cc: Council
Mgr
Mayor

ELLWOOD CITY AREA SCHOOL DISTRICT, Appellant, vs. ELLWOOD CITY BOROUGH ZONING HEARING BOARD, Appellee. vs. THE CITIZENS FOR EWING PARK PRESERVATION, an unincorporated association, KAREN MANCINI, TRUSTEE AD LITEM, et al., Intervenor.	IN THE COURT OF COMMON PLEAS LAWRENCE COUNTY, PENNSYLVANIA MISCELLANEOUS DIVISION NO. 70012 OF 2025, M.D.

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BOROUGH OF ELLWOOD CITY

APPEARANCES

For the Appellant:

Gavin A. Robb, Esquire
Christopher J. Voltz, Esquire
Tucker Arensberg, P.C.
1500 One PPG Place
Pittsburgh, PA 15222

For the Appellee:

Gene G. Dimeo, Esquire
Dimeo Law Group, LLC
120 Fourth Street
Ellwood City, PA 16117

For the Intervenor:

Patrick D. Scully, Esquire
Cafardi Ferguson & Wyrick
2605 Nicholson Road, Suite 2201
Sewickley, PA 15143

53RD JUDICIAL DISTRICT

LAWRENCE COUNTY PENNSYLVANIA

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OPINION

HODGE, J. June 16, 2025

This case is before the Court for disposition of the Land Use Appeal filed on behalf of the appellant Ellwood City Area School District, in which Appellant contends the appellee Ellwood City Borough Zoning Hearing Board wrongfully denied its application to construct a softball field, basketball court, four-square court, walking path, playground and related facilities on a vacant property owned by Appellant.

Appellant desires to construct a softball field, basketball court, a four-square court, walking path, playground and related facilities on a 2.4-acre lot which it owns and where Ewing Elementary School was located prior to it being razed in 2011. The property is located in a R-1 Residential District according to the Ellwood City Borough Zoning Ordinance (hereinafter "Zoning Ordinance"). According to Appellee, a public-school use requires a special exception as set forth in the Zoning Ordinance. On October 21, 2024, Appellant filed an application for a special exception for the proposed softball field along with the other aforementioned facilities and claimed those features constituted a public park. However, Appellant asserts the softball field constitutes a sports arena for the purposes of off-field parking, which would require at least 28 dedicated parking spaces for patrons of the softball field.

A public hearing on Appellant's application was held by Appellee on December 4, 2024. At that time, Appellant presented the testimony of Wesley W. Shipley, Ph.D., who was the superintendent of the Ellwood City Area School District. Dr. Shipley stated the property was the location of an elementary school until that building was razed approximately 16 years ago. According to Dr. Shipley, Appellant would like to use that

property to construct a softball field, playground and walking trail. The playground and walking trail would be accessible to members of the public at all times. The softball field would be available to the public for those who complete the procedure set forth in Policy 707 which includes submitting an application within six months prior to the actual time of use, payment of a rental fee and the applicant must have proof of a liability insurance policy in the minimum amount of one million dollars.

Dr. Shipley also explained visiting teams would drop the players off and the buses would park at Helling Stadium while the game is being played. When games or practices occur, the players from the Ellwood City Area School District would be asked to also park at Helling Stadium. Dr. Shipley stated Helling Stadium is "a couple of blocks" from the proposed site, which is within walking distance and could provide additional parking.

Next, Appellant presented the testimony of Jonathan E. Finn, RA, AIA, NCARB, who is a registered architect in the Commonwealth of Pennsylvania. He explained the site was well suited for the construction of a softball field based upon topography, drainage and the availability of utilities. The site would include a synthetic turf field, two dugouts and a two-story press box. Mr. Finn stated the parking area was designed based upon the bleacher capacity for the softball field as the Zoning Ordinance would require 8,400 square feet for parking while they were proposing 9,622 square feet to contain 28 parking spaces. Moreover, Mr. Finn testified that the designs meet the maximum height requirements as there are no structures exceeding the height of two stories. Mr. Finn stated the fence height for the backstop and the press box are to be approximately 20 feet. The perimeter fence is designed to be 6 feet in height while the

fence on the outside of the field would be 8 feet in height. Mr. Finn explained that fence could be reduced to 6 feet if necessary. Mr. Finn also presented a photometric plan demonstrating the lighting impact for the project. He explained the lighting would be pointed in a downward direction into the field and it would limit the amount of light leaving the site. Additionally, there are no audio systems as part of the project and the only noise would be caused by the game being played and spectators. Mr. Finn also estimated the roadways surrounding the site were approximately 24 to 26 feet in width providing sufficient space to accommodate traffic.

Moreover, Appellant called Michael J. Haberman, P.E., an engineer with Gateway Engineers, to testify. He is a certified engineer in Pennsylvania, West Virginia and Ohio. Mr. Haberman performed a traffic and parking analysis concerning the project. He estimated this site would generate 72 trips consisting of 36 vehicles coming to the site and 36 vehicles leaving the site on a typical day. In comparison, Mr. Haberman used a hypothetical in which he estimated 18 single-family homes could be built on that site and those homes would generate 208 trips. According to Mr. Haberman, a school constructed on that site would generate 478 trips. He further explained the average peak-parking demand for one softball field is 16.44 spaces on a typical weekday when practices are occurring. The plans for the project include 28 parking spaces, which Mr. Haberman opines would be sufficient parking on site for the proposed use. School buses transporting players to the softball field would drop off the students and park off-site. In addition, Mr. Haberman testified the proposed use would not generate detrimental impacts in relation to traffic and parking to the adjacent properties.

At times during this hearing, David Parker, a member of the Ellwood City Borough Zoning Hearing Board, seemed to present his own testimony. For example, Mr. Parker stated on the record he visited the site and measured the width of the three roadways surrounding the site. He determined those roadways were 18 and 19 feet wide. Mr. Parker also emphasized the four-square court and basketball court were located on the portion assigned as a parking lot and they would not be accessible when the parking spaces were occupied. Moreover, he opined the proposed use would fundamentally alter the character of the neighborhood by constructing "big fences and backstops". He also stated, "It probably has a deleterious effect on their property values". Mr. Parked explained, "And for a project that has zero support of the local property owners in that triangle, I have a hard time getting past the incompatible land use this proposal presents."

The Zoning Hearing Board also listened to testimony by members of the local community. Karen Mancini stated she and a group of local residents have been fighting to oppose this project at their own expense as they believed it will be detrimental to their properties and the community. Another member of the community, Claire Fauzey, expressed her support for the project as she feels it benefits the students and creates growth for the community. Adam Carter of the Ellwood City Baseball Board stated he was concerned if the special use was denied, the local little league would be affected as the alternate proposed site for this project is the fields where they currently play. It is his opinion that approving the special use would benefit the majority of the community. Gary Rozanki who is the coach for the softball team explained their current field is "deplorable" and the proposed site for the new field is the most cost-effective for the

school district and would provide Ellwood City with facilities similar to those of surrounding schools.

On January 17, 2025, Appellee issued an Adjudication holding the proposed use was not a permitted use under Section 1266.04(A) of the Ellwood City Borough Zoning Ordinance and it denied the Application for Special Use Exception. Appellant filed a Notice of Land Use Appeal on February 13, 2025. The intervenor, the Citizens for Ewing Park Preservation, an unincorporated association, Karen Mancini, trustee ad litem, et al., filed a Petition to Intervene Pursuant to Pa.R.C.P. 2327 on March 14, 2025, and that Petition was granted by the Court on the same date. Appellee also filed a Certification of Record on that date and oral argument on this matter was held on May 13, 2025.

First, Appellant asserts Appellee abused its discretion in holding the proposed use was not a permitted use pursuant to Section 1266.04(A) of the Zoning Ordinance.

"Our scope of judicial review in a land use appeal where the trial court has not taken any additional evidence is limited to a determination of whether the zoning hearing board and/or the planning commission committed an error of law or abused its discretion." Phillips v. Zoning Hearing Bd. of Montour Tp., 776 A.2d 341, 342 n. 2 (Pa. Cmwlth. 2001). An abuse of discretion occurs when the zoning hearing board's findings are not supported by substantial evidence. Ruf v. Buckingham Tp., 765 A.2d 1166, 1168 n. 2 (Pa. Cmwlth. 2001). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Cardamone v. Whitpain Tp. Zoning Hearing Bd., 771 A.2d 103, 104 (Pa. Cmwlth. 2001).

Zoning ordinances are to be liberally construed to allow the broadest possible use of the land. Light of Life Ministries, Inc. v. Cross Creek Tp., 746 A.2d 571, 573 (Pa. 2000). Moreover, zoning ordinances are to be interpreted in accordance with the plain and ordinary meaning of their words. Id. "Zoning boards must not impose their concept of what the zoning ordinance should be, but rather their function is only to enforce the zoning ordinance in accordance with the applicable law." Riverfront Development Group, LLC v. City of Harrisburg Zoning Hearing Bd., 109 A.3d 358, 364 (Pa. Cmwlth. 2015). As such, the zoning board is required to apply the terms of the ordinance as written rather than deviating from those terms based upon an expressed policy. Id.

A permitted use refers to those uses allowed absolutely and unconditionally within a particular zoning district. Lex v. Zoning Hearing Bd. of Hampton Tp., 725 A.2d 236, 237 (Pa. Cmwlth. 1999). "Where a local ordinance enumerates permitted uses, all uses not expressly permitted are excluded by implication." Id., 725 A.2d at 238. When interpreting a zoning ordinance governing permitted uses, the Court is required to give the landowner the benefit of the interpretation least restrictive of the use and enjoyment of the property. Kossman v. Zoning Hearing Bd. of Borough of Green Tree, 597 A.2d 1274, 1277 (Pa. Cmwlth. 1991). To interpret an ordinance containing an undefined term, the Courts are to give that term its plain meaning. Caln Nether Company, L.P. v. Bd. of Supervisors of Thornbury Township, 840 A.2d 484, 491 (Pa. Cmwlth. 2004).

In addressing an application for a special exception, a zoning hearing board must employ a shifting burden of persuasion. Smith v. Zoning Hearing Bd. of Huntingdon Borough, 734 A.2d 55, 59 (Pa. Cmwlth. 1999). The applicant has the initial burden of demonstrating it is entitled to a special exception by establishing compliance with the

specific objective requirements for the exception detailed in the ordinance. Id. If that is established, the burden shifts to the objectors to establish that the proposed exception would be detrimental to the public health, safety and welfare. Id.

"A special exception is neither special nor an exception, but a use expressly contemplated that evidences a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community." Allegheny Tower Associates, LLC v. City of Scranton Zoning Hearing Board, 152 A.3d 1118, 1123 (Pa. Cmwlth. 2017). Section 1264.04 of the Zoning Ordinance allows the Zoning Hearing Board to approve a special exception if the applicant meets the following criteria:

(1) The use is compatible with adjacent uses and buildings or structures; and

(2) The use will not affect the uses of properties adjacent to and in the general area of the requested use; and

(3) The use will not be detrimental to public welfare; and

(4) The use is suited to the topography and other characteristics of the site.

Appellant argues the proposed use is expressly permitted by Section 1266.04 of the Zoning Ordinance as it constitutes a public park/playground. However, the Zoning Ordinance does not specifically define a public park/playground, so the Court must examine what constitutes a public park/playground based upon its plain meaning. The Commonwealth Court of Pennsylvania has stated a public park/playground has the essential feature of a public use which is not confined to privileged individuals but is open to the indefinite public. Rapaport v. Zoning Hearing Bd. of City of Allentown, 687

A.2d 29, 31 (Pa. Cmwlth. 1996) (quoting White v. Smith, 42 A. 125, 126 (Pa. 1889)) (The Court held a private playground associated with a daycare facility did not constitute a public park or playground as its use was confined to a set of privileged individuals and was not open to the indefinite public).

Conversely, the Commonwealth Court indicated the payment of a fee for the use of the land or amenities does not preclude that use from being considered a park or playground. Keener v. Rapho Tp. Zoning Hearing Bd., Lancaster County, 79 A.3d 1205, 1216-1217 (Pa. Cmwlth. 2013). In Keener, the appellant wished to utilize a portion of his farmland, located in an Agricultural Zoning District, to rent as a banquet, wedding or meeting venue for a fee. The Zoning Ordinance listed Parks and Playgrounds as a permitted use within an Agricultural Zoning District which included banquet and social halls not operated on a commercial basis. The Court examined whether requiring a fee removed that proposed use from being open to the general public by stating, "when determining whether a restriction is valid, courts must look beyond superficial differences to determine if there is a relevant difference between the actual natures of the uses to justify different treatment." Id. The Keene Court reasoned, "regardless of whether a banquet facility is available to the 'general public' or available only to those who enter into a contract with Keener and pay a fee, the underlying nature of the use is the same." Id., 79 A.3d at 1217. As a result, the Keener Court determined the trial court erred in finding the proposed use did not meet the definition of "Parks and Playgrounds".

In the case *sub judice*, the use proposed by Appellant is a softball field which is accompanied by a basketball court, a four-square court, an undefined playground and a

small walking trail. It must be noted the basketball court and four-square court would be located on the parking lot and surrounded by parking spaces rendering those amenities unusable when vehicles are parked in those spaces. The main use for the site is the softball field, which is primarily to be used by the Ellwood City High School softball team for practices and games. According to Appellant, the softball field is also open for use by members of the public, when not in use by the high school softball team, but there is an application process along with a yet to be determined fee. Whoever is seeking to use the field must also provide proof of liability insurance in the minimum amount of one million dollars. When the softball field is not being used by the high school or rented by another organization, the gates would be closed and not accessible by members of the public.

Appellant argues the softball field is similar to the banquet facility in Keener as the use requires a fee for use of the site but remains available to the public. However, there are distinctions with the proposed use and the use in Keener. First, Appellant requires an application process to assess whether the entity is permitted to use the softball field. As such, Appellant would have the authority to determine what people or entities are allowed to access the field as opposed to permitting all members of the community to use the same after paying the fee. Moreover, Appellant requires proof of a liability insurance policy with a minimum coverage amount of one million dollars where the use of a banquet facility does not have that requirement. The procedure for renting the softball field as explained by Dr. Shipley is much more exclusionary than those utilized in renting a banquet facility as in Keener. It is apparent from the record the softball field proposed by Appellant would not allow for all members of the public to

have access to the site as it would likely only be available for sports teams, clubs or organizations.

The current case is more analogous to Rappaport in which the appellant sought to construct a playground as a permitted use under the Zoning Ordinance provision allowing for "public parks or playgrounds or governmental uses". It is apparent the ordinance utilized the term "public" to exclude uses confined to privileged individuals as there is no or limited access to the property by the indefinite public. Rappaport, 687 A.2d at 32. Similarly, the proposed use by Appellant is not open to the indefinite public based upon the requirements set forth by Dr. Shipley. While other portions of the proposed project, the walking trail, four-square court and basketball court for example, would allow access to the general public, those aspects are merely ancillary uses for the property as the central use for this project is the softball field for which access will be limited by Appellant.

Additionally, Appellant failed to establish the criteria required for the approval of a special exception. First, the proposed use was incompatible with the adjacent uses. More specifically, the site for the proposed use was within a R-1 low density residential area which is surrounded mainly by single family homes. It is apparent a softball field differs greatly from houses as student athletes would be using that site for practice and games. Furthermore, the designs for the softball field include lights to enable teams to play night games which could impact the surrounding properties. The project is also incompatible with the surrounding land uses as Mr. Finn described the backstop and press box fencing would be 20 feet in height which exceeds the height requirements for fencing as set forth in Section 1480.03 of the Zoning Ordinance. It must be noted

Appellant failed to seek a variance to allow for fencing in excess of the maximum height. Similarly, it appears there is insufficient parking on the site as the bleachers would be designed to accommodate 84 people, which indicates 28 parking spaces would be required. While the designs for the softball facility include 28 parking spaces, some of those spaces are in the same location as the four-square court and basketball court. If there are individuals participating in those activities, then several parking spaces would be unavailable. The proposed use would further affect the adjacent property owners in several ways. There would be increased traffic on the narrow roadways surrounding the softball field which could make parking and navigating the area more difficult. Also, there is the risk of stray softballs being hit or thrown which strike nearby houses or vehicles causing property damage. While Appellant indicated its insurance policy would cover damages caused by softballs from the field, this does not negate the inconvenience it would cause local residents who do not wish to replace windows or repair other damage caused by softballs. Therefore, the proposed use does not meet definition of "public parks/playgrounds", it is not a permitted use pursuant to Section 1266.04(A) of the Zoning Ordinance nor has Appellant established the required criteria to obtain a special exception.

Additionally, Appellant asserts it was denied due process as members of the Zoning Hearing Board conducted their own investigation and were providing testimony at the hearing concerning Appellant's application.

A zoning hearing board serves in a quasi-judicial manner when it engages in fact-finding and deliberative functions similar to a court. Baribault v. Zonng Hearing Board of Haverford, 236 A.3d 112, 120 (Pa. Cmwlth. 2020). Where a municipal

authority, such as a zoning hearing board, is acting in an adjudicatory role, it must abide by due process standards and avoid the appearance of impropriety. Atherton Development Company v. Tp. Of Ferguson, 29 A.3d 1197, 1212 (Pa. Cmwlth. 2011). Essentially, due process requires a party to be given notice and have an opportunity to be heard. Weaver v. Franklin County, 918 A.2d 194, 203 (Pa. Cmwlth. 2007). A party must be provided with the opportunity to hear evidence adduced by an opposing party, cross-examine witnesses, introduce evidence on one's own behalf, and present argument. Riccio v. Newton Tp. Zoning Hearing Board, 308 A.3d 928, 936 (Pa. Cmwlth. 2024). The central factor in determining whether procedural due process is denied is to determine if the party asserting the denial of due process suffered demonstrable prejudice. Id.

It is incumbent upon the quasi-judicial functions to avoid even the appearance of bias or impropriety. Id., 308 A.3d at 937. "A showing of actual bias on the part of a zoning hearing board is unnecessary in order to assert a cognizable due process claim; the mere potential for bias or the appearance of non-objectivity may be sufficient to constitute a violation of that right." Id. "[J]udicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge. They *may* do so if they reveal an opinion that derives from an extrajudicial source; and they *will* do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible." Penn Street, L.P. v. East Lampeter Tp. Zoning Hearing Board, 84 A.3d 1114, 1147 (Pa. Cmwlth. 2014) (emphasis supplied). "[A] zoning hearing board is to address the issues and evidence that are presented to it and not go outside the record to address an issue

not raised." Bethlehem Manor Village, LLC v. Zoning Hearing Board of City of Bethlehem, 251 A.3d 448, 461-462 (2021).

In support of its argument it was denied due process by Appellee, Appellant refers to the statements made by Mr. Parker in which he informed all those present, on the record, that he visited the area surrounding the proposed site and measured the width of the roadway. However, Appellant and its witnesses were present when that statement was made and had the opportunity to rebut Mr. Parker's representation concerning the width of the road. While the Court does not approve of quasi-judicial officers participating in their own investigations concerning an issue for which they will render a decision, there is nothing of record to indicate Mr. Parker or any other member of the Zoning Hearing Board deprived Appellant of a fair opportunity to present its application. As stated previously, Appellee rendered its decision based upon the facts and evidence presented at the hearing and did not make any further investigations following the conclusion of the hearing. In fact, Appellee provided Appellant with an opportunity to further brief the issues presented after the hearing which allowed Appellant to further address any statements by the members of the Zoning Hearing Board. There is no doubt Appellant was provided with sufficient due process by Appellee.

Finally, Appellant contends 27 P.S. § 7-702 preempts the use regulations of local zoning ordinances.

Initially, the Court notes issues not raised before the Zoning Hearing Board are waived as a new and different theory may not be advanced for the first time on appeal without permission of the Court of Common Pleas. Segal v. Zoning Hearing Board of

Buckingham Tp., 771 A.2d 90, 94 (Pa. Cmwlth. 2001). Appellant failed to raise the issue of preemption at the hearing before the Zoning Hearing Board and did not seek permission of this Court to raise that issue in the current proceedings. As such, that issue has been waived for an appeal of the Zoning Hearing Board's decision.

The issue of waiver notwithstanding, the Court will proceed to examine the merits of Appellant's preemption argument. Section 7-702 states, "The location and amount of any real estate required by any school district for school purposes shall be determined by the board of school directors of such district, by vote of the majority of all members of such board. No new school building shall be erected without a proper playground being provided therefor." Initially, the Pennsylvania Supreme Court held Section 7-702 prevents a municipality from utilizing its zoning ordinances to limit a school district's ability to choose the location of a school. Appeal of Radnor Tp. v. School Authority, Delaware County, 252 A.2d 597, 600 (Pa. 1969). Conversely, the Courts have held a school district, while it has discretion to choose the location of a school, is required to comply with the local zoning ordinance when constructing the proposed school. Northampton Area School District v. East Allen Tp. Boad of Supervisors, 824 A.2d 372, 375 (Pa. Cmwlth. 2003). This rationale does not frustrate a school district's ability to choose the location for the proposed school but must comply with the zoning ordinance when constructing the same. Id. With that rationale in mind, the Northampton Court ruled there was no error in the zoning hearing board's determination that Section 7-702 of the School Code does not preempt the zoning ordinance, and the school district was required to obtain a conditional use approval. Id.

Appellant correctly asserts a softball field is included in the definition of school use as stated in Section 7-702. *See* In re Appeal of Baldwin School, 932 A.2d 291 (Pa. Cmwlth. 2007); Mitchell v. Zoning Hearing Board of Mount Penn, 838 A.2d 819, 827-828 (Pa. Cmwlth. 2003); Bretz v. Buckinham Tp., 2012 WL 8681529 (Pa. Cmwlth. 2012). However, the mere fact it is a school use does not indicate the construction of the softball field preempts the Zoning Ordinance as the case law clearly states the designs for the field were to comply with mandates of the Zoning Ordinance.

> When the exercise of these powers by school districts comes into conflict with local zoning regulations which purport to totally exclude schools from certain areas, our appellate courts have consistently held that the power of a school district to determine the location of its schools must prevail over the more general and parochial powers of zoning authorities. This is not to say that school districts enjoy a blanket immunity from the provisions of zoning ordinances. On the contrary, it is clear that such zoning regulations as off-street parking requirements, lot density and dimensional limitations are just as applicable to schools as they are to any other buildings regulated by a zoning ordinance. But what a municipality cannot do, through its zoning regulations, is exclude school buildings entirely from certain districts.

Jim Thorpe Area School Dist. v. Kidder TP. Zoning Hearing Board, 42 Pa. D. & C. 4th 432, 443 (Com. Pl. Carbon 1999). When there is no attempt to "zone out" a school use, the school district is not entitled to a special exception for a school use as of right because it must still submit an application and demonstrate it complied with the requirements of the zoning ordinance. Council Rock School Dist. v. Wrightstown Tp. Zoning Hearing Board, 709 A.2d 453, 458-459 (Pa. Cmwlth. 1998).

In the current case, there is nothing of record to demonstrate Appellee has attempted to "zone out" the construction of a school or a school use as the Zoning Ordinance at issue was enacted long before the concept of the softball field was

developed. As a result, Appellant was required to obtain a special exception to construct the softball field and related amenities. As stated previously in this Opinion, the evidence presented to the Appellee demonstrates the softball field was not in compliance with the applicable provisions of the Zoning Ordinance. Hence, any preemption granted by Section 7-702 does not apply as Appellant failed to demonstrate the softball field was a permitted use or that it was entitled to a special exception.

Based upon the foregoing, Appellant's Land Use Appeal is denied as there is nothing of record to demonstrate the Ellwood City Borough Zoning Hearing Board abused its discretion in denying Appellant's Application for Special Exemption.

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PENNSYLVANIA

ELLWOOD CITY AREA SCHOOL DISTRICT, Appellant, vs. ELLWOOD CITY BOROUGH ZONING HEARING BOARD, Appellee. vs. THE CITIZENS FOR EWING PARK PRESERVATION, an unincorporated association, KAREN MANCINI, TRUSTEE AD LITEM, et al., Intervenor.	:	IN THE COURT OF COMMON PLEAS LAWRENCE COUNTY, PENNSYLVANIA MISCELLANEOUS DIVISION NO. 70012 OF 2025, M.D.

ORDER OF COURT

NOW THIS 16th day of June, 2025, this case was before the Court on May 13, 2025, for oral argument on the Land Use Appeal filed on behalf of the Appellant Ellwood City Area School District, the parties appeared through counsel, the Appellant represented through counsel, Gavin A. Robb, Esquire, and the Appellee Ellwood City Borough Zoning Hearing Board represented through counsel Gene G. Dimeo, Esquire, and the Intervenor the Citizens for Ewing Park Preservation, an unincorporated association, Karen Mancini, trustee ad litem, et al., represented through counsel Patrick D. Scully, Esquire, and after consideration of the arguments presented, the briefs submitted by both counsel and a complete review of the record, the Court entered the following Order and it is ORDERED, ADJUDGED and DECREED as follows:

1. In accordance with the attached Opinion, the Land Use Appeal filed on behalf of

Ellwood City Borough Area School District is DENIED. The Adjudication by the Ellwood City Borough Zoning Hearing Board dated January 17, 2025, denying the Application for Special Use Exemption is hereby AFFIRMED.

2. Ellwood City Borough Area School District is precluded from constructing the proposed project on the subject real property as it failed to comply with the Ellwood City Borough Zoning Ordinance

3. The Prothonotary is directed to serve a copy of this Order of Court and Opinion upon all counsel of record.

BY THE COURT:

_____J.
John W. Hodge, Judge

53RD JUDICIAL DISTRICT

LAWRENCE COUNTY PENNSYLVANIA

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