

**HILLTOWN TOWNSHIP ZONING HEARING BOARD**

In Re: Raymond and Diane Lagomarsino

Appeal No. 2022-012

A hearing was held in the above matter on Thursday, March 2, 2023 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 Stephen C. Yates. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present. 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 January 30, 2023 to Neighboring Properties from K. Eberle
- B-4 Letter from Applicant to K. Eberle dated February 14, 2023 Requesting Continuance

Applicant's Exhibits

- A-1 Color Map
- A-2 Enlarged Map
- A-3 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. Applicant is Raymond and Diane Lagomarsino ("Applicant").
2. Applicants are the owners of the real property located at 1311 Diamond Street, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-011-036.
3. The Property is located in the CR-1 – Country Residential - 1 Zoning District in Hilltown Township.
4. The Property is improved by a single-family dwelling, a patio, in-ground swimming pool, and related improvements, including an existing shed.
5. The existing shed is approximately 192 square feet and is located 18 feet from the side-yard property line.
6. Applicants wish to remove the existing shed and replace it with a larger shed, which would be located approximately 10 feet from the side-yard property line.
7. Applicant is requesting a variance from §160-23B.(1) of the Hilltown Township Zoning Ordinance, which requires a 20 foot side yard setback in order to allow for a 10-foot side yard setback.
8. The proposed shed will be approximately 24'x 32' with a maximum peak of 17' and will have electrical service.

9. The proposed shed will have two garage doors along the rear and one on the side.
10. The shed will be used for storage, lawn equipment, and for personal car projects.
11. The adjacent parcel is a flag lot with an approximately 50 foot driveway.
12. The proposed shed would be located on a portion of the Property that runs along the neighboring property's driveway and will utilize a row of evergreen trees as a buffer.
13. The neighboring property owner's dwelling is approximately 800 feet from the proposed location of the shed.
14. The proposed location allows the least disruption to the Property, does not impact the current drainage pattern on the Property, and allows Applicant to preserve the existing oak trees.
15. The proposed shed will not have an adverse impact on the surrounding properties.

II. DISCUSSION:

Applicant is before this Board requesting a variance from §160-23B.(1) of the Zoning Ordinance in order to allow for a 10-foot side yard setback as opposed to the required 20-foot side yard setback in connection with the construction and installation of a shed.

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 Zoning Ordinance §160.23.B(1). Additionally, the Board finds that the variance as requested, a 10-foot side yard setback as opposed to the required 20-foot side yard setback, 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 13 day of April, 2023 the Hilltown Township Zoning

Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The construction and installation of the proposed shed shall be done in conformity with the exhibits and testimony presented before the Board.
2. Applicant shall install a minimum of four (4), 6'-7'tall evergreen trees between the proposed shed and the property line to act as a screening buffer.
3. Applicant agrees that the proposed shed will not be used as an apartment or dwelling unit.
4. 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: DocuSigned by:  
*Stephen Yates*  
\_\_\_\_\_  
Stephen Yates

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

Date of Mailing: 04/13/23