



SITE ADDRESS: 1029-1031 E. 3rd Street

Office Use Only:

DATE SUBMITTED: 2-28-24

HEARING DATE: 3-27-24

PLACARD: \_\_\_\_\_

FEE: \$500.00

ZONING CLASSIFICATION: RT

LOT SIZE: \_\_\_\_\_

**APPLICATION FOR APPEAL TO THE CITY OF BETHLEHEM ZONING HEARING BOARD,  
10 EAST CHURCH STREET, BETHLEHEM, PA 18018**

1. Return one (1) original and eight (8) copies of this application and all supporting documentation to the Zoning Officer, along with the filing fee. Include site plans and/or floor plans as necessary.
2. The application is due by 4PM on the 4<sup>th</sup> Wednesday of the month. The hearing will be held on the 4<sup>th</sup> Wednesday of the next month.
3. If you are submitting MORE THAN 10 exhibits at the hearing, you MUST place them in an indexed binder and submit at one time.

Appeal/Application to the City of Bethlehem Zoning Hearing Board is hereby made by the undersigned for: (check applicable item(s):

- Appeal of the determination of the Zoning Officer
- Appeal from an Enforcement Notice dated \_\_\_\_\_
- Variance from the City of Bethlehem Zoning Ordinance
- Special Exception permitted under the City Zoning Ordinance
- Other: \_\_\_\_\_

**SECTION 1**

<b>APPLICANT:</b>	
Name	<b>Ripex, LLC - Joseph Ruggiero</b>
Address	[REDACTED]
Phone	[REDACTED]
Email	[REDACTED]

<b>OWNER</b> (if different from Applicant): Note. If Applicant is NOT the owner, attach written authorization from the owner of the property when this application is filed.	
Name	<b>same as Applicant</b>
Address	
Phone:	
Email:	
<b>ATTORNEY</b> (if applicable):	
Name	
Address	
Phone:	
Email:	

**SECTION 2. INFORMATION REGARDING THE REAL ESTATE**

1. Attach a site plan, drawn to scale, of the real estate. Include existing and proposed natural and man-made features.
2. Attach architectural plans and elevations depicting proposed alterations or new construction.
3. Attach photographs.
4. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
5. If the real estate is presently leased, attached a copy of the present lease.
6. If this real estate has been the object of a prior zoning hearing, attach a copy of the Decision.

**SECTION 3.**

**THE RELIEF SOUGHT:**

If the Applicant seeks a dimensional variance for any setback, lot coverage, distance between certain uses, etc., please state the following:

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
<u>1306.01(a) (4)</u>	<u>6,000 sf.</u>	<u>3,428 sf.</u>	<u>reduce minimum tract si</u>
<u>1306.01(a) (4)</u>	<u>3,000 sf.</u>	<u>1,714 sf.</u>	<u>reduce lot area</u>
<u>1306.01(a) (4)</u>	<u>60'</u>	<u>45'6"</u>	<u>reduce minimum lot width</u>
<u>1306.01(a) (4)</u>	<u>20'</u>	<u>19'6" to 7'</u>	<u>reduce rear yard setback</u>
<u>1306.01(a) (4)</u>	<u>4'</u>	<u>0'</u>	<u>reduce the sideyard setbac</u>
<u>1319.01(a) (1) (i)</u>	<u>4</u>	<u>0</u>	<u>reduce parking spaces</u>

If the Applicant seeks a use or other variance, please state the **specific section(s)** of the Zoning Ordinance applicable and describe the variance sought.

**N/A**

If the Applicant seeks a Special Exception, please state the **specific section (s)** of Zoning Ordinance applicable:

**N/A**

If the Applicant seeks an appeal from an interpretation of the Zoning Officer, state the remedy sought in accordance with Sec. 1325.11 (b):

**N/A**

**NARRATIVE**

A brief statement reflecting why zoning relief is sought and should be granted must be submitted.

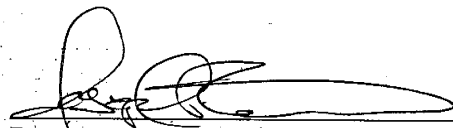
**CERTIFICATION**

I hereby certify that the information contained in and attached to this application is true and correct to the best of my knowledge and belief.

I also certify that I understand that any and all federal, state or local rules and regulations, licenses and approvals shall be obtained if the appeal is granted.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Property owner's Signature

**February 28, 2024**  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Received by

\_\_\_\_\_  
Date

**NOTICE: If the Decision of the Zoning Hearing Board is appealed, the appellant is responsible for the cost of the transcript.**

**Re: 1029-1031 E. 3<sup>rd</sup> Street**

**Date: February 28, 2024**

**PROJECT NARRATIVE**

By Decision dated March 11, 2022 the City of Bethlehem Zoning Hearing Board granted the Applicant certain dimensional relief for the Subject Property. A copy of that Decision is included with this Application. The Applicant failed to act on the relief within 12 months of the date of the Decision, wherefore the relief has expired. Applicant seeks to reinstate the expired relief without change or modification.

**FL & B**

FITZPATRICK  
LENTZ & BUBBA  
ATTORNEYS AT LAW

Email: [eschock@flblaw.com](mailto:eschock@flblaw.com)  
Direct Dial: 610-797-9000 x355

March 11, 2022

RIPEX LLC  
Attn: Joe Ruggiero  
930 E. Market Street  
Bethlehem, PA 18017

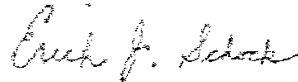
James J. Holzinger, Esquire  
1216 Linden Street  
PO Box 1409  
Bethlehem, PA 18016

Re: City of Bethlehem Zoning Hearing Board  
1029-1031 E. Third Street

Gentlemen:

Enclosed please find a copy of the Notice and Decision of the Board in the above matter.

Very truly yours,



Erich J. Schock

Enclosure

cc: Zoning Officer, City of Bethlehem (w/encl., via e-mail)  
City of Bethlehem Zoning Hearing Board (w/encl., via e-mail)

Before the Zoning Hearing Board  
Of the City of Bethlehem, Pennsylvania

Lehigh County

Appeal & Application of  
RIPEX, LLC  
Applicant

)  
)  
)

Date: January 26, 2022

Re: 1029-1031 East 3rd Street

**NOTICE OF RIGHT OF APPEAL**  
**OF AGGRIEVED PARTY**

You have the right to appeal this Decision if you are an “aggrieved party” under the Pennsylvania Municipalities Planning Code. You must appeal to the Court of Common Pleas of the county in which the subject property is situated. The City of Bethlehem is located partly in Northampton County and partly in Lehigh County.

In order to properly file an appeal, you should seek the advice of a lawyer. Please note that neither the Zoning Officer nor the Zoning Hearing Board Solicitor is permitted to give you legal advice. **PLEASE DO NOT CALL THIS OFFICE.**

You must file your appeal in writing within thirty (30) calendar days of the date of this Decision or your right to such an appeal is lost.

**YOUR APPEAL PERIOD BEGINS**

**MARCH 11, 2022**

**Before the Zoning Hearing Board  
Of the City of Bethlehem, Pennsylvania**

**Northampton County**

<b>Appeal &amp; Application of RIPEX, LLC Applicant</b>	) ) )	<b>Date: March 11, 2022  Re: 1029-1031 E. Third Street</b>
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**DECISION**

**I. Preliminary Matters**

A public hearing was held on **January 26, 2022** at **6:00 PM** before the Zoning Hearing Board of the City of Bethlehem (“Board”) regarding Applicant’s appeal to the Board.

**A. Parties**

1. Applicant: Joe Ruggiero appeared on behalf of Ripex, LLC (“Applicant”) at the hearing.

2. Zoning Hearing Board: The Board comprised William Fitzpatrick (Chairman), Terry Novatnack, Peter Schneck, Jessica Lee and Carol Ritter. The Zoning Officer was Craig D. Peiffer. Erich J. Schock of Fitzpatrick Lentz & Bubba, P.C., represented the Zoning Hearing Board as its Solicitor.

3. Protestant(s) / Interested Parties: None

**B. Notice**

Notice of the hearing was given by public advertisement, posting of the Property and regular mail to neighboring property owners pursuant to the applicable provisions of the Pennsylvania Municipalities Planning Code,<sup>1</sup> the Zoning Ordinance of the City of Bethlehem<sup>2</sup>

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<sup>1</sup> MPC § 10908(1) provides that “[p]ublic notice shall be given, and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed

and the rules of the Board.<sup>3</sup> The hearing was held in part remotely. Telecommunication devices were utilized during the hearing in accordance with the requirements of Pa. Act 15 of 2020 (35 Pa. C.S. Section 5741, *et seq.*, and 42 Pa. C.S.) enacted by State Legislature and signed into law by Governor Wolf on April 20, 2020. All public notices, posting of the property, and mailings regarding the public hearing were, however, performed in compliance with the Public Notice requirements of the Pa. Municipalities Planning Code, 53 P.S. Section 10107, *et seq.*, and the City Zoning Ordinance, and not under the relaxed standards set forth in Pa. Act 15 of 2020.

### C. Property

The property is located at **1029-1031 E. Third Street**, Bethlehem, Lehigh County, Pennsylvania (collectively, the “Property”).

## II. Applicable Law

The Board considered the case under the following statutory authority, as well as under applicable reported decisions of the appellate courts in Pennsylvania:

1. *The Codified Zoning Ordinance of the City of Bethlehem*, effective June 15, 2012, as

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by ordinance or, in the absence of ordinance provisions, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing."

<sup>2</sup> Article 1325.04(a) provides for notice to be given as follows: (a) Upon filing with the Board for an application for a special exception, variance or other appeal under this Ordinance, the Board shall determine a place and a reasonable time, and the City shall give notice as follows: (1) The City shall publish a public notice describing the location of the building or lot and the general nature of the matter involved in a newspaper of general circulation in the City in conformance with the Municipalities Planning Code. (2) The City shall give written notice to the applicant and persons who have made a timely request for notice of such hearing. In addition, notice shall be provided to those persons whose properties adjoin the property in question, and to the City Planning Commission. Such notice should be sent at least 7 days prior to the hearing. (3) The City shall provide written notice to the last known address of the primary owner of lots within 300 feet of the subject lot, unless the application only involves a dimensional variance on an owner-occupied single-family dwelling unit or its accessory structure. Failure of a person(s) to receive such notice shall not be grounds for an appeal, provided that a good faith effort was made to provide such notice.

<sup>3</sup> The custom and practice in the City of Bethlehem is for the Zoning Officer to place the notice in the newspaper and to send written notice to interested parties by regular mail. The Applicant is given a fluorescent sign by the Zoning Officer at the time the Application is filed, and the fee paid, and the Applicant is instructed to conspicuously post the property with the sign giving notice of the particulars of the hearing at least seven (7) days prior to the hearing.



amended (hereinafter, the "Zoning Ordinance").

2. *The Pennsylvania Municipalities Planning Code*, 53 P.S. § 10101, *et seq.*, as reenacted 1988, Dec 21. P.L. 1329, No 170, § 2 (hereinafter, the "MPC").

### **III. Nature of Relief Sought**

Applicant sought variances from §1306.01(a)(4) to reduce the minimum tract size (6,000 SF required, 3,428 SF proposed), to reduce the lot area per dwelling unit (3,000 SF required, 1,714 proposed) to reduce the minimum lot width (60' required, 45'6" existing), to reduce the minimum rear yard setback (20' required, 19'6" diminishing to 7' proposed), to reduce the side yard setback (4' required, 4' reducing to 0' proposed along the western line) and §1319.01(a)(1)(i) to provide 0 parking spaces when 4 are required.

### **IV. Evidence Received by the Board**

In addition to testimonial evidence received by the Board from Applicant, the Board admitted the following as exhibits:

Application and its attachments  
Exhibit T-01: Plans/Photos  
Exhibit A-100: Site Plan  
Exhibit A-102: Floor Plan  
Exhibit A-105: Elevation  
Exhibit A-1: Tax Map

### **V. Findings of Fact**

1. Applicant is the owner of the Property.
2. Joe Ruggerio is the principal in Applicant.
3. The Property is located in the RT-High Density Residential Zoning District and contains 3,428 SF.

4. Applicant submitted as Exhibit T-01 an exhibit that included plans and photos prepared by its architect.
5. The aerial shows the neighborhood with the Property being marked in red.
6. The aerial depicts that the City's Greenway is to the west and north, the Property is vacant land and a variety of homes exist along Third Street.
7. The street view shows that there is trash and abandoned vehicles on the Property and that nearby residential use consists of twin and multi-family dwelling residences.
8. The photos depict that on street parking does appear to exist in the area.
9. A sketch depicts the finished façade of the building, if relief is granted.
10. Applicant submitted Exhibit A-100, which is the site plan.
11. Two twin or single-family semi-attached homes are proposed on the Property.
12. Applicant testified that the lot is oddly shaped.
13. Exhibit A-102 is the floor plan that shows the layout of the two stories for each residence.
14. Applicant is providing a yard, a deck and fencing to separate the Property from the Greenway.
15. Applicant submitted Exhibit A-105, which is an elevation. The building was designed with varied rooflines to make it conform best with the neighborhood.
16. Applicant is proposing workforce housing similar to what is proposed at other buildings he is renovating in the area. (Applicant has appeared before the Board on other occasions for rehabilitation of properties located nearby on Evans Street. The Board takes judicial notice of its findings in those decisions to establish the character of the area.)

17. Due to the shape of the property, Applicant believes the setback relief is necessary to construct usable residences.

18. Applicant would not construct a single-family dwelling on this Property due to its location and shape.

19. The width of the lot is much greater than is necessary for a single-family dwelling and also exceeds the lot widths of nearby residences. Further, there is no ability to provide off-street parking. The proposed homes are more consistent with other homes in the neighborhood.

20. Exhibit A-1 is the City's tax map showing that lots in the area range from 18.37' to 27.55' feet in width.

## **VI. Discussion**

Applicant requests the variances noted above. The grant of a variance is pursuant to §1325.06 of the Zoning Ordinance.

### **1302.96 Variance**

A modification of the regulations of this Ordinance, granted on grounds of exceptional difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Article 1325 of this Zoning Ordinance, and the laws of the State of Pennsylvania.

The Zoning Ordinance provides specific criteria that the Zoning Hearing Board must address in relation to the approval or denial of a variance request:

### **1325.06 Powers and Duties – Variances**

(a) Upon a written appeal from a determination by the Zoning Officer, the Zoning Hearing Board shall have the power to approve a Variance to one or more specific provisions of this Ordinance for a specific property.

(b) The power to authorize a variance from the terms of this Ordinance shall only be used where authorized under the Pennsylvania Municipalities Planning Code or in *de minimus* situations. As of the adoption date of this Ordinance, the

Municipalities Planning Code provided that all of the following findings must be made, where relevant:

(1) There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;

(2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a Variance is therefore necessary to enable the reasonable use of the property;

(3) Such unnecessary hardship has not been created by the appellant;

(4) The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

(5) The Variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

There is a multitude of decisions of the various courts in the Commonwealth dealing with the grant of variance. A variance applicant must show that unnecessary hardship will result if the variance is denied and that the proposed use is not contrary to the public interest. *Allegheny West Civic Counsel, Inc. v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

Applicant proposes to build two twin homes on the Property. To do so, Applicant requires a variety of dimensional relief.

Applicant demonstrated to the Board that the land is subject to unique physical circumstances that are peculiar to the Property. The Property is unusually-shaped, oddly located and is larger than the other lots in the area. Second, these characteristics create a

hardship to development in conformity the Zoning Ordinance. Third, the proposed relief will not adversely impact the neighborhood. By allowing the dimensional relief for the building, the residences actually are more in character with the surroundings. Regarding parking, ample parking is available in the vicinity and the other residences nearby do not have on-street parking. In addition, Applicant presented renderings of how a dwelling utilizing the proposed dimensions would generally appear, and the Board believes those types of residences would not have an adverse impact on the area but actually better conform.. The testimony indicates that the lot has existed in this condition for some time, so the hardship is not created by the owner. In addition, Applicant must demonstrate that the relief afforded is the minimum. The Board believes the evidence demonstrates that this proposal is a reasonable deviation and, because the Property's dimensions exist and are not being altered, is the minimum relief.. Granting relief that would permit semi-detached dwellings in an area where semi-detached dwellings are prevalent is a reasonable modification and not an overuse of the Property.

In summary, the Board concluded that while the Property could theoretically be used for a single-family dwelling, practicality dictated that the variances are a reasonable deviation.

Based on all of the above and the particular facts of this proposal, the Board believed Applicant met its burden of proof.

## **VII. Conclusions of Law**

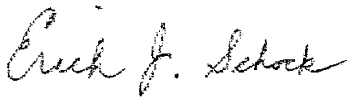
1. The physical circumstances and uniqueness of the Property create a hardship to making reasonable use of the Property without relief.

2. Applicant presented sufficient evidence that it did not create the hardship.
3. Applicant presented sufficient evidence to demonstrate that use of the Property as proposed is an acceptable accommodation under the Zoning Ordinance, and the minimum relief necessary to allow reasonable use of the Property.
4. Applicant presented sufficient evidence to demonstrate that the use would not be injurious to the public and that the use would otherwise comply with all specific requirements in the Zoning Ordinance.

**VIII. Decision of the Board**

Based upon the foregoing, by a 5 – 0 vote the Board granted the necessary relief subject to the condition that Applicant construct the residences substantially in accordance with the Exhibits submitted.

**BOARD:**

  
\_\_\_\_\_  
ERICH J. SCHOCK  
Solicitor

*/s/ William Fitzpatrick \**  
\_\_\_\_\_  
WILLIAM FITZPATRICK  
Chairman

*/s/ Craig D. Peiffer\**  
\_\_\_\_\_  
CRAIG D. PEIFFER,  
Zoning Officer

*/s/ Jessica Lee\**  
\_\_\_\_\_  
Jessica Lee  
Member

*/s/ Terry Novatnack\**  
\_\_\_\_\_  
TERRY NOVATNACK  
Member

*/s/ Peter Schneck\**  
\_\_\_\_\_  
PETER SCHNECK  
Member

*/s/ Carol Ritter\**  
\_\_\_\_\_  
CAROL RITTER  
Member

\* The above individuals were unavailable at the date of mailing.

**DATE(S) OF HEARING: January 26, 2022**

**DATE OF WRITTEN DECISION: March 11, 2022**

**Before the Zoning Hearing Board  
Of the City of Bethlehem, Pennsylvania**

**Lehigh County**

**Appeal & Application of  
RIPEX, LLC  
Applicant**

)  
)  
)

**Date: March 11, 2022**

**Re: 1029-1031 East 3<sup>rd</sup> Street**

**Certificate of Service**

I, Erich J. Schock, Solicitor to the Board, do hereby certify that I sent a true and correct copy of the forgoing Decision to the Applicant listed below at the addresses set forth, by regular first-class U.S. Mail on the date set forth below.

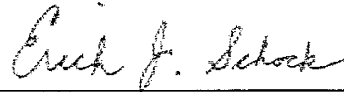
RIPEX LLC  
Attn: Joe Ruggiero  
930 E. Market Street  
Bethlehem, PA 18017  
**Applicant**

James J. Holzinger, Esquire  
1216 Linden Street  
P.O. Box 1409  
Bethlehem, PA 18016

FITZPATRICK LENTZ & BUBBA, P.C.

Date: March 11, 2022

BY:



ERICH J. SCHOCK  
Atty. I.D. No.65475  
Two City Center  
645 West Hamilton Street, Suite 800  
Allentown, PA 18101  
Attorney for Zoning Hearing Board  
Of the City of Bethlehem



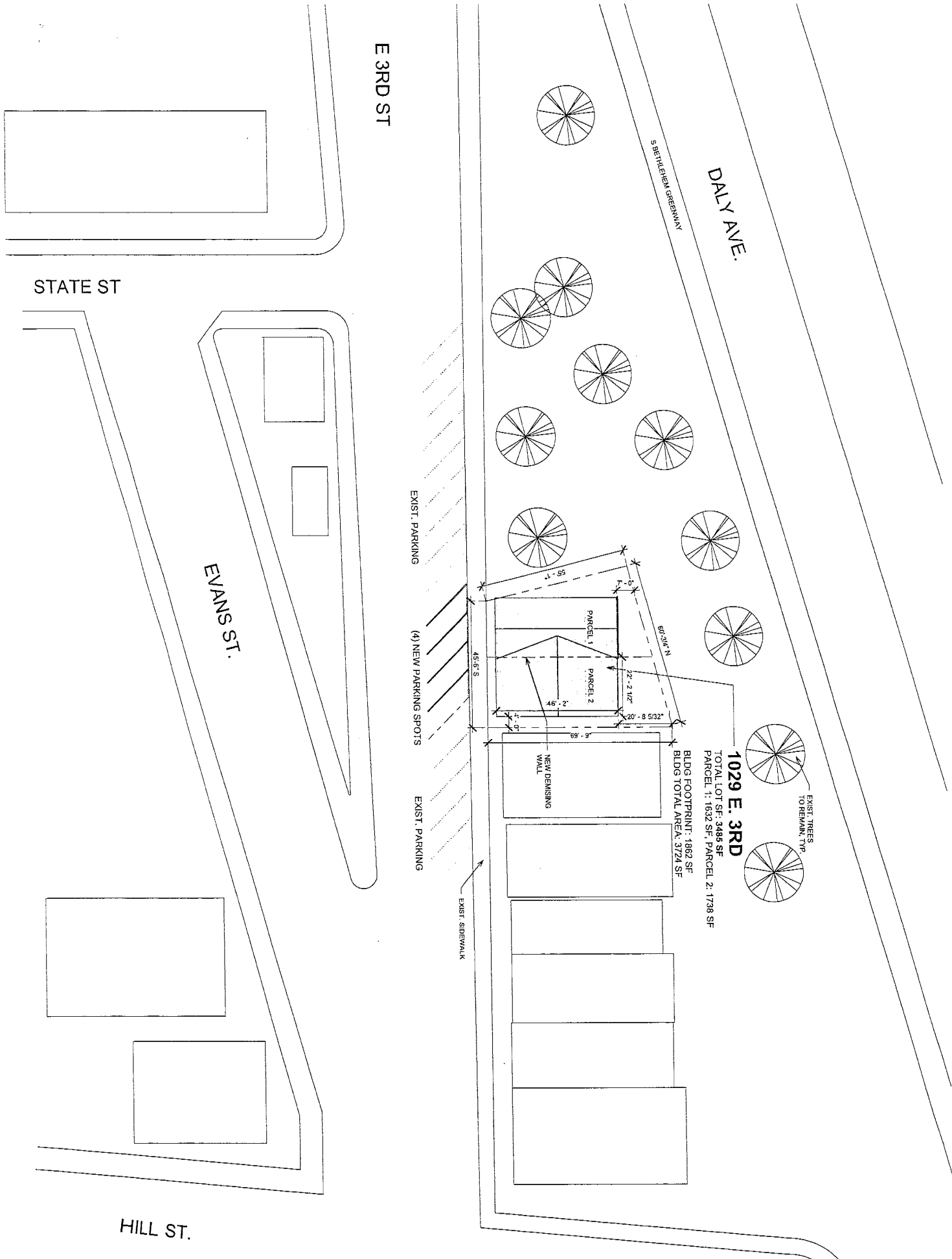
# 1029 E 3rd

## PROPOSED 2 SEMI DETACHED SINGLE HOMES

BETHLEHEM, PA 18015



① South  
1/8" = 1'-0"



E 3RD ST

DALY AVE.

SEPTIC TANK GREENWAY

STATE ST

EVANS ST.

HILL ST.

EXIST. PARKING

(4) NEW PARKING SPOTS

EXIST. PARKING

EXIST. SIDEWALK

1029 E. 3RD

TOTAL LOT SF: 3485 SF  
PARCEL 1: 1632 SF, PARCEL 2: 1738 SF

BLDG FOOTPRINT: 1862 SF  
BLDG TOTAL AREA: 3724 SF

EXIST. TREES  
TO REMAIN, TYP.

NEW DEMISING  
WALL

PARCEL 1

PARCEL 2

