

MARY C. EBERLE
JOHN B. RICE
DIANNE C. MAGEE *
DALE EDWARD CAYA
DAVID P. CARO ♦
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COLBY S. GRIM
MICHAEL K. MARTIN
MITCHELL H. BAYLIAN
IAN W. PELTZMAN
WILLIAM D. OEFINGER

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

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www.grimlaw.com

Kelly L. Eberle
e-mail: keberte@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

August 13, 2020

Kristin and Lewis Goettner
720 Mill Road
Hatfield, PA 19440

**Re: Hilltown Township Zoning Hearing Board
Kristin and Lewis Goettner; Appeal No. 2020-006**

Dear Mr. and Mrs. Goettner:

Please find enclosed herewith, a copy of the Decision of the Hilltown Township Zoning Hearing Board dated August 13, 2020, 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 the enclosed.

Very truly yours,
Grim, Biehn & Thatcher


KELLY L. EBERLE

KLE/kbs
Encls.

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

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Kristin and Lewis Goettner

Appeal No. 2020-006

A hearing was held in the above matter on Thursday, July 9, 2020 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, David Hersh, and Stephen Yates. In addition, Peter Nelson, the Board Solicitor, was in attendance, as was the Board stenographer. 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 June 28, 2020 to neighbors from K. Eberle

Applicant's Exhibits

A-1 Application with 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 Hilltown Township Zoning Hearing Board (the "Board"), having considered the sworn testimony and credibility of all witnesses and the documentary evidence received, and a quorum of members present, hereby makes the following Findings of Fact:

1. Applicants are Kristin and Lewis Goettner.
2. Applicants are the owners of the real property located at 720 Mill Road, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-060-027.
3. The Property is located in the RR-Rural Residential Zoning District in Hilltown Township.
4. Applicants wish to construct an in-ground pool with related improvements, including coping, a shed, and pool equipment.
5. Applicants seek a variance from Zoning Ordinance §160-26 in order to increase the impervious surface ratio to a total of 26.8% rather than the permitted 20%.
6. Applicants' Property currently has a non-conforming impervious surface ratio of 24.3%.
7. Robert McCubbin of Sylvan Pools testified on behalf of Applicants and in support of their request for a variance.
8. The existing impervious surfaces upon the Property total 7,299 square feet, and Applicants are proposing to remove 167 square feet of this existing impervious surface as a part of this pool project.

9. Applicants are proposing to add the following impervious surfaces as a part of this pool project:

Pool Deck	410 sq.ft.
Pool Coping	107 sq.ft.
Equipment Pad	32 sq.ft.
New Boulder Wall	194 sq.ft.
Shed	168 sq.ft.
TOTAL ADDED	911 sq.ft.

II. DISCUSSION:

Applicants are before this Board requesting relief in connection with the construction of an in-ground pool and related improvements. Applicants seek a variance from Zoning Ordinance §160-26 in order to increase impervious surface ratio to a total of 26.8% rather than the permitted 20%. Applicants' Property currently has a non-conforming impervious surface ratio of 24.3%.

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 Applicants have shown the existence of a hardship, not self-created, and unique and peculiar to the property, which requires the grant of the variance from the impervious surface requirements set forth in §160-26 of the Zoning Ordinance, subject to the conditions set forth herein. Additionally, the Board finds that the variance as requested, an increase in impervious surface coverage from 24.3% to a maximum of 26.8%, would not be injurious to the health, safety, and welfare of the surrounding community and constitutes the minimum relief necessary to afford Applicants the opportunity to reasonably use the Property.

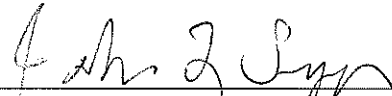
DECISION AND ORDER

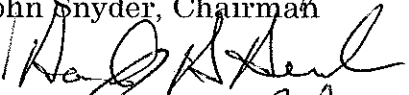
AND NOW, this 13th day of August, 2020 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

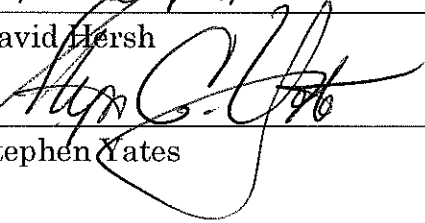
1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing.
2. Applicants shall comply with all other Township, County, and State laws, regulations with respect to construction and use.

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.

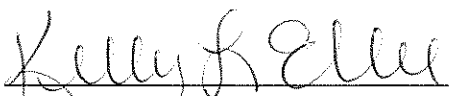
HILLTOWN TOWNSHIP ZONING
HEARING BOARD

By: 
John Snyder, Chairman

By: 
David Hersh

By: 
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 8-13-20