

(c) decided that the examples of what may be “evidence” of “enlargement of use” in Section 155-4.B of the Zoning Code were not intended to constitute “expanded use” per se.

29. For the following reasons, however, the Decisions should be reversed on grounds of error of law and abuse of discretion because the Zoning Board:

(a) committed legal error in re-interpreting and limiting the Campus Approval after the fact;

(b) committed legal error in concluding that the Playing Field Improvements, which represent the utilization of a zoning lot permitted for use as an intercollegiate and intramural facility, are not permitted without further special exception relief;

(c) committed legal error and abused its discretion in finding that the Playing Field Improvements represent an “enlargement of the use of the property” for purposes of Sections 155-4.B and 155-11.X of the Zoning Code;

(d) committed legal error and abused its discretion in holding that the Playing Field Improvements are not permitted insofar as they were not shown on the rudimentary existing use plan that was submitted with the Campus Application;

(e) committed legal error and abused its discretion in holding that installation of new improvements on the Maguire Campus, regardless of compliance with the SALDO and the Zoning Code’s dimensional and parking requirements, requires special exception approval;

(f) committed legal error by impermissibly modifying the 2006 Campus Approval after the fact to shift the burden of the Zoning Code’s special exception criteria to the University, in contravention of governing law;

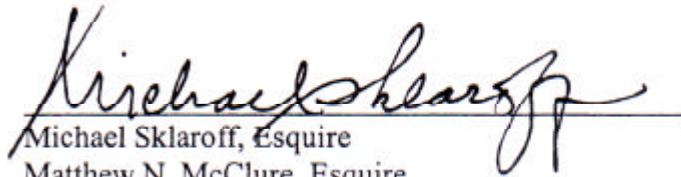
(g) committed legal error by invading the province of the Board of Commissioners by (i) treating land development matters as zoning issues; (ii) misinterpreting the Zoning Code to expand the Board's jurisdiction to matters not contemplated in the Zoning Code; and (iii) requiring special exception approval for elements of land development integral to an established, lawful use;

(h) committed legal error by attempting to exercise legislative power by regulating ongoing conduct and conducting site-specific oversight of the operations of a university within an approved accredited educational use, without any foundation in the Zoning Code; and

(i) committed legal error and abused its discretion by imposing a condition not found in the Campus Approval: that no future construction may proceed on the Maguire Campus without further special exception approval.

WHEREFORE, for all of the foregoing reasons, Saint Joseph's University respectfully requests that this Honorable Court sustain this appeal, reverse the Decisions of the Lower Merion Township Zoning Hearing Board and permit the Playing Field Improvements without further recourse to the Board.

04/24/09

  
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