

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Jason Allebach

Appeal No. 2025-002

A hearing was held in the above matter on Wednesday, March 19, 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, and Matthew Knox. 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 February 26, 2025 to Neighboring Property Owners 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**

1. The Applicant is Jason Allebach ("Applicant").
2. Applicant, along with Sarah Allebach, is the owner of the real property located at 914 Forest Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-029-033-002 (the "Property").
3. The Property is located in the RR - Rural Residential Zoning District.
4. The Property is approximately 2.25 acres and is rectangular in shape such that the Property is narrower closer to the road and wider at the rear.
5. As shown on the drawing attached to A-1, the Property has approximately 175' of street frontage and widens to 235' at the rear.
6. The Property is presently improved with a single-family dwelling with a porch off the front and a patio to the rear, an existing shed, and related improvements.
7. Applicant is a contractor by trade and is currently utilizing an existing garage on the Property for storage of equipment and other materials.
8. Applicant would like to erect a new detached pole barn accessory to the existing single-family dwelling.
9. The proposed pole barn will be a 24'x 40'x16' building with lean-tos on either side to store firewood for the outdoor woodburning stove.
10. A single garage door would be located along the 24-foot side of the building closest to the driveway, and a standard-sized pedestrian door would be located along the 40-foot side of the building.
11. The proposed garage will have concrete flooring with a loft area.
12. The proposed garage will have electricity but no other utilities.

13. The proposed garage will be constructed 25-30 feet from the corner of the existing dwelling and will encroach 15 feet into the side yard setback.

14. As a result, Applicant will have a side yard setback of 10 feet rather than the required 25 feet.

15. Applicant is before this Board requesting a variance from §160-23.B(1) of the Hilltown Township Zoning Ordinance (the "Zoning Ordinance"), to permit a side yard setback of 10 feet as opposed to the minimum required 25 feet.

16. When asked whether he could move the garage closer to reduce the encroachment into the setback area, Applicant testified that the proposed location was most convenient so that the garage would be reasonably close to the driveway in order to be accessible by vehicle and maintain functionality of the materials and equipment being stored

17. It is noted that the garage is intended to be a detached structure, and the garage, as proposed, does not abut the existing driveway.

18. When asked whether he explored other configurations of the garage, attempted to reduce the size of the garage, or had considered turning the garage to reduce or eliminate the encroachment, Applicant indicated that if the proposed garage were located any closer to the driveway, Applicant would not be able to drive a vehicle beyond the outdoor wood furnace.

19. When asked whether the garage could be located on the other side of the existing dwelling, Applicant indicated that he preferred the proposed location due to its ease of access and proximity to the outdoor woodburning stove.

20. Applicant contends that due to the Property's long, rectangular nature, the proposed garage would need to be centered in the backyard in order to comply with all setback requirements

and to not interfere with the existing patio and sand mound and locating the garage in that manner would diminish the recreation uses of the backyard and Applicant's view.

21. The Board does not find Applicant's testimony that the proposed garage could not be located anywhere else on the Property to be credible.

22. No evidence was presented demonstrating why Applicant would be unable to locate the proposed pole barn anywhere else on the Property other than Applicant's preference.

23. Applicant did not consider alternate locations on the Property for the pole barn.

24. Applicant has not presented evidence of a hardship that would warrant relief from the Zoning Ordinance.

25. Applicant has failed to present any evidence that the variance requested is necessary to enable reasonable use or development of the Property.

26. Applicant has failed to present any evidence demonstrating that the variance requested is the minimum necessary to afford relief.

27. The Board finds that there is no unique physical circumstance, peculiar to the Property, and not otherwise created by the Zoning Ordinance, which would justify the requested variance.

## II. DISCUSSION AND CONCLUSIONS OF LAW

In connection with the construction of a new detached garage, Applicant requests a variance from Zoning Ordinance §160-23.B(1) to permit a side yard setback of 10 feet as opposed to the minimum required 25 feet.

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.

Applicant has failed to meet its burden of proof necessary to afford it the relief requested from the Zoning Ordinance. First, Applicant failed to present any evidence that the Property has a unique physical circumstance peculiar to the Property. While Applicant argues that the rectangular nature of the Property constitutes a unique physical circumstance peculiar to the Property, the Board disagrees. While it is true that the Property is a rectangle, at its narrowest, the Property is 175' wide and increases going towards the rear. There is no evidence to suggest that this Property width is abnormal. There is no evidence that the Property has any physical anomaly that would justify the grant of variance. As Applicant has failed to meet this element, he is not entitled to the requested variance.

Even if Applicant were able to demonstrate that there was a unique physical circumstance with the Property, Applicant cannot demonstrate that he suffered an "undue hardship" as a result of the unique, physical circumstance and that such hardship was not self-created. In fact, Applicant has not demonstrated a hardship at all. In *Larsen v. Zoning Bd. of Adjustment of City of Pittsburgh*, 672 A.2d 296 (Pa. 1996), the Pennsylvania Supreme Court stated, "[v]ariations are meant to avoid

‘unnecessary’ hardships; the granting of relief cannot be done simply to accommodate the changing needs to a growing family.” While the location chosen may be the best and most convenient for Applicant, that does not constitute an “undue hardship” warranting the grant of the variance.

Finally, Applicant cannot show that the requested variance is necessary to enable reasonable use or development of the Property. In order to satisfy this element, Applicant would need to show that without the requested variance, the Property would be rendered practically useless. *Abe Oil Co. v. Zoning Hearing Board of Richmond Twp.*, 649 A.2d 182, 185 (Pa. Cmwlth. 1994). The evidence presented demonstrates that the Property is currently improved by a single-family dwelling, shed, patio, porch, and related improvements. Applicant did not present any evidence or argue that the variance is necessary to enable reasonable use or development of the Property. For these reasons, Applicant has failed to meet this necessary element.

Based on the above, the Board finds that Applicant has failed to meet his burden of proof, and his request for zoning relief in the form of a variance from §160-23.B(1) is denied.

## DECISION AND ORDER

AND NOW, this 5th day of May, 2025, the Hilltown Township Zoning Hearing Board hereby denies the zoning relief requested as Applicant has failed to meet the burden of proof necessary to grant the requested variance for the reasons set forth more fully herein.

### HILLTOWN TOWNSHIP ZONING HEARING BOARD

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

By: DocuSigned by:  
*Stephen Yates*  
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Signed by:  
*Matthew Knox*  
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Matthew Knox

### GRIM, BIEHN & THATCHER

By: DocuSigned by:  
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Date of Mailing: May 6, 2025