

MARY C. EBERLE  
JOHN B. RICE  
DIANNE C. MAGEE \*  
DALE EDWARD CAYA  
DAVID P. CARO ♦  
DANIEL J. PACI ♦ †  
JONATHAN J. REISS ◊  
GREGORY E. GRIM †  
PETER NELSON \*  
PATRICK M. ARMSTRONG  
SEAN M. GRESH  
KELLY L. EBERLE \*  
JOEL STEINMAN  
MATTHEW E. HOOVER  
COLBY S. GRIM  
MICHAEL K. MARTIN  
JULIEANNE E. BATEMAN  
MITCHELL H. BAYLARIAN  
IAN W. PELTZMAN  
WILLIAM D. OETINGER

LAW OFFICES  
**GRIM, BIEHN & THATCHER**

A PROFESSIONAL CORPORATION  
SUCCESSOR TO  
GRIM & GRIM AND BIEHN & THATCHER  
ESTABLISHED 1895 AND 1956,  
RESPECTIVELY  
123RD ANNIVERSARY 1895-2018

[www.grimlaw.com](http://www.grimlaw.com)

Kelly L. Eberle  
e-mail: [keberle@grimlaw.com](mailto:keberle@grimlaw.com)

J. LAWRENCE GRIM, JR., OF COUNSEL  
JOHN FREDERIC GRIM, OF COUNSEL  
104 S. SIXTH STREET  
P.O. BOX 215  
PERKASIE, PA. 18944-0215  
(215) 257-6811  
FAX (215) 257-5374  
(215) 536-1200  
FAX (215) 538-9588  
(215) 348-2199  
FAX (215) 348-2520

\* ALSO ADMITTED IN NEW JERSEY  
◊ ALSO ADMITTED IN NEW YORK  
† MASTERS IN TAXATION  
♦ ALSO A CERTIFIED PUBLIC ACCOUNTANT

May 7, 2019

Raymond Yoder  
863 Blooming Glen Road  
Perkasie, PA 18944

**Re: Hilltown Township Zoning Hearing Board  
Raymond Yoder; Appeal No. 2019-002**

Dear Mr. Yoder:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated May 7, 2019, in the above captioned matter. The original of this Decision is being retained by the Township for its file.

Very truly yours,  
**Grim, Biehn & Thatcher**

  
**KELLY L. EBERLE**

KLE/kbs

Enclosures

cc: Hilltown Township Manager  
Mr. John L. Snyder  
Mr. David Hersh  
Mr. Joseph Kirschner  
Dave Taylor, Zoning Officer  
Stephen B. Harris, Solicitor

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Raymond Yoder

Appeal No. 2019-002

A hearing was held on the above matter on Thursday, March 28, 2019, 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 John Snyder, Chairman and David Hersh. In addition, Colby S. Grim, Esquire, the Board Solicitor, was in attendance as was the Board stenographer. The applicant was present and was not represented by counsel. No other individuals requested party status.

The following exhibits were admitted and accepted into evidence:

Board's Exhibits:

- B-1 Proof of Publication
- B-2 Posting Certification
- B-3 Application of Appeal to Zoning Hearing Board filed February 14, 2019 with all Attachments

Applicant's Exhibits:

- A-1 Lot Line Adjustment Plan ("Plan")

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 rendered its Decision in the above Application as more fully set forth below.

**FINDINGS OF FACT:**

The Hilltown Township Zoning Hearing Board (the “Board”), having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, hereby makes the following Findings of Fact:

1. The applicant is Raymond Yoder (“Applicant”).
2. Applicant, along with Melody J. Yoder, is the owner of the subject property located at 863 Blooming Glen Rd., Hilltown Township, Pennsylvania (“Property”).
3. The Property is otherwise identified as Bucks County Tax Parcel 15-029-026-001.
4. The Property is located in the CR-2 (Country Residential 2) Zoning District in Hilltown Township.
5. The Property is approximately 1.098 acres in size and contains an existing single-family dwelling.
6. Applicant wishes to construct a detached garage, measuring 24 feet by 32 feet or approximately 768 square feet.
7. The proposed detached garage would be located in the side yard of the Property approximately 10 feet from the side yard property line near the existing driveway.
8. Applicant seeks a variance from Section 160-23.B(1) of the Hilltown Township Zoning Ordinance, which requires a minimum side yard setback of 20 feet for all principal dwellings and accessory buildings greater than 250 square feet.
9. Applicant testified that the existing driveway is located on the one side of the existing single family home and approximately 20 feet from the boundary line.
10. Applicant further testified that if the proposed garage was located on the other side of the dwelling a new driveway would need to be constructed, mature trees would need to be

removed, existing sewer pipes would need to be relocated and would unnecessarily increase the impervious surface on the Property.

11. Applicant further testified that the proposed garage would be used to store and work on his personal vehicles.

12. Applicant further testified that the proposed garage would not be used for a business.

13. Applicant further testified that all equipment would be stored inside the garage and nothing would be stored outside the structure.

14. Applicant further testified that the proposed garage would be constructed to fit the character of the neighborhood.

15. Applicant further testified that the garage and/or use of the garage would not cause additional noise or be a nuisance to any neighboring property owners.

#### **DISCUSSION:**

Applicant is before this Board requesting a variance from Hilltown Zoning Ordinance §160-23.B(1) which requires a 20 foot minimum side-yard setback. Applicant desires to construct a detached garage to the side of his existing single family dwelling and near his existing driveway with only a 10 foot side-yard setback.

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 upon the testimony and documentary evidence and plans presented, the Board finds that the Applicant has shown that the Property has unique physical circumstances, peculiar to the Property, the existence of a hardship, that was not self-created, which requires the grant of a variance from §160-23.B(1). The Board concludes that the relief requested, to construct a detached garage within 10 feet of the boundary line is the minimum variance necessary to afford relief to the Applicant and is in keeping with the spirit of the Zoning Ordinance. Additionally, the Board finds that the variance, as requested, would not be injurious or detrimental 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 8<sup>th</sup> day of May, 2018 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:


1. The garage shall be located no closer than 10 feet from the side yard property line.
2. Applicant shall locate the detached garage as shown on Exhibit A-1.

3. Applicant shall otherwise comply with all other applicable Township, County, State and/or Federal Laws and regulations, with respect to construction and use of the Property in accordance with the testimony presented and in accordance with the Exhibits A-1.

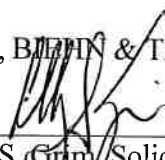
The Hilltown Township Zoning Hearing Board hereby deems the foregoing conditions as necessary and warranted under the terms of the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

HILLTOWN TOWNSHIP ZONING  
HEARING BOARD

By:   
John Snyder, Chairman

By:   
David Hersh

GRIM, BISHIN & THATCHER

By:   
Colby S. Grim, Solicitor  
104 South Sixth Street, Perkasie, PA 18944

Date of Mailing: 5/8/2019