

RESOLUTION NO. 789

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 Plan of Property for 11 Griffith Avenue" prepared by JMR Engineering, LLC, dated February 21, 2019, last revised May 7 2019, signed and sealed by John M. Robinson, P.E., Registered Professional Engineer, proposing the subdivision of an existing 0.776 acre lot at tax parcel number 2-3-25 into two (2) lots, including the demolition of an existing single-family detached dwelling unit and constructing two (2) new single family detached dwelling units pursuant to the Malvern Borough Land Development Ordinance of 2006, as amended ("Land Development Ordinance") for the development of certain property ("Property") in the Borough of Malvern ("Borough"), Chester County, Pennsylvania in the R-3a Residential Zoning District.

BACKGROUND

Renehan Building Group, Inc. (the "Applicant") has filed an application with the Borough for approval of a Preliminary/Final Land Development Plan prepared by JMR Engineering, LLC dated February 21, 2019, last revised May 7, 2019 (the "Plan"). This Resolution No. 789 is the Borough's written decision on the Application and Plan.

The Plan proposes the subdivision of an existing 0.776 acre lot located at UPI #2-3-25 into two (2) lots. An existing single-family detached dwelling unit is proposed to be demolished. Two (2) new single-family detached dwelling units will be constructed, with one (1) new dwelling unit on each new lot.

The Applicant received approval of a variance from section 220-602.A.1. of the Malvern Borough Zoning Ordinance (the "Zoning Ordinance") by the Zoning Hearing Board on November 26, 2018. This relief permits Lot No. 1 to be smaller than the minimum lot area (12,000 sq. ft.) required by the Zoning Ordinance, and to be approximately 11,733 square feet in size.

The approval was conditioned upon the following:

- 1) The proposed improvements shall be constructed in substantial conformity with the evidence and testimony presented to the Zoning Hearing Board.
- 2) Applicant will evaluate the large oak tree situated upon Lot No. 2 in order to determine the health of the tree in order to assess if the tree should be removed prior to the construction of the proposed dwelling on Lot No. 2. The Applicant shall provide such report to the Borough Engineer as part of land development. If the Borough Engineer concludes that the tree is dead, diseased, or dying, or it will not survive the construction or earth disturbance on Lot No. 2, the Applicant shall remove the tree prior to issuance of a building permit for Lot No. 2.

The Plan was reviewed by the Borough Engineer and the Planning Commission. At the Planning Commission meeting on May 2, 2019, the Planning Commission unanimously voted to recommend 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 April 29, 2019, and various other conditions as set forth in the Planning Commission Recommendation Letter dated May 10, 2019.

MATTERS RESOLVED

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

WAIVERS

Borough Council determines that the following waivers from the Subdivision and 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. regarding the requirement for separate preliminary and final plan submissions.
2. Section 181-301.E. regarding the requirement to submit maps indicating the findings of each step of the Four-Step Design Process.
3. Section 181-503.A. requiring a minimum cartway width of 34 ft. for a collector road (existing cartway width is 30 ft.).
4. Section 181-503.E.2. requiring driveways to be located 100 ft. from an intersection.
5. Section 181-513.K.5. requiring driveway turnarounds to be located outside of the public right-of-way.
6. Section 181-515.D.1. requiring a planting strip width of three (3) feet.
7. Section 181-525.C.2. requiring that one (1) street tree be installed per every 35 feet of street frontage.

Borough Council determines that the following waivers from the Borough's Stormwater Management regulations 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 177-310.B. regarding stormwater basin and emergency spillway requirements (Borough Engineer deems proposed spillway design adequate).
2. Section 177-306.R. regarding positive overflow controls (Borough Engineer deems proposed design adequate).

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 comments contained in the Borough Engineer's Engineering Review Letter, *11 Griffith Avenue Subdivision Plan, Renehan Building Group, Plan Review #3, EBWA Project # 2780-126, dated April 29, 2019.*
2. Compliance with the Shade Tree Commission review letter, *Site Visit of Property at 11 Griffith Avenue, Malvern, PA, Conducted by Malvern Shade Tree Commission dated March 27, 2019* and any subsequent Shade Tree Commission reviews for this subdivision application.

3. Applicant shall provide a fee-in-lieu for any required street trees not shown on the plan pursuant to the waiver from section 181-525.C.2. of the Land Development Ordinance in an amount to be determined by the Borough Engineer.
4. Prior to plan recordation, Applicant will provide an additional five (5) feet of right-of-way along West King Street totaling 700 sq. ft. off of the existing right-of-way.
5. Prior to plan recordation, Applicant shall relocate the stormwater pipes coming from the proposed residential dwelling units to show discharge into the stormwater inlet structures for Lots 1 and 2.
6. Prior to Plan recordation, Applicant shall execute a Deed of Dedication for additional right-of-way on West King Street, Stormwater Controls and Best Management Practices Operations and Maintenance Agreement (which shall be recorded), a Financial Security Agreement, together with the posting of adequate escrow to guarantee the required public improvements, in form satisfactory to the Borough Solicitor.
7. Applicant shall contribute to the Municipal Stormwater Control and BMP Maintenance Fund in the amount of \$1,200.00 for the future inspections of the private stormwater facilities.

Passed by Borough Council this 21 day of May, 2019.



Jamie S. Grossman, President

Approved by the Mayor, this 21 day of May, 2019.



David B. Burton, Mayor

Enacted, this 21 day of May, 2019.



Christopher Bashore, Secretary