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January 2, 2020

Britton Industries  
1 E. M-Y Lane  
Morrisville, PA 19067

**Re: Hilltown Township Zoning Hearing Board  
Britton Industries; Appeal No. 2019-012**

Dear Sir/Madam:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated December 12, 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**



Michael K. Martin, Esquire

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: Britton Industries

Appeal No. 2019-012

**ADJUDICATION**

A hearing was held in the above matter on Thursday December 12, 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 should appear and be heard. In addition, the property was posted and written notice was provided to neighboring property owners as required by the Hilltown Township Zoning Ordinance.

The matter was heard before John Snyder, Chairman, Joseph Kirschner, and David Hersh. In addition, Peter Nelson, Esquire, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was represented by its architect, Stephen V. Quigley, RLA. No other person testified at the hearing. No individuals appeared in opposition to the application; no individuals requested party status; and no one provided public comment on the application.

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 November 18, 2019 to Neighboring Property Owners from Kelly L. Eberle, Esquire with the hearing notice

Applicant's Exhibits

- A-1 Application for Appeal to Zoning Hearing Board filed on November 6, 2019 along with all exhibits

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 concerning the above Application as more fully set forth below.

**FINDINGS OF FACT:**

The Hilltown Township Zoning Hearing Board (“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 Britton Industries (“Applicant”) with a mailing address of 1 East M-Y Lane, Morrisville, PA 19067.
2. Applicant is the owner of the subject property located at 4108 Bethlehem Pike, Hilltown Township, Pennsylvania, otherwise identified as Bucks County Tax Parcel No. 15-001-031 (“Property”).
3. The Property is located in the LI (Light Industrial) Zoning District in Hilltown Township.
4. Applicant currently operates an H-8 composting facility upon the Property.
5. Applicant operates the facility on the Property from dusk to dawn.
6. Applicant wishes to install three signs upon the Property, two signs on either side of its entrance to the Property coming off of Bethlehem Pike (“Entrance Signs”) and a third sign at the intersection of Bethlehem Pike and Central Avenue (“Intersection Sign”).
7. The proposed signs will not be lighted.
8. All three signs are proposed to be monument signs.
9. Applicant is seeking the following five variances from the Board concerning this signs:
  - a. A variance to locate the Intersection Sign within 50 feet of the street lines at the intersection of Bethlehem Pike and Central Avenue where the bottom

elevation of the sign is less than the required 8 feet above the elevation of the center line of the roads.

- b. A variance to locate the two Entrance Signs within 50 feet of the street line of Bethlehem Pike where the bottom elevation of the signs are less than the required 8 feet above the elevation of the center line of the road.
- c. A variance to allow two single face Entrance Signs on Bethlehem Pike in lieu of one allowed double face sign.
- d. A variance to allow the Intersection Sign to be at the intersection of Bethlehem Pike and Central Avenue instead of along the frontage of Central Avenue.
- e. A variance to allow the Intersection Sign to exceed the maximum allowed sign area of 32 square feet by 18 square feet to permit a 50 square foot sign.

10. There is currently a berm located upon the Property which is approximately 6 feet high and is planted with white pines, which stand more than 20 feet in height; this berm runs along both road frontages of the Property.

11. Due to the heavy buffering along the berm, the proposed signage is necessary to identify Applicant's facility and to direct visitors to the appropriate entrance of this facility.

12. The berm prohibits the signs from being more than 50 feet away from the road right-of-ways in compliance with the Zoning Ordinance.

13. The berm and pine trees upon the Property prevent a double faced sign from being installed and visible at the entrance.

14. The Entrance Sign on the north side of the entrance is proposed to be 3.62 feet above the center line elevation of Bethlehem Pike; the Entrance Sign on the south side of the entrance is proposed to be located 3.25 feet above the center line elevation of Bethlehem Pike.

15. The Intersection Sign is proposed to be 5.68 feet above the elevation of the center line of Bethlehem Pike and 6.75 feet above the elevation of the center line of Central Avenue.

16. The Intersection Sign is proposed to be located 17 feet from the right-of-way of Bethlehem Pike and 20 feet from the right-of-way of Central Avenue.

17. The Entrance Signs are proposed to be 27 feet from the right-of-way of Bethlehem Pike.

18. The proposed locations of the proposed signs are all outside of the sight distances required by PennDOT.

19. Applicant wants the Intersection Sign to be located at the intersection instead of along the frontage of Central Avenue where such sign is allowed because the vast majority of visitors to the Property will be traveling along Bethlehem Pike.

20. Applicant is seeking the variance to the size of the Intersection Sign to make it more visible and readable to the fast moving traffic on Bethlehem Pike.

21. Currently, there is signage upon the Property consisting of banners and a sign on the entrance gate. These signs will be removed if the requested relief is granted and the new signage is allowed to be erected.

**DISCUSSION:**

Applicant is before the Zoning Hearing Board requesting variances from §160-77.B and §160-80.C(1) of the Hilltown Township Zoning Ordinance concerning the location, elevation, number, and size of the proposed signs upon the Property.

In considering applications for variances, this Board is required to apply the provisions of Section 10910.2 of the Municipalities Planning Code. The Board has the authority to grant variances 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. ZBA of Pittsburgh*, 721 A. 2d 43 (Pa. 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 the five (5) requested variances from the Hilltown Township Zoning Ordinance. The Board concludes that the relief requested, concerning the location, elevation, number, and size of the proposed signs upon the Property, is the minimum necessary to afford relief to Applicant and is in keeping with the spirit of the Zoning Ordinance. Additionally, the Board finds that the five (5) requested variances will 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.

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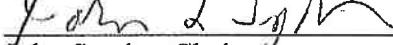
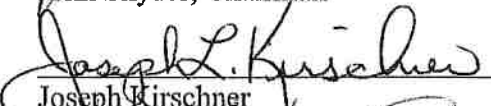
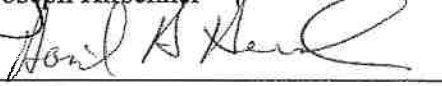
**DECISION AND ORDER**

AND NOW, this 12<sup>th</sup> day of December, 2019 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested as outline above in the attached Adjudication conditioned as follows:

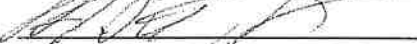
1. The proposed signage shall be located and erected in substantial conformity with the exhibits and testimony presented before the Board at the December 12, 2019 hearing.
2. Applicant shall otherwise comply with all other applicable Township, State, and/or Federal laws, ordinances, codes, rules, and regulations with respect to the placement, erection, and maintenance of the proposed signage.

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, Chairman  
By:   
Joseph Kirschner  
By:   
David Hersh

GRIM, BIEHN & THATCHER

By:   
Peter Nelson, Esquire, Solicitor  
104 South Sixth Street, P.O. Box 215, Perkasie, PA 18944

Date of Mailing: January 2, 2020