

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REGULAR MEETING
JULY 11, 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, Eileen Heinzl, Katherine L. O'Neill, Vice Chairman, William B. Meytrott, Douglas Schotland, Winn Thompson, James Reilly, Chairman. Absent: Deborah L. Gnatt
Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Planning Board Attorney; Michael P. Bolan, Borough Planner; Brian Perry, Planning Board Engineer, Van Note-Harvey Associates; John Flemming, Zoning Officer; Mary W. Mistretta, Board Secretary.

OPEN TIME FOR PUBLIC ADDRESS

David Haines, 2 East Franklin Avenue, requested to speak to the Board concerning the placement of an air conditioner and if it would require a variance. John Flemming, Zoning Officer, explained that Mr. Haines lives on a corner lot and, therefore, has two front yards and does not have much of a rear yard. He has placed a very small condenser, 2 ft. x 1 ft. on a patio that has existed since 1918. It is at the side of the house that is considered the front yard and is under the existing roof overhang. Mr. Reilly asked Mr. Schmierer for his opinion and Mr. Schmierer responded that it was on an old existing structure and it would not need a variance and the Board had no objections.

APPLICATIONS

AGRAIN, LLC (Erwin Harbat), Block 103, Lot 8, 278 North Main Street, Preliminary/Final Site Plan, Variance, MU-1 Zone, Application No. P18-001.

Henry T. Chou, Hill Wallack LLP, attorney for the applicant gave a brief description of the application which is for a wood fired pizza restaurant and variance approval for existing nonconformities. He stated that Erwin Harbat was the sole and managing member of Agrain, LLC and noticing requirements were complete. The applicant would like to renovate a portion of the existing building for a wood fire pizza restaurant. The property is in the MU-1, where restaurants are permitted uses. They are proposing to add a 1,300 sq. ft. outdoor dining patio with a pergola. Improvements to the site will include the removal of a concrete walk, storage area and shed, grain building, curbing and concrete paving. The existing gravel parking lot that has been compacted down over the years will be paved, new lighting, landscaping, curbing, sidewalks and fencing are also proposed. Mr. Chou stated that there are some preexisting nonconformities on the site, but they are not proposing any new variances with the application. Mr. Chou stated that they are in agreement to revise their plans and comply with all the recommendations that have been raised in the professional review memorandums.

Wayne J. Ingram, Engineering & Land Planning Associates, Inc., engineer and planner for the applicant, was sworn in. Mr. Ingram gave his qualifications which the Board accepted. Entered into evidence was Exhibit A-1 - Site Plan, page 4. Mr. Ingram described the existing site and stated that no changes will be made to the existing structure. There are multiple structures and sheds on the property and the original structures date back well over 75 years. The lot will be paved in some areas and cleaned up to make a functional circulation plan and add defined parking. There are various existing conforming uses on the property. They propose to cut about

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8% of the impervious coverage on the lot by revegetating. They will install lighting and landscaping throughout the lot and add an outdoor patio for the pizza restaurant. They are removing a large shed where the patio is going and the patio will be enclosed by a lower ornamental fence with some low lighting. There is a concrete pad north of this area that they would like to enclose with a vinyl board-on-board fence that would be used for trash. The only change they are making to the existing driveway is to make the southern end an "in only" and the northern end will serve as an entrance and exit. They feel that this will be an improvement for the circulation on the site. Mr. Ingram explained that they included three parking stalls located further north on the property in their calculations. There are five parking stalls in front of the building which are partially in the County right-of-way and have been there for decades. They will be meeting with the County and pointed out that if the County wants the spaces removed they would still have more than sufficient parking to meet the Ordinance requirements. The lighting will be full cut-off fixtures which will keep the light within the confines of the property. Mr. Thompson asked if the employees were counted in the parking calculations for the restaurant. Mr. Ingram stated that they were based on all the tenants. There are 15 spaces for the restaurant which is an over estimation and includes employees. Mr. Bolan agreed that the parking would be sufficient considering the types of other uses there are on the property. There are 51 proposed parking spaces on the lot. Mr. Meytrott asked if there would be any specific parking spots for take-out customers and Mr. Ingram stated that they could use the 5 spaces in the front of the building. The spaces were approved by the County in 1980 and Mr. Ingram feels that they will allow them. Mr. Reilly asked if the patio seats were left out of the calculations since they would be seasonal. Mr. Ingram stated that 18 seats on the patio would require 4 stalls and the amount of spaces shown is still well over the required amount. Mr. Blackwell asked what they would do with snow that is plowed and Mr. Ingram stated that they are not curbing the entire site which will enable them to sweep the snow to substantial areas that they have. Mr. Ingram stated that they are not doing anything to the property that will alter the flow of water, but there will be a reduction of runoff from the property because of the areas that are being revegetated. Mr. Meytrott asked what was being done to prevent cars from driving down by the railroad track. Mr. Ingram stated that there is a fence and they will do the requested landscaping. Ms. Heinzel asked if the fence was on the applicant's or the railroad's property and who maintained it. Mr. Ingram stated that it was just over the Agrain property line, but the applicant had installed it and would maintain it. Mr. Thompson asked if a traffic survey had been done since the Mercer County Planning Board had requested one. Mr. Ingram stated that prior to the meeting with the County they indicated that they just wanted an accounting of what is anticipated. Ms. O'Neill asked if they were planning on adding any additional spaces in the right-of-way and Mr. Ingram responded that they were not. Mr. Schotland asked if they were planning music in the outdoor area and Mr. Ingram stated that they would not have any music that would go past the property. Mr. Reilly asked if this would be covered under the noise ordinance and should there be a condition controlling music in the outdoor area. Mr. Schmierer stated that it could be indicated in the resolution as a reminder.

Brian Perry, Van Note-Harvey Associates, Board Engineer, was sworn in and reviewed the comments he had in his memorandum of June 27, 2018. Mr. Perry asked about a red container that was not on the site plan and Mr. Ingram stated that it is the applicants' container, but is not on his property. Mr. Perry also asked about a notation on the plan regarding a portion of the lot in the northern area that is to be conveyed to Mercer County and asked if this had been done. Mr. Ingram responded that the County indicated it should be conveyed and it will be done as part of their County approvals. Mr. Perry also asked if they considered the impervious difference between gravel and paving. Mr. Ingram stated that they will do more permeability testing in different areas to ensure that there is no change to the runoff. Mr. Perry also asked about the condition of an existing inlet at the southwest corner of the building and Mr. Ingram responded that they had no objection to checking the capacity and upgrading the pipe, but felt that they

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would be constrained by the downstream pipe. The applicant agreed to comply with the comments in Mr. Perry's review memorandum.

Michele Piancazzo, AIA, was sworn in and stated that he is a licensed architect in Italy and is applying for his license in New Jersey. He is a project consultant for MPOA Architecture to assist with applications for wood fire pizza restaurants. The Board accepted his qualifications. Mr. Piancazzo reviewed the floor plan of the restaurant and stated that it will be an open space and the kitchen will be simple since they will only be preparing pizza and salads. There are two handicapped parking spaces in the rear of the building with handicapped access and there is access in the front for take-out. Mr. Piancazzo described the double wall chimney and the structure that will be surrounding it. The rear 18 x 36 ft. patio will have goose neck light fixtures with down lighting and a pergola over the patio area.

Mr. Chou stated that in response to the Health Officer's suggestion at the conceptual meeting, Mr. Piancazzo has provided information regarding a scrubber that they are proposing. Mr. Piancazzo stated that they will be using a high efficiency oven and will be using very dry wood which will lower the particles. The scrubber they are recommending is the only one that meets the EPA acceptable numbers for particles put into the air. Entered into evidence were Exhibit A-4 I Smoke Zapper 200 – I Model Overview and A-5 - I Why Smoki USA? Mr. Piancazzo described how the scrubber works and how this particular model uses a high pressure water nozzle which creates a draft that pulls the smoke into the Zapper unit where it is rinsed and cooled to a safe temperature. The vapor is then released into the atmosphere at an average temperature with up to a 95% reduction of particulate matter and a 50% reduction in odor. The water then goes into the grease interceptor. The scrubber should have maintenance twice a year and specs for maintenance and technology for the scrubber and oven will be submitted to the Health Department for review and approval. In response to a question from the Application Review Committee, Mr. Piancazzo stated that they included a changing room to give the employees a room to change their clothes when they got to work. Mr. Piancazzo pointed out that an error was made on the measurement of the sign and it would measure 3 ft. x 30 inches.

John Flemming, Zoning Officer, was sworn in and pointed out that an air conditioner unit had been installed in the front of the building. He stated that it was well screened, but would require a variance. The applicant stated that the hours of business would be 11:00 a.m.–10:00 p.m. seven days a week. Mr. Ingram stated that the air conditioner was located in the front of the building approximately five feet off the right-of-way line and is a hardship since it is an existing condition. There was no feasible place in the rear of the building because of the layout and it is well screened behind the existing porch. Mr. Ingram felt that it was placed in an appropriate spot given the length of the building and felt that there would not be any detriment to the public good and would not be inconsistent with the Master Plan and Zoning Ordinance.

Ms. O'Neill asked about the materials being used for the pergola and Mr. Piancazzo stated that it would be constructed from a composite material and would cover the whole patio area. It would be similar to a trellis and will have lattice on top to give light shade. Mr. Angarone stated that the application was reviewed by the Environmental Commission and their discussion focused primarily on the impervious surface and they were happy to see a net decrease. They also expressed some concerns regarding the potential emissions from the wood fired oven, but they deferred to the comments from the Health Department.

Mr. Reilly asked if there were any further comments from the Board. Michael Bolan, Borough Planner, was sworn in. Mr. Bolan asked if the plan would be amended to show the three spaces that were discussed and also the parking calculations. He also asked about the buffering along the westerly and southerly property lines and Mr. Chou agreed that they would be added. He verified that a design waiver was being requested for a vinyl board on board fence instead of

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wood for the dumpster enclosure. Ms. Heinzl requested that when the stormwater management calculations were done that they take into account the water that flows off the County road. Mr. Chou stated that this would come up at the meeting with Mercer County.

Mr. Reilly asked if there was anyone in the public who had comments or questions. Tammy Sands, Municipal Water Specialist from the Watershed Institute, was sworn in. Ms. Sands stated that she reviewed the plans along with their stormwater specialist, Kory Kreiseder. She was speaking as a representative of the Watershed Institute and they wanted to make suggestions to help with the drainage and pollution. Ms. Sands distributed copies of suggestions they have that are simple fixes such as removing the curbing to improve the flow at the top end of the site and a rain garden near the patio and she described additional suggestions. Mr. Schmierer asked if this information had been shared with the applicant and Ms. Sands stated that it had not. Mr. Chou stated that the site was under NJDEP's (New Jersey Department of Environmental Protection) jurisdiction as there is an ongoing environmental remediation and they cannot do anything that would require excavation. He stated that they are paving the lot which should eliminate a lot of the sediments that currently accumulate. Ms. Sands stated that they were not aware of the remediation. Mr. Chou stated that it has been a long standing case under NJDEP jurisdiction. He stated that they would be working with the County regarding the drainage system and they would be bound by their suggestions. He stated a lot of what they are proposing will eliminate a lot of the debris in the inlet. Ms. O'Neill asked how much longer the remediation would be going on and she felt that it would have been helpful to have had the information as part of the application. Erwin Harbat, owner of the property, was sworn in. Mr. Harbat explained that approximately 20 years ago they took out tanks and two had slight fuel oil leaks and DEP requested test wells. It is currently being remediated through natural attenuation that is now overseen by a licensed soil remediation professional. There being no further comments from the public, Mr. Reilly closed the public portion of the meeting.

Mr. Blackwell made a motion to approve the application including a variance for the air conditioner and existing nonconformities on the site plan included in Mr. Bolan's memorandum of July 5, 2018, waiver for the white vinyl board-on-board fence and with the conditions discussed including Health Department and engineering approval. It was seconded by Mr. Thompson. Voting yes: Angarone, Blackwell, Heinzl, Meytrott, O'Neill, Schotland, Thompson, Reilly. Absent: Gnatt. The hearing ended at 9:00 p.m.

THE PENNINGTON SCHOOL, 112 West Delaware Avenue, Block 502, Lot 4, E-1 Zone.
Waiver of Preliminary/Final Site Plan.

Eric Goldberg, Stark and Stark, attorney for the applicant, stated that the Pennington School would like to add a 1,600 sq. ft. addition to the dining hall. They would need to get it built during the summer or they would not be able to build it. The existing patio off the dining hall would be removed and the addition and a smaller patio would be built in the same area. The square footage of what is currently there will not be increased. Mr. Goldberg stated that the Board can grant a waiver of site plan approval if there is no great impact to circulation, drainage and the relationship of buildings to each other. He stated that this will not have any impact on circulation, landscaping, lighting and will not be altering the building.

Robert Douglass, Architect, was sworn in and has previously been before the Board. Mr. Douglas presented the following exhibits: A-1 Photographs of the property in the vicinity of the dining hall and patio; A-2 Plan entitled "Permit Set, June 13, 2018, Floor Plan, Dining Hall," Voith & Mactavish Architects, LLP (Sheet A1.1); Exhibit A-3 Display board comparing existing dining hall layout and proposed layout including patio. Mr. Douglas described the area and stated that there is a wall around the patio used for seating and a portion of that will remain. He pointed out that there will be a series of windows and two vestibules that will improve circulation

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and access to the dining hall. The school is not increasing enrollment and the main purpose of the project is to reduce crowding in the dining hall and allow more students to be seated at meal times. Mr. Perry stated that he had minor comments about the impervious, but the exhibits clarified his questions. He suggested that it was important for the applicant to keep track of the impervious coverage including the smaller projects as they add up, although he did not feel that this project would add to the impervious. Mr. Perry confirmed that the applicant stated that they are not increasing enrollment and the kitchen was not being renovated. Mr. Perry felt that there was a de minimus impact on the items listed by Mr. Goldberg and the Board could consider a waiver of site plan approval. He felt that if anything the impervious was reduced. The Board agreed that it is being built on an existing patio and there are no changes to the kitchen and the engineer felt that it was a de minimus addition. Mr. Thompson also noted that it would not be visible to neighboring properties. Mr. Schmierer stated that there would be a resolution and it would refer to the June 13, 2018 plans that were submitted and the revised patio shown on Exhibit A-2. Mr. Thompson made a motion, seconded by Mr. Blackwell to approve the waiver of site plan. Voting yes: Angarone, Blackwell, Heinzl, Meytrott, O'Neill, Schotland, Thompson, Reilly. Absent: Gnatt. The discussion ended at 9:20 p.m.

WORK SESSION

Ms. Heinzl stated that the JIFF Insurance is now requiring municipal Planning Boards to have a training session that can be given by the Board attorney. Mr. Schmierer agreed and a seminar will be scheduled in the fall. Mr. Meytrott stated that he had received an outline from JIFF that should be followed and he will forward it to Mr. Schmierer.

MINUTES

May 9, 2018 - Mr. Blackwell made a motion, seconded by Ms. Heinzl to approve the minutes with corrections and the Board approved by voice vote.

June 13, 2018 - Ms. O'Neill made a motion, seconded by Ms. Heinzl to approve the minutes with corrections and the Board approved by voice vote.

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary