

**PENNINGTON BOROUGH  
PLANNING BOARD MINUTES  
REGULAR MEETING  
JUNE 9, 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, Deborah Gnatt, Joe Lawver, Mark Blackwell, Kate O'Neill

**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.

**ZONING OFFICER REPORT**

Mr. Flemming mentioned that Mr. Dino Spadaccini, owner of Old Mill Square Center, wants to put in a generator which will not further infringe on the property line and will be in the space that is currently used for utilities. Mr. Flemming wants permission to administratively approve. Mr. Schmierer agrees with Mr. Flemming's assessment and he can approve the generator.

Pennington School has 15 foot netting for their current ball stop and they want to increase the height to 40 feet. The netting is now considered temporary usage but is up all year. Because this is a safety issue, Mr. Flemming wanted to check with the Board if a variance is necessary. Mr. Reilly noted that there was an application for an increase in netting height a few years ago that was rejected by the Board. The previous application was for netting along Burd Street and this application would be for netting between the field and the parking lot. Mr. Schmierer suggested that a formal application be made because of the public visibility of a 40 foot net.

**Resolution of Memorialization**

**PB-21-004, 205 South Main Street, Lun-Detached garage.**

Mr. Reilly commented that the year needs to be corrected to 2021, Ms. O'Neill asked that the word "small" be taken out in the description of windows. Mr. Schmierer said they will make those changes. Mr. Blackwell moved to accept the resolution, with noted changes, and Ms. Laitusis seconded.

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Roll Call:

Blackwell- Yes

Gnatt-Abstain

Kwak-Yes

Laitusis-Yes

Lawver-Abstain

O'Neill-Yes

Reilly-Yes

Schotland-Yes

Van Orman-Abstain

Resolution was adopted.

**Request to extend the deed for the minor subdivision for the arboretum**

Mr. Blackwell made a motion to extend the application to meet filing deadlines, seconded by Ms. Gnatt. Mr. Lawver asked why the extension was necessary and Mr. Schmierer explained that the 190 days had passed and as required by law this date would need to be extended to meet the recording requirements.

Roll Call:

Blackwell- Yes

Gnatt-Yes

Kwak-Yes

Laitusis-Yes

Lawver-Yes

O'Neill-Yes

Reilly-Yes

Schotland-Yes

Van Orman-Abstain

Motion was approved with one abstention.

**Appoint Eileen Heinzl as Acting Planning Board Secretary**

Proposal is to appoint Eileen Heinzl as acting Board Secretary as of February 1, 2021 and appoint Betty Sterling as acting Board Secretary as of April 1, 2021. The proposal to appoint Eileen Heinzl as acting Board Secretary as of February 1, 2021 and appoint Betty Sterling as acting Board Secretary as of April 1, 2021 was moved by Mr. Schotland and seconded by Ms. Laitusis. Ms. Gnatt asked if both were going to be Planning Board Secretaries. Mr. Reilly answered in the affirmative.

Roll Call:

Blackwell- Yes

Gnatt-Yes

Kwak-Yes

Laitusis-Yes

Lawver-Yes

O'Neill-Yes

Reilly-Yes

Schotland-Yes

Van Orman-Yes

Motion was approved unanimously.

## **APPLICATIONS**

**P21-006 McMurray Holdings LLC.-Block 104 Lot 12--Continuation from the May meeting.**

Jeffery Hall, applicant, and Frank Falcone, applicant's engineer, continue to be under oath from prior meeting. Mr. Hall noted that there were several changes to the plan in response to comments from the Board and the public at the last meeting. Changes noted include; a change to the sub-division line so it is perpendicular to the street, removal of the detached garage, agreement to change sewer lines if the second plot has new construction. Via Mr. Perry, Mr. Hall shared the tax map (revised Exhibit A-2 to replace the prior Exhibit A-2) this document has been revised to reflect lots that are similar to the lot in the current application. Mr. Falcone explained that the revised map shows many lots in the area that are undersized, similar to the lot in question. The applicant worked extensively with Pennington Public works to ascertain the placement of utilities and discovered that the water lines cross the properties instead of coming directly in from Lewis Brook Road. As revised Exhibit A-3 indicates, the design now includes an easement that is 10 feet wide parallel to the sewer line. The lot has an existing 1 story dwelling which could be demolished and there is ample room to build a new home on that site. Mr. Hall described a letter that he sent to the Borough, Exhibit A-4, which describes 2 small lots (lots 10 & 11) on the north end that are in Pennington. These lots have recently changed ownership and Mr. Hall has sent letters to the owners to see if they are interested in selling so the lot sizes could be increased. Mr. Hall confirmed that the letter was delivered May 7, 2021. Mr. Hall has not received any response to the letter. Both lots are approximately 3600 square feet and acquisition of such would increase proposed lot 12.02 and make it conform to the 12,000 square feet. Depending on placement, acquisition of these properties could also enlarge 12.01, change some side yard and backyard variances and open up the building envelope. Exhibit A-4 consisted of a letter to owner of 5 Hansen place, Hopewell, NJ requesting to purchase 2 small connecting lots to try to remove some non-conformities. There has not been a response to this query.

Mr. Reilly asked if the Board had any questions. Ms. Laitusis had a question about possible placement of a garage on the rear of property 12.01. Any garage placement would be difficult and require a few variances. Ms. O'Neill questioned how 2 houses came to be placed on 1 lot. Mr. Hall shared second hand knowledge that the 2 structures were developed at the same time and one was intended for use by a parent who passed away. The home was then used as a rental. Regarding placement of the sewer lines, Mr. Kyle noted that they seem to have been placed in alignment with prior cesspools on the property. Mr. Reilly asked if there have been any issues with these 2 properties being on the same lot. Mr. Hall knows of no issues since he has owned the property. The tenant has been occupying the one-story house for about 7 years. Mr. Perry amended his previous memo and Mr. Perry asked Mr. Falcone to fix some errors on the plan and Mr. Falcone agreed to do so. He also suggested that when the small building was demolished might be a good time to re-align the lateral sewer line. Mr. Schmierer agreed that this would be an appropriate time to reevaluate and a note will be made on the plan. Mr. Kyle's amended memo notes the changes in the lot area. He feels Mr. Falcone has shared some good information on why a sub division is beneficial and Mr. Flemming testified that he sees some benefit to have each structure on its own lot. Mr. Kyle further explained that 2 structures on 2 non-conforming lots is

more closely aligned with the ordinance than having 2 principal residents on 1 non-conforming lot. The C-2 argument is supported by the fact that 2 houses on separate lots is a better planning option. Mr. Kyle explained that the resulting 2 non-conforming lots are not dissimilar to many lots in the area. The proposed lot variance and set back issues can be viewed as less of an issue than having 2 dwellings on one lot. Mr. Reilly has asked which is the greater offense and Mr. Kyle noted that the ordinance specifies that no 2 dwellings should be on a single lot.

Mr. Reilly asked for comments from the public.

Ms. Nancy Rubenstein, 25 East Franklin Ave, Pennington, NJ was sworn in by Mr. Schmierer. The Rubensteins have spoken to Mr. Hall and they do not have any objections to the current subdivision.

There being no other public comments the comment period has been closed.

Mr. Reilly opened the discussion for Board members. Ms. Laitusis is inclined to approve the application because the adjustments to the plan have alleviated her prior objections. Mr. Schotland is inclined to agree if the second lot could have a new house built on it without the need for a variance. Mr. Blackwell is inclined to approve. Ms. O'Neill asked if the Board is allowed to create non-conforming lots. Mr. Schmierer has indicated that in this case they can vote to approve non-conforming lots. Ms. O'Neill announced that she would support the application. Ms. Van Orman seconded Ms. O'Neill's comments. Mr. Reilly has misgivings of sub dividing a conforming lot but has been swayed by Mr. Kyle's explanation.

Ms. O'Neill made a motion to accept the subdivision with the conditions that if the second lot is developed the sewer lines be re-aligned and other specifics mentioned on Mr. Perry's memo; Mr. Blackwell seconded the motion.

Roll Call:

Blackwell- Yes

Gnatt-Abstain

Kwak-Yes

Laitusis-Yes

Lawver-Abstain

O'Neill-Yes

Reilly-Yes

Schotland-Yes

Van Orman-Abstain

Motion was approved.

### **New Business**

Mr. Lawver mentioned that at the Council meeting on Monday, June 7, a medical marijuana ordinance was approved. This issue might come before this Board for a vote on whether or not this use is consistent with the master plan. There is a tight turn around where decisions have to be made by August 21. Mr. Blackwell asked about cultivation of marijuana. Because of limited space in the Borough, growing is not an option right now. As of now only medical and recreational distribution and a delivery operation site are approved. Ms. Laitusis asked for clarification whether or not medical and recreational would be together or are they separate locations. Mr. Lawver specified

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that the sites are separate and Council has approved 3 sites, 1 of which must be medical.

**Minutes**

There are no minutes to approve. We will catch up on minutes in the future.

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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