March 2, 2020

Thomas Gervasi
Treasure/Business Manager
973 Old Lancaster Road
Berwyn, PA 19312

Re: Zoning Hearing Board Appeal #23-19

Dear Applicant:

Please be advised that on January 23, 2020 the Zoning Hearing Board voted to Approve your request for Appeal #23-19. A copy of the order enclosed.

This decision will expire in twelve months. If a building permit (when applicable) has not been issued within that time, an extension request should be sent to the Township before the expiration. In the absence of this request, the applicant must repeat the Zoning Hearing Board appeal process.

If you have any questions concerning the Board’s action, please feel free to contact me.

Very truly yours,

Matt Baumann
Zoning Officer

cc: Zoning Hearing Board file
IN RE:
APPLICATION OF
THE TIMOTHY SCHOOL

BEFORE THE ZONING HEARING BOARD
OF TREDYFFRIN TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA

APPEAL NO. 23-19

DECISION

The Zoning Hearing Board of Tredyffrin Township (the "Board"), after proper advertisement, met on Thursday, January 23, 2020 to hear evidence on the Application of the Timothy School Development Fund, Inc. (the "Applicant") for: (1) a special exception under Section 208-25.D(1) to permit the expansion of a philanthropic use on the properties; (2) a special exception under Section 208-103.A(2) to permit the parking in the front yard setback adjacent to 1009 Old Lancaster Avenue; (3) a special exception under Section 208-103.A(2) to permit the extension of the existing angled parking spaces on 973 Old Lancaster Road to make them compliant in length; (4) a variance from Section 208-27.D to permit the proposed vestibules for 973 Old Lancaster Road and 999 Old Lancaster Road to encroach into the front yard setback; (5) a variance from Section 208-27.H to permit a parking area between 999 Old Lancaster Road and 1009 Old Lancaster Road to be five (5) feet from the property line; and (6) a variance from Section 208-103.A(5) to permit the bus lane to be utilized for pedestrian circulation in the parking area, all under the Tredyffrin Township Code of Ordinances (the "Code") for the properties located at 941 Old Lancaster Road (43-10K-125-E), 973 Old Lancaster Road (43-10K-124), 973 Old Lancaster Road (43-10K-123-E), 999 Old Lancaster Road (43-10K-122.1-E), and 1001 Old Lancaster Road (43-10K-122-E) in the R-2 and C-1 Zoning Districts. The Applicant was represented by Mark Harris, Esquire. Thomas Gervasi and Robert Lambert, Jr., P.E. testified on behalf of the Application.
Present at the hearing were Acting Chairperson Neill Kling, and Members Tara LaFiura, Lindsay Andreuzzi and Mark Sheppard. Also present at the hearing were Michael Pilotti, Senior Building, Code & Fire Official, and Amanda J. Sundquist, Esquire, Solicitor for the Board. No one sought party status.

At the conclusion of the hearing, the Board took the matter under consideration until its February 27, 2020 meeting.

I. Findings of Fact

1. The following exhibits were admitted as evidence at the hearing:

   Exhibit B-1 Application with attachments
   Exhibit B-2 Proof of Publication of the notice in the Daily Local News
   Exhibit B-3 Affidavit of Posting of the notice on the Property
   Exhibit B-4 Affidavit of Mailing of notice to the required properties
   Exhibit B-5 January 17, 2020 memorandum from the Township Planning Commission
   Exhibit A-1 CV of Robert M. Lambert, Jr., P.E.
   Exhibit A-2 Illustrative Landscape Plan
   Exhibit A-3 Master Plan Sketch

The Code and Zoning Map are incorporated herein by reference.

2. The hearing was duly convened, and the Applicant presented evidence in support of the Application.

3. The properties are located in the R-2 and C-1 Zoning Districts.

4. The Applicant is the Timothy School Development Fund, Inc.

5. The Timothy School Corporation (“Corporation”) operates the Timothy School (the “School”).
6. The School is an approved Pennsylvania private school that serves children ages 6 to 21 who are diagnosed with autism.

7. The School currently serves 69 students.

8. The Applicant serves as the fundraising arm for the School, providing support to the School.

9. 973 Old Lancaster Road is owned by the Corporation.

10. The Corporation was granted a variance in 1997 to utilize the property located at 973 Old Lancaster Road for the School.

11. 999 Old Lancaster Road is owned by the Applicant.

12. In 2010, the Applicant was granted a variance and special exception to utilize 999 Old Lancaster Road as a philanthropic use in support of the School.

13. 941 Old Lancaster Road is owned by the Applicant.

14. In 2010, the Applicant was granted a special exception for 941 Old Lancaster Road to further extend the philanthropic use in support of the School.

15. 1001 Old Lancaster Road is owned by the Applicant.

16. In 2011, the Applicant was granted a special exception for 1001 Old Lancaster Road to further extend the philanthropic use in support of the School.

17. The Applicant and the Corporation have agreed to transfer 973 Old Lancaster Road to the Applicant.

18. The Applicant intends to consolidate the properties located at 973, 999, 941 and 1001 Old Lancaster Road (collectively the “Properties”) into a single property through the subdivision and land development process.
19. When the Properties are consolidated, they will be bounded by Old Lancaster Road to the north, the Septa railroad to the south, and 1009 Old Lancaster Road (owned by the Corporation) to the west.

20. The Applicant seeks a special exception under Section 208-25.D(1) to extend the existing philanthropic use through the consolidated Properties.

21. There will be no change to the approved use of the Properties as part of the consolidation.

22. There will be no increase in traffic or noise as part of the consolidation.

23. There will be no impact on the surrounding neighborhood as a result of the consolidation.

24. The Applicant seeks a variance from Section 208-103.A(5) to permit the driveway area where buses drop off and pick up students to be utilized for pedestrian circulation in the parking area.

25. Buses arrive at the School to drop off students between 8:00 a.m. and 8:45 a.m. and to pick up students between 2:00 p.m. and 2:40 p.m.

26. When the buses are not utilizing the driveway area, it could be used for pedestrian circulation by staff and students as a pedestrian walkway.

27. Outside of drop off and pick up times by the buses, the driveway area will be blocked with a chain or a gate, so vehicles cannot access the area.

28. Vehicles can access the parking lots on the Properties and enter and exit from the Properties without entering the driveway area.

29. The Applicant proposes an 11 parking space lot on the western boundary of the Properties.
30. The Applicant seeks a special exception under Section 208-103.A(2)(a), to permit three (3) of the 11 parking spaces and an aisle to be located within the front yard setback of 999 Old Lancaster Avenue.

31. The Applicant also seeks a variance from Section 208-27.H to permit the parking area between 999 Old Lancaster Avenue and 1009 Old Lancaster Road to be five (5) feet from the shared property line, as opposed to the 25 feet required by the Code.

32. 999 Old Lancaster Avenue is adjacent to 1009 Old Lancaster Avenue, which is also owned by the Corporation but is not part of the consolidation.

33. In the event the Corporation decides to sell 1009 Old Lancaster Road in the future, it agrees that the six (6) parking spaces on 999 Old Lancaster Road closest to 1009 Old Lancaster Road will be removed and replaced with landscaping.

34. Due to the topography between Old Lancaster Road and the rear of 999 Old Lancaster Road, the parking lot cannot be located outside of the setback.

35. If located as proposed by the Applicant, the building acts as a screening buffer for the proposed parking spaces from 1009 Old Lancaster Road; if its located further to the rear it is visible.

36. The Applicant seeks a variance from Section 208-27.D, to permit the vestibules for the buildings located on 973 Old Lancaster Road and 999 Old Lancaster Road encroach in the front yard setback.

37. The buildings located on 973 and 999 Old Lancaster Road are nonconforming as to the front yard setback; rather than a 50 foot front yard setback, 973 Old Lancaster Road has an existing setback of 32.1 feet and 999 Old Lancaster Road has an existing setback of 29.7 feet.
38. The Applicant proposes to add vestibules to the front of the buildings at 973 and 999 Old Lancaster Road.

39. The addition of a vestibule at 973 Old Lancaster Road will result in a proposed front yard setback of 29.7 feet.

40. The addition of a vestibule at 999 Old Lancaster Road will result in a proposed front yard setback of 28.8 feet.

41. The encroachment into the front yard setback is *de minimis*.

42. The Applicant seeks a special exception under Section 208-103.A(2)(a) to provide for the existing parking in the front yard setback at 973 Old Lancaster Road.

43. Adjacent to the building on 973 Old Lancaster Road are existing angled parking spaces.

44. The existing parking spaces are shorter than required (12 feet by 14 feet).

45. The Applicant seeks to extend the parking spaces so they are compliant.

46. The extension will be away from Old Lancaster Road, toward the building; however, that extension is still within the front yard setback.

47. The extension will make the parking spaces more useable and compliant in length.

48. The extension does not increase the encroachment into the front yard setback.

49. Robert Lambert, Jr. was admitted as an expert in civil engineering and land development.

50. Claire Lewis and Cindy Verguldi offered public comment.

51. The Township’s Planning Commission requested a condition of approval stating “Should the far western property, which is currently owned by the Timothy School (Tax ID #43-
10K-121) sell then the six (6) parking spaces, as designed in the Plan submitted, be removed and replaced with landscaping.”

52. No one sought party status.

53. The Applicant has demonstrated that it meets the objective criteria for the special exceptions.

54. The proposed variances will not alter the character of the neighborhood.

55. Granting the proposed variances will not be injurious to the neighborhood or otherwise be detrimental to the public health, safety and welfare of the community.

II. Discussion

The Applicant seeks several special exceptions. A special exception is a use contemplated to be appropriate for a zoning district, provided specifically listed standards are met. “A special exception is thus not an “exception” to the zoning ordinance, but a use permitted conditionally, the application for which is to be granted or denied by the zoning hearing board pursuant to express standards and criteria.” In re Brickstone Realty Corporation, 789 A.2d 333, 340 (Pa. Cmwlth 2001). Once the applicant has shown compliance with the specific requirements of the ordinance, the use is presumed to be consistent with the health, safety and general welfare, and the burden to demonstrate otherwise shifts to any objectors. Bray v. Zoning Bd. of Adjustment, 410 A.2d 909, 911 (Pa. Cmwlth.1980).

The Applicant also seeks a number of variances. Section 208-150 of the Code empowers the Board to grant variances from the terms of the Code. The Municipalities Planning Code and existing case decisions provide that variances from a zoning ordinance may be granted owing to any physical circumstance or condition of the property which causes unnecessary hardship, and which hardship is not self-created. In addition, applicants for a dimensional variance need not be
held to the same strict standards imposed on applicants for a use variance. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (Pa. 1998).

The first special exception sought by the Applicant is to extent the philanthropic use across the entirety of the consolidated Property. Three of the four parcels to be consolidated are already approved philanthropic uses and the fourth is the school use. There will be no change to the use of the Properties and there will be no change to the impact on the community. As a result, the Board finds the Applicant complies with the objective criteria for a special exception under Section 208-25.D(1) to permit the philanthropic use.

The Applicant seeks a special exception and a variance for the proposed 11 parking spot lot at the western side of the Property adjacent to 1009 Old Lancaster Road. 1009 Old Lancaster Road is owned by the Applicant, but is not included as part of the proposed consolidation. The location of the proposed parking lot permits it to be buffered by the building from 1009 Old Lancaster Road; a compliant location would make the lot more visible to the adjacent property. The Applicant has agreed to remove six (6) parking spaces in the proposed lot in the event 1009 Old Lancaster Road by sold by the Applicant, and insert buffering to mitigate any impact on 1009 Old Lancaster Road. As a result the Board finds the Applicant complies the objective criteria for a special exception from Section 208-103.A(2)(a) and a variance from Section 208-27.H.

The Applicant seeks a special exception to permit the extension of the existing angled parking spaces on the lot adjacent to 973 Old Lancaster Road in order to make the length of the existing parking spaces compliant. The spaces currently exist in the front yard setback, but are undersized. The Applicant proposes to make them compliant in size with the Code. While the spaces will remain in the front yard setback, the extension of the spaces will extend into the
Properties, rather than toward Old Lancaster Road. As a result the Board finds the Applicant complies with the criteria for a special exception from Section 208-103.A(2)(a).

The Applicant seeks a variance from Section 208-27.D to permit the construction of vestibules on 973 Old Lancaster Road and 999 Old Lancaster Road to encroach into the required 50 foot setback. Currently 973 Old Lancaster Road has an existing noncompliant front yard setback of 32.1 feet, and 29.7 foot setback is proposed. 999 Old Lancaster Road has an existing noncompliant front yard setback of 29.7 feet, and a 28.8 foot setback is proposed. The proposed encroachment at both locations is de minimis and would be imperceptible to the public. As a result the Applicant complies with the criteria for a variance from Section 208-27.D.

Finally, the Applicant seeks a variance to permit the existing bus lane to be utilized for pedestrian circulation. The buses utilize this area for a limited period of the day. The area can be blocked from vehicle access during the school day without impeding traffic circulation. The dual use will also decrease additional development on the Properties. As a result the Applicant complies with the criteria for a variance from Section 208-103.A(5).

III. 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 established entitlement to the following relief:

   A. a special exception under Section 208-25.D(1) to permit the expansion of a philanthropic use on the Properties;
B. a special exception under Section 208-103.A(2) to permit the parking in the
front yard setback adjacent to 1009 Old Lancaster Avenue;

C. a special exception under Section 208-103.A(2) to permit the extension of
the existing angled parking spaces on 973 Old Lancaster Road to make them
compliant in length;

D. a variance from Section 208-27.D to permit the proposed vestibule for 973
Old Lancaster Road to have a front yard setback of 29.7 feet;

E. a variance from Section 208-27.D to permit the proposed vestibule for 999
Old Lancaster Road to have a front yard setback of 28.8 feet;

F. a variance from Section 208-27.H to permit a parking area between 999 Old
Lancaster Road and 1009 Old Lancaster Road to be five (5) feet from the
property line; and

G. a variance from Section 208-103.A(5) to permit the bus lane to be utilized
for pedestrian circulation in the parking area,

The Board, therefore, enters the following:

ORDER

AND NOW, this 27th day of February 2020, upon consideration of the Application of the
Timothy School Development Fund, Inc. for certain relief for the properties located at 941 Old
Lancaster Road (43-10K-125-E), 973 Old Lancaster Road (43-10K-124), 973 Old Lancaster
Road (43-10K-123-E), 999 Old Lancaster Road (43-10K-122.1-E), and 1001 Old Lancaster
Road (43-10K-122-E) in the R-2 and C-1 Zoning District, IT IS HEREBY ORDERED that the
following relief requested shall be GRANTED:
A. a special exception under Section 208-25.D(1) to permit the expansion of a philanthropic use on the Properties;

B. a special exception under Section 208-103.A(2) to permit the parking in the front yard setback adjacent to 1009 Old Lancaster Avenue;

C. a special exception under Section 208-103.A(2) to permit the extension of the existing angled parking spaces on 973 Old Lancaster Road to make them compliant in length;

D. a variance from Section 208-27.D to permit the proposed vestibule for 973 Old Lancaster Road to have a front yard setback of 29.7 feet;

E. a variance from Section 208-27.D to permit the proposed vestibule for 999 Old Lancaster Road to have a front yard setback of 28.8 feet;

F. a variance from Section 208-27.H to permit a parking area between 999 Old Lancaster Road and 1009 Old Lancaster Road to be five (5) feet from the property line; and

G. a variance from Section 208-103.A(5) to permit the bus lane to be utilized for pedestrian circulation in the parking area,

subject to the following conditions:

1. Should 1009 Old Lancaster Road, which is currently owned by the Applicant, be sold then the six (6) parking spaces closest to 1009 Old Lancaster Road as designed in the submitted plan shall be removed and replaced with landscaping.

2. The Applicant shall operate the use consistent with the evidence and testimony presented to the Board.
3. The Applicant shall comply with all other applicable federal, state and local laws, regulations and ordinances.

ZONING HEARING BOARD OF
TREDYFFRIN TOWNSHIP

NEILL C. KLING, Chairperson

ABSENT
TARA LaFIURA

LINDSEY ANDREUZZI

ABSENT
MARK SHEPPARD