

CHARLESTOWN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

**DECISION AND ORDER**

**Application of George Meyer  
For Conditional Use Approval**

**April 1, 2019**

**I. INTRODUCTION**

George Meyer (the “Applicant”) filed an application for conditional use approval pursuant to Section 27-402.C(5) of the Charlestown Township Zoning Ordinance (“Zoning Ordinance”) in order to develop the property located at 2227 Bodine Road, Malvern, PA 19355, also known as Tax Parcel # 35-3-4 (the “Property”), by subdividing it into six residential lots by conventional lot development.

At the time of the hearing, the Applicant had submitted a Conditional Use Plan dated January 3, 2019 (the “Plan”), reconfiguring the original proposed subdivision to five new lots and one lot containing the existing dwelling for a total of six lots, one less than was originally proposed. A public hearing on the Applicant’s conditional use application was commenced on March 4, 2019, with public notice properly provided. In support of the application the Applicant presented his own testimony as well as that of his engineer, Nick Vastardis, P.E.

Mike and Kim Walsh with an address at 2250 Bodine Road, directly across the street from the Applicant’s Property, were granted party status to the application.

**II. RELIEF REQUESTED**

The Property that is the subject of this application is owned by George Myers and is located at 2227 Bodine Road, Malvern, PA 19355. The Property consists of 23.8 acres of land improved with a single family dwelling also referred to as Tax Parcel # 35-3-4. The Property is located at the intersection of Bodine Road and Seven Oaks Road. As shown on the Plan, the Applicant proposes to subdivide the Property into six “conventional” lots. Five of the lots are proposed to have access by way of a cul-de-sac road off of Bodine Road directly across from the intersection with Foster Road. The sixth lot (Lot 1 identified on the Plan) will contain the Applicant’s existing dwelling and will continue to have access to Bodine Road via the existing driveway.

Pursuant to Section 27-402.C(5) of the Zoning Ordinance a “conventional lot” development is permitted on properties of 10 acres or more *in accordance with Section 27-406*. The term “Conventional Lot Development” is defined by the Zoning Ordinance as a “A subdivision or land development where all of the tract area is consumed by lots for dwellings, streets, stormwater management facilities and utility installations and no common open space is

provided, and the use is governed by the conditional use process.” Section 27-406 of the Zoning Ordinance provides as follows:

**§ 27-406 Requirements for Development of 10 or More Acres With Single-Family Detached Dwellings on Conventional Lots.**

1. The proposed development shall conform to all standards and criteria for conditional uses in § 27-1809, and all other articles, sections, ordinances, and regulations referred to therein.
2. The area and bulk regulations of § 27-405 shall apply to conventional lot development, wherein a net lot area of not less than 80,000 square feet shall be provided for each single-family detached dwelling.
3. The applicant shall demonstrate that a conventional layout of lots will have less cumulative impact than open space development, in terms of less flood hazard area impact, less high groundwater area impact, less wetland and wetland buffer impact, less stream valley buffer impact, less steep and very steep slope impact, less prime woodland impact, less visually sensitive area impact, less view shed protection area impact, and less historic and cultural resource impact.
4. Where development of less than the entire tract is intended, or where the tract is intended to be developed at less density than conventional lots would permit, the Board of Supervisors may require the applicant to file a sketch plan for the entire parcel to illustrate the ability to achieve street access and ingress to and egress from the property, or may require the applicant to restrict further subdivision or land development on the remainder of the tract by recorded covenant or restriction as necessary to implement the intent set forth in Subsection 3.

Section 27-406.3 of the Zoning Ordinance requires the Applicant to show that the proposed conventional lot development will have less cumulative impact than an open space development (permitted by right in the FR District) in terms of flood hazard, high groundwater, wetlands, stream valley buffer, steep and very steep slopes, prime woodlands, visually sensitive areas, view shed protection areas and historic and cultural resources. The Applicant’s proposed open space development plan, identified at the hearing as Exhibit A-3, included an additional lot and a longer cartway accessing the lots, which are indicators that the proposed conventional lot development will have less cumulative impact than the potential open space development.

Concerning the resources referred in Section 27-406.3 there does not appear to be any additional impact created by the conventional lot development compared to the open space development option. One exception would be the potential impact caused to the view shed along Seven Oaks Road, a Scenic Road. The open space development plan shows an open space area adjacent to Seven Oaks Road with a setback to the rear lot-lines of three lots at approximately 155’. While there is a 100’ PECO easement on the Property directly adjacent to Seven Oaks Road, which would protect the view shed in the case of the conventional lot development, additional setbacks are necessary in order to ensure that any impacts to the view shed are

mitigated. Such mitigation can be accomplished by additional screening and setbacks. In addition to the view shed, the Township's engineer identified issues related to stormwater at the intersection of Bodine Road and Foster Road and the need for further improvements to the existing drainage facilities subject to the approval of the Township engineer and PennDOT. Overall there are not significantly different impacts caused by the proposed conventional lot development compared to an open space development

Concerning the standards and criteria for conditional uses in Section 27-1809 of the Zoning Ordinance, the proposed development is consistent with the FR District provisions for a conventional lot development; the Plan appears to be feasible under the Subdivision and Land Development Ordinance including sewer and water facilities; there is a demonstrated need for single-family dwellings in the Township; the Plan is consistent with the uses on adjacent lots, which are residential, and is consistent with the character of the neighborhood; and the Plan provides safe and adequate access to Bodine Road and will not result in excess traffic volumes. Concerning recreation, the Applicant has agreed to grant a trail easement on the perimeter of the property beginning at the junction of Foster and Bodine roads and ending at Seven Oaks Road, the exact placement of such trail to be determined during the land development process.

Most importantly, the Applicant's proposal for conventional lot development pursuant to the Plan will be subjected to the Subdivision and Land Development Ordinance review process where additional issues will be addressed including the appropriate level of tree replacement, buffering, stormwater management engineering and the submission of an Environmental Impact Assessment.

### **III. FINDINGS OF FACT**

1. The Property that is the subject of this application is located at 2227 Bodine Road, Malvern, PA 19355.
2. The Property consists of 23.8 acres of land improved with a single family dwelling also referred to as Tax Parcel # 35-3-4.
3. The Property is located at the intersection of Bodine Road and Seven Oaks Road.
4. The Applicant, George Myers owns and resides on the Property in the existing single-family dwelling.
5. The Property is located in the FR Zoning District.
6. The Property is bisected by a 75' gas line easement running from the corner of Bodine Road and Seven Oaks Road and separating the existing single-family residential dwelling and accessory improvements on the Property to the east from the proposed new five residential lots and proposed Cul-de-sac Street.
7. There is a 100' PECO easement on the Property directly adjacent to Seven Oaks Road.

8. The Property is generally flat and has very limited areas of steep slope.

9. The existing dwelling on the Property and accessory improvements including a pool and tennis court are intended to remain on an individual lot as shown on the Plan (Lot 1) with access to Bodine Road from the existing driveway.

10. The Applicant's Conditional Use Plan dated January 3, 2019 prepared by Vastardis Consulting Engineer identified at the hearing as Exhibit A-4, proposes five new lots and one lot containing the existing dwelling for a total of six conventional development lots.

#### **IV. CONCLUSIONS OF LAW**

1. The Applicant has standing.

2. The Applicant has met the standard for approval of the proposed conditional use.

3. The Applicant has satisfied the standards set forth in Sections 27-406 and 27-1809 of the Zoning Ordinance for Conditional Use Approval.

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## V. DECISION AND ORDER

AND NOW, this 1<sup>st</sup> day of April, 2019, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, George Meyer, is granted conditional use approval pursuant to Section 27-402.C(5) of the Charlestown Township Zoning Ordinance in order to develop to the Property located at 2227 Bodine Road, also known as Tax Parcel # 35-3-4, by subdividing it into six residential lots with five new dwellings permitted by conventional lot development, subject to the following conditions.

1. The proposed use is subject to compliance with all terms and provisions of the Zoning Ordinance, and all other Township Ordinances and regulations, and in addition to the regulations of all other government agencies having jurisdiction over the use.

2. The scope of this approval is limited to the requested use as shown on the Applicant's Conditional Use Plan (Exhibit A-4) and representations made by the Applicant made as part of the record at the public hearing.

3. The Applicant shall grant a 10' wide trail easement on the perimeter of the property beginning at the junction of Foster and Bodine roads and ending at Seven Oaks Road, the exact placement of such trail to be determined during the land development process.


4. The Applicant shall implement stormwater management related to the proposed cul-de-sac road that improves existing drainage facilities at the intersection of Bodine and Foster Road subject to approval by the Township Engineer and PennDOT.

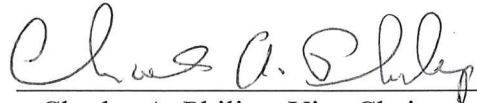
5. Dwellings on Lots 5 and 6 shall not be constructed closer than 75 feet from the existing PECO Easement adjacent to Seven Oaks Road and shall be landscape screened from Seven Oaks Road to the satisfaction of the Township.

6. The Applicant shall comply with all exhibits, representations, and record evidence, including the February 6, 2019 Memorandum from Thomas Comitta Associates (Exhibit T-4) and the February 28, 2019 Review letter from Advanced Geoservices (Exhibit T-5), which are incorporated herein as part of this approval.

7. The Applicants shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, its agreement to the above conditions or the Application is denied; the Board expressly finding and concluding that the Application in the absence of compliance with the said conditions is inconsistent with the objective criteria set forth in the applicable provisions of the Zoning Ordinance.

CHARLESTOWN TOWNSHIP

  
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Frank Piliero, Chairman



Charles A. Philips, Vice Chairman




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Kevin R. Kuhn, Member



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Hugh D. Willig, Member



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Susan Bednar, Member



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Linda M. Csete, Secretary