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June 15, 2020

VIA EMAIL ONLY
(MWylie@lowermerion.org)

Michael Wylie, Zoning Officer
Building and Planning Department
Township of Lower Merion
75 E. Lancaster Avenue
Ardmore, PA 19003

VIA EMAIL ONLY
(CLeswing@lowermerion.org)

Christopher Leswing, Director
Building and Planning Department
Township of Lower Merion
75 E. Lancaster Avenue
Ardmore, PA 19003

**Re: Formal Request for Zoning Determination Regarding
Application of Lower Merion School District (“LMSD”) concerning
300 E. Montgomery Avenue (“Arnold Field”), Ardmore, PA 19003 (“Application”);
Lower Merion Township File LD# 3852**

Dear Mr. Wylie and Mr. Leswing:

As you are both no doubt aware, I and my law firm represent the interests of Wynnewood Civic Association (“WCA”) with respect to the above-referenced Application. Reference is made to my February 24, 2020 correspondence to Commissioner Bernheim and to the Board of Commissioners with respect to the same Application. It is my understanding that this matter is presently scheduled for review by the Planning Commission on Monday, July 6, 2020.

The purpose of this correspondence is to formally request that Mr. Wylie make a determination as the Zoning Officer for Lower Merion Township with respect to the precise issue of whether light poles/towers (four are proposed), each of which is 80 feet in height, constitute “Accessory Structures” under the applicable zoning ordinance.

The Land Development Tentative Sketch Application filed by the LMSD under submission of a letter from Fred Fromhold, Esquire, dated April 24, 2020, and the Code Relief Request form submitted therewith, acknowledges that the zoning of the Arnold Field parcel of land is IE2, under the institutional education heading of Lower Merion Township’s new Zoning Code (the “Zoning Code”). WCA agrees that this is the applicable Zoning Code provision. Under the IE2 zoning, the

height limit for a “Principal Building” is 3 stories up to 45 feet (please see Section 155-3.3 and Table 4.4.3.B) There is an already existing Principal Building on Arnold Field, which is the field house building in which bleachers, rest rooms and locker rooms are located, along with a press box and storage facility. Pursuant to 155-2.1 of the Zoning Code, an “Accessory Structure” is defined as “a non-habitable structure separate from and subordinate to the Principal Building on a lot and used for purposes incidental to those of the Principal Building.” The height limit for any such Accessory Structures are subordinate to the height limit of the Principal Building; such Accessory Structures may not exceed either 15 feet or 20 feet in height depending on where each such Accessory Structure is located on Arnold Field. Accessory Structures must comply with their underlying zoning districts and, under 3.4.6.b(ai) of the Zoning Code, are limited to two stories or 20 feet in height. Further, under 3.4.6.b(aii), same may be limited to one story or 15 feet. Indeed, under the Zoning Code, a “Structure” is defined as “any form or arrangement of building materials involving the necessity of providing proper support, bracing, tying and anchoring to a fixed location on or below the surface of the ground.” Surely any and all reasonable minds must acknowledge that the light poles/towers are bright line “Structures” under the Zoning Code.

The four light poles/towers are each an Accessory Structure within the meaning of the Zoning Code and the proposed height of the light poles/towers in the Application (each 80 feet in height) are not permissible under the Zoning Code.

WCA specifically requests that Mr. Wylie determine a) that the existing field house is a Principal Building as defined in the Zoning Code; and b) that each 80 foot high light pole/tower constitutes an Accessory Structure also as defined in the Zoning Code. If so, LMSD requires a variance from the Zoning Code in order to be able to construct the same. In the event that Mr. Wylie determines that the existing field house is a Principal Building and that the light poles/towers are in fact Accessory Structures, then LMSD will need to seek a variance from the Zoning Hearing Board in order to obtain permission to construct the proposed 80 foot light poles/towers. In the event that Mr. Wylie determines either that the existing field house is not a Principal Building or that the light poles/towers are not Accessory Structures under the Zoning Code, then be advised that WCA intends to appeal either such determination to the Zoning Hearing Board.

WCA contends that four 80 foot light poles/towers, particularly as when compared to the 20 foot height limitation in the Zoning Code, represents an extreme and indeed outrageous departure from the Zoning Code to the great detriment of the neighborhood and adjoining homeowners. WCA continues to put great faith in the Board of Commissioners and in its Commissioner, Commissioner Courtney, to fulfill their respective sworn duties to safeguard residents, the community and their property from any attempted use of land either outside the purview of the Zoning Code or in derogation of the very Zoning Code itself.

It is respectfully suggested that Mr. Wylie make his determination on the issue of Accessory Structure prior to the current Planning Commission meeting scheduled for July 6, 2020, in order to save the community, the Building and Planning staff, the Planning Commission, and the Commissioners substantial time with respect to the Application, the merits of which (or lack of merits of which) will ultimately need to be litigated. Finally, this controversy is a developing one and

Michael Wylie, Zoning Officer
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while this letter addresses the discreet requests for determinations of Mr. Wylie as Zoning Officer, WCA hereby expressly reserves all rights with respect to all issues pertaining to Arnold Field not expressly set forth herein.

Please feel free to contact me with any questions or concerns.

Respectfully yours,



PHILIP S. ROSENZWEIG

PSR/mer

cc: (each via email only)
Robert E. Duncan, Assistant Township Manager
Daniel S. Bernheim, President, Board of Commissioners
Ray A. Courtney, Commissioner, Ward 5
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