

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Charles A. Drischer

Appeal No. 2025-009

A hearing was scheduled in the above matter on Wednesday, September 17, 2025 at 7:00 p.m. at the Hilltown Township Municipal Building Wednesday. The matter was opened and continued, at Applicant's request, until October 15, 2025, at which time a substantive hearing was held. Notice of the original hearing date 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 represented by Andrew Griffin, Esquire.

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 August 20, 2025 to Neighboring Property Owners from K. Eberle
- B-4 Letter from Township Solicitor J. Wuerstle dated September 3, 2025
- B-5 Email correspondence from Applicant's counsel dated September 17, 2025 requesting a hearing continuance

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 Applicant and Property

1. The Applicant is Charles A. Drischer (“Applicant”).
2. The subject property is the real property located at 629 Schoolhouse Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-001-097 (the “Property”).
3. The Property is an existing undersized lot containing .588 acres and is located in the LI-Light Industrial Zoning District.
4. The Property was previously improved by a 1,550 square foot single-family dwelling that was demolished by the prior owners in or around 2023-2024 and is presently a vacant lot.
5. The Property is largely wooded, surrounded by a chain link fence, and has an existing driveway cut in onto Schoolhouse Road.
6. The Property contains a stream that runs along the easternly side of the Property.
7. The surrounding parcels are utilized for various industrial, warehouse, and/or manufacturing uses.
8. In an effort to improve the overall condition of the Property, Applicant has cleared tree branches, brush overhang, and dead trees with approval of Bucks Co Conservation district.

Proposed Use

9. Applicant wishes to develop the Property with the following: 1) a 10,958 square foot stone storage area to lease to local construction businesses for the storage of contractor utility trailers, light duty excavation equipment and vehicles, and other related materials; 2) two 8' x 40' Conex storage containers located northwestern corner of the Property; and 3) allotted room for 18 parking spaces.

10. The proposed use is considered an H9 - Outdoor/Wholesale Storage use, which is permitted in the LI Zoning District provided it complies with the following regulations:

- (a) No part of the street right-of-way, no sidewalk or other areas intended or designated for pedestrian use and no required parking areas may be included within the storage area.
- (b) Explosive, toxic, radioactive or highly flammable materials shall not be permitted under this use type.
- (c) Storage shall occupy an area of no more than 75% of the lot area.
- (d) Storage areas shall not exceed a height of eight feet.
- (e) Storage areas shall be shielded from view from all public streets and residential uses.
- (f) Parking: one off-street parking space for every 500 square feet of gross storage area, plus one space for each company vehicle normally stored on the premises.
- (g) Uses constituting outdoor storage as a primary use shall be restricted to the following accessory uses: I4 Accessory Building; I6 Temporary Structure; I7 Off-Street Parking; I8 Signs; and I14 Commercial Accessory Office, subject to the additional requirements set forth for the above accessory uses.

Hilltown Township Zoning Ordinance §160-23.H.(9).

11. Applicant plans to utilize the Property to store his personal equipment and rent out the remaining portion of the Property, including one of the storage containers, to local construction businesses to store equipment such as machines, mowers, and trailers.

12. The storage area will be limited to 8,000 square feet and the remainder will be available for parking.

13. As part of Applicant's proposed redevelopment of the Property, Applicant proposes grading/regrading of the Property in order to level a portion of the Property.

14. To do so, Applicant will cut into the steep slopes on the western side of the Property and drop it back by the stream.

15. Applicant will not be disturbing the steep slopes by the stream embankment.

16. Applicant also will be installing a significant amount of landscaping as well as a fence around the perimeter of the Property, which will obscure the view significantly from surrounding parcels.

17. Applicant will also be widening the existing driveway cut and installing a stone path.

18. Applicant acknowledges that he will need stormwater management will likely be required. Applicant suggested that the stormwater management system will almost certainly be underground with a trench filled with non-compacting stone into the other stone below it.

Relief Requested

19. In connection with proposed use, Applicant requests five variances and a special exception.

A. Variance from §160-23.I(4)

20. Applicant requests a variance from §160-23.I(4) to allow a rear and side yard setback of 15 feet for the storage containers rather than the required 50-foot rear yard setback and 30-foot side yard setback.

21. As shown above, §160-23.H(9)(g) permits I4 Accessory Buildings subject to any additional requirements set forth in §160-23.I(4).

22. §160-23.I(4) requires any accessory buildings to meet the minimum setbacks for non-residential buildings and uses within the applicable zoning district.

23. §160-27 requires a minimum rear yard setback of 50 feet and a minimum side yard setback of 30 feet in the LI Zoning District.

24. Applicant requests a variance to allow a 15-foot rear yard and side yard setbacks in the northwestern corner of the Property to allow for the placement of the storage containers as shown on the Plan.

25. Applicant has chosen this location for the storage units because it is on the opposite side of Property from the stream and 10 feet above the stream bank, and the location is the farthest location from the road.

26. Given the undersized nature of the lot, the steep slopes, and the stream, this placement for the storage containers is necessary to also facilitate the outdoor storage area and the room for parking spaces.

B. Variance from §160-28.A(2)

22. Section 160-28.A(2) of the Zoning Ordinance requires a floodplain study for areas abutting streams and watercourses where the one-hundred-year floodplain (one percent annual chance flood) has not been delineated by the Flood Insurance Study.

23. The Zoning Ordinance also requires a FEMA-like map if there is watercourse on the property that FEMA hasn't mapped.

24. Applicant requests a variance from §160-28.A(2) in order to forego the floodplain study.

25. Applicant asserts that the floodplain study is not necessary due to the fact that the proposed storage units are 10 feet in elevation above the stream.

26. Therefore, if water from the stream were to rise to the storage units, there would be more than five feet of water on the roadway covering approximately 400 feet of the road.

27. Applicant also argues that the floodplain study is cost prohibitive and will cost approximately \$7,000 - \$9,000.

28. Applicant contends that the prior use, a single-family dwelling with a septic system, would have a greater impact on the stream than the proposed use.

29. Applicant also asserts that he is limiting the disturbance of the steep slopes on the Property and will not be impacting the stream or the flood elevation.

30. Applicant has obtained confirmation from the Bucks County Conservation District that the plan was adequate for erosion and sediment pollution control.

C. Variances from §160-28.B(1) and (2)

31. The Property includes three classes of slopes, and Applicant is requesting a variance for the two lower classes.

32. §160-28.B(1) permits a maximum disturbance of 60% for steep slopes (8%-15%).

33. Applicant requests a variance to permit a 75% disturbance of steep slopes (8-15%) instead of the allowable 60%.

34. §160-28.B(2) permits a maximum disturbance of 30% for steep slopes (15%-25%).

35. Applicant requests a variance to permit a 42% disturbance of steep slopes (15-25%) instead of the allowable 30%.

36. Slope 2 is only comprised of approximately 1,089 square feet. Because it is such a small area, any disturbance would cause Applicant to exceed the allowable amount.

37. Applicant contends that the steep slopes on the Property were previously disturbed and are manmade as a result of prior development to the Property.

38. Applicant also contends that a variance is required in order to permit reasonable use of the Property because when considering the steep slopes on the Property, the building envelope would be less than one percent of the lot.

D. Variance from §160-50.A

34. The Table of Performance Standards – Bulk and Area, Section 160, Attachment 3 requires a minimum lot size of 2 acres for all uses in the LI Zoning District.

35. The Property is non-conforming as it is comprised of only .588 acres including the ultimate right-of-way, or .502 acres less the ultimate right-of-way.

36. Applicant requests a variance to permit an H9 use (Outdoor/Wholesale Storage) on the Property because of the existing non-conformity.

E. Special Exception pursuant to §160-61.B

37. Section 160-61.B provides, in part, “[a] non-conforming lot which lawfully existed prior to the enactment of this chapter...may be developed by special exception for uses permitted in the particular district and shall conform to all other requirements specified in this chapter other than lot size[.]”

38. Applicant requests a special exception for the development of the Property, which is an existing, non-conforming lot due to its size.

II. DISCUSSION AND CONCLUSIONS OF LAW

Applicant requests five variances and a special exception to develop the Property for an H9 use of an Outdoor/Wholesale Storage.

A Variances

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 following variances:

1. Section 160-23.I(4) – to allow a rear and side yard setback of 15 ft rather than the required 50 ft rear yard setback and 30 ft side yard setback;

2. Section 160-28.B(1) - to permit a 75% disturbance of Steep Slopes (8-15%) instead of the allowable 60%;
3. Section 160-28.B(2) – to permit a 42% disturbance of Steep Slopes (15-25%) instead of the allowable 30%; and
4. Section 160-50.A – to permit an H9 use (Outdoor/Wholesale Storage) on a non-conforming lot.

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.

With regard to the variance request from Section 160-28.A(2), 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 Section 160-28.A(2) is denied. Applicant has also failed to demonstrate that he has suffered an undue hardship as a result of a unique, physical circumstance on the Property and that such a hardship was not self-created to warrant the relief requested. The floodplain identification study is required because the watercourse is outside of FEMA's purview. The ordinance requires a FEMA like map if there is watercourse on the Property that FEMA has not mapped regardless of whether the development is expected to have a direct impact of the watercourse, and therefore, the request for a variance from Section 160-28.A(2) to forgo this study is denied.

B. Special Exception

A special exception is a use that is expressly permitted in a zoning district as long as certain conditions detailed in the zoning ordinance are found to exist. *Broussard v. Zoning Bd. of Adjustment*, 907 A.2d 494, 499 (Pa. 2006). An applicant seeking a special exception bears the burden of proving that its request complies with the specific, objective requirements contained in the zoning ordinance.

Sheetz, Inc. v. Phoenixville Borough Council, 804 A.2d 113, 115 (Pa. Cmwlth. 2002). Once the applicant has satisfied this initial burden, the burden then shifts to any objectors to establish that the proposed exception would be detrimental to the public health, safety, and welfare. *Id.*

§160-61.B of the Hilltown Township Zoning Ordinance provides the following:

A nonconforming lot which lawfully existed prior to the enactment of this chapter, or in the case of an amendment to this chapter, then at the time of such amendment, may be developed by special exception for uses permitted in the particular district and shall conform to all other requirements specified in this chapter other than lot size, provided that the nonconforming lot is in single and separate ownership from adjoining properties. For the purposes of this section, single and separate ownership shall be ownership of any property by any person or persons which owner(s) is separate and distinct from the owners of the adjoining properties.

Based on the above, the Zoning Hearing Board finds that Applicant has presented sufficient evidence to show compliance with the requirements of §160-61.B of the Hilltown Township Zoning Ordinance such that he is entitled to the requested special exception. Additionally, the Board finds that special exception would not be injurious to the health, safety, and welfare of the surrounding community.


DECISION AND ORDER


AND NOW, this 1st day of December, 2025, the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:


1. Applicant's request for a variance from Section 160-28.A.2 pertaining to the flood study is DENIED.
2. Applicant's remaining relief requested is granted conditioned as follows:
 - a. The use shall be done in conformity with the A-1 and the testimony presented to the Board.
 - b. 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: 
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D. Brooke Rush, Chairman

By: 
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Stephen C. Yates

By: 
A53A548FE7F94A9...
Matthew Knox

GRIM, BIEHN & THATCHER

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

Date of Mailing: 12/1/2025