

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: MRC Signs.
Appeal No. 2021-010

A hearing was initially scheduled to be held in the above matter on Thursday, October 21, 2021, at 7:00 p.m., but upon Applicant's request, the matter was continued to Thursday, November 11, 2021 at 7:00 p.m. at the Hilltown Township Municipal Building. Notice of the original hearing date 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, Colby S. Grim, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was represented by Thomas E. Panzer, Esquire. Jason T. Smeland, a professional engineer from Lenape Valley Engineering, was also present and testified on behalf of Applicant. James and Karen Velez, 2320 Upper Stump Road, Hilltown Township requested and were granted party status.

The following exhibits were admitted and accepted into evidence:

Board's Exhibits:

- B-1 Proof of Publication
- B-2 Posting Certification
- B-3 Letter to Neighbors
- B-3 Letter with enclosure, dated September 13, 2021 to neighbors, from Kelly Eberle, Esq.
- B-4 Letter dated October 19, 2021 from Thomas E. Panzer, Esq. requesting continuance from October 21, 2021 to November 11, 2021
- B-5 Application filed on August 30, 2021 with all Attachments
- B-6 Entry of Appearance

Applicant's Exhibits:

- A-1 Curriculum Vitae – Jason T. Smeland, P.E.

- A-2 Sketch Plan by Lenape Valley Engineering, dated August 11, 2021
- A-3 Aerial Photograph Plan Depicting Existing Features on the Site and Surrounding Properties
- A-4 Sewer & Water Location Map
- A-5 Agreement of Sale
- A-6 Bucks County Planning Commission's Review Letter, dated July 16, 2021
- A-7 Township Engineer's Review Letter, dated June 23, 2021
- A-8 Site Photo and Example of Proposed Shop

No other documentary evidence was submitted or received by the Board. After weighing the credibility of the testimony and documents offered, the Board rendered its Decision in the above Application as more fully set forth below.

FINDINGS OF FACT:

The Hilltown Township Zoning Hearing Board, having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, hereby makes the following Findings of Fact:

1. The Applicant is MRC Signs with its principal place of business at 4285 Applebutter Rd., Perkasio, PA 18944 ("Applicant").
2. Applicant is an equitable owner of the subject property located at 704 Route 313, Hilltown Township, Bucks County, Pennsylvania ("Property").
3. The Property is otherwise identified as Bucks County Tax Parcel 15-035-083.
4. The subject Property is located in the Planned Commercial II (PC-2) Zoning District in Hilltown Township.
5. The Property is currently used as a residence and contains a non-conforming single-family dwelling.
6. The Property contains approximately 2.15 gross acres.
7. Applicant designs, creates and installs custom signs.

8. Applicant primarily serves southeastern Pennsylvania and employs seven (7) people, that includes an office / management staff, designers, electricians and installers.

9. Applicant generally has three (3) employees on site with the remaining employees working in the field.

10. Applicant is proposing to retain and use the existing non-conforming dwelling as an accessory office to support the shop.

11. Applicant proposes to construct a 6,400 square foot pole building along with an associated parking area. See Exhibit A-2 and A-8.

12. Applicant intentionally designed the aesthetics of the pole building to look like a barn and fit into the surrounding area.

13. Applicant intends to use the proposed building as the shop and to house equipment and vehicles.

14. Applicant's work equipment consists of four (4) bucket trucks, one (1) crane truck and two (2) vans.

15. The majority of the vehicles shall be stored in the shop.

16. Applicant intends to use a vinyl printer to create the signs in the shop.

17. Applicant also intends to store materials in the shop to create the signs such as sheet metal, vinyl, leds and other related materials.

18. Applicant intends to perform all work in the shop and all work shall be low intensity.

19. The proposed parking area shall be constructed in the middle of the site to support both the non-conforming accessory building or accessory office and the proposed shop. The parking area must also be large enough to allow truck deliveries.

20. Mr. Smeland testified that the Applicant needs twenty-nine (29) spaces for a G8 use which requires one (1) parking space for every 500 square feet and one (1) parking space for each employee.

21. Mr. Smeland further testified that the parking area must also be large enough for the trucks to effectively turn around.

22. Mr. Smeland further testified that the Township desired the larger parking area instead of a loop.

23. Applicant asserts that the company should be considered a G8 Commercial or Industrial Crafts, which is permitted use within the PC-2 Zoning District.

24. The Hilltown Zoning Ordinance defines the following businesses as G8 Commercial or Industrial Craft Use: Finished carpentry shop, cabinet making, furniture making, upholster, plumbing, refrigeration, air-conditioning, machine or metal shop, electrical shop / heating shop or similiar use types.

25. Alternately, the use could be considered a H1 Manufacturing use or a G5 Contracting use which are not permitted within the PC-2 Zoning District.

26. The Hilltown Zoning Ordinance defines the following businesses as a G5 Contracting Use: Excavating, building, cement, nursery, painting, roofing, siding, landscaping, paving or HVAC.

27. Applicant is seeking a variance from §160-26 Table of Performance Standards – footnote #2 of the Hilltown Zoning Ordinance, which requires that each lot that contains over 50,000 square feet must be served by public water and sewer provided by a municipal authority.

28. Mr. Smeland testified that public water and sewer are not available for this site and therefore seeking a variance to allow for the site to be serviced by a well and septic system.

29. Mr. Smeland further testified that it is not feasible to extend the water and sewer service from the closest municipal authority. See Exhibit A-4.

30. Applicant is also seeking a variance from §160-23.I(4) to allow the existing non-conforming building and proposed accessory office to be located outside of the principal use building envelope.

31. §160-23.I(4) requires that all nonresidential accessory buildings meet the minimum setbacks for the principal nonresidential building use within that district.

32. Mr. Smeland testified that the proposed accessory office is the existing non-conforming single-family dwelling and Applicant shall not change or modify the existing footprint of the structure.

33. Mr. Smeland further testified that Applicant intends to renovate the interior portion of the proposed accessory office.

34. Mr. Smeland further testified that Applicant did not construct the existing non-conforming structure and the use of the structure shall not alter the essential character of the neighborhood.

35. Applicant is also seeking a variance from §160-33 B & C(1) of the Hilltown Zoning Ordinance to permit modifications to the dimensions of the buffer area and the planting types of the required Type 1 Residential / Nonresidential buffers along portions of the adjoining parcels.

36. Mr. Smeland testified that the Hilltown Ordinance requires a Type 1 buffer of 35 feet around the entire Property and Applicant will need dimensional relief.

37. Mr. Smeland testified that due to the size, shape and location of the Property it is extremely difficult to meet the buffering requirements.

38. Mr. Smeland further testified that if Applicant complied with the buffering requirements 40% of the Property would be used for buffering.

39. Mr. Smeland testified that TMP 35-035-084, owned by James and Karen Velez is located on the southeasterly side and to the rear of the Property. See Exhibit A-2.

40. Mr. Smeland further testified that Applicant does not meet the required 35 foot buffer from Route 313 to where the boundary lines first turns. See Exhibit A-2.

41. Mr. Smeland further testified that there are existing trees on TMP Parcel 35-035-084 that currently buffer the two (2) properties.

42. Mr. Smeland testified that Applicant would install the required amount of plantings in the Type 1 buffering within the proposed 20 foot buffer.

43. Mr. Smeland further testified that Applicant cannot meet the requirement because Applicant is using a portion of the buffer area to construct or install stormwater facilities. See Exhibit A-2.

44. Mr. Smeland further testified there is no structure on TMP 35-035-084 that will be directly impacted by this reduced buffer. See Exhibit A-2.

45. Mr. Smeland testified that the proposed buffer on the side adjoining TMP 15-035-082-001 would be a 25 foot buffer area from Route 313 to the proposed parking area and 5 foot buffer area for the length of the parking area.

46. Mr. Smeland testified that the proposed buffering along the parking area (5 foot buffer area) would be equivalent to a Type 5 buffer area as set forth in the Hilltown Zoning Ordinance.

47. Mr. Smeland further testified that there are existing trees and bushes in this area.

48. Mr. Smeland further testified that the owner of TMP 15-035-082-001 has containers and other stored items along the boundary line.

49. Mr. Smeland testified that the use of the Property would not have any adverse impact on the public health, safety and general welfare.

50. Mr. Smeland further testified that the proposed use would not alter the essential character of the neighborhood.

51. James and Karen Velez addressed their concerns regarding the lighting in the parking area and the storage of vehicles and equipment in the parking area and/or outside the shop building.

52. James and Karen Velez testified that they did not oppose the business on the Property.

DISCUSSION:

Applicant, MRC Signs, is equitable owner of the Property, which is currently used as a single-family residence in the Planned Commercial II (PC-2) Zoning District. Applicant is proposing to construct a 6,400 square foot pole building along with an associated parking area. Applicant further proposes to use the existing non-conforming single-family home as an accessory office for the business. Applicant is requesting that the Board determine that the use for the business is a G8 Commercial or Industrial Crafts use versus a G5 Contracting use or a H1 Manufacturing use. Applicant's business designs, creates and installs signs and primarily conducts its business in the southeasterly region of Pennsylvania. Applicant is seeking the following relief from the Hilltown Zoning Ordinance: 1) a variance to §160-26 (Table of Performance Standards, footnote 2, that requires all properties over 50,000 square feet to be served by public water and sewer; 2) a variance from §160-23.I(4) that requires all nonresidential accessory buildings meet the minimum setbacks for the principal nonresidential building use within that district; and 3) a variance from §160-33 B & C(1) to permit modifications to the dimensional requirements and modifications to certain planting types required in the Type 1 Residential / Nonresidential buffers along portions of the adjoining parcels.

A zoning hearing board is the entity charged with the interpretation and application of the zoning ordinance. Tri-County Landfill, Inc. v. Pine Tp. Zoning Hearing Board, 83 A.2d 488 (Pa. Cmwlth. 2014). As such, a zoning hearing board's interpretation of its own zoning ordinance is entitled to great weight and deference from a reviewing court. 1 Pa.C.S.A. §1921(c)(8). 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 upon the testimony and documentary evidence and plans presented, the Board finds that the Applicant has shown unique physical circumstances, peculiar to the Property, the existence of a hardship, that was not self-created, which requires the grant of a variance from §160-26 - Table of Performance Standards, §160-23.I(4) and §160-33 B & C(1). Furthermore the Board determines that the Applicant's business is a G8 Commercial or Industrial Crafts use. Additionally, the Board finds that the variances, as requested, 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 21st day of December, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

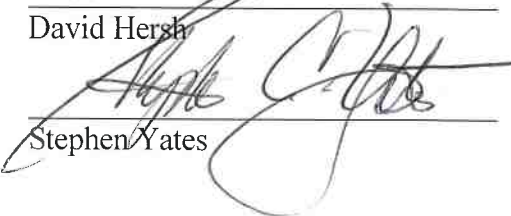
1. Applicant shall otherwise comply with all other applicable Township, State, and/or County laws or regulations with respect to construction and use of the Property as shown on Exhibit A-2 and as presented in the testimony provided.

The Hilltown Township Zoning Hearing Board hereby deems the foregoing determinations 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: 
Colby S. Grim, Solicitor
104 South Sixth Street
Perkasie, PA 18944

Date of Mailing: 12-21-21