

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Casadonti Builders, LLC

Appeal No. 2021-003

A hearing was held in the above matter on Thursday, March 18, 2021 at 8:00 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 C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was 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 enclosure dated February 22, 2021 to neighbors from K. Eberle

Applicant's Exhibits

- A-1 Application with all attachments
- A-2 Plan dated October 5, 2020

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 Casadonti Builders, LLC.
2. Applicant is the owner of the real property located at 820 Broad Street, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-034-043.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The property has gross acreage of 21.43 and over 800 feet of frontage on Broad Street.
5. The Property is surrounded by woodlands on the east and west.
6. Rather than create 5 separate lots side by side, all with frontage on Broad Street, Applicant proposes to subdivide the Property in order to create 4 lots side by side with frontage along Broad Street and one flag lot in the rear farm field.
7. The 4 lots with frontage on Broad Street are identified as Lots 1, 3, 4, and 5 on Applicant's site plan and will contain just over 3 acres each.

8. The flag lot is identified as Lot 2 on Applicant's site plan and contains 8.73 acres.

9. By doing so, Applicant is able to significantly reduce the amount of woodland disturbance and maintain the existing characteristics of the Property.

10. Accordingly, Applicant requests a variance from §160-51.C(1), which requires flag lots in the RR-Zoning District to have a minimum of 10-acres.

11. The proposed plan allows the dwellings on each lot to have more space and allows the existing trees to serve as a natural buffer.

## II. DISCUSSION:

Applicant is before this Board requesting relief in connection with a five-lot subdivision of the Property with the proposal of a flag lot on an 8.73-acre lot. Applicant seeks a variance from §160-51.C(1) of the Zoning Ordinance in order to permit an 8.73 acre flag lot rather than the required minimum of 10 acres.

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 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 from §160-51.C(1). Additionally, the Board finds that the variance as requested, the creation of an 8.73 acres flag lot, as opposed to the required 10-acre minimum, would 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.

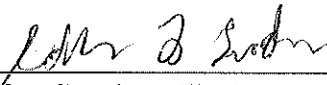
**DECISION AND ORDER**


AND NOW, this 30th day of April, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

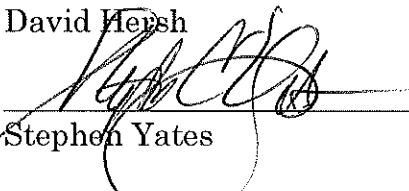
1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing,
2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.


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: 4/30/21