

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Stephen Yates

Appeal No. 2021-017

A hearing was held in the above matter on Thursday December 30, 2021 at 7:00 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 and David Hersh. 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 December 7, 2021 to Neighbors from K. Eberle

Applicant's Exhibits

- A-1 Application with all Attachments
- A-2 Arial Photograph with Overlay

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 Stephen Yates.
2. Applicant along with his wife, Terri L. Yates, are the owners of the real property located at 735 Minsi Trail, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-017-075-005.
3. The Property is an 8-acre lot located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property is irregularly shaped, forming something akin to an "L" shape, with approximately 213.86 feet of road frontage extending back and opening up at the rear.
5. The Property is presently improved by a single-family dwelling together with related improvements.
6. The Property is served by on-site water and sewer.
7. The Property is surrounded by residential properties that are approximately 2-3 acres in size.

8. Applicant wishes to subdivide the existing lot into two separate, residential lots.

9. Proposed Lot 1 ("Lot 1") will be a 3.3-acre flag lot.

10. Proposed Lot 2 ("Lot 2") will be a 4.8-acre lot and will contain the existing residence and related improvements.

11. Access to Lot 1 will be provided via a 25-foot access lane.

12. While there are no immediate plans for construction on either lot, it is anticipated that Lot 1 will contain a single-family dwelling and be served by on-site water and sewer.

13. The proposed dwelling on Lot 1 would not be visible from the road.

14. §160-51.C of the Hilltown Township Zoning Ordinance ("Zoning Ordinance") requires that all flag lots in the RR Zoning District contain a minimum of 10 acres and have a minimum of 50 feet of road frontage.

15. Accordingly, Applicant seeks variances from §160-51.C Zoning Ordinance in order to permit a 3.3-acre flag lot with 25 feet of road frontage.

DISCUSSION:

Applicant is before this Board requesting two variances from Zoning Ordinance §160-51.C to permit a flag lot on less than 10 acres and with road frontage of 25 feet rather than the required 50 feet.

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 variances from Zoning Ordinance §160-51.C. Additionally, the Board finds that the variances as requested, a 3.3-acre flag lot with 25 feet of road frontage, 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.

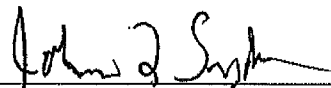
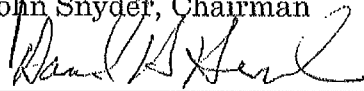
DECISION AND ORDER

AND NOW, this 4th day of February, 2022 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:


1. The proposed subdivision 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

GRIM, BIEHN & THATCHER

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

Date of Mailing: Feb 4, 2022