



106, 110, 112, 116, 118, 122, 124, 126 E 4th St
& 119 1/2 E Morton St
SITE ADDRESS: _____

Office Use Only:

DATE SUBMITTED: 03.18.2022

HEARING DATE: 05.11.2022

PLACARD: 05.10.2022

FEE: \$500.00

ZONING CLASSIFICATION: CB

LOT SIZE: IRREGULAR 118,897 SF

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

1. Return one (1) original and ~~seven~~ ⁸ (7) 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 the 4th Wednesday of the month. The hearing will be held 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: Favorable Interpretations

SECTION 1

APPLICANT:	
Name	Lehigh SH Development I LLC
Address	910 Harvest Drive, Suite 105
	Blue Bell, PA 19422
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	Morton Street Properties, LLC , Praxis Real Estate LLC
Address	PO Box 253, Bloomingdale, NJ 07403
Phone:	201-275-1787
Email:	
ATTORNEY (if applicable):	
Name	Joseph A. Bubba
Address	Two City Center, 645 West Hamilton Street, Suite 800
	Allentown, PA 18101
Phone:	[REDACTED]
Email:	[REDACTED]

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 photographs.
3. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
4. If the real estate is presently leased, attached a copy of the present lease.
5. If this real estate has been the object of a prior zoning hearing, attach a copy of the Decision.

PERMIT FOR ARCHITECTURAL PLAN & ELEVATIONS

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:

See Supplemental Statement. Applicant requests a favorable interpretation; or in the alternative a variance for the following:

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
See supplemental statement. <u>1305.01(a)</u>	Multifamily-housing in same building as retail on street level	Applicant believes it complies	Allow retail space on E. Morton St.
See supplemental statement. <u>1311.08(b)</u>	No driveway on arterial street unless no feasible alternative	Applicant believes it complies	Allow driveway on E. 4th Street

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 Supplemental Statement. Applicant seeks a favorable interpretation or a variance from Section

1327.02(b). The maximum student occupancy requirement in Section 1327.02(b) does not apply.

The Property is not a Student Home; is not located in the Student Housing Overlay District; and is being developed as a Multi-Family Dwelling Unit (Apartments).

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

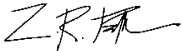
NARRATIVE

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.

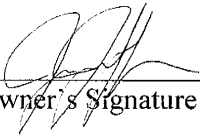
I also certify that I understand that any and all federal, state or local rules and regulations, licenses and approvals shall be obtained if the appeal is granted.



Applicant's Signature
Zachary R. Feldman

03/15/2022

Date



Property owner's Signature

3/16/2022

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.

BEFORE THE CITY OF BETHLEHEM ZONING HEARING BOARD

SUPPLEMENTAL STATEMENT

In re: Application of Lehigh SH Development I LLC

Date: March 18, 2022

I. BACKGROUND

Lehigh SH Development I LLC ("Applicant") seeks to develop a ±0.77 acre site situated along E. 4th Street, including address numbers 106, 110, 112, 116, 118, 122, 124, 126, and two "through-block" site parcels situated along E. Morton Street with address numbers 119 and 119.5, in Bethlehem, Lehigh County, PA (the "Property"). The existing Property contains privately owned/operated single-family detached residences primarily marketed and rented to students attending Lehigh University. The Property is located within the CB Central Business District and the Southside Historic District. The Property is not located in the Student Housing Overlay District.

The single-family homes currently located on the Property are not in good condition and evidence the long-standing, short-term rental use. See pictures attached hereto as Exhibit "A". Applicant is proposing to demolish the buildings in order to construct a 7-story mixed-use apartment building ("Building"). The Building is depicted in more detail on the floor plans and renderings attached hereto as Exhibit "B". The Building will have 123 apartment units, consisting of 1-bedroom, 2-bedroom, and 4-bedroom units. The Building will also include a retail space, a leasing suite, a clubhouse, a fitness center, and other amenities. The apartments will be available and marketed to the general public.

Applicant has submitted an application to the City of Bethlehem's Historic Conservation Commission ("HCC") for review. On October 28, 2021, in an e-mail (the "Zoning E-mail"), the Director of Planning and Zoning indicated the Building will require variances from the following sections of the Zoning Ordinance ("Ordinance"): 1305.01(a) Footnote 4; 1311.08(b); and 1327.02(b). Applicant now seeks favorable interpretations or variances from those noted Sections for the reasons set forth below.

II. REQUESTED RELIEF

Applicant is seeking the following relief:

1. A favorable interpretation that the project complies with Section 1305.01(a), Footnote 4, regarding retail space located on the front street level, or, in the alternative, a variance from Section 1305.01(a), Footnote 4.

2. A favorable interpretation that the project complies with Section 1311.08(b) regarding a proposed driveway located on a minor arterial street, or, in the alternative, a variance from Section 1311.08(b).
 3. A favorable interpretation the project complies with the Ordinance, or, in the alternative, a *de minimis* variance from Section 1327.02(b).
1. *Applicant seeks a favorable interpretation that the Building complies with Section 1305.01(a) regarding retail space located on the front street level, or, in the alternative, a variance from Section 1305.01(a) of the Ordinance.*

Section 1305.01(a), Footnote 4 (“Footnote 4”)¹ of the Ordinance, requires that multi-family housing which does not front a local street “be located in the same building as a principal retail, restaurant or personal service use that is on the front street level.” The Zoning E-mail indicates that “this requirement applies to buildings fronting on arterial streets; E. Fourth Street is a Minor Arterial.”

The Property borders E. 4th Street which is a minor arterial road. However, Footnote 4 does not require that the retail use face the minor arterial road, rather, it requires that if the Property is located on a minor arterial road, that a principal retail use be located on the front street level. The Building includes a principal retail use located on the front street level facing E. Morton Street. Here, the “front” of the building will be on E. Morton Street, closest to Lehigh University. This is also where the lobby entrance will be located. The retail use will be located at street level and it will have its own exterior access and signage. *See Exhibit B.* Accordingly, the Building complies with Footnote 4’s requirements as the multi-family dwellings will be located in the same building as a principal retail, restaurant or personal service use that is on the front street level.

In the alternative, Applicant seeks a variance from Section 1305.01(a) to permit the retail space to be located on E. Morton Street. Locating the retail store on the side of the building closest to Lehigh University make the most sense. Pedestrian traffic will be focused on E. Morton Street and a review of the sketches of the Building demonstrate that to the extent a retail use is required it should be located at that level.

2. *Applicant seeks a favorable interpretation that the Building complies with Section 1311.08(b) regarding a proposed driveway located on a minor arterial street, or, in the alternative, a variance from Section 1311.08(b).*

Section 1311.08(b) requires that “No new vehicle driveway shall enter or exit onto an arterial street, unless the applicant proves that no feasible alternative exists, such as use of alleys or a side street.” The driveway for the Building’s parking garage is located on E. 4th Street. The

¹ Footnote 4 states: “Such housing shall be located in the same building as a principal retail, restaurant or personal service use that is on the front street level. An office use, professional or otherwise, shall not be permitted on the front street level. This requirement for a street level retail or service use shall not apply to buildings fronting on local streets. See the optional density bonus for workforce housing in Article 1307.”

Property only borders E. 4th street and E. Morton Street. Thus, there are no alleys or side streets available for a driveway. As will be demonstrated at the hearing of this matter, due to the unique physical characteristics of the Property, including the topographical changes, it is not feasible to locate the driveway on E. Morton Street. Since Applicant will meet its burden that no feasible alternative exists for the location of the driveway, Applicant requests a favorable interpretation that the project, including the location of the driveway, complies with Section 1311.08(b).

3. A favorable interpretation the Building complies with the Ordinance, or, in the alternative, a variance from Section 1327.02(b).

Applicant seeks to develop the Property as multi-family dwellings (apartments). Multi-family dwellings are permitted by right in the CB Zoning District under Section 1305.01. The Zoning E-mail similarly states that the proposed use is multi-family housing subject to the requirements of Footnote 4. Accordingly, the proposed use is multi-family dwellings, which is a permitted use, and no additional zoning relief is required.

However, the Zoning E-mail refers to Section 1327.02(b) of the Ordinance stating: “Within the CB District, student housing occupancy is limited to no more than three students per dwelling unit. Therefore, students would only be permitted to occupy the studio, one and two bedroom units, unless the Applicant was granted a Variance.”

To the extent that students choose to rent apartments on the Property, this does not change the use of the Property from multi-family dwellings to student homes. These are two separate and distinct uses. The Property will be marketed to the public in general. Accordingly, Applicant seeks a favorable interpretation that a variance is not required for students to occupy four-bedroom units.

Alternatively, Applicant seeks a variance from Section 1327.02(b) to allow students to occupy the Building to the extent students choose to do so.

III. CONCLUSION

For the above-mentioned reasons, the requested relief should be granted. The Building will contribute to the economic growth of the City of Bethlehem and fit within the context of the continued transformation of this block that began with the new 6-story University building that is currently under construction directly across E. Morton Street from the Property. Applicant seeks to improve upon the challenges presented by the existing conditions and provide a “contemporary” living experience available to the public that fully supports the mission of the City of Bethlehem, while, at the same time, acknowledging the stated goals of the HCC.