

**PENNINGTON BOROUGH  
PLANNING BOARD MEETING MINUTES  
NOVEMBER 9, 2011**

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

Board Members Present: Jeanne Donlon, Eileen Heinzl, William B. Meytrott, Thomas Ogren, Mayor's Designee, Katherine O'Neill, James Reilly, Winn Thompson, Chairman, Keelan Evanini, Alternate #1, Mary Anne Heino, Alternate #2. Absent: Mark Blackwell, Josh Levy, Anthony Persichilli, Mayor.

Also Present: Mary W. Mistretta, Planning Board Secretary

Absent: Cindy Coppola, Coppola & Coppola Associates, Borough Planner, Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson, John Flemming, Zoning Officer.

**OPEN TIME FOR PUBLIC ADDRESS** – Mr. Thompson asked if there was anything that the public would like to address that was not on the agenda. There being no comments, the public portion of the meeting was closed.

**MEMORIALIZATION OF RESOLUTION**

**Joseph D. & Carol L. Olivieri** – Block 104, Lot 1, 1 East Franklin Avenue, R-80 Zone, Variance Application P11-008.

The Board discussed the resolution and felt that it should emphasize that the 6 ft. fence along North Main Street was grandfathered and that they only approved the two foot addition to the fence and moving the rear fence closer to the northern property line. The Board agreed that they were not comfortable with the six foot fence in the front yard and did not find that it helped make the property aesthetically pleasing. They suggested that the resolution include language that the 6 ft. fence is grandfathered and that is the reason the Board went along with it. Mr. Thompson made a motion to table the resolution, the Board agreed and the resolution was tabled.

**MINUTES** – October 12, 2011 – Mr. Meytrott made a motion, seconded by Ms. Heinzl to approve the minutes and the minutes were approved by voice vote.

**ORDINANCE REFERRED BY TOWN COUNCIL**

**ORDINANCE MODIFYING USES PERMITTED IN MU-1 MIXED USE ZONE AND AMENDING CHAPTER 215 OF THE CODE OF THE BOROUGH OF PENNINGTON**

Mr. Thompson pointed out that there is only one MU-1 Zone in the Borough and it is the Agrain property on North Main Street. Mr. Ogren noted that the Ordinance should list the uses instead of just referencing to the MU-2 Zone as it is in 1. (3). Mr. Thompson asked why the use "attached dwelling units" was being eliminated. Mr. Ogren stated that it was because of the proximity of the railroad tracks. There was discussion of why the use of "municipal facilities" was taken out. Mr. Ogren responded that they could be built in any zone in the Borough and they were not included in any other zone. The proposed uses for the MU-1 Zone would be the same as the MU-2 Zone. The Board agreed that the modifications proposed in this Ordinance would help the owner in getting better quality businesses.

Mr. Ogren stated that he could not find any discussion regarding the MU-1 Zone in the 1998 Master Plan or the February 2005 Reexamination Report. He stated that on the Land Use Plan Element in the 1998 Master Plan the use in this area is referred to as Office-Limited Business and it is clear that offices and the neighborhood related businesses proposed in this Ordinance would be permitted and he feels that the modifications are generally consistent with the Master Plan.

Mr. Thompson asked if there was anyone in the public who had questions or comments, there being none the public portion of the meeting was closed. Mr. Ogren made a motion, seconded by Ms. Donlon to refer the Ordinance back to Council with the Board's recommendation that it be adopted and that they found that it is consistent with the Master Plan. Voting yes: Donlon, Heinzl, Meytrott, Ogren, O'Neill, Reilly, Thompson, Evanini, Heino. Absent: Blackwell, Levy, Persichilli.

### **WORK SESSION**

The Board reviewed proposed modifications to Zoning Ordinance, Section 215-24. Fences. The modifications are only in regards to corner lots. Five foot fences would be permitted within the one front yard that is located between the side of the single-family detached dwelling and the street line and would be subject to conditions. The Board felt that the modification should be clarified in [3] Such fence shall not extend along the side of the house and suggested adding the statement "not including rear porches." The Board agreed with the modifications and thanked Mr. Ogren for working on the Ordinance modification. The modifications will be placed on the Council agenda at the beginning of next year.

Application Review Committee – Mr. Reilly reported that in response to the Board's request, the Committee has drawn up procedures that could be followed in dealing with waiver requests on the application checklist. Mr. Reilly stated that after the committee reviews the application the applicant would be advised of their recommendations. If ARC advises the applicant that they are recommending denial of the waiver, they could then withdraw the waiver and submit the required information or they could go forward for the Board's decision. The applicant should be advised that if they go forward to the Board with waivers the Board may not necessarily agree with ARC's recommendations. Ms. Donlon felt that language should be added that the committee can recommend that waivers be accepted or denied, but it should be qualified that the Board has the final vote regarding waivers. Mr. Ogren suggested that it should be titled Borough Planning Board Waiver Procedures and Mr. Thompson suggested that ARC should be identified as the Application Review Committee. Ms. Heinzl suggested that a sentence be added in paragraph 1 for clarification, "ARC will make a recommendation to either accept or deny requested waivers which the Planning Board may or may not accept." Mr. Reilly stated that the committee will revise the procedures at the next meeting.

Letter from Carmela Roberts, P.E., Roberts Engineering Group, LLC, dated October 27, 2011, addressed to Kelly and Richard Dec, 324 Hale Street.

The Board discussed the letter and the fact that the finished basement floor elevation will be more than 2-feet below the elevation of the estimated seasonal high water table. They agreed that in the future for similar applications, it would be best to have the engineer's input before the Board approves the application. The Board also discussed the letter dated October 27, 2011 from Ms. Roberts regarding conditional approvals. She suggested that when the Board had concerns regarding stormwater runoff, installation of drywells or other stormwater management requirements, consideration should be given to requiring

applicants to provide plans and other information to the Board prior to final approval. This way, drainage and grading issues can be resolved before the building permits are issued. The Board agreed that Ms. Roberts should be consulted about adding a requirement to the checklist and applicants could request a waiver.

Mr. Ogren explained that he had a neighbor who had approval for a sump pump to empty into the street and was later asked to change the piping as an Ordinance was put in place prohibiting sump pump water from going into the street. He asked if the Board was consulted regarding the prohibition of sump pumps from entering into the streets. Ms. Donlon stated that they were aware of it, but were not consulted. Ms. Heinzl felt that the prohibition was consistent with the State's Stormwater Management Regulations and Ms. Donlon and Mr. Meytrott stated that it was also their understanding.

Ms. Donlon asked if everyone had seen the Huntsman barn at 40 N. Main Street. Ms. Heino (resident to the north of the property) stated that she has concerns about the drainage as it is a big structure and they already have drainage issues in that area. She also has concerns as the stormwater plan options are limited since the barn was constructed before the grading and drainage design was approved. Ms. Heinzl stated that someone in town suggested to her that the Borough explore a Borough wide study so that everyone can understand the topography issues and where the real problems exist.

There being no further business, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary