

**FERGUSON TOWNSHIP ZONING HEARING BOARD  
REGULAR MEETINGS  
TUESDAY, AUGUST 27, 2019  
7:00 p.m.**

**I. ATTENDANCE**

The Zoning Hearing Board held a hearing on Tuesday, August 27, 2019, at the Ferguson Township Municipal Building. In attendance were:

**Board:**

Michael Twomley  
Michael MacNeely  
Swamy Anantheswaran  
Susan Buda  
Irene Miller  
Stefanie Rocco, Alternate  
Jeff Stover, ZHB Solicitor

**Staff**

Jeff Ressler, Zoning Administrator  
David Pribulka, Township Manager.

Others in attendance were: Summer Krape, Recording Secretary; Joe Green, Township solicitor; Robyn Froehlich, Stahl Sheaffer Engineers; Kathy Clark, Young Scholars Charter Program solicitor; Alexis Wheeler, YSCP solicitor; Levent Kaya, YSCP CEO; Nancy Sliber, Ferguson Township Resident; Mitesh & Falguni Patel, The Goddard School; Bob & Marian Stonk, Ferguson Township residents; and Frank Areta, Ferguson Township resident.

**II. CALL TO ORDER**

The Ferguson Township Zoning Hearing Board meeting was called to order by Mr. Mark Twomley on Tuesday August 27, 2019 at 7:00 pm.

**III. PLEDGE OF ALLEGIANCE**

**IV. CITIZENS INPUT**

**V. INTRODUCTION OF BOARD MEMBERS**

**VI. SWEARING IN OF THOSE THAT WISH TO TESTIFY**

Jeff Ressler, David Pribulka, and Robyn Froehlich were sworn in to testify.

**VII. THE ZONING HEARING BOARD SOLICITOR EXPLAINS THE BASIS FOR GRANTING A VARIANCE/APPEAL**

Mr. Jeff Stover the Zoning Hearing Board Solicitor explained the criteria for a variance to the audience.

**VIII. ZONING OFFICER EXPLAINS THE BASIS OF VARIANCE/APPEAL REQUEST**

**IX. THE GODDARD SCHOOL – VARIANCE REQUEST**

Mr. Ressler explained that this is a variance request for the Goddard school. The property is located at 1545 Westerly Parkway, tax parcel 24-019-135-0000. The property is zoned R1, owned by Westover Properties and is currently leased by Mitesh and Falguni Patel for the Goddard School (preschool /daycare). The applicants would like to place a small 8 X 10 shed on the

property. The applicants are requesting a variance to Chapter 27-206.1 to place a shed in the fifty foot setback.

Mr. & Mrs. Patel took the stand and stated that they are seeking to place the shed on the property because the school has no storage and they need a place to store things such as furniture, rugs, cleaning supplies, and other classroom materials. Mr. Patel explained that the school is a franchise and the school is a prototype. The building has 9 classrooms, 2 offices, and 2 kitchens. They have babies to 6 year olds so keeping things stored in the classrooms is a hazard. They would like to store toys, extra supplies, garden utensils, and winter supplies in the shed. Mr. Patel stated that there is already an existing concrete pad at the proposed location of the shed. Mr. Twomley asked Mr. Ressler if the Centre Region Council of Government would require them to have the shed anchored. Mr. Patel stated that he was told it could just sit there. Mrs. Irene Wetzel asked her colleagues if this would be considered deminimis. Mr. Twomley stated that he believes it is, the concrete pad is already existing.

Mrs. Wetzel asked if there is any public comment on this variance. Mr. Twomley asked the audience if there was any public comment. Ms. Nancy Silber is the homeowner of the home that is right behind the school. She asked if they would be taking out any shrubs or trees. Mr. Patel stated they would not be removing anything. Mr. Twomley asked how long the business has been there. Mr. Patel stated that the school has been there since 2008 but the Patel's bought it in December 2018. Ms. Nancy Silber stated that there are 4 of the 5 families that border the school they do not mind the shed. Mr. Twomley asked for a motion. Ms. Buda moved that the property located at 1545 Westerly Parkway, State College, PA, tax parcel 24-019-135-0000 be granted a variance. A dimensional variance to place an 8x10 storage shed in the 50 foot setback according to Chapter 27-206.1. Mrs. Wetzel seconded the motion. Mr. MacNeely asked to add the condition that the shed is contained to the concrete pad on the plan. Ms. Buda added that the storage shed will be contained to the concrete pad. The Board voted and the variance was granted 4 to 1.

#### **X. YOUNG SCHOLARS OF CENTRAL PENNSYLVANIA CHARTER SCHOOL – APPEAL**

Mr. Ressler stated that the next hearing is for the Young Scholars of Central Pennsylvania Charter School zoning appeal. Young Scholars Charter School is located at 1530 Westerly Parkway, tax parcel 24-019-073A-0000, and is in the R1 district. Mr. Ressler stated that Young Scholars is owned by Dream Schools incorporated. The issue at hand is the applicants are appealing a letter from the Zoning Administrator dated June 13, 2019 regarding the school's enrollment. Mr. Ressler

explained that the letter was not intended to be a notice of violation but was sent as courtesy letter to inform Young Scholars of its permitted enrollment based on the approved land development plan. Mr. Ressler stated that letter referred to note number three of the plan for second story addition, the plan was dated April 12, 2016 and was recorded on June 20, 2016. The note reads as follows: "Traffic Information this plan has been prepared in conjunction with a traffic impact assessment dated April 11, 2016. The maximum enrollment permitted by Young Scholars of Central PA Charter School is 384 students grades K-8. Mr. Ressler stated that any proposed increase in enrollment beyond 384 students will require a future traffic study along with any required traffic improvements completed and approved by Township." Mr. Ressler stated that plan note number 13 reads as follows: "Young Scholars of Central PA Charter School is required to report the student enrollment total to the Township by October 1<sup>st</sup> every year." On October 2<sup>nd</sup> the Township received an email from Levent Kaya PhD and CEO of Young Scholars stating that the enrollment at the school as of October 1, 2018 was 421 students.

Mrs. Wetzel asked what the current status of affairs is, did school start on Monday, are they still operating. Mr. Ressler stated that school did start on Monday. Mrs. Wetzel asked what the purpose of a traffic study is and why it's important. Mr. Green explained that this letter is the subject of an appeal. The Township did not enforce a notice of violation letter, the purpose was not pursue a violation at that time.

Ms. Kathy Clark is representing Young Scholars. She stated Mr. Green calling the letter they received a courtesy letter is news to her. Mr. Kaya wanted to change some classrooms and went to the Township for a zoning change. When he went to the Township for the zoning permit that's when he was confronted about the number of students. Ms. Clark stated that they met with the Township to do a Traffic Study on June 4<sup>th</sup> of this year. We were in the process of doing a traffic study and received this letter 9 days after that meeting. Ms. Clark stated that at the end of the second to last paragraph the letter states "you have the right to appeal this letter with the Zoning Hearing Board within 30 days. Ms. Clark stated that that this letter does not meet the requirements of the NPC because it was not sent to the owner of the school which is Dream Schools but was instead sent to Young Scholars. The letter did not list the property, the zoning, or requirements of the plan. Ms. Clark contacted Mr. Green and suggested the Township redraw this letter and they can continue to meet to resolve this issue. Mr. Green stated to Ms. Clark that they will need to go to Zoning Hearing Board. Ms. Clark stated that everyone agrees that the traffic study needs done.

Mr. Green stated that the letter is not a notice of violation letter. Mr. Anantheswaran stated that Young Scholars is willing to do the traffic study. Ms. Rocco stated that Young Scholars was not formally informed that they are in violation. Ms. Alexis Wheeler stated that this is not what their interpretation of the land development plan is, their interpretation is that once that 384 number was hit it was a trigger for the traffic study and that the Township would enforce it. Mr. Twomley asked why it was the Township's decision, if Young Scholars knew they were over the limit why didn't they seek the Township out to get the traffic study process started. Mr. Kaya, CEO of Young Scholars took the stand, he stated that the reason the traffic study hasn't been done is the scope of the study, and they needed the Township to tell them what needed to be included.

Mr. Twomley asked Ms. Clark what Young Scholars is appealing, Ms. Clark stated they thought they were appealing an enforcement notice. Mr. Twomley stated that if they are not appealing they will need to withdraw their appeal. Ms. Clark stated that they will if there is no legal stipulations. Mr. Twomley stated that in his opinion this letter has no legal effect. Ms. Clark stated that the Dream Schools were not notified and they are the owner of the property. Mr. Pribulka took the stand and stated that pending any comment from the public; the Township would be agreeable to sustain any notices of violations for the 2019-2020 school year. Pending the completion of a traffic study that is scoped per Township ordinance and completed by the applicant, in this case, Dream Schools and the impacts properly mitigated. Mr. Pribulka stated that the Township will agree to those stipulations if that's something the applicant is agreeable too pending the mitigations, ZHB comments and public comment.

Mr. Twomley proposed to withdraw the appeal, the Township will do nothing this school year, and Young Scholars will move forward with the traffic study. Mr. Pribulka stated that before setting on a resolution we should hear from the public as the Township has had numerous complaints. Mr. Stover suggested, if the appellant will agree, the appellant will waive the requirement to have hearings on a continual basis for the school year. The Township will then agree not to enforce enforcement for this school year, and Young Scholars will proceed with the traffic study. Once completed and all mitigation is done this appeal can be withdrawn at that point. Mrs. Wetzel made a motion to approve this decision. Ms. Clark agreed to the above. Mr. Anantheswaran seconded the motion and was passed unanimously.

Mr. Twomley asked the audience for any public comment. Ms. Nancy Sliber took the stand and stated that since Young Scholars is right across the street from the Goddard School they have

seen a major increase in traffic. This increase affects the neighborhood that she and others in the audience live in. She stated that traffic is a major issue and feels they do not deserve a pass knowing that they are in violation. It shouldn't take her 25 minutes to get out of her driveway and out of her neighborhood. She is not in favor of giving them another year to do that traffic study.


Ms. Heidi Knutelski also took the stand for public comment and is also a resident of the same neighborhood as Ms. Sliber. Ms. Knutelski stated that their neighborhood is a cul de sac, and they have no other way to get out of their neighborhood so they are left to wait 25 minutes or longer. She has experienced parents using the cul de sac for parking and as a turn around when dropping/picking kids up. Mr. MacNeeley asked how long it would take for a traffic study to take place and improvements to be made. Ms. Froehlich took the stand and stated that it could take between 2-4 months to complete the traffic study depending on the number of comments. Ms. Froehlich stated that the scope of the traffic study that was done previously was very limited and only limited to that particular intersection. Ms. Buda stated for the record the enforcement aspect of it would only be a fine and students would not be required to leave during a school year. Mr. Pribulka stated that the Township has specified enforcement remedies in the ordinance and the Township has the right to invoke them at any time. However, there is not an enforcement remedy that would stop kids from attending school. Mrs. Wetzel made a motion to approve and Mr. Anantheswaran seconded. The motion passed unanimously.

**XI. APPROVAL OF MEETING MINUTES FROM JULY 23, 2019**

Mr. Anantheswaran made a motion to approve the July 23, 2019 with the corrections noted by Ms. Buda, Mrs. Wetzel seconded the motion. The motion was passed unanimously.

**XII. ADJOURNMENT**

The Zoning Hearing Board meeting was adjourned at 9:00 pm.

  
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Susan Buda, Secretary  
For the Zoning Hearing Board