

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Travis Dent

Appeal No. 2020-016

A hearing was held in the above matter on Thursday, December 10, 2020 at 7:45 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 Stephen C. Yates¹. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and Wendy Falzone of 3210 Berry Brow Drive, Chalfont, Pennsylvania 18914, requested and was granted 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 November 24, 2020 to neighbors from K. Eberle

B-4 Letter from Property Owner, Michael Dent, granting permission to Applicant

Applicant's Exhibits

A-1 Application

¹ Hilltown Township Zoning Hearing Board Officer Dave Hersh recused himself from this matter.

A-2 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 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

1. Michael Dent is the owner of the real property located at 735 Hilltown Pike, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-032-020-002.
2. Applicant is Travis Dent, a tenant at the Property, who was granted permission by Michael Dent to submit the application.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property is narrow, and while the front portion of the Property is fairly level, the rear portion contains a significant slope.
5. The parcel adjoining the Property is a wooded lot that was previously used as a quarry but has since been filled in ("Adjoining Parcel").

6. The Adjoining Parcel is also designated as a Superfund site, which requires it to be monitored by the EPA.

7. Because of the unstable materials which resulted from filling in the prior quarry and its designation as a Superfund site, the Adjoining Parcel cannot be developed.

8. Applicant wishes to install a 30-foot by 40-foot shed in the side-yard of the Property.

9. The proposed shed will be approximately 16 feet at its peak and will be used as storage for personal property and equipment.

10. The proposed shed will be located approximately 10 feet from the side-yard property line that separates the Property from the Adjoining Parcel.

11. §160-23.B(1) of the Hilltown Township Zoning Ordinance requires a minimum side yard setback of 25 feet for a residential property in the Rural Residential Zoning District.

12. Moving the shed any farther from the side-yard property line would interfere with the septic holding tank.

13. Similarly, Applicant cannot move the proposed location of the shed into the rear yard due to the substantial slope.

14. Applicant will not need to remove any trees or do any other clearing in order to install the shed in the proposed location.

15. Accordingly, Applicant requests a variance from §160-23.B(1) to allow for a 10 foot side yard setback as opposed to the required 25 foot side yard setback.

II. DISCUSSION:

Applicant is before this Board requesting relief in connection with the installation of a 30' by 40' shed. Applicant seeks a variance from §160-23.B(1) to allow for a 10-foot side yard setback as opposed to the required 25-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 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 the variance from §160-23.B(1). Additionally, the Board finds that the variance

as requested, a reduction in side yard setback from 25 feet to 10 feet, 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.

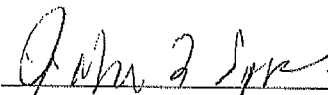
DECISION AND ORDER

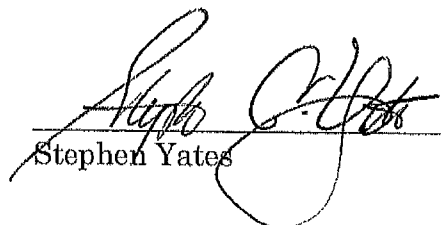
AND NOW, this 22 day of Jan, 2021 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed construction shall be done in accordance with Application, plans, and testimony presented at the hearing.
2. Applicant 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: 
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: 1/22/21