

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Jeshal Mistry

Appeal No. 2025-008

A hearing was held in the above matter on Wednesday, July 16, 2025, 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 D. Brooke Rush, Chairman, Stephen C. Yates, Vice Chairman, and Matthew Knox. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present and testified on his own behalf.

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 June 20, 2025 to Neighboring Property Owners from K. Eberle

Applicant's 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

1. The Applicant is Jeshal Mistry (“Applicant”).
2. The subject property is the real property located at 502 East Creamery Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-028-155 (“Property”).
3. The Property is located in the RR-Rural Residential Zoning District.
4. The Property is improved by a single-family dwelling on 2.418 acres.
5. Applicant wishes to own and raise chickens on the Property.
6. The Hilltown Township Zoning Ordinance §160-23. I(17) requires a minimum of three acres for the keeping of poultry accessory to a single-family dwelling.
7. §160-23. I(17) permits a maximum of 50 fowl on a three acre lot; however, the Zoning Ordinance does not provide for any fowl on a lot less than three acres.
8. Accordingly, Applicant requests a variance from Zoning Ordinance §160-23. I(17) to permit an accessory residential agricultural use on a 2.418-acre property in order to keep a maximum of 12 chickens on the property.
9. Applicant has agreed to house only 12 hens and no roosters.
10. The Property is fenced and can be fully closed, but the hens would live in a 6’x18’ high end Carolina style coop and not roam free except when actively supervised.
11. The coop would meet setback requirements and would be more than 100 feet from the closest neighboring dwelling.
12. While Applicant believes there is an economic benefit to having eggs, Applicant has no intention of selling eggs.

13. Applicant also has no intention of having a petting zoo or any other commercial enterprise with owning the hens.

14. Applicant believes that raising hens has eco-friendly environmental benefits, contributes to the community and economy and promotes sustainability and educational enrichment for his family.

II. DISCUSSION AND CONCLUSIONS OF LAW

Applicant requests a variance from Zoning Ordinance §160-23. I(17) to permit an accessory residential agricultural use on a 2.418 acre parcel rather than the required minimum of three acres in order to keep a maximum of 12 hens on the Property.

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 Applicant has shown the existence of a hardship, not self-created, and unique and peculiar to the Property that requires the grant of the variance from Zoning Ordinance §160-23. I(17) to keep a maximum of 12 hens on the Property. Additionally, the Board finds that the variance, with the conditions imposed in the Order, 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 2nd day of September, 2025, the Hilltown Township Zoning Hearing Board hereby grants the zoning relief requested conditioned as follows:

1. Applicant shall be limited to 12 hens. No roosters shall be permitted.
2. The use shall be done in conformity with the A-1 and the testimony presented to the Board.
3. Applicant shall otherwise comply with all other Township, County, and/or State laws regarding construction and use.

The Hilltown Township Zoning Hearing Board deems the foregoing conditions necessary and warranted under the Hilltown Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:
Brooke Rush
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D. Brooke Rush, Chairman

By: DocuSigned by:
Stephen Yates
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Stephen C. Yates

By: Signed by:
Matthew Knox
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Matthew Knox

GRIM, BIEHN & THATCHER

By: DocuSigned by:
Kelly L. Eberle
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Perkasie, PA 18944

Date of Mailing: 9/3/2025