



459-461 WEBSTER ST. & 203 E PACKER AVE.

SITE ADDRESS: East Packer Avenue, Bethlehem PA 18015

Office Use Only:

DATE SUBMITTED: 12.13.2019

HEARING DATE: 1.22.2020

PLACARD: 1.7.2020

FEE: \$ 500

ZONING CLASSIFICATION: I

LOT SIZE: .573 ACRES  
~ 80' x 320'

**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 4PM the 4<sup>th</sup> Wednesday of the month. The hearing will be held the 4<sup>th</sup> Wednesday of the next month.
3. If you are submitting MORE THAN 10 exhibits at the hearing, you MUST place them in an indexed binder and submit at one time.

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**

<b>APPLICANT:</b>	
Name	Lehigh University
Address	Campus and Planning Projects, 461 Webster Street, 3A
	Bethlehem, PA 18015
Phone:	[REDACTED]
Email:	[REDACTED]
<b>OWNER</b> (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:
<b>ATTORNEY</b> (if applicable):
Name Steve Boell
Address 4001 Schoolhouse Lane
Center Valley, PA 18034
Phone: 610-797-9000
Email: sboell@flblaw.com

**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. Attach photographs.
3. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
4. If the real estate is presently leased, attached a copy of the present lease.
5. 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.(b)</u>	<u>FY Setback:20'/RY:28.33'</u>	<u>FY Setback: 5',12',8'/RY:0'</u>	<u>15',8',12'/28.33'</u>
<u>1306.01.(b)</u>	<u>Building Coverage: 65%</u>	<u>Building Coverage: 78%</u>	<u>13%</u>
<u>1306.01.(b)</u>	<u>Impervious Coverage: 80%</u>	<u>Impervious Coverage: 90%</u>	<u>10%</u>
<u>1306.02.(c)</u>	<u>Building Height: 35'</u>	<u>Building Coverage: 60'</u>	<u>25'</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.

1318.09-Open Space Dimension Required: 20' Proposed: 5'/12'/8' Variance Sought: 15'/8'/12'

1318.23-Buffer Yard Dimension Required: 15' Proposed: 0' Variance Sought: 15'

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.

I also certify that I understand that any and all federal, state or local rules and regulations, licenses and approvals shall be obtained if the appeal is granted.

  
\_\_\_\_\_  
Applicant's Signature

12/12/19  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Property owner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Received by

\_\_\_\_\_  
Date

**NOTICE: If the Decision of the Zoning Hearing Board is appealed, the appellant is responsible for the cost of the transcript.**

13 December, 2019

City of Bethlehem  
Bureau of Planning and Zoning  
10 East Church Street  
Bethlehem, PA 18018  
Attn: Mr. Craig Peiffer

**Re: Zoning Hearing Board Application – Zoning Relief Request Narrative  
Lehigh University Rauch Business Center Expansion  
City of Bethlehem, Northampton County, Pennsylvania  
Langan Project No.: 240045505**

Dear Mr. Peiffer:

On behalf of Lehigh University, enclosed please find a description of the variance relief sought in conjunction with the attached Zoning Application for the above referenced project:

### **Variance Relief**

Lehigh University is the owner of property located within the Institutional Zone (I) at 461 Webster Street and is proposing to construct an approximately 18,500 SF Business School building to expand the current Rauch Business Center. The proposed use is permitted by right as "Educational and Support Building". In order to construct the building that meets the needs of the program, relief is necessary from the City Zoning Ordinance. The requested relief is described below. Additionally, a table summarizing the requested zoning relief is provided on the Civil Site Plan, attached with this submission.

### **Zoning Ordinance Requirements**

With regard to Dimensional Regulations for Primarily Non-Residential Districts and Additional Height Restrictions, Zoning Ordinance provides:

§1306.01.b - In the Institutional Zone (I), the following setbacks, maximum percent building coverage and maximum percent impervious coverage are as follows:

- Front yard setback - 20 feet
- Side yard setback - Per §1302.67, the ordinance does not include island lots. However, per the city's zoning officer's guidance, island lots are to be considered a corner lot, with corners at Packer Avenue and Webster & Packer Avenue and Taylor Street. Because Van Buren Street meets the definition of an alley, the site contains three front yard setbacks, one rear yard setback, and zero side yards. Per §1318.07, the setback for both Webster and Taylor Streets is 20 feet.
- Rear yard setback - 15 feet, increased to 28 feet (refer to §1306.02.c. below)
- Maximum Percentage Building Coverage - 65%
- Maximum Percentage Impervious Coverage - 80%

§1306.02.c - In the CS, CG, LI, I, IO, IR and IN districts, if a building is proposed to have a height exceeding 35 feet, then one foot of additional setback shall be required from an abutting lot line of an existing dwelling in a residential district for each 3 feet of building height over 35 feet. If such dwelling is in common ownership at the time of construction of the taller building with the use providing the setback, the additional setback may be waived.

With regard to Front Yard Regulations and Buffer Yards, Zoning Ordinance provides:

§1318.09 - Where a minimum front yard setback is specified in §1306, an open space of at least the specified depth shall be provided between the street line or lines and the nearest point of any building or structure except as may be permitted in §1318.1 and hereafter.

§1318.23 - Buffer yards are required along rear and side lot lines in all primarily non-residential districts (such as the CM, industrial redevelopment, commercial and industrial districts), along the district boundaries between a new or expanded non-residential use and any residential and institutional districts that directly abuts the non-residential district or is only separated from the non-residential district by an ordained alley or local street.

- §1318.23.a - The buffer yard shall be measured from the property line or from the street right-of-way line where a buffer yard is required along a street right-of-way. Unless otherwise stated, a buffer yard shall have a minimum width of 15 feet, except 8 feet shall apply in the CB or CL districts or where the applicant proves to the City Planning Bureau Staff that the 15 foot width is not possible. Where a buffer yard is required abutting a street or alley right-of-way, the width of the buffer yard shall be measured from such right-of-way.

**The required relief is as follows:**

Description	Requirement	Proposed	Variance
Front Yard Setback: Packer Avenue	20'	5'	15'
Front Yard Setback: Taylor Street	20'	12'	8'
Front Yard Setback: Webster Street	20'	8	12'
Rear Yard Setback: Van Buren Street	28.33'	0'	28.33'
Maximum Percentage Building Coverage	65%	78%	13%
Maximum Percentage Impervious Coverage*	80%	90%	10%
Maximum Building Height	35'	60'	25'
Minimum Open Space for Packer Avenue	20'	5'	15'
Minimum Open Space for Taylor Street	20'	12'	8'
Minimum Open Space for Webster Street	20'	8	12'
Buffer yards	15'	None	15'

## **Variance Justification**

The variance requests are required to accommodate the functionality of the proposed building on the lot. Given the necessity to expand the current Lehigh University Business Center, Lehigh University must select a site that is adjacent to the Rauch Business Center, while providing a building size to accommodate the proposed program. The selected site is an ideal location for the expansion as it is positioned diagonally across from the current Rauch Business Center. The lot presents unique hardships pertaining to building setbacks, coverage, impervious coverage and open space requirements.

The existing lot is surrounded on all four sides by either a street or an alley, making it an "island" lot. Because the Zoning Ordinance designates these lots as "corner lots", required front and rear yard setbacks, open space, and buffer yard requirements create a dimensionally narrow building envelope to construct any adaptive reuse. If Lehigh University were to abide by the Zoning Ordinance requirements, the building dimensions would not provide adequate functional space to meet the program requirements or facilitate orderly development of the property. The narrow island lot configuration constitutes a hardship to development because the setback, building, and impervious coverage requirements hinder the ability to construct an economical and functional use on the lot. The proposed design meets the sight triangle requirement to maintain safe traffic flow around the site.

Building height, coverage, and impervious coverage requirements offer similar hardships as the narrow island lot configuration described above. Maintaining a building height of 35 feet and building coverage of 65% on the narrowly configured island lot will result in a building that will not satisfy all the required uses of Lehigh University to provide a practical and economically feasible building.

None of the above stated hardships were created by Lehigh University as they represent existing conditions of the lot. The variance if authorized will represent the minimum variance that will afford relief and will represent that least modification possible of the regulation at issue.

All relief requested is dimensional in nature and the Supreme Court of Pennsylvania has clarified a growing tendency in the courts to treat dimensional variances differently than use variances and other types of variances. See *Hertzberg v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998). The "quantum of proof necessary to establish unnecessary hardship for dimensional variances is less." *Id.* In *re Towamencin Twp.*, 2012 WL 1098260 (Pa. Commw. Ct. 2012), reargument denied. Applicant is requesting a reasonable adjustment of the zoning requirements to allow an otherwise permitted use of the property in a manner consistent with the Zoning Ordinance and consistent with the need for this critical use for the applicant.

The proposed use is consistent with the spirit, purposes and intent of the Zoning Ordinance given its nature and benefit to the public. It is in the best interests of Bethlehem, the convenience of the community, the public welfare and will be a substantial improvement to the property. Granting the requested variance will not be a detriment to public health, safety or welfare. The

proposed building is suitable for the property and will be designed, constructed, operated and maintained so as to be in harmony with an appropriate appearance with the existing or intended character of the general vicinity, particularly the adjacent University campus.

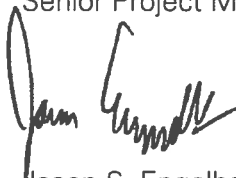
Please let us know if you have any questions or comments.

Sincerely,

**Langan Engineering and Environmental Services, Inc.**



Kyle MacGeorge, P.E., LEED AP  
Senior Project Manager



Jason S. Engelhardt, P.E., LEED AP  
Principal

KM:jk

cc: Melanie Fluck – Lehigh University  
Steve Boell – Fitzpatrick, Lentz & Bubba  
Robert Douglass – VMA  
Chris Hager, Joseph Kertsmar - Langan

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