

RESOLUTION NO. 771

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 324 & 328 E. King St.," prepared by JMR Engineering, LLC, dated August 8, 2018, last revised October 8, 2018, signed and sealed by John M. Robinson, P.E., Registered Professional Engineer, proposing the widening of the existing driveway and construction of seven (7) additional parking spaces at the rear of 324 & 328 E. King Street, pursuant to the Malvern Borough 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 C3 – Town Center Commercial District.

BACKGROUND

Renehan Realty, LLC (the "Applicant") has filed an application with the Borough for approval of a Preliminary/Final Land Development Plan prepared by JMR Engineering, LLC dated August 8, 2018, last revised October 8, 2018 (the "Plan"). This Resolution No. 771 is the Borough's written decision on the Application and Plan.

The Plan proposes the widening of the existing driveway and construction of seven (7) additional parking spaces at the rear of 324 & 328 E. King Street. The subject properties are located at 324 & 328 E. King Street, Malvern, PA 19355, tax parcel identification numbers 2-4-293 (324 E. King St.) and 2-4-294 (328 E. King St.), and consists of 0.35 total acres (0.07 at 324 E. King St. and 0.28 acres at 328 E. King St.).

On May 21, 2018, the Applicant received relief from the Malvern Zoning Hearing Board as follows:

- a) Variance relief from Section 220-2307.C of the Zoning Ordinance in order to lower the required illumination levels for a commercial property in order to limit the impact from light trespass on the residential properties surrounding the proposed parking lot;
- b) Variance relief from Section 220-2309.A to allow for flexibility in the size and type of buffer along the three boundary lines the Properties share with surrounding properties; and
- c) Variance relief from Section 220-2501.D.9.e to allow for a 23 foot wide, two-way aisle between the parking spaces.

This relief was conditioned on the following:

Illumination:

- 1) The illumination of the Property shall be installed per the specifications described on the Plan admitted as Exhibit B-16, sheet 4 of 4 titled, "Lighting and Landscaping". The proposed parking lot must remain illuminated until at least 11:00 p.m. for the spaces at 328 East King Street (parking spaces 2 through 7). Parking space 1 does not have to be illuminated because the parking space shall be allocated to the residential apartment at 324 East King Street.
- 2) The parking space at 324 East King Street (parking space 1) shall be reserved specifically for use by residents of the apartment at 324 East King Street.
- 3) Applicant shall work with the Borough Engineer during the land development process to determine if the lighting can be set on a timer or motion sensor so it does not impact neighboring properties. Applicant shall adhere to the recommendations of the Borough Engineer and install such timer or motion sensor on the lights in the rear parking lot.
- 4) After the lighting has been installed, the Borough engineer or zoning officer shall inspect the same to determine compliance with the Zoning Ordinance and to confirm there is no glare or light trespass on neighboring properties. If the inspection reveals that the illumination does not meet the conditions imposed herein, the specifications set forth on Exhibit B-16 or the Zoning Ordinance criteria, Applicant shall modify the lighting so that it meets the conditions imposed herein, the specifications on the Plan and all applicable requirements in the Zoning Ordinance.

Buffering:

- 5) Western boundary of the Properties: Applicant shall install a new vinyl six (6) foot tall fence on the eastern side of the existing hedgerow which is depicted on the Plan (but may be located on the adjacent McDonnell property). The location of this fence shall be in the area marked on the Plan as "Western buffer (A)- Variance #2."
- 6) Southern boundary of the Properties: applicant shall install a new six (6) foot tall vinyl fence along the entire rear property boundary. During land development, Applicant shall coordinate with the adjacent property owners to the south, John and Deborah Abel, to coordinate the location of such fence.
- 7) Eastern boundary of the Properties: Applicant shall install low-lying shrubs with the exact species to be approved by Borough Council as part of the land development approval. Applicant shall not install river rock along this boundary as was contemplated on the Plan.
- 8) Applicant shall implement measures to remove or contain the bamboo that is located in the rear of the Properties to the extent such bamboo is on the Properties.
- 9) During construction of the proposed parking lot and particularly installation of parking space number 1 as shown on the Plan, Applicant shall implement measures to

protect the 15" twin tree located on the property boundary between the Properties and the McConnell property.

Access Driveway:

- 10) Applicant shall prepare and record a blanket easement in favor of 324 East King Street for the right of access across 328 East King Street to and from King Street. The easement agreement shall be approved by the Borough solicitor as part of land development.
- 11) In order to avoid a conflict with vehicles backing out of the eastern most garage in the rear of the Properties and the handicapped parking space identified on the Plan as parking space number 7, the easternmost bay of the garage on the Properties may only be used for non-vehicle storage; it may not be used for parking of a resident vehicle.
- 12) Applicant shall revise the Plan as part of land development to comply with the conditions imposed herein and any other relevant federal, state and local ordinances, including but not limited to the Borough Subdivision and Land Development Ordinance.

The Plan was reviewed by the Borough Engineer and the Planning Commission. At the Planning Commission meeting on November 1, 2018, 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 October 26, 2018.

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. 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. regarding the requirement to provide a minimum cartway width of forty (40) feet.

4. Section 181-503.C. regarding the requirement to widen the existing cartway of East King Street.

5. Section 181-513.F. and 181-513.K.3. regarding the setback and minimum width requirements for driveways.

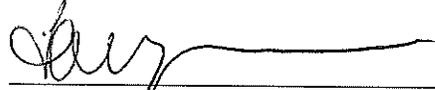
6. Section 181-513.K. regarding the requirement for a driveway width of 14 ft.

7. Section 181-514B. regarding the requirement for the placement of curbing within parking lots.

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

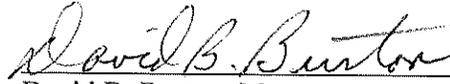
1. Compliance with the comments contained in the Borough Engineer's Engineering Review Letter dated October 26, 2018.
2. Altering the designation of Parking Space "F" to residential, or not designating it at all.
3. Retention of the 15 inch maple tree at the southwest corner of the property. If the tree is damaged during the construction phase or fails to survive for an additional 18 months after project completion, the applicant shall agree to replace it with a tree from the approved species list in the Malvern Borough Zoning Ordinance.
4. Prior to Plan recordation, Applicant shall obtain approval of a Declaration of Easement (which shall be recorded), in a form satisfactory to the Borough Solicitor.
5. Prior to Plan recordation, Applicant shall execute a 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 a form satisfactory to the Borough Solicitor.
6. Applicant shall contribute to the Municipal Stormwater Control and BMP Maintenance Fund for the future inspections of the private stormwater facilities.
7. Applicant shall execute a Declaration of Offer of Dedication in a form satisfactory to the Borough Solicitor (which shall be recorded) for additional right-of-way of East King Street, as required under Sections 181-503.A. and 181-503.C., the extent of which shall be determined to the satisfaction of the Borough Engineer and Borough Solicitor.

Passed by Borough Council this 20 day of November, 2018.



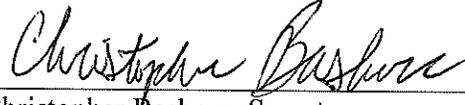
Jamie S. Grossman, President

Approved by the Mayor, this 20 day of November, 2018.



David B. Burton, Mayor

Enacted, this 20 day of November, 2018.



Christopher Bashore, Secretary