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December 10, 2019

Robert Gordon a/k/a
Gordon Builders, LLC
927 Harrison Lane
Warwick, PA 18974

**Re: Hilltown Township Zoning Hearing Board
Robert Gordon a/k/a Gordon Builders, LLC; Appeal No. 2019-008**

Dear Mr. Gordon:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated December 10, 2019, in the above captioned matter. The original of this Decision is being retained by the Township for its file.

Very truly yours,
Grim, Biehn & Thatcher



KELLY L. EBERLE

KLE/kbs

Enclosures

cc: Hilltown Township Manager
Mr. John L. Snyder
Mr. David Hersh
Mr. Joseph Kirschner
Dave Taylor, Zoning Officer
Stephen B. Harris, Solicitor

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Gordon Builders, LLC

Appeal No. 2019-008

A hearing was held in the above matter on Thursday November 14, 2019 at 7:00 p.m. at the Hilltown Township Municipal Building. Notice of the hearing was published in The Intelligencer advising that all parties in interest might appear and be heard. In addition, the property was posted and written notice was provided to neighboring property owners as required by the Zoning Ordinance.

The matter was heard before John Snyder, Chairman, Joseph Kirschner, and David Hersh. In addition, Kelly Eberle, Esquire, the Board Solicitor, was in attendance as was the Board stenographer. Applicant was present and was not represented by counsel. No individuals appeared in opposition to the application, and no individuals requested party status.

The following exhibits were admitted and accepted into evidence:

Zoning Hearing Board's Exhibits

- B-1 Proof of Publication
- B-2 Posting Certification
- B-3 Letter of October 28, 2019 to Neighboring Property Owners from Kelly L. Eberle

Applicant's Exhibits

- A-1 Application for Appeal to Zoning Hearing Board filed October 9, 2019
- A-2 Plot Plan

No other documentary evidence was submitted or received by the Hilltown Township Zoning Hearing Board. After weighing the credibility of the testimony and documents offered, the Hilltown Township Zoning Hearing Board rendered its Decision in the above Application as more fully set forth below.

FINDINGS OF FACT:

The Hilltown Township Zoning Hearing Board (the “Board”), having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, hereby makes the following Findings of Fact:

1. Applicant is Gordon Builders, LLC (“Applicant”).
2. Applicant is the owner of the subject property located at 721 Blooming Glen Road, Hilltown Township, Pennsylvania (“Property”).
3. The Property is otherwise identified as Bucks County Tax Parcel No. 15-017-059-001.
4. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
5. The Property is improved by an old farmhouse and accessory buildings, all of which are in deteriorating condition. The dwelling is currently uninhabitable.
6. The dwelling, as is, encroaches into the front-yard setback as well as the Ultimate Right-of-Way and is permitted as an existing non-conformity.
7. Off the front of the dwelling is a concrete porch, which was covered by a balcony until 2016 when the balcony was removed.
8. Applicant has purchased the property with the intent to renovating the dwelling and the Property as a whole.
9. Applicant wishes to install a roof over the existing porch, which will extend approximately 9 to 9.5 feet from the house.
10. Applicant will utilize the eight existing footers, which show no issues with structural integrity.

11. Though the porch is an existing non-conformity with respect to front yard setback requirements, Applicant requires a variance from §160-23.B.(1), which requires a minimum front yard setback of 50 feet, to permit the proposed roof to encroach an additional 9.5 feet into the front yard setback and Ultimate-Right-of-Way areas.

12. The proposed roof shall extend no farther than the existing concrete patio, except that an overhang for a gutter shall be permitted.

DISCUSSION:

Applicant is before the Zoning Hearing Board requesting a variance from §160-23.B.(1) of the Hilltown Township Zoning Ordinance, which requires a minimum front yard setback of 50 feet, in order to construct a roof over the existing concrete patio.

In considering applications for a variance, this Board is required to apply the provisions of Section 10910.2 of the Municipalities Planning Code. The board has the authority to grant a variance if it finds that an applicant has met its burden of proof for the following five elements: first, that the Property has unique physical circumstances, peculiar to the Property, and not generally created by the Zoning Ordinance; second, that an unnecessary hardship exists, due to the uniqueness of the Property, resulting in an applicant's inability to develop or have any reasonable use of the Property; third, that the applicant did not create the hardship; fourth, that the grant of a variance will not alter the character of the neighborhood or be a detriment to the public welfare; and fifth, that the variance is the minimum necessary to afford relief. 53 P.S. § 10910.2(a). In the case of Hertzberg vs. Zoning Board of Adjustment of the City of Pittsburgh, 721 A. 2d 43 (S. Ct. – 1998), the Supreme Court of Pennsylvania held that the grant of a dimensional variance is of lesser moment than the grant of a use variance, and the proof required to establish unnecessary hardship is lesser when a dimensional, as opposed to a use variance, is sought.

Based on the above, the Board finds that Applicant has shown the existence of a hardship, not self-created, and unique and peculiar to the Property, which requires the grant of a variance from §160-23.B.(1) of the Hilltown Township Zoning Ordinance. The Board concludes that the relief requested, a reduction in the front yard setback and encroachment into the Ultimate-Right-of-Way to permit the construction of a roof over the existing concrete patio is the minimum variance necessary to afford relief to the Applicant and is in keeping with the spirit of the Zoning Ordinance. Additionally, the Board finds that the variance, as requested, would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicant the opportunity to reasonably use the Property.

DECISION AND ORDER

AND NOW, this 10 day of December, 2019 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed roof shall be constructed in substantial conformity with Exhibits A-1 and A-2 and the testimony presented before the Board.
2. Applicant shall otherwise comply with all other applicable Township, state, and/or county laws, regulations, with respect to construction and use.

The Hilltown Township Zoning Hearing Board hereby deems the foregoing conditions as necessary and warranted under the terms of the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

HILLTOWN TOWNSHIP ZONING
HEARING BOARD

By: John Snyder
John Snyder, Chairman

By: Joseph Kirschner
Joseph Kirschner

By: David Hersh
David Hersh

GRIM, BIEHN & THATCHER

By: Kelly L. Eberle
Kelly L. Eberle, Solicitor
104 South Sixth Street, Perkasie, PA 18944

Date of Mailing: 12/10/19