



MEMORANDUM

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To: Montgomery Township Planning Board

From: Michael Sullivan, ASLA, AICP
James Clavelli, PP, AICP

Re: **The Malvern School Properties, LP**
Preliminary and Final Major Site Plan Review 2
982 Georgetown-Franklin Turnpike (County Route 518)
Block 28010, Lots 57 & 58
H-C Highway Commercial Zone

Date: November 30, 2023

1. Project & Site Description

This report is an updated version of the October 12, 2023 memorandum prepared by this office. Updates are indicated in **bold underline**. On the list of variances at the end of this review, previously identified relief that is no longer required is indicated with a ~~strikethrough~~.

- 1.1. **Project Description:** The applicant is requesting preliminary and final major site plan approval to construct a childcare center in the Highway Commercial (HC) zone on Block 28010, Lots 57 and 58. The proposed childcare center contains 11,332 sf. of floor area and is 34 feet and nine inches in height (check this). Other proposed improvements include a parking lot with 51 spaces, children's play equipment, shade structure, basketball court, landscaping, a berm, freestanding and building mounted signs, fencing, stormwater management infrastructure, pedestrian circulation infrastructure within the site and around the site, a curb cut and driveway entrance and retaining walls.

The applicant intends to demolish and remove an existing one story dwelling located on the property. 98 trees are proposed to be removed.

The plan has been updated to reflect the following:

- **The grass paver path providing access to the basin has been removed and a new, shorter one has been added to the east side of the site.**

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MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

- The retaining wall around the basin has been modified and reduced in size. The basin is no longer within the required front yard setback.
- The concrete walk leading from Brecknell Way on the west side to the building's main entrance has been modified in accordance with the recommendations of this office. There is no longer a separate barrier-free ramp, rather, the entire path is accessible and contains no steps.
- A wall has been added to the front yard facing County Route 528. It is three feet tall, 53 feet and five inches wide and two feet deep. See section 6.4 of this report for additional analysis of the wall.
- Three trees that were proposed to be removed will now remain (two on the north side of the site and one to the west of the proposed building).
- One proposed tree is relocated from the center of the frontage along CR-518 to the southwest corner of the same frontage.
- A 3.5-foot tall berm has been added to the site frontage along CR-518 to screen the proposed parking lot. The berm contains a staggered row of American Holly evergreen trees along the frontage. 30 additional trees are proposed for a total of 183.

1.2. **Lot Consolidation as Condition of Approval:** The existing site is composed of two (2) separate lots. The applicant indicates in their correspondence that they intend to consolidate the lots. This report analyzes the site as one (1) combined lot, rather than two (2) separate lots. Consolidation of the lots should be a condition of variance approval if the Board looks favorably upon the application.

1.3. **Additional Relief Required:** A comprehensive list of necessary relief can be found in section 17.

1.4. **Existing Conditions:** The existing site is 2.046 acres (89,128 sf.). Existing improvements consist of a one (1) story single frame dwelling, a driveway leading from Georgetown-Franklin Turnpike (Country Road 519) to the front of the dwelling, an attached canopy, concrete patio and concrete walkway. There are several trees of various sizes found on the site, including six trees with a diameter at breast height (DBH) equal to or greater than 36-inches. Steep slopes are found on the site. The site has frontage on Georgetown-Franklin Turnpike (County Road 518) on the south side, and Brecknell Way wraps around the western and northern portions of the site. Brecknell Way is under construction and will soon be completed. The lot contains frontage on two streets and is a corner lot.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz



Aerial of Malvern School Property



View of Site from Route 518



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

- 1.5. **Site Context:** The site is located on County Road 518 near the intersection with U.S. Route 206. The property to the west contains a single-family dwelling. The property to the east was previously a vacant commercial building, though the site no longer contains a building. To the rear is a townhouse neighborhood. An ATV dealer is located across the street. The Tiger's Tale Grill is located just down the street at the intersection with U.S. Route 206.

2. Site Development Recommendations

- 2.1. **Project Creates Undesirable Visual Impact:** The grade increase from CR-518 to the proposed parking lot is two – five feet. This creates an undesirable visual impact on CR-518, where motorists and pedestrians will see a raised parking lot. The applicant has implemented this office' recommendation to add a landscaped berm along the frontage on County-Route 518.
- 2.2. **Layout Should be Reconfigured:** This office recommends that the site be reconfigured so that the building is brought closer to CR 518. In this configuration, the building will help to screen the parking lot from CR 518 and reduce negative impacts. The applicant has indicated that this is not an option, rather, they have opted to include the landscaped berm as a means of mitigating negative visual impact.
- 2.3. **Additional Screening is Recommended:** If the site is not reconfigured to move the parking lot as suggested, it is recommended that these areas be screened with an opaque masonry wall that is three – four feet in height. The materials and finish of the wall should be unified with the design of the proposed building. Plantings should be installed in front of the wall to complement and soften the appearance of the wall and provide visual screening at a greater height. See comment 2.1.

3. Use & Bulk Standards

- 3.1. **Permitted Principal Use(s):** The plan complies. Pursuant to §16-4.12a.7, childcare centers licensed by the Department of Human Services are permitted.
- 3.2. **Permitted Accessory Uses:** The plan complies. §16-4.12b permits several accessory structures such as parking lots, signs and fencing, all of which are proposed by the applicant. Additional structures that are accessory to the



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

proposed child care facility, including play equipment, a basketball court and a shade structure, are also proposed.

- 3.3. **Principal Building Height:** The plan complies due to exception for HVAC equipment. §16-4.12c states “no principal building shall exceed 30 feet and two and one-half stories in height...” The child care facility is proposed to be 34 feet and nine inches. Pursuant to §16-6.2b, buildings are permitted to exceed maximum height limitations to house HVAC and other related equipment. The portion of the building above 30 feet is used to house HVAC equipment. This portion is four feet and nine inches above 30 feet, which is less than 20% greater than what the zone permits, as such, the exception applies, and the height complies.
- 3.4. **Accessory Building Height:** Additional information is required. Pursuant to §16-4.12c.2, no accessory building shall exceed 25 feet in height and two stories. The proposed hot box (7 ft.) and trash enclosure (10 ft.) both comply. The following accessory structure heights have not been provided:
 - **Shade Structure:** The proposed height should be provided.
 - **Infant Play Equipment:** The proposed height should be provided.
 - **Play Equipment 1:** The proposed height should be provided.
 - **Play Equipment 2:** The proposed height should be provided.
 - **Basketball Court:** The proposed height should be provided, though presumably this will not be higher than 10 feet.
- 3.5. **Note Regarding Proposed Play Equipment and Infant Play Equipment:** If the proposed play equipment is fastened to the ground, it is considered a structure. If the proposed play equipment is not fastened to the ground, it is considered equipment. The setback and building distance variances herein apply only if the equipment is fastened to the ground.

Table 1: Area & Yard Requirements for Individual Uses in the HC Zone ~ §16-4.12d				
	Required	Existing	Proposed Cond.	Complies?
Principal Building				
Lot Area (acres)	1	2.046	No change	Yes
Lot frontage (feet)	150	242.7	No change	Yes
Lot width (feet)	150	304.5	No change	Yes
Lot depth (feet)	150	267.5	No change	Yes
Front yard for CR 518 (feet)	50	187.8	152	Yes



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

Table 1: Area & Yard Requirements for Individual Uses in the HC Zone ~ §16-4.12d				
	Required	Existing	Proposed Cond.	Complies?
Front yard for Brecknell North (feet)	50	NA	92.34	Yes
Front yard for Brecknell West (feet)	50	NA	95.9	Yes
Rear yard (feet)	50	129.2	98	Yes
Floor area ratio (FAR)	20%	3%	13%	Yes
Lot coverage	55%	6.7%	39.1%	Yes
Accessory Structures				
Distance to rear lot line (feet)	20	-	-	-
▪ Shade Structure	20	NA	72.5	Yes
▪ Infant Play Eq.	20	NA	74	Yes
▪ Play Eq. 1	20	NA	186	Yes
▪ Play Eq. 2	20	NA	171	Yes
▪ Basketball court	20	NA	74.5	Yes
▪ Hot Box	20	NA	58	Yes
▪ Basin	20	NA	35.6	Yes
▪ Trash enclosure	20	NA	46.3	Yes
Distance to other building (feet)	20	-		
▪ Shade Structure	20	NA	37.5	Yes
▪ Infant Play Eq.	20	NA	13.2	No (V)
▪ Play Eq. 1	20	NA	15	No (V)
▪ Play Eq. 2	20	NA	11.7	No (V)
▪ Basketball Court	20	NA	9.5	No (V)
▪ Basin	20	NA	29.3	Yes
▪ Hot box	20	NA	110	Yes
▪ Trash enclosure	20	NA	105	Yes
Front yard setback (1) (feet)	50	-		
▪ Play Eq. 1	50	NA	70	Yes
▪ Play Eq. 2	50	NA	62	Yes
▪ Basin	50	NA	50	Yes
▪ Hot box	50	NA	30	No (V)
▪ Trash enclosure	50	NA	50	Yes
Notes:				
(1) Pursuant to §16-5.1.e, on a corner lot an accessory building shall be set back from the side street to comply with the setback line applying to the principal building for that side street.				



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

- 3.6. **Area & Yard Requirements. Variance relief is required:** As indicated in the preceding table, §16-4.12d identifies area and yard requirements for lots containing one permitted use. Variance relief is required for the minimum distance between accessory structures and other buildings.
- 3.7. **Accessory Structure Distance to Other Building: Infant Play Equipment. Variance relief is required.** Per §16-4.12d, accessory structures are required to be at least 20 feet from other buildings on the lot. The proposed infant play equipment is located 13.2 feet from the principal building. **A variance is required.**
- 3.8. **Accessory Structure Distance to Other Building. Play Equipment 1: Variance relief is required.** Per §16-4.12d, accessory structures are required to be at least 20 feet from other buildings on the lot. The proposed play equipment 1 is located 15 feet from the principal building. **A variance is required.**
- 3.9. **Accessory Structure Distance to Other Building. Play Equipment 2: Variance relief is required.** Per §16-4.12d, accessory structures are required to be at least 20 feet from other buildings on the lot. The proposed play equipment 2 is located 11 feet and nine (9) inches from the principal building. **A variance is required.**
- 3.10. **Accessory Structure Distance to Other Building. Basketball Court: Variance relief is required.** Per §16-4.12d, accessory structures are required to be at least 20 feet from other buildings on the lot. The proposed play equipment 2 is located 9.5 feet from the principal building. **A variance is required.**
- 3.11. **Accessory Structure Front Yard Setback. Hot Box: Variance relief is required.** Per §16-4.12d, accessory structures on corner lots are required to have the same setback to a side street as the principal building. In this case the requirement is 50 feet. The proposed hotbox has a setback to CR 518 of 25 feet. **A variance is required.**

4. General Requirements for the HC District

- 4.1. **Outdoor Equipment: Variance relief may be required.** Pursuant to §16-4.12f.2, no merchandise, products, equipment or similar material and objects shall be displayed or stored outside. The play equipment appears to fall in this category, all of which is stored outside. As discussed in 3.4, this is determined by whether the proposed play equipment is fastened to the ground. If it is fastened to the ground, it is a structure, and variances are required for the setback/distance to building, but not of storing equipment outdoors. **A variance may be required.**

November 30, 2023 | Page 7 of 26



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

- 4.2. Planting Requirement:** Pursuant to §16-4.12f.3, all portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition. In any case, no less than 45% of the area of any lot or tract shall be so landscaped, and the landscaped area may include approved detention and/or retention basin. The planting plan provided indicates proposed plantings and “lawn area(s)” are labeled in three (3) areas on the plan. Note 16B on sheet 4 of the plan indicates that 60.9% of the site will be so landscaped. The plan complies.
- 4.3. Parking Areas in Side and Rear Yards:** The plan complies. Per §16-4.12f.4, structures such as parking areas, loading areas, driveways or other structures in side and rear yards that share a common property line with a residential zoning district are not permitted. The property contains two front yards and one rear yard. The rear yard borders the Mixed-Use Overlay Zone, not a residential district. The portion of the parking area in the rear yard is compliant.
- 4.4. Parking and Loading Areas, Driveway and other Structure Distance:** The plan complies. Per §16-4.12f.5, within the HC zone, no parking area, loading area, driveway, or other structure (except for approved access ways, signs and fencing) shall be permitted within the first 25 feet adjacent to any street line nor within the first 15 feet adjacent to any other property line. The plan complies.
- 4.4.i. Lawn Area Within Buffer.** The plan complies. Per §16-4.12f.5 (the same regulation indicated in the preceding comment), the required distance between structures and the street line and adjacent property lines shall be planted and maintained with lawn or ground cover and trees and shrubbery as approved by the Board. The space between the parking area(s) and street contains lawn and plantings. The plan complies.

5. Off-Street Parking, Circulation and Trash Removal

- 5.1. Off-Street Parking for Child Care Center:** The plan complies. Pursuant to §16-4.12g.5, *child care centers shall provide parking at the ratio of one parking space per employee plus one additional parking space for every eight children.* The plan indicates that the child care center will employ 25 individuals and at maximum contain 155 children/students. This equates to a required 25 parking spaces for the employees and 20 for the students ($155/8 = 19.4$), or a total of 45 spaces. 53 are proposed (49 spaces + two EVSE space which count as four spaces towards the requirement). The plan complies.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

- 5.2. **Off-Street Loading Area for Children Attending the Child Care Center:** The plan complies. Pursuant to §16-4.12g.5, *adequate area shall be provided for the loading and unloading of children, which shall take place on site and not in the public right-of-way.* The image below (the red rectangle was included by this office) indicates a 9-foot wide and 99-foot long loading area which is indicated as the loading area for child drop off. The plan complies.
- 5.3. **Off-Street Loading – General: Variance relief is required.** Per 16-4.12h.1, any building or group of buildings within the HC zone is required to have one (1) loading space at the side, rear or within the proposed building. The applicant has not proposed a loading area, though they have requested a variance from the requirement. The applicant should discuss loading and testify as to the number and type of deliveries expected to the site, as well as any large vehicle pickup and drop-off of students. **A variance is required.**
- 5.4. **EV Parking Requirement:** The plan complies. Pursuant to §16-5.21.d2(a), applications involving a parking lot with 50 or fewer spaces not covered in the previous subsection (childcare facilities are not covered in the previous subsection) require the preparation as “make-ready” parking spaces at least one of the required off-street parking spaces. EVSE spaces are permitted in lieu of “make-ready” spaces. The applicant is proposing two EVSE spaces. The plan complies.
- 5.5. **Pedestrian Circulation:** Pedestrian circulation is proposed within the site. A six-foot wide sidewalk is proposed in front of the child care center and around the north and east sides of the parking lot. A barrier free ramp is also proposed at the western pedestrian entrance to the site which circles around three concrete steps.
- 5.6. **Sidewalk Design for Nonresidential Uses:** Pursuant to §16-5.14c.1(c), sidewalks within all nonresidential development shall be provided on-site for safe pedestrian movement between parking areas and entrances to the principal building(s) and between the principal building(s) and any existing, required or proposed sidewalk along a street. Sidewalks connect much of the site. The largest sidewalk is in an oval shape and connects frontages along Brecknell Way and CR 518 and wraps into the site, connecting in the deepest portion of the front yard setback. **The applicant should connect the southern portion of the parking area to the northern portion utilizing high visibility pedestrian striping. Additional pedestrian infrastructure may be required by the Board to meet this requirement.**



- 5.7. **Barrier-Free Ramp:** The barrier free ramp has been removed. The plan now contains one path leading from Brecknell Way on the west to the main entrance of the school that is universally acceptable.
- 5.8. **Sidewalks:** The plan complies. §16-5.14C.1(d) requires “sidewalks shall be provided along all existing streets upon which all residential and nonresidential development abuts, unless specifically waived in certain locations by the reviewing municipal agency based upon good cause shown by the applicant” A sidewalk does not currently exist along the frontage of the property on Georgetown-Franklin Turnpike. Sidewalks are proposed by the applicant on all sides of the development adjacent to a street line. The plan complies.
- 5.9. **Curbing:** The plan complies. Pursuant to §16-5.8.3, all paved parking and loading areas and access drives shall be curbed. All paved parking and loading areas contain curbing. The plan complies.
- 5.10. **Parking Lot Wayfinding:** Pursuant to §16-5.8.4, all off-street parking lots shall have adequate designations to indicate traffic flow and parking spaces. The parking area contains arrows indicating the appropriate driving direction, signage indicating barrier free spaces and EVSE spaces. The driveway exit contains a stop sign. **The plan appears to comply, though this office defers to the Board’s traffic expert as to whether the wayfinding is sufficient.**
- 5.11. **Bicycle Rack:** A bicycle rack is indicated to the west of the building. No detail of the rack is provided. A detail should be provided, and it is recommended that the bicycle rack contain covering for inclement weather.
- 5.12. **Trash Pickup:** The plan complies. Pursuant to §16-4.12h.2, there shall be at least one trash and garbage pick-up location within convenient access to the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Somerset County. One trash and garbage pick-up location is proposed on the plan in the southeast corner of the parking area. The applicant also indicates in note 14.A of their plan on Sheet 4 that the collection of recyclable materials is in accordance with the recycling requirements of the County.
- 5.12.1. **Trash Enclosure Requirement:** Pursuant to §16-4.12h.2(c), trash and garbage located outside of a building requires a steel-like, enclosed trash and garbage contained located in a manner obscured from view by a fence, wall, planting or combination of all three.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

- The plan indicates in note 15.C that the trash enclosure is made of steel or similar material. The detail on sheet 14 indicates that the enclosure is a masonry wall with a chain link gate, which is acceptable.
- A planting screen is proposed around the trash disposal area. This office defers to the Board Landscape Architect in determining the efficacy of the selected plantings.
- A 10-foot trash enclosure is proposed around the trash receptacle which serves as an effective screen from all directions, and the plan indicates that the enclosure contains a chain link gate with vinyl slates to block the front from view.

6. Fencing and Walls

- 6.1. **Childcare Center Fence:** The plan indicates a fence around the childcare center. Per the detail provided (shown to the right), the fence is a vinyl board-on-board fence with child safety locks. No fence color is indicated.
- 6.2. **Childcare Center Fence Height:** Per §16-5.3b, fences shall not be erected that are higher than four (4) feet. The childcare center fence, which wraps around the entire building, is four (4) feet in height. The plan complies.
- 6.3. **Retaining Wall Height: *Variance relief is required.*** Per §16-5.3b, walls shall not be erected that are higher than four (4) feet. The retaining wall proposed behind the childcare center is approximately 11 feet tall at its highest point. The wall is one large structure, which runs most of the length of the eastern portion of the site and wraps around the proposed basin. As such, while the wall is nonconforming at several points, relief should be required for its highest point, which is 11 feet. **A variance is required.**
- 6.4. **Screening Wall in Front Yard. The plan complies. The applicant is proposing a three-foot tall wall in the front yard along County Route 518. It is 53 feet and five inches wide and two feet deep. A detail of the wall has not been included with the plan submission. The wall appears to be an ad-hoc addition to the plan in response to our recommendation to screen the parking area. The wall should be a complete enclosure that is architecturally integrated with the site. The berm, as an alternative, may be suitable for screening without the wall, and it is**



recommended that only the berm be developed, or that the wall be more comprehensively designed such that it appears to be developed in concert with the rest of the site.

7. Lighting

- 7.1. **Proposed Lighting:** The plan indicates 11 proposed lights, all of which are pole mounted at 16 feet. Nine of the light fixtures contain a single light, while the two located on the parking lot island in the center of the parking area contain two lights, one on either side.
- 7.2. **Correction to Light Label:** The lighting luminaire schedule indicates that the lights are wall mounted. This should be corrected to indicate that they are pole mounted.
- 7.3. **Lighting of Parking and Walking Areas:** *Additional information is required.* Pursuant to §16-5.4b.1, all parking areas and walkways shall be adequately illuminated for security and safety. The Ordinance does not specify standards as to what constitutes safe and secure. It is recommended that the applicant testify as to the adequacy of the proposed lighting as related to security and safety onsite. A comparison to relevant industry standards such as Illuminating Engineering Society (IES) may be beneficial to the Board.
- 7.4. **Lighting Height of Pole Mounted Lights:** The plan complies. Pursuant to §16-5.4b.2(a), lighting fixtures are not to exceed 20-feet or the height of the closest major building, whichever is less. The proposed lights are 16 feet in height. The plan complies.
- 7.5. **Required Lighting Specifications:** *Additional information is required.* Pursuant to §16-5.4b.2(b), lighting fixtures are to include non-glare lights with recessed lenses focused downward and with cut-off shields as appropriate in order to mitigate against adverse impacts upon adjacent and nearby properties, the safety of traffic along adjacent roadways and overhead skyglow. Sheet 15 of the plan includes a manufacturer's cut sheet of "Streetworks Epic Medium LED" fixtures. These lights are downward focused and contain recessed lighting. **The applicant should provide testimony as to any possible glare associated with the proposed lighting.**
- 7.6. **Site Lighting at Ground Level:** The plan complies. Pursuant to §16-5.4b.2(c), light intensity at ground level shall average a minimum of 0.3 footcandles, though not



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

more than 1.0 footcandle. The statistical area summary provided on Sheet 9 indicates an average of 1.0 footcandles for the pavement area. The plan complies.

- 7.7. **Site Lighting at Ground Level - Intersections:** The plan complies. Pursuant to §16-5.4b.2(c), light intensity at intersections shall average a minimum of 0.5 footcandles, though not more than 1.0 footcandle. The statistical area summary provided on Sheet 9 indicates an average of 1.0 footcandles for the intersections. The plan complies.
- 7.8. **Circuit Timers:** *Additional information is required.* Pursuant to §16-5.4b.2(d), excepting any lighting determined by the Planning Board to be necessary and/or advisable for security purposes, all other lighting is to be controlled by circuit timers so that the lights are automatically turned off after business hours. The plan indicates that the all site lighting will be tuned off after business hours. **The applicant should testify as to what is meant by business hours, and if the lights will be automatically turned off with circuit timers.**

8. Landscape Design & Plantings

This office defers to the Board Landscape Architect regarding the planting selection. This review only relates to quantifiable standards found within the ordinance.

- 8.1. **Trees:** The plan complies. Per §16-5.6d.3, a minimum of 14 trees per acre of gross tract shall be planted throughout the tract in the case of nonresidential or multifamily development. At 2.046 acres, the plan requires 29 trees. 183 trees are proposed. The plan complies.
- 8.2. **Street Trees:** The plan complies. §16-5.6d.15 requires street trees at 50 foot intervals. With 834 feet of total frontage, the applicant is required to have 17 street trees ($834 / 50 = 16.68$ trees). The applicant is proposing more than 16 trees along the property frontage. The plan complies.

9. Natural Features

- 9.1. **Preservation of Natural Features:** Per §16-5.6a, natural features such as trees, hilltops and views, natural terrain, open waters, riparian areas, critical areas and natural drainage ridge lines shall be preserved to the maximum extent reasonably possible in designing any development containing such features. The



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

development of the site will result in the removal of trees and the grading of land and natural terrain. **The applicant should testify as to the extent of disturbance and as to whether a less disruptive alternative means of development is possible. Specific attention should be paid to the especially large trees located on the property and identified in the survey. These include one tree with a 42-inch diameter at breast height (DBH), one tree with a 40-inch DBH, two trees with a 38-inch DBH and one tree with a 36-inch DBH. This office notes that the plan has been revised to preserve three additional trees, one of which has a DBH of 36 inches.**

- 9.2. **Topsoil Removal:** Per §16-5.6b, no top soil shall be removed from areas intended for lawn and open space. Top soil moved during the course of construction shall be redistributed on the lot so as to provide at least four inches of cover to all areas, which cover shall be stabilized by approved seeding and/or planting. **The applicant should testify as whether soil will be removed from the site. This office defers to the Board Engineer as to whether the soil erosion and sediment control plan is sufficient.**
- 9.3. **Off-Site Soil removal:** Per §16-5.6b, no soil shall be removed from or be imported to any site in excess of 20 cubic yards per year without the prior approval of the Planning Board. For this purpose, a plan shall be submitted showing how the soil is to be distributed and stabilized including grading contours. If the soil is to be imported, a plan shall be submitted describing methodology and frequency of testing the soil to ensure its safe quality. Finally, the plan shall describe the size and number of vehicles that are proposed for hauling the removed or imported soil together with the hauling route. **The applicant should testify as whether soil will be removed from the site. This office defers to the Board Engineer as to whether the soil erosion and sediment control plan is sufficient.**
- 9.4. **Stormwater Requirements.** This office defers to the Board Engineer as to whether the applicant is subject to the latest New Jersey Department of Environmental Protection (NJDEP) stormwater regulations, and generally, if the applicant meets the stormwater requirements that the property is subject to.

10. Steep Slopes

- 10.1. **Steep Slopes: *Variance relief is required.*** The applicant is proposing to disturb steep slopes. An analysis provided by the applicant indicates that steep slopes between 15% and 19.99%, 20% and 24.99% and greater than 25% are found on



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

the property. All of the steep slopes found on the property will be disturbed by the proposed development. §16-6.4e.1 states that steep slopes shall not be disturbed *except as follows in specific situations where it is determined by the Board that soil erosion, land disturbance and other environmental concerns have been adequately addressed by the developer. An isolated area or a narrow band of steep slopes may be disturbed on a lot for good cause shown by the developer, when approved by the Board. . Variance relief is required. Testimony should be provided as to what purpose the disturbance of steep slopes serves to the overall project.*

10.2. Performance Standards for Granting Steep Slope Variance: §16-6.4e.3(a)-(g) contains guidelines that should be considered by the Board in considering a variance for disturbance of steep slopes. These are included below for the Board's benefit. **The applicant should testify to these guidelines:**

- 10.2.1. *The developer shall demonstrate that the disturbance of the critical steep slope area is necessary for the proposed development of the subject tract, indicating that such development can be in accordance with Sections 16-4 and 16-6 of this chapter.*
- 10.2.2. *The developer shall demonstrate that the proposed development has utilized the noncritical areas of the tract as reasonably practicable and has attempted to minimize the disturbance of the critical steep slope areas by limiting development to either isolated area(s) of steep slopes and/or those slopes with less of a steep grade prior to the disturbance of more environmentally sensitive critical areas.*
- 10.2.3. *Appropriate revegetation and landscaping of the disturbed steep slope areas shall be provided to adequately stabilize the slopes and enhance the attractiveness of the site, if necessary, and shall be in accordance with accepted soil conservation and stormwater management techniques as promulgated by the Soil Conservation District and the Township Engineer.*
- 10.2.4. *The provisions of Subsection 16-5.2 shall be adequately addressed to the satisfaction of the Board and specifically the provisions of Subsection 16-5.2s of this chapter.*
- 10.2.5. *The proposed disturbance of the steep slope area should minimize the impairment of the visual quality of the site. Moreover, the higher elevations along ridge and mountain tops which present visual amenities should be protected, where possible.*



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

10.2.6. *The environmental impacts shall be satisfactorily controlled by the development proposal in a manner acceptable to the Township Engineer so that soil erosion, excess stormwater, runoff, degradation of water quality, concentration of stormwater and water flow, and flooding do not occur.*

10.2.7. *The developer also shall demonstrate that:*

10.2.7.1. *Unless an EIS is otherwise required, endangered or threatened plants and wildlife shall not be harmed;*

10.2.7.2. *The geologic disturbance, including blasting, cutting or excavating, resulting from the development of any critical steep slope area shall be satisfactorily mitigated; and*

10.2.7.3. *The cost of providing and maintaining public facilities and services to those areas where critical steep slopes may be disturbed shall not be substantially increased as a result of such disturbance.*

11. Architecture

11.1. Solar Access: Per §16-5.5e, all lots and/or buildings on lots shall be oriented for solar energy access where possible and desirable. The childcare is south facing, however, the childcare facility roof as described may not be ideal for solar energy access. **The applicant should testify as to whether the roof can be used for solar energy access, though this office notes that ordinance states “where possible and desirable”, which is a determination that is made by the Board.**

11.2. Architectural and Building Standards in the HC District: §16-4.12e contains requirements for all buildings and sites within the HC district.

11.3. Description of Proposed Childcare Facility: As indicated in the preceding image, the overall building design contains a pseudo-traditional colonial style. The building contains a hipped-pyramid roof, six over six detailed paned windows, a faux brick façade at the base and center of building, and double doors beneath a decorative entryway. The entranceway contains a more elaborate, arched window, and a triangular pediment. Columns support the overhang which resides over the front double doors.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

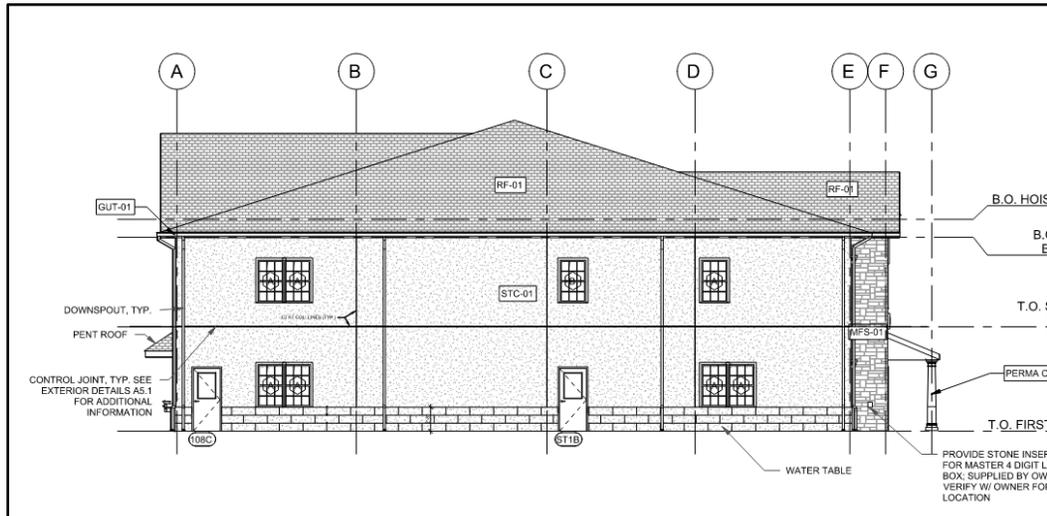


- 11.4. Building Exteriors:** The plan complies. §16-4.12e.1(a) requires that building exteriors in the HC District including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials. This does not apply as there is only one building proposed on site (the accessory structures are not buildings).
- 11.5. Pedestrian Scale:** §16-4.12e.1(b) requires that architectural details, style, color, proportion and massing shall create a pedestrian scale development. The front entrance of the childcare facility front entrance is of a pedestrian scale, as are the heights of the habitable stories of the building. The size and proportions of the windows and the doors are at a pedestrian scale. The canopy overhang is pedestrian friendly as it provides protection from the elements.
- 11.6. Building Entrances:** The plan complies. §16-4.12e.4(a) requires that all entrances to a building shall be articulated utilizing architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, or overhangs. Such elements shall be architecturally compatible with the overall building. As indicated in 10.3, the design of the childcare facility does comply. As indicated in 10.3, the design of the childcare facility does comply.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz



- 11.7. **Visual Breaks: Variance relief is required.** §16-4.12e.5(a) requires that building exteriors shall have vertical and/or horizontal offsets to create visual breaks along each facade. Long, monotonous, uninterrupted walls are not permitted. The front and rear façade of the childcare building contain visual breaks, the sides, as indicated in the preceding image, do not. **Variance relief is required.**
- 11.8. **Wall Offsets: Additional information is required.** §16-4.12e.5(b) requires that to the extent appropriate to the architectural design, building wall offsets, including projections such as balconies and canopies, recesses, and changes in floor levels shall be used to add architectural interest and variety and to mitigate the visual appearance of a simple, long wall. Building wall offsets are found on the front and rear facades, including a canopy in the front and protruding fascia in the rear. **While the sides do not include such offsets, the requirement states “to the extent appropriate”, as such the applicant should testify as to whether such offsets on the side wall are appropriate.**
- 11.9. **Buildings Facing More Than One Street: Variance relief is required.** §16-4.12e.5(c) requires that buildings with more than one street frontage shall be designed to have a front facade facing each frontage, and where a building faces a driveway, the building also shall have a front facade facing the driveway. The childcare facility is on a corner lot and faces two (2) street frontages. Only one (1) front façade facing County Road 518 is proposed. **Variance relief is required.**



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

- II.10. Façade Consistency: *Additional information is required.*** §16-4.12e.5(d) requires that the architectural treatment of the front facade(s) shall be continued in its major features around all visibly exposed sides of a building. The windows are similar on all four (4) sides of the building, however, the brick veneer along the bottom of the building appears to be slightly different in the front than on the other three (3) sides of the building. **The applicant should testify as to whether there is an architectural reasoning behind this design.**
- II.11. Building Side Consistency:** The plan complies. §16-4.12e.5(e) requires that all sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details. The front of the childcare building is the most elaborate, however, the other three (3) sides are architecturally compatible in that they all indicate a neocolonial style. The plan complies.
- II.12. Natural materials: *Additional testimony is required.*** §16-4.12e.5(f) states that materials such as wood and masonry are recommended. High quality man-made materials also are permitted. Stucco may be used only as an accent in limited areas. **The applicant should testify as to the choice of materials used to construct the building. This office notes that stucco is indicated on the exterior wall detail on sheet 3 of the architectural plans of the childcare facility.**
- II.13. Façade Features:** The plan complies. §16-4.12e.5(g) requires that dormers, gables, windows and other similar design features shall be provided across a building facade. Dormers, windows and other similar design features are provided along the front and rear building façade. Windows are proposed on the sides of the building.
- II.14. Roofline Compatibility: *Additional testimony is required.*** §16-4.12e.6(a) requires that the design of all buildings within a development shall include rooflines that are architecturally compatible or in context with existing buildings in the vicinity of the subject building. Within this context, rooflines that mix flat and pitched components are encouraged. **The applicant should provide testimony as to the architectural compatibility of the proposed childcare facility roof.**
- II.15. Pitched Roof: *Additional testimony is required.*** §16-4.12e.6(b) requires that pitched roofs shall have a minimum five to twelve-foot pitch, are required except where otherwise approved by the Planning Board or Zoning Board. Both gable and hipped roofs shall provide overhanging eaves that extend a minimum of one foot beyond the building wall along all sides of the building. The roof of the



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

childcare facility has an 8 to 12 pitch, which conforms. The eaves also extend about 18 inches off of the roof on all sides.

- 11.16. Window Proportion:** The plan complies. §16-4.12e.7(a) requires that windows be appropriately proportioned to the building. The proportion of the windows is appropriate. The plan complies.
- 11.17. Outdoor Furniture Consistency:** *Additional information is required.* Per §16-4.12e.8(a), all lighting, benches, trash receptacles and signage shall be designed to be compatible with the architecture of the building(s). No details have been provided for the play equipment. **This information should be provided in addition to the lighting details, signage and fencing information that has been submitted so that consistency can be determined.**
- 11.18. Mechanical Building Screening:** The plan complies. Per §16-4.12e.8(b), mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s). The mechanicals in the childcare facility are proposed within the building in the attic.
- 11.19. Consistency of Pavement Material:** *Additional information is required.* Per §16-4.12e.8(c), the materials used for all internal sidewalks and pathways connecting buildings, parking areas and public areas to sidewalks along the street(s) and to the Township's pathway network shall be chosen to enhance the architecture of the building(s) and the attractiveness of the site development. **The applicant should testify as to how the proposed pavement material for sidewalks and pathways is consistent with the overall building design.**

12. Signs

- 12.1. Proposed Signs:** One (freestanding sign is proposed at the western entrance to the site from Brecknell Way. One building mounted signs is proposed on the childcare facility above the main entrance on the south side. Additional signs include directional signs, signs relating to parking and signs relating to EVSE spaces.
- 12.2. Attached Sign:** The plan complies. Pursuant to §16-4.12i(a), a principal first floor use in a building with direct access from the outside shall be permitted a sign attached flat against the building. The size of each such attached sign shall not



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

exceed 1/2 square foot of sign area per one linear foot of building facade fronting on a street and occupied by the individual use, but in no case shall the size of the sign exceed 50 square feet in area. The proposed sign is 24.94 sf. The length of the building façade is 73 ft., half of which is 36.5, permitting 36.5 sf. of attached sign area. The plan complies.

- 12.3. Attached Building Sign Height:** The plan complies. Pursuant to §16-5.13d.4, no attached sign shall be higher than 20 feet, measured to the top of the sign from the grade beneath the sign, except that no sign shall exceed any lesser height specifically set forth elsewhere in the subsection. The top of the sign is 12 feet and 10 inches above grade. The plan complies.
- 12.4. Freestanding Sign Area.** The plan complies. Pursuant to §16-4.12i(a), freestanding signs shall not exceed 75 square feet in area or 5% of the front façade of the principal building. The proposed sign is ±23 sf., considerably less than 5% of the front façade (±74.5 sf) or 75 sf. The plan complies.
- 12.5. Freestanding Sign Height.** The plan complies. Pursuant to §16-4.12i(a), freestanding signs shall not exceed eight feet in height. The proposed freestanding sign is six feet above grade, which complies.
- 12.6. Freestanding Sign Setback.** The plan complies. Pursuant to §16-4.12i(a), signs less than 35 sf. shall be setback at least 10 feet from any street right-of-way. The proposed freestanding sign is 10 feet from the right of way on the western side of the property to the south of the driveway entrance. The plan complies.
- 12.7. Area of Logo:** The plan complies. Pursuant §16-5.13d.11, no more than 25% of the sign area of any permitted sign shall include a logo, symbol, design, and/or picture; the remainder of the sign area shall contain words, numbers and/or background area only. The proposed sign is 23 sf., while the “Malvern School” logo is approximately 4.3 sf, which is less than 25% of the total area. The plan complies.

13. Miscellaneous

- 13.1. Development Fee for Affordable Housing: *Condition of Approval.*** The applicant is required to comply with the nonresidential development fee ordinance consistent with §15-24.



14. Consideration of the “C” Variances

14.1. While this office defers to the Board attorney in advising the Board on the application of relevant variance criteria; this report identifies the variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variance.

14.2. **Positive Criteria:** The applicant bears the burden of proof (which is divided into two parts – positive criteria and negative criteria) in the justification of the “c” variance. To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

14.3. Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

14.3.1.1. Where in an application or appeal relating to a specific piece of property the purposes of the Act (N.J.A.C. 40:55D-2) would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

14.4. **Negative Criteria:** Should the applicant satisfy the positive criteria, it must also be demonstrated that the granting of the variance can be accomplished without resulting in substantial detriment to the public and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan.

- Negative Criteria: Impact to the public health, safety and welfare. Impact to the public, typically relates to any substantial detriment to the



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

adjoining neighbors or within the surrounding neighborhood. Substantial detriments are usually nuisance related such as noise, dust, trash, parking, traffic, visual distraction, light, runoff, vegetation removal and aesthetics that cannot be adequately mitigated. The applicant should address any impacts to the character of the neighborhood resulting from the proposed position of the swimming pool and related structures.

- Negative Criteria: Impact to the zone plan. The applicant must show that the relief can be granted without substantially impairing the zone plan and zoning ordinance. In evaluating the negative criteria as it relates to the zoning ordinance and zone plan, the Board should consider the manner in which this application could impact the overall fulfillment of the AR zone.

The applicant should provide testimony in support of the variance and be prepared to discuss any potential negative impacts on neighboring properties and the zone plan.

15. Materials Reviewed

- 15.1. *Montgomery Planning Board Application*, dated August 23, 2023.
- 15.2. *Preliminary and Final Major Site Plan for Malvern School Properties LP Proposed Day School*, 24 sheets, prepared by Jeffrey Haberman, PE and Jacquelyn Giordano, PE, Dynamic Engineering, dated August 17, 2023, revised to September 19, 2023.
- 15.3. *Traffic & Parking Assessment*, prepared by Nick Verderese, PE and Kevin Savage, PE, PTOE, Dynamic Traffic, dated August 25, 2023.
- 15.4. *Stormwater Management Operation and Maintenance Manual for Malvern School Properties, LP*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated April, 2023.
- 15.5. *Stormwater Management, Groundwater Recharge and Water Quality Analysis for Malvern School Properties, LP*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated April, 2023. Revised to August 2023.



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

- 15.6. *Water and Sanitary Sewer Engineer's Report for Malvern School Properties, LP*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated April, 2023.
- 15.7. *Environmental Impact Statement for The Malvern School Properties*, prepared by Jeffrey Haberman, PE, Dynamic Engineering, dated December, 2022.
- 15.8. *The Malvern School Architectural Drawings*, 4 sheets, prepared by Raymond Klumb Architect, date states "as noted".
- 15.9. *The Malvern School Architectural Drawing Sheet A- 3.1*, a sheet, prepared by Raymond Klumb Architect, dated September 15, 2023.
- 15.10. *ALTA/NSPS Land Title Survey*, 1 sheet, prepared by Craig Black, PE, PLS, Dynamic Survey, dated August 26, 2022.

16. Applicant / Owner / Professionals

- 16.1. **Owner/Applicant:** The Malvern School Properties, LP, 20 Creek Road, Glen Mills, PA 19342.
- 16.2. **Attorney:** Frank Petrino, Esq., Princeton Pike Corporate Center, 2000 Lenox Drive, Suite 203, Lawrence, NJ. Telephone: 609.989.5029.
- 16.3. **Engineer:** Jeffrey Haberman, PE, PP, Dynamic Engineering, 1904 Main Street, Lake Como, NJ 07719. Telephone: 732.974.0198.
- 16.4. **Architect:** Ray Klumb, 571 North Frontage Road, Pearce, AZ 85628. Telephone: 520.826.5352.

17. Summary

- 17.1. The applicant is seeking a preliminary and final major site plan approval with bulk variances relating to the development of a child care center office in the HC District.

The following variances and are required (additional variances and design exceptions may be identified by other Board professionals):



MALVERN SCHOOL | PRELIMINARY AND FINAL MAJOR SITE PLAN REVIEW II

Clarke Caton Hintz

a) Variances

- §16-4.12d Infant play equipment distance to other structure
- §16-4.12d Play 1 equipment distance to other structure
- §16-4.12d Play 2 equipment distance to other structure
- §16-4.12d Basketball court distance to other structure
- §16-5.1e Accessory structure front yard setback – hot box
- ~~§16-5.1e Accessory structure front yard setback – basin~~
- §16-4.12f.2 Play equipment stored outside
- §16-4.12h.1 Required loading space
- §16-6.4e.1 Development in area with steep slopes
- §16-5.3b Trash enclosure wall height
- §16-5.3b Retaining wall height
- §16-4.12e.5(a) Visual breaks in side wall
- §16-4.12e.5(c) Building facing two streets w/ one “front”

Please contact this office with any questions you may have.

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