

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2021-13**

**ORDINANCE ACCEPTING AMENDED GRANT OF EASEMENT BY PENNINGTON AFRICAN  
CEMETERY ASSOCIATION, LOT 46 IN BLOCK 1002, TO THE BOROUGH OF PENNINGTON  
FOR ACCESS TO OPEN SPACE LOT 12.02 IN BLOCK 1002 AS WELL AS PUBLIC  
ACCESS BETWEEN SOUTH MAIN STREET AND THE  
PENNINGTON AFRICAN CEMETERY**

**WHEREAS**, John D. Schragger and Michelle L. Schragger (“Schraggers”) are the owners of property in the Borough of Pennington known as 417 South Main Street and heretofore designated on the tax records of the Borough as Lot 12 in Block 1002 (“Schragger Property”);

**WHEREAS**, the Pennington African Cemetery Association (“PACA”) is the owner of property in the Borough of Pennington designated on the tax records of the Borough of Pennington as Lot 46 in Block 1002 (“PACA Property”), which adjoins the Schragger Property in the rear and includes a 15’ wide driveway running to South Main Street along and adjoining the Schragger Property on the north;

**WHEREAS**, the Pennington Borough Planning Board has approved a subdivision of the Schragger Property, with variances, creating Lots 12.01 in Block 1002 fronting on South Main Street and Lot 12.02 in Block 1002 without frontage on the street but adjoining the PACA Property and driveway (Resolution of Memorialization of Application No. P16-002, June 8, 2016);

**WHEREAS**, the subdivision of the Schragger Property contemplated construction of a house on Lot 12.02 and approval of the subdivision by the Planning Board included conditions of approval based on that assumption;

**WHEREAS**, one such condition of approval required the Schraggers to obtain from PACA a driveway easement providing ingress and egress access from South Main Street to the proposed new Lot 12.02 as well as public access from South Main Street to the Cemetery;

**WHEREAS**, by Ordinance No. 2019-14, Borough Council accepted a grant of easement to the Borough of Pennington for Public Right-Of-Way Access between South Main Street and the Cemetery in accordance with the easement document annexed to the Ordinance entitled Driveway and Shed Easements;

**WHEREAS**, the Driveway and Shed Easements as agreed upon included the Schraggers as parties and imposed on them as the owners of the two new lots various conditions pertaining to driveway improvements and maintenance as well as the granting of an easement to PACA for construction of a parking/turnaround area and a shed at the rear of Lot 12.02 adjoining the Cemetery;

**WHEREAS**, the Driveway and Shed Easements is dated November 1, 2019 and was recorded March 3, 2020 in the Mercer County Clerk’s Office in Deed Book 6398, Page 1307;

**WHEREAS**, the Borough of Pennington now proposes to purchase as open space new Lot 12.02 in Block 1002, and the purchase is now under contract of sale between the Borough and the Schraggers, subject however to negotiation of revised driveway easement satisfactory to PACA;

**WHEREAS**, PACA, the Schraggers and the Borough have now agreed upon an Amended Driveway and Shed Easements that grants separate driveway easements to Schragger and the Borough with reference to their respective lots; relieves all parties of obligations to construct, modify or maintain the driveway or any parking/turnaround area or shed except as specifically undertaken by the Schraggers; permits but does not require the Schraggers to make certain improvements within their easement area at their expense subject to compliance with specific conditions; ensures the continuation of the historic preservation easement on Lot 12.01, the environmental easement on Lot 12.02 and the parking/turnaround area and shed easement on Lot 12.02 previously created and granted; and reserves to PACA all rights to repair, improve or maintain the full length of the driveway at its discretion and expense;

**WHEREAS**, the Pennington Planning Board has amended its subdivision approval by removing requirements for a driveway easement that assumed the construction of a house on new Lot 12.02;

**WHEREAS**, a copy of the proposed Amended Driveway and Shed Easements is attached to this Ordinance and incorporated herein;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey, as follows:

1. The attached Amended Driveway and Shed Easements granting the Borough of Pennington an easement for ingress and egress access to new Lot 12.02 in Block 1002, in addition to the public right-of-way access to the Cemetery previously granted, is hereby approved and accepted in accordance with its terms, subject only to Borough acquisition of title to new Lot 12.02.
2. The Mayor, with the attestation of the Borough Clerk, is authorized to execute the Amended Driveway and Shed Easements on behalf of the Borough and to take such steps as necessary to ensure its recording in the Office of the Mercer County Clerk in accordance with law.

**BE IT FURTHER ORDAINED** that this Ordinance shall be effective upon passage and publication as provided by law.

Introduced: September 13, 2021

Advertised: September 17, 2021

Public Hearing: \_\_\_\_\_

Adoption: \_\_\_\_\_

Advertised: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
Elizabeth Sterling, Borough Clerk

\_\_\_\_\_  
James Davy, Mayor

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**RECORD OF COUNCIL VOTE ON INTRODUCTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	S			
Gnatt	X				Mills				absent
Gross	X				Semple	X			

**RECORD OF COUNCIL VOTE ON INTRODUCTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler					Marciante				
Gnatt					Mills				
Gross					Semple				