

## AGENDA

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH

June 16, 2020  
7:30 P.M.

### **Borough Council Meeting Dial-In Information: 1-877-853-5247 (toll-free)**

**When prompted, enter the following meeting ID, followed by the “#” symbol: 842 5371 4040**

**In order to obtain the password to access the video portion, please contact Malvern Borough at 610-644-2602 or via email at [malvern@malvern.org](mailto:malvern@malvern.org).**

**This evening’s Borough Council meeting is being conducted via virtual conferencing methods. The public is invited to participate via telephone or video conferencing. Malvern Borough is not liable for any computer security problems that participants may experience.**

**During this meeting, public comment will be handled as follows:**

- **Participants will be asked to identify themselves when being accepted into the meeting.**
- **The public will be muted during the meeting when the members of Borough Council are speaking.**
- **For each agenda item, the public will be unmuted and given an opportunity to comment and ask questions.**
- **Public Comment received via email will be read by the Borough Manager either during the topic on the agenda or the general “Public Forum” period.**
- **Participants wishing to comment must state their name and must speak one at a time.**

**PRESIDING:** Amy Finkbiner, Ph.D., President

**INVOCATION:** David B. Burton, Mayor

1. **ROLL CALL:** Council President Finkbiner  
Council Vice-President Grossman  
Council Member Bones  
Council Member Laney  
Council Member Meisel  
Council Member Phillips  
Council Member Raynor  
Mayor Burton

2. APPROVAL OF AGENDA:

MOTION: To approve the agenda for the June 16, 2020 meeting of Borough Council as presented.

3. ANNOUNCEMENTS

a. RECORDING OF MEETING

*Anyone present who is recording the meeting shall announce so at this time, in accordance with Resolution No. 787.*

- b. The basketball courts at Quann Park and Herzak Park have reopened for use. Guidelines have been posted at both locations.
- c. Due to the cancellation of the annual fair, the Malvern Fire Company will host the "Malvern Fire Company Food Fare" from July 8, 2020 to July 12, 2020 at the Paoli Memorial Grounds. Please watch the Malvern Borough website for additional information.
- d. Please watch the Malvern Borough website for updates pertaining to COVID-19 (e.g., community events, meetings, etc.).

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

MOTION: To approve the minutes of the meeting held on Tuesday, May 19, 2020 as presented.

b. APPROVAL OF REPORTS:

MOTION: To approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department Reports (Building Inspector's Report, Housing and Property Maintenance Report, and Zoning Report), the Superintendent of Public Works Report and the Manager's Report for the month of May 2020, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration
- Public Safety
- Public Works

- d. Mayor Burton – Report on review of Police Department policies

5. SPECIAL BUSINESS

- a. Ratification of Forbearance Agreement between the Borough of Malvern and the Flying Pig Saloon for temporary outdoor dining

MOTION: To approve the Forbearance Agreement between the Borough of Malvern and the Flying Pig Saloon for temporary outdoor dining.

*Chester County has moved into the yellow phase of Governor Wolf's economic re-opening plan effective June 5, 2020. Outdoor dining is permitted in this phase. This agreement will allow the Flying Pig Saloon to operate limited outdoor dining subject to certain conditions as outlined in the Malvern Borough Zoning Ordinance.*

b. ORDINANCE NO. 2020 – 3: AMENDMENTS TO CHAPTER 25 (ADMINISTRATIVE CODE) OF THE MALVERN BOROUGH CODE OF ORDINANCES

- PUBLIC HEARING: Council President Finkbiner announces that Borough Council will now open a public hearing to consider Ordinance No. 2020 – 3. The proposed ordinance would amend Chapter 25 of the Malvern Borough Code of Ordinances in order to address items such as board and committee secretary functions, the role of certain employees, bonding limits on certain employees, and the disposal of surplus property. The proposed ordinance was advertised in the June 2, 2020 and June 9, 2020 editions of the Daily Local News as required, as well as posted on the Malvern Borough website.
- ADOPTION – ORDINANCE NO. 2020 – 3: AMENDMENTS TO CHAPTER 25 OF THE MALVERN BOROUGH CODE OF ORDINANCES

MOTION: To adopt Ordinance No. 2020 – 3, amending Chapter 25, the Malvern Borough Administrative Code, of the Malvern Borough Code of Ordinances.

c. ORDINANCE NO. 2020 – 4: AMENDMENTS TO CHAPTER 62 (ALARM SYSTEMS) OF THE MALVERN BOROUGH CODE OF ORDINANCES

- PUBLIC HEARING: Council President Finkbiner announces that Borough Council will now open a public hearing to consider Ordinance No. 2020 – 4. The proposed ordinance would amend Chapter 62 of the Malvern Borough Code of Ordinances in order to address the penalties for false alarms and fees required for registration. The proposed ordinance was advertised in the June 2, 2020 and June 9, 2020 editions of the Daily Local News as required, as well as posted on the Malvern Borough website.
- ADOPTION – ORDINANCE NO. 2020 – 4: AMENDMENTS TO CHAPTER 62 OF THE MALVERN BOROUGH CODE OF ORDINANCES

MOTION: To adopt Ordinance No. 2020 – 4, amending Chapter 62. Alarm Systems, of the Malvern Borough Code of Ordinances.

d. ORDINANCE NO. 2020 – 5: AMENDMENTS TO CHAPTER 220 (ZONING ORDINANCE) OF THE MALVERN BOROUGH CODE OF ORDINANCES

- PUBLIC HEARING: Council President Finkbiner announces that Borough Council will now open a public hearing to consider Ordinance No. 2020 – 5. The proposed ordinance would amend the Malvern Borough Zoning Ordinance

based on work that was done with the Brandywine Conservancy. The ordinance would address area and bulk requirements in the R-1 through R-6 zoning districts, as well as establish criteria for Conditional Use and variance relief. A summary of the proposed amendments was included on the Malvern Borough website.

The proposed ordinance was advertised in the June 2, 2020 and June 9, 2020 editions of the Daily Local News as required, as well as posted on the Malvern Borough website.

- ADOPTION – ORDINANCE NO. 2020 – 5: AMENDMENTS TO CHAPTER 220 (ZONING ORDINANCE) OF THE MALVERN BOROUGH CODE OF ORDINANCES

MOTION: To adopt Ordinance No. 2020 – 5, amending Chapter 220, the Malvern Borough Zoning Ordinance, of the Malvern Borough Code of Ordinances.

6. UNFINISHED BUSINESS

7. NEW BUSINESS

- a. Acknowledgement of correspondence and referral to the Malvern Historical Commission

*A communication was received on June 9, 2020 regarding African American history in Malvern Borough. This matter should be referred to the Malvern Historical Commission for additional research. Additional information in the correspondence will also be referred to the Finance & Administration Committee.*

- b. Malvern Borough Shade Tree Commission – King St. Tree Survey/Management Plan

*The Malvern Borough Shade Tree Commission has been discussing plans for the survey and management of trees along King St. The Borough Engineer, Dan Daley, P.E. of Edward B. Walsh & Associates, has prepared a recommended project plan that is before Borough Council this evening.*

- c. Escrow Release Request – 11 Griffith Ave. – Release Request #1

*This would be the first escrow release for the approved subdivision and land development project at 11 Griffith Avenue. The Borough Engineer has reviewed this release request and is recommending the release of \$50,033.40.*

- d. Zoning Hearing Board

*The application for 418 E. King Street has been withdrawn as the applicant has reached a shared parking agreement with the Malvern Fire Company. The application for 128-142 E. King Street has been withdrawn and resubmitted. The applicant for 128-142 E. King Street is seeking variances related to parking, height, and buffer requirements in the Malvern Borough Zoning Ordinance.*

8. PUBLIC FORUM

Citizens/taxpayers are invited to bring before Borough Council any item not on the agenda.

9. ADJOURNMENT

**ORDINANCE NO. 2020 – 5**  
**SUMMARY OF CHANGES**

**Background information**

In 2018, Malvern Borough Council hired the Brandywine Conservancy to evaluate the Borough’s Zoning Ordinance for amendments, with a focus being placed on Malvern Borough’s residential zoning districts. An ad hoc committee was formed with the purpose of undertaking a study of ways to ameliorate the impacts of recent residential development that often seems out of character or scale with the existing neighborhood. This was due to development patterns witnessed in the Borough over that past five (5) to seven (7) years.

Building and lot coverage were analyzed for every lot in the R-1 through R-6 zoning districts. It was determined that the R-7 zoning district was built-out and there was a low possibility of changes occurring. At the conclusion of the ad hoc committee’s work, the Malvern Planning Commission held a series of four (4) public meetings to discuss the data and findings, as well as formulate a recommendation to Borough Council.

On December 3, 2019, Borough Council reviewed all the work completed by the ad hoc committee, the Planning Commission, and the Brandywine Conservancy. The Borough Solicitor was authorized to prepare the necessary ordinance for adoption. Comments were received from the Chester County Planning Commission and the ordinance was authorized for advertisement on May 19, 2020 for a public hearing.

**Summary of amendments**

**1. Building coverage**

The proposed ordinance would reduce the “By Right” (BR) building coverage limits in the R-1 through R-6 zoning districts, while extending that coverage to a higher level subject to Conditional Use (CU) approval, except in the R-1 zoning district. To receive CU approval, the applicant would have to demonstrate that the structural characteristics of the building (mass, scale, and proportions; and roof height and form) are consistent with characteristics of both the Borough and the close-in neighborhood. The following table below provides a comparison:

<b><u>Zone</u></b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>
R-1	10% BR	7.5% BR
R-2	20% BR	15% BR, 17.5% CU
R-3a/b	25% BR	20% BR, 25% CU
R-4	30% BR	25% BR, 30% CU
R-5	35% BR	27.5% BR, 32.5% CU
R-6	35% BR	27.5% BR, 32.5% CU

Under these changes, approximately 80% of existing properties in each zone would remain conforming By Right.

The proposed ordinance also establishes objective standards to be met by applicants before the Zoning Hearing Board (in the case of a variance) or Borough Council (in the case of Conditional Use).

## 2. Minimum Side Yards and Reduced Height Zones

In order to minimize the impact new construction has on an abutting property, the proposed ordinance includes a Reduced Height Zone (RHZ). This would require that any portion of a structure that is close to a side lot line would be restricted to “one and a half stories or 18 feet,” as opposed to the existing standard of “three stories or 35 feet.” The RHZ would accommodate covered porches and one-story additions, and could also be satisfied by pitched gables. New homes/structures in the RHZ would be setback five (5) feet from the front build-to line, only allows the RHZ on one side, and would require Conditional Use approval from Borough Council for use of the RHZ. The following are the limits subject to Conditional Use:

Zone	Current Single Family		Current Twin (each side)		Proposed RHZ
	Lot Width	Side Yard	Lot Width	Side Yard	
R-1	150 ft.	30 ft. each	--	--	--
R-2	80 ft.	10 ft. each, 25 ft. total	--	--	15 ft.
R-3a/b	60 ft.	5 ft. each, 15 ft. total	35 ft.	5 ft.	12.5 ft.
R-4	45 ft.	5 ft. each	25 ft.	5 ft.	10 ft.
R-5	35 ft.	5 ft. each	20 ft.	5 ft.	--
R-6	35 ft.	5 ft. each	20 ft.	5 ft.	--

A full text of the proposed ordinance is available for public review on the Malvern Borough website ([www.malvern.org](http://www.malvern.org)) in the “Public Notices” section. Borough Council will consider the proposed ordinance on **June 16, 2020 at 7:30 pm.**