

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Ronald R. Johnson and Ryan Ann Lane Johnson

Appeal No. 2023-006

A hearing was held in the above matter on Thursday, March 23, 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. Applicants were present and represented by Gavin R. Laboski, Esq. 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 6, 2023 to Neighbors from K. Eberle
- B-4 Application with all attachments

Applicants' Exhibits

- A-1 Series of 5 Aerial Photographs

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 applicants are Ronald Johnson and Ryan Anne Johnson ("Applicants").
2. Applicants are the owners of the real property located at 1129 Petrick Lane, Chalfont, Hilltown Township, Pennsylvania ("Property"), more specifically identified as Bucks County Tax Parcel No. 15-034-082-017.
3. The Property is located in the RR (Rural Residential) Zoning District in Hilltown Township.
4. The Property is improved with a 3,145 square-foot single-family dwelling with related improvements including a driveway, stone walkway, and patio.
5. The dwelling was built in 2007 and was purchased by Applicants in 2020.
6. There is an existing swale that is protected by a conservation easement on the front of the Property.
7. In order to avoid the swale, the dwelling had to be located approximately 100 feet farther back from the front property line, which in turn increased the length of the driveway by 100 extra feet.
8. As a result of the increased driveway length as well as the other improvements, the existing impervious surface coverage on the Property is 15.7%.
9. Pursuant to §160-23.B(1), the maximum impervious surface coverage permitted in the RR Zoning District is 15%.
10. Accordingly, the Property has an existing non-conformity as to impervious surface.

11. Applicants wish to install an in-ground swimming pool in the rear yard together with surrounding decking and pool equipment.

12. In total, the proposed pool and related improvements will add 795 square feet of impervious surface to the Property, which will result in a total impervious surface coverage of 17.2%.

13. Accordingly, Applicants request a variance from §160-23.B(1) to permit a total impervious surface area of 17.2% as opposed to the maximum allowable of 15%.

II. DISCUSSION:

Applicants are before this Board requesting a variance from §160-23.B(1) to permit 17.2% of impervious area as opposed to the maximum allowable of 15% for the installation of an in-ground swimming pool.

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 variance from §160-23.B(1) to permit 17.2% of impervious area as opposed to the maximum allowable of 15%. 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 8th day of May, 2023 the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. The proposed swimming pool and related improvements shall be done in conformity with the Plan.
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
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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
 Perkasio, PA 18944

Date of Mailing: 5/9/2023