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September 6, 2019

Diane Marks
Monogram Custom Pools
6366 Robin Lane
Coopersburg, PA 18036

Amy and William Van Sant
105 Nicholas Drive, Hilltown
Hatfield, PA 19440

**Re: Hilltown Township Zoning Hearing Board
Monogram Custom Pools; Appeal No. 2019-005**

Dear Ms. Marks:

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: Monogram Custom Pools

Appeal No. 2019-005

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. The property owners were present on Applicant's 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 5, 2019 to Neighboring Property Owners from K. Eberle

Applicant's Exhibits

- A-1 Application for Appeal to Zoning Hearing Board filed June 26, 2019
- A-2 Grading/Erosion Control Plan dated 3/5/19
- A-3 Email from William Van Sant III dated 8/7/19¹

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.

¹ Exhibit A-3 was admitted to acknowledge its receipt only.

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 Monogram Custom Pools (“Applicant”), with an address of 6366 Robin Lane, Coopersburg, Pennsylvania 18036.
2. The owners of the subject property located at 105 Nicholas Drive, Hilltown Township, Pennsylvania (“Property”) are William F. Van Sant III and Amy C. Van Sant (“Owners”).
3. The Property is otherwise identified as Bucks County Tax Parcel No. 15-060-001.
4. The Property is located in the RR – Rural Residential Zoning District in Hilltown Township and is part of a B3 Cluster subdivision.
5. The Property is approximately 30,186 square feet (.69 acres) and is improved by a single-family dwelling and related improvements.
6. The Property is serviced by public water and sewer.
7. The Property is surrounded by residential properties to the north and northeast; the adjoining southwesterly lot contains only a detention basin for stormwater management and to the rear of the Property is a wooded area.
8. The Property currently has a total impervious surface coverage of 20%, which is the maximum allowed for a B3 Cluster subdivision property in the RR Zoning District. *See Hilltown Township Zoning Ordinance §160-26.*

9. The Owners wish to install a 750 square foot in-ground swimming pool with surrounding concrete patio, coping, a water feature wall, shed, and related equipment pad. Owners have hired Applicant to perform the work.

10. The proposed construction will result in a total impervious surface coverage of 23% on the Property.

11. Applicant has reduced the size of the proposed surrounding decking in order to attempt to minimize the impervious surface area.

12. Accordingly, Applicant is requesting a variance from §160-26 of the Zoning Ordinance to permit a 3% increase in the permitted impervious surface coverage.

13. In order to address any potential water runoff from the increased impervious surface coverage, Applicant proposes to connect the existing gutters and downspouts to a stone-filled infiltration bed, which will be located to the southwest of the proposed pool.

14. Presently, the Property does not experience any issues with standing water; water drains to the south and rear of the Property and is directed towards the detention basin on the adjoining southwesterly lot.

DISCUSSION:

Applicant is before the Zoning Hearing Board requesting a variance from Section 160-26 of the Hilltown Township Zoning Ordinance, which provides for a maximum impervious surface area of 20% of single-family cluster properties in the RR-Rural Residential Zoning District.

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 160-26 of the Hilltown Township Zoning Ordinance. The Board concludes that the relief requested, an increase impervious surface coverage from a maximum of 20% to a maximum of 23% in order to permit the construction of an in-ground swimming pool with surrounding concrete patio, coping, water feature wall, shed, and related equipment pad, 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 and Owners the opportunity to reasonably use the Property.

DECISION AND ORDER

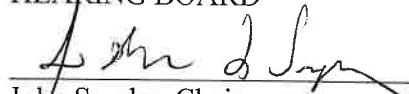
AND NOW, this 6 day of September 2019 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The impervious surface coverage on the Property shall not exceed 23%;
2. Construction shall be done in conformity with A-2 and testimony presented before the Board; and
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