

EXHIBIT A-1

LIST OF RELIEF REQUESTED

1. Section 1306.01(a) to reduce minimum tract size from 6,000 S.F. required to 5,040 S.F. proposed.
2. Section 1306.01(a) to reduce lot area per dwelling unit from 3,000 S.F. required to 2,520 proposed.
3. 1306.01(a) to reduce minimum lot width from 60 ft. required to 38 ft proposed.
4. Section 1306.01(a) to reduce minimum side yard setbacks from 4 ft. required each side to 5 feet diminishing to zero on the west side of the Property and 3 feet existing and proposed on the east side of the Property.
5. Section 1304.01(B)(1) to create two (2) dwelling units with an attached commercial space.

EXHIBIT A-2

PREVIOUS ZONING HEARING BOARD DECISION

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December 28, 2021

Michael Gertz and Jeanie Sun
543 Upper Deer Valley Road
Tannersville, PA 18371

Joseph T. Piperato, Esq.
412 West Broad Street
Bethlehem, PA 18018

In Re: Decision of the Zoning Hearing Board - 1187 East 4th Street
CID: 205-002978: P6SE2B 7 14 0204

Dear Mr. Gertz, Ms. Sun and Attorney Piperato:

I am enclosing a copy of the Decision of the Zoning Hearing Board with reference to the above property.

Very truly yours,



Mark Malkames, Esq.

MM/pm
Enclosure

cc: Craig Peiffer, by email

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

Northampton County

Appeal & Application of
Michael Gertz and Jeanie Sun

Applicant

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Date: December 29, 2021

Re: 1187 East 4th 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 Hearing 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

December 29, 2021 (Date of Mailing)

**ZONING HEARING BOARD OF THE CITY OF BETHLEHEM
NORTHAMPTON COUNTY, PENNSYLVANIA**

IN RE: MICHAEL GERTZ AND JEANIE SUN

CID: 205-002978
P6SE2B 7 14 0204

DECISION OF THE ZONING HEARING BOARD OF THE CITY OF BETHLEHEM

I. **HISTORY OF APPEAL; BACKGROUND**

1. The property subject of this appeal is located at 1187 East 4th Street, (CID: 205-002978, PID: P6SE2B 7 14 0204) Bethlehem, Pennsylvania and is located in the RT-High Density Residential Zoning District in the City of Bethlehem.

2. The Applicant requests variances from 1306.01 (a) (4) to reduce minimum tract size, six thousand square feet (6,000 sq. ft.) required, five thousand forty square feet (5,040 sq. ft.) existing and proposed, to reduce lot area per dwelling unit in order to create a second dwelling, three thousand square feet (3,000 sq. ft.) required, two thousand five hundred twenty square feet (2,520 sq. ft.) proposed, to reduce minimum lot width, sixty feet (60 ft.) required, thirty-eight feet (38 ft.) existing and proposed and to reduce minimum side yard setbacks, four feet (4 ft.) required each side, five feet (5 ft.) diminishing to zero inches (0 in.) (west) and +/- three (3) feet existing and proposed (east).

3. The Applicants also request a variance from use associated with converting the existing single-family dwelling into two (2) dwelling units while maintaining an existing commercial unit fronting East 4th Street, that combination of uses not being a permitted use or conversion in the RT-High Density Residential Zoning District.

4. A public hearing was held on the appeal on Wednesday, November 17, 2021 at 6:00 P.M. at the City Hall Rotunda, 10 East Church Street, Bethlehem, Pennsylvania. This hearing

was conducted in person with streaming but no remote participation.

5. The property was posted on November 8, 2021 by Mr. Gertz.
6. The Applicant was represented by Joseph Piperato, Esq.
7. The full Board was in attendance for the hearing.

II. FINDINGS OF FACT

1. The Applicants are Michael Gertz and Jeanie Sun.
2. The Applicants entered into an Agreement of Sale as buyers of the property marked as Exhibit A-1.
3. The Applicants executed an extension of the Agreement of Sale with the sellers which was offered as Exhibit A-2.
4. Exhibit A-3 is a copy of the listing for the property.
5. The property is comprised of a small commercial market and four thousand five hundred feet (4,500 ft.) of attached living space which exists as a single residential unit to the rear of the store.
6. The market fronts on 4th Street; Hobart Steet is adjacent to the property and to the east as shown on Exhibit A-4 (1).
7. Applicants offered Exhibit A-4 (2) which is a lot survey showing the property in relation to surrounding properties; the property is circled in red; as evident from the exhibit, the property is one of the larger properties in the area.
8. Exhibit A-4 (3) is a blowup of the lot survey; arrows depict the side yards; the lot narrows proceeding toward 4th Street; there is a narrow diminishing aisle space between the property and the property adjacent to the west.
9. Exhibit A-4 (4) is a survey plan for the property.

10. Exhibit A-4 (5) is a view of the property from the Hobart Street side of the property and shows the parking plan for the driveway in front of the garage.

11. Exhibit A-4 (6) shows the first-floor apartment; no work is planned for the first-floor apartment.

12. Exhibit A-4 (7) is an architectural floor plan showing an area of the hallway intended to be closed to separate the store from the residential portion of the property.

13. Exhibit A-4 (8) shows the exterior parking on the Mechanic Street (rear) side of the building, depicting two (2) garage door entrances and with four (4) available parking spaces (exclusive of the interior garage space).

14. Exhibit A-4 (9) is a series of photographs showing all sides of the building with the front (market) in the top left, the rear garage in the top right also depicting the location of the side entrance, the rear bottom left showing the Hobart Street side of the building and a rear view looking up Hobart Street on the bottom left.

15. Exhibit A-4 (10) shows pervious areas of land next to the driveway in the rear of the property.

16. Exhibit A-4 (11) shows the separation between the building and the property line.

17. Exhibit A-4 (12) shows the separate first floor entrance.

18. Exhibit A-4 (13) shows the entry to the second floor.

19. Exhibit A-4 (14) shows an area to be closed off separating the apartment from the commercial use.

20. Exhibit A-4 (15) shows street parking available in the vicinity of the building.

21. Exhibit A-4 (16) is another view of street parking, east-west along Mechanic Street and north-south along Hobart Street.

22. Exhibit A-4 (17) is an inventory of local comparably sized multifamily buildings and properties.
23. Exhibit A-4 (18) shows the existing residential unit.
24. Exhibit A-4 (19) shows the second residential unit to be created (with a location in the kitchen ready for placement of a refrigerator and stove).
25. The Applicants propose to establish Apartment 2 on the first level with Apartment 1 remaining on the second level.
26. The Applicant is unable to acquire any additional square footage to add to the property.
27. The property has two (2) existing electrical meters.
28. Although a two-family detached dwelling is permitted by right, retention of the existing commercial space renders any changed use as prohibited regardless of the number of residential units, and thus the Applicants require a use variance.
29. There were no objectors to the request.

III. DISCUSSION

The grant of a variance is governed by 1325.06. The Board may grant a variance where the criteria defined thereunder, as relevant to the case, is satisfied. The Board finds the following to be relevant to this appeal:

There are clearly unique physical circumstances and conditions on the property. The property is an existing commercial use and has historically been used as a small neighborhood market for an extended period of time. The architecture and design of the front portion of the building suggests its' commercial purpose. This is not a traditional residential building.

Although the Applicants seek to expand the building's permitted uses to add a residential unit as an apartment and keep the attached commercial use, the existing residential space in the building is substantial and most likely too substantial to be a rental unit with any reasonable market demand. The pictures demonstrate the sizeable interior of the residential portion of the building. Apartment 1 which is on the second floor has a kitchen and two (2) bathrooms; the lower-level Apartment 2 has a kitchen and a full bathroom. The units are easily separated and it appears that at one time they were separated or at least separately used. There is an entrance on the side of the building for the lower level. The residential portion of use does not have the open-air ambience between floors which a typical two-story single-family home normally enjoys.

Parking does not mitigate against approval. There are four (4) spaces available in front of the garage. Each residential unit will have access to sufficient off-street parking. Street parking is also reasonably available in the neighborhood as not just evidenced by the Applicants' photographs but seemingly confirmed by the lack of neighbor interest in the request.

The property is one of the larger properties in this area. The RT Zoning District is a high-density residential district. Although various Ordinance provisions are implicated in separating the residential portion of the structure, most of the relief requested is associated only with recognizing dimensional nonconformities which already exist and will continue to exist. These are physical conditions which cannot be reasonably changed.

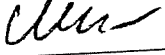
A past proprietor of the store apparently occupied the large residential portion of the structure as a family. The universe of potential occupiers looking to own a property with a small market and a large space to house his family is likely to be extremely limited. This renders the property unique and limits demand for single ownership.

What this appeal comes down to is in the final analysis is whether it is reasonable to separate a residential area which is over four thousand four hundred square feet (4,400 sq. ft.) on separate floors into two (2) units of an excess of two thousand two hundred (2,200 sq. ft.) in the absence of any resulting detriment. Given that this building likely will only have demand as a rental, and because of the hardship created by the commercial building to the front of the structure, it is reasonable to separate the residential space to render it more conventionally usable.

IV. DECISION

1. The Applicants' request for a variance from 1306.01 (A) (4) to reduce minimum tract size, six thousand square feet (6,000 sq. ft.) required, five thousand forty square feet (5,040 sq. ft.) existing and proposed, to reduce lot area per dwelling unit, three thousand square feet (3,000 sq. ft.) required, two thousand five hundred twenty square feet (2,520 sq. ft.) proposed; to reduce minimum lot width sixty feet (60 ft.) required, thirty-eight feet (38 ft.) existing and proposed and to reduce required side yard setback of four feet (4 ft.) required each side five (5) feet (5 ft.) diminishing to zero feet (0 ft.) existing and proposed (west) and +/- three feet (3 ft.) existing and proposed (east) is granted.
2. The Applicants' request for use relief from 1304.01 (B) (1) to create two (2) dwelling units with an attached commercial use is granted.
3. The Applicants' variances are conditioned upon the Applicants complying with their zoning application, zoning exhibits, testimony and evidence presented to the Board in support of the appeal.
4. The Applicants shall obtain all required reviews, approvals and permits under any other applicable Code or Ordinance.

THE BOARD:



MARK MALKAMES
Acting Solicitor

/s/ Craig D. Peiffer*
CRAIG PEIFFER
Zoning Officer

/s/ William Fitzpatrick*
WILLIAM FITZPATRICK
Chairman

/s/ James H. Schantz*
JAMES H. SCHANTZ
Member

/s/ Peter Schneck*
PETER SCHNECK
Member

/s/ Terry Novatnack*
TERRY NOVATNACK
Member

/s/ Jessica L. Lee*
JESSICA L. LEE
Member

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

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

Northampton County

**Appeal & Application of
Michael Gertz and Jeanie Sun**

Applicant

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)

Date: December 29, 2021

Re: 1187 East 4th Street

CERTIFICATE OF SERVICE

I, Mark Malkames, Acting Solicitor to the Board, do hereby certify that I sent a true and correct copy of the forgoing Decision to the Applicant listed below and its counsel at the addresses set forth, by regular first-class mail in the date set forth below.

Michael Gertz and Jeanie Sun
543 Upper Deer Valley Road
Tannersville, PA 18371

Joseph T. Piperato, Esq.
412 West Broad Street
Bethlehem, PA 18018

MALKAMES LAW OFFICES

By: 
Mark Malkames, Esq.
Attorney ID: 38792
509 Linden Street
Allentown, PA 18101

Attorney for Zoning Hearing Board
of the City of Bethlehem

Dated: December 29, 2021

EXHIBIT A-3

DEED

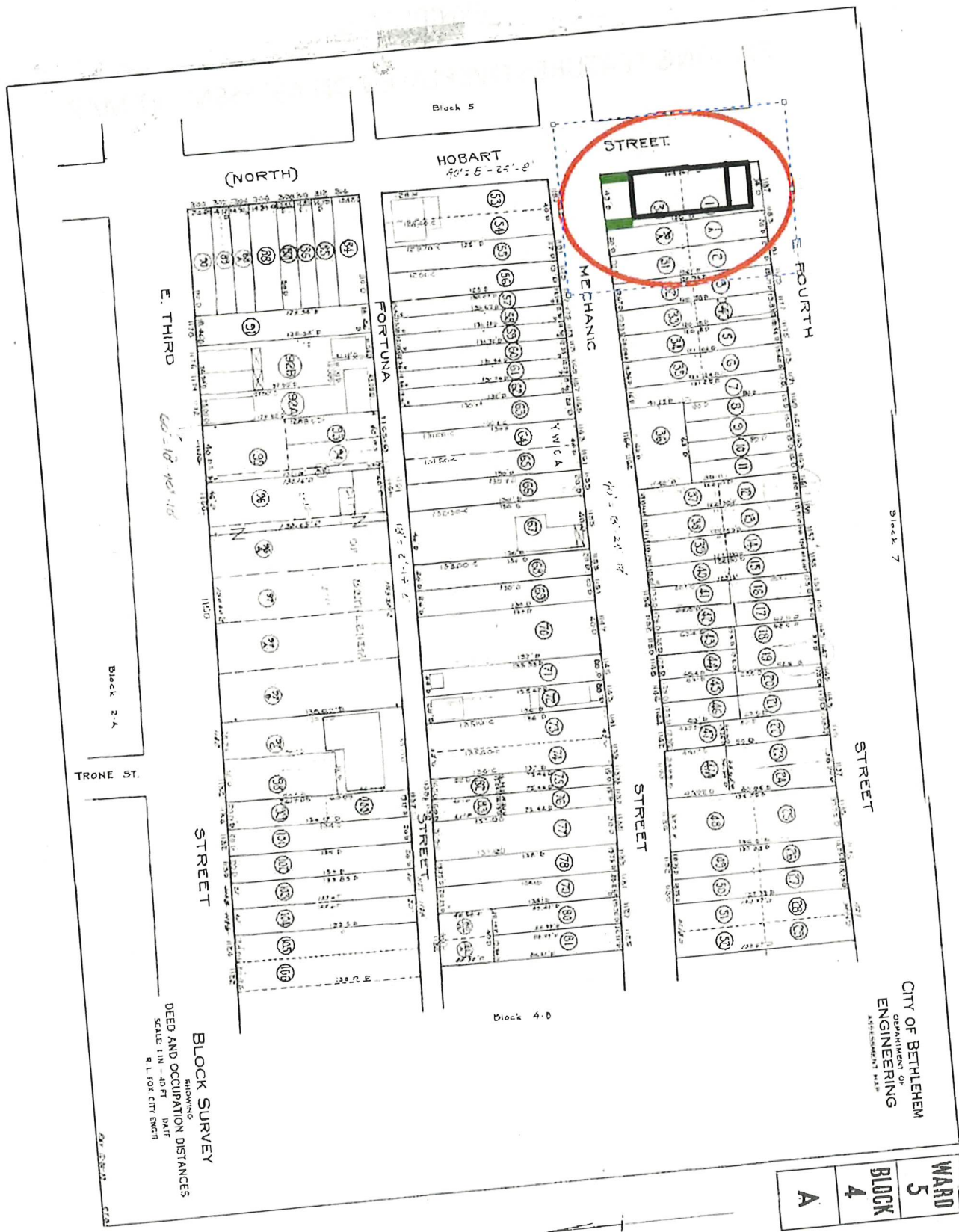
EXHIBIT A-4
PHOTOGRAPH OF MARKET

1187 E 4TH STREET
BETHLEHEM, PA



EXHIBIT A-5

CITY OF BETHLEHEM ASSESSMENT MAP



Block 7

STREET

WARD 5
BLOCK 4
A

CITY OF BETHLEHEM
DEPARTMENT OF
ENGINEERING
APPROVED MAP

Block 4-B

Block 5

HOBART
40' x 5' - 24' - 0"

(NORTH)

FORTUNA

E. THIRD

Block 2-A

TRONE ST.

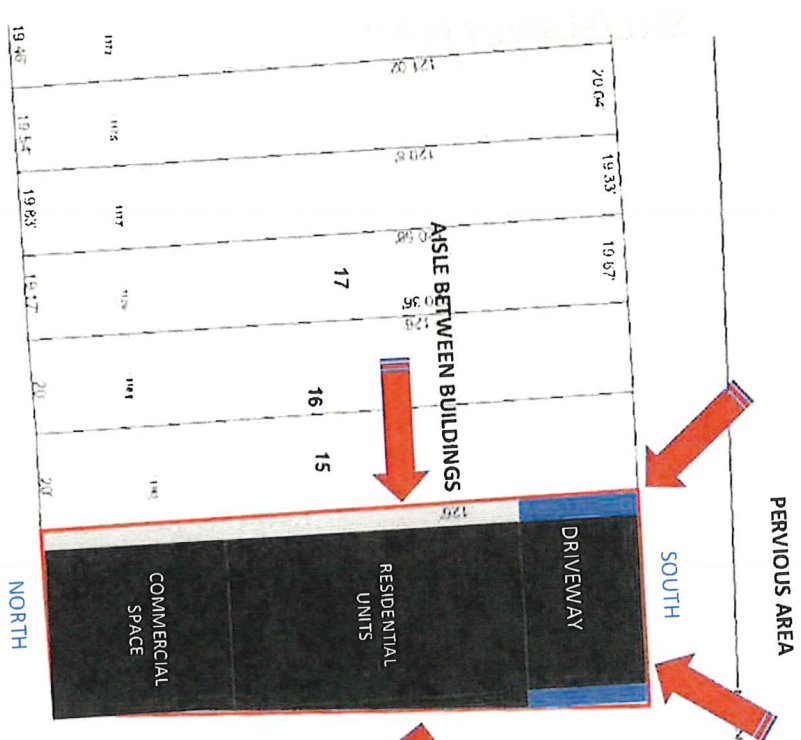
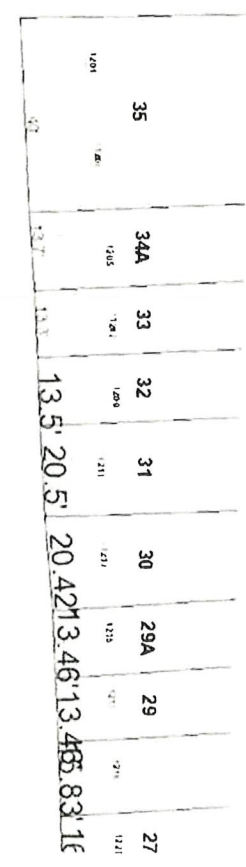
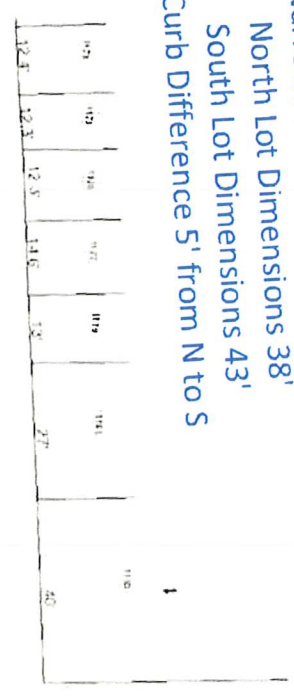
STREET

BLOCK SURVEY
SHOWING
DEED AND OCCUPATION DISTANCES
SCALE: 1" = 40' DATE
R. L. FOX CIVIL ENGR

EXHIBIT A-6

EXISTING FEATURES OVERLAYED ON ASSESSMENT MAP

Lot Narrows North towards 4th Street
 North Lot Dimensions 38'
 South Lot Dimensions 43'
 Curb Difference 5' from N to S



PROPERTY COVERS
 PROPERTY LINE

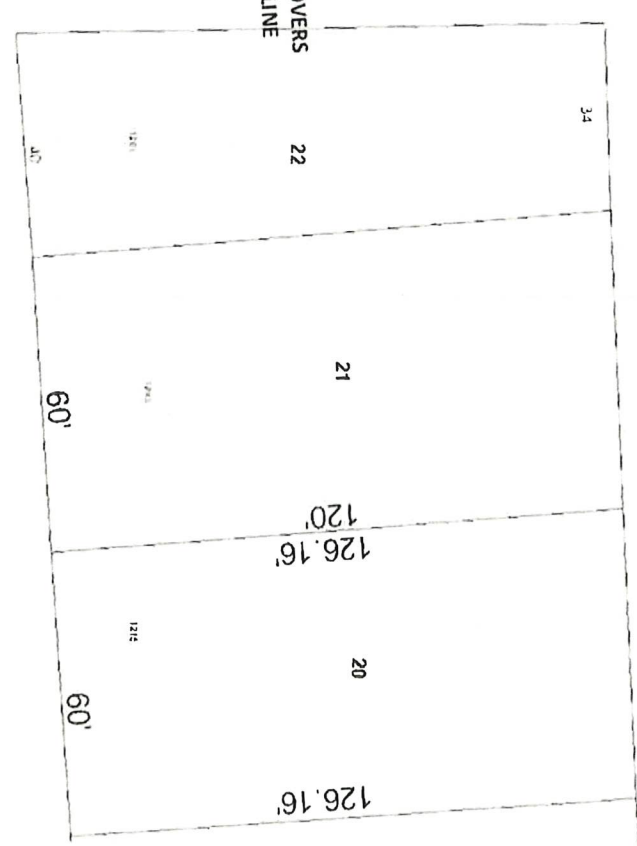
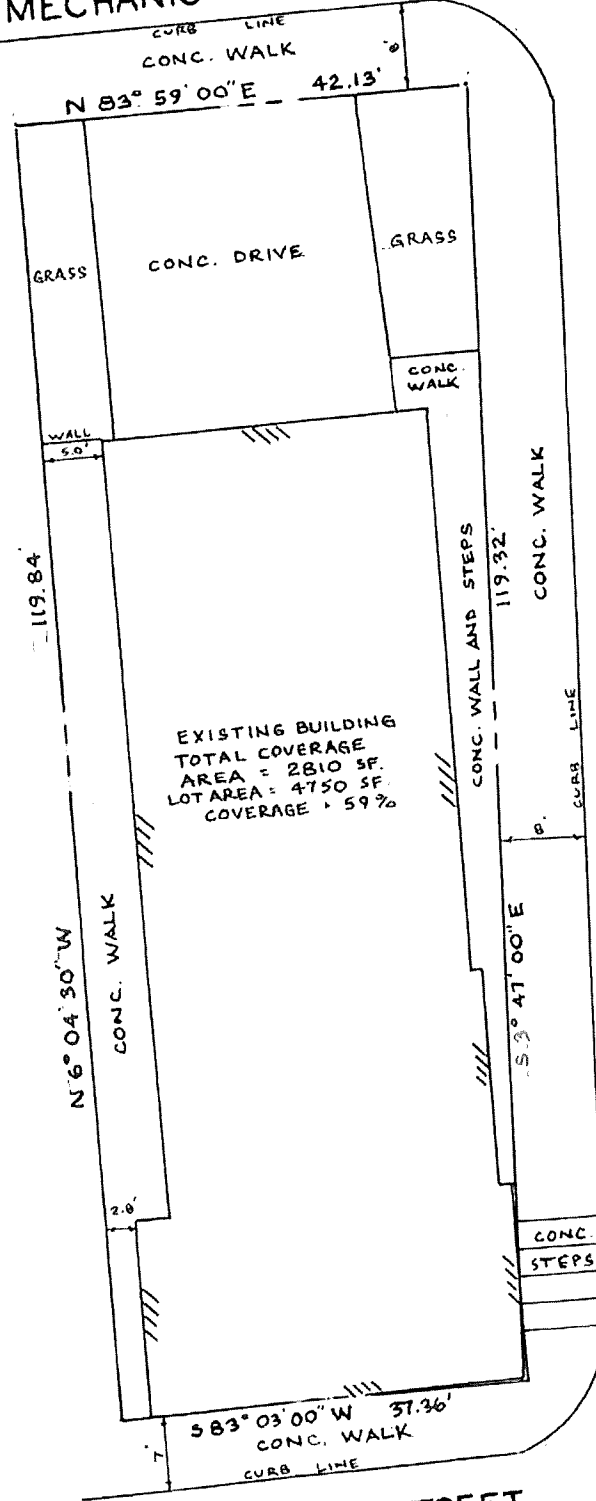


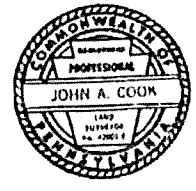
EXHIBIT A-7
SITE/SURVEY PLAN

MECHANIC STREET



EAST FOURTH STREET

HOBART STREET



SITE / SURVEY PLAN
1187 EAST FOURTH STREET
CITY OF BETHLEHEM
NORTHAMPTON COUNTY, PA
SCALE: 1" = 10' NOV. 9, 2021

EXHIBIT A-8
FLOOR PLANS

1187 E 4th Street, Garage Level –
Floor 0
Bethlehem PA

Aisle / Exit

EXTERIOR



EXTERIOR

EXTERIOR

Hobart Street

2 Door Garage



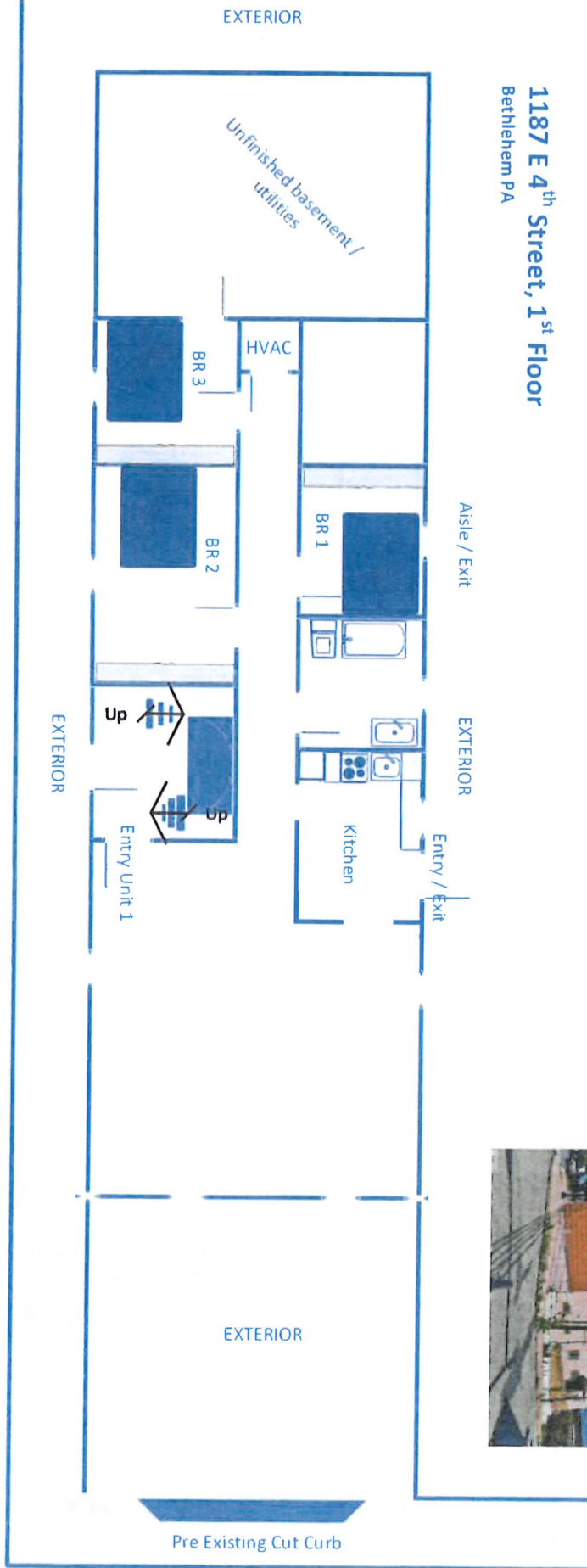
EXTERIOR

Pre Existing Cut Curb

Mechanic Street

Scope of Work – No Work required for Garage
Level 0 Floor

1187 E 4th Street, 1st Floor
Bethlehem PA

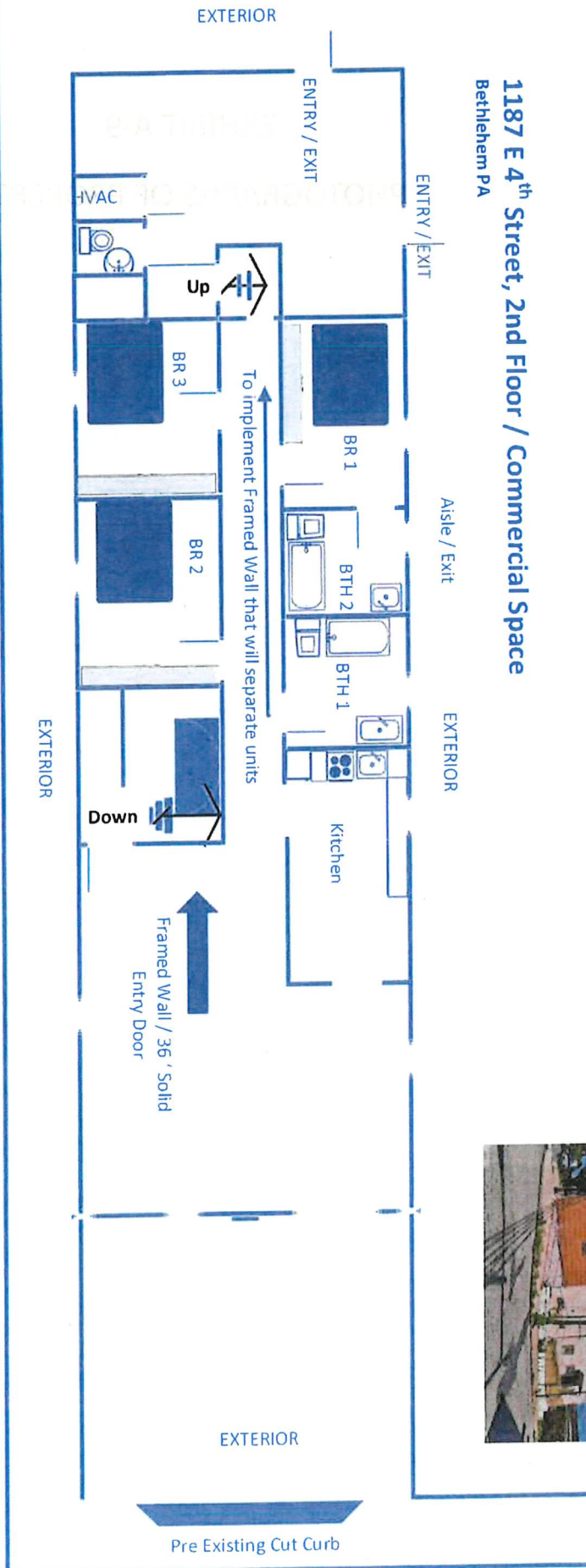


Hobart Street

Mechanic Street

Scope of Work – No Work required for 1st
Floor Apartment

1187 E 4th Street, 2nd Floor / Commercial Space
Bethlehem PA



Hobart Street

Scope of Work –

Increase Landing Wall space

Fireblock & $\frac{3}{4}$ Sheet rock

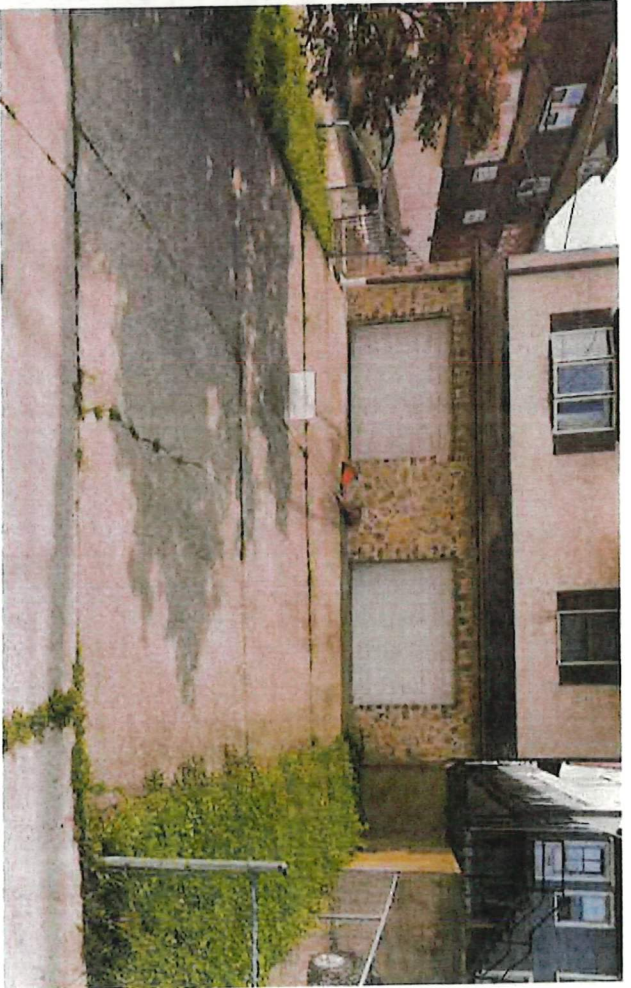
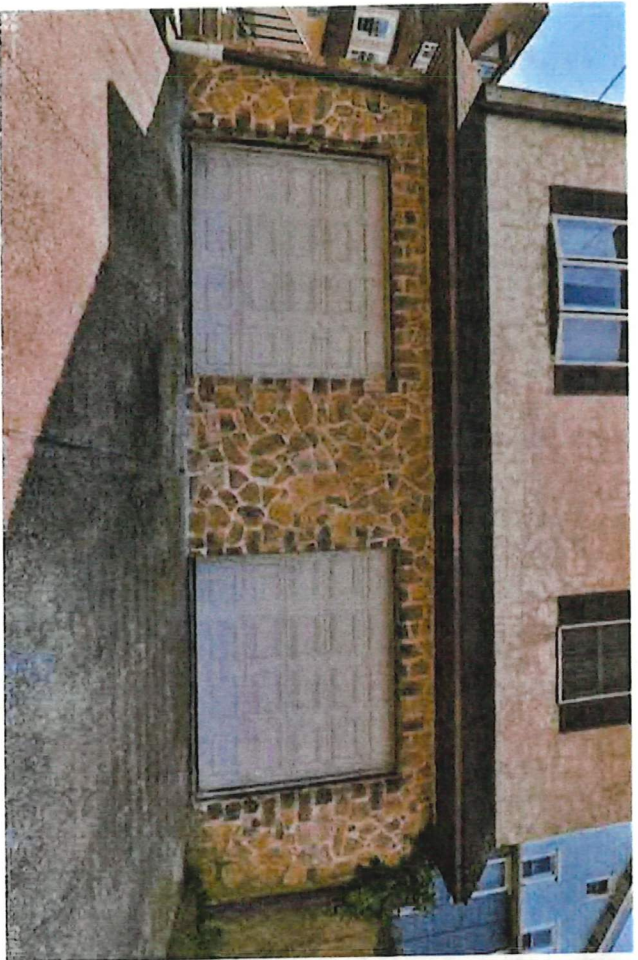
36 in Solid Core Door

Frame wall at end of hallway – Est 3'

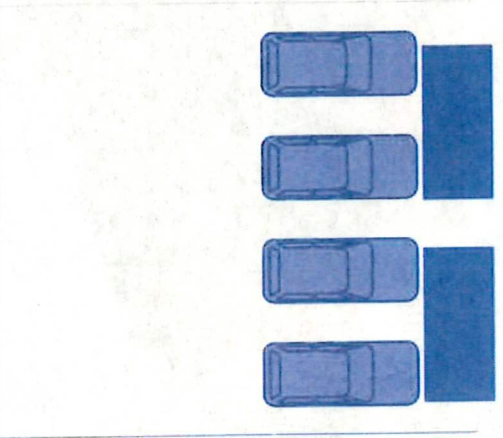
Mechanic Street

EXHIBIT A-9

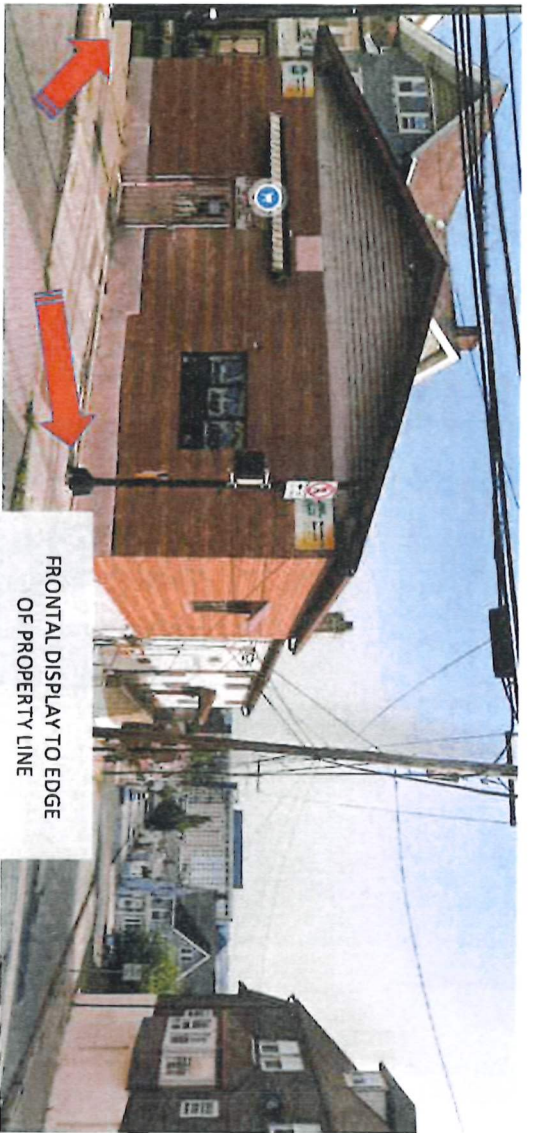
PHOTOGRAPHS OF PROPERTY



Parking Models



Exterior Parking
Mechanic Street Entrance
Dimensions –
30 ' x 45 '



FRONTAL DISPLAY TO EDGE
OF PROPERTY LINE



SIDE ENTRANCE BETWEEN
NEIGHBORING PROPERTY



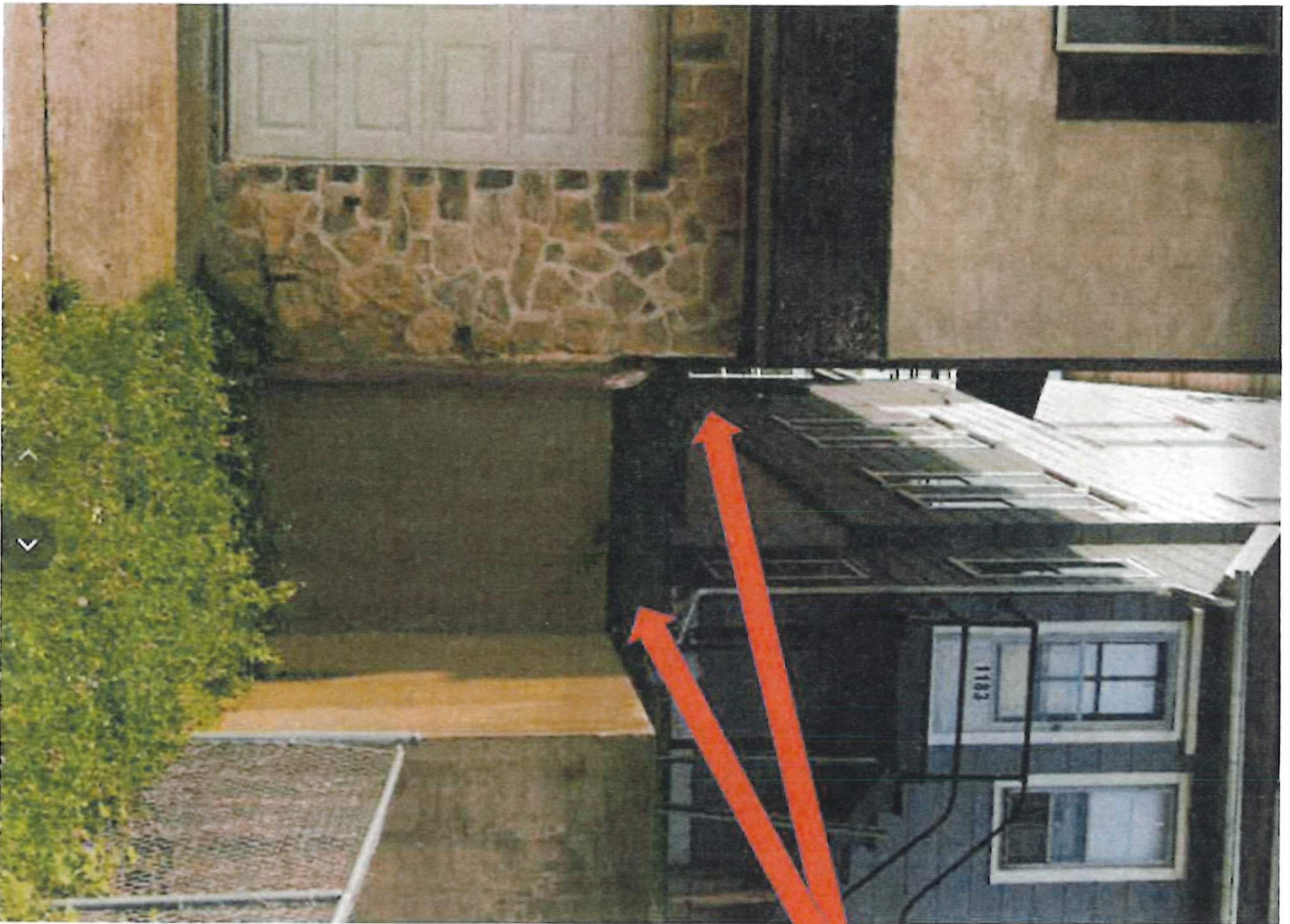
STANDARD SIDEWALK
THROUGHOUT PROPERTY



CONSISTENT
DEMONSTRATION OF
SIDEWALK



PERVIOUS LAND



SEPERATION BETWEEN BUILDING
AND PROPERTY LINE

1st Floor – No Work Required –
Already separate Unit



Common Main Entrance



1st Floor Entrance Separate from other Units

Entry to 2nd Floor

Scope of work:

Build up wall to ceiling

$\frac{3}{4}$ sheet rock – 2x4 extension to ceiling – Fire Block insulation

Frame and install 36" Solid Core Door – Left Hand Entry

Erect 3' width wall at end of hallway.

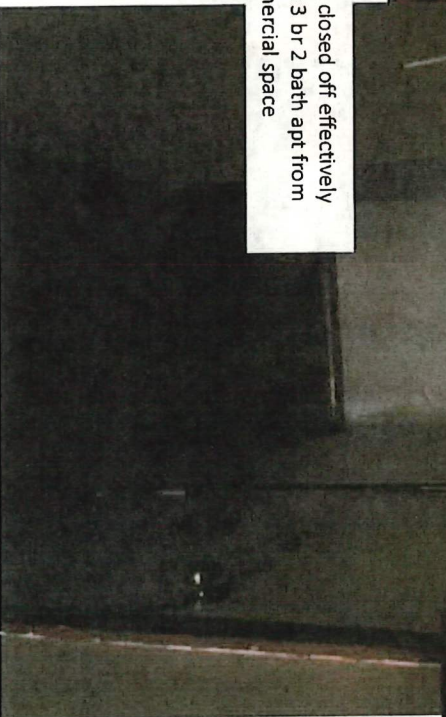




Hallway in apartment 2 leads to the store currently at the end of the hall.

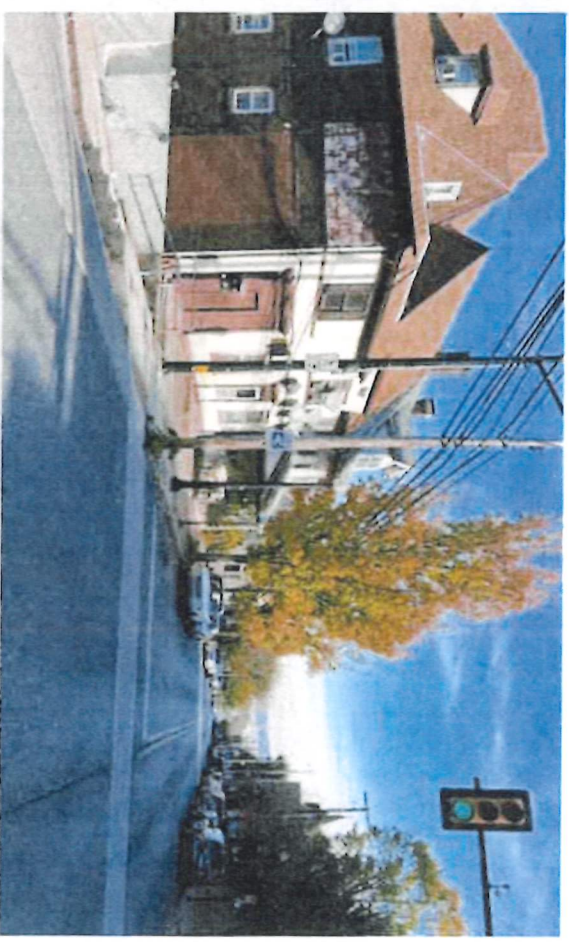
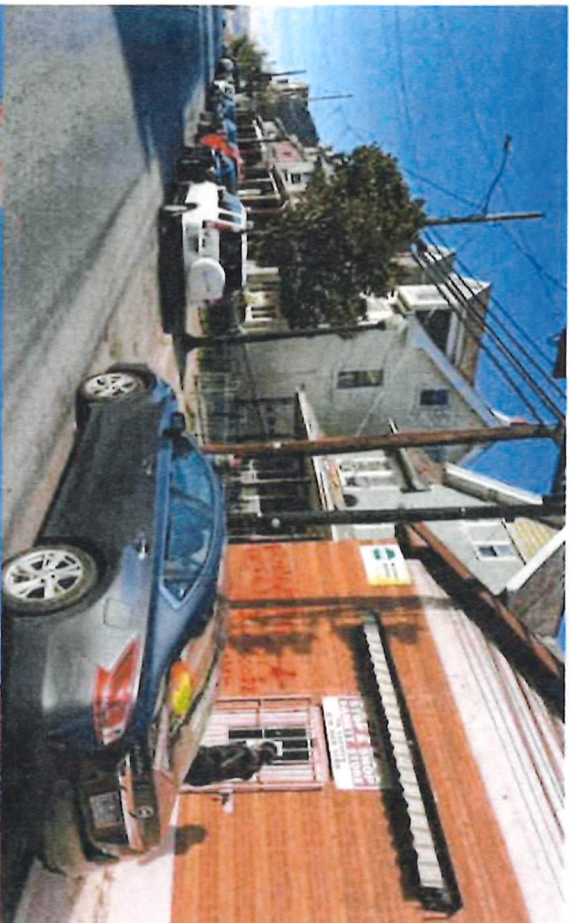


This area to be closed off effectively separating the 3 br 2 bath apt from commercial space



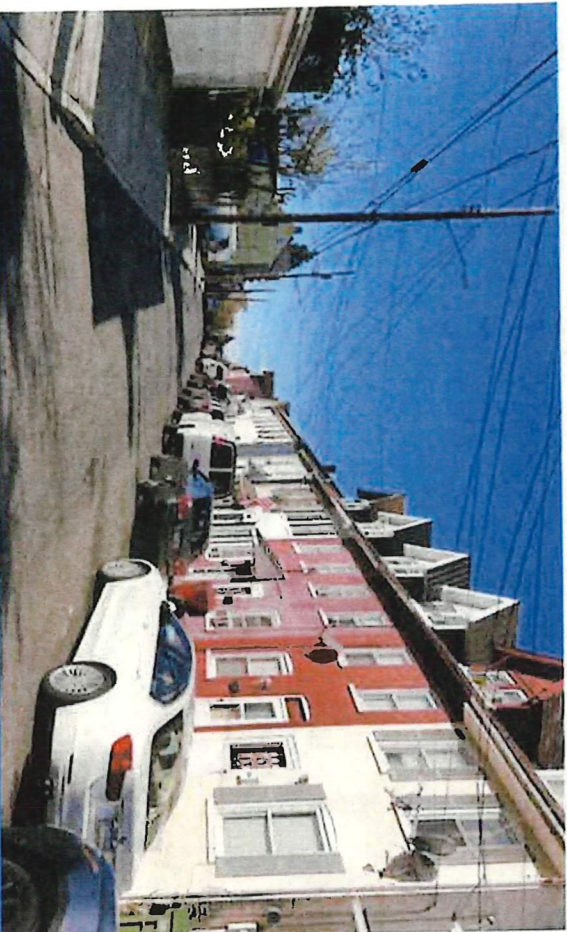
View from end of hall into the apartment.

PARKING – SLIDE 1



AREA: E 4th Street – Bethlehem PA
PARKING TYPE: On Street parking Available
DIRECTION: East / West along Avenue
RESTRICTIONS: None visible. Parking available on both sides of street.
DIRECT PARKING: Store front has access for multiple car parking

PARKING – SLIDE 2

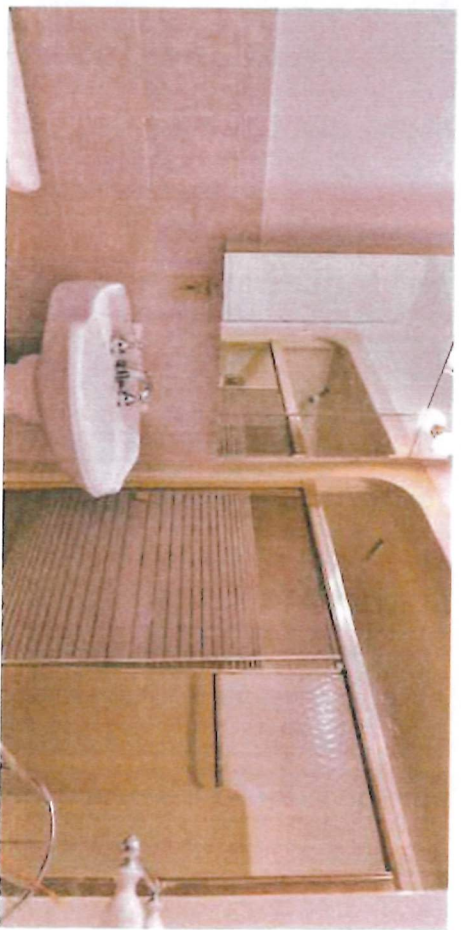
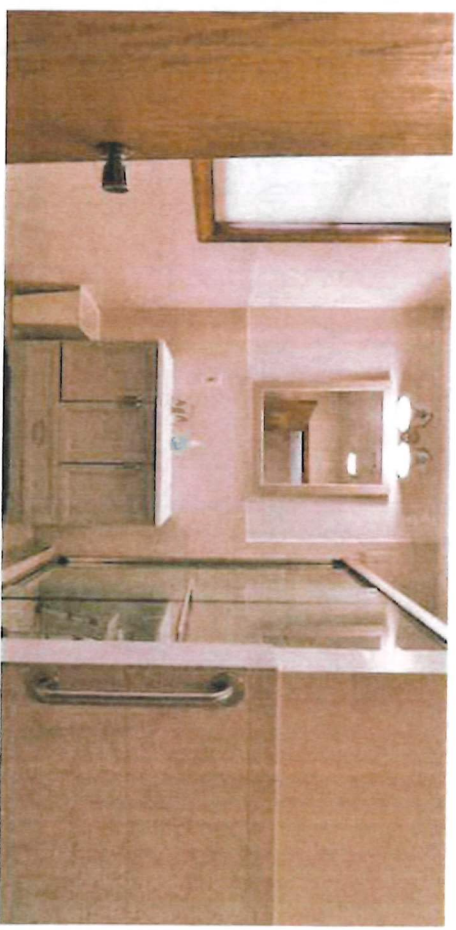


AREA: Mechanic Street / Hobart Street –
Bethlehem PA
PARKING TYPE: On Street parking Available
DIRECTION: East / West along Mechanic
North/South on Hobart
RESTRICTIONS: None visible. Parking available
on single side of street.
DIRECT PARKING: Drive way for residential
units.

APARTMENT 1 – KITCHEN & 2 BATHROOMS



KITCHEN AREA OFF LIVING ROOM



APARTMENT 2 – KITCHEN & 1 BATHROOM



FRIDGE LOCATION

STOVE LOCATION

FULL KITCHEN
AND
BATHROOM

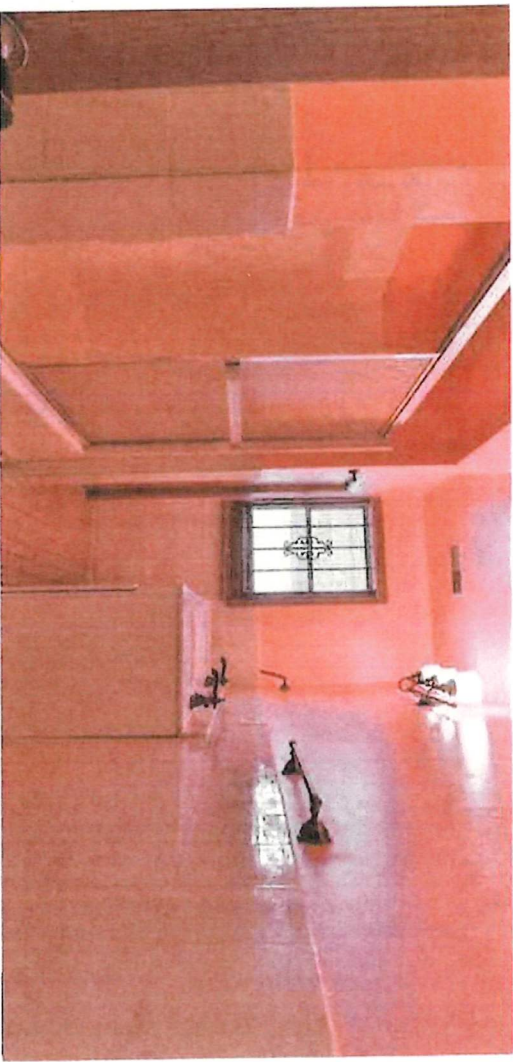
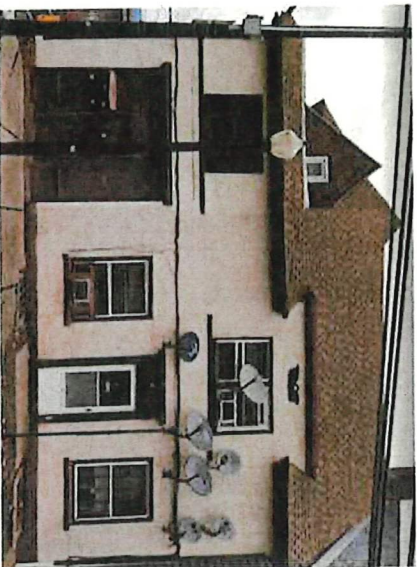


EXHIBIT A-10

COMPARABLE PROPERTIES

Label	Comparable Property Address	Total BR	Total Bth	SqFeet	Type
A	1201 E 4th Street	4	4	2618	2-4 Family
B	1201-03 Mechanic Street	6	2	2160	2-4 Family
C	1161 Mechanic Street	3	2	2538	2-4 Family
D	1202 3rd Street	6	4	2838	2-4 Family
E	1233 E 4th Street	2	2	1500	2-4 Family

A



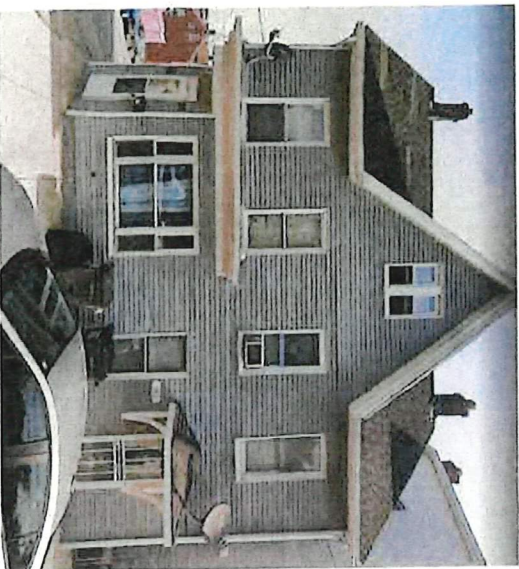
C



E



B



D

