

**[J-57-2021] [OAJC:Todd, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

METAL GREEN INC. AND NOA
PROPERTIES INC.

v.

CITY OF PHILADELPHIA AND CITY OF
PHILADELPHIA ZONING BOARD OF
ADJUSTMENT AND WICKHAM KRAEMER
III AND MARY KRAEMER, HUSBAND AND
WIFE

APPEAL OF: METAL GREEN INC.

: No. 9 EAP 2021
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: Appeal from the Order of
: Commonwealth Court entered on
: July 28, 2020 at No. 373 CD 2019
: reversing the order entered on
: February 26, 2019 (dated February
: 25, 2019) in the Court of Common
: Pleas, Philadelphia County, Civil
: Division at No. 0180102735.
: ARGUED: September 22, 2021
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CONCURRING AND DISSENTING OPINION

JUSTICE MUNDY

DECIDED: December 22, 2021

I agree with Justice Wecht in his dissenting opinion, that Act 135 blighted status is an appropriate factor to consider in tandem with the minimum variance factor Philadelphia's Zoning Ordinance prescribes for determining whether a Zoning Board may grant a variance. As such, I join this aspect of his Dissenting Opinion. However, given the record in this matter, I would defer to the Opinion Announcing the Judgment of the Court in its ultimate disposition to remand. Accordingly, I concur in the Opinion Announcing the Judgment of the Court's result.

Justice Dougherty joins this concurring and dissenting opinion.