

IN RE:

CONDITIONAL USE APPLICATION
OF WESTTOWN SCHOOL

BEFORE THE BOARD OF
SUPERVISORS OF WESTTOWN
TOWNSHIP, CHESTER COUNTY,
PENNSYLVANIA

DECISION

Westtown School (“Applicant”) has filed a conditional use application with the Westtown Township Board of Supervisors (“Board”) pursuant to §170-1514.D(5) (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) and §170-2009 (Conditional uses) of the Westtown Township Zoning Ordinance (“Zoning Ordinance”) to permit the installation of exterior permanent recreational and sports lights for athletic events on a single turfed athletic field for the property located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania (UPI No. 67-5-27), consisting of approximately 195 acres of land, and any other relief deemed necessary by the Board of Supervisors.

The hearing on this application was held on May 9, 2023. At the conclusion of the hearing and with the Applicant’s consent, the record was left open to accept the recommendation and conditions of approval of the Westtown Township Planning Commission from its meeting on May 19, 2023. *See* N.T., pp. 25, 149. Chairman Thomas Foster, Vice Chairman Richard Pomerantz, and Police Commissioner Scott E. Yaw, Esquire, heard the application for the Board. Patrick M. McKenna, Esquire, appeared as the Board’s Solicitor. The Applicant was represented by Gina M. Gerber, Esquire. No other parties appeared of record.

After receiving the evidence presented by Applicant and having reviewed the same, the Board makes the following:

Findings of Fact

1. The hearing was duly convened, and the Applicant presented evidence in support of the application.

2. The Applicant owns the subject property. *See* Exhibits A-5 and A-6; *see also* N.T., pp. 3, 13.

3. The subject properties that make up the Westtown School are located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania (UPI Nos. 67-2-19, 67-2-24, 67-2-24.2, 67-2-25, 67-2-25.1, 67-2-25.2, 67-2-25.2, 67-2-25.3, and 67-5-27). *See* Exhibits A-1, A-2, A-3, A-5, A-6, B-1 and B-7; *see also* N.T., p. 3.

8. Although Westtown School is comprised of multiple individual parcels, the relief sought is specific to UPI No. 67-5-27 (195 acres) (“Property”) for the lighted athletic field. *See* Exhibits A-7 and B-1.

4. The Property is located in the A/C Agricultural/Cluster Residential District of the Township and contains approximately 195 gross acres of lot area. *See* Exhibits A-7, B-1, and B-2; *see also* N.T., p. 3, 14.

5. During the course of the hearing, the Board marked and admitted the following exhibits into evidence:

Exhibit B-1: Notice of hearing for May 9, 2023;

Exhibit B-2: Proof of publication of notice in the Daily Local News on April 18, 2023 and April 25, 2023;

Exhibit B-3: Proof of posting of notice on the subject properties, dated April 18, 2023, signed by Assistant Township Manager Mila Carter;

Exhibit B-4: Proof of mailing of notice, dated April 17, 2023, along with a list of individuals and entities to whom notice was mailed;

Exhibit B-5: Tax parcel map depicting the location of Property;

Exhibit B-6: Westtown Township Zoning Ordinance, by reference;

- Exhibit B-7: Review letter, dated May 5, 2023, from Robert E. Flinchbaugh, P.E. with Cedarville Engineering Group, LLC, to Township Manager Jon Altshul regarding the subject application;
- Exhibit B-8: Review letter, dated May 1, 2023, from Stephen Gribb, P.E., with Systems Design Engineering, Inc., to Assistant Township Manager Mila Carter regarding the subject application;
- Exhibit B-9: Review letter, dated April 21, 2023, from the Westtown Township Chief of Police, Brenda M. Bernot, to the Westtown Township Board of Supervisors regarding the subject application;
- Exhibit B-10: Review letter, dated April 13, 2023, from Albert Federico, P.E., PTOE, to the Westtown Township Planning Commission regarding the subject application;
- Exhibit B-11: Review letter, dated April 14, 2023, from Robert E. Flinchbaugh, P.E. with Cedarville Engineering Group, LLC, to Township Manager Jon Altshul regarding the subject application;
- Exhibit B-12: Review letter, dated April 1, 2023, from Township Fire Marshall Gerald DiNunzio, Jr., to Township Manager Jon Altshul regarding the subject application;
- Exhibit B-13: Recommendation letter, dated May 19, 2023, of the Westtown Township Planning Commission.

6. During the course of the hearing, the Applicant offered the following exhibits, which were admitted into evidence:

- Exhibit A-1: Westtown Township Conditional Use Application with an enclosure letter and an application narrative;
- Exhibit A-2: Enclosure letter, dated March 30, 2023, for the revised conditional use application;
- Exhibit A-3: Enclosure letter, dated April 25, 2022, for the second revised conditional use application submission;
- Exhibit A-4: Westtown Township Zoning Ordinance of 1991, as amended (*incorporated by reference*);
- Exhibit A-5: Deed by and between Friends Fiduciary Corporation and Westtown School, recorded in the Chester County Recorder of Deeds Office on October 6, 2016 at Deed Book 9407, Page 491 for UPI Nos. 67-2-24,

67-2-24-E, 67-2-24.2, 67-2-25-E, 67-2-25.2-E, 67-2-25.3, 67-5-27, 67-5-27-E, 67-2-19-E, 67-2-27.48, 67-2-62;

- Exhibit A-6: Deed by and between Jane A. Watt and Westtown School, recorded in the Chester County Recorder of Deeds Office on November 12, 2003 at Deed Book 5973, Page 58 for UPI No. 67-2-25.1;
- Exhibit A-7: Site Plan prepared by ELA Group, Inc., dated March 28, 2023, last revised April 24, 2023 (three sheets);
- Exhibit A-8: Stormwater Management Narrative prepared by ELA Group Incorporated;
- Exhibit A-9: NPDES Permit No. PAC 150337;
- Exhibit A-10: Athletic Field and Parking Lot Lighting Plan Environment Glare Impact Plan prepared by Musco Lighting, dated April 21, 2023;
- Exhibit A-11: Athletic Field and Parking Lot Lighting Plan Environment Glare Impact Plan prepared by Musco Lighting, dated May 4, 2023;
- Exhibit A-12: Datasheet for TLC-LED-1500 Luminaire and Driver Data prepared by Musco Sports Lighting, LLC (two pages);
- Exhibit A-13: Datasheet for OSQ Area Luminaire on Valmont Soft Square Pole prepared by Musco sports Lighting, LLC (two pages);
- Exhibit A-14: Slideshow Presentation of the Evolution of Glare Control Technology prepared by Musco Lighting (three pages);
- Exhibit A-15: Photographs of illuminated athletic fields located at:
- A. Woodland Hills High School, Pittsburgh, PA;
 - B. Pine Richland High School, Gibsonia, PA;
 - C. Lakewood Ranch Park, Bradenton, FL;
- Exhibit A-16: Letter, dated January 26, 2023, from E. Carr Everbach to the Westtown School Director of Facilities Ms. Kate Donnelly regarding the subject application;
- Exhibit A-17: Westtown School Oak Lane Turf Fields Transportation Operational Analysis, dated March 14, 2023, prepared by Traffic Planning and Design, Inc.;
- Exhibit A-18: Westtown School Oak Lane Turf Fields Transportation Operational Analysis – Amendment #1, dated March 29, 2023, prepared by Traffic Planning and Design, Inc.;

Exhibit A-19: Curriculum vitae of Jason C. Best, RLA;

Exhibit A-20: Curriculum vitae of Robert G. Zoeller, MS;

Exhibit A-21: Curriculum vitae of Erich Carr Everbach; and

Exhibit A-22: Curriculum vitae of Alex Meitzler, P.E., PTOE.

9. Section 170-1514.D.5 (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) of the Zoning Ordinance provides regulations and provisions concerning permanent recreational and sports lighting for nighttime events in the Township. *See* Exhibit B-6.

10. Mr. Chris Benbow, Head of Westtown School; Jason C. Best, who was admitted as an expert in engineering and design; Mr. Robert G. Zoeller, who was admitted as an expert in lighting design; Mr. Erich Carr Everbach, who was admitted as an expert in acoustics; and Alex Meitzler, who was admitted as an expert in the field of traffic engineering, testified on behalf of the Applicant. *See* Exhibits A-19, A-20, A-21, and A-22; *see also* N.T., pp. 11-12, 37-40, 63-65, 96-99.

11. The parcels are used by the Applicant as a school,¹ that includes a lower school, middle school, an upper school, science building, athletic center, health center, art center, music house, dormitories, faculty residences, playing fields, drive aisles, and other attendant improvements on the parcels. *See* Exhibits A-7 and B-5; *see also* N.T., p. 15.

12. The Property has a unique shape and contains frontage along East Street Road, Westtown Road, Oak Lane, and Shady Grove Way. The Property is also bordered by single-family detached dwellings located along Station Way and Westtown Road. *See* Exhibits A-7 and B-5; *see also* N.T., p. 14.

13. In relevant part, the Property is currently improved with two grass athletic fields. *See* Exhibits A-7 and B-5.

¹ Section 170-201 (Definitions) of the Zoning Ordinance defines “school” as “[a]n educational use, including college; public, private, or parochial elementary or secondary school; or other educational institution for academic instruction, but not including a business or trade school, dance studio, or similar use.” *See* Exhibit B-6.

14. The Applicant proposes to replace the two existing grass athletic fields with two synthetic turf multipurpose fields that will measure approximately 360 feet in length by 205 feet in width with safety zones. *See* Exhibit A-7; *see also* N.T., pp. 40-41.

15. The Applicant intends to install athletic field lights on only one of the synthetic turf multipurpose fields. *See* Exhibit A-7; *see also* N.T., pp. 30, 41, 88.

16. The Applicant desires to install athletic field lights in order to create more hours of access for the student athletes of Westtown School for practice and competition. *See* N.T., p. 17.

17. The athletic field lights will be used exclusively for the use of the students of Westtown School primarily for soccer, lacrosse, and field hockey practice and competition. *See* N.T., pp. 18, 26, 28, 35.

18. The athletic field lights will be affixed to four separate poles. *See* Exhibit A-10; *see also* N.T., pp. 67, 90-91.

19. The two poles on the west side of the synthetic turf multipurpose field will measure 70 feet in height and have nine 1,500-watt TLC-LED fixtures with full-cutoff fixtures. *See* N.T., pp. 67, 72, 75.

20. The two poles located on the east side of the synthetic turf multipurpose field will measure approximately 67.5 feet in height, with a 2.5-foot elevation; thus, the poles located on the east side of the synthetic turf multipurpose field will be 70 feet in height in relation to the playing field surface. *See* N.T., p. 67.

21. Mr. Zoeller testified that the athletic field lights will comply with the 70-foot mounting height requirement of the Zoning Ordinance. *See* N.T., p. 86.

22. Mr. Zoeller testified that the Applicant will be able to keep the glow of the light close to the athletic field, and the luminous will not spread across the entirety of the Property. *See* N.T., p. 72.

23. No light from the athletic field lights will be emitted above the horizontal plane from the lighting fixture. *See* N.T., p. 73.

24. The LED array will be located underneath a visor and will project light downward onto the field. *See* N.T., p. 73.

25. Mr. Zoeller opined that the Applicant's proposed field lights will comply with §170-1514.D(5) (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) of the Zoning Ordinance. *See* N.T., pp. 80-81.

26. The intensity and uniformity ratios of the athletic field lights comply with the current recommended practices of the IESNA RP-6. *See* N.T., p. 81.

27. The illumination levels of the athletic field lights are consistent with the maintained average illumination levels and uniformity ratios set forth in the IESNA RP-6, IESNA RP-33-99 and RP-8-00 recommended practices. *See* N.T., pp. 67, 81-82.

28. The horizontal footcandles measured at grade along the property line of the Property will measure 0.00, and the maximum value along the entirety of the Property for vertical footcandles will measure 0.00. *See* N.T., pp. 68-71, 87-88.

29. The light fixtures for the athletic field lights are an appropriate type and design for the illumination of the athletic field. *See* N.T., p. 82.

30. With regard to the control of nuisance and disturbance glare, the athletic field lights will be aimed, located, designed, fitted and maintained so as to not present a hazard to drivers or pedestrians by impairing their ability to safely traverse roads and walkways and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring property. *See* N.T., pp. 82-83.

31. The athletic field lights will be shielded in a manner such that no light will be emitted above a horizontal plane passing through the lowest point of the light emitting element so that direct light emitted above the horizontal plane is eliminated. *See* N.T., p. 83.

32. The output of the athletic field lights will not project into the windows or neighboring residences, adjacent properties, skyward, or onto public roadways in any capacity. *See* N.T., p. 83.

33. The athletic field lights will be controlled by automatic switching devices to permit extinguishment of the light between 11:00 p.m. and dawn, and to mitigate nuisance glare and sky-lighting consequences. *See* N.T., pp. 83-84.

34. Mr. Benbow testified that the athletic field lights will be turned off by 10:00 p.m. each evening, and if the Applicant needs to go beyond 10:00 p.m., then it will seek Township approval prior to any event that would require illumination beyond 10:00 p.m. *See* N.T., p. 21.

35. Glare control for the athletic field lights will be achieved primarily through the use and means of cutoff fixtures, shields, baffles, mounting height, wattage, aiming angle, and fixture placement. *See* N.T., pp. 84-85.

36. The intensity of illumination for the athletic field lights will not exceed 0.1 horizontal footcandles measured at grade and 0.1 vertical footcandles measured line-of-sight, five feet above grade at the property line. *See* N.T., p. 85.

37. The athletic field lights will not include any blinking, flashing, or fluttering features. *See* N.T., p. 85.

38. The athletic field light fixtures will be set back a minimum of 10 feet from any lot line at any level, and the light posts will be set back at least 50 from the boundary of the Property. *See* N.T., pp. 85, 87.

39. The athletic field lights are designed, installed, aimed, and maintained so that neither lamps nor primary reflecting surfaces are visible from any windows of residential properties within a radius of 1,800 feet of the boundary of the lighted field. *See* N.T., p. 86.

40. The Applicant does not intend to use the athletic field lights more than the maximum permitted 30 nights, with the potential for three additional nights for playoff games or championships if necessary and as permitted by the Township Zoning Ordinance. *See* N.T., pp. 19, 26.

41. The Applicant will submit to the Township an annual permit application for the athletic field lights at least 45 days before the start of the recreational year. *See* N.T., p. 19.

42. The proposed illuminated field will be located approximately 1,377 feet away from the closest off-campus residence, which is located on Farm Lane. *See* N.T., pp. 44-45, 53.

43. The Applicant will maintain the athletic field lights, light fixtures, and other equipment in compliance with the Zoning Ordinance during the life of the lighting system. *See* N.T., pp. 23-24, 81.

44. The Applicant will maintain records of the usage of the athletic field lights in accordance with the requirements of the Zoning Ordinance and will submit those records to the Township as needed. *See* N.T., p. 24.

45. The existing grass fields are leased to clubs and other outside organizations for daytime use, but the clubs and other outside organizations will not utilize the lighted athletic field once the lights are installed. *See* N.T., p. 27.

46. Mr. Benbow testified that the Westtown Township Public Works Department would not have to perform trash cleanup as the Applicant will take responsibility for trash removal and cleaning. *See* N.T., p. 20.

47. The Applicant will coordinate with and properly compensate the Westtown Township Police Department if the Police Department assists the Applicant with traffic management. *See* N.T., p. 20.

48. The Applicant intends to install a public announcement system, but the specific model of the public announcement system has not been selected. *See* N.T., p. 22.

49. The Applicant intends to submit specifications for the public announcement system that will demonstrate compliance with the Township Code during the land development process. *See* N.T., p. 23.

50. With regard to the development of the public announcement system, the Applicant is willing to contract with a noise consultant to provide an appropriate study demonstrating compliance with the terms of Chapter 116 (Peace and Good Order) of the Township Code during the land development process. *See* N.T., p. 23.

51. Mr. Carr Everbach opined that the noise generated by the single illuminated turf field will comply with §116-1 (Distributing the peace defined and prohibited) and §116-2 (Particular conduct prohibited) of the Township Code, and §170-1506 (Environmental performance standards) of the Zoning Ordinance. *See* N.T., p. 105.

52. Mr. Carr Everbach opined that no additional mitigation measures were needed with respect to noise that will be generated by the use of the single lighted athletic field because adjacent properties are located far enough away from the illuminated athletic field as to not be unreasonably impaired. *See* N.T., pp. 105-106.

53. The Applicant intends to install a support building that will be harmonious with the existing campus and will be located between the parking lot and the proposed turfed fields. *See* N.T., pp. 41-42, 47-48.

54. Mr. Meitzler opined that peak traffic generated by the illuminated athletic field can be accommodated in a safe and efficient manner on the existing road network. From an operational standpoint, there are no capacity issues with Westtown Road or Oak Lane according to Mr. Meitzler. *See* N.T., pp. 114, 116-117.

55. Most of the trips or traffic generated by the illuminated athletic field will happen during non-peak hours. *See* N.T., p. 116.

56. Mr. Meitzler opined that the illumination of the single athletic field will not result in or substantially add to a significant traffic hazard or significant traffic congestion. *See* N.T., p. 116.

57. The Township's traffic engineer, Mr. Albert Federico, reviewed the Conditional Use Site Plan for Westtown School Oak Lane Project and the Westtown School Lane Turf Fields Transportation Operational Analysis for compliance with applicable sections of the Westtown Township Code as well as reasonable and customary standards for Traffic Engineering practice. *See* Exhibit B-10.

58. Mr. Federico opined that based on the submitted materials, there are no indications that the proposed use will result in or substantially add to traffic congestion. *See* Exhibit B-10.

59. No street improvements are needed in association with the installation of the illuminated athletic field, but during land development, the Applicant will analyze the intersection of Oak Lane and Westtown Road for possible safety improvements. *See* N.T., p. 117.

60. The proposed parking lot, vehicle ingress and egress, pedestrian walkways, and site lighting are adequate to handle the most well-attended anticipated events according to Mr. Meitzler. *See* N.T., pp. 117-118.

61. The Applicant intends to install an internally illuminated scoreboard and to submit the specifications for the scoreboard during the land development process as the exact model of the proposed scoreboard has not yet been selected. *See* N.T., pp. 21-22.

62. Although the exact model of the scoreboard has not been selected, the luminance from the scoreboard will not exceed 2,000 cd/m² as viewed from any location off site. *See* N.T., p. 22.

63. The scoreboard will not contain any advertisements. *See* N.T., p. 22.

64. The Applicant intends to construct a parking lot that will contain 93 off-street parking spaces, handicapped parking spaces, drive aisles, and a dedicated drop-off area for buses, cars, and other vehicles. *See* Exhibit A-7; *see also* N.T., p. 41.

65. The proposed parking lot will be illuminated and the lights for the parking lot will comply with the Township Code and meet the IESNA full-cutoff criteria. *See* N.T., pp. 41, 68, 82.

66. The Applicant intends to install a spectator area that will consist of bleachers on the Property. *See* N.T., p. 51-53.

67. The Applicant intends to install a stormwater management system and has already obtained an NPDES permit for the proposed stormwater management system. *See* N.T., pp. 42-44.

68. The Applicant intends to install landscape screening along Shady Grove Way as depicted in the plans. *See* Exhibit A-7; *see also* N.T., pp. 42, 47, 60-61.

69. All of the proposed development will occur at one time and not in stages. *See* N.T., p. 48.

70. The Westtown Township Planning Commission reviewed the instant application and made a favorable recommendation with proposed conditions of approval. *See* Exhibit B-13; *see also* N.T., p. 25.

71. On behalf of the Township, Stephen Gribb, P.E., reviewed the Athletic Field and Parking Lot Lighting Plans prepared by Musco and offered comments in regard to compliance with the §170-1514 of the Zoning Ordinance. *See* Exhibit B-8.

72. On behalf of Westtown Township, Chief Bernot reviewed the subject application and recommended that the Township require the Applicant to pay for police officers to assist with traffic

control in the same manner specified in the WCASD Agreement for Rustin High School and explained the difference between reportable and non-reportable crashes. *See* Exhibit B-9.

73. On behalf of Westtown Township, Mr. Federico opined that improvements to the Westtown Road and Oak Lane site access and intersection to address current sub-optimal geometry appear warranted. *See* Exhibit B-10.

74. On behalf of Westtown Township, Cedarville Engineering reviewed the subject application and provided comments for the Township's consideration. *See* Exhibits B-7 and B-11.

75. On behalf of Westtown Township, Township Fire Marshall Gerald DiNunzio, Jr., reviewed the subject application and opined that he did not see any life safety issues or concerns with the proposed plan. *See* Exhibit B-12.

76. Margaret Virginia Sutton (1428 Johnnys Way) appeared at the hearing, did not request party status, and asked traffic questions regarding the intersection of Oak Lane and Westtown Road. *See* N.T., pp. 131-137.

77. Janice York (1149 Westtown Road) appeared at the hearing, did not request party status, and asked questions regarding noise and land development. *See* N.T., pp. 137-143.

78. Jeanette Zarelli (1151 Westtown Road) appeared at the hearing, did not request party status, and asked questions regarding PennDOT and Westtown Road. *See* N.T., pp. 143-145.

DISCUSSION

Under §603(c)(2) and 913.2(a) of the Pennsylvania Municipalities Planning Code (“MPC”) (53 P.S. §10603(c)(2) and §10913.2(a)), the Board, as the governing body of the Township, has the authority to grant conditional uses pursuant to the express standards and criteria set forth in the Zoning Ordinance and to attach such reasonable conditions and safeguards in addition to those expressed in the Zoning Ordinance, as it may deem necessary to implement the purposes of the MPC and the Zoning Ordinance. *Clinton County Solid Waste Auth. v. Wayne Twp.*, 643 A.2d 1162, 1168 (Pa. Cmwlth. 1994).

A conditional use is a form of permitted use. *Pennridge Dev. Enterprises, Inc. v. Volovnik*, 624 A.2d 674, 676 (Pa. Cmwlth. 1993). A conditional use is nothing more than a special exception which falls within the jurisdiction of the municipal governing body rather than the zoning hearing board. *In re Thompson*, 896 A.2d 659, 670 (Pa. Cmwlth. 2006). Because the law regarding conditional uses and special exceptions is virtually identical, the burden of proof standards is the same for both. *Sheetz, Inc. v. Phoenixville Borough Council*, 804 A.2d 113, 115 n.5 (Pa. Cmwlth. 2002).

In a conditional use case, the applicant first bears the burden of establishing that the application falls within the special exception or conditional use provision of the particular township ordinance. *City of Hope v. Sadsbury Twp. Zon. Hearing Bd.*, 890 A.2d 1137, 1147 (Pa. Cmwlth. 2006). A conditional use applicant must demonstrate that it is entitled to a conditional use by establishing compliance with the specific criteria for the use detailed in the zoning ordinance. *Bray v. Zoning Bd. of Adjustment*, 410 A.2d 909, 911 (Pa. Cmwlth. 1980). An applicant seeking conditional use approval must prove compliance with both the use-specific and general conditional use standards and criteria explicitly set forth in the applicable zoning ordinance. *In re AMA/American Marketing Ass’n, Inc.*, 142 A.3d 923, 932 (Pa. Cmwlth. 2016).

In addition to the above-mentioned statutes and case law, the Zoning Ordinance contains standards for reviewing a conditional use application. In reviewing requests for a conditional use, the Board is guided by the general standards for a conditional use set forth in §170-2009.D (Conditional use – Standards for conditional use approval) of the Zoning Ordinance, which provides as follows:

- 1) In reviewing and acting upon an application for conditional use, the Board of Supervisors shall evaluate the degree of compliance with the following standards:
 - (a) The uses proposed shall be limited to those authorized as conditional uses within the district in which the lot or parcel is situated.
 - (b) The proposal shall be consistent with the Township Comprehensive Plan and with the purpose of this chapter to promote the public health, safety, and general welfare.
 - (c) The appropriate use, and the value, of adjacent property will be safeguarded.
 - (d) The development, if more than one building, will consist of a harmonious grouping of buildings or other structures.
 - (e) If the development is to be carried out in progressive stages, each stage shall be so planned that the conditions and intent of this chapter shall be fully complied with at the completion of any stage.
 - (f) The demand created by the proposed use upon public services and facilities such as water supply, sewage disposal, police and fire protection, emergency services, open space and recreation facilities, and the public school system has been considered and, where necessary, adequate arrangements for expansion or improvement are assured.
 - (g) The design and use of any new construction and the proposed change of design (if any) and proposed change in use of existing buildings will be compatible with the existing designs and uses in the immediate vicinity and that the proposed design or use shall be compatible with the character of the neighborhood.
 - (h) The burden of proof shall be upon the applicant to prove to the satisfaction of the Board of Supervisors, by credible evidence, that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion. The peak traffic generated by the development shall be accommodated in a safe and efficient manner. Such analysis shall consider any improvements to streets that the applicant is committed to complete or fund.

- 2) The Board of Supervisors shall weigh each case on its own merits, separately, based upon pertinent information presented or known to it, and without regard to any previous case.

In consideration of the standards set forth in the Zoning Ordinance, relevant statutes, and case law, and based upon a careful review of the evidence presented to the Board, it is determined that the Applicant has met the requirements for conditional use pursuant to §170-2009.D of the Zoning Ordinance. Permanent outdoor illumination for active recreational and sports facilities accessory to a school is permitted when approved as a conditional use by the Board per §170-1514.D(5) of the Zoning Ordinance. Thus, the Applicant's proposed athletic field lights are authorized as a conditional use. The Applicant's expert in engineering and design testified that the lighting of the athletic field is consistent with the Township's Comprehensive Plan. The Applicant presented credible evidence that adjacent properties will be safeguarded from the audible and visual impacts created by the illuminated athletic field. The Applicant presented credible evidence that the proposed support building will be functional, compatible, and harmonious with the existing campus buildings. The proposed construction and development will be conducted at a single time and not in stages. Mr. Best testified credibly that the demand on municipal services will be low as the sewer system has capacity to accommodate the development. Township Fire Marshal, Gerald DiNunzio, Jr., reviewed the proposed application and stated that he does not see any life safety issues or concerns with the proposed project. The Westtown Township Police Department reviewed the application and provided comments. The two grass athletic fields already exist on the Property, and the Applicants are converting both of the grass fields to turf fields and providing athletic field lighting for only one of them. Thus, the existing use and the proposed use will very nearly be the same and compatible.

Finally, the Applicant presented credible expert testimony, through Mr. Meitzler, that the athletic field lights will not result in or substantially add to a significant traffic hazard or significant traffic congestion. Mr. Federico opined that based on the submitted materials, there are no indications

that the proposed use will result in or substantially add to traffic congestion. Mr. Meitzler opined that peak traffic generated by the single illuminated athletic field can be accommodated in a safe and efficient manner on the existing road network. The Board credits Mr. Meitzler's testimony and the opinion provided by Mr. Federico.

In addition to the general conditional use standards contained in §170-2009.D of the Zoning Ordinance, the Board is also guided by the more specific standards contained in §170-1514.D(5) (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) of the Zoning Ordinance. In consideration of the standards set for in §170-1514.D(5) of the Zoning Ordinance and based upon a careful review of the evidence presented to the Board, it is determined that the Applicant has met the requirements for conditional use. The Applicant's proposed athletic field lights will be associated with nighttime events, permanently installed in a fixed location, and will be not portable. The Applicant presented studies from an expert traffic engineer, who opined that the proposed traffic improvements will be adequate for the proposed illuminated athletic field. The Applicant agreed to submit to the Township an annual report at least 45 days before the start of each sports and recreation year that a permanent recreational and sports lighting installation is proposed to be utilized. The Applicant presented credible evidence that the maximum mounting height as measured from the finished grade of the playing field to the top of the highest fixture of lighting fixtures will be 70 feet.

Mr. Zoeller testified that lighting shall be accomplished through the use of full cutoff or fully shielded fixtures that employ suitable shielding. Further, the lighting will be designed, installed, aimed, and maintained so that neither lamps (bulbs) nor primary reflecting surfaces shall be visible from any window of residential properties within a radius of 1,800 feet of the boundary of lighted field. The Board credits Mr. Zoeller's testimony that the fixtures will not present a hazard to drivers or pedestrians by projecting glare that impairs their ability to safely traverse streets, driveways, sidewalks,

pathways and trails. The fixtures will be mounted at an appropriate height, angle, and location to comply with the above conditions.

Numerous witnesses on behalf of the Applicant testified that the athletic field lights shall be used for the students of the Applicant only. The athletic field lights will be lighted a maximum of 30 lighted events per calendar year, with a potential for up to three additional lighted events for playoffs or championship games. The Applicant agreed to extinguish the lights no later than 10:00 p.m. if needed, the Applicant agreed that it will submit a formal application to the Board of Supervisors to extend the curfew past 10 p.m. The light posts will be set back at least 50 feet from the boundary of the Property. The Applicant submitted a lighting plan that adequately addressed light trespass and direct glare. The illuminance for athletic field lights will be in accordance with and will not exceed the values contained in the latest edition of IESNA RP-6, Recommended Practice for Sports and Recreational Area Lighting. Mr. Zoeller testified that the amount of spill light from athletic field lights as measured on adjacent properties or properties will be 0.00 footcandles, horizontal or vertical, at any height or location on the Property.

Although the Applicant intends to turf both fields, the Applicant will only provide permanent sports lighting for one of the fields. During the course of the hearing, the Applicant committed to keeping records regarding the usage of lighting system and providing those records to the Township as needed. The Applicant has not chosen a specific sound amplification system. However, the Applicant provided testimony that the sounds amplification system that will be selected will comply with Township Ordinances.

Accordingly, the Applicant's request for conditional use approval pursuant to §170-2009 (Conditional uses) of the Zoning Ordinance and §170-1514.D(5) (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) of the Zoning Ordinance to permit the installation of permanent exterior athletic field lights for athletic events on a single turfed athletic field

for the individual parcel located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania (UPI No. 67-5-27) shall be GRANTED, subject to the conditions contained in the Order.

Conclusions of Law

- 1) The hearing was duly advertised, all required notices were given, and the hearing was duly convened.
- 2) The Board has jurisdiction over this matter.
- 3) The Applicant has demonstrated that it is entitled to the conditional use pursuant to §170-1514.D(5) (Permanent recreational and sports lighting and nighttime events) and §170-2009 (Conditional uses) of the Zoning Ordinance, which have been granted.

The Board, therefore, enters the following:

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN RE:

CONDITIONAL USE APPLICATION
OF TOLL PA XVIII, L.P.

BEFORE THE BOARD OF
SUPERVISORS OF WESTTOWN
TOWNSHIP, CHESTER COUNTY,
PENNSYLVANIA

ORDER

AND NOW, this 19th day of June 2023, upon consideration of the conditional use application of Westtown School pursuant to §170-2009 (Conditional uses) of the Zoning Ordinance and §170-1514.D(5) (Outdoor lighting – Permanent recreational and sports lighting and nighttime events) of the Zoning Ordinance to permit the installation of permanent exterior athletic field lights for athletic events on a single turfed athletic field for the individual parcel located at 975 Westtown Road, Westtown Township, Chester County, Pennsylvania (UPI No. 67-5-27), IT IS HEREBY ORDERED that the conditional use requested shall be GRANTED, subject to the following conditions:

1. The Applicant shall consider during land development the installation of emergency backup lighting to illuminate segments of the pathway leading from the parking lot to the athletic field where the pole lights will be installed.

2. Lighting for all parking lots associated with the use of the athletic fields shall comply with all applicable Township Ordinances and regulations.

3. All conditions of the conditional use approval imposed by the Board shall be clearly set forth on the land development plans and recorded as conditions of final land development approval.

4. The Applicant shall provide truck turning templates to the Township demonstrating that emergency vehicles may safely access the parking lot located closest to the athletic fields.

5. The Applicant shall provide the specifications for the scoreboard which must meet all relevant Township Ordinance requirements.

6. Applicant shall analyze the intersection of Oak Lane and Westtown Road and coordinate improvements with the Township and its consultants to the extent necessary to address visibility and ensure appropriate sight distance.

7. If required by PennDOT or Township criteria, the Applicant shall obtain a permit for the existing flashing signal that was installed on Oak Lane.

8. The Applicant shall provide specifications for the public announcement system and such system must comply with all relevant Township Ordinance criteria.

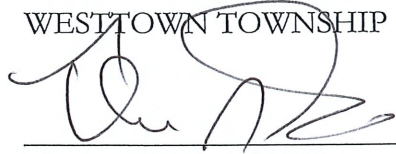
9. If the Applicant or its agent(s) obtains conditional use approval for the installation of solar panels on its property, it shall provide consistent landscaping buffers on the land development plan associated with the athletic fields improvements as well as the plans for solar panel installation.

10. The Applicant and the use and development of the Property shall comply with the representations and commitments made in the testimony and exhibits presented at the hearing to the Board.

11. The Applicant and the use and development of the Property shall comply in all respects with all ordinances and regulations of Westtown Township and with all applicable provisions of any statute, ordinance or regulation of any municipal or governmental entity having jurisdiction over the Property or the uses thereon.

12. The athletic field light system may only be energized in conjunction with an event directly related to and under the control of the educational or sports program of Westtown School. No private organizations or other public entities may use the athletic field lights for lighted events of any reason.

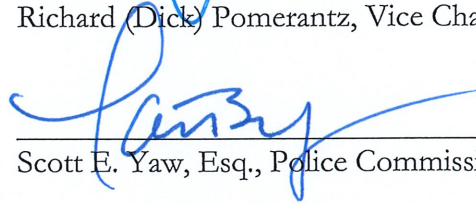
BOARD OF SUPERVISORS OF
WESTTOWN TOWNSHIP



Thomas Foster, Chairman



Richard (Dick) Pomerantz, Vice Chairman



Scott E. Yaw, Esq., Police Commissioner

*[SIGNATURE PAGE TO THE CONDITIONAL USE DECISION, DATED JUNE 19, 2023,
ON THE APPLICATION OF WESTTOWN SCHOOL]*