

BEFORE THE BETHEL TOWNSHIP BOARD OF ZONING APPEALS

NOTICE OF APPEAL

Arthur Franklin, Planning & Zoning Director
BETHEL TOWNSHIP PLANNING & ZONING
8735 South Second Street
Tipp City, Ohio 45371

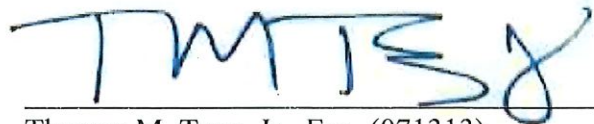
BETHEL TOWNSHIP BOARD OF ZONING APPEALS

Donna Hughes
Rachael Kiplinger
Jim Leskowich
Nikki O'Quinn
Zach Staudter
Pete Mannheim
Michael Statesman and
Arthur Franklin, Planning & Zoning
Director

8735 South Second Street
Tipp City, Ohio 45371

Eetsabarn LLC hereby gives notice to the Bethel Township Board of Zoning Appeals and to Arthur Franklin, Planning & Zoning Director, of Bethel Township Planning & Zoning of its appeal to the Bethel Township Board of Zoning Appeals from the decision of Mr. Franklin with respect to Eetsabarn LLC's Application for a Zoning Certificate, dated June 29, 2026, as set forth in the Letter of Denial, dated July 2, 2026, tendered by Mr. Franklin, acting in his capacity as the Administrative Official for Bethel Township. This Appeal is made pursuant to Section 2.07(D)(3)(c) of the Bethel Township Zoning Resolution and Section 519.15 of the Ohio Revised Code. The reasons for such appeal are detailed in the Letter attached as **Exhibit A**.

Respectfully submitted,



Thomas M. Tepe, Jr., Esq. (071313)
Alexander C. Johnson, Esq. (104761)
KEATING MUETHING & KLEKAMP PLL
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202
Ph: (513) 639-3947
ttepe@kmklaw.com
Counsel for Eetsabarn LLC

RECEIVED

JUL 22 2026

EXHIBIT A

LETTER IN SUPPORT

[See attached]



Thomas M. Tepe Jr.

Partner

D: 513.639.3947

ttepe@kmlaw.com

July 16, 2026

BETHEL TOWNSHIP PLANNING & ZONING
c/o Arthur Franklin, Planning & Zoning
Director
8735 South Second Street
Tipp City, Ohio 45371

BETHEL TOWNSHIP BOARD OF ZONING APPEALS
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Director
8735 South Second Street
Tipp City, Ohio 45371

Re: Appeal to the Bethel Township Board of Zoning Appeals from Zoning Certificate Denial

Dear Board of Zoning Appeals Members:

This law firm represents Eetsabarn LLC, an Ohio limited liability company ("Eetsabarn"), in connection with the July 2, 2026 decision of Mr. Arthur Franklin, Planning & Zoning Director (the "Administrator") (the "Decision"),¹ denying a zoning certificate for the property located at 4021 U.S. Highway 40, Tipp City, Ohio 45371 (the "Property").^{2,3} Eetsabarn respectfully appeals (the "Appeal") this Decision to the Bethel Township Board of Zoning Appeals (the "Board") under Section 2.07(D)(3)(c) of the Bethel Township Zoning Resolution (the "BTZR" or the "Resolution") and Section 519.15 of the Ohio Revised Code.

I. STATEMENT OF FACTS & PROCEDURAL POSTURE

The Property is a 14.7140-acre undeveloped tract at the northeast corner of U.S. Highway 40 and Wildcat Road. Its western third is zoned R-1AA and R-1AAA; the remainder—at issue here—is zoned "I-1" (Light Industrial). Under the Resolution, one purpose of the "I-1" designation is to "provide appropriate places for *** outdoor storage[.]"⁴ Accordingly, owners of "I-1"-zoned

¹ A copy of the Decision is attached as **Exhibit 1**.

² Miami County Auditor Parcel No. A01-005500.

³ A copy of the materials submitted by Eetsabarn for consideration by the Administrator is attached as **Exhibit 2**.

⁴ BTZR § 12.01.

Keating Muething & Klekamp PLL

Attorneys at Law

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property may use it “as of right”—that is, without discretionary approval—for “Building and Trades, Contractor’s Yards, [and] Utility Storage Yards[.]”⁵ The Resolution does not define any of these terms.⁶

On or about June 29, 2026, Eetsabarn filed an Application for a Zoning Certificate with the Administrator (the “Application”) requesting a zoning certificate to use a modest 494-square-foot portion of the “I-1”-zoned portion of the Property as a storage yard for snowplows (the “Proposed Use”).⁷ Eetsabarn intends to lease that small area to an affiliated entity, Snow Xcellence, LLC (“Snow Xcellence”), an Ohio limited liability company, that provides snow removal services to commercial, industrial, and institutional customers on a contract basis.

On July 2, 2026, the Administrator denied Eetsabarn’s request for a zoning certificate. In the Decision, the Administrator relied solely on definitions drawn from outside the Resolution, but provided no analysis or reasoning as to why the Proposed Use fails to satisfy them.⁸

II. THE PROPOSED USE IS A PERMITTED “CONTRACTOR’S YARD” UNDER THE RESOLUTION’S PLAIN LANGUAGE

This Appeal asks the Board to correct that misapplication of the Resolution by reversing the Decision and directing the Administrator to issue the requested zoning certificate. Simply stated, the Proposed Use is properly classified as a “Contractor’s Yard”—a use permitted as of right on the Property. Thus, the law entitles Eetsabarn to the requested zoning certificate. The Decision’s stated basis for concluding otherwise is not supported by the Resolution’s plain language or by the very definitions the Decision relies upon.⁹

This conclusion follows from the Resolution’s plain language, which provides that “Contractor’s Yards” are permitted as of right on “I-1”-zoned property—such as the Property. Although the Resolution does not define “Contractor’s Yard,” its plain meaning readily encompasses the Proposed Use. A “contractor” is “one who contracts to do work for or supply goods to another[.]”¹⁰ A “yard,” in this context, is “an assembly or storage area[.]”¹¹ Read together, a “Contractor’s Yard” is an assembly or storage area used by one who provides goods or services to another on a contract basis.

The Proposed Use fits this definition exactly. Eetsabarn intends to lease the relevant portion of the Property to Snow Xcellence, which will store there the snowplows it uses to perform its

⁵ BTZR § 12.02.

⁶ See generally BTZR § 3.02.

⁷ This constitutes less than a tenth of a percent of the Property’s total area.

⁸ See Exhibit 1.

⁹ Eetsabarn reserves the question of whether the Administrator satisfied his obligation to state the reasons for denial. See BTZR § 2.07(D)(3)(a). The Decision merely states that the Application was denied and lists three definitions, without explaining why the Proposed Use fails to satisfy them.

¹⁰ *Contractor*, BLACK’S LAW DICTIONARY (12th ed. 2024).

¹¹ *Yard*, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (12th ed. 2025).

contract-based snow removal services. In short, the area will be a storage area for a party that performs contracted-for services—a “Contractor’s Yard.”

The technical definition of “Contractor’s Yard” that the Administrator applied does not change this conclusion.¹² Given the lack of a guiding definition in the Resolution, in the Decision, the Administrator reached out to alternate sources that define “Contractor’s Yards” as:

“Facilities used by construction contractors or similar businesses as a base of operations for the storage, maintenance, dispatch, and staging of construction equipment, vehicles, materials, and supplies. Contractor yards may include offices, workshops, equipment maintenance, and outdoor storage areas, but are not intended for the processing or manufacture of construction materials.”

The Proposed Use fits squarely within this definition. Snow Xcellence—which provides contract snow removal services—will use the area “for the storage” of the snowplows it uses in its business. The Administrator’s own definition further confirms this, as it expressly includes “outdoor storage areas,” which plainly includes the Proposed Use.

The definition’s references to “construction” do not change this result. Interpretation of the Resolution—like any legal text—must be guided by its actual words.¹³ Additional words may not be read into the Resolution;¹⁴ nor may it be construed in a way that conflicts with its plain text.¹⁵ The Resolution provides that “Contractor’s Yards” are a permitted use. It does not limit this to “Construction Contractor’s Yards” or mention the word “construction” at all. If it did, then a different conclusion might follow. But it does not. Moreover, bending the word “contractor” to include some contractors but not others is inconsistent with the breadth of the language the Township Trustees chose: a “contractor” is a “contractor,” whether in construction, cleaning, snow removal, or landscaping. Nor does the Resolution require that a “Contractor’s Yard” be used for “storage, maintenance, dispatch, and staging” of “equipment, vehicles, materials, *and* supplies.”¹⁶ It requires only that the “Yard” be a “Contractor’s.” To the extent the definition applied in the Decision imposes requirements beyond the Resolution’s actual language, it cannot support denial of the Application.

To the extent any uncertainty remains as to whether the Proposed Use qualifies as a “Contractor’s Yard,” that uncertainty must be resolved in Eetsabarn’s favor. Ohio law recognizes that zoning regulations restrict rights property owners otherwise have.¹⁷ As a result, provisions permitting a use “as of right”—like the one at issue here—must be read broadly in the property

¹² The Decision’s use of a technical definition is questionable. Undefined terms are ordinarily construed according to their plain and ordinary meaning, unless context clearly indicates a technical meaning applies. ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 69–77 (1st ed. 2012) (“Scalia & Garner”). Nothing in the Resolution indicates that “Contractor’s Yard” has or should carry a technical meaning. The Decision’s reliance on a technical definition is therefore misplaced.

¹³ Scalia & Garner at pp. 56–58.

¹⁴ *State v. Chandler*, 109 Ohio St.3d 223, 2006-Ohio-2285, 846 N.E.2d 1234, ¶ 8.

¹⁵ *See Sears v. Weimer*, 143 Ohio St. 312, 316, 55 N.E.2d 413 (1944).

¹⁶ Emphasis added.

¹⁷ *Saunders v. Clark Cnty. Zoning Dept.*, 66 Ohio St.2d 259, 261, 421 N.E.2d 152 (1981).

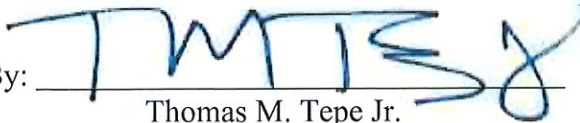
owner's favor.¹⁸ Stated differently, if the Board is on the fence as to whether the Proposed Use qualifies as a "Contractor's Yard," it must resolve this matter in of Eetsabarn.

III. THE BOARD SHOULD DIRECT THAT THE REQUESTED ZONING CERTIFICATE BE ISSUED

This is a straightforward case. The Administrator's role in issuing zoning certificates is ministerial and nondiscretionary. This means that once a proposed use satisfies the Resolution, the Administrator must issue the certificate, regardless of personal judgment. As shown above, the Proposed Use is permitted as of right on the "I-1"-zoned portion of the Property, and no lawful basis exists to deny the Application. On behalf of Eetsabarn, we, therefore, respectfully request that the Board reverse the Decision and direct the Administrator to issue the requested zoning certificate.

Respectfully submitted,

KEATING MUETHING & KLEKAMP PLL

By: 
Thomas M. Tepe Jr.
Partner

15791669.v1

¹⁸ Terry v. Sperry, 130 Ohio St.3d 125, 2011-Ohio-3364, 956 N.E.2d 276, ¶ 19.

EXHIBIT 1

DECISION

[See attached]



Eetsabarn LLC <eetsabarn@gmail.com>

Zoning certificate

Zoning Department <zoning@betheltownship.org>
To: Eetsabarn LLC <eetsabarn@gmail.com>

Thu, Jul 2, 2026 at 3:58 PM

Good afternoon Jason,

Unfortunately, after further review, your request to place snowplows on property located at [4021 E US 40](#) has been denied. Please see definitions obtained from Book of Development Definitions by Harvey S. Moskowitz. If you would like to appeal my decision, please refer to Section 2.07 Zoning Certificate.

Buildings and Trades

Buildings and Trades: Establishments engaged in the construction, repair, remodeling, installation, or maintenance of buildings, structures, and related improvements. This category typically includes businesses such as general contractors, electricians, plumbers, HVAC contractors, roofers, masons, painters, carpenters, and similar trades. Activities may include offices, workshops, indoor storage of tools and equipment, and incidental outdoor storage where permitted.

Contractor Yards

Contractor Yards: Facilities used by construction contractors or similar businesses as a base of operations for the storage, maintenance, dispatch, and staging of construction equipment, vehicles, materials, and supplies. Contractor yards may include offices, workshops, equipment maintenance, and outdoor storage areas, but are not intended for the processing or manufacture of construction materials.

Utility Storage Yards

Utility Storage Yards: Facilities operated by or on behalf of public or private utility providers for the storage, staging, maintenance, and distribution of equipment, vehicles, materials, and supplies used in the construction, operation, repair, and maintenance of utility systems, including electric, water, wastewater, natural gas, telecommunications, and similar infrastructure. These facilities may include fleet parking, equipment maintenance, warehouses, and outdoor storage.

Sincerely,

Arthur Franklin

From: Eetsabarn LLC <eetsabarn@gmail.com>
Sent: Thursday, July 2, 2026 11:33 AM
To: Zoning Department <zoning@betheltownship.org>
Subject: Re: Zoning certificate

[Quoted text hidden]

EXHIBIT 2

SUBMISSION PACKET

[See attached]



BETHEL TOWNSHIP TRUSTEES
BETHEL TOWNSHIP ZONING DEPARTMENT
8735 SOUTH SECOND STREET - BRANDT, TIPP CITY, OHIO 45371
PHONE: 937.845.8472 FAX: 937.845.7316

APPLICATION FOR A ZONING CERTIFICATE

App. No.: ZC-

SECTION I: PROPERTY INFORMATION

Property Address: 4021 E US-40 Tipp City OH 45371
Section: 25 Town: 2 Range: 9
Subdivision Name and Lot No.: N/A
Acreage: 14.714
Parcel: A01 005500
Zoning District: X-1

SECTION II: APPLICANT INFORMATION

Applicant Name: Jason McCoy	Phone: 937-524-5885
Address: 80 Box 147	Zip Code: 45371
City, State: Tipp City OH	
Property Owner: Eetsaburn LLC	Phone: 937-524-5885
Address: 80 Box 147	Zip Code: 45371
City, State: Tipp City OH	
Contractor Name: Eetsaburn LLC	Phone: 937-524-5885
Address: 80 Box 147	Zip Code: 45371
City, State: Tipp City OH	

SECTION III: PROJECT INFORMATION (CHECK ALL THAT APPLY)

RESIDENTIAL

- | | | |
|---|---|--|
| ☐ NEW CONSTRUCTION | ☐ SINGLE FAMILY DWELLING | ☐ MULTI-FAMILY DWELLING |
| ☐ DECK | ☐ POOL | ☐ ADDITION |
| ☐ BASEMENT FINISHING | ☐ SHED/GARAGE | ☐ DEMOLITION |
| ☐ FREE STANDING SIGN | ☐ TEMPORARY SIGN | ☐ OTHER |

COMMERCIAL/INDUSTRIAL

- | | | |
|---|---|---|
| ☐ NEW CONSTRUCTION | ☐ WAREHOUSE | ☐ BUSINESS |
| ☐ OFFICE | ☐ NEW USE | ☐ CHANGE OF USE |
| ☐ FREE STANDING SIGN | ☐ WALL SIGN(S) | ☐ TEMPORARY SIGN |
| ☐ DEMOLITION | ☒ OTHER "Building and Trades, Contractors Yards, Utility Storage Yards" | |

EXPLAIN REQUESTED USE IN DETAIL:

Please Note: Please provide a narrative state explaining the economic, noise, glare, and odor effects on adjoining properties and the general compatibility with adjacent and other properties in the area.

see attached memo

Contractor/Applicant: [Signature] Date: 6-29-26

Owner: [Signature] Date: 6-29-26

Please Note: This application, if approved, must further be submitted to the Miami County Building Regulations Department, 1506 One Stop Court, Suite 6, Troy, Ohio 45373 for the applicable building permits. Building permits are mandatory before construction begins within Bethel Township, Miami County. A copy of all zoning certificates received by the Miami County Building Regulations Department shall be signed and dated and returned to the Bethel Township Zoning Department by said office.

SECTION IV: WATER AND SANITARY INFORMATION

PUBLIC WATER AVAILABLE? (Y) N PUBLIC SEWER AVAILABLE? (Y) N HYDRANTS WITHIN 500'? (Y) N
SANITATION TO BE APPROVED BY:
☐ MIAMI COUNTY HEALTH DEPT. ☐ OHIO E.P.A. ☒ OTHER N/A

Continued on Next Page

SECTION V: ATTACH SKETCH OF PROPERTY/PROJECT

Attach a plan for the proposed use showing the location of building, parking and loading areas, traffic access and circulation drives, open space, landscaping, utilities, signs, yards, and refuse and service areas.

see attached diagram

SECTION VI: PROJECT DIMENSIONS (FOR OFFICIAL USE ONLY)

PRIMARY ROAD FRONTAGE: +/- 540 ft	SECONDARY ROAD FRONTAGE: N/A	LOT SIZE: 1.2 = 1/10 acre
FRONT YARD: N/A	REAR YARD: N/A	SIDE YARD: N/A
BUILDING HEIGHT: N/A	BUILDING WIDTH: N/A	
FIRST FLOOR AREA: N/A	SECOND FLOOR AREA: N/A	
TOTAL FLOOR AREA: N/A	FINISHED BASEMENT? YES OR NO N/A	
LOT WIDTH: +/- 540 ft	LOT DEPTH: +/- 1082 on E, +/- 308 on W	
ESTIMATED COST OF CONSTRUCTION: \$4,000		

SECTION VII: MISCELLANEOUS INFORMATION FOR COMMERICAL/INDUSTRIAL DEVELOPMENT

BLDG. STORIES: 0 N/A	PARKING SPACES: 0 N/A	BLDG. SQ. FT.: N/A
BLDG. HEIGHT: N/A	TRUCK DOCKS: N/A	

SECTION VIII: ADMINISTRATIVE ACTION

REVIEWED BY:	FEE:
DECISION DATE:	APPROVED:
REASON FOR APPROVAL OR DENIAL:	

WILDCAT RD

R-1A4 ONE FAMILY
RESIDENTIAL DISTRICT

R-1A4 ONE FAMILY
RESIDENTIAL DISTRICT

20' SIDE SETBACK

20' SIDE SETBACK

643.85

15' REAR SETBACK

586.67

I-1 LIGHT INDUSTRIAL DISTRICT

7.66 AC.

528.58

20' SIDE SETBACK

ASPHALT PAVT.

ASPHALT PAVT.

POSSIBLE BUILDING

POSSIBLE BUILDING

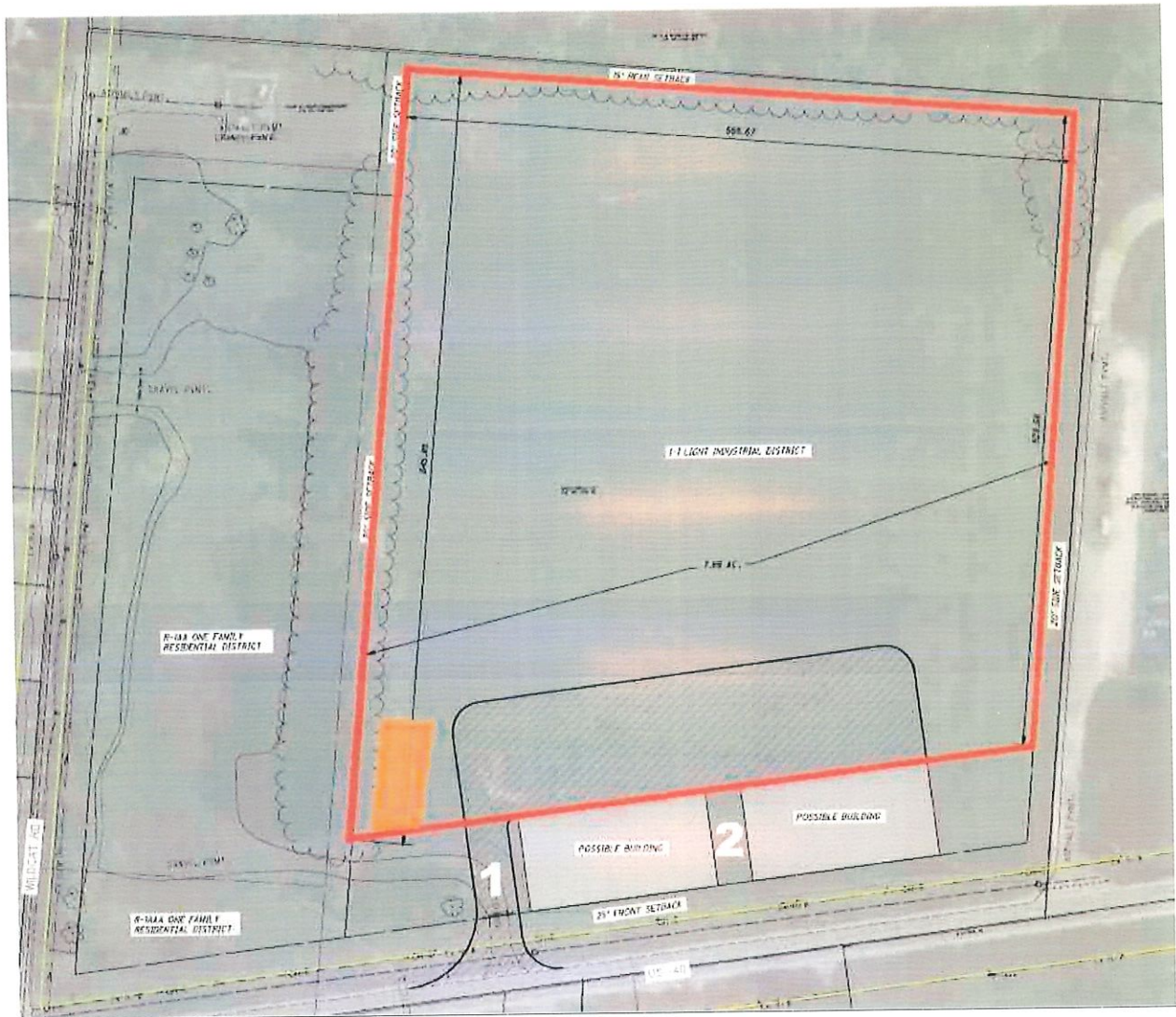
25' FRONT SETBACK

US-40

1

2

Site Plan text explanation:



- 1) Ingress and egress to 4021 E US 40 Tipp City OH 45371 will occur at area number 1 on the above map, via an ODOT-approved Commercial Driveway. There will be no traffic circulation within the 494 sq ft of this “Building and Trades, Contractor’s Yard, Utility Storage Yard” area. Future buildings may be sited at area #2 in the above diagram.
- 2) The “Building and Trades, Contractor’s Yard, Utility Storage Yard” area will be placed in the orange shaded area in the map above with the dimensions of 13 feet in width and 38 feet in depth and will not require screening or off-street parking as 494 sq ft falls below the 500 sq ft requirement of the current zoning resolutions. There will be no signs, utilities, or accessory buildings.

Written Narrative:

Eetsabarn LLC is in the business of leasing real estate. Its desire is to create a 494 square foot "Building and Trades, Contractor's Yard, Utility Storage Yard" area for future tenant uses suitable for this zoning certificate.

**Bethel Township Zoning Resolution Article 12 – "I-1" Light Industrial District
September 2018**

ARTICLE 12

"I-1" LIGHT INDUSTRIAL DISTRICT

Section 12.01 Purpose

The purpose of the "I-1" Light Industrial District is to provide appropriate places for clean, low environmental impact industrial and manufacturing uses that are located completely indoors, limit off-site impacts, outdoor storage and that provide adequate landscaping and screening for buildings, structures and off-street parking areas.

Section 12.02 Principal Permitted Uses

The following uses are permitted as of right in the "I-1" Light Industrial District:

Residential Uses	Public and Semi-Public Uses	Non-Residential Uses
• None	• Public Garages	• Agricultural Uses • Automobile Filling Station • Automobile, Recreational Vehicle, Boat Sales • Automobile, Truck, and Recreational Vehicle Repair • Building Services and Supplies • Building and Trades, Contractor's Yards, Utility Storage Yards • Commercial Greenhouse • Commercial Storage of Boats, Recreational Vehicles, and/or Construction Equipment in an Enclosed Building



Alexander C. Johnson
Associate
D: 513.579.6904
alex.johnson@kmklaw.com

August 4, 2026

Mr. Arthur Franklin
Planning & Zoning Director
Bethel Township Board of Zoning Appeals
8735 South Second Street
Tipp City, Ohio 45371

Re: Application for Zoning Certificate submitted by Eetsabarn LLC on June 29, 2026

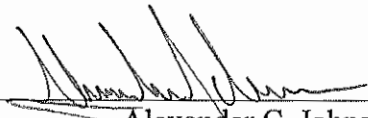
Dear Mr. Franklin:

Enclosed is our check in the amount of \$200.00 for the appeal filing fee related to the Appeal of the Zoning Certificate Denial dated July 2, 2026, issued with respect to the Application for Zoning Certificate submitted by Eetsabarn LLC on June 29, 2026, for the property located at 4021 U.S. Highway 40, Tipp City, Ohio 45371 .

If you require any additional information or documentation, please do not hesitate to contact our office.

Sincerely,

KEATING MUETHING & KLEKAMP PLL



Alexander C. Johnson
Associate

ACJ/mlc

Enclosures

Keating Muething & Klekamp PLL
Attorneys at Law
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