

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: General Hancock Partnership Enterprises, L.P.
Appeal No. 2023-001

A hearing was originally scheduled for Thursday, February 16, 2023 at 7:00 p.m. at the Hilltown Township Municipal Building. At that time, the matter was opened and, upon Applicant's request, was continued until Thursday, March 16, 2023 at 7:00 p.m., at which time a hearing was held. Notice of the original 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 and represented by Amy Ferrell, Esquire. The following individuals requested, and were granted, party status:

<u>Name</u>	<u>Address</u>	<u>Objected to by Applicant (Y/N)</u>
Carol Correll	524 S. Perkasio Rd, Perkasio, PA 18944	N
Joseph Tranchitella	1405 Seven Corner Rd 605 Callowhill Rd	Y
Margaret Graham and Michael Jones	518 S. Perkasio Rd, Perkasio, PA 18944	N
Cynthia Wolf Chavous	1621 Seven Corner Rd	Y
William White	609 Callowhill Rd, Perkasio, PA 18944	N
Michael Purdie	511 S. Perkasio Rd. Perkasio, PA 18944	N
Dave and Angela Leopold	1406 Seven Corner Rd, Perkasio PA 18944 1203 Seven Corner Rd, Perkasio, PA 18944	N
Stephen J. Noll	1408 Seven Corner Rd, Perkasio, PA 18944	Y

Dori Eberhardt	1510 Seven Corner Rd, Perkasie, PA 18944	Y
Jeffrey Herman	530 S. Perkasie Rd, Perkasie, PA 18944 532 S. Perkasie, Rd, Perkasie, PA 18944	N

Where noted, counsel for Applicant objected to party status on the basis that, despite being within 500 feet of the Property, the individual resided in the adjoining municipality of East Rockhill Township. The Board granted party status over counsel's objections.

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 Neighbors from K. Eberle
- B-4 E-Mail dated February 13, 2023 from G. Adelman to K. Eberle regarding continuance request
- B-5 Entries of Appearance – Party Status

Applicant's Exhibits

- A-1 Application with all Attachments
- A-2 CV of Timothy P. Woodrow, P.E.
- A-3 Zoning Plan
- A-4 Cul-de-sac 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 Fact:

1. The applicant is General Hancock Partnership Enterprises, L.P. ("Applicant").
2. Applicant is the owner of the real property located at 100 South Perkasio Road and Dublin Way, Hilltown Township, Pennsylvania more specifically identified as Bucks County Tax Parcel Nos. 15-011-078-002 and 15-011-076 ("Property").
3. In addition, the Property is comprised of a third parcel consisting of 2.82 acres located in East Rockhill Township.
4. The Hilltown portion of the Property is comprised of 26.49 acres and is located in the RR – Rural Residential and CR-2 – Country Residential 2 Zoning District in Hilltown Township.
5. The Property is bounded by Seven Corner Road in East Rockhill Township and South Perkasio Road in Hilltown Township.
6. The Property is mostly open in meadow condition with some portions of the Property containing woodland areas. There is also an existing dwelling on the Property.
7. Most of the woodland areas are secondary growth.
8. The topography of the Property runs uphill from Seven Corner Road until it hits the apex of the hill, and then the Property slopes down towards a wooded area with steep slopes.
9. The total portion of the Property containing woodland areas is 6.457 acres.
10. In addition to the woodland areas, the property contains 1.832 acres of 8-15% steep slopes, 1.074 acres of 15-25% steep slopes, and .0597 acres of 25%+ steep slopes.

11. Applicant proposes to remove the existing dwelling and construct a 21-unit single-family home residential development, together with associated development-related improvements.

12. The proposed development will meet all density and dimensional requirements for each individual lot.

13. Part of the proposed improvements includes a proposed through road from Seven Corner Road to South Perkasio Road along which the proposed single-family dwellings will be constructed.

14. The proposed road will be 2 lanes and 32 feet wide.

15. The proposed road is designed using Hilltown Township road standards and will have a maximum slope of 10%; however, given the that the current slope of the Property is much greater, Applicant will need to excavate, thereby disturbing the steep slopes.

16. In addition, the proposed road will result in disturbance to a portion of the woodland areas.

17. In order to install the through road and complete the improvements, Applicant requests the following variances from the Hilltown Township Zoning Ordinance ("Zoning Ordinance") in connection with the proposed development: 1) from §160-28B 8-15% Steep Slopes, to permit a disturbance of 54.32% as opposed to the allowable 40%; 2) from §160-28B 15-25% Steep Slopes, to permit a disturbance of 44.88% as opposed to the allowable 30%; 3) from §160-28B 25%+ Steep Slopes, to permit a disturbance of 27.81% as opposed to the allowable 15%; and 4) from §160-28C Forest (Woodlands), to permit a disturbance of 35% as opposed to the allowable 20%.

18. The total amount of excess steep slope disturbance requested is .5 acres, and the total excess woodland disturbance is 1 acre.

19. The relief requested for steep slope disturbance is specific to the upper end of the Property most adjacent to South Perkasio Road, while the proposed woodland disturbance occurs in various locations across the Property.

20. Applicant had proposed a different design for the development, which utilized a cul-de-sac instead of a through road, and which would not require any zoning relief; however, Applicant was not granted the necessary waiver of the maximum length of the cul-de-sac.

21. It is not possible to construct the through road without disturbing the steep slopes or woodlands.

22. Applicant will utilize retaining walls to mitigate some of the requested relief.

II. DISCUSSION:

Applicants are before this Board requesting several variances for steep slope and woodland disturbance in connection with the construction of construct a 21-unit single-family home residential development together with associated development-related improvements including a through road that will connect Seven Corner Road to South Perkasio Road.

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 the Applicants have shown the existence of a hardship, not self-created, and unique and peculiar to the Property that requires the grant of the following variances: 1) from §160-28B 8-15% Steep Slopes, to permit a disturbance of 54.32% as opposed to the allowable 40%; 2) from §160-28B 15-25% Steep Slopes, to permit a disturbance of 44.88% as opposed to the allowable 30%; 3) from §160-28B 25%+ Steep Slopes, to permit a disturbance of 27.81% as opposed to the allowable 15%; and 4) from §160-28C Forest (Woodlands), to permit a disturbance of 35% as opposed to the allowable 20%.

Additionally, the Board finds that the variances 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 26th day of April, 2023 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed disturbances shall not exceed the amounts shown on A-3.
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
DocuSigned by:

By: _____
Stephen Yates
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 Stephen Yates

GRIM, BIEHN & THATCHER

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

Date of Mailing: April 27, 2023