

BEFORE THE ZONING HEARING BOARD FOR THE TOWNSHIP OF MOUNT JOY  
LANCASTER COUNTY, PENNSYLVANIA

IN RE:	Application of IES PA RE, LLC for Special Exception and Variance	:	
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LOCATION OF PROPERTY:	1650 Steel Way Drive	:	Case No: 250014
		:	
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**DECISION OF THE BOARD**

**I. FINDINGS OF FACT**

**A. Procedural; Parties**

1. Applicant is IES PA RE, LLC (“Applicant”), the record owner of the parcel of real property known as 1650 Steel Way Drive, Mount Joy, PA 17552, Tax Parcel No. 461-15379-0-0000 (the “Property”).

2. On August 5, 2025, Applicant submitted a Zoning Hearing Board Application with supporting documentation (“Application”) to the Mount Joy Township Zoning Hearing Board (“Board”).

3. The Application requests special exception approval pursuant to Section 135-163.C of the Mount Joy Township Zoning Ordinance (“Ordinance”) for the expansion of an industrial use not explicitly provided for in Section 135-162.E of the Ordinance.

4. The Application also requests four variances, namely from Sections 135-166.A, 135-166.B; 135-299.B.(1); and 135-299.B.(3) of the Ordinance, all of which relate to buffer and landscaping strips.

5. A hearing on the Application was held before the Board on September 3, 2025 (the “Hearing”) at the Township municipal offices. After conclusion of the testimony, the Board allowed for public comment before the record was closed.

6. Notice of the Hearing was duly posted and advertised in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code (“MPC”), 53 P.S. § 10101, *et seq.*, and the Zoning Ordinance.

7. Board members Gregory R. Hitz, Sr., Robert F. Newtown, Jr., and Roni K. Clark, and the Board’s Solicitor, John P. Henry, Esquire attended the Hearing.

8. At the Hearing, the Applicant was not represented by legal counsel.

9. The Board granted party status to the following individuals who appeared *pro se*:

- a. Joelle Myers, 2706 Mt. Pleasant Road Mount Joy, PA;
- b. Michelle Myers, 1128 Miller Road, Mount Joy, PA; and
- c. Randy Stevens, 2541 Mt. Pleasant Road, Mount Joy, PA.

10. The Board granted party status to Mr. Stevens over objection of Applicant; no objection was made by Applicant or otherwise as to the other two party members.

11. Mr. Stevens is the only party member who opposed the Application.

12. Testimony was offered on behalf of the Applicant by Brian Cooley, Landscape Architect with DC Gohn Associates, Inc., and Rick Stein with Greiner Industries (the business operating on the Property).

13. At the conclusion of the hearing, the Board rendered a verbal decision unanimously approving each of the Applicant’s request for relief set forth in Paragraphs 3 and 4 above.

#### **B. Characteristics of the Property and Current Use**

14. The Property is located in the Township’s Light Industrial (“LI”) District.

15. The Property consists of approximately 58.11 acres.

16. The Property is surrounded by other commercial and light industrial uses, State Route 283 to the west, agricultural property to the east and south, and some residential uses to the north (which are located in the LI District).

17. The Property is used and operated by Greiner Industries, Inc. (“Greiner”) as a steel fabrication business.

18. There is a dedicated right of way, owned by the Township, which traverses the Property from Steel Way Drive (west of the Property) to Mount Pleasant Drive (east of the Property).

19. The Township's right of way is for potential future road construction; no road improvements have been constructed or otherwise made to the Township's right of way as of the present.

20. Greiner's operations on the Property utilizes several buildings and structures, and presently there are outdoor storage areas located between buildings on the southern half of the Property.

21. The current outdoor storage is located within gravel internal vehicular access areas, requiring products to be constantly moved to accommodate vehicular access.

22. Greiner requires storage space to accommodate customers' needs such as incoming items to complete their projects, completed items waiting for installation, and equipment shipped to the Property for crane/mechanical installation services.

23. Greiner's outdoor storage does not include raw materials.

24. The Property is served by public sewer and on-lot water.

25. The Application proposes to construct a dedicated gravel storage area and access drive on the northern, undeveloped portion of the Property.

26. The proposed storage area and access drive will connect to the existing business and provide complete internal vehicular circulation.

27. The proposed storage area in the northern portion of the Property will result in increased efficiency and safety in the main area (on the Property) of the business operations.

28. There are no new buildings proposed in connection with the Application.

29. There are no new employees for the proposed storage area.

30. There will be no increase in traffic or truck traffic on the surrounding road network as a result of the proposed storage area.

31. The existing site access from Steel Way Drive will remain.

32. No new access drive is proposed directly from the public right of way to the proposed storage area.

33. The site provides adequate access and internal circulation for all emergency vehicles.

34. As a result of the proposed improvements related to the storage area, the total impervious coverage on the Property will be sixty-nine percent (69%), which is less than the maximum permitted coverage under the terms of the Ordinance.

35. The proposed storage area does not encroach into the required eighty (80) feet setback from the adjoining residential uses.

36. There is an evergreen landscape screen adjacent to the residential uses along the northern portion of the Property.

37. The proposed storage area design complies with all necessary setback requirements should a road be built on the existing Township right-of-way.

38. No lighting is proposed for the storage area.

39. The storage area will not contain any toxic or explosive materials or hazards.

40. The proposal provides for a six-foot privacy fence around the entire perimeter of the proposed storage area.

## **II. CONCLUSIONS OF LAW**

41. The Hearing was held pursuant to appropriate public notice provided in accordance with the terms of the Zoning Ordinance and the MPC and due process was afforded to all parties during those hearings.

42. Section 135-485 of the Zoning Ordinance and Section 908(9) of the MPC, 53 P.S. § 10908(9), require the Board to render a written decision within forty-five (45) days of the last hearing; the Board's adoption of this Decision complies with said sections of the Zoning Ordinance and the MPC.

43. The Application is properly within the jurisdiction of the Board.

44. The Board determines that Mr. Cooley, Applicant's landscape architect witness, was credible and presented credible testimony and evidence.

**A. Special Exception Requests**

45. Pursuant to § 135-163.C of the Ordinance, "Industrial uses involving . . . storage, distribution, or repair of items not specifically referenced by §135-162.E" are permitted by special exception.

46. Applicant's proposed use as a storage area is not specifically referenced in Section 135-162.E of the Zoning Ordinance.

47. Uses permitted by special exception evidence a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community. *Northampton Area Sch. Dist. v. East Allen Twp. Bd. of Supervisors*, 824 A.2d 372, 376 (Pa. Cmwlth. 2003).

48. A special exception is better classified as a conditionally permitted use allowed by a municipal body if all objective criteria enumerated by the zoning ordinance are met, rather than an actual exception. See *Bray v. Zoning Bd. Of Adj.*, 410 A.2d 909, 910-12 (Pa. Cmwlth. 1980).

49. A special exception that satisfies the objective requirements of the zoning ordinance must be granted unless the opponents present sufficient evidence that the use will generate adverse impacts not normally generated by this type of use and that these impacts will pose a substantial threat to the health and safety of the community. *Greaton Props.*, 796 A.2d at 1045; *In re Cutler Group, Inc.*, 880 A.2d 39, 42 (Pa. Cmwlth. 2003). *Abbey v. Zoning Hearing Bd. of East Stroudsburg*, 559 A.2d 107, 109 (Pa. Cmwlth. 1989).

50. Article XVII of the Zoning Ordinance sets forth the requirements for all uses in the LI District, namely area and bulk requirements (lot coverage, impervious coverage, and setbacks) and landscaping and screening requirements.

51. As set forth in the Findings of Fact above, the Applicant demonstrated compliance with all area and bulk requirements set forth in Article XVII of the Zoning Ordinance.

52. With the exception of the sections of the Zoning Ordinance for which Applicant seeks variances as detailed herein and below, the Applicant, through its Application and uncontroverted testimony presented during the Hearing, as set forth in the Findings of Fact hereinabove, met its burden of proof to establish that the Application and proposed use complies with the applicable objective requirements of the Zoning Ordinance.

53. Article Section 135-383.B of the Zoning Ordinance sets forth the general standards that apply to all uses permitted by special exception.<sup>1</sup>

54. As provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted testimony presented during the Hearing, demonstrated compliance with all of the general standards set forth in Section 135-383.B of the Zoning Ordinance.

55. Applicant provided credible evidence the proposed special exception will be properly serviced by all existing public service systems and that there will be no increase in traffic on the public roads.

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<sup>1</sup> (1) Compliance with this chapter. The applicant shall establish by credible evidence compliance with all conditions on the special exception enumerated in the section which gives the applicant the right to seek the special exception. The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.

(2) Traffic and public services. The applicant shall establish by credible evidence that the proposed special exception shall be properly serviced by all existing public service systems. The peak traffic generated by the subject of the application shall be accommodated in a safe and efficient manner or improvements made in order to effect the same. Similar responsibilities shall be assumed with respect to other public service systems, including but not limited to police protection, fire protection, utilities, parks and recreation. If the proposed use or development is estimated to generate more than 1,000 daily trips or more than 100 a.m. or p.m. peak hour trips using accepted engineering standards such as the ITE Trip Generation Manual, the applicant shall provide a traffic study meeting all requirements of Chapter 119, Subdivision and Land Development, § 119-32C(5).

(3) Site planning. The applicant shall establish by credible evidence that the proposed special exception shall be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of proper design as specified in this chapter and any other governing law or regulation.

(4) Neighborhood. The proposed special exception shall not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and the use of property adjacent to the area included in the special exception application shall be adequately safeguarded.

(5) Safety. The applicant shall establish by credible evidence that the proposed use will not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.

56. Applicant provided credible evidence the proposed special exception is properly designed to provide greater site security and safety, in compliance with this Chapter, as the proposed storage area will connect to the existing business and will implement controlled access to employees only, and allows for the internal movement of cars, trucks, and heavy machinery. Overall, the plan improves the efficacious flow of traffic in the area.

57. Applicant also met its burden in proving the proposed special exception does not injure or detract from the use of the neighboring properties or from the character of the neighborhood. The Property is situated in the LI-District and the proposed location of the storage area within said Property minimizes its impact on the surrounding properties. Any impact will be further mitigated by the inclusion of the required residential buffer zones for the abutting residential properties.

58. Applicant provided credible evidence to prove the proposed special exception does not create a significant hazard to the public health and safety.

59. The Party opponents failed to establish or meet their burden to show that the proposed special exception is, in fact, detrimental to the health, safety and general welfare of the community.

#### **B. Variance Requests**

60. Applicant requests variances from Sections 135-166.A, 135-166.B., 135-299.B.(1), and (3) of the Zoning Ordinance.

61. Section 135-166.A requires “a residential buffer strip consisting of a mix of evergreen and deciduous trees,” to screen industrial uses from adjoining residential lots.

62. With respect to Section 135-166.A., Applicant seeks to plant two rows of evergreen trees, rather than a mix of evergreen and deciduous trees, when required to install residential buffer strips.

63. Applicant demonstrated that the use of all evergreens produces a superior year-round buffer and requires less maintenance.

64. Section 135-166.B states, “all yards shall contain a landscaping strip that is a minimum 15 feet wide . . .” unless a greater requirement applies to a specific use or is required under another subsection. All landscaping stripes under this subsection must comply with Section 135-299.

65. Sections 135-299.B(1), (3) provide:

(1) All nonresidential and multifamily dwelling uses, with the exception of agricultural uses, shall contain a landscape strip in all yards. All landscape strips shall be a minimum of 10 feet wide unless a greater width is required by another section of this chapter.

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(3) For every 750 square feet of required landscape strip, one shade/ornamental tree shall be provided in the required landscape strips. If deciduous, these trees shall have a clear trunk at least five feet above finished grade; if evergreen, these trees shall have a minimum height of six feet. All required landscape strips shall have landscaping materials distributed along the entire length of the lot line abutting the yard, but shall not necessarily be required to have a uniform separation distance along the entire length of the landscape strip.

66. Applicant seeks variance relief from installing the trees for the 15 feet landscape strip in all yards abutting the proposed storage area, with the exception of the yards adjacent to the residential uses.

67. Section 910.2(a) of the MPC, 59 P.S. §10910.2(a) and Section 135-383.C(1) of the Zoning Ordinance set forth general standards that apply to variance requests.

68. Applicant’s requests are dimensional variances from the Ordinance’s landscaping strip and residential buffering strip requirements.

69. A dimensional variance involves a request to adjust zoning regulations to use a property in a manner consistent with zoning regulations whereas a use variance involves a request to use a property in a manner that is wholly outside the zoning regulations. *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 554 Pa. 249, 257, 721 A.2d 43, 47 (1998).

70. A dimensional variance is of lesser importance than a use variance in that a property owner seeking a dimensional variance asks only for a reasonable adjustment of the zoning regulations to accommodate use of the property in a manner consistent with the regulations. *Daley v. Upper Moreland Twp. Zoning Hrg Bd.*, 770 A.2d 815, 819 (Pa. Cmwlth. 2001).

71. A dimensional variance is appropriate only where the property, not the person, is subject to hardship. *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 554 Pa. 249, 264, 721 A.2d 43, 50 (1998).

72. To find unnecessary hardship sufficient to justify the grant of a dimensional variance, courts may consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements, and the characteristics of the surrounding neighborhood. *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 554 Pa. 249, 264, 721 A.2d 43, 50 (1998).

73. Zoning hearing boards have discretion to grant or deny *de minimis* variance requests where the variation requested is “minor and rigid compliance with the zoning ordinance is not necessary to protect public policy concerns.” See *Nettleton v. Zoning Bd. of Adjustment of City of Pittsburgh*, 828 A.2d 1033, 1038 (Pa. 2003); *Hawk v. City of Pittsburgh Zoning Bd. Of Adjustment*, 38 A.3d 1061, 1066 (Pa. Cmwlth. 2012); *Soland v. East Bradford Twp. Zoning Hrg. Bd.*, 311 A.3d 1208, (Pa. Cmwlth. 2024).

74. Thus, “it is not necessary to apply the normal standards for a variance ... where the variance requested is *de minimis*.” *Lench v. Zoning Bd. of Adjustment of City of Pittsburgh*, 13 A.3d 576, 581 (Pa. Cmwlth. 2011) (*quoting Nettleton*, 828 A.2d at 1038).

75. Whether to grant *de minimis* variance relief has no set criteria and depends on the specific factual circumstances of each case. *Id.*

76. The Board finds that the requested variances are *di minimis*.

77. As provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted testimony presented during the Hearing, demonstrated replacing the required deciduous trees in the residential buffer strips with additional evergreen trees achieves the Ordinance's policy in creating a sufficient buffer between the proposed storage area and the residential properties.

78. As provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted testimony presented during the Hearing, demonstrated that rigid adherence to the applicable residential buffering and landscape strip requirements contained in Sections 135-166.B, 135-299.B(1), and (3) for all of the proposed storage area borders would result in the unnecessary screening of adjacent industrial zoned properties, Applicant's own compatible uses and/or other internal operations of Applicant's business.

79. The Board finds that such screening does not protect the undergirding public policy, and the relief sought is a minor deviation from the Ordinance.

80. In light of the findings above, and as provided in detail in the Findings of Fact above, the Applicant, through its Application and uncontroverted testimony presented during the Hearing, demonstrated compliance with the general criteria for variances, notably in the context of dimensional *di minimis* variance requests.

### **III. DECISION.**

81. The Board approves the Application and grants the Applicant's requests for a special exception pursuant to Section 135-163.C of the Zoning Ordinance, and for variances from Sections 135-166.A, 135-166.B, 135-299.B(1) and 135-299.B(3) of the Zoning Ordinance, subject to the following reasonable conditions:

a. With respect to all trees to be planted in connection with the Application, Applicant shall actively maintain said trees in good order and condition, and shall immediately replace any of said trees that die or lose the majority of their coverage.

b. Applicant shall obtain Land Development Plan approval from the Mount Joy Township Planning Commission, or a waiver thereof. If a waiver is granted by the Planning Commission, Applicant shall gain approval of a Stormwater Management Site Plan.

c. Applicant shall apply for and obtain the appropriate permits from Mount Joy Township for the proposed improvements.

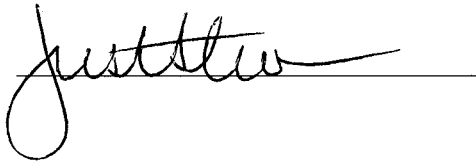
d. Applicant shall comply with all other provisions contained in Chapter 135 of the Code of Ordinances of Mount Joy Township for which relief has not been requested or granted herein.

e. Applicant and any representatives of Applicant shall comply with and adhere to the testimony and any evidence presented to the Board at the Hearing held on September 3, 2025, except to the extent modified by conditions imposed by the Board herein.


Verbal decision made September 3, 2025.

This Written Decision with Findings of Fact and Conclusions of Law entered the 10<sup>th</sup> day of October, 2025.

Attest:



ZONING HEARING BOARD OF THE  
TOWNSHIP OF MOUNT JOY

By:   
Gregory R. Hitz, Chairman

The undersigned certifies that a copy of this Decision was served by First Class Mail, postage prepaid, upon the following:

*Applicant:*

IES PA RE, LLC  
1650 Steel Way Drive  
Mount Joy, PA 17552

and

IES PA RE, LLC  
2 Riverway Suite 1730  
Houston, TX 77056

*Party Members:*

Joelle Myers  
2706 Mt. Pleasant Road  
Mount Joy, PA 17552

Michelle Myers  
1128 Miller Road  
Mount Joy, PA 17552

Randy Stevens  
2541 Mt. Pleasant Road  
Mount Joy, PA 17552

Date: October 10, 2025

  
Justin Evans, Mount Joy Township Zoning Officer