

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Greg Dew

Appeal No. 2025-001

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, 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 Greg Dew (“Applicant”).
2. Applicant, together with Rachel Dew, is the owner of the real property located at 729 Blooming Glen Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-019-025 (“Property”).
3. The Property is located in the VC - Village Center Zoning District.
4. The Property is improved by a single-family dwelling built circa 1899, a 660 square foot barn, patios, and related improvements.
5. The barn, which is located at the end of the driveway, is dilapidated, and the concrete foundation is worn and failing.
6. The barn’s existing foundation is larger than the existing barn itself, and half of the existing driveway leads to the empty foundation.
7. While the existing barn is located approximately 19’6 feet from the side yard and 35’ from the rear yard, the existing foundation extends an additional 9’6 into the side yard, which results in a side yard setback of 10’.
8. Applicant wishes to demolish the existing barn and replace it with a modern 750-square-foot detached garage with a loft and 234 square foot concrete porch.
9. The proposed garage will have electricity and plumbing.
10. The proposed garage will match the existing dwelling and will be more aesthetically pleasing.
11. Applicant wishes to construct the proposed garage in the footprint of the existing foundation, which will result in a side yard setback of 10’ and a rear yard setback of 35’.

12. Accordingly, 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’ as opposed to the minimum required 20’ and a rear yard setback of 35’ as opposed to the minimum required 50’.

13. The proposed garage will be, more or less, centered on the driveway, but still within the footprint of the existing foundation. This will also improve the functionality of backyard.

14. The proposed garage will not encroach further into the rear yard than the existing barn.

15. At the hearing, Applicant agreed, as a condition of relief, that the proposed garage would not be used as a separate dwelling unit.

II. DISCUSSION AND CONCLUSIONS OF LAW

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 20 feet and a rear yard setback of 35 feet as opposed to the minimum required 50 feet in order to proceed with demolition of the existing, dilapidated barn and construction of a detached garage, which will be located in the footprint of the existing foundation of the barn, including the portion of the foundation that extends beyond the walls of the existing barn.

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 §160-23.B(1) to permit a side yard setback of 10 feet as opposed to the minimum required 20 feet and a rear yard setback of 35 feet as opposed to the minimum required 50 feet in connection with the construction of a new detached garage. 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 5th day of May, 2025, the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The construction and installation shall be done in a manner consistent with the testimony and exhibits presented to the Board.
2. The proposed garage shall not be used as a separate dwelling.
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
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Stephen C. Yates

By: Signed by:
Matthew Knox
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Matthew Knox

GRIM, BIEHN & THATCHER

By: DocuSigned by:
Kelly L. Ebene
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Perkasie, PA 18944

Date of Mailing: May 6, 2025