



STAFF PHOTO/ADRIAN KRAUS

Joe May, who lives in the Perinton/Victor area, has opened up Jake's Flower Cart at the corner of Route 250 and Atlantic Avenue in Penfield. It confounds him that his presence has Penfield growers upset.

# Green vendor has businesses seeing red

*Several garden centers in Penfield are upset that a temporary plant and flower stand is allowed to operate.*

By **AMY CAVALIER**  
 Messenger Post Staff

Joe May didn't think he'd cause controversy when he set up a flower and plant stand under a large tent at the corner of Atlantic Avenue and Route 250.

But he has.

May has been running Jake's Flower Cart since the Friday before Mother's Day on land he's renting from Don Scott, owner of the auto repair shop and convenience store. Next month, he's hoping to get the approvals he needs to run the operation through the fall season, with other seasonal uses on other occasions, such as Easter.

"Our intention is to be here now through Halloween," he said.

May's application for a special-use permit will be heard by the town's Zoning Board at its June 21 meeting. He might run up against some opposition, however.

Some local plant and garden centers are upset that May isn't from the area, while others are upset that their competition doesn't pay property taxes. May lives in the Perinton-Victor area.

"The town of Penfield is always trying to encourage agriculture to stay in the area, then they allow this guy to have a temporary permit and set up a circus tent, like a traveling gypsy show down there," said Bill Vendel, owner of Welch's Greenhouses, 1271 Fairport Nine Mile Point Road.

Supervisor George Wiedemer said he hasn't heard any complaints from residents, but several business owners have contacted him about May's stand.

"I think the real issue here is he's not a

Penfield business owner, and he's making a living off people in Penfield without paying his fair share of taxes," Wiedemer said.

Unfortunately, Wiedemer said, the town cannot deny him on those criteria.

"They want me to deny the permit, but it's not quite as simple as they paint it," said Wiedemer. "Theoretically, you can't stop competition from coming in. That's the American way."

John Swedrock, owner of Harris Garden Center on Webster-Fairport Road, said May is not invested in the area and doesn't pay taxes in Penfield.

May disagrees.

"I'm paying rent and Don Scott is paying taxes," he said. "It's the same ratio, probably more than what they're paying up the street and we're paying sales tax."

May is hopeful he can work in conjunction with local grower Jim Wilbert, who

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usually sets up a stand near Scott's repair shop once his harvest is ready.

Another sticking point for May is his permits.

According to Harold Morehouse, building and zoning inspector, May received three one-week temporary permits to start selling flowers shortly before Mother's Day. He needs a special-use permit to operate at the site on a more permanent basis. That application will be considered by the Zoning Board on June 21. May's temporary permits will have expired by then, leaving him operating without a permit for several weeks.

"We realized there was going

to be a gap in the time period from when the permits ended and when he'd be able to appear before the Zoning Board," said Morehouse. "He does have a right to those three permits for three weeks if he chooses that."

The town doesn't have a "whole heck of a lot of power" to stop May from operating during the weeks when his permits are expired, Morehouse said.

"We would probably send him a letter in this instance, because he has an application before the Zoning Board of Appeals," he said. "We probably won't enforce any action on him until he's had a chance to go before the board."

These types of applications

for roadside flower or plants, sometimes referred to as itinerant vendors, are not very common in town, Morehouse said.

"I don't think we've ever had this type of situation before," he said. "Most of the time they're here for a week and then they're gone."

May's stand is permitted under the limited business zoning on Scott's property. He's not sure though if May's application will be approved. Two years before Chase-Pitkin in Penfield closed, Morehouse said, the store requested approval to set up an outdoor plant and landscaping stand, but was denied.

Morehouse said it is the Town Board's responsibility to change the codes to prohibit

itinerant vendors such as May from setting up shop.

In the meantime, May will be helping customers at his plant stand seven days a week, for close to 12 hours a day. He said he's surprised by the opposition.

"The enemy is the big-box stores, the Home Depots, the Lowes, the K-marts, the ones that have taken 50 percent of the market share," he said. "I'm just the little guy down the street. I don't think I'm going to be much of an enemy."

He's hoping that he'll get the go-ahead to operate through October.

"I hope I wind up with the same privileges that pretty much anybody else has in the region," he said.