

Addendum to the City of Bethlehem Zoning Hearing Board
Application of 737 E 4th St. LLC and 739 E 4th St. LLC

Applicant 737 E 4th St. LLC and 739 E 4th St. LLC (“Applicant”) are the respective record owners of the properties located at 737 E 4th Street, Bethlehem, PA and 739 E 4th Street, Bethlehem, PA (collectively, the “Property”), which Applicant intends to consolidate and develop with multifamily dwelling units. The Property is located within the CL Limited Commercial District pursuant to the Zoning Ordinance of the City of Bethlehem. The existing structures on the Property are blighted. Applicant seeks seven dimensional variances to permit development of the Property with a multifamily dwelling unit structure. Multifamily dwellings are permitted in the CL District if they are located in the same building as a principal commercial use that is on the front street level. [ZO § 1305(a)]. The requirements for the RT District, other than maximum height, apply for residential units in the CL District. [ZO § 1306.01(b)].

1. Minimum lot area dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a lot area of 4,397 sq. ft. where a minimum lot area of 9,000 sq. ft. is required. The lot area variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

The Property is surrounded by public streets on two sides and developed properties on the other two sides. Thus, it is not possible for Applicant to obtain more land to meet the required minimum lot area for the proposed multifamily dwelling. Therefore, the proposed lot area dimensional variance is the minimum variance necessary to afford relief, will allow Applicant’s reasonable use of the Property, and will not alter the essential character of the neighborhood.

2. Minimum lot area per dwelling unit dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a lot area per dwelling unit of 338 sq. ft. where a minimum lot area per dwelling unit of 1,200 sq. ft. is required. The lot area per dwelling unit variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

When determining whether an unnecessary hardship has been established for dimensional variances, tribunals may consider the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements, and the characteristics of the surrounding neighborhood because not allowing consideration of these factors would prohibit an applicant from rehabilitating blighted areas. *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 721 A.2d 43, 50 (Pa. 1998).

Applicant proposes rehabilitating the blighted Property to be a safe and desirable location. On April 13, 2022, Mike Simonson, Chief Code Official, informed the then-owners of 737 E 4th Street that, as of that date, 737 E 4th Street was “unfit for human habitation” and instructed that “all occupants must vacate the premises” no later than the date of the letter. There has not been any apparent rehabilitation of the Property since the City sent this letter, resulting in the Property being in the same blighted state. The proposed number of units necessitating the grant of this variance is necessary to alleviate the financial hardship for Applicant to rehabilitate the Property. Therefore, the proposed lot area per dwelling unit dimensional variance is necessary for Applicant to rehabilitate the Property, is the minimum variance necessary to afford relief, will allow Applicant’s reasonable use of the Property, and will not alter the essential character of the neighborhood.

3. Minimum lot width dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a lot width of 45.35 feet where a minimum lot width of 90 feet is required. The lot area variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

Similar to the above-discussed proposed lot area dimensional variance, the Property is surrounded by public streets on two sides and developed properties on the other two sides. Thus, it is not possible for Applicant to obtain more land to meet the required minimum lot width for the proposed multifamily dwelling. According to imagery of the area, many of the surrounding properties have similar lot widths as the Property. Therefore, the proposed lot area dimensional variance is the minimum variance necessary to afford relief, will allow Applicant's reasonable use of the Property, and will not alter the essential character of the neighborhood.

4. Rear yard setback dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a rear yard setback of 0 feet where a minimum setback of 20 feet is required. The front yard setback variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

This is a preexisting nonconformity, which existed at the time Applicant purchased the Property. Both structures on 737 E 4th Street and 739 E 4th Street encroach into the rear yard setback. Applicant is not proposing any further encroachment into the front yard setback. The proposed setback is also in accordance with the character of the surrounding neighborhood. Many

of the surrounding buildings on E 4th Street appear to have a similar lack of rear yard setbacks. Therefore, the proposed setback variance is the minimum necessary to afford relief, will allow Applicant's reasonable use of the Property, and is in accordance with the essential character of the neighborhood.

5. East side yard setback dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit an east side yard setback of 0 feet where a minimum setback of 15 feet is required. The east side yard setback variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

This is a preexisting nonconformity, which existed at the time Applicant purchased the Property. The structure on 739 E 4th Street encroaches into the east side yard setback. Applicant is not proposing any further encroachment into the east side yard setback. The proposed setback is also in accordance with the character of the surrounding neighborhood. Many of the surrounding buildings on E 4th Street appear to have a similar lack of side yard setbacks. Therefore, the proposed setback variance is the minimum necessary to afford relief, will allow Applicant's reasonable use of the Property and is in accordance with the essential character of the neighborhood.

6. West side yard setback dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a west side yard setback of 0 feet where a minimum setback of 15 feet is required. The west side yard setback variance is required for the reasonable use of the Property. The proposed variance is the minimum variance

necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

This is a preexisting nonconformity, which existed at the time Applicant purchased the Property. The structure on 737 E 4th Street encroaches into the west side yard setback. Applicant is not proposing any further encroachment into the west side yard setback. The proposed setback is also in accordance with the character of the surrounding neighborhood. Many of the surrounding buildings on E 4th Street appear to have a similar lack of side yard setbacks. Therefore, the proposed setback variance is the minimum necessary to afford relief, will allow Applicant's reasonable use of the Property and is in accordance with the essential character of the neighborhood.

7. Maximum building coverage dimensional variance

Applicant seeks a variance from Section 1306.01(a) to permit a building coverage of 100% where a maximum building coverage of 80% is permitted. The building coverage variance is required for the reasonable use of the Property. The proposed variance is the minimum variance necessary, will not alter the essential character of the neighborhood, and will have no adverse impact on public health, safety, and welfare.

This is a preexisting nonconformity, which existed at the time Applicant purchased the Property. Currently, both 737 E 4th Street and 739 E 4th Street have a 100% building coverage, which Applicant is proposing to maintain. The proposed building coverage is also in accordance with the character of the surrounding neighborhood. Many of the properties on E 4th Street appear to have similarly nonconforming building coverage. Therefore, the proposed building coverage variance is the minimum necessary to afford relief, will allow Applicant's reasonable use of the Property and is in accordance with the essential character of the neighborhood.