

**BEFORE THE FAIRVIEW TOWNSHIP
ZONING HEARING BOARD**

DECISION

**IN RE: APPLICATION OF THE HINDU-AMERICAN RELIGIOUS INSTITUTE
APPLICATION NO. 2025-03**

APPLICANT(S): Hindu-American Religious Institute
HEARING DATE: May 22, 2025
DECISION DATE: May 22, 2025
APPEARANCES: Atty. Erik Hume, Saxton & Stump (counsel)
Devang Patel – Chair of Applicant’s Expansion Committee
Wes Hisley (Engineer with Dawood Engineering)
Tina Zerbe (neighbor providing testimony in opposition)
Mark Eckhart and Lorie Echart (neighbors providing testimony in
opposition)
Stephen Waller, Township Zoning Officer
EXHIBITS: Exhibit 1 – Application (including all submittals)
Eckhart 1 – Photo packet introduced by Mark Eckhart
Langer 1 – Letter dated May 21, 2025 submitted by James Langer
(not in attendance at hearing)
SUBJECT PROPERTY: 301 Steigerwalt Hollow Road, New Cumberland, PA, 17070

BACKGROUND

This decision of the Fairview Township Zoning Hearing Board (the “**Board**”) is from an application (“**Application**”) filed with Fairview Township (the “**Township**”) seeking zoning relief under the Township’s Zoning Ordinance (the “**Ordinance**”) in order to expand its existing Hindu temple, including: (i) a special exception under §300.80.B, Expansion, Extension or Enlargement (to existing nonconforming uses and structures), to increase the impervious surface from the existing amount of 17.7% (which is non-conforming based on the maximum amount of 15% pursuant to Section §300.16.A) to 22.1% impervious surface; and (ii) a variance from Section §300.16.A to permit an encroachment within the side yard setback for the expansion of the existing structure. The subject property is located at 301 Steigerwalt Hollow Road, New Cumberland, Pennsylvania, 17070, located in the Township’s Rural Living (RL) Zoning District and within the Airport Overlay Zone (APO).

A hearing was held on the Application on Thursday, May 22, 2025, with the meeting starting at 6:00 p.m. The Zoning Hearing Board was represented by Timothy Mader (Chairman), Mark Perry (Vice Chairman), and Keith Bashore. All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. Testimony in opposition to the Application was offered by Tina Zerbe, Mark and Lori Eckhart, and a letter was submitted in opposition by James Langer (however James was not present at the hearing). After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

FINDINGS OF FACT

1. The Hindu-American Religious Institute (“*Applicant*”) is the current owner of property located at 301 Steigerwalt Hollow Road, New Cumberland, Pennsylvania, 17070 (the “*Property*”), which is used as a religious assembly/church.

2. The Property is located in the Township’s Rural Living (RL) Zoning District and within the Airport Overlay Zone (APO).

3. The Property is improved with a structure used for worship and religious gatherings, as well as ancillary parking and access (the “*Temple*”).

4. The Temple was constructed in 1984 prior to the enactment of the current Ordinance, and the Temple has operated at the Property for roughly 50 years.

5. The current use of the Property as a Temple and religious assembly/church is a use permitted by right in the RL Zone pursuant to the Ordinance.

6. The Applicant seeks to expand the Temple to provide for the growing Hindu community and membership

7. The impervious surface of the Property is currently at 17.7%, which represents an existing dimensional nonconformity for impervious surface, with §300.16.A. permitting no more than 15% impervious surface.

8. Applicants seek to expand the Temple and related parking, while also removing unneeded access drives, all as shown on the plans submitted with the Application and marked as Exhibit 1, which will increase the maximum impervious surface coverage to 22.1%.

9. The expansion to the Temple would expressly include:

A. Three proposed additions to the Temple, which would be constructed in phases, totaling 10,750 square feet in additional footprint area;

B. The extension of sanitary sewer service to the Temple, to replace the existing on-lot system;

C. The upgrade of the stormwater management facilities on the Property;

D. The installation of 40 overflow parking spaces;

E. The removal of the existing access drive on the southwestern side of the Temple, to accommodate the Temple additions and simplify traffic flow; and

F. The removal of excess pavement

10. The increase of impervious surface from 17.7% to 22.1% would represent a 25% increase in impervious surface.

11. The submitted plans (with the Application) shows approximately 20.8% impervious surface coverage, but the additional impervious area (not to exceed 22.1%) will allow for minor design changes and revisions without the need for additional zoning approvals.

12. Applicant's expansion additionally seeks to encroach on the side yard setback to permit the expansion of the main hall of the Temple along the existing footprint lines, with such setback being reduced from the required 75 ft by 19 ft (leaving a setback of 56 ft).

13. Applicant provided testimony that the Property is unique in that it is a topographically-challenged site with significant slopes, wetlands, a watercourse and gully.

14. The current Temple configuration was dictated by these conditions, as well as the limits of the size of the Property prior to the addition of additional lands in 2022.

15. Tina Zerbe provided testimony regarding the current traffic issues related to the use of the Temple, and concerns regarding increased traffic occasioned by the expansion.

16. Mark Eckhart and Lorie Eckhart provided testimony and photos regarding the current traffic issues, noise concerns from use of the Temple, parking issues (including parking along Steigerwalt Hollow Road during use of the Temple, and trash along or around the road which they believe is a result of the Temple.

17. Applicant seeks a special exception under §300.80.B (related to the Expansion, Extension or Enlargement to existing nonconforming uses and structures) to increase the existing dimensional nonconformity for impervious surface from 17.7% to 22.1%.

18. Applicant seeks a variance from §300.16.A to permit an encroachment within the side yard setback for the expansion of the Temple, which would reduce the side yard setback from 75 ft. to 56 ft.

19. Stephen Waller, as the Township Zoning Officer, testified as follows:

A. All public notices of the application and hearing were legally conducted, with the hearing being advertised in the newspaper on May 1st and May 8th, the Property being posted on May 14th, and the adjoining property owners having letters mailed to them on April 28th.

B. The Temple is an existing non-conformity based on the Township's records with regards to the impervious surface.

C. The Applicant, if the zoning relief is granted, would still need to submit a land development plan and abide by all Township regulations in conducting the improvement.

CONCLUSIONS OF LAW

1. The Applicant have established that the Property and the impervious surface constitute existing dimensional nonconformity.
2. The Applicants have established the elements required by Section 300-80.B of the Ordinance in order to expand, extend, or enlarge an existing dimensional nonconformity.
3. The Applicants have established the elements required by Section 300-99(E)(3)(b) of the Ordinance regarding the general criteria for a special exception.
4. The Applicant has failed to establish the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance in order to grant a variance from Section 300.16.A to permit an encroachment within the side yard setback for the expansion of the Temple, which would reduce the side yard setback from 75 ft. to 56 ft.

DECISION

Mr. Perry moved: (i) to grant the special exception under §300.80.B, Expansion, Extension or Enlargement (to existing nonconforming uses and structures), to increase the impervious surface from the existing amount of 17.7% (which is non-conforming based on the maximum amount of 15% pursuant to §300.16.A) to 22.1% impervious surface; and (ii) to deny the variance from §300.16.A to permit an encroachment within the side yard setback for the expansion of the Temple, which would reduce the side yard setback from 75 ft. to 56 ft.

Mr. Bashore seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board unanimously approved the motion.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.



Timothy Mader, Chairmen

Date: May 28, 2025

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE: MAY 28, 2025

PUBLIC NOTICE

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **May 22, 2025**, at 6:00pm, at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Docket No. 2025-03: The applicant, Devang Patel of Hindu American Religious Institute, is requesting a Special Exception from Section §300.80.B – Existing nonconforming uses and structures to propose a significant expansion of the existing non-conformity to increase the impervious coverage of the property. The applicant also seeks a Variance from Section 300.16 – Area and Design Requirements to seek relief from the side yard setback requirements along the southern end of the property. The subject property is located at 301 Steigerwalt Hollow Road, New Cumberland PA 17070, having UPI No. 27-000-RF-0100.00-00000, which is located within the (RL) Rural Living Zoning District.



ZONING HEARING BOARD
APPLICATION
YORK COUNTY, PENNSYLVANIA

Please see instructions for further information on completing the application.

PART 1 - APPLICANT/OWNER AND PROPERTY INFORMATION



FILE COPY

APPLICANT(S):

Name: Hindu American Religious Institute attn: Devang Patel
Address: 301 Steigerwalt Hollow Road City New Cumberland State PA Zip: 17070
Email: devangalpa@yahoo.com Phone: 717-856-2156

PROPERTY OWNER(S) (if other than applicant):

Name:
Address: City State Zip:
Email: Phone:

PROPERTY INFORMATION:

Address: 301 Steigerwalt Hollow Road City New Cumberland State PA Zip:
Lot Size: 11.23 ac Date Purchased: Tax Parcel ID: 27-000-RF-0100
Current Use of Property: Place of Worship Zoning Map District Designation: RL

PART 2 - ZONING REQUEST TYPE:

Please identify one or more of the following applicable type(s) of relief being requested.

[X] SPECIAL EXCEPTION As required in Section(s) 300-80.B of the Zoning Ordinance.
The proposed use for the location is claimed by the applicant:

- a. To be considered with such other standards as required by the Zoning Ordinance in Section(s): Please see attached.
b. Will not detract from the use and enjoyment of adjacent or nearby properties for the following reasons:
c. Will not substantially change the character of the neighborhood for the following reasons:
d. To comply with various elements and objectives of the Comprehensive Plan, and/or any other applicable plans adopted by the Township of Fairview:

[X] VARIANCE of Section: 300-16 Subsection: A
Section: Subsection:
Section: Subsection:
Section: Subsection:

of the Fairview Township Zoning Ordinance.

Nature of Variance(s) requested: Encroachment into setback - please see attached narrative.

The applicant believes the Variance should be granted due to:

- Applicant is unable to make reasonable use of his property for the following reasons:

- The unnecessary hardship on this property is:

- The result of the application of the Zoning Ordinance;
- Due to unique physical circumstances of the property in question not shared by other properties in the vicinity;
- Not financial in nature;
- Not self-created;

- The proposed Variance will not alter the essential character of the neighborhood nor impair the use of the adjacent property for the following reasons:

- The Variance requested represents the minimum that will afford relief for the following reasons:

APPEAL OF THE ZONING OFFICERS DECISION

The decision of the Zoning Officer dated: _____, 20 _____ based upon an interpretation of Section(s) _____ of the Zoning Ordinance. The nature of the appeal by applicant is as follows: _____

PART 3 – PREVIOUS ZONING HEARING BOARD ACTIONS

To the best of your knowledge, has there been any previous Zoning Appeals, Variances or Special Exceptions associated with this property? YES NO .

If yes, please provide dates or Case #'s _____

PART 5 – APPLICANT/OWNER AUTHORIZATION AND AFFIDAVIT

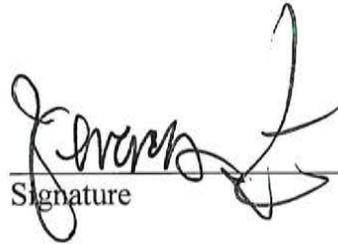
Commonwealth of Pennsylvania :

County of Dauphin :

The undersigned, being duly sworn according to law, deposes and says that he/she is the above-mentioned applicant/owner/representative, that they are the owner OR authorized to take this Affidavit on behalf of the owner and that the forgoing information and facts contained in the application are true and correct to the best of their knowledge.

Applicant/Owner/Representative

PATEL, DEVIANG D.
Name/Title HARI Expansion Comm. Chair


Signature

Sworn to and subscribed before me
this 14 day of April, 2025.

Michele L Steuber
Notary Public

Commonwealth of Pennsylvania - Notary Seal
Michele L. Steuber, Notary Public
Dauphin County
My commission expires May 4, 2028
Commission number 1298084
Member, Pennsylvania Association of Notaries

For office use only:
ZONING HEARING BOARD CHECKLIST

Application received: _____

Property Zoning District: _____

Request Type: Special Exception, Variance or Appeal: _____

Case No.: _____ Fee paid: \$ _____ Payment type: _____

Hearing date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to newspaper: _____

Notice published in newspaper: _____

Notice mailed to property owners (225 ft. buffer): _____

Public Notice posted on property: _____

ZHB packets mailed and emailed: _____

Action taken: _____

INFORMATION AND INSTRUCTIONS ON THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD APPLICATION

PART 1: APPLICANT/OWNER AND PROPERTY INFORMATION:

APPLICANT: Enter the applicant's name, address, and contact information. Under the Pennsylvania Municipalities Planning Code, the applicant must be the landowner which is defined as "the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land." If the applicant is not the landowner as defined above, a purchase/lease agreement providing the tenant with the right to apply for zoning relief, or written consent from the owner is required to be submitted along with application or the application will be rejected by the Zoning Officer.

PROPERTY OWNER: Enter the name, address, phone number and email of the current property owner(s).

PROPERTY INFORMATION: Enter the property address; the size of the lot in square feet or acres; the date the property was purchased; the Parcel ID OR Tax Map and Parcel number (can be found on tax bill or at York County Tax Assessment website); the current use of the property (such as a single family dwelling, multi-family dwelling, commercial or industrial use, agricultural land or vacant lot); the properties Zoning Map Designation which can be found on the Township Zoning Map.

PART 2: ZONING REQUEST(S) TYPE AND DESCRIPTION OF THE REQUEST :

SPECIAL EXCEPTION: A special exception is defined as use which is outlined in the Zoning Ordinance that may be permitted **ONLY** by Zoning Hearing Board Approval by satisfying specific criteria as outlined in the Ordinance.

APPEALS: Any decision made by the Zoning Officer or their representative can be appealed to the Zoning Hearing Board.

VARIANCE REQUESTS: A variance is a request to use or construct on a property in a way that is not permitted by the Zoning Ordinance.

Section(s) of the Zoning Ordinance that relief or an appeal is being requested **MUST** be indicated on the application or the application will be deemed incomplete.

PART 3 : PREVIOUS ZONING HEARING BOARD ACTIONS: Please note any previous cases that have been heard by the Zoning Hearing board for the noted property.

PART 4: LIST OF PROPERTY OWNERS:

List and identify all property owners within **200 feet** of the subject property indicated on application. This information can be obtained from the York County Tax Assessment website at <http://york-county.org>. Follow the tax assessment/real estate assessment menus. Identify the use type of the surrounding properties (i.e.: single family dwelling, multi-family dwelling, commercial use, industrial use, agricultural land or vacant lot).

PART 5: AUTHORIZATION AND AFFIDAVIT:

This section must be signed, dated by the property owner or an authorized applicant/equitable owner and notarized to certify the submittal is true to the best of their knowledge and belief.

NOTES:

- The Zoning Officer will be a PARTY present at the hearing and will be representing the Fairview Township Zoning Ordinance requirements or justification of the zoning determination that was made. Due to this, the Zoning Office CANNOT give advice or direction on the completion of the application outside of general information. It is the responsibility of the Applicant to make the determination of what type of relief is being requested.
 - The applicant *should consider* using Legal Counsel to assist in the completion of the application as well as appearing before the Zoning Hearing Board.
 - ***The applicant, owner or an authorized representative MUST appear at the hearing*** to present the case. Lack of attendance/representation may be reason for denial of the application.
 - ALL applicable portions of the application must be completed; the application must be signed and notarized where indicated in Part 5; and the FILING FEE must be paid at the time the application is submitted. An incomplete application may be reason for denial.
 - The current filing fee can be obtained by calling the Fairview Township Codes Office or by visiting our website at www.twp.fairview.pa.us. Follow the links to the Zoning Hearing Board page.
 - A completed application must include six (6) hard copies and be submitted to the Fairview Township Codes Office ***not later than 3:30pm on the deadline date***. A list of the meeting dates and deadlines can be found on our website at www.twp.fairview.pa.us. (if any attachments are larger than 8 ½" X 11" page - one (1) digitized copy of the attachment(s) is required.
 - All submitted zoning hearing cases will be read into record at the first Planning Commission meeting after the application is received. The Planning Commission meeting is held on the first Tuesday of the month. The applicant may attend this meeting, but it is not required.
-

NARRATIVE IN SUPPORT OF SPECIAL EXCEPTION AND VARIANCE APPLICATION
OF HINDU AMERICAN RELIGIOUS INSTITUTE

Applicant, Hindu American Religious Institute (“**Applicant**”) provides the following information in support of its request for special exception approval to increase existing nonconformities to permit its proposed expansion of its facilities to provide additional classroom space and parking.

OVERVIEW OF THE PROPERTY

This application is for Applicant’s property at 301 Steigerwalt Hollow Road, York County Tax Parcel No. 27-000-RF-0100 (the “**Property**”). The Property is bounded by Steigerwalt Hollow Road to the east, the Pennsylvania-American Water Company property to the north and west, and properties belonging to John and Cathy McDonald and Robert and Vignon Smeigh to the south. The Property is located in the RL Rural Living zone and the APO Airport Overlay zone.

The Property is an 11.23 acre parcel. Erected on the Property is the applicant’s Hindu temple, which is used for Hindu religious ceremonies as well as a number of events designed for education, spirituality and Indian community interaction (the “**Temple**”). The Temple has a footprint of 5,932 square feet, and features approximately _____ sf in usable floor area. The Temple was first constructed in 197__ and has been in continuous operation since that time. Topographically, the site features significant slopes, wetlands and water courses, all of which create significant challenges in the use and development of the site. A depiction of the Property is set forth on **Exhibit “A”**, attached hereto.

When the Applicant first constructed the Temple, the Property was only 6.8 acres in area, and was lawfully nonconforming as to lot coverage. In 2022, Applicant purchased some neighboring lands, thereby putting the Property in its current configuration. The Property is still nonconforming as to lot coverage, featuring 17.7% of impervious lot coverage (15% permissible per Section 300-16.A of the Zoning Ordinance).

Applicant is proposing a significant expansion of the Temple and upgrade of the Property to accommodate growth of the Temple as a regional resource for the Hindu and Indian community. The expansion includes:

- Three proposed additions to the Temple, which would be constructed in phases, totaling 10,750 square feet in additional footprint area;
- The extension of sanitary sewer service to the Temple, to replace the existing on-lot system;
- The upgrade of the stormwater management facilities on the Property;
- The installation of 40 overflow parking spaces;
- The removal of the existing access drive on the southwestern side of the Temple, to accommodate the Temple additions and simplify traffic flow; and
- The removal of excess pavement.

A depiction of the proposed changes is depicted on **Exhibit “B”**, attached hereto.

In order to move forward with the project, Applicant will require relief from the Fairview Township Zoning Ordinance (the “**Zoning Ordinance**”). Specifically, the expansion will increase the impervious coverage on the Property from 17.7% to 20.8%, which is a 17.5% increase in the nonconformity. Pursuant to Section 300-80.B of the Zoning Ordinance, an existing nonconformity may be increased by up to 25% with special exception approval. Additionally, Applicant will require a variance from Section 300-16.A of the Zoning Ordinance for the side yard setback along the southern end of the Property in order to permit one of the additions to the Temple.

DISCUSSION – SPECIAL EXCEPTION

Applicant is seeking special exception approval to expand an existing non-conformity. The Commonwealth Court has summarized special exceptions as follows:

A special exception is a conditionally permitted use, allowed by the legislature if specifically listed standards are met. A special exception is thus not an

“exception” to the zoning ordinance, but a use permitted conditionally, the application for which is to be granted or denied by the zoning hearing board pursuant to express standards and criteria.

In re Brickstone Realty Corp., 789 A.2d 333, 340 (Pa. Cmwlth. 2001) (citations omitted).

When reviewing a special exception application, the applicant has the initial burdens of proof and persuasion to demonstrate that the proposed use satisfies the objective criteria of the ordinance. Once the applicant meets those burdens, it is presumed that the proposed use is consistent with the health, safety and general welfare of the community. The burden then shifts to the objectors, who must present evidence and persuade the zoning hearing board that the proposed use will have a generally detrimental effect on health, safety, and welfare. *Siya Real Estate LLC v. Allentown City Zoning Hearing Board*, 210 A.3d 1152, 1157 (Pa. Cmwlth. 2019) (citations omitted). The objectors have a high burden; they must demonstrate “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.” *Id.*

The criteria for special exceptions is set forth in Section 300-99.E(3) of the Zoning Ordinance. Those standards, and how the Applicant meets them, are set forth below:

[1] *The proposed use shall be consistent with the purpose and intent of this chapter;*

The use of the Property as a place of worship is permitted by right in the RL zone. Allowing the expansion of the impervious coverage nonconformity is a minor adjustment that will have no adverse impact on surrounding properties or the RL district.

[2] *The proposed use shall not detract from the use and enjoyment of adjacent or nearby properties;*

The increase in impervious coverage will not have any effect on neighboring properties, because the project proposed by Applicant will require land development approval, which includes compliance with current stormwater management standards. Moreover, substantial vegetative buffers are along the boundaries of the Property, which will both reduce stormwater runoff and screen the Property from the neighbors. Finally, 20.8% of impervious coverage is remarkably low for a developed parcel.

[3] *The proposed use will not substantially change the character of the subject property's neighborhood;*

The proposed use has been in place for almost 50 years, and will not be changing. The increase in impervious coverage will have no impact on the character of the neighborhood in light of the updated and improved stormwater management facilities, the substantial buffers and the large size of the Property.

[4] *Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);*

Adequate facilities are available, and since the project includes the connection of the Property to public sewer, it will eliminate an existing on-lot system.

[5] *The proposed use complies with this Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151, relating to floodplains;*

The project complies with these provisions.

[6] *The proposed use shall comply with those criteria specifically listed in Article X of this chapter, relating to specific and supplemental regulations for specific uses. In addition, the proposed use shall comply with all other applicable regulations contained in this chapter; and*

Article X does not set forth criteria for expansion of nonconformities. This application does meet the requirements of Section 300-80.B, which are set forth below.

[7] *The proposed use will not substantially impair the integrity of the most recent version of the Fairview Township Comprehensive Plan, and/or any other applicable plans adopted by the Township of Fairview.*

The project is compatible with and furthers the goals of the 2025 Comprehensive Plan. Rather than push development to vacant parcel, the project proposes to increase development on an existing parcel, satisfying Theme 3 of the Comprehensive Plan. "In addition to planning for new development, the Township will also focus efforts on redeveloping areas that are already built." Comprehensive Plan at 2.

The additional criteria for a special exception for expansion of a nonconformity are set forth in Section 300-80.B.2:

- (a) *Any extension, expansion, or enlargement of a nonconforming structure or use shall not exceed 25% of the total gross floor area of the nonconforming structure or total gross lot area of the use (as applicable) at the time it became nonconforming.*

The proposed expansion of the impervious coverage nonconformity is 17.5%.

- (b) *Any extension, expansion, or enlargement shall conform to the building height, area/footprint, setback, and impervious lot coverage regulations of the zoning district in which it is located.*

The project will comply with these provisions. Applicant has requested a variance for a proposed building encroachment. If that variance is not granted, Applicant will redesign its project accordingly to comply with the setback requirements.

- (c) *All loading and parking spaces for any extension, expansion, or enlargement shall comply with the requirements of Article VIII of this chapter.*

The project complies with these provisions.

- (d) *Any extension, expansion, or enlargement of a nonconforming structure or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the nonconforming structure or use, where such vacant parcels have been separately recorded or acquired prior to the effective date of this chapter.*

The nonconformity is not expanding into an adjacent parcel.

- (e) *Extensions, expansions, or extensions of nonconforming signs shall be prohibited, except as provided in Subsection C below and this Article XI, relating to nonconforming signs.*

Not applicable.

- (f) *The intensity of a nonconforming use (resulting nuisances such as air pollution, noise, glare, vibrations, delivery traffic, hazards, etc.) shall not be increased.*

Not applicable, as the current use is permitted by right and is not changing.

- (g) *The extension, expansion, or enlargement would meet the standards that apply under Article XII of this chapter relating to special exceptions.*

Addressed above.

For the reasons set forth above, Applicant has met the standards for a special exception to increase the impervious coverage on the Property.

DISCUSSION – DIMENSIONAL VARIANCE

The variance being sought by Applicant is classified as dimensional variances. The Pennsylvania Supreme Court has held that a lesser form of proof is required where the applicant is seeking a dimensional variance, as opposed to a use variance. *Hertzberg v. Zoning Hearing Board of Adjustment of City of Pittsburgh*, 721 A.2d 43, 47 (Pa. 1998) (“[w]hen seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations.”). In a dimensional zoning variance case, factors such as economic detriment, financial hardship, development of blighted properties, and characteristics of surrounding properties can be considered. *Hertzberg*, at 50.

Section 300-99.E(4) sets forth the standards for variances. Those standards, and how the Applicant meets them, are set forth below:

- (1) *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical features, the physical conditions peculiar to the particular property and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or zoning district in which the property is located;*

The Property is unique in that it is a topographically-challenged site with significant slopes, wetlands, a watercourse and gully, that has been operating in its current configuration for almost 50 years. The current building configuration was dictated by these conditions, as well as the limits of the size of the Property prior to the addition of additional lands in 2022. The physical challenges associated with the site all constitute hardships as recognized by Pennsylvania courts.

- (2) *That because of such physical circumstances or conditions, there is not a 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 reasonable use of the property;*

It is impossible for the Applicant to upgrade the Property reasonably without the variance. In the almost 50 years since the Temple was first constructed, the regional Hindu and Indian population that it serves has grown significantly. In order to accommodate that growth, Applicant needs to increase the size of its facilities. Because of the topography of the Property and the existing configuration, expansion options are limited. Moving or replacing the current Temple would incur substantial additional cost.

- (3) *That such unnecessary hardship has not been created by the appellant;*

The hardship has not been created by the Applicant. The topography of the Property, the inclusion of wetlands and the existence of gulleys and watercourses all existed prior to Applicant's ownership. Furthermore, while Applicant did install the current building, that was done prior to the expansion of the Property in 2022, which additional lands are making the expansion possible.

- (4) *That the variance, if authorized, will not alter the essential character of the zoning district or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare;*

If granted, this variance would not alter the essential character of the neighborhood, or be detrimental to the public welfare. The Temple has been part of the community for almost 50 years, and is integrated into the neighborhood. There is an existing natural buffer on the affected boundary of the Property that will limit any impact caused by the reduced setback. Furthermore, Applicant has been operating in this setback for years on account of the existing driveway being located in the setback.

It is also important to note that even with the variance, there will still be a 56 foot setback along the southern boundary of the Property, which is substantial. The Zoning Ordinance requires only a 30 foot setback in this district for single family dwellings. The large setback that will still be provided, along with the thick natural buffer, will provide significant screening and privacy for the neighbors.

- (5) *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;*

This variance represents the least modification possible of the Zoning Ordinance to permit the project. Applicant has designed the project to be as compliant as possible with the Zoning Ordinance, while maximizing value for its members and the community at large.

- (6) *The proposed use complies with Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151, relating to floodplains.*

The proposed use complies with those provisions.

For the reasons set forth above, Applicant has met the standards for a dimensional variance to permit an encroachment into the side yard setback of the Property.

□
CONCLUSION

For the reasons set forth herein, Applicant respectfully requests that its special exception and variance requests be granted.

Respectfully submitted,

Dated: April 15, 2025

SAXTON & STUMP, LLC

By _____

Erik M. Hume

Attorney ID No. 83767

eh@saxtonstump.com

Dominic V. Giovanniello

Attorney ID No. 329060

dgiovanniello@saxtonstump.com

Counsel for Applicant

NARRATIVE IN SUPPORT OF SPECIAL EXCEPTION AND VARIANCE APPLICATION OF HINDU AMERICAN RELIGIOUS INSTITUTE

Applicant, Hindu American Religious Institute (“**Applicant**”) provides the following information in support of its request for special exception approval to increase existing nonconforming impervious coverage on its property, as well as variance approval to permit expansion of its existing temple into the side yard setback, all in connection with the expansion of Applicant’s facilities to serve growing demand.

OVERVIEW OF THE PROPERTY

This application is for Applicant’s property at 301 Steigerwalt Hollow Road, York County Tax Parcel No. 27-000-RF-0100 (the “**Property**”). The Property is bounded by Steigerwalt Hollow Road to the east, the Pennsylvania-American Water Company property to the north and west, and properties belonging to John and Cathy McDonald and Robert and Vignon Smeigh to the south. The Property is located in the RL Rural Living zone and the APO Airport Overlay zone.

The Property is an 11.23 acre parcel. Erected on the Property is the applicant’s Hindu temple, which is used for Hindu religious ceremonies as well as a number of events designed for education, spirituality and Indian community interaction (the “**Temple**”). The Temple is the second-oldest Hindu temple in the United States. The Temple has a footprint of 5,932 square feet, and features approximately 5,000 sf in usable floor area. The Temple was first constructed in 1984 and has been in continuous operation since that time. Topographically, the site features significant slopes, wetlands and water courses, all of which create significant challenges in the use and development of the site. A depiction of the Property is set forth on **Exhibit “A”**, attached hereto.

When the Applicant first constructed the Temple, the Property was only 6.8 acres in area, and was lawfully nonconforming as to lot coverage. In 2022, Applicant purchased some neighboring lands, thereby putting the Property in its current configuration. The Property is still nonconforming as to lot coverage, featuring 17.7% of impervious lot coverage (15% permissible per Section 300-16.A of the Zoning Ordinance).

Applicant is proposing a significant expansion of the Temple and upgrade of the Property to accommodate growth of the Temple as a regional resource for the Hindu and Indian community. The expansion includes:

- Three proposed additions to the Temple, which would be constructed in phases, totaling 10,750 square feet in additional footprint area;
- The extension of sanitary sewer service to the Temple, to replace the existing on-lot system;
- The upgrade of the stormwater management facilities on the Property;
- The installation of 40 overflow parking spaces;
- The removal of the existing access drive on the southwestern side of the Temple, to accommodate the Temple additions and simplify traffic flow; and

- The removal of excess pavement.

A depiction of the proposed changes is depicted on **Exhibit “B”**, attached hereto.

In order to move forward with the project, Applicant will require relief from the Fairview Township Zoning Ordinance (the “**Zoning Ordinance**”). Specifically, the expansion will increase the impervious coverage on the Property from from 17.7% to a maximum impervious coverage of 22.1%, which is a 25% increase of the current value. Although the current design concept shows approximately 20.8%, the additional impervious area will allow for minor design changes and revisions without the need for additional zoning approvals. Pursuant to Section 300-80.B of the Zoning Ordinance, an existing nonconformity may be increased by up to 25% with special exception approval. Additionally, Applicant will require a variance from Section 300-16.A of the Zoning Ordinance for the side yard setback along the southern end of the Property in order to permit one of the additions to the Temple.

DISCUSSION – SPECIAL EXCEPTION

Applicant is seeking special exception approval to expand an existing non-conformity. The Commonwealth Court has summarized special exceptions as follows:

A special exception is a conditionally permitted use, allowed by the legislature if specifically listed standards are met. A special exception is thus not an “exception” to the zoning ordinance, but a use permitted conditionally, the application for which is to be granted or denied by the zoning hearing board pursuant to express standards and criteria.

In re Brickstone Realty Corp., 789 A.2d 333, 340 (Pa. Cmwlth. 2001) (citations omitted).

When reviewing a special exception application, the applicant has the initial burdens of proof and persuasion to demonstrate that the proposed use satisfies the objective criteria of the ordinance. Once the applicant meets those burdens, it is presumed that the proposed use is consistent with the health, safety and general welfare of the community. The burden then shifts to the objectors, who must present evidence and persuade the zoning hearing board that the proposed use will have a generally detrimental effect on health, safety, and welfare. *Siya Real Estate LLC v. Allentown City Zoning Hearing Board*, 210 A.3d 1152, 1157 (Pa. Cmwlth. 2019) (citations omitted). The objectors have a high burden; they must demonstrate “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.” *Id.*

The criteria for special exceptions is set forth in Section 300-99.E(3) of the Zoning Ordinance. Those standards, and how the Applicant meets them, are set forth below:

[1] *The proposed use shall be consistent with the purpose and intent of this chapter;*

The use of the Property as a place of worship is permitted by right in the RL zone. Allowing the expansion of the impervious coverage nonconformity is a minor adjustment that will have no adverse impact on surrounding properties or the RL district.

[2] *The proposed use shall not detract from the use and enjoyment of adjacent or nearby properties;*

The increase in impervious coverage will not have any effect on neighboring properties, because the project proposed by Applicant will require land development approval, which includes compliance with current stormwater management standards. Moreover, substantial vegetative buffers are along the boundaries of the Property, which will both reduce stormwater runoff and screen the Property from the neighbors. Finally, 22.1% of impervious coverage is low for a parcel with a house of worship in light of the attendant parking needs.

[3] *The proposed use will not substantially change the character of the subject property's neighborhood;*

The proposed use has been in place for over 40 years, and will not be changing. The increase in impervious coverage will have no impact on the character of the neighborhood in light of the updated and improved stormwater management facilities, the substantial buffers and the large size of the Property.

[4] *Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);*

Adequate facilities are available, and since the project includes the connection of the Property to public sewer, it will eliminate an existing on-lot system.

[5] *The proposed use complies with this Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151, relating to floodplains;*

The project complies with these provisions.

[6] *The proposed use shall comply with those criteria specifically listed in Article X of this chapter, relating to specific and supplemental regulations for specific uses. In addition, the proposed use shall comply with all other applicable regulations contained in this chapter; and*

Article X does not set forth criteria for expansion of nonconformities. This application does meet the requirements of Section 300-80.B, which are set forth below.

[7] *The proposed use will not substantially impair the integrity of the most recent version of the Fairview Township Comprehensive Plan, and/or any other applicable plans adopted by the Township of Fairview.*

The project is compatible with and furthers the goals of the 2025 Comprehensive Plan. Rather than push development to a vacant parcel, the project proposes to increase development on an existing parcel, satisfying Theme 3 of the Comprehensive Plan. “In addition to planning for new development, the Township will also focus efforts on redeveloping areas that are already built.” Comprehensive Plan at 2.

The additional criteria for a special exception for expansion of a nonconformity are set forth in Section 300-80.B.2:

- (a) *Any extension, expansion, or enlargement of a nonconforming structure or use shall not exceed 25% of the total gross floor area of the nonconforming structure or total gross lot area of the use (as applicable) at the time it became nonconforming.*

The proposed expansion of the impervious coverage nonconformity is limited to 25%.

- (b) *Any extension, expansion, or enlargement shall conform to the building height, area/footprint, setback, and impervious lot coverage regulations of the zoning district in which it is located.*

The project will comply with these provisions. Applicant has requested a variance for a proposed building encroachment. If that variance is not granted, Applicant will redesign its project accordingly to comply with the setback requirements.

- (c) *All loading and parking spaces for any extension, expansion, or enlargement shall comply with the requirements of Article VIII of this chapter.*

The project complies with these provisions.

- (d) *Any extension, expansion, or enlargement of a nonconforming structure or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the nonconforming structure or use, where such vacant parcels have been separately recorded or acquired prior to the effective date of this chapter.*

The nonconformity is not expanding into an adjacent parcel.

- (e) *Extensions, expansions, or extensions of nonconforming signs shall be prohibited, except as provided in Subsection C below and this Article XI, relating to nonconforming signs.*

Not applicable.

- (f) *The intensity of a nonconforming use (resulting nuisances such as air pollution, noise, glare, vibrations, delivery traffic, hazards, etc.) shall not be increased.*

Not applicable, as the current use is permitted by right and is not changing.

- (g) *The extension, expansion, or enlargement would meet the standards that apply under Article XII of this chapter relating to special exceptions.*

Addressed above.

For the reasons set forth above, Applicant has met the standards for a special exception to increase the impervious coverage on the Property.

DISCUSSION – DIMENSIONAL VARIANCE

The variance being sought by Applicant is classified as dimensional variances. The Pennsylvania Supreme Court has held that a lesser form of proof is required where the applicant

is seeking a dimensional variance, as opposed to a use variance. *Hertzberg v. Zoning Hearing Board of Adjustment of City of Pittsburgh*, 721 A.2d 43, 47 (Pa. 1998) (“[w]hen seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations.”). In a dimensional zoning variance case, factors such as economic detriment, financial hardship, development of blighted properties, and characteristics of surrounding properties can be considered. *Hertzberg*, at 50.

Section 300-99.E(4) sets forth the standards for variances. Those standards, and how the Applicant meets them, are set forth below:

- (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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or zoning district in which the property is located;*

The Property is unique in that it is a topographically-challenged site with significant slopes, wetlands, a watercourse and gully, that has been operating in its current configuration for over 40 years. The current building configuration was dictated by these conditions, as well as the limits of the size of the Property prior to the addition of additional lands in 2022. The physical challenges associated with the site all constitute hardships as recognized by Pennsylvania courts.

- (2) *That because of such physical circumstances or conditions, there is not a 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 reasonable use of the property;*

It is impossible for the Applicant to upgrade the Property reasonably without the variance. In the time since the Temple was first constructed, the regional Hindu and Indian population that it serves has grown significantly. In order to accommodate that growth, Applicant needs to increase the size of its facilities. Because of the topography of the Property and the existing configuration, expansion options are limited. Moving or replacing the current Temple would incur substantial additional cost

- (3) *That such unnecessary hardship has not been created by the appellant;*

The hardship has not been created by the Applicant. The topography of the Property, the inclusion of wetlands and the existence of gulleys and watercourses all existed prior to Applicant’s ownership. Furthermore, while Applicant did install the current building, that was done prior to the expansion of the Property in 2022, which additional lands are making the expansion possible.

- (4) *That the variance, if authorized, will not alter the essential character of the zoning district or neighborhood in which the property is located, nor substantially or*

permanently impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare;

If granted, this variance would not alter the essential character of the neighborhood, or be detrimental to the public welfare. The Temple has been part of the community for over 40 years, and is integrated into the neighborhood. There is an existing natural buffer on the affected boundary of the Property that will limit any impact caused by the reduced setback. Furthermore, Applicant has been operating in this setback for years on account of the existing driveway being located in the setback.

It is also important to note that even with the variance, there will still be a 56 foot setback along the southern boundary of the Property, which is substantial. The Zoning Ordinance requires only a 30 foot setback in this district for single family dwellings. The large setback that will still be provided, along with the thick natural buffer, will provide significant screening and privacy for the neighbors.

(5) *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;*

This variance represents the least modification possible of the Zoning Ordinance to permit the project. Applicant has designed the project to be as compliant as possible with the Zoning Ordinance, while maximizing value for its members and the community at large.

(6) *The proposed use complies with Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151, relating to floodplains.*

The proposed use complies with those provisions.

For the reasons set forth above, Applicant has met the standards for a dimensional variance to permit an encroachment into the side yard setback of the Property.

CONCLUSION

For the reasons set forth herein, Applicant respectfully requests that its special exception and variance requests be granted.

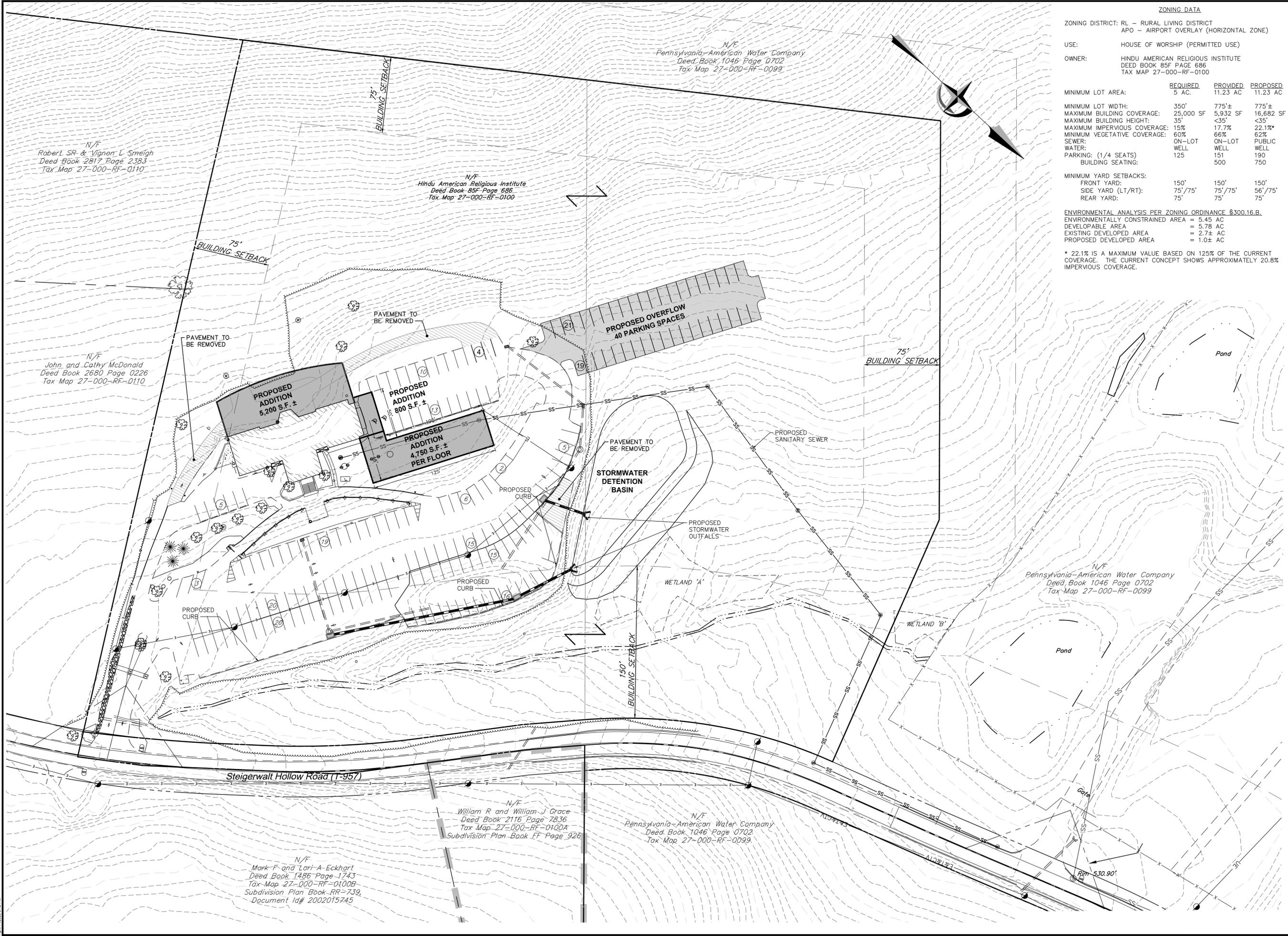
Respectfully submitted,
SAXTON & STUMP, LLC

Dated: April 15, 2025



By _____
Erik M. Hume
Attorney ID No. 83767
eh@saxtonstump.com
Dominic V. Giovanniello
Attorney ID No. 329060
dgiovanniello@saxtonstump.com
Counsel for Applicant

C:\2025\JOBS\00009-40\LD\CAD\PRELIMINARY\250009-LD-LY-SW02.dwg
April 14, 2025 3:12 PM



ZONING DATA

ZONING DISTRICT: RL - RURAL LIVING DISTRICT
APO - AIRPORT OVERLAY (HORIZONTAL ZONE)

USE: HOUSE OF WORSHIP (PERMITTED USE)

OWNER: HINDU AMERICAN RELIGIOUS INSTITUTE
DEED BOOK 85F PAGE 686
TAX MAP 27-000-RF-0100

	REQUIRED	PROVIDED	PROPOSED
MINIMUM LOT AREA:	5 AC.	11.23 AC	11.23 AC
MINIMUM LOT WIDTH:	350'	775'±	775'±
MAXIMUM BUILDING COVERAGE:	25,000 SF	5,932 SF	16,682 SF
MAXIMUM BUILDING HEIGHT:	35'	<35'	<35'
MAXIMUM IMPERVIOUS COVERAGE:	15%	17.7%	22.1%*
MINIMUM VEGETATIVE COVERAGE:	60%	66%	62%
SEWER:	ON-LOT	ON-LOT	PUBLIC
WATER:	WELL	WELL	WELL
PARKING: (1/4 SEATS)	125	151	190
BUILDING SEATING:		500	750

ENVIRONMENTAL ANALYSIS PER ZONING ORDINANCE §300.16.B.

ENVIRONMENTALLY CONSTRAINED AREA = 5.45 AC
 DEVELOPABLE AREA = 5.78 AC
 EXISTING DEVELOPED AREA = 2.7± AC
 PROPOSED DEVELOPED AREA = 1.0± AC

* 22.1% IS A MAXIMUM VALUE BASED ON 125% OF THE CURRENT COVERAGE. THE CURRENT CONCEPT SHOWS APPROXIMATELY 20.8% IMPERVIOUS COVERAGE.

NO.	DATE	DESCRIPTION

DOCUMENT PREPARED FOR:

DAWOOD
 1928 Good Hope Road | Suite 400 | Emak, PA 17026
 Office | 814.432.3883 | Web | www.dawood.net

SCALE: 1" = 40'

CONCEPT PLAN FOR HINDU AMERICAN RELIGIOUS INSTITUTE
 FAIRVIEW TOWNSHIP, PENNSYLVANIA
 YORK COUNTY

DRAWING TITLE: CONCEPT PLAN

DATE:	APRIL 8, 2025
JOB NO.:	2100045.00
FILE NAME:	LD-FL-SK01
DRAWN BY:	DPK
CHECKED BY:	WEH
DRAWING NO.:	C-01
SHEET NO.:	1 OF 1