

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REGULAR MEETING
MAY 9, 2018**

Mr. Reilly called the meeting to order at 7:30 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, Douglas Schotland, James Reilly, Chairman.

Absent: Katherine L. O'Neill, Vice Chairman, Winn Thompson

Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Planning Board Attorney; Michael P. Bolan, Borough Planner; John Flemming, Zoning Officer (left 7:50 p.m.); Mary W. Mistretta, Board Secretary.

OPEN TIME FOR PUBLIC ADDRESS - none

MEMORIALIZATION OF RESOLUTION

PENNINGTON AFRICAN CEMETERY, 417 South Main Street, Block 1002, Lot 46 - Pennington Historic Preservation Commission recommended adding the cemetery to the Borough's Historic District. The Planning Board agreed that the Pennington Crossroads Historic District be amended to include the Pennington African Cemetery.

Mr. Blackwell made a motion, seconded by Mr. Meytrott to memorialize the resolution.

Voting yes: Angarone, Blackwell, Gnatt, Heinzl, Meytrott, Schotland, Reilly. Absent: O'Neill, Thompson.

ZONING OFFICER'S REPORT - Mr. Flemming asked the Board about a change of use to the DiCocco building at 23 Brookside Avenue, Block 204, Lot 1. He stated that it is in the MU Zone where both apartments and commercial uses are allowed. The building was previously approved by the Board and the space in question has been a commercial use. Mr. Carmen DiCocco, the owner, is requesting to change the use to residential. The space has been vacant for quite awhile and he has not been able to rent it as a commercial space. Mr. Flemming stated that the need for commercial uses is down. Parking is available for the space and residential would be a less intense use. Mr. Schmierer stated that unless there was a condition in the approval regarding the use, the applicant could change the use to residential since it is allowed in that district. The Board had no objections. (Mr. Flemming left the meeting.)

APPLICATION

THE PENNINGTON SCHOOL, 112 West Delaware Avenue, Block 502, Lot 4, E-1 Zone. Preliminary/Final Site Plan and Variance approval for two temporary trailers to be located within the site and a ball stopper/netting by the baseball field along Burd Street. Present: Eric S. Goldberg, Stark & Stark, Herbert Seeburger, Van Cleef Engineering Associates, Graeme McWhirter, Chief Financial Officer and Bob Jones, Director of Operations, The Pennington School.

Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Mr. Whirter will respond to the Application Review Committee's request for an update regarding the previously approved application.

Mr. Goldberg stated that the applicant is requesting approval for two temporary trailers while work is being done on the administrative building. One trailer is approximately 1,400 sq. ft. and

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the second is approximately 700 sq. ft. It is hoped that the work will be completed by the end of this year or early 2019 and the trailers would then be removed. The other item is a request for site plan and variance approval for a 40 ft. high ball stop net for safety by the baseball field. Mr. Reilly stated that the Application Review Committee has recommended that the Board approve the applicant's request for a waiver for number 4 on the checklist since a survey had been provided with the previous application and the Board granted the waiver. Mr. McWhirter stated that the previous approved work is being done in phases as the school can only accomplish what can be done during the summer. The first phase was completed at the end of the 2017 summer which included the driveway and entrance behind the Stainton building off of Delaware Avenue and the new parking lot by the turf field. The second phase which is the majority of the work that needs to be accomplished has already started this summer and will include a new parking lot between the turf field and the gymnasium, a road that goes from the parking lot behind the pool to the parking lot by Burd Street and a road that will connect two parking lots at the turf field. There is also sewer and water work being done at the same time and it is hoped that the whole phase will be completed by the end of August. The final phase is to reconfigure the parking lot by the school's Meckler Library and convert the existing parking lot into a grass area.

Mr. McWhirter explained that they are planning to renovate space in the Old Main building and they need temporary space for the administrators. They would like to place two temporary trailers in the back of the campus center for them to use while the work is going on. They would like to start the work when school ends around the end of June and it will take approximately six months to complete the work, but may take a little longer if they run into unexpected problems. Mr. Meytrott asked if they would lose parking spaces. Mr. McWhirter responded that the trailers would not take up spaces, but would be on a grass area where the previous temporary trailers were located.

Brian Perry stated that the impervious area for the trailers was under 2,000 sq. ft. and was a de minimus area and would be temporary and he did not feel that it was an issue. Any water from that area would flow to the pond.

Herbert Matthew Seeburger, Van Cleef Engineering Associates, applicant's engineer was sworn and stated that he has appeared before the Board many times. Entered into evidence was Exhibit A-1 Rendering of Proposed Trailer and Ball Stop Site Plan. Mr. Seeburger stated that the trailers would have a self-contained water tank between the two trailers screened by a fence and the tanks for sanitary sewer would be underneath the floors of the units and will not go into the sewer system. The trailers would be elevated on blocks and anchored for high winds. Mr. Seeburger stated that a stormwater analysis was done and because it is such a small amount of impervious coverage it will not have any impact on the lake. Mr. Perry pointed out in his memorandum of April 20th that there was a manhole under one of the trailers and asked if clearance was provided. Mr. Seeburger stated that there was enough clearance and the decorative skirting around the bottom can be removed for access to the manhole. Mr. Perry suggested that even though it was a small area a note should be put on the plan that good soil erosion practices be used. The applicant agreed and this would be made a condition of approval.

A-1 Rendered Site Plan entitled "Proposed Trailer Plan and Proposed Ball Stopper," Van Cleef Engineering Associates, April 20, 2018 was entered into evidence. Mr. Seeburger addressed the request for approval for a ball stopper net. He stated that it would be along Burd Street, 40 ft. high and 125 ft. long. There would be three poles holding mesh netting. He stated that there is an existing fence and brush that go along the same space. Exhibit A-2 Two Colored Simulated Photographs of Proposed Ball Stopper, Van Cleef Engineering Associates, dated May 9, 2018 was entered into evidence. Mr. Seeburger stated that there was an approximate 3

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ft. drop from the road and the net would appear to be 35 ft. from the road. The school feels it is a public safety issue and would like the ball stopper to keep foul balls from going into the street and sidewalk. Mr. Seeburger explained that the net blends in and people would mostly see the top of the poles. Mr. Goldberg stated that a neighbor had complained and asked the school to provide safety measures. He stated that there would be no significant detriment and it would be an improvement regarding safety. Mr. Seeburger was asked if the net would be temporary or permanent and he responded that it would be permanent. The applicant was asked about wind storms and Mr. Seeburger stated that they would have to meet required standards.

Michael Bolan, Borough Planner was sworn in. Mr. Bolan asked how they arrived at the height of 40 ft. Bob Jones, Director of Operations for The Pennington School was sworn in. Mr. Jones stated that after they heard neighbors' concerns they started contacting companies and other schools that had the nets and they all recommended 40 ft., as anything shorter would not block the foul balls. Mr. Bolan reviewed additional comments he had in his memorandum of April 30, 2018. The applicant explained that it would be an additional cost to take the netting down every year and the poles would have to be permanent. Mr. Bolan also noted that an additional variance is required for more than three accessories on one lot as well as a variance for a 50 ft. front yard setback. Brian Perry, was sworn in and stated that the impact to soil erosion by the poles would be de minimus as the only disturbance would be for the pole footings.

Mr. Reilly asked if there was anyone in the public who had comments or questions regarding the application.

Joseph Lawver, 304 Burd Street, was sworn in. Mr. Lawver did not feel that the net would blend in and there were already too many poles along the street. He pointed out the netting at the golf center on Route 31 and stated that it shreds and catches sticks and debris and this net would do the same in storms and windy days and would detract from the visual of the neighborhood. He asked why the field could not be flipped to address the safety concerns. Mr. McWhirter stated that they looked at that possibility, but it is not a simple process and would be extremely expensive. The athletes who occupy the front fields or those who use the track would then be exposed to foul balls. Mr. Reilly suggested that they could move the schedules around and Mr. McWhirter stated that it would not be possible as they have many different sports using the field and there is only a limited period of time when they can be scheduled. Mr. Seeburger explained the different positions for the field and why they would not work. He also noted that if the field was flipped it would intrude into the infield. Mr. McWhirter stated that they are proposing the ball stop to protect the people on Burd Street not because the school needs it and they would not want to incur substantial costs.

David Myers, 1 Academy Court, was sworn in. Mr. Myers stated that the only benefit he sees is for safety and was wondering if there was any natural way to achieve the same objective as he is concerned about the visual aspects and he would not like to look out and see the poles and netting. He does not feel that it is a safety issue for him as he is further away, but could not speak for his neighbors.

There being no further comments, Mr. Reilly closed the public portion of the hearing.

Mr. Goldberg stated that the issue about the ball stop comes down to safety and if approval is not granted there is a safety hazard. Mr. Reilly asked if there were any more comments from the applicant. There being none, he stated that the issue comes down to whether the safety hazard is sufficiently serious enough to justify a variance. Mr. Schmierer suggested that the applicant bifurcate the application and vote separately on the requests. Mr. Reilly agreed and asked the Board for their comments regarding the trailers. The Board did not have any comments regarding the trailers.

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Mr. Blackwell made a motion, seconded by Ms. Heinzl to approve the two trailers with the condition that a note be placed on the plans regarding soil erosion and sediment control measures that will be taken. Voting yes: Angarone, Blackwell, Gnatt, Heinzl, Meytrott, Schotland, Reilly. Absent: O'Neill, Thompson

Mr. Reilly asked for the Board's comments regarding the ball stop.

Mr. Meytrott referred to Mr. Myers' comment and stated that when he was looking at the site he felt that if there were some large trees along Burd Street and the netting placed to the west of them, the trees might provide some natural buffer. He stated that he has not been swayed that the positive criteria has been met and agreed with the planner that there would be a detriment to the public good of the immediate neighborhood and did not feel that he could support the request. Ms. Gnatt stated that she was not convinced there was enough of a safety issue to warrant the visual impact on the neighborhood. Mr. Schotland felt that Mr. Lawver made a good point about the visual aspect and when you walk down Burd Street the netting would be black. He stated that if it is approved he would suggest a condition that any damage that happens to the net would be repaired and that it would be kept looking good.

Mr. Angarone stated that he keeps coming back to the bulk variance requirements and he did not feel that there was any hardship to grant the variance. Mr. Blackwell felt that since the applicant was willing to put up so much money there must be some kind of safety issue. He stated that he would not want to be responsible if a child was hit by a ball walking down Burd Street and he would support the application. Ms. Heinzl stated that looking at the Municipal Land Use Law she does not see that a front yard setback variance for a 40 foot net is justified with the impact it would have on the neighborhood and she would not support the application because of this and the reasons stated previously.

Mr. Goldberg stated that he wanted to make sure that the Board was clear that the argument was exclusively about safety. He understands their concern about aesthetics and he fortunately cannot state that anyone has been crippled or killed by a foul ball, but the obvious goal is to make sure that this never happens. It is exclusively about safety.

Mr. Reilly stated that it concerns him that the whole argument rests on the presumption that the baseball field must be kept on the same spot and if the variance is not granted baseball playing will go forward and the public will be exposed to the safety hazard. He felt that the school would be interested in mitigating such a hazard that would preserve public safety without creating a serious deviation from the Land Use principle. He feels it is not the responsibility of the Board if someone were injured because a variance was not granted. Mr. Reilly asked if the applicant would like time for further consideration and return to the Board.

Mr. Goldberg requested a short break to speak to the school's representatives and professionals. The Board agreed and Mr. Reilly stated that they would have a five minute break. After the break, Mr. Goldberg stated that they discussed the application and are concerned about flipping the field and then putting more people at risk and the application would stand as it is and asked the Board to vote.

Mr. Angarone made a motion, seconded by Mr. Meytrott to deny the application for the ball stop net. Voting yes: Angarone, Gnatt, Heinzl, Meytrott, Schotland, Reilly. Voting no: Blackwell Absent: O'Neill, Thompson. The hearing ended at 9:00 p.m.

WORK SESSION

Heritage at Pennington – Mr. Schmierer stated that a field change has been administratively approved by Brandon Fetzner, Borough Engineer, for the development. An underground irrigation system has been approved for the development, it is allowed and will not be detrimental to the Borough or create a problem with the water pressure. It is subject to engineering recommendations and American Properties will have to sign an agreement. The homeowner's association will be responsible for the system.

Video - The NJ Department of Environmental Protection has mandated continuing education requirements for Municipal Board Members and Governing Body members. The video is entitled "Asking the Right Questions in Stormwater Review Training Tool." It is available on the NJ Department of Environmental Protection's web site and must be watched by July 1, 2018. All Board members present, Brian Perry, Planning Board Engineer and Mary Mistretta watched the video.

MINUTES

March 14, 2018 - Ms. Gnatt made a motion, seconded by Mr. Angarone to approve the minutes and the Board approved by voice vote.

April 11, 2018 - Ms. Heinzl made a motion, seconded by Mr. Blackwell to approve the minutes with a correction and the Board approved by voice vote.

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary