

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Kathryn and Martin Hannon

Appeal No. 2020-010

A hearing was held in the above matter on Thursday, November 19, 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 Zoning Hearing Board members David Hersh and Stephen Yates.¹ In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicants were present, 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 with notice dated October 23, 2020 to neighbors from K. Eberle

Applicants' Exhibits

A-1 Application with Deed

A-2 Plan dated September 10, 2020

No other documentary evidence was submitted or received by the Hilltown Township Zoning Hearing Board. After weighing the credibility of the testimony and

¹ John Snyder, Chairman of Hilltown Township Zoning Hearing Board, recused himself from this matter.

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 Kathryn and Martin Hannon.
2. Applicants are the owners of the real property located at 2223 Keystone Drive, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-059-009.
3. The Property is part of a cluster subdivision in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property is 30,563 square feet, just slightly larger than the minimum permitted lot size of 30,000 square feet.
5. Applicants wish to install a 38' by 21' 6" kidney-shaped, in-ground pool in their rear yard.
6. The pool will have a perimeter of 105' 4" and an area of 616 square feet, with 489 square feet of surrounding decking.
7. Applicants will also have a stormwater infiltration trench designed and installed to address any stormwater runoff.

8. §160-26 of the Hilltown Township Zoning Ordinance permits a maximum impervious surface coverage of 20% for lot in a cluster subdivision in the RR Zoning District.

9. The Property has an existing, non-conforming impervious surface coverage of 21%.

10. The proposed in-ground pool and related improvements will increase the impervious surface coverage to 24.9%.

11. Applicants request a variance from §160-26 to permit a total impervious surface area of 24.9% rather than the permitted 20% in connection with the installation of the in-ground pool.

II. DISCUSSION:

Applicants are before this Board requesting relief in connection with the installation of an in-ground pool. Applicants seek a variance from §160-26 of the Hilltown Township Zoning Ordinance to permit a total impervious surface area of 24.9% on the Property rather than the permitted 20%.

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 §160-26. Additionally, the Board finds that the variance as requested, an increase in impervious surface coverage from the existing, non-conformity of 21% to the proposed 24.9%, 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.

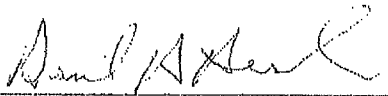
DECISION AND ORDER

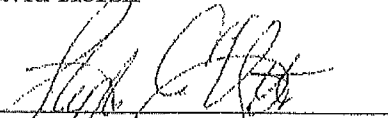
AND NOW, this 17 day of December, 2020 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing.
2. Applicants 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: 
David Hersh

By: 
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 12/18/20