

In Re: Landmark Builders, Inc.

: THE ZONING HEARING BOARD
: NORTH LEBANON TOWNSHIP
:
: LEBANON COUNTY,
: PENNSYLVANIA
:
: CASE # 3-20

**DECISION OF THE ZONING HEARING BOARD
OF NORTH LEBANON TOWNSHIP**

I. INTRODUCTION

The Zoning Hearing Board of North Lebanon Township (hereinafter “ZHB”), Lebanon County, Pennsylvania met on Wednesday, September 8, 2021 at a duly advertised public session to hear a Petition filed by Landmark Builders, Inc., requesting a Special Exception and multiple Variance requests along with a time extension to “implement” ZHB approvals.

II. FINDINGS OF FACT

1. The Petitioner is Landmark Builders, Inc., located at 1737 West Main Street, Ephrata, PA 17522-1101. (Hearing Exhibit 15).

2. Petitioner is the equitable owner of approximately 20.29 acres located along North Eighth Avenue and Kimmerlings Road, including all of portions of four tracts of land identified by Lebanon County UPI Numbers and addresses as follows: (1) 27-2342862-378819-0000 (ES North Eighth Avenue); (2) 27-2342782-378713-0000 (1656 North Eighth Avenue); (3) 27-2343089-379564-0000 (SS Kimmerlings

Road); and (4) 27-2343516-379759-0000 (836 Kimmerlings Road). (Hearing Exhibit 15).

3. Petitioner intends to subdivide the Property into six lots, thereby constructing a mix of 149 new residential dwellings. The proposed development includes 5 single-family detached dwelling units on individual lots with frontage and access along North Eighth Avenue or Kimmerlings Road. These 5 lots are located in the R-1 Zoning District. (Hearing Exhibit 16).

4. The property at issue in the zoning appeal (hereinafter "Apartment Lot") is located on one, approximately 17.28-acre lot. (Hearing Exhibit 16).

5. Petitioner intends to construct 12 garden apartment buildings, each including 12 garden apartment dwelling units for a total of 144 units on the Apartment Lot. (Hearing Exhibit 16).

6. Petitioner also proposes to construct a community center on the Apartment Lot for said Lot's residents and their invited guests. (Hearing Exhibit 16).

7. All buildings proposed to be constructed on the Apartment Lot are located in the R-2 Zoning District. (Hearing Exhibit 16).

8. The proposed accessory access driveways serving the Apartment Lot are located in the R-1 Zoning District. (Hearing Exhibit 16).

9. Petitioner is not seeking zoning relief for the single-family detached dwellings. (Hearing Exhibit 16).

10. Garden Apartments are a permitted use in the R-2 Zoning District subject to certain conditions. See Section 27-602(4) of the North Lebanon Township Zoning Ordinance.

11. No building in the R-2 Zoning District shall exceed two and one-half stories or 35 feet in height unless authorized by a Special Exception. Section 27-603(2) of the North Lebanon Township Zoning Ordinance.

12. Petitioner seeks a Special Exception to permit the Garden Apartment building heights to be 3 stories and approximately 36 feet, 10 inches. (Hearing Exhibit 15 as amended by Hearing Testimony).

13. At the time of the zoning hearing, Petitioner withdrew its request for a variance to permit 362 parking spaces instead of the required 432 spaces for this case. (Hearing Testimony).

14. Petitioner seeks a dimensional variance to permit each proposed ground patio to have an area of approximately 73 square feet instead of the minimum requirement of 150 square feet. (Hearing Exhibit 15; see Section 27-602(4)(H) of the North Lebanon Township Zoning Ordinance).

15. Petitioner seeks a dimensional variance to permit the access driveways onto North Eighth Avenue or Kimmerlings Road, respectively, to be located

distances less than the required minimum 150 feet from Josephine Ann Drive or driveways on adjacent lots (Hearing Exhibit 15; See Section 27-1407 of the North Lebanon Township Zoning Ordinance).

16. During the hearing, Petitioner amended its dimensional variance request regarding the access driveways. The proposed access driveway to North Eighth Avenue was shifted to align with Josephine Ann Drive. (Hearing Testimony).

17. To the extent deemed necessary, Petitioner seeks a *de minimis* dimensional variance to permit the proposed buildings to be set back approximately 20 feet from the paved parking areas instead of the required minimum 30 feet. (Hearing Exhibit 15; See Section 27-602(4)(D) of the North Lebanon Township Zoning Ordinance).

18. To the extent deemed necessary, Petitioner seeks a *de minimis* dimensional variance to permit 11 parking spaces, amended to 67 at the time of the hearing, to be set back at distances that are not within 100 feet from the nearest dwelling unit as required. (Hearing Exhibit 15, Hearing Testimony; See Section 27-602(4)(J) of the North Lebanon Township Zoning Ordinance).

19. Petitioner sought a time extension to “implement” Zoning Hearing Board approvals. (Hearing Exhibit 15).

20. Patrick Dennis of Landmark Builders, Inc., Project Manager Chad D. Smith of Steckbeck Engineering and Surveying, Inc., and Craig Mellott, PE, PTOE, Vice President of Traffic Planning and Design, Inc., testified for Petitioner. (Hearing Testimony)

21. Numerous individuals from the community appeared at the zoning hearing and testified in opposition to the proposed zoning relief. (Hearing Testimony).

22. The hearing to consider Petitioner's request for a Special Exception and multiple variances was held on September 8, 2021 at 6:30 p.m. in the Weavertown Fire Company Blue Max Bingo Hall, 1538 Suzy Street, North Lebanon Township, Pennsylvania. (Hearing Exhibit 6).

23. On both July 22, 2020 and February 11, 2021, Counsel for Petitioner signed extension letters requesting postponement of the zoning hearing to a future date. (Hearing Exhibits 1 and 2).

24. Notice of the Zoning Hearing was posted on the Apartment Lot on August 31, 2021. (Hearing Exhibit 13).

25. Notice of the Zoning Hearing was mailed to neighboring property owners and township officials by United States first class mail. (Hearing Exhibit 12).

26. The Petition for the Special Exception and multiple variances was heard by the North Lebanon Township ZHB before Chairman John Yordy, Vice-Chairman Allen Heagy and Alternate Board Member Edward Swisher.

27. Present at the September 8, 2021 Zoning Hearing were:

John Yordy - ZHB Chairman

Allen Heagy - ZHB Vice-Chairman

Edward Swisher -ZHB Alternate Board Member

Patrick Dennis - Landmark Builders, Inc. for Petitioner

Chad D. Smith – Steckbeck Engineering for Petitioner

Craig Mellott – Traffic Planning and Design, Inc., for Petitioner

The following residents who testified in opposition to the requested zoning relief:

Sue Althouse

Linda Barron

Tony Basselgia

Brad Fortna

Robert A. Gerberich

Beverly Lutz

Ray Mather

Susan Mion

Norm Roice

Allan Sauder

Bill Smeltzer

David Smith

Kenneth Wagemann

Trish Ward

Gerald Witmer

Debbie Zamonsky

James Strong, Esquire - Attorney for Petitioner

Cheri Grumbine – North Lebanon Township Manager (as an observer)

Kathy Sheffy - Stenographer

Kimberly Spang - Lebanon County Planning Department

Andrew J. Morrow, Esquire - ZHB Solicitor

Numerous other residents attended the zoning hearing.

III. HEARING EXHIBITS

Hearing Exhibit 1- 7/22/20 Extension Letter from Petitioner's Attorney

Hearing Exhibit 2- 2/11/21 Extension Letter from Petitioner's Attorney

Hearing Exhibit 3- 7/14/21 Letter from Petitioner's Attorney request a zoning hearing

Hearing Exhibit 4 – Notice of Public Hearing for the 7/28/20 hearing

Hearing Exhibit 5 – Notice of Public Hearing for the 2/18/21 hearing

Hearing Exhibit 6 – Notice of Public Hearing for the September 8, 2021 hearing

Hearing Exhibit 7 - Proof of Publication for the 7/28/20 hearing

Hearing Exhibit 8 – Proof of Publication for the 2/18/21 hearing

Hearing Exhibit 9 – Proof of Publication for the 9/8/21 zoning hearing, with publication occurring in the *Lebanon Daily News* on August 25, 2021 and September 1, 2021

Hearing Exhibit 10 – Mailing list for the 7/28/20 zoning hearing

Hearing Exhibit 11 – Mailing list for the 2/18/21 hearing

Hearing Exhibit 12 – Mailing list for the actual 9/8/21 zoning hearing

Hearing Exhibit 13 - Photo of Posting on property dated 8/31/21

Hearing Exhibit 14 – Variance criteria signed by Petitioner

Hearing Exhibit 15 – Petition for zoning relief dated 12/21/20

Hearing Exhibit 16 – Narrative of Petitioner

Hearing Exhibit 17 – Plan

Hearing Exhibit 18 – Layout of apartments

Hearing Exhibit 19 - Packet from residents of Briar Lake

Hearing Exhibit 20 – Packet from residents of The Crossings at Sweet Briar

The following packet introduced by Petitioner:

A-1 – Authorization Letter

A-2 – Aerial image

A-3 – Site Plan

A-4 – Revised Site Plan

A-5 – Conceptual Building Elevation and Floorplans

A-6 – Chad Smith Resume

A-7 – Craig Mellott Resume

A-8 – Preliminary Traffic Assessment

IV. DISCUSSION

Petitioner is the equitable owner of approximately 20.29 acres located along North Eighth Avenue and Kimmerlings Road, including all or portions of 4 tracts of land identified by Lebanon County UPI Numbers and addresses as follows: (1) 27-2342862-378819-0000 (ES North Eighth Avenue); (2) 27-2342782-378713-0000 (1656 North Eighth Avenue); (3) 27-2343089-379564-0000 (SS Kimmerlings Road); and (4) 27-2343516-379759-0000 (836 Kimmerlings Road). Petitioner intends to subdivide the Property into six lots in order to construct a mix of 149 new residential dwellings. The proposed development includes 5 single-family detached dwelling units on individual lots located in the R-1 Zoning District. Petitioner did not seek any zoning relief for the 5 single-family detached dwellings in the R-1 Zoning District.

At issue for purposes of the zoning hearing is one, approximately 17.28-acre lot (hereinafter "Apartment Lot") in which 12 Garden Apartment buildings are proposed for construction with 12 garden apartment dwelling units in each building for a grand total of 144 units. All of the proposed buildings on the Apartment Lot, including the 12 Garden Apartment buildings and a proposed community center, are located in the R-2 Zoning District. The proposed accessory access driveways serving the Apartment Lot are in the R-1 Zoning District. The first item for discussion is Petitioner's request for a Special Exception.

“A special exception is a conditionally permitted use, legislatively allowed where specific standards and conditions detailed in the ordinance are met. A special exception is not an “exception” to the zoning ordinance; rather it is a use permitted in accordance with the express standards and criteria in the zoning ordinance. The Applicant has the burden of proving (1) that the proposed use is a type permitted by special exception and (2) that the proposed use complies with the requirements in the ordinance for such a special exception. It is presumed that the local legislature has considered that the special exception use satisfies local concerns for the general health, safety, and welfare.” *Agnew v. Bushkill Tp. Zoning Hearing Board*, 837 A.2d 634, 637 (Pa. Cmwlth. 2003).”

“Once an applicant for a special exception shows compliance with the specific requirements of the ordinance, the burden shifts to the protestors to prove that the proposed use will have an adverse effect on the general public.” *Agnew* 837 A.2d at 637.

Pursuant to Section 27-602(4) of the North Lebanon Township Zoning Ordinance, Garden Apartments are a permitted use in the R-2 Zoning District provided certain conditions are met. No building in the R-2 Zoning District shall exceed 2 ½ stories or 35 feet in height unless authorized by a Special Exception. See Section 27-603(2) of the North Lebanon Township Zoning Ordinance. Special Exceptions are described in Section 27-2002 of the North Lebanon Township

Zoning Ordinance. Petitioner seeks a Special Exception to permit the Garden Apartment building heights to be 3 stories and approximately 36 feet, 10 inches instead of the permitted 2 ½ stories or 35 feet in height. Based upon the evidence presented, Petitioner has failed to satisfy the requirements necessary to receive a Special Exception for the increased building heights. The following reasons are given in support of the ZHB's denial.

First, pursuant to Section 27-2002(A) of the North Lebanon Township Zoning Ordinance, "The Special Exception shall be compatible with adjacent and nearby properties and shall not adversely affect the public health, safety or interest." Several members of the community testified as to their concerns regarding the increased traffic in an already congested traffic area that would result if the Special Exception was granted. The addition of several hundred additional vehicles will worsen traffic congestion. Also, serious safety concerns were raised regarding bus stops in the affected area and the danger to school children by the introduction of the additional vehicles in that area. The ZHB is concerned that the granting of a Special Exception would adversely affect the public health, safety and welfare of the local residents by increasing traffic congestion and posing a risk to the safety not only of neighborhood residents but also of the children.

Second, the proposed 3 story, 36 feet, 10 inch Garden Apartments would be surrounded by single-family residences with a strong residential character. Further,

numerous senior citizens reside near the Apartment Lot property, including 55 plus communities at Briar Lake and The Crossings at Sweetbriar. Placing the increased in size Garden Apartments in this overwhelmingly residential area is not compatible with the community.

Pursuant to Section 27-2002 (B)(1) “The Special Exception use shall be designed to provide satisfactory arrangement for: Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and conveniences, traffic flow and control, and the access in case of fire or catastrophe.” Based upon the significant concerns raised regarding increased traffic flow in this congested area, the ZHB is not satisfied that the Special Exception use provides satisfactory arrangement for ingress and egress.

As will be discussed, Petitioner seeks a dimensional variance to permit the access driveway onto North Eighth Avenue or Kimmerlings Road to be located distances less than the minimum 150 feet from Josephine Ann Drive or driveways on adjacent lots. This request does not demonstrate a satisfactory arrangement regarding ingress and egress. Given the significantly congested area where the Apartment Lot would be located, the ZHB does not feel that Petitioner has satisfied the ingress and egress concerns raised in the zoning ordinance.

The ZHB wishes to emphasize Petitioner is permitted to construct Garden Apartments. However, due to its inability to satisfy the requirements for a Special

Exception, Petitioner must construct Garden Apartments in accordance with the requirements set forth in the North Lebanon Township Zoning Ordinance. The ZHB is not required to automatically approve a deviation from the zoning ordinance simply because the use is permitted. Instead, the ZHB is required to abide by the Ordinance as described above.

In addition to its request for a Special Exception regarding the height of the Garden Apartment buildings, Petitioner seeks multiple variances.

“A ZHB may grant a variance when the following criteria are met: (1) an unnecessary hardship will result if the variance is denied, due to the unique physical circumstances or conditions of the property; (2) because of such physical circumstances or conditions the property cannot be developed in strict conformity with the provisions of the zoning ordinance and a variance is necessary to enable the reasonable use of the property; (3) the hardship is not self-inflicted; (4) granting the variance will not alter the essential character of the neighborhood nor be detrimental to the public welfare; and (5) the variance sought is the minimum variance that will afford relief.” *Dunn v. Middletown Tp. Zoning Hearing Bd.*, 143 A.3d 494, 500 (Pa.Cmwlt. 2016) (Citations Omitted). Also see Section 27-2003, entitled “Variances”, of the North Lebanon Township Zoning Ordinance.

“In general, unnecessary hardship may be shown by demonstrating either that physical characteristics of the property are such that the property could not be used

for the permitted purpose or could only be conformed to such purpose at a prohibitive expense, or that the characteristics of the area are such that the lot has either no value or only a distress value for any permitted purpose.” *Mitchell v. Zoning Hearing Bd. of the Borough of Mount Penn*, 838 A.2d 819, 828 (Pa.CmwltH 2003); also see *Allegheny West Civic Council, Inc., v. Zoning Bd. of Adjustment*, 547 Pa. 163, 167-168, 689 A.2d 225, 227-228 (Pa. 1997).

“A dimensional variance involves a request to adjust zoning regulations to use the property in a manner consistent with regulations, whereas a use variance involves a request to use property in a manner that is wholly outside zoning regulations. *Hertzberg*. The same criteria apply to use and dimensional variances. However, in *Hertzberg*, our Supreme Court set forth a more relaxed standard for establishing unnecessary hardship for a dimensional variance, as opposed to a use variance”. *Dunn*, 143 A.3d at 501; Also see *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998).

Pursuant to *Hertzberg*, “courts may consider multiple factors in determining whether an applicant established unnecessary hardship for a dimensional variance. These factors include: ‘the economic detriment to the applicant if the variance was denied, 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.’” *Dunn*, 143 A.3d at 501. (Citations Omitted).

As clarified in *Dunn*, while *Hertzberg* eased the requirements “it did not remove them. An applicant must still present evidence as to each of the conditions listed in the zoning ordinance, including unnecessary hardship. Where no hardship is shown, or where the asserted hardship amounts to a landowner’s desire to increase profitability or maximize development potential, the unnecessary hardship criterion required to obtain a variance is not satisfied even under the relaxed standard set forth in *Hertzberg*” *Dunn*, 143 A.3d at 501. (Citations Omitted).

The five specific variance requirements described above are also set forth in North Lebanon Township Zoning Ordinance Section 27-2003, entitled “Variances”. (also see Hearing Exhibit 14). In this case, Petitioner seeks multiple dimensional variances.

Pursuant to Section 27-602 (4)(H) of the North Lebanon Township Zoning Ordinance, “Patios shall be provided at ground level, and they shall be designed for visual privacy and shall be a minimum of 150 square feet.” Petitioner seeks a dimensional variance to permit each proposed ground patio to have an area of approximately 73 square feet.

Patrick Dennis of Landmark Builders, Inc., testified as to the reasons for the desired dimensional variance for the proposed ground patios. First, Mr. Dennis advised each dwelling unit has a similarly sized balcony above the ground floor. Therefore, the proposed reduction in balcony size would match the size of the

balcony above the ground floor. Second, Mr. Dennis testified the property would have several common areas including open space and a community building. Additionally, reference was made to the three reasons described during Petitioner's Special Exception presentation, including consumer preference, market demand and aesthetic appeal. When asked whether it was feasible to have ground floor patios that meet the 150 square foot requirement, Mr. Dennis responded in the affirmative.

Based upon the testimony provided, Petitioner is not entitled to a dimensional variance because it failed to demonstrate the first variance factor, that being unnecessary hardship. Petitioner acknowledged an ability to construct the ground level patios at the required minimum amount of 150 square feet. Petitioner's desire to have 73 square foot ground patios is based upon aesthetics and alleged consumer preference rather than an unnecessary hardship. As noted above, an unnecessary hardship is required to be demonstrated even for a dimensional variance. Petitioner did not demonstrate an unnecessary hardship.

During the hearing, Petitioner advised it was withdrawing its request for a variance to Section 27-1405 (F) to permit 362 parking spaces on the Apartment Lot instead of the required 432 spaces for the project. As a result, no further discussion regarding this particular matter is required.

Petitioner also seeks a dimensional variance to permit the access driveways onto North Eighth Avenue or Kimmerlings Road, respectively, to be located

distances less than 150 feet from Josephine Ann Drive or driveways on adjacent lots. During the hearing, Petitioner confirmed that the proposed access driveway to North Eighth Avenue was changed since the filing of its petition to align with Josephine Ann Drive. This would have the effect of reducing the distance to zero feet. Further, a driveway along Kimmerlings Road would be approximately 40 feet from the access driveway. Pursuant to Section 27-1407, entitled "Access Drives to Parking", "The center line of the access driveways on the frontage street shall be at least 150 feet from the right-of-way line of the nearest intersecting street or any other driveway."

Based upon the testimony, Petitioner did not satisfy the first requirement for a dimensional variance, that being an unnecessary hardship. As evidenced by its amendment, Petitioner had already altered the originally proposed dimensional variance request by the time of the hearing. Further, Petitioner did not provide an explanation as to why it was unable to comply with the zoning ordinance requirement. If anything, Petitioner's amendment strongly suggests an ability to comply with the 150 foot requirement. Based upon an inability to demonstrate an unnecessary hardship, Petitioner's request for a dimensional variance is denied.

Petitioner also seeks *de minimis* dimensional variances for two items. "Even where the requirements for a variance have not been met, the Board may grant a *de minimis* variance 'where only a minor deviation from the zoning ordinance is sought

and rigid compliance is not absolutely necessary to protect the public policy concerns inherent in the ordinance.” *Township of Middletown v. Zoning Hearing Bd. of Middletown Tp.*, 682 A.2d 900, 901 (Pa. Cmwlth. 1996). (Citations Omitted). See also *Hawk v. City of Pittsburgh Zoning Bd. of Adjustment*, 38 A.3d 1061 (Pa. Cmwlth. 2012). Boards should consider not just the size of a proposed deviation in deciding on a *de minimis* variance; it is “equally important for a board to consider whether rigid compliance is necessary to preserve the public interests sought to be protected by the ordinance”. *Township of Middletown*, 682 A.2d at 902.

The granting of a *de minimis* variance “is a matter of discretion with the local zoning board.” *Hawk v. City of Pittsburgh Zoning Bd. of Adjustment*, 38 A.3d at 1066. (Citations Omitted). “There are no set criteria for determining what will be considered *de minimis*. Instead, the grant of a *de minimis* variance depends upon the circumstances of each case.” *Hawk* at 1066. Boards may impose conditions in the context of a *de minimis* variance. See *Township of Middletown*, 682 A.2d 900 (Pa. Cmwlth. 1996).

Pursuant to Section 27-602 (4) (D), “A minimum setback of 30 feet shall be provided from any road right-of-way, driveway or paved parking area. Additionally, the building setback line shall be a minimum distance of 30 feet from any front, side or rear property line.” Petitioner seeks a *de minimis* dimensional variance to permit

the proposed buildings to be setback approximately 20 feet from paved parking areas.

Based upon the testimony provided, the ZHB felt the requested relief is *de minimis*. The relief will only result in an approximate 10 foot difference from the ordinance. Deviation from the 30 foot setback requirement for this type of situation is not adverse to any public policy concerns inherent in the ordinance. To deny this *de minimis* request would be overly harsh.

Next, pursuant to Section 27-602 (4)(J) “Off-street parking, as required by Part 14 of this chapter, shall be located within 100 feet of the dwelling unit to be served. Furthermore, parking facilities and driveways shall be located no less than 25 feet from any road right-of-way and 10 feet from any other property lines.” As described during the hearing, the amount of parking spaces not satisfying the ordinance requirement was increased from 11 to 67 due to slight modification in the Plan’s initial design. Regardless, the ZHB felt a *de minimis* variance was appropriate in this case.

First, a significant majority of the parking spaces will be located within 100 feet from the nearest dwelling unit. Further, rigid compliance with the zoning ordinance is not necessary to protect a public policy concern inherent in the ordinance. On the contrary, a substantial number of parking spaces exist on the property. According to Petitioner, none of the parking spaces are greater than 138

feet from the nearest building. Also according to Petitioner, all of the parking spaces are within 100 feet of the sidewalk. This is sufficient reason to grant a *de minimis* variance.

Finally, Section 27-2007 of the North Lebanon Township Zoning Ordinance, states in part, “If a Special Exception or Variance has not been implemented within one year of the date of the Zoning Hearing Board decision, said approval shall expire and become null and void.” Petitioner seeks to extend the time period to “implement” its relief to three years from the end of land development approval.

Ultimately, the ZHB denied the request for a time extension to “implement” its decision. First, the ZHB denied the Special Exception request for the Garden Apartments’ height extension. Second, the ZHB denied the dimensional variance request for a reduction in the square footage of ground patios. Further, Petitioner withdrew its requested variance regarding the total number of parking spaces. Finally, the ZHB denied the dimensional variance request involving the access driveways. The only requested zoning relief Petitioner received related to the *de minimis* variance requests. Since the bulk of Petitioner’s requested zoning relief was not approved, the ZHB felt it unnecessary to grant a time extension. Ultimately, Petitioner provided little explanation as to why 3 years from the end of land development approval is necessary to complete its project.

V. DECISION

1. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby denies to Petitioner a Special Exception to permit the Garden Apartment building heights to be 3 stories and approximately 36 feet, 10 inches.

2. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby denies to Petitioner a dimensional variance to permit each proposed ground patio to have an area of approximately 73 square feet.

3. Petitioner withdrew its variance request to permit 362 parking spaces. Therefore, no decision was necessary for this particular matter.

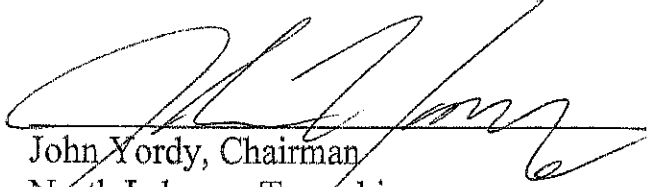
4. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby denies to Petitioner a dimensional variance to permit the access driveways onto North Eighth Avenue or Kimmerlings Road, respectively, to be located distances less than 150 feet from Josephine Ann Drive or driveways on adjacent lots.

5. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby grants to Petitioner a *de minimis* dimensional variance to permit the proposed buildings to be setback approximately 20 feet from the paved parking areas.

6. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby grants to Petitioner a *de minimis* dimensional variance to permit approximately 67 parking spaces to be set back distances greater than 100 feet from the nearest dwelling unit.

7. Now, to wit, this 8th day of September, 2021, the Zoning Hearing Board of North Lebanon Township, by a 3-0 vote, hereby denies to Petitioner a time extension to “implement” the Zoning Hearing Board approvals.

10/14/21


John Yordy, Chairman
North Lebanon Township
Zoning Hearing Board