



Jeffrey S. Fleischaker

33 S. Seventh Street, P.O. Box 4060
Allentown, PA 18105
Direct Dial 484-282-4637 • Fax 610/820-6006
jfleischaker@grossmcginley.com

ATTORNEYS

HOWARD S. STEVENS
J. JACKSON EATON, III
ANNE K. MANLEY
VICTOR F. CAVACINI
THOMAS E. REILLY, JR.
STUART T. SHMOOKLER
JOHN F. GROSS
LOREN L. SPEZIALE*†
ALLEN I. TULLAR
SAMUEL E. COHEN*
ADRIAN K. COUSENS*
R. NICHOLAS NANOVIC*
SARAH HART CHARETTE*
KELLIE L. RAHL-HEFFNER
PHILIP D. LAUER
JASON A. ULRICH
ZACHARY R. FOWLER
VICTORIA A. STRUNK
ROBERT M. CAMPBELL
JEFFREY S. FLEISCHAKER
MARC S. FISHER
ERIC R. STRAUSS
MICHAEL J. BLUM**
JESSICA L. HARLOW
GREGORY H. DAUB
ANDREW D. HOFFMAN
JACOB D. OLDAKER
MICHAEL S. HORVATH, II
VERONICA R. HOGAN*
ERIC A. HARAKAL
ALEXANDER O. WARD
JESSICA S. KACZINSKI*
JULIANNE DANCHAK
CATHERINE E. SEARS
SEAN P. DUFFY

MALCOLM J. GROSS, Ret.
PAUL A. MCGINLEY, Ret.
DONALD LaBARRE, Jr., Ret.
MICHAEL A. HENRY, Ret.

Of Counsel:
PATRICK J. REILLY ~

* Also admitted in DC
~ Also admitted in FL
* Also admitted in MA
* Also admitted in NJ
* Also admitted in NY

Allentown Office:
33 S. Seventh Street
P.O. Box 4060
Allentown, PA 18105
Phone: 610.820.5450
Fax: 610.820.6006

Easton Office:
101 Larry Holmes Dr., Suite 202
Easton, PA 18042
Phone: 610.258.1506
Fax: 610.258.0701

Stroudsburg Office
411 Main Street, Suite 101
Stroudsburg, PA 18360
Phone: 570.990.1544
Fax: 610.820.6006

March 3, 2025

David Taylor, Zoning Officer
Members of the Zoning Hearing Board
City of Bethlehem
10 East Church Street
Bethlehem, PA 18018-6025

Re: 330 East 4th Street, Bethlehem, PA 18015
Requests for Interpretation and Variances, Special Exception

Members of the Zoning Hearing Board:

My name is Jeff Fleischaker, and I have been retained by Nabilla Youssef, the owner of the property located at 330 East 4th Street ("the Property") with regard to several variances that are required for the redevelopment of the Property. Please allow this correspondence to serve as a narrative supplement to the application for variances that have been filed.

The Property is currently zoned in the CL, Limited Commercial Zoning District and while there is a structure existing on the site, the proposal by the Applicant is to demolish home and replace it with a 3-story, 4-unit residential building with a commercial space occupying the first floor. Application for the demolition has already been filed and approved by HARB, with a review letter from the City of Bethlehem Bureau of Planning and Zoning (attached herein as Exhibit A), issued. It is the review letter that forms the basis of the current iteration of the plan – some design and dimensional changes have been made to address the comments in the letter. A current copy of the site plan and draft elevation of the property has been attached to the application for your review.

According to the comments from the Zoning Officer within the January 28, 2025 letter, there are three variances that are currently required: 1) minimum tract size; 2) minimum lot width; and 3) minimum side yard setback. The reference in paragraph 3 to the minimum clear sight triangle has been addressed with a drafting change, such that there are no continued issues with that requirement. Regarding Comments 1, 5, 6, 7, 8 and 9, drafting changes have been made or discussed with the Zoning Officer to address those issues.

The standards for obtaining a dimensional variance such as the three sought herein is governed both by the Zoning Ordinance as well as Pennsylvania common law. Within the Ordinance, there are two sections granting this Board the power to grant a condition variance. Section 1325.06 of the City of Bethlehem Zoning Ordinance grants this Board the power to grant variances in line with the Pennsylvania common law. The five standards for a variance are: 1) unique physical characteristics or conditions of the land and that hardship is due to these conditions; 2) no possibility of development in strict conformity with the ordinance; 3) the hardship has not been created by the Applicant; 4) the variance, if granted, would not alter the nature of the surrounding neighborhood; and 5) the variances are the minimum necessary to afford relief. Generally, within these announced standards, Courts in the Commonwealth have held

that while still applicable, the standards for a dimensional variance, such as those sought herein, are less stringent than if there were a use variance, which it is not.

Here, Applicant is seeking relief to the minimum lot size requirements, minimum lot width requirements, and the side-yard setback requirements, all dimensional in nature. Though the Property is located in the CL Zoning District, Section 1306.01(b) requires that for "Allowed Residential Uses" such as this multi-family dwelling, the dimension standards of the RT Zoning District shall apply, with the exception of the maximum height requirement, which is permitted in the CL to be sixty (60) feet. In the RT Zoning District, a Multi-Family Dwelling greater than 2 ½ stories, such as the proposed dwelling here is required to have a minimum tract of 9,000 square feet, width of 90 feet, and side yard setbacks of at least 15 feet.

As noted by the Zoning Officer, the Property is only 7,183 square feet in size and only 40 feet wide. These dimensions are original to the tract and have not been altered or manipulated by the Applicant. As such, if the side yard setbacks were to be honored, the Applicant would be required to construct a building that was a maximum of 10 feet wide, a commercial and aesthetic impossibility. Instead, Applicant is seeking to construct a multi-family dwelling on top of a 1st floor commercial space that fits not only the space in an appropriate manner, but also reflects the mixed use community in which the Property currently sits. To the West of the Property are several multi-family dwellings within the CL District, all on smaller lots, all tight to the setbacks. Across 3rd Street and to the East of the Property are commercial enterprises, many located on the first floor of a building housing residential units, all tightly situated within their footprints or part of a semi-detached dwelling. The Applicant's use of the Property, with the requested variances, not only reflects a use of the space that fits within the nature of the neighborhood in which it sits, but also reflects the least amount of relief necessary for such a use to be possible given the limitations of the lot.

To be clear, the current structure occupying the Property is unsafe, in poor condition, and has been approved for demolition by the HARB and the City of Bethlehem. In order to use this Property for any new building, the above variances will be required, whether that new building be the proposed multi-family mixed/use commercial space, or a simple single tenant commercial space. Any use would require the lot size relief – both width and square footage – and the side yard relief as the buildable footprint would only be 10 feet wide without such relief. As such, the nature of the use of the Property as proposed is not as conclusive on the consideration for the variances as the hardships themselves, regardless of the proposed use. Given the context, and the relaxed standards for dimensional variances, the requested relief should be granted.

In addition to the dimensional variances, and as with most properties within Bethlehem City limits, parking is an issue. For the residential use, Section 1319.01(a)(1) of the Zoning Ordinance will require that the Applicant provide a minimum of six (6) parking spaces, which the revised plan presented as part of this application does. In addition, given that there is a commercial space as well, Applicant will be required to provide additional parking. However, given that the use of the commercial space is unknown at this time, compliance with the specific parking requirements within the Zoning Ordinance is difficult. As a designed 1,820 square foot space, the options for use are somewhat limited, and it is the intention of the Applicant to install a low-intensity commercial use at the Property, focusing initially on a coffee shop or small café, given the walkable appeal of such facilities. Section 1319.01(a)(31) would require that the Applicant provide at minimum an additional 204 parking spaces, which given the limitations of the lot size, is hard to plan and engineer.

City of Bethlehem ZHB
Page 3

Section 1319.02(b)(2), however, provides that "within the CL district, as a special exception, the Zoning Hearing Board shall have the authority to modify off-street parking requirements, considering the total impact of the new uses of the lot versus the previous uses, and considering whether a percentage of customers are likely to arrive by public transit and/or walking. The Board may also approve a reduction in the required parking if the applicant proves that there is an excess of on-street parking spaces during hours when the business will have its peak demand." For this Property, the Applicant is removing an existing garage structure from the Property that has not been used for parking for some time (it was used for junk/storage on acquisition), and replacing that with seven (7) identified spaces including a segregated ADA-accessible parking area. Furthermore, as stated above, the initial goal for the commercial space will be a retail or restaurant space that encourages and attracts walk-in customers as opposed to vehicular traffic.

For granting a Special Exception, the Zoning Hearing Board is once again guided by the Ordinance, at Section 1325.07(b), which sets for the considerations for a special exception, as follows:

General Requirements and Standards Applicable to all Special Exceptions. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements, as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location be: (1) In accordance with the City of Bethlehem Comprehensive Plan and consistent with the spirit, purposes, and intent of this Ordinance. City of Bethlehem Zoning Ordinance Article 1325 203 (2) In the best interest of Bethlehem, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity. (3) Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity. (4) In conformance with all applicable requirements of this Ordinance. (5) The proposed use shall not substantially change the character of any surrounding residential neighborhood, after considering any proposed conditions upon approval such as limits upon hours of operation. (6) Suitable in terms of effects on street, traffic and safety with adequate sidewalks and vehicular access arrangements to protect streets from undue congestion and hazard. (7) The proposed use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards. (8) The proposed use shall be suitable for the site, considering the disturbance of steep slopes, mature woodland, wetlands, floodplains, springs and other important natural features

Reducing the off-street parking requirements for the Property will not negatively impact the surrounding community and is consistent with the aims and goals of the CL District, generally. The laundromat, tattoo studio, theater and boutique stores to the East of the Property are tightly-spaced businesses that encourage and rely upon the same sort of foot traffic that the Property will be hoping to attract with the first-floor commercial space – a low intensity use that seamlessly blends into the fabric of the neighborhood. In addition, should this Board have any specific

City of Bethlehem ZHB

Page 4

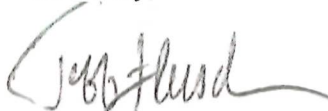
concerns regarding this commercial space and parking, the Applicant is willing to consider renting or leasing additional parking as may be available from nearby landowners to satisfy off-street parking requirements should the commercial space require additional space.

In addition to the above, the Zoning Officer noted that the plan needed to confirm compliance with Section 1319.02(n)(2)(3), which requires compliance with the Americans with Disabilities Act for handicap parking. In the revised plan, the handicap space has been moved away from the building and the sidewalk that caused the Zoning Officer concern, and placed within the parking area such that ingress and egress for the user of the space is simplified and easy. There is easy access to the exterior sidewalks surrounding the property, with only the grade of the existing street – something far outside the control of the Applicant – to contend with should the user require street access. The slope of the existing street is a pre-existing condition of the property for which a variance would be appropriate, should this Board determine that the plan does not comply with Section 1319.02(n)(2)(3).

In conclusion, the variances and special exception for this mixed-use, multi-family dwelling should approved by this Board so that the Applicant can move forward in the plan to demolish a blighted, vacant structure and replace it with new construction that will enhance the spirit and sense of community of the neighborhood. We look forward to discussing this project with you at the hearing on this application.

Thank you in advance for your time and consideration.

Sincerely,



Jeff Fleischaker