

**PENNINGTON BOROUGH  
PLANNING BOARD MINUTES  
REGULAR MEETING  
APRIL 14, 2021**

Mr. Reilly, Chairperson, called the meeting to order at 7:30 p.m. and announced compliance with the provisions of the Open Public Meetings Act. He stated that the meeting was being held via a Zoom webinar and access to the meeting had been noticed.

**BOARD MEMBERS PRESENT:** Seung Kwak, Cara Laitusis, James Reilly, Jeanne Van Orman, Doug Schotland, Mark Blackwell, Kate O'Neill, Nick Angarone, Joe Lawver, Deb Gnatt

**BOARD PROFESSIONALS PRESENT:** Edwin W. Schmierer, Planning Board Attorney, Mason, Griffin & Pierson, John Flemming, Zoning Officer, James Kyle, Planner, KMA Associates, Brian Perry, Engineer, Van Note Harvey

**REGULAR MEETING**

**OPEN TIME FOR PUBLIC ADDRESS**

Mr. Reilly asked if there was any member of the public who had joined the meeting and had comments. There being no public comments, the time for public address was closed.

**RESOLUTION OF MEMORIALIZATION**

**Brian and Joan Markinson-Use variance to construct new residence in excess of FAR limits**

Ms. O'Neill noted to change Eglantine Drive to Eglantine Ave.

Motion to approve, with noted change, was made by Ms. O'Neill and seconded by Mr. Blackwell.

Roll Call

Angarone-Yes

Blackwell-yes

Gnatt-Yes

Laitusis-Yes

Lawver-Abstain

O'Neill –Yes

Reilly-Yes

Schotland-Yes

Kwak-Yes

Van Orman-Abstain

Motion to approve the resolution was approved with 2 abstentions.

## **APPLICATIONS**

**PB21-001 Rotondo-1 Maple Lane-Variance** continued from February 10 meeting  
Mr. Schmierer noted that all attendees are still sworn in from previous meeting. Mr. Rotondo has modified the previous proposal. His hope is that the re-design will allow him to withdraw the Zoning application due to there no longer being a need for variances. The patio has been moved to the side yard and is within setbacks and modified to be within the 25% impervious coverage standard. He will replace the Bilco doors in-kind. Mr. Flemming noted that if the application is withdrawn and there is a new change in the application which necessitates a variance, there will need to be a new application. Mr. Flemming also suggests that Mr. Rotondo discuss the clearance on the Bilco doors with the building department.  
The application has been withdrawn by the applicant. Any unused escrow funds will be refunded.

### **P21-003-Morfe, 118 E. Delaware Ave-Fence Variance**

Mr. Schmierer noted that all notices are in order and the Board has jurisdiction. Anna and Brendan Morfe were sworn in and asked for a variance for a fence with a 15 foot setback instead of a 25 foot setback. They explained the hardship exists because their lot is narrow and that a fence is necessary to protect their children and dog.

Mr. Reilly asked for comments from the public. There being no comments, the public comment period was closed.

A motion to address the variance is in order. Mr. Angarone moved to approve the variance application and this was seconded by Mr. Blackwell.

Roll Call

Angarone-Yes

Blackwell-Yes

Gnatt-Yes

Laitusis-Yes

Lawver-Yes

O'Neill-Yes

Reilly-Yes

Schotland-Yes

Kwak-Yes

Van Orman-Yes

Motion to approve the variance was adopted unanimously.

**Appeal-Lerner, 11 Brookside Ave, Block 24 Lots 15 and 16**, Appeal of Zoning Officer Decision that two tax lots should be merged.

Mr. Hall, attorney for the applicant, and Mr. Sigmund Lerner, the applicant, were sworn in. Mr. Hall described that the property in question is 2 tax lots, #15 and # 16. The applicant is the contract purchaser of lot 16 and wishes to convert the barn on lot 16 into a single family residence. The Zoning officer has decided that these lots should be merged into 1 lot and this is an appeal of that decision. Mr. Lerner explained that he and his partner want to move to Pennington and feel that this barn has a special quality in

which they see a lot of potential. Their plans involve preserving as much of the existing structure as possible while converting it to a 2 bedroom home. Mr. Lerner showed Exhibit A-1 and A-2 which are before and after renderings of the front and rear of the barn. Mr. Lerner appreciates the quaint quality of the neighborhood and has noted many undersized lots in the immediate area. Therefore, he believes that lot 16 will not be out of character for the area. At purchase, both the seller and the purchaser were under the impression that a sub-division was not necessary. Upon consultation, Mr. Flemming would not certify the subdivision and let them know that an application for a sub-division was necessary. In a discussion with Mr. Lerner, Mr. Flemming described this lot situation as unique but not necessarily precedent setting.

A memo from Mr. Schmierer, shared by Mr. Hall, noted factors that would help to prove that these are 2 separate lots. Mr. Hall noted that these lots have been treated as 2 separate lots for years. Many factors help to support that these are 2 lots, including; separate driveways, separate tax bills and tax assessments, separate notations on the tax map, prior ownership by 2 different owners, and a note in the file that the lots will not be merged unless done so by the owner. All of these factors convincingly show that lot #16 is a separate lot from #15.

Mr. Flemming asked if there were a mortgage on the property that treats it as 2 properties. He notes that the barn on lot 16 was used as an accessory structure to the home on lot 15. Despite the fact that there are 2 driveways and there have been separate lots, it has been treated essentially as one property with an accessory structure on a separate lot. The mortgage was not in evidence.

Ms. Van Orman commented that she has looked at the property and believes that maintaining these as 2 separate lots is in character with the neighborhood. She also notes that the barn is an extraordinary structure and the community as a whole will benefit from keeping it intact. Mr. Schotland asked if expansion will be necessary and the applicant replied that the plan is to keep the footprint the same.

Mr. Reilly asked for comments from the public.

Ms. Kate O'Neill, as a member of the public, asked if the site would require variances for back and side yard permits. Mr. Schmierer confirmed that, in this situation, no variances would be needed if the Board decides that these are pre-existing separate lots. As long as the modifications to the exterior do not create any additional non-conformity no variances would be needed, not even for change of use, because there is no proof that the barn was solely used as an accessory structure.

As a member of the public, Mr. Blackwell asked which driveway was used for primary access to the house and noted that if it were the driveway located on lot #16 then this use would support the idea that these are merged lots.

There being no other public comment, the public comments period was closed.

Mr. Angarone asked about the 6 items listed in Mr. Schmierer's memo. Mr. Schmierer noted that these are 6 examples of things for the Board to consider. He believes that there is no clear or obvious answer to this question. Mr. Angarone, Ms. Laitusis, Ms. Gnatt, Mr. Schotland, and Mr. Kwak are inclined to grant the appeal and consider these as 2 separate lots. Mr. Kwak notes that there cannot be windows on the side that is closest to the property line.

Mr. Kyle noted that the Zoning Board has jurisdiction as it involves an appeal of the Zoning officer's decision. For the record; O'Neill, Blackwell and Van Orman are not eligible to vote.

Ms. Gnatt moved to grant the appeal and Mr. Angarone seconded the motion.

Roll Call

Angarone-Yes

Blackwell-N/A

Gnatt-Yes

Laitusis-Yes

Lawver-Yes

O'Neill-N/A

Reilly-Yes

Schotland-Yes

Kwak-Yes

Van Orman-N/A

The appeal is granted with all eligible voters in favor.

**P21-004- Lun-205 South Main Street- Variance to construct a detached garage**

Mr. Schmierer noted that all notices are in order and the Board has jurisdiction.

Matthew Lun was sworn in. Mr. Lun explained the design of the garage and indicated that the design is 1296 square feet including a shed storage area. He is requesting a variance for both size and height of garage. The design of the proposed structure is in the style of the neighborhood and other considered designs, which would meet the size restrictions, would not be in the style of the area.

Mr. Reilly asked about the large size of the space. Mr. Lun described that the shed would be for storage of lawn supplies and the upstairs would be used for DIY projects such as home improvement and wood working. Ms. O'Neill noted that the drawing noted a future powder room. Mr. Lun explained that they do not plan on adding the bath at this time but that they wanted the option for the future. Mr. Flemming explained that a ½ bath is acceptable in an accessory structure but a problem arises when the bathroom includes a shower because then the accessory building could be used as living space. Ms. Laitusis asked about drainage and Mr. Lun indicated that the flow would be to the center of the property and there are no current drainage issues.

Ms. O'Neill asked about the proposed lighting on the garage. Mr. Lun has planned for the lights in the area to be pretty far from the neighbor's home. Mr. Lun does not believe that the garage will have a negative impact on the neighbor's enjoyment of their property. Currently a privacy fence exists on both sides of the property. Mr. Lun notes that they plan on keeping the current shed for the immediate future. He reports that some small trees will be removed but not mature trees.

Jim Kyle's April 12 memo notes that this application requests 2 variances. The current plan is 72% bigger than permitted for an accessory structure and the height is 2 feet over the current allowable height. The property does comply with all other setbacks, etc. The main consideration for the Board in considering the 2 variances is the size of the proposed structure, especially how the size of this structure relates to the size of neighboring structures.

Mr. Flemming notes that the lot in question is 2.5 times larger than the other lots in this zone.

Brian Perry noted in his letter that from an engineering perspective there is an increase in impermeable surface area and that erosion control or a stormwater run-off plan would be necessary. He has also asked for a topography map to verify which direction the water flows.

Mr. Reilly noted that there are some deficiencies in the application that will need to be remedied pending any approval.

Mr. Reilly opened the meeting to public comment.

Mike Prophet, 211 S. Main Street, was sworn in. His concerns, given the size of the garage, involve the houses to the right that will have significant sight line impairment. There are also run-off concerns in the neighborhood that he feels should be addressed. Mr. Reilly noted that a structure of up to 20 feet in height which was not as aesthetically pleasing, could be built without a variance.

Gary Driscoll, 7 King's Court, has been sworn in. His home is located behind the proposed structure. Mr. Driscoll is concerned about the size of the structure, the sight line impairment, water drainage issues from that general area and possible noise from construction.

Mr. Kyle mentioned that benefits to the community rather than to the applicant should be weighted more heavily. The Board needs to look at whether the increased size is detrimental to the neighbors and neighborhood or if the design aesthetic of a larger space is beneficial to the neighborhood.

Board members noted the issue that the volume of the garage seems much larger than what it has to be and is larger than many homes in Pennington. Mr. Blackwell argued that the garage ordinance is too restrictive and the plan as proposed is a positive addition to the neighborhood. Mr. Flemming advised Mr. Lun that he has the ability to table the application and present a revised plan that may be more in line with suggestions heard today. If the application goes to vote, and the vote is against the plan, Mr. Lun will not have to opportunity to present the same plan.

Mr. Lun requested to table the application to the May meeting.

A motion to table this application to May 12 was made by Mr. Blackwell and seconded by Ms. Laitusis. All were in favor via voice vote.

### **Zoning Officer Report**

Mr. Flemming reported that there is interest in the space formally occupied by Sourland Coffee. Mr. Flemming is inclined to approve this as a lateral use in order to get the tenant in ASAP. A music teacher at a S. Main St. location wants to conduct lessons in the town center zone and Mr. Flemming is inclined to approve because it conforms to the goal/intent of the Master Plan of the town center. Ms. O'Neil moves that the Board affirms Mr. Flemming's judgement and he can rule on these issues. Mr. Blackwell seconded the motion and all agreed via voice vote.

### **New Business**

Ms. O'Neill noted that the woods on Green Street behind Mr. Blackwell's property are being worked on by the Pennington School, possibly as an open air classroom/walking path.

No other new business

Pennington Borough Planning Board Minutes – April 14, 2021  
Regular Meeting

**Minutes**

A motion to approve the February 10, 2021 minutes as written was made by Ms. O'Neill and was seconded by Mr. Angarone. All were in favor via voice vote.

Motion to adjourn was moved by Ms. Gnatt and seconded by Mr. Blackwell. All were in favor via voice vote and the meeting was adjourned.

Respectfully submitted,

  
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