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JOHN FREDERIC GRIM, OF COUNSEL



July 21, 2020

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

**Re: Hilltown Township Zoning Hearing Board  
Britton Industries; Appeal No. 2020-003**

Dear Sir/Madam:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated July 21, 2020, in the above captioned matter. The original of this Decision is being retained by the Township for its file.

Thank you for your attention to the enclosed.

Very truly yours,  
**Grim, Biehn & Thatcher**

  
**KELLY L. EBERLE**

KLE/kbs

Encls.

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

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Britton Industries

Appeal No. 2020-003

A hearing was held in the above matter on Thursday, June 11, 2020 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, David Hersh, and Stephen Yates. In addition, Kelly Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Steve Quigley and Dan Carr were present on behalf of Applicant. 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 with enclosure dated May 26, 2020 to neighbors from K. Eberle
- B-4 Letter dated March 14, 2020 from S. Quigley to D. Taylor granting general extension until May 22, 2020 due to COVID-19 closures
- B-5 Act 15 of 2020 Notice regarding resumption of hearing by June 26, 2020
- T-1 – List of requested conditions from Hilltown Township Board of Supervisors

Applicant's Exhibits

- A-1 Application with attachments
- A-2 Property Deed
- A-3 Site plan dated January 20, 2020
- A-4 Sound measurement packets

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 renders its Decision on the above Application as more fully set forth below.

I. 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, and a quorum of members present, hereby makes the following Findings of Fact:

1. Applicant is Britton Industries.
2. Applicant is the owner of the real property located at 4108 Bethlehem Pike, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-001-031.
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, wherein it processes organic materials for its customers.

5. Applicant's typical customers include landscaping companies and general contractors.

6. Applicant also permits Township residents to drop off organic materials for processing free of charge.

7. On occasion, Applicant's customers will bring in non-organic materials that they acquired at jobsites.

8. Applicant wishes to allow the intermittent processing of these non-organic materials so that it can process these materials and offer them for sale to its customers.

9. Accordingly, Applicant seeks a variance from Zoning Ordinance §160-22 - Table of Use Regulations in order to permit intermittent processing of non-organic materials such as concrete, asphalt, brick, soil, and stone, pursuant to §160-23.H(5) in addition to its current §160-23.H(8) - Composting Facility Use.

10. Applicant will need to bring in a crusher in order to process the non-organic materials.

11. Joe Park, the owner of the neighboring property located at 314 East Central Avenue, Telford, PA, expressed concerns regarding the expanded use of Applicant's Property and additional noise that the proposed use may generate.

12. In order to measure the noise generated by the crusher on Central Avenue, Applicant performed a noise test at the Property on May 28, 2020.

13. The sound levels on Central Avenue, with the crusher and additional equipment running, were lower than they were at the front entrance of the Property.

14. The crusher will be located farther away from Central Avenue than it was during the noise testing in order to further reduce any impact on surrounding properties.

15. Applicant has agreed to the following conditions, which were requested by the Hilltown Township Board of Supervisors:

a. the portable crusher shall be brought to the Property no more than two (2) times per year;

b. the portable crusher shall remain on the Property no longer than five (5) consecutive days;

c. Applicant shall provide the Township with a minimum of ten (10) days' notice that the portable crusher is being brought to the Property;

d. the portable crusher shall have a current air quality permit issued by the PA Department of Environmental Protection and be operated so that no dust generated by the operation shall be permitted beyond the boundaries of the Property;

e. the portable crusher shall not begin operation before 8:00 a.m. and may not operate beyond 6:00 p.m. Monday through Friday, with no operations on weekends or holidays; and

f. the operation of the portable crusher shall comply with the Township's noise ordinance.

16. In addition to the foregoing conditions, Applicant agreed to allow Township residents to drop off non-organic materials for processing at no cost to the residents as it does for the organic materials.

II. DISCUSSION:

Applicant is before this Board requesting relief in connection with the intermittent processing of non-organic materials. Applicant seeks a variance from Zoning Ordinance §160-22 - Table of Use Regulations in order to permit intermittent processing of non-organic materials such as concrete, asphalt, brick, soil, and stone, pursuant to §160-23.H(5) in addition to its current §160-23.H(8) - Composting Facility Use.

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).

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 variance requested subject to the conditions set forth herein. Additionally, the Board finds that the variance as requested would not be injurious to the health, safety, and welfare of the surrounding community and constitute the minimum relief necessary to afford Applicant the opportunity to reasonably use the Property.

## DECISION AND ORDER

AND NOW, this 21<sup>st</sup> day of July, 2020 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed material processing shall be done in accordance with Application and testimony presented at the hearing.

2. Applicant shall comply with all of the following conditions, which are set forth in T-1:

- a. the portable crusher shall be brought to the Property no more than two (2) times per year;
- b. the portable crusher shall remain on the Property no longer than five (5) consecutive days;
- c. Applicant shall provide the Township with a minimum of ten (10) days' notice that the portable crusher is being brought to the Property;
- d. the portable crusher shall have a current air quality permit issued by the PA Department of Environmental Protection and be operated so that no dust generated by the operation shall be permitted beyond the boundaries of the Property;
- e. the portable crusher shall not begin operation before 8:00 a.m. and may not operate beyond 6:00 p.m. Monday through Friday, with no operations on weekends or holidays; and
- f. the operation of the portable crusher shall comply with the Township's noise ordinance.

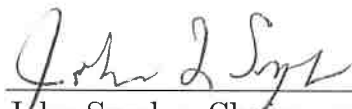
3. Applicant shall permit Township residents to drop off non-organic materials for processing at no cost to the residents as it does for the organic materials.



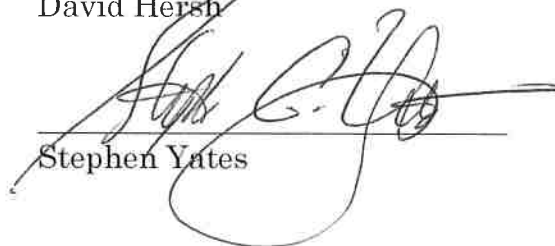
4. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

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, Chairman

By:   
David Hersh

By:   
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 7-21-20