

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REORGANIZATION AND REGULAR MEETING
MARCH 13, 2019**

REORGANIZATION

Mr. Schmierer called the meeting to order at 7:30 p.m. and announced compliance with the provisions of the Open Public Meetings Act.

The following were given the Oath of Office by Mr. Schmierer: Eileen Heinzl, Class I, Mayor's Designee and William Meytrott, Class II, Borough Official for the terms 01/01/2019 –12/31/2019. Katherine L. O'Neill, Class IV and James Reilly, Class IV for the terms 01/01/2019 – 2/31/2022. Cara Laitusis, Alternate I for the term 01/01/2019 – 12/31/2020.

Ms. Mistretta then called the roll. Board Members Present: Eileen Heinzl, Katherine L. O'Neill, Cara Laitusis, Alt. 1, William B. Meytrott, James Reilly, Douglas Schotland. Absent: Nicholas Angarone, Mark Blackwell, Deborah Gnatt, Anthony Persichilli, Winn Thompson. Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Planning Board Attorney; John Flemming, Zoning Officer; James Kyle, Planner; Mary W. Mistretta, Secretary. Absent: Brian Perry, Van Note-Harvey Associates, Planning Board Engineer.

Mr. Schmierer stated that a nomination was in order for Chairman of the Planning Board. Ms. O'Neill nominated Mr. Reilly and the nomination was moved by Mr. Meytrott. The Board unanimously agreed by voice vote to appoint James Reilly as Chairman.

Mr. Reilly thanked everyone and requested a nomination for Vice Chairman. Ms. O'Neill nominated Mr. Angarone and the nomination was moved by Ms. Laitusis. The Board unanimously agreed by voice vote to nominate Nicholas Angarone as Vice Chairman.

The following were appointed by the Board:

Edwin W. Schmierer, Esq., Mason, Griffin & Pierson, P.C. was appointed Planning Board Attorney for the year 2019.

James Kyle, PP/AICP, KMA, (Kyle-McManus Associates) was appointed Borough Planner for the year 2019.

Brian Perry, P.E., Van Note-Harvey Associates, PC was appointed Planning Board Engineer for the year 2019.

Mary Mistretta was appointed Planning Board Secretary

The **Hopewell Valley News** was designated the official daily newspaper for the Planning Board. **The Times of Trenton** was designated the official daily newspaper to be used only when through no fault of the applicant or the Board, publication of the Legal Notice was not possible in the Hopewell Valley News.

Planning Board Meeting Dates were approved as follows: Feb. 13, Mar. 13, Apr. 10, May 8, Jun. 12, Jul. 10, Aug. 14, Sep. 11, Oct. 10 (Thursday), Nov. 13, Dec. 11, Jan. 8, 2020.

The following were appointed to the Application Review Committee: Kate O'Neill, Eileen Heinzl, James Reilly, Nicholas Angarone, Deborah Gnatt, Alternate.

The Reorganization meeting was closed at 7:45 p.m.

REGULAR MEETING

OPEN TIME FOR PUBLIC ADDRESS

Reba Holley, 200 South Main Street, was concerned about a “giant” house built two doors down from her and a house in between that is being constructed and stated that they were never informed about either house. She stated that the “gigantic” house has completely ruined her yard and she is concerned about the house directly next to her. She stated that one of the houses was 212 S. Main. Mr. Reilly explained that if a house met all the zoning regulations there was no requirement to notify the neighbors. Mr. Flemming suggested that she come in to the Borough office and look over the file and question any zoning issues that she feels exist. Ms. Holley also had concerns about a large structure in the area that has been under construction for a very long time and is an eyesore. She feels that the permits for this structure must have expired by now. She also commented that there are large pieces of plastic flying around from it. Mr. Flemming suggested that she write a letter with her concerns to the Construction Official. Mr. Reilly stated that she could bring the letter to Borough Hall which is open from 8:30 am – 4:30 pm and she could also look at the files during that time.

ZONING OFFICER – John Flemming, Zoning Officer, stated that Mr. Reilly had been commenting about the lack of Board activity. He explained that since the Board approved the reduction of side yard setbacks and eliminated the slope ordinance there have been a number of projects that did not need Board approval. There have also been a number of interpretations that have helped eliminate the need of going to the Board. He stated that there are a couple of things in the works including the possibility of a change of use that would need Board approval and a major change of use in the Mercer Mutual building. Mr. Flemming stated that commercial use has been weak and there have been some inquiries about changing spaces to residential. Ms. O'Neill pointed out that the Second Time Around store is moving to the space that Fashionaires occupied on S. Main Street and inquired if Mr. Flemming knew who would be moving into the Second Time Around store. He stated that he had not had any inquiries regarding that property. Mr. Flemming felt that activity is coming that will probably require Board approval.

Mr. Flemming asked if anyone had any observations or issues for him. Mr. Kyle, the Board's new Planner, commented on the chase lights in the Exxon building on the corner of Route 31 and Delaware Avenue. He stated that the lights that are on the inside of a window frame at the Exxon station were very distracting and glaring. Mr. Flemming stated that they did not get approvals and explained that he has had problems with Exxon every now and then when they change managers and he would look into the lights. Mr. Flemming stated that the lighting and signage ordinances were outdated and should be tweaked a little. He stated that there was a list of ordinance revisions that were discussed, but some of them did not go forward. Mr. Flemming suggested that ARC should look at the list that was drawn up and go over it again.

JAMES KYLE, PLANNER

Mr. Reilly introduced James Kyle the new Borough Planner. Mr. Kyle stated that he lives in Hopewell Township and is familiar with the area and Pennington and is happy to be on board. Mr. Kyle stated that he has attended several smaller meetings and one of the topics raised was the Borough's affordable housing situation. Mr. Flemming had mentioned that more offices were looking to change to residential and one of Mr. Kyle's concerns was the larger buildings on Route 31. There is a possibility that someone might see them as a builder's remedy suit to build residential. He stated that Mr. Bolan (previous Planner) had suggested that there may be a path that we should take to prepare a plan and address the potential of these buildings. This would allow an ordinance to be put in place so that if someone comes in with a project we can capture

affordable housing opportunities. Mr. Kyle felt that a new vacant land adjustment should be done even though there is not a lot of vacant land for development there are some redevelopment opportunities. Mr. Kyle asked the Board if they wanted to start this process as he did not feel that it would be a huge undertaking, but it could be started by using the vacant land analysis and coming up with realistic development potentials. He does not feel that we could get to the number that Fair Share has identified and Judge Jacobson's number was higher than the Fair Share number. The question is do we go to Fair Share and try to get a settlement agreement or should we just prepare a plan and adopt it. Mr. Kyle stated that we really would need court approval in preparing the development fee ordinances and putting a spending plan in place and there is some merit in trying to get a settlement.

Mr. Reilly asked if any members of the Board had any questions or suggestions. Ms. Heinzel agreed and felt that it made sense to start putting a plan together at this time and some of the housing trust fund money could be used. Mr. Schmierer felt that it would be smart to prepare a plan that would have a realistic development potential and forget the numbers. Mr. Schmierer pointed out that Haddonfield received a number for prospective needs of 300, but they took the initiative to do a study and came up with a realistic number. Fair Share signed off on allowing them to put together a final plan that has 83 units with 21 credits for rentals. They took the initiative to do the study ahead of time to create some affordable overlay zones in case there was redevelopment and then presented it to Fair Share. Mr. Schmierer stated that the first step is to determine what the Borough could realistically do. There are 16 affordable units approved at Heritage at Pennington and there is some talk about redevelopment along Route 31 behind the stores. He feels it would be good to anticipate that and spend the money to create the plan and figure out how to sell it. The Board could work with the Planner on a plan, endorse it and send it to Council. This would give us something to present to the Fair Share for a settlement agreement. Mr. Meytrott asked if it would eventually need court approval and Mr. Schmierer stated that eventually it would if you wanted protection against the builder's remedy. Fair Share would give settlement approval and there are things that would have to be done to implement it and then it would need a final compliance hearing to get protection. If someone came into the Borough that wanted to do redevelopment it would have to be consistent with the plan and if they did not agree the Borough could then go and immediately file for a declaratory judgment.

Mr. Kyle stated that both he and his partner are Court Masters and they have developed good relationships with the people at Fair Share Housing which can help the Borough. He stated that up to 20% of the affordable trust fund could be used for administrative costs. Mr. Kyle felt that the plan would cost approximately \$15,000 to \$18,000. Ms. Heinzel asked Mr. Kyle if he could prepare a proposal for the Board. Mr. Kyle stated that a vacant land adjustment would be needed with consideration of the landfill and possible redevelopment areas. He stated that the new number for affordable units that came out was a little more than 200 and Mr. Schmierer stated that the realistic number that had previously been discussed was 37. Ms. Heinzel inquired about group homes since someone had come to her office to discuss them. Mr. Kyle stated that they are a great way to get low income credits and Mr. Schmierer stated that you get credit for one unit for each bedroom. Group homes come under Municipal Land Use Law and are considered single family homes as the individuals in a group home constitute a family unit. Mr. Reilly asked what the next step should be and Mr. Kyle responded that it would take him approximately two weeks to prepare a proposal. Mr. Reilly suggested that if the Board was agreeable, Mr. Kyle could prepare a proposal and the Board could meet in April to discuss it.

In response to an inquiry from Ms. Laitusis, Mr. Kyle explained that different options would be discussed as part of the development of the Fair Share plan. Mr. Reilly stated that it was a good question and we normally look at everything when a Master Plan Reexamination is prepared. Mr. Kyle stated that a reexamination would be a good idea for a comprehensive look at the zoning ordinances as Mr. Flemming suggested. Mr. Kyle stated that the zoning ordinances

Pennington Borough Planning Board Minutes – March 13, 2019
Reorganization & Regular Meeting

could be reviewed periodically by the review committee and they could use model ordinances that are available.

Ms. Heinzl noted that Mr. Angarone, representative from the Environmental Commission, was not at the meeting, but she was sure he would want to bring forward some of the initiative and model ordinances that are part of the Sustainable Jersey program. Ms. Heinzl suggested that this also be placed on the April agenda for discussion.

MINUTES – Ms. Heinzl made a motion, seconded by Mr. Meytrott to approve the minutes of the December 12, 2018 Planning Board meeting and the minutes were approved.

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary