

## RESOLUTION NO. 737

### BOROUGH OF MALVERN CHESTER COUNTY, PENNSYLVANIA

A Resolution approving, subject to conditions, the plan entitled "Malvern Preparatory School Augustine Center and Middle School," prepared by Nave Newell, dated February 24, 2017, last revised April 28, 2017, signed and sealed by Gregory C. Newell, P.E., Registered Professional Engineer, pursuant to the Malvern Borough Subdivision & Land Development Ordinance of 2006, as amended ("Land Development Ordinance") for the development of certain property ("Property") located in the Borough of Malvern ("Borough"), Chester County, Pennsylvania, in the II – Institutional zoning district.

#### BACKGROUND

Malvern Preparatory School (the "Applicant") has filed an application with the Borough for approval of a Preliminary/Final Land Development Plan prepared by Nave Newell, Inc. dated February 24, 2017, last revised April 28, 2017 (the "Plan"). This Resolution No. 737 is the Borough's written decision on the Application and Plan.

The Plan proposes the construction of two new buildings on its campus, specifically the construction of a new middle school building to be located between the existing Duffy Arts Center and Dougherty Hall and a STEAM expansion (identified as the proposed Augustine Center) to connect the existing Carney Hall and Sullivan Hall. The subject property is located at 418 South Warren Avenue, Malvern, PA 19355, consists of 99.63 acres, and is located in the I-1 institutional zoning district.

On May 19, 2015, at a regular meeting, Borough Council approved a request from the Applicant for a waiver of land development for the construction of a temporary trailer on their property. This approval was subject to the following conditions:

- The applicant obtain approval from the Zoning Hearing Board of the setback variance.
- The applicant obtain approval from the Borough Fire Marshal on the height of the electrical connection.
- The temporary building shall only remain in place a maximum of (a) five years (60 months) from the occupancy approval of the temporary structure, or (b) three (3) months from the approval of occupancy of the proposed permanent building, whichever comes first.
- The applicant comply with the comments in the Borough Fire Marshal's letter dated April 13th, 2015.
- Enrollment shall not exceed the projections in the Riley, Riper, Hollin, & Colagreco letter dated March 27, 2015 by more than 5% (i.e., a maximum of 672 students) in the next five years.

On October 24, 2016, the Applicant received the following variances from the Malvern Borough Zoning Hearing Board:

- Section 1602.B. to permit the separation between the proposed middle school and the existing drive aisle located to the west of the proposed middle school to be 18' rather than the required 20'.
- Section 1602.E. to permit the building separation between the proposed middle school and (i) the Duffy Arts Center to be 29' rather than the required 86', (ii) Stewart Hall to be 42' rather than the required 75' (with the separation between the stairs of the proposed middle school and Stewart Hall being 32'), and (iii) Dougherty Hall to be 28' rather than the required 75'.
- Section 2811 to allow the requested variances to be valid for a period of two years from the date of the decision.

On February 24, 2017, the Plan was submitted to the Borough for review.

On May 18, 2017, the Plan was reviewed by the Borough's Planning Commission, which recommended approval of the Plan, subject to certain conditions.

On June 20, 2017, Borough Council approved the Plan at a public meeting, subject to conditions as set forth in Resolution No. 737. This is the written decision documenting that approval.

### **MATTERS RESOLVED**

Borough Council hereby RESOLVES that the Plan is approved, pursuant to the Land Development Ordinance and subject to the waiver relief and conditions set forth herein below.

This approval grants the following waivers, with conditions, from the Borough's Subdivision and Land Development Ordinance:

1. **Section 181-514.B.** – Requiring the installation of curbs on all parking areas located within a land development.
2. **Section 181-514.D.** – Requiring that curbs shall be constructed to the dimensions shown in Appendix A-3 of the Subdivision and Land Development Ordinance and requiring that final curb reveal, after placement of wearing course, shall be 8". The Applicant shall be required to provide 6" reveal curbs as stated in the letter from their design professional dated April 28, 2017.
3. **Section 181-515.D (4)** – Requiring that sidewalks shall be laterally pitched at a slope not less than 3/8 inch per foot to provide for adequate surface drainage.
4. **Section 181-300.C.** – Requiring the submission of separate preliminary and final plans for a major subdivision and land development project.

5. **Section 181-301.E.** – Requiring applicants for major subdivision and land development plans to follow the four-step design process.
6. **Section 181-400.B (14)** – Requiring photographs of the site including views of the proposed development site from all abutting public roads to be documented in an existing resource and site analysis plan.
7. **Section 181-400.B (17)** – Requiring orientation of site to sun for use of solar resources.
8. **Section 181-400.B (19)** – Requiring locations of viewsheds and scenic roads to be documented in an existing resource and site analysis plan.
9. **Section 181-402.B. (2) [k]** – Requiring the locations and dimensions of all existing streets, railroads, sewers and sewage systems, water mains and feeder lines, fire hydrants, gas, electric, and oil transmission lines, watercourses, sources of water supply, easements, and other significant features within the property, or such driveways, intersections and utilities, within 100 feet of any part of the subject lot or tract to be documented on a preliminary plan. This waiver is conditioned on the applicant retaining the existing plan data.
10. **Section 181-402.B. (4) [j]** – Requiring the location of existing and/or proposed sidewalks, paths and trails throughout the property and on neighboring property within 100 feet to be documented on the plan.
11. **Section 181-402.B. (2) [t]** – Requiring a boundary survey and certification as to the accuracy of the survey shall be provided for all subdivisions and/or developments except those which divide large farms into two or more parcels for continued agricultural use. This waiver is conditioned on pre-existing survey data being certified on the plans.

This approval is also subject to the following conditions, which shall bind Applicant, the property owners and their heirs, successors and assigns:

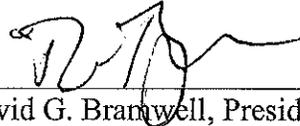
1. Complete compliance with the Borough Engineer's Engineering Review Letter for the Plan dated May 11, 2017.
2. Preparation and submission of the Operation and Maintenance Responsibilities and Easements Agreement in accordance with Section 517 of the Borough's Stormwater Management Ordinance (Ordinance No. 2014-61, adopted May 20, 2014).
3. Prior to the issuance of any use and occupancy permit for any of the proposed improvements or buildings, the applicant shall submit to the Planning Commission a plan, acceptable to Borough Council, for the location, design, and construction of a walking path sufficient to ensure accessible foot travel to and from the existing public sidewalk network of the Borough of Malvern. This walking path is necessary to enable safe passage of students as well as school-related pedestrians to and from the rest of the Borough. The foregoing condition shall be subject to the following additional terms:
  - a. **Connection to Existing Network.** The walking path shall be laid out so as to connect to, and coordinate with, either (i) the existing or planned public sidewalk network of the Borough of Malvern or (ii) an existing or planned walkway traversing lands owned

by the Borough of Malvern which, in turn, connect to the Borough's public sidewalk network directly or via other improved public right(s)-of way suitable for pedestrian traffic.

- b. **Review by Borough Engineer.** The walking path upon the applicant's property shall be constructed in accordance with designs and specifications acceptable to the Borough Engineer (including storm water management, as may be required) at the applicant's sole cost.
  - c. **Private Status of Walkway.** Nothing herein shall require the dedication of any new public right-of-way. Except in the case of any sidewalk constructed at any time within the existing right-of-way of South Warren Avenue, the walking path shall be private to the applicant and the applicant may take reasonable, lawful steps to restrict access to the applicant's property to students, faculty, staff, or other permitted individuals.
  - d. **Optional Connection via Paoli Battlefield.** To the extent that the walking path connects exclusively to any walking path which traverses Borough-Owned property (e.g. any current or future walking path which traverses the Paoli Battlefield property), the applicant is advised that the Borough will post the same as "closed" between sunset and sunrise and during any snow event. However, if the applicant so desires, and if the applicant's intends to make its walking path illuminated and accessible after or during snow events, the applicant may arrange with the Borough for snow removal or lighting within the Borough-owned property, as may be practicable and lawful, at the applicant's own cost.
  - e. **Exclusion from South Warren Avenue Cartway.** Applicant shall take reasonable steps to require its faculty, staff, students and invitees to athletic events, to use the constructed walking path (or other means of pedestrian ingress and egress from the applicant's property) and refrain from walking or running within the cartway of South Warren Avenue.
  - f. **Postponement of Construction.** Upon the express approval of the Borough Council, the applicant may postpone the construction of the walking path upon the applicant's property for a period of up to twenty four (24) months in order for the applicant's walking path and any connected Borough walking path to be constructed simultaneously.
  - g. **Failure to Agree.** In the event that the applicant and the Borough cannot reach a mutually-acceptable plan for the installation of the walking path, the applicant shall be required to install sidewalk along the full length of South Warren Avenue.
  - h. **No Waiver.** Nothing herein shall waive any future requirement that the applicant be required to install sidewalk along the full length of South Warren Avenue in accordance with the Official Map and/or the then-applicable Subdivision and Land Development Ordinance of the Borough of Malvern.
4. Completion of a design of a soil stabilization modification along the South side of the proposed building to adequately support fire apparatus in accordance with the Fire

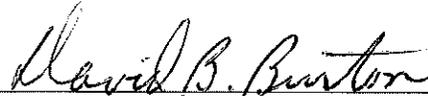
Marshal's review letter dated May 18, 2017. Both the Fire Marshal and the Borough Engineer are to review and approve the design.

Passed by Borough Council this 20 day of June, 2017.



David G. Bramwell, President

Approved by the Mayor, this 20 day of June, 2017.



David B. Burton, Mayor

Enacted, this 20 day of June, 2017.



Christopher Bashore, Secretary

