

DATE OF DECISION: 8/7/2023

DATE OF MAILING: 8/7/2023

**BEFORE THE NEW BRITAIN TOWNSHIP  
ZONING HEARING BOARD**

**RE: APPLICATION OF 180 NEW BRITAIN BLVD ASSOCIATES, LLC,  
FOR THE PROPERTIES LOCATED AT 180 NEW BRITAIN BOULEVARD  
(TMP NO. 26-1-100) AND 354 SCHOOLHOUSE ROAD (TMP NO. 26-1-102),  
NEW BRITAIN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA**

**FINDINGS OF FACT**

1. On Thursday, April 20, 2023, at 7:00 p.m. at the New Britain Township Building, 207 Park Avenue, Chalfont, New Britain Township, the New Britain Township Zoning Hearing Board (“Board”) opened a duly noticed hearing on the application of 180 New Britain Blvd Associates, LLC (the “Applicant”).
2. The Applicant is the record owner of the properties located at 180 New Britain Boulevard, New Britain Township, Bucks County Tax Map Parcel No. 26-1-100 (the “NBB Lot”); and 354 Schoolhouse Road, New Britain Township, Bucks County Tax Map Parcel No. 26-1-102 (the “Schoolhouse Lot”).
3. The NBB Lot and the Schoolhouse Lot are collectively referred to herein as the “Property.” The Property is the subject of the instant application.
4. Notice of the April 20, 2023, hearing was published in advance of the hearing in the Thursday, April 6, 2023, and Thursday, April 13, 2023, editions of The Intelligencer, a newspaper publication of general circulation in New Britain Township. *See* Exhibit B-5.
5. Notice of the April 20, 2023, hearing was sent by first class mail on April 12, 2023, by Ryan Gehman, the acting New Britain Township Assistant Planning and Zoning Officer to (a) all record owners of properties in New Britain Township within 500 feet of the Property; and (b) to the adjoining municipality for any surrounding properties that are located in that municipality. *See* Exhibit B-8.
6. Gehman posted notice of the April 20, 2023, hearing on the Property on April 13, 2023, at 11:16 a.m. *See* Exhibit B-9.
7. As the record owner of the Property, the Applicant has the requisite standing to prosecute this zoning hearing board application.
8. No testimony was presented following the opening of the hearing on April 20, 2023. At the request of the Applicant’s representatives, the hearing was continued on the record to May 18, 2023, and to June 22, 2023. The hearing was resumed and concluded on June 22, 2023. *See* Exhibits B-10 through B-13.

9. The Property is located in the IO, Industrial/Office, zoning district under the New Britain Township Zoning Ordinance (the “Zoning Ordinance”).

10. The NBB Lot is improved with a large non-residential building in which the Applicant conducts a flex space use (use K18), together with drive aisles and parking spaces. The Schoolhouse Lot is presently unimproved. *See* Exhibit B-2, Plan.

11. The Applicant proposes to consolidate the NBB Lot and the Schoolhouse Lot to create the Property, and thereafter expand the existing paved parking lot. *See* Exhibit B-2, Plan.

12. To permit the proposed improvements, the Applicant seeks the following relief from the Zoning Ordinance:

- a. a variance from §27-1802.b to permit an impervious surface ratio of 72.19% on the Property, where the maximum ratio permitted by right is 65%; and
- b. a special exception and/or variance from §27-2303.a and §27-2904.g.5 to permit the expanded paved areas to be set back 10.49 feet from the exterior structural wall of the existing building at its closest point, where the required minimum setback is 20 feet.

13. Introduced as exhibits at the zoning hearing are the documents identified on Schedule A attached to this decision. Schedule A is incorporated by reference as though fully set forth herein at length.

14. The Applicant is a Pennsylvania limited liability company. Andrew Miller (“Miller”), officer of Applicant; and Kim Fasnacht, P.E. (“Fasnacht”), registered professional civil engineer, testified in support of the application at the June 22, 2023, hearing.

15. No other individuals appeared at the April 20, 2023, May 18, 2023, or June 22, 2023, hearings to request party status, register a position, comment on, or ask questions regarding the application before the Board. New Britain Township took no position on the application and did not participate in the hearings.

16. Relevant to this application, the Applicant and the NBB Lot are the subject of a prior decision of the Board dated January 21, 2022 (the “2022 Decision”). The Board granted a variance to permit a reduced number of off-street parking spaces on the NBB Lot in support of the K18 use. *See* Exhibit B-14, 2022 Decision.

17. Miller and Fasnacht stated, and the Board finds, that all the relevant Findings of Fact made by the Board in the 2022 Decision regarding the NBB Lot, the use, and the improvements accurately describe the current conditions.

18. Based upon that credible finding, the Board incorporates by reference the applicable Findings of Fact from the 2022 Decision as if the same were fully set forth herein at length, except as modified and/or supplemented herein.

19. The NBB Lot is located in the New Britain Business Park. Its base site area is 6.5 acres. The existing large non-residential building on the Property was constructed in or around 1994. *See* Exhibit B-2, Plan.

20. The NBB Lot is an irregularly shaped lot with frontage on 3 streets. Per the Zoning Ordinance, any yard adjoining a street is considered a front yard. *See Exhibits B-2, Plan; see also Zoning Ordinance §27-201.*

21. The NBB Lot has 345.37 feet of frontage along Trewigtown Road and 516.98 feet of curvilinear frontage along New Britain Boulevard. The NBB Lot also has 362.83 feet of frontage along Schoolhouse Road. *See Exhibit B-2, Plan.*

22. The Schoolhouse Lot is shaped like a rectangle. Its base site area is 0.923 acres, and has 485.58 feet of frontage along Schoolhouse Road. It abuts the NBB Lot along Schoolhouse Road. The tracts share common side and rear lot lines. *See Exhibit B-2, Plan.*

23. Once consolidated, the Schoolhouse Lot will essentially “fill out” the southeast corner of the NBB Lot. Together, the Property’s base site area will be 7.423 acres, and have 701.62 feet of frontage along Schoolhouse Road. *See Exhibit B-2, Plan.*

24. The non-residential building’s front wall is oriented at an angle to New Britain Boulevard. The yard facing Schoolhouse Road behind the building’s rear wall is treated as a rear yard. *See Exhibit B-2, Plan.*

25. Vehicles will enter and exit the Property through the 2 existing access points on to New Britain Boulevard. There will continue to be no vehicular or pedestrian access to the Property from either Trewigtown Road or Schoolhouse Road. *See Exhibit B-2, Plan.*

26. An 80 feet wide gas line easement runs through the Property’s functional side yard, from New Britain Boulevard to the lot line along Schoolhouse Road. A large stormwater basin is in the front section of this side yard. *See Exhibit B-2, Plan.*

27. Miller and Fasnacht stated, and the Board finds, that the NBB Lot has 137 off-street parking spaces, as permitted by the 2020 Decision. These spaces are located in parking lots abutting each side of the building. *See Exhibit B-2, Plan.*

28. Miller stated, and the Board finds, that building’s sole tenant and occupant is PDM Constructors, Inc. (“PDM”), a Pennsylvania corporation. Miller confirmed that PDM and the Applicant remain under common control by the same owners.

29. Miller stated, and the Board finds, that PDM’s business at the Property is thriving. As a result, the Applicant desires to expand the parking lot behind the building’s rear wall on the NBB Lot across the Schoolhouse Lot. The building will not be enlarged. *See Exhibit B-2, Plan.*

30. At its closest point, the parking area is 10.49 feet from the building’s rear north corner. Other areas of the paved parking lot are closer to the building. These separation distances exist as lawful non-conformities. *See Exhibits B-2, Plan; and B-1, Determination; see also Zoning Ordinance §27-2904.g.5.*

31. Miller and Fasnacht stated, and the Board finds, that the parking lot expansion will begin behind the building’s rear north corner. The new macadam surface will follow the existing non-conforming parking lot line. *See Exhibit B-2, Plan.*

32. Behind the building, 3 of the new spaces will be 17.87 feet from the rear wall. The majority of the paved area expansion behind the building will be at least 20 feet from the exterior rear wall. *See Exhibit B-2, Plan.*

33. Miller and Fasnacht stated, and the Board finds, that 36 new conventional parking spaces will be provided near this building corner. Five (5) loading docks and 19 trailer spaces will be installed behind the building and across the Schoolhouse Lot. *See Exhibit B-2, Plan*

34. The drive aisle between the loading docks and trailer spaces will connect to the existing aisle along the building's southern side wall. This will allow for non-truck vehicles to fully circulate around the building. Large delivery trucks will be limited to the loading area. *See Exhibit B-2, Plan.*

35. Miller stated, and the Board finds, that the storage trailers to be parked in the new spaces will contain valuable raw materials used in PDM's business. The trailers will be fully enclosed and secured, as well as screened from view along Schoolhouse Road.

36. Fasnacht stated, and the Board finds, following installation of the expanded parking lot and drive aisles, the Property will contain 5.462 acres of impervious surfaces. This produces a ratio of 72.19%. *See Exhibit B-2, Plan.*

37. To account for the stormwater runoff caused by the proposed excess impervious surfaces on the Property, Fasnacht stated, and the Board finds, that an underground detention system will be installed under the new parking area. *See Exhibit B-2, Plan.*

38. Fasnacht stated, and the Board finds, that the stormwater management facility has not been designed yet. Miller agreed that the facility will comply with the New Britain Township Stormwater Management Ordinance and will be approved by the Township Engineer. *See Exhibit B-2, Plan.*

39. Fasnacht stated, and the Board finds, that the finally designed, engineered and installed stormwater BMP facility will infiltrate and control the amount of water runoff from the Property to produce an effective impervious surface ratio of not to exceed 65%. *See Exhibit B-2, Plan.*

40. The Board finds that the Property, being zoned Industrial/Office and located within the existing New Britain Business Park, can accommodate the expanded paved parking area without overburdening the Property or negatively impacting the surrounding properties.

41. Due to the Property's odd shape, its frontage along 3 streets, and the gas line easement, the Property contains unique physical characteristics that support relief from the impervious surface ratio and paved area separation distance restrictions.

42. The Board finds that the Zoning Ordinance's impervious surface ratio and paved area separation distance requirements, together with these unique physical characteristics, impose a hardship on the Property and the Applicant.

43. Subject to the conditions imposed herein, the expanded paved parking area and lot consolidation, together with the stormwater management facilities, are harmonious with the Property's size and are consistent with uses of other properties in the surrounding neighborhood.

### CONCLUSIONS OF LAW

1. Required public notice of the date, time and location of the April 20, 2023, hearing was made by sufficient advanced publication, posting and mailing to affected property owners.

2. In order to show entitlement to a variance, use or dimensional, an applicant must demonstrate all the following elements where relevant in any given case:

- a. an unnecessary hardship stemming from unique physical characteristics or conditions will result if the variance is denied;
- b. because of such physical circumstances or conditions, there is no possibility that the property can 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;
- c. the hardship has not been created by the applicant;
- d. granting the variance will not alter the essential character of the neighborhood nor be detrimental to the public welfare; and
- e. the variance sought is the minimum that will afford relief.

3. The Board finds that the impervious surface ratio variance and the request to extend the non-conforming paved area building separation distance are dimensional in nature. A dimensional variance arises in situations where the Zoning Ordinance permits or requires a certain dimension and that requirement or allowance is sought to be varied by degree. *See Constantino v. ZHB of Forest Hills Borough*, 636 A.2d 1266 (Pa. Commw. 1994); *see also Township of Northampton v. Zoning Hearing Board*, 969 A.2d 24 (Pa. Commw. 2009).

4. An applicant can demonstrate "unnecessary hardship" for a use or dimensional variance by showing that: (a) a property's physical characteristics are such that the property cannot be used for any permitted use or purpose; (b) the property can only conform to a permitted use or purpose at prohibitive expense; or (c) that the property has either no value or only distress value for any permitted purpose. *See Nowicki v. Zoning Hearing Board of Monaca Borough*, 91 A.3d 287 (Pa. 2014).

5. When deciding whether a hardship has been established in dimensional variance cases, the *Hertzberg* rationale authorizes the Board to consider multiple factors, including (a) the economic detriment to the applicant if relief is denied; (b) the financial hardship created by any work necessary to bring the proposed improvements into strict compliance with the zoning requirements; and (c) the characteristics of the surrounding neighborhood. *See Hertzberg, supra*, at 47, 50.

6. Nevertheless, the reasons for granting a variance must be substantial, serious and compelling. The party seeking the variance bears the burden of proving that (a) unnecessary hardship will result if the variance is denied; and (b) the proposed use will not be contrary to the public interest. *See Wilson v. Plumstead Township Zoning Hearing Board*, 936 A.2d 1061 (Pa. 2007).

7. The Board concludes that the Property's odd shape, frontage on 3 streets, and large gas line easement establish a hardship under the *Hertzberg* standard sufficient to justify the variances requested.

8. Critical to the Board's conclusions herein is the fact that the building is not being further expanded, but parking spaces are being added. In essence, the Applicant is reducing the degree of the off-street parking spaces variance granted in the 2022 Decision.

9. The Board concludes that while the Applicant has established a hardship to justify an impervious surface ratio of 72.197%, the Applicant will alleviate the runoff hazards through the stormwater management BMP facility approved by New Britain Township to produce an effective and *de facto* impervious surface ratio of not to exceed 65%. *See Exhibit B-2, Plan.*

10. Regarding the paved area building separation distance, the Board finds that the area was previously extended along its existing plane within this 20 feet distance. Hence, this subsequent extension is permitted upon special exception approval.

11. The Board finds that the Property's unique physical characteristics supporting the impervious surface ratio request equally justify the paved area building separation distance ask. As such, the special exception request is immaterial to the Board's actions.

12. The Board concludes that the proposed paved area extension satisfies the general and specific conditions of Zoning Ordinance §27-2303.a and §27-2904.g.5 required for the special exception to permit the new paved areas to be within 20 feet of the building's exterior structural walls, per the design set forth in the definitive plan (Exhibit B-2).

13. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Applicant has met the Zoning Ordinance and Pennsylvania law requirements for the relief, including hardship, to consolidate the NBB Lot and the Schoolhouse Lot to create the Property, and expand the paved parking area.

14. The approved variance will not alter the essential character of the neighborhood in which the Property is located nor substantially impair the appropriate use or development of adjacent properties.

15. The approved variance will not be detrimental to the public welfare.

16. The conditions and circumstances imposing a hardship upon the Property for the approved variance are not of the Applicant's own doing.

17. The approved variance represents the minimum variance that will afford relief and represents the least modification of the zoning regulations under the circumstances.

**DECISION**

AND NOW, this 7th day of August, 2023, upon consideration of the foregoing Findings of Fact and Conclusions of Law, the New Britain Township Zoning Hearing Board hereby **GRANTS** the Applicant’s requests for relief from the Zoning Ordinance as follows:

a. A variance is granted from §27-1802.b to permit an impervious surface ratio of 72.19% on the Property; and

b. A special exception is granted pursuant to §27-2303.a and §27-2904.g.5 to extend the existing parking area and reduce the required minimum setback of paved areas abutting the exterior structural walls of the proposed buildings to 10.49 feet at its closest point, in accordance with the dimensions and design set forth on the definitive plan (Exhibit B-2).

The relief granted above is subject to the following conditions:

1. The proposed lot consolidation, expanded paved parking area, stormwater management facility, and other improvements’ dimensions, size, location and appearance shall be in accordance with the definitive plans, evidence, representations and credible testimony made at the hearing.


2. The NBB Lot and the Schoolhouse Lot shall be consolidated of record to create the Property. The legal description of the Property shall be approved by the New Britain Township engineer.

3. The Applicant and its design professional shall revise the Zoning Plan (Exhibit B-2) and submit a certification letter, if necessary, to the satisfaction of Gehman and the New Britain Township Engineer, to confirm that the finally engineered, designed and installed stormwater management improvements will produce an effective impervious surface ratio of not more than 65% on the Property.

4. The Applicant shall install, maintain and replace the stormwater management facility and improvements approved by New Britain Township on the Property in accordance with this Decision and all applicable New Britain Township ordinances.

5. This decision does not waive any requirements of any other applicable New Britain Township Ordinance(s); and the proposed use(s) and/or improvement(s) must meet all other applicable federal, state, county and New Britain Township regulations and codes.

The signatures of the New Britain Township Zoning Hearing Board members that appear on the following page attached hereto and incorporated herein, confirms the Board’s decision and order.

DocuSigned by:  
  
By: \_\_\_\_\_  
Ryan Gehman  
New Britain Township  
Assistant Planning and Zoning Officer

Date: 8/7/2023

Thomas J. Walsh III, Esquire  
Solicitor, New Britain Township Zoning Hearing Board  
3655 Route 202, Suite 105  
Doylestown, PA 18902

**Note to Applicant:** This Decision is NOT an authorization to build. Zoning and building permits must be obtained from New Britain Township prior to the commencement of any construction.

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## SCHEDULE A – TABLE OF EXHIBITS

<b>Exhibit</b>	<b>Description</b>
B-1	Zoning Hearing Board application (dated 3/16/23). Attachments: <ul style="list-style-type: none"><li>• Narrative outlining relief requested</li><li>• Deed dated 1/31/2022 (354 Schoolhouse Road)</li><li>• Deed dated 12/20/2021 (180 New Britain Boulevard)</li><li>• Zoning Officer determination dated 8/21/2021</li></ul>
B-2	Zoning Plan, 1 sheet, prepared by Rettew Associates, Inc., dated 3/7/23
B-3	Letter to The Intelligencer dated 3/20/23 forwarding public notice of hearing for publication
B-4	Public Notice of the hearing on 4/20/23
B-5	Proof of publication of public notice in 4/6/23 and 4/13/23 editions of The Intelligencer
B-6	Letter to Applicant and Attorney dated 3/30/23 providing notice of 4/20/23 hearing
B-7	List of the record owners of all properties within 500 feet of the Property
B-8	Affidavit of mailing to property owners – notice mailed on 4/12/23
B-9	Affidavit of posting of public notice at property – notice posted on 4/13/23 at 11:16 a.m., together with photograph of posting
B-10	Letter dated 4/18/23 from Applicant’s counsel requesting continuance, granting extension
B-11	Letter dated 5/11/23 from Applicant’s counsel requesting continuance, granting extension
B-12	Public Notice of the hearing on 6/22/23
B-13	Proof of publication of public notice in 6/8/23 and 6/15/23 editions of The Intelligencer
B-14	ZHB Decision dated 1/21/2022
B-15	Bucks County Floodplain Viewer Aerial and Map

**New Britain Township**  
**Zoning Hearing Board**

**Signature Page**

Re: 180 New Britain Blvd Associates, LLC  
180 New Britain Boulevard / TMP No. 26-1-100  
354 Schoolhouse Road / TMP No. 26-1-102  
New Britain Township

Date: August 7, 2023

Chuck Coxhead, Chair

DocuSigned by:  
*Charles A Coxhead*  
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Cathy Basilio, Vice Chair

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*Cathy Basilio*  
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Scott Fischer, Member

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*Scott Fischer*  
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Ryan Wantz, Alternate Member

/ABSENT/

DATE OF DECISION: 5/22/23

DATE OF MAILING: 5/23/23

**BEFORE THE NEW BRITAIN TOWNSHIP  
ZONING HEARING BOARD**

**RE: APPLICATION OF MARIE SCHMIDT AND JOHN LEAHY  
FOR THE PROPERTY LOCATED AT 338-340 PARK AVENUE, NEW  
BRITAIN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA,  
FURTHER IDENTIFIED AS TAX MAP PARCEL NO. 26-11-66-1**

**FINDINGS OF FACT**

1. On Thursday, April 20, 2023, at 7:00 p.m. at the New Britain Township Building, 207 Park Avenue, Chalfont, New Britain Township, the New Britain Township Zoning Hearing Board (“Board”) held a duly noticed hearing on the application of Marie Schmidt (“Schmidt”) and John Leahy (“Leahy”)¹.

2. Schmidt and Leahy are collectively referred to in this Decision as the “Applicants.”

3. Schmidt is the record owner of the property located at 338-340 Park Avenue, New Britain Township, also known as Bucks County Tax Map Parcel No. 26-11-66-1 (the “Property”). The Property is the subject of this application.

4. The Property’s current deed is recorded in Bucks County Deed Book 1676, Page 1546. *See* Exhibit B-2, Deed.

5. Leahy is a member and officer of Peace Valley Studios, LLC (“PVS”), a Pennsylvania limited liability company. PVS is the prospective tenant of a certain non-residential building (the “Premises”) on the Property. The Premises are also the subject of this application.

6. Notice of the April 20, 2023, hearing was published in advance of the hearing in the Thursday, April 6, 2023, and Thursday, April 13, 2023, editions of The Intelligencer, a newspaper publication of general circulation in New Britain Township. *See* Exhibit B-6.

7. Notice of the April 20, 2023, hearing was sent by first class mail on April 12, 2023, by Ryan Gehman (“Gehman”), the New Britain Township Zoning Officer, to (a) all record owners of properties within New Britain Township surrounding the Property; and (b) to the adjoining municipality for any surrounding properties that are located in that municipality. *See* Exhibit B-9.

8. Gehman posted notice of the April 20, 2023, hearing on the Property on April 13, 2023, at 10:57 a.m. *See* Exhibit B-10.

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¹ Leahy was not an original applicant on the application as submitted. At the outset of the hearing, he sought leave from the Board, which it granted, to be added as a co-Applicant.

9. Schmidt and Leahy stated, and the Board finds, that the Premises and certain exterior portions of the Property are subject to a lease agreement between the Leahy and PVS (as tenants) and Schmidt (as landlord).

10. As Schmidt is the record owner of the Property, and Leahy and PVS are the occupants and tenants of the Premises, together with the right to use portions of the Property, the Applicants have the requisite standing to prosecute this zoning hearing board application.

11. The Property is located in the WS, Watershed, zoning district under the New Britain Township Zoning Ordinance (the "Zoning Ordinance").

12. Leahy stated, and the Board finds, that PVS is a commercial music and art instruction business. PVS provides art, guitar, piano, and drum lessons to children 18 years of age and below. PVS presently operates at 102 West Butler Avenue, New Britain. It has outgrown this space.

13. Leahy proposes to relocate the PVS business to the Premises and portions of the Property. This commercial trade school use (use D3) is intended to replace the prior non-conforming animal hospital use (use A11) previously conducted on the Property. *See* Exhibit B-2, Letter.

14. To conduct the commercial trade school use as a non-conforming use on the Property, the Applicants seek a special exception pursuant to Zoning Ordinance §27-2304 and §27-3103 to permit the change from the existing non-conforming A11 use to the proposed non-conforming D3 use.

15. Alternatively, the Applicants seek a variance from §27-501 to conduct the proposed D3 use in the Premises and certain portions of the Property, where a D3 use is not permitted in the WS zoning district.

16. Introduced as exhibits at the hearing are the documents identified on Schedule A attached to this decision. Schedule A is incorporated by reference as though fully set forth herein at length.

17. The following individuals requested and were granted party status to the application: Christopher and Patricia Begrow (the "Begrows"), 332 Park Avenue, New Britain Township. New Britain Township took no position on the application.

18. The Property is a large lot. It is shaped like a long and narrow triangle. The Property's lot area is roughly 4 acres. *See* Exhibit B-11, Viewer.

19. The Property has 445.28 feet of frontage along Park Avenue. The northern side lot line is 1,273.15 feet long. The other side lot line is 946.47 feet long. There is no rear lot line. *See* Exhibits B-2, Deed; and B-11, Viewer.

20. The Property is improved with a single-family ranch-style detached dwelling (the "Dwelling") (use B1) constructed in or around 1952. The Dwelling is located in the Property's front section near the longer side lot line. *See* Exhibit B-11, Viewer.

21. A paved driveway to Park Avenue serves the Dwelling and a small adjacent parking area. An in-ground pool is in the rear yard behind the Dwelling. Schmidt stated, and the Board finds, that she resides in the Dwelling. *See Exhibit B-11, Viewer.*

22. The Premises is a 1,152 square feet one-story non-residential building, constructed in or around 1976. Its front wall is oriented toward Park Avenue. Its southern side wall faces the driveway and parking area that serve the Dwelling. *See Exhibit B-11, Viewer.*

23. A parking area is in front of the Premises. It is very close to Park Avenue. Two separate ingress and egress points to Park Avenue provide access to this parking lot. *See Exhibit B-11 Viewer.*

24. This parking area is paved but unstriped. Schmidt and Leahy stated, and the Board finds, that it can accommodate up to 9 vehicles. *See Exhibit B-11, Viewer.*

25. Although both the Dwelling and the Premises are on the Property, they have different street addresses. Schmidt stated, and the Board finds, that the Dwelling is 338 Park Avenue. The Premises is 340 Park Avenue.

26. Schmidt stated, and the Board finds, that the prior non-conforming use at the Premises was an animal hospital (use A11). The animal hospital (i.e., veterinary clinic) was first established on the Property in 1957. *See Exhibit B-2, Letter.*

27. Schmidt stated, and the Board finds, that the most recent A11 use operator was Chalfont Veterinary Clinic. Prior to relocating, this use experienced close to 20 vehicle trips per day. It was open 8 a.m. to 10 p.m. every day except Sunday. *See Exhibit B-2, Letter.*

28. Schmidt stated, and the Board finds, that although the veterinary use has not been conducted in the Premises for at least 3 years, she has made continuous efforts to re-let the Premises to a non-residential user. Two (2) prior applications to the Board were withdrawn because the prospective user backed out.

29. Leahy stated, and the Board finds, that roughly one-fourth of the children that PVS works with have autism. Leahy holds a specialized autism certification from IBCCES. *See Exhibit A-1, Certification.*

30. Leahy stated, and the Board finds, that art and music instruction will be provided at the Premises as well as in-person at the student's home on a one-on-one basis. On most occasions, 2 lessons will be occurring in the Premises at the same time. Lessons are either 30 or 45 minutes long.

31. Leahy stated, and the Board finds, that PVS will typically serve between 4 and 8 students per day, slightly more when drum instruction is being conducted. A few times each month, PVS may hold a special event with several students attending.

32. Leahy stated, and the Board finds, that the maximum number of employees at the Premises at any one time will generally be 2. If parents remain at the Premises during lessons, up to 6 people will be in the Premises for those sessions.

33. Leahy stated, and the Board finds, that PVS's hours will be Monday through Friday, 3 p.m. to 7:30 p.m.; and 10 a.m. to 1 p.m. on Saturday. PVS will be closed on Sunday.

34. Leahy stated, and the Board finds, that all activities will be held indoors at the Premises. There will be no outdoor concerts, recitals or instruction at the Property.

35. Leahy stated, and the Board finds, that reduced amplifiers and drum kits are used to control volume levels. PVS will repurpose its sound proofing materials from its existing location to the Premises to further reduce the noise that may escape from the Premises during performances or lessons.

36. Schmidt and Leahy stated, and the Board finds, that the parking lot next to the Premises will not be expanded as it can accommodate PVS's parking needs. Leahy expects only 7 to 10 trips per day, and a maximum of 5 to 6 vehicles in the adjoining parking lot at any one time. *See Exhibit B-11, Viewer.*

37. Schmidt and Leahy stated, and the Board finds, that PVS's proposed commercial trade school music and art instruction use will be less intense in terms of traffic, environmental effects, storage and waste disposal, and appearance than the previously operated animal hospital use.

38. As the Board finds that the requested special exception is warranted, the Board concludes that the Applicants' request for a variance to conduct the D3 use is moot.

39. Subject to the conditions imposed herein, the proposed commercial trade school use (use D3), its size and location, is harmonious with the Premises' and Property's size and consistent with uses of other properties in the surrounding neighborhood.

### **CONCLUSIONS OF LAW**

1. Required advanced public notice of the date, time and location of the April 20, 2023, hearing was made by sufficient advanced publication, posting and mailing to affected property owners.

2. As a threshold matter, the Board concludes that although actual abandonment has not been asserted, the prior non-conforming animal hospital use has not been abandoned despite being inactive for over 1 year. *See Zoning Ordinance §27-2305.*

3. Pennsylvania law holds that where a property owner shows her intent not to abandon an inactive non-conforming use, the mere failure to use the property for a designated time provided under a zoning ordinance's discontinuance regulation will not render the use actually abandoned. *See Latrobe Speedway v. ZHB of Unity Township, 720 A.2d 127, 130 (Pa. 1998).*

4. Based upon her credible testimony, Schmidt has rebutted the Zoning Ordinance's presumption of abandonment. The Board concludes that Schmidt has made continuous efforts to re-let the Premises to a non-residential user since the last animal hospital ceased operations.

5. When a landowner applies for a special exception, the Board's function is to determine that such specific facts, circumstances and conditions exist which comply with the standards of the Zoning Ordinance and merit the granting of the special exception. *See Broussard v. Zoning Board of Adjustment of City of Pittsburgh*, 907 A.2d 494 (Pa. 2006).

6. Zoning Ordinance §27-3103.a provides that "the Board shall grant a special exception only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements as well as any specific requirements and standards listed [in this Zoning Ordinance] for the proposed use."

7. Regarding the general criteria applicable to a special exception, Zoning Ordinance §27-3103.a provides that the Board shall, among other things, require the proposed use and location to be:

- a. in accordance with the New Britain Township Comprehensive Plan and consistent with the spirit, purposes and intent of [the Zoning Ordinance];
- b. in the best interests of [New Britain] Township, the convenience of the community, the public welfare and be a substantial improvement to the property in the immediate vicinity;
- c. suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;
- d. in conformance with all applicable requirements of [the Zoning Ordinance];
- e. suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
- f. in accordance with sound standards of subdivision practice where applicable.

8. Regarding specific criteria applicable to a commercial trade school use, Zoning Ordinance §27-305.D.D3 defines a "Commercial Trade School" use as a "commercial trade or professional school; are, music or dancing school; other schools not included under use D2 (college, primary or secondary school)."

9. Based upon Leahy's credible testimony, the Board concludes that PVS's proposed activity qualifies as a "commercial trade school" use as that phrase is used and defined under the Zoning Ordinance.

10. The Board concludes that neither an animal hospital nor a commercial trade school use is permitted in the WS zoning district. As such, the Applicants' proposal to substitute the commercial trade school use for the prior non-conforming animal hospital use qualifies as a proposed change of non-conforming uses.

11. Zoning Ordinance §27-2394 provides the following specific regulations regarding any proposal to change a nonconforming use to another nonconforming use on a property:

- a. The existing nonconforming use cannot be reasonably changed to a permitted use. (§27-2304.b).
- b. The proposed nonconforming use is less objectionable in external effects than the existing nonconforming use with respect to:
  - (1) Traffic generation and congestion including truck, passenger car and pedestrian traffic. (§27-2304.c.1).
  - (2) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration. (§27-2304.c.2).
  - (3) Storage and waste disposal (§27-2304.c.3).
  - (4) Appearance (§27-2304.c.4)

12. Under Pennsylvania law, the Board shall refuse an application for special exception where opponents to the application establish by a preponderance of evidence that the application is contrary to the health, safety and morals of general welfare of the community at large.

13. If an applicant demonstrates that the proposal meets the specific and general criteria of Zoning Ordinance, and no evidence is presented that requires a finding that the proposal is detrimental to the public interest, the Board must find that the proposed commercial trade school use is permitted.

14. The Board concludes that Leahy's and PVS's commercial trade school use will be contained and operated in the Premises and adjacent parking area on the Property. This follows the practice employed by the prior non-conforming animal hospital use.

15. The Board concludes that the Premises is not readily adaptable to the other uses permitted in the WS zoning district. Removal of a primary building on the Property is an unreasonable solution to conducting a conforming use on the Property.

16. The Board concludes that the proposed commercial trade school use will generate less traffic than the prior animal hospital use. The commercial trade school use's environmental effects, storage and waste disposal and appearance will not be more intense than the prior non-conforming animal hospital use.

17. In this matter, no relevant evidence was presented by any intervening, objecting or protesting parties to show that the proposed non-conforming commercial trade school use is detrimental to the public interest. The Begrows supported the application.

18. The Board has the power to attach reasonable conditions regarding the performance of the commercial trade school use to any relief it grants that it deems necessary to secure the Zoning Ordinance's objectives. *See* Zoning Ordinance §27-3103.b.



19. The Board believes that limiting the commercial trade school use to the music and art instruction activity as described in the credible testimony is a reasonable safeguard that should be placed upon the relief granted herein to preserve the residential nature of the area.

20. Subject to the conditions attached hereto, the proposed non-conforming commercial trade school use is in accordance with the New Britain Township Comprehensive Plan and is consistent with the spirit, purposes and intent of the Zoning Ordinance.

21. Subject to the conditions attached hereto, the proposed non-conforming commercial trade school use is in the best interests of New Britain Township, the convenience of the community, the public welfare and is a substantial improvement to the properties in the immediate vicinity.

22. Subject to the conditions attached hereto, the proposed non-conforming commercial trade school use is suitable for the Property; and will be designed, constructed, operated and maintained in harmony with and appropriate in appearance to the general vicinity's character.

23. Provided the non-conforming commercial trade school use is conducted in accordance with the conditions attached herein, the proposed use is suitable in terms of effects on highway traffic and safety and will be harmonious with the surrounding neighborhood.

**DECISION**

AND NOW, this 22<sup>nd</sup> day of May, 2023, upon consideration of the foregoing Findings of Fact and Conclusions of Law, the New Britain Township Zoning Hearing Board hereby **GRANTS** the Applicants' request for a special exception pursuant to Zoning Ordinance §27-2304 and §27-3103 to change the prior non-conforming animal hospital (use A11) use on the Property to a non-conforming commercial trade school use (use D3), subject to the following conditions:

1. The commercial trade school use's dimensions, operations, location and appearance shall be in accordance with the photos, drawings, evidence, representations and/or credible testimony made and submitted at the hearing.

2. The commercial trade school use shall be limited to a music and art instruction business as described in the testimony and evidence. Should the Applicants or any future owner/occupant of the Premises or Property wish to conduct any other type of commercial trade school use, further relief from the Board shall be required.

3. The commercial trade school use shall be limited to the Premises and the adjoining parking lot. The parking of vehicles for the commercial trade school use along Park Avenue or on the grassy areas of the Property is prohibited.

4. Outdoor concerts, performances, recitals, practices or similar activities are prohibited.

5. The hours of operation shall be limited to Monday through Friday, 3 p.m. to 7:30 p.m.; and Saturday, 10 a.m. to 1 p.m. Sunday or other times will be limited to 1 to 2 times per month for group gatherings.

6. The residential dwelling and use shall remain on the Property.

7. The foregoing conditions shall be binding on any future owner and/or occupant of the Premises and the Property, as well as the operator of any non-residential use at the Premises and the Property.

8. This decision does not waive any requirements of any other applicable New Britain Township Ordinance(s); and the proposed use(s) and/or improvement(s) must meet all other applicable federal, state, county and New Britain Township regulations and codes.

The signatures of the New Britain Township Zoning Hearing Board members that appear on the following page attached hereto and incorporated herein confirm the Board's decision and order.

DocuSigned by:  
By: Ryan Gehman  
A767D54E6A9043A...  
Ryan Gehman  
New Britain Township  
Assistant Planning and Zoning Officer

Date: 5/22/2023

Thomas J. Walsh III, Esquire  
Solicitor, New Britain Township Zoning Hearing Board  
3655 Route 202, Suite 105  
Doylestown, PA 18902

**Note to Applicant:** This Decision is NOT an authorization to build. Zoning and building permits must be obtained from New Britain Township prior to the commencement of any construction or use activity.

## SCHEDULE A – TABLE OF EXHIBITS

<b>Exhibit</b>	<b>Description</b>
B-1	Zoning Hearing Board application dated 2/22/23 Attachments to Application: <ul style="list-style-type: none"><li>• Deed dated 6/24/1998</li><li>• Deed dated 12/14/1988</li></ul>
B-2	Township Zoning Officer letter dated 4/23/2014 re: registration of non-conformity
B-3	Certificate of Occupancy dated 7/9/2014
B-4	Letter to The Intelligencer dated 3/30/23
B-5	Public Notice of the hearing on 4/20/2023
B-6	Proof of publication of public notice in 4/6/23 and 4/13/23 editions of The Intelligencer
B-7	Letter to Applicant dated 3/30/23 providing notice of hearing
B-8	List of the record owners of all properties within 500 feet of the Property, map
B-9	Affidavit of mailing to property owners – notice mailed on 4/12/2023
B-10	Affidavit of posting of public notice at property – notice posted on 4/13/2023
B-11	Bucks County Floodplain Viewer Aerial and Map of Property
A-1	IBCCES Autism Certification

**New Britain Township**  
**Zoning Hearing Board**

**Signature Page**

Re: Marie Schmidt and John Leahy  
338-340 Park Avenue  
New Britain Township  
TMP No. 26-11-66-1

Date: 5/22/2023

Chuck Coxhead, Chair

DocuSigned by:  
*Charles A Coxhead*  
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Cathy Basilio, Vice Chair

DocuSigned by:  
*Cathy Basilio*  
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Scott Fischer, Member

DocuSigned by:  
*Scott Fischer*  
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Ryan Wantz, Alternate Member

DocuSigned by:  
*Ryan Wantz*  
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DATE OF DECISION: 5/22/23

DATE OF MAILING: 5/23/23

**BEFORE THE NEW BRITAIN TOWNSHIP  
ZONING HEARING BOARD**

**RE: APPLICATION OF MICHAEL AND SUSHAMA THEVAR  
FOR THE PROPERTY LOCATED AT 308 DOROTHY LANE,  
NEW BRITAIN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA,  
FURTHER IDENTIFIED AS TAX MAP PARCEL NO. 26-1-125-13**

**FINDINGS OF FACT**

1. On Thursday, April 20, 2023, at 7:00 p.m. at the New Britain Township Building, 207 Park Avenue, Chalfont, New Britain Township, the New Britain Township Zoning Hearing Board (“Board”) held a duly noticed hearing on the application of Michael and Sushama Thevar (the “Applicants”).

2. The Applicants are the record co-owners of the property located at 308 Dorothy Lane, New Britain Township, also known as Bucks County Tax Map Parcel No. 26-1-125-13 (the “Property”). The Property is the subject of the instant application.

3. Notice of the April 20, 2023, hearing was published in advance of the hearing in the Thursday, April 6, 2023, and Thursday, April 13, 2023, editions of The Intelligencer, a newspaper publication of general circulation in New Britain Township. *See* Exhibit B-6.

4. Notice of the April 20, 2023, hearing was sent by first class mail on April 12, 2023, by Ryan Gehman (“Gehman”), the New Britain Township Assistant Planning and Zoning Officer, to (a) all record owners of properties in New Britain Township that are within 500 feet of the Property; and (b) to the adjoining municipality for any surrounding properties that are located in that municipality. *See* Exhibit B-9.

5. Gehman posted notice of the April 20, 2023, hearing on the Property on April 13, 2023, at 11:05 a.m. *See* Exhibit B-10.

6. As the record co-owners of the Property, the Applicants have the requisite standing to prosecute this zoning hearing board application.

7. The Property is located in the SR-2, Suburban Residential, zoning district under the New Britain Township Zoning Ordinance (the “Zoning Ordinance”).

8. The Applicants proposes an accessory non-commercial swimming pool (use H4) on a lot improved with an existing single-family detached dwelling (use B1). Such uses and structures are permitted by right in the SR-2 zoning district. *See* Zoning Ordinance §27-801.a.

9. To permit the non-commercial swimming pool, the Applicants seek variances from the following sections of the Zoning Ordinance:

- a. From §27-305.H.H4.b.2 to permit the pool to be between the principal dwelling structure and the right-of-way line of Anna Way; and
- b. From §27-802.b and §27-804.a to permit the pool accessory structure to be within the required minimum 50 feet front yard setback area along Anna Way.

10. Introduced as exhibits at the zoning hearing are the documents identified on Schedule A attached to this decision. Schedule A is incorporated by reference as though fully set forth herein at length.

11. The Applicants testified in support of the application at the hearing. New Britain Township took no position on the application.

12. The following individual requested and was granted party status to the application: Paul Karcewski (“Karcewski”), 109 Walter Road, New Britain Township. Karcewski’s lot is adjacent to the Property’s lone non-street lot line.

13. The Property is Lot 12 of the Estates of Julius Farm residential subdivision, the plan for which was recorded with the Bucks County Recorder of Deeds Office at Instrument No. 2016028183. The Board takes judicial notice of the foregoing record subdivision plan. *See* 42 Pa.C.S. §6102.

14. According the Applicants and Bucks County records, the single-family dwelling was constructed in or around 2019. The Applicants acquired the Property in September 2019. *See* Exhibit B-1, Deed.

15. The Property is shaped like a long and narrow rectangle. The Property’s base site area is 2.096 acres. *See* Exhibit B-3, Plan.

16. The Property has frontage on 3 streets, making it a corner lot with multi-road frontage under the Zoning Ordinance. On a corner lot, any yard adjoining a street is considered a front yard. *See* Exhibit B-3, Plan; *see also* Zoning Ordinance §27-201.4.

17. The Property has 150.17 feet of linear frontage along Walter Road and 416.94 feet of linear frontage along Anna Way. At the intersection of these 2 streets, the Property has 54.98 feet of curvilinear frontage. *See* Exhibit B-3, Plan.

18. The Property has 114.85 feet of linear frontage along Dorothy Lane. The lone non-street lot line has 2 sections that are 510.55 feet and 69.36 feet long. *See* Exhibit B-3, Plan.

19. A natural gas pipeline and related easement traverses through the Property’s functional rear corner abutting Anna Way and Walter Road. The Property’s entire rear and side yards along the non-street side lot line consist of protected natural resources. *See* Exhibit B-3, Plan.

20. This gas easement, riparian buffers and preserved woodlands render the Property’s functional rear and side lot yards and much of the building envelope off-limits to improvements. *See* Exhibit B-3, Plan.

21. The dwelling is located closest to and oriented toward Dorothy Lane. A macadam driveway to Dorothy Lane connects to a side-entry garage. The Property has no drive access to Walter Road or Anna Way. *See Exhibit B-3, Plan.*

22. The Applicants stated, and the Board finds, that the proposed pool and surrounding coping will be in the Property's yard along Anna Way. Roughly one-half of the pool will extend beyond the dwelling's side wall facing Anna Way. *See Exhibit B-3, Plan.*

23. Measured from the water's edge, the pool will be setback 41.9 feet from the Property's front lot line along Anna Way. The equipment pad will be re-located to be within the yard along Anna Way to reduce runoff toward the Karcewski lot. *See Exhibit B-3, Plan.*

24. The Applicants stated, and the Board finds, that the pool and related improvements are located in the Property's only area that is outside the protected resources. Buffer plantings will be installed between the pool and Anna Way. *See Exhibit B-3, Plan.*

25. The Applicants stated, and the Board finds, that an infiltration berm is proposed behind the pool to collect the runoff generated from the new impervious surfaces. This berm will be extended toward Karcewski's lot to capture additional runoff. *See Exhibit B-3, Plan.*

26. The Applicants stated, and the Board finds, that they are willing to install appropriate signage to ensure that pool drainage and other pool maintenance activities are directed away from Karcewski's lot. *See Exhibit B-3, Plan.*

27. The Applicants stated, and the Board finds, that they investigated installing the pool and supporting improvements in different locations to remove the pool from the front yard along Anna Way. No such alternative location is possible on the Property.

28. Due to the Property's status as a corner lot and prevalent protected areas, the Property contains unique physical characteristics that support relief for the proposed accessory non-commercial swimming pool to be located in the front yard along Anna Way in front of the existing dwelling.

29. The Zoning Ordinance's dimensional limitations impose a hardship on the Property and the Applicants in that these regulations prevent a reasonably sized accessory non-commercial swimming pool on the Property.

30. Subject to the conditions imposed herein, the proposed accessory non-commercial swimming pool and related improvements, its size and location, is harmonious with the Property's size and consistent with uses of other properties in the surrounding neighborhood.

### **CONCLUSIONS OF LAW**

1. Required public notice of the date, time and location of the April 20, 2023, hearing was made by sufficient advanced publication, posting and mailing to affected property owners.

2. In order to show entitlement to a variance, use or dimensional, an applicant must demonstrate all the following elements:

- a. an unnecessary hardship stemming from unique physical characteristics or conditions will result if the variance is denied;
- b. because of such physical circumstances or conditions, there is no possibility that the property can 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;
- c. the hardship has not been created by the applicant;
- d. granting the variance will not alter the essential character of the neighborhood nor be detrimental to the public welfare; and
- e. the variance sought is the minimum that will afford relief.

3. The Board finds that the requested variances are dimensional variances. A dimensional variance involves a request to adjust or vary a zoning ordinance provision by degree to be able to otherwise use a property consistent with the regulations. *See Dunn v. Middletown Township Zoning Hearing Board*, 143 A.3d 494 (Pa Commw. 2015); *see also Constantino v. ZHB of Forest Hills Borough*, 636 A.2d 1266 (Pa. Commw. 1994).

4. An applicant can demonstrate “unnecessary hardship” for a use or dimensional variance by showing that: (a) a property’s physical characteristics are such that the property cannot be used for any permitted use or purpose; (b) the property can only conform to a permitted use or purpose at prohibitive expense; or (c) that the property has either no value or only distress value for any permitted purpose. *See Nowicki v. Zoning Hearing Board of Monaca Borough*, 91 A.3d 287 (Pa. 2014).

5. A dimensional variance is subject to a lesser standard of proof to establish unnecessary hardship than a use variance. *See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh*, 721 A.2d 43 (Pa. 1998) (when seeking a dimensional variance within a permitted use, the owner is asking only for a *reasonable adjustment* of the zoning regulations. The grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation).

6. When deciding whether a hardship has been established in dimensional variance cases, the *Hertzberg* rationale authorizes the Board to consider multiple factors, including (a) the economic detriment to the applicant if relief is denied; (b) the financial hardship created by any work necessary to bring the proposed improvements into strict compliance with the zoning requirements; and (c) the characteristics of the surrounding neighborhood. *See Hertzberg, supra*, at 47, 50.

7. Nevertheless, the reasons for granting a variance must be substantial, serious and compelling. The party seeking the variance bears the burden of proving that (a) unnecessary hardship will result if the variance is denied; and (b) the proposed use will not be contrary to the public interest. *See Wilson v. Plumstead Township Zoning Hearing Board*, 936 A.2d 1061 (Pa. 2007).



8. The Board concludes that the Property's status as a corner lot with frontage along 3 streets, as well as the extensive natural resources, establish a hardship under the *Hertzberg* standards sufficient to justify the variances requested.

9. Based on the credible testimony presented, the Board concludes that the Property does not have any reasonably accessible open area to locate the accessory pool that complies with the front yard setback and without being between the dwelling and the right-of-way line of Anna Way without adversely impacting the Property's protected areas.

10. The Board concludes that the Applicants will alleviate any runoff hazards created by the pool by installing the plantings and the drainage improvements shown on the Permit Plan, as revised. *See Exhibit B-3, Plan.*

11. Provided the Applicants comply with the reasonable conditions attached to the relief granted herein, the Applicants have met the Zoning Ordinance and Pennsylvania law requirements for the variances, including hardship, to construct and install the proposed accessory non-commercial swimming pool in the front yard along Anna Way.

12. The approved variances will not alter the essential character of the neighborhood in which the Property is located nor substantially impair the appropriate use or development of adjacent properties.

13. The approved variances will not be detrimental to the public welfare.

14. The conditions and circumstances imposing a hardship upon the Property for the approved variances are not of the Applicants' own doing.

15. The approved variances represent the minimum variances that will afford relief and represent the least modification of the zoning regulations under the circumstances.

### **DECISION**

AND NOW, this 22<sup>nd</sup> day of May, 2023, upon consideration of the foregoing Findings of Fact and Conclusions of Law, the New Britain Township Zoning Hearing Board hereby **GRANTS** the Applicants' request for variances from the Zoning Ordinance as follows:

a. A variance is granted from §27-305.H.H4.b.2 to permit the pool to be between the principal dwelling structure and the right-of-way line of Anna Way; and

b. A variance is granted from §27-802.b and §27-804.a to permit the accessory pool and decking structure to have a 41.9 feet front yard setback (measured from the water's edge) along Anna Way.

The relief granted above is subject to the following conditions:

1. The proposed accessory non-commercial swimming pool, decking and related improvement's dimensions, size, location and appearance shall be in accordance with the

definitive plans, evidence, representations, exhibits and credible testimony made and submitted at the hearing.

2. The buffer plantings shown on the Plan between the pool and Anna Way will be installed, maintained and replaced as necessary.

3. The equipment pad will be relocated to be within the yard along Anna Way.

4. The infiltration berm proposed for behind the pool will be extended toward Karcewski's lot to capture additional runoff, as approved and required by the Township engineer.

5. The Applicants shall install appropriate signage at the pool to ensure that drainage and other pool maintenance activities are directed away from Karcewski's lot.

6. This decision does not waive any requirements of any other applicable New Britain Township Ordinance(s); and the proposed improvement(s) and/or use(s) must meet all other applicable federal, state, county and New Britain Township regulations and codes.

The signatures of the New Britain Township Zoning Hearing Board members that appear on the following page attached hereto and incorporated herein confirm the Board's decision and order.

DocuSigned by:  
By: Ryan Gehman  
A767D54E8A9043A...  
Ryan Gehman  
New Britain Township  
Assistant Planning and Zoning Officer

Date: 5/22/2023

Thomas J. Walsh III, Esquire  
Solicitor, New Britain Township Zoning Hearing Board  
3655 Route 202, Suite 105  
Doylestown, PA 18902

**Note to Applicant:** This Decision is NOT an authorization to build. Zoning and building permits must be obtained from New Britain Township prior to the commencement of any construction.

## SCHEDULE A – TABLE OF EXHIBITS

<b>Exhibit</b>	<b>Description</b>
B-1	Zoning Hearing Board application dated 2/22/23. Included with Application: <ul style="list-style-type: none"><li>• Attachment outlining relief requested</li><li>• Current deed dated 9/12/2019</li><li>• List of property owners within 500 feet</li></ul>
B-2	Letter dated 3/15/23 from G. Laboski, Esq., amending application
B-3	Pool Permit Plan, 1 sheet, prepared by Holmes Cunningham, LLC, dated 7/14/2022, last revised 9/28/22
B-4	Letter to The Intelligencer dated 3/30/23 forwarding public notice of 4/20/23 hearing for advertisement
B-5	Public Notice of the hearing on 4/20/23
B-6	Proof of publication of public notice in 4/6/23 and 4/13/23 editions of The Intelligencer
B-7	Letter to Applicants and Attorney dated 3/30/23 providing notice of the 4/20/23 hearing
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B-9	Affidavit of mailing to property owners – notice of 4/20/23 hearing mailed on 4/12/23
B-10	Affidavit of posting of public notice at property – notice of 4/20/23 hearing posted on 4/13/23 at 11:05 a.m.
B-11	Bucks County Floodplain Viewer Aerial and Map

**New Britain Township**  
**Zoning Hearing Board**

**Signature Page**

Re: Michael and Sushama Thevar  
308 Dorothy Lane  
New Britain Township  
TMP No. 26-1-125-13

Date: 5/22/2023

Chuck Coxhead, Chair

DocuSigned by:  
*Charles A Coxhead*  
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Cathy Basilio, Vice Chair

DocuSigned by:  
*Cathy Basilio*  
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Scott Fischer, Member

DocuSigned by:  
*Scott Fischer*  
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Ryan Wantz, Alternate Member

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*Ryan Wantz*  
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