

RESOLUTION NO. 806

BOROUGH OF MALVERN CHESTER COUNTY, PENNSYLVANIA

A Resolution of the Borough Council of the Borough of Malvern, Chester County, Commonwealth of Pennsylvania, approving, subject to conditions, the plan entitled "Preliminary/Final Land Development Plan for Malvern Veterinary Hospital" prepared by Commonwealth Engineers, Inc. dated November 4, 2019, last revised January 24, 2020, signed and sealed by Victor Kelly, Jr., P.E., Registered Professional Engineer, proposing the demolition of the existing veterinary hospital building and construction of a new 3,589 sq. ft. veterinary hospital, a new 864 sq. ft. garage, and a reconfigured parking area, pursuant to the Malvern Borough Subdivision & Land Development Ordinance of 2006 ("Land Development Ordinance") for the development of certain property ("Property") in the Borough of Malvern ("Borough"), Chester County, Pennsylvania, in the R-1 Residential District.

BACKGROUND

Malvern Veterinary Hospital (the "Applicant") has filed an application with the Borough for approval of a Preliminary/Final Land Development Plan prepared by Commonwealth Engineers, Inc. dated November 4, 2019, last revised January 24, 2020, consisting of seven (7) sheets (the "Plan"). This Resolution No. 806 is the Borough's written decision on the Application and Plan.

The Plan proposes the construction a new veterinary hospital with associated parking and demolition of the existing veterinary hospital. The property (UPI # 2-7-42) is located in R-1 residential zoning district and consists of 1.38 acres.

The Applicant received zoning approval/relief for a Special Exception and Variances from the Zoning Hearing Board on August 26, 2019, as follows:

- a. Special Exception pursuant to section 220-2702.B. in order to permit the enlargement of an existing nonconforming veterinary hospital building to allow a new veterinary building with a total floor area no to exceed 4,500 square feet.
- b. Variance from section 220-2702.B(2) to permit the area devoted to the nonconforming use to be increased by 98% and to allow the new veterinary hospital building as proposed with a total floor area on two floors not to exceed 4,500 sq. ft.
- c. Variance from section 220-2702.B(3) to permit the extension of the building having a nonconforming use without conforming to all area and bulk regulations of the R-1 district. The new veterinary hospital building is permitted to be built without conforming side yard setback on the northern property line, the maximum building coverage and the maximum impervious coverage for the R-1 District.

- d. Variance from section 220-402.D. to allow the proposed new veterinary hospital building to be constructed approximately 3.4 feet from the norther property line.
- e. Variance from section 220-402.F. to permit the maximum building coverage of 13.35%, which calculation includes the residential structures on the property.
- f. Variance from section 220-402.G. to permit a maximum lot coverage of 45.03%, which calculation includes the residential structures on the property.

The zoning approval/relief was conditioned upon the following:

- 1) The Applicant shall comply with all of the testimony and evidence presented at the hearing especially the Plans, as such Plans are revised in order to obtain final land development approval.
- 2) The proposed improvements to the Property shall be in conformance with the Plans admitted as evidence as such Plans are revised in order to obtain land development approval from Borough Council.
- 3) The Applicant shall plant a landscape buffer between the proposed new veterinary building and the norther Property boundary where it abuts Parcel 2-7-41E owned by the Malvern Retreat House. The details and types of plantings that must be installed in this landscape buffer shall be approved by Borough Council as part of the approval of the land development plans. If necessary, and with consent of the Malvern Retreat House, the trees may be planted on Parcel 2-7-41E.
- 4) The Applicant and their heirs, successors and assigns in interest to the Property shall be strictly bound by a) all the representations and commitments made by or on behalf of the Applicant and the testimony, plans, or other exhibits that were introduced into the record whether or not express reference is made to said representations and commitments in the decision; and b) all of the forgoing conditions of approval.

The Plan was reviewed by the Borough Engineer and the Planning Commission. At the Planning Commission meeting on February 6, 2020, the Planning Commission recommended that the Plan be approved as a preliminary/final plan conditioned upon compliance with the comments contained in the Borough Engineer's review letter dated January 31, 2020.

MATTERS RESOLVED

Borough Council hereby RESOLVES that the Plan is approved, as a Preliminary/final Plan, pursuant to the Land Development Ordinance and subject to the waiver relief and conditions set forth hereinbelow.

WAIVERS

Borough Council determines that the following waivers from the Land Development Ordinance are in the public interest and will, subject to the conditions imposed herein, substantially secure the objectives of the standards or requirements so modified:

1. **Section 181-300. C.** – To allow the plans to be submitted as Preliminary and Final Plan.
2. **Section 181-503.C** – For relief of the requirement to widen the existing cartway (existing width =22' +/-, required width= 34').
3. **Section 181-513.B** [Existing non-conforming condition] – To maintain the existing sight distances noted to be 120'+/- to the right and 100' +/- to the left where required safe sight distances per Title 67 of the PA Code for a 35-mph road are 350' to the right and 440' to the left.
4. **Section 181-513.L.1** [Existing non-conforming condition] – From driveway slope requirements to allow existing driveway to remain which does not comply with the Borough's driveway slope requirements (within the right-of-way - max grade 4%, outside the right-of-way - max grade 8%). The existing driveway is 14.1 % in the right-of- way and 16.7% outside the right-of-way (max).
5. **Section 181-513.L.2** [Existing non-conforming condition] – From driveway width requirements where the existing driveway does not comply with the Borough width requirements (minimum existing width is 11.4-feet, required is 20-feet with 20-foot radii).
6. **Section 181-514.A** – From installation of curbs along the property frontage of South Warren Avenue, on the condition that the Applicant shall pay a fee-in-lieu of the installation of such curbs. The fee-in-lieu amount shall be determined by the Borough Engineer and will be posted as part of the required financial security for the project.
7. **Section 181-514.B** – From the requirement to install curbs along the existing parking area.
8. **Section 181-515.A** – From the requirement to install sidewalk along S. Warren Avenue on the condition that the Applicant shall pay a fee-in-lieu of the installation of such sidewalk. The fee-in-lieu amount shall be determined by the Borough Engineer and will be posted as part the required financial security for the project.
9. **Section 181-525.C.1** – From the requirement to plant street trees along the entire length of a public street on the condition that the Applicant shall pay a fee-in-lieu of the planting of such trees. The fee-in-lie to be determined by the Borough Engineer and will be posted as part of the required financial security for the project.

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

1. Compliance with the Borough Engineer's review letter dated January 31, 2020.

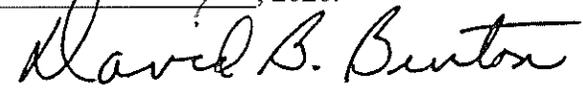
2. Compliance with the Borough Fire Marshal's review letter dated December 3, 2019.
3. Prior to Plan recordation, Applicant shall execute a Stormwater Controls and Best Management Practices Operations and Maintenance Agreement (which shall be recorded with evidence thereof provided to the Borough), a Developer's Agreement, and a Financial Security Agreement, together with the posting of adequate escrow to guarantee the required public improvements, in form satisfactory to the Borough Solicitor.
4. Applicant shall ensure recording of the final plan consisting of seven (7) plan sheets with evidence thereof provided to the Borough.

Passed by Borough Council this 18 day of February, 2020.



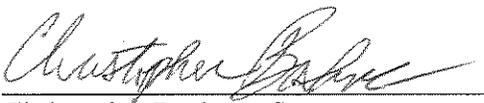
Amy Finkbiner, Ph.D., President

Approved by the Mayor, this 18 day of February, 2020.



David B. Burton, Mayor

Enacted, this 18 day of February, 2020.



Christopher Bashore, Secretary