

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Joseph Sanfratello

Appeal No. 2022-007

A hearing was held in the above matter on Thursday, August 4, 2022 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, 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 Township Solicitor Jack Wuerstle was present on behalf of Hilltown Township. 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 July 6, 2022 to neighboring properties from K. Eberle

Applicant's Exhibits

- A-1 Application with all Attachments

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 with a quorum of members present, hereby makes the following Findings of Fact:

1. Applicant is Joseph Sanfratello.
2. Applicant is the owner of the real property located at 424 Longleaf Drive, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-014-095.
3. The Property is approximately 8,625 square feet and is located in the CR-1 (Country Residential 1) Zoning District in Hilltown Township.
4. The Property is bordered by a single-family dwelling on the left, an open lot on the right, and open space to the rear.
5. The plan submitted by Applicant incorrectly identifies the owner of the open lot as Hilltown Township; however, the lot is owned by an individual property owner over which the Township has an easement.
6. The Property is currently improved with a paved driveway, a single-family dwelling with related improvements, and a shed.
7. In addition, the Property contains a 15'x 28' above-ground swimming pool.
8. The existing total impervious surface coverage on the Property is 31.29%.
9. Applicant wishes to remove the above-ground swimming pool and a portion of the existing deck and install an in-ground swimming pool in the rear yard directly behind the house.

10. The proposed in-ground swimming pool will be approximately 15' x 34' and, together with the related equipment, totals approximately 733 square feet.

11. The proposed improvements will bring the total impervious surface coverage on the Property to 39.49%.

12. Applicant requests a variance from §160.26 Attachment 3-Table of Performance Standards to permit a total impervious surface coverage of 39.49% rather than the permitted 35%.

II. DISCUSSION:

Applicant is before this Board requesting a variance from §160.26 Attachment 3-Table of Performance Standards in order to increase the maximum permitted impervious surface coverage by 4.49% for a total of 39.49% rather than the permitted 35%.

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 Attachment 3-Table of Performance Standards. Additionally, the Board finds that the variance as requested, an increase in the maximum permitted impervious surface coverage from 35% to 39.49%, 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 16 day of September, 2022 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: DocuSigned by:
John Snyder
F03981E729A647B...
John Snyder, Chairman

By: DocuSigned by:
David Hersh
6130A1F2715B48A...
David Hersh

By: DocuSigned by:
Stephen Yates
785D8238D096304...
Stephen Yates

GRIM, BIEHN & THATCHER

By: DocuSigned by:
Kelly L. Eberle
97A04A3B3DC94E0...
Kelly L. Eberle, Solicitor
104 South Sixth Street
Perkasie, PA 18944

Date of Mailing: September 19, 2022