

MARY C. EBERLE  
JOHN B. RICE  
DIANNE C. MAGEE \*  
DALE EDWARD CAYA  
DAVID P. CARO ♦  
DANIEL J. PACI ♦ †  
JONATHAN J. REISS ♦  
GREGORY E. GRIM †  
PETER NELSON \*  
PATRICK M. ARMSTRONG  
MATTHEW E. HOOVER  
KELLY L. EBERLE \*  
COLBY S. GRIM  
MICHAEL K. MARTIN  
JOEL STEINMAN  
MITCHELL H. BAYLARIAN  
WILLIAM D. OETINGER  
SEAN P. DUFFY  
LINDSAY R. NORTON

LAW OFFICES  
**GRIM, BIEHN & THATCHER**

J. LAWRENCE GRIM, JR., OF COUNSEL  
JOHN FREDERIC GRIM, OF COUNSEL

104 S. SIXTH STREET  
P.O. BOX 215  
PERKASIE, PA. 18944-0215  
(215) 257-6811  
FAX (215) 257-5374  
  
(215) 536-1200  
FAX (215) 538-9588  
  
(215) 348-2199  
FAX (215) 348-2520

A PROFESSIONAL CORPORATION

SUCCESSOR TO  
GRIM & GRIM AND BIEHN & THATCHER  
ESTABLISHED 1895 AND 1956,  
RESPECTIVELY

www.grimlaw.com

Kelly L. Eberle  
e-mail: keberle@grimlaw.com

\* ALSO ADMITTED IN NEW JERSEY  
♦ ALSO ADMITTED IN NEW YORK  
† MASTERS IN TAXATION  
◆ ALSO A CERTIFIED PUBLIC ACCOUNTANT

November 26, 2024

Dana Hillerby  
237 Mill Road  
Hatfield, PA 19440

**Re: Hilltown Township Zoning Hearing Board  
Dana Hillerby; Appeal No. 2024-008**

Dear Mr. Hillerby:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated November 25, 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  
Mr. D. Brooke Rush

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Dana Hillerby

Appeal No. 2024-008

A hearing was held in the above matter on Wednesday, October 9, 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 his own behalf.

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 10, 2024 to Neighbors from K. Eberle

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 applicant is Dana Hillerby ("Applicant").
2. Applicant is the owner of the real property located at 237 Mill Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-022-184 ("Property").
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property is approximately three acres and is improved with a single-family dwelling and related improvements.
5. Applicant's lot is wooded all along the perimeter with two septic tanks located at the rear of the Property.
6. Applicant wishes to install a 24'x28' 672 square foot detached garage that will have a first floor with an accessible loft and electrical service.
7. The proposed garage will be located to the side of the existing dwelling but within the front yard area.
8. Accordingly, Applicant seeks a variance from §160-23.I(2)(a)[4], which prohibits residential accessory structures, or any part thereof, in the front yard in order to allow a detached garage in the front yard.
9. The garage will not be used as an additional dwelling space but will serve as a woodshop and storage for one vehicle.

10. The garage will be 143 feet away from the dwelling and approximately 50 feet from the roadway.

11. Applicant currently has a prefabricated shed located in the rear of the Property that will remain that is used for storage of bikes and a tractor.

12. Applicant also has a larger shed in the rear of the property that will be torn down due to disrepair.

13. The garage, as proposed, will comply with all setback and impervious surface requirements.

14. If Applicant placed the garage in the rear of the Property next to the existing shed, Applicant would have to extend the driveway, which would increase the amount of impervious surface on the Property.

II. DISCUSSION:

Applicant is before this Board requesting a variance from §160-23.I(2)(a)[4] of the Zoning Ordinance in order to allow a detached garage in the front yard.

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).

Variations 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).

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 §160-23.I(2)(a)[4] to permit a detached garage in the front yard. 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**

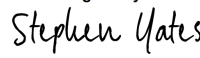
AND NOW, this 25 day of November, 2024 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The garage shall be constructed in conformity with 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.

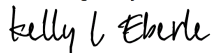
HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:  
  
 \_\_\_\_\_  
6134AEF2715E48A  
 David Hersh, Chairman

By: DocuSigned by:  
  
 \_\_\_\_\_  
65D82380D9C404...  
 Stephen Yates

By: \_\_\_\_\_  
 D. Brooke Rush

GRIM, BIEHN & THATCHER

By: DocuSigned by:  
  
 \_\_\_\_\_  
97A84A3B3DC94E6...  
 Kelly L. Eberle, Solicitor  
 104 South Sixth Street  
 Perkasie, PA 18944

Date of Mailing: 11/26/24