

**PENNINGTON BOROUGH  
PLANNING BOARD MINUTES  
REGULAR MEETING  
SEPTEMBER 12, 2018**

Ms. O'Neill 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, Deborah L. Gnatt, Eileen Heinzl, Katherine L. O'Neill, Vice Chairman, William B. Meytrott, Winn Thompson.

Absent: Mark Blackwell, Douglas Schotland, James Reilly, Chairman

Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Planning Board Attorney;

Mary W. Mistretta, Board Secretary. Absent: Michael P. Bolan, Planner; Brian Perry, Van Note-Harvey Associates, Planning Board Engineer; John Flemming, Zoning Officer.

**OPEN TIME FOR PUBLIC ADDRESS** – there were no comments from the public.

**RESOLUTIONS MEMORIALIZED**

**AGRAIN, LLC (Erwin Harbat)**, Block 103, Lot 8, 278 North Main Street, Preliminary/Final Site Plan, Variance, MU-1 Zone, Application No. P18-001. The applicant received Preliminary/Final Site Plan approval for a wood fired pizza restaurant and variance approval for existing nonconformities. Mr. Thompson made a motion, seconded by Mr. Angarone to adopt the resolution. Voting yes: Angarone, Heinzl, Meytrott, O'Neill, Thompson. Not voting: Gnatt. Absent: Blackwell, Reilly, Schotland.

**THE PENNINGTON SCHOOL**, 112 West Delaware Avenue, Block 502, Lot 4, E-1 Zone. The applicant received a Waiver of Preliminary/Final Site Plan to build an addition to the dining hall over a portion of the existing patio. Mr. Thompson made a motion, seconded by Ms. Heinzl to adopt the resolution. Voting yes: Angarone, Heinzl, Meytrott, O'Neill, Thompson. Not voting: Gnatt. Absent: Blackwell, Schotland, Reilly.

**MINUTES** – July 11, 2018 – Mr. Thompson made a motion, seconded by Mr. Angarone to approve the minutes with a correction. The Board voted by voice vote to approve the minutes.

**2018 Land Use Liability Seminar**

Mr. Schmierer explained that there has been a rise on the number of lawsuits regarding Land Use Applications which fall into a category which might lead to liability on the town for having denied an application. Mr. Schmierer described the most recent case regarding an application in 2014-2015 that was denied and the applicant appealed the decision and filed a complaint in the Federal court alleging that they were discriminated against because of their religion. As a result, there was a 7.5 million dollar settlement and 5 million dollars in attorney fees. That municipality like Pennington and many other municipalities participate in what is called the Municipal Excess Liability Joint Insurance Fund and they got hit with paying the balance of the owed liabilities. As a result of these lawsuits, MEL has put together a Land Use Liability Seminar and suggested that the Board's Attorney review the slides of some of the cases that have been involved to sensitize the members to the possibility of liability for the Board and the town if an application was not based upon the record, but on an ulterior motive. Mr. Schmierer stated that the good news was that Pennington Borough does have Chapter 20 – Defense and Indemnification ordinance in their Code and that is the insurance policy for serving as a volunteer member of

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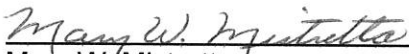
the Board. This would cover individual Board members. Mr. Schmierer presented and reviewed the slides and encouraged Board members to ask questions and participate in the presentation.

(To encourage Board members to take this training, the MEL has created a special policy to protect them from many personal exposures. There is no additional premium for this policy, but to qualify for this coverage members must participate in the seminar. )

Ms. Heinzl announced that Michael Bolan, the Board's Planner, has informed us that he is retiring and asked that he not be reappointed for the year 2019.

The meeting was adjourned at 8:50 p.m.

Respectfully submitted,



Mary W/Mistretta  
Planning Board Secretary