

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Jeremy & Raina Freidman

Appeal No. 2023-002

A hearing was held in the above matter on Thursday, March 2, 2023 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 Stephen C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present. Gregory Wrubleski of 137 Fairhill School Road, Hatfield, Hilltown Township, requested, and was granted, 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 9, 2023 to Neighbors from K. Eberle
- B-4 Letter dated February 28, 2023 from J. Wuerstle to K. Eberle regarding Deed Consolidation
- B-5 Entry of Appearance – Gregory Wrubleski

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

1. The applicants are Jeremy and Raina Friedman ("Applicants").
2. Applicants are the owners of the real property located at 131 Fairhill School Road, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-022-091.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property contains approximately 1.5 acres made up of two consolidated parcels.
5. The first parcel is approximately 1 acre and was acquired by Applicants in 2009; the second parcel is approximately .5 acres and was acquired by Applicants pursuant to a subdivision plan titled "Final Major Subdivision & Land Development Plan, Record Plan, Henofer Tract" dated August 24, 2018 and last revised February 12, 2020.
6. The Property is improved with a single-family dwelling, driveway, and related improvements.
7. There is a slight natural grade from the rear of the Property to the front.
8. Applicants wish to build a 24'x 24' detached, two-car garage to use for storage.

9. There is no place on the Property where Applicants can locate the proposed garage and meet all of the required setbacks.

10. Accordingly, Applicants intend to locate the proposed garage 15 feet from the home and 15 feet from the side-yard property line and will not interfere with the neighboring property's septic tanks.

11. The proposed garage will be an Amish built structure measuring approximately 17 feet tall, containing board and batten exterior, carriage doors, windows, a standing seam roof and a possible dormer for storage.

12. The foundation will be concrete block and slab, and the proposed garage will have electricity and water.

13. Applicants will not need to remove any trees to construct the proposed garage.

14. Applicants intend to plant trees to act as a buffer on the Property line.

15. Applicants request a variance from §160-23.B(1) to permit 15-foot side yard setback rather than the required 25-foot side yard setback and a 65-foot rear yard setback as opposed to the required 75-foot rear yard setback.

DISCUSSION:

Applicants are before this Board requesting a variance in connection with the construction of a detached, two-car garage from §160-23.B(1) to permit 15-foot side yard setback rather than the required 25-foot side yard setback and a 65-foot rear yard setback as opposed to the required 75-foot rear yard setback.

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 the Applicants have shown the existence of a hardship, not self-created, and unique and peculiar to the Property that requires the grant of the variance from §160-23.B(1) to permit 15-foot side yard setback rather than the required 25-foot side yard setback and a 65-foot rear yard setback as opposed to the required 75-foot rear yard setback. Additionally, the Board finds that the variances would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicants the opportunity to reasonably use the Property.

**DECISION AND ORDER**

AND NOW, this 13 day of April, 2023 the Hilltown Township Zoning

Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed garage shall be done in conformity with the plan, exhibits, and testimony presented at the hearing.

2. Applicants shall install a minimum of four (4), 6'-7'tall evergreen trees between the structure and the property line to act as a screening buffer.

3. Applicants 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: Stephen Yates  
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 4/13/2023