

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Hilltown Baptist Church

Appeal No. 2023-015

A hearing was held in the above matter on Thursday, September 28, 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. Applicant was present, and Jason Smeland, P.E., testified on Applicant's behalf. The following individuals requested, and were granted, party status: Jeffrey Bagley of 902 Upper Stump Road, Chalfont, PA 18914. 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 September 8, 2023 to neighboring property owners from K. Eberle
- B-4 Letter to K. Eberle from J. Wuerstle dated September 28, 2023
- B-5 Entry of Appearance from Jeffery Bagley

Applicant's Exhibits

- A-1 Application with all Attachments
- A-2 Plan prepared by Lenape Valley Engineer with a last revision date of September 21, 2023

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 Hilltown Baptist Church ("Applicant").
2. Applicant is the owner of the real property located at 930 Church Road, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-034-125.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township, and the present use is a C1 Place of Worship, which is permitted in the RR Zoning District.
4. The Property is improved with church building, which was constructed in the 1920s, a parking lot, and related improvements.
5. Presently, Applicant rents a tent in order to hold outdoor events such as picnics, softball games, and vacation bible school; however, Applicant wishes to have a more permanent structure.
6. Applicant wishes to add a 40' x 60' pavilion on the church Property.
7. The pavilion will have electricity but will not have water and sewer.

8. While Applicant has not decided on a final design, it anticipates it will be a simple structure with open sides and concrete floor.

9. The pavilion will be used for church-related events only and will not be rented out for commercial use.

10. The proposed pavilion is considered an I4-Nonresidential Accessory Building Use.

11. Despite the C1-Place of Worship use being permitted in the RR Zoning District, an I4-Nonresidential Accessory Building Use/Structure is prohibited in the RR Zoning District.

12. Accordingly, Applicant seeks a variance from Zoning Ordinance *Table 160 Attachment 2*, in order to construct the nonresidential accessory structure, specifically a 40'x 60' pavilion, accessory to the existing C1-Place of Worship use.

13. Joseph Bagley testified that he was a neighbor of the church for 30 years and that his primary concern was that the pavilion would not be used for commercial purposes.

14. Applicant confirmed that the pavilion would not be rented out or otherwise used for commercial purposes and would only be used for church-related events.

15. By letter dated September 28, 2023, the Hilltown Township Board of Supervisors indicated its support for this Application.

16. The pavilion will comply with all other provisions of the Zoning Ordinance including dimensional and lighting standards and will not alter the manner in which the church operates.

II. DISCUSSION:

Applicant is before this Board requesting a variance from Zoning Ordinance *Table 160 Attachment 2*, in order to construct a nonresidential accessory structure, specifically a 40' x 60' pavilion, accessory to the existing C1-Place of Worship use.

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 Zoning Ordinance *Table 160 Attachment 2*, to permit construction of a nonresidential accessory structure, specifically a 40' by 60' pavilion, accessory to the existing C1-Place of Worship use. Additionally, the Board finds that the variance 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.

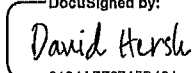
DECISION AND ORDER

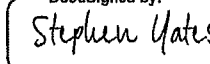
AND NOW, this 13th day of November, 2023 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:


1. Construction and use shall be done in conformity with Exhibit A-1, A-2, 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.

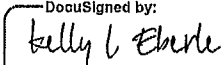
HILLTOWN TOWNSHIP ZONING
HEARING BOARD

By: DocuSigned by:

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 David Hersh, Chairman

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 Stephen Yates

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 D. Brooke Rush

GRIM, BIEHN & THATCHER

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

Date of Mailing: 11/13/2023