

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

DECISION AND ORDER

**Application of Malvern General Warren Owner, LLC
For Conditional Use Approval**

October 3, 2022

I. INTRODUCTION

Malvern General Warren Owner, LLC (the "Applicant") filed an application for conditional use approval pursuant to Section 27-9A02.1.C(6) of the Charlestown Township Zoning Ordinance ("Zoning Ordinance") to permit a Laboratory for Scientific Research and Development. The use is proposed within of an existing building located on the property at 31 General Warren Boulevard formerly known as Lots 5 and 6 of the Commons at Great Valley (the "Property"). The Property, identified as tax parcel 35-5-97, is located in the NC-2 Neighborhood Commercial District and is improved with a 19,865 square foot office building. The Applicant is proposing to lease the building for Laboratory space for scientific research (the "Laboratory").

A public hearing on the Applicant's conditional use application was commenced on April 1, 2022, with public notice properly provided. Gina Gerber, Esquire, represented the Applicant at the hearing. Matthew McDevitt, the managing member of the partnership that owns Malvern General Warren Owner, LLC, Mark Jackson, Vice President of Construction for the Applicant, Jamie Doran, an architect with JacobsWyper Architects, and Nicole Kline-Elsier, P.E., a professional engineer with McMahon Associates testified at the hearing in support of the application.

II. DISCUSSION

The Property that is the subject of this application is located at 31 General Warren Boulevard and is owned by the Applicant. The Property consists of 45 acres located on the south side of Phoenixville Pike and is improved with a 19,865 square foot two story office building along with 99 parking spaces. The uses surrounding the Property consist of a variety of commercial uses, including a woodland and a vacant commercial lot directly to the east, an office use to the west and the turnpike to the north.

Section 27-9A02.1.C(6) of the Zoning Ordinance governing uses in the Neighborhood Commercial NC-2 District provides in relevant part as follows:

§ 27-9A02 Use Regulations.

1. A building or other structure may be erected, altered, or used, and a lot may be used and/or occupied subject to Parts 11 and 12, for the following:

C. Conditional Uses. (Refer to Section 27-1809

(6) Laboratory for scientific research and development.

Section 27-202 of the Zoning Ordinance defines the term "Laboratory For Scientific Research And Development" as follows:

A building or group of buildings in which are located the facilities for scientific research, investigation, testing and experimentation, but not including the manufacture of products for sale."

A conditional use is a form of permitted use. *Pennridge-Development Enterprises, Inc. v. Volovnik*, 624 A.2d 674 (Pa. Cmwlth. 1993). The fact that a use is permitted as a conditional use evidences a legislative decision that the particular type of use is not adverse to the public interest *per se*. *Vision Quest National Ltd. v. Board of Supervisors of Honeybrook Township*, 169 A.2d 915 (Pa. 1990). A conditional use applicant must demonstrate that it is entitled to a conditional use by establishing compliance with the specific objective criteria for the use detailed in the zoning ordinance. *Bray v. Zoning Board of Adjustment*, 410 A.2d 909 (Pa. Cmwlth. 1980).

In this case, Section 27-1809 of the Zoning Ordinance sets forth the general standards for consideration relative to the grant of a conditional use approval. The Applicant presented sufficient testimony and evidence at the hearing for the Board to determine that the proposed Laboratory use complies with those standards and the Applicant's proposed use is permitted by Charlestown Township.

III. FINDINGS OF FACT

1. The Property that is the subject of the application is located 31 General Warren Boulevard and is owned by Malvern General Warren Owner, LLC.
2. The Property consists of 3.1 acres located on the south side of Phoenixville Pike and Warner Lane and is improved with a 19,865 square foot two story office building with a loading dock, stormwater management along with 99 parking spaces.
3. The uses surrounding the Property consist of a variety of commercial uses, including a woodland and a vacant commercial lot directly to the east, an office use to the west and the turnpike to the north.
4. The Applicant is proposing to convert the interior of the office building to approximately 50% wet lab space and 50% office space.
6. No changes to the exterior of the Property are proposed as part of the application.
7. The building on the Property is currently vacant.
8. The Applicant is proposing to construct generic laboratory space in the building and market the space to a biological or chemistry life-science tenant.

9. The proposed Laboratory would have no exterior noise associated with the use and any air or waste water discharges and hazardous substances would comply with all applicable environmental permitting by the Pennsylvania Department of Environmental Protection.

11. The Laboratory would operate on a regular work day business hours.

12. The proposed Laboratory use would have similar impact as an office space with respect to wastewater and electric usage.

13. The proposed Laboratory use would have no measurable impact on public services, utilities and surrounding properties.

14. The proposed Laboratory use would have virtually identical traffic impact.

IV. CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The Applicant has satisfied the standards set forth in 27-1809 of the Zoning Ordinance for conditional use approval.

V. DECISION AND ORDER

AND NOW, this 3rd day of October, 2022, upon consideration of the testimony and exhibits presented, it is ORDERED that the Applicant, Malvern General Warren Owner, LLC is granted conditional use approval pursuant to Section 9A02.1-C(6) of the Charlestown Township Zoning Ordinance to permit a Laboratory for Scientific Research and Development use within the existing building located on the Property at 31 General Warren Boulevard identified as tax parcel 35-5-97 subject to the following conditions.

1. The proposed use is limited to a Laboratory for Scientific Research and Development and shall be 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 Plan (Exhibit T-5) and representations made by the Applicant as part of the record at the public hearing.

3. The Applicant shall comply with all exhibits, representations, and record evidence, which are incorporated herein as part of this approval.

4. Prior to the use and occupancy by a prospective tenant, or any other person, the Applicant or its designee shall apply for a Use and Occupancy Permit from the Township as required by Section 1805 of the Zoning Ordinance.

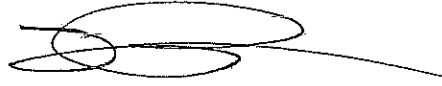
5. In addition to a Use and Occupancy Permit, use of the Property may require a separate conditional use approval if the ultimate Laboratory user is not within the scope of this approval as determined by the Township Manager.

6. The Applicant shall provide a list of all permits and approvals required for the proposed Laboratory for Research and Development use by any state or federal agency having jurisdiction over such laboratory use.

7. The Applicant shall provide full and complete plans for disposition of all waste from the Property, including air, liquid, and solid waste and any permits that may be necessary for disposition of such waste. In particular, the Applicant shall provide approval from the Valley Forge Sewer Authority for any waste disposed of in the public sewer system.

8. The Applicant shall express to the Board in writing within fourteen (14) days of the date of this Decision and Order, their agreement to the above conditions.

CHARLESTOWN TOWNSHIP



Frank Piliro, Chairman



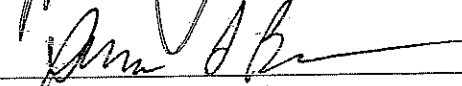
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