

**NORTH FAYETTE TOWNSHIP  
ZONING HEARING BOARD**

**THURSDAY, JANUARY 28, 2021  
7:00 P.M.  
VIRTUAL**

The meeting was called to order by Chairman, Brant Miller.

The Pledge of Alliance was waived due to the virtual nature of the meeting and the lack of a flag.

**MEMBERS PRESENT:**

Brant Miller, Chairman  
Dan Patterson, Vice Chairman  
John Scott, Member  
Anthony Cosgrove, Esq., Solicitor  
Debbie Midgley, Recording Secretary

**MEMBERS ABSENT:**

Chip McCarthy, Alternate Member

**OTHERS PRESENT:**

Andrew Hartwell, Township Community Development Director  
Thomas McDermott, Esq., Township Solicitor  
Leah M. Attanucci, LaGamba Reporting Services  
Keith Straight, Redcon Engineering  
Nicole Rella, Redcon Engineering  
Tyler Shelly, Priority Finance LTD  
Lynne Weber, 8095 Steubenville Pike  
Aimee Hernandez, Chick-fil-A  
Steve Brescia, Scout Services

**PUBLIC COMMENT:** (on agenda action items only, excluding public hearings):

There was no public comment.

**REORGANIZATION:**

Mr. Cosgrove asked for a motion of Chairman for the Zoning Hearing Board for the ensuing year.

**A motion was made by Mr. John Scott to appoint Mr. Brant Miller as Chairman for the year 2021, motion carried.**

Mr. Miller asked for a motion of Vice Chairman for the Zoning Hearing Board for the ensuing year.

**A motion was made by Mr. John Scott to appoint Mr. Dan Patterson as Vice Chairman for the year 2021, motion carried.**

Mr. Miller asked for a motion of Recording Secretary for the Zoning Hearing Board for the ensuing year.

**A motion was made by Mr. John Scott to appoint Ms. Debbie Midgley as Recording Secretary for the year 2021, motion carried.**

Mr. Miller asked for a motion of Solicitor for the Zoning Hearing Board for the ensuing year.

**A motion was made by Mr. John Scott to reappoint Matthew Marshall and the law firm of Dillion McCandless King Coulter & Graham, LLP as Solicitor for the Zoning Hearing Board in accordance with the rates and terms referenced in the letter dated December 2, 2019, motion carried.**

#### **ADMINISTRATIVE:**

Mr. Miller asked for a motion to approve the minutes from the August 27, 2020 meeting.

**A MOTION WAS MADE BY Mr. JOHN SCOTT , SECONDED BY Mr. DAN PATTERSON TO APPROVE THE MINUTES FROM THE AUGUST 27, 2020 METTING. MOTION CARRIED.**

Mr. Miller said prior to this meeting, the Board held an executive session to receive advice of the Solicitor.

Mr. Miller said that notice of tonight's hearing was advertised, and the subject properties posted pursuant to the requirements of the Pennsylvania Municipalities Planning Code.

Mr. Miller 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.

#### **OLD BUSINESS:**

There was no old business.

#### **NEW BUSINESS:**

##### **1. Priority Finance LTD Variance Application**

- a. Mr. Miller opened the public hearing on the Priority Finance LTD Variance Application and summarized the application as follows:

An application filed by Nicole Rella as representative of Priority Finance LTD requesting variances from the screening and landscaping for off-street parking requirement under Section 27-207(2)(B)(2) and from the parking area requirements under Section 27-305 of the North Fayette Township Code of Ordinances, Zoning, as amended, in order to permit the construction of an additional parking area comprised of gravel with no interior landscaping for the parking/storing of boats and RVs, on property located at 40 Pattridge Lane in the I-1 Light Industrial District, currently designated as Allegheny County Parcel ID No. 915-C-2.

- b. Mr. Miller stated that Exhibits 1 through 11 referenced on the Exhibit List prepared by the Board Solicitor are entered into the Record of this hearing. Mr. Miller requested that the court reporter insert those exhibits into the transcript as if the Exhibit List was read into the Record.
- c. Applicant's Case. Mr. Keith Straight, Redcon Engineering, on behalf of Applicant, Priority Finance LTD, presented the Applicant's case and responded to Board.

Mr. Straight said the applicant is seeking a variance to the requirement for interior landscaping. He said interior landscaping will greatly impede the intended use of the area. He said the applicant is seeking a variance to the requirement of a paved parking lot and is proposing the use of gravel to be used in a parking/storage area and would satisfy the requirements of being considered paved.

Mr. Straight said the paving of the parking area would create a financial burden to the applicant creating an unnecessary hardship.

Mr. Shelly said that if the need would arise, this area would need to be accessible for the storage of some of his company's large rental equipment. He said the larger pieces of equipment would break up the asphalt.

- d. Township's Case. Mr. Hartwell presented Thomas McDermott, Esq., the Township's Solicitor, to present the Township's case and responded to Board questions.

Mr. McDermott said the case as presented will require the need for the variances the applicant is requesting.

Mr. Hartwell said the Township is not opposed to the variances, however there is a concern about the appearance of the site. He said the Township requests that any variance be conditioned on providing landscaping along the perimeter of the parking storage area. He said in addition, because the lot is gravel, the Township would like to see curbing in the parking storage area and to keep the gravel from encroaching on the buffer along Pattridge Lane.

Mr. Hartwell said the Township is looking to have the applicant landscape the entire length of the perimeter of the parking area. He said there is currently some existing buffering along Pattridge Lane and Steubenville Pike.

Mr. McDermott said if the variance(s) is granted, it might include a condition that would include the paving plan and a landscaping plan addressing buffering along both roads to the satisfaction of the Township on the site plan.

- e. Public Comment. Ms. Lynne Weber, resident, asked questions of the applicant and Board.

Ms. Weber said that any landscaping provided to buffer the area along Pattridge Lane will be greatly appreciated. She said the remaining questions she had have been answered.

Mr. Miller asked for a motion to close the Public Hearing.

**A MOTION WAS MADE BY Mr. JOHN SCOTT , SECONDED BY Mr. DAN PATTERSON TO CLOSE THE PUBLIC HEARING. MOTION CARRIED.**

Attached LaGamba Reporting Services Transcripts (motion only).

## **2. Chick-fil-A Variance Application**

- a. Mr. Miller opened the public hearing on the Chick-fil-A Variance Application and summarized the application as follows:

An application filed by Steve Brescia as representative for Aimee Hernandez and TK Robinson LLC, requesting a variance from the minimum front yard set-back requirement under Section 27-205(3)(A) and Table 27-3 of the North Fayette Township Code of Ordinances, Zoning, as amended, in order to permit the addition of a 15 square foot pre-fab steel employee shelter at the existing drive thru of the Chick-fil-A on property located at 120 Andrew Drive in the B-2 General Business District currently designated as Allegheny County Parcel ID No. 412-B-3.

- b. Mr. Miller stated that Exhibits 1 through 10 referenced on the Exhibit List prepared by the Board Solicitor are entered into the Record of this hearing. Mr. Miller requested that the court reporter insert those exhibits into the transcript as if the Exhibit List was read into the Record.
- c. Applicant's Case. Mr. Steve Brescia, Scout Services, on behalf of Applicant, Chick-fil-A, and TK Robinson LLC, presented the Applicant's case and responded to Board.

Mr. Brescia said the applicant is looking for a variance to construct a 15 square foot employee shelter in the drive thru area. He said the variance is needed as there is not sufficient space in the drive thru area to meet the 30 foot minimum front yard setback.

Ms. Hernandez said the pre-fab metal shelter will be used for the employees working outside during inclement weather to expediate customer orders. She said the employees working outside take orders at much higher rate than the employees that work inside. She said this shelter will be used for collecting payment, which will prevent the need for two separate transactions at the service window. She said she is hopeful this will help move the customers through the line at a quicker pace which will help with congestion in the area. She said if there were another area to construct the shelter that is not within the setback, they absolutely would, but unfortunately even this little shelter requires a variance. She said the shelter is designed for one person at a time with a cash register for payments. She said the shelter will be equipped with heating and air conditioning for the employees that are taking orders on iPads, so they can hop in and out for a moment to get some relief from the elements.

Mr. Miller asked why the application is for a front yard setback and not a rear yard setback.

Mr. Hartwell said the building is facing a street on that end; therefore, it is considered a front yard.

Mr. Miller said to remain consistent with prior zoning applications, this application will be continued as a front setback.

- d. Township's Case. Mr. Hartwell the Director of Community Development to present the Township's case and responded to Board questions.

Mr. Hartwell said the Township does not oppose this variance request.

- e. Public Comment. There was no public comment.

Mr. Miller asked for a motion to close the Public Hearing.

**A MOTION WAS MADE BY Mr. JOHN SCOTT , SECONDED BY Mr. DAN PATTERSON TO CLOSE THE PUBLIC HEARING. MOTION CARRIED.**

Attached LaGamba Reporting Services Transcripts (motion only).

**ADJOURNMENT:**

**A MOTION WAS MADE BY Mr. JOHN SCOTT , SECONDED BY Mr. DAN PATTERSON, AND CARRIED, TO ADJOURN THE MEETING AT 7:38 P.M. MOTION CARRIED.**

Respectfully submitted,

Debbie Midgley  
Zoning Hearing Board Recording Secretary

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NORTH FAYETTE TOWNSHIP  
ZONING HEARING BOARD

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IN RE: )  
)  
Application ZHBA-2021-1, )  
Priority Finance, LTD, )  
Variance Application )

- - - - -

Via ZOOM  
January 28, 2021; 7:00 p.m.

- - - - -

BEFORE: Brant Miller, Chairman  
Dan Patterson, Vice Chairman  
John Scott, Member  
Anthony Cosgrove, Esquire, ZHB  
Solicitor  
Thomas P. McDermott, Esquire,  
North Fayette Township Solicitor  
Andrew H. Hartwell, Community Development  
Director  
Debbie Midgley, Recording  
Secretary

- - - - -

TRANSCRIPT OF MOTION TO APPROVE APPLICATION

- - - - -

Reported by:  
Leah M. Attanucci  
Professional Court Reporter

LaGAMBA REPORTING SERVICES  
302 Maxwell Street  
Pittsburgh, PA 15205  
(412) 458-0439

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I N D E X

EXHIBITS:

Exhibit Nos. 1-11

(ALL EXHIBITS RETAINED BY BOARD.)

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1 P R O C E E D I N G .

2 (7:00 o'clock p.m.)

3 (The hearing was not transcribed,  
4 only the acceptance motion.)

5 MR. MILLER: So I'll call for a  
6 motion to approve in part and deny in part this  
7 application.

8 MR. PATTERSON: A motion to  
9 approve in part and deny in part the request  
10 filed by Nicole Rella as representative of  
11 Priority Finance, LTD, requesting variances from,  
12 one, the screening and landscaping for off-street  
13 parking requirement under Section 27-207(2)(B)(2)  
14 of the North Fayette Township Code of Ordinances,  
15 Zoning, as amended, provided that the Applicant  
16 provide the required interior landscaping in  
17 addition to all other required landscaping for  
18 the proposed land development under the Township  
19 Code of Ordinances outside the proposed  
20 additional parking area, that being along  
21 Pattridge Lane and along Steubenville Pike, in  
22 accordance with an approved landscape site plan  
23 to the satisfaction of the Township; and, two,  
24 from the parking area requirement under Section  
25 27-305 of the North Fayette Township Code of

1 Ordinances, Zoning, as amended, approving the  
2 variance from striping the parking area but  
3 denying the variance request from the requirement  
4 that the parking area be paved and curbed.

5           These variances are approved in part  
6 and denied in part subject to the terms and  
7 conditions as set forth above as well as those  
8 additional terms and conditions set forth in the  
9 Board Solicitor's Memorandum dated January 28,  
10 2021, which the Board hereby directs the court  
11 reporter to insert into the transcript as if the  
12 terms and conditions were read into the record.

13           The application is partially denied due  
14 to the Applicant's failure to satisfy the  
15 criteria for the approval of a variance under  
16 Section 27-1306(5) of the Zoning Ordinance and  
17 Section 910.2 of the Municipalities Planning Code  
18 in regard to the variance request from the paving  
19 and curbing requirement under Section 27-305 of  
20 the Township Code of Ordinances.

21           (The terms and conditions were  
22 inserted into the record.)

23           1. Compliance with Laws. The  
24 Applicant and the use and development of the  
25 Subject Property shall comply with all applicable

1 Federal, State, County, and Township laws,  
2 statutes, ordinances, resolutions, and  
3 regulations, including but not limited to the  
4 Zoning Ordinance (hereinafter collectively  
5 referred to as "Applicable Law").

6           2. Permits and Approvals. The  
7 Applicant shall apply for and obtain any and all  
8 necessary Federal, State, County, and Township  
9 permits and approvals for the proposed additional  
10 parking area on the Subject Property. The  
11 Applicant and the use and development of the  
12 Subject Property shall comply with all such  
13 Federal, State, County, and Township permits and  
14 approvals.

15           3. Parking Area Striping Variance.  
16 This decision grants a variance from the striping  
17 requirement under Section 27-305 of the Zoning  
18 Ordinance in order to permit the Applicant to  
19 construct the proposed additional parking area on  
20 the Subject Property without striping in the  
21 location and size shown on the Site Plan entered  
22 into the hearing record as Exhibit "4."  
23 (hereinafter referred to as the "Site Plan").

24           4. Parking Area Landscaping Variance.  
25 This decision grants a variance from the minimum

1 landscaping requirements under  
2 Section 27-207(2)(B)(2) of the Zoning Ordinance  
3 in order to permit the Applicant to construct the  
4 additional parking area with no interior  
5 landscaping as referenced in the exhibits and  
6 testimony entered into the hearing record.

7           5. Completion Deadline. The  
8 construction of the additional parking area shall  
9 be commenced within one (1) year of the date of  
10 this decision and shall be completed within two  
11 (2) years of the date of this decision.

12           6. Decision Scope. The variances  
13 granted by this decision are specific to the  
14 proposed additional parking area on the Subject  
15 Property as referenced in the exhibits and  
16 testimony entered into the hearing record by the  
17 Board. This decision shall have no precedential  
18 value for similar applications by the Applicant  
19 or any other applicant at any location in the  
20 Township. No modification or change in the terms  
21 of this decision shall be effective unless  
22 approved by the Board through an amended  
23 variance.

24           7. Failure to Comply. Failure to  
25 comply with the above-referenced terms and

1 conditions of this decision shall result in the  
2 variance being rendered null and void.

3 The Board's action dealt only with the  
4 grant of variances from the above-referenced  
5 provisions of the Zoning Ordinance. The  
6 Applicant must still comply with any and all  
7 applicable Township land use, building, and other  
8 codes and obtain all necessary land use,  
9 building, occupancy, and other permits and  
10 approvals from the Township Zoning Officer and  
11 Building Code Official.

12 (The terms and conditions are  
13 complete.)

14 MR. MILLER: Now, we have a motion  
15 to approve in part.

16 MR. SCOTT: I'll second. And I'll  
17 second.

18 MR. MILLER: Any discussion?

19 (No response.)

20 MR. MILLER: All in favor, please  
21 signify by saying aye.

22 ALL: Aye.

23 MR. MILLER: All opposed, please  
24 say no.

25 (No response.)

1                   MR. MILLER:  It's unanimous.  The  
2 motion to approve in part and deny in part  
3 carries.

4                   MR. COSGROVE:  And just if I may,  
5 Brant, for the Applicant's sake, I would like to  
6 inform them the Board's written decision will be  
7 mailed to them and e-mailed to them, because I do  
8 see that we have your e-mails, by tomorrow.  It  
9 will be prepared and sent to you via mail and  
10 e-mail tomorrow.

11                   MR. MILLER:  Thank you,  
12 Mr. Cosgrove.

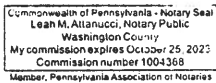
13                   MR. MILLER:  Ms. Rella,  
14 Mr. Straight, Mr. Shelly, thank you.

15                   (The above-entitled matter was  
16 concluded at 7:27 o'clock p.m.)  
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C E R T I F I C A T E

I hereby certify that the proceedings  
and evidence are contained fully and accurately  
in the stenographic notes taken by me on the  
hearing of the within cause and that this is a  
correct transcript of the same.



*Leah M. Attanucci*

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Leah M. Attanucci  
Notary Public

My Commission Expires October 25, 2023.

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NORTH FAYETTE TOWNSHIP  
ZONING HEARING BOARD

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IN RE: )  
 )  
Application ZHBA-2021-2, )  
Chick-fil-A Variance )  
Application )

- - - - -

Via ZOOM  
January 28, 2021; 7:28 p.m.

- - - - -

BEFORE: Brant Miller, Chairman  
Dan Patterson, Vice Chairman  
John Scott, Member  
Anthony Cosgrove, Esquire, ZHB  
Solicitor  
Thomas P. McDermott, Esquire,  
North Fayette Township Solicitor  
Andrew H. Hartwell, Community Development  
Director  
Debbie Midgley, Recording  
Secretary

- - - - -

TRANSCRIPT OF MOTION TO APPROVE APPLICATION

- - - - -

Reported by:  
Leah M. Attanucci  
Professional Court Reporter

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I N D E X

EXHIBITS:

Exhibit Nos. 1-10

(ALL EXHIBITS RETAINED BY BOARD.)

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1 P R O C E E D I N G S

2 (7:28 o'clock p.m.)

3 (The hearing was not transcribed,  
4 only the acceptance motion.)

5 MR. MILLER: Next, I'll call for a  
6 motion to approve the request.

7 MR. PATTERSON: Motion to approve  
8 the request filed by Steve Brescia as  
9 representative for Aimee Hernandez and TK  
10 Robinson, LLC, requesting a variance from the  
11 minimum front yard setback requirement under  
12 Section 27-205(3)(A) and Table 27-3 of the North  
13 Fayette Township Code of Ordinances, Zoning, as  
14 amended, subject to the terms and conditions set  
15 forth in the Board Solicitor's Memorandum dated  
16 January 28, 2021, and directing the court  
17 reporter to insert such terms and conditions into  
18 the transcript as if the terms and conditions  
19 were read into the record.

20 (The terms and conditions were  
21 inserted into the record.)

22 The North Fayette Township Zoning  
23 Hearing Board (hereinafter referred to as the  
24 "Board") approves the application filed by Steve  
25 Brescia as representative for Aimee Hernandez and

1 TK Robinson, LLC (hereinafter together referred  
2 to as the "Applicant") requesting a variance from  
3 the minimum yard setback requirement under  
4 Section 27-205(3)(A) and Table 27-3 of the North  
5 Fayette Code of Ordinances, Zoning, as amended,  
6 (hereinafter referred to as the "Zoning  
7 Ordinance") in order to permit the addition of a  
8 15-square-foot pre-fab steel employee shelter at  
9 the existing drive-thru of the Chick-fil-A on  
10 property located at 120 Andrew Drive in the B-2  
11 General Business District currently designated as  
12 Allegheny County Parcel ID No. 412-B-3  
13 (hereinafter referred to as the "Subject  
14 Property") in accordance with the exhibits and  
15 testimony accepted into the hearing record by the  
16 Board and subject to the following terms and  
17 conditions:

18 1. Compliance with Laws. The  
19 Applicant and the use and development of the  
20 Subject Property shall comply with all applicable  
21 Federal, State, County, and Township laws,  
22 statutes, ordinances, resolutions, and  
23 regulations, including but not limited to the  
24 Zoning Ordinance (hereinafter referred to as  
25 "Applicable Law").

1                   2. Permits and Approvals. The  
2 Applicant shall apply for and obtain any and all  
3 necessary Federal, State, County, and Township  
4 permits and approvals for the proposed accessory  
5 structure on the Subject Property. The Applicant  
6 and the use and development of the Subject  
7 Property shall comply with all such Federal,  
8 State, County, and Township permits and  
9 approvals.

10                   3. Front Yard Setback Variance. This  
11 decision grants a variance from the minimum front  
12 yard setback requirement under Section  
13 27-205(3)(A) and Table 27-3 of the Zoning  
14 Ordinance in order to permit the Applicant to  
15 construct the proposed accessory structure on the  
16 Subject Property no less than seventeen (17) feet  
17 and ten (10) inches from the east boundary line  
18 of the Subject Property in the location and size  
19 shown on the Site Plan entered into the hearing  
20 record as Exhibit "2a." (hereinafter referred to  
21 as the "Site Plan").

22                   4. Accessory Structure Design. The  
23 proposed accessory structure shall be designed  
24 and constructed in a manner consistent with the  
25 Site Plan and the graphical depiction shown on

1 the documents entered into the hearing record as  
2 Exhibits "2a." and "2b." and otherwise in  
3 conformity with the testimony and evidence  
4 entered into the hearing record.

5           5. Completion Deadline. The  
6 construction of the accessory structure shall be  
7 commenced within one (1) year of the date of this  
8 decision and shall be completed within two (2)  
9 years of the date of this decision.

10           6. Decision Scope. The variance  
11 granted by this decision is specific to the  
12 proposed accessory structure on the Subject  
13 Property as referenced in the exhibits and  
14 testimony entered into the hearing record by the  
15 Board. This decision shall have no precedential  
16 value for similar applications by the Applicant  
17 or any other applicant at any location in the  
18 Township. No modification or change in the terms  
19 of this decision shall be effective unless  
20 approved by the Board through an amended  
21 variance.

22           7. Failure to Comply. Failure to  
23 comply with the above-referenced terms and  
24 conditions of this decision shall result in the  
25 variance being rendered null and void.

1           The Board's action dealt only with the  
2 grant of a variance from the above-referenced  
3 provisions of the Zoning Ordinance. The  
4 Applicant must still comply with any and all  
5 applicable Township land use, building, and other  
6 codes and obtain all necessary land use,  
7 building, occupancy, and other permits and  
8 approvals from the Township Zoning Officer and  
9 Building Code Official.

10           MR. SCOTT: And I'll second.

11           MR. MILLER: We have a motion. We  
12 have a second.

13           Any discussion?

14           (No response.)

15           MR. MILLER: All in favor, please  
16 signify by saying aye.

17           ALL: Aye.

18           MR. MILLER: The motion carries.  
19 Congratulations. You have your variance.

20           MS. HERNANDEZ: Thank you very  
21 much.

22           MR. BRESCIA: Thank you very  
23 much.

24           MS. HERNANDEZ: Thank you.

25           MR. COSGROVE: And just so you

1 guys know, I will have the decision tomorrow.  
2 And I will get that to you via e-mail and send it  
3 to you, a hard copy, in the mail as well.

4 MS. HERNANDEZ: Thank you.

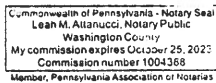
5 MR. MILLER: Thank you both.

6 (The above-entitled matter was  
7 concluded at 7:37 o'clock p.m.)  
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C E R T I F I C A T E

I hereby certify that the proceedings  
and evidence are contained fully and accurately  
in the stenographic notes taken by me on the  
hearing of the within cause and that this is a  
correct transcript of the same.



*Leah M. Attanucci*

-----  
Leah M. Attanucci  
Notary Public

My Commission Expires October 25, 2023.