

**PENNINGTON BOROUGH
PLANNING BOARD MEETING MINUTES
SEPTEMBER 14, 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: Eileen Heinzl, Joshua Levy, William B. Meytrott, Thomas Ogren, Mayor's Designee, Katherine O'Neill, James Reilly, Winn Thompson, Keelan Evanini, Alternate #1, Mary Anne Heino, Alternate #2. Absent: Mark Blackwell, Jeanne Donlon, Anthony Persichilli, Mayor.

Also Present: Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson; John Flemming, Zoning Officer, Mary W. Mistretta, Planning Board Secretary. Absent: Cindy Coppola, Coppola & Coppola Associates, Borough Planner; Carmela Roberts, Roberts Engineering, Borough Engineer

OATH OF OFFICE

Mr. Keelan Evanini was sworn in as Alternate #1 for the term, September 6, 2011 – December 31, 2012.

Ms. Mary Anne Heino was sworn in as Alternate #2 for the term, September 6, 2011 – December 31, 2011.

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.

APPLICATIONS

Cathy MacMain-Cage, Block 602, Lot 13, 118 East Delaware Avenue, R-100 Zone, Variance application P11-006.

Ms. MacMain-Cage was sworn in and Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Ms. MacMain-Cage explained that she would like to place an 8 ft. x 12 ft. pre-constructed shed in her rear yard approximately 28 ft. from the property line. A front yard variance is being requested since the property is located on a corner and the rear yard which runs along Abey Drive is considered a front yard with a 40 ft. setback. The shed would be used to hold lawn equipment that is presently stored in the garage. She stated that the design and colors of the shed would match the house and confirmed that it would not have water or electricity. Entered into evidence was Exhibit A-1, a colored picture of the proposed shed. Ms. MacMain-Cage explained that she tried to find another location, but the property is long and narrow with established gardens, shrubs and a large oak tree in the yard and the proposed location is the most practical. Mr. Ogren had questions regarding the setback measurements and Ms. MacMain-Cage responded that the 28 ft. was an approximate measurement. Ms. O'Neill asked why it could not be placed on the other side of the yard and Ms. MacMain-Cage responded that there was a privacy fence with 10-12 ft. of ivy and an existing berm. She stated that there are evergreens and shrubbery that would help buffer the view of the shed from Abey Drive and she feels that it would look like an architectural element in the garden. The applicant confirmed that there is no other accessory building in

the back yard. Ms. MacMain-Cage explained that the shed will be set back further in than the addition that had been put on the house. Ms. O'Neill stated that the addition was not on the survey and felt that it was important for the Board to know where it was located. Ms. MacMain-Cage stated that a survey would have been an added expense to the \$1,250.00 that she has already put out and she did not know that a review for a shed would need all the documentation that was needed for the two-story addition. Ms. MacMain-Cage then described the location of the two-story addition stating that a variance had been approved and it was 20 ft. from the property line. .

Mr. Thompson asked if there was anyone in the public who had comments or questions regarding the application. There being none the public portion of the hearing was closed. Mr. Thompson asked if the shed would have a foundation and the applicant responded that gravel would be placed under it. Mr. Reilly asked if the requested waivers could be incorporated into the motion for the application and Mr. Schmierer responded that they could be combined. Ms. O'Neill stated that she had concerns regarding the survey and felt that the addition should have been included on the survey.

Mr. Ogren made a motion to approve the waivers requested and the application with the condition that the shed should not be any closer to Abey Drive than the rear addition on the house or 20 ft. whichever is greater. Ms. Heinzl stated that she felt the proposed location of the shed with the existing landscaping would enhance the property. Mr. Flemming stated that the application could be considered a flexible C variance. Mr. Meytrott seconded the motion. Voting yes: Heinzl, Levy, O'Neill, Reilly, Thompson, Evanini, Heino. Absent: Blackwell, Donlon, Persichilli. The hearing ended at 7:55 P.M.

Paul & Anne Sobel, Block 30, Lot 9, 39 North Main Street, R-80 Zone, Variance application No. P11-007

Ms. Heino lives within 200 ft. of the applicant and, therefore, recused herself and stepped down. Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. The applicants, Paul and Anne Sobel, were sworn in. Mr. Sobel explained that they put a decoration on their three foot wall and did not realize that it was not consistent with the Ordinance and required variance approval. It is made from a composite which was used because it would last much longer than wood. It was determined that the decoration constituted a fence, but Mr. Sobel explained that it was a wall decoration and does not enclose the sides and does not obstruct any view of the house. The Board determined that the wall is a retaining wall and is approximately 2 ft. 6 inches in height and the decorative fence is between 2 ft. and 3 ft. in height. Mr. Ogren felt that since it was a retaining wall with a fence less than 3 ft., it was an unusual situation and he felt that there were grounds for granting a variance. Mr. Reilly felt that the fence would add an element of safety since the yard was almost even with the top of the wall and it would help children or a visitor from falling off the wall. Mr. Thompson felt that the decorative fence fit in very well with the streetscape.

Mr. Thompson asked if there was anyone in the public with comments or questions regarding the application. There being none the public portion of the hearing was closed. Mr. Thompson asked how the decorative fence was installed and Mr. Sobel responded that it was installed with concrete to make sure it was safe if a child grabbed on to it. Mr. Reilly made a motion to approve the waivers requested and the decorative fence. Ms. O'Neill seconded the motion. Voting yes: Heinzl, Levy, Meytrott, Ogren, O'Neill, Reilly, Thompson,

Evanini. Absent: Blackwell, Donlon, Persichilli. Not Voting: Heino. The hearing ended at 8:05 p.m.

Joseph D. & Carol L. Olivieri, Block 104, Lot 1, 1 East Franklin Avenue, R-80 Zone, Variance application no. P11-008.

Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. The applicants, Carol & Joseph Olivieri, were sworn in. The applicants are requesting variance approval for a 6 ft. fence in the rear yard which is considered a front yard as the property is located on the corner of E. Franklin and N. Main Street. Mr. Olivieri explained that the fence in the rear yard needs to be replaced and he feels that it makes sense to relocate the fence on the property line. It is presently located 2 ft. from the property line. A portion of the fence would be considered in the front yard set back and would need a variance. The existing 6 ft. fence along N. Main Street was approved years ago and the Olivieri's planned to replace it with a 6 ft. fence along with the fence in the rear. Entered into evidence Exhibit A-1 - Pictures of neighbor's side of fence with orange spot showing surveyor's mark. The proposed fence is shown in white, but Mr. Olivieri explained that the style would be the same, but they would keep a natural finish. Ms. Olivieri stated that there were vines in the 2 ft. area between the fence and the neighbor's driveway, but the neighbor cut them down and over time replaced them with gravel to increase the width of their driveway. Ms. Olivieri stated that there is a surveyor's marker in the driveway under the stone and they sprayed the spot in orange as shown in the picture. Mr. Thompson asked how the fence would be maintained and Ms. Olivieri responded that the fence would not be painted and the company assured them that it can be repaired from the inside of their property. Entered into evidence, Exhibit A-2 Picture of proposed fence. The installation could also be done from the applicant's property. Ms. Olivieri stated that the area was a little more than 2 ft. and the fence would not be exactly on the property line. There were questions regarding the photograph of the neighbor's driveway and concern whether there would be room to walk between the fence and garage. Mr. Olivieri stated that the fence would stop at their garage and would not extend to the neighbor's garage. Mr. Flemming was sworn in and stated that the bulk of the fence that the Olivieri's are planning to move and replace is within the Ordinance and the only area that is affected is the 40 ft. in the front yard setback. Mr. Thompson stated that he had concerns allowing a fence to be placed right on the property line. Mr. Flemming stated that the applicant should have it surveyed and that it is made clear that they should be sure of the location of the property line. Ms. Olivieri stated that they would agree to install the fence 6 inches off the property line.

Mr. Ogren stated that he feels that the fence along N. Main Street is very close to the sidewalk and asked if they would consider putting the fence further away from the sidewalk. The applicants stated that the fence was approximately 5 ft. from the sidewalk and that there were trees and plantings on the other side of the fence. There were further concerns expressed by the Board regarding the 6 ft. fence. It was felt that it is a beautiful house and is hidden from Main Street. There was discussion regarding the following suggestions: change the height of the fence on N. Main Street from 6 ft. to 4 ft. move the fence back further from the sidewalk, reduce the length of the fence, change the style to a board on board to have it appear more open. Ms. Olivieri stated that they use their porches and side yard and would rather not lose the privacy that they have been use to for the last 20 years. Mr. Flemming stated that although the fence is grandfathered it is the Board's job to try to lessen nonconformities. It was determined that if the rear fence was moved back 2 ft. then the fence on N. Main Street would need to be extended 2 ft. and would need a variance. Mr. Schmierer suggested that the applicant could angle the fence over to meet the rear fence

and would not need a variance for the fence along N. Main Street. Upon further discussion and hearing opinions of the Board Members the applicants asked if they could have time to discuss their options and have the application continued to the October 12th Planning Board meeting. Mr. Meytrott made a motion to continue the application at the October 12th meeting and Ms. O'Neill seconded the motion and the Board agreed by voice vote. The hearing ended at 9:25 p.m.

MEMORIALIZATION OF RESOLUTIONS

The Pennington School, Block 502, Lot 4 and Block 205, Lot 1, Amended Site Plan, Variance Application No. P07-010.

Ms. O'Neill made a motion to adopt the resolution, seconded by Mr. Reilly. Voting yes: Levy, Meytrott, Ogren, O'Neill, Reilly, Thompson. Not voting: Evanini, Heino, Heinzl. Absent: Blackwell, Donlon, Persichilli.

WORK SESSION, CORRESPONDENCE AND OTHER BUSINESS

Historic Preservation Commission - Ms. Heinzl reported that the Commission had a meeting September 13th and elected officers and are working on the application forms and procedures.

Mr. Ogren stated that he would like to suggest an amendment to the fence Ordinance regarding corner properties. He would like to suggest that one of the front yards on a corner lot be allowed to have fencing up to 6 ft. with the condition that the fence cannot be located closer than half of the regular setback. Mr. Thompson suggested that he discuss it with the Application Review Committee.

ZONING OFFICER

Mr. Flemming reported that the property at 228 S. Main Street was having extreme drainage problems. The property has at least 80% coverage which is well over what the Board approved. He stated that the dry well system was collecting all the water and was overflowing the water into the house. Mr. Flemming stated that it is now the homeowner's responsibility to address the coverage issues.

Mr. Flemming suggested that the Planning Board go over the waivers before hearing applications. If they grant the waivers the hearing can continue, but if they do not grant the waivers, the hearing would have to be postponed until the applicants provide the items that the Board feels are necessary. Mr. Thompson suggested that the Application Review Committee review the checklist and make suggestions to the Board before the hearing. Mr. Reilly stated that the committee has been making suggestions to applicants when they feel certain information would be helpful to the Board. He stated the committee could make recommendations to the Board if they feel certain waivers should be discussed. Mr. Schmierer suggested that the committee could also point out to the applicant that the application looks good except for the lack of a survey and he feels that the applicant would provide it, but if not the committee could suggest to the Board that they discuss it before the hearing.

MINUTES – July 13, 2011 – Ms. O’Neill made a motion, seconded by Mr. Reilly to approve the minutes with corrections and the minutes were approved.

There being no further business, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary