

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REGULAR MEETING
June 12, 2019**

Mr. Reilly called the meeting to order at 7:30 p.m. and announced compliance with the provisions of the Open Public Meetings Act.

Roll Call: Nicholas Angarone, Vice Chairman, Mark Blackwell, Deborah Gnatt, Eileen Heinzl, Mayor's Designee, Cara Laitusis, Alt. 1, William B. Meytrott, Katherine L. O'Neill, Anthony Persichilli, Alt. 2, Douglas Schotland, James Reilly, Chairman.

Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Planning Board Attorney; James Kyle, KMA Associates, Planner; Brian Perry, Van Note-Harvey Associates, Planning Board Engineer; John Flemming, Zoning Officer; Mary W. Mistretta, Secretary.

OPEN TIME FOR PUBLIC ADDRESS – Mr. Reilly asked if there was anyone in the public with comments or questions for items that were not on the agenda, there being none the public address time was closed.

APPLICATIONS

Umberto Nini, 30 West Delaware Avenue, Block 503, Lot 8, Town Center Buffer Zone.
Application No. P18-004

Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Frank J. Falcone, PP, PLS, Princeton Junction Engineering, P.C. was sworn in and stated that he was a professional Land Surveyor and Planner in New Jersey and has previously appeared before the Board. Mr. Falcone stated that he was representing the applicant, Umberto Nini, who was not at the hearing. Entered into evidence was Exhibit A-1 – Rendering of approved October 2018 subdivision, dated August 15, 2018. Mr. Falcone described the original subdivision which received approval for three lots one of which has an existing house that has been renovated. Mr. Nini would like to eliminate the lot on Burd Street to make a two lot subdivision. This will enable the two lots to have more rear yard space which is what people are requesting. One lot will have the existing renovated house and the other lot will have a new structure on the corner with a driveway from Burd Street. Entered into evidence was Exhibit A-2 Rendering of proposed subdivision of two lots, dated August 15, 2018, revised May 3, 2019. Mr. Falcone stated that the two lot subdivision would be a reduction in the coverage and they would be able to save six trees. One of the driveways will also be eliminated from Burd Street which will improve traffic safety. Mr. Falcone stated that they would adhere to the previous conditions that were set for the original approval. They have received approval from the Mercer County Soil Conservation and the amended subdivision has been submitted to the Mercer County Planning Board for approval. Brian Perry, Board's engineer, was sworn in and stated that he did not have any additional comments other than it was an improvement over the three lots that were previously approved. Mr. Perry submitted a review dated May 30, 2019. James Kyle, Borough Planner, was sworn in and stated that he felt the application was straight forward and he agreed that it is an improvement. Mr. Reilly asked if the amended plan would improve drainage. Mr. Perry responded that it would be a net decrease of runoff since the impervious is reduced and retaining the trees along the back property line will also help improve the runoff. Ms. Heinzl asked if the house would have a basement and Mr. Falcone responded that it would. Mr. Meytrott asked about the tree that was being transplanted and Mr. Falcone responded that it was not the large tree on the corner, but there are small seedlings that a

member of the community is going to salvage along with some of the blue flowers that come out every spring. Mr. Kyle stated that the big tree was diseased and not in good shape. Ms. Laitusis asked if the house would still be built with a wrap-around porch and Mr. Falcone answered that it was still planned. He added that Mr. Nini was working with the Historical Commission and he was pretty sure that they approved the porch. Mr. Blackwell noted that the applicant had not yet met with the Pennington Fire Commissioners and Mr. Reilly suggested that it should be a condition of approval. Mr. Reilly asked if there were any comments or questions from the public, there being none the public portion of the hearing was closed. Mr. Blackwell made a motion to approve the subdivision with the conditions suggested, seconded by Mr. Angarone. Voting yes: Angarone, Blackwell, Gnatt, Heinzl, Laitusis, Meytrott, O'Neill, Schotland, Reilly. Voting No: None; Not voting: Persichilli, Alternate. The hearing ended at 7:45 p.m.

CONCEPTUAL APPLICATION

Flagler Investment Holdings, LLC, 10 Route 31 North, Block 201, Lot 5, O-B Zone.
Conceptual Review for Change of Use. Application No. P19-002

Christopher K. Costa, Esq., Stevens & Lee, attorney for the applicant stated that he was representing a joint venture of a world renown neuroscience group, Drexel Neurosciences Institute and a real estate developer, Flagler Investment Holdings, LLC. The two companies have come together to purchase the Mercer Insurance building located at 10 Route 31 North. They are also working on developing the first dedicated neuroscience hospital in Philadelphia. The purpose of the practice that would be in Pennington is ground breaking and would be an outstanding contribution to Pennington and the surrounding community. Mr. Costa stated that they would be able to show the Board that there is no change in the use from a zoning perspective and they do not feel that there is any need for site plan approval as they fit right in with the existing use. The property is located in the O-B Zone and currently has offices that are a permitted use. The parking that is currently available would be sufficient for the proposed use. Mr. Costa stated that they have two witnesses, Dr. Erol Veznedaroglu (referred to as Dr. Vez) and their architect Eric J. Holtermann, HMR Architects. A packet of material was distributed to the Board that included pictures of the site and biographies of the witnesses. Dr. Vez is the Director of the Drexel Neurosciences Institute, holds the Robert A. Groff Chair in Neurosurgery and would be the owner of the property.

Dr. Vez stated that they are not new to the area and they helped develop the neuroscience institute in central New Jersey at Capital Health. They have a large practice in the area and are currently located on the Princeton Pike, but have outgrown that facility. The building would be strictly used for out patients and no procedures would be done on the premises. There would be no major medical appointments of any kind and there would not be any hazardous waste. Their concept is getting back to the basics and the specialists patients may need are in one central place. This way they can communicate together about the patients and have conferences about patients with more complex problems. Dr. Vez stated that they provide rehab, health and fitness particularly to patients with Parkinson's and MS who have very specific rehab needs.

The building is approximately 30,000 sq. ft. and would be partitioned into two sides, one clinical for exam rooms and physicians and the other side for the wellness and rehab aspect. They would all be working together in concert with Robert Wood Johnson of Hamilton and will focus on neurological diseases. They would be open Monday to Friday, 9:00 a.m. – 5:00 p.m. and may have Saturday hours. Dr. Vez stated that everyone would not be coming and leaving work at the same time. There would be approximately 30 employees and 25 to 30 patient visits per day that would be a minimum of an hour and it would not be busy like an urgent care center. Dr. Vez stated that he loved this property because it doesn't look like a health care facility and has the space that they would need. There is a great common area in the building and they envision

using this area to have support group gatherings and will have it open to community functions after hours.

Mr. Reilly asked if the Board had any questions. Mr. Meytrott asked if there would be any walk-in appointments and Dr. Vez responded that they would all be scheduled appointments. Ms. Heinzel asked if they looked at any other locations. Dr. Vez stated that they did look at two other properties, but everyone preferred this property when they saw it. Mr. Blackwell asked why they had to come before the Board and Mr. Flemming, Zoning Officer, explained that he recommended a conceptual plan because it is not a lateral move and he had concerns about the traffic, especially people exiting and making left hand turns. Mr. Flemming stated that if the Board feels that it is a lateral move he would be more than happy to approve it. Dr. Vez stated that traffic was also his biggest concern as it is not easy getting in and out of the site, but currently there is close to 100 employees that all come and go at the same time during rush hour. He stated that they have one third of that number of employees on a regular basis and he feels that it will be a very fluid ingress and egress throughout the day. Mr. Flemming stated that the people he would be concerned about is the patients as the employees will get used to it. Mr. Reilly stated that apparently left turns are allowed and it seems to work pretty well. Mr. Meytrott stated that there has not been a history of accidents there. Mr. Blackwell felt that the traffic would be much less when the patients were going in and out and there would not be a lot of them pulling out at the same time. Mr. Flemming asked if they were also purchasing the strip of land that went out to Franklin Avenue as it would give them a possible access option in the future. Mr. Costa stated that they were purchasing it, but would not consider that at this time.

Mr. Flemming asked about signage and Mr. Costa stated that they would have a new sign that they feel will comply with the sign ordinance. Dr. Vez stated they would like a sign that will show up, as you come across the building rather quickly and they want people to have time to give a proper signal. Mr. Reilly stated that if the Board feels that it is a conforming use, the applicant would have to get approval from the Zoning Officer for the sign. Ms. Heinzel had a procedural question and asked if they would be coming back to the Board requesting a change of use. Mr. Costa stated that it was not a change of use from a zoning perspective as it would still be an office use, but it is a change of tenant. Mr. Schmierer stated that the applicant was looking for direction and if the Board felt that it was dramatically different than the current use a site plan application would be needed to review traffic and signage. The question is if it is a conforming use in the O-B Zone and he suggested that Mr. Kyle should next address the application. Mr. Kyle read the definition of "professional office" which is a conforming use in the O-B Zone. Dr. Vez stated that all the rehabilitation would be under the doctor's supervision as opposed to a rehab center where there is solely rehabilitation. The rehab component would not be a gym, but part of the physician's practice. Mr. Kyle pointed out that there was a difference with what they would be doing as opposed to a traditional rehab center where doctors are not present. Dr. Vez stated that the rehab would be very specific to neurologic disorders and it would all be under the direction of a medical doctor. Mr. Kyle suggested that the Board first decide if they felt that the use was conforming and then if they felt that a formal site plan was needed. Mr. Reilly asked Mr. Perry if he saw any engineering issues. Mr. Perry stated that a little more information would be needed on the trash and recycling enclosure and how they would be handled. Mr. Costa agreed that their architect would address that issue. Mr. Flemming asked if there would be any medical waste and the applicant stated that there would not be any. Mr. Holtermann pointed out that the overall site was about four acres and the building approximately 27,000 gross sq. ft. They are not proposing any changes to the configuration of the parking, but they would move a few of the handicap spaces around. There are 126 parking spaces where 123 are required. The building code identifies this use as a business use and considers it an outpatient clinic. There is no need to make any changes to the egress of the building for code and no changes are proposed to the external part of the building. Mr. Holtermann pointed out the public areas, doctor suites and mechanical areas in the building. There is also an assembly room that is approved for occupancy of 80 people. Dr. Vez stated that there will also be primary care doctors on site to

serve the patients that are coming for neuro care. Mr. Holtermann stated that no changes are proposed for the dumpster area and management would coordinate collections for the various tenants.

Mr. Reilly asked if the public had any questions, Dan Pace of Railroad Place stated he agreed with Mark Blackwell's previous comment. Mr. Reilly asked the Board their opinion on whether they felt that this proposal as described was a conforming use. Mr. Meytrott stated that he was conflicted, but after hearing more information and that there will be no treatments on the site, he feels that it is a conforming use. Mr. Schotland agreed and feels that the rehab that will be given is a less intensive use than places that are strictly for physical therapy. Mr. Angarone asked if there were other definitions that address physical therapy use in other zones. Mr. Flemming stated that there was not and Mr. Angarone stated that being the case he would agree that it was a conforming use. Ms. O'Neill, Ms. Laitusis Ms. Heinzel, Ms. Gnatt, Mr. Reilly and Mr. Blackwell also agreed that it was a conforming use.

Mr. Reilly stated that they should next discuss whether a site plan application is needed. Mr. Kyle reviewed Section 163-4 in the code book that gives exceptions for the need of site plan approval. "A change in occupancy that is determined a permitted use and will not intensify site traffic, circulation, required parking or endanger the general health, safety and public welfare." Mr. Kyle stated that it appears that the traffic will not be increased, some of the handicapped spaces will be moved and the trash area may have to be changed. Mr. Kyle did not feel that these items would require site plan approval if the changes meet the requirements. Mr. Flemming stated that he would not be qualified to approve those changes and they would have to be reviewed by the Planner or Engineer if they did not need site plan approval. Mr. Schmierer stated that in learning more about the project he feels that it clearly qualifies for a waiver of site plan review. One of the conditions for doing that would be that some of the site plan issues would have to be administratively approved by the professionals. Mr. Schmierer stated that if the applicant felt that there was a need for a change in the traffic movement such as a "no left turn sign at the entrance" this would be a more significant decision that the staff could not approve and would have to go through a site plan review by the Board. Ms. O'Neill brought up the problem of left hand turns off the property and stated that sometimes traffic can be backed up to the driveway from the light. Mr. Meytrott, Public Safety Director, stated that he was not that concerned regarding this. He has listened for many years to other applications that have brought in traffic experts and in following their recommendations they have always worked out. He stated that Mercer Mutual has been there for years with a higher level of vehicles going in and out than this use would and he could not remember when there was an accident attributed to someone going in or coming out of that site. There have been a number of accidents on that stretch of Route 31, but most have been rear-end collisions. Mr. Blackwell stated that he did not see any difference of someone coming out of Pennington Pizza and making a left or someone coming out at Mercer Mutual making a right.

Mr. Reilly suggested that at this point the Board should decide if they feel a waiver for site plan review should be given. The Board agreed by consensus that the proposal is a conforming use and a site plan waiver can be granted with a condition that the following be reviewed and approved by the professional staff: moving the handicap parking spaces, changes to dumpster area, new ramp, change to signage. Mr. Schmierer stated that Mr. Flemming will send a letter to Mr. Costa stating that this is a permitted use and a site plan is not required.

ZONING OFFICER

Mr. Flemming stated that there was still a bakery looking into a site and moving forward. It is a conforming use on the site that they are looking at, but Mr. Flemming had concerns about what modifications the building would require. They are meeting with the Construction Official to see if he agrees that the building is adequate for a bakery.

OTHER BUSINESS

OPEN SPACE COMMITTEE - Mayor Lawver had advised the Board that the Open Space Committee needed a representative from the Planning Board to replace Winn Thompson. Mr. Reilly asked if someone would like to volunteer. Mr. Blackwell felt that he would be interested and volunteered.

Housing Element and Fair Share Plan Proposal - Ms. Heinzl reported that Council approved Mr. Kyle's proposal to prepare a fair share housing plan. The Borough will issue a purchase order that will define the scope of the project and Mr. Kyle can then move forward. The Planning Board will work with Mr. Kyle to develop the plan and will then refer it to Borough Council for comments and endorsement. Mr. Kyle stated that he took an initial look at the vacant land analysis which will form the basis of a reduction in our overall obligation and there is not much vacant land besides the landfill. There are some random lots, but if they cannot support five or more units (based on a density of at least six units per acre) they are too small to support a housing unit. The landfill seems to be the only viable piece of land and it has the stream that will probably eliminate a lot of developable land and could only produce ten or fifteen units. Ms. O'Neill and Mr. Blackwell discussed a wooded area by the Senior Center that could possibly be used. Mr. Angarone asked about the Senior Center and how it was considered. Land that is being used as park area cannot be counted. Mr. Kyle stated that he will bring a larger map to continue the discussion of the vacant land analysis.

Sustainable New Jersey – Ms. Heinzl stated that they have submitted information and received enough points to maintain the bronze certification for the Borough. They will review what has been submitted and probably will send comments back since some of them are ongoing. The Environmental Commission wanted to know if anyone had any ideas or projects that they were interested in working on. Mr. Blackwell stated that he did a little research and there were suggestions regarding wildlife. He would be interested in looking into this since he has a fox running around his back yard and various kinds of wildlife. Mr. Blackwell will look into this further and report back to the Board.

MINUTES – Mr. Angarone made a motion, seconded by Ms. Heinzl to approve the minutes of the May 8, 2019 Planning Board meeting with changes and the minutes were unanimously approved by voice vote with Ms. O'Neill abstaining.

Ms. O'Neill made a motion, seconded by Mr. Blackwell to adjourn the meeting at 9:25 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary