

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Christopher Hiller

Appeal No. 2023-013

A hearing was held in the above matter on Thursday, August 24, 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, Stephen C. Yates, and D. Brooke Rush. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. The Applicant was present and testified on his own behalf. 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 August 4, 2023 to Neighbors from K. Eberle
- 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 applicant is Christopher Hiller ("Applicant").
2. Applicant is the owner of the real property located at 423 Fairhill Road, Hilltown Township, Pennsylvania ("Property") more specifically identified as Bucks County Tax Parcel No. 15-024-038.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township and is currently improved by a single-family dwelling and related improvements.
4. A B1 – Single Family Detached use is permitted in the RR Zoning District.
5. The Property is an undersized existing, non-conforming lot; the total lot size is 40,048 square feet rather than the minimum lot size of 50,000 square feet as required by §160-23.B(1) of the Hilltown Township Zoning Ordinance.
6. The existing dwelling is approximately 1,287 square feet with a large patio at the front and rear of the dwelling.
7. Applicant proposes to demolish the existing dwelling and patios and construct a new single-family dwelling consisting of approximately 2,500 square feet. The existing 30'x30' shed will remain on the Property.
8. The new dwelling will be located in the same location as the existing dwelling and will meet all setback requirements.
9. Applicant will use the existing sand mound and well to provide water and sewer to the Property.

10. Though the proposed dwelling is almost twice the square footage of the existing dwelling because Applicant is building “up” rather than “out,” the impervious surface coverage on the Property will be reduced from 16.4% to 14.9%, which will bring the Property into conformity as to impervious surface coverage.

11. The Property is held in single and separate ownership from the adjoining properties.

12. §160-61.B of the Zoning Ordinance permits an existing, non-conforming lot to be developed by special exception for uses permitted in applicable Zoning District, provided that the development conforms to all other requirements of the Zoning Ordinance and that the nonconforming lot is held in single and separate ownership from the adjoining properties.

13. Accordingly, Applicant seeks a special exception pursuant to §160-61.B to permit the demolition of the existing single-family dwelling and the construction of a new single-family dwelling on lawfully existing undersized lot.

II. DISCUSSION:

Applicant is before this Board requesting a special exception pursuant to §160-61.B to permit the demolition of the existing single-family dwelling and the construction of a new single-family dwelling on an existing, nonconforming lot. A B1 – Single Family Detached use is permitted in the RR Zoning District.

A special exception is a use that is expressly permitted in a zoning district as long as certain conditions detailed in the zoning ordinance are found to exist. *Broussard v. Zoning Bd. of Adjustment*, 907 A.2d 494, 499 (Pa. 2006). An applicant seeking a special exception bears the burden of proving that its request complies with the specific, objective requirements contained in the zoning ordinance. *Sheetz, Inc. v. Phoenixville Borough Council*, 804 A.2d 113, 115 (Pa. Cmwlth. 2002). Once the

applicant has satisfied this initial burden, the burden then shifts to any objectors to establish that the proposed exception would be detrimental to the public health, safety, and welfare. *Id.*

§160-61.B of the Hilltown Township Zoning Ordinance provides the following:

A nonconforming lot which lawfully existed prior to the enactment of this chapter, or in the case of an amendment to this chapter, then at the time of such amendment, may be developed by special exception for uses permitted in the particular district and shall conform to all other requirements specified in this chapter other than lot size, provided that the nonconforming lot is in single and separate ownership from adjoining properties. For the purposes of this section, single and separate ownership shall be ownership of any property by any person or persons which owner(s) is separate and distinct from the owners of the adjoining properties.

Based on the above, the Zoning Hearing Board finds that Applicant has presented sufficient evidence to show compliance with the requirements of §160-61.B of the Hilltown Township Zoning Ordinance such that he is entitled to the requested special exception. Additionally, the Board finds that special exception would not be injurious to the health, safety, and welfare of the surrounding community.

DECISION AND ORDER

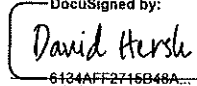
AND NOW, this 4th day of October, 2023 the Hilltown Township Zoning

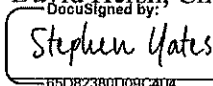
Hearing Board hereby grants the zoning relief requested conditioned as follows:

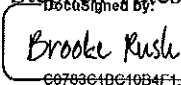
1. Construction shall be done in conformity with Exhibit A-1 and the testimony presented before this Board; and
2. Applicant shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

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.

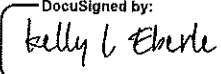
HILLTOWN TOWNSHIP ZONING
HEARING BOARD

By: DocuSigned by:

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 David Hersh, Chairman

By: DocuSigned by:

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 Stephen Yates

By: DocuSigned by:

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 D. Brooke Rush

GRIM, BIEHN & THATCHER

By: DocuSigned by:

97484A3B3D1C94EE...
 Kelly L. Eberle, Solicitor
 104 South Sixth Street
 Perkasie, PA 18944

Date of Mailing: October 4, 2023