

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REGULAR MEETING
MARCH 14, 2018**

Mr. Reilly called the meeting to order at 7:35 p.m. and announced compliance with the provisions of the Open Public Meetings Act.

Board Members Present: Nicholas J. Angarone, Mark Blackwell, Deborah L. Gnatt, Eileen Heinzl, William B. Meytrott, Katherine L. O'Neill, Vice Chairman, Douglas Schotland, Winn Thompson, James Reilly, Chairman.

Also Present: Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson; Michael Bolan, Planner; John Flemming, Zoning Officer; Mary W. Mistretta, Secretary

OPEN TIME FOR PUBLIC ADDRESS - none

MEMORIALIZATION OF RESOLUTION

Robert Robson, 110 Crawley Avenue, Block 504, Lot 3, R-80 Zone. Received Use Variance approval to construct addition to rear of existing house. Application No. P17-003. Ms. O'Neill made a motion, seconded by Mr. Angarone to adopt the resolution. Voting yes: Angarone, Blackwell, Meytrott, O'Neill, Reilly. Not voting: Gnatt, Heinzl, Schotland, Thompson.

WORK SESSION AND OTHER BUSINESS

AMENDMENTS TO CHAPTER 215, 71 AND 71.1, ZONING – TC TOWN CENTER ZONE AND TCB TOWN CENTER BUFFER ZONE OF THE CODE OF THE BOROUGH OF PENNINGTON.

Mr. Reilly announced that this was a work session to discuss the Town Center Buffer Zone (TCB). The Board recently received an application for a property in the Town Center Buffer (TCB) zone to subdivide a lot that was considered nonconforming because it was more than 15,000 sq. ft. Two 33 ft. wide lots were proposed and considered conforming with the existing ordinance for the TCB Zone and the Board found that there was no basis to deny the application. The Board requested the Application Review Committee (ARC) to review the Town Center Buffer Zone (TCB) and the regulations that apply to it. The Committee responded with a draft memorandum dated March 9, 2018 to the Board. Mr. Flemming, Zoning Officer, stated that he felt the existing zone regulations were much too liberal and allowed 25 ft. wide lots and 5 ft. setbacks. He also feels that there is a lot of unnecessary language in the ordinance that should be eliminated and made be more precise. The allowed uses should be more specific and anything that does not fall under them should be considered nonconforming. Any property that has a nonconforming use should be allowed to continue, but should not be given the right to say that it is a conforming property when it is in violation of the regulations in that zone. Mr. Flemming stated that most of the Town Center is in the Historic District, but not all the Town Center Buffer Zone and he feels that the Borough is in jeopardy of tear downs without any regulations. Mr. Bolan pointed out that the TCB zone is all residential except for one property. He stated that it was envisioned that the houses would eventually be converted to office use and since this has not happened he feels that now would be the time to change the zone. Mr. Thompson noted that the Town Center Buffer is a very dense zone and they were trying to accommodate property owners in the area from having to go to the Board all the time. Mr. Bolan pointed out that there were 19 lots with the last subdivision in the Town Center Buffer Zone and 12 are in the area by Burd Street and West Delaware Avenue. There are three other TCB areas that consist of two or three lots each and would comply with the R-80 Zone, but the Burd Street and West Delaware Avenue lots are smaller and would fit in better with a newly created zone designed for smaller lots. Mr. Bolan suggested that if they were creating a new zone there were

Pennington Borough Planning Board Minutes – March 14, 2018
Regular Meeting

other areas in the Borough that should also be considered. He had concerns that with all the non- residential uses that are allowed in the TCB zone there is only one property with office uses and it does not seem to fit the character of the district. Mr. Bolan read a provision from the Land Use Law regarding zoning: “the zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land.” There are just two multifamily properties in the TCB, one on Burd which was just subdivided and the property at 32 N. Main Street. There was discussion about the small lots that could be approved with the current zoning in the TCB and the safety issues regarding fire trucks and the current construction code. Mr. Thompson commented that one of the other reasons for the TCB zone is that offices are permitted, whereas they are not permitted in the TC zone. He suggested that if the uses in the TCB zone were changed he would recommend that the kinds of uses in the TC zone be expanded and include offices. Mr. Flemming agreed and stated that landlords are limited when they have an open space. Ms. Heinzl suggested that they also talk with the Economic Development Commission to see how they feel about the suggestions and she felt that the stores in town would prefer to have a retail establishment next door which would help encourage more stores to move in. Mr. Flemming pointed out that that the economy is changing and felt that an office is better for the down town than having a store remain vacant.

Mr. Reilly stated that the Application Review Committee has discussed the whole concept and changes could be done in smaller steps that could lead to something more expansive, but the basic concern was that the zone requirements seem so out of step with standards when you could subdivide a 50 ft. wide lot into 25 ft. lots and build 15 ft. wide houses. One of the possibilities raised in the memo was to start by increasing the required lot widths of a zone which would not change the zone a lot and would not have a negative impact. Increasing the lot width would be the most minimal change, although there would still be the 5 ft. setback regulation which could also be increased. Mr. Flemming feels that the transition concept of the TCB zone did not work and it should be made a residential zone for single and multifamily homes that are existing with the understanding that if there is something not conforming to the R-80 zone or a new zone they would be considered grandfathered. This would mean that they would be recognized as a legal nonconforming use. Mr. Angarone suggested that if the parcels in the TCB zone on N. Main and E. Delaware could fit in the R-80 zone and the lots in the Burd St. area could either be left alone or modified and grandfathered. Mr. Flemming stated that he would like to see the Board do a comprehensive study and address all the changes that they feel should be done and then send to Council for their input. There was further discussion as to how the Board should proceed. Mr. Bolan was asked his opinion and he preferred a comprehensive approach and agreed with what Mr. Angarone suggested about the three TCB zones could easily go into the R-80 zone, but the TCB on E. Delaware and Burd Street is a confusing zone because of the lot sizes. He stated that they range between 25 ft. and 140 ft. and the bulk of them are around 35 ft. and is not a simple fix. He stated that zoning is always easier to defend if it is done comprehensively rather than individually and if changes were made without a Master Plan change everyone within 200 ft. of the zone would have to be notified which would be a big undertaking and expensive. Mr. Schmierer stated that Princeton faced a similar problem regarding their transition zone not working on either end of Nassau Street. They moved a number of the uses including first floor business uses into the central business district zone and restored the ends as residential. He stated that it seemed to work since they had a big financial office move in that area that generated a lot of foot traffic. They made this change after they were noticing empty stores in the town center. He suggested that the Board start looking at the core of the Town Center to see what uses might now be allowed and work their way outwards. Mr. Reilly stated that the concept sounds great, but the issue is how long it would take and what the cost would be. Ms. O'Neill stated that the purpose of the TC/TCB zone was to concentrate businesses in the Town Center and to gradually eliminate them from spreading throughout the town and she feels that to a certain extent it has done that. She feels that the

problem in the buffer zone is not about uses, but is with the allowed property widths and side yards that would allow the possibility of subdivisions for 25 ft. wide lots. Mr. Flemming feels that the Town Center Buffer is not acting as a buffer zone, but is a residential zone and it should be recognized as that and he feels that the economy for retail is not looking good in the next ten years. Mr. Reilly stated that it was noted that the Town Center seems to be pretty active and that there was only one vacancy next to Vito's and he asked if there was any place to put new uses. Mr. Thompson felt that it would be wise to think about the future and what other types of uses could go in the TC. Mr. Meytrott stated that the previous planner had the vision of retail on the first floor which would bring a lot of foot traffic, whereas an office would have a limited amount of people visiting and feels that over the years this did not work because of the economy. There have been empty stores at times and the Board allowed an office to fill space that had been vacant for some time.

Mr. Thompson made a motion to conduct a comprehensive study of the Town Center and Town Center Buffer zones, seconded by Mr. Blackwell. Mr. Angarone asked if a full reexamine was proposed or just an evaluation of the TC & TCB. Mr. Thompson responded that he was suggesting an evaluation of the Town Center and the Town Center Buffer Zone to determine what should be modified and what should be left alone. Mr. Bolan stated that the only format for doing this is a reexamination report that would require a lot of work. Mr. Thompson modified his motion and suggested that it be subject to review by the Application Review Committee. Ms. O'Neill stated that this has been discussed at ARC and came back to the Board for feedback. Mr. Blackwell felt that something should be done since the Board seemed to agree that some changes should be made. Mr. Flemming stated that there are also areas in the R-80 zone that are much narrower than 80 ft. and should be reviewed and possibly located in a third "R" zone if one is created. The ARC should come back to the Board with alternatives and costs after consulting with Mr. Bolan. Mr. Reilly stated that ARC would do what is necessary and come up with specific proposals which will come back to the Board for consideration and modification and if approved would be sent to Council. Mr. Bolan stated that there could be changes to the TC and TCB without doing a reexamination report, but the super noticing would have to be done.

Mr. Reilly asked if there was anyone in the public who would like to make a comment. Eric Holtermann, Chairman of the Historic Commission, stated that he felt that opening up the Town Center to office use was a good idea. A lot of small historic downtowns have offices mixed in with commercial uses and it works very well. He feels that the Board has already taken good steps in addressing problems in the R-80 zone and most of that zone is protected by historic preservation. He stated that if the Board considers something like an R-40 zone on Burd Street they would be obligated to look at other areas that have similar size lots in the Borough. Mr. Holtermann mentioned that next month there would be a joint hearing of the Historic Commission and the Board regarding the addition of the Pennington African Cemetery into the Historic District. Daniel Pace stated that he had previously been on the Board and he liked the idea of the Town Center Buffer zone, but agrees with what Mr. Flemming said. He also agreed with the suggestion that it should be discussed with the Pennington Business Association. Mr. Thompson amended his motion and suggested that the Application Review Committee review the options for the Board: to do a comprehensive plan with a reexamination of the Master Plan, review the zoning including the Town Center and Town Center Buffer zone and consult Mr. Bolan regarding prices or recommend to doing nothing at this time. Mr. Blackwell seconded the motion and the Board agreed by voice vote.

REHABILITATION OF DWELLINGS

A memorandum dated March 9th regarding restoration and repair of non-conforming uses or structures from Ms. Heinzel had been distributed to the Board. Mr. Heinzel stated that this was part of several zoning changes that were submitted to Council and this part was not adopted

due to concerns and questions that the Council had. The Pennington zoning ordinance concerning nonconforming uses and structures does not define partial reconstruction or distinguish between planned and casualty demolition and the intention was to help define partial destruction. Mr. Blackwell stated that he was against it as 50% of his assessed value would not be able to replace it as the structures were assessed much lower than the property and there would be many homes in the same position. Mr. Flemming stated that it should not be based on the assessed value, but should be based on replacement value or actual value. Mr. Schmierer agreed that it should be based on “replacement costs” and if the replacement costs are more than 50% of the value you lose your nonconforming status. Mr. Flemming stated that his concern was that he needed a definition for partial construction to help him figure out what existed before and if the replacement is under 50%. Mr. Flemming stated that this would have no bearing on a conforming property or on a property that was changing setbacks to make it conforming. The Board agreed to refer this back to the Application Review Committee.

ZONING OFFICER’S REPORT

Mr. Flemming stated that the Pennington School would like to put up a ball stop net for safety reasons on the Burd Street side of the baseball field. It would be 120 ft. x 40 ft. tall and would be permanent. Mr. Schmierer stated that the school would need amended site plan approval.

OTHER BUSINESS

Ms. Heinzel along with Bill Meytrott, Rick Smith, Brandon Fetzner (Van Note-Harvey Engineers) and Tom Mullen (American Properties) have been discussing alternatives for the sidewalk on West Franklin Avenue going up to Route 31 that American Properties has agreed to construct. They have come up with an alternate plan that they feel is an improvement over the plan previously presented. The alternate plan is to have the sidewalk go along American Properties and cross over to the Shoppes of Pennington where it would be continued and meet the Shoppes sidewalk. American Properties have agreed to this plan if the owner of the Shoppes of Pennington agrees. The alternate plan would keep the trees on the corner lot of Route 31 and provide a better sidewalk circulation by having it cross before the corner. Mr. Schmierer stated that if the Board approves the plan, he would suggest an administrative field adjustment and just make a note on the plan. Mr. Bolan agreed with the plan and felt that it was safer than crossing at the corner. Mr. Thompson made a motion to approve the alternate plan for the sidewalk, seconded by Ms. O’Neill and the Board voted unanimously to approve it.

The meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary