

**BEFORE THE ZONING HEARING BOARD OF CARROLL TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

**IN RE:** :  
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**NORTHERN YORK COUNTY** : **Hearing Date: June 26, 2023**  
**SCHOOL DISTRICT** : **Docket No.: 2023-004**  
 :  
 *Applicant.* :  
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**FINAL DECISION**

**AND NOW**, this 26<sup>th</sup> day of June, 2023, after consideration and a hearing upon the application for zoning relief filed by the Northern York County School District, the Zoning Hearing Board of Carroll Township hereby grants the variances being requested for the property situate at 650 South Baltimore Street, Dillsburg, Pennsylvania 17019, as follows:

**FINDINGS OF FACT**

1. On June 1, 2023, Superintendent Steve Kirpatrick of the Northern York County School District (hereinafter, the “Applicant”) submitted an application to the Zoning Hearing Board of Carroll Township (hereinafter, the “Board”).
2. Applicant owns and controls the real property situate at 650 South Baltimore Street, Dillsburg, Pennsylvania 17019 (UPI #: 20-000-NC-0137.00-00000) (hereinafter, the “Property”).
3. Applicants’ Property is located within the Residential Suburban-3 (hereinafter, “RS-3”) Zoning District of Carroll Township.
4. The present use of the Property is for public education, and the improvements currently existing on the Property include multiple school buildings, a district administration office, and athletic facilities.
5. A hearing upon this application, Application 2023-004 (hereinafter, the “Hearing”), was held before the Board on June 26, 2023, at approximately 6:30 P.M.

6. The Board conducted this Hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road, Dillsburg, PA 17019.

7. A quorum of Board members were present to hear Applicant's request for two variances from:

- (a) § 450-370.B (Private or Public Schools) (Maximum Coverage); and
- (b) § 450-416.F (Parking Requirements) (Interior Landscaping) of the Carroll Township Zoning Ordinance (hereinafter, "Ordinance").

8. At the Hearing, Applicant was represented in a legal capacity by Attorney Steven M. Hovis, Esq. of Stock and Leader.

9. At the Hearing, Applicant offered testimony and evidence by and through the following parties:

- (a) Jeff Shyk, Project Manager with K&W Engineers; and
- (b) David Schrader, Architect with Schrader Group Architecture.

10. Accordingly, Applicant's witnesses and Zoning Officer Slatt were duly sworn in at the beginning of the Hearing.

11. Zoning Officer Slatt provided the following general testimony:

- (a) the Property was posted and notice was provided to the appropriate parties in accordance with the law;
- (b) the hearing was advertised in accordance with the Ordinance; and
- (c) the application fee was paid by the Applicants.

12. Following Zoning Officer Slatt's testimony, Attorney Hovis presented an opening legal argument in relation to the zoning relief being requested.

13. Specifically, Attorney Hovis argued that the variance from § 450-370.B was a *de minimis* variance and that both of the variances being requested were dimensional in nature.

14. Mr. Shyk provided the following testimony in relation to the variances being requested:

- (a) Applicant retained the services of Mr. Shyk's employer, K&W Engineers, to assist with the proposed expansion of multiple school buildings located on the Property;
- (b) The school buildings being expanded on the Property are located to the east of South Baltimore Street;
- (c) The Property is approximately 115 acres in size, and it is this metric that was used to calculate the maximum lot coverage permitted for the Property;
- (d) The current impervious coverage of the Property is 24.95% or 28.09 acres;
- (e) When the original plans for the Property's improvements were submitted and approved by the Township back in the early 2000s, the maximum impervious coverage permitted for the Property was 35%;
- (f) However, the maximum impervious coverage was subsequently reduced to 25% by virtue of a zoning ordinance amendment;
- (g) The Applicant is requesting a variance to allow up to 28% lot coverage for the Property;
- (h) There will be an increase in the amount of impervious coverage due to the larger building coverages, paving areas, sidewalk areas, and play surfaces being proposed;

- (i) The proposed expansion involves, *inter alia*, a change to the traffic scheme currently being implemented on campus;
- (j) The proposed expansion will add 48 parking spaces on the northeast side of the high school building;
- (k) Currently, there is 23,777 square feet of interior landscape area on the Property;
- (l) The current amount of interior landscape area does not comply with the 10% interior landscaping requirement and likely does not even constitute 5% of the parking area on the Property;
- (m) Following the proposed expansion, there would be a decrease of 5,576 square feet from the existing amount of interior landscape area, which would result in only 18,201 square feet of interior landscape area;
- (n) Applicant does not know the current square footage of the parking area on the Property, nor does Applicant know the percentage of the parking area currently dedicated as interior landscape area; and
- (o) The proposed expansion will entail the addition of 3.48 acres in impervious coverage, with the middle school building addition constituting approximately 1 acre, the elementary school building addition constituting 0.27 acres, and the remainder of the additional coverage being asphalt and sidewalks.

15. Mr. Schrader provided the following testimony in relation to the variances being requested:

- (a) There are three primary purposes to be served by Applicant's proposed expansion: (1) to provide additional indoor facilities for increased student population; (2) to expand certain educational programs; and (3) to increase the safety and security on campus;
- (b) Within the last three years, there has been a recent trend in primary and secondary education for parents and students to drive themselves to school rather than utilize transportation options provided by the school system (*i.e.* bus, van, *etc.*);
- (c) The proposed increase in impervious surface would include a centralized bus loop serving all three school buildings from a common location;
- (d) Based on recent phenomena, school systems have become more cognizant of implementing designs and developing strategies that mitigate against dangers associated with active shooter situations and other similar occurrences; and
- (e) The school buildings and facilities on the Property were designed years ago and do not take into account the recent trends and phenomena set forth above.

16. Zoning Officer Slatt confirmed that the Property does not have a history of flooding issues and is not located in any flood plain district or overlay.

17. After the Applicant concluded its presentation and upon invitation by the Chairman, no one in attendance at the Hearing cross-examined the Applicant.

18. Furthermore, no one in attendance at the Hearing offered testimony or evidence either in support of or in opposition to this application.

19. At the conclusion of the Hearing, the following exhibits were admitted into the record by the Board:

- (a) Exhibit 1 – Overall Existing Features Plan
- (b) Exhibit 2 – Enlarged Existing Features Plan; and
- (c) Exhibit 3 – Zoning Variance Site Plan.

20. Upon admission of the exhibits into the record, Chairman Reihart adjourned the Hearing in this case.

### **CONCLUSIONS OF LAW**

21. Applicant is requesting two variances in this case.

22. First, Applicant is requesting a variance from § 450-370.B of the Ordinance, which establishes that private and public schools may not exceed 25% total lot coverage.

23. Based on the improvements being proposed by Applicant on the Property, Applicant would not comply with the 25% maximum lot coverage standard.

24. Accordingly, Applicant is seeking a variance that would allow up to 28% total lot coverage on the Property.

25. Second, Applicant is also seeking a variance from § 450-416.F of the Ordinance, which provides that “[a]t least 10% of the area of a parking facility containing more than 20 cars either initially or cumulatively shall be devoted to interior landscaping...”

26. Based on the improvements being proposed by Applicant on the Property, Applicant would not comply with the 10% interior landscaping requirement.

27. In fact, Applicant presented un rebutted testimony at the Hearing that the Property, as it exists today, does not comply with the 10% interior landscaping requirement.

28. Applicant is seeking a variance that would only require Applicant to provide 18,201 square feet of interior landscape area within the proposed parking areas pursuant to Applicant's Exhibit 3 – Zoning Variance Site Plan.

29. Applicant contends that both of the requested variances are dimensional in nature.

30. The Board concurs that both of the requested variances seek only a reasonable adjustment of zoning regulations in order to utilize the Property in a manner consistent with the applicable regulations, and as such, are dimensional in nature. *Hertzberg v. Zoning Bd. Of Adjustment of City of Pittsburgh*, 554 Pa. 249, 257 (1998).

31. Under the relaxed, *Hertzberg* standard for granting a dimensional variance, the quantum of proof needed to establish an unnecessary hardship as would support an application for a variance is lower for dimensional variances. *Pequea Twp. V. Zoning Hearing Bd. of Pequea Twp.*, 180 A.3d 500 (Pa. Commw. Ct. 2018).

32. Furthermore, the Board appropriately considered multiple factors when determining whether to grant the requested variances, including (1) the economic detriment to the Applicant if the variance is denied; (2) the financial hardship created by work necessary to bring the Property into strict compliance with the zoning requirements; and (3) the characteristics of the surrounding neighborhood. *McCarry v. Havrford Twp. Zoning Hearing Bd.*, 113 A.3d 381, 385 (Pa. Commw. Ct. 2015).

33. In order to warrant the grant of a variance, the Applicant must prove all of the traditional variance criteria set forth in the Municipalities Planning Code and in § 450-605.C of the Ordinance.

34. The Applicant presented evidence and testimony sufficient to establish compliance with each of the traditional variance criteria set forth therein.

35. The Property has unique physical conditions, insofar as the improvements upon the Property are school buildings and associated facilities, which distinguishes the Property from almost every other lot in the Township.

36. The Property also has unique physical conditions, inasmuch as the improvements on the Property are historical in nature and were designed/constructed during a different primary and secondary education paradigm.

37. The unnecessary hardship is that, due to the manner in which the improvements upon the Property have been designed/constructed, the Applicant cannot both implement the prevailing design, traffic, and safety strategies recommended for primary and secondary educational facilities in today's paradigm and comply with the relevant zoning regulations.

38. To enable the reasonable use of the Property as a public school that has the flexibility to implement design, traffic, and safety standards that reflect the prevailing wisdom in the primary and secondary education context, the requested variances must be granted.

39. The unnecessary hardship set forth above has not been created by the Applicant.

40. The requested variances will not alter the essential character of the RS-3 Zone or neighborhood in which the Property is located.

41. The requested variances represent the minimum variances that will afford relief in this case.

42. Applicant also contends that the requested variance of § 450-370.B of the Ordinance is a *de minimis* variance.

43. Because the Board determined that the Applicant's request for a variance of § 450-370.B was warranted on dimensional variance grounds, the Board need not pass upon Applicant's contention that the variance requested is *de minimis*.

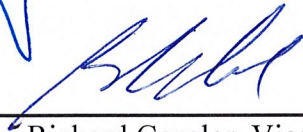


A motion was made and seconded to approve Applicant's request for a variance from Section 450-370.B of the Code of Carroll Township, which establishes a maximum lot coverage of 25% for private and public schools, to allow a maximum lot coverage of up to 28% at the Property. The motion passed unanimously with a vote of 3-0.

A motion was made and seconded to approve Applicant's request for a variance from Section 450-416.F of the Code of Carroll Township, which requires 10% of the parking area to be devoted to interior landscaping, to allow an interior landscape as proposed on Exhibit 3 – Zoning Variance Site Plan utilized by Applicant during the Hearing. The motion passed unanimously with a vote of 3-0.

**BOARD SIGNATURES:**

  
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Gary Reihart, Chairman

  
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Richard Gensler, Vice-Chairman

  
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Frank Setlak, Secretary

Dated: 8-8-2023

Date of Mailing: 8-8-2023

**Note: Any party aggrieved by this decision may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.**