

THOMPSON LAW OFFICES

MICKEY K. THOMPSON, JD

Estate Planning & Administration
Business & Corporate Law
Real Estate

June 7, 2008

James J. Holzinger, Esq.
[REDACTED]

RE: MATTER: Appeal of Elliott Avenue LLC
ADDRESS: 1801 Elliott Avenue
FILE NO.: 2008-14

Dear Attorney Holzinger:

Enclosed please find the original Findings of Fact, Conclusions of Law, and Formal Written Decision of the City of Bethlehem.

Additionally, this letter constitutes written notification to those individuals who entered their appearance at the Hearing of the above decision of the Zoning Hearing Board under Section 908(10) of the Pennsylvania Municipalities Code. As you are aware, the Zoning Hearing Board interpreted that the above-captioned premises suffered from man-made slopes that averaged a gradient between 12%-15%.

A copy of this decision will be on file and may be examined for inspection at the Planning and Zoning Office of the City of Bethlehem located at 10 East Church Street, Bethlehem, Pennsylvania. The appeal period expires thirty (30) days from the date of the decision, which is June 7, 2008.

Very truly yours,



Mickey K. Thompson
Solicitor

MKT/owk
cc: John Lezoche, Zoning Officer
Phillip W. Bigg
Kevin C. and Jean Brezack
Peter Christine
William Christine
Keith German
Marlene German
[REDACTED]
[REDACTED]
[REDACTED]

Gerald Green
Joanne Huertas
Vincent Horvath
Kathleen Horvath
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Hector M. Rivera
Patricia Wantz
Janet Wright
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**Before the Zoning Hearing Board
of the City of Bethlehem, Pennsylvania**

Lehigh County Division

Appeal & Application of
ELLIOT AVENUE LLC
Fee Simple Owner.

) April 2008
) File: #2008-14
) Re: 1801 Elliot Avenue
) INTERPRETATION

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
JUNE 7, 2008

**Before the Zoning Hearing Board
of the City of Bethlehem, Pennsylvania**

Northampton County Division

Appeal & Application of
ELLIOT AVENUE LLC
Fee Simple Owner.

) April 2008
) File: #2008-14
) Re: 1801 Elliot Avenue
) INTERPRETATION

DECISION

I. Synopsis of Decision

The Board granted to the Applicant, Elliot Avenue, an interpretation from 1329(b)(3) that the existing slopes on the property greater than fifteen (15%) percent were man-made and a reasonable estimate of the natural slope of the property is less than fifteen (15%) percent.

II. Preliminary Matters

A public hearing was held on April 23, 2008 at 7:00 p.m. before the Zoning Hearing Board of the City of Bethlehem, regarding the Applicant's request for an interpretation regarding the slopes of the subject premises and whether or not the slopes were man-made.

The Applicant first sought a zoning permit from the Zoning Officer. The Zoning Officer denied the permit. Therefore, the Applicant filed this appeal with the Zoning Hearing Board.

Additionally, the Protestants that entered their appearance at the hearing, requested a continuance to give the City of Bethlehem Engineering Department a period to review the Applicant's exhibits. This motion was denied by the Zoning Hearing Board and a decision was rendered.

A. Parties

1. APPELLANT/APPLICANT(S)¹: Elliot Avenue, LLC, was represented by Kevin Horvath, Principal of the LLC. Attorney James J. Holzinger, Esquire provided legal counsel. The Applicant had standing to appear before the Zoning Hearing Board as the landowner of the premises.

2. ZONING HEARING BOARD: The Board, consisting of Chairman Gus Loupos, members William Fitzpatrick and Kenneth Kraft, and alternate member Ronald Lutes, was represented by its Solicitor, Mickey K. Thompson, Esquire of Thompson Law Offices in Bethlehem, Pennsylvania.

3. PROTESTANT(S)/INTERESTED PARTIES: There were several protestants/interested parties at the hearing: Phillip W. Bigg, Kevin C. and Jean Brezack, Peter Christine, William Christine, Keith German, Marlene German, Gerald Green, Joanne Huertas, Vincent Horvath, Kathleen Horvath, Sharon Horvath, Barbara Kelly, George H. Kemmerer, Cathy Lawler, Steven Link, Judith Mangino Robert and Sheila Martin, Patrick and Nicki McGinty, Carmelle Monaghan, Hector M. Rivera, Patricia Wantz, Janet Wright and Joanne Zsilavec. The above individuals were unrepresented by counsel and had standing as adjacent landowners or residents of the City of Bethlehem.

¹ Those persons or entities who have sought a permit from the Zoning Officer and were denied a permit have appealed from his denial and are thus "appellants" in a certain sense; they also are applying for relief from the Zoning Hearing Board and are thus "applicants."

B. Notice

Notice of the hearing was given by newspaper advertisement, by physical posting of the property, and by regular mail to neighboring property owners pursuant to the applicable provisions of the Pennsylvania Municipalities Planning Code,² the Zoning Ordinance of the City of Bethlehem³, citations *infra*, and the Rules of the Board.⁴

III. Applicable Law

This case was considered 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, amended to April 2007 (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, effective in 60 days (hereinafter, the "MPC").

² 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 or 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."

³ Article 1325.04(a) provides for notice to be given as follows: "(1) At least seven (7) days prior to the date fixed for public hearing, publish a public notice describing the location of the building or lot and the general nature of the question involved in a newspaper of general circulation in the City. (2) Give written notice to parties in interest at least seven (7) days in advance of such hearing. Such parties shall be at least those persons whose properties adjoin and face on the same street as the property in question, and the City Planning Commission."

⁴ 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.

IV. Nature of Relief Sought

The Applicant, Elliot Avenue, LLC, requested an interpretation under from Section 1318.29 and 1318.29(b)(3) regarding the steep slope of the subject premises. The interpretation request desired that the Board determine that the slope issues suffered by the subject premises are man-made and the reasonable estimate of the slopes without the intervention of man. The interpretation was requested pursuant to Section 1325.05 of the Zoning Ordinance.

V. Evidence Received by the Board

- **Board Exhibit #1:** Application with attached site plan.
- **Applicant's Exhibit #1:** Existing features plan.
- **Applicant's Exhibit #2:** Color coded site plan/elevation plan.
- **Applicant's Exhibit #3:** Exhibit prepared for Zoning Officer.
- **Applicant's Exhibit #4:** Collection of 32 photographs.
- **Applicant's Exhibit #5:** Marked up Site plan with photographs (32).
- **Applicant's Exhibit #6:** Lehigh County soil map from 1963.
- **Applicant's Exhibit #7:** USGS Map of the subject premises.
- **Applicant's Exhibit #8:** Map prepared by the Railroad company in 1870's.
- **Applicant's Exhibit #9:** Letter from the City of Bethlehem regarding Moravian dormitories.

VI. Findings of Fact

1. The subject premises are located at 1801 Elliot Avenue in the Lehigh County portion of the City of Bethlehem (West side).
2. The subject premises are located in the RG Residential Zoning District.
3. The Applicant, Elliot Avenue, LLC is the fee simple owner of the premises.
4. The Applicant desires to build on the premises, though at the time of the application had not submitted any plans build on the property.
5. The property was posted with notice of the hearing.
6. Traffic is not part of the application as there is no proposed building plan.
7. The subject premises is located on the southwest corner of Elliot Avenue and Mt. Airy Avenue.
8. The property is bordered by the Norfolk and Southern Rail Road.
9. Presently, the subject premises consist of a 2 ½ story home built around 1900, as well as remnants of stone foundations for animal shelters, a lean-to, root cellar, and an old garage.
10. The existing slopes of the property vary from below 15% to more than 15%.
11. There is evidence of the greater slopes suffered by the property are man made, as a result of the railroad which removed earth to build up the railroad beds as terraced areas for farming and orchards.
12. The lower level of the subject premises was graded in terraced fashion for nursery/stock storage areas.

13. In the 1980's and 1990's, excess fill was dumped on the property.

14. The site is 2.25 acres.

15. The projected measurement of the slope of the parcel was completed by Mr. Horvath who measured from the centerline of Elliot Avenue to the middle of the lowest point of the railroad bed.

16. The average gradient of the property, occurring in a natural state, is less than 15%.

17. The Lehigh County Soil Map, USGS Map and Map prepared by the railroad company in the 1870's indicate that the present condition of the property regarding slopes was man-made and that the natural slope was between 12-15%.

VII. Conclusions of Law

The Applicant, Elliot Avenue, LLC, is the fee simple owner of the premises located at 1801 Elliot Avenue located within the Lehigh County portion of the City of Bethlehem. The subject premises is located in the RG Residential Zoning District. The Applicant requested an interpretation from the Zoning Hearing Board regarding the development of the property afflicted with steep slopes. The purpose of the steep slope standards under Section 1318.29 is to regulate the development of " . . . any land with a gradient in excess of 15% . . . " Testimony from the Applicant indicated that the present slope of the property is, in places, in excess of 15%. The interpretation request from the Applicant was twofold. The first is whether or not the property suffered from man-made slopes, which is an exception in the steep slope provisions in Section 1318.29(b)(3) which states:

Man-Made Slopes.

The alteration of slopes that were clearly lawfully man-made (such as walls of a detention basin or quarry or excavated banks along a street) shall be regulated by a reasonable estimate of the natural slope of such land.

The second request, stemming from Section 1318.29(b)(3), is to determine what the reasonable estimate of the natural slope of the land. The determination as to the gradient of the natural slope of the land would indicate to the Applicant as to the future development of the property.

The Zoning Board is granted the power of Interpretation under Section 1325.05 of the Ordinance, which states:

1325.05 Powers and Duties - Interpretation

Upon appeal from a decision by the Zoning Officer of the Zoning Hearing Board shall decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary line if uncertainty exists with respect thereto; where it is alleged there is an error of any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Ordinance.

Regarding whether or not the property suffered from man-made slopes, the testimony offered by the Applicant clearly indicated that the slopes affecting the property were man-made. The two existing features indicating that some of the excessive slopes on the property were man-made were the existence of the Norfolk & Southern Railroad tracks that border the property and

the terracing of the property for agriculture and property development by the former owners. The Norfolk and Southern Railroad track that border the property was constructed in a manner that built up the tracks, leaving culverts or ditches running adjacent to the tracks. Testimony and photographs showed that the railroad excavated earth from the site in order to construct the railroad beds. There is in existence outcropping of rocks and other unnatural topography which indicates that indeed the border of the property was graded more harshly due to the excavation surrounding the railroad.

Additionally, the testimony indicated that the property, which was used for agriculture, had several stone foundations for differing structures which held livestock and farm implements. The Applicant testified that the property was not tilled on its slope, but was excavated in terraces so that the property could be used. Thus, the terracing unnaturally sloped portions of the property so that in areas the gradient of the slopes was greater than 15%.

Having reached the conclusion that the slopes exceeding 15% were man-made and not naturally occurring slopes, the Board then had to determine what the reasonable estimate of the natural slope of the land is. The Applicant testified that he, as an engineer, prepared an elevation plan of the subject premises showing measurements taken from five different areas of the property. The measurements cross-sectioned the property leading from the centerline of the adjacent streets (the highest point of the property) to the railroad bed (the lowest point of the property). This process is an approved engineering method on determining slope and gradients of a land. The conclusion of the Applicant was that the natural slope of the land was slightly less than fifteen (15%) percent.

Moreover, the Applicant introduced a series of soil maps from Lehigh County, the United States Geological Survey (USGS), and Norfolk and Southern. All of the maps indicated a similar conclusion: the slopes prior to the time of the development of the railroads were not greater than fifteen (15%) percent. There was no other means for the Applicant to determine what the slope of the subject premises was other than using these sources which date more than one hundred years into the past. But a review of the documents shows clearly that the natural slope of the land did not exceed 15% until such time as the landowner and the railroad developed the parcel for agriculture and the railroad tracks, respectively.

The protestants at the Hearing did not introduce any tangible evidence into the record that showed that the property does not suffer from man-made slopes or that the reasonable estimate of the natural slope of the property is in excess of 15%.

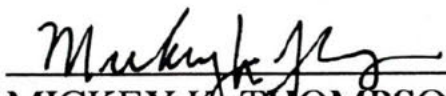
Therefore, the Zoning Board interpreted the following under Section 1325.05 of the Zoning Ordinance, referring to Section 1318.29 and specifically Section 1318.29(b)(3):

1. The gradient of the slopes of the land exceeding 15% was man-made and not naturally occurring slopes.
2. The reasonable estimate of the natural gradient of the subject premises is 12% -15%.

VIII. Decision of the Board

Based upon the foregoing, the Zoning Hearing Board found that the slopes affecting the property are man-made and that the natural slope of the property is between 12% and 15% (by 3-0 vote).

THE BOARD:


MICKEY K THOMPSON
Solicitor

/s/ Gus Loupos*
GUS LOUPOS
Chairman

/s/ John R. Lezoche*
JOHN R. LEZOCHE
Zoning Officer

/s/ William Fitzpatrick*
WILLIAM FITZPATRICK
Member

/s/ Kenneth Kraft*
KENNETH KRAFT
Member

/s/ Ronald Lutes*
RONALD LUTES
Alternate Member

DATE OF HEARING: April 23, 2008

DATE OF ORAL DECISION: April 23, 2008

DATE OF FORMAL WRITTEN DECISION: June 7, 2008

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

Certification of Service

I, Mickey K. Thompson Esq., Solicitor to the Zoning Hearing Board of the City of Bethlehem, do hereby certify that I sent a true and correct copy of the foregoing Decision to the persons and entities listed below at the addressed set forth below, by regular U.S. Mail sent First Class on or before the date set forth below. Additionally, I sent the persons and entities listed below at the addressed set forth below, a notice of decision according to Municipalities Planning Code Section 908(10) by regular U.S. Mail sent First Class on or before the date set forth below (if applicable).

Applicant

James J. Holzinger, Esq.
1216 Linden Street
Bethlehem, PA 18018

Attorney for Applicant

Interested Parties/Objectors

Phillip W. Bigg
1713 Cottage Avenue
Bethlehem, PA 18018

Kevin C. and Jean Brezack
1715 Weil Street
Bethlehem, PA 18018

Peter Christine
107 Mt. Airy Avenue
Bethlehem, PA 18018

William Christine
107 Mt. Airy Avenue
Bethlehem, PA 18018

Keith German
133 16th Avenue
Bethlehem, PA 18018

Marlene German
133 16th Avenue
Bethlehem, PA 18018

Gerald Green
219 Mt. Airy Avenue
Bethlehem, PA 18018

Joanne Huertas
1530 Elliott Avenue
Bethlehem, PA 18018

Vincent and Kathleen Horvath
212 13th Avenue
Bethlehem, PA 18018

Sharon Horvath
438 2nd Avenue
Bethlehem, PA 18018

Barbara Kelly
1617 Elliott Avenue
Bethlehem, PA 18018

George H. Kemmerer
1709 W. Weil Street
Bethlehem, PA 18018

Cathy Lawler
1602 Elliott Avenue
Bethlehem, PA 18018

Steven Link
1609 Elliott Avenue
Bethlehem, PA 18018

Judith Mangino
219 Mt. Airy Avenue
Bethlehem, PA 18018

Robert and Sheila Martin
1719 Weil Street
Bethlehem, PA 18018

THOMPSON LAW OFFICES

115 EAST BROAD STREET • BETHLEHEM, PA 18018
TEL: 610.691.2225 • FAX: 610.691.2335

Patrick and Nicki McGinty
203 Mt. Airy Avenue
Bethlehem, PA 18018

Carmelle Monaghan
209 Mt. Airy Avenue
Bethlehem, PA 18018

Hector M. Rivera
1618 Cottage Avenue
Bethlehem, PA 18018

Patricia Wantz
1623 Elliott Avenue
Bethlehem, PA 18018

Janet Wright
1623 Elliott Avenue
Bethlehem, PA 18018

Joanne Zsilavec
1713 Elliott Avenue
Bethlehem, PA 18018

June 7, 2008

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**Before the Zoning Hearing Board
of the City of Bethlehem, Pennsylvania**

Lehigh County Division

Appeal & Application of
ELLIOT AVENUE LLC
Fee Simple Owner.

) April 2008
) File: #2008-14
) Re: 1801 Elliot Avenue
) INTERPRETATION

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OF AGGRIEVED PARTY

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JUNE 7, 2008**

**Before the Zoning Hearing Board
of the City of Bethlehem, Pennsylvania**

Northampton County Division

Appeal & Application of	)	April 2008
ELLIOT AVENUE LLC	)	File: #2008-14
Fee Simple Owner.	)	Re: 1801 Elliot Avenue
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DECISION

I. Synopsis of Decision

The Board granted to the Applicant, Elliot Avenue, an interpretation from 1329(b)(3) that the existing slopes on the property greater than fifteen (15%) percent were man-made and a reasonable estimate of the natural slope of the property is less than fifteen (15%) percent.

II. Preliminary Matters

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1. APPELLANT/APPLICANT(S)¹: Elliot Avenue, LLC, was represented by Kevin Horvath, Principal of the LLC. Attorney James J. Holzinger, Esquire provided legal counsel. The Applicant had standing to appear before the Zoning Hearing Board as the landowner of the premises.

2. ZONING HEARING BOARD: The Board, consisting of Chairman Gus Loupos, members William Fitzpatrick and Kenneth Kraft, and alternate member Ronald Lutes, was represented by its Solicitor, Mickey K. Thompson, Esquire of Thompson Law Offices in Bethlehem, Pennsylvania.

3. PROTESTANT(S)/INTERESTED PARTIES: There were several protestants/interested parties at the hearing: Phillip W. Bigg, Kevin C. and Jean Brezack, Peter Christine, William Christine, Keith German, Marlene German, Gerald Green, Joanne Huertas, Vincent Horvath, Kathleen Horvath, Sharon Horvath, Barbara Kelly, George H. Kemmerer, Cathy Lawler, Steven Link, Judith Mangino Robert and Sheila Martin, Patrick and Nicki McGinty, Carmelle Monaghan, Hector M. Rivera, Patricia Wantz, Janet Wright and Joanne Zsilavec. The above individuals were unrepresented by counsel and had standing as adjacent landowners or residents of the City of Bethlehem.

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B. Notice

Notice of the hearing was given by newspaper advertisement, by physical posting of the property, and by regular mail to neighboring property owners pursuant to the applicable provisions of the Pennsylvania Municipalities Planning Code,² the Zoning Ordinance of the City of Bethlehem³, citations *infra*, and the Rules of the Board.⁴

III. Applicable Law

This case was considered 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, amended to April 2007 (hereinafter, the "Zoning Ordinance").
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VI. Findings of Fact

1. The subject premises are located at 1801 Elliot Avenue in the Lehigh County portion of the City of Bethlehem (West side).
2. The subject premises are located in the RG Residential Zoning District.
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4. The Applicant desires to build on the premises, though at the time of the application had not submitted any plans build on the property.
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VII. Conclusions of Law

The Applicant, Elliot Avenue, LLC, is the fee simple owner of the premises located at 1801 Elliot Avenue located within the Lehigh County portion of the City of Bethlehem. The subject premises is located in the RG Residential Zoning District. The Applicant requested an interpretation from the Zoning Hearing Board regarding the development of the property afflicted with steep slopes. The purpose of the steep slope standards under Section 1318.29 is to regulate the development of "... any land with a gradient in excess of 15% ..." Testimony from the Applicant indicated that the present slope of the property is, in places, in excess of 15%. The interpretation request from the Applicant was twofold. The first is whether or not the property suffered from man-made slopes, which is an exception in the steep slope provisions in Section 1318.29(b)(3) which states:

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1325.05 Powers and Duties - Interpretation

Upon appeal from a decision by the Zoning Officer of the Zoning Hearing Board shall decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary line if uncertainty exists with respect thereto; where it is alleged there is an error of any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Ordinance.

Regarding whether or not the property suffered from man-made slopes, the testimony offered by the Applicant clearly indicated that the slopes affecting the property were man-made. The two existing features indicating that some of the excessive slopes on the property were man-made were the existence of the Norfolk & Southern Railroad tracks that border the property and

the terracing of the property for agriculture and property development by the former owners. The Norfolk and Southern Railroad track that border the property was constructed in a manner that built up the tracks, leaving culverts or ditches running adjacent to the tracks. Testimony and photographs showed that the railroad excavated earth from the site in order to construct the railroad beds. There is in existence outcropping of rocks and other unnatural topography which indicates that indeed the border of the property was graded more harshly due to the excavation surrounding the railroad.

Additionally, the testimony indicated that the property, which was used for agriculture, had several stone foundations for differing structures which held livestock and farm implements. The Applicant testified that the property was not tilled on its slope, but was excavated in terraces so that the property could be used. Thus, the terracing unnaturally sloped portions of the property so that in areas the gradient of the slopes was greater than 15%.

Having reached the conclusion that the slopes exceeding 15% were man-made and not naturally occurring slopes, the Board then had to determine what the reasonable estimate of the natural slope of the land is. The Applicant testified that he, as an engineer, prepared an elevation plan of the subject premises showing measurements taken from five different areas of the property. The measurements cross-sectioned the property leading from the centerline of the adjacent streets (the highest point of the property) to the railroad bed (the lowest point of the property). This process is an approved engineering method on determining slope and gradients of a land. The conclusion of the Applicant was that the natural slope of the land was slightly less than fifteen (15%) percent.

Moreover, the Applicant introduced a series of soil maps from Lehigh County, the United States Geological Survey (USGS), and Norfolk and Southern. All of the maps indicated a similar conclusion: the slopes prior to the time of the development of the railroads were not greater than fifteen (15%) percent. There was no other means for the Applicant to determine what the slope of the subject premises was other than using these sources which date more than one hundred years into the past. But a review of the documents shows clearly that the natural slope of the land did not exceed 15% until such time as the landowner and the railroad developed the parcel for agriculture and the railroad tracks, respectively.

The protestants at the Hearing did not introduce any tangible evidence into the record that showed that the property does not suffer from man-made slopes or that the reasonable estimate of the natural slope of the property is in excess of 15%.

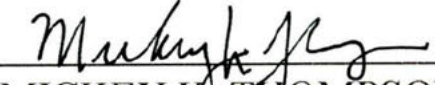
Therefore, the Zoning Board interpreted the following under Section 1325.05 of the Zoning Ordinance, referring to Section 1318.29 and specifically Section 1318.29(b)(3):

1. The gradient of the slopes of the land exceeding 15% was man-made and not naturally occurring slopes.
2. The reasonable estimate of the natural gradient of the subject premises is 12% -15%.

VIII. Decision of the Board

Based upon the foregoing, the Zoning Hearing Board found that the slopes affecting the property are man-made and that the natural slope of the property is between 12% and 15% (by 3-0 vote).

THE BOARD:


MICKEY R. THOMPSON
Solicitor

/s/ Gus Loupos*
GUS LOUPOS
Chairman

/s/ John R. Lezoche*
JOHN R. LEZOCHÉ
Zoning Officer

/s/ William Fitzpatrick*
WILLIAM FITZPATRICK
Member

/s/ Kenneth Kraft*
KENNETH KRAFT
Member

/s/ Ronald Lutes*
RONALD LUTES
Alternate Member

DATE OF HEARING: April 23, 2008

DATE OF ORAL DECISION: April 23, 2008

DATE OF FORMAL WRITTEN DECISION: June 7, 2008

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

Certification of Service

I, Mickey K. Thompson Esq., Solicitor to the Zoning Hearing Board of the City of Bethlehem, do hereby certify that I sent a true and correct copy of the foregoing Decision to the persons and entities listed below at the addressed set forth below, by regular U.S. Mail sent First Class on or before the date set forth below. Additionally, I sent the persons and entities listed below at the addressed set forth below, a notice of decision according to Municipalities Planning Code Section 908(10) by regular U.S. Mail sent First Class on or before the date set forth below (if applicable).

Applicant

James J. Holzinger, Esq.

Attorney for Applicant

[REDACTED]
[REDACTED]

Interested Parties/Objectors

Phillip W. Bigg

[REDACTED]
[REDACTED]

Kevin C. and Jean Brezack

[REDACTED]
[REDACTED]

Peter Christine

[REDACTED]
[REDACTED]

William Christine

[REDACTED]
[REDACTED]

Keith German

[REDACTED]
[REDACTED]

Marlene German

[REDACTED]
[REDACTED]

THOMPSON LAW OFFICES

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Gerald Green

[REDACTED]
[REDACTED]

Joanne Huertas

[REDACTED]
[REDACTED]

Vincent and Kathleen Horvath

[REDACTED]
[REDACTED]

Sharon Horvath

[REDACTED]
[REDACTED]

Barbara Kelly

[REDACTED]
[REDACTED]

George H. Kemmerer

[REDACTED]
[REDACTED]

Cathy Lawler

[REDACTED]
[REDACTED]

Steven Link

[REDACTED]
[REDACTED]

Judith Mangino

[REDACTED]
[REDACTED]

Robert and Sheila Martin

[REDACTED]
[REDACTED]

Patrick and Nicki McGinty

[REDACTED]
[REDACTED]

Carmelle Monaghan

[REDACTED]
[REDACTED]

Hector M. Rivera

[REDACTED]
[REDACTED]

Patricia Wantz

[REDACTED]
[REDACTED]

Janet Wright

[REDACTED]
[REDACTED]

Joanne Zsilavec

[REDACTED]
[REDACTED]

June 7, 2008

Mickey K. Thompson, Esq.

NOTICE OF ZONING APPEAL

(Please type or print clearly)

IN RE: Applicability of Section 1318.29
DATE OF APPLICATION: March 25, 2008
LOCATION: 1801 Elliott Avenue
SIZE OF LOT: 2.24 Acres
USE APPLIED FOR: N/A
SIZE OF BUILDING: N/A
HEIGHT: N/A
WARD: _____ BLOCK: _____
ZONING DISTRICT: R-G

RECORD OWNER: Elliott Avenue LLC
ADDRESS: [REDACTED]
[REDACTED]
PHONE NO.: [REDACTED]
LESSEE: _____
ADDRESS: _____
PHONE NO.: _____
APPLICANT: Elliott Avenue LLC
ADDRESS: [REDACTED]
[REDACTED]
PHONE NO.: [REDACTED]

ZONING HEARING BOARD
BETHLEHEM, PA

BOARD MEMBERS,

I HAVE BEEN DENIED A ZONING PERMIT BY THE ZONING OFFICER AND HEREBY
APPEAL TO YOUR BOARD FROM SAID RULING AND DECISION FOR THE FOLLOWING
REASONS: (Use additional paper if necessary.)

Regarding this application, Applicant requests an Interpretation of the applicability of General Regulations Code Section 1318.29, Development Standards for Steep Slopes, in its entirety, to the subject property due to the Exception defined in General Regulations Code Section 1318.29(b)(3), Man-Made Slopes. This request for Interpretation is to permit the development of the subject property in accordance with RG Zoning District Code Section 1306.

I TRUST MY APPEAL WILL BE HEARD IN THE USUAL MANNER.

THIS NOTICE OF APPEAL TO BE SIGNED
BY THE OWNER, MEMBER OF FIRM, OR
CORPORATION OFFICER

RECORD OWNER: Elliott Avenue LLC
MEMBER: Kevin J. Horvath
SIGNATURE: [Signature]
ADDRESS: [REDACTED]
[REDACTED]
APPLICANT: Record Owner
ATTORNEY: James J. Holzinger
ADDRESS: [REDACTED]
[REDACTED]
[REDACTED]
PHONE NO.: [REDACTED]