

**FL&B**

FITZPATRICK  
LENTZ & BUBBA  
ATTORNEYS AT LAW

January 2, 2026

Abraham Assad  
277 Mars Court  
Bethlehem, PA 18017  
**Applicant**

**Re: City of Bethlehem Zoning Hearing Board  
Appeal & Application of Abraham Assad  
Property: 277 Mars Court**

To whom it may concern:

Enclosed please find a copy of the Notice and Decision of the Zoning Hearing Board of the City of Bethlehem in the above matter.

Very truly yours,



Steven T. Boell

Enclosure

cc: Zoning Officer, City of Bethlehem (w/encl., via e-mail)  
City of Bethlehem Zoning Hearing Board (w/encl., via e-mail)

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

**Northampton County**

<b>Appeal &amp; Application of Abraham Assad,</b>	)	<b>Date: January 2, 2026</b>
	)	
	)	
<b>Applicant</b>	)	<b>Re: 277 Mars Court</b>

**DECISION**

**I. Preliminary Matters**

A public hearing was held on **November 19, 2025** 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: Abraham Assad appeared (the “**Applicant**”) and had standing as the Applicant. Applicant was not represented by legal counsel.

2. Zoning Hearing Board: The Board was comprised of Peter Schneck (Chairman), Paige Van Wirt, Sharon Wiles-Young, Danielle Joseph, and Lucas Wolk. David Taylor was present as Zoning Officer. Steven T. Boell, Esquire, of Fitzpatrick Lentz & Bubba, P.C. represented the Zoning Hearing Board as its Solicitor.

3. Protestant(s) / Interested Parties: No protestants or interested persons appeared at the public hearing regarding this application.

**B. Notice**

Notice of the hearing was given by public advertisement, posting of the Property and regular mail to neighboring property owners pursuant to the applicable provisions of the Pennsylvania Municipalities Planning Code,<sup>1</sup> the Zoning Ordinance of the City of Bethlehem<sup>2</sup>

---

<sup>1</sup> 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

and the rules of the Board.<sup>3</sup>

**C. Property**

The subject property is known as 277 Mars Court, Bethlehem, Northampton County, Pennsylvania (the "**Property**").

**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*, Ordinance No. 2210, 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 two dimensional variances from § 1306.01(a) of the Zoning Ordinance

---

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."

<sup>2</sup> 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.

<sup>3</sup> 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.

to facilitate the construction of a residential addition and front porch roof extension. The dimensional requirements and proposals for each variance requested are listed as follows; Maximum Building Coverage 15% permitted, 15.5% existing, 25.67% proposed and Rear Yard setback, 40' required, 37' proposed.

**IV. Evidence Received by the Board**

In addition to testimonial evidence received by the Board from Applicant, the Board admitted the following exhibits:

**Applicant's Exhibits:  
Exhibits from Applicant's Zoning Exhibit Package  
A-1 Presentation and Site Plan**

**V. Findings of Fact**

1. The Property subject to this appeal is located at 277 Mars Court in the Northampton County portion of the City of Bethlehem.
2. The Applicant is the record owner of the property.
3. The Property is situated in the RR Rural Residential Zoning District.
4. The Applicant intends to add an addition onto the rear of the single-family home situated at the Property.
5. The Applicant seeks two dimensional variances to permit the requested residential addition and front porch roof extension on the existing single-family house on the Property.
6. The Applicant requests a variance from Section 1306.01(a) to allow a building coverage of 25.67% where a maximum building coverage of 15% is permitted.
7. The Applicant seeks a variance from Section 1306.01(a) to permit a rear yard setback of 37 feet where a minimum setback of 40 feet is required.
8. The Property is developed with a single-family ranch house as described by the

Applicant.

9. The Applicant asserts that, due to the increased size of his family and desire to remain in the City, the Applicant needs to construct an addition for an additional master bedroom, a larger kitchen, a family room, and a small gym area.

10. The Applicant testified that most of the surrounding residences are multiple stories.

11. Applicant introduced Exhibit A, which was the presentation submitted to the City and a Site Plan drawing showing the proposed expansion.

12. The Applicant testified that his lot is an irregular shape.

13. The Applicant testified that if he is granted relief, he would like to begin construction in December with a target completion by April 2026.

14. The Board had questions about an existing shed on the Property. The Applicant testified that they intend to move the shed, so it is not too close to the proposed addition.

15. The Applicant testified that he notified all his surrounding neighbors of the proposed expansion, and he did not receive any objections to the proposed expansion.

16. The Applicant asserts that the proposed variances are the minimum necessary to provide relief.

17. Credible evidence of record establishes that the Property has unique physical features that create a hardship not commonly found in the surrounding neighborhood.

18. Credible evidence of record establishes that, because of these physical features, the property cannot be reasonably developed under the strict rules of the Zoning Ordinance, and multiple variances are required to allow reasonable use.

19. Credible evidence of record establishes that the hardship was not created by the

Applicant.

20. Credible evidence of record establishes that granting the variances will not change the character of the neighborhood, harm nearby properties, or negatively affect public welfare.

21. Credible evidence of record establishes that the variances requested are the smallest changes needed to provide relief and are the least possible modifications of the zoning rules.

22. Credible evidence of record establishes that the proposed construction does not require any additional relief than what already exists on the Property.

**VI. Discussion**

Applicant requests seven dimensional variances from § 1306.01(a) 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 de minimus 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. The type of variance sought is an important distinction that is not to be ignored. Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). The standards applied to the grant of a dimensional variance are lesser than that of a use variance. Id. at 47-48. With a dimensional variance application, “the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations.” Id. Whereas a use variance request “involves a proposal to use the property in a manner that is wholly outside the zoning regulation” Id. at 47.

Seeking a dimensional variance within a presumably permitted use, the owner is asking only for adjustment of the zoning regulation to utilize the property in a manner consistent with the applicable regulations. Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves the proposal to use the property in a manner that is wholly outside the zoning regulation. Hertzberg, 721 A.2d. at 47. It is uncontested that the variances sought by Applicant are dimensional in nature.

When a dimensional variance is requested, multiple factors may be considered, including, “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.” *Id.* at 50. See, Talkish v. Zoning Hearing Board of Harbor Creek Township, 738 A.2d 50 (Pa. Cmwlth. 1999) *appeal granted in part*, 757 A.2d 366 (Pa. 2000). As stated above, all variances requested in the instant application are dimensional in nature and, accordingly, the Hertzberg standard, also articulated above, is applicable.

In this instance, Applicant has presented sufficient evidence to meet the requirements for the requested dimensional variances under Section 1306.01(a), and the Board finds that the requests should be granted as proposed. The Property in question is subject to unique physical circumstances due to its lot size, as it is located in a cul-de-sac. Applicant’s requested variances are the minimum relief for the Applicant to make reasonable use of the existing home while accounting for the Applicant’s large family.

Applicant is requesting various adjustments to the Zoning Ordinance in this location, and the Board has determined that the requested relief is appropriate based on the above findings. The Board agrees that the hardships and existing irregular lot size condition were not created by the Applicant. The grant of the variances will have no adverse impact on the community, and the proposed design will have no adverse impact on the health, safety, and welfare. The Board believes that the granting of the requested variances will have a positive impact on the community.

Based on these facts, the Board concluded that the requested relief should be granted.

## **VII. Conclusions of Law**

1. The proposed project requires variance relief.

2. The Applicant has sufficiently demonstrated that the Property is subject to unique physical circumstances, and that those physical circumstances cause unnecessary hardship and an inability to strictly comply with the Zoning Ordinance.

3. The Applicant has presented sufficient evidence that they did not create the hardship.

4. The Applicant has adequately demonstrated that the variances would not alter the essential character of the local community, nor would it impair the use or development of adjacent properties, nor would it be otherwise detrimental to the public welfare.

5. The Applicant presented sufficient evidence that the requested variances are reasonable accommodations under the Zoning Ordinance and are the minimum relief necessary to allow a reasonable use of the Property.

**VIII. Decision of the Board**

Based upon the foregoing, by a unanimous vote, the Zoning Hearing Board granted the two requested dimensional variances from § 1306.01(a) of the Zoning Ordinance as requested, to construct a residential addition and front porch roof extension.



---

Steven T. Boell, Esquire  
Solicitor

***THE BOARD:***

VOTING TO GRANT THE RELIEF

*/s/ Peter Schneck \**

Peter Schneck  
Chair

*/s/ Paige Van Wirt \**

Paige Van Wirt  
Member

*/s/ Sharon Wiles-Young \**

Peter Schneck  
Member

*/s/ Danielle Joseph \**

Danielle Joseph  
Member

*/s/ Lucas Wolk \**

Lucas Wolk  
Member

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

**DATE(S) OF HEARING: November 19, 2025**

**DATE OF WRITTEN DECISION: January 2, 2026**

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

**Northampton County**

**Appeal & Application of  
Abraham Assad,**

**Applicant**

)  
)  
)  
)

**Date: January 2, 2026**

**Re: 277 Mars Court**

**Certificate of Service**

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

Abraham Assad  
277 Mars Court  
Bethlehem, Pennsylvania 18017  
**Applicant**

FITZPATRICK LENTZ & BUBBA, P.C.



Date: January 2, 2026

BY: \_\_\_\_\_

Steven T. Boell, Esquire



Solicitor for Zoning Hearing Board  
Of the City of Bethlehem

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

**Northampton County**

<b>Appeal &amp; Application of</b>	)	<b>January 2, 2026</b>
<b>Abraham Assad,</b>	)	
	)	
<b>Applicant</b>	)	<b>Re: 277 Mars Court</b>

**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**

**January 2, 2026**