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August 11, 2025

Mark A. Schmidt
902 Morgan Ln
Perkasie, PA 18944

**Re: Hilltown Township Zoning Hearing Board
Mark Schmidt; Appeal No. 2025-006**

Dear Mr. Schmidt:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated August 8, 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/ben
Enclosure
cc: Hilltown Township Manager

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Mark Schmidt

Appeal No. 2025-006

A hearing was held in the above matter on Wednesday, June 25, 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 was not represented by counsel.

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 9, 2025 to Neighboring Property Owners from K. Eberle

Applicant's Exhibits

- A-1 Application with all attachments
- A-2 Plan dated April 4, 2025

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 Mark Schmidt (“Applicant”).
2. Applicant, together with Sarah Schmidt, is the owner of the real property located at 902 Morgan Lane, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-015-103 (“Property”).
3. The Property is located in the CR-1 (Country Residential 1) Zoning District.
4. The Property is improved by a single-family dwelling, deck, patio, hot tub, and related improvements.
5. Applicant is before this Board seeking a variance from Zoning Ordinance §160-23.B(4)(d)[1][b][iv] to permit a rear yard setback of 30 feet 8.5 inches as opposed to the minimum required 40 feet in connection with proposed improvements to the porch off of the rear of the dwelling.
6. At the outset, the Board notes that two different plans were submitted to the Board showing different proposed structures. The first plan is dated April 4, 2025 and depicts a covered porch. The second plan is dated April 25, 2025 and depicts an uncovered porch.
7. At the hearing, Applicant clarified that the plan he intended to move forward with, and was seeking relief for, is the April 4, 2025 plan (the “Plan”).
8. Applicant proposes to extend the existing 10’x18’ deck another 2 feet into the rear yard with an additional 1 foot of concrete, which will serve as a landing.
9. In addition, Applicant wishes to install a roof over the entire deck.
10. The roof will only extend to the end of the deck and will not cover the concrete landing.

11. As a result of the expansion of the deck and installation of a roof over the deck, the rear yard setback, as proposed, will be 30 feet 8.5 inches rather than the required 40 feet.

12. The Plan also indicates that the maximum permitted impervious surface ratio is 55%. As noted in the Township Zoning Officer's letter dated April 24, 2025, §160-23.B(4)(d)(1)[iii] allows a maximum impervious surface ratio of 30% in the CR-1 Zoning District not 55%. Both the Plan and Applicant's testimony indicates that the impervious surface ratio will be 27.9% after the proposed improvements.

13. When asked how the measurements on the Plan were determined, Applicant's architect testified that they were taken from the county parcel viewer with the house overlayed on the lot.

14. Applicant's architect and contractor described the measurements on the Plan as "rough."

15. Mr. Yates voted "no" on the application for relief.

II. DISCUSSION AND CONCLUSIONS OF LAW

Applicant requests a variance from Zoning Ordinance §160-23.B(4)(d)[1][b][iv] to permit a rear yard setback of 30 feet 8.5 inches as opposed to the minimum required 40-foot setback in order to extend the existing deck and install a roof over the deck.

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(4)(d)[1][b][iv] to permit a rear yard of 30 feet 8.5 inches rather than 40 feet in connection with the expansion of the existing deck and installation of a roof over the deck. 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 8th day of August, 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 Exhibits A-1, A-2, and the testimony presented to the Board.
2. 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
65D82380D09C404...
Stephen C. Yates, dissenting

By: Signed by:
Matthew Knox
A53A548FE7F94A9...
Matthew Knox

GRIM, BIEHN & THATCHER

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

Date of Mailing: 08/11/2025