

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
Mark Niemiec, Commissioner
Geoff Rubino, Commissioner
Chris Mongeau, Commissioner

ABSENT:

None

Staff & Professionals Present:

Christopher Bashore, Borough Manager
Daniel Daley, P.E.; Borough Engineer
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 ST. – REVIEW OF EASEMENT AGREEMENT & EXHIBITS

Zoning District: C-4

Property Owner: John Kraljevich

Representative: Ms. Gina Gerber, Esq. with Riley Riper Hollin & Colagreco

Lot Size: 12,931 (+/-) square feet

Tax Parcel: 2-4-356

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 asked if anyone was recording the meeting besides Mr. Christopher Bashore for the purpose of preparing minutes. No additional recordings were noted.

Ms. Tiffany Loomis summarized that this property is currently under an agreement of sale with the existing building of approximately 5,990 square feet being utilized as a vehicle repair facility and located adjacent to the Malvern Fire Company. The Applicant is proposing to repurpose the building and lot for an office use. The existing parking lot will be reconfigured in both the rear and front parking areas providing eleven (11) parking spaces. Fifteen (15) spaces are required pursuant to the Malvern Borough Zoning Ordinance. The additional four (4) spaces

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needed will be provided by the Malvern Fire Company via an exclusive parking and maintenance easement in response to the Malvern Planning Commission's recommendation at its May 7, 2020 meeting. Zoning Hearing Board Application #20-02 has been withdrawn due to parking relief afforded by the exclusive easement from the Malvern Borough Zoning Ordinance satisfying the Borough Zoning Ordinance.

Ms. Gina Gerber, Esq. was present on behalf of the Applicant, JHT LLC regarding the Easement Agreement Application before the Borough to offer further detail regarding the parking configuration and Easement Agreement terms. The plan was previously presented at the May 7, 2020 Planning Commission with the change being that four (4) off-site parking spaces have been obtained for the exclusive use of the Applicant. The parking area is not currently striped but will be upon the finalization of the Easement Agreement to formally designate the JHT, LLC parking spaces. The Easement Agreement also provides access to the site to and from King Street using the current driveway located on the Malvern Fire Company site. The parking spaces are within two-hundred feet (200') of the rear entrance to the office building and are intended to be utilized for employee parking. JHT, LLC will maintain the access easement including the four (4) parking space easements.

Ms. Gina Gerber, Esq. addressed the Borough Engineer's review letter regarding the maintenance concerns raised. The four (4) parking spaces associated with JHT, LLC will be maintained by the Applicant and the remaining nine (9) parking spaces will be maintained by the Malvern Fire Company. Parking spaces for the JHT, LLC will be nine feet (9') by twenty feet (20') to total one hundred and eighty square feet (180 sq. ft.) per the requirements of the Malvern Subdivision and Land Development Ordinance. There is a mutual benefit for both parties due to the financial compensation for the outlined easement rights.

Chairman Carroll Sinquett asked if there were any questions by the Planning Commission.

Dr. Dave Knies, PhD. asked what is involved in maintaining the spaces (i.e. striping, etc.).

Ms. Gina Gerber, Esq. explained that maintaining the spaces involves initially striping all thirteen spaces involved in the easement between JHT, LLC and Malvern Fire Company. Moving forward any restriping, repaving, repairs, and/or plowing for the four (4) spaces associated with JHT, LLC will be the responsibility of the entity owner.

Mr. Geoff Rubino asked if the four (4) parking spaces have signage to specifically designate exclusive use of such.

Ms. Gina Gerber confirmed that signage will be installed when the parking spaces are striped.

Mr. Mark Niemiec stated this is a terrific outcome because the Fire Department will be able to further subsidize their services to the community. He further stressed that Fire Companies need the support of the community and this is a prime example of that occurring.

Dr. David Knies, Ph.D. asked about the two-hundred feet access requirement as outlined in the Zoning Ordinance.

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Ms. Gina Gerber, Esq. confirmed that that the furthest of the four (4) parking spaces was measured at one hundred and ninety-three feet (193') from the rear entrance.

Dr. David Knies, Ph.D. made a comment to Chairman Carroll Sinquett that the two hundred feet (200') feet requirement is something the Planning Commission needs to address during the Comprehensive Plan Revision process given that the referenced distance is quite short.

Chairman Carroll Sinquett agreed.

Mr. Mark Niemiec asked as to whether the sewer main connection inquires have been resolved.

Ms. Gina Gerber, Esq. explained that the Applicant intends to connect to the main located in East King Street to the west of the site as one is going towards the Brick & Brew. The lateral will be installed accordingly and will likely require a pump.

Mr. Chris Bashore asked the applicant's attorney if they are aware of the tapping fees.

Ms. Gina Gerber, Esq. responded that the Borough has put them on notice, and they will be aware of all processes and fees required.

Mr. Kenneth Kynett, Esq. asked when the Easement Agreement will be executed and recorded.

Ms. Gina Gerber, Esq. confirmed that the Easement Agreement will be executed upon receiving the Planning Commission's blessing and the legal review of the Borough Solicitor. The Easement Agreement will take affect when the property goes to settlement, which is expected sometime in late July or August. The property is currently under agreement of sale.

Mr. Kenneth Kynett, Esq. referenced the Borough Engineer's review letter and the necessary permits that will be required for this Project. His concern is that the easement is in place as a condition of the issuance of the first of those permits by the Borough. Kevin Traynor was present and indicated that this timing should not present a problem.

Chairman Carroll Sinquett asked if there were any comments from the public. The public had no comment. He then asked Ms. Tiffany Loomis what further action was required.

Ms. Tiffany Loomis explained that this agenda item is to recognize that the process has been adequately followed, and the Planning Commission recommendation has been followed per the May 7, 2020 meeting. Per the advisement of the Borough Solicitor formal action is not required.

Chairman Carroll Sinquett asked if this is a close out item.

Ms. Tiffany Loomis confirmed such.

Chairman Carroll Sinquett thanked the Applicant for their time and working out this matter in a favorable fashion.

b. 128-142 E. KING ST. – ZONING HEARING BOARD APPLICATION #20-03

Zoning District: C-4

Property Owner: ZMC Partners LP

Representative: Mr. Louis Colagreco, Esq. with Riley Riper Hollin & Colagreco

Lot Size: 20,909 (+/-) square feet

Tax Parcel(s): 2-4-204, 2-4-205 and 2-4-206

Chairman Carroll Sinquett introduced the next Agenda item accordingly and Mr. Lou Colagreco, Esq. further explained Zoning Hearing Board Application #20-03 located at 128-142 E. King ST.

Mr. Lou Colagreco, Esq. explained that his project was introduced to the Planning Commission a few months back in another iteration. The Applicant is the legal owner of approximately 0.48 acres of property located at 128-142 East King Street in the Borough of Malvern, further identified as UPI Nos. 2-4-204, 2-4-205 and 2-4-206. The Property is located in the C-3 Town Center Commercial Zoning District of the Borough. The Applicant proposes to develop a building with approximately 21,756 square feet of gross floor area, with forty-seven (47) attendant parking spaces, stormwater management facilities and landscaping. The property is an infill lot, and the Applicant(s), Mr. Matt Nailer & Mr. Chris Shaknis, are seeking to make this their corporate headquarters.

The Applicant is tentatively scheduled for a July 27, 2020 hearing before the Zoning Hearing Board requesting the following variances:

1. A variance from Section 220-2501.B.(5) of the Zoning Ordinance to permit less than the required number of parking spaces for the proposed office use. Applicant is proposing to provide forty-seven (47) parking spaces on the Property where fifty-four (54) are required for the office use. Many of the employees rely on public transportation to get to and from work. Mr. Lou Colagreco, Esq. stressed that parking is just as important to the Applicant as it is to the Borough from a financing perspective. The Applicant would not go forward with the process if they believed it was not possible to provide adequate parking.
2. Variances from Sections 220-2309.A.(2), 220-2309.C.(1) and (3), and 220-2501.D.(7) to permit the buffer areas on the eastern, western and southern sides of the Property, abutting the proposed parking area and commercial use, to be less than twenty (20') feet in width and not compliant with the "commercial buffer" requirements where the Property abuts a residential district and/or residential use. The Applicant proposes buffer areas of five (5') feet in width on the eastern and western side of the Property where the Property abuts residential uses, and five (5') feet in width on the southern side of the Property where the Property abuts the R-4 Residential District. A buffer in the representative's opinion is extravagant and by providing the 5' feet buffer, the intent of the ordinance is met. Mr. Lou Colagreco, Esq.

further explained that there were discussions with the Borough and arguments presented that the uses to the east and west are considered mixed uses versus residential. The Borough was not in agreement with this interpretation. This is an additional variance request from the previous Zoning Hearing Board Application that was withdrawn.

3. A variance from Section 220-2501.D.(10)(a) and 220-2501.D.(10)(b) of the Zoning Ordinance to permit a parking area without raised planting islands. The proposed building would have some of the parking under the building and some of the parking at ground level. The theory is to provide the additional parking space versus providing the landscaping isle because of the layout and lack of visibility. This is an additional variance request from the previous Zoning Hearing Board Application that was withdrawn.

4. A variance from Section 220-1402.H. of the Zoning Ordinance to permit construction of a building exceeding the thirty-five (35') feet height limitation. The Applicant is proposing to construct a building forty-three feet (43') in height. Mr. Lou Colagreco, Esq. further explained that this is an antiquated ordinance and current modern office product is offered at a greater height than thirty-five feet (35'). Office product that is built under this height cannot be built economically and for this product to be financially feasible a building height of forty-three feet (43') is required. This is a substantial reduction from the building proposed last fall that was approximately fifty-six feet (56') and proposed as mixed use maximizing the site's potential. The current proposal is significantly less.

Mr. Lou Colagreco, Esq. further explained that when you have in-fill development variance relief is typically required. The Applicant's intention is to have a working relationship with the Borough of Malvern in that this is an under-utilized piece of ground that could be developed to contribute to the Borough. It is going to be an expensive building to build and since the COVID-19 Pandemic other sites have become available. The Applicant is not looking to over build the site. If this project works for the Borough the Applicant is interested in moving forward. The design professionals are available to answer questions.

Chairman Carroll Sinquett asked if there were any questions by the Planning Commission.

Mr. Mark Niemiec asked about the buffer area and the width proposed regarding the plantings shown and if fencing was considered instead of the plantings.

Mr. Craig Johnson explained that on the property's border there is six feet (6') fencing currently that is a screening component. The Applicant has tried to enhance this area by adding arborvitaes and landscaping.

Mr. Mark Niemiec asked where the fencing location is to the South of the property.

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Mr. Craig Johnson explained that the fence is shown in orange on the plan rendering.

Mr. Mark Niemiec asked if this a solid type fencing.

Mr. Craig Johnson confirmed that this is the case.

Mr. Geoff Rubino asked if there has been any comment from the Fire Department.

Mr. Lou Colagreco, Esq. explained that this was addressed in the Engineer's Borough review letter and he believed this was addressed at one point in time. However, if this is not the case, answers on such will be provided.

Mr. Geoff Rubino asked if there was a car on fire in the rear of the lot if the Fire Company would have access to be able to address this issue.

Mr. Lou Colagreco, Esq. explained that this particular location will be visited over the next week or so to be able to address this matter.

Mr. Chris Bashore explained the there was a preliminary review issued by the Fire Marshall, and that the Fire Company has not yet reviewed the plan as currently proposed.

Chairman Carroll Sinquett asked if the height in the parking area is in the realm of twelve feet (12').

Mr. Craig Johnson confirmed it is.

Chairman Carroll Sinquett explained that this will give plenty of access for an engine to be able to fight fires that may breakout behind the building.

Mr. Mark Niemiec asked about the rear alley and if this area would be cut off by the proposed fencing.

Mr. Craig Johnson confirmed that this is the case; however, there would not be any issue with installing a gate and/or emergency access within the fencing.

Mr. Mark Niemiec asked about the clearance access regarding the alley.

Mr. Lou Colagreco, Esq. spoke to Mr. Chris Bashore regarding the confusion over who owns the alley, who has access to the alley, and how the alley is to be addressed. He further explained that the alley will be incorporated as a fire safety feature if the Applicant has the ability to do that.

Chairman Carroll Sinquett asked where the alley aligns with the western edge of the property.

Mr. Craig Johnson confirmed that the alley aligns were the corner of the parking stop and where the trees start.

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Dr. Zoe Warner, Ph.D. asked how visually the height would be perceived from King Street being eleven feet (11') over the current zoning regulations.

Mr. Craig Johnson explained that the forty-three feet (43') is taken from roof level and the parapet makes the total height approximately forty-seven (47') feet. Neighboring building range in the thirty plus feet (30'+) range, and he feels the height proposed is appropriate from a design perspective. The parapet that is shown as the top of the building, in the renderings provided, represent the forty-seven (47') feet and four feet (4') down from that is the roof level.

Mr. Mark Niemiec asked about the east and west side building having adequate room on the lot to access the windows for maintenance cleaning and etc.

Mr. Craig Johnson confirmed they would have access.

Dr. Dave Knies, Ph.D. asked if the parapet is functional or decorative. Mr. Craig Johnson explained that the intention of a parapet is to provide a decorative element as well as shield equipment on the roof, such as HVAC systems, from the view shed.

Dr. Zoe Warner, Ph.D. asked how the height of this building compares to East Side Flats.

Mr. Lou Colagreco, Esq. explained that East Side Flats is approximately fifty-five feet (55') plus.

Dr. David Knies, Ph.D. commented that his memory recalls an average height of fifty-three feet (53').

Mr. Craig Johnson clarified that East Side Flats has an additional story.

Dr. Zoe Warner, Ph.D. inquired about the setback on East Side Flats versus the proposed project indicating that there is less of a setback for the proposed project before the Planning Commission with ten feet (10') proposed for this project and East Side Flats having thirty feet (30').

Mr. Craig Johnson explained that the proposed project has eleven feet (11'), and East Side Flats has twenty feet (20') setback.

Dr. David Knies, Ph.D. confirmed that East Side Flats has twenty feet (20') feet to (25') feet setback.

Mr. Craig Johnson explained that the setback is derived from the walkable street. The lot narrows as you go back into the depth of the lot making the lot less usable from a building perspective to explain the width of the current setback.

Dr. Zoe Warner, Ph.D. commented that when you have a building that is setback thirty feet (30') it creates a different look visually versus a closer setback that creates a of scale that is not in line with surrounding buildings.

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Mr. Craig Johnson confirmed that the proposed building is in line with the proposed setback of surrounding buildings.

Dr. Zoe Warner, Ph.D. replied that the building would look out of scale because of the height of the proposed building and the setback.

Mr. Craig Johnson said that height relates to perception regarding the setback. East Side Flats has a greater height with a larger setback to have the same reference point. Since this building is lower, less of a setback is required.

Mr. Dan Daley, P.E. clarified that East Side Flats has a height of fifty-eight point one feet' (58.1') in height per the finalized plan with a sixty-five feet (65') maximum and a fifty-five feet (55') average.

Mr. Mark Niemiec asked about width of the East Side Flats setback.

Mr. Dan Daley, P.E. explained that the setback is calculated off of the right-of-way line. The setback is approximately 5' feet from the dedicated right-of-way line. The curb line bumps in and out due to designated street parking.

Dr. David Knies, Ph.D. confirmed that between the two (2) buildings the setback varies.

Mr. Dan Daley, P.E. agreed. He further explained that in front of Christopher's there is approximately 5' feet from the curb to the right-of-way. Then there is 5' feet to the maximum building line, and from there it juts out to a maximum of 5' feet. The maximum setback is approximately fifteen feet (15') and the minimum is approximately twelve feet (12') from the curb line.

Dr. Zoe Warner, Ph.D. asked about the width of the right-of-way under the proposed plans.

Mr. Craig Johnson confirmed that the right-of-way is forty-five feet (45').

Dr. Zoe Warner, Ph.D. asked if this is accurate because there was a reference to a sixty feet (60') right of way in the Borough Engineer's review.

Mr. Dan Daley, P.E. confirmed that the legal right-of-way line for King Street, as adopted by Ordinance No. 89: Chapter A234 – Streets & Sidewalks, is forty-five (45) feet. Part of the land development application for East Side Flats dedicated an additional right-of-way, along the frontage of the property, of thirty feet (30') from the center line of King Street to provide their half of the sixty feet (60'). This was due to the various utilities and on-street parking needs.

Dr. Zoe Warner, Ph.D. asked if this section of King Street is different than the proposed plan.

Mr. Dan Daley, P.E. confirmed that it is now; however, when this first started the approved plan for East Side Flats had an approved right-of-way of forty-nine feet (49'). The right-of-way

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line moves in and out depending on what right-of-way is dedicated to the Borough at different points in time.

Mr. Dan Daley, P.E. explained that during the land development portion of the proposed project the Applicant will need to discuss with the Planning Commission and Borough whether or not additional right-of-way will need to be dedicated to address the site's and Borough's needs. Then it will need to be evaluated on whether it can be required based on whether additional on-street parking will be needed and/or if there will be additional utility needs. This is a matter that is appropriate to be discussed under a land development application and not this stage in the game.

Dr. Zoe Warner, Ph.D. asked if any other Planning Commission members are concerned about traffic coming in and out of King St. creating more traffic during rush hour since King Street already gets backed up in the mornings.

The Planning Commission as a whole agreed this is a concern.

Chairman Carroll Sinquett stated moving the driveway to the other end of the property would create a worse situation.

Dr. David Knies, Ph.D. agreed.

Mr. Mark Niemiec asked if a traffic study is required.

Mr. Lou Colagreco, Esq. confirmed that this will be required during the land development process.

Chairman Carroll Sinquett stated this project is not located on the ideal corner because you are on the inside corner of a bend creating visibility issues. The stop sign currently in place mitigates the site distant requirement because you have to stop when you arrive there.

Dr. David Knies, Ph.D. agreed.

Mr. Mark Niemiec asked if we know if the traffic study will require more stop signage, etc.

Chairman Carroll Sinquett replied no.

Dr. Zoe Warner, Ph.D. commented that upon variance relief being granted, the Planning Commission's hands are tied in what can be done in terms of the health, safety, and welfare of Malvern Borough, especially regarding traffic. It will add tremendously to rush hour traffic. Further comment was made about the pressure on local Malvern roads due to current drive-through traffic.

Mr. Lou Colagreco, Esq. responded that the Applicant is as curious as the Planning Commission if the building will work from a traffic standpoint, therefore he does not feel the Planning Commission's hands are tied. The Applicant will not build the building if it does not work from a traffic perspective because this is not a speculative venture. The building is not being

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built to then lease. He agreed that all comments to date are practical and that the Applicant will be taking serious interest in where the status of the project is regarding these comments. The Applicant is approaching this process in baby steps, taking their time, analyzing what is in front of them. Land development will be the next step.

Dr. Zoe Warner Ph.D. expressed concern that as Planning Commissioners they are tasked to develop recommendations based on how development will affect the future of the town over the life of the building. The needs within the building may change and new tenancy is probable at some point in the future and/or vacancy.

Mr. Lou Colagreco, Esq. agreed.

Chairman Carroll Siquett opened the floor to public comment, limiting each person to 3 minutes per item per person. He stressed that this is a Zoning Application review and not a land development application which will be addressed at a later time.

Ms. Connie Scanga appreciates the thoughtful questions that have been asked by the Planning Commission this evening. She commented on the elevation of the building being shocking as one is driving over Bridge Street due to the industrial nature of the building. She said that development is inevitable and one must be prepared to address such, but her largest concerns are regarding traffic at this intersection, as well as to the east concerning Woodland Avenue. There is constant activity; however, due to the COVID-19 Pandemic traffic is lower than usual and a traffic study may not accurately reflect what normal non-pandemic circumstances would yield.

Both Chairman Carroll Siquett and Dr. David Knies, Ph.D. agreed.

Mr. Mark Niemiec asked how traffic flow would be measured in this specific area.

Mr. Lou Colagreco, Esq. explained that to account for changes related to the COVID 19 Pandemic PennDot has adopted methodology in District 6 to allow historical averages to be used including a multiplier to keep permits moving forward.

Chairman Carroll Siquett asked if McMahon had kept traffic counts on this intersection prior to this development.

Mr. Chris Bashore confirmed that this intersection was studied in 2018's traffic study and that this information is available on the Borough's website known as the 2018 Malvern Borough Wide Multi-Model Transportation Study.

Dr. David Knies, Ph.D. confirmed that the counts are part of the data package that are included in the study.

Ms. Sid Baglini commented on traffic regarding rush hour and has major concerns regarding how traffic will be affected during construction when there will be a need to stage large vehicles there since there is no side street for their parking. It would appear all delivery trucks will be staged at and/or near the major intersection of King and Bridge Streets.

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Mr. Mark Niemiec asked the Borough Engineer if there is a way to require scheduled deliveries during the construction process.

Mr. Dan Daley, P.E. is not aware of any requirements such as this from an ordinance standpoint, however, it could be a condition that is discussed during the land development phase given the validity of the point if it were to get to this point.

Mr. Mark Niemiec agreed.

Chairman Carroll Sinquett stated there will be inconveniences during the construction process regardless of what is built at the site in question.

Dr. Zoe Warner, Ph.D. asked about deliveries and referenced the inconveniences already experienced when deliveries are made at the Flying Pig.

Chairman Carroll Sinquett confirmed that, based on the last meeting, deliveries are to be handled off street and the biggest truck that will be delivering to their site is similar in size to a UPS truck and/or FedEx van.

Dr. Zoe Warner, Ph.D. asked if this is the only size truck the site can accommodate. She further inquired if there were another occupant at the property in the future if there would be issues with deliveries.

Dr. David Knies, Ph.D. believes there would be.

Mr. Dan Daley, P.E. commented that moving vehicles would be at the property upon move-in; however, in the day-to-day operations the internal parking will be utilized. He further explained that if there were a new use for the building in the future, parking requirements will be evaluated under Zoning Permit Application and Use & Occupancy permit process. Applications in the past with these issues, have been evaluated by the Borough through the permit process to address these kinds of matters. Conditions may also be implemented during the Land Development process as well.

Dr. David Knies, Ph.D. agreed.

Mr. Danny Fruchter is concerned with whether this development is good for the Borough and believes it to be the Planning Commission's job to get the best possible development under the current regulations that are in effect. He then said in-fill will require variances and waivers of which the Planning Commissions may use various types of relief as a negotiating point to get the best possible project for Malvern Borough.

Mr. Danny Fruchter is concerned with the how far the proposed building is located from the curb versus East Side Flats' larger setback because the modern office product will have a looming presence. He then discussed traffic becoming more of an issue and how trash trucks will become a concern because the trash will be located inside the building, causing the large trash truck to idle until the trash is retrieved and able to be hauled away. He said Brick & Brew has more

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trash containers than was originally anticipated, and there were no limitations set to address the issues they present to neighbors.

Chairman Carroll Sinquett reminded everyone that the three (3) minute time frame must be adhered to and of the Zoning aspects of the application.

Mr. Danny Fruchter commented that the Zoning Application is incomplete.

Chairman Carroll Sinquett replied that this was in Mr. Fruchter's opinion.

Mr. Danny Fruchter commented that the application is incomplete because it does not include the required soil and erosion plan. He asked the Borough Engineer if this information has been submitted.

Mr. Dan Daley, P.E. responded that this information has not been submitted.

Mr. Fruchter said the Zoning Hearing Board Application should be rejected because it is incomplete. He further commented the Mr. Lou Colagreco, Esq. is the conflict councilor for the Borough and that the project should be evaluated on whether it is good for the Borough or not as good as something else could be.

Chairman Carroll Sinquett addressed the three (3) minute time frame again.

Mr. Fruchter added that two (2) parking spaces can be condemned on Woodland Avenue. He suggested that the project owner purchase these parking spaces or the Borough condemn this area to provide these spaces.

Chairman Carroll Sinquett offered the floor to Mr. Ken Kynett, Esq. to provide a response.

Mr. Ken Kynett, Esq. explained that it is not the responsibility of the Planning Commission to determine the completeness of an administrative plan and only considers the information before them. Secondly, this property is zoned for the use being proposed and the Applicant is requesting relief from various requirements of the Borough Zoning Code, not for the use, but for bulk and area type requirements. This type of relief is the specific and exclusive jurisdiction of the Zoning Hearing Board. The Planning Commission's role is not to pass judgement on the Zoning aspects of the application. He further explained how the Zoning hearing is conducted before the Zoning Hearing Board. During the Land Development application, in the event the zoning relief is obtained, the Planning Commission will be able to apply its expertise to the Subdivision and Land Development to help shape this project.

Mr. Danny Fruchter asked what the purpose of this meeting was.

Mr. Chris Bashore replied that the purpose of the meeting is for the Planning Commission to provide a recommendation to Borough Council whether or not to send the Borough Solicitor to the hearing. He further stated that Mr. Danny Fruchter's comments deal with the Land Development process, and this is for a later time in the event variance relief is granted.

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Mr. Chris Bashore confirmed that the Borough Zoning Ordinance requirements for the Zoning Application do not require a soil plan.

Mr. Danny Fruchter disagreed and replied that this is a requirement of the application.

Mr. Chris Bashore instructed Mr. Danny Fruchter that he may make the argument of an administratively incomplete application at the Zoning Hearing Board hearing.

Mr. Bill Doughty commented that he has lived a block on a half from the proposed building site for the past twelve and half (12.5) years. He inquired if there are any buildings of this height between Warren and Ruthland Avenue(s).

Chairman Carroll Sinquett responded East Side Flats.

Mr. Bill Doughty asked if there were any others besides East Side Flats. He commented that the apartments immediately to the right would be dwarfed with the height proposed and that there are no other 3 story buildings in this stretch of King Street.

Chairman Carroll Sinquett responded that the zoning allows a maximum height of thirty-five feet (35').

Mr. Bill Doughty commented on the height of the proposed building and said this is a thirty five percent (35%) height increase. He also stated the buffer area would be going from a twenty feet requirement to a five feet (5') feet buffer, which is a significant decrease. He asked if the orange lines on the plan represent residential property.

Chairman Carrol Sinquett confirmed that to the south there is a church, to the west there is an apartment building, and to the east there is an active garage and apartments. He further confirmed that apartments are residential.

Mr. Bill Doughty asked if the proposed building were reduced to two (2) stories would there be a need for a variance from the parking requirements.

Mr. Lou Colagreco, Esq. responded that if the building were reduced in size, less parking would not be needed; however, the building would not be built.

Mr. Bill Doughty asked if the equipment located on the roof would be taller than the parapet, as well as how loud the HVAC system would be.

Mr. Lou Colagreco, Esq. responded that the limitations of noise in the Borough Ordinance would have to be met.

Mr. Chris Bashore confirmed that the decibels for a commercial zoning district are sixty (60) decibels between 10PM to 7AM and sixty-five (65) decibels the remainder of the time.

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Mr. Craig Johnson confirmed that there would be a three and half feet (3.5') parapet wall in the rear of the building to shield roof top equipment and the total height of the building is forty-six feet eight inches (46' 8").

Mr. Doughty commented that this variance seeks a thirty-three percent (33%) increase in height. He is concerned about having to view the proposed structure as well as the increase in sound that will occur.

Mr. Lou Colagreco, Esq. replied that the use of height is being used inappropriately. Parapets are permissible under the Borough Zoning Code. The variance relief being requested regarding height totals eight feet (8'). The Borough Ordinance has an exclusion regarding parapets.

Mr. Bill Doughty asked if the residents surrounding the proposed development have been contacted.

Chairman Carroll Sinnett confirmed that contacting the residents occurs during the Zoning Hearing Board process. He further explained that the Planning Commission role this evening is to recommend whether or not the Borough Solicitor should attend the Zoning Hearing Board hearing. If the proposed development moves to this Land Development stage, the Planning Commission would perform a detailed review.

Ms. Tiffany Loomis confirmed that the hearing is tentatively scheduled for Monday, July 27, 2020 at 7:30PM. Residents will be notified and the property posted as required.

Mrs. Cassandra Doughty commented that this project should not move forward for all the reasons and concerns brought up by the residents this evening. The project is not aesthetically in line with Malvern Borough's community. She proposed this space be used as open space and the current area is saturated with development.

Mr. Kel Schmitt asked about the heights of the Old Malvern Hall & Sheffield building.

Mr. Dan Daley, P.E. did not know the heights of these buildings.

Ms. Connie Scanga commented that this property is the future of Malvern and is the gateway to the community which will affect the feel of the town. The proposed project will negatively affect the Borough.

Mr. Lou Colagreco, Esq. thanked the Planning Commission and everyone in attendance for their time and comments.

Dr. Zoe Warner, Ph.D. asked if Mr. Kel Schmitt's questions will be answered.

Mr. Chris Bashore responded that he will follow up with Mr. Kel Schmitt regarding the answers to his questions.

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Mr. Ken Kynett advised the Planning Commission and attendees of the meeting on policy and protocol of the Zoning Hearing Board and Planning Commission. Questions and discussion ensued.

Mr. Chris Bashore explained the policy and procedure of how minutes are provided. Questions and discussion ensued.

Mr. Ken Kynett advised the Planning Commission and meeting attendees on the role of the Planning Commission regarding making recommendations. Questions and discussion ensued.

Mr. Chris Bashore answered Mr. Danny Fruchter's question regarding the next scheduled Borough Council. He said it is on Tuesday, July 7, 2020 at 7:30PM. This matter will be an agenda item.

Lynne Frederick commented that the aesthetics of the building are not regulated in Malvern Borough.

Mr. Kel Schmitt commented that he is ambivalent at the moment to this property. He is looking for laws to be upheld and the formal process to be followed accordingly.

Chairman Carroll Sinquett thanked the Applicant for their time and presentation.

RECOMMENDATION:

A motion was made by Mr. Mark Niemiec, seconded by Dr. David Knies, Ph.D., discussed, with the Planning Commission voting **unanimously (6 – 0) to recommend** that Borough Council authorize the Borough Solicitor to attend the meeting of the Zoning Hearing Board. Numerous concerns were raised by the public during the discussion. Given the nature and extent of the public comment the Planning Commission believes it would be appropriate to have the Borough Solicitor review the June 18, 2020 meeting minutes and ask that they be entered as an exhibit in the official record of the Zoning Hearing Board hearing for this matter.

4. **MINUTES**

A motion was made by Mr. Mark Niemiec, seconded by Mr. Chris Mongeau, voting to approve the minutes as amended, **unanimously (6 – 0)**.

5. **PUBLIC COMMENT**

Ms. Connie Scanga and Mr. Danny Fruchter thanked the Planning Commission Commissioners for all their hard work and commitment to Malvern Borough.

6. **ADJOURNMENT**

All business having been discussed, a motion was made by Mr. Mark Niemiec, seconded by David Knies, Ph.D., and carried by a vote of 6-0 to adjourn the meeting at 9:10P.M.

Respectfully submitted by,

Tiffany M. Loomis
Assistant Borough Manager & Zoning
Officer