

WESTTOWN TOWNSHIP

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AGENDA Westtown Township Board of Supervisors Regular Meeting (Virtual via Zoom) Monday, November 2, 2020 - 7:30 PM

- I. **Call to Order & Pledge of Allegiance**
- II. **Approval of Board of Supervisors Meeting Minutes – October 19, 2020**
- III. **Announce Board of Supervisors Executive Session(s)**
- IV. **Summary of Board of Supervisors Workshop – November 2, 2020**
- V. **Departmental Reports**
 - A. Public Works Director – Mark Gross
 - B. Historical Commission – Erica Reilly
 - C. Planning Commission – Kevin Flynn/Jim Lees
 - D. Township Solicitor – Pat McKenna
- VI. **Public Comment (Non-Agenda Items)**
- VII. **Old Business**
 - A. Re-Adoption of Sanitary Sewer Easement – Malvern School
- VIII. **New Business**
 - A. Ordinance 2020-05 - Pension Plan - Authorization to Advertise
- IX. **Announcements**
 - A. Toll Brothers/Crebilly Farm II, Board of Supervisors Conditional Use Meetings
(virtual meetings via Zoom platform)
Hearing #6 – Tuesday, November 17, 2020 at 7:00PM
Hearing #7 – Wednesday, December 16, 2020 at 7:00PM
Hearing #8 – Tuesday, January 26, 2021 at 7:00PM
 - B. Zoning Hearing Board (ZHB) Alternate Vacancy
 - C. Westtown Township's New Township Manager First Day - November 9
 - D. New Township Manager's Formal Introduction - November 16, 2020 Board of Supervisors Meeting
- X. **Public Comment (All Topics)**
- XI. **Payment of Bills**
- XII. **Adjournment**

How to Engage in the Public Comment Sections of a Township Meeting

Public Comment is heard at three (3) different points during the meeting:

1. BEFORE OLD BUSINESS - The public is permitted to make public comment on any matter not on the agenda. This comment period is subject to the time constraint in (d) below
2. PRIOR TO any action on a motion on an Agenda item. Public Comment at this stage is limited to the item under discussion (e.g. it is not appropriate to initiate a discussion on police services if the body is acting upon a sewer issue).
3. AFTER NEW BUSINESS. - Public Comment is open to any legitimate item of business which can be considered by that Township Board/Commission (e.g. Planning Commission can discuss issues having to do with plan reviews, but cannot discuss why the Township does not plow your street sooner. Supervisors can discuss nearly every issue).

How to make a comment to any Township Board/Commission:

- a. The Chair will announce that the Board/Commission will now hear public comment, either on a specific issue or generally.
- b. You must then obtain recognition from the Chair prior to speaking.
- c. Once you have the floor, state your name and address for the record.
- d. You may then make your comment or ask your question. You will have three (3) minutes to make your statement, unless the Chair has announced otherwise, so please come prepared!

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
(Virtual meeting via Zoom)
Westtown Township Municipal Building, 1039 Wilmington Pike, Westtown
Monday, October 19, 2020 at 7:30 PM

Present virtually were: Chair Dick Pomerantz, Vice Chair Carol De Wolf, Director of Finance Joanne Grube, Executive Secretary Pam Coleman, Chief of Police Brenda Bernot, and Planning Commissioner Jack Embick. Four guests called in to participate in this virtual meeting.

I. Pledge of Allegiance & Call to Order

This meeting was held remotely due to the Coronavirus pandemic. Mr. Pomerantz called the meeting to order at 7:30 PM, and led the Pledge of Allegiance. Ms. Coleman read the instructions for public participation in the virtual meeting.

II. Approval of Minutes (October 5, 2020)

Ms. De Wolf made a motion to approve the October 5, 2020 Board of Supervisors meeting minutes. Mr. Pomerantz seconded the motion. There was no public comment, and the motion was unanimously approved.

III. Board of Supervisors Executive Sessions

Mr. Pomerantz stated that the Board held Executive Sessions on October 5, 6, and 8, 2020 (personnel), and today (litigation & personnel).

IV. MS4 Stormwater Management Program Annual Update – Beth Uhler, Cedarville Engineering

Township Stormwater Engineer, Beth Uhler of Cedarville Engineering, provided a summary of the Township's annual Municipal Separate Storm Sewer System (MS4) report to the PA Dept. of Environmental Protection, and reviewed the Township's Total Maximum Daily Load (TMDL)/Pollution Reduction Plan (PRP) Implementation plan over the five year permit period. The presentation is available on the Stormwater Management page of the Township website: www.westtownpa.org/storm-water.

Ms. De Wolf commented that the Township needs to budget for implementation of several BMP projects. Ms. Uhler agreed, and stated that the construction cost estimates for the TMDL/PRP Implementation Schedule are from 2018 and need to be updated. Ms. Uhler suggested beginning with Township owned BMP's such as Thorne Drive and Sage Road basin retrofits and Pleasant Grove Stream Restoration, and recommended that the Township develop a plan for funding the requirements to address impairments over the remaining four years of the permit period.

Mr. Pomerantz asked how Westtown Township's MS4 obligation look relative to other municipalities. Ms. Uhler said Westtown's sediment reduction obligations are higher than other municipalities that she works with because every stream in the Township and surrounding municipalities is impaired.

Jack Embick (189 Pheasant Run Road) stated that although the MS4 program is an unfunded state mandate, it is the Township's responsibility to budget for and address this important environmental issue.

V. Departmental Reports

A. Westtown East Goshen Police Dept. (WEGO) – Chief Brenda Bernot

Chief Bernot reported that there were 286 incidents in Westtown Township in September, which is down 11% from September, 2019. The Chief stated that there were two notable incidents – an aggravated assault at a group home for people with special needs, and a mutual assault incident

that occurred in a rehab facility. The Chief stated that theft and vandalism of political signs continues, and commented that it is the worst she has witnessed in over 30 years of law enforcement. She expressed her disappointment that people do not respect the veterans who have fought for our country to ensure the right to express our political views and exercise our right to vote. She reminded residents to respect their neighbors right to express their views, and stated that the police will continue to make arrests for theft and vandalism. The Chief also reminded residents that they cannot attached signs to utility poles.

There were no questions or comments from the public.

B. Planning Commission (PC) – Jack Embick/Russ Hatton

Mr. Embick stated that the PC's October 7, 2020 meeting was cancelled. At their meeting on October 21, 2020, Mr. Embick said the PC will be discussing modifications to the Township ordinance regulating the keeping of animals, and hearing from the owner of 917 Hummingbird Lane regarding a request for an Accessory Dwelling Unit (ADU).

Mr. Hatton added that the PC has also been discussing potential budget items such as anticipated consultant costs for Crebilly, the S. Concord Road development, the Stokes Farm project, and the development of an environmental assessment process. Mr. Hatton also elaborated on the situation at 917 Hummingbird Lane, stating that the homeowner's oil tank leaked in her basement. She is exploring the possibility of building an ADU on her property, and then demolishing the existing primary dwelling.

There were no questions or comments from the public.

VI. Public Comment (Non-Agenda Items)

Marshall Lerner (855 Hinchley Run) stated that he was unable to open the material for tonight's meeting on his computer because the file size was too large.

VII. Old Business

There was none.

VIII. New Business

A. Winter 2020-21 Group Salt Contract Award

Mr. Pomerantz stated that this is a group contract with West Goshen and East Goshen Townships. Eastern Salt, Inc. was the low bidder at \$50.25/ton, delivered. This is a decrease from \$55/ton last winter. WG and EG have indicated their acceptance of the bid. Ms. De Wolf made a motion to award the Winter 2020/2021 Group Salt Bid to Eastern Salt, Inc., in the amount of \$50.25 per ton. The contract minimum is 1400 tons, for a total contract amount of \$70,350, of which Westtown's contract tonnage is 400 tons (\$20,100). Mr. Pomerantz seconded the motion. There was no public comment, and the motion was unanimously approved.

B. Oakbourne Exterior Restoration Phase II – Request for Payment #1

Mr. Pomerantz stated that Linn Architects reviewed the Request for Payment #1 from Uhrig Construction, Inc. for exterior restoration work on the water tower and carriage house, and recommended payment in the amount of \$39,222.00. The contract amount is \$129,230, leaving the balance to finish, plus retainage at \$90,008.00. Ms. De Wolf made a motion to approve Oakbourne Exterior Restoration Phase II Payment Request #1 to Uhrig Construction, Inc. in the amount of \$39,222.00. Mr. Pomerantz seconded the motion. There was no public comment, and the motion was unanimously approved.

C. Investment Policy Adoption

Mr. Pomerantz stated that Act 10 of 2016 provided for additional investment options that allow Pennsylvania local governments, school districts, and municipal authorities to more fully diversify

their investments while limiting maturity and requiring high credit ratings of the issuers. The intent of the Investment Policy is to define the parameters within which funds are to be managed. Ms. De Wolf made a motion to approve the adoption of the Westtown Township Investment Policy. Mr. Pomerantz seconded the motion. There was no public comment, and the motion was unanimously approved.

D. Ordinance 2020-04 Sign Ordinance Amendment - Authorization to Advertise

Mr. Pomerantz explained that this is an ordinance amendment to modify the Code of Westtown, Chapter 170, Article XVIII - Signs. This ordinance amendment adds language that was missing from the original draft prepared in March. Specifically, the current language in §170-1810.B(4), §170-1810.D(2)(b), and §170-1811.C(4) all state "The following illumination types shall be permitted subject to the regulations in §170-1805.F, Sign Illumination." However, no text then follows, thus no illumination types are identified. This amendment would address this error by stating "External and internal illumination shall be permitted subject to the regulations in §170-1805.F, Sign Illumination" in each section noted above, where the language was missing. Ms. De Wolf made a motion to authorize advertisement of Ordinance 2020- 04 modifying the Code of Westtown, Chapter 170, Article XVIII - Signs. Mr. Pomerantz seconded the motion. There was no public comment, and the motion was unanimously approved.

IX. Announcements

Mr. Pomerantz made the following announcements:

- A. Toll Brothers/Crebilly Farm II, Board of Supervisors Conditional Use Hearing #5 – 7:00 PM** on Thursday, October 22, 2020. This is a virtual public meeting via the Zoom platform.
- B. Zoning Hearing Board (ZHB) Alternate Vacancy –** The ZHB alternate is called upon to participate in and vote on matters that fall under the responsibility of the ZHB when a regular member is unable to do so. You must be a resident of Westtown, cannot hold any other office in the Township, and cannot be related to any current Township employee. Applicants must also be in good standing with all municipal bills. Anyone interested in this appointment should send a cover letter and resume to administration@westtown.org. The term for this appointment will expire on December 31, 2020.
- C. Oakbourne Park Master Plan Online Survey –** The Township is in the process of developing a Master Plan for Oakbourne Park, which will guide future investment and improvements in the park. Public involvement is critical to this process. The survey link is available on the Township website and Facebook page. Please take a few minutes to provide your feedback.

X. Public Comment on All Topics

There was none.

XI. Payment of Bills

Ms. De Wolf made a motion to approve General Fund bills in the amount of 228,136.65 and the Enterprise Fund bills in the amount of \$25,202.69, for a grand total of \$253,339.34. Mr. Pomerantz seconded the motion.

There were no questions, and the check registers were unanimously approved.

XII. Adjournment

Mr. Pomerantz adjourned the meeting at 8:48 PM.

Respectfully submitted,
Pam Coleman

**WESTTOWN TOWNSHIP
PUBLIC WORKS DEPARTMENT
MONTHLY REPORT FOR OCTOBER 2020**

ROADS

- ◆ Repaired two stormwater inlets and one pipe on Edgewood Chase.
- ◆ Monitored Aqua water main replacement project in Pleasant Grove. Found compaction issues with the backfill. Resolution pending.
- ◆ Roadside mowing in progress - last cutting of the season.
- ◆ Reprogrammed the Johnnys Way school zone flashers to match the new school hours.
- ◆ Street trees throughout Avonlea Circle were trimmed and elevated.
- ◆ Replaced type 3 barricade sign at W. Pleasant Grove Road & Route 202 intersection, after being destroyed by a vehicle.
- ◆ Filled potholes throughout the township, as necessary.
- ◆ Straightened and replaced faded and damaged street signs.

BUILDINGS, PARKS, AND OPEN SPACE

- ◆ All building fire extinguishers were inspected and certified per annual requirements.
- ◆ Performed weekly cuttings of lawns at all locations.
- ◆ Checked operation and fluid levels on all standby generators.

OAKBOURNE PARK AND MANSION HOUSE

1. Phase II of the Oakbourne Exterior Restoration has been completed, only punch list items remaining.
2. Turned the mansion heat on for the season. One zone valve needs to be repaired.
3. Replaced a barrier chain post along the original park driveway.

PARKS AND OPEN SPACE

1. Replaced a creek crossing culvert in Pennwood Open Space and redefined a stormwater tail ditch.
2. Mowed Pennwood Open Space fields.
3. Inspected all playground structures for safety hazards.
4. Inspected stormwater retention basins for proper operation.

WASTEWATER

- ◆ All systems working with no mechanical or operational issues requiring repair or adjustment.

EQUIPMENT MAINTENANCE AND REPAIR

- ◆ 67-11 – Vehicle control computer replaced, and keys recoded.
- ◆ 67-20 – Starter motor was replaced.
- ◆ 67-44 – Replaced the starter solenoid.
- ◆ 67-65 – Repaired a faulty hydraulic valve.

FUTURE PROJECTS

- ◆ Continue oversight of Aqua water main project in Pleasant Grove
- ◆ Begin Oakbourne Park fall clean-up.
- ◆ Prepare trucks for winter operations.

MARK GROSS
DIRECTOR OF PUBLIC WORKS

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

VIRTUAL MEETING (via Zoom Platform)
Wednesday, October 21, 2020 – 7:30PM

Present

Commissioners – All Planning Commission (PC) members were present. Also, present was Township Planner and Interim Zoning Officer Mila Robinson, and Township Consultant John Snook.

Call to Order and Pledge of Allegiance

Mr. Hatton called the meeting to order at 7:32 PM.

Adoption of Agenda (RH/SR) 7-0

No changes were made.

Approval of Minutes

9/23/20 meeting minutes were approved. (JE/JL) 7-0

Announcements

- Mila Robinson reminded the PC that the BOS Crebilly/Toll Bros. CU Hearing #5 was scheduled on 10/22/20 at 7pm via ZOOM.
- Mila Robinson noted that the community survey for Oakbourne Park Master Plan was live on the Township website, and encouraged everyone to participate.

Public Comment – Non Agenda Items

None

New Business

1. 2020 Maultz Accessory Dwelling Unit – 917 Hummingbird Lane

Holly Maultz, the owner of 917 Hummingbird Lane, summarized her reasons to submit an application to the Zoning Hearing Board (ZHB) to build a small living structure, “a tiny house,” adjacent to the existing house, to regain permanent and safe housing. Ms. Maultz explained that she had been displaced from her house due to a contamination caused by an oil tank leak in the crawlspace during the tank removal process in January 2018. She detailed that the oil spill affected indoor air quality and contaminated portions of the crawlspace concrete floor, the soil underneath it, the load bearing concrete structural blocks on one supporting wall, and that exposure to oil fumes made her increasingly ill, forcing her to leave the house. She noted that the tank removal company denied any wrongdoing, and the matter is now in litigation. Ms. Maultz detailed that an environmental scientist explained to her that if all oil contaminated materials and soil remained after the remediation process was complete and she was to move back into her home, those Volatile Organic Compounds (VOCs) would continue to off gas and pose both short and long-term health risks. She told the PC that in addition to the oil contamination, water pipes burst (in 2018 and 2019) while the house was unoccupied, resulting in water damage. Ms. Maultz acknowledged that the house was fixable, but it would be very costly and well beyond her present financial means. She presented a copy of the soil tests indicating soil contamination, and that she was advised additional soil testing was required to determine the extent of that contamination. She detailed her hardship of being displaced from her home and shared that she had a disability where she became seriously ill when exposed to various chemicals. Ms. Maultz asked the PC to provide recommendation to the ZHB to approve

the proposed ADU.

Elaine Adler asked Ms. Maultz to detail the specifications of the tiny house. Ms. Maultz described that the proposed 780 sq. ft. one-story ADU would include a kitchen, laundry room, a living and dining space, a bathroom with a shower, a bedroom, and a secondary bedroom to be used as an office space. Mrs. Adler raised a question about the driveway extension to access the proposed ADU. Ms. Maultz confirmed that there was no plan for expansion and she intended on walking across the grass from the existing driveway to the ADU. Mrs. Adler also asked whether the house would be used as a rental. Ms. Maultz explained that the house would be her permanent housing until she could afford to fix the main house, and she intends to use the tiny house for family guests.

Mr. Flynn asked how the ADU would be serviced by water and sewer. Ms. Maultz explained that it would be tied into existing septic system and public water. Mr. Flynn also asked what she would do to the main house if she could not move back in. Ms. Maultz hoped that the house could be fixed; however, she acknowledged that if that did not occur, she would make a decision based upon cost benefit analysis as to what to do with the house.

Mr. Flynn thought that it would be more cost-effective to demolish it now and build a more modest permanent home. Ms. Maultz responded that she got estimates for tearing down the home, but it would greatly deplete her resources to build a tiny home. She stressed that her priority is to protect her health as soon as possible, so that she has secure and safe housing while litigation is ongoing. She noted that because of COVID-19, the courts are experiencing significant backlogs, and she did not want to continue to wait on safe and secure housing.

Mr. Flynn asked if any of the neighbors were aware of the proposal. Ms. Maultz noted that she spoke with one of her neighbors, who was very enthusiastic about it. However, she acknowledged that she has not initiated any conversations with her adjacent neighbors. Mr. Flynn strongly recommended her to do so. Mr. Flynn also suggested that Ms. Maultz to look into a recovery fund for Pennsylvania residents who have been impacted by leaking oil tanks. Ms. Maultz responded that she was familiar with the fund of that sort in New Jersey.

Mr. Embick asked Ms. Maultz about the timeline of ongoing litigation. She said that they had not gone to trial yet, and were in the preliminary objection phase. She noted that she is representing herself. Mr. Embick agreed with Mr. Flynn that it might be a good idea to figure out what to do with the main house remediation. Mr. Embick also brought up the point that all houses are filled with chemicals, and questioned how the main house could be made habitable for Ms. Maultz considering her hypersensitivity. Ms. Maultz answered that she was used to taking extra precautions and provided several examples of house improvements she did to minimize exposure to those chemicals.

Mr. Snook suggested Ms. Maultz to design a tiny house in a way that it could be connected to a rebuild, partial rebuild, or rehab of the existing house, and thus eliminate the situation of having two dwellings. Ms. Maultz replied that due to oil contamination she would feel more comfortable having a distance between the ADU and the main residence.

Mr. Lees pointed out that it would take about a year to go through the process from application to the ZHB to the construction, which might not be a good solution for Ms. Maultz. He also noted that the topography of the site might be challenging in terms of stormwater management, and said it is crucial to have a driveway access to the ADU in case of emergency.

PC suggested for Ms. Maultz to look into other funding resources for an opportunity to demolish and rebuild the main house, and if that was not an option to come back with the application to the ZHB.

Old Business

1. Dog Ordinance

John Snook summarized the proposed draft ordinance modeled after West Goshen Township, to be included in to Chapter 49 of the Code. He pointed out that while the provisions only dealt with dogs, it has been worded to add subsections dealing with other animal issues in the future.

Mr. Embick suggested an alternative to the proposed proceeding under the civil action rules, where the summary citation procedure would occur under the Pennsylvania rules of criminal procedure, which was also undertaken before the district magistrates. He noted that the Township could do both if it had a legal authority to impose criminal prosecutions for violations of its ordinances. Mr. Snook pointed out that the Township would do that through the police. He summarized the enforcement proceedings presented in the draft.

Mr. Hatton stated that the proposed ordinance does not say whether it applies to the resident or not. Mr. Snook explained that it implies that you did not have to be a resident to comply though the definition of "owner."

PC discussed the use of several terms: "under the reasonable control" or "on the leash." PC suggested putting language in the ordinance requiring the dogs to be on a leash in public parks and open spaces unless allowed otherwise.

Mr. Embick suggested that Mr. Snook have a conversation with Chief Bernot, WEGO Police Department, to gather feedback on enforcement.

Public Comment

Chris Allen, 209 N. Deerwood Dr., raised a concern that there might be possibilities of unintended consequences in the proposed dog ordinance initiative, as it related to limitations on numbers of dogs and the references to dog training. She noted that she had reached out to the Pennsylvania Federation of Dog Clubs, and through them, to the American Kennel Club to provide thoughtful input and perspective, and perhaps even engage in some dialogue and to share experiences about best practices and what had proven problematic. Mr. Hatton pointed out that the proposed ordinance did not intend to place limitations on the number of dogs. Mrs. Allen noted that she had some printed material she wanted to share with the PC, but she lost power and was not able to refer to her notes.

Reports

Board of Supervisors Meeting 10/05/20 – Elaine Adler

Board of Supervisors Meeting 10/19/20 – Russ Hatton/Jack Embick

Adjournment (JE/JL) 7-0

Meeting was adjourned at 9:24 PM.

Respectfully submitted,
Mila Robinson,
Planner II/Interim Zoning Officer

Prepared by/return to:

Riley Riper Hollin & Colagreco
Attn.: Matthew G. Hauber, Esquire
717 Constitution Drive, Suite 201
P.O. Box 1265
Exton, PA 19341
(610) 458-4400

UPI No. Part of 67-4-38

SANITARY SEWER EASEMENT

This Sanitary Sewer Easement Agreement (this "Easement Agreement"), is made this 19th day of October, 2020, by and between WESTTOWN TOWNSHIP, a township of the second class pursuant to the Second Class Township Code, Act of May 1, 1933, reenacted and amended by Act of November 9, 1995, as amended, with its address at 1039 Wilmington Pike, West Chester, PA 19382 (the "Township") and MALVERN SCHOOL REAL ESTATE, LP, a Pennsylvania limited partnership, with an address of 20 Creek Road, Glen Mills, PA 19342 ("Owner").

RECITALS

A. The Owner owns a tract of land situate in Westtown Township, Chester County, Pennsylvania, as acquired by deed dated November 1, 2018 and recorded in Book 9837, page 2178, in the Office of the Recorder of Deeds of Chester County, Pennsylvania (the "Recorder's Office"), which is identified as UPI No. 67-4-38 (the "Property"); and

B. A sanitary sewer line currently exists on the Property for which the Township holds a sanitary sewer easement over those portions of the Property depicted as "Easement A" and "Easement B" on that certain plan entitled "Final Subdivision Plan prepared for Westtown Township – Saint Maximilian Kolbe Parish Land Development Plan" prepared by Chester Valley Engineering, Inc., dated January 13, 1993, last revised November 9, 1993, and recorded in the Recorder's Office on February 2, 1994 as Plan No. 12369 (the "Existing Easement Plan"), a copy of which is attached hereto as **Exhibit "A"** (collectively, the "Existing Easement"); and

C. Owner is constructing a school and day-care building, exterior play areas, parking and related improvements on the Property under in accordance with that certain plan entitled "Subdivision/Land Development for The Malvern School" prepared by Edward B. Walsh & Associates, Inc. dated November 14, 2018, last revised March 24, 2019, and recorded in the Recorder's Office on August 22, 2019 as Plan No. 20579 (as supplemented and/or amended from time to time, the "Development Plan"); and

D. Owner desires to install a guiderail and a sign within the limits of the Existing Easement; and

E. At the request of the Owner, the Township has agreed to modify and relocate the Existing Easement pursuant to the plan entitled "Sanitary Sewer Easement Plan" prepared by Edward B. Walsh & Associates, Inc. dated September 25, 2020 (the "Relocation Plan"), which

Relocation Plan is attached hereto as **Exhibit "B"**, with that portion of the Existing Easement shown on the Relocation Plan as the "Area to be Removed from Existing Sanitary Sewer Easement" being removed from the Existing Easement, subject to the terms of this Easement Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, and in consideration of the payment of the Owner of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Owner, the Township and the Owner, each intending to be legally bound hereby, do hereby agree as follows:

1. **DEFINITIONS:** The term "sewer line(s)" when used in this instrument shall refer to a sanitary sewer pipe, conduit, manhole, drain, marker, service connection and other appurtenances currently existing on the Property for use in the Township's sanitary sewer system within those portions of the Property as shown on Relocation Plan, and as more particularly described by metes and bounds on **Exhibit "C"** (the "Easement Area").

2. **EXTINGUISHMENT OF EXISTING EASEMENT.** This Easement Agreement replaces and supersedes the Existing Easement in its entirety, and all rights and obligations created by the Existing Easement are hereby declared to be null and void and of no further force and effect.

3. **GRANT TO TOWNSHIP:** The Owner hereby gives and grants to the Township the free and uninterrupted right, liberty and privilege, in perpetuity:

A. To construct, reconstruct, replace, remove, enlarge, inspect, operate, repair, make connections with and maintain perpetually such sewer lines, their accessories and appurtenances, as the Township may from time to time require, consisting of underground pipes, conduits, manholes, drains, markers, mains, service connections and other appurtenances upon, over and under the Easement Area.

B. To carry away and dispose of sewage through said sewer lines, regardless of the source of such sewage.

C. To have and to hold the same perpetually to the Township and its successors or assigns, together with the right and privilege at any and all times to enter the Easement Area, or any part thereof for the purpose of reconstructing, replacing, removing, enlarging, inspecting, operating, repairing, maintaining, and/or making connections with the sewer lines or other appropriate means of access to the sewer lines; all upon the condition that the Township will at all times during the reconstruction, replacement, removal, repair or maintenance of the sewer lines cause every reasonable means to be used to protect from injury or damage all property, including lawns, trees, shrubbery, fences, buildings, walls, roads, water courses, natural features, or any existing improvement thereto, and will at all times after doing any work in connection with the construction, reconstruction, replacement, removal, repair or maintenance of the sewer lines, cause the Property to be restored to the condition in which the same were found before such work was undertaken, including replacement and/or repair of damaged property, to the extent reasonably possible under the circumstances and consistent with the rights and privileges herein granted.

4. **COVENANTS OF THE OWNERS:**

A. The Owner does hereby release, remise, quitclaim and discharge the Township and its appointed officials, employees, agents, servants, contractors and employees from any claim or right to damages or other emolument of value for the rights, liberties and privileges given and granted to the Township under this Easement Agreement, except to the extent caused by gross negligence or willful misconduct of the Township or its appointed officials, employees, agents, servants, contractors or employees.

B. The Owner does hereby covenant that it is lawfully seized and possessed of a good and marketable title in the fee simple to the Property and that it has a good and lawful right to grant the rights and privileges herein granted to the Township, and it further covenants that it will execute or procure any additional necessary assurances of the rights and privileges herein granted.

C. The Owner does hereby expressly consent to any transfer, conveyance, pledge, lease or mortgage by the Township of the said sewer lines.

D. The provisions of this Easement Agreement shall run with the land and be binding upon and inure to the benefit of the Township, its successors and assigns, and the Owner, its heirs, executors, administrators, successors and assigns.

4. **MISCELLANEOUS:**

A. Recital paragraphs A through E, inclusive, are hereby incorporated by reference herein.

B. This Easement Agreement constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. No modification or amendment of this Easement Agreement shall be of any force or effect unless made in writing and executed by all parties hereto.

C. The rights, privileges and obligations herein created shall inure to the benefit of and be binding on Owner and the Township, and their respective successors and assigns in interest. This Easement Agreement and the grant of the easement contained herein shall be freely assignable by the Township without the consent of Owner, its successors or assigns.

D. This Easement Agreement shall be governed by the laws of the Commonwealth of Pennsylvania and shall be recorded with the Chester County Recorder of Deeds.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be duly executed on the day and year first above written.

ATTEST:

WESTTOWN TOWNSHIP

Township Secretary
(Township Seal)

By: _____

Title: _____

MALVERN SCHOOL REAL ESTATE, LP,
a Pennsylvania limited partnership
By: MALVERN SCHOOL REAL ESTATE GP,
LLC, a Pennsylvania limited liability company,
its general partner

Attest/Witness: *Nanni Rhen*

By: *J. Scandone*
Name: Joseph A. Scandone
Title: Managing Partner

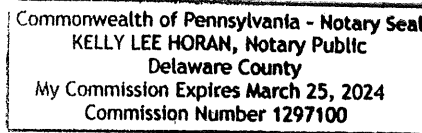
COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF ~~CHESTER~~ Delaware :

On this 19th day of October, 2020, before me a notary public, duly commissioned in and for said County and Commonwealth, personally appeared Joseph A. Scandone the Managing Partner of Malvern School Real Estate GP, LLC, a Pennsylvania limited liability company, general partner of MALVERN SCHOOL REAL ESTATE, LP, a Pennsylvania limited partnership, and that he/she as such Managing Partner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the limited partnership by himself as such officer.

WITNESS my hand and notarial seal the day and year aforesaid.

Kelly Lee Horan

(Seal)
Commission Expires
3/25/2024



COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF CHESTER :

On this _____ day of _____, 20____, before me, a notary public, duly commissioned in and for said County and Commonwealth, personally appeared _____, who acknowledged himself/herself to be the _____ of Westtown Township, a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania and that he/she as such _____, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Westtown Township by himself/herself as _____.

WITNESS my hand and notarial seal the day and year aforesaid.

(Seal)
Commission Expires

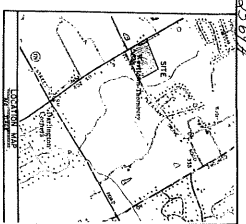
EXHIBIT A
Existing Easement Plan
[Attached]

R-1 Zoning District
w/Planned Office Campus Overlay

R-1 Zoning District

Joseph M. & Patricia A. McCarley
No. 101, W. 202

9-10-2015 10:23:11



GENERAL NOTES

1. The purpose of this plan is to show the location of the proposed buildings and parking areas on the site.
2. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
3. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
4. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
5. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
6. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
7. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
8. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
9. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.
10. The proposed buildings and parking areas are shown in accordance with the zoning regulations of the Township of Westtown, Chester County, Pennsylvania.

Chester Valley Engineers, Inc.
Field Engineers & Planners
 1015 EAST 10TH STREET, LANCASTER, PENNSYLVANIA 17602
 717-397-1000

FINAL SUBDIVISION PLAN PREPARED FOR:
WESTTOWN TOWNSHIP
 WESTTOWN TOWNSHIP · CHESTER COUNTY · PENNSYLVANIA

SAINT MAXIMILIAN KOLBE PARISH
 LAND DEVELOPMENT PLAN
 6060-43

Joseph M. & Patricia A. McCarley
 No. 101, W. 202
 9-10-2015 10:23:11

EXHIBIT B
Relocation Plan

[Attached]

SANITARY SEWER EASEMENT LINE/CURVE TABLE

LINE	RADIUS	DELTA	ARC	CHORD BEARING	CHORD
L1			5.00'	N60°26'00" E	
L2			20.00'	N60°26'00" E	
L3			294.01'	S30°15'07" E	
C1	35.01'	42°22'59"	25.90'	N82°27'16" W	25.31'
L4			148.34'	N30°15'07" W	
L5			6.40'	N59°44'53" E	
L6			5.00'	N30°15'07" W	
L7			6.40'	S59°44'53" W	
L8			125.40'	N30°15'07" W	

ARCHBISHOP OF PHILADELPHIA
ST. MAXIMILIAN KOLBE PARISH
BK: 153; PG: 307
UPI #67-4-39

AREA: 5,736 S.F.

WILMINGTON PIKE

N31°17'00" W
M..01.98.09S

(ROUTE (202))

N60°26'00" E
41.97'

N31°19'00" W 196.98'

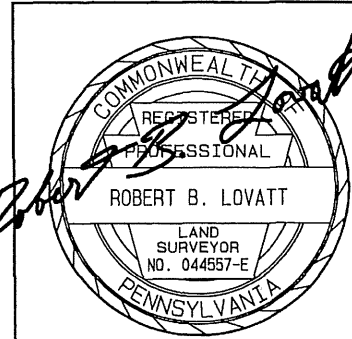
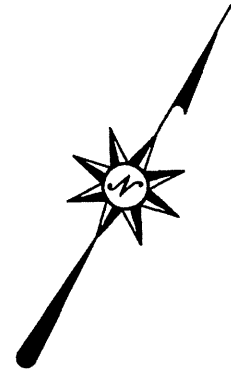
AREA TO BE REMOVED FROM EXISTING SANITARY SEWER EASEMENT

5/8" REBAR
FOUND 0.13'
S. OF-LINE
@ 14.97'

5/8" REBAR
FOUND ONLINE
@ 56.97'

N60°26'00" E

266.36'



EAST PLEASANT GROVE ROAD

UPI NO. 67-4-38

ULTIMATE R.O.W.

EX. R.O.W.

33' W.

**SANITARY SEWER EASEMENT PLAN
THE MALVERN SCHOOL**

WESTTOWN TOWNSHIP CHESTER COUNTY, PA.

Edward B. Walsh & Associates, Inc.
CIVIL ENGINEERS & LAND SURVEYORS

865 Springdale Drive, Suite 202
Eaton, Pennsylvania 19341
Phone: 610-903-0080
Fax: 610-903-0080



Project- 4432
Date- 9-25-2020
Scale- 1" = 40'
Drawn- RBL
Checked- A.E.
Sheet- 1 OF 1

Plotted: 9/25/2020 File: F:\JRS 4432\4432-03-AB.dwg

EXHIBIT C

Legal Description of Easement Area

[Attached]



EDWARD B. WALSH & ASSOCIATES, INC.
Complete Civil Engineering & Land Surveying Services
Lionville Professional Center
125 Dowlin Forge Road
Exton, PA 19341

4432
The Malvern School
September 25, 2020

**LEGAL DESCRIPTION
THE MALVERN SCHOOL
WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
SANITARY SEWER EASEMENT**

ALL THAT CERTAIN strip of land, situate in the Township of Westtown, County of Chester, Commonwealth of Pennsylvania, shown on a "Exhibit 'A', Sanitary Sewer Easement Plan, The Malvern School", prepared by Edward B. Walsh & Associates, Inc., Civil Engineers and Land Surveyors, Exton, PA, dated September 25, 2020, Project No. 4432, being Sheet 1 of 1 total, and being more fully described as follows:

BEGINNING at a point on a line 5 feet east of the easterly legal right-of-way line of Wilmington Pike (Route 202), said right-of-way line being a distance of 45 feet from and parallel to the centerline thereof, common to the southerly line of lands of the now or former Archbishop of Philadelphia, St. Maximilian Kolbe Parish (UPI 67-4-39) and the northerly line of lands of The Malvern School (UPI 67-4-38) (as shown on said Plan); thence from the point of beginning, along said line of lands of St. Maximilian Kolbe Parish, North 60 degrees 26 minutes 00 seconds East 20.00 feet to a point; thence over the lands of The Malvern School the following seven (7) courses and distances:

1. South 30 degrees 15 minutes 07 seconds East 294.01 feet to a point on a radius return curve on the northerly existing right-of-way line of East Pleasant Grove Road (33 feet wide) (as shown on said Plan);
2. along said radius return curve to the right having a radius of 35.01 feet, an arc distance of 25.90 feet and a chord which bears North 82 degrees 27 minutes 16 seconds West 25.31 feet to a point of cusp;
3. leaving said right-of-way line, North 30 degrees 15 minutes 07 seconds West 148.34 feet to a point;
4. North 59 degrees 44 minutes 53 seconds East 6.40 feet to a point;
5. North 30 degrees 15 minutes 07 seconds West 5.00 feet to a point;
6. South 59 degrees 44 minutes 53 seconds West 6.40 feet to a point;
7. North 30 degrees 15 minutes 07 seconds West 125.40 feet to the point and place of BEGINNING.

CONTAINING: 5,735 square feet of land, be the same more or less.

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS
Pennsylvania, New Jersey, Delaware & Maryland
610-903-0060 FAX 610-903-0080
www.ebwalshinc.com
Established 1985

ORDINANCE NO. 2020-05

**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF WESTTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF WESTTOWN, SPECIFICALLY CHAPTER 25, PENSIONS, §25-5, REGARDING THE ADMINISTRATION OF BENEFITS; AND §25-7, REGARDING THE FILING OF THE CHAPTER AND THE EFFECTIVE DATED.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that Chapter 25, “Pensions” in the Code of the Township of Westtown shall be amended as follows:

SECTION 1. Part I, Administrative Legislation, Chapter 25, Pensions, §25-5, Administration of benefits, shall be amended, in its entirety, to read as follows:

As part of this chapter, the Township agrees that the System shall provide the benefits set forth in the Adoption Agreement between the Board and Westtown Township with a Restatement Effective Date of September 1, 2020, and the Pennsylvania Municipal Retirement System Base Plan Document. The referenced Adoption Agreement is attached hereto as Appendix “A” and the Pennsylvania Municipal Retirement System Base Plan Document is attached hereto as Appendix “B.” The passage and adoption of this chapter by the township is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package.

SECTION 2. Part I, Administrative Legislation, Chapter 25, Pensions, §25-7, Filing of chapter; effective date, shall be amended, in its entirety, to read as follows:

A duly certified copy of this chapter, the referenced Adoption Agreement (Appendix “A”), and the Pennsylvania Municipal Retirement System Base Plan Document (Appendix “B”) shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of Westtown Township in the Pennsylvania Municipal Retirement System shall be effective the first day of November 1997.

SECTION 3. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisor that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 4. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 5. This Ordinance will be effective five (5) days after enactment.

ENACTED AND ORDAINED this _____ day of _____, 2020.

ATTEST:

WESTTOWN TOWNSHIP

Secretary

Richard Pomerantz, Chair

Carol R. DeWolf, Vice Chair

Scott E. Yaw, Police Commissioner

Check Register

Westtown Township

30-Oct-20

From: 20-Oct-20 To: 02-Nov-20

Check No	Check Date	VendorNo	Vendor	Check Amount	Status
Bank Account: 1 GENERAL FUND					
15823	10/22/2020	6958	Capital One Bank	\$86,893.97	O
15824	10/28/2020	1000025	Birmingham Township	\$6,143.00	O
15825	10/28/2020	222	Brandywine Valley SPCA	\$90.00	O
15826	10/28/2020	7196	GreatAmerica Financial Svcs	\$171.00	O
15827	10/28/2020	405820	John D. Snook	\$1,380.00	O
15828	10/28/2020	588	PMRS	\$49,922.95	O
15829	10/28/2020	5738	StrategicLink Consulting, LLC	\$3,468.75	O
15830	10/28/2020	860	TrueNet, Inc	\$136.85	O
15831	10/28/2020	7	Westtown-East Goshen PD	\$250,032.47	O
15832	10/29/2020	69	BAIRD & RUDOLPH TIRE CO	\$1,774.70	O
15833	10/29/2020	5845	GreenWeaver Landscapes, LL	\$2,195.00	O
15834	10/29/2020	127	In-Fleet Truck Service	\$75.00	O
15835	10/29/2020	46	JoAnne Grube	\$167.34	O
15836	10/29/2020	406291	R.E. Michel Company, LLC	\$42.24	O
Bank Total:				\$402,493.27	
Bank Account: 8 Enterprise Fund					
1064	10/29/2020	6468	Carroll Engineering Corp	\$3,071.90	O
1065	10/29/2020	39	Grainger	\$256.05	O
1066	10/29/2020	5666	M&B Environmental, Inc.	\$3,327.67	O
1067	10/29/2020	1196	McGovern, Inc.	\$1,716.00	O
1068	10/29/2020	1164	Univar USA, Inc.	\$3,008.08	O
Bank Total:				\$11,379.70	
Bank Account: 18 CAPITAL PROJECTS FUND					
1226	10/21/2020	6468	Carroll Engineering Corp	\$7,000.00	O
1227	10/21/2020	6468	Carroll Engineering Corp	\$710.00	O
1228	10/21/2020	1000023	Uhrig Construction, Inc.	\$39,222.00	O
Bank Total:				\$46,932.00	
Total Of Checks:				\$460,804.97	