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March 3, 2025

Mark Eastburn, Esquire
Eastburn and Gray
P.O. Box 1389
Doylestown, PA 18901

**Re: Hilltown Township Zoning Hearing Board
Matt Cliff; Appeal No. 2024-009**

Dear Mr. Eastburn:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated February 28, 2025 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. Stephen Yates
Mr. D. Brooke Rush
Mr. Matthew Knox
Brad Pienta
Betty Jane & Bill York
James Velez
Ji Li

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Matt Cliff/MRC Signs

Appeal No. 2024-009

A hearing was held in the above matter on Wednesday, January 15, 2025, 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 D. Brooke Rush, Chairman and Stephen C. Yates, Vice Chairman. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and was represented by Mark Eastburn, Esq., of Eastburn and Gray. The following individuals requested, and were granted, party status: Brad Pienta of 6125 Swamp Road, Fountainville, PA; Betty Jane & Bill York of 6115 Swamp Road, Fountainville, PA; James Velez of 2320 Upper Stump Road, Perkasio, PA; and Ji Li of 632 Dublin Pike, Dublin PA.

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 December 20, 2024 to Neighboring Property Owners from K. Eberle
- B-4 Entries of Appearance for Party Status (4 total)

Applicant's Exhibits

- A-1 Deed to Property
- A-2 Series of 6 photographs depicting site conditions and proposed signage
- A-3 Proposed sign specifications
- A-4 Images of Neighboring Signs within the Township
- A-5 Images of Neighboring Signs outside of the Township
- A-6 Images of Similarly Sized Signs within the Township

Additional Party Exhibits

- Y-1 Series of 4 photographs presented by Betty York
- L-1 Series of 2 photographs presented by Ji Li

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

1. The Applicant is Matt Cliff (“Applicant”).
2. Applicant is the owner/member of L&M Property Holdings, LLC, which is the record owner of the subject property located at 704 Dublin Pike, Hilltown Township, Pennsylvania and further identified as TMP 15-035-083 (the “Property”).
3. The Property is located in the PC-2 Zoning District.
4. The Property fronts along Dublin Pike, and the speed limit in front of the Property is 45 mph.

5. The Property is located more than 300 feet away from the intersection at Dublin Pike and Broad Street.

6. Applicant operates a business at the Property that designs, creates, and installs customs signs.

7. Applicant previously appeared before this Board on Application No. 2021-010, wherein he sought, and was granted, relief in connection to renovations and improvements on the Property, including renovating the prior residential structure and converting it to an office, constructing a pole barn, paving the driveway, and installing landscaping and stormwater management.

8. With those improvements completed, Applicant wishes to replace the existing, temporary sign with a 46.66 square foot freestanding, monument sign with an animated LED display.

9. Applicant is before this Board requesting a variance from §160-80.C(2) of the Hilltown Township Zoning Ordinance (the “Zoning Ordinance”), which limits freestanding signs to 32 square feet, and §160-73.C¹ of the Zoning Ordinance, which prohibits animated signs.

10. The actual sign itself is approximately 5’ by 8’, but the surround increases the square footage of the sign.

11. The proposed sign will include a stone base wrapped in a veneer to match the existing structures on the Property.

12. The proposed sign will be located closer to the existing driveway, and farther from the neighboring residential properties, than the existing temporary sign.

¹ Applicant’s written application requested relief from §160-73.D but requested to modify the section from which relief was sought.

13. The closest residential structure is approximately 295 feet from the location of the proposed sign, and the closest traffic light is more than 300 feet from the location of the proposed sign.

14. The sign will display static images and messages including business promotions for Applicant's business, community alerts, and seasonal messages.

15. The images on the sign will not flash, blink, twinkle, or twirl.

16. The sign will not be used for any third-party advertising other than emergency messages such as Amber Alerts.

17. The sign will have an LED brightness of 7,000 nits and will be equipped with an automatic dimming photocell. The brightness of the sign can also be adjusted manually.

18. The LED display is capable of displaying a variety of fonts and colors.

19. The Board finds Applicant's testimony to be credible where he stated that since the Property is located on Dublin Pike where the posted speed limit is 45 mph, a smaller sign would not be easily visible to drivers.

20. Applicant testified that the sign would be in keeping with the surrounding neighborhood and provided pictures of similarly sized signs and similar types of signs.

21. Neighboring property owners, including Ji Li, Brad Pienta, and Betty York, raised concerns about light pollution, driver distraction, the proximity of the intersection at Broad Street, property values, and whether this would create a precedent for future signage approvals.

II. DISCUSSION AND CONCLUSIONS OF LAW

In order to install a 46.66 square foot sign with an animated LED display, Applicant is before this Board requesting a variance from §160-80.C(2) of the Zoning Ordinance, which limits

freestanding signs to a maximum of 32 square feet and a variance from §160-73.C of the Zoning Ordinance, which prohibits animated signs.

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 variances from Zoning Ordinance §160-80.C(2) and §160-73.C to permit a 46.66 square foot sign with an animated LED display. The Board further finds the increase in size to be *de minimis*. Additionally, the Board finds that the variance, with the conditions imposed in the Order, 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 28th day of February, 2025, the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The installation and use of the sign shall be done in a manner consistent with the testimony and exhibits presented to the Board.

2. The Applicant shall comply with the following provisions of Zoning Ordinance §160-81(B)(9) pertaining to message duration, brightness, and hours of illumination:

(d) Message duration. Any portion of the message must have a minimum duration (hold time) of 25 seconds and must be a static display. Messages may change immediately or fade in and out only; and shall completely change to the next message within one second. No portion of the message may flash, scroll, twirl, twinkle, oscillate, rotate, blink, change color, or in any manner, imitate movement.

(e) Brightness ([sign] luminance). The illumination and/or intensity of the display shall be controlled so as to not create glare, hazards or nuisances. Such signs shall have a maximum nits level of 7,000 nits; provided the brightness of the digital [sign] does not exceed 0.3 foot-candles of light above the normal ambient light levels. Such signs shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.

(k) Such sign shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

3. Applicant shall otherwise comply with all other Township, County, and/or State laws regarding construction and use.

The Hilltown Township Zoning Hearing Board deems the foregoing conditions necessary and warranted under the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:
Brooke Rush
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D. Brooke Rush, Chairman

By: DocuSigned by:
Stephen Yates
65D82380D09C204...
Stephen C. Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 3/3/25