permit so to speak.

Ms. Ludwig said somewhat. She said the Board of Supervisors had been updated and briefed from her on numerous occasions as she worked with Mr. Riley and Mr. Pantzoulas throughout this process. She said the Board of Supervisors was also aware the tent was going up, aware it was going to remain and that their sales were going to take place pending the decision of this hearing.

She said it is a unique situation and she didn't think the Township had ever seen anything like this. Typically, she said the Township grants Special Event Permits for Quaker Steak & Lube's car show that they have Sunday afternoons in the summer so it doesn't ever exceed that 14 days

within a 90-day period. She said permits are granted for the Pittsburgh's PA Motor Speedway's Annual Pittsburgher that they have usually every summer or every fall over a weekend and carwashes and that type of thing. She said this is sort of unique and it's very much meant to be an accessory use to the primary use of that lot, but it does need to meet certain requirements and that's why Mr. Saville needed to get involved in terms of accessibility and parking and that there was adequate parking and that widths were a certain length and whatnot.

Mr. Bruni asked if the applicant satisfied everything that Mr. Saville required.

Ms. Ludwig said correct, yes he did.

Mr. Bartha said per his agenda, he's still on the applicant's case. He asked if he had anything else to present to the Board tonight.

Mr. Riley said the hardship that he has is that he does not own the land and leasing the lot. He said their business plan calls for them to remain open for an additional 50 days and the current permitting does not allow him to do so per that land, lot in North Fayette.

Mr. Bartha asked if there were any other questions from the Board.

Mr. Bish said no, he would just mention that under the case law of the Municipalities Planning Code, the hardship has to relate to the property. He said it can't be a personal hardship related to the lease, it has to relate to the physical condition of the property.

Mr. Bartha said understood, he would move next to the Township officially. He asked Ms. Ludwig if she had any other comment or anything to add for the discussion this evening.

Ms. Ludwig said Mr. Bish had mentioned a zoning amendment as part of this process. She said obviously, when Township Manager Bob Grimm and she met with both Mr. Pantzoulas and Mr. Riley they went over the different options. She said they felt this was the quickest, easiest way to get some sort of decision on the matter. She said she really didn't promote a text amendment, not only because of the length of time that it would have taken to make that happen, but, because these provisions are there for a reason. These temporary uses do somewhat have an impact, positive or negative on these lots in terms of parking, traffic, flow, whatever. She said those provisions are there for a reason and maybe on a case by case basis it could be altered, sure; but to change that for just one case would also be hard. To say it could be there for 90 days, she said would that be allowing somebody who wants to sell fireworks to be somewhere for 90 days. She said they all sort of fall under that broad category of a Special Event Permit and she didn't know the Township would consider a text amendment in that category; maybe there's another way it could be termed. She said the Township is updating the Zoning Ordinance this summer so it's something they could look at as they go through the process.

Mr. Bartha said that wouldn't give this gentleman relief for what he needs to do for this spring.

Ms. Ludwig said no.

Mr. Bartha said that's the challenge then.

Ms. Ludwig said yes. She said when she talked with Mr. Riley late last week, she did mention the hardships and for him to think about ways that he could try to answer and meet that criteria.

Mr. Bartha asked Ms. Ludwig to clarify the original use of the permit was for 14 days.

Ms. Ludwig said yes, and she didn't think he actually sold for all 14 of the days.

Mr. Riley said seven days.

Ms. Ludwig said the tent was up, but he only actually sold flowers for seven days.

Mr. Bartha asked if that original permit had a duration or max duration or expiration.

Ms. Ludwig said it did, but it was also conditioned on that sales would take place for that period and they didn't. She said she could see if the Board of Supervisors wanted to grant him the additional seven days. She asked if that was what he was getting at.

Mr. Bartha said no, he's going in a different direction.

Ms. Ludwig said oh, okay.

Mr. Bartha said he was just trying to work through this and give a solution for this. He had the 14 days and only used 7 of the 14 days.

Ms. Ludwig said correct.

Mr. Bartha asked if he could come back two days after the expiration of his 14 days and ask for another 14 days on a separate application.

Ms. Ludwig said no, because it's 14 days in a 90-day period.

Mr. Bartha said that is what he wanted to get on the record, because they are limited by that as well. He said he could come back on day 91 and reapply for another 14 days, but that doesn't help him in this case.

Ms. Ludwig said correct.

Mr. Bartha said he was trying to understand what they are limited to do.

Ms. Ludwig said the Zoning Ordinance specifically states on any lot, the cumulative number of special event days shall not exceed 14 days within any 90-day period.

Mr. Bartha said okay.

Mr. Bish said so he could possibly come back without a variance for another seven days.

Ms. Ludwig said they could probably arrange that with him because he would still be within the parameters of this Zoning Ordinance as it was written, yes. So if he wanted to do just Mother's

Day weekend and just Father's Day weekend or something, they could probably make that happen.

Mr. Bartha said to use the remainder of days.

Ms. Ludwig said yes.

Mr. Bartha asked Ms. Ludwig if there was anything else on behalf of the Township she would like to add into the record today.

Ms. Ludwig said she didn't believe so.

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

Mr. Navickas said he owns Floral Magic up the street. He said he was under the understanding with the ordinance that it was a special event and a special event was carwashes, the Quaker Steak and related businesses. He said if he put a flower tent up, he has a flower shop. If they were to put an ice-cream tent out there, he said it's a related business, not an ice-cream store putting up a flower tent. He said he was going through all of the ordinances with all of the building permits in his building to make everything right. He said they had to go through the county, had to have structural permits, electrical permits, have the experts come in and take care of everything. He said they are allowing a tent. He said he puts tents up all the time. He asked does that mean, and nothing against Mike Saville, but is he schooled in structures of tents? Are there electrical cords running out to the tent?

Mr. Riley said they don't use electricity.

Mr. Navickas said okay, none at all at any time.

Mr. Riley said no.

Mr. Navickas said it is a safety issue for the public being in a tent, the bounce houses that go down. Not only that, he said the businesses that are there year round, they are allowing him to come in and take their business when they can make some money. He said he is paying taxes, wage taxes, property taxes, with employees who are North Fayette residents and they are just taking it from them.

Mr. Bruni said he wanted to point out that they are just the Zoning Board.

Mr. Navickas said he understands.

Mr. Bruni said this is kind of the first they are hearing about it.

Mr. Navickas said he understands. He said he means the Township, he didn't mean these gentlemen and it's not a personal attack by any means.

Mr. Bartha said thanks for that clarification.

Ms. Ludwig said for the record, it does say special events may include but are not limited to plant sales, entertainment venues and car shows so she believes that a plant sale or a flower tent would fall under it as the Zoning Ordinance is written now.

Mr. Navickas said as to a related business though, as it states in the Ordinance. He said correct me if he's wrong, but he read it last week.

M. Ludwig said let's see what it states.

Mr. Navickas said a special event for a business to put up a tent to have . . .

Ms. Ludwig said it states related to the services and/or products of the principal use, unless approved by the Township.

Mr. Navickas said yes.

Mr. Riley said as a clarification, they are not a florist. He said they sell bedding flowers, potting flowers, hanging baskets, all live plants.

Mr. Navickas asked related to which business there?

Mr. Riley said it doesn't have any . . .

Mr. Navickas said he didn't have anything against Mr. Riley personally.

Mr. Riley said it's their business model.

Mr. Bartha said he wanted to ask the solicitor for clarification because he is reading the ordinance now.

Mr. Bish said there's a definition of special event under the Zoning Ordinance and it says, any temporary display, sale of goods, use or event that is located outside of a principal building structure and is accessory to the principal use of the lot. So the applicant would have to prove that the special event is accessory to the principal use of the lot. He said accessory is also defined and that issue is not before the Board today. Accessory use is defined as use customarily incidental and subordinate to the principal use of the land located on the same lot as the principal use.

Mr. Bartha said the gentleman to his right (Mr. Navickas) was correct in his interpretation of that.

Mr. Bish said correct. He said it has to be principal use, accessory to the principal use.

Mr. Bartha said he wanted to clarify that.

Ms. Ludwig said in Section 27-205(8)(b)(iii), it says be directly related to the services and or products of the principal use unless approved by the Township. So it could be said the Township approved it.

Mr. Bartha said the Township approved it for the 14 days.

Ms. Ludwig said yes.

Mr. Bartha said okay and again, there was a limitation on it.

Mr. Navickas said the 14 days is the special event. In other words, they could put this structure up and just choose one day and it could be up 365 days a year.

Ms. Ludwig said no, the Township would not allow that.

Mr. Navickas asked the maximum days.

Ms. Ludwig said it was allowed to remain up temporarily pending the outcome of this hearing.

Mr. Navickas said okay.

Ms. Ludwig said typically, the Township would not allow the tent to remain if there was nothing going on there. In this instance, she said they were given special permission to keep that there pending this case.

Mr. Navickas said correct, but the tent has been there more than 14 days.

Ms. Ludwig said correct, but no sales have taken place out of that tent.

Mr. Navickas said what period of time would the structure normally be allowed.

Ms. Ludwig said there was no special event. She said it should really only be there 14 days. She said she talked to the Board of Supervisors and they voted and said it was okay for it to remain on site pending the outcome of this hearing.

Mr. Navickas said that was what he was trying to get at.

Mr. Bartha said he appreciated Mr. Navickas' input this evening.

Mr. Navickas thanked the Board.

Mr. McCarthy asked for clarification that since he only sold 7 out of 14 days and if he wanted to come back for Mother's Day, that would that mean they would have to take the tent down and put it back up for Mother's Day weekend.

Ms. Ludwig said yes.

Mr. McCarthy said okay.

Ms. Ludwig said yes, the way the terms are written in the Special Event Permit conditions, the tent would need to be removed within a week after the decision if this variance was not granted.

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

There were none.

Mr. Bartha asked if anyone had any further comments or questions. Hearing none, Mr. Bartha announced the Board would go into Executive Session at 8:40 p.m. to seek advice from the Board’s solicitor.

The meeting resumed at 8:47 p.m.

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.**

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

Mr. Bartha asked for a motion on the application.

**A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, AND CARRIED, TO DENY THE APPLICATION FILED BY PETALLURGY, LLC D/B/A FLOWER TENT REQUESTING A VARIANCE FROM THE MAXIMUM NUMBER OF CUMULATIVE SPECIAL EVENT DAYS PERMITTED ON A LOT UNDER SECTION 27-205.6(8)(C) OF CHAPTER 27 OF THE NORTH FAYETTE TOWNSHIP CODE OF ORDINANCES, ZONING, AS AMENDED, RELATED TO THE INSTALLATION OF A SEASONAL FLOWER TENT ON PROPERTY LOCATED AT 7012-7014 STEUBENVILLE PIKE DUE TO THE APPLICANT’S FAILURE TO SATISFY THE CRITERIA FOR THE GRANT OF A VARIANCE UNDER SECTION 910.2 OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE.**

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

**COMMENTS:**

Mr. Bartha asked if there were any comments or questions about anything.

There were none.

**ADJOURNMENT:**

**A MOTION WAS MADE BY Mr. CHIP McCARTHY, SECONDED BY Mr. JIM BRUNI, TO ADJOURN THE MEETING AT 8:50 P.M. MOTION CARRIED.**

Respectfully submitted,

Cheryl Cherico  
Zoning Hearing Board Secretary