

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  
MITCHELL H. BAYLARIAN  
IAN W. PELTZMAN  
WILLIAM D. OETINGER

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

LAW OFFICES  
**GRIM, BIEHN & THATCHER**

A PROFESSIONAL CORPORATION  
SUCCESSOR TO  
GRIM & GRIM AND BIEHN & THATCHER  
ESTABLISHED 1895 AND 1956,  
RESPECTIVELY  
124TH ANNIVERSARY 1895-2019

[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

September 6, 2019

Brian Filips  
Christine Allen  
131 North Main Street  
Apt. 25  
Chalfont, PA 18914

**Re: Hilltown Township Zoning Hearing Board  
Brian Filips and Christine Allen; Appeal No. 2019-004**

Dear Mr. Filips and Ms. Allen:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated September 6, 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: Brian Filips and Christine Allen

Appeal No. 2019-004

A hearing was held in the above matter on Thursday August 8, 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, Kelly Eberle, Esquire, the Board Solicitor, was in attendance as was the Board stenographer. Applicant was present and testified on their own behalf. 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 of July 8, 2019 to Neighbors from K. Eberle

Applicant's Exhibits

- A-1 Application for Appeal to Zoning Hearing Board filed June 20, 2019
- A-2 Lot Layout Plan dated May 28, 2019

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 on 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. Applicant is Brian Filips and Christine Allen (“Applicant”).
2. Applicant is the owner of the subject property located at 433 Broad Street, Hilltown Township, Pennsylvania (“Property”) in the RR-Rural Residential Zoning District in Hilltown Township.
3. The Property is otherwise identified as Bucks County Tax Parcel No. 15-034-088-003.
4. The Property is a 1.15 acre unimproved, wooded lot.
5. The surrounding properties are also wooded lots, upon which single-family dwellings are being constructed.
6. The Property is fairly flat and slopes to the rear.
7. Applicant purchased the Property intending to construct a single-family home with related improvements including a driveway and sewage facilities.
8. The proposed dwelling is a 2-story, colonial style residence with four bedrooms, two and one-half bathrooms, and an unfinished basement.
9. The residence will be approximately 2,500 square feet and will include a 2-car garage.
10. While Applicant desires to keep the Property relatively wooded, Applicant needs to clear a portion of the Property in order to permit construction.

11. Section 160-28(D) (Environmental Performance Standards) of the Hilltown Township Zoning District limits woodland disturbance to a maximum of 20%.

12. In order to construct the residence, driveway, and sewage facilities, Applicant proposes to clear .59 acres of the 1.15-acre lot, which equals approximately 52% of the Property.

13. Accordingly, Applicant is requesting a variance from Section 160-28(D) of the Zoning Ordinance to permit the clearance of .59 acres of the 1.15-acre lot.

14. The Zoning Ordinance defines “woodlands” as follows:

Areas, groves, or stands of mature or largely mature trees the majority of which are greater than six inches caliper measured four feet above grade covering an area greater than ¼ acre; or groves of mature trees without regard to minimum area consisting of more than 10 individual specimens which are greater than 12 inches caliper measured four feet above grade.

15. The requested disturbance accounts for a full amount of disturbance to all vegetation on the Property, not just meeting the definition of “woodlands.”

16. There is no other location on the Property on which Applicant could construct the proposed improvements that would result in less clearing.

17. The location was chosen as the least impactful to the Property and surrounding area.

**DISCUSSION:**

Applicant is before the Zoning Hearing Board requesting a variance from 160-28(D) (Environmental Performance Standards) of the Hilltown Township Zoning Ordinance, which limits the clearing of development of woodlands to 20% in order to clear approximately 52% of a vacant lot.

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 Applicant has shown the existence of a hardship, not self-created, and unique and peculiar to the Property, which requires the grant of a variance from Section 160-28.D of the Hilltown Township Zoning Ordinance. The Board concludes that the relief requested, an increase in the permitted woodland disturbance to allow Applicant to clear .59 acres of the 1.15 acre Property, 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 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**

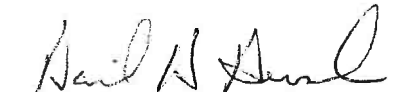
AND NOW, this 10 day of September, 2019 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. No more than .59 acres of the Property shall be cleared;
2. The proposed dwelling shall be located substantially as shown on A-2;
3. Applicant shall otherwise comply with all other applicable Township, state, and/or county laws, regulations, with respect to construction and use.

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, BIEHN & THATCHER

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

Date of Mailing: 9-6-19