

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Joseph and Salena Pulli

Appeal No. 2021-007

A hearing was held in the above matter on Thursday, June 3, 2021 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 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 May 13, 2021 to neighbors from K. Eberle

Applicant's Exhibits

- A-1 Application

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 Salena Pulli.
2. Applicants are the owners of the real property located at 448 Maregan Drive, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-028-021-009.
3. The Property is located in the CR-2 (Country Residential-2) Zoning District in Hilltown Township.
4. Applicants wish to construct an in-ground pool, with surround decking in the rear of the Property.
5. The pool will be approximately 576 square feet and 7 feet deep.
6. The related coping, equipment, and decking total an additional 670 square feet.
7. The total proposed improvements will increase the total impervious surface coverage from 32.55% to 44.97%.

8. Applicant has reduced the size of the pool and surrounding decking as much as possible, without losing functionality, in an attempt to meet the impervious surface requirements.

9. §160-26 (Attachment 3:1 *Table of Performance Standards*) limits the maximum impervious surface coverage in the CR-2 Zoning District to 40%.

10. Accordingly, Applicants request a variance to permit an impervious surface coverage of 44.97%.

II. DISCUSSION:

Applicant is before this Board requesting relief in connection with the construction of an in-ground pool and surround decking. Applicant seeks a variance from Zoning Ordinance §160-26, Attachment 3:1 *Table of Performance Standards*, to permit an impervious surface coverage of 44.97% rather than the maximum permitted 40%.

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 Zoning Ordinance §160-26. Additionally, the Board finds that the variance as requested, an increase in impervious surface coverage from 40% to 44.9%, 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.

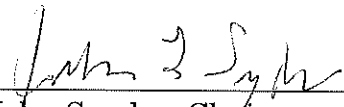
DECISION AND ORDER

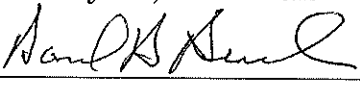
AND NOW, this 16th day of July, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

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: 7-16-21