

MARY C. EBERLE
JOHN B. RICE
DIANNE C. MAGEE *
DALE EDWARD CAYA
DAVID P. CARO ♦
DANIEL J. PACI ♦ †
JONATHAN J. REISS ◇
GREGORY E. GRIM †
PETER NELSON *
PATRICK M. ARMSTRONG
MATTHEW E. HOOVER
KELLY L. EBERLE *
COLBY S. GRIM
MICHAEL K. MARTIN
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DAVID A. KEIGHTLY, JR.
ERIK S. ALLGOOD
MICHAEL A. TUOSTO *◇

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www.grimlaw.com

Kelly L. Eberle
e-mail: keberle@grimlaw.com

J. LAWRENCE GRIM, JR., OF COUNSEL
JOHN FREDERIC GRIM, OF COUNSEL

104 S. SIXTH STREET
P.O. BOX 215
PERKASIE, PA. 18944-0215
(215) 257-6811
FAX (215) 257-5374

(215) 536-1200
FAX (215) 538-9588

(215) 348-2199
FAX (215) 348-2520

* ALSO ADMITTED IN NEW JERSEY
◇ ALSO ADMITTED IN NEW YORK
† MASTERS IN TAXATION
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September 4, 2026

Michael Jones
602 Church Road
Hatfield, PA 19440

**Re: Hilltown Township Zoning Hearing Board
Michael Jones; Appeal No. 2026-008**

Dear Mr. Jones:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated September 3, 2026 in the above-captioned matter. The original of this Decision is being retained by the Township for its file.

Thank you for your attention to this matter.

Very truly yours,
Grim, Biehn & Thatcher



KELLY L. EBERLE

KLE/ben
Encl.

cc: Hilltown Township Manager (w/encl.)

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: Michael Jones

Appeal No. 2026-008

A hearing was held in the above matter on Wednesday, July 22, 2026, 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 Stephen C. Yates, Chairman, D. Brooke Rush, and Matthew Knox. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicant was present, and Nathan Simcox of Holmes and Cunningham Engineering testified on Applicant's behalf. No other 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 June 22, 2026 to Neighboring Property Owners from K. Eberle
- B-4 Letter from Township Solicitor, J. Wuerstle, dated July 1, 2026

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 Michael Jones (“Applicant”).
2. Applicant is the record owner of the real property located at 602 Church Road, Hilltown Township, Pennsylvania, further identified as TMP 15-022-172 (“Property”).
3. The Property is located in the RR – Rural Residential Zoning District.
4. The Property is an existing non-conforming triangular sized lot with a lot area of approximately 28,913 square feet.
5. The Property is improved with an existing single-family dwelling and related improvements including sheds, a deck, walkways, and a patio.
6. The Property is also served by an on-lot sewage system.
7. Applicant purchased the Property in 2019.
8. Applicant removed landscaping and grass areas surrounding the dwelling and installed multiple concrete or otherwise impervious ramps to minimize the need to walk on grass areas due to existing injuries.
9. With the existing improvements on the Property, the current impervious surface coverage is 34.30%.
10. Applicant does not know what the impervious surface on the Property was at the time he purchased it.
11. Applicant wishes to install an in-ground swimming pool, equipment pad, and related improvements in the rear yard.
12. As proposed, the pool itself would be approximately 331 square feet.

13. In addition, the other desired improvements include an equipment pad and patio areas totaling approximately 288 square feet.

14. The proposed improvements will increase the current impervious surface coverage to 36.50% of the Property; therefore, significantly exceeding the maximum impervious surface coverage permitted by Zoning Ordinance §160-26.

15. Applicant does intend to install a stormwater infiltration trench to help mitigate the increased impervious surface.

16. Accordingly, Applicant requests a variance from Zoning Ordinance §160-26 to permit a maximum impervious surface ratio of 36.50% rather than the maximum permitted 15% in connection with the construction and installation of an in-ground swimming pool and related improvements.

17. The Township, via letter from its Solicitor, Jack D. Wuerstle, Esq., raised concerns about the amount of impervious surface coverage and the impact it may have on neighboring properties.

II. CONCLUSIONS OF LAW

18. The Hilltown Township Zoning Ordinance §160-26 Table of Performance Standards (Bulk and Area) allows a maximum impervious surface ratio of 15% for properties in the RR Zoning District.

19. Applicant has failed to meet his burden of proof necessary to afford him the relief requested from the Zoning Ordinance.

20. Applicant would not suffer an undue hardship as a result of a unique, physical circumstance on the Property.

21. The requested variance is not necessary to enable reasonable use or development of the Property.

III. DISCUSSION

Applicant requests a variance from Zoning Ordinance §160-26 Table of Performance Standards (Bulk and Area) to permit 36.5% impervious surface coverage rather than the maximum permitted 15% in connection with the construction and installation of an in-ground swimming pool and related improvements.

In a zoning variance matter, the party seeking a variance bears the burden of proving that unnecessary hardship will result if the variance is denied and that the proposed use will not be contrary to the public interest. *Valley View Civic Ass'n v. Zoning Board of Adjustment*, 462 A.2d 637 (Pa. 1983). The burden upon the applicant requesting a variance is a heavy one. *Williams v. Salem Township*, 500 A.2d 933 (Pa. Cmwlth. 1985), appeal denied, 531 A.2d 781 (Pa. 1987). 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: 1) the property has unique physical circumstances, peculiar to the property and not generally created by the Zoning Ordinance; 2) an unnecessary hardship exists due to the uniqueness of the property, which results in an applicant's inability to develop the property or make any reasonable use of the property; 3) the applicant did not create the hardship; 4) the grant of a variance will not alter the character of the neighborhood or be a detriment to the public welfare; and 5) the variance is the minimum necessary to afford relief. 53 P.S. §10910.2(a). Variances are meant to avoid 'unnecessary' hardships not 'mere hardships.' *Larsen v. Zoning Bd. of Adjustment of City of Pittsburgh*, 672 A.2d 286 (Pa. 1996) (holding the need to provide additional space for one's family is not an unnecessary hardship).

The Board finds that the Applicant has failed to meet his burden of proof necessary to afford him the relief requested from the Zoning Ordinance. Although the Property is undersized, Applicant cannot demonstrate that he suffered an “undue hardship” as a result of the unique, physical circumstance and that such hardship was not self-created. To the extent that Applicant’s prior improvements contributed to an increase in impervious surface, that is a self-created hardship. Moreover, the inability to install an in-ground swimming pool does not rise to the level of an “undue hardship.” Accordingly, the Board finds that Applicant has failed to present evidence of undue hardship not self-created.

Finally, Applicant cannot show that the requested variance is necessary to enable reasonable use or development of the Property. In order to satisfy this element, Applicant would need to show that without the requested variances, the Property would be rendered practically useless. *Abe Oil Co., v. Zoning Hearing Board of Richmond Twp.*, 649 A.2d 182, 185 (Pa. Cmwlth. 1994); *see also Polonsky v. Zoning Hearing Board of Mt. Lebanon*, 590 A.2d 1388, 1391 (Pa. Cmwlth. 1991) (holding a property is not devoid of reasonable use merely because adherence to setbacks would make portions of yard less accessible).

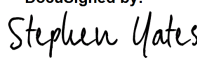
Presently, the Property is improved with a single-family dwelling and related improvements. Applicant’s inability to construct an in-ground swimming pool and other improvements in the size and location desired by Applicant on the Property does not render the Property “practically useless.” Because the Property can still be utilized without the requested variance, Applicant has failed to meet this element necessary to warrant the grant of a variance.

Based on the above, the Board finds that Applicant has failed to meet his burden of proof necessary to warrant the grant of a variance, and his requests for a variance from §160-26 is denied.

DECISION AND ORDER

AND NOW, this 3rd day of September, 2026, the Hilltown Township Zoning Hearing Board hereby denies the requested variance from the Zoning Ordinance §160-26 Table of Performance Standards (Bulk and Area) as Applicant has failed to meet the burden of proof necessary to grant the requested variance for the reasons set forth more fully herein.

HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:

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Stephen C. Yates, Chairman

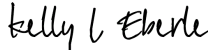
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D. Brooke Rush

By: Signed by:

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Matthew Knox

GRIM, BIEHN & THATCHER

By: DocuSigned by:

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Kelly L. Eberle, Solicitor
104 South Sixth Street
Perkasie, PA 18944

Date of Mailing: 9/4/2026

MARY C. EBERLE
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September 4, 2026

David and Jenni Nelk
306 Moyer Road
Perkasie, PA 18944

**Re: Hilltown Township Zoning Hearing Board
David and Jenni Nelk; Appeal No. 2026-007**

Dear Mr. and Mrs. Nelk:

Please find enclosed herewith a copy of the Decision of the Hilltown Township Zoning Hearing Board dated September 3, 2026 in the above-captioned matter. The original of this Decision is being retained by the Township for its file.

Thank you for your attention to this matter.

Very truly yours,
Grim, Biehn & Thatcher



KELLY L. EBERLE

KLE/ben
Encl.

cc: Hilltown Township Manager (w/encl.)

HILLTOWN TOWNSHIP ZONING HEARING BOARD

In Re: David and Jenni Nelk

Appeal No. 2026-007

A hearing was held in the above matter on Wednesday, July 22, 2026, 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 Stephen C. Yates, Chairman, D. Brooke Rush, and Matthew Knox. In addition, Kelly L. Eberle, the Board Solicitor, was in attendance, as was the Board stenographer. Applicants were present and were not represented by counsel. 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 June 22, 2026 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. Applicants are David and Jenni Nelk (“Applicants”).
2. The subject property is the real property located at 306 Moyer Road, Hilltown Township and more specifically identified as Bucks County Tax Parcel No. 15-011-085-001 (“Property”).
3. The Property is located in the CR-2-Country Residential 2 Zoning District.
4. The Property is comprised of approximately 1.72 acres and is improved with an existing single-family dwelling, attached garage, two porches, pool, shed, and related improvements.
5. The Property slopes towards the rear of the Property.
6. Applicants seek to construct a 24’ x 24’ two-story detached garage on the Property.
7. The proposed garage is intended solely for personal use.
8. The proposed garage would have a maximum height of 17 feet and 5 inches.
9. Applicants wish to construct the proposed garage in front of the existing dwelling with access to the existing driveway.
10. Applicants chose this location in order to utilize the existing driveway, avoid additional excavation, and avoid disturbing an existing mature tree.
11. In connection with the proposed construction, Applicants requests variances from §160-23.B(1) of the Hilltown Township Zoning Ordinance (“Zoning Ordinance”) in order to permit a three-foot encroachment into the front yard setback, resulting in a front yard setback of 42 feet and from §160-23.I(2)(a)[2] in order to permit an accessory structure to be located in the front yard as more specifically described below.

II. CONCLUSIONS OF LAW

12. The Zoning Ordinance defines “front yard” as “a required or proposed yard between a structure and a street right-of-way line extending the entire length of the street line.”

13. §160-23.B(1) of the Zoning Ordinance requires front yard setback of 45 feet in the CR-2 Zoning District.

14. §160-23.I(2)(a)[2] of the Zoning Ordinance prohibits construction of residential accessory structures the front yards.

15. The proposed garage is considered an “accessory structure” under the Zoning Ordinance.

16. Applicants have failed to meet their burden of proof necessary to afford them the relief requested from the Zoning Ordinance.

17. There is no unique physical circumstance peculiar to the Property.

18. Applicants would not suffer an undue hardship as a result of a unique, physical circumstance on the Property.

19. The requested variances are not necessary to enable reasonable use or development of the Property.

III. DISCUSSION

Applicants are before this Board requesting the following variances from the Hilltown Township Zoning Ordinances in connection with the construction of a detached garage: 1) from Zoning Ordinance §160-23.B(1) to permit a proposed front yard setback of 42 feet rather than the minimum required 45 feet; and 2) from Zoning Ordinance §160-23.I(2)(a)[2] to permit the garage to be located in the front yard.

In a zoning variance matter, the party seeking a variance bears the burden of proving that unnecessary hardship will result if the variance is denied and that the proposed use will not be contrary to the public interest. *Valley View Civic Ass'n v. Zoning Board of Adjustment*, 462 A.2d 637 (Pa. 1983). The burden upon the applicant requesting a variance is a heavy one. *Williams v. Salem Township*, 500 A.2d 933 (Pa. Cmwlth. 1985), appeal denied, 531 A.2d 781 (Pa. 1987). 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: 1) the property has unique physical circumstances, peculiar to the property and not generally created by the Zoning Ordinance; 2) an unnecessary hardship exists due to the uniqueness of the property, which results in an applicant's inability to develop the property or make any reasonable use of the property; 3) the applicant did not create the hardship; 4) the grant of a variance will not alter the character of the neighborhood or be a detriment to the public welfare; and 5) the variance is the minimum necessary to afford relief. 53 P.S. §10910.2(a). Variances are meant to avoid 'unnecessary' hardships not 'mere hardships.' *Larsen v. Zoning Bd. of Adjustment of City of Pittsburgh*, 672 A.2d 286 (Pa. 1996) (holding the need to provide additional space for one's family is not an unnecessary hardship).

Based on the above, the Board finds the Applicants have failed to meet their burden of proof necessary to afford them the relief requested from the Zoning Ordinance. First, Applicants failed to present any evidence that the Property has a unique physical circumstance peculiar to the Property. The Property is not undersized or uniquely shaped. There is no evidence that the Property has any physical anomaly that would justify the grant of variances. Accordingly, Applicants have failed to meet the first element necessary to justify the grant of variances.

Even if the Applicants were able to demonstrate that there was a unique physical circumstance existing at the Property, the Applicants cannot demonstrate that they suffered an “undue hardship” as a result of the unique, physical circumstance and that such hardship was not self-created. While the location chosen may be the best and most convenient for the Applicants, that does not constitute an “undue hardship” warranting the grant of the variances. Accordingly, the Board finds that the Applicants have failed to present evidence of an undue hardship.

Finally, Applicant cannot show that the requested variances are necessary to enable reasonable use or development of the Property. In order to satisfy this element, Applicant would need to show that without the requested variances, the Property would be rendered practically useless. *Abe Oil Co., v. Zoning Hearing Board of Richmond Twp.*, 649 A.2d 182, 185 (Pa. Cmwlth. 1994); *see also Polonsky v. Zoning Hearing Board of Mt. Lebanon*, 590 A.2d 1388, 1391 (Pa. Cmwlth. 1991) (holding a property is not devoid of reasonable use merely because adherence to setbacks would make portions of yard less accessible).

Presently, the Property is improved with a single-family dwelling with an attached garage, two porches, pool, and a shed. While the Board appreciates Applicants’ desire for more storage, Applicants’ inability to construct the garage in the size and location desired by Applicants does not render the Property “practically useless.” Accordingly, Applicants have failed to meet this element necessary to warrant the grant of the variances.

Based on the above, the Board finds the Applicants have failed to meet the burden of proof necessary to warrant the grant of the variances, and their requests for a variance from §160-23.B(1) and a variance from §160-23.I(2)(a)[2] are denied.

DECISION AND ORDER

AND NOW, this 3rd day of September, 2026, the Hilltown Township Zoning Hearing Board hereby denies the variances requested from Zoning Ordinance §§160-23.B(1) and 160-23.I(2)(a)[2] as Applicants have failed to meet the burden of proof necessary to grant the requested variances for the reasons set forth more fully herein.

HILLTOWN TOWNSHIP ZONING HEARING BOARD

By: DocuSigned by:

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Stephen C. Yates, Chairman

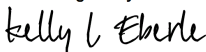
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