



SITE ADDRESS: 835 North New Street

Office Use Only:

DATE SUBMITTED: March 11, 2022

HEARING DATE: April 27, 2022

PLACARD: APRIL 14, 2022

FEE: \$500.00

ZONING CLASSIFICATION: RT

LOT SIZE: 21' x 120' OR 2,520 SF

**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	<u>Shane Wright</u>
Address	<u>835 North New Street</u>
	<u>Bethlehem PA 18018</u>
Phone:	[REDACTED]
Email:	[REDACTED]

OWNER (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
Address
Phone:
Email:
ATTORNEY (if applicable):
Name
Address
Phone:
Email:

SECTION 2. INFORMATION REGARDING THE REAL ESTATE

N/A
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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:

N/A

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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: MODIFICATION TO A CONDITION OF APPROVAL FROM A DECISION DATED JUNE 8 2015

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

March, 11, 2022
Date

Property owner's Signature

March, 11, 2022
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.

Wright's Pizza is proposing the new hours of operation of Monday-Saturday 11am-9pm and Sundays from 11am-8pm. The reason for these hours are to insure that our business is a successful business in the town of Bethlehem Pennsylvania. We are a family owned business that provides food to our surrounding town and in order for us to be successful we need to be able to serve lunch and dinner as that is what the business is driven towards. We offer takeout and delivery we do not offer dine in so parking is not an issue. All pizzerias surrounding our location all go by roughly the same hours and we will bring examples with us as well.

Have a great day

Thank you

Wright's pizza

ZONING HEARING BOARD OF THE CITY OF BETHLEHEM, PENNSYLVANIA

In the Matter of:

Premises Located:

B & C Solutions Plus LLC

835 North New Street, Bethlehem, PA 18018

FINDINGS OF FACT, OPINION, AND ORDER

This matter comes before the Bethlehem Zoning Hearing Board on an Application filed by B & C Solutions Plus LLC, the owner of property located at 835 North New Street, Bethlehem, PA. The Applicant seeks to convert an existing two unit apartment structure to a commercial structure on the first floor and an apartment on the second floor. The Applicant has requested a special exception pursuant to Section 1304.04 of the Bethlehem Zoning Ordinance, to construct a hot dog manufacturing and retail sales operation. This section permits the reuse of corner property formerly used for commercial uses in an RT district, provided that the requirements set forth in the Ordinance are established.

Testimony was presented on behalf of the Applicant by its sole member, John Lustig. Two neighbors, Jerry Bozio of 833 North New Street, and Frank Baran, of 36 West Spruce Street, appeared and presented testimony in opposition to the special exception request.

FINDINGS OF FACT

1. The property located at 835 North New Street is currently used as a two unit apartment. At the time that the Applicant acquired the property, both apartment units were vacant.
2. The first floor of the property was previously used as a beauty parlor in 1978.
3. The Applicant proposes to convert the first floor of the property to a takeout food concession facility for sale of hotdogs, with all hotdogs sold on the premises to be manufactured on the premises.
4. The Applicant proposes to convert the front two rooms of the first floor so that the front area would be used as a serving area for hotdogs while the rear area would be used as a site to manufacture the hotdogs.
5. The Applicant testified that the manufacturing would occur on the premises in relatively small batches of thirty pounds each. The preparation would require the use of a grinder, chopper, stuffer, and smoker in order to prepare and cook the meat on the premises. A steamer would be utilized to maintain temperature of the completed prepared hotdogs.
6. The manufacturing area will be limited to a twenty foot by twenty foot area, which will be tiled, and will include refrigerated space where necessary. All construction will comply with all Pennsylvania Department of Agricultural and City of Bethlehem regulations.
7. The meat smoker will be vented to the outside of the building through a vent which will discharge at the roof line of the building. The manufacturing area will contain an Ansel fire suppression system.

8. The Applicant proposes to operate Monday through Saturday from 11 A.M. to 6 P.M., with up to three employees on site at any one time.

9. The Applicant proposes to establish trash receptacles at the main entrance to the facility and along the side street of the facility.

10. The second floor of the structure will continue to be utilized as a two bedroom apartment.

11. The Zoning Officer testified that no variance would be required with respect to a need for off street parking.

12. The Applicant testified that there is a two car garage located on the property and that one garage space would be utilized for the occupant of the second floor apartment and that the other garage space would be available for use of an employee of the business.

13. Jerry Bozio, who resides at 833 North New Street, testified that there is very limited parking on New Street or on Spruce Street, and expressed concerns that, as he did not have a garage for property which he owns and leases at 833 North New Street. He felt that there was a significant chance that he would lose a tenant as a result of the increased congested parking. Mr. Bozio also expressed concern with respect to possible pest infestations.

14. Frank Baran, of 36 West Spruce Street, testified that he was very concerned about litter which will be generated on the property. He stated that he was especially concerned due the proximity to Liberty High School, and the penchant for Liberty students to drop litter in the alley area at the current time. He also expressed concern about odors which would emanate from smoker.

DISCUSSION

The Applicant has the burden of persuasion in order to establish a special exception use. Once the Applicant establishes that the proposed use complies with the specific conditions imposed by the Ordinance, the burden of persuasion shifts to any objector. See Henley v. Zoning Hearing Board of West Fallowfield Township, 625 A.2d 132 (Pa. Commw. 1993) and Hawk v. Zoning Hearing Board of Butler Township, 618 A.2d 1087 (Pa. Commw. 1992). In the matter pending before the Board, the Board finds that the Applicant has established the standards for a special exception as requested pursuant to Section 1304.04. as follow:

(a) Its proposed use as a retail manufacturing facility is substantially similar to a retail bakery in its proposed use.

(b) The lot is located at the corner of two streets being New Street and Spruce Street.

(c) The primary building has an existing store front character which will feature a large first floor commercial window and a main entrance at the corner of the property.

(d) The proposed business location was at one time occupied by a principal lawful business use, i.e. a beauty shop.

(e) The parking requirements for three employees during business hours are not substantially greater than parking requirements for an apartment use, which was the former use of this property, especially when it is realized that residential parking requirements for residences in the neighborhood will be greater during non-business hours.

(f) The sign which the Applicant proposes to erect will not exceed twenty square feet in area, and no sign will be internally illuminated.

(g) The proposed use does not meet the definition of an adult oriented establishment or the definition of a BYOB club.

(h) The proposed use will not involve onsite frying of foods.

(i) The proposed use will not involve the sale of alcohol.

(j) The proposed use will not incorporate tattoo parlor uses or pawn shop uses.

While the testimony presented by the neighbors expressed real concerns, we find that the objectors did not present sufficient evidence that this proposed use would present a substantial threat to the community. See Borough of Perkasio v. Moulton Builders, Inc., 850 A.2d 778 (Pa. Comm. 2004). The Board has not been provided with proof that there is a high probability that the proposed use will generate abnormal parking issues or littering concerns such that public safety would be adversely affected. As such, the mere speculation of a possible harm is insufficient to justify denial of the Applicant's request. See Mehring v. Zoning Hearing Board of Manchester Township, 762 A.2d 1137 (Pa. Comm. 2000), Orthodox Minyan v. Cheltenham Township Zoning Hearing Board, 123 Pa. Comm. 29, 552 A.2d 772 (1989).

CONCLUSION

AND NOW, this 8th day of June, 2015, it is ordered that the Application of B & C Solutions Plus LLC to establish a limited hotdog manufacturing business for production and sale of hotdogs solely on the premises in accord with the Application as submitted by the Applicant be granted, subject to the following conditions which are authorized pursuant to Section 1304.04(a)(4) of the Bethlehem Zoning Ordinance:

1. Hours of operation shall be limited, so that sales shall not begin prior to 11:00 A.M. nor extend beyond 6:00 P.M. The manufacture of hotdogs on the premises may begin after 9:00 A.M., but no manufacturing shall continue beyond 6:00 PM.

2. The manufacturing portion of the premises shall not exceed the proposed twenty foot by twenty foot space as described by the Applicant, nor shall the Applicant be entitled to expand manufacturing operations beyond the first floor location, nor shall the Applicant be entitled to expand service operations beyond the first floor location.

3. The operator shall install and regularly empty trash receptacles on the front of the building and on the side of the building, so as to limit litter in the neighborhood; and shall take active steps to patrol the adjoining sidewalk to collect litter.

4. Signage shall be limited to an unlighted sign in the main window for the premises.

5. The Applicant shall replace the existing double hung windows in the front of the building with a large commercial pane glass window.

6. The Applicant shall encourage employees to park on public streets or parking areas outside of the immediate vicinity of the premises, so as to limit adverse impact on neighboring residents.

7. All construction shall be completed in compliance with the Bethlehem City Building Code, Bethlehem City Health Code, and Pennsylvania Department of Agricultural regulations.

ADOPTED BY A 5-0 VOTE OF THE ZONING HEARING BOARD MEMBERS.

Gus Loupos, Chairman
William Fitzpatrick
James Schantz
Linda Shay Gardner
Michael Santanasto

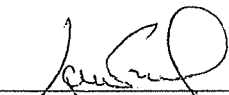
ATTEST:

By: /s/
Suzanne Borzak, Secretary

Prepared by the alternate Solicitor to the
Bethlehem Zoning Hearing Board

KING, SPRY, HERMAN, FREUND
& FAUL, LLC

Date: June 10, 2015

By: 
Terence L. Faul, Esquire