

**Radnor Township Planning Commission**  
**Minutes of the Meeting of July 1, 2019**

**Present:** Mr. John Lord; Mr. Lane Vines; Mr. Steve Varenhorst; Ms. Elizabeth Springer; Mr. Matt Golas; Ms. Megan Gonzales; Mr. David Natt

**Absent:** Mr. Skip Kunda; Mr. Charlie Falcone

The meeting started at 7:00pm

- John Lord, Chair, called the meeting to order. The Pledge of Allegiance was recited.

- **Meeting Minutes for June 3, 2019**

**Motion to Approve:**

**Approved 7-0**

*Approved: Mr. John Lord; Mr. Lane Vines; Mr. Steve Varenhorst; Ms. Elizabeth Springer; Mr. Matt Golas; Ms. Megan Gonzales; Mr. David Natt*

- **236 N Aberdeen – ZHB Appeal #3041**

- Christy and James Flynn, 236 N. Aberdeen, reviewed plans and the request from Zoning Hearing Board for two variances.
  - i. If the two variances are granted, they would then apply for a sub division

**Public Comment**

- James Szivos, 238 Willow Ave., expressed concerns about stormwater and home values
- Laura Gill, 244 N. Aberdeen, said that she believes that the neighbors are not in favor of this.

**Motion:** recommend approval of the variance for the lot width and front yard setback.

**Approval 7-0**

*Approved: Mr. John Lord; Mr. Lane Vines; Mr. Steve Varenhorst; Ms. Elizabeth Springer; Mr. Matt Golas; Ms. Megan Gonzales; Mr. David Natt*

- **Rooftop Dining Ordinance**

- Applicant Hemcher Family Partnership (Great American Pub) and Staff addressed rooftop dining ordinance issues from the June 3, 2019 meeting
- PC reviewed recommendations from staff which resulted from the PC comments at the June meeting and the staff meetings with the applicant's attorney. The PC recommended approval of the ordinance subject to the changes discussed at the meeting.
- A copy of the ordinance with revisions for the July 1 meeting are attached

**Motion:** recommend approval of the rooftop dining ordinance with the comments from the July 1, 2019 meeting and the Solicitor's comments

**Approved 7-0**

*Approved: Mr. John Lord; Mr. Lane Vines; Mr. Steve Varenhorst; Ms. Elizabeth Springer; Mr. Matt Golas; Ms. Megan Gonzales; Mr. David Natt*

- **Gas Leaf Blower Ordinance**

- Linda Schanne and David Simmons, from the Radnor Township Board of Health, reviewed and explained the intent of a proposed Gas Leaf Blower ordinance.
- No action taken; issue tabled. Board of Health will continue its investigation and consideration of the issue.

- Old / New Business – none

- Adjournment

Next regular scheduled Planning Commission meeting is August 5, 2019

**PROPOSED REGULATIONS FOR ROOFTOP DINING ORDINANCE**  
**FOR WAYNE BUSINESS OVERLAY DISTRICT**

**Key**

*Bold and Italics = Proposed Additions to Code*

[ ] = Deleted

## Article XIIA Wayne Business Overlay District

### §280-53.6. Definitions.

As used in this article the following terms shall have the meanings indicated:

...

#### ***ROOFTOP DINING***

*The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.*

### §280-53.7. Use regulations.

The following regulations shall govern the use of property within the boundaries of the WBOD, not including special use areas, and shall permit a building or unified group of buildings to be erected or used, and a lot to be occupied, for any of the following purposes:

...

F. Accessory uses on the same lot incidental to the foregoing permitted uses, to include the following:

(1) Home occupations when accessory to dwelling unit, subject to the provisions of Article XX, §-280-115.1.

(2) ***Rooftop Dining when accessory to a restaurant use, subject to the provisions of §280-53.16.***

### §280-53.9. Special regulations for the WBOD.

...

B. Except for outdoor dining as permitted by §-280-115.3 and ***Rooftop Dining as permitted by §280-53.16***, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles, or equipment shall be stored, displayed, or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

### §280-53.16. ~~[Reserved]~~ ***Rooftop dining regulations.***

A. ***Within the WBOD Zoning District, rooftop dining shall be permitted as an accessory use on the same premises as a licensed food establishment (restaurant) that has indoor seating—,subject to the following regulations:*** ~~***The following provisions shall apply:***~~

(1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.

(2) All rooftop dining areas shall be subject to compliance with all applicable requirements under federal, state, and Township laws and ordinances, including, but not limited to, health, building, accessibility, fire, and plumbing.

Commented [MCE1]: Staff suggests that issues involving the outdoor stairs can be addressed through compliance with building codes and emergency service inspections below.

(3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.

Commented [MCE2]: Need discussion on permanent roof coverings

(4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.

(5) Rooftop dining shall not be permitted in any building which contains a residential use.

~~(1)~~

(2)(6) Rooftop dining shall be permitted between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight, 12:00 a.m. All seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight, for the dining area to close at the required hour.

(3)(7) No rooftop dining area shall be established within *One Hundred Feet (100') feet* of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section, §280-53.16, "Residential Zoning District" shall mean the R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.

(8) No rooftop dining area shall be established within *One Hundred Feet (100') feet* of the property line of an unimproved lot located completely or partially within a *Residential Zoning District*.

(9) No rooftop dining area shall extend beyond the rooftop of the property upon which the principal restaurant is located.

(4)(10) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop.

(5)(11) The number of rooftop dining seats shall not exceed that allowed by *only be as permitted by* applicable state and *local municipal* health, accessibility, fire, and building codes ~~regulations~~, nor shall the number of rooftop seats exceed the

~~number but in no event more than the number of indoor seats in the principal restaurant use.~~

~~(6)(12) Parking. The rooftop dining shall provide One (1) parking space shall be provided per three (3) seats in the rooftop dining area.ing accommodations. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the Rooftop Dining is in use. The applicant shall demonstrate by means of an easement or long-term contract, that the parking spaces to utilized by the rooftop dining establishment will be available for exclusive use of thereof.valet service shall park customers' vehicles in the Bellevue or South Wayne township parking lots. If the restaurant offers valet parking to meet its parking requirement, the restaurant shall purchase from the Township one yearly parking permit per three seating accommodations met by the valet service.~~

~~(7)(13) The rooftop area must be surrounded by adequate railing or walls ing no less than 42 inches in height. There shall be no seating within five feet (5') of the edge of the roof. The bar shall be located toward the center of the roof.~~

~~(8)(14) Handicap access to the rooftop shall be from the interior space of the business within the principal building.~~

~~(15) Any lighting fixtures shall be designed to effectively eliminate glare and sharply cut lighting levels at the property line. All lights associated with the rooftop must be turned off when the rooftop area is not in use.~~

~~(16) Food preparation on the rooftop may not include an open flame.~~

~~(17) Outdoor heaters shall meet the following requirements:~~

- ~~(a) The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.~~
- ~~(b) Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto to the roof.~~
- ~~(c) Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.~~
- ~~(d) No propane fired heaters shall be used on the roof.~~

Commented [MCE3]: Staff suggests that the safety issues may be left to the emergency service reviews

Commented [MCE4]: Does our ordinance not require lighting to not project beyond the property line?

Commented [MCE5]: At the last meeting the PC indicated that it was interested in low-level lighting. Staff notes that ordinance requires no spillover at the property line. Also applicant indicates that it uses low-level lighting at its Conshohocken facility, and will bring details of same to meeting

Commented [MCE6]: This requires more discussion by the planning commission. Should this be part of the safety review, and not legislated.

~~(9)(18)~~ No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted approved pursuant to Article XXI of this chapter.

~~(10)(19)~~ All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.

B. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment, or shall be stored off site.

C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:

(1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.

(2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.

(3) The applicant shall seek and comply with recommendations from the police department and the fire marshal to enhance the safety of the layout and operation of the rooftop dining facility.

D. Noise. Rooftop dining shall be subject to Chapter 200, Noise. No live music is permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction, as applicable.

~~D-E.~~ Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.

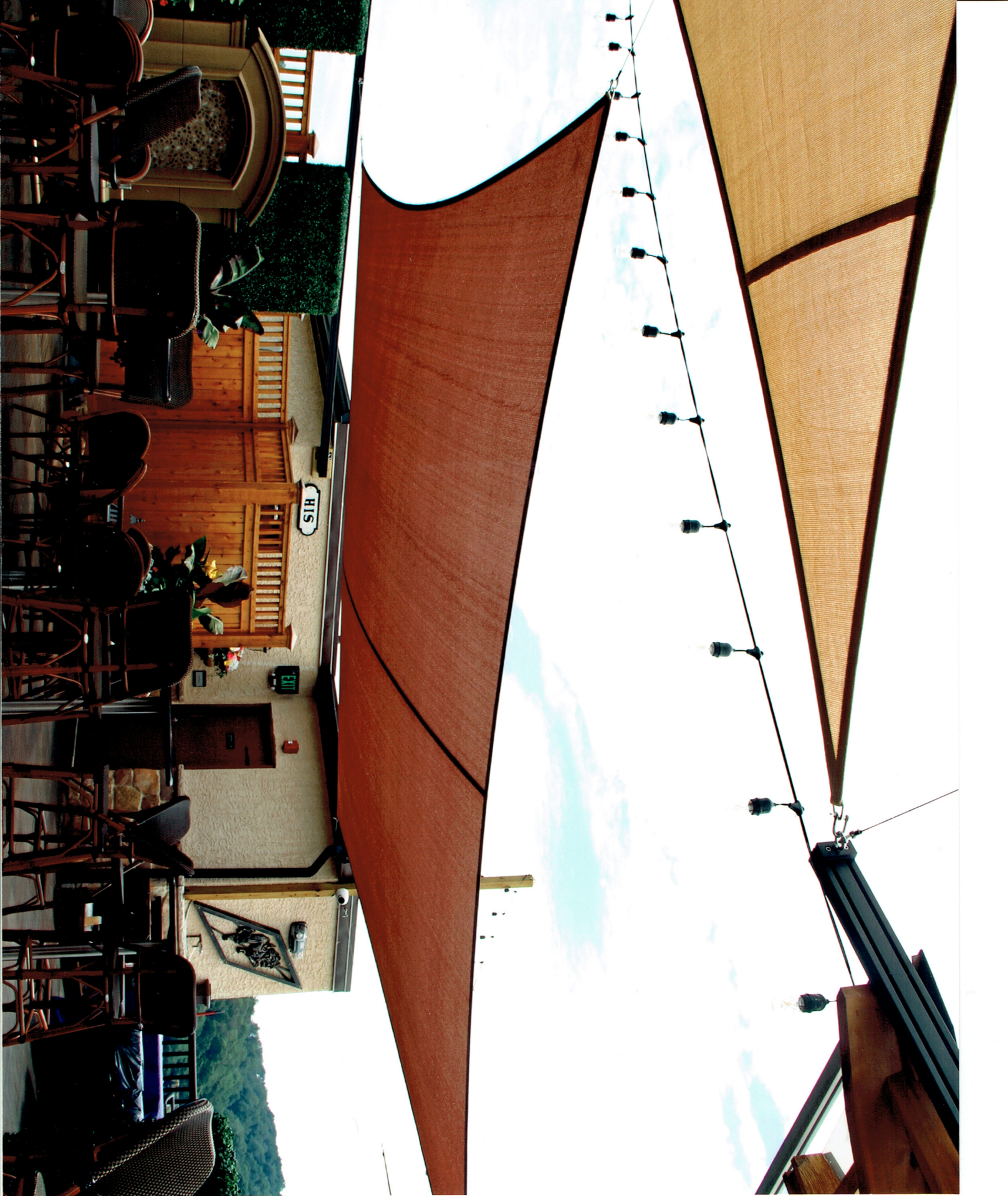
~~E-F.~~ All locations shall be subject to periodic inspections for compliance with the standards of this section. Two or more violations of this section may result in a minimum seven-day suspension and/or revocation of all zoning, health, or building permits applicable to the rooftop dining use. Each zoning or code violation shall be separate offense; each day a violation continues shall be the subject of a separate fine.

~~*F. Noise. Rooftop dining shall be subject to Chapter 200, Noise. No live music is permitted. All Township noise ordinances activities, including the playing of music or other forms of entertainment, shall comply with the noise limitations of the Township Ordinances and any other regulatory agencies having jurisdiction, as applicable.*~~









# Memo

To: Radnor Planning Commission  
From: Mary Eberle  
CC: Steve Norcini; John Rice  
Date: June 27, 2019  
Re: Rooftop Dining Ordinance Proposal

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## Background

At the last meeting, you offered a number of comments on the proposed rooftop dining ordinance and asked that staff meet with Mr. Caniglia to see if we could provide a draft that incorporated those comments. We held a conference call with Nick last week, and attached is a redlined version of the ordinance. Not all comments were included in the draft, and hopefully this memo will provide information on the disposition of all the issues you raised. Please note that the highlighted items require discussion at the PC meeting.

1. **Code Issues:** There were a number of comments regarding the structural integrity of the building, the outside steps, and food prep. After much internal discussion at the staff level, we recommend that the structural issues be addressed through building and fire code reviews. Those codes address our issues with more specificity and in greater detail than we can hope to do in this ordinance. For that reason, the ordinance does not mention outdoor stairs or structural integrity.
2. **Owner/operator:** The ordinance has been revised to require that the rooftop facility be operated by the operator of the downstairs restaurant. Nick reports that the owner might be different, but the operator will be the same.
3. **Umbrellas and Roof Coverings:** At the meeting, the PC mentioned that it was not in favor of permanent roof coverings. Nick advises that the Conshohocken facility has a permanent fiber glass roof over the bar area. The PC should consider if that is acceptable, so the ordinance can be adjusted accordingly. Staff recommends that umbrellas not be permitted on the roof (they become projectiles in heavy winds and often topple tables) but that, at minimum canvas covers and awnings be permitted. Nick Caniglia provided photos of the coverings at Conshohocken. They are attached to this memo for review and discussion at the meeting.

4. Proportion of seats: The applicant has agreed to limit the number of bar and lounge seats to 25% of the total rooftop dining seats.
5. Parking: The parking regulations have been revised to reflect that the applicant must provide a document which allows them to have exclusive use of the parking space to be used by the valet service.
6. Lighting: This is another issue which requires PC discussion. Currently our ordinance does not permit lighting to spill over property lines, but there was discussion at the last meeting of low-level lighting. We did not have enough information to address low-level lighting in this draft and the applicant will provide information at the meeting on Monday.
7. Emergency Service Inspection and Recommendation: We include in the ordinance a requirement that the site be inspected by both the police department and fire marshal and that the applicant complies with recommendations made by those two bodies. Because the police and fire marshal will be inspecting, we think that several issues you raised at the last meeting will be addressed in those reviews.
8. Location of elevators and restrooms: The ordinance has been revised to include a requirement that elevators and rest rooms be located toward the rear of the roof.
9. Location of the bar: Staff is not sure it is necessary to require that the bar be located in the center of the roof, though the ordinance has been revised to include that requirement. We have also required that no seating be permitted within five feet of the edge of the roof. What do you think about the centering of the bar?
10. Noise: To insure compliance with the noise standards of our code, the ordinance requires that amplifiers be equipped with decibel limiters that will not allow the sound levels to exceed the noise ordinance limits.
11. Heaters: We have included a requirement that outdoor heaters not be operated by propane and have also incorporated some of the applicable heater requirements from the outdoor dining section of the ordinance.
12. Food prep: The ordinance is drafted to prohibit food prep with an open flame. At the last meeting, it seemed that some of you were interested in prohibiting all food prep, some of you wanted to prohibit the open flame, and some of you expressed no opinion on the issue. At the staff level, we think that the fire code and emergency service review may be able to address this issue more effectively than we can. Your input is appreciated.
13. Fees: Too late in the process, I noticed that items C1 and F seem to contradict each other regarding the timing of payment of fees.

**NOTE: The attached documents are just regulations and have not been put in ordinance form at this point. We will include captions,**

**introductory paragraphs, effective dates, etc, when the regulations are set.**




# Memo



To: Radnor Planning Commission  
From: Mary Eberle  
CC: Steve Norcini; John Rice  
Date: June 5, 2019  
Re: Request for ZO Amendment for rooftop dining-Hemcher Family






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Below are my notes from the meeting. Some are items brought up by the PC; some are my thoughts:

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1. Under section A.1, we might want to state that the applicant shall demonstrate compliance with all applicable federal, state, and local requirements, and we might also want to include the words “structural integrity” and “safety”. *My thought is that if the applicant follows all State, local, et al codes, structural integrity is included. Are we putting more onus on the Township, outside of the building codes, to determine structural feasibility.* 
2. PC members indicated that they do not want permanent roof coverings. *Awnings, umbrellas, etc., are then permissible?* 
3. In Paragraph A.13, we wanted to include the word “furniture”. *Concur.*
4. Seek safety recommendations from the police department and fire marshal, and comply with those recommendations. *Concur*
5. Valet parking-need to demonstrate contractual right to use of number of parking spaces required for the use. Query: Is failure, in year five, to secure parking spaces grounds for a denial of the renewal of a permit. *The parking spaces are to be in the AT&T Lot, or South Wayne Lot. The MOU or contract to secure the spaces will be with the Township, and I would think this needs to be done as part of this application.* 

6. Lighting regulations-ordinance should require low-level lighting that does not project beyond the footprint of the roof top dining area. **Currently, our Ordinance states no lighting spill over at the property line. This then would only apply to roof top dining ? Is this needed, since the roof top is solely located within the property lines?** 
  7. Food prep-PC wanted limits on food prep. No open flame-I am not clear whether there could be food prep if open flame was not involved. **The applicant (I believe) wishes strongly to have the ability to prepare food on the roof top.** 
  8. Elevators and restroom must be located to the rear of the building to limit visibility from the street. **Concur**
- 

9. There must be restrictors on all amplifiers to insure that noise does not exceed township noise levels. **Concur**
  10. Exterior stairs-review of building codes to determine what requirements exist for covering and safety protections. **Is this redundant with the building code?**
  11. The bar must be in the center of the rooftop dining area. **Just to play devil's advocate, do we really wish to regulate this?** 
  12. Heaters shall not be operated by propane and shall have no open flame. 
  13. No more than 25%(?) of the seats in the rooftop dining area may be bar or lounge seats. **I will leave this to you, the expert. I understand the thought is no one wants "all bar" seating on the roof top.**  
  14. **The rooftop dining area must be owned and operated by the owner of the restaurant. Concur** 
- 

Not discussed at PC meeting:

1. Nick's draft says not "with 100' of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district." It later says not "within 100 feet of a property line of an unimproved lot located completely or partially with a residential zoning district." Why not just say that rooftop dining cannot be located within 100 feet of a residential zoning district? Do we need to specify what is, and what is not, a residential zoning district? Is GH-CR a residential district? GH-GA? **I concur.**

2. There are grammatical issues in the draft which I think will annoy some readers. Please note, by way of example, the multiple disjunctive clauses in paragraph A.4. The second sentence in paragraph 3 is awkwardly worded. I think we can improve on the wording in Paragraph A.6. We might be able to clarify that section by stating that “no rooftop dining area shall extend beyond the footprint of the building in which the restaurant is located.”
3. In Paragraph D-Why does it take 2 or more violations of the ordinance to suspend the permit? This is a zoning permit; except for building code violations, aren't our remedies limited to civil enforcement proceedings or injunctions? **Concur**

NICHOLAS J. CANIGLIA, ESQUIRE  
Pierce, Caniglia & Taylor  
P.O. Box 312  
125 Strafford Avenue, Suite 110  
Wayne, Pennsylvania 19087  
610-688-2626  
Attorney I.D. 27968

ATTORNEY FOR APPLICANT  
HEMCHER FAMILY PARTNERSHIP

**PETITION OF HEMCHER FAMILY PARTNERSHIP  
TO AMEND THE ZONING CODE OF THE TOWNSHIP OF RADNOR**

**TO THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF RADNOR:**

Applicant, HEMCHER FAMILY PARTNERSHIP, herewith petitions the Board of Commissioners of Radnor Township for an Amendment to Article XIIA, Wayne Business Overlay District, of the Zoning Code of the Township of Radnor, as more fully described below, and in support thereof respectfully represents as follows:

1. The Applicant, Hemcher Family Partnership, is a family partnership organized under the laws of the Commonwealth of Pennsylvania, with its registered address at 352 Yorkshire Road, Rosemont, Radnor Township, Pennsylvania.
2. The Applicant is the owner of the real estate commonly known as 4 West Avenue, Wayne, Radnor Township, Pennsylvania, being Folio Numbers 36-01-00676-00, 36-01-00676-02, and 36-01-00676-03.
3. The Applicant proposes an Amendment titled Rooftop Dining Ordinance (the "Zoning Amendment") to Article XIIA of the Wayne Business Overlay District ("WBOD") of the Radnor Township Zoning Code (the "Zoning Code").
4. The purpose of the Zoning Amendment is to further the stated purpose of the WBOD, and the Wayne Business District Master Plan dated September 11, 2006, to provide and promote opportunity for the redevelopment within the WBOD.



5. Due to increased competition from neighboring business districts such as The King of Prussia Town Center, Conshohocken, Bryn Mawr, Ardmore, and Phoenixville, there is a need for further revitalization of the WBOD to combat the redevelopment of the above-mentioned areas, as well as being proactive against competition in other future business areas.

6. A copy of the Zoning Amendment is attached hereto as Exhibit "A".

7. The provisions of the Zoning Amendment includes, but is not limited to, the following provisions:


- a. Rooftop Dining is limited to the WBOD area;
- b. Permits "Rooftop Dining" when accessory to a restaurant use, subject to the restrictions provided in the Zoning Amendment;
- c. Rooftop Dining shall not be permitted in any building which contains a residential use;
- d. Rooftop Dining shall be limited to the period between March 1 and November 30;
- e. The hours of operation of the Rooftop Dining shall be no later than 12:00 p.m.;
- f. No Rooftop dining area shall be established within 100 feet of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district;
- g. No rooftop dining area shall be established within 100 feet of the property line of an unimproved lot located completely or partially within a residential zoning district;
- h. No rooftop dining area shall extend beyond the rooftop of the property upon which the principal restaurant is located;
- i. The number of rooftop dining seats shall only be as permitted by applicable state and municipal health, accessibility, fire, and building code regulations, but in no event more than the number of indoor seats in the principal restaurant use;
- j. The rooftop dining shall provide one (1) parking space per three (3) seating

accommodations. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the Rooftop Dining is in use. The valet service shall park customers' vehicles in the Bellevue or South Wayne township parking lots. If the restaurant offers valet parking to meet its parking requirement, the restaurant shall purchase from the Township one yearly parking permit per three seating accommodations met by the valet service.

8. Applicant requests that a hearing be held to consider the Zoning Amendment.

WHEREFORE, Your Petitioner respectfully requests that a hearing be held and the Zoning Code of the Township of Radnor be amended as herein set forth.

**Respectfully Submitted By:**

  
**NICHOLAS J. CANIGLIA, ESQUIRE**  
**ATTORNEY FOR APPLICANT**  
**HEMCHER FAMILY PARTNERSHIP**

**PROPOSED ROOFTOP DINING ORDINANCE  
FOR WAYNE BUSINESS OVERLAY DISTRICT**

**Key**

***Bold and Italics = Proposed Additions to Code***

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## Article XIIA Wayne Business Overlay District

### § 280-53.6. Definitions.

As used in this article the following terms shall have the meanings indicated:

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#### ***ROOFTOP DINING***

*The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.*

### § 280-53.7. Use regulations.

The following regulations shall govern the use of property within the boundaries of the WBOD, not including special use areas, and shall permit a building or unified group of buildings to be erected or used, and a lot to be occupied, for any of the following purposes:

...

F. Accessory uses on the same lot incidental to the foregoing permitted uses, to include the following:

- (1) Home occupations when accessory to dwelling unit, subject to the provisions of Article XX, § 280-115.1.
- (2) ***Rooftop Dining when accessory to a restaurant use, subject to the provisions of §280-53.16.***

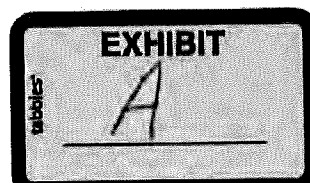
### § 280-53.9. Special regulations for the WBOD.

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B. Except for outdoor dining as permitted by § 280-115.3 and ***Rooftop Dining as permitted by §280-53.16***, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles or equipment shall be stored, displayed or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

### § 280-53.16. [Reserved] ***Rooftop dining regulations.***

A. ***Within the WBOD Zoning District, rooftop dining shall be permitted as an accessory use on the same premises as a licensed food establishment (restaurant) that has indoor seating. The following provisions shall apply:***



- (1) All rooftop dining areas shall be subject to compliance with all applicable requirements under federal, state, and Township laws including health, building, accessibility, fire, and plumbing.*
- (2) Rooftop dining shall not be permitted in any building which contains a residential use.*
- (3) Rooftop dining shall be permitted between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to 12:00 p.m. All seating of patrons shall provide for the dining area to close at the required hour.*
- (4) No rooftop dining area shall be established within 100 feet of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district.*
- (5) No rooftop dining area shall be established within 100 feet of the property line of an unimproved lot located completely or partially within a residential zoning district.*
- (6) No rooftop dining area shall extend beyond the rooftop of the property upon which the principal restaurant is located.*
- (7) The number of rooftop dining seats shall only be as permitted by applicable state and municipal health, accessibility, fire, and building code regulations, but in no event more than the number of indoor seats in the principal restaurant use.*
- (8) Parking. The rooftop dining shall provide one (1) parking space per three (3) seating accommodations. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the Rooftop Dining is in use. The valet service shall park customers' vehicles in the Bellevue or South Wayne township parking lots. If the restaurant offers valet parking to meet its parking requirement, the restaurant shall purchase from the Township one yearly parking permit per three seating accommodations met by the valet service.*
- (9) The rooftop area must be surrounded by adequate railing or walling no less than 42 inches in height.*
- (10) Handicap access to the rooftop shall be from the interior space of the business within the principal building.*
- (11) Any lighting fixtures shall be designed to effectively eliminate glare and sharply cut lighting levels at the property line. All lights associated with the rooftop must be turned off when the rooftop area is not in use.*

*(12) No signs advertising rooftop dining shall be permitted, unless approved pursuant to Article XXI of this chapter.*

*(13) All merchandise, goods, articles or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.*

*B. Storage of Materials. At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment, or shall be stored off site.*

*C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:*

*(1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.*

*(2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.*

*D. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.*

*E. All locations shall be subject to periodic inspections for compliance with the standards of this section. Two or more violations of this section may result in a minimum seven-day suspension and/or revocation of all zoning, health, or building permits applicable to the rooftop dining use.*

*F. Noise. Rooftop dining shall be subject to Chapter 200, Noise. No live music is permitted. All activities, including the playing of music or other forms of entertainment, shall comply with the noise limitations of the Township Ordinances and any other regulatory agencies having jurisdiction, as applicable.*



*Excellence Delivered **As Promised***

**Date:** May 24, 2019

**To:** Steve Norcini, PE Township Engineer

**From:** Roger Phillips, PE

**cc:** Kevin W. Kochanski, RLA, CZO – Director of Community Development  
Mary Eberle, Esq. – Grim, Biehn, and Thatcher  
Amy B. Kaminski, P.E. – Gilmore & Associates, Inc.  
Patricia Sherwin – Radnor Township Engineering Department

**RE:** Rooftop Dining Proposed Zoning Amendment - WBOD  
Hemcher Family Partnership – Applicant

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The Hemcher Family Partnership has filed a petition to amend the Radnor Township Zoning Code Article XIIA – Wayne Business Overlay District (WBOD) to allow rooftop dining. We offer the following comments for consideration:

1. 290-53.16 A. (2) The amendment prohibits rooftop dining in any building that contains a residential use. Consideration should be given to also restricting the use for any location adjacent to a building with residential use.
2. 290-53.16 A. (3) The amendment provides for date and time restrictions for the use of the rooftop dining space. It appears that the time of use is incorrectly labeled as 12:00 PM and should be 12:00 AM. (Midnight)
3. 290-53.16 F. The amendment does not permit the playing of live music; however, consideration should be given to restricting the level of any other music, DJ, etc. or other amplified noise.

If you have any questions or require any additional information, please contact me.

Very truly yours,

GANNETT FLEMING, INC.

A handwritten signature in blue ink, appearing to read "Roger Phillips", written over a circular blue stamp or seal.

Roger A. Phillips, P.E.  
Senior Project Manager





**MEMORANDUM**

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**Date:** May 28, 2019

**To:** Stephen F. Norcini, P.E.  
Radnor Township Engineer

**From:** Amy B. Kaminski, P.E., PTOE, Gilmore & Associates, Inc.

**Cc:** Kevin Kochanski, ASLA, R.L.A., Director of Community Development  
John B. Rice, Esq., Grim, Biehn & Thatcher, P.C.  
Mary C. Eberle, Esq., Grim, Biehn & Thatcher, P.C.  
Roger A. Phillips, P.E., Gannett Fleming, Inc., Senior Associate  
Damon Drummond, P.E., PTOE, Gilmore & Associates, Inc.  
Leslie Salsbury, P.E., Gilmore & Associates, Inc.

**Reference:** Radnor Township Ordinance Transportation Review  
Rooftop Dining within WBOD (Hemcher Family Partnership Petition)  
Radnor Township, Delaware County, PA  
G&A No. 18-12048

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Gilmore & Associates, Inc. (G&A) offers the following discussion related to allowing Rooftop Dining in the Township currently under consideration by the Radnor Township Commissioners:

**I. PROJECT DESCRIPTION**

The Applicant (Hemcher Family Partnership) petitioned the Radnor Township Board of Commissioners to consider a Zoning Amendment to Article XIIA, Wayne Business Overlay District (WBOD) of the Zoning Code of Radnor with the purpose of permitting Rooftop Dining in the WBOD with certain restrictions. The Zoning Amendment is limited to confines of the WBOD as an accessory use to the restaurant use and may not be permitted in any building which contains a residential use. The Rooftop Dining use is only permitted between March 1 to November 30 with a limit to the hours of operation no later than 12:00 PM [sic].

**II. SUBMISSION MATERIALS**

1. Proposed Amendment to Zoning Code, petitioned by Hemcher Family Partnership, prepared by Pierce, Caniglia & Taylor, dated May 6, 2019.

**III. REVIEW COMMENTS**

1. **§280-53.7.A(3)** – Restaurant or catering establishment, including outdoor dining ***and rooftop dining.*** (***Bold-italicized*** indicates amendment).

**Comment:** We recommend including “and rooftop dining” under this section.

2. **§280-53.9.** Special regulations for the WBOD.

**B.** Except for outdoor dining as permitted by §280-115.3 *and Rooftop Dining as permitted by §280-53.16*, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles or equipment shall be stored, displayed or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

**Comment:** Amend §280-115.3. **Bed-and-breakfast permitted by special exception** to reference §280-115.4 **Outdoor dining regulations.**

3. **§280-53.16. Rooftop dining regulations.**

**Comment:** The Township may want to consider adopting this section under §280-115.4 by amending the outdoor dining regulations to include rooftop dining since both uses share many of the same regulations and the Township may want to open rooftop dining to other zoning districts in the Township.

4. *§280-53.16.A(3) Rooftop dining shall be permitted between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to 12:00 p.m. All seating of patrons shall provide for the dining area to close at the required hour.*

**Comment:** The Petition notes the hours of operation shall occur through 12:00 p.m.; however it is likely the Petition meant and the petition should be amended to read 12:00 a.m. (midnight) not 12:00 p.m. (noon). Additionally, we note the outdoor dining is regulated to operate until 10:00 p.m. The Township may want to consider requiring limiting the hours of operation for the rooftop dining until 10:00 p.m. and consider expanding the hours to 12:00 a.m. (midnight) in the future.

5. *§280-53.16.A(7) The number of rooftop dining seats shall only be as permitted by applicable state and municipal health, accessibility, fire, and building code regulations, but in no event more than the number of indoor seats in the principal restaurant use.*

**Comment:** Allowing for an equal number of indoor and rooftop dining seats will generate “double” the number of vehicles associated with the restaurant business. We note the Township outdoor dining regulations limits the number of outdoor dining seats to 25% of the indoor seating or to a maximum of 50 seats. The Township should consider a similar limit to regulate the traffic generation impact related to the rooftop dining expansion. We note the peak hour trip generation for a restaurant use does not typically coincide with the peak hour of the roadway (Roadway weekday PM peak hour is 4 PM - 6 PM and Saturday Peak hour is typically 11AM-2PM); however, it should be considered since each restaurant taking advantage of the new rooftop dining use could effectively double the number of trips generated by the existing restaurant site.

6. *§280-53.16.A(8) Parking. The rooftop dining shall provide one (1) parking space per three (3) seating accommodations. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the Rooftop*



*Dining is in use. The valet service shall park customers' vehicles in the Bellevue or South Wayne township parking lots. If the restaurant offers valet parking to meet its parking requirement, the restaurant shall purchase from the Township one yearly parking permit per three seating accommodations met by the valet service.*

**Comment:** The free valet service will likely produce the desired results for a reduction in the number of required nearby parking spaces; however, the valet service will likely double the number of vehicles traveling to and from the site on nearby roadways based on just a new valet service. Allowing each restaurant to double the available seating as indicated under item (7) above could potentially quadruple the number of vehicles on the roadway by doubling the number of seats AND the introduction of a valet service to offset parking requirements.

7. *§280-53.16.C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:*

*(1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.*

*(2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.*

*D. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.*

*E. All locations shall be subject to periodic inspections for compliance with the standards of this section. Two or more violations of this section may result in a minimum seven day suspension and/or revocation of all zoning, health, or building permits applicable to the rooftop dining use.*

*F. Noise. Rooftop dining shall be subject to Chapter 200, Noise. No live music is permitted. All activities, including the playing of music or other forms of entertainment, shall comply with the noise limitations of the Township Ordinances and any other regulatory agencies having jurisdiction, as applicable.*

**Comment:** We recommend amending this Petition to alter "D", "E", and "F" to continue §280-53.16.C. Rooftop dining permit subsections (3), (4), and (5), respectively; to further define the requirements of the permit compliance.

8. In order to take full advantage of the March 1 – November 30 limitation; the Petitioner may want to consider amending the petition to include a section regarding exterior

heating systems to allow for heating in the rooftop dining area during inclement weather.

9. The Township may want to consider limiting the rooftop dining to only allow dining with table bar service by including the following regulation found under Outdoor Dining regulations §280-115.4(A)(14) regarding "The sale of alcoholic beverages shall be incidental to the sale and consumption of food. Walk-up bar service for the sole purpose of the consumption of alcohol without the consumption of food is prohibited."

**PROPOSED REGULATIONS FOR ROOFTOP DINING ORDINANCE  
FOR WAYNE BUSINESS OVERLAY DISTRICT**

**Key**

*Bold and Italics = Proposed Additions to Code*

[ ] = Deleted

## Article XIIA Wayne Business Overlay District

### §280-53.6. Definitions.

As used in this article the following terms shall have the meanings indicated:

...

***ROOFTOP DINING***

*The use of a rooftop area by a licensed food establishment (restaurant) for the consumption of food or beverages.*

### §280-53.7. Use regulations.

The following regulations shall govern the use of property within the boundaries of the WBOD, not including special use areas, and shall permit a building or unified group of buildings to be erected or used, and a lot to be occupied, for any of the following purposes:

...

F. Accessory uses on the same lot incidental to the foregoing permitted uses, to include the following:

(1) Home occupations when accessory to dwelling unit, subject to the provisions of Article XX, §280-115.1.

(2) ***Rooftop Dining when accessory to a restaurant use, subject to the provisions of §280-53.16.***

### §280-53.9. Special regulations for the WBOD.

...

B. Except for outdoor dining as permitted by §280-115.3 and ***Rooftop Dining as permitted by §280-53.16***, no permanent storage of merchandise, articles or equipment shall be permitted outside a building. No goods, articles, or equipment shall be stored, displayed, or offered for sale beyond the build-to line of a building. No vending machines, kiosks, newspaper stands, self-service station or similar use shall be allowed outside of any building.

### §280-53.16. ***Rooftop Dining Regulations.***

A. *Within the WBOD Zoning District, rooftop dining shall be permitted as an accessory use on the same premises as a licensed food establishment (restaurant) that has indoor seating, subject to the following regulations:*

- (1) The rooftop dining area must be operated by the operator of the restaurant which serves as the principal use in the building.**
- (2) Rooftop dining areas shall comply with all applicable federal, state, county, and Township laws, ordinances, and regulations, including, but not limited to, those governing health, safety, building accessibility, fire, and plumbing.**
- (3) Umbrellas shall not be permitted on the roof. Canopies or awnings may be used to protect people and personal property from the elements.**
- (4) No more than twenty-five percent (25%) of the seats in the rooftop dining area may be bar or lounge seats.**
- (5) Rooftop dining shall not be permitted in any building which contains a residential use.**
- (6) Rooftop dining shall be permitted only between March 1 and November 30. Hours of operation shall be from 8:00 a.m. to midnight. Seating of patrons shall end with sufficient time to provide service and close the rooftop dining area by midnight.**
- (7) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of a single-family or two-family detached or semidetached dwelling unit located completely or partially within a residential zoning district. For purposes of this section (§280-53.16), "Residential Zoning District" shall mean the AC, R-1, R-1A, R-2, R-3, R-4, R-5, R-6 and PA zoning districts.**
- (8) No rooftop dining area shall be established within One Hundred Feet (100') of the property line of an unimproved lot located completely or partially within a Residential Zoning District.**
- (9) No rooftop dining area shall extend beyond the rooftop of the property upon which the principal restaurant is located.**
- (10) In order to limit visibility from the street, elevators and restrooms shall be located to the rear of the rooftop.**
- (11) The number of rooftop dining seats shall not exceed that allowed by applicable state and local health, accessibility, fire, and building codes, nor shall the number of rooftop seats exceed the number of seats in the principal restaurant use.**
- (12) Parking. One (1) parking space shall be provided per three (3) seats in the rooftop dining area. This parking requirement may be met in whole, or in part, by free valet parking service to its customers during the hours the rooftop dining**

- is in use. The applicant shall demonstrate by means of an easement or long-term contract, that the parking spaces to be utilized by the rooftop dining establishment will be available for exclusive use of the rooftop dining facility.
- (13) The rooftop area must be surrounded by railing or walls no less than 42 inches in height. There shall be no seating within five feet (5') of the edge of the roof. The railing shall be located toward the center of the roof.
  - (14) Handicap access to the rooftop shall be from the interior space of the business within the principal building.
  - (15) Any lighting fixtures shall be designed to eliminate glare and sharply cut lighting levels at the property line. All lights associated with the rooftop must be turned off when the rooftop area is not in use.
  - (16) Food preparation on the rooftop shall not include an open flame.
  - (17) Outdoor heaters shall meet the following requirements:
    - (a) *The use of outdoor heaters shall be in compliance with the International Fire Code, as amended.*
    - (b) *Heaters shall not be located closer than ten feet (10') from a means of ingress or egress onto the roof.*
    - (c) *Where possible, heaters shall be securely fastened to a wall or the floor of the rooftop dining area to prevent the heater from tipping over.*
    - (d) *No propane fired heaters shall be used on the roof.*
  - (18) No signs advertising rooftop dining shall be permitted, unless in compliance with and permitted by Article XXI of this chapter.
  - (19) All merchandise, goods, articles, furniture, or equipment shall be adequately secured to ensure safety to persons and property during times of inclement or hazardous weather conditions.
- B. Storage of Materials.** At the conclusion of any rooftop dining season, all portable equipment shall be stored within the facility in a location that does not interfere with the operation of the food establishment or shall be stored off site.

**C. Rooftop dining permit. To assure compliance with safety and food code standards of the Township, the following regulations shall govern the issuance of all rooftop dining permits or proposed changes to rooftop dining permits:**

**(1) Applications shall be filed on forms provided by the Township along with the required fees (as set forth in Chapter 162 of the Code or by separate resolution of the Board of Commissioners) and any information necessary to determine compliance with this section.**

**(2) Applications shall be submitted to the Community Development Department for review to determine compliance with this Article, safety standards, the food code requirements set forth in Chapter 170 of the Township Code, and other applicable municipal regulations.**

**(3) The applicant shall seek and comply with safety recommendations from the police department and the fire marshal.**

**D. Noise. Rooftop dining shall be subject to the noise regulations of Chapter 200. No live music shall be permitted. All amplifiers and speakers shall be equipped with audio decibel limiters set to insure that sound generated at the rooftop dining facility does not violate the regulations of the Township Ordinances and any other regulatory agencies having jurisdiction.**

**E. Upon final approval of an application, a permit shall be issued. Fees shall be paid upon the filing of an application and shall be renewed on an annual basis.**

**F. All locations shall be subject to periodic inspections for compliance with the standards of this section. Each zoning or code violation shall be separate offense; each day a violation continues shall be the subject of a separate fine.**