

**LOWER ALLEN
ZONING HEARING BOARD**

IN THE MATTER OF: 1401 Arcona Road
 Zone: Single Family Rural Residential District (R-2)
 Applicant: JPB Landscaping, LLC/Jason Boyer
 Property Owner: Merritts Properties, LLC
 Application No. 2026-03

REQUEST FOR: **A VARIANCE TO ESTABLISH A LANDSCAPING
BUSINESS ON THE PROPERTY**

BEFORE: Bonneville, Vice-Chair
 Massott, Member
 Migala, Acting Member/Alternate

DECISION

Applicant requests a variance for zoning relief from Section 220-19 of the Lower Allen Township Zoning Ordinance (Zoning Ordinance) to establish a landscaping business, which is not a permitted use in the Single Family Rural Residential (R-2) Zoning District. Applicant's business, JPM Landscaping, LLC, will operate the business on the property located at 1401 Arcona Road, Mechanicsburg (property) The Lower Allen Township Zoning Hearing Board (Board) considered and decided Applicant's variance request at a hearing held on March 19, 2026.

EXHIBITS

- B-1 Certificate of Service of Public Notice and Written Notice of Hearing
- B-2 Application with attached narrative, letter of intent to purchase property, plans for proposal, and company mission statement and information

FINDINGS OF FACT

1. On or about February 14, 2026, JPB Landscaping, LLC/Jason Boyer (Applicant) applied for a variance from Section 220-19 of the Zoning Ordinance to establish a landscaping business on the property located at 1401 Arcona Road, in the R-2 Zoning District.
2. A hearing on application took place on March 19, 2026.
3. Public notice of the hearing on the application was published in the Patriot News on March 3, 2026 and March 10, 2026. Notice of the hearing was placed on Applicant's property on March 4, 2026 and posted at the Lower Allen Township Municipal Building and on Township's website on March 3, 2026.
4. Notice of the hearing was mailed to Applicant and adjoining property owners on March 5, 2026.
5. No objections as to the method and timing of notice and advertising were raised.
6. No objections as to any of the exhibits submitted into the record at the hearing were raised.
7. The Applicant has standing to pursue the zoning relief requested as it has entered into a Letter of Intent to purchase the property from the owner, Merritts Properties, LLC, if the variance request is granted by the Board. (See Ex. B-2 – Letter of Intent/Agreement to purchase property)
8. Testimony at the hearing was taken from Jason Boyer, owner of JPB (applicant), and Marcus Brandt, the Lower Allen Township Zoning Administrator.
9. The property is an approximate one (1) acre (43,608 sq. ft.) lot that features a residence that applicant will use as an office, an old smoke house in the side yard bordering 1413 Arcona Road, and parking spaces and a garage in the rear yard.

10. Applicant leased the property approximately 18 months ago and has been operating his landscaping business from the site since that time.

11. Applicant learned the property was in the R-2 Zoning District when he went to a bank for a loan to purchase the lot, and the bank needed to know the zoning for the property to ensure the business could legally operate on-site.

12. Applicant consulted with Mr. Brandt, the Township Zoning Administrator to determine the process to legally conduct its landscaping business on the property; which resulted in the filing of the variance application.

13. JPB has fourteen (14) employees during its peak season, and operates from April to mid-November when the business essentially closes except for snow removal work¹.

14. JPB's hours of operation are 7:00 a.m. to 5:00 p.m., and during the work day, there is no activity or employees at the property as all landscaping services take place at the customers/clients property.

15. There are fourteen (14) off-street parking spaces on-site behind the residence which is sufficient for the number of employees and trucks for the business.

16. The business uses six (6) trucks on a daily basis, however, only three (3) of the trucks remain on-site over night as the other three (3) trucks are typically driven by salaried employees to their respective residences.

17. Applicant does not store large piles of mulch on-site or any other landscaping materials.

18. No landscaping equipment is visible from Arcona Road; including a mini-excavator, and a diesel skid loader which are not used on-site.

¹ Mr. Boyer testified that the landscaping business operates from April through November 10.

19. Jeff Logan, a nearby resident of the property for approximately six years, questioned applicant about competing with its neighbor located at 1413 Arcona Road for landscaping business, and whether applicant would have large trucks going to a from his property, which were answered by Mr. Boyer in the negative.

20. Mr. Logan did not voice any opposition to the variance application after applicant responded to his questions.

21. The closest residence is located approximately 400 ft. from the property and will not be impacted from the landscaping business that essentially operates off-site during the day.

22. The Arcona Homes development is located over 1,000 ft away from the property.

23. The property is bordered by PPL properties to the north/northwest side, Camp Hill Forest Products to the east, and residential properties to the south and south east.

24. No properties appear to have been adversely affected by the landscaping business during the past 18 months of operation.

CONCLUSIONS OF LAW

1. The Lower Allen Township Zoning Hearing Board has jurisdiction to hear the above-captioned variance application pursuant to Section 220-269(B)(5) of the Lower Allen Township Zoning Ordinance and 53 P.S. Section 10909.1(a)(5) of the Pennsylvania Municipalities Planning Code.

2. Proper notice of the hearing was given to the public and to all interested parties.

3. Exhibits B-1 and B-2 were properly admitted into evidence.

4. Applicant has sustained its burden of proof for a variance to establish a landscaping business in the Single-Family Rural Residential (R-2) Zoning District in accordance with the attached discussion and decision.

DISCUSSION

The property is located in the R-2 Zoning District which is regulated by Article 5 of Chapter 220 – Lower Allen Township Zoning Ordinance (Zoning Ordinance). Applicant requested a variance for zoning relief from Section 220-19 (permitted uses) to establish a landscaping business, which is not a permitted use in the R-2 Zoning District, on the property located at 1401 Arcona Road, Mechanicsburg.

VARIANCE

In reviewing the application requesting a variance, the Zoning Hearing Board must take into account the criteria as set forth in Section 220-269 of the Township Zoning Ordinance which states the following:

C. Variances. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that the following findings are made where relevant in a given case:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.

- (4) That the variance, if authorized, will not alter the essential character of the district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

Lower Allen Township Zoning Ordinance, Section 220-269.

The Pennsylvania Supreme Court has repeatedly made clear that in establishing hardship, an applicant for a variance is not required to show that the property at issue is valueless without the variance or that the property cannot be used for any permitted purpose. *Marshall v. Philadelphia Zoning Board of Adjustment*, 97 A.3d 323, 330 (Pa. 2014) On several occasions, the Pennsylvania Supreme Court reversed the Commonwealth Court when it had relied on such a standard for unnecessary hardship in reversing the grant of a variance. Showing that the property at issue is valueless unless the requested variance is granted is but one way to reach a finding of unnecessary hardship; it is not the only factor nor the conclusive factor in resolving a variance request. Rather, multiple factors are to be taken into account when assessing whether unnecessary hardship has been established. *Id.* at 330-331. In evaluating hardship the use of adjacent and surrounding land is relevant. *Valley View Civic Asso v. Zoning Bd. of Adjustment*, 462 A.2d 637, 640 (Pa. 1983)

JPB uses six (6) trucks to conduct its landscaping business on a daily basis from April through mid November. These six (6) trucks and JPM's employees leave the property daily by 7:15 a.m. and travel to the client's property to perform the requested landscaping services; ie. property maintenance, design, fertilization, hardscape, turf management, mulching, seeding and

tree trimming. Over the winter months, JPB performs snow removal. The employees and the company vehicles are not on the property for the significant majority of the day. Three (3) of the six (6) trucks are not stored on the property overnight as they are taken home by a few of JPB's employees.

JPB has operated its landscaping business from the property for the past 18 months without any negative impacts or complaints from the surrounding neighborhood. As there is essentially no equipment used and no performance of landscaping services on the property, there is no noise to affect residential properties.

The property is bordered by PPL owned and operated facilities to the rear (north), and Camp Hill Forest Products business to the east. There are residential properties across the street, but the nearest residence is 400 ft. from the JPB property. Arcona Homes development is located 1,000 ft. from property.

There is no bulk storage of materials on the property; ie. mulch or stone. Applicant has the necessary materials delivered from the wholesaler to the client's property to be used, applied and/or planted.

The Township Zoning Administrator has determined that the fourteen (14) parking spaces on the property is sufficient off-street parking to accommodate the needs of the business and its fourteen employees.

Applicant has not created any of the conditions or circumstances on the property or the surrounding area. Applicant has not substantially changed the conditions of the property nor does it propose any changes to the property in the future to continue successfully operating its landscaping business.

The variance will not alter the essential character of the R-2 Zoning District, nor will it substantially or permanently impair the appropriate use or development of adjacent property, nor adversely impact the health, safety and welfare of the surrounding community.

The variance requested represents the minimum variance necessary that will afford applicant relief and represent the least modification possible of the Zoning Ordinance. Typically, this requirement is more relevant in a dimensional variance case when evaluating the permitted uses reasonable adjustment from a zoning regulation, but it is applicable in a use variance case. The proposed use requires no development of the property, and will not be burdensome to the surrounding properties as the business mainly uses the site as a central location to meet in the morning, plan and strategize jobs and/or services to perform, then depart for the entire workday. It is a minimally intensive use of the property.

We find that applicant has sustained its burden of proof for a variance to establish and/or maintain a landscaping business on the property located in the R-2 Zoning District.

ORDER

In accordance with the above discussion, Applicant's request for a variance to establish and/or maintain a landscaping business on the property located at 1401 Arcona Road in the R-2 Zoning District is granted subject to the following conditions, which were acceptable to applicant:

1. No customers are allowed to be present on the property;
2. No tri-axle vehicles, or vehicles over 60,000 lbs. are permitted on the property; and
3. The relief granted by this decision and order of the Board is specific to the applicant, JPB Landscaping, LLC/Jason Boyer and is not transferrable and/or assignable to any other person or business/company.

LOWER ALLEN TOWNSHIP ZONING HEARING BOARD



Date: 4/16/2026

By: Richard Bonneville, Vice-Chair

Any parties that are aggrieved by this Decision may appeal same within thirty (30) days to the Court of Common Pleas of Cumberland County, PA