

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

February 17, 2009
7:30 P.M.

PRESIDING: Woody J. Van Sciver, President

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Van Sciver
Council Vice President Raymond
Council Member Crawford
Council Member Edge
Council Member Lynch
Council Member Smith
Council Member Vike
Mayor McGlone

2. PUBLIC FORUM:

Council President informs all present that copies of the agenda are available at the press desk. This is a Public Session of Council. Should any citizen/taxpayer wish to offer comments on any item on the agenda, now is the time to bring those comments before Council. Are there any citizens/taxpayers who wish to bring before Council any item not on the agenda?

- a. 101 Church Street (Kristin Camp, Esq.) – Ms. Camp explained that she was representing Andrews Management Company, the owner of the property located at 101 Church Street. She explained that her client had previously applied for a change in zoning, but that she was here to discuss with Council the merits of the C-3 Zoning vs R-5 Zoning District with regards to what her client is proposing at the location. She stated that they are considering two or three dwelling units on the second floor with a possible mixed use on the first floor. The mixed use would consist of retail and/or retail/professional office, depending on who would rent the space. Ms. Camp told Council that her client was restoring the property to its original look on the first floor with additional living space on the second floor.

Ms. Camp told Council that the Borough's Ordinance states that if a property is not continuing the same use within a six month period, there is the presumption that the use is being abandoned. She wanted Council to be aware that this is not the case with this building and that her client has never intended to abandon the use. Her client hired Jerry O'Connor to refurbish the building and to keep the integrity and look of the original fire house.

If the property stays in the R-5 zoning district, they feel they can continue a retail use on the first floor and one residential dwelling on the second floor. The Borough's Ordinance permits only one use on the lot. The owner can put her shop in the building but would like to put a mix of three tenants on the first floor. If they are unable to find another retailer, they would like some professional office space that would have limited

impact. Being a non-conforming retail use, it cannot be converted to another use. On the second floor, if they stay residential, they would be limited to only one residential dwelling unit. The property would be more marketable for three residential units on the second floor. This would require a use variance before the Zoning Hearing Board.

To rezone the property to the C-3 zoning district, the first floor would have to be retail and there can be only one principal use. To allow two different uses, they would need to go to the Zoning Hearing Board. Ms. Camp noted that, when walking along King Street, there is sort of a mixed use flavor to the Borough's Town Center. If C-3, the residential use could continue in a non-conforming use, but they could only have one residential unit on the second floor.

Her client's goal is to use the first floor as retail and/or professional office use and the second floor as one, two or three residential units.

Ms. Camp explained that to restore the building to its original design would benefit the neighborhood, but her client must have a return on her investment in order to make it work.

Ms. Camp asked if Council would consider allowing more than one use on the first floor and allow more than one dwelling unit on the second floor. Ms. Camp stated that the deck in the rear of the property was removed and that area can accommodate fifteen parking spaces. The Borough allows on-street parking and there is a Municipal Lot across the street. Ms. Camp feels they can accommodate the parking for the requested uses.

It was suggested that they go to the Planning Commission for determining what variances would be needed and where conditions can be imposed. It was felt there was more control over commercial uses in the variance process if this lot remains in the R-5 District.

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President Raymond, seconded by Council Member Edge and unanimously carried by a vote of 7-0, to approve the minutes of the meeting held on Tuesday, January 6, 2009 and Tuesday, January 20, 2009, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Crawford, seconded by Council Member Smith and unanimously carried by a vote of 7-0, to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works and the Chief of Police Report, the Code Enforcement Officer's Reports (Building Inspector's Report, Housing and Property Maintenance Report and Zoning Report), the Superintendent of Public Works Report and the Manager's Report for the month of January 2009 as submitted.

5. PUBLIC HEARING – ADMINISTRATIVE CODE::

Council President Van Sciver announced that Borough Council will now open the public hearing to consider adoption of an ordinance enacting the Administrative Code of the Home Rule Charter. The Notice of Public Hearing was published in the Daily Local News on February 10, 2009, as required.

Council President Van Sciver briefly explained the highlights of the Administrative Code. As members of Council had previously reviewed and discussed this Code, there were no comments.

As no comments were received from the public, the hearing was closed.

6. ORDINANCE NO. 2009-1 – ADMINISTRATIVE CODE:

A motion was made by Council Member Raymond, seconded by Council Member Vike and carried by a vote of 6-0 to enact Ordinance No. 2009-1, an Ordinance of the Borough of Malvern enacting the Administrative Code of the Home Rule Charter. Council Member Edge voted “no”.

7. PUBLIC HEARING – AMENDING SECTION 168-12 OF THE CODE OF ORDINANCES OF THE BOROUGH OF MALVERN:

Council President Van Sciver announced that Borough Council will now open the public hearing to consider amending Section 168-12 of the Borough of Malvern Code of Ordinances by adopting Resolution No. 2 of 2008 of the Board of Directors of the Valley Forge Sewer Authority amending the Code of Rules and Regulations of the Valley Forge Sewer Authority Part VI, Chapter 110, Articles II and III, Rules and Regulations governing the acceptance of industrial waste, trucked industrial waste, holding tank waste and septage in order to comply with new federal pretreatment requirements. The Notice of Public Hearing was published in the Daily Local News on February 10, 2009, as required.

Council President Van Sciver explained that the Borough must be in compliance with the VFSA Rules and Regulations governing the acceptance of industrial waste and our ordinance must mimic their ordinance as we are partners of the Valley Forge Sewer Authority.

There being no comments from Council or the public, the hearing was closed.

8. ORDINANCE NO. 2009-2 – AMENDING SECTION 168-12 OF THE CODE OF ORDINANCES OF THE BOROUGH OF MALVERN:

A motion was made by Council Member Lynch, seconded by Council Vice President Raymond, and unanimously carried by a vote of 7-0, to enact Ordinance No. 2009-2, an Ordinance of the Borough of Malvern amending Section 168-12 of the Borough of Malvern Code of Ordinances by adopting Resolution No. 2 of 2008 of the Board of Directors of the

Valley Forge Sewer Authority amending the Code of Rules and Regulations of the Valley Forge Sewer Authority Part VI, Chapter 110, Articles II and III, Rules and Regulations governing the acceptance of industrial waste, trucked industrial waste, holding tank waste and septage in order to comply with new federal pretreatment requirements.

9. OTHER BUSINESS:

- a. Council President Van Sciver reported that the following residents have agreed to be on the Comprehensive Plan Task Force:
Cathy Raymond
David Knies, Chair
Chris Mongeau
Cecelia Oswald
Bill Coffey
Sandra Kelley

10. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Vike, seconded by Council Member Smith and unanimously carried by a vote of 7-0 to adjourn the meeting at 8:04 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager