

1. CALL TO ORDER – MEETING HELD VIA ZOOM CONFERENCING

PLANNING COMMISSION PRESENT:

Carroll Sinquett, Chair  
Zoe Warner, Ph.D., Vice-Chair  
David Knies, Ph.D., Commissioner  
Chris Mongeu, Commissioner  
Mark Niemiec, Commissioner  
Geoff Rubino, Commissioner

ABSENT:

None

STAFF & PROFESSIONALS PRESENT:

Christopher Bashore, Borough Manager  
Tiffany M. Loomis, Assistant Borough Manager & Zoning Officer  
Kenneth Kynett, Esq., Planning Commission Solicitor

2. UNFINISHED BUSINESS

There were no items of unfinished business for discussion.

3. NEW BUSINESS

a. 418 E. KING STREET: ZONING HEARING BOARD APPLICATION PRESENTATION

Applicant: JHT, LLC  
Property Owner: Mr. John Kraljevich  
Representative: Ms. Gina Gerber, Esq.  
Lot Size: 12,931 (+/-) square feet  
Tax Parcel: 2-4-356

ZHB Application#: 20-01  
Zoning District: C-4

Chair Carroll Sinquett announced the following rules for conducting this meeting:

1. The applicant will present their information.
2. Questions will be given by the members of the Planning Commission.
3. The floor will be open to questions from the public.

The members of the Planning Commission agreed with the rules as specified. Chair Carroll Sinquett inquired if anyone was recording the meeting besides Mr. Chris Bashore for the purpose of preparing minutes? No additional recordings were taken.

Ms. Gina Gerber, Esq. was present on behalf of the Applicant, JHT LLC that is currently under an agreement of sale with an existing building that is approximately 5, 990 square feet being utilized as a vehicle repair facility that is located adjacent to the Malvern Fire Company. The Applicant is proposing to repurpose the existing building and lot for an office use. The existing parking lot will be reconfigured in both the rear and front parking areas

## PLANNING COMMISSION MEETING

May 7, 2020

Page 2

providing eleven (11) parking spaces, of which fifteen (15) are required pursuant to the Malvern Borough Zoning Ordinance.

Therefore, a Zoning Hearing Board application has been filed for relief regarding four (4) parking spaces pursuant to Section 220-2501(b)(5) to permit less than the required number of parking spaces. Mr. Dan Daley, P.E. Borough Engineer, has completed two (2) reviews of the original plan provided with the application, as well as a second review of the revised plan submitted subsequent of the original application in response to his first review. The May 4, 2020 review letter poses no issues that have not already been complied with or shall be complied with moving forward.

Ms. Gina Gerber, Esq. summarized that the proposed plan is a reconfiguration of the site including parking in the front and rear areas, as well as upgrades to the existing building and frontage on E. King Street including but not limited to adding sidewalk, lighting and landscaping.

Mr. Mark Niemiec inquired if the garage doors will be addressed on the existing building? Ms. Gina Gerber, Esq. referred to the Applicant and Applicant's Engineer to further respond to the inquiry; Mr. Kevin Traynor and Mr. Neil Camens, P.E. of Chester Valley Engineers.

Mr. Kevin Traynor responded that a façade restoration, a new roof, and an overall high-quality office product will be the result of the finished product.

Mr. Neil Camens, P.E. confirmed that two (2) garage doors will be removed.

Dr. Dave Knies, Ph.D. inquired if the parking alternatives in the Borough Engineer's review have been explored?

Ms. Gina Gerber, Esq. explained that all parking alternatives have been evaluated. On street parking and/or nearby municipal parking is not feasible for this particular site because of where it is located in the Borough. Also, the other alternatives are either shared parking or an off-site parking agreement with the Malvern Fire Company. The Applicant is currently in negotiations with the Fire Company trying to secure the spaces. The complication that exists is that the area located directly behind this building is over-flow parking for Brick & Brew. The Applicant is looking into the current easement that is currently held by Brick & Brew to understand if they are able to take part of this shared parking. In the event this is not the case they are looking to obtain four (4) off-site parking spaces located at the Fire Company. The off-site parking spaces are required to be within two hundred (200') feet of the entrance of the establishment. The Applicant is still in the due diligence process as to what is the best option to proceed with.

Dr. David Knies, Ph.D inquired if the Applicant has spoken with East Side Flats regarding parking options?

Ms. Gina Gerber, Esq. explained that the Fire Company has been in communication with East Side Flats (the apartment complex located across from 418 E. King Street). The open communication is on-going. In the event this is an option the nature of the relief requested would change and lessen if any.

## PLANNING COMMISSION MEETING

May 7, 2020

Page 3

Dr. David Knies, Ph.D and Ms. Gina Gerber, Esq. discussed that the relief proposed is the worst-case scenario and the relief, if off-site parking can be secured, may be withdrawn all together.

Mr. Mark Niemiec commented that the office hours held by the proposed office facility are going to be offset to the major time of Brick & Brew's parking lot usage, which should offer the potential to have a shared parking agreement. Ms. Gina Gerber, Esq. agreed.

Ms. Gina Gerber, Esq. further explained that the Fire Company is in communication with Brick & Brew to further understand what the price tag of the parking is given their current easement agreement between once another.

Chair Carroll Siquett inquired if in the parking located in the rear of the building is within two hundred (200') feet of the entrance and which entrance is this measured from?

Ms. Gina Gerber, Esq. further explained that there are two (2) entrances to the building regarding the office use. Additionally, any off-site parking is anticipated to be utilized by employees.

Chair Carroll Siquett inquired about the Fire House access drive being utilized to access the rear parking area and what is the status of the easement agreement?

Ms. Gina Gerber, Esq. explained that the Applicant is confident this issue will be squared away in the near future and would have not come this far with an application if this were anticipated to be a roadblock of any kind. Currently access is being used in this manner, however, it is in the process of being formally legalized for the proposed office use.

Chair Carroll Siquett inquired if there were any further questions from the Planning Commission?

Mr. Geoff Rubino inquired how many employees will be working in the building and the regularity of visitors on a day to day basis?

Mr. Keith Traynor confirmed he will have eight (8) employees working in the building, one of which will be in walking distance to the proposed site, therefore (7) seven parking spaces will be needed on a daily basis. He further explained that due to the nature of the business, walk-ins are not common and many of his clients are located outside the area. There is a visitor, typically, once every two (2) weeks. The business is Eagle Advisors, LLC and is currently located in Malvern Borough.

Ms. Gina Gerber, Esq. commented that, due to this being a small business, parking coordination is able to be addressed to leave open as many spaces as needed.

Dr. Zoe Warner, Ph.D. inquired if the Applicant is currently located behind Malvern Pizza? Mr. Keith Traynor confirmed such. Dr. Zoe Warner, Ph.D. inquired if the current parking situation is constrained and if the Applicant has experienced any issues?

## PLANNING COMMISSION MEETING

May 7, 2020

Page 4

Mr. Keith Traynor explained that he has had to move his own personal car from day to day, three (3) of his employees have municipal parking permits for street/ lot parking, and four (4) other employees park in front of the building.

Dr. Dave Knies, Ph.D inquired if a cross parking arrangement is anticipated with Brick & Brew where Brick & Brew would be able to utilize 4 parking spaces in the evening at 418 E. King Street?

Ms. Gina Gerber, Esq. confirmed that there is currently a parking easement in place between the Fire Company and Brick & Brew which allows the thirty-seven (37) spaces located behind 418 E. King Street used by Brick & Brew for overflow parking.

Ms. Gina Gerber, Esq. inquired if Brick & Brew is having trouble finding parking spaces currently in addition to the easement they hold?

Dr. Dave Knies, Ph.D. confirmed there is not a need for parking by Brick & Brew at the moment.

Mr. Mark Niemiec commented that the four (4) spaces that would be located in the front parking area of 418 E. King Street would be ideal for Brick & Brew parking in the evening. Dr. Dave Knies, Ph.D agreed.

Ms. Gina Gerber, Esq. will further look into this option with the owner of Brick & Brew. Dr. Dave Knies, Ph.D. commented that this may make more sense than having an agreement with the Fire Company.

Ms. Gina Gerber, Esq. explained that the overflow parking would potentially create a three (3) way agreement with JHT LLC, Malvern Fire Company, and Brick & Brew.

Mr. Mark Niemiec inquired as to why the Fire Company would have to be involved in the agreement?

Ms. Gina Gerber, Esq. explained that there is currently an easement agreement held on this property, owned by the Fire Company, between the Fire Company and Brick and Brew.

Mr. Mark Niemiec inquired about the parking in the Brick & Brew parking lot during the day as being more desirable to the Applicant?

Ms. Gina Gerber, Esq. confirmed this is possible regarding the eighteen (18) spaces located on the plan. Mr. Traynor agreed.

Dr. Zoe Warner, Ph.D. inquired about the street tree being relocated?

Mr. Neil Camens, P.E. explained that the tree has to be relocated due to the location of the utility lines. A flowering tree will be planted in the corner that will mature and be easily maintained.

PLANNING COMMISSION MEETING

May 7, 2020

Page 5

Mr. Neil Camens, P.E. further discussed with Dr. David Knies, Ph.D regarding the utilities being placed underground.

Mr. Geoff Rubino inquired why sewer lines had not been referenced on the plan?

Mr. Neil Camens, P.E. explained that there is currently an existing holding tank that is located in the front parking lot area that is being utilized. He confirmed that the Applicant is proposing to connect to public sewer and is currently working with the Borough Engineer.

Mr. Chris Bashore inquired as to the location of the closet sewer main.

Mr. Neil Camens, P.E. explained that the closest potential sewer main is located approximately one hundred seventy five (175') feet west on King Street and it would have to be pumped to. There is also a sewer manhole in front for the Fire Company in the landscaped area being pumped backwards. The Applicant is in the process of determining the best option to pump due to there is not being a gravity option.

Mr. Chris Bashore commented he would prefer to limit DEP's involvement in this project.

Mr. Neil Camens, P.E. further explained that as you change sewer capacity DEP may determine a full planning module application is needed. The goal is to avoid this option. The Applicant is in the process addressing the zoning issues first and foremost.

Chair Carroll Siquett inquired if there were any further questions from the Planning Commission?

Dr. Dave Knies, Ph.D inquired of Mr. Chris Bashore if this application has been determined to require a subdivision and land development application?

Chair Carroll Siquett and Mr. Chris Bashore both confirmed that this has not yet been determined.

Mr. Chris Bashore commented that he and Ms. Gina Gerber, Esq. discussed a while back to pursue this phase of the project first and foremost, then address what is needed from a subdivision and land development standpoint.

Chair Carroll Siquett opened questions and comments up to the public.

Mr. Mark Niemec commented that this project will certainly change the impact and experience as one enters the Borough in a positive manner.

All agreed.

Mr. Chris Bashore thanked the Applicant for including adding sidewalk as part of their plan continuing the sidewalk network.

## PLANNING COMMISSION MEETING

May 7, 2020

Page 6

Chair Carroll Sinquett inquired of the Planning Commission as to their thoughts regarding the recommendation of sending the Borough Solicitor to the Zoning Hearing Board Hearing regarding this application?

Mr. Mark Niemiec commented that it depends on how successful the applicant is at addressing the parking issues. If there are able to negotiate an agreement with Brick & Brew there are no legal issues to address.

Chair Carroll Sinquett commented that if an agreement of this nature is had the entire application will be withdrawn.

Dr. Dave Knies, Ph.D. expressed that given what parking is in the Borough of Malvern to send the Borough Solicitor to the Zoning Hearing Board Hearing.

Dr. Dave Knies, Ph.D expressed worry that the Zoning Hearing Board granting a variance for parking relief may set a precedent. This may affect future development in the Borough, and it is important to monitor the process of such.

Chair Carroll Sinquett expressed concern over there is no access agreement with the Fire Company through the Fire Company driveway.

Mr. Chris Bashore clarified with the Planning Commission that the Borough Solicitor be sent for fact finding purposes and confirmed that the Commission is not in direct opposition of the application.

All Planning Commission members agreed.

### **RECOMMENDATION:**

A motion was made Mr. Chris Mongeu, seconded by Dr. Dave Knies Ph.D., discussed, and **moved unanimously (6 – 0) to recommend** that Borough Council authorize the Borough Solicitor to attend the meeting of the Zoning Hearing Board. Please be advised that this recommendation is not due to opposition to the plan, but more to ensure that a precedent is not being set by this application. Members of the Planning Commission expressed concern over variance relief for parking requirements and we believe it is important to closely monitor these types of applications.

The members of the Planning Commission thanked the Applicant for their presentation.

#### 4. MINUTES

A motion was made by Mr. Mark Niemiec, seconded by Mr. Chris Mongeu, and carried by a vote 5-0, Dr. Zoe Warner, Ph.D abstained due to not being attendance at the meeting, to approve the minutes from the March 5, 2020 joint meeting of the Planning Commission and Borough Council as presented.

## PLANNING COMMISSION MEETING

May 7, 2020

Page 7

### 5. BOROUGH STATUS UPDATES

Mr. Chris Bashore confirmed that there will be potentially a Zoom Meeting on Thursday, May 21, 2020 for the Planning Commission to review the Zoning Hearing Board Application for 128-142 Bridge Street. Ms. Tiffany Loomis is reviewing the application for completeness and our office will be in touch with the confirmed meeting dates shortly.

Mr. Mark Niemiec inquired as to the status of the Comprehensive Plan? Mr. Chris Bashore explained that Borough Council needs to appoint a firm to handle such. He further explained that the Borough received a \$32,000 grant from the County to assist in the development of the Comprehensive Plan.

Dr. Dave Knies, Ph.D. inquired if the Borough is required to match this amount. Mr. Chris Bashore confirmed that the Borough's match is just over \$20,000.00. He also complimented Ms. Alicia Marziana regarding the important role she played in accomplishing completing the grant application and its submission.

### 6. PUBLIC COMMENT

Chair Carroll Siquett advised all present citizens/taxpayers that Public Comment is the time to offer comments on any item not on the agenda and to bring any issues/concerns before the Planning Commission.

Mr. Mark Niemiec commented on the second meeting held last evening for the Randolph Woods Master Plan Committee via Zoom conferencing. The consulting firm presented two (2) options and informed everyone that Mr. Chris Bashore has this material if anyone is interested in reviewing the plans proposed. He further commented that the Committee is managing current mountain bike use.

Chair Carroll Siquett expressed that if you think you are keeping the bicycles out, this is not the case, even though signs are posted.

Discussion and questions ensued among Mr. Chris Bashore and the Planning Commission regarding the on-going issues regarding bike usage on the trails and damages made to the Borough's signage efforts.

Dr. Zoe Warner, Ph.D. approved of the focus of the habitat and water quality at Randolph Woods. She addressed the understanding of the existing easement regarding the general community's understanding at the meeting held last evening. .

Mr. Chris Bashore thanked Dr. Zoe Warner, Ph.D. regarding her explanation of the easement at this meeting.

Discussion ensued regarding the Randolph Woods Master Plan Committee Meeting.

No comments were heard and/or offered from the public.

PLANNING COMMISSION MEETING

May 7, 2020

Page 8

7. ADJOURNMENT

All business having been discussed, a motion was made by Mr. Geoff Rubino, seconded by Dr. David Knies, Ph.D., and carried by a vote of 6-0 to adjourn the meeting at 8:22P.M.

Respectfully submitted by,

Tiffany M. Loomis  
Assistant Borough Manager & Zoning  
Officer