

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of G.V. Commons Lot 1, L.P.
and Turning Point Dance Center
For Conditional Use Approval**

September 1, 2020

I. INTRODUCTION

G.V. Commons Lot 1, L.P. and Turning Point Dance Center (the "Applicants") filed an application for conditional use approval pursuant to Section 2211.3.C of the Charlestown Township Zoning Ordinance ("Zoning Ordinance") in order to permit an educational use by conditional use within General Warren Village shopping center located at 12 General Warren Blvd. The Applicant's proposed educational use would consist of a dance studio for students from 3-18 years of age, approximately 4000 square feet in size and with 12 parking spaces within the shopping center.

A public hearing on the Applicant's conditional use application was commenced on August 3, 2020, with public notice properly provided. Adam Loew, Managing Partner of G.V. Commons Lot 1, L.P., the owner of the shopping center, and Jeanene Bence, the owner of Turning Point Dance Center, testified at the hearing in support of the application.

II. DISCUSSION

The Property that is the subject of this application is known as the General Warren Village shopping center located at 12 General Warren Blvd. The unit in which the use is proposed is owned by G.V. Commons Lot 1, L.P. The shopping center is shown on the Plan identified as Exhibit A-5 and consists of a hotel in the northwest corner of the property, shared parking and an L-shaped retail center approximately 22,000 square feet in size. Current tenants of the shopping center include a Dunkin Donuts and P.J. Wellihans at one end with neighborhood type stores between those restaurant uses and the proposed dance center. The unit that the Applicant proposes for the use is on the western edge of the retail building and shown in red on Exhibit A-5. The use would consist of a unit approximately 4000 square feet in size and no new improvements are proposed.

Turning Pointe Dance Center ("Dance Center") has been in operation for 25 years with the past 15 years having been located in the Borough of Malvern. The Dance Center serves children ranging in age from age 3 to age 18. The proposed space in the shopping center would consist of two dance studios with 15 children per class in each studio. The Dance Center would have five employees at the premises at one time with classes running Monday through Thursday from 4:00PM to 9:30PM and Saturday from 9:00AM to 12:00PM. Classes are approximately one hour with occasional 2-4 hours classes. The Dance Center generally runs from September through June

of each year with limited summer schedules. The Dance Center has no large events or recitals at the proposed studio location.

Concerning drop-off and pick-up of the participating children, Ms. Blence testified that the majority of parents drop-off their children and then come back to pick them up with the parents of smaller children bringing their children into the Center and with older children being dropped-off curbside. The parking regulations in the TND require six parking spaces for every 1000-sq.ft. of retail space, which is 24 parking spaces for the Center. The Applicant testified that she has used 12 parking spaces for her operation over the last 15 years, which has been sufficient.

Section 27-22211 of the Zoning Ordinance provides in relevant part as follows:

§ 27-2211 Use Regulations for the TND District, Area 3 as Shown in the Development Strategy Plan.

3. Conditional Uses.

B. Educational, cultural, religious, charitable or philanthropic use.

The term "educational" is not defined in the Zoning Ordinance for purposes of granting a conditional use. The leading case interpreting the term "educational use" involved Charlestown Township's interpretation of the term as it applied to a licensed, "accredited school of equitation". *Burgoon v. Zoning Hearing Bd. of Charlestown Twp.*, 277 A.2d 837, 839 (Pa. Cmwlth. 1971). In citing to the Pennsylvania Supreme Court, the Court in *Burgoon* held that in the absence of a stated definition, the word "education":

"The word [education] taken in its full sense, is a broad, comprehensive term and may be particularly directed to either mental, moral or physical faculties, but in its broadest sense it embraces them all, and includes not merely the instruction received at the school, college or university, but the whole course of training -- moral, intellectual and physical." *Gilden Appeal*, 406 Pa. 484, 492, 178 A.2d 562, 566 (1962)."

Id. Thus, the word "educational" was associated with any type of training which promotes moral, intellectual or physical well-being. *Id.* The standards and criteria for conditional uses are set forth in Section 27-1809 of the Zoning Ordinance. Based on those standards and the previous interpretation of the term "educational", the Applicant's proposed use is consistent with an educational use as permitted by Charlestown Township.

III. FINDINGS OF FACT

1. The Property that is the subject of this application is owned by G.V. Commons Lot 1, L.P. and is part of the shopping center known as the General Warren Village shopping center located at 12 General Warren Blvd.

2. The Property consists of 7.83-acres of land also identified as Tax Parcel # 35-4-110 and is located in the TND-3 Traditional Neighborhood Design District

3. The Applicant, Turning Pointe Dance Center operates a dance studio for students from 3-18 years of age.

4. The Applicant, Turning Pointe Dance Center has been in operation for 25 years with the past 15 years having been located in the Borough of Malvern.

5. The space proposed for the educational use in the shopping center would consist of 4000 square feet improved with two dance studios with 15 children per class in each studio.

IV. CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The Applicant has satisfied the standards set forth in 27-1809 of the Zoning Ordinance for conditional use approval.

V. ORDER

AND NOW, this 1st day of September 2020, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, G.V. Commons Lot 1, L.P. and Turning Point Dance Center are granted conditional use approval pursuant to Section 2211.3.C of the Zoning Ordinance and in order to permit a dance studio as an educational use on the Property, known as the General Warren Village shopping center located at 12 General Warren Blvd subject to the following conditions.

1. The proposed use is subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.

2. The scope of this approval is limited to the requested use as shown on the Applicant's Conditional Use Application (Exhibit A-1) and representations made by the Applicant made as part of the record at the public hearing.

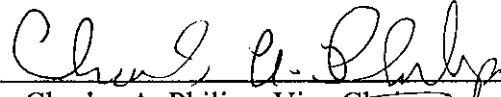
3. The Applicant is granted a waiver from the requirement to submit an environmental impact assessment as part of the conditional use application process.

4. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.

CHARLESTOWN TOWNSHIP



Frank Piliero, Chairman



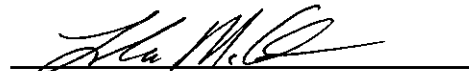
Charles A. Philips, Vice Chairman



Kevin R. Kuhn, Member

Hugh D. Willig, Member

Susan Bednar, Member



Linda M. Csete, Secretary