

25-12-WAIV

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MOUNT JOY TOWNSHIP

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July 18, 2025

Mount Joy Township
Attn: Planning Commission
8853 Elizabethtown Road
Elizabethtown, PA 17022

**Re: Robert L. Brubaker, Jr. and Andrea R. Brubaker
Land Development Plan for 2205 Camp Road, Manheim, PA 17545
M.J.T.P.C. File # 24-21-MLDP**

Dear Planning Commission:

Please be advised that this firm represents Robert L. Brubaker, Jr. and Andrea R. Brubaker in the submission of the land development plan under the above-referenced file number. Mr. Brubaker previously submitted the said plan for your review, which resulted on May 28, 2025 in an approval of the said plan with conditions, including deferred road improvements. The applicant did not accept the conditions and therefore submits the instant request for a full waiver of road improvements. We assume that the Township still retains Mr. Brubaker's escrow from his previous application; therefore, please find enclosed with this letter the remaining fees of \$150.00.

Below, please find the applicant's requested waivers of certain road improvement requirements of the Mount Joy Township Subdivision and Land Development Ordinance, in connection with M.J.T.P.C. File # 24-21-MLDP for the land development plan for 2205 Camp Road, Manheim, PA 17545.

REQUESTED MODIFICATIONS/WAIVERS:

Section 119-52.J(3)(a), 119-53.B(2), 119-53.C – Requirement to improve the frontage along Camp Road.

1. The vehicular traffic produced by the site is limited to an average of less than 1 truck per day.
2. The improvements to the existing poultry operation are minor (4 existing barns, with 1 new barn proposed) and will not greatly affect existing truck traffic patterns.

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3. The driveway has been designed to allow safe movements and to allow the wheel path to remain on pavement, so that truck use does not break up the edge of the road.
4. With no significant effect on area traffic patterns, it would prove unreasonable to require road improvements and frustrate the purpose of the proposed plan. Please see the enclosed memorandum of law in support of this point, according to precedent for the grant of the proposed waivers as found in Pennsylvania caselaw.

Should you have any questions regarding the above, please feel free to contact me via the methods set forth at the head of this letter, or to contact Caleb Light with Nye Consulting Services, Inc. at (717) 926-0816.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Dissinger', with a large, stylized loop at the end.

Derek P. Dissinger

DPD:nea

Enc.

Barley Snyder

ATTORNEYS AT LAW

MEMORANDUM

To: Mount Joy Township Planning Commission

From: Derek P. Dissinger

Date: July 18, 2025

Re: 2205 Camp Road, Manheim, PA 17545
Request for Waiver of Road Improvements

Robert L. Brubaker, Jr. and Andrea R. Brubaker (collectively, the “Applicant”) hereby submit the following Memorandum of Law in support of their application for a waiver of the requirements of Sections 119-52.J(3)(a), 119-53.B(2), and 119-53.C of the Mount Joy Township Subdivision and Land Development Ordinance (the “SALDO”), regarding improvements to existing streets, in connection with the development of one additional chicken house at 2205 Camp Road, Manheim, PA 17545 (the “Property”).

The Applicant’s position is that the requested waiver is warranted due to the minimal traffic impacts expected to be generated as a result of the development of the Property, and that the waiver should be granted under the standard set forth in Pennsylvania caselaw. Such caselaw is well-settled that, in addition to the waiver standard set forth in 53 P.S. 10512.1(a)¹, a waiver from the requirements of a Subdivision and Land Development Ordinance is “proper where a development offers a substantial equivalent to a subdivision requirement, where an additional requirement would offer little or no additional benefit, and where literal enforcement of a requirement would frustrate the effect of improvements.” *Monroe Meadows Housing Partnership, LP v. Municipal Council of Municipality of Monroeville*, 926 A.2d 548, 553 (Pa. Cmwlth. 2007) (citing *Levin v. Township of Radnor*, 681 A.2d 860 (Pa. Cmwlth. 1996)).

The facts of *Monroe Meadows* demonstrate that the achievement of a “functional” equivalent satisfies the requirement of a “substantial” equivalent, such as where an easement is

¹ “The governing body or the planning agency, if authorized to approve applications within the subdivision and land development ordinance, may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.” 53 P.S. 10512.1(a).

offered in place of a cul-de-sac to allow emergency vehicles to turn around in a residential development. *Monroe Meadows*, 926 A.2d at 553. The facts of the case further demonstrate that denial of a waiver, which would result in a requirement that a landowner undertake unnecessary offsite improvements, constitutes an action that would frustrate the effect of the intended improvements. *Id.* Finally, the *Monroe Meadows* court expressly acknowledges that, where the costs of constructing an offsite improvement would prove “unduly burdensome and disproportionate to any benefit,” such undue burden should be taken into account. *Id.*

In the present case, the Applicant requests a waiver of the requirements of Sections 119-52.J(3)(a), 119-53.B(2), and 119-53.C of the SALDO, which would otherwise require the Applicant to widen, and add concrete curbing and sidewalk to, the existing cartway fronted by the Property, commonly known as Camp Road. Camp Road is defined as a local street outside of the urban growth area; per the terms of the SALDO, the cartway would therefore be widened to twenty-four feet (24’), with the addition of sidewalks and curbing, absent a waiver. The Applicant bases its request for a waiver from these requirements on its projection that the completed land development will produce no more than two additional trucks per week² on Camp Road and that the proposed improvements would not substantially affect truck or pedestrian patterns. Additionally, the Applicant notes the effect of the existing driveway on the Property in mitigating adverse impacts to Camp Road. The Applicant’s waiver has thus far been disfavored in anticipation of a deferral of SALDO road improvements.

The Applicant’s request for a complete waiver, rather than a deferral, of the road improvements contemplated by Sections 119-52.J(3)(a), 119-53.B(2), and 119-53.C of the SALDO is supported by the standard set forth in *Monroe Meadows*. The proposed road improvements would offer little to no benefit to Camp Road, as the use of Camp Road by no more than two additional trucks per week does not rise to the level of traffic impact contemplated by the SALDO. Further, the existing driveway on the Property acts as a functional, and therefore substantial, equivalent to the proposed road improvements, in that it effectively reduces adverse traffic impact to Camp Road in the same manner as the proposed road improvements. The SALDO provisions would require the Applicant to undertake offsite improvements that would frustrate and delay the Applicant’s intended development, as well as increase the Applicant’s costs for the project unnecessarily and without tangible benefit to Camp Road traffic. The proposed road improvements would therefore serve no purpose in mitigating the minimal traffic impacts of the Applicant’s land development.

² The Applicant’s initial waiver request projected an average volume of one truck per day to be produced by the completed land development. Subsequent calculations of projected truck ingress and egress from the Property, taking into account existing employee and delivery movements, have resulted in a lesser anticipated increase of 0.3 trucks per day over a 60-day period.



MOUNT JOY TOWNSHIP

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M.J.T.P.C. File No. 24-21-MLDP

SUBDIVISION-LAND DEVELOPMENT WAIVER REQUEST FORM

TO: MJT Planning Commission

Applicant: Robert L. Brubaker and
Andrea R. Brubaker

Address: 2871 North Colebrook Road

Phone #: 717-575-5255

E-mail: bobbrubaker@gmail.com

Property Owner: _____

Address: _____

Phone #: _____

E-mail: _____

Location of Project:

2205 Camp Road, Manheim, PA 17545

Description of Project:

See attached letter.

I hereby request a waiver of having to prepare, submit and gain approval of a subdivision/land development plan, pursuant to the provisions contained in/at Chapter 119, Article III of the Code of Ordinances of the Township of Mount Joy, i.e. the Mount Joy Township Subdivision and Land Development Ordinance, as amended.

By virtue of my signature upon this form, I hereby acknowledge and agree to reimburse Mount Joy Township for the actual engineering and legal costs, including any inspection costs, incurred by the Township for the review of this waiver request/project.

[Signature]
Signature

7/21/2025
Date

Rev. 01-2014