

"ORIGINAL"

ZHB Application Number 2026-31



SITE ADDRESS: 1187 4th Street

Office Use Only:  
DATE SUBMITTED: 07/04/2026

HEARING DATE: 10/28/2026

PLACARD: \_\_\_\_\_

FEE: \$500.00

ZONING CLASSIFICATION: RT

LOT SIZE: 5,040 SF

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

1. Return ten (10) total copies of this application and all supporting documentation and exhibits to the Zoning Officer, along with the filing fee. Include site plans and/or floor plans as necessary.
2. Complete applications submitted to the Zoning Hearing Board will be scheduled for a hearing no sooner than 21 days and no later than 60 days from the date of receipt, unless an extension of time is agreed upon in writing by the applicant. **ONLY COMPLETE SUBMISSIONS WILL BE ADDED TO THE AGENDA FOR HEARING.**
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              | Michael Gertz and Jeanie Sun |
| Address           | [REDACTED]                   |
| Phone:            | [REDACTED]                   |
| Email:            | [REDACTED]                   |

**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 Michael Gertz and Jeanie Sun

Address

Phone:

Email:

**ATTORNEY** (if applicable):

Name Joseph J. Piperato, III, Esquire

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. 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:

SEE EXHIBIT "A-1"

| Section of Code | Dimension Required by Code | Dimension Proposed by Applicant | Variance Sought |
|-----------------|----------------------------|---------------------------------|-----------------|
|                 | Please See Exhibit A-1     |                                 |                 |
|                 |                            |                                 |                 |
|                 |                            |                                 |                 |
|                 |                            |                                 |                 |

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.

See attached Narrative

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

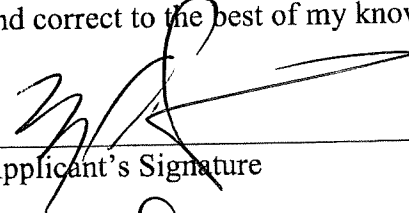
If the Applicant seeks an appeal from an interpretation of the Zoning Officer, state the remedy sought in accordance with Sec. 1325.11 (b): \_\_\_\_\_

## NARRATIVE

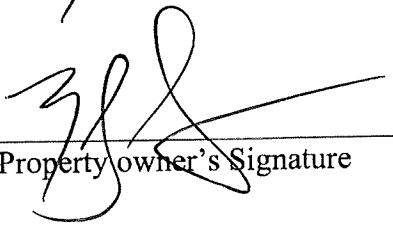
A brief statement reflecting why zoning relief is sought and should be granted must be submitted.

## 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

9/4/26  
Date

  
Property owner's Signature

9/4/26  
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.**

**NARRATIVE**  
**TO**  
**APPLICATION FOR APPEAL TO THE CITY OF BETHLEHEM**  
**ZONING HEARING BOARD**  
**MICHAEL GERTZ AND JEANIE SUN**  
**1187 EAST 4<sup>TH</sup> STREET**

Appellant is the legal owner of 1187 East 4th Street, Bethlehem, PA ("Property"). The Property is located in the RT Residential Zoning District ("RT"). The Property is comprised of a small commercial market fronting East 4<sup>th</sup> street and 4,500 square feet of residential living space which exists as a single-family unit. Appellant proposes to convert the single-family dwelling into two (2) dwelling units while maintaining the existing commercial unit fronting East 4<sup>th</sup> Street. Although a two-family dwelling is a permitted use in the RT District, the proposed combination of a two-family dwelling and retention of the commercial unit is not permitted in the RT District. The Property is unique in that (1) it has a small commercial use fronting East 4<sup>th</sup> Street that has traditionally been used as a market and 4,500 square feet of residential living space, (2) the sheer size of the residential space makes it unlikely to be occupied/leased as a single unit, (3) the Property is larger than other properties in close proximity, (4) many properties in close proximity to the Property are multi-unit residential structures containing more than two (2) units and (5) the residential area of the Property does not have the open-air ambiance between floors that a typical two-story single family home normally enjoys. Moreover, the Property has 2 electrical meters and is currently configured with two (2) separate residential units.

The Property provides four (4) parking spaces in front of the garage to the rear of the Property to accommodate the two (2) residential units. Street parking is more than adequate on East 4<sup>th</sup> Street to accommodate the commercial unit located at the front of the Property.

The dimensional variances relate mostly to dimensional nonconformities which already exist at the Property. The Property is long and narrow, unique physical circumstance recognized by Section 910.2 of the PMPC.

### **LEGAL STANDARD**

It is well established in Pennsylvania caselaw that the standard of proof required to establish unnecessary hardship in dimensional variance applications is lesser than applications for use variances. The Supreme Court of Pennsylvania established in *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, the standard for courts to consider a multiple of additional factors for determining whether a dimensional variance can be granted, including, but not limited to, (i) economic determinant to an applicant if the variance was denied; (ii) the financial hardship created by any work necessary to bring the building into strict compliance; and (iii) impacts on the characteristics of the neighborhood, the result of which was the establishment of a far more relaxed standard than use variances. Furthermore, in *Dunbar v. Zoning Hearing Bd. of City of Bethlehem*, Chief Justice Baer of the Supreme Court of Pennsylvania held, in reviewing a dimensional variance, that: (i) *Hertzberg* was aimed at providing flexibility to zoning hearing boards when ruling on a dimensional variance; and (ii) lower courts should interpret more broadly what constitutes an unnecessary hardship for dimensional variances.

As noted in *Dunbar* the Supreme Court has adopted a more relaxed standard for dimensional variances in *Hertzberg* because the applicant was asking for only a reasonable adjustment of zoning regulations. Since Applicant's only dimensional variance requests are either *de minis* or technical, Applicant falls within this reasonable adjustment zone.

In *Kneebone v. Zoning Hearing Board of Township of Plainfield*, the Supreme Court of Pennsylvania affirmed a decision of zoning hearing board of the Township of Plainfield granting a dimensional variance based, in part, on the fact that the dimensional variance requested would not "negatively impact the surrounding properties or the character of the neighborhood."

### **LIST OF EXHIBITS**

|              |                                                      |
|--------------|------------------------------------------------------|
| Exhibit A-1  | List of Relief Requested                             |
| Exhibit A-2  | Previous ZHB Decision dated December 29, 2021        |
| Exhibit A-3  | Deed                                                 |
| Exhibit A-4  | Photograph of Market fronting 4 <sup>th</sup> Street |
| Exhibit A-5  | City of Bethlehem Assessment Map                     |
| Exhibit A-6  | Existing Features overlayed on Assessment Map        |
| Exhibit A-7  | Site/Survey Plan                                     |
| Exhibit A-8  | Floor Plans                                          |
| Exhibit A-9  | Photographs of Property                              |
| Exhibit A-10 | Comparable Properties                                |