

**FL&B**

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October 31, 2025

Indigo Investments, LLC  
412 Hemlock Lane  
Nazareth, PA 18064  
**Applicant**

Victor E. Scomillio, Esquire  
1216 Linden Street,  
Bethlehem, PA 18018  
**Attorney for Applicant**

**Re: City of Bethlehem Zoning Hearing Board  
1423 Maple Street, Bethlehem**

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</b>	)	<b>Date: October 31, 2025</b>
<b>Jesse Chupella and Tom Cramer,</b>	)	
<b>On behalf of Indigo Investments, LLC</b>	)	
<b>Applicant</b>	)	<b>Re: 1423 Maple Street</b>

**DECISION**

**I. Preliminary Matters**

A public hearing was held on **September 17, 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: Jesse Chupella and Tom Cramer appeared on behalf of Indigo Investments, LLC (“**Applicant**”), and had standing as the Applicant’s authorized representatives/members. Applicant was represented by Victor E. Scmillio, Esquire.

2. Zoning Hearing Board: The Board was comprised of Peter Schneck (Chairman), Paige Van Wirt, and Sharon Wiles-Young. 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: Joel Hoffner, a local resident with an address at 1806 East Hill Drive, and Bob Fyrer, a local resident with an address at 1427 Elm Street, appeared as protestants/interested parties.

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

**C. Property**

The subject property is known as **1423 Maple Street**, Bethlehem, Northampton County, Pennsylvania 18018 (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**").

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<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 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.

**III. Nature of Relief Sought**

Applicant sought a dimensional variance from Section 1306.01(a)(4) to place a Two-Family Detached Dwelling on a proposed lot with less than the required lot width (60' required, 42.6' proposed). (Sections 1302.40, 1306.01(a)(4), 1325.06 and all associated Variances, Special Exceptions, and Interpretations).

**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 Application**

Exhibit 1 – 1423 Maple Street Preliminary/Final Floor Plans

Exhibit 2 – Arial Blueprint View of 1423 Maple Street (Zoomed In)

Exhibit 3 – Digital Rendering of Front View of Proposed Two-Unit Structure

**ZHB Application Packet and Information**

**V. Findings of Fact**

1. The Property which is the subject of this appeal is located at 1423 Maple Street in the Northampton County portion of the City of Bethlehem.
2. Applicant is the owner of the subject Property.
3. The Property was posted twice, on September 8<sup>th</sup> and September 9<sup>th</sup>.
4. The Property is an “oversized” lot located in the RT High Density Residential Zoning District.
5. The Property is roughly 13,000 square feet and contains an existing, one-story dwelling, a detached, two-car garage, and an open yard.
6. Applicant seeks to subdivide the Property and to place a two-family detached dwelling on the newly created lot, as the unsubdivided lot is large enough to accept additional buildings (such as a multifamily home).

7. As the new, vacant lot is only 42.57' wide (below the 60' lot width requirement of the Zoning Ordinance for Two-Family Detached Dwellings in the RT District), Applicant seeks a dimensional variance of 17.43'.

6. The Property does not require any relief from the Board besides the dimensional variance.

7. The proposed Two Family Detached Dwelling would be served by four parking spaces found in the Property's rear (accessible by alley and concrete walkways), as well as an additional street parking space, through elimination of a curb apron.

8. Jesse Chupella noted that he and Tom Cramer are realtors by trade who also co-own Indigo Investments, LLC.

9. Applicant purchased the Property approximately two months ago, being drawn to the Property by its "oversized" nature, and with plans to build additional residences the Property's open area.

10. Applicant would allow the existing, one-story dwelling and its associated garage to remain, with the vacant portion of the Property being developed with a Two-Family Detached Dwelling (duplex).

11. The Two-Family Detached Dwelling would be designed to have the appearance of a single-family dwelling, with the entrance to the first-floor unit being the front door and the second-floor unit being accessible via a side door. (See Applicant Exhibit 3).

12. Applicant testified that each unit of the proposed Two-Family Detached Dwelling would have two bedrooms and two bathrooms, with no basement.

13. Applicant testified that the first floor is roughly 1370 square feet, and the second floor is 1502 square feet.

14. Applicant described other houses in the neighborhood as single-family homes, containing roughly 6,150 square feet.

15. The new, subdivided lot whereon the Two-Family Detached Dwelling would be placed would be roughly 6,000 feet.

16. Applicant described neighboring properties as having lot widths ranging from 25' to 35', arguing that the dimensional relief sought would be compatible with the neighborhood.

17. Applicant demonstrated that a three-story, six-unit building is being constructed in the area by right, but Applicant prefers to build the proposed duplex to maintain compatible, yet equitable, use of the Property while removing "stress" from the surrounding area.

18. Addressing hardship and uniqueness of the Property, Applicant noted that the lot is relatively large, despite being found in the RT High Density Residential District, which makes it difficult for Applicant to build the proposed duplex (which would negatively impact the local area less than a multi-family dwelling, which could otherwise be permitted by right).

19. Following a question from the Board concerning the Property's prior use (since a curb cut is present), Applicant stated that it believed the Property's curb cut was used to store a recreational vehicle upon the Property.

20. Upon the Board asking whether there is a slope on the Property, Applicant noted that there is a minor, three-foot grade difference from one end of the Property to the other.

21. Applicant agreed to construct the Two-Family Detached Dwelling exactly as presented to the Board, in addition to promising that there would be no loss of street trees.

22. When asked why Applicant would like to build a two-family dwelling, rather than a single-family dwelling, Applicant noted that a single-family dwelling would not be an equitable use of the Property and that it would be "cost prohibitive" (as opposed to a multi-family dwelling).

23. In response to Mr. Hoffner's question concerning whether Applicant has considered drainage on the Property, Applicant affirmed that such concerns would be addressed in the land development phase and that Applicant is willing to comply with any of the city's drainage requirements.

24. When asked by Mr. Fyrer for the reasoning behind the "odd" lot division considering parking concerns, Applicant noted that the Property was divided as shown to accommodate parking, for financial reasons, as well as to ensure the new lot's square footage would reach a certain amount.

25. At the conclusion of Applicant's presentation, Mr. Fyrer, despite admittedly preferring a Two-Family Detached Dwelling over a multi-family dwelling, requested that the Board deny the requested relief, arguing that new/existing multi-family dwellings are undesirable in the local neighborhood, multifamily housing is detrimental to the neighborhood's character/dynamic/aesthetic, and Applicant has other reasonable options.

## **VI. Discussion**

Applicant seeks a dimensional variance from Section 1306.01(a)(4) to place a Two-Family Detached Dwelling on a proposed lot with less than the required lot width (60' required, 42.6' proposed). *See* Zoning Ordinance § 1306.01(a)(4). The Zoning Ordinance provides specific criteria that the Zoning Hearing Board must address in relation to the approval or denial of a variance request in Section 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 diminimus 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.
- (c) The applicant shall establish and substantiate his appeal to prove that the appeal for the variance is in conformance with the requirements of the Pennsylvania Municipalities Planning Code.
- (d) In granting any Variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

Zoning Ordinance § 1325.06.

The type of the variance sought is also an important distinction. 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 in order 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. However, Hertzberg is not a free pass to a variance. It is uncontested that the variances sought are dimensional in nature. As stated above, all variances requested in the instant application are dimensional in nature and, accordingly, the Hertzberg standard articulated above is applicable.

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 Applicant has presented sufficient evidence to meet the requirements for the requested dimensional variance under Section 1325.06(b), the Board finds that the request should be granted. The Board is persuaded that the Property exhibits unique physical circumstances due to its abnormal size and the configuration of its improvements within the RT High Density Residential District. Specifically, the lot is oversized compared to nearby parcels, with existing improvements clustered to one elevated portion of the site, leaving a large, developable area on the Property’s lower side. These characteristics make strict compliance with the Zoning Ordinance unduly burdensome. The Board also finds that the hardship in this case arises directly from these unique physical circumstances, rather than from any action of the Applicant. Applicant did not create the lot’s shape or size and, in fact, seeks to avoid the more intensive development (a multi-family dwelling) that could otherwise be built by right. Instead, the Applicant proposes a lower-impact, two-family detached dwelling that is more consistent with the surrounding neighborhood and its aesthetic.

Moreover, the Board is satisfied that granting the variance will not alter the essential character of the neighborhood, will not impair adjacent property use/development, or be detrimental to public welfare. The Applicant presented credible testimony that the new dwelling will be designed to resemble a single-family home, maintaining the visual and spatial character of the area. The Board finds this persuasive and notes that the lot sizes and widths proposed—approximately 6,000 square feet and 42.6 feet wide—are comparable to other lots in the vicinity, many of which range from 25 to 35 feet in width and have roughly 6000 square feet in area. Furthermore, Applicant expressed that a main reason it seeks to construct a Two-Family Detached Dwelling, rather than a multi-family dwelling, was to reduce the “stress” on the area. Indeed, the Board concurs that having less individuals in a contiguous space, if anything, *improves* public welfare. In addition, no credible evidence was presented suggesting that approval would adversely affect the use or development of surrounding properties.

The Board also finds that the requested relief is minimal and represents the least modification necessary to permit reasonable use of the Property. The ~17-foot variance is modest in scale and is directly tied to the physical constraints of the lot.

Finally, the relief is dimensional in nature, thus allowing for the application of the lesser Hertzberg/Yeager standard. Therefore, it is acknowledged that the grant of this dimensional variance would generally be of lesser moment than the grant of a use variance. The requested variances here would simply allow Applicant to design, and Applicant to reasonably utilize, the Property in a manner consistent with the applicable use regulations and Applicant’s preferences. The Board desires to encourage Owner’s otherwise compliant use of the land by providing slight variances to the Zoning Ordinance’s dimensional requirements.

## **VII. Conclusions of Law**

1. The proposed project requires variance relief.
2. Applicants 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. Applicants presented sufficient evidence that they did not create the hardship.
4. Applicants adequately demonstrated that the variance would not alter the essential character of the local community, impair the use or development of adjacent properties, or be otherwise detrimental to the public welfare.
5. Applicants presented sufficient evidence that the requested variance is a reasonable accommodation under the Zoning Ordinance, and the minimum relief necessary to allow a reasonable use of the Property.

**VIII. Decision of the Board**

Based upon the foregoing, by a 3-0 vote, the Zoning Hearing Board granted the Variance, as requested, allowing placement of a Two-Family Detached Dwelling on the proposed lot with less than the required lot width. This approval is conditioned on the Two-Family Detached Dwelling being constructed in conformity with how it was presented to the Board and maintaining the presence of all street trees.



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Steven T. Boell, Esquire  
Solicitor

***THE BOARD:***

VOTING TO GRANT THE RELIEF

*/s/ Peter Schneck \**

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Peter Schneck  
Chair

*/s/ Paige Van Wirt \**

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Paige Van Wirt  
Member

*/s/ Sharon Wiles-Young \**

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Sharon Wiles-Young  
Member

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

**DATE(S) OF HEARING: September 17, 2025**

**DATE OF WRITTEN DECISION: October 31, 2025**

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

**Northampton County**

<b>Appeal &amp; Application of</b>	)	<b>Date: October 31, 2025</b>
<b>Jesse Chupella and Tom Cramer,</b>	)	
<b>On behalf of Indigo Investments, LLC</b>	)	
<b>Applicant</b>	)	<b>Re: 1423 Maple Street</b>

**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.

Indigo Investments, LLC  
412 Hemlock Lane  
Nazareth, PA 18064  
**Applicant**

Victor E. Scmillio, Esquire  
1216 Linden Street,  
Bethlehem, PA 18018  
**Attorney for Applicant**

FITZPATRICK LENTZ & BUBBA, P.C.



Date: October 31, 2025

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

Steven T. Boell, Esquire  
Two City Center  
645 West Hamilton Street, Suite 800  
Allentown, PA 18101  
Attorney for Zoning Hearing Board  
Of the City of Bethlehem

Solicitor for Zoning Hearing Board  
Of the City of Bethlehem

**Before the Zoning Hearing Board  
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**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**

**October 31, 2025**