



SITE ADDRESS: 934-946 Evans Street & 1004 Evans Street

Office Use Only:

DATE SUBMITTED: 6.25.24

HEARING DATE: 8.28.24

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 4th Wednesday of the month. The hearing will be held on the 4th 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

APPLICANT:	
Name	HH Evans Street, LLC - Primary Contact David Hitzel
Address	[REDACTED]
Phone:	[REDACTED]
Email:	[REDACTED]

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.

See attached

If the Applicant seeks a Special Exception, please state the **specific section (s)** of Zoning Ordinance applicable: §1322.03(nn): Additional Requirements for Certain Uses, Parking Lot in Residential District (1) Where this use

is allowed under the District regulations, land may be utilized for off-street parking facilities as a principal use of the lot providing the requirements in Articles 1319 and 1321 and the following are met: (i) The applicant must be the owner of both the property which is to be served by the parking lot and the property in the residential district to be used as the parking lot. [Same owner] (ii) No repair, service, display, or storage of vehicles shall

be permitted on said parking lot. [Residential parking only for building at 934-946 Evans] and (iii) Parking lot shall be used exclusively for customer and employee parking. [Only use is resident parking]

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

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

6/25/2024

Date



Property owner's Signature

6/25/2024

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.

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
§1318.23(l)	8' Buffer Strip at public streets and parking lots	Variable	Requesting partial Buffer Strips; 1004 Evans buffer along Evans Street only, partial along State Street; 934-946 Evans partial buffer along Evans Street only
§1319.01(a)(iii)	Parking space requirements: 1.5 parking spaces per unit	1.35 parking spaces per unit	Proposed 50 parking spaces combined for 37 living units
§1319.02(j)(1)	1004 Evans St. Lot Frontage: ±114' require 3.8 Trees	Requesting 2 trees along Evans St. on 1004 Evans Street parking lot	Total reduction of 1 street tree for 1004 Evans parking lot combined frontage (State & Evans Streets)
§1319.02(j)(1)	934-946 Evans St. Lot Frontage: ±150' require 5 Trees	5 Trees from smaller group (per Forestry and Fire Department recommendations)	Per Forestry Department: suggestion to meet the street tree requirement but also accommodate the fire access would be to plant smaller trees from the group 1 approved tree list
§1306.01(a)4	Lot Area per Dwelling Unit require 1,200 Sq. Ft. / Dwelling Unit	859 Sq. Ft. / Dwelling Unit Proposed	Requesting relief for lot area per dwelling unit
§1306.01(a)4	Front Yard Setback require 10 feet	Requesting setback of 1"	Requesting relief for setback
§1306.01(a)4	Side Yard Setbacks require 15 feet	Requesting Setback of 9" & 9"	Requesting relief for setback
§1318.23(l)	8 feet minimum width buffer strip along a public street shall be required where new parking spaces for 10 or more vehicles are proposed to be adjacent to and visible from a public street	Variable	Requesting partial Buffer Strips; 1004 Evans buffer along Evans Street only, partial along State Street; 934-946 Evans partial buffer along Evans Street only
§1319.02(g)(6)	15-foot buffer between curb line and parking lot	Requesting reduction to 11.8' & 8.5' for Eastern Lot	Requesting relief for buffer
§1319.03(h)	Fencing around parking areas		Requesting relief for fencing along Eastern end of lot adjacent to Parcel P6SE2A 15 2 0204 (due to retaining wall on property line)
§1349.08(c)	Buffer Yard planting requirements	Variable	Requested reduction of buffer yards does not allow for meeting of planting requirements (see §1318.23(l) variance)
§1349.08(f)(1)	Landscaped off-street parking and loading areas shall have a minimum of ten (10%) percent of the area represented by approved plantings	1004 Evans Lot requires 1,234.7 Sq. Ft. landscaped, propose 1,004 sq. ft. 934-946 Evans Lot will use front yard for landscaping requirement to meet 10% > 1,945 sq. ft.	Reduction of 1004 Evans lot landscaping requirement
§1349.08(f)(2)	Side foundation shrub plantings		Building layout does not allow for foundation shrub plantings

934-946 Evans Street & 1004 Evans Street Residential Multifamily Use Development

Evans & State / Ridge Streets, City of Bethlehem

Project Narrative

June 25, 2024

The project site is located at the Southeast and Southwest corners of the Evans Street intersection with State Street in the High Density Residential (RT) Zoning District on the South Side of the City of Bethlehem. The project site consists of three (3) existing vacant lots located at 934-940, 942-944, and 946 Evans Street, with intent for consolidation of three parcels into one ~0.4461 acres or 19,434 SF parcel and one (1) lot at 1004 Evans Street ~0.2834 acres, or 12,347 SF, to be utilized for off-street parking facilities as a principal use of the lot providing the requirements in Articles 1319, 1321, and 1322. The parcel 1004 Evans Street shall not be separately conveyed and shall be maintained as off-street parking exclusively for the dwellings at 934-946 Evans Street, as long as 934-946 Evans Street contains multi-family dwellings. The combined total area of all four (4) existing lots is ~0.7299 acres (31,795 SF). The consolidated parcel at 934-946 Evans Street is bordered on the north by Evans Street, on the East by State Street, on the West by Ridge Street, and on the South by residential properties (located in the RT District).

The applicant proposes to construct a multi-family building on the consolidated parcel. The 3-story building, facing Evans Street, will include 37 apartments with associated amenities (washer and dryer for each apartment, central air conditioning, bicycle rack and landscaped green space for tenant enjoyment), along with a dedicated parking lot providing ten (10) parking spaces (including 2 ADA spaces) directly to the south of the building, and forty (40) parking spaces in a dedicated parking lot located at 1004 Evans Street (east of the building with pedestrian access across State Street). The proposed building will contain seven (7) two-bedroom apartments, twenty-nine (29) one-bedroom apartments and one (1) studio apartment. Each two-bedroom apartment will be two levels, with a second level providing private outdoor balcony space. Additional green space is designated with landscaping in the front of the building along Evans Street and bicycle rack. The current landowner shall be responsible to ensure that the bicycle rack or locker continues to be available and is well maintained and is replaced if damaged or removed.

The proposed land development, a multi-family dwelling, is a permitted use in the RT Zoning District.

In order to implement the proposed site improvements, the applicant is seeking relief and variances from the City of Bethlehem Zoning Ordinance. These variances are required in order to allow for the development of the property.

The Consolidated Lot ("Property" or "Lot") possess a number of physical circumstances or conditions unique to the Property that create an unnecessary hardship. The Property is irregular in shape, namely 1004 Evans is irregular with varying property line widths from the north to the south. The lot is also shaped with an angle from east to west along Evans Street, further impacting potential uses. The 1004 Evans Street Property was evaluated and deemed not feasible to adequately construct a suitable multi-family building that provides windows for living space and accommodating parking. In addition to the

irregular Lot shape, the Property also has an approximate grade of 16 feet along 107 feet, roughly a 15% grade, and the current existing structure is not feasible for conversion to living space due to the existing structure configuration and lot dimensions noted above. The Property at 934-946 Evans Street is also irregular in shape with a trapezoid shape, 150 feet of depth on the east side and 111 feet of depth on the west side. The lot is also landlocked by 3 streets to the east, north, and west not allowing for expansion or acquisition of property to increase the proposed lot are per dwelling unit. This lot also has an approximate grade of 23 feet grade along State Street frontage of 150 feet (15% grade), further restricting ability to develop the lots.

Due to the physical circumstances and/or conditions of the lots, it is not a possible to develop the land in full conformity with the applicable provision of the zoning ordinance. Strict application of the required setback and buffer yard regulations reduces the building envelope and would not provide adequate size for a livable unit count to make the project feasible. Due to the height restrictions in the RT Zoning Districts, a larger building footprint is required at the Property to enable use of the available land and achieve feasibility of the project due to the land improvements required from the existing condition of the Lots.

Section 910.2. (1) of the Pennsylvania Municipalities Planning Code not only describes unique physical characteristics as including "irregularity, narrowness, or shallowness of lot size or shape", it specifically includes "exceptional topographical or other physical conditions peculiar to the particular property". The applicant submits that the physical condition of the Property being surrounded on three (3) sides by public streets, the irregular lot shape, and topographical characteristics present creates a hardship in the ability to assemble additional lands or construct an alternate building envelope to meet the lot area per dwelling unit requirement.

As a result of the aforementioned physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the applicable provisions of the zoning ordinance and the authorization of the requested variances is necessary for the reasonable use of the Property. The unnecessary hardships have not been created by the Applicant and the variances, if authorized, will not alter the essential character of the neighborhood, but will enhance the character of the neighborhood by removing currently vacant and abandoned land in poor condition. The requested variances represent the minimum variances that will afford relief and represent the least modification possible of the regulations at issues that enable the development project the highest potential to move forward.

Current View



Current View



Proposed Rendering



Proposed Rendering



24-002 Sketch Plan Review –
May 3, 2024

(Sketch Plan review for current
zoning hearing submission)



CITY OF BETHLEHEM

AND ZONING

10 East Church Street, Bethlehem, Pennsylvania 18018-6025

BUREAU OF PLANNING

Phone: 610-865-7088

Fax: 610-865-7330

TDD: 610-865-7086

May 3, 2024

C. David Hitzel
HH Evans Street, LLC
621 Brooke Lane
Glen Mills, PA 19342-8824

RE: **(24-002 Sketch Plan Review) – 24040013 – 934-946 and 1004 EVANS STREET – SKETCH PLAN REVIEW – Ward 5, Zoned RT, plans dated April 1, 2024.**

Dear Sir,

The above-referenced plan has been reviewed by the appropriate City offices. A Sketch Plan lacks much of the information necessary for a thorough evaluation and has been reviewed only for general conformance to City of Bethlehem standards to the extent permitted by the limited detail provided. Additional comments will be provided when a more detailed plan is submitted for review.

At this point we offer the following sketch plan comments:

1. 934-946 Evans Street, the Applicant shall verify parcel metes and bounds determining the location of the front lot line and ensuring that the proposed building does not encroach into the public right-of-way.
2. Applicant shall provide actual building height as defined in the Zoning Ordinance; Ref. 1302.17, and 1302.55. If the front of the building exceeds 40' in height then a dimensional variance shall be required.
3. Zoning Relief. The Applicant shall submit an Appeal Application for the following relief:
 - a. A Dimensional Variance to reduce the lot area per dwelling, for the parcel containing the residential structure at 19,435 SF, 16 dwellings are permitted; if the adjacent parcel is also considered at 12,708 SF for a total of 32,143 SF, then 27 dwellings are permitted and 37 dwellings are proposed. The RT District requires a minimum of 1,200 SF per dwelling; the Applicant proposes 868 SF per dwelling. This represents an approximate 40% increase in permitted density.
 - b. A Dimensional Variance to reduce the minimum front yard setback, 10' required zero to approximately 26' proposed.
 - c. A Dimensional Variance to reduce the minimum side yard setback, 15' required approximately 4' proposed along Ridge Street and zero proposed along State Street. Note: The minimum required setback may be increased if the building height exceeds 35'; Ref 1306.01(a)(4)(footnote f) and 1322.03(II)(7).
 - d. A Variance to eliminate buffer yards; whereas a minimum 8' wide buffer yard is required where six or more apartment dwelling units are proposed and a minimum 8' wide buffer yard is required where new parking spaces for ten or more vehicles are

- proposed; Ref. 1318.23. The Applicant proposes a 4' high vinyl fence along the rear lot lines of both the 934-946 and 1004 Evans Street parcels.
- e. A Variance to reduce the minimum required off-street parking, 56 spaces required, 42 spaces proposed, or 1.5 spaces per dwelling unit required, 1.135 spaces per dwelling unit proposed; Ref. 1319.01(a)(1)(ii).
 - f. 1004 Evans Street, a Variance to reduce the minimum separation distance between the curb line and a principal parking lot, 15' required, approximately 11' proposed; Ref. 1319.02(g)(6).
 - g. 1004 Evans Street, a Variance to reduce the minimum required street trees along Evans Street, four required, two proposed; Ref. 1319.02(j)(1).
 - h. A variance to permit eight compact car spaces in a lot that includes less than 40 spaces; Ref. 1319.03(a)(1).
 - i. 1004 Evans Street, a Variance to eliminate the fence requirement for parking areas of five or more spaces within a Residential District; Ref. 1319.03(h)
4. Waivers. The applicant also seeks waivers for buffer yard and foundation landscaping; Ref. 1349.08(c) and 1349.087(f)(2).
5. Adjacent context. Buildings along the south side of the 900 block of Evans Street and the 1000 block of Evans street feature a sawtooth or stepped footprint pattern to accommodate the angle of Evans Street. The Applicant should consider mimicking this pattern in order to re-establish the street wall in this location. Furthermore, pulling the building closer to Evans Street *may* improve access for fire apparatus.

Additional comments to be addressed at the Subdivision & Land Development Plan review stage are attached.

This plan will be placed on the May 9, 2024 Planning Commission agenda. Please let us know who will be attending in person. As a sketch plan submission, no formal action is required from the Planning Commission; however, since this plan qualifies for Site Plan review, then the Planning Commission may make recommendations to the Zoning Hearing Board regarding the overall plan.

Sincerely,

Darlene L. Heller, AICP
Assistant Director of Planning and Zoning

C.	Basel Yandem	Joseph Ingaglio, Bustamante Engineers
	Emanuel Machado	Justin Dinardo, Bustamante Engineers
	Geoffrey Karanja	Scott Voelker, Eggmanick Design
	Mike Reich	Bryan Beck, Mohawk Contracting & Development
	Olivia Teel	
	Greg Cryder	

Enclosure

PUBLIC WORKS

Engineering

1. Existing and proposed features, including, but not limited to, utilities, profiles, landscaping, lighting and details shall be shown on separate plans.
2. Existing and proposed lot monuments/iron pins shall be shown.
3. Existing and proposed impervious coverage areas shall be shown. A stormwater fee may be charged for increase in impervious area.
4. Deficient sidewalk along the entire property must be removed and replaced. Curb may also be required to be replaced and will be evaluated at the time of land development review.
5. In accordance with Ordinance No. 4342, at the time of execution of the developer's agreement, a sanitary sewer tapping fee of \$2,527 per EDU will need to be paid. The total amount will be determined when a sanitary sewer facilities planning module application is submitted. A cover letter, describing the project, and a utility plan shall be included in the planning module submittal. Please note that building permits cannot be issued until the Planning Module is reviewed and approved by the Pennsylvania Department of Environmental Protection.
6. The following notes are required on the land development plans:
 - a. By submission of these plans the engineer on record certifies that these plans are in complete conformance with the City of Bethlehem Storm Water Management Ordinance.
 - b. In order to maintain continuity between plan revisions, any changes to a previous plan submission shall be flagged with a triangle. Any changes not flagged may be considered not approved. Flagged changes shall be referenced to the appropriate revision date in the revision block.
 - c. Accurate as-built plans shall be kept up to date during the construction process. At the completion of the project record drawings shall be developed from the as-built plans and submitted to the City Engineer's Office. All final drawings shall show North American Datum (NAD) 1983 State Plane Coordinates in feet (Pennsylvania South, FIPS Zone 3702) and the digital file shall be in State Plane Feet Coordinates as applicable. The hard copy of the record drawings shall be in the form of a Mylar copy. The engineer of record shall certify (i.e. P.E. stamped and signed) that the record drawings comply substantially with the approved plan and that they conform to industry standards. All digital files shall reside on USB flash drive containing the digital representation of the final plan as presented on the twenty-four (24) inch by thirty-six (36) inch sheets. The digital map shall be AutoCAD compatible. All layers included in the digital maps shall be the standardized layers prepared and utilized by the City of Bethlehem to ensure compatibility with the City's existing CAD standards and as described in Appendix A of the City's Subdivision and Land Development Ordinance.
 - d. Prior to any work within the Right-of-Way, permits must be obtained from City Engineering Office.

Electrical

1. Provide a lighting/photometrics plan. Include the design for the parking lots and the exterior of the building, including the ramp and all the entrances (this is also included as a zoning comment).

Traffic

1. At the submission of the Preliminary/Final Land Development Plan, provide traffic counts, as per the 9th Edition of the ITE Trip Generation Manual.

2. At the submission of the Preliminary/Final Land Development Plan, if a traffic study is required, then provide an escrow fee in the amount of \$2,500; Ref. Resolution No. 14,589, adopted April 5, 2005.

Forestry

1. Submit a landscape plan for comment/review.

FIRE

The City of Bethlehem Fire Department currently enforces the 2018 Edition of the International Fire Code in its entirety including Appendices, with local amendments, as adopted in Article 1501 of the Codified Ordinances of the City of Bethlehem, Ordinance 2022-15.

A condensed version of Article 1501/Ordinance 2022-15 listing the common items that affect Land Development Projects is attached at the end of this document for reference. For a copy of the full ordinance please visit: <https://www.bethlehem-a.gov/CityOfBethlehem/media/BFDMedia/Fire-Code.pdf>

1. All buildings 30 feet or greater in height must have 26 foot wide, minimum, access road(s) and must accommodate a fire apparatus weighing 84,000 lbs. (Refer to International Fire Code, 2018 ed., Section 503 and Appendix D for additional information.). At least one of the required access roads meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building (Refer to International Fire Code, 2018 ed., Section 503 and Appendix D for additional information.).
2. The only available aerial access will be along Evans St. The Applicant shall work with the City's Fire Marshall on options to address the aforementioned requirement (Current issues observed in this area which restrict aerial access include: trees, street parking, road width/space to set up an aerial truck).
3. The following drawings are required to be submitted for Fire Department Review of Land Development Plans:
 - a. Utility plan including water supply showing fire hydrants on or near property,
 - b. Turning Plan,
 - c. Site Plan,
 - d. Grading Plan

Additional drawings may be required based on the individual project.

Please contact the City of Bethlehem Fire Department office at: 610-865-7143, or email Fire Marshal Craig Baer (cbaer@bethlehem-pa.gov), or Chief Fire Inspector Michael Reich (mreich@bethlehem-pa.gov), with any questions, referenced Fire Code requirements or to obtain any documents required to complete the submittal for review.

ZONING

1. 1322.02(c)(1)(i), Provide a Statement of Intent on the Record Plan. The statement shall include consolidation of three parcels into one ~0.4461 acres or 19,434 SF parcel and the construction of a three-story structure containing a total of 37 multi-family dwellings (apartments). Also include the number of studios (1), one-bedroom (29) and two-bedroom (7) dwellings, the total number of off-street parking spaces (50) and a brief description of site amenities.
2. Provide a note on the record plan, "The parcel 1004 Evans Street shall not be separately conveyed and shall be maintained as off-street parking exclusively for the dwellings at 934-946 Evans Street, as long 934-946 Evans Street contains multi-family dwellings."

3. Indicate the location of bicycle racks on the Site Plan; provide the number of spaces and distance from the bicycle rack(s) to the building entrance(s).
4. Provide a note on the record plan, "The current landowner shall be responsible to ensure that the hitch, rack or locker continues to be available and is well maintained and is replaced if damaged or removed. If the hitch, rack or locker is within a street Right of Way, a City encroachment permit shall be required."
5. Provide a photometrics plan for the parking lot and other exterior lighting; Ref. 1318.25.

GENERAL

1. A recreation fee of \$55,500 will be required at the time of execution of the developer's agreement.
2. The final land development submission shall also include a separate sheet for subdivision (Lot consolidation) and zoning data for each parcel and the consolidated parcel.
2. Environment Advisory Council (EAC) comments will be included at the time of submission of Preliminary/Final Land Development.
3. Lehigh and Northampton Transportation Authority (LANTA) comments will be included at the time of submission of Preliminary/Final Land Development Plans.
4. The project should generally comply with the goals and objectives of the City's Climate Action Plan for new development, including energy efficient construction, provisions for safe walking and biking, green development and other various provisions.

Sketch Plan Remediation related to Fire Safety & Forestry

24-002 Sketch Plan Review - 934-946 Evans St and 1004 Evans St

Joseph Ingaglio <joseph@bustamanteeng.com>

Mon, Jun 3, 2024 at 11:30 AM

To: "Baer, Craig D" <CBaer@bethlehem-pa.gov>

Cc: "Reich, Michael C" <MReich@bethlehem-pa.gov>, HH Properties <hhproperties.us@gmail.com>, Justin DiNardo <justin@bustamanteeng.com>, scott voelker <scott@eggmanink.com>

Craig,

Just wanted to follow up in writing what we discussed on our May 23, 2024 Teams call.

During the call we discussed your comments on the City's Sketch Plan Review Letter Date May 2, 2024 and comments made during the May 9, 2024 Planning Meeting. In summary we agreed to provide the following.

- The front sidewalk on Evans street directly in front of the proposed building will be thickened and reinforced in order to support outriggers loads (You will provide the required outrigger loading we need to support). As per our discussion this will satisfy comment 1 in the sketch plan review letter and provide sufficient access width for an aerial truck.
- As per the city ordinances, we need (5) street trees in front of our proposed building. During our discussion you asked us to reduce the number of street trees to (3) trees to provide better access for an aerial truck. We will revise our drawings to show the reduce trees and seek a waiver if necessary. This will satisfy comment 2 in the sketch plan review letter.
- For comment 3, we will continue to develop our land development plans, and will provide the additional requested information as the project moves forwards.

Please confirm you agree with this summary, and that the proposed changes to the plan satisfy your concerns and you have no other concerns or issues regarding our proposed plan.

Thanks,

Joseph Ingaglio, PE

Vice President

Bustamante Engineers, INC.

www.bustamanteengineers.com*Your community is our business!!!*875 N. Easton Road, 3B
Doylestown, PA 18902

215.340.6990

www.BustamanteEngineers.com
info@BustamanteEng.com

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24-002 Sketch Plan Review - 934-946 Evans St and 1004 Evans St

Baer, Craig D <CBaer@bethlehem-pa.gov>

Fri, Jun 7, 2024 at 9:08 AM

To: Joseph Ingaglio <joseph@bustamanteeng.com>

Cc: HH Properties <hhproperties.us@gmail.com>, Justin DiNardo <justin@bustamanteeng.com>, scott voelker <scott@eggmanink.com>, "Teel, Olivia" <OTeel@bethlehem-pa.gov>, "Peiffer, Craig" <CPeiffer@bethlehem-pa.gov>

Joseph

This email shall serve as acknowledgement that the summary of proposed changes to address the issues noted on the sketch plan review for this project are acceptable. This acknowledgement shall only be applicable to the reviews conducted at the Sketch Plan review level to address compliance with the International Fire Code as adopted by the City of Bethlehem. Additional requirements may come into play when the project is reviewed in more detail during the land development phase.

I have also had discussions with Olivia (Forester) and Craig (Zoning) reference the street tree requirement. They are both cc'd on this email. Any final decision regarding the street trees will come from them. I just need to ensure that the street tree size and placement meets the intent of the Fire Code. It would be acceptable to me to either remove two trees to allow for adequate ladder truck access or install small street trees instead of the proposed medium street trees.

Below is the outrigger downforce requirement documentation you requested. This requirement is documented in the NFPA 1901 standard:

19.21.4.2 The ground contact area for each stabilizer shall be such that a unit pressure of not greater than 75 psi (500 kPa) will be exerted over the ground contact area when the apparatus is loaded to its maximum in-service weight and the aerial device is carrying its rated capacity in every position permitted by the manufacturer.

I have also attached the reach chart for the Ladder Truck that would service this building so that you can show that the ladder will be able to reach all portions of the building fronting on Evans St. The reach chart that you will need to reference on the drawing is the "105 – Foot HD Steel PAL".

If you need any additional information please let me know.

Thanks.

Craig Baer

Deputy Chief/Fire Marshal

City of Bethlehem Fire Department

10 E. Church St. Bethlehem PA 18018

610-865-7142

Confidentiality Notice: This e-mail transmission and any documents, files, or previous e-mail messages attached to it, are confidential. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any review, disclosure, copying, dissemination, distribution or use of any of the information contained in, or attached to this e-mail transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify me by returning this e-mail to me at the above address or by telephone at my phone number included above and then delete the message and its attachments from your computer.



HH Properties <hhproperties.us@gmail.com>

24-002 Sketch Plan Review - 934-946 Evans St and 1004 Evans St

Teel, Olivia <OTeel@bethlehem-pa.gov>

Tue, Jun 11, 2024 at 11:53 AM

To: HH Properties <hhproperties.us@gmail.com>, "Baer, Craig D" <CBaer@bethlehem-pa.gov>

Cc: Joseph Ingaglio <joseph@bustamanteeng.com>, Justin DiNardo <justin@bustamanteeng.com>, scott voelker <scott@eggmanink.com>, "Peiffer, Craig" <CPeiffer@bethlehem-pa.gov>

Good Morning,

My suggestion to meet the street tree requirement but also accommodate the fire access would be to plant smaller trees from the group 1 approved tree list. I have attached the list for reference.

Please let me know if you have any further questions.

Thank you,

Olivia Teel | City Forester

City of Bethlehem

[10 E. Church Street](#)

[Bethlehem, PA 18018](#)

Phone: 610.865.7073 | Fax: 610.865.7331

<http://www.bethlehem-pa.gov>

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 **COBTreeList.pdf**
2597K

Prior Zoning Board Decisions (July 2021: Previous Owner)

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

Northampton County

Appeal & Application of	)	Date: July 23, 2021
PAT RUGGIERO,)	
on behalf of RUGGONZ, LLC,)	
Applicant	)	Re: 934-946 Evans 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

July 23, 2021

(Date of Mailing This Decision)

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

Northampton County

Appeal & Application of	)	Date: July 23, 2021
PAT RUGGIERO,)	
on behalf of RUGGONZ, LLC,)	
Applicant	)	Re: 934-946 Evans Street

DECISION

I. Preliminary Matters

A public hearing was held on **June 9, 2021 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: Pat Ruggiero ("Applicant"), on behalf of Ruggonz, LLC, appeared at the hearing and had standing by virtue of Ruggonz, LLC's fee simple ownership of the Property. Applicant was represented by James J. Holzinger, Esquire.

2. Zoning Hearing Board: The Board comprised William Fitzpatrick, James H. Schantz, Terry Novatnack, Peter Schneck and Jessica L. Lee. 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: No interested parties participated in the public hearing.

B. Notice

Notice of the hearing was given by public advertisement, posting of the Property and regular mail to neighboring property owner(s) pursuant to the applicable provisions of the

Pennsylvania Municipalities Planning Code,¹ the Zoning Ordinance of the City of Bethlehem² and the rules of the Board.³ 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 subject property is known as **934-946 Evans Street**, Bethlehem, Northampton County, Pennsylvania (the "Property").

¹ 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 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."

² 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 seven (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.

³ 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.

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 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 a dimensional variance from §1306.01(a)(4) and 1325.06 to reduce the lot area per dwelling unit to 1,495 SF per unit where 2,500 SF is required, thereby allowing 13 dwelling units where 7 are permitted.

IV. Evidence Received by the Board

In addition to testimonial evidence received by the Board from Applicant, the Board admitted the Application and its attachments as an exhibit.

V. Findings of Fact

1. Applicant is the fee simple owner of the Property.

2. The Property is located at 934-946 Evans Street and consists of three parcels that total 19,435 SF. The Property is zoned RT-High Density Residential.

3. The Property is being developed in coordination with a nearby property owned by Applicant and located at 1002 Evans Street.

4. Lucienne Dooley testified on behalf of Applicant. Dooley is an architect and a principal at Artefact, Inc.

5. Dooley acted as the architect on both this project and the related project on Evans Street.

6. Applicant is proposing to consolidate all three tracts. The Property is located on the east end of the south side of Bethlehem between Third and Fourth Streets.

7. The Property formerly contained the Casablanca nightclub.

8. The nightclub dates back to the 1960's and served Bethlehem Steel workers.

9. The parking lot depicted on the plans already exists. The building is three stories.

10. The interior includes a two-story ballroom, but a new floor will be installed to create the proposed apartment units.

11. Some of the units will be on two levels. The building on the Property was last occupied approximately ten years ago.

12. The building currently is in poor condition.

13. Despite the overall poor condition of the building, it is structurally sound.

14. Applicant is proposing to add a parklet and plant trees on the Property.

15. Applicant also will improve the exterior of the building.

16. The building is part of the industrial history of the City of Bethlehem, and for that reason Applicant wishes to retain it.

17. Despite the overall poor condition of the building, it is structurally sound.

18. Reusing the existing building allows Applicant to create unique apartment units.

19. The proposed number of units is the minimum that allows Applicant to utilize the existing space in the building.

20. Similar to the Evans Street project, the units are designed to be workforce units.

21. The units maximize daily living space but remain modest enough to allow for affordable rents.

22. The Board incorporated the record from the appeal for 1002 Evans Street with respect to other relevant facts common to both properties, including but not limited to:

- a. The Property is located in what planners term a “workforce neighborhood.”
- b. Historically, the neighborhood had been of the same character and included social halls centering on different ethnicities, such as the Hungarian Club.
- c. The neighborhood is in need of rejuvenation.
- d. The building is formerly a warehouse and is being developed in coordination with the former Casablanca Club, which served Bethlehem Steel workers.
- e. The use is permitted in the RT Zoning District.
- f. The Zoning Ordinance requires 1 unit per 2,500 SF of land area.
- g. The Applicant is proposing 1 unit per 970 SF of land area.
- h. In addition, to satisfy the Zoning Ordinance’s parking requirement of 1.75 spaces per unit, ten (10) spaces will be provided at 946 Evans Street.
- i. The Property is located outside of the Student Housing District.
- j. Each unit will have independent heating, cooling and a washer and dryer.
- k. There have been no major housing developments in this area of Bethlehem in recent times.
- l. Workforce housing is generally considered to not be luxury apartments but instead designed for average wage earners but with all of the facilities that a basic unit requires.
- m. If fewer larger units are proposed, they are greater in area than necessary to serve prospective tenants and would dictate higher rents.

VI. Discussion

Applicant requests a variance from §1306.01(a)(3) of the Zoning Ordinance. The grant of a variance is pursuant to §1325.06 of the Zoning Ordinance. 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 diminimus 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 convert a former nightclub on the Property into multi-family dwellings. Multi-family dwelling units are permitted by right in the RT Zoning District. The Board first notes that the zoning relief request is dimensional relief. Dimensional variance relief is subject to a lesser standard than use relief. Applicant's case for relief is compelling. Applicant is renovating and readapting an underused nonresidential use into a needed residential use.

The uses in the neighborhood are mixed and include significant residential with multi-family buildings among them. Also, the Board increasingly encounters instances where the minimum lot area per dwelling unit cannot be met and the deficiency is not due to overuse of the Property but the fact that buildings of 100 years old or more in portions of the City routinely were constructed to occupy all of the lot area.

The use being proposed is a more productive use of the building. The use being proposed does not appear to be an overuse of the building even though the zoning requirements might suggest it was an overuse of the Property. The existence of the building and its occupying a large portion of the land area is an existing condition that is a physical circumstance of the Property that justifies variance relief. Further, the minimum required parking is provided.

As noted above, the standard for a variance is typically less onerous when associated with dimensional relief. The case establishing that principle is *Hertzberg v. Zoning Hearing Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998). In *Hertzberg*, the Court approved that grant of a variance that permitted a more significant density in a building under similar circumstances where the use was consistent with the neighborhood and improved the building.

Based on these facts, the Board believed the relief should be granted. As is its prerogative, the Board attached the conditions set forth below as an additional precaution to minimize the impact on the area.

VII. Conclusions of Law

1. Applicant presented sufficient evidence to demonstrate that the Property is subject to unique circumstances, namely, the existence of an underutilized building that occupies most of the Property's land area.

2. The circumstances create a hardship.

3. Applicant did not create the hardship.

4. The relief will not be injurious to the public.

5. With the relief, Applicant makes a reasonable use of the Property.

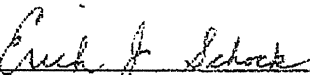
VIII. Decision of the Board

By a motion of 5-0, the Board granted relief from Section 1306.01(a)(4) and Section 1325.06 of the Zoning Ordinance restricting to lot area per dwelling unit to allow 1,495 SF/unit, subject to the following conditions:

1. Applicant will install the parklet and landscaping as shown on the site plan.
2. Applicant will make the facade improvements described at the hearing and

depicted in Exhibit A-1.

THE BOARD:



ERICH J. SCHÖCK
Solicitor

*/s/ Craig D. Peiffer**

CRAIG D. PEIFFER,
Zoning Officer

*/s/ William Fitzpatrick **

WILLIAM FITZPATRICK
Chairman

*/s/ James H. Schantz**

JAMES H. SCHANTZ
Member

*/s/ Peter Schneck**

PETER SCHNECK
Member

*/s/ Terry Novatnack**

TERRY NOVATNACK
Member

*/s/ Jessica L. Lee **

JESSICA L. LEE
Member

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

DATE(S) OF HEARING: June 9, 2021

DATE OF WRITTEN DECISION: July 23, 2021

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

Northampton County

**Appeal & Application of
PAT RUGGIERO,
on behalf of RUGGONZ, LLC,
Applicant**

)
)
)
)

Date: July 23, 2021

Re: 934-946 Evans 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.

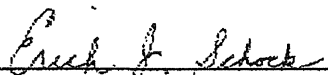
Pat Ruggiero
Ruggonz, LLC
60 Melchor Street
Easton, PA 18042
Applicant

James J. Holzinger, Esquire
1216 Linden Street
Bethlehem, PA 18018
Attorney

FITZPATRICK LENTZ & BUBBA, P.C.

Date: July 23, 2021

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

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

Northampton County

Appeal & Application of	)	Date: July 9, 2021
PAT RUGGIERO,)	
on behalf of RUGGONZ, LLC,)	
Applicant	)	Re: 1002 Evans 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

July 9, 2021

(Date of Mailing This Decision)

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

Northampton County

Appeal & Application of	)	Date: July 9, 2021
PAT RUGGIERO,)	
on behalf of RUGGONZ, LLC,)	
Applicant	)	Re: 1002 Evans Street

DECISION

I. Preliminary Matters

A public hearing was held on **May 26, 2021 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: Pat Ruggiero ("Applicant"), on behalf of Ruggonz, LLC, appeared at the hearing and had standing by virtue of Ruggonz, LLC's fee simple ownership of the Property. Applicant was represented by James J. Holzinger, Esquire.

2. Zoning Hearing Board: The Board comprised William Fitzpatrick, James H. Schantz, Terry Novatnack, Peter Schneck and Jessica L. Lee. 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: No interested parties participated in the public hearing.

B. Notice

Notice of the hearing was given by public advertisement, posting of the Property and regular mail to neighboring property owner(s) pursuant to the applicable provisions of the

Pennsylvania Municipalities Planning Code,¹ the Zoning Ordinance of the City of Bethlehem² and the rules of the Board.³ 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 subject property is known as **1002 Evans Street**, Bethlehem, Northampton County, Pennsylvania (the "Property").

¹ 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 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."

² 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 seven (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.

³ 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.

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 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 a dimensional variance from §1306.01(a)(4) and 1325.06 to reduce the lot area per dwelling unit to 977 SF per unit where 2,500 SF is required.

IV. Evidence Received by the Board

In addition to testimonial evidence received by the Board from Applicant, the Board admitted the Application and its attachments as

Exhibit A-1: Site Plan and Floor Plans

Exhibit A-2: Renderings / Drawing A106

V. Findings of Fact

1. Applicant is the fee simple owner of the Property.
2. The Property is located in the RT-High Density Residential Planning District on the south side of Bethlehem.
3. Applicant's architect, Lucienne Di Biase Dooley, testified on its behalf.
4. Dooley is a principal at Artefact, Inc.
5. The Property is located between 3rd and 4th street near Hayes Street.

6. The building on the property is a former Bethlehem Steel building.
7. The Property is located in what planners term a “workforce neighborhood.”
8. Historically, the neighborhood had been of the same character and included social halls centering on different ethnicities, such as the Hungarian Club.
9. The neighborhood is in need of rejuvenation.
10. The building is formerly a warehouse and is being developed in coordination with the former Casablanca Club, which served Bethlehem Steel workers.
11. The building is structurally sound.
12. The proposal is to convert the building to residential use.
13. The use is permitted in the RT Zoning District.
14. The Zoning Ordinance requires 1 unit per 2,500 SF of land area.
15. The Applicant is proposing 1 unit per 970 SF of land area.
16. Exhibit A-1 contains Site Plan and floor plans.
17. The Site Plan shows that the lot slopes from south to north.
18. The building on the property has a unique façade, having been designed to create the appearance of houses instead of its warehouse use.
19. There are thirteen (13) parking spaces on the Property.
20. Each apartment unit will have one designated space on the Property.
21. In addition, to satisfy the Zoning Ordinance’s parking requirement of 1.75 spaces per unit, ten (10) spaces will be provided at 946 Evans Street.
22. The renovations include improvements both to the exterior and interior of the building.
23. The Property is located outside of the Student Housing District.
24. Each unit will have independent heating, cooling and a washer and dryer.
25. Applicant will create a parklet on the Property and trees will be planted along the street.

26. The building dates to the 1920s.
27. Applicant determined that there is no reason to demolish the building, since it is constructed from concrete and steel and can be reclaimed.
28. There have been no major housing developments in this area of Bethlehem in recent times.
29. Exhibit A-2 is a rendering of the proposed exterior of the building.
30. Studio apartments will be about 570 SF in area and two bedrooms will be about 850 SF in area.
31. Workforce housing is generally considered to not be luxury apartments but instead designed for average wage earners but with all of the facilities that a basic unit requires.
32. The number of units derives from the space needed to fill the building.
33. If fewer larger units are proposed, they are greater in area than necessary to serve prospective tenants and would dictate higher rents.
34. The proposed apartment sizes allow for all necessary living space but help keep the apartments affordable.
35. There is no ability to add additional land to the lot. Parking is being provided at another nearby location. Effectively, the lot area per unit can be smaller, since land area is not needed for the parking being supplied elsewhere.

VI. Discussion

Applicant requests a variance from §1306.01(a)(3) of the Zoning Ordinance. The grant of a variance is pursuant to §1325.06 of the Zoning Ordinance. 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 diminimus 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 convert a former warehouse on the Property into multi-family dwellings. Multi-family dwelling units are permitted by right in the RT Zoning District. The Board first notes that the zoning relief request is dimensional relief. Dimensional variance relief is subject to a lesser standard than use relief. Applicant's case for relief is compelling. Applicant

is renovating and readapting an underused nonresidential use into a needed residential use.

The uses in the neighborhood are mixed and include significant residential with multi-family buildings among that. Also, the Board increasingly encounters instances where the minimum lot area per dwelling unit cannot be met and the deficiency is not due to overuse of the Property but the fact that buildings of 100 years old or more in portions of the City routinely were constructed to occupy all of the lot area.

The use being proposed is a more productive use of the building. The use being proposed does not appear to be an overuse of the building even though the zoning requirements might suggest it was an overuse of the Property. The existence of the building and its occupying the entirety of the land area is an existing condition that is a physical circumstance of the Property that justifies variance relief. Finally, by occupying lot area on another nearby parcel, Applicant meets the required parking.

As noted above, the standard for a variance is typically less onerous when associated with dimensional relief. The case establishing that principle is *Hertzberg v. Zoning Hearing Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998). In *Hertzberg*, the Court approved that grant of a variance that permitted a more significant density in a building under similar circumstances where the use was consistent with the neighborhood and improved the building.

Based on these facts, the Board believed the relief should be granted. As is its prerogative, the Board attached the conditions set forth below as an additional precaution to minimize the impact on the area.

VII. Conclusions of Law

1. Applicant presented sufficient evidence to demonstrate that the Property is subject

to unique circumstances, namely, the existence of an underutilized building that occupies most of the Property's land area.

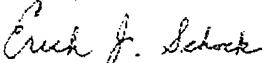
2. The circumstances create a hardship.
3. Applicant did not create the hardship.
4. The relief will not be injurious to the public.
5. With the relief, Applicant makes a reasonable use of the Property.

VIII. Decision of the Board

By a vote of 5 to 0, the Zoning Hearing Board approved the variance request subject to the following conditions:

1. Applicant will record a covenant satisfactory to the Zoning Officer that permanently provides for ten (10) parking spaces on the Evans Street property.
2. Applicant will improve the exterior substantially similar to the rendering submitted as Exhibit A-2.
3. Applicant will redesign the four (4) spaces that back onto Evans Street to comply with the Zoning Ordinance.
4. Applicant will create the parklet and plant the trees as testified to and shown on the plan.

THE BOARD:



ERICH J. SCHOCK
Solicitor

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

/s/ William Fitzpatrick *

WILLIAM FITZPATRICK
Chairman

/s/ James H. Schantz*

JAMES H. SCHANTZ
Member

/s/ Peter Schneck*

PETER SCHNECK
Member

/s/ Terry Novatnack*

TERRY NOVATNACK
Member

/s/ Jessica L. Lee *

JESSICA L. LEE
Member

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

DATE(S) OF HEARING: May 26, 2021

DATE OF WRITTEN DECISION: July 9, 2021

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

Northampton County

Appeal & Application of	)	Date: July 9, 2021
PAT RUGGIERO,)	
on behalf of RUGGONZ, LLC,)	
Applicant	)	Re: 1002 Evans Street

Certificate of Service

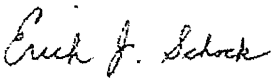
I, Erich J. Schock, Solicitor to the Board, do hereby certify that I sent a true and correct copy of the forgoing Decision to the Applicant listed below at the addresses set forth, by regular first class U.S. Mail on the date set forth below.

Pat Ruggiero
Ruggonz, LLC
60 Melchor Street
Easton, PA 18042
Applicant

James J. Holzinger, Esquire
1216 Linden Street
Bethlehem, PA 18018
Attorney

FITZPATRICK LENTZ & BUBBA, P.C.

Date: July 9, 2021

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