IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Councilmember Jeffery Young, Jr. on behalf of and as representative of Council of the City of Philadelphia and Strawberry Mansion Community Concern	:	
v.	:	No. 360 C.D. 2026
	:	Argued: October 13, 2026
City of Philadelphia, City of Philadelphia Zoning Board of Adjustment, Philadelphia Housing Authority, Pennrose LLC, and Strawberry Mansion Housing LLC	:	
Appeal of: Jeffery Young, Jr.	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge (P.)
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION BY
PRESIDENT JUDGE COHN JUBELIRER FILED: November 17, 2026

Jeffery Young, Jr. (Councilmember Young), a member of the Council of the City of Philadelphia (Council), appeals from the Order of the Court of Common Pleas of Philadelphia County (common pleas) that upheld the Decision of the City of Philadelphia Zoning Board of Adjustment (Board) that approved dimensional variances for an affordable housing development project located at 3230-3238 Diamond Street (Diamond Street Property) being developed by the Philadelphia Housing Authority (Authority), Pennrose LLC, and Strawberry Mansion Housing, LLC (together, Pennrose) (collectively, Applicants). On appeal, Councilmember Young argues common pleas erred in finding that he waived all but one issue, and that the Board erred in granting the variance because Applicants did not meet their

burden of proof on multiple requirements for obtaining a variance and Applicants did not hold a public meeting for the Diamond Street Property as required by Section 14-303(12)(c)(.5) of the Philadelphia Zoning Code (Code),[1] Title 14 of THE PHILADELPHIA CODE (2012) § 14-303(12)(c)(.5). The Authority and Pennrose reply that the Board's Decision should be affirmed, and Pennrose separately asserts that Councilmember Young lacked standing to appeal the Board's Decision.

In a memorandum opinion filed July 13, 2026, this Court held that Councilmember Young lacked standing based on Pennrose's argument that there was no evidence that Council Resolution 250623 (Resolution), upon which Councilmember Young relies to assert he has standing, was ever presented to the mayor for approval, which Section 6 of the First Class City Government Law (First Class City Law), 53 P.S. § 12526,[2] requires in order for a resolution to become effective. Councilmember Young, along with the City, sought reargument maintaining that the First Class City Law does not apply following the adoption of the Philadelphia Home Rule Charter[3] (Home Rule Charter) pursuant to the First Class City Home Rule Act (Home Rule Act).[4] While the Authority asserted that reargument was not warranted, it acknowledged that there was potential for confusion as to the merits of the standing issues raised in the Reargument Application, which it asserted would be resolved in *Councilmember Jeffery Young, Jr. on behalf of and as representative of Council of the City of Philadelphia v. City of Philadelphia* (Pa. Cmwlth., No. 688 C.D. 2026) (*Young II*), a related case

[1] The Code is available at https://codelibrary.amlegal.com/codes/philadelphia/latest/phildadelphia_pa/0-0-286773 (last visited November 16, 2026).

[2] Act of June 25, 1919, P.L. 581.

[3] The Home Rule Charter is available at https://codelibrary.amlegal.com/codes/philadelphia/latest/phildadelphia_pa/0-0-0-262986 (last visited November 16, 2026).

[4] Act of April 21, 1949, P.L. 665, *as amended*, 53 P.S. §§ 13101-13157.

involving the same standing issues that is awaiting decision. The Court granted reargument by Order entered August 26, 2026, and directed that this matter be argued together with *Young II*.

Following argument on this matter and *Young II*, we conclude that Councilmember Young could appeal the Board's Decisions because the First Class City Law is not applicable here and Council, via the Resolution, authorized Councilmember Young to file the appeal on behalf of and as the representative of Council, which unquestionably has standing under the Home Rule Act. On this basis, we vacate our memorandum opinion and order in this matter, *Councilmember Jeffery Young, Jr. on behalf of and as representative of Council of the City of Philadelphia v. City of Philadelphia* (Pa. Cmwlth., No. 360 C.D. 2026, filed July 13, 2026) (*Young I*). Upon review of the merits of this appeal, we agree with common pleas that all but one of the issues raised on appeal by Councilmember Young were waived because they were not asserted before the Board, and, on the preserved issue, we discern no error or abuse of discretion in the Board's Decision. Therefore, we affirm common pleas' Order upholding that decision.

I. BACKGROUND

A. Proceedings Before the Board

This appeal concerns the development of the Diamond Street Property as part of a scattered-site affordable housing development project that utilizes 14 parcels located throughout the Strawberry Mansion neighborhood (the Project), which would consist of 55 to 57 units overall. The Philadelphia Land Bank conveyed these 14 parcels, which are vacant lots and described as distressed, blighted, or subject to "short-term dumping," to the Authority for its use and approved Applicants' efforts to obtain building permits for the Project. (Board Decision, Findings of Fact (FOF)

¶¶ 11, 13, 15, 17-18, 30; Board Decision, Conclusion of Law (COL) ¶ 13; Reproduced Record (R.R.) at 85a, 115a-16a, 128a, 130a-31a, 137a, 142a, 145a, 166a, 430a-33a, 499a.) Thus, the Authority owns the Project, which is being developed by Pennrose and will be marketed for senior housing. (FOF ¶¶ 11, 18, 38; COL ¶¶ 13-14; R.R. at 191a.) One goal of the Project was to ensure affordable quality units in an area where affordable housing may be an issue in the future. (FOF ¶¶ 18, 20, 30, 47; COL ¶¶ 13-14; R.R. at 136a, 142a, 150a, 430a-34a, 499a.) The Diamond Street Property is located within the RM-1 (Residential Multi-Family) zoning district. The proposed use on this property would be Multi-Family Household Living and will consist of 21 dwelling units. (FOF ¶ 2.)

The Philadelphia Department of Licenses and Inspections (L&I) denied a permit for the Diamond Street Property because 3 dimensional variances were needed: 1 for rear yard depth (9 feet was required, 0 was proposed), 1 for maximum building height (38 feet allowed, 45.5 feet proposed), and 1 for bicycle parking spaces (7 spaces required, 0 spaces proposed). (*Id.*) Applicants appealed L&I's denial of the permit to the Board. (*Id.* ¶ 4.) Prior to the Board holding a hearing, Applicants submitted a revised plan for the Diamond Street Property, clarifying that a pilothouse and elevator tower were part of the zoning plan. (*Id.* ¶ 3.)

Strawberry Mansion Community Concern (SMCC) was designated the coordinating Registered Community Organization (RCO) for the Project. (*Id.* ¶ 14.) On August 23, 2024, Applicants requested a continuance of the Board hearings that had been scheduled at that point so that all of the hearings on the 14 properties could be heard together, copying Councilmember Young and SMCC's Director Bonita Cummings (Cummings). (*Id.* ¶ 5 n.3; R.R. at 403a.)

Applicants emailed Cummings in December 2024, requesting a meeting with Cummings about other properties. (R.R. at 679a.) Also included in that email were the addresses of the 14 parcels involved in the Project and a note that a hearing on those parcels was scheduled before the Board on March 12, 2025. (*Id.*) Applicants and Cummings had a phone call on January 27, 2025, and Applicants attempted to follow-up by email on February 4, 11, 18, and 24, 2025, in order to schedule an RCO meeting. (*Id.* at 674a-78a.) Applicants copied Councilmember Young's Director of Development, Conlan Crosley (Crosley), on the February 11, 18, and 24 emails. SMCC did not respond to any of Applicants' efforts. SMCC's counsel entered his appearance on March 10, 2025, and asked for a continuance of the March 12 hearing, which the Board granted and rescheduled a consolidated hearing for April 22, 2025. (*Id.* at 404a, 414a.) SMCC still did not schedule any community or RCO meetings on the Project.

The Board held a hearing on April 22, 2025.[5] The parties presented statements to the Board, and the Board received letters of support for the Project from State Senators Sharif Street and Vincent Hughes, State Representative Keith Harris, and Ryan Boyer of the Philadelphia Building and Construction Trades Council. (FOF ¶¶ 11-12.) Representatives from the Authority, Strawberry Mansion Community Development Corporation (Strawberry Mansion CDC), and members of the community testified in support of the Project, including about the parcels being vacant lots and the presence of blight found therein. (*Id.* ¶¶ 15, 17, 45, 46.) Representatives from Applicants and the Philadelphia City Planning Commission

[5] The Board's hearing encompassed separate appeals relating to the 14 parcels. Testimony regarding all of the Project, including introduction of letters of support and testimony in support of the Project, was intermixed with testimony related to the specific appeals of the parcels. Testimony regarding the Diamond Street Property is found at pages 185a to 209a of the Reproduced Record.

(Commission) testified about the specific development plans for the Diamond Street Property, the requested variances, and the funding of the Project, particularly its eligibility for a federal Low Income Housing Tax Credit. (*Id.* ¶¶ 10, 13, 18, 30, 34-37, 42, 47.) Pennrose's representative adopted counsel's statements regarding the details of the Diamond Street Property part of the Project. (*Id.* ¶ 38.) Another of Pennrose's representatives testified that this property would have senior housing, as requested by the community, and explained why there was no bike parking planned due to the presence of an existing large bike parking area. (*Id.*) A representative from the Commission testified that the Commission had concluded that the Project supported its Comprehensive Plan and that the proposed variances were minor deviations from the Code that were consistent with the Code's spirit and matched the existing character of the surrounding area. (*Id.* ¶¶ 30, 47.)

Councilmember Young, in whose district the Project is located, testified that his opposition to the Diamond Street Property variances was due to the absence of a community meeting for that parcel. (*Id.* ¶¶ 43-44.) Crosley, the Director of Development for Councilmember Young, acknowledged on cross-examination that Councilmember Young's office had never requested nor organized a community meeting for the Diamond Street Property. (*Id.* ¶ 19.) Cummings testified on behalf of SMCC, the registered RCO, about concerns with the Project being comprised of rental units, rather than allowing for home ownership, that the Diamond Street Property was not initially included in the meeting that occurred in 2019, that there had been no meeting for this property, that there is sufficient senior housing in the area, and that the proposed building was higher than the buildings facing it. (*Id.* ¶¶ 13-14, 31, 39.) Cummings conceded that, notwithstanding Applicants contacting

her, she had not attempted to have a community meeting and that there was community support for the Project. (*Id.* ¶¶ 39-40.)

At the end of the hearing, the Board held its vote pending discussion in executive session and left the record open for the parties to submit additional items. (*Id.* ¶ 48.) Applicants submitted revised plans addressing concerns raised by the Board, including covered bicycle storage and a relocated entry for the building's courtyard. (*Id.* ¶ 49.)

Subsequently, the Board unanimously approved the dimensional variances for the Diamond Street Property with a proviso based on the revised plans. (*Id.* ¶ 50.) The Board found that Applicants had met their burden of proof on their dimensional variance requests. (COL ¶ 20.) As to the Diamond Street Property,

> . . . the Board first noted that [] Applicant[s] w[ere] only seeking dimensional variances as the square footage of the lot permitted the requested 21 dwelling units by right. Because of its corner location, the Board found that [] Applicant[s'] proposal to construct an L-shaped building to align with the existing residential structures on Diamond and 33rd Streets was in keeping with the character of the neighborhood. By constructing the building to match adjacent structures, it was [] not feasible for [] Applicant[s] to provide the required nine feet of rear yard depth. However, consistent with the spirit of the [] Code, [] Applicant[s] still provided ample rear yard area (i.e.[,] the courtyard) for the building's residents in excess of what is required. The requested variance for additional height was necessitated by the pilothouse for rooftop maintenance and the elevator tower. Clearly, without an elevator, a multi-story apartment building would not be appropriate for senior citizens. Thus, the Board concluded that [] Applicant[s] had established an unnecessary hardship to justify the requested dimensional variances at the Diamond Street [P]roperty . . . .
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> [] The Board also found that the requested dimensional variances were the minimum necessary to afford relief. As previously noted, while [] Applicant[s] [are] not providing the required rear y[ard] depth due to the shape of the building on a corner lot, [they are] supplying a rear courtyard with square footage that exceeds Code requirements. While

> the pilothouse and elevator tower technically extend the building's height above the 38 feet permitted in the RM-1 zoning district, the structure itself only rose to 36 feet at the parapet and was aligned with the adjacent structures. In its updated revised plans, [] Applicant[s] [were] able to eliminate the refusal for lack of bicycle parking, further demonstrating that the remaining refusal[] [was] the least relief needed to address the unnecessary hardship . . . .
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> [] Lastly, the Board concluded that [] Applicant[s] had satisfied the remaining criteria under [the Code], thereby demonstrating that the proposals at the subject properties would not have a negative effect on the public safety, health, and general welfare of the surrounding community. The primary opposition to the developments at these sites was the coordinating RCO, who admittedly refused to schedule a community meeting as required under the [] Code to discuss the projects . . . .
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> [] In addition to SMCC, opposition to the project at the Diamond Street [P]roperty was also expressed by Councilmember Young. His main concern was the lack of community discussion surrounding this aspect of the overall project. Yet, testimony was presented at the hearing that his office was both aware of the multi-family dwelling proposed at this site as well as the attempts of [] Applicant[s] to arrange the required community meeting via the coordinating RCO. The remainder of the feedback received by the Board regarding the subject properties (and the overall project) were expressions of strong support that believed this 55-unit development would have a positive impact on the neighborhood . . . .

(*Id.* ¶¶ 16-19.)

B. Appeal to Common Pleas

On June 5, 2025, Council adopted the Resolution, which "[a]uthoriz[ed] Councilmember Young's appeal, on behalf of and as representative of [] Council of the decision of the [] Board . . . with respect to 3230-38 Diamond Street." (R.R. at 704a-05a.) The Resolution further authorized the designated councilmember to obtain counsel to appeal the Board decision and to litigate the appeal on Council's behalf and as Council's representative. (*Id.* at 704a.) The Resolution additionally

authorized Councilmember Young "to file the appeal on behalf of and as representative of [] Council." (*Id.*) Councilmember Young was provided with the "full authority" to "prosecute and defend, on behalf of and as representative of [] Council" any appeal of the Board's Decision on the Diamond Street Property. (*Id.*) Through the Resolution, Council ratified the steps Councilmember Young had taken on its behalf and as its representative in preparing for this appeal and "authorize[d] [him] to take all further steps on behalf of and as representative of [] Council with respect to [this] appeal" that he concludes are appropriate for successfully prosecuting and defending this appeal, including filing further appeals if necessary. (*Id.*)

Thereafter, Councilmember Young filed an appeal of the Board's approval of the Diamond Street Property variances on June 11, 2025, "on behalf of and as representative of Council." (*Id.* at 14a.) After argument but without taking evidence, common pleas denied the appeal and affirmed the Board's Decision. Upon Councilmember Young's appeal to this Court, he filed a statement of errors complained of on appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b), Pa.R.A.P. 1925(b), (1925(b) Statement), in which he asserted multiple reasons why common pleas erred in affirming the Board's Decision: common pleas erred in affirming the Board's grant of the variances; Applicants did not establish unnecessary hardship; any hardship was self-created; the property could be used in conformity with the Code; the Project adversely impacts the public interest; the Board's decision was unsupported by substantial evidence; and common pleas did not allow Councilmember Young to adopt the other objections rather than just the one he made at the hearing. In its Opinion written pursuant to Rule 1925(a), common pleas held that Councilmember Young waived all the issues but the ones related to

the lack of a community meeting, which he had raised at the hearing, and whether the Project would adversely impact the public interest due to his failure to raise the others before the Board and/or by not sufficiently developing them. (1925(a) Opinion (Op.) at 8-9.)

As to the preserved issues, common pleas explained that Councilmember Young objected only due to the lack of a community meeting for the Diamond Street Property. (*Id.* at 10.) According to common pleas, once Applicants gave written notice of their application to the RCO, the RCO bore the burden to convene a community meeting within 45 days and, if it did not, the Board may hold its hearing. (*Id.* at 10 (citing CODE § 14-303(12)(d)(.2)(.a), (e)(.1), (e)(.5)(ii)).) The record showed, common pleas held, that Applicants advised SMCC of the Diamond Street Property part of the Project in writing and followed up with SMCC repeatedly to schedule a meeting, and that SMCC failed to schedule or hold a meeting within 45 days. (*Id.*) Common pleas found no error or abuse of discretion in the Board's determination that the Diamond Street Property part of the Project was not adverse to the public interest, pointing to the evidence of public support and the Board's acceptance of that evidence to support its conclusion. (*Id.*)

II. DISCUSSION

A. Whether Councilmember Young has standing to bring this appeal.

1. Parties' Arguments

We begin with Pennrose's standing arguments. Pennrose argues that Councilmember Young lacks standing to appeal the Board's Decision under Section 17.1 of the Home Rule Act, 53 P.S. § 13131.1,[6] because an individual city councilmember is not an aggrieved party by virtue of their position alone and the

[6] Section 17.1 was added by Section 2 of the Act of November 30, 2004, P.L. 1523.

Resolution purporting to delegate the Council's standing to him fails.[7] (Pennrose's Brief (Br.) at 5 (citing *Appeal of Clarke*, 316 A.3d 1095, 1101 (Pa. Cmwlth. 2024); *O'Neill v. Phila. Zoning Bd. of Adjustment*, 169 A.3d 1241, 1245 (Pa. Cmwlth. 2017)).) Pennrose asserts the Resolution upon which Councilmember Young relies for standing is either procedurally ineffective or unconstitutional. (*Id.* at 5-9.) Pennrose contends that, pursuant to Section 17.1 of the Home Rule Act, only "aggrieved persons" and Council have standing to appeal from a Board decision. (*Id.* at 5.) It argues that the Council does not have the authority to delegate its appeal authority to a particular councilmember because the General Assembly granted the authority to appeal to the legislative **body** in the Home Rule Act, and that this issue was left open for future consideration in this Court's recent decision in *Appeal of Clarke*, 316 A.3d at 1103 n.8. (*Id.* at 7-11.) Procedurally, Pennrose argues that there is no evidence that the Resolution was ever presented to the mayor for approval, which Section 6 of the First Class City Law, 53 P.S. § 12526, requires in order for a resolution to become effective. (*Id.* at 11-12.) Without the mayor's approval of the Resolution, it never became effective and the general principle that an individual councilmember does not have standing to appeal a Board decision based on their position is implicated. (*Id.*)

The City asserts Pennrose's argument based on the First Class City Law is misplaced because that law was superseded by the City's Home Rule Charter in 1951, due to Section 6 of the First Class City Law being inconsistent with Sections 2-200 and 2-202 of the Home Rule Charter. (City's Answer to Reargument App. at 2, 5-7 (citing Philadelphia Home Rule Charter (CHARTER) §§ 2-200, 2-202).)

[7] Pennrose also asserted Councilmember Young's lack of standing before common pleas in response to Councilmember Young's appeal. (*See* R.R. at 396a-99a.) Common pleas did not address this argument.

Section 2-200 of the Home Rule Charter abolished the legislative resolutions, of which Section 6 speaks, and requires legislative acts only by ordinances, which do require mayoral approval per Section 2-202 of the Home Rule Charter. (*Id.* at 6-7.) The City further argues that, even if Section 6 of the First Class City Law were not superseded, it would still not apply because the Resolution was not legislative and Section 6 applies only to legislative resolutions. (*Id.* at 9-10.) For these reasons, the City argues the Court's decision in *Young I* should be vacated. (*Id.* at 11.)

Councilmember Young argues that he is not seeking to appeal in his individual capacity and asserts standing only on behalf of Council, which has expressly authorized him to act on its behalf via the Resolution. Councilmember Young asserts Council could authorize a councilmember to prosecute a zoning appeal on its behalf, which Council has validly done here. He maintains Council made the decision to appeal the Board Decision and authorized Councilmember Young to perform the administrative and ministerial acts required to carry out that decision. Council did not delegate any of its legislative power, it only authorized Councilmember Young to act on Council's decision to appeal the Board's approval of the variances for the Diamond Street Property. This non-legislative action, Councilmember Young asserts, is not inconsistent with the Home Rule Act or the Pennsylvania Constitution, and, therefore, is permissible. Finally, Councilmember Young, like the City, asserts Section 6 of the First Class City Law does not apply here because the Home Rule Charter superseded the First Class City Law's governance structure, including the need to present resolutions to the Mayor for approval or veto, and now only ordinances must be presented to the Mayor.[8]

[8] The Authority takes no position on the issue of Councilmember Young's standing but asserts there is no need to vacate *Young I* because the scope of that decision was narrow.

Pennrose responds that the Home Rule Act gives standing to aggrieved parties and to Council, not to individual councilmembers, and article IX, section 2 of the Pennsylvania Constitution prohibits a home rule municipality from exercising any power or performing a function that has been denied by the General Assembly. PA. CONST. art. IX, § 2. (Pennrose's Br. at 6-8.) According to Pennrose, permitting Council to delegate its standing to Councilmember Young to appeal the Board's Decision, with no guardrails to limit his discretion, would codify councilmanic prerogative in contravention of the General Assembly's determination that only Council, the body, has standing. (*Id.* at 9.)

2. Analysis

"In Pennsylvania, a party seeking judicial resolution of a controversy 'must establish . . . [it] has standing to maintain the action.'" *Johnson v. Am. Standard*, 8 A.3d 318, 329 (Pa. 2010) (quoting *Fumo v. City of Philadelphia*, 972 A.2d 487, 496 (Pa. 2009)). "A challenge to a party's standing raises a question of law subject to this Court's plenary, de novo review." *O'Neill*, 169 A.3d at 1244 (citation omitted). On the issue of who has standing to appeal a decision by the Board, Section 17.1 of the Home Rule Act provides that

> **[i]n addition to any aggrieved person, the governing body vested with legislative powers** under any charter adopted pursuant to this act **shall have standing to appeal** any decision of a . . . board . . . created to regulate development within the city. As used in this section, the term "aggrieved person" does not include taxpayers of the city that are not detrimentally harmed by the decision of the [] board . . . created to regulate development.

53 P.S. § 13131.1 (emphasis added). Similarly, Section 14-303(15)(b)(.1) of the Code provides:

> A final decision made by the Zoning Board or the Commission pursuant to this Zoning Code may be appealed to a Pennsylvania Court of Common Pleas by any aggrieved party **or by** [] **Council** pursuant [to Section 17.1 of the Home Rule Act] within 30 days of the decision or such other time as may be provided by law.

CODE § 14-303(15)(b)(.1) (emphasis added).

Accordingly, "under the plain language of the Home Rule Act, standing to appeal a zoning decision in the City is limited to two classes—aggrieved persons and the governing body vested with legislative powers . . . , which in Philadelphia is . . . Council[.]" *O'Neill*, 169 A.3d at 1245 (citing *Spahn v. Zoning Bd. of Adjustment*, 977 A.2d 1132 (Pa. 2009); Section 301(2)(a) of the Code, CODE § 14-301(2)(a)). Although "the Home Rule Act and the Code grant[] standing to [the] Council as a body; nowhere does either grant standing to the individual councilmembers." *Id.* at 1245. The Court cannot ignore the plain language of this legislation, nor can the Court add language or redraft that legislation. *Id.*

Notably, then-Judge, now Justice Brobson wrote a concurring opinion in *O'Neill*, in which he agreed that individual councilmembers did not have standing under either the Home Rule Act or the Code to challenge a Board decision granting a variance. *O'Neill*, 169 A.3d at 1247 (Brobson, J., concurring). Then-Judge Brobson also indicated, however, that he could

> fathom a circumstance where . . . Council . . . may not be nimble enough to act as a body within the time constraints for challenging such a decision. In that situation, it may be adequate for a councilperson to initiate a challenge on behalf of [] Council, with prompt formal action by [] Council thereafter ratifying the appeal.

Id.

In *Appeal of Clarke*, the then-Council president filed an appeal from a Board decision, a year later Council adopted a resolution purporting to authorize him to

appeal as its designated representative (first resolution), and the landowner filed a motion to quash based on *O'Neill*. *Appeal of Clarke*, 316 A.3d at 1098. Common pleas granted the motion, concluding that the first resolution did not confer Council's standing on Council president because it was not legal. *Id.* at 1099. Council president appealed to this Court, asking us to vacate common pleas' order because the resolution designated him Council's representative for purposes of litigation based on Council's subsequent passage of a second resolution, retroactively authorizing him to represent Council and ratifying the actions he took in that appeal. *Id.* at 1100. The landowner responded that *O'Neill* controlled and that Council lacked the authority to delegate its standing to individual councilmembers. *Id.*

In affirming common pleas' determination that Council president lacked standing, this Court examined the resolutions at issue in that case as well as the text of the Home Rule Act and Code. *Id.* at 1101-03. The Court explained that the first resolution did "not address Council's pursuit of appeals from [Board] decisions **beyond obtaining counsel**," which the resolution references as "counsel to represent [] Council," and not as counsel to represent an individual councilmember on behalf of Council. *Id.* at 1103 (emphasis added). Thus, it did not support Council president's argument that the resolution authorized individual councilmembers to appeal Board decisions. The Court also rejected Council president's arguments that the second resolution expressly authorized and ratified his appeal because that resolution was passed more than a year after he filed the appeal and almost one month after common pleas quashed the appeal from the Board's decision. *Id.* We explained

> [e]ven if we were to consider the [second r]esolution, and even if we were to determine it was valid, [] Council did not provide any argument or binding authority[] to support its purported ability to retroactively

> authorize a councilmember to file an appeal on its behalf. Thus, the [second r]esolution does not cure [the first r]esolution's [] defects.[] *See Commonwealth v. Brown*, . . . 196 A.3d 130, 185 n.21 ([Pa.] 2018) ("[A]ppellate courts are 'neither obligated, nor even particularly equipped, to develop an argument for a party. To do so places the Court in the conflicting roles of advocate and neutral arbiter.'")

Id. at 1103-04 (footnotes omitted). The Court noted that "[b]ecause we concluded, under these facts, that neither [the first r]esolution nor the [second r]esolution authorized [] Council [p]resident's appeal, we do not reach the question of whether [] Council could validly pass an ordinance or resolution designating a legal representative for purposes of appealing [Board] decisions." *Id.* at 1104 n.8.

With these principles in mind, we turn to Council's Resolution, which states that it

> [a]uthoriz[es] Councilmember Young's appeal, **on behalf of and as representative of** [] **Council of the decision of the** [] **Board . . . with respect to [the Diamond] Street [Property]**.
>
> WHEREAS, Pursuant to Resolution No. 240585, the Council President, or a Councilmember designated by [] Council President, shall have full authority to seek and retain legal counsel to file an appeal of the decision of the [Board] and to engage in any related litigation as may be necessary **on behalf of and in the name of** [] **Council**; and
>
> WHEREAS, [] Council intends by this Resolution to **authorize Councilmember Young to be a party to such an appeal on its behalf and to ratify Councilmember Young's authority to file the appeal on behalf of and as representative of** [] **Council**; now, therefore, be it
>
> RESOLVED, BY [] COUNCIL . . . , That Councilmember Jeffery Young, Jr. has **full authority to intervene in and thereafter as a party therein to prosecute and defend, on behalf of and as representative of this Council**, **the appeal of the decision of the [] Board** . . . with respect to [the **Diamond**] **Street [Property]**.

> FURTHER RESOLVED, That this Council **ratifies all steps taken to date by Councilmember Young on behalf of and as representative of Council in preparation for said appeal**.
>
> FURTHER RESOLVED, That this Council **authorizes Councilmember Young to take all further steps on behalf of and as representative of Council** with respect to such appeal as Councilmember Young determines is appropriate for the successful prosecution and defense of such appeal, including, if necessary, any further appeals.

(R.R. at 704a (emphasis added).)

Upon review, we are persuaded by Councilmember Young's arguments that Council may authorize a particular councilmember to **act on its behalf** and file and prosecute an appeal from a Board decision **as Council's representative** and that such action does not violate Section 17.1 of the Home Rule Act or the Pennsylvania Constitution. Article IX, section 2 of the Pennsylvania Constitution states, in pertinent part, that "[m]unicipalities shall have the right and power to frame and adopt home rule charters," and that a "municipality which has a home rule **charter may exercise any power** or perform any function **not denied** by this Constitution, by its home rule charter or **by the General Assembly** . . . ." PA. CONST. art. IX, § 2 (emphasis added). Thus, "by constitutional mandate, the General Assembly may limit the functions to be performed by home rule municipalities." *Spahn*, 977 A.2d at 1143-44 (citation omitted). Section 17.1 of the Home Rule Act is one such limitation on the Home Rule Charter by defining who has standing to appeal a Board decision. *Id.* (holding that a previous provision in the Home Rule Charter granting taxpayer standing in zoning cases conflicted with Section 17.1 of the Home Rule Act and was superseded thereby).

Pennrose argues that Council's Resolution conflicts with Section 17.1 of the Home Rule Act by authorizing Councilmember Young, **individually**, to file an

appeal of the Board's Decision, notwithstanding that the General Assembly has permitted **only** Council to have standing to appeal. Pennrose's arguments, however, disregard the actual language of the Resolution **adopted by Council**, which reflects **the collective will and decision of Council to appeal** the Board's Decision.

A resolution, as described by the Supreme Court, is "an informal enactment of a temporary nature, **providing for the disposition of a particular piece of the administrative business of a municipal corporation**." *Blackwell v. City of Philadelphia*, 684 A.2d 1068, 1072 (Pa. 1996) (emphasis added) (citation and quotation marks omitted). It is apparent from the adoption of the Resolution that it was **Council's decision** to appeal the Board's Decision, particularly where Council adopted it **before the filing of any appeal**. Through the Resolution, Council authorized Councilmember Young to **effectuate Council's decision** to appeal by taking the actions necessary to commence and prosecute the appeal **on Council's behalf**, **not his own**. The Resolution essentially "dispos[ed] of a particular piece of administrative business," *id.*, the issue of who would be authorized to file and prosecute **Council's appeal** of the Board's Decision. And, while Councilmember Young is authorized by the Resolution to take such actions that he deems appropriate in prosecution of the appeal, this does not alter that he is doing so **on behalf of Council and as a representative of Council**. Importantly, there is no language in Section 17.1 that prohibits a legislative body, after it decides to file an appeal of a zoning board decision, to authorize a member thereof to file that appeal on the legislative body's behalf and as its representative.

Appeal of Clarke is distinguishable because the Resolution here, adopted prior to the appeal being filed, was narrowly tailored to authorize an appeal of this particular Board Decision on Council's behalf. Moreover, the Resolution was not

retroactively adopted **more than a year** after a councilmember's individual appeal had been filed, as in *Appeal of Clarke*. 316 A.3d at 1104. The second resolution in *Appeal of Clarke* also could not be described as being "prompt," as the concurring opinion in *O'Neill* indicated would be necessary to ratify an individual councilmember's already-filed appeal. *O'Neill*, 169 A.3d at 1247 (Brobson, J., concurring). While the Resolution here was adopted before the filing of any appeal, we find merit in the *O'Neill* concurrence's observation that there could be "circumstance where . . . Council . . . may not be nimble enough to act as a body within the time constraints for challenging such a decision" and, in those situations, "it may be adequate for a councilperson to initiate a challenge on behalf of [] Council, with prompt formal action by [] Council thereafter ratifying the appeal." *Id.*

Ultimately, Section 17.1 of the Home Rule Act provides that it is the legislative body, here Council, that has standing to appeal a zoning board decision. Here, Council exercised its right to file an appeal by authorizing Councilmember Young, in whose district the Diamond Street Property is located, to file and prosecute the appeal of the Board's Decision on its behalf and as its representative. We discern no violation of or conflict with the General Assembly's enactment in Section 17.1 that would require a finding that Councilmember Young, acting on behalf of and as a representative of Council, lacked the requisite standing to file and prosecute this appeal.

As for Pennrose's reliance on Section 6 of the First Class City Law to challenge the procedural validity of the Resolution, that reliance is misplaced. Section 6 of the First Class City Law relevantly states that:

> **Every <u>legislative</u> act of** [] **[C]ouncil shall be by ordinance or resolution**, and **every** ordinance or **resolution shall**, **before it takes**

> **effect, be presented**, duly engrossed and certified, **to the mayor for his approval**.
>
> The mayor shall sign such ordinance or resolution if he approves it, whereupon it shall become law. If he disapproves it, he shall return it to [] [C]ouncil, with his reasons for disapproval, at the first meeting thereof held not less than ten days after he receives it, and, if [] [C]ouncil pass the same, within seven days after he has returned it with his disapproval, by a vote of three-fifths of all the members elected thereto, it shall become law without his approval. If the mayor does not return such ordinance or resolution within the time herein required, it shall become law without his approval.

53 P.S. § 12526 (emphasis added).

While there is no indication that the Resolution was presented to the City's Mayor for approval, we agree with the City and Councilmember Young that this was unnecessary because Section 6 of the First Class City Law was superseded by the Home Rule Act and the City's adoption of its Home Rule Charter. The First Class City Law was enacted in 1919 and laid out the structure of the City's government and its powers to act, 53 P.S. §§ 12101-12714, which were restricted to those delegated to it by the General Assembly by statute, 53 P.S. §§ 12521-12528. However, in 1949, the General Assembly enacted the Home Rule Act, broadly empowering the City to exercise self-governance and adopt its own charter, limited only by certain prescriptions by the General Assembly. Section 17 of the Home Rule Act, 53 P.S. § 13131;[9] *Warren v. City of Philadelphia*, 115 A.2d 218, 221 (Pa.

[9] Section 17 states, in pertinent part, that

> Subject to the limitations hereinafter prescribed, the [C]ity taking advantage of this act and framing and adopting or amending its charter thereunder **shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions**, including the power and authority to prescribe the elective city officers . . . . The charter of any city adopted or amended in accordance with this act **may**

(Footnote continued on next page…)

1955). "The [C]ity, therefore, [could now] legislate as to municipal functions as fully as could the General Assembly." *Warren*, 115 A.2d at 221.

In 1951, the City's electors adopted the Home Rule Charter, which carries the "force and status" of a statute, *In re Addison*, 122 A.2d 272, 276 (Pa. 1956), and which specifically sets forth the City's governance structure and operations in a manner that differs, in some instances, from the First Class City Law. Importantly, both the Home Rule Act and the City's Home Rule Charter, provide that the adopted Home Rule Charter superseded any existing statutes relating to the government, organization, and powers of the City where the existing statutes are "inconsistent or

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> **provide for a form or system of municipal government and for the exercise of any and all powers relating to its municipal functions, not inconsistent with the Constitution of the United States or of this Commonwealth, to the full extent that the General Assembly may legislate in reference thereto as to cities of the first class**, and with like effect, and the city may enact ordinances, rules and regulations necessary and proper for carrying into execution the foregoing powers and all other powers vested in the city by the charter it adopts or by this or any other law.

53 P.S. § 13131 (emphasis added).

in conflict" with the Home Rule Charter. Section 11 of the Home Rule Act, 53 P.S. § 13111;[10] Section 11-101 of the Home Rule Charter, CHARTER § 11-101.[11]

Section 6 of the First Class City Law provides that Council may legislate by resolution and requires that all "legislative resolutions" be presented to the mayor for approval. 53 P.S. § 12526. But Section 2-200 of the Home Rule Charter **abolished** the **usage of legislative resolutions** in favor of requiring that **all legislative acts by Council be by ordinance**. CHARTER § 2-200 (stating "[e]very legislative act of [] Council shall be by ordinance"). Section 2-202 of the Home Rule Charter then requires that **ordinances**, which are the only means by which Council acts legislatively, **be certified to the Mayor for approval before it takes effect**. CHARTER § 2-202 (stating "[e]very ordinance shall, before it takes effect, be certified to the Mayor for approval"). Thus, Section 6 of the First Class City Law is incompatible with the Home Rule Charter because it permits Council to legislate

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[10] Section 11 of the Home Rule Act relevantly provides:

> **Any new charter** or amendments to the charter of a city thus proposed, which are **approved by a majority of the qualified electors** voting thereon, **shall become the organic law of the city** at such time as may be fixed therein and all courts shall take judicial notice thereof. So far as the same are consistent with the grant of powers and the limitations, restrictions and regulations hereinafter prescribed, **they shall supersede any existing charter and all acts or parts of acts, local, special, or general, affecting the organization, government and powers of such city, to the extent that they are inconsistent or in conflict therewith**.

53 P.S. § 13111 (emphasis added).

[11] In pertinent part, Section 11-101 of the Home Rule Charter states

> it is the intention of the electors in adopting this charter that it shall supersede all statutes or parts of statutes, local, special or general, and all ordinances of the City, affecting the organization, government and powers of the City to the extent that they are inconsistent or in conflict with this charter.

CHARTER § 11-101.

using resolutions and requires mayoral approval for legislative resolutions, but Sections 2-200 and 2-202 of the Home Rule Charter recognize no such category of enactment by Council or require mayoral approval requirement for those enactments. Accordingly, by operation of Section 11 of the Home Rule Act and Section 11-101 of the Home Rule Charter, Section 6 of the First Class City Law was superseded by Sections 2-200 and 2-202 of the Home Rule Charter. Having been superseded, Section 6 of the First Class City Law cannot be relied upon to argue the Resolution is procedurally invalid so as to divest Councilmember Young of standing.

For the foregoing reasons, we conclude Councilmember Young, acting on behalf of and as a representative of Council, has standing to bring this appeal, as he has been specifically authorized by Council in the Resolution to do so. *Young I*, which concluded otherwise, is therefore vacated.

Concluding there is no standing issue with the appeal from the Board's Decision, we turn to the merits of Councilmember Young's appeal of the Board's Decision.[12]

B. Whether the Board erred in approving the dimensional variances for the Diamond Street Property.

1. Did Councilmember Young preserve all of his issues before the Board?

a. Parties' Arguments

Councilmember Young argues that he did not waive any arguments challenging the Board's finding that Applicants met their burden of proof on the

[12] "Where the trial court does not take additional evidence, we are limited to determining whether the [Board] committed an error of law or manifestly abused its discretion." *Coal Gas Recovery, L.P. v. Franklin Twp. Zoning Hearing Bd.*, 944 A.2d 832, 837-38 (Pa. Cmwlth. 2008) (citation omitted). "An abuse of discretion occurs when the findings are not supported by substantial evidence in the record." *Id*. at 838 n.9 (citation omitted). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id*. (citation omitted).

dimensional variances. According to Councilmember Young, the purpose of the waiver rule is to ensure the fact finder has a full opportunity to create a record on all issues and, because it was Applicants who bore the burden on presenting evidence to support their claimed relief and the record created before the Board and common pleas on the requested relief is fully reviewable, this purpose is met. (Councilmember Young's Br. at 18 (citing *In re Chacon* (Pa. Cmwlth., No. 1184 C.D. 2023, filed Sept. 19, 2025) (*Chacon II*)).) He notes that *Chacon II* involved a single objector, and that where there are multiple objectors at a Board hearing, any issue raised by any objector can be raised in an appeal from a Board decision, even if the appellant was not the one to raise it before the Board, particularly where objectors were told at the hearing not to be duplicative. (*Id.* at 18-19.) Thus, Councilmember Young asserts he can challenge whether Applicants met their burden, even if he did not challenge the sufficiency of the evidence or state "the magic words" before the Board. (*Id.* at 19.)

Pennrose argues common pleas correctly determined that most of Councilmember Young's issues are waived due to his failure to raise them before the Board or because they were raised with insufficient specificity in his 1925(b) Statement. (Pennrose's Br. at 12.) According to Pennrose, the only issue Councilmember Young raised with the Board was that Applicants did not provide the required community meeting for the Diamond Street Property part of the Project and, therefore, any other issue raised before common pleas in the first instance is waived. (*Id.* at 12-13 (citing *In re Chacon* (Pa. Cmwlth., No. 1184 C.D. 2023, filed Jan. 29, 2025) (*Chacon I*); Section 753(a) of the Local Agency Law, 2 Pa.C.S. § 753(a)).) It also asserts that Councilmember Young did not preserve all of his issues because his 1925(b) Statement is too vague because it provided a conclusory

statement about common pleas erring in not finding that the Board erred as a matter of law and/or abused its discretion or that the Board's Decision was not supported by substantial evidence without providing any specifics as to what errors or abuses of discretion the Board made or what part of the decision lacked evidentiary support. (*Id.* at 15-16.) A 1925(b) statement that is vague or does not assert issues with specificity hinders a trial court's ability to prepare a legal analysis pertinent to the issues raised. (*Id.* at 15 (citing *Commonwealth v. Dowling*, 778 A.2d 683, 686-87 (Pa. Super. 2001)).)

The Authority similarly argues that the only issue Councilmember Young preserved is that the variances should have been denied due to the lack of a community meeting on the Diamond Street Property because that was the only reason he raised before the Board for denying the variances. (The Authority's Br. at 8-11.) It maintains this situation is like that in *Chacon I*, where this Court held that an objector waived for appellate review issues related to whether the applicant established that the hardship was not self-inflicted and the variance was the minimum variance from the Code needed by not raising them before the Board. (*Id.* at 9-10.) To the extent that Councilmember Young argues he can assert any issue raised by any objector at the Board's hearing, the Authority maintains that no one at the hearing raised the issues found waived by common pleas and, therefore, this argument does not require reversal. (*Id.* at 10-11.)

b. Analysis

Section 753(a) of the Local Agency Law provides that "if a full and complete record of the proceedings before the [relevant local] agency was made[, an appellant] may not raise . . . any other question [on appeal to a court of common pleas that was] not raised before the agency . . . unless allowed by the court upon due cause shown."

2 Pa.C.S. § 753(a). Accordingly, under this provision, "an appellant waives any issue they did not present before the local agency, unless they seek and obtain special dispensation from the court of common pleas to raise an otherwise waived argument at the appellate stage." *Chacon I*, slip op. at 6 (citing 2 Pa.C.S. § 753(a)).

Both parties cite the *Chacon* decisions, with Pennrose and the Authority citing *Chacon I* and Councilmember Young citing *Chacon II*. In *Chacon I*, this Court concluded that common pleas erred in reversing a Board decision on issues, including that the applicant had not established that any undue hardship was not self-inflicted and that the requested variances did not provide the minimum deviation from the Code necessary to provide adequate relief, that the appellant had **not raised before the Board in the first instance**. We stated:

> [c]ommon [p]leas [] reversed the Board's decision in full, without giving the slightest consideration to whether [the appellant] had properly preserved each of his arguments. *See* Common Pleas Op., 9/18/23, at 10-22. Simply put, [c]ommon [p]leas should have ruled that [the appellant] had waived his arguments regarding undue hardship and minimum necessary relief[] by failing to raise them when he appeared before the Board, and erred by doing otherwise.[]

Id., slip op. at 6-7 (footnotes omitted). Thus, we remanded for common pleas to address the one issue that the appellant had raised before the Board, which common pleas had left unaddressed in its opinion. *Id.*, slip op. at 8-9.

A review of the record before the Board confirms that the only issue Councilmember Young raised before the Board related to the lack of community meeting for the Diamond Street Property. Nowhere in that record did he assert that Applicants did not present sufficient evidence to meet their burden of proof on the dimensional variance requests. It was only before common pleas that he raised these issues. This matter is nearly on all fours with *Chacon I*, except common pleas here

did what the common pleas court in *Chacon I* did not; it considered whether Councilmember Young "had properly preserved each of his arguments" and concluded that he had not. *Id.*, slip op. at 7.

Although *Chacon I* is not reported, we find it highly persuasive because it involves nearly identical facts and legal issues as those here. *See* Section 414(a) of the Court's Internal Operating Procedures, 210 Pa. Code § 69.414(a) ("Parties may [] cite an unreported panel decision of this Court issued after January 15, 2008, for its persuasive value, but not as binding precedent."). To the extent Councilmember Young cites *Chacon II* to argue he did not have any obligation to raise these issues before the Board, ***Chacon II*** was the remand decision that **was addressing the issue** that the objector had **preserved before the Board**.

As to Councilmember Young's observation that the *Chacon* cases involved a single objector and that he should be able to raise any issue in his appeal to common pleas that was raised by other objectors before the Board, the Court agrees that an appealing objector may cite other challenges raised and preserved before the zoning hearing board in their appeal as a basis for reversal. However, a review of **this record** reveals that neither Cummings nor Crosley, the only others challenging the development of the Diamond Street Property, asserted the issues common pleas found waived here. Thus, we agree with common pleas that the only issue preserved for appellate review is whether the Board erred in granting the variances where no community meeting was held in relation to the Diamond Street Property part of the Project.[13]

[13] Because of our conclusion that Councilmember Young preserved only the community meeting issue before the Board, we do not address whether Councilmember Young's 1925(b) Statement was too vague.

2. Did the Board err in granting the variances where no community meetings were held?

a. Parties' Arguments

Councilmember Young maintains that Applicants failed to hold the required public meeting with SMCC, which must occur before the Board can act on a variance request pursuant to Section 14-303(12)(e)(.5) of the Code, CODE § 14-303(12)(e)(.5),[14] and it is not his or SMCC's burden to solicit community input on Applicants' behalf. (Councilmember Young's Br. at 25-27.) Absent the holding of such meeting, Applicants could not establish that the Diamond Street Property part of the Project would not negatively affect the public interest where the community was not given the opportunity to voice its concern.

The Authority responds that Councilmember Young's understanding of the community meeting provision of the Code and his claim that SMCC as the coordinating RCO had no obligation to schedule a community meeting are inconsistent with the Code's language. (The Authority's Br. at 11-12.) According to the Authority, that language explicitly imposes the obligation to schedule a community meeting on the coordinating RCO once an applicant provides notice of the proposed project and requires such meeting to be held within 45 days after the applicant files an appeal. (*Id.* (citing CODE § 14-303(12)).) The Authority argues the Board could hold its hearing on that appeal under Section 14-303(12)(e)(.5) of the Code because Cummings conceded that SMCC did not schedule a community meeting, and no such meeting was held within 45 days of Applicants' appeal of L&I's denial to the Board. (*Id.* at 12-13.) Pennrose similarly argues that the lack of a community meeting on the Diamond Street Property part of the Project did not

[14] Councilmember Young cites Section 14-303(12)(c)(.5) in his brief, but it appears this is in error because the meeting requirement is found in subsection (12)(**e**)(.5).

preclude the Board from holding a hearing and considering Applicants' appeal where Cummings admitted that SMCC refused to hold the hearing notwithstanding Applicants' requests that it do so.[15] (Pennrose's Br. at 18-20.)

b. Analysis

Upon review, we agree with common pleas that this is not a reason to reverse the Board's Decision because Councilmember Young's arguments are not supported by the relevant provision, Section 14-303(12) (relating to "Neighborhood Notice and Meetings"), which applies to applications that require Board approval of a zoning variance. CODE § 14-303(12)(a)(.2). As common pleas explained,

> Applicants are obligated to give written notice of their application [to appeal] to the pertinent [RCOs]. [CODE §] 14-303(12)(d)(.2)(.a).[16] The burden shifts to the Coordinating RCO at that point to convene a community meeting. [CODE §] 14-303(12)(e)(.1).[17] The RCO has 45 days to achieve this task. The [Board] may convene its public hearing after the 45-day period expires. [CODE §] 14-303(e)(.5)(ii).[18]

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[15] Both the Authority and Pennrose also argue that, if Councilmember Young's other arguments had been preserved, there is sufficient evidence in the record to support the Board's findings and grant of the dimensional variances.

[16] Subsection (d) relates to "Initial Notice from the Applicant to RCOs and Others" and relevantly provides: "Within twenty days after receiving the notice provided by the [Planning] Commission . . . an applicant must provide written notice of its application [to appeal] to: (.a) Each RCO whose boundaries include the applicant's property . . . ." CODE § 14-303(12)(d)(.2)(.a).

[17] In pertinent part, Section 14-303(12)(e)(.1) states:

> After receiving notice from the applicant under subsection (d), **the Coordinating RCO**, after consultation with the applicant . . . , **shall set the time, date and place of a public meeting to discuss the applicant's proposal**, and shall notify the applicant . . . of those details. **The meeting shall be scheduled for a date that is within 45 days after the applicant filed the appeal to the [] Board for approval of a** . . . **variance** . . . .

CODE § 14-303(12)(e)(.1) (emphasis added).

[18] Section 14-303(12)(e)(.5) relevantly provides:

(Footnote continued on next page…)

> The record shows (a) [] [A]pplicants gave SMCC written notice of their application for [the] Diamond Street [Property], and (b) SMCC failed to convene a public meeting within 45 days of that notice despite repeated follow-up by [] Applicants. [] Applicants copied SMCC on a letter to the [Board] dated August 23, 2024, that clearly identified [the] Diamond Street [Property] as part of the affordable housing scattered-site project. [] Applicants then emailed SMCC [in] December [] 2024, with a list of all 14 scattered-site projects. [The] Diamond Street [Property] was at the top of the list. The hearing before the [Board] did not occur until April 22, 2025, well after the required 45 day waiting period. During the interim, [] Applicants repeatedly asked [] Cummings to schedule a public hearing. She did not.
>
> The [Board] heard testimony from the community on April 22, 2025—including from [] Cummings—despite her failure to facilitate public comment as required. The [Board] heard from five public officials, the . . . Commission, Strawberry Mansion [CDC], [the Authority], and numerous community members. [(FOF ¶¶] 12, 15-17, 47.[)] The [Board] then made specific findings crediting that evidence and explaining why [] Applicants' mitigation measures adequately addressed the concerns raised in opposition. [(]COL [] ¶¶ 18-19.[)]

(1925(a) Op. at 10.) No one challenged the sufficiency of the notice provided by Applicants to SMCC, and the record reflects, as the Board found and common pleas explained, that Applicants repeatedly reached out to SMCC regarding these appeals and that Cummings simply "did not attempt to have a community meeting." (R.R. at 194a.) Therefore, Councilmember Young's arguments on this point are not

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> [n]either **the** [] **Board** . . . nor the Commission **shall conduct any public meetings on an application until the earlier of**: (i) the applicant and the **Coordinating RCO have completed all actions required** by subsection (d) . . . and **by this subsection (e)**; or (ii) **45 days have elapsed since the applicant filed the appeal to the** [] **Board** . . . .

CODE § 14-303(12)(e)(.5) (emphasis added).

persuasive, and this is not a reason to find error in the Board's Decision to grant the dimensional variances.

III. CONCLUSION

For the foregoing reasons, we conclude Councilmember Young's appeal should not be dismissed for lack of standing, and we vacate *Young I*, which concluded otherwise. We additionally hold that only one of the issues Councilmember Young argues on appeal was preserved before the Board and that the Board did not abuse its discretion or err in determining that the lack of a community meeting precluded approval of the variances. Accordingly, we affirm common pleas' Order.

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RENÉE COHN JUBELIRER, President Judge

Judge Dumas and Judge Wolf did not participate in the consideration of this matter.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Councilmember Jeffery Young, Jr. on behalf of and as representative of Council of the City of Philadelphia and Strawberry Mansion Community Concern	:	
v.	:	No. 360 C.D. 2026
City of Philadelphia, City of Philadelphia Zoning Board of Adjustment, Philadelphia Housing Authority, Pennrose LLC, and Strawberry Mansion Housing LLC	:	
Appeal of: Jeffery Young, Jr.	:	

O R D E R

NOW, November 17, 2026, in accordance with the foregoing opinion, the Court's July 13, 2026 memorandum opinion and order in *Councilmember Jeffery Young, Jr. on behalf of and as representative of Council of the City of Philadelphia v. City of Philadelphia* (Pa. Cmwlth., No. 360 C.D. 2026, filed July 13, 2026), is hereby **VACATED**, and the Order of the Court of Common Pleas of Philadelphia County, entered in the above-captioned matter, is hereby **AFFIRMED**.

RENÉE COHN JUBELIRER, President Judge