

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH  
1 East First Avenue  
Malvern, PA 19355

January 19, 2021  
7:30 P.M.

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: David B. Burton, Mayor

1. ROLL CALL

PRESENT

Council President Finkbiner  
Council Vice-President Grossman  
Council Member Bones  
Council Member Laney  
Council Member Meisel  
Council Member Phillips  
Council Member Raynor  
David B. Burton, Mayor

ABSENT

Council President Finkbiner announced that this evening's meeting was being held virtually due to the COVID-19 pandemic and as permitted under Act No. 15 of 2020. Council President Finkbiner announced the following guidelines for the meeting:

- Participants will be asked to identify themselves when being accepted into the meeting.
- The public will be muted during the meeting when the members of Borough Council are speaking.
- For each agenda item, the public will be unmuted and given an opportunity to comment and ask questions.
- Public Comment received via email will be read by the Borough Manager either during the topic on the agenda or the general "Public Forum" period.
- Participants wishing to comment must state their name and must speak one at a time.

2. APPROVAL OF AGENDA

A motion was made by Vice-President Grossman, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the agenda for the January 19, 2021 meeting of Borough Council as presented.

3. ANNOUNCEMENTS

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### a. Recording of the Meeting

Council President Finkbiner asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting. Council President Finkbiner noted that the meeting was being recorded for minute taking purposes, but the recording would not be posted on the Borough website.

No member of the audience identified themselves as recording the meeting.

b. Council President Finkbiner announced that Borough Council met in Executive Session on Tuesday, January 19, 2021 prior to this evening's meeting in order to discuss personnel matters.

c. Council President Finkbiner announced that, as discussed at the January 5, 2021 meeting, the Borough will now collect one (1) bulk item per week with the regular trash collection. Information on acceptable items is available on the Borough website.

## 4. MINUTES & REPORTS

### a. APPROVAL OF MINUTES

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve the minutes from the January 5, 2021 meeting of Borough Council as presented.

### b. APPROVAL OF REPORTS

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department 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 December 2020, as submitted.

### c. BOROUGH COUNCIL COMMITTEE REPORTS

Council President Finkbiner stated that none of the Committees of Borough Council have met since the December 15, 2020 meeting of Borough Council.

## 5. SPECIAL BUSINESS

### a. Malvern Borough MS4 Program – Pollution Reduction Plan

Council President Finkbiner stated that Malvern Borough has received comments from the PA Department of Environmental Protection (DEP) on its proposed Pollution Reduction Plan. The Borough Engineer is seeking authorization to issue a public notice to open a 30 day comment

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period. The plan will be made available for review on the Borough website. The Borough Engineer will be present at the March 2, 2021 meeting to review the plan.

Borough Manager Bashore stated that this is a revised document previously authorized by Borough Council to submit to DEP for review and comment. The Borough Engineer previously presented information on the Pollution Reduction Plan at the November 7, 2017 meeting of Borough Council. Comments were received from DEP and the Borough Engineer has updated the plan to address DEP's comments.

Borough Engineer Daley stated that there will not be a public hearing on the plan, but he will give a presentation and solicit public input. Borough Engineer Daley stated that the plan will be posted on the Borough website and an appointment could be made to review the document in person. Comments will be reviewed and addressed accordingly. The final document will then be submitted to DEP for final review and approval.

Council President Finkbiner asked where email comments could be submitted in advance of the meeting. Borough Manager Bashore stated that email comments may be submitted to [malvern@malvern.org](mailto:malvern@malvern.org) and those will be forwarded to Borough Engineer Daley.

A motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to authorize the advertisement of the Malvern Borough MS4 Program Pollution Reduction Plan for public comment.

b. PUBLIC HEARING – CONDITIONAL USE APPLICATION FOR ROBERT & ARLENE RUGGIERO – 147 W. FIRST AVENUE – APPLICATION # CU-20-01

Council President Finkbiner announced that Borough Council will now open a Public Hearing to consider the Conditional Use application for Robert & Arlene Ruggiero regarding 147 W. First Avenue. The applicant is seeking Conditional Use approval pursuant to section 220-602(A)(5) of the Borough's Zoning Ordinance in order to construct a single-family detached dwelling unit with 25% building coverage.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 7-0, to open the public hearing for the Conditional Use application for Robert and Arlene Ruggiero at 147 W. First Avenue.

Vice-President Grossman recused herself from the Public Hearing due to the proximity of her property to the proposed project.

Council President Finkbiner turned the Public Hearing over to Alyson Fritzges, Esq., Borough Solicitor.

Max O'Keefe, Esq., was present to represent the applicants, Robert and Arlene Ruggiero. Testimony was presented by John M. Robinson, P.E. (applicant's engineer), Dr. Robert Ruggiero, MD (property owner), and James Renehan (applicant's builder).

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Borough Solicitor Fritzges asked if any member of the public would be requesting party status on this application. Borough Solicitor Fritzges outlined the meaning of party status. The following individuals requested party status:

- Jamie Grossman – 143 W. First Avenue
- Stephen Gross – 206 W. First Avenue
- Deborah Hankins – 212 W. First Avenue
- Susan Horton – 230 W. First Avenue
- Michael & Karen Martinez – 142 W. First Avenue
- David & Joanne McQuiston – 133 W. First Avenue
- Anthony Celentano – 125 & 131 Prospect Avenue

Max O’Keefe, Esq., did not object to these individuals being granted party status for the application for 147 W. First Avenue.

Borough Solicitor Fritzges entered the following exhibits onto the record for the Borough:

Exhibit B-1: Conditional Use Application

Exhibit B-2: Applicant’s Extension of the Planning Commission meeting dated December 19, 2020

Exhibit B-3: Affidavit of Publication dated January 12, 2021 indicating publication on January 4, 2021 and January 12, 2021 in the Daily Local News

Exhibit B-4: Affidavit of Mailing

Exhibit B-5: Affidavit of Posting

Exhibit B-6: Borough Engineer’s review dated January 5, 2021

Exhibit B-7: Recommendation from the Malvern Planning Commission dated January 11, 2021

Max O’Keefe, Esq., entered the following exhibits onto the record for the applicant:

Exhibit A-1: Deed to Subject Property

Exhibit A-2: Conditional Use Application

Exhibit A-3: Plan Sheets 1, 2, and 3 of Site Plan for Ruggiero Residence

Exhibit A-4: Rendering of Proposed Home

Exhibit A-5: Aerial Photograph of Property

Exhibit A-6: Curriculum Vitae of Jack Robinson, P.E.

Exhibit A-7: Post-Construction Stormwater Management

Exhibit A-8: Photographs of Property’s Eastern Lot Line

Exhibit A-9: Report of Arborist Christopher Uhland, RCA

Exhibit A-10: Revised Plan Sheet Reflecting Specimen Tree Recommendations

ALL TESTIMONY WAS TRANSCRIBED BY COURT REPORTER CARA FITZPATRICK. TO OBTAIN A COPY OF THE OFFICIAL TRANSCRIPT AS PREPARED BY THE COURT REPORTER, PLEASE CONTACT THE MALVERN BOROUGH ADMINISTRATIVE OFFICE.

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At the conclusion of the testimony for the applicant's witnesses, Borough Solicitor Fritzges asked if Borough Council desired to continue the hearing to a date certain. Borough Council agreed to continue the hearing to a date certain. Borough Manager Bashore recommended continuing the hearing to the February 16, 2021 meeting of Borough Council. Borough Solicitor Fritzges stated that the continued hearing will primarily be for those granted party status to present their testimony, take general public comment, and potentially close the hearing.

A motion was made by Council Member Bones, seconded by Council Member Laney, and carried by a vote of 6-0, to continue the Conditional Use hearing for 147 W. First Avenue to February 16, 2021 at 7:30 pm.

### 6. UNFINISHED BUSINESS

Council President Finkbinder announced that there were no items of "Unfinished Business" for discussion.

### 7. NEW BUSINESS

#### a. Zoning Hearing Board

Council President Finkbinder announced that there are no new applications before the Zoning Hearing Board.

### 8. PUBLIC FORUM

Council President Finkbinder stated that Borough Council will now take comment from the public on any item not on the agenda.

John Buckley, 165 Church Street, recommended that a traffic signal be installed at the intersection of Bridge Street and King Street. Mr. Buckley discussed various concerns related to the Police Department, specifically ticketing procedures and how suspects in detention are processed at other departments. Mayor Burton stated that the Police Department enacted a policy to prevent contamination of the Police Department due to its small size and outlined other procedural changes put place as a result of the COVID-19 pandemic.

Danny Fruchter, 234 Channing Avenue, discussed the upcoming inauguration of President-elect Joseph R. Biden, Jr. and Vice-President-elect Kamala Harris on January 20, 2021 and that he hoped that this would lead to everyone making the country better for each other.

Kel Schmitt, 17 Channing Avenue, announced that the Malvern Stroll will be held on January 21, 2021.

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9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 7-0, to adjourn the meeting at 10:47 p.m.

Respectfully submitted,

Christopher Bashore  
Borough Manager/Secretary