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† MASTERS IN TAXATION  
♦ ALSO A CERTIFIED PUBLIC ACCOUNTANT

May 19, 2026

Andrew and Jennifer McColgan  
1517 Brush Hollow Road  
Hatfield, PA 19440

**Re: Hilltown Township Zoning Hearing Board  
Andrew and Jennifer McColgan; Appeal No. 2026-001**

Dear Mr. and Mrs. McColgan:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated May 18, 2026 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

Encl.

cc: Hilltown Township Manager (w/encl.)  
H. Peter Helm (w/ encl.)

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Andrew and Jennifer McColgan

Appeal No. 2026-001

A hearing was held in the above matter on Wednesday, April 1, 2026, 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 Stephen C. Yates, Chairman, D. Brooke Rush, and Matthew Knox. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicants were present and were not represented by counsel. No individuals requested party status.

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 March 6, 2026 to Neighboring Property Owners from K. Eberle
- B-4 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 Applicants are Andrew and Jennifer McColgan (the “McColgans”) on their own behalf and on behalf of H. Peter Helm (collectively, “Applicants”).

2. The McColgans are the record owners of the real property located at 300 Fairhill School Road, Hilltown Township, Pennsylvania, further identified as TMP 15-022-053-002 (“Lot 5”).

3. H. Peter Helm (“Helm”) is the record owner of the real property located at 280 Fairhill School Road, Hilltown Township, Pennsylvania, further identified as TMP 15-022-053-003 (“Lot 6,” and together with “Lot 5” as the “Parcels”).

4. Helm submitted a Letter of Authorization dated February 17, 2026 to Hilltown Township authorizing the McColgans to submit this appeal on his behalf, and he was also present the hearing.

5. The Parcels are located in the RR – Rural Residential Zoning District.

6. Both Parcels are encumbered by an existing 300-foot-wide utility right of way easement in favor of PECO.

7. Lot 6 presently contains 9.86 acres (gross) and is currently improved by a single-family detached dwelling, accessory structures, and driveway access along Fairhill School Road.

8. Lot 6 has a net lot size of 6.12 acres exclusive of the ultimate right-of-way and the PECO easement.

9. Lot 5 contains 7.03 acres (gross) and is currently a vacant lot with unimproved land.

10. Lot 5 has a net lot size of 3.05 acres.

11. The McColgans wish to construct a single-family dwelling and related improvements on Lot 5.

12. In connection therewith, Applicants propose a lot line change between Lots 5 and 6 in which Lot 5 will give 2.93 acres to Lot 6, and Lot 6 will give 1.61 acres to Lot 5.

13. As a result of the proposed lot line change, Lot 5 will have a net lot size of 2.05 acres, and Lot 6 will become a flag lot with a net lot area of 7.12 acres.

14. The lot line change will allow Lot 5 to limit the clearing of trees and have more road frontage.

15. Without the lot line change, due to the location and the size of PECO easement, it would be difficult to construct a single-family dwelling.

16. Accordingly, Applicants are before this Board requesting a variance from Zoning Ordinance §160-51.C(1) to permit a flag lot with a net area of 7.12 acres rather than the required minimum of 10 acres.

## II. DISCUSSION

Applicants are before this Board requesting a variance from Zoning Ordinance §160-51.C(1) to permit lot line change that will result in Lot 6 becoming flag lot with a net area of 7.12 acres rather than the required minimum of 10 acres.

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 Applicants have shown the existence of a hardship, not self-created, and unique and peculiar to the Parcels that requires the grant of the variances from Zoning Ordinance §160-51.C(1) to permit a lot line change that will create a flag lot with a net area of 7.12 acres rather than the required minimum of 10 acres on Lot 6. 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 Parcels.

**DECISION AND ORDER**

AND NOW, this 18 day of May, 2026, the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The lot line change shall be done in a manner consistent with the testimony and exhibits presented to the Board; and
2. The Applicants shall otherwise comply with all other Township, County, and 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:  
*Stephen Yates*  
 65D82380D09C404...  
 Stephen C. Yates, Chairman

By: DocuSigned by:  
*Brooke Rush*  
 C0783C1BC10B4F1...  
 D. Brooke Rush

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

GRIM, BIEHN & THATCHER

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

Date of Mailing: 5/19/2026