

DATE OF DECISION: 3/4/2025

DATE OF MAILING: 3/4/2025

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

**RE: APPLICATION OF SPOTLESS BRANDS, LLC, FOR  
THE PROPERTY LOCATED AT 545 WEST BUTLER AVENUE,  
NEW BRITAIN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA,  
FURTHER IDENTIFIED AS TAX MAP PARCEL NO. 26-6-101-1**

**FINDINGS OF FACT**

1. On Thursday, November 21, 2024, 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 Spotless Brands, LLC (the “Applicant”).

2. The property that is the subject of the application is located at 545 West Butler Avenue, situated at the northeast corner of its intersection with County Line Road, New Britain Township, also known as Bucks County Tax Map Parcel No. 26-6-101-1 (the “Property”).

3. Notice of the November 21, 2024, hearing was published in advance of the hearing in the Thursday, November 7, 2024, and Thursday, November 14, 2024, editions of The Intelligencer, a newspaper publication of general circulation in New Britain Township. *See* Exhibit B-5.

4. No testimony was presented following the opening of the hearing on November 21, 2024. At the request of the Applicant’s representatives, the hearing was immediately continued on the record to January 23, 2025. *See* Exhibit B-6, Letter.

5. Notice of the continued January 23, 2025, hearing was sent by first class mail on January 9, 2025, by Janene Marchand (“Marchand”), the New Britain Township Assistant Zoning Officer, to (a) all record owners of properties within 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. Marchand posted notice of the continued January 23, 2025, hearing on the Property on January 9, 2025, at 10:00 a.m. *See* Exhibit B-9.

7. Substantive witness testimony and exhibits were received by the Board at the January 23, 2025, hearing. The Board concluded the hearing on January 23, 2025.

8. The Applicant is a Delaware limited liability company. The Property is subject to an Agreement of Sale between Chalfont Holdings, LLC, as seller, and the Applicant, as buyer.

9. As the equitable owner of the Property pursuant to the Agreement of Sale, the Applicant has the requisite standing to prosecute this zoning hearing board application.

10. The Property is located in the C-1, Commercial, zoning district under the New Britain Township Zoning Ordinance (the “Zoning Ordinance”). The Property is also located in the COD, Butler Avenue Corridor Overlay District.

11. The Property is improved with a vacant non-residential building, parking spaces and drive aisles. The Applicant proposes to demolish the existing building. *See Exhibit B-11, Plan.*

12. The Applicant proposes a new non-residential building containing a car wash use (use J19), with redesigned parking areas and drive aisles. A J19 use is permitted by right in the C-1 zoning district. *See Zoning Ordinance §27-1201.a.*

13. To permit the new non-residential building and the related improvements, the Applicant seeks variances from the following sections of the Zoning Ordinance:

- a. from §27-305.J19.b.1 to permit a car wash use on a lot with a lot width of less than 250 feet along abutting streets;
- b. from §27-1202.b to permit a side yard setback of 10<sup>1</sup> feet, where the required minimum setback is 15 feet;
- c. from §27-2901.J19.b and §27-2904.a.7 to permit 16 of the off-street parking spaces to be jointly used as stalls for vehicle vacuuming; and
- d. from §27-2904.g.5 to permit a paved area be 0 feet from the exterior structural wall of the proposed building, where the required minimum setback for such paved areas from the exterior structural building wall is 20 feet.

14. 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.

15. The following individuals testified on behalf of the Applicant in support of the application at the hearing:

- a. L. Scott Mill (“Mill”), registered landscape architect;
- b. Albert Frederico, P.E., PTOE (“Frederico”), traffic engineer; and
- c. John Lombardo (“Lombardo”), officer of Applicant.

16. No other individuals appeared at the hearing to request party status, register a position, or comment or ask questions on the application before the Board. New Britain Township took no position on the application and did not participate in the hearing.

17. The Property is shaped like a rectangle. Its base site area is 0.65 acres. The required minimum lot size for a tract conducting a car wash use in the C-1 district is 1 acre. The Board

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<sup>1</sup> The submitted application sought variance relief for a setback of 7 feet, but the Applicant revised the plan to increase the setback to 10 feet. *See Exhibit B-11, Sketch Plan.*

finds that the Property's undersized area is an existing lawful non-conforming condition. *See* Exhibit B-11, Existing Features Plan; *see also* Zoning Ordinance §27-1202.b.

18. The Property is a corner lot. It abuts the intersection of 2 arterial<sup>2</sup> streets. The Property has 166.62 feet of frontage along West Butler Avenue; and 134.58 feet of frontage along County Line Road. The Property is 27.76 feet long at the actual intersection. *See* Exhibit A-2, Plan.

19. Per the Zoning Ordinance, for a corner lot, the yards adjoining the streets are each considered a front yard. The owner of a corner lot has the option of choosing which of the two lot lines that are not street lines is to be considered a rear lot line. *See* Zoning Ordinance §27-201.

20. Mill stated, and the Board finds, that the Property's yard behind the existing building is designated as a side yard. The remaining yard perpendicular to West Butler Avenue also functions as a side yard. *See* Exhibit B-11, Sketch Plan.

21. The Property has 2 vehicle access points. One is on County Line Road; the other is on West Butler Avenue. Presently, vehicles can freely enter and exit, and turn in both directions, from either access point. *See* Exhibit B-11, Existing Features Plan.

22. Mill stated, and the Board finds, that the Property's deficient widths along each arterial street are existing non-conforming conditions. For the prior use, a minimum lot width of 250 feet was required due to the driveways accessing each arterial street. *See* Exhibit B-11, Existing Features Plan; *see also* Zoning Ordinance §27-1202.b, footnote 1.

23. Mill stated, and the Board finds, that the J19 use requires a minimum lot width of 250 feet irrespective of the street classification. But for the J19 use, the Property would have the requisite 150 feet width along West Butler Pike as that access is being removed. *See* Exhibit B-11, Sketch Plan; *see also* Zoning Ordinance §27-305.J19.b.1 and §27-1202.b, footnote 1.

24. The existing building on the Property is an empty one-story masonry structure built in or around 1988. The building's front wall is oriented toward West Butler Avenue. *See* Exhibit B-11, Existing Features Plan.

25. Mill stated, and the Board finds, that the existing building formerly contained a Wawa convenience retail store. The Wawa use relocated to a site that is separated from the Property by 1 lot east along West Butler Avenue. *See* Exhibit B-11, Rendered Sketch Plan.

26. Mill stated, and the Board finds, that the existing building is a non-conforming structure. The building's functional rear wall is only 10 feet from the longer side (non-street) lot line, where the required minimum setback is 15 feet. *See* Exhibit B-11, Existing Features Plan.

27. Lombardo stated, and the Board finds, that the Applicant operates many car wash locations under several brands mostly in the Washington, D.C. metro area. The Applicant intends to expand its business footprint to the Delaware Valley region.

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<sup>2</sup> Street classification is set forth in the New Britain Township Subdivision and Land Development Ordinance (the "SALDO"). *See* SALDO §22-201 and Appendix B, Street Classification Map.

28. Lombardo and Mill stated, and the Board finds, that the car wash use will operate 7 days per week, from 8 a.m. to 8 p.m. At least 1 but not more than 3 employees will be at the Property during operating hours.

29. Mill stated, and the Board finds, that the proposed new building will have a footprint of 2,904 square feet. The new building will consist of the wet tunnel, office space, bathroom, receiving room and breakroom on the first floor. The second floor will be primarily mechanical space. *See Exhibits B-11, Sketch Plan; and A-1, Floor Plan.*

30. Mill stated, and the Board finds, that the new car wash building will be a one and two story L-shaped structure. It will be located in the center of the Property, with the front wall oriented towards West Butler Pike. *See Exhibits B-11, Sketch Plan; and A-1, Renderings and Elevation.*

31. Mill and Federico stated, and the Board finds, that vehicles will enter the Property only from County Line Road. The West Butler Pike access is being eliminated, in part to reduce collision risks associated with this access. *See Exhibits B-11, Sketch Plan, and A-1, Renderings.*

32. Mill stated, and the Board finds, that upon entering the Property, vehicles will queue in a double lane that runs along the building and next to West Butler Pike. Two (2) pay stations will be next to the lanes before vehicles enter the car wash. *See Exhibit B-11, Sketch Plan.*

33. Mill stated, and the Board finds, that vehicles merge into back into a single lane to enter the car wash facility along the east façade. Cars will exit the wash through the western wall facing County Line Road. *See Exhibits B-11, Sketch Plan; and A-1, Renderings.*

34. Mill stated, and the Board finds, that cars exiting the wash can then either leave the Property through the County Line Road access or enter the drying station parking spaces between the building and the northwestern side lot line. Egress on to County Line Road will be right-turn only. *See Exhibit B-11, Sketch Plan.*

35. Mill and Federico stated, and the Board finds, that the drying station area will contain 16 vehicle spaces. Three (3) other parking spaces limited to employees only are located at the corners of the building. *See Exhibit B-11, Sketch Plan.*

36. Mill and Federico stated, and the Board finds, that each drying station will have a vacuum “boom” which can be extended to reach the car in the closest space. The vacuum booms will be 10 feet from the nearest side lot line, which is the same dimension as the prior non-conforming building. *See Exhibit B-11, Sketch Plan.*

37. Federico stated, and the Board finds, that the drying station spaces also function as conventional parking spaces due to the short amount of time each car is in the slot. As such, Federico opined that the 16 spaces can be dually used without burdening the use or the Property.

38. Mill stated, and the Board finds, that a spur lane will travel past the car wash entrance, around the building and into the parking and vacuum area for cars not going through the wash. *See Exhibit B-11, Sketch Plan.*

39. Mill stated, and the Board finds, that the paving and curbing of the drying station area will be next to the building's rear wall. The paving cannot be moved further away from the building without compromising the safety and functionality of the car wash and drive aisle through the drying stations. *See* Exhibit B-11, Sketch Plan.

40. Upon questioning from the Board, Mill and Lombardo confirmed that compliant stormwater management and control system will be designed during the SALDO review process. Much of the wash water is captured and reused through an underground tank system.

41. Mill stated, and the Board finds, that the lands directly north and east of the Property are used for non-residential purposes. No surrounding lot owners or occupants have voiced any objections to the proposed new building and related improvements.

42. Due to the Property being a pre-existing dimensionally non-conforming corner lot with a building in a non-conforming location, the Property lacks any location to build a non-residential building for a modern car wash in compliance with the Zoning Ordinance's regulations.

43. The Property contains unique physical characteristics that support relief for the variances requested by the Applicant to permit the construction of a non-residential building and operation of the car wash use on the Property. *See* Exhibit B-11, Sketch Plan.

44. These dimensional restrictions impose a hardship on the Property and the Applicant in that they prevent the installation of a safe and modern drive-through car wash facility on a lawful pre-existing non-conforming corner lot.

45. Subject to the conditions imposed herein, the proposed non-residential building with the J19 use, drying stations, travel aisles, and other related improvements 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 date, time and location of the November 11, 2024, and January 23, 2025, hearings was made by sufficient 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 paving separation distance, lot width, setback and off-street parking variances requested by the Applicant 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. Based upon the credible evidence and testimony presented, the Board concludes that the Property’s existing lawful non-conforming characteristics, the fact that the Property is a corner lot, and the older building in a non-conforming location, establish a hardship under the *Hertzberg* standard sufficient to justify the variance requested.

9. The Board concludes that the Applicant’s design reflects a safe drive-through car wash facility. Placing the drying and vacuum station parking spaces in the prior building’s non-conforming location provides sufficient protection for individuals from the busy intersection.

10. 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 variances, including hardship, in connection with the proposed new non-residential building and J19 use on the Property.

11. 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.

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

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

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

### DECISION

AND NOW, this 4<sup>th</sup> day of March, 2025, 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 variances from the Zoning Ordinance as follows:

a. A variance is granted from §27-305.J.J19.b.1 to permit a car wash use on a lot with a lot width of less than 250 feet along the abutting streets;

b. A variance is granted from §27-1202.b to permit a side yard setback of 10 feet in the area of the vacuum stations;

c. A variance is granted from §27-2901.J.J19.b and §27-2904.a.7 to permit 16 of the off-street parking spaces to be jointly used as stalls for vehicle vacuuming; and

d. A variance is granted from §27-2904.g.5 to permit a paved area be 0 feet from the exterior structural wall of the proposed building.


The relief granted above is subject to the following conditions:

1. The proposed J19 use, non-residential building, parking and drive aisles, and related improvements, their respective dimensions, sizes, locations and appearances shall be in general accordance with plans, evidence, representations, exhibits and credible testimony made and submitted at the hearing.

2. The Applicant shall use all reasonable efforts during the land development design and review phase of the project to add stormwater management facilities and plantings to the Property.

3. 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.

Signed by:  
  
By: \_\_\_\_\_  
Janene Marchand  
New Britain Township  
Assistant Zoning Officer

Date: 3/4/2025

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.

DECISION.Spotless Brands.2025-01-23 hearing



## SCHEDULE A – TABLE OF EXHIBITS


Exhibit	Description
B-1	Zoning Hearing Board application (dated 10/23/24). Attachments: <ul style="list-style-type: none"><li>• Summary of relief requested</li><li>• Deed dated 8/24/22</li></ul>
B-2	Spotless Brand Plans, 3 sheets, prepared by Van Cleef Engineering, dated 10/22/24
B-3	Letter to The Intelligencer dated 11/4/24 to publish Public Notice of hearing
B-4	Public Notice of the hearing on 11/21/24 and the continued hearing on 1/23/25
B-5	Proof of publication of public notice in 11/7/24 and 11/14/24 editions of The Intelligencer
B-6	Letter from D. Shafkowitz, Esq., dated 11/8/24, requesting continuance until 1/23/25 and granting waiver
B-7	Township list of the record owners of all properties within 500 feet; aerial map of properties
B-8	Affidavit of mailing to property owners on Exhibit B-7 – notice mailed on 1/9/25 by Janene Marchand
B-9	Affidavit of posting of public notice at property – notice posted on 1/9/25 at 10:00 a.m. by Janene Marchand, together with photo of posting
B-10	Bucks County Board of Assessment Record and Floodplain Viewer and Aerial of Property
B-11	Spotless Brand Plans, 3 sheets, prepared by Van Cleef Engineering, dated 10/22/24, last revised 11/28/24
A-1	Ten (10) page packet consisting of following: <ul style="list-style-type: none"><li>• Page 1 – Context Plan</li><li>• Page 2 – Existing Features Plan</li><li>• Page 3 – Sketch Plan</li><li>• Page 4 – Rendered Sketch Plan</li><li>• Pages 5-8 – Renderings of Car Wash building</li><li>• Page 9 – Floor plan of Car Wash building</li><li>• Page 10 – Elevations of Car Wash building</li></ul>

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

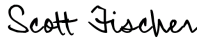
**Signature Page**

Re: Spotless Brands, LLC  
545 West Butler Avenue  
TMP No. 26-6-101-1


Dawn Farver, Chair

Signed by:  
  
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Scott Fischer, Vice Chair

Signed by:  
  
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Robert Byrne, Member

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Terry Young, Member

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Steve Gudknecht, Member

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Kristin Ives, Alternate Member

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