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November 9, 2019

Lehigh Valley Health Network  
c/o Dallas Pulliam, Vice-President of Real Estate



Muhlenberg Realty Corp. and Lehigh  
Valley Hospital-Muhlenberg  
c/o Dallas Pulliam



Timothy J. Seigfried, Esquire  
David C. Berger, Esquire

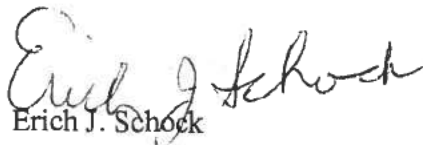


**Re: City of Bethlehem Zoning Hearing Board  
2545 Schoenersville Road  
2649 Schoenersville Road  
2705 Schoenersville Road  
1780 Bathgate Road**

All:

Enclosed please find a copy of the Notice and Decision of the Board in the above matter.

Very truly yours,

  
Erich J. Schock

/sjw

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**

**Lehigh County Division**

Appeal & Application of	)	Date: November 8, 2019
<b>LEHIGH VALLEY HEALTH NETWORK,</b>	)	
Applicant	)	Re: 2545 Schoenersville Road
	)	2649 Schoenersville Road
	)	2705 Schoenersville Road
	)	1780 Bathgate Road

**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 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**

**November 8, 2019  
(Date of Mailing This Decision)**

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**DECISION**

**I. Preliminary Matters**

A public hearing was held on **September 25, 2019**, at 6:00 PM before the Zoning Hearing Board of the City of Bethlehem ("Board") regarding Applicant's Appeal to the Zoning Hearing Board.

**A. Parties.**

1. Applicant: Lehigh Valley Health Network ("Applicant") had standing (by permission of the owners) as the operator of the facilities at the properties. Applicant was represented by Timothy J. Seigfried, Esquire, and David C. Berger, Esquire. Muhlenberg Realty Corp. and Lehigh Valley Hospital-Muhlenberg, the title owners of the properties, are affiliated with Applicant and authorized the Application.

2. Zoning Hearing Board: The Board comprised William Fitzpatrick (Chairman), James H. Schantz, Terry Novatnack and Peter Schneck. The Zoning Officer was Craig Peiffer. Erich J. Schock of Fitzpatrick Lentz & Bubba, P.C., represented the Zoning Hearing Board as its Solicitor.

3. Protestant(s) / Interested Parties: No protestants or interested parties appeared at the public hearing.

**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 consists of four (4) parcels of land located at **2545 Schoenersville Road, 2649 Schoenersville Road, 2705 Schoenersville Road and 1780 Bathgate Road** in Bethlehem, Northampton County, Pennsylvania (collectively, 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:

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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 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.

1. *The Codified Zoning Ordinance of the City of Bethlehem*, Ordinance No. 2210, effective September 25, 1970, 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, as amended (hereinafter, the "MPC").

### **III. Nature of Relief Sought**

Applicant requested the following relief:

- a. a dimensional variance from Section 1320.08(a)(14) to exceed the number of wall signs permitted;
- b. a dimensional variance from Section 1320.08(a)(14) to exceed the maximum area allowable for wall signs of 40 SF;
- c. a dimensional variance from Section 1320.08(a)(14) to exceed the maximum area allowable for freestanding signs of 40 SF; and
- d. a use variance from Section 1320.08(a)(14) to permit both faces of a sign to contain electronically changing messages.

### **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:**

- Exhibit A-1: Deed of Correction – 2545 Schoenersville Road
- Exhibit A-2: Deed of Correction – 2649 Schoenersville Road
- Exhibit A-3: Deed of Correction – 2705 Schoenersville Road
- Exhibit A-4: Deed – 1780 Bathgate Road
- Exhibit A-5: 12/7/2001 Zoning Decision
- Exhibit A-6: Tax Map
- Exhibit A-7: 2545 & 2649 Schoenersville Road signs
- Exhibit A-8: 2545 Schoenersville Road proposed sign
- Exhibit A-9: 2545 Schoenersville Road proposed sign
- Exhibit A-10: 2649 Schoenersville Road proposed sign
- Exhibit A-11: 2649 Schoenersville Road proposed sign
- Exhibit A-12: Proposed location of two pylons signs
- Exhibit A-13: Computation Equations – United States Sign Council
- Exhibit A-14: Route 22 sign rendering – 2705 Schoenersville Road

- Exhibit A-15: Route 22 sign rendering – 2705 Schoenersville Road
- Exhibit A-16: Evening Appearance of sign – 2705 Schoenersville Road
- Exhibit A-17: 1780 Bathgate Road proposed sign
- Exhibit A-18: Route 378 sign rendering – 1780 Bathgate Road
- Exhibit A-19: Evening Appearance of sign – 1780 Bathgate Road
- Exhibit A-20: 1780 Bathgate Road from Route 378
- Exhibit A-21: 2705 Schoenersville Road from Route 22
- Exhibit A-22: View over median of Route 22 sign

**V. Findings of Fact**

1. Muhlenberg Realty Corp. is the owner of the properties located at 2705 Schoenersville Road (“Parcel A”), 1780 Bathgate Road (“Parcel B”) and 2649 Schoenersville Road (“Parcel D”).
2. Lehigh Valley Hospital – Muhlenberg is the owner of the property located at 2545 Schoenersville Road (“Parcel C”).
3. The Property lies within the I - Institutional Zoning District and totals 59.32 acres (Parcel A is 18 acres, Parcel B is 16.12 acres, Parcel C is 22.51 acres and Parcel D is 2.69 acres).
4. Located on the Property are parking facilities (Parcel A), medical office buildings (Parcels B and D) and a hospital (Parcel C).
5. The Property abuts Route 378 on the west and Route 22 to the north.
6. Residential uses are located to the far east and west of the Property and commercial uses to the southeast, including the Westgate Mall.
7. Applicant is proposing to replace two (2) existing signs on Parcels A and B and install four (4) additional wall signs, two (2) on each of Parcels C and D.
8. Ed Reed from Reed Sign Company testified on behalf of Applicant.
9. Exhibit A-7 shows the proposed location of two (2) new signs on Parcel C (labeled as Signs “A” and “B”) and two (2) new signs on Parcel D (labeled as Signs “1” and “2”).

10. Exhibit A-8 is a rendering of Sign A located on Parcel C.
11. Sign A is a roughly 300-SF wall sign with internally illuminated channel letters reading “Lehigh Valley Cancer Institute” to denote that particular building. It is visible from the “T” intersection at the Hospital’s north entrance.
12. Exhibit A-9 is a rendering of Sign B located on Parcel C
13. Sign B is a roughly 350-SF wall sign with internally illuminated channel letters reading “Lehigh Valley Cancer Institute” to denote that particular building. It is visible from Bathgate Road.
14. Exhibit A-10 is a rendering of Sign 2 located on Parcel D.
15. Sign 2 is a roughly 351-SF wall sign with internally illuminated channel letters reading “Lehigh Valley Heart Institute” to denote that particular building. It is visible from Schoenersville Road.
16. Exhibit A-11 is a rendering of Sign 1 located on Parcel D.
17. Sign 1 is a roughly 200-SF wall sign with internally illuminated channel letters reading “Lehigh Valley Heart Institute” to denote that particular building. It is visible from the “T” intersection at the Hospital’s north entrance.
18. Exhibit A-12 shows the locations of the two (2) existing freestanding signs on Parcels A and B to be replaced with freestanding signs (the “Replacement Signs”).
19. The existing signs received approval in 2001.
20. The Replacement Signs include electronically changing messages.
21. Exhibits A-14 through A-16 are the renderings for Replacement Sign 1 located on Route 22 (Parcel A).

22. Exhibits A-17 through A-19 are the renderings for Replacement Sign 2 located on Route 378 (Parcel B).

23. The Replacement Signs will have a 368-SF electronically changing message signs and a roughly 150-SF sign face with internally illuminated, channel letters mounted below the message center.

24. Replacement Sign 1 is replacing a larger structure of 840 SF and will be designed to comply with the Zoning Ordinance's regulations for electronically changing message signs in Section 1320.07(s).

25. Replacement Sign 2 is replacing a second existing freestanding sign and will be designed to comply with the Zoning Ordinance's regulations for electronically changing message signs in Section 1320.07(s).

26. The signs have been designed by and will be constructed and installed by Reed Sign, a well-known, professional sign company.

27. Section 1320.08(a)(14) allows:

- a. a maximum of 40 SF of wall signage and a maximum of 40 SF freestanding sign per principal building side facing a street;
- b. one (1) addition 50 SF freestanding sign at each entryway to a college, university campus or hospital complex along a public street; and
- c. one (1) projecting sign per principal building with a maximum size of 8 SF.

28. Prior zoning relief had been granted for this use regarding its existing signage.

29. Robert Beyliomini, President of Lehigh Valley Hospital – Muhlenberg, is responsible for all hospital operations.

30. Beyliomini is aware of concerns by patients in finding their ways to the facility, much of which is collected by surveys.

31. The Property employs 1400 and receives about 300,000 visits annually from patients and others, primarily from Eastern Pennsylvania and New Jersey.

32. To the north of the Property is Route 22, to the south are a shopping center and apartments, to the east are commercial buildings (2 of 3 being owned by Lehigh Valley Health Network) and to the west is Route 378.

33. Patients often have difficulty finding where to go on campus.

34. Beyliomini hopes to ensure the community knows clearly where the Cancer Institute and Heart Institute are located.

35. The freestanding signs will aid patients in reaching the site.

36. The EMC's allow for customized messages, such as programs, services, dates, new physicians, and other timely and topical information.

37. The Hospital experienced significant growth since 2001, when it installed much of the current signage.

38. The Exhibits presented by Applicant accurately depict the modest scope of the signage in the context of the size of the Property and the facilities.

39. Applicant suggested that the signs primarily are intended to identify the building for patients and delivery vehicles and only secondarily provide advertising.

40. Like most healthcare facilities, many of the patients visiting the Hospital are under stress or beset by physical ailments.

41. The proposed signs will not change the character of the neighborhood or impact development on other property in the vicinity.

## **VI. Conclusions/Analysis of Law**

The grant of a variance is pursuant to §1302.96 of the Zoning Ordinance.

**1302.96 Variance**

A modification of the regulations of this Ordinance, granted on grounds of exceptional difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Article 1325 of this Zoning Ordinance, and the laws of the State of Pennsylvania.

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 appeal from a decision by the Zoning Officer, the Zoning Hearing Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions whereby such strict application would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building involved, but in no other case.

(b) In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.

(c) No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that all the below requirements and standards are satisfied. The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate his appeal to prove that the appeal for the variance is in conformance with the requirements and standards listed below:

(1) That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(2) That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.

(3) There must be proof of unique circumstances: There are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or

conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.

(4) There must be proof of unnecessary hardship: If the hardship is general, that is, shared by neighboring property, relief can be properly obtained only by legislative action or by court review of an attack on the validity of the Ordinance.

(5) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded.

Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchased with or without knowledge of restrictions, it must result from the application of the Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.

There is a multitude of decisions of the various courts in the Commonwealth dealing with the grant of variance. A variance applicant must show that unnecessary hardship will result if the variance is denied and that the proposed use is not contrary to the public interest. *Allegheny West Civic Counsel, Inc. v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

The Zoning Hearing Board believes that Applicant met the standard for a variance.

The Property is located in the I-Institutional Zoning District and contains a major hospital facility. The Property is bounded by two highways and two other heavily-traveled roadways. The Hospital provides numerous healthcare services and includes a Cancer Institute and Heart Institute. This area includes two highways and other heavily-traveled roads. In the neighborhood are numerous commercial establishments, including a shopping center, and multi-family dwelling complexes. The Hospital facility sits on 60 acres of land and is one of the major

healthcare providers in the community. All of these facts support the Board's conclusion that with regard to signage, there exists unique physical circumstances that create a hardship.

Next, the Board considered whether the physical circumstance inhibited reasonable use of the Property. While the Hospital is long established at this site, the Board does not believe that fact alone precludes relief. The existing signs at the Property have been in place for many years. During that time the Hospital and the Lehigh Valley, including the vicinity, have grown. Traffic has increased. The services at the Hospital have increased. Also, the expectation of patients and visitors have evolved. Modern, clearly identifiable signage to lead people to a destination is expected. Also, institutions such as healthcare facilities now recognize "wayfinding" as an important goal. Therefore, inadequate signage can be an unreasonable restriction.

Applicant did not create the hardship, since the use existed on the Property for many years, and it is the growth of the facility and the area that created the hardship.

The relief should be the minimum. While in the case of sign relief that determination can be subjective, the sheer size of the Property and its buildings lead the Board to conclude that the size and number of signs are appropriate. The relief in no way permits "sign clutter" on the 60 acres of land. Also, due to the vantages from which the signs are intended to be seen, the letter size is justifiable.

No objectors or interested parties appeared. The area is commercial in character. The Board could not conclude that the relief would cause any adverse impact.

For these reasons, the Board granted the variance relief.

**VII. Conclusions of Law**

1. The new signage as proposed requires variance relief.
2. Applicant presented sufficient evidence to demonstrate that the Property is subject to unique circumstances.
3. Applicant presented sufficient evidence to demonstrate that the unique circumstances create a hardship to reasonable use of the Property in conformance with the Zoning Ordinance.
4. Applicant presented evidence that it did not create the hardship.
5. Applicant presented sufficient evidence to demonstrate that the relief would not be injurious to the public.

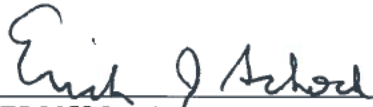
**VIII. Decision of the Board**

With regard to Parcels C and D, based upon the foregoing, by a vote of 4 - 0, the Zoning Hearing Board granted relief from Section 1320.08(a)(14) of the Zoning Ordinance to allow the wall signs as proposed.

With regard to Parcels A and B, based upon the foregoing, by a vote of 4 - 0, the Zoning Hearing Board granted relief from Section 1320.08(a)(14) of the Zoning Ordinance to allow the two (2) freestanding signs as proposed, subject to the conditions that (1) the digital portions of the sign are used exclusively to display messages that relate to activities at the Muhlenberg Campus of Lehigh Valley Hospital and not for advertising activities occurring at other Lehigh Valley Hospital locations or conducted by others, and (2) Applicant shall comply with all of the requirements in Section 1320.07(s) of the Zoning Ordinance governing the operation of signs with electronically changing messages.

***THE BOARD:***

***Voting to Grant Relief:***



ERICH J. SCHOCK  
Solicitor

/s/ William Fitzpatrick\*

WILLIAM FITZPATRICK  
Chairman

/s/ Craig D. Peiffer\*

CRAIG D. PEIFFER,  
Zoning Officer

/s/ James H. Schantz \*

JAMES H. SCHANTZ  
Member

/s/ Terry Novatnack \*

TERRY NOVATNACK  
Member

/s/ Peter Schneck \*

PETER SCHNECK  
Member

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

**DATE(S) OF HEARING: September 25, 2019**

**DATE OF MAILING OF WRITTEN DECISION: November 8, 2019**

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**Certificate of Service**

I, Erich J. Schock, Solicitor, 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 U.S. Mail sent first class on the date set forth below.

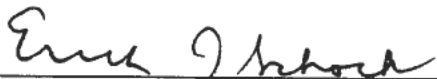
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[REDACTED]  
[REDACTED]  
**Applicant**

Muhlenberg Realty Corp. and Lehigh Valley Hospital-Muhlenberg  
c/o Dallas Pulliam  
[REDACTED]  
[REDACTED]  
**Owner**

Timothy J. Seigfried, Esquire  
David C. Berger, Esquire  
[REDACTED]  
[REDACTED]  
**Counsel for Applicant**

FITZPATRICK LENTZ & BUBBA, P.C.

Date: November 8, 2019

BY:   
ERICH J. SCHOCK, ESQUIRE  
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Attorney for Zoning Hearing Board  
of Bethlehem

