



SITE ADDRESS: 124-128 W. Union Blvd.; 114 Spruce St.

Office Use Only:

DATE SUBMITTED: _____ HEARING DATE: _____

PLACARD: _____ FEE: _____

ZONING CLASSIFICATION: _____ LOT SIZE: _____

**APPLICATION FOR APPEAL TO THE CITY OF BETHLEHEM ZONING HEARING BOARD,
10 E. CHURCH STREET, BETHLEHEM, PA 18018**

1. Return one (1) original and seven (7) copies of this application and all supporting documentation to the Zoning Officer, along with the filing fee. Include site plans and/or floor plans as necessary.

2. ***THE APPLICATION IS DUE BY 4 PM THE LAST WEDNESDAY OF THE MONTH FOR THE NEXT MONTH'S ZONING HEARING BOARD MEETING. MEETINGS ARE GENERALLY THE FOURTH WEDNESDAY OF THE MONTH. ONLY COMPLETE SUBMISSIONS WILL BE ADDED TO THE AGENDA FOR HEARING.***

Appeal/Application to the City of Bethlehem Zoning Hearing Board is hereby made by the undersigned for: (check applicable item(s)):

- Appeal of the determination of the Zoning Officer
- Appeal from an Enforcement Notice dated _____
- Variance from the City of Bethlehem Zoning Ordinance
- Special Exception permitted under the City Zoning Ordinance
- Other: _____

SECTION 1

APPLICANT:

Name	<u>Matador Holding Co, LLC</u>
Address	<u>2005 City Line Rd, Ste. 106 Bethlehem PA 18017</u>
Phone:	_____
Email:	_____

OWNER (if different from Applicant): Note. If Applicant is NOT the owner, attach written authorization from the owner of the property when this application is filed.

Name _____

Address _____

Phone: _____

Email: _____

ATTORNEY (if applicable): _____

Name TBD

Address _____

Phone: _____

Email: _____

SECTION 2. INFORMATION REGARDING THE REAL ESTATE

1. Attach a site plan, drawn to scale, of the real estate. Include existing and proposed natural and man-made features.
2. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
3. If the real estate is presently leased, attach a copy of the present lease.
4. If this real estate has been the object of a prior zoning hearing, attach a copy of the Decision.

SECTION 3.

THE RELIEF SOUGHT:

If the Applicant seeks a dimensional variance for any setback, lot coverage, distance between certain uses, etc., please state the following:

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
<u>1306.01.a.4</u>	<u>2,500 sq.ft./unit</u>	<u>716 sq.ft./unit</u>	<u>1,784 sq.ft./unit</u>
_____	_____	_____	_____
_____	_____	_____	_____

If the Applicant seeks a use or other variance, please state the **specific section(s)** of the Zoning Ordinance applicable and describe the variance sought.

If the Applicant seeks a Special Exception, please state the **specific section (s)** of Zoning Ordinance applicable: _____

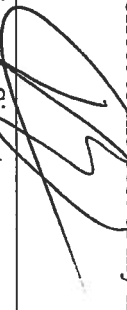
If the Applicant seeks an appeal from an interpretation of the Zoning Officer, state the remedy sought in accordance with Sec. 1325.11 (b):


NARRATIVE

A brief statement reflecting why zoning relief is sought and should be granted must be submitted.

CERTIFICATION

I hereby certify that the information contained in and attached to this application is true and correct to the best of my knowledge and belief.

Applicant's Signature  _____ Date 4/25/18

Property owner's Signature  _____ Date 4/25/18

Received by _____ Date _____

Matador Holding Co., LLC
2005 City Line Rd., Ste. 106
Bethlehem, PA 18017

April 25, 2018

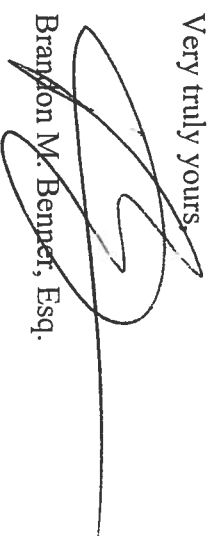
RE: 124-128 W. Union Blvd.; 114 Spruce St.- Zoning Application

Dear Ms. Borzak:

We are requesting a modification to the variances granted at the June 22, 2016 Zoning Hearing for this project. Due to a change in the height of the building as well as a reduction in the number of units, we no longer are required the setback variances granted. However, the lot area per dwelling unit has changed. All other variances granted will not be changed from the original request.

We are requesting a 716 sq.ft. lot area per dwelling unit instead of the required 2,500 sq.ft. per dwelling unit. We were granted a reduction to 499 sq.ft. per dwelling unit where 1,200 sq.ft. was required. We intend to honor the conditions of the June 22, 2016 hearing. Please let me know if you have any questions or concerns. Thank you.

Very truly yours,



Brannon M. Bennett, Esq.

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to use by, the members of the Pennsylvania Association of Realtors® (PAR).

ASC

PARTIES

BUYER(S) Matador Holding Co., LLC or Assigns SELLER(S) Casilio JN et. al.
FRANK CASILIO & SONS

[Signature]
08/14/2018

PROPERTY

PROPERTY ADDRESS 124-128 W. Union Boulevard, 114 Spruce Street ZIP 18018

in the municipality of Bethlehem in the Commonwealth of Pennsylvania
 County of Northampton Identification (e.g., Parcel #, Lot, Block, Deed Book, Page, Recording Date): PGNW2B 9 1 0204 & PGNW2B 7 20 0204

Tax ID #(s): _____

BUYER'S RELATIONSHIP WITH PA LICENSED BROKER

No Business Relationship (Buyer is not represented by a broker)

Broker (Company) _____ Licensee(s) (Name) _____
 Company Address _____ Direct Phone(s) _____
 Cell Phone(s) _____
 Company Phone _____ Fax _____
 Company Fax _____ Email _____

Broker is (check only one):
 Buyer Agent (Broker represents Buyer only)
 Buyer Agent (Broker represents Seller only)
 Dual Agent (See Dual and/or Designated Agent box below)

Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Buyer)

SELLER'S RELATIONSHIP WITH PA LICENSED BROKER

No Business Relationship (Seller is not represented by a broker)

Broker (Company) _____ Licensee(s) (Name) _____
 Company Address _____ Direct Phone(s) _____
 Cell Phone(s) _____
 Company Phone _____ Fax _____
 Company Fax _____ Email _____

Broker is (check only one):
 Seller Agent (Broker represents Seller only)
 Seller Agent (Broker represents Buyer only)
 Dual Agent (See Dual and/or Designated Agent box below)

Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Seller)

DUAL AND/OR DESIGNATED AGENCY

A Broker is a Dual Agent when a Broker represents both Buyer and Seller in the same transaction. A Licensee is a Dual Agent when a Licensee represents Buyer and Seller in the same transaction. All of Broker's licensees are also Dual Agents UNLESS there are separate Designated Agents for Buyer and Seller. If the same Licensee is designated for Buyer and Seller, the Licensee is a Dual Agent. By signing this Agreement, Buyer and Seller each acknowledge having been previously informed of, and consented to, dual agency, if applicable.

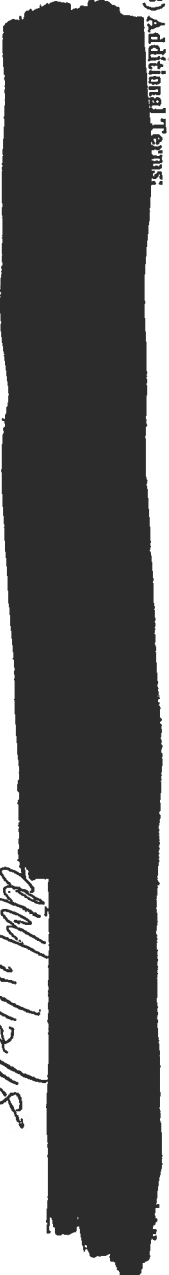
Buyer Initials: ASC Page 1 of 9

Seller Initials:



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 TEL: 917, tel. 1/18

(B) Additional Terms:



4/12/18

4/22/18

470 Buyer has received the Consumer Notice, where applicable, as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.

471

472 Buyer has received a statement of Buyer's estimated closing costs before signing this Agreement.

473 Buyer has received the Deposit Money Notice (for cooperative sales when Broker for Seller is holding deposit money) before signing this Agreement.

474

475 BUYER *[Signature]* DATE 4/22/18
Matador Holding Co., LLC

476 Mailing Address 2005 City Lane Road, Bethlehem, PA 18017

477 Phone(s) Fax Email

478 BUYER DATE

479 Mailing Address Fax Email

480 Phone(s) DATE

481 BUYER

482 Mailing Address Fax Email

483 Phone(s)

484 AUTHORIZED REPRESENTATIVE

485 Title

486 COMPANY

487 Seller has received the Consumer Notice, where applicable, as adopted by the State Real Estate Commission at 49 Pa. Code § 35.336.

488 Seller has received a statement of Seller's estimated closing costs before signing this Agreement.

489 VOLUNTARY TRANSFER OF CORPORATE ASSETS (if applicable): The undersigned acknowledges that he/she is authorized by the Board of Directors to sign this Agreement on behalf of the Seller corporation and that this sale does not constitute a sale, lease, or exchange of all or substantially all the property and assets of the corporation, such as would require the authorization or consent of the shareholders pursuant to 15 P.S. §1311.

490

491

492

493 SELLER *[Signature]* DATE 4/12/18
Casilio, JN et. al.

494 Mailing Address Fax Email

495 Phone(s) DATE

496 SELLER

497 Mailing Address Fax Email

498 Phone(s) DATE

499 SELLER

500 Mailing Address Fax Email

501 Phone(s)

502 AUTHORIZED REPRESENTATIVE

503 Title

504 COMPANY



FITZPATRICK LENTZ & BUBBA

ATTORNEYS AT LAW

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STABLER CORPORATE CENTER · PHONE: 610-797-9000 · FAX: 610-797-6663 · WWW.FLEBLAW.COM

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eschock@fblaw.com

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August 5, 2016

Edward J. Lentz
Joseph A. Fitzpatrick, Jr.
Joseph A. Bubba
Timothy D. Charlesworth
Douglas J. Smilie*

Emil W. Kantra II
Joseph S. D'Amico, Jr.*
Michael R. Neefeder
Catherine E. N. Durso
B-Land Co., LLC
2005 City Line Road, Suite 106
Bethlehem, PA 18017
Applicant

Iane P. Long
Erich J. Schock
James A. Bartholomew
Jacob M. Stiman*
Dennis Benner, Esquire
2005 City Line Road, Suite 106
Bethlehem, PA 18017
Attorney for Applicant

Steven T. Boell
Joshua A. Gildea
Marie K. McConnell*
Anthony S. Radnuba, IV*
Re: City of Bethlehem Zoning Hearing Board
124-128 W. Union Boulevard and 114 Spruce Street
Gentlemen:

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

Very truly yours,

Erich J. Schock

/vlm

Enclosure

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

Also admitted in New York
Also admitted in New Jersey
Registered Patent Attorney

**BEFORE THE ZONING HEARING BOARD
OF THE CITY OF BETHLEHEM, PENNSYLVANIA**

Northampton County Division

Appeal & Application of)	Dated: August 5, 2016
B-Land Co., LLC,)	
Applicant)	Re: 124-128 W. Union Blvd,
)	114 Spruce Street

**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

August 5, 2016
(Date of Mailing this Decision)

**BEFORE THE ZONING HEARING BOARD
OF THE CITY OF BETHLEHEM, PENNSYLVANIA**

Northampton County Division

Appeal & Application of)	Dated:	August 5, 2016
B-Land Co., LLC,)		
Applicant)	Re:	124-128 W. Union Blvd,
)		114 Spruce Street

DECISION

I. Preliminary Matters

A public hearing was held on June 22, 2016, at 6:00 PM before the Zoning Hearing Board of the City of Bethlehem regarding Applicant's request for a special exception and/or a variance.

A. Parties.

1. Applicants: B-Land Co., LLC appeared and had standing as the owners of the subject property. Dennis E. Benner, Esquire, represented Applicant.

2. Zoning Hearing Board: The Board comprised Gus Loupos (Chairman), William Fitzpatrick and James H. Schantz. (Linda Shay Gardner and Michael Santanasto recused themselves.) The Zoning Officer was Suzanne Borzak. Erich J. Schock of Fitzpatrick Lentz & Bubba, P.C., represented the Zoning Hearing Board as its Solicitor.

3. Protestant(s) / Interested Parties: The Old Brewery Tavern, the owner of the adjacent property, appeared at the public hearing, through its counsel, Christopher T. Spadoni, Esquire.

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,¹ the Zoning Ordinance of the City of Bethlehem² and the rules of the Board.³

C. Property

The subject property consists of contiguous two (2) parcels of land located at **124-128 W.**

Union Boulevard and 114 Spruce Street, located in the Northampton County portion of the

City of Bethlehem (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:

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 (hereinafter, the "MPC").

¹ 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."

² Article 1325.04(a) Notice of Hearings.

(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.

³ 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 the following relief:

(a) a variance from §1305.01(a) requiring that multi-family dwellings in the CL Zoning District must be above a first-floor commercial use;

(b) a dimensional variance from §1306.01(b)(2) / §1306.01(a)(4) to have 499 SF of lot area per unit dwellings where 1,200 SF is required;

(c) a dimensional variance from §1323.04 to construct three additional stories onto an existing, non-conforming 2-story building, which is an increase of over 50%; and

(d) a dimensional variance from §1306.01(b)(2) / §1306.01(a)(4) to the side and rear setback line to keep the setbacks of the addition identical to the setbacks of the existing building.

IV. Evidence Received by the Board

In addition to testimonial evidence received by the Board from Applicant, the neighbor and the Zoning Officer, the Board admitted the following Exhibits:

Application and its attachments.

Exhibit A-1: Aerial/map

Exhibit A-2: Photographs

Exhibit A-3: Site Plan

Exhibit A-4: Additional Plan and Letter of Support

V. Findings of Fact

1. The Property consists of 16,466 SF and is located in the CL-Commercial Zoning District.

2. The owner of the Property is B-Land Co., LLC.

3. The Property currently contains a two-story building used as a warehouse/storage facility.

4. The existing structure is in disrepair. To the extent the warehouse use is being

conducted on the Property, it is an existing lawful nonconformity.

5. Applicant proposes to redevelop the Property and construct a 33-unit multi-family dwelling that would set atop a two-level parking structure.
6. The footprint of the building is 11,134 SF, and each of the five floors will have that same floor area.
7. Based upon 33 units, the project will have only 499 SF per dwelling unit.
8. The Zoning Ordinance requires 1,200 SF of land per dwelling unit.
9. To be compliant, there could only be a maximum of 13 units.
10. Renovating for 13 reasonably-sized units is infeasible, and due to the grades results in a limited addition without windows for nearly half of the units.
11. By providing 33 units, Applicant creates a project that feasibly supports construction of the parking structure at the base.
12. The project will provide all required parking on site.
13. The project incorporates the existing structure in its design by creating access to the parking from West Union Boulevard for one level and from Spruce Street for the other.
14. The building will observe the maximum height permitted in the CL Zoning District.
15. The project enables the developer to rehabilitate the Property and re-use the building.
16. Adjacent to the Property is The Old Brewery Tavern ("OBT") to the east and an abandoned 5-story factory to the north. Nearby are a multi-family residential structure and a mix of attached and detached residences.
17. The project received the support of the Downtown Bethlehem.

18. There is no prior commercial use of the Property.
19. There is a limited need for the first floor commercial use in this location. There is a viable market for residential apartments in this area.
20. The building is nonconforming as to its setbacks. To meet the setbacks would require razing the structure.
21. Using the same setbacks for the addition is structurally appropriate.
22. Renovations for the project will exceed \$5.5M.
23. Most units will have balconies but none will directly abut the OBT.
24. The building has been substantially vacant for ten (10) years.

VI. Analysis of Law

Applicant is the owner of the Property, known as 124-128 W. Union Boulevard and 114 Spruce Street in the City of Bethlehem, Northampton County, Pennsylvania. The Property currently contains a two-story building used for industrial warehousing/storage. Applicant proposes to use the Property as a 33-unit multi-family dwelling. The Property is located in the CL-Commercial Zoning District, where the business use is not allowed.

Applicant requested several variances from the Zoning Ordinance, primarily dimensional, although the variance from §1305.01(a) is unique. It is not a true use variance, since multi-family residential use is permitted in the CL Zoning District but instead Applicant asks relief to not create the required commercial use on the first floor.

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 a variance. It is a general principle of Pennsylvania law that variances should be granted only sparingly and only under exceptional circumstances. *Botula v. Zoning Hearing Board of Adjustment of the City of Pittsburgh*, 450 A.2d 637 (Pa. Commw. Ct. 1982); *Schaefer v. Zoning Hearing Board of Adjustment of the City of Pittsburgh*, 435 A.2d 289 (Pa. Commw. Ct. 1981). 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 Board believes that Applicant met its burden of proof for the variances. The Property contains an outdated, undersized warehouse building. Applicant is a residential developer, which is asking to expand and convert the building on the Property to a multi-family use. That use is permitted but only in conjunction with a first-floor commercial use. Applicant offered testimony concerning the physical hardships of the Property that inhibit use of the Property in conformity with the Zoning Ordinance.

- The Property is only 16,466 SF in area, which would be atypically small for a modern warehouse.
- There is little outdoor space to create the appropriate warehouse design.
- The building on the Property is in need of significant renovation irrespective of whether the use is industrial, commercial or residential in nature.
- The use for a warehouse is not a permitted use in the CL District.
- To meet the required setbacks, it would be necessary to raze the building.
- The Property is uniquely situated. It is proximate to the City's vibrant downtown, but in an area in flux. The Property abuts an abandoned manufacturing building, is near the highway and railroad trucks and is on the edge of the revitalized area.
 - The Property is located in an area that is mixed in character, various residential uses, a restaurant/bar, the abandoned structure, and a vacant lot.

Regarding the specific variances requested, the Board concluded the following:

- Section 1305.01(a): Multi-family residential use, even without the first floor commercial use, is more consistent with the Zoning Ordinance than warehousing, which is only allowed in the CL District as accessory to a permitted use and not as a principal use. Further, unlike the downtown proper, where residential over top of a business is the norm, here that type of use is in the minority. The Property is not in an area of heavy foot traffic. The evidence, in conjunction with the Board's knowledge of the neighborhoods in the City, leads it to agree that the commercial first floor should not be required.
- Section 1306.01(b)(2) / 1306.01(a)(4): With the expansion of the building, the land area per unit falls short of the requirement. Applicant presented sufficient evidence why the required area is unnecessary, in particular its ability to provide on lot the parking needed under the Zoning Ordinance. The permission to have additional units (which drives down the lot area per unit) makes the project viable.
- Section 1323.04: The building is nonconforming. Even if that condition would have allowed a 50% expansion of its floor area, the expansion exceeds that. However, the expansion allows for off-street parking on the first floor. Further, the area of the expansion is the same footprint as the nonconforming structure and is an expansion upward not creating more lot coverage.
- Section 1306.01(b)(2) / 1306.01(a)(4): Since the expansion is up, not out, the expansion does not increase the nonconformity of the setbacks. The Board agrees with Applicant that using the same footprint is appropriate.

The neighboring property owner appeared at the hearing and raised the concern that a significant residential presence might conflict with its restaurant/bar use next door, in particular its outdoor patio. Applicant testified that in a city, such a combination of uses is typical. Further,

none of the balconies directly about the outdoor patio and all are well above it in elevation. However, as will be noted in its decision, the Board did believe that safeguards in the form of conditions to the approval (which the law permits when granting a variance) are appropriate.

VII. Conclusions of Law

1. Applicant demonstrated that the Property is subject to unique circumstances.
2. Applicant demonstrated that physical conditions of the Property inhibit its use in conformance with the Zoning Ordinance.
3. Applicant demonstrates that the relief will cause no harm to the public welfare.
4. Applicant demonstrated the relief is the minimum requested.

VIII. Decision of the Board

Based upon the foregoing, by a 3-0 vote, the Zoning Hearing Board granted variances to §1305.01(a), §1306.01(b)(2) / 1306.01(a)(4) and §1323.04 of the Zoning Ordinance, SUBJECT TO the following conditions:

1. To the fullest extent possible, a buffer of plantings and/or a fence shall separate the building from the outdoor seating area on the adjacent property.
2. The apartments nearest to the outdoor area of the 2 bedroom unit in the southeast corner of each of Floors Two through Four) neighboring property shall have no window on the side of the apartment adjacent to the neighboring property. (Alternatively, windows that are inoperable, i.e., do not open, can be used.)
3. Applicant shall include in its lease a statement that the tenant, by signing the lease, acknowledges it is aware the apartment building abuts a restaurant/bar that utilizes outdoor seating and musical entertainment. The statement shall list the current restaurant hours.

THE BOARD:

Voting to Grant the Use Variance:



ERIC J. SCHOCK
Solicitor

/s/ Gus Loupos
GUS LOUPOS
Chairman

/s/ Suzanne Borzak
SUZANNE BORZAK,
Zoning Officer

/s/ William Fitzpatrick
WILLIAM FITZPATRICK
Member

/s/ James Schantz
JAMES SCHANTZ
Member

(Linda Shay Gardner and Michael Santanasto
recused themselves.)

DATE(S) OF HEARING: June 22, 2016

DATE OF WRITTEN DECISION: August 5, 2016

**B BEFORE THE ZONING HEARING BOARD
OF THE CITY OF BETHLEHEM, PENNSYLVANIA**

Northampton County Division

Appeal & Application of) Dated: August 5, 2016
B-Land Co., LLC,)
Applicant) Re: 124-128 W. Union Blvd,
) 114 Spruce Street

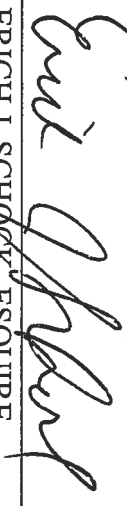
Certificate of Service

I, Erich J. Schock, Solicitor, do hereby certify that I sent a true and correct copy of the forgoing Decision to the Applicant and its counsel by regular U.S. Mail sent first class to the addresses and on the date set forth below:

B-Land Co., LLC
2005 City Line Road, Suite 106
Bethlehem, PA 18017
Applicant

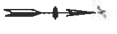
Dennis Benner, Esquire
2005 City Line Road, Suite 106
Bethlehem, PA 18017
Attorney for Applicant

FITZPATRICK LENTZ & BUBBA, P.C.

BY: 

ERICH J. SCHOCK, ESQUIRE
Atty. Id. No. 65475
4001 Schoolhouse Lane, P.O. Box 219
Center Valley, PA 18034-0219
Attorney for Zoning Hearing Board
Of the City of Bethlehem

Date: August 5, 2016



SITE DATA

RECORD OWNER: JOAQUIN VILA, ESTEBANO P. & JOHII F. CASASO
 PROPERTY ADDRESS: 124-125 W UNION BOULEVARD
 TAX PARCEL ID: MAP 1000007 / BLS 9 LOT 1
 LOTS AREA: 0.87 AC
 LOTS AREA: 0.249 AC
 WATER: PUBLIC
 SANITARY SEWER: PUBLIC

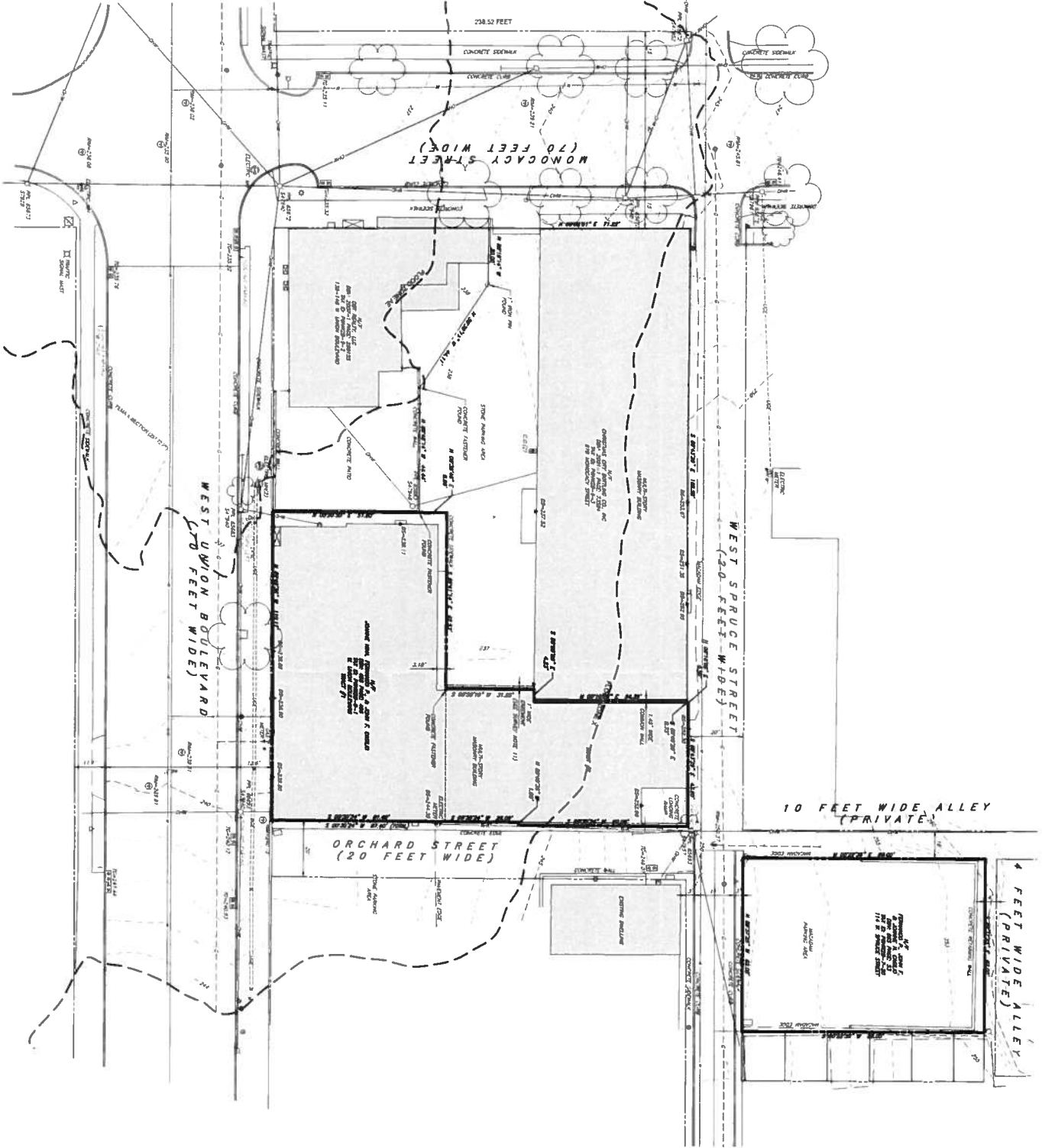
RECORD OWNER: ESTEBANO P. JOHII, F. & JOAQUIN N. CASASO
 PROPERTY ADDRESS: 114 W SPRUCE STREET
 TAX PARCEL ID: MAP 1000008 / BLS 60 LOT 33
 LOTS AREA: 0.1274 AC
 WATER: N/A
 SANITARY SEWER: N/A

UNITED COMMERCIAL (U) ZONING DISTRICT

MINIMUM LOT AREA: 490 SQ. FT.
 MINIMUM LOT WIDTH: 20 FEET (1)
 FRONT YARD SETBACK: 0 FEET (2)
 ONE YARD SETBACK: 10 FEET
 COMBINED: 20 FEET
 MAXIMUM BUILDING HEIGHT: 42 FEET
 MAXIMUM BUILDING COVER: 40%
 MAXIMUM PORCH COVER: 40%
 NOTES:
 1. VARIANCES AT MINIMUM BUILDING SETBACK LINE FOR EACH ADDITIONAL UNIT UP TO FOUR (4) UNITS



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LEGEND

- SHOWN BY: UNITS, PROPERTY, EASEMENTS, ENCUMBRANCES, ETC.
 SHOWN BY: UNITS, PROPERTY, EASEMENTS, ENCUMBRANCES, ETC.
- UTILITY POLE & GUY WIRE
 - STORM MAIN
 - ACCESS PAVEL
 - SAWTOOTH CLEAR CUT
 - SEWER MANHOLE
 - WATER HOLE
 - WATER METER
 - WATER SERVICE
 - DOWN SPOUT
 - DOCK SILL
 - RELAND
 - CATWALK
 - GPS TIE
 - SOIL
 - LOAF STAKING
 - RECKONS TREE
 - MINOR DOG
 - SAWTOOTH
 - STORM SEWER
 - WATER MAIN
 - WATER POLE
 - OPENED WELLS
 - UNDEVELOPED ELECTRIC
 - PROPERTY LINE
 - ADJOINING PROPERTY
 - BUILDING RESTRICTION LINE
 - FENCE
 - CONCRETE CURB

SURVEY NOTES

1. ALL DATA IS BASED ON FIELD SURVEY INFORMATION AS SET FORTH IN THE 2017 BOUNDARY & EXISTING CONDITIONS PLAN.
2. ALL DATA IS BASED ON FIELD SURVEY INFORMATION AS SET FORTH IN THE 2017 BOUNDARY & EXISTING CONDITIONS PLAN.
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10. ALL DATA IS BASED ON FIELD SURVEY INFORMATION AS SET FORTH IN THE 2017 BOUNDARY & EXISTING CONDITIONS PLAN.
11. ALL DATA IS BASED ON FIELD SURVEY INFORMATION AS SET FORTH IN THE 2017 BOUNDARY & EXISTING CONDITIONS PLAN.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE BOUNDARY AND TOPOGRAPHIC SURVEY INFORMATION SHOWN ON THIS PLAN IS THE RESULT OF A FIELD SURVEY CONDUCTED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF PENNSYLVANIA. I HAVE READ THIS PLAN AND THE INFORMATION CONTAINED HEREIN AND I CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KEYSTONE CONSULTING ENGINEERS, INC. DATE: _____
 REGISTERED PROFESSIONAL ENGINEER (P.E.)
 THIS PLAN IS VALID AND GOOD UNLESS IT CONTAINS AN ORIGNAL SIGNATURE, DATE AND PROFESSIONAL SEAL.

KEYSTONE CONSULTING ENGINEERS, INC.
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2870 EMRICK BOULEVARD, BETHLEHEM, PA 18020 610-865-4555
 East Office: Bethlehem, West Office: Wescosville, North Office: Kresgeville
 www.KeystoneConsultingEngineers.com



BOUNDARY & EXISTING CONDITIONS PLAN

PARCELS: P6NW2B-9-1 & P6NW2B-7-20
 124 WEST UNION BOULEVARD
 114 WEST SPRUCE STREET
 CITY OF BETHLEHEM
 NORTHAMPTON COUNTY, PENNSYLVANIA

DESIGNED BY:	REVISIONS
X	BY DATE
DBH	
GCN	
JULY 12, 2017	
1" = 20'	
CN-16-045	
1 OF 1	