

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: St. Luke's University Health Network

Appeal No. 2023-009

A hearing was held in the above matter on Thursday, July 6, 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 David Hersh, Chairman and Board Members Stephen C. Yates and Brooke Rush. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and was represented by Steve Boell, Esq. The following individuals requested, and were granted, party status: Richard Schnure of 489 Cherry Road, Souderton, PA 18964 and Brian Klein of 1011 Cherry Drive, Souderton, PA 18964.

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 June 12, 2023 to neighbors from K. Eberle
- B-4 Letter from J. Wurstle, Esq., dated June 27, 2023
- B-5 Application 2023-009 with all attachments
- B-6 Entries of Appearance from Richard Schnure and Brian Klein

Applicant's Exhibits

- A-A Aerial Photograph
- A-B1 Photograph of the Property taken from Bethlehem Pike
- A-B2 Photograph of the Existing Greenhouses on the Property

A-C Site Plan

A-D Parking Table

A-E Pictures of all Neighboring Uses

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 applicant is St. Luke's University Health Network ("Applicant").
2. Applicant is the equitable owner of the real property located at 3523 Bethlehem Piker, Hilltown Township, Pennsylvania ("Property") and more specifically identified as Bucks County Tax Parcel No. 15-001-065.
3. The Property, which is presently owned by Del Ron Enterprises, Inc., is an 8.5-acre corner lot located at the intersection of Route 113 and Bethlehem Pike with additional frontage on Cherry Road.
4. The front portion of the Property, including the existing primary structure, is located in the PC-1 Zoning District, while the rear portion of the Property is located in the CR-2 Zoning District in Hilltown Township.
5. The Property also contains protected wetlands areas.

6. The Property is presently used as a florist/retail shop and is improved by a main florist/retail building and a variety of greenhouses, garages, sheds, and other outbuildings throughout the Property.

7. Presently, customer parking is located in front of the existing building.

8. Applicant proposes to demolish the existing improvements and construct a new 40,000-50,000 square foot medical office and related improvements with parking in the front and rear of the building.

9. This building will serve a variety of practices and will be used for outpatient appointments and procedures.

10. Applicant will not offer urgent or critical care services or 24-hour services.

11. The Property will be accessed via Bethlehem Pike and Route 113.

12. Access to the building itself will be via two access points in the front of the building and one at the rear of the building.

13. Multiple access points are required for certain practices and allow for a separation between patients that are ill and those that are not.

14. During peak hours, Applicant estimates that there will be approximately 20 doctors and 145 other employees on site.

15. §160-23.D(1)(c) further requires four off-street parking spaces per doctor plus one additional space for each additional employee.

16. Accordingly, Applicant is required to have a minimum of 225 parking spaces, which Applicant shows on the Plan.¹

¹ It is also noted that, following discussions between the Applicant and the Board of Supervisors at a public meeting, Applicant agreed in the event there was excess parking beyond what was required by the Zoning Ordinance, it would “reserve” construction of the excess parking until such

17. Applicant proposes parking in the front and the rear of the building.
18. Accessory parking is a permitted use in both the PC-1 and CR-2 Zoning Districts.
19. However, §160-23.D(1)(a) requires all parking for a D1 Medical Office use to be located at the rear of the building and not visible from the street.
20. Accordingly, Applicant seeks a variance from §160-23.D(1)(a) to allow parking in the front and the rear of the building.
21. Parking in the front and the rear of the building will allow for easier patient access and shorter walks from the parking areas.
22. Parking in the front and the rear also allows for better traffic circulation within the Property, requires less woodland disturbance, and allows for a larger buffer between the rear of the Property and the nearby residential lots.
23. Because the Property is a corner lot and therefore has two front yards, the areas in which parking could be located are reduced.
24. Applicant is further limited in the amount of parking available at the rear of the building due to the existence of protected wetland area.
25. The surrounding commercial properties, though not medical buildings, have parking in the front of the building, and therefore, Applicant's request is in keeping with the character of the surrounding neighborhood.
26. In addition, Applicant seeks a variance from §160.28.C, which limits the amount of woodland disturbance permitted on a lot.

time as it was actually needed by Applicant. However, after further review, Applicant has determined that there is no excess parking and that the 225 parking spots shown on the Plan are required by the Zoning Ordinance based on Applicant's calculation of number of doctors and employees.

27. §160-28.C permits a maximum woodland disturbance of 60% in the PC-1 Zoning District and 20% in the CR-2 Zoning District.

28. §160-11 of the Zoning Ordinance defines “woodlands” as follows:

WOODLANDS - Areas, groves, or stands of mature or largely mature trees the majority of which are greater than six inches caliper measured four feet above grade covering an area greater than 1 /4 acre; or groves of mature trees without regard to minimum area consisting of more than 10 individual specimens which are greater than 12 inches caliper measured four feet above grade.

29. When determining the amount of the proposed woodland disturbance, Applicant included all existing trees and vegetation as “woodland” areas including those which may not meet the definition.

30. Applicant calculates the total square footage of woodlands across the entire Property as 166,631 square feet.

31. Applicant proposes a total disturbance of 99,912 square feet, or 60% of the total woodland area on the Property, which meets the woodland disturbance maximum for the PC-1 Zoning District.

32. However, due to the distribution of the woodlands across the Property and the split zoning, Applicant’s proposed disturbance in the PC-1 Zoning District is 87% and 45% in the CR-2 Zoning District.

33. It is likely, though not guaranteed, some of the trees and vegetation do not meet the definition of “woodlands.” In such case, Applicant’s actual woodland disturbance would be less than the estimated amounts.

34. Applicant will comply with the necessary Type 1 and Type 5 buffer requirements.

II. DISCUSSION:

Applicant is before this Board requesting a variance from §160-23.D(1)(a) of the Zoning Ordinance to permit parking in the front of medical office and §160-28.C to permit an 87% woodland disturbance in the PC-1 Zoning District and a 45% woodland disturbance in the CR-2 Zoning District. Both variance requests relate to the construction of a 40,000-50,000 square foot medical building with accessory parking.

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 Applicant has 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.D(1)(a) to permit parking in the front of the building as well as the rear and from §160-28.C

to permit a 87% woodland disturbance in the PC-1 Zoning District rather than the maximum permitted 60% and a 45% woodland disturbance in the CR-2 Zoning District rather than the maximum permitted 20%. 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 Applicant the opportunity to reasonably use the Property.

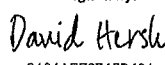
DECISION AND ORDER

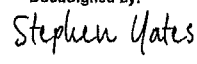
AND NOW, this 4th day of August, 2023 the Hilltown Township Zoning Hearing Board hereby grants the relief requested conditioned as follows:

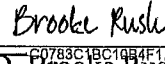
- 1. Construction shall be done in conformity with Applicant’s Exhibit C (Site Plan) and the testimony presented before the Board; and
- 2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

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.

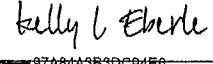
HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:

 David Hersh, Chairman
0134AFF2716B48A...

By: DocuSigned by:

 Stephen Yates
65D62380D9C404...

By: DocuSigned by:

 D. Brooke Kush
C0783C18C1884F1...

GRIM, BIEHN & THATCHER

By: DocuSigned by:

 Kelly L. Eberle, Solicitor
97A67A3B3DC94E6...
 104 South Sixth Street
 Perkasie, PA 18944

Date of Mailing: August 4, 2023