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August 26, 2024

Kristin Hollenbach  
847 Blooming Glen Road  
Perkasie, PA 18944

**Re: Hilltown Township Zoning Hearing Board  
Kristin Hollenbach; Appeal No. 2024-005**

Dear Ms. Hollenbach:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated August 23, 2024 in the above captioned matter. The original of this Decision is being retained by the Township for its file.

Thank you for your attention to this matter.

Very truly yours,  
**Grim, Biehn & Thatcher**



**KELLY L. EBERLE**

KLE/kbs

Enclosure

cc: Hilltown Township Manager  
Mr. David Hersh  
Mr. Stephen Yates  
D. Brooke Rush  
Gwendolyn Forsythe  
Gavin Laboski, Esquire

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Kristin Hollenbach

Appeal No. 2024-005

A hearing was held in the above matter on Wednesday, July 10, 2024 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 testified on her own behalf. The following individuals requested, and were granted, party status: Gwendolyn Forsythe of 845 Blooming Glen Road #341, Blooming Glen, PA; Patrick O'Neil and Hon. Rea Boylan of 849 Blooming Glen Road, Perkaspie, PA, represented by Gavin Laboski, Esq.

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 13, 2024 to Neighbors from K. Eberle
- B-4 Party Request Forms

Applicant's Exhibits

- A-1 Application with all attachments

Party Exhibits

- O'Neil -1 Proposed Conditions of Relief

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 Kristin Hollenbach ("Applicant").
2. Applicant, together with her husband David M. Hollenbach, is the owner of the real property located at 847 Blooming Glen Road, Hilltown Township ("Property") and more specifically identified as Bucks County Tax Parcel No. 15-029-031.
3. The Property is located in the VC (Village Center) and the RR (Rural Residential) Zoning Districts in Hilltown Township.
4. The Property consists of approximately 1.2 acres and is improved by a single-family dwelling with related improvements and outbuildings including a chicken coop.
5. The Property is wider at the front and narrows towards the rear.
6. The parcels on either side of the Property are residential properties with the closest neighbor located approximately 60 yards away.
7. Over the past five years, approximately, Applicant has acquired a number of animals that are housed at the Property.

8. Specifically, Applicant owns 5 Nigerian Dwarf goats, 2 Jacob sheep, a mini pig, 20 chickens several of which are roosters, and ducks, all of which are kept outside of the dwelling on the Property.

9. The chickens are housed in a run with coops and hutches. The mini pig has a fenced-in area with a large doghouse, and the goats are enclosed by an electric fence with multiple dog houses or similar structures.

10. The chicken coop and the mini pig area are likely both visible from the road.

11. Applicant's family is involved in the 4-H program, and the goats and sheep are raised and shown at the Bucks County Middletown Grange Fair.

12. The animals have also been helpful in helping Applicant with depression and anxiety.

13. In addition, Applicant operates a mobile petting zoo as a side job wherein she will take several animals via van and smaller trailer off-site for different events and organizations including, birthday parties, non-profit and community events, retirement communities, and school districts.

14. On occasion, a person has asked to come to the Property to see the animals, but no commercial operations occur on the Property.

15. Applicant's family uses the income from the petting zoo to supplement Applicant's primary income.

16. Hilltown Township Zoning Ordinance §160-23.I(17) provides for a Residential Agricultural Use.

I17 Residential Agricultural Use. Residential agricultural use involves farming as an accessory use occurring on the same lot as a single-family dwelling, and includes tilling of the soil and raising of livestock, horses, fur-bearing animals (animals raised for the sale of their fur) or poultry. **The**

**keeping or raising of livestock, horses, fur-bearing animals or poultry shall be limited to lots of at least three acres and shall be limited to two head of livestock or horses, or 50 fowl. Lots of four acres up to 25 acres shall allow two additional head of livestock or horses per acre, or 50 fowl per acre.** Maximum lot size is 25 acres. Livestock shall be considered those animals commonly raised on farms in this area, such as cows, sheep, goats, and pigs. Any building used for the keeping or raising of livestock, horses, fur-bearing animals, or poultry shall be situated not less than 50 feet from any street line or residential property line, or 100 feet from any existing neighboring dwelling.

...

Adequate provisions shall be made for the control of noise and odor and the confinement of the animals to the property.

*(Emphasis added).*

17. The number of livestock and poultry currently kept on Applicant's Property far exceeds the permissible amounts.

18. The Zoning Ordinance does not allow any livestock or poultry on a lot smaller than 3 acres; Applicant's Property is 1.2 acres.

19. In order to accommodate the number of livestock that she has presently, Applicant would need a six-acre lot, which is approximately 5 times the size of Applicant's Property.

20. Applicant requests a variance from Zoning Ordinance §160-23.I(17) to allow the current animals to stay, but as they pass away, Applicant proposes that she would not replace the animals and reducing the number of poultry and livestock to a maximum of 10 hens and 2 ducks.

21. Though Applicant utilizes a waste management plan, Ms. Forsythe, whose property is located at the rear of Applicant's Property, indicated that a strong smell of manure emanates from Applicant's Property and can be smelled strongly on Ms. Forsythe's property.

22. Applicant routinely checks and maintains the animals' enclosures, but, on occasion, the animals have escaped and wandered onto the neighbors' properties.

23. Mr. Laboski presented a list of conditions that were previously presented to Applicant, and which Applicant agreed to as a condition of relief granted by the Board. See *O'Neil-1*.

II. DISCUSSION AND CONCLUSIONS OF LAW:

Applicant is before this Board requesting a variance from §160-23.I(17) of the Zoning Ordinance in order to allow Applicant to keep the existing livestock and poultry, specifically 5 goats, 2 sheep, a mini pig, 20 chickens, and 2 ducks, on the 1.2 acre Property for the remainder of those animals' lives and to allow a maximum of 10 chickens and 2 ducks on the Property after the existing livestock and poultry pass away.

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). Variances are meant to avoid 'unnecessary' hardships; the granting of relief cannot be done simply to accommodate changing needs of an applicant. *Larsen v. Zoning Bd. of Adjustment of City of Pittsburgh*, 672 A.2d 296 (Pa. 1996).

In the case of *Hertzberg vs. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 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. *Hertzberg* further allows for a zoning hearing board to consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. *Id.* at 50. Consideration of the financial burden to the applicant is limited to the financial burden of bringing the property into compliance with the zoning ordinance in order to use it. *Demko v. City of Pittsburgh Zoning Board of Adjustment*, 155 A.3d 1163, 1169 (Pa.Cmwlth. 2017). Whether it is use or dimensional, a variance is appropriate only where the property, and not the person, is subject to the hardship. *One Meridian Partners, LLP v. Zoning Board of Adjustment of Philadelphia*, 867 A.2d 706 (Pa. Cmwlth. 2005).

The Board finds that Applicant has failed to meet the burden of proof necessary for a variance from §160-23.I(17) of the Zoning Ordinance as requested by Applicant. Applicant has failed to demonstrate that she has suffered an “undue hardship” as a result of a unique, physical circumstance on the Property and that such a hardship was not self-created to warrant the relief requested. There is no doubt that the animals play an important part in Applicant’s life and the lives of her family members and that the income generated from the petting zoo supplements Applicant’s income and assists with household expenses. However, those hardships are personal to Applicant and do not pertain to the conditions of physical Property itself. Applicant has made no assertion that there is anything unique to the Property that would require Applicant relief to allow her to have the type and quantity of livestock and poultry that Applicant presently keeps on the Property.

Based on the above, the Board finds that Applicant has failed to meet the burden of proof, and the relief requested for zoning relief in the form of a variance from §160-23.I(17) to allow the current

animals, 5 goats, 2 sheep, a mini pig, 20 chickens, and 2 ducks to remain on the Property, is denied. However, the Board finds that Applicant has demonstrated a sufficient hardship to grant a variance from §160-23.I(17) to permit Applicant to keep a maximum of 10 hens and 2 ducks on the Property subject to conditions set forth in the accompanying order including paragraph 2-7 on *O'Neil-1*, which Applicant agreed to as a condition of any relief granted by the Board.



**DECISION AND ORDER**


AND NOW, this 23 day of August, 2024 the Hilltown Township Zoning

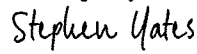
Hearing Board hereby grants a limited variance from §160-23.I(17) as follows:

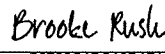
1. Applicant may keep a maximum of ten (10) hens and two (2) ducks on the Property.
2. Applicant may not keep any livestock or roosters on the Property.
3. Applicant shall bring the Property into compliance with this Order within twelve (12) months of the date hereof.
4. Applicant shall comply with conditions #2-7 set forth on *O'Neil-1*, a copy of which is attached hereto as Exhibit "A" as a condition of this relief.
5. 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.

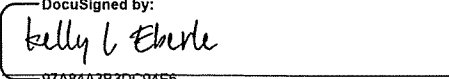
HILLTOWN TOWNSHIP ZONING  
HEARING BOARD

By: DocuSigned by:  
  
 David Hersh, Chairman  
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By: DocuSigned by:  
  
 Stephen Yates  
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By: DocuSigned by:  
  
 D. Brooke Rush  
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GRIM, BIEHN & THATCHER

By:    
 DocuSigned by:  
 *Kelly L Eberle*  
 97A84A3B3DC94E5...  
 Kelly L. Eberle, Solicitor  
 104 South Sixth Street  
 Perkasie, PA 18944

Date of Mailing: 8/26/24

EXHIBIT A

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**  
**APPLICATION OF KRISTEN HOLLENBACH**  
**PROPOSED CONDITIONS OF APPROVAL FOR THE BENEFIT OF**  
**PATRICK O'NEILL AND REA BOYLAN**

Conditions:

1. Applicant will maintain the current number and individual animals. If an animal dies or is otherwise not owned by the Applicant or retained on the property, it will not be replaced. The current number of animals are 5 goats, 2 sheep, 1 pig, 20 chickens and 6 ducks. Each animal will be documented to confirm its identity and the Applicant agrees that at the request of Boylan/O'Neill, the Zoning Officer may visit the property to verify compliance. *Can keep up to 10 chickens and two (2) ducks thereafter.*
2. Applicant will continue to maintain in proper working order the existing electric fence used to keep the animals contained on Applicant's property. The animals shall be kept in the current location on the property and not relocated elsewhere.
3. Applicant will continue to maintain and abide by their existing waste management plan. If at any time they are required to prepare and maintain a formal waste management plan under Act 38 or similar regulations, they shall apply to the Bucks County Conservation District for approval.
4. Applicant will not use the property as a location for the operation of any business associated with keeping the animals. The property will not be used for therapy purposes, petting zoo or other related activities. Selling eggs is excluded from this condition.
5. Applicant will keep and maintain the animals in a humane condition in accordance with recommendations of the Applicant's veterinarian and any other applicable regulations or standards.
6. Applicant will grant an easement to Boylan/O'Neill, to allow them to install a privacy fence on Applicant's property, at Boylan/O'Neill's expense. The fence will be installed in accordance with all Hilltown Township regulations. The fence will begin one car length from the street or permitted right of way, whichever is permitted, and extend to the rear of the shared property line. For the portion of the fence in the front yard, Boylan/O'Neill shall have the option to plant a buffer or screen of vegetation, a fence that complies with the Ordinance, some combination thereof or apply for a variance to install a taller fence. The existing Leyland cypress trees will remain on the Boylan/O'Neill side of the fence. Boylan/O'Neill will be responsible to maintain and replace the fence, however, if the fence is damaged by Applicants or any visitor, agent or invitee to Applicant's property, Applicant shall be responsible to repair or replace the fence as necessary at their cost.
7. Applicant will not increase their existing impervious surface coverage without obtaining a permit from Hilltown Township, if required.

O'Neill 1