

MALVERN BOROUGH
PLANNING COMMISSION
Zoom Conference
Malvern, PA 19355

January 7, 2021
7:30 P.M.

1. CALL TO ORDER

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
Scott Oswald, Commissioner
Brian Hamilton, Alternate Commissioner

ABSENT:

Tiffany Loomis, Asst. Borough Manager
(Excused)

Staff & Professionals Present:

Christopher Bashore, Borough Manager
Kenneth Kynett, Esq., Planning Commission Solicitor
Dan Daley, PE, Borough Engineer

2. ELECTION OF PLANNING COMMISSION OFFICERS FOR YEAR 2021

a. Election of Chair

Chris Mongeau nominated Carroll Sinquett as the Chair of the Malvern Planning Commission for the year 2021. Mark Niemiec seconded the nomination.

Carroll Sinquett asked if there were any other nominations. Being no further nominations, Carroll Sinquett closed the nominations.

A motion was made by Chris Mongeau, seconded by Mark Niemiec, and carried by a vote of 7-0, to appoint Carroll Sinquett as the Chair of the Malvern Planning Commission for the year 2021.

b. Election of Vice-Chair

Mark Niemiec nominated Zoe Warner, PhD, as the Vice-Chair of the Malvern Planning Commission for the year 2021. David Knies, PhD, seconded the nomination.

Carroll Sinquett asked if there were any other nominations. Being no further nominations, Carroll Sinquett closed the nominations.

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A motion was made by Mark Niemiec, seconded by David Knies, PhD, and carried by a vote of 7-0, to appoint Zoe Warner, PhD, as the Vice-Chair of the Malvern Planning Commission for the year 2021.

3. INTRODUCTION OF RECENTLY APPOINTED PLANNING COMMISSION MEMBERS

Carroll Sinquett introduced the two (2) new members of the Malvern Planning Commission. Scott Oswald was appointed by Borough Council as a regular voting member and Brian Hamilton was appointed by Council as an alternate member of the Planning Commission.

Carroll Sinquett welcomed both new members and thanked them for their interest and service.

4. MINUTES

A motion was made by Mark Niemiec, seconded by David Knies, PhD, and carried by a vote of 7-0, to approve the minutes from the November 5, 2020 meeting of the Planning Commission as submitted.

5. UNFINISHED BUSINESS

There were no items of Unfinished Business for discussion.

6. NEW BUSINESS

- a. Recommendation to Borough Council for Conditional Use Application Submission located at 147 W. First Avenue, Malvern, PA, 19355

Present for the applicant: Scott Deisher, PE, JMR Engineering, Inc., Applicant's Engineer
James Renehan, Renehan Building Group, Applicant's Builder

Scott Deisher summarized the proposed plan. The plan proposes the demolition of the existing house on the parcel at 147 W. First Ave. and the construction of a new single-family detached dwelling unit. The proposed house is 4,144 sq. ft. on a lot with a net lot area of 16,632 sq. ft. Mr. Deisher noted that the Borough amended its Zoning Ordinance pertaining to area and bulk requirements outlined in the R3a zoning district, noting that the by right building coverage is now 20% and is permitted to be increased to up to 25% subject to Conditional Use approval.

The Planning Commission discussed the review letter from the Borough Engineer dated January 5, 2021. Mr. Deisher acknowledged that the Borough's policy would require that the address be changed to Prospect Avenue as the proposed house will front on Prospect Avenue. Carroll Sinquett stated that the address should be Prospect Avenue based on the proposed orientation of the house. Mr. Deisher concurred that this would be appropriate from an emergency services perspective.

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Mr. Deisher reviewed the setbacks based on house being assigned a Prospect Avenue address, noting that the rear yard setback would now be along the eastern property boundary. Mr. Deisher noted that relief may be necessary from the Zoning Hearing Board. Mr. Deisher noted that the Borough Engineer's letter notes the need to confirm the diameter of an existing tree on the western side and noted that the tree exceeds 30" DBH and would meet the definition of specimen vegetation and would not be permitted to be removed. Mr. Deisher noted that the Borough's Zoning Ordinance permits the Zoning Officer to reduce the setback requirements by up to 50% in order to preserve specimen vegetation. Mr. Deisher noted that the applicant would like to reduce the 25 ft. rear yard requirement by 50% (to 12.5 ft.) in order to preserve the specimen vegetation on the site.

David Knies, PhD, asked about the condition of the tree. Mr. Deisher stated that the tree is healthy, but there were some downed limbs. James Renehan noted that it will be trimmed. David Knies, PhD, asked about the tree species. Mr. Deisher stated that he believed that it was a maple.

Mark Niemiec asked if the foundation could be shifted further to the west if the tree were removed. Mr. Deisher stated that the Borough's Zoning Ordinance does not permit the tree to be removed. Mark Niemiec asked about the rear yard setback. Mr. Deisher stated that the rear yard setback would be 12.5 ft. Mr. Renehan noted that this is what the setback would be if the address remained on First Avenue.

David Knies, PhD, asked about the proximity of the proposed new house to the existing house to the rear. Mr. Deisher stated that it would be approximately 20 ft.

Mark Niemiec asked how far away the main living area is from the existing home to the east. Mr. Deisher reviewed the alignment of the proposed new home to the existing house to the east.

Discussion moved to the building coverage of the proposed new home on the lot. Mr. Deisher stated that the proposed dwelling is in line with the allowance for building coverage permitted by Conditional Use. David Knies, PhD, asked if any steps had been taken to try to reduce the size of the proposed house to get it closer to 20% building coverage. Mr. Renehan stated that they have been through numerous iterations of the plan with the property owner and the proposed home has been reduced twice.

Mark Niemiec asked what the impact of eliminating the third garage bay on the home would have on the proposed building coverage. Mr. Deisher noted that they are about 820 sq. ft. away from reaching 20% building coverage and noted that removing the entire garage would not get them to 20% building coverage. Dan Daley, PE, stated that removing the third garage would reduce the proposed building coverage by 1.4%. Scott Oswald noted that removing the proposed third garage would put the proposed project closer to being generally characteristic with the neighborhood.

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Carroll Sinquett asked about the driveway as it relates to the proposed pervious pavement driveway. Mr. Deisher reviewed the portion of the driveway that would be pervious pavement. Mr. Deisher noted that he has discussed the requirements for pervious pavement with the Borough Engineer. Mr. Deisher noted that certain areas have been included as impervious as they do not have a stone sump base. Mr. Deisher reviewed the ordinance requirements pertaining to pervious pavement and the steps taken to mitigate these concerns pertaining to stormwater management.

Carroll Sinquett asked about the slope on the driveway. Mr. Deisher reviewed the grade and noted that the grade is relatively level.

David Knies, PhD, asked about other modifications that could be made to reduce the proposed building coverage. Mr. Renehan reviewed the modifications that have been made to various iterations of the plan to reduce the proposed building coverage. David Knies, PhD, noted the proposed size as compared to the other homes in the neighborhood. Mr. Renehan stated that this proposed home is comparable to other homes that were recently constructed in the area.

Zoe Warner, PhD, noted that it was her understanding that the Conditional Use process was more envisioned as it relates to building height. Zoe Warner, PhD, reviewed the history of the discussion. Carroll Sinquett discussed the other provisions that were amended to be permitted by Conditional Use. Mr. Deisher asked if the Planning Commission would like to see a buffer. Carroll Sinquett stated that he was not sure if that was in their purview. Christopher Bashore stated that the Planning Commission could recommend a buffer as a condition. Mr. Renehan noted that the property owner may wish to have a tree buffer installed.

Scott Oswald reviewed the criteria for Conditional Use approval outlined in the Borough's Zoning Ordinance. Scott Oswald asked if the trees would mitigate the impact of the building on the neighboring property to the east as outlined in the Zoning Ordinance. Mr. Deisher reviewed the window placement on the rear elevation as it relates to the property to the east. David Knies, PhD, noted the large number of windows depicted on the rear elevation. Mr. Renehan reviewed the window placement as it corresponds to the living areas of the proposed home. Dan Daley, PE, asked about the area over the garage. Mr. Renehan stated that it is unfinished/unconditioned storage space. Dan Daley, PE, asked if this area could be finished in the future. Mr. Renehan stated that it could be finished, but it is not intended to be.

Scott Oswald asked about how the windows aligned with the existing home to the east. Mr. Renehan stated that the windows end with the northern portion of the house. Scott Oswald stated that the Zoning Ordinance takes into consideration the entire property, not just the house and people may like privacy in their backyard. Geoff Rubino stated that the intent was to avoid looking from one room of a house into the room of another house, such as from the living room into a neighboring property's bedroom. The other members of the Planning Commission concurred.

Zoe Warner, PhD, stated that she has concerns with the building coverage being close to what was previously permitted in the Zoning Ordinance and the precedent that could be set.

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Zoe Warner, PhD, discussed the difference between having a pervious driveway and plantings in the front yard as it pertains to stormwater management. Zoe Warner, PhD, stated that she was unsure if the pervious pavement would be able to handle the magnitude of the storms that have been witnessed recently. Mr. Deisher reviewed the proposed stormwater management system on the property and noted that the property currently does not have stormwater management facilities.

Dan Daley, PE, stated that he is overall OK with the stormwater management plan and it generally meets the requirements of the Borough's stormwater management ordinance, but noted that it is a change in the flow patterns. Dan Daley, PE, recommended that the applicant coordinate the stormwater management plan with the adjoining property owner to the east. Mr. Deisher stated that the proposed stormwater management plan for the proposed site exceeds the infiltration requirements outlined in the Borough's stormwater management ordinance. Scott Oswald asked if the proposed stormwater management would result in an improvement. Dan Daley, PE, stated that he believes it would since there is currently no stormwater management on the proposed site.

David Knies, PhD, asked about the peaked roof ratio. Mr. Deisher stated that it is proposed to be 9/12. Scott Oswald asked if 9/12 is better than what is outlined in the Zoning Ordinance. Mr. Renehan recommended that the Borough should be evaluating gutter size as opposed to the roof pitch and recommended requiring a 6 inch gutter. Zoe Warner, PhD, asked if the house would have an appropriate sized gutter. Mr. Renehan stated that he does not use a 4 inch gutter and recommended using a larger gutter. Scott Oswald stated that he believes that the spirit of the ordinance is to match the slope of the roofs in the surrounding neighborhood. The Planning Commission discussed the roof pitch in the area as it relates to the proposed home.

The Planning Commission discussed the provision in the Zoning Ordinance related to the access of a garage from the side or rear yard. It was determined that maintaining the current access from Prospect Avenue was appropriate. Mark Niemiec asked about the number of homes with more than two (2) garage bays. Mr. Renehan stated that there is a home further north on Prospect Avenue that has three (3) garage bays. Mr. Renehan stated that he was unsure about the total number of homes with more than two (2) garage bays.

Carroll Siquett noted issues with the utility locations outlined on the plan for the proposed house. Mr. Deisher noted that the existing water and sewer connections will be reused, but there would need to be right-of-way work for the proposed natural gas connection.

Scott Oswald asked about the rise in the peaked roof of the proposed house. Mr. Renehan stated that the architect has not finalized the roof plan for the house, but noted that they will meet the requirements of the Zoning Ordinance. Mr. Renehan noted that he did not believe that the vertical rise would exceed 12 ft.

Scott Oswald asked about the building height, noting that the Zoning Ordinance states that building height would not exceed 10 ft. at or near the minimum side yard setback. Mr. Deisher noted that, with the change in the address to Prospect Avenue, the proposed house would meet the requirements in the ordinance.

Carroll Sinquett asked if there was finished space in the basement. Mr. Renehan stated that there was not.

Carroll Sinquett asked about the height of the building from the foundation to the gutter line. Mr. Deisher noted that the grade slopes up from the east. Mr. Renehan stated that it will be approximately the same height as the existing home on the property. Zoe Warner, PhD, noted that the height may be the same, but the bulk of the house is going to be much more imposing. Mark Niemiec asked if all the bedrooms were on the second floor. Mr. Renehan stated that there is a first floor master bedroom wing on the north side of the property.

Mark Niemiec asked if the house to the east could be expanded to the north of the property. Carroll Sinquett stated he believe that it could because of the depth of the lots. Mr. Renehan concurred with this assessment.

Borough Manager Bashore outlined the definition of “building height” as contained in the Borough’s Zoning Ordinance.

Carroll Sinquett opened the floor to public comment on the proposed application.

Jamie Grossman, 143 W. First Avenue and Vice-President of Borough Council, stated that she is the property owner to the east of the proposed new house. Ms. Grossman noted that the property where the proposed house is located is higher than her property and stated that she is concerned about the imposing mass of the proposed new house. Ms. Grossman discussed the process involved in preparing the recently enacted Zoning Ordinance amendments and noted that it was a desire to recognize property rights, while preserving the characteristics of the neighborhood. Ms. Grossman stated that it does not appear that the owners are willing to give anything back, which was not the spirit of the ordinance as it was envisioned as a negotiation through the Conditional Use process. Ms. Grossman noted that the other homes referenced were constructed prior to the adoption of the recent Zoning Ordinance amendments. Ms. Grossman stated that the property to the north is a rental property. Ms. Grossman discussed the trees on the property and noted that they are in poor condition. Ms. Grossman stated that the recent Zoning Ordinance amendments were accessible online upon their adoption and commended the Planning Commission and Carroll Sinquett for their work on the ordinance. Ms. Grossman stated that Borough Council and the Planning Commission worked very hard to help preserve the Borough’s character and quality. Ms. Grossman asked that the Planning Commission consider these items when making their recommendation.

Carroll Sinquett thanked Ms. Grossman for her comments.

Carroll Sinquett noted that he believes that there are a fair amount of items missing that will need to be addressed prior to going before Borough Council. Carroll Sinquett asked the Planning Commission their thoughts on changing the property to a Prospect Avenue address. The Planning Commission agreed that the address should be changed to a Prospect Avenue address based on the proposed orientation.

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David Knies, PhD, asked if the specimen tree on the western portion of the property could be removed and the house moved closer to Prospect Avenue. Zoe Warner, PhD, stated that a variance would be required from the rear yard setback requirements. Zoe Warner, PhD, stated that it would be beneficial to obtain an arborist's report and noted that a large number of sizeable trees have been removed in the Borough. Dan Daley, PE, stated that there is grading proposed in the front yard area and noted that it is a fairly large tree. Dan Daley, PE, stated that he was unsure if the tree could survive the construction and the potential for a hazard. Carroll Sinquett concurred with the Borough Engineer. Dan Daley, PE, stated that he believed that the tree should be removed. Dan Daley, PE, noted that the house could then be shifted to the west, but would not meet the 25 foot rear yard setback requirement. Mr. Deisher stated that he measured the tree and it was greater than 30 inches DBH measured at 4 ½ feet. Dan Daley, PE, stated that he believed that allowing the tree to remain could potentially create a hazardous condition and would require a variance from the Zoning Hearing Board for the rear yard setback. Mr. Deisher stated that the grading would need to be reworked in order to preserve the tree on the western side.

Borough Manager Bashore asked if the Planning Commission had authority to recommend the tree's removal since specimen vegetation is required to be preserved in the Borough's Zoning Ordinance. Ken Kynett, Esq., stated that there is a provision that allows for the tree to be removed if it creates a hazard. Dan Daley, PE, noted that an interpretation would be needed in regards to whether or not that it could be removed if the property owner is creating the hazard. Borough Manager Bashore recommended that a condition be included in the recommendation that a report from a certified arborist be obtained. Ken Kynett, Esq., highlighted the aspects of the Conditional Use process and noted that the Planning Commission could require the planting of replacement trees.

Mark Niemiec asked if an expert opinion could be obtained for the impact construction would have on the tree. Borough Manager Bashore stated that this would be included in the report from a certified arborist if it is included as part of building plan. Borough Manager Bashore recommended that, if the Planning Commission, was to recommend approval, a condition be included that requires the submission of a certified arborists report and, if it recommends removing the tree, then the house will be shifted to the west to the maximum extent possible and provide replacement trees. Discussion occurred regarding planting replacement trees as a buffer with the property to the east.

Jamie Grossman, 143 W. First Avenue, expressed her appreciation for everyone's thoughts as it related to the impact on her property. Ms. Grossman noted that there is a line of evergreen trees near the property line that she planted that provides a fair amount of screening and she is concerned that planting another line of screening could impact the trees. Mr. Renehan noted that Mr. Deisher intended to contact Ms. Grossman to review the plan.

Mr. Deisher asked about what would occur if an arborist determines that the tree is healthy. Dan Daley, PE, stated that the question is if a self-imposed hazard is sufficient to determine that the tree should be removed. Carroll Sinquett stated that they would need relief from the Zoning Hearing Board. Discussion occurred regarding the order in which relief should be sought.

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Scott Oswald stated that he did not believe that the plan was acceptable and should be rejected. Zoe Warner, PhD, stated that she did not believe that the proposed house was characteristic of the neighborhood and the intention of the ordinance was new construction should be in keeping with the existing homes rather than the recently constructed homes. . Scott Oswald reviewed the provisions for a Conditional Use application in the Borough's Zoning Ordinance and noted that he did not believe it met the requirements for Conditional Use approval in the Borough's Zoning Ordinance. Zoe Warner, PhD, stated that she believed that there were some concessions that the applicant could make.

David Knies, PhD, stated that he did not believe that 25% building coverage was appropriate for this project due to the character of the neighborhood. David Knies, PhD, stated that he believed that the building coverage should be at or closer to 20%.

Chris Mongeau stated that he believes that if the ordinance states a maximum building coverage is 20% that is where it should be. Chris Mongeau stated that he objects to the plan until the applicant can reduce the building coverage to 20%.

Mark Niemiec concurred with the comments regarding building coverage. Mark Niemiec noted that the rear yard setback is important as it relates to the eastern property. Mark Niemiec stated that the garage should be reduced to two (2) bays.

Geoff Rubino agreed and noted that there does not appear to be a significant effort to reduce the building footprint. Geoff Rubino stated that he would like to see a revised plan with reduced building coverage.

Zoe Warner, PhD, stated that the Planning Commission should determine how future plans such as these will be reviewed. Zoe Warner, PhD, stated that the applicant should work to reduce the building coverage and reduce the garage to two (2) bays.

Scott Oswald stated that the application should be rejected because it does not meet the criteria for a Conditional Use application outlined in the Borough's Zoning Ordinance.

Carroll Sinquett stated that he concurred with the other members and noted the characteristics of the homes in the surrounding neighborhood. Carroll Sinquett noted that the Borough was working to curtail maxing lots on building coverage.

Ken Kynett, Esq., stated that he will prepare a draft report for the Planning Commission's review prior to issuing the report to Borough Council.

A motion was made by Chris Mongeau, seconded by David Knies, PhD, and carried by a vote of 7-0, to recommend that the Conditional Use application for 147 W. First Avenue be denied by Borough Council.

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7. PUBLIC COMMENT

Carroll Siquett stated that the Planning Commission will now take comment from the public on any topic not on the agenda. There were no items for public comment.

8. ADJOURNMENT

A motion was made by Chris Mongeau, seconded by Geoff Rubino, and carried by a vote of 7-0, to adjourn the meeting at 9:59 p.m.

Respectfully submitted by,

Christopher Bashore
Borough Manager