

**PENNINGTON BOROUGH  
PLANNING BOARD MINUTES  
REGULAR MEETING  
OCTOBER 10, 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, Eileen Heinzl, Katherine L. O'Neill, Vice Chairman, William B. Meytrott, Douglas Schotland, Winn Thompson, James Reilly, Chairman.

Absent: Mark Blackwell, Deborah L. Gnat

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

**OATH OF OFFICE** - Mr. Schmierer swore in Cara Laitusis as Alternate 1, serving an unexpired term to December 31, 2018.

**OPEN TIME FOR PUBLIC ADDRESS**

Dan Pace of 9 Railroad Place informed the Board that there were two new sheds on the Agrain property on N. Main Street that were not part of the previous approval. John Flemming, Zoning Officer looked into it and Mr. Harbat, owner, indicated that the sheds were only temporary and would be used during construction and would then be removed. Mr. Pace wanted to be sure the Board was aware of this and that it was followed up on.

**UMBERTO NINI**, Block 503, Lot 8, 30 West Delaware Avenue, Town Center Buffer Zone, Minor Subdivision, Variance, Application No. P18-004.

Alberto Nini, 203 Pennington-Rocky Hill Road, applicant and Frank J. Falcone, a principal of Princeton Junction Engineering, P.C. were sworn in. Mr. Falcone stated that he was a Licensed Land Surveyor in New Jersey and has previously testified before the Board. The Board accepted Mr. Falcone's qualifications. The applicant is requesting approval for a minor subdivision of three lots. One of the lots would have an existing house and new houses are proposed for the other two. Mr. Falcone presented Exhibit A-1 Overall Site Plan of Existing Conditions and explained the conditions and structures on the site. Block 503, Lot 8 is approximately 17,000 sq. ft. with an existing structure that is currently being renovated with a new addition and garage. Entered into evidence was Exhibit A-2 – An enlargement of the proposed subdivision. Lot 8.01 with the existing house would be 6,189 sq. ft. Proposed Lot 8.03, 4,915 sq. ft. with a single-family house facing Burd Street. Lot 8.02 approximately 5,915 sq. ft. on the corner of Burd Street and E. Delaware, with a single-family house facing E. Delaware Avenue. Mr. Falcone stated that the height which is not in compliance will be changed to comply and both proposed houses will comply with all the zoning regulations. Topographically the site slopes from the back southeast corner to the northwest and runs to the existing storm drains and there would not be any impact on the adjoining lots. It was pointed out that new construction have run into water problems because of high water tables. The applicant stated that there will be engineering tests and reviews to determine the seasonal high water table and suggestions to help prevent any potential water problems. Mr. Nini stated that he has spoken to Mercer County DOT and they have given permission to direct the sump pumps into the stormwater system. They will keep the elevation of the new houses higher to also help with the water table. The Board still had concerns about water because of previous problems. Mr. Schmierer assured the Board that engineering review and connection to the stormwater system

would be made conditions of approval. There are a number of trees on the lot, but most of them will have to be taken down because of impact from the construction.

Mr. Falcone stated that they have reviewed the professional memorandums and have no problems with the comments, except they would like to address the Fire Officials review memorandum of October 5, 2018. He stated that he provided additional information requested by Mr. Perry for the lot dimensions. The utilities to the new houses will be underground, but they will remain overhead to the existing house. Mr. Thompson noted that the ordinance requires utilities for new houses to go underground. The sidewalk on Delaware Avenue will be replaced and the applicant will make any repairs that are needed on the Burd Street side.

The Board had concerns about safety regarding the driveways. One is close to the intersection that includes a school and is also heavily used by children and traffic going back and forth to nearby schools. Mr. Falcone stated that they came up with the existing plan because they tried to mimic the nearby houses and keep the same setbacks. They considered alternative plans including both houses facing Burd Street, but they felt that the bigger house fit in better with the Delaware Avenue streetscape and they also felt that the driveway for that house would not be as close to the intersection. The driveway for the existing house will now be going out to Delaware Avenue instead of to Burd Street and there will be three driveways instead of one in a very busy area. The two new houses will have driveways from Burd Street and Mr. Falcone stated that they are placed as far away from the intersection as they could get them. There was extensive discussion regarding concerns about safety regarding the driveways and alternatives. The applicant has not yet met with the Historic Commission with plans for the proposed new houses and it is not a requirement for this application. Mr. Schmierer explained that the application was for a subdivision for three lots and if the applicant can comply with all the Borough regulations it means the lots work. If the applicant agrees to the suggestions made by the Board they can be considered a condition of approval. He also pointed out that the two houses that are on the plans are only a concept and the applicant could move them around as long as they comply with the regulations.

Mr. Bolan reviewed his memorandum of October 3, 2018 and pointed out that the Town Center Buffer Zone is an unusual zone as it uses the same zoning regulations as the Town Center zone and some of the standards are not necessarily applicable to the conditions in the TCB Zone especially with a subdivision application. He pointed out that the main lot does not conform to the regulations as it is much larger than the maximum size allowed and the subdivision is actually creating three conforming lots. Mr. Perry reviewed his memorandum of October 2, 2018. He stated that they would review the proposed lot dimensions and will calculate lot areas. The applicant has agreed that the Borough Engineer would review the construction plans regarding drainage. Mr. Meytrott asked about the status of any issues with the Fire Official. A memorandum, dated October 3, 2018 was received from Andrew J. Fosina, Fire Official, who was unable to attend the meeting. Mr. Nini stated that he had read the recommendation and he has been building for the last 30 years and none of the single family homes have had fire sprinkler systems. He has talked to the Fire Official who said he was open to discussion once he has the house plans. Code requires any house that is built within 5 ft. of another structure must have fire rated walls. Mr. Nini also noted that fire accessibility is also available from the rear of the houses from both Burd Street and W. Delaware Avenue. Mr. Schmierer explained that the Board could not condition the recommendation for fire sprinklers, but they could put in language that the fire code will be met.

In further discussion, a suggestion was made that would help eliminate cars from backing out of the driveway of Lot 8.03. The applicant could shift the location of the northerly lot line of proposed Lot 8.02 approximately 2.0 ft. north. This would allow sufficient room on the southern

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boundary of Lot 8.03 to extend the widened driveway to the rear and create a turnaround area. A variance would be needed for a side yard setback for Lot 8.03.

Mr. Reilly asked if there were any comments from the public.

Eric Holtermann, Historic Preservation Commission, was sworn in. Mr. Holtermann stated that when Mr. Nini came to Historic the neighbor was there with some issues. Mr. Nini met with her the next day and she was pleased with the changes he made in response to her issues. He also stated that the commission was aware that the point of the Town Center zoning is to encourage density in that area. They felt that the proposed corner house would be very prominent on the street and should respect the setbacks of the other existing houses. They will look at the height of the proposed houses as they would not want them to tower over the old Thornton house. He felt that the Historic Commission would advocate moving the lot lines to enable the driveway to go to the rear of the lot.

Chris Czornyek, 18 W. Delaware Avenue, was sworn in. Mr. Czornyek stated that he has lived on W. Delaware Avenue for approximately 8 ½ years. He stated that it was the busiest block in town, but he did not have any concerns about public safety. He stated that there are currently three driveways on that side of the block and he does not have a concern or think that two additional driveways on the block will make a public safety difference.

Daniel Pace, 9 Railroad Place, was sworn in. Mr. Pace stated that he appreciated the Board discussing the project and bringing up the safety issues for Burd Street. He feels Burd Street has more safety issues than Delaware Avenue including site distance and it is a much narrower road with parking.

Kathleen Rigant, 121 W. Welling Avenue, Ms. Rigant stated that she understands why the large Beech tree cannot remain, but there is a little Beech tree behind it and Mr. Nini has agreed to try to preserve the tree either on the property or by moving it someplace else. She also would like to save some of the blue carpet under the tree that everyone knows about in the spring. Ms. Rigant has volunteered to assist Mr. Nini to help preserve them or find another place for them.

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

The Board agreed that the minor subdivision met the requirements and Ms. O'Neill asked if they were being asked to approve the plan as submitted or a plan with the minor adjustment and variance that was discussed. It was also suggested that Mr. Nini could request to be continued for further discussion after he meets with the Historic Commission. The applicant requested approval for the amendment and variance that was previously discussed. Mr. Thompson made a motion, seconded by Ms. O'Neill to approve the amended minor subdivision and variance with conditions. Voting yes: Angarone, Heinzel, Meytrott, O'Neill, Schotland, Thompson, Laitusis, Reilly. Absent: Blackwell, Gnatt. The hearing ended at 9:20 p.m.

**MINUTES** – Ms. O'Neill made a motion, seconded by Mr. Thompson to approve the minutes of September 12, 2018 and the minutes were approved by voice vote.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary

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**2018 Land Use Liability Seminar** – Following the regular meeting, Mr. Schmierer presented the 2018 Land Use Liability Seminar for members who missed it in September. James Reilly, Douglas Schotland and Cara Laitusis attended the seminar.