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DALE EDWARD CAYA  
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JONATHAN J. REISS ♦  
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August 13, 2020

Joseph & Kimberly Stellino  
119 Chestnut Lane  
Sellersville, PA 18960

**Re: Hilltown Township Zoning Hearing Board  
Joseph and Kimberly Stellino; Appeal No. 2020-005**

Dear Mr. and Mrs. Stellino:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated August 13, 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: Joseph and Kimberly Stellino

Appeal No. 2020-005

A hearing was held in the above matter on Thursday, July 9, 2020 at 7:30 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, Peter Nelson, the Board Solicitor, was in attendance, as was the Board stenographer. 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 June 10, 2020 to neighbors from K. Eberle

Applicant's Exhibits

A-1 Application with attachments

A-2 Four photographs of Applicants' property

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. Applicants are Joseph and Kimberly Stellino. Joseph Stellino was the sole witness at the hearing.

2. Applicants are the owners of the real property located at 119 Chestnut Lane, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-001-146-012.

3. The Property is located in the CR2-Country Residential 2 (B3 Cluster) Zoning District in Hilltown Township.

4. The Property is surrounded by residential properties on all sides.

5. Because it is located in a B3 Cluster subdivision, Applicants' Property is only 22,477 square feet rather than the typical 50,000 square feet required in the CR2 Zoning District.

6. In addition to being undersized, the Property is narrow at the front and widens towards the rear. This caused the existing dwelling to be located towards the center of the Property, which reduced the size of Applicants' rear yard.

7. Applicants' rear yard consists of a wooded area with an existing clearing.

8. Applicants wish to install a 16' by 12' detached vinyl garden shed in a natural clearing within the woods located in their rear yard.

9. The shed, as proposed, will be located a minimum of four feet from the rear property line.

10. Accordingly, Applicants seek a variance from Zoning Ordinance §160-23.I(2)(a)[4], which requires outbuildings less than 250 square feet to be located a minimum of 12 feet from the rear of the property line.

11. The lot behind Applicants' Property contains a preserved, wooded area, which will provide cover behind the shed, obscuring it from other neighbors.

12. The improvements on the large lot abutting the rear of the Property are sufficiently set back from its rear property line such that the proposed shed will not disturb the owner's use of said lot.

13. The placement of the proposed shed is mindful of potential future upgrades to the rear of the yard, including a possible deck/patio and/or pool.

14. The placement of the proposed shed was reviewed and approved by the homeowners' association of the community the Applicant's Property is located in.

## II. DISCUSSION:

Applicants are before this Board requesting relief in connection with the installation of a 16' by 12' vinyl garden shed. Applicants seek a variance from Zoning Ordinance §160-23.I(2)(a)[4] which requires outbuildings less than 250 square feet to be a minimum of 12 feet from the rear of the property line to permit the shed to be located a minimum of four feet from the rear of the property line. The placement of the proposed shed is a result of Applicants' undersized Property

and the reduced size of their rear yard and is mindful of potential future upgrades to the Property.

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 Applicants have shown the existence of a hardship, not self-created, and unique and peculiar to the Property, which requires the grant of the variance from §160-23.I(2)(a)[4], subject to the conditions set forth herein. Additionally, the Board finds that the variance as requested, the

construction and installation of a shed located at least four feet from the rear property line, would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicants the opportunity to reasonably use the Property.

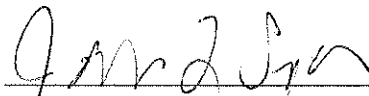
**DECISION AND ORDER**


AND NOW, this 13<sup>th</sup> day of August, 2020 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

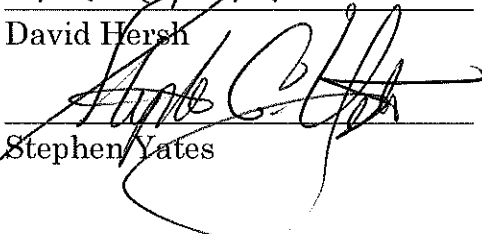
1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing.
2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

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.

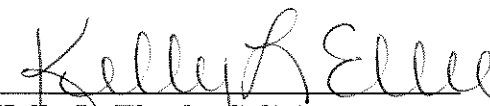
HILLTOWN TOWNSHIP ZONING  
HEARING BOARD

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: 8-13-20