

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Heidi and Nicholas Daley

Appeal No. 2022-005

A hearing was held in the above matter on Thursday, April 14, 2022 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 C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicants were present, and 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 March 28, 2022 to neighboring properties from K. Eberle
- B-4 Adjudication No. 2016-005 dated June 2, 2016

Applicants' Exhibits

- A-1 Application with all 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 with a quorum of members present, hereby makes the following Findings of Fact:

1. Applicants are Heidi and Nicholas Daley.
2. Applicants are the owners of the real property located at 109 Carlton Place, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-001-139-020.
3. The Property is a 1.16-acre lot located in the CR-2 (Country Residential 2) Zoning District in Hilltown Township.
4. Applicants wish to add a shed at the rear of their property.
5. The shed will be approximately 20 feet by 11 feet, 8 inches and will sit on stone.
6. The shed will be located in open space in the rear of the property, which abuts to the neighbor's rear yard.
7. Applicants were previously granted a variance from §160.26 Attachment 3-Table of Performance Standards in Appeal No. 2016-005 that increased the impervious surface coverage from the maximum permitted 14% to 15.5% with the condition that the impervious surface coverage shall not exceed 15.5%.
8. Applicants now request a variance from §160.26 Attachment 3-Table of Performance Standards and the Adjudication No. 2016-005, to permit an additional 240 square feet, or 0.5%, of impervious surface coverage.
9. Other than the requested variance, the proposed shed will otherwise comply with all requirements of the Zoning Ordinance, including setback requirements.

## II. DISCUSSION:

Applicants are before this Board requesting a variance from §160.26 Attachment 3-Table of Performance Standards and Adjudication No. 2016-005 in order to increase the impervious surface coverage by 240 square feet, which is equivalent to a 0.5% increase.

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 Zoning Ordinance §160.26 Attachment 3-Table of Performance Standards and Adjudication No. 2016-005. Additionally, the Board finds that the variance as requested, a 240 square foot, or 0.5%, increase in impervious surface coverage, 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 27<sup>th</sup> day of May, 2022 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: DocuSigned by:  
*John Snyder*  
John Snyder, Chairman

By: DocuSigned by:  
*David Hersh*  
David Hersh

By: DocuSigned by:  
*Stephen Yates*  
Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: May 31, 2022