

# YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313

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The May meeting of the York Township Zoning Hearing Board was called to order by James Barnes, Chair.

Those in attendance were:

James Barnes, Chair  
John Myers, Vice Chair  
Anthony Pantano, Asst. Secretary  
Albert Granholm, Alternate  
Jeffrey Rehmeyer, Esquire, Solicitor  
Lisa Frye, Zoning Officer

## MINUTES OF APRIL 25, 2023

The Zoning Hearing Board minutes of the April 25, 2023, meeting were approved.

## DECISIONS OF APRIL 25, 2023

The Zoning Hearing Board decisions of the April 25, 2023, meeting were approved.

## SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2023-02: Dallastown Area School District (aka York Imperial School District Authority) requests a Variance to expand the existing Leader Heights Elementary School (Public School) on property located at 49 Indian Rock Dam Road in a Commercial Shopping (CS) District.

Present: Scott Debell  
Kurt Rohrbaugh

MOTION. On Application 2023-02, Dallastown Area School District (aka York Imperial School

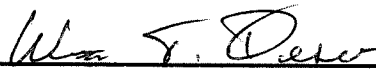
York Stenographic Services, Inc.  
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board  
Tuesday, May 23, 2023  
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District Authority) requests a Variance to expand the existing Leader Heights Elementary School (Public School) on property located at 49 Indian Rock Dam Road in a Commercial Shopping (CS) District, that the application be approved.

MOTION MADE BY: John Myers  
SECONDED BY: Albert Granholm  
MOTION PASSED UNANIMOUSLY

ATTEST:

  
\_\_\_\_\_  
William Descar, Secretary

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2023-02

**Hearing Date:** May 23, 2023

**Applicant:** Dallastown Area School District  
a/k/a York Imperial School District Authority

**Property Owner:** York Imperial School District Authority

**Property:** 49 Indian Rock Dam Road  
UPI: #54-000-06-0061-A0-00000

**Existing Zoning District:** Commercial Shopping (CS) District

**Relief Requested-** Variance under the York Township Zoning Ordinance of 2012 (the “Ordinance”) and pursuant to Section 265-901.A.2. of the Ordinance.

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## FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Anthony Pantano announced to the Zoning Hearing Board and those in attendance at the meeting that he is a current and active member of the Board of School Directors of the Dallastown Area School District and accordingly, he recused himself from participating in the hearing for this Application.
3. Scott DeBell, Civil Engineer and Senior Project Manager at Site Design Concepts, Inc. and Kurt Rohrbaugh, Director of Business Operations at the Dallastown Area School District, were present on behalf of the Applicant.
4. The Applicant is seeking a Variance to allow for the expansion of its existing Elementary School on the Property, beyond the limits allowed by Special Exception per Section 265-901.A.2. of the Ordinance (the “Variance”).
5. Mr. DeBell provided testimony as follows:
  - a. The Leader Heights Elementary School (the “School”) is part of the Dallastown Area School District.
  - b. The School educates students from Kindergarten to Third Grade.
  - c. The School was built in the 1960’s.
  - d. Under the Ordinance, the School would be defined as School, Public/Private.
  - e. A School Public/Private is not allowed as a use by right or Special Exception in the Commercial Shopping District.
  - f. However, a School, Commercial or College/University, is allowed as a permitted use in the Commercial Shopping (CS) District.
  - g. The Applicant desires to expand the School substantially, to implement new classrooms, a new gym and a new cafeteria.

- h. The expansion will also increase efficiency.
  - i. The expansion of the School will also alleviate the load on other elementary schools in the District.
  - j. The expansion will also bring this School, which was built in the 1960's, up to current standards.
  - k. The School itself is currently 32,653 square feet.
  - l. The proposed building expansion would be an additional 47,901 square feet (the "Expansion").
  - m. The Expansion would include a separate building, connected to the existing School building using two walkways.
  - n. The Expansion would also include added onto the existing School building.
  - o. The Expansion would bring with it an additional parking area in the rear.
  - p. Because of the magnitude of the Expansion, the provisions of Section 265-901.A.2. are inapplicable.
  - q. Therefore, the Variance is necessary.
6. With regard to the Variance criteria, the Applicant offered the following:
- a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, which include the existing School, which has been on the site for decades, predates the Ordinance, and is not readily converted to another use and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
  - b. Because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of this Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, and in particular, for a more modern School for adequate and safe use.
  - c. The unnecessary hardship is not being created by the Applicant, since the School predates the Ordinance.
  - d. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the Property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare. Further, the Applicant intends to install buffers and screening as might be appropriate.
  - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
7. In response to questions from Mike Jeffers, the Applicant answered as follows:
- a. A Land Development Plan has been submitted to the Township.
  - b. A traffic study has been completed and submitted to PennDOT.
  - c. The zoning for the Property is not likely to be changed, as the existing use as a non-conformity will continue.
8. In response to questions from Robert Olander, the Applicant answered as follows:
- a. The intended use of the Property will continue to be that of a school.
  - b. The Commercial zone was established by the Township and the Applicant does not intend to utilize the Property for a use other than a School, Public/Private.
9. Lolly Diggs provided testimony in support of the Variance, indicating that she thought that the Expansion of the School and the grant of a Variance were a wonderful idea.
10. The Property itself is at the border of two zones, and adjacent to it is the Residential Low Density District. A School, Public/Private. is a use permitted by right in a Residential Low Density District.

11. On behalf of the Township, Zoning Officer, Lisa Frye indicated no particular concerns with the grant of the Variance.

## CONCLUSIONS OF LAW


Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

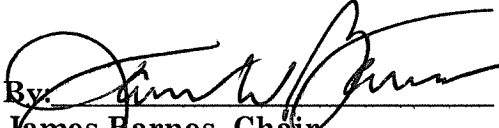
1. The School on the Property is a non-conforming use, which has been in place for approximately 60 years.
2. The use of the Property as a School, Public/Private, while not permitted in a Commercial Shopping District, is very similar to a permitted use, which is a School, Commercial or College/University.
3. The use of land for School, Public/Private, could be accommodated on lands immediately adjacent to the Property.
4. Continuation of the use of the Property as a School is in the best interest of the Property, the surrounding property owners, and the Township.
5. The Applicant has met the criteria for a Variance.

Accordingly, John D. Myers moved, and Al Granholm seconded, to grant a Variance to expand the existing Leader Heights Elementary School (Public School) on the Property located at 49 Indian Rock Dam Road in a Commercial Shopping (CS) District. The motion passed with James Barnes, John D. Myers, Al Granholm voting in favor of the motion. Anthony Pantano recused himself.

WITNESS/ATTEST

YORK TOWNSHIP  
ZONING HEARING BOARD

  
\_\_\_\_\_  
William Descar, Secretary

By:   
\_\_\_\_\_  
James Barnes, Chair  
7/26/23  
\_\_\_\_\_  
Date

The Variance granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Variance, pursuant to Section 265-1009. E. of the Ordinance.