

### ZONING HEARING BOARD OF LOWER SAUCON TOWNSHIP

Ten copies of this application, including all plans and drawings, must be submitted to the Zoning Officer together with the application/escrow fees. No application will be accepted without an adequate plan of the subject premises.

PROJECT NUMBER \_\_\_\_\_



1. The undersigned applicant hereby: (check appropriate letter {s})
  - a. \_\_\_\_\_ Appeals from a determination of the Zoning Officer.
  - b. \_\_\_\_\_ Requests a Special Exception.
  - c. \_\_\_\_\_ Requests a Variance.
  - d.  X  Challenges the validity of a Zoning Ordinance or map.
  - e. \_\_\_\_\_ Requests other relief within the jurisdiction of the Zoning Hearing Board as established in § 909.1(a) of the Pennsylvania Municipalities Planning Code.

2. Name and Address of Owner of Property:  N/A

Telephone Number(s) \_\_\_\_\_

3. Name and Address of Applicant:  Bruce Petrie and Ginger Petrie, et al. - see attachment identifying all Appellants

Telephone Number(s) \_\_\_\_\_

4. If Applicant is not the Owner, state Applicant's authority to bring this application:

Adoption of Ordinance No. 2022-02 has an adverse and direct effect upon Appellants' respective property interests and property rights including, but not limited to, their peaceful enjoyment and use of their property.

(attach documents in support of said authority to this application)

5. Address of Property:  N/A

6. Attach plot plan of property drawn to scale indicating location and size of improvements both proposed and presently existing and indicating a compass reference.  N/A

7. Tax Parcel Number of Property:  N/A

8. Present Zoning Classification of Property:  N/A



9. Present Use of Property: Conservation Easement protected/Open Space

10. Describe the buildings and other improvements located on the Property: (attach additional sheets if necessary)  
Conservation Easement/Open Space

11. State the Size of the Property: N/A

12. If you are appealing from a determination of the Zoning Officer, complete the following:

a. The action taken was: N/A

b. The date action was taken: \_\_\_\_\_

c. Attach a copy of any written order issued by the Zoning Officer in connection with this matter.

d. The foregoing action is being challenged because: \_\_\_\_\_

e. If you allege the existence of a non-conforming use, state the nature of such use and the date on which it began: \_\_\_\_\_

13. If you are challenging the validity of a Zoning Ordinance or map, complete the following:

a. Identify the provision of the Ordinance or map which you believe to be invalid:  
Ordinance No. 2022-02 - Zoning Map amendment and establishment of conditional use procedures for landfill expansion

b. The challenge is ripe for decision because: Timely Appeal - Ordinance enacted 12/21/22 (note procedural appeal filed in Court of Common Pleas of Northampton County)

c. The provision challenged is invalid because: See attached



14. If you are requesting a Special Exception complete the following: N/A

a. Nature of Special Exception sought is: \_\_\_\_\_  
\_\_\_\_\_

b. The Special Exception is allowed under Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_ of the Lower Saucon Township Zoning Ordinance. (If more than one Exception is requested, list Ordinance references on separate page)

c. The reason for the request is: \_\_\_\_\_  
\_\_\_\_\_

15. If you are requesting a Variance complete the following: N/A

a. Nature of Variance sought is: \_\_\_\_\_  
\_\_\_\_\_

b. The Variance is from Article \_\_\_\_\_ Section \_\_\_\_\_ Subsection \_\_\_\_\_ of the Lower Saucon Township Zoning Ordinance. (If more than one Variance is requested, list Ordinance references on a separate page)

c. The nature of the unique circumstances and the unnecessary hardship justifying this request for a Variance is: \_\_\_\_\_  
\_\_\_\_\_

16. If you are requesting other relief within the jurisdiction of the Zoning Hearing Board, complete the following:

a. The nature of the relief sought: Entry of Order voiding ab initio Ordinance No. 2022-02  
\_\_\_\_\_

b. If you are requesting relief from a determination of a Township Official, attach a written copy of a determination and state the reason the determination was in error, including reference to applicable status or ordinances: N/A  
\_\_\_\_\_  
\_\_\_\_\_

17. By filing this application, applicant agrees to reimburse Lower Saucon Township for all costs incurred by the processing of this application to the extent that those costs exceed the filing fee.



18. a.  I am not represented by an attorney in connection with this application.  
 b.  I am represented by Gary Neil Asteak, Esquire in connection with this application.

Attorney's Address: 726 Walnut Street, Easton, PA 18042

Attorney's Telephone Number(s): (610) 258-2901

19. The following is a list of names and addresses of all persons owning property which is located within 200 feet of the perimeter of the property which is the subject of this application, identified by tax parcel number together with the name and address of the present owner of the said parcel as contained in the records of Lower Saucon Township or Northampton County Tax Mapping located in the Northampton County Courthouse or their website – [www.ncpub.org](http://www.ncpub.org)

| Tax Map Number of Property | Name and Mailing Address of Owners of Property |
|----------------------------|--|
| 1.                         | N/A  |
| 2.                         |  |
| 3.                         |  |
| 4.                         |  |
| 5.                         |  |
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| 17.                        |  |
| 18.                        |  |
| 19.                        |  |
| 20.                        |  |
| 21.                        |  |



| Tax Map Number of Property | Name and Mailing Address of Owners of Property |
|----------------------------|--|
| 22.                        |  |
| 23.                        |  |
| 24.                        |  |
| 25.                        |  |
| 26.                        |  |
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| 43.                        |  |
| 44.                        |  |
| 45.                        |  |

Attach additional names on a separate page.



**ZONING HEARING BOARD OF LOWER SAUCON TOWNSHIP  
SUBSTANTIVE VALIDITY CHALLENGE TO  
ADOPTION OF ORDINANCE NO. 2022-02**

**SUPPLEMENT**

AND NOW, Comes Bruce Petrie, Ginger Petrie, Mark Ozimek, Andrew G. Krasnansky, Tina-Louise Krasnansky, Robert Duane Blasko, Elizabeth A. Blasko, Joan Michelle Gorski, Kenneth Pabon, Salvatore J. Gagliano, Diane M. Gagliano, Charles Staats, Judith Staats, Savana Staats, Nicholas VonFabian, Cody Miller, and other citizens, taxpayers, property owners, and residents of the Township of Lower Saucon and raise this substantive validity challenge to the adoption of Ordinance No. 2022-02 by Township Council on December 21, 2022 (see Exhibit "A" attached hereto):

3. Appellants are:

Bruce Petrie and Ginger Petrie  
2626 Redington Road, Hellertown, PA 18055  
Telephone Nos. 973-464-0401 and 484-894-0171

Mark Ozimek  
2591 Redington Road, Hellertown, PA 18055  
Telephone No. 610-751-5409

Andrew G. Krasnansky and Tina-Louise Krasnansky  
2430 Applebutter Road, Hellertown, PA 18055  
Telephone Nos. 610-954-9199 and 610-730-4460

Robert Duane Blasko  
2510 Redington Road, Hellertown, PA 18055  
Telephone No. 610-533-7908

Elizabeth A. Blasko  
2510 Redington Road, Hellertown, PA 18055  
Telephone No. 610-390-9353



Joan Michelle Gorski  
2535 Quarry Lane, Hellertown, PA 18055  
Telephone No. 215-933-9060

Kenneth Pabon  
2535 Quarry Lane, Hellertown, PA 18055  
Telephone No. 215-422-2299

Salvatore J. Gagliano and Diane M. Gagliano  
2530 Wolf Pack Run, Hellertown, PA 18055  
Telephone Nos. 908-310-6694 and 908-310-9964

Charles Staats, Judith Staats, Savana Staats and  
Nicholas VonFabian  
2537 Quarry Lane, Hellertown, PA 18055  
Telephone Nos. 610-691-6153, 610-252-6996, 267-281-2104,  
and 908-878-3603

Cody Miller  
2533 Quarry Lane, Hellertown, PA 18055  
Telephone No. 484-358-6135.

Additional Appellants will be identified by attached Affidavits hereto.

4. Appellants have standing inasmuch as they have a substantial interest in the adoption of the aforesaid Ordinance, said Ordinance has an adverse and direct effect upon their respective property interests and property rights, including but not limited to peaceful enjoyment and use of their property, as established by existing case law.

11. The size of the subject property rezoned is indeterminate inasmuch as Ordinance No. 2022-02 fails to identify either the addresses or tax identification numbers of the properties rezoned from RA to LI, fails to attach Exhibit "A," and Exhibit "B" with tax identifiers and precision.

13. The validity of Ordinance No. 2022-02 is being challenged in its entirety. Appellants note collateral procedural Land Use Appeal filed in the Court



of Common Pleas of Northampton County. This Appeal is being filed within thirty (30) days after the intended effective date of the Ordinance (i.e. December 31, 2022) and is therefore timely. Ordinance No. 2022-02 is being challenged on the following grounds:

A. The adoption of the aforesaid Ordinance imposes actual harm to property owners abutting or in close proximity to the 275.7 acres rezoned, affecting health, safety, and welfare of Appellants and the Lower Saucon Township community.

B. Adoption of the aforesaid Ordinance is contrary to the comments and recommendations of the Lower Saucon Township Environmental Advisory Council and Lehigh Valley Planning Commission.

C. Adoption of the aforesaid Ordinance is contrary to the Lower Saucon Township Comprehensive Plan.

D. Adoption of the aforesaid Ordinance deprives Appellants and the residents of the rights conferred by the Environmental Rights Clause of the Pennsylvania Constitution, Article I, Section 27.

E. Appellants aver that adoption of the aforesaid Ordinance is in violation of the Scenic and Conservation Easement between Appellee and the City of Bethlehem as recorded in the Office for the Recording of Deeds in and for Northampton County in Volume 1994-6, Page 012074, said easement "being designed for the purposes of assuring the preservation of the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park; and, during such operation of the Landfill to as great a degree as possible to preserve the original character and scenic nature of the land."



F. Appellants aver that adoption of the aforesaid Ordinance is in violation of the Scenic and Conservation Easement between Appellee and the City of Bethlehem as recorded in the Office for the Recording of Deeds in and for Northampton County in Volume 1994-6, Page 012081, said easement being a restrictive easement for scenic and conservation purposes and woodlands protection easement.

G. The restrictive easements for scenic and conservation purposes and woodlands protection are imbued and imposed with a public trust under common law and also constitute interests in real property that are dedicated to public use for these purposes and are therefore subject to the Act of Dec. 15, 1959, P.L. 1772, No. 670, the "Property Donated to Political Subdivisions for Public Use" ("Act"). These dedications and public trust are irrevocable or, if revocable, must be altered by an Order of Court of competent jurisdiction in accordance with the Act. Thus, such an Order is a necessary precondition to the Zoning Ordinance amendment which purports to allow uses contrary to such purposes, dedications, and public trust, and the Ordinance enactment without compliance first with the Act's procedures to obtain an Order allowing such uses involves a "defect in procedures prescribed by statute" as provided by the Municipalities Planning Code, 53 P.S. §11002.1. Inasmuch as the Zoning Ordinance amendments purport to allow uses and activities contrary to the easements, they violate the public trust. The violation of the public trust and the failure to comply with statutory requirements also constitute substantive defects rendering the Ordinance invalid.



H. Appellants aver that the adoption of Ordinance No. 2022-02 was the result of a contract entered into between Lower Saucon Township Council and Bethlehem Landfill Company, and/or its predecessors in title and/or the City of Bethlehem to expand the landfill into areas that had previously been established as woodlands protection areas, conservation easement areas, and heritage protection zones. It is averred that the Ordinance was initiated by the Bethlehem Landfill Company, the Ordinance was prepared by the Bethlehem Landfill Company and that although contrary to the Lower Saucon Township Comprehensive Plan and recommendations from advisory bodies, the contractual relationship between Lower Saucon Township Council and Bethlehem Landfill Company resulted in adoption of the aforesaid Ordinance. Contracts have no place in a zoning plan and a contract between a municipality and a property owner should not enter into the enactment or enforcement of zoning regulations.

I. Zoning is an exercise of the police power to serve the common good and general welfare. It is elementary that the legislative function may not be surrendered or curtailed by bargain or its exercise controlled by the considerations which enter into the law of contracts. Power may not be exerted to serve private interests merely, nor may the principal be subverted to that end. Agreements and concomitant representations or stipulations inducing changes in zoning renders those changes invalid.

J. Appellants have, through Counsel, sought Right-to-Know Law materials from the Lower Saucon Township Right-to-Know Officer who has sought an extension of time within which to respond and therefore Appellants reserve the



right to supplement grounds for this Appeal until such time as the Township fully complies with the Right-to-Know Law and provides full disclosure.

K. Appellants aver that adoption of Ordinance No. 2022-02 is violative of the Host Community Agreement By and Between the Township of Lower Saucon, the City of Bethlehem and Eastern Waste of Bethlehem, Inc. Regarding the Bethlehem Landfill dated May 7, 1998, Section III, Paragraph No. 32, wherein Eastern Waste of Bethlehem, Inc., agreed not to undertake landfill disposal activities or own/operate a transfer station, incinerator, or any other type of waste processing facility, at the former Redington/Bethlehem Steel Co. and/or former Helms tracts, and further agreed to comply with the terms of the recorded scenic and conservation easements between the City and the Township for these tracts, whether Eastern uses the parcels under an easement from the City or Eastern later acquires the parcels from the City. This Agreement constituted a covenant running with the land and binding upon any future owner or operator and was to be recorded in the Office for the Recording of Deeds in and for Northampton County.



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF NORTHAMPTON

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Bruce Petrie

Applicant BRUCE PETRIE

Ginger Petrie

Applicant GINGER PETRIE

Sworn to and subscribed  
before me on this

17 of JANUARY 2023

Sharon A. Kels  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
SHARON A KELS - Notary Public  
Northampton County  
My Commission Expires April 11, 2025  
Commission Number 1083679

Date Received: 1/17/2023

John S. [Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Mark Ozimek  
Applicant MARK OZIMEK

MARK OZIMEK

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

[Signature]  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
Keysha Figueroa, Notary Public  
Lehigh County  
My commission expires November 2, 2026  
Commission number 1327945  
Member, Pennsylvania Association of Notaries

Date Received: 1/17/2023

[Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

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Andrew D. Kaszowski  
Applicant

Sworn to and subscribed  
before me on this

14 of January 2023

Denise Lynn McGeehan  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
DENISE LYNN MCGEEHAN - Notary Public  
Northampton County  
My Commission Expires May 20, 2023  
Commission Number 1198212

Date Received: 1/17/2023

Denise Lynn McGeehan  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Tina Louise Krasnansky  
Applicant

Sworn to and subscribed  
before me on this

14 of January 2023

Denise Lynn McGeehan  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
DENISE LYNN MCGEEHAN - Notary Public  
Northampton County  
My Commission Expires May 20, 2023  
Commission Number 1198212

Date Received: 1/17/2023

John S. [Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

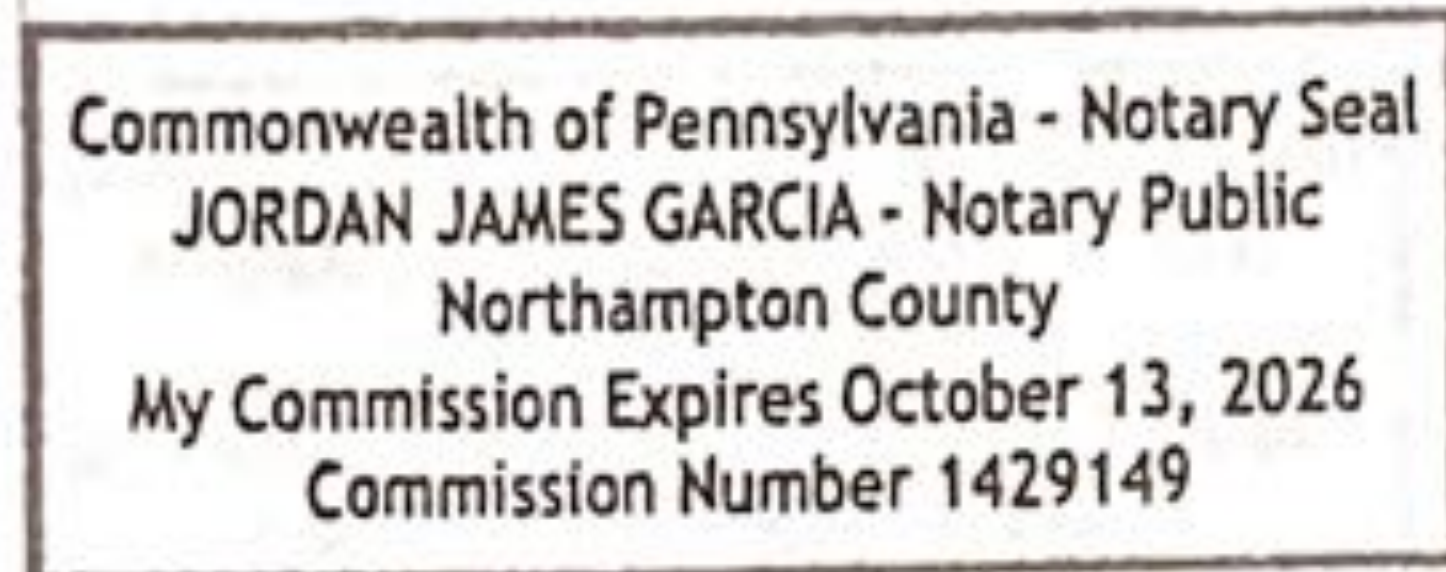
The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Robert Duane Blasko  
Applicant  
Robert Duane Blasko

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

Jordan Garcia  
Notary Public



Date Received: 1/17/2023

Jim S. [Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Elizabeth A. Blasko  
Applicant  
Elizabeth A. Blasko

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

Jordan Garcia  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
JORDAN JAMES GARCIA - Notary Public  
Northampton County  
My Commission Expires October 13, 2026  
Commission Number 1429149

Date Received: 1/17/2023

J. S. Y...  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Joan Michelle Gorski  
Applicant

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

Christina M. Strickland  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
CHRISTINA M STRICKLAND - Notary Public  
Northampton County  
My Commission Expires October 21, 2025  
Commission Number 1408955

Date Received: 1/17/2023

Joe S. [Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

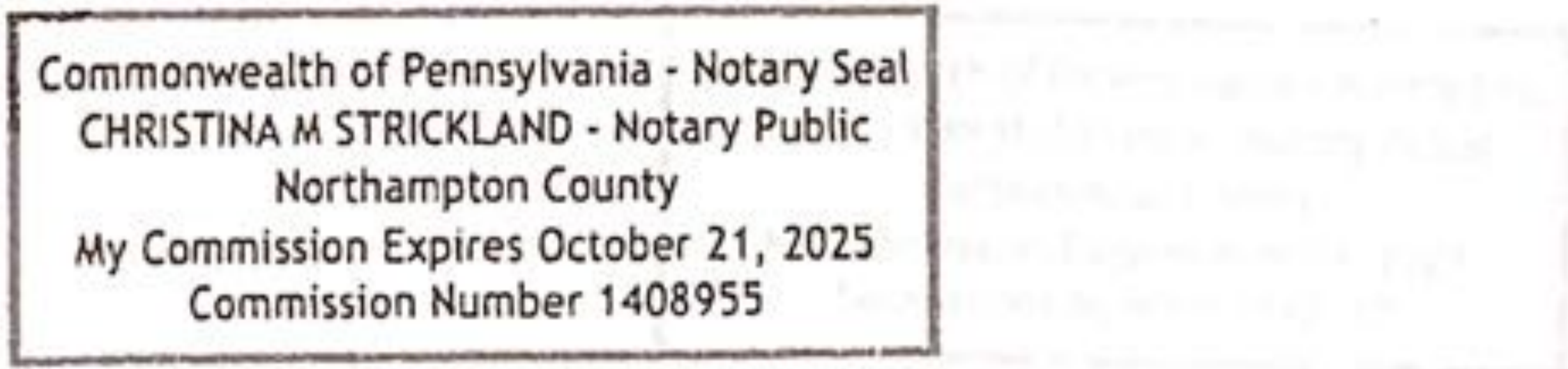
The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner and that the foregoing facts are true and correct.

*[Handwritten Signature]*  
Applicant

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

*[Handwritten Signature]*  
Notary Public



Date Received: 1/17/2023

*[Handwritten Signature]*  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Salvatore J. Gagliano  
Applicant  
SALVATORE J GAGLIANO

Sworn to and subscribed  
before me on this

14 of January 2023

Denise Lynn McGeehan  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
DENISE LYNN MCGEEHAN - Notary Public  
Northampton County  
My Commission Expires May 20, 2023  
Commission Number 1198212

Date Received: 1/17/2023

Julie S. [Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

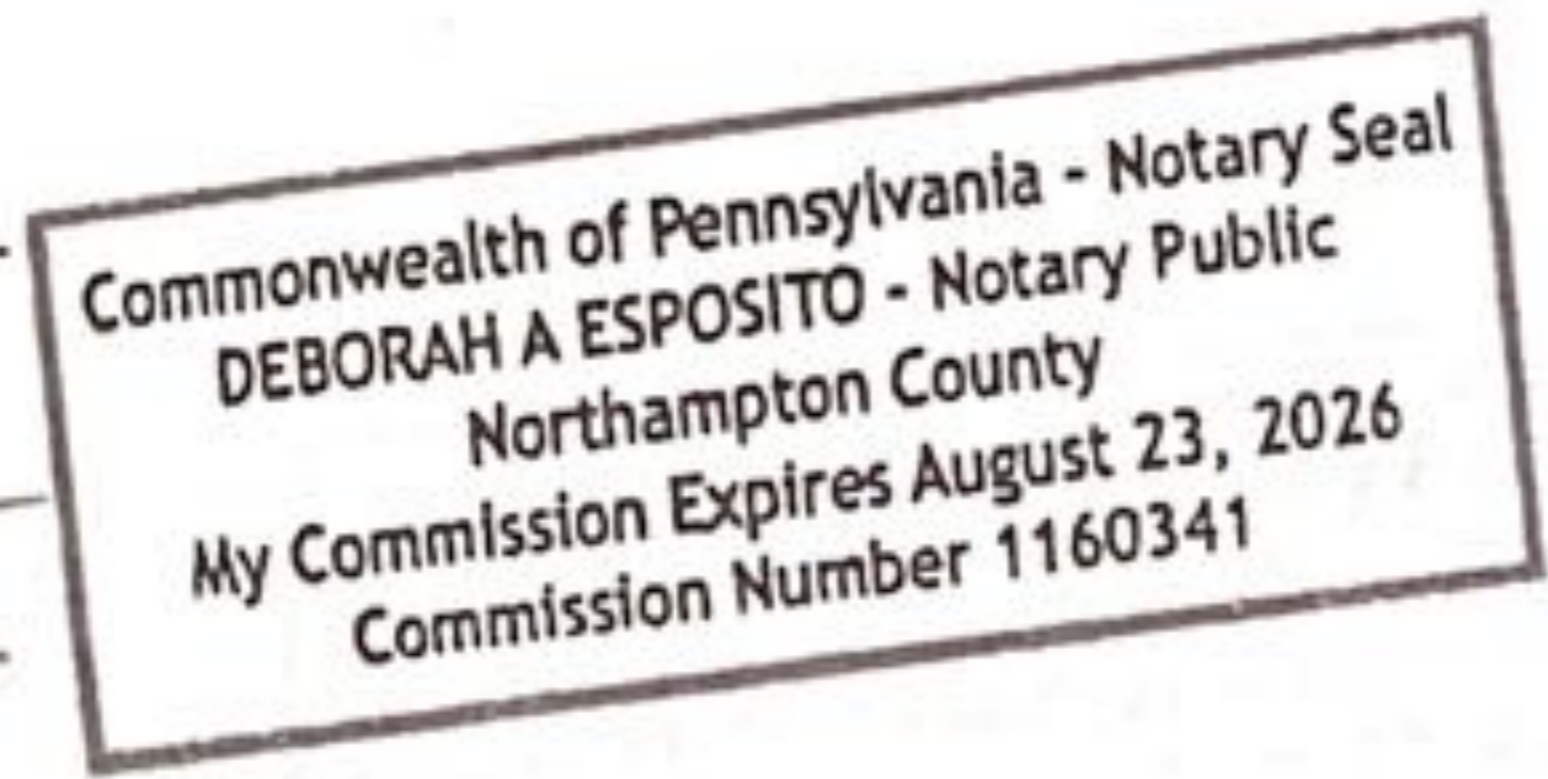
The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Diane M. Magliano  
Applicant

Sworn to and subscribed  
before me on this

14 of January 2023

Deborah A Esposito  
Notary Public



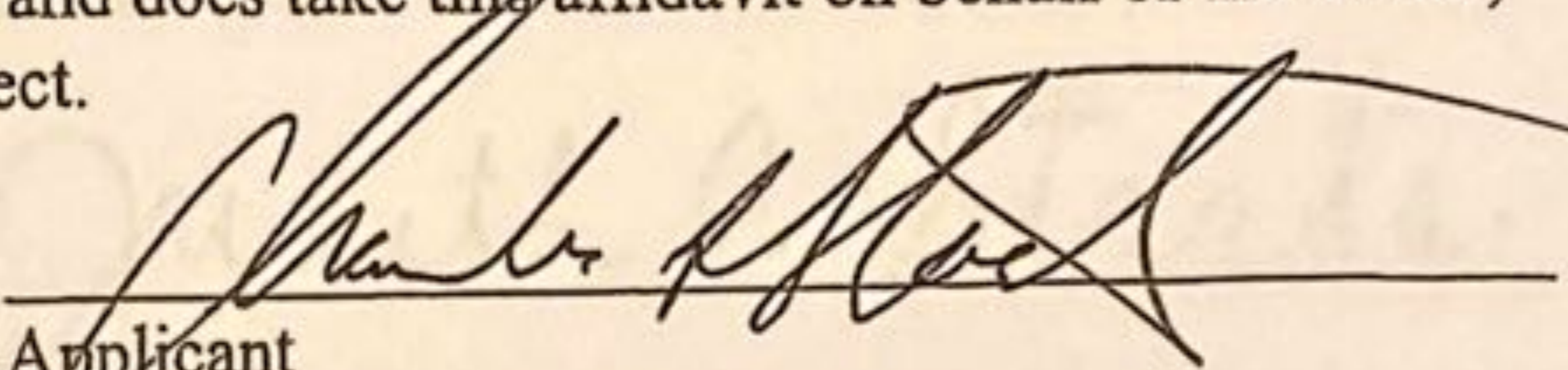
Date Received: 1/17/2023

John S. [Signature]  
Zoning Officer



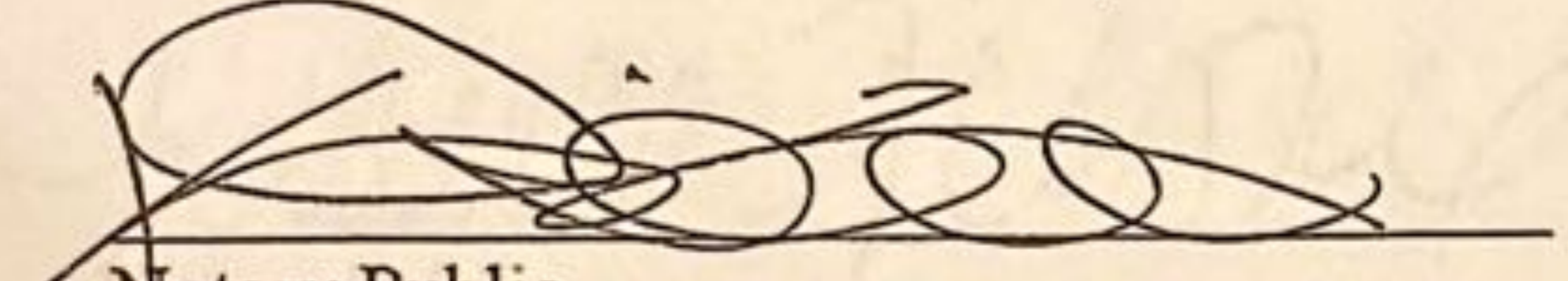
COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

  
Applicant

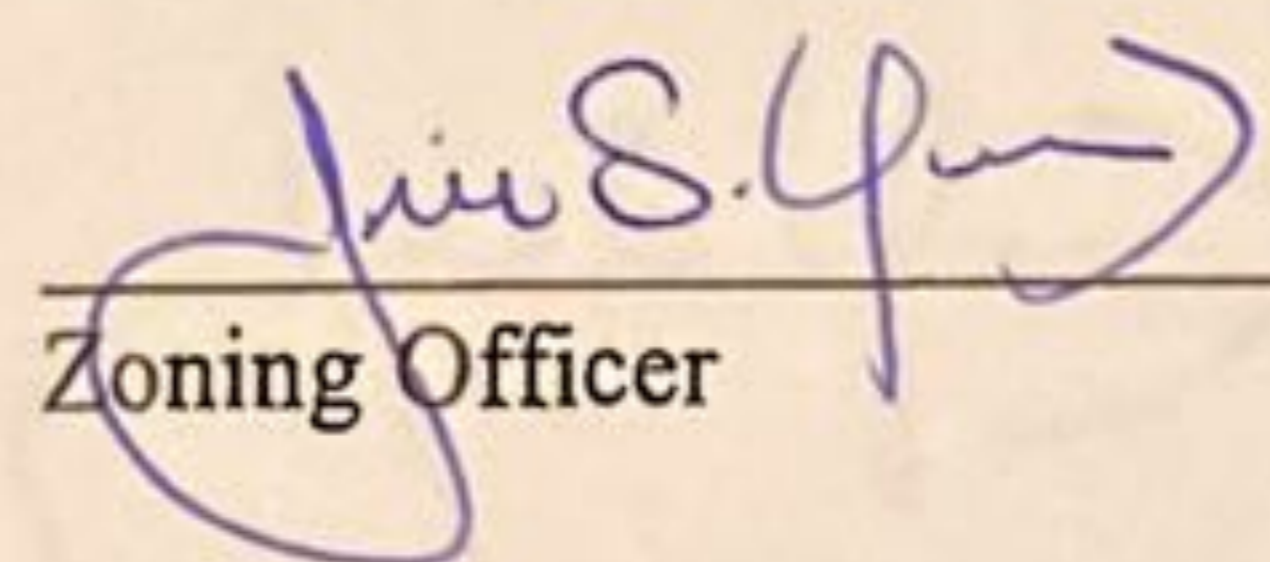
Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023

  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
Keysha Figueroa, Notary Public  
Lehigh County  
My commission expires November 2, 2026  
Commission number 1327945  
Member, Pennsylvania Association of Notaries

Date Received: 1/17/2023

  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF Northampton

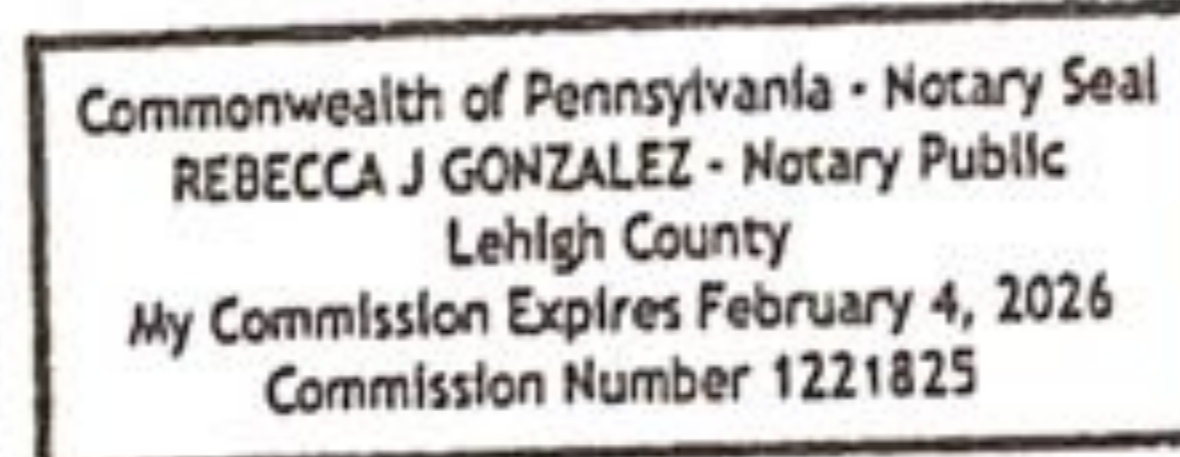
The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Judith A. Staats  
Applicant

Sworn to and subscribed  
before me on this

14 of January 2023

Rebecca J. Gomez  
Notary Public



Date Received: 1/17/2023

[Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

*Savanna Strato*

Applicant

Sworn to and subscribed  
before me on this

14<sup>th</sup> of January 2023<sup>KE</sup>

*Rebecca J. Gonzalez*

Notary Public

Commonwealth of Pennsylvania - Notary Seal  
REBECCA J GONZALEZ - Notary Public  
Lehigh County  
My Commission Expires February 4, 2026  
Commission Number 1221825

Date Received: 1/17/2023

*Jim S. P.*

Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF Northampton

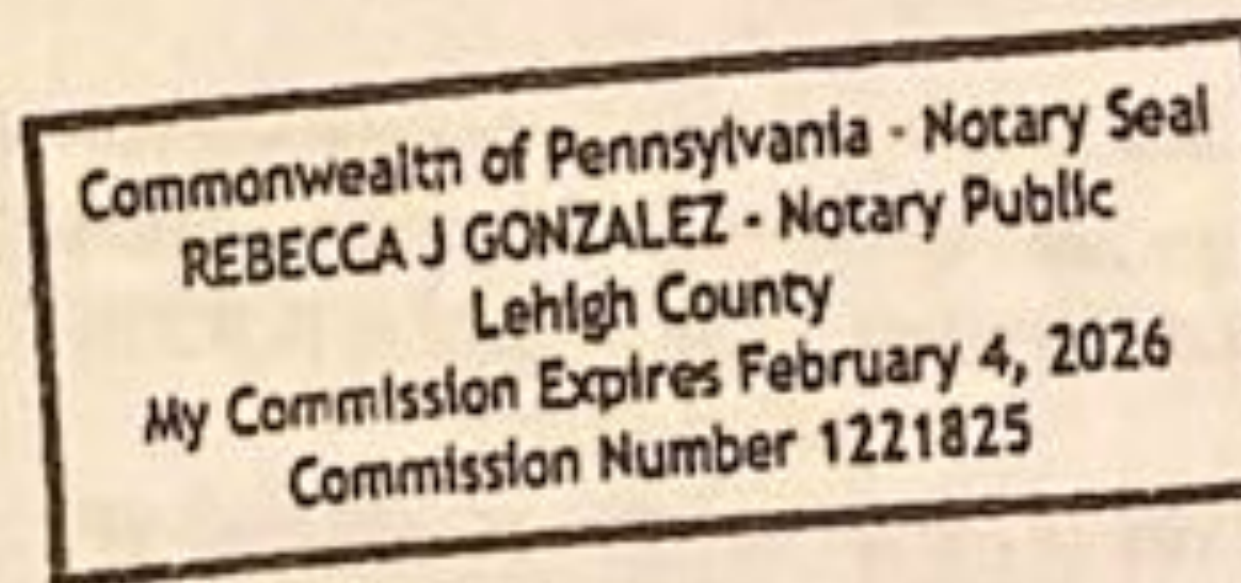
The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

[Signature]  
Applicant

Sworn to and subscribed  
before me on this

14 of January 2023

[Signature]  
Notary Public



Date Received: 1/17/2023

[Signature]  
Zoning Officer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF Northampton

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

*Cody Miller* *me* *Cody Miller*  
Applicant

Sworn to and subscribed  
before me on this

*14th* of *January* *2023*

*M. S. Sagastume*  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
HECTOR M SAGASTUME - Notary Public  
Lehigh County  
My Commission Expires March 5, 2025  
Commission Number 1295024

Date Received: *1/17/2023*

*J. S. G...*  
Zoning Officer



ENACTED 12/21/22

LOWER SAUCON TOWNSHIP  
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022-02

AMENDMENTS TO THE CODE OF THE TOWNSHP OF LOWER SAUCON

AN ORDINANCE OF THE TOWNSHIP OF LOWER SAUCON, NORTHAMPTON COUNTY, PENNSYLVANIA, AMENDING AND REVISING THE CODE OF THE TOWNSHIP OF LOWER SAUCON BY AMENDING CHAPTER 180 (ZONING) TO REVISE THE ZONING MAP BY CHANGING APPROXIMATELY 275.70 ACRES OF LAND FROM AN RA ZONING DESIGNATION TO AN LI ZONING DESIGNATION, REVISING SECTION 180-79.1 TO ADD "LANDFILLS AND WASTE DISPOSAL FACILITIES USE TO THE LIST OF USES REQUIRING CONDITIONAL USE APPROVAL IN THE LI ZONING DISTRICT, REVISING SECTION 180-80B TO REMOVE THE LANDFILLS AND WASTE DISPOSAL FACILITIES USES FROM THE LIST OF USES REQUIRING SPECIAL EXCEPTION APPROVAL, REVISING SECTIONS 180-101 AND 180-109F TO EXEMPT LANDFILLS AND WASTE DISPOSAL FACILITIES FROM THE SITE PLAN APPROVAL PROCESS AND REQUIREMENTS IF THE USE WILL REQUIRE LAND DEVELOPMENT APPROVAL UNDER THE LOWER SAUCON TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AND A PERMIT FROM THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND ADDING SECTION 180-109G TO PROVIDE FOR A NATURAL RESOURCE MITIGATION ALTERNATIVE IN THE LI DISTRICT WHEN APPROVED IN WRITING BY THE COUNCIL OF LOWER SAUCON TOWNSHIP; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS CONTAINED HEREIN. THIS ORDINANCE CONTAINS SIGNIFICANT, SUBSTANTIVE CHANGES TO THE LOWER SAUCON TOWNSHIP ZONING MAP AND ZONING REGULATIONS, AND SHOULD BE REVIEWED IN ITS ENTIRETY FOR A COMPREHENSIVE UNDERSTANDING OF ITS PROVISIONS.



WHEREAS, Lower Saucon Township is a Township of the Second Class, Optional Plan of Government, located in Northampton County, Commonwealth of Pennsylvania; and

WHEREAS, the Township of Lower Saucon adopted Ordinance # 98-17 on May 20, 1998, enacting the Code of the Township of Lower Saucon (hereinafter referred to as the "Code"); and

WHEREAS, the Council of Lower Saucon Township desires to amend the Code of the Township of Lower Saucon to revise the Township Zoning Map, to require that landfills and waste disposal facilities obtain conditional use approval instead of special exception approval, to exempt landfills and waste disposal facilities from the site plan approval process and requirements if the use will require land development approval under the Lower Saucon Township Subdivision and Land Development Ordinance and a permit from the Pennsylvania Department of Environmental Protection, and create a natural resource mitigation alternative for industrial users requesting to disturb natural resources in the Light Industrial District; and

WHEREAS, the Council of Lower Saucon Township has determined that the adoption of this Ordinance containing the described amendments to the Zoning Map and text of the Zoning Chapter of the Code is in the best interest of the public health, safety, and welfare of the citizens of Lower Saucon Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Township of Lower Saucon, Northampton County, Commonwealth of Pennsylvania, that the provisions of the Code of the Township of Lower Saucon are hereby amended and revised as follows:

**Section 1. Amendment to Chapter 180 (Zoning), Section 180-15 (Zoning Map), subsection A**

The Zoning Map of the Township of Lower Saucon is amended in accordance with the revisions noted on the Map attached hereto and incorporated herein by reference as Exhibit "A". Specifically, the lands located in and around the Applebutter Road and Riverside Drive areas of the Township, consisting of approximately 275.70 acres of land currently zoned RA is changed to LI. The Township Manager is hereby directed to prepare a revised Zoning Map dated December 21, 2022 in accordance with the provisions of this Section.

Chapter 180, Section 180-15(A) of the Code is amended in its entirety as follows:

A map entitled "Zoning Map for the Township of Lower Saucon, Northampton County, PA, adopted: December 21, 2022 by Ordinance No. 2022- 02 as amended," attached hereto and incorporated herein by reference as Exhibit "B" accompanies this chapter and is declared a part of this chapter.



**Section 2. Amendment to Chapter 180 (Zoning), Section 180-79.1 (Conditional uses)**

Chapter 180, Section 180-79.1 of the Code is amended to add a new subsection B as follows:

"B. Landfills and Waste Disposal Facilities (see §180-109)."

**Section 3. Amendment to Chapter 180 (Zoning), Section 180-80 (Special exception uses), subsection B (Industrial uses)**

Chapter 180, Section 180-80(B) of the Code is amended to replace subsection (3) "Landfills and waste disposal facilities (see §180-109)" with the term "RESERVED".

**Section 4. Amendment to Chapter 180 (Zoning), Section 180-101 (Purpose)**

Chapter 180, Section 180-101 of the Code is amended to replace the first sentence therein with the following sentence: "This article requires that, unless a use is otherwise specifically exempted from this requirement elsewhere in this Article XVII, before any zoning permit is granted for the use of land or building for certain permitted, conditional and special exception uses, a site plan shall be reviewed by the Planning Commission and reviewed and approved by the Township Council."

**Section 5. Amendment to Chapter 180 (Zoning), Section 180-109, subsection F (Additional requirements applying to extraction and processing of natural resources, landfills and waste disposal facilities and waste transfer and recycling facilities)**

Chapter 180, Section 180-109(F) of the Code is amended to change existing Section 180-109(F)(1) (Additional site plan requirements) from 180-109(F)(1) to 180-109(F)(2), change existing 180-109(F)(2) (Standards) to 180-109(F)(3), and to add a new Section 180-109(F)(1) as follows:

"(1) If a landfill or waste disposal facility will require Land Development approval under the Lower Saucon Township Subdivision and Land Development Ordinance, and a permit from the Pennsylvania Department of Environmental Protection, it is not subject to the site plan approval process and requirements of this Article XVII."

**Section 6. Amendment to Chapter 180 (Zoning), Section 180-109 (Industrial uses)**

Chapter 180, Section 180-109 of the Code is amended to add the following subsection (G):



"G. Natural Resource Mitigation Alternative

An applicant proposing to develop an industrial use within the Light Industrial Zoning District shall be permitted, with the written approval of the Lower Saucon Township Council, to exceed the net buildable site area permitted by Section 180-95(C)(2)(c) ("Permitted Net Buildable Site Area"), utilizing a greater area of natural resource protection land than would be otherwise permitted by the Resource Protection Standards contained in Section 180-95 herein ("Excess Resource Utilization"), provided the Applicant dedicates to the Township for preservation an amount of land equal to the Excess Resource Utilization in accordance with the following requirements:

- (1) The Excess Resource Utilization shall be the difference between the resource protection land calculated by the Resource Protection Land formulas in Section 180-95.C(2)(b) ("Resource Protection Land") and the Applicant's proposed resource protection land (which is the difference between the Base Site Area pursuant to Section 180-95(C)(2)(a) and Applicant's proposed buildable site area) ("Proposed Resource Protection Land"). The Applicant shall be permitted to dedicate land in excess of what is required if accepted by the Township.
- (2) The Applicant shall provide drawings and calculations clearly showing the Resource Protection Land, the Proposed Resource Protection Land, Applicant's proposed buildable site area, and the Excess Resource Utilization, and noting that it proposes to develop the use in accordance with this Subsection (G).
  - (a) An additional plan sheet showing the limits of proposed buildable area and total acreage of existing environmentally protected lands is required.
  - (b) Calculations shall be included on the plans that accurately reflect the Permitted Net Buildable Site Area, the Resource Protection Land, the Base Site Area, the Proposed Resource Protection Land, the Excess Resource Utilization, and the minimum amount of land that is required to be dedicated pursuant to this Subsection (G).
- (3) The land proposed for dedication does not need to contain the same environmental resources as those resource protection lands on the subject property.
- (4) The land proposed for dedication shall be located within the



municipal boundaries of Lower Saucon Township, shall not be within an industrial or commercially zoned area, and shall not contain any natural or man-made features that are inconsistent with the Township's Open Space Action Plan and Policies.

- (5) The land shall be offered for dedication to the Township in either fee simple or via a conservation easement that is acceptable to the Township Council.
- (6) With the approval of the Township Council, land that is currently occupied by a use but that contains significant natural or historic resources, may be also considered for dedication to the Township.
- (7) In the event that the Applicant demonstrates, to the satisfaction of the Township Council, that it was unable to obtain any or enough property for dedication pursuant to this subsection, the Applicant may meet the requirements of this Subsection (G) by submitting a fee-in-lieu of dedication in accordance with the calculations in the Lower Saucon Township Subdivision and Land Development Ordinance, Section 145-51(E), with the "tract" referenced in Section 145-15(E) therein to mean, for purposes of this Section 180-109(G), the number of acres required to be dedicated pursuant to the calculation in Section 109(G)(1). The applicable calculated fee-in lieu of dedication shall only be used by the Township for the purposes authorized by the Township's Open Space plan.
- (8) An applicant choosing to develop an industrial use in accordance with this Subsection (G) shall demonstrate and make the required dedication and/or fee-in-lieu of dedication payment prior to final land development approval by the Township Council.

#### **Section 7. Violations and Penalties.**

The Violation and Penalty provisions of the Code, where not revised herein, shall remain unchanged.

#### **Section 8. Severability.**

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council of Lower Saucon Township hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, illegal, or otherwise invalid.

#### **Section 9. Repealer**

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

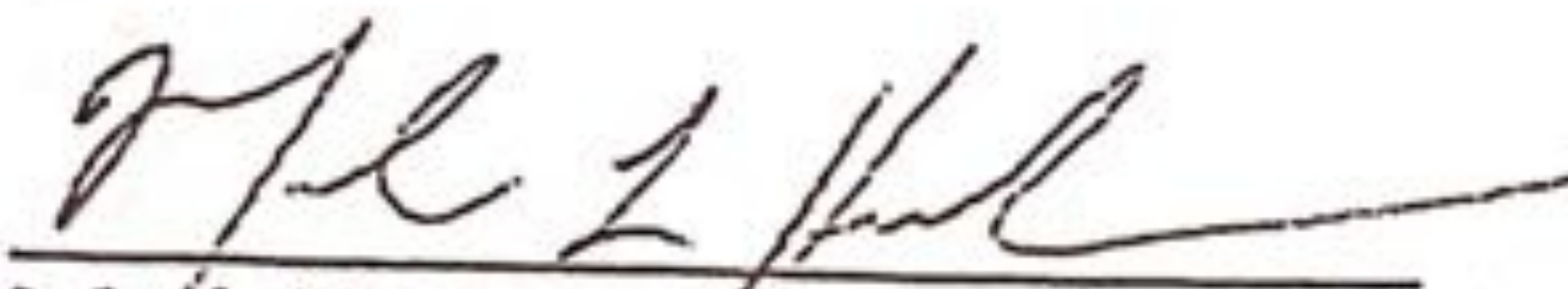


**Section 10. Effective Date.**

The provisions of this Ordinance shall become effective ten (10) days after adoption.

ENACTED and ORDAINED this 21 day of Dec. 2022

ATTEST:

  
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Mark Hudson  
Township Manager

LOWER SAUCON TOWNSHIP

  
\_\_\_\_\_  
Jason Banonis  
Council President

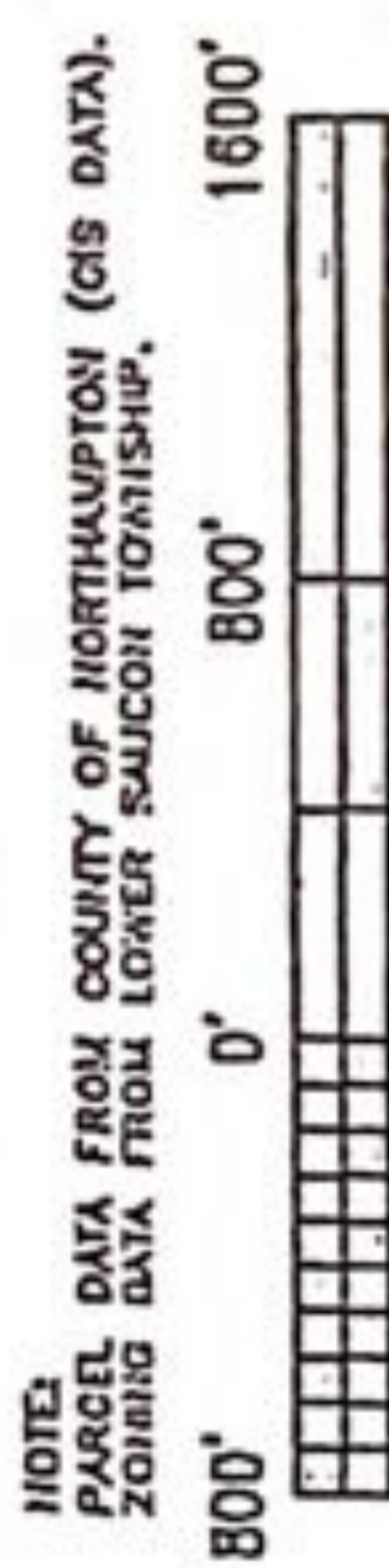
Exhibit A – Zoning Map showing parcels proposed to be changed from RA to LI  
Exhibit B – December 21, 2022 new Zoning Map showing adopted changes





**LEGEND**  
 - - - - - TOWNSHIP BOUNDARY  
 [ ] TOWNSHIP PARCELS

**ZONING - FINAL ADOPTED**  
 [ ] LI - LIGHT INDUSTRIAL  
 [ ] LM - LIGHT MANUFACTURING  
 [ ] R20 - SUBURBAN RESIDENTIAL  
 [ ] RA - RURAL AGRICULTURE



# Map Amendment Exhibit B

PREPARED BY:  
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 chambersburg, pennsylvania • 17201