

**HILLTOWN TOWNSHIP UCC APPEALS BOARD
BUCKS COUNTY, PENNSYLVANIA**

Appeal No. 2019-002

Applicant: Pearl S. Buck International, Inc. (“**Applicant**”)
520 Dublin Road, Perkasie, PA 18944

Premises Involved: Applicant owns the property described by deed recorded in the Bucks County land records at Deed Book 5067 Page 2351, consisting of Bucks County Tax Parcels 15-029-098, 15-029-098-10, 15-029-098-011, 15-029-098-012, 15-029-098-013, 15-029-098-014, 15-029-098-015, 15-029-098-016, 15-029-099, and 15-029-106 (“**Property**”). The Property is in Hilltown Township and is known as 520 Dublin Road, Perkasie, PA 18944. The Property contains the following structures: (a) cottage; (b) Pearl Buck historical home; (c) milk house; (d) renovated barn referred to as the Cultural Center (“**Cultural Center**”); (e) Office Complex and Welcome Center; and, (f) maintenance building. Applicant conducts events in two buildings, being the Cultural Center and the Office Complex and Welcome Center. This application is limited to the building identified as the Office Complex and Welcome Center – hereinafter the “**Building**.”

**Application
for Relief:**

Applicant seeks to convert a portion of the Building from its existing B-Business office use to an A-2 Assembly banquet hall use as classified pursuant to the Uniform Construction Code. Hilltown Township determined that the change of use is a change of occupancy and requires compliance with the Uniform Construction Code. Specifically, Hilltown Township notified the Applicant that a fire sprinkler system is required in accordance with International Building Code, Section 903.2, and with the National Fire Protection Association (“**NFPA**”) 13 standards. Applicant filed this appeal and requested relief as follows: (1) an interpretation that the proposed change in occupancy will require a sprinkler system only in the proposed banquet hall portion of the renovated Building and not in the Building in its entirety; and, (2) a variance from two requirements in NFPA 13 standards, applicable to the sprinkler system, stated by the Applicant as: (a) installation of the required number of sprinkler heads with a reduction in the number of sprinklers heads to be activated from the required number of between five (5) and twelve (12), to four (4); and, (b) a reduction in the required duration of the distribution of water through the sprinkler system over time, from the requirement of thirty (30) minute duration to ten (10) minute duration.

**Date and
Place of Hearing:** January 7, 2020 commencing at 7:00 p.m. at the Hilltown Township
Municipal Building, 13 West Creamery Road, Hilltown, PA 18927.

DECISION

Findings of Fact

1. The Hilltown Township UCC Appeals Board (“**Board**”) is a duly constituted building code appeals board established pursuant to Hilltown Township ordinances and the Pennsylvania Construction Code Act.

2. Hilltown Township enforces the Uniform Construction Code as its municipal building code under 35 P.S. §7210.501(a) (“**Uniform Construction Code**”).

3. By Appeal No. 2019-002, Applicant requested an interpretation and variances under the Uniform Construction Code as set forth in the Application for Relief section stated above.

4. Notice of the scheduled hearing was provided to Applicant, posted on the Property, advertised twice in a newspaper of general circulation, and sent to property owners within 500 feet of the Property.

5. The Board convened as scheduled January 7, 2020. Board members H. Joseph Phillips, Brooke Rush, Stephen Yates, Mark Funk, and Michael Raphael participated. Benner and Wild served as Solicitor to the Board and Brenda Cappiello, a stenographer from Bucks County Court Reporters attended. The Board did not request that the notes of testimony be transcribed, but for purposes of this decision has relied upon the Findings of Fact set forth herein.

6. David F. Conn, Esquire of Sweet, Stevens, Katz & Williams, LLP, 331 East Butler Avenue, New Britain, PA 18901 represented the Applicant.

7. Solicitor Stephen Harris, Esquire represented Hilltown Township, who requested and was granted party status on behalf of the Township.

8. The Board received the following exhibits:

Board Exhibits

B-1 Uniform Construction Code Appeals Board Application with all exhibits including three plan sheets prepared by G. Higgins and Associates Architects, the deed for the Property, correspondence dated October 31, 2019 from the office of the Bucks County Commissioners and correspondence of Hilltown Township Code Official David W. Taylor dated April 30, 2019;

B-2 December 16, 2019 email and legal notice confirming publication in the Perkasie News Herald on December 22, 2019 and December 29, 2019;

B-3 Correspondence of Benner and Wild dated December 2, 2019 regarding notice of hearing;

- B-4 Email dated December 6, 2019 of David F. Conn confirming January 7, 2020 hearing date;
- B-5 Neighbor Mailing Certification and list of property owners notified;
- B-6 Posting Certification and Notice of Posting;

Applicant Exhibits

- A-1 January 6, 2020 Certification of Vector Security, Inc.;
- A-2 Resume of Gerard J. Higgins, Jr., R.A.;
- A-3 Revised plan sheets from G. Higgins and Associates Architects, A1.1, A1.2, and A1.3 entitled "Proposed Floor Plan," Existing First Floor Plan," and "Existing Second Floor Plan, respectively;
- A-4 Plan Sheet A1.0 from G. Higgins and Associates Architects entitled "HC Accessibility and Travel Distance Plan";
- A-5 Six photographs marked as Exhibits A5 (1)-(6); and,
- A-6 Plan Sheet CS from G. Higgins and Associates Architects entitled "Cover Sheet and Site Plan."

Township Exhibits

- T-1 April 30, 2019 correspondence of David W. Taylor;
- T-2 Portions of the 2009 International Existing Building Code including Chapter 2 captioned "Definitions");
- T-3 Portions of the 2009 International Existing Building Code including Chapter 9 captioned "Change of Occupancy";
- T-4 Portions of the 2009 International Building Code including Chapter 9 captioned "Fire Protection Systems"; and,
- T-5 Portions of the 2009 International Existing Building Code including Section 3408 captioned "Change of Occupancy."

9. The Uniform Construction Code consists of codes that include the International Existing Building Code ("IEBC"), the International Building Code ("IBC"), and NFPA 13.

10. Applicant presented testimony from Janet Mintzer, Jill Reeder, Gerard Higgins, and Douglas Horn.

11. Janet Mintzer is President and Chief Executive Officer of Applicant and testified that Pearl S. Buck International, Inc. (“**PSBI**”) was founded by Pearl S. Buck, Nobel Prize winner and author. PSBI’s mission includes interpreting and preserving the landmark home and legacy of Pearl Buck. Ms. Mincer testified that 100,000 visitors appeared at the Property last year and attended programs that included tourism, leadership programs, a film series, and other cultural programs. PSBI rents portions of the Property for weddings and other events currently, in portions of the year weather permitting outdoors, using tents. The Property contains sixty-seven (67) acres and is maintained without an endowment. In recent years PSBI terminated its adoption service program, known as Welcome House. PSBI is now principally funded by donations. Limited revenue is generated by the events and a gift shop. Reductions in staff and other circumstances have caused PSBI to explore renovations to the Property and to convert a portion of the Building to assembly banquet hall use as stated herein.

11. The Property is served by a well. There is no public water available at the Property or within Dublin Road, adjoining the Property.

12. Applicant proposed a banquet hall space to contain a maximum occupancy of 200 persons with a preparatory kitchen only, with no cooking on site, within the Building. Food is proposed to be served through caterers to be affiliated with PSBI.

13. PSBI’s proposed conversion of a portion of the Building to banquet hall, is exclusively on the ground floor and is depicted on Exhibit A-3. Proposed renovations include all improvements shown on Exhibit A-3 and specifically include a proposed two-hour fire rated separation wall, to be constructed in and through the Building, to segregate or separate the banquet hall Assembly space from the B Business space.

14. The Building contains and will retain the use of an alarm system and smoke detectors, with upgrades or modifications needed for security monitoring to comply with IBC provisions, including specifically Chapter 9.

15. Gerard Higgins (“**Higgins**”) is a registered architect recognized by the Board as an expert witness. Higgins testified that the maximum occupancy limit of the banquet hall space will be 200 persons. Higgins reviewed the proposed physical changes to the Building and testified that the sprinkler system proposed, except as modified by the variance requests, would satisfy all applicable regulations.

16. Higgins testified that PSBI would complete renovations that included offices, an additional handicap bathroom, additional windows and doors, and other improvements, all as shown on Exhibit A-3. Higgins testified that the fire rated wall would be designed, constructed, and be compliant with all applicable Uniform Construction Code requirements.

17. Applicant and Hilltown Township stipulated that if the fire wall proposed met all requirements in accordance with the testimony, sprinklers would be required to the banquet hall portion of the Building being renovated only, and not to the B-Business use of the Building, that would not require sprinklers.

18. Higgins testified that there is no available public water supply and that present infrastructure precludes the use of a feasible sprinkler system in accordance with NFPA 13, that alternatives including buried water tanks, an above ground water tank, or other alternatives are not economically feasible.

19. Higgins testified that the proposed design and improvements would result in not more than fifty-two feet (52') of distance to be traveled by any occupant of the banquet hall space, in order to exit the banquet hall.

20. Higgins testified that proposed improvements included the addition of fire rated doors, a two-hour fire rated shaft wall installed on top of the existing walls, and that with all proposed improvements, the Building would be safer with the sprinkler system proposed than the existing conditions.

21. PSBI will monitor and maintain the existing alarm system, upgraded if necessary, and be at all times in compliance with the Uniform Construction Code, for all portions of the Building.

22. Douglas Horn ("**Horn**") testified as President of Advanced Sprinkler Technology, Inc. ("**Advanced Sprinkler**"), a fire protection company. Horn testified that Advanced Sprinkler is experienced in the design of water-based sprinkler systems and was requested by PSBI to design the sprinkler system for the banquet hall portion of the Building proposed for change occupancy to Assembly use. Horn testified that except for the variance relief requested, Horn could design a sprinkler system that satisfied NFPA 13 requirements, including Chapter 8 installation requirements and Chapter 11 design requirements.

23. Horn testified that applicable requirements, including NFPA 13, required a design that at minimum could provide for five (5) activated, dispensing sprinkler heads, with a duration of water discharge of thirty (30) minutes.

24. Horn testified that the proposed design, when finalized for the banquet hall space, will contain not less than thirty (30) sprinkler heads, with such sprinkler heads to be activated in a potential fire event, in a progressive fashion, one at a time, to a maximum of four (4) activated and simultaneously operating sprinkler heads. The sprinkler system proposed will and can be designed based upon the occupancy load, to satisfy light hazard occupancy load standards. Each of the potentially four (4) activated sprinkler heads will dispense twenty (20) gallons of water per minute. At maximum capacity, with four (4) sprinkler heads discharging water, the water supply and pressure will be sufficient to dispense 800 gallons of water, over not less than ten (10) minutes duration. Horn testified that the system, with variances granted would be a safe and reliable system that with conditions would be safe and consistent with the intent of the Uniform Construction Code.

25. Water for the proposed system will be provided through inside water storage tanks, a pressurized pump system, and other necessary or required appurtenances to be installed.

26. Jill Reeder, PSBI chief financial officer, testified that the Dublin Volunteer Fire Company and Hilltown Volunteer Fire Company are located within two (2) and six (6) miles respectively. Ms. Reeder testified that the Dublin Fire Company representative told her they could arrive in an average time of seven (7) minutes. PSBI's witnesses testified that the sprinkler system proposed to be designed would provide adequate time for any occupants of the banquet hall space, to evacuate the Building safely, in the event the system was activated.

27. David Taylor ("**Taylor**"), the Hilltown Township Code Enforcement Officer, testified in accordance with Township Exhibits T-1 through T-5. Specifically, Taylor testified that the change of occupancy required fire sprinklers, and that any exception for fire sprinkler systems, limited to automatic smoke detections systems, did not displace the requirements triggered by the change of occupancy requirements, identified in Exhibit T-1.

28. PSBI and Hilltown Township stipulated that notwithstanding any applicable time limits to the contrary if any, the Board shall have fifteen (15) days from the close of testimony to issue this written decision.

Conclusions of Law

1. The Board has jurisdiction to hear the appeal.
2. The hearing was held in accordance with all requirements including public notice.
3. Section 912.2.1 of the IEBC provides as follows:

Where a change in occupancy classification occurs that requires an automatic fire sprinkler system to be provided based on the new occupancy in accordance with Chapter 9 of the *International Building Code*, such system shall be provided throughout the area where the *change of occupancy* occurs.

4. Section 903.2 of the IBC provides as follows:

Approved *automatic sprinkler systems* in new buildings and structures shall be provided in the locations described in Section 903.2.1 through 903.2.1.2.

5. The parties stipulated that applicable provisions under the Uniform Construction Code remained applicable under either the 2009 edition or the 2015 edition of any applicable regulation. PSBI filed its initial materials while the 2009 editions of the respective Uniform Construction Codes were applicable, since updated to the 2015 editions. The Board reached the same determinations using either edition.

6. Granting a variance to reduce the number of sprinklers heads to not less than four (4) activated sprinkler heads, with the time to disburse from the activated heads if operating simultaneously from thirty (30) minutes to not less than ten (10) minutes, is an equivalent form of construction or other condition that satisfies the Uniform Construction Code requirements under

the limited and specific testimony and factual circumstances presented, if subjected to the conditions imposed and proposed by PSBI.

Discussion

The Board considered and applied factors contained in 34 Pa. Code §403.122(g) in reaching its decision. PSBI asserted equivalent forms of construction and/or conditions, including the installation of a fire wall, use of a monitored alarm system with specific occupant notification, limits on the number of occupants to not exceed 200 persons, and the other improvements in accordance with the plans, exhibits and testimony presented. PSBI's testimony and assertions that equivalent forms of construction and/or conditions could be used in lieu of installing a fully compliant sprinkler system or exploring other construction alternatives. The Board considered the reasonableness of the Uniform Construction Code application and the extent to which the variances requested would pose a violation of the Uniform Construction Code. Based on the existing infrastructure, feasibility, and the materials and equipment needed to come into compliance, the Board concluded relief was warranted. In reaching its decision the Board further considered IEBC sections 504 and 804.2.2 allows for certain alternate fire protection standards. The Board found it relevant that less than 50% of the Building is proposed for renovation to Assembly or banquet hall space, that the Assembly or banquet hall space is limited to the ground floor, that a fire wall, additional doors, windows, and other improvements were proposed by PSBI, with its modified sprinkler system to be designed.

The Board finds that granting the variance relief requested is consistent with the intent of the Uniform Construction Code under the circumstances PSBI presented and that the compensatory improvements provide a degree of protection. Taken in its entirety and limited specifically to the circumstances affixed to this application, the Board adopts the following Order.

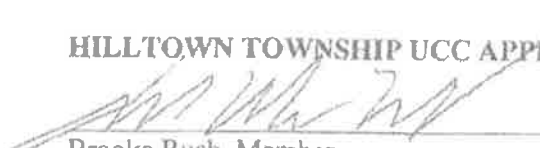
Order

NOW THEREFORE, on this 17th day of January 2020, by a vote of 5-0, the Board granted variances from applicable Uniform Construction Code requirements, including specifically NFPA 13 as noted in this Decision and Order, with all other requirements remaining applicable, and determined that the requested interpretation was moot and therefore denied, with the variances being subject to the following terms and conditions:

1. The firewall proposed by PSBI between the B Business office and the A-2 Assembly banquet hall space shall be constructed consistent with the Uniform Construction Code testimony and exhibits;
2. The proposed "prep kitchen" be used for preparatory purposes only, for food cooked offsite with all food to be cooked and principally prepared offsite and served through third party, affiliated caterers, consistent with the testimony. There will be no cooking onsite;
3. The security system for the Building shall be monitored, upgraded and improved if necessary, and comply with all Uniform Construction Code requirements including IBC Chapter 9;

4. The additional improvements PSBI proposed shall be provided and constructed, consistent with the exhibits and the testimony. In addition, one additional double set of doors, the exact location to be identified by PSBI on filed plans and subject to approval by Hilltown Township, be installed on the ground floor north side of the Building, accessing the parking lot;
5. The relief granted shall apply to PSBI only, based upon the specific facts and circumstances in this case and is applicable to the Building only; and,
6. The change of occupancy and all improvements shall otherwise require all applicable permits and approvals, including any approvals of Hilltown Township, and shall comply with all Uniform Construction Code requirements.


HILLTOWN TOWNSHIP UCC APPEALS BOARD



Brooke Rush, Member



H. Joseph Phillips, Member



Stephen X. Jones, Member



Mark Funk, Member



Michael Raphael, Member