

**PENNINGTON BOROUGH  
PLANNING BOARD MEETING MINUTES  
FEBRUARY 8, 2012**

Chairman Thompson called the meeting to order at 7:35 p.m. and compliance with the provisions of the Open Public Meetings Act was announced.

Board Members Present: Mark Blackwell (arrived 7:36 p.m.), Mary Anne Heino, Eileen Heinzl, Josh Levy, Thomas Ogren (Mayor's Designee), Katherine O'Neill, James Reilly (Vice Chairman), Winn Thompson (Chairman), Alternate #2, Vacant. Absent: William B. Meytrott, Keelan Evanini (Alternate #1).

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

**OPEN TIME FOR PUBLIC ADDRESS** – There were no comments from the public and the public portion of the meeting was closed.

**APPLICATIONS**

**Elon Foster, III**, 132 Voorhees Avenue, Block 706, Lot 9, R-80 Zone, Application No. P11-009.

Mr. Reilly stated that the Application Review Committee reviewed the requested waivers, 6. A and D. The committee is proposing to modify these items on the checklist and the committee felt that there would be no impairment to the completeness of the application if the Board granted the waivers and the Board agreed to grant the waivers. Mr. Schmierer announced that the Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. The applicants, Elon Foster, III and Susan Foster were sworn in.

Mr. Foster stated that they were requesting a front yard variance to construct a one-story addition to the rear of their house. The house is located on the corner of Voorhees Avenue and Hale Street and the side yard is, therefore, considered a front yard. The front yard setback required is 40 ft. and the applicants are requesting the continuation of a 30 ft. setback. Mr. Foster stated that they had an architect look into how the addition could be constructed without going into the setback area and found that there were no other alternatives. Entered into evidence was Exhibit A-1 - picture of the property taken from Hale Street, pictures of the front and rear of the property. Mr. Foster pointed out the view from Hale Street which shows existing buffering along 40-50 ft. of the property. He also pointed out a picture of the existing garage which extends 6 ft. beyond the corner of the house and prevents an addition that would go straight back from that side of the house. Mr. Foster stated that there is a flagstone patio and an existing addition that will be torn down and replaced with the proposed addition. Mr. Foster stated that they have tried to make the addition attractive from Hale Street. The existing French doors will remain and clap board will be used to match the rest of the house. The addition will have a cupola or "lantern" on the roof for additional light and to dress up the addition. There will be lights by the sides of the entrances. Mr. Foster noted that there is a ramp on the driveway side of the house that will be removed and replaced with steps. He is also adding steps to the front of the front porch.

Mr. Flemming, Zoning Officer, was sworn in and pointed out that another air conditioner is proposed which would be located in the side yard setback next to an existing air conditioner. The Board felt that the area along Hale Street was very well buffered. Mr. Ogren asked if the Holly trees would remain and Mr. Foster responded that they would keep them. Mr. Thompson asked if there was anyone in the public who had questions or comments about the application. Mr. Christopher John Brookes, 310 Hale Street stated that he lives diagonally across the street from the applicant and he feels that the addition will be an enhancement to the neighborhood and has his support. There being no further comments, Mr. Thompson closed the public portion of the meeting. Mr. Foster noted that he had hand delivered all the notices with a sketch of the proposed addition. Mr. Blackwell made a motion, seconded by Mr. Reilly to approve the application with conditions. The Board felt that the applicant is proposing a nice addition which only needs a variance for the front yard because the property is on the corner. The variance approval includes the addition, deck, front porch stairs and additional air conditioner. Mr. Blackwell pointed out that the downspouts should not flow to the neighbor's property. Voting yes: Blackwell, Heino, Heinzl, Levy, Ogren, O'Neill, Reilly, Thompson. Absent: Evanini, Meytrott. The hearing ended at 8:00 p.m.

### **MEMORIALIZATION OF RESOLUTION**

**Kevin & Donna Doran**, Block 401, Lot 2, 4 Fitzcharles Drive, R-100 Zone.

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

### **ORDINANCE REFERRED BY TOWN COUNCIL**

An Ordinance Concerning Zoning Regulations Governing Fences on Corner Lots in the R-80 and R-100 Zoning Districts, and Amending Chapter 215 of the Code of the Borough of Pennington.

Mr. Thompson announced that the Ordinance was introduced at the February 6<sup>th</sup> Council meeting and has been referred to the Planning Board to ensure that it is consistent with the Borough's Master Plan. Mr. Flemming stated that he is in favor of the Ordinance. The purpose of the amendment is to permit fencing on corner lots that would provide greater privacy in the rear yards of corner lots. The proposed amendment, subject to conditions, permits a fence of up to five feet in height for that portion of the corner lot in which the street line is parallel to the rear yard.

Mr. Ogren stated that Council had made a change which was not included in the copy the Board received. Council made the following change to 2. Section 215-24 (2) and it should read: "The permitted fence or wall shall not extend along any portion of the front yard between the dwelling unit and the street line, except for a rear porch, if any."

The Board suggested that "no less than" should be added to 2. F. (1) line 4, "back no less than one-half the front-yard setback distance required for a single-family dwelling in that zone" to clarify it. Ms. Heinzl stated that she would not want to discourage people from putting up three foot fences which would give them a much more airy lot. Mr. Flemming stated that they would not be discouraged, but it would help people from having to come to the Board.

Mr. Flemming stated that it was his understanding that a nonconforming fence, either in height or location, could have repairs of up to 25%. If the owners want to rip it down and replace it with a new fence they would have to go to the Board. Mr. Flemming stated that the 25% rule goes for everything fences, decks and buildings and applies only to external repairs, not internal. Mr. Thompson asked if this also applied to variance approvals. Mr. Schmierer stated that the variance makes it conforming for that lot and would only need a one time approval.

Mr. Blackwell made a motion, seconded by Ms. O'Neill to recommend that Council adopt the Ordinance with the suggested change and that the Board finds that the Ordinance is consistent with the Borough's Master Plan. Voting yes: Blackwell, Heino, Heinzl, Levy, Ogren, O'Neill, Reilly, Thompson. Absent: Evanini, Meytrott.

### **WORK SESSION**

**Affordable Housing Trust Funds – Spending Plan** – Mr. Reilly reported that the Application Review Committee had met with Ms. Coppola to discuss alternatives that the Borough had to keep the Housing Trust Funds. Mr. Ogren stated that the committee also discussed the existing Spending Plan that had been submitted to the Department of Community Affairs and whether it should be revised to allow the Borough to proceed with some kind of housing development that would keep the Trust Fund from reverting to the State. Mr. Ogren suggested looking into an option to provide affordable housing on the Capital Health site. He has been working closely with Ms. Coppola regarding this and she contacted Community Affairs as to what might be effective in stopping the clock for taking the funds. They informed her that if the Borough had an agreement with Capital Health to provide affordable housing on their site it would be sufficient to keep the trust funds. The Borough would not need to actually spend money or have a contract in place with a developer if there was a commitment from Capital Health. Mr. Ogren stated that he had done research to see if twelve (12) units of housing could be built on the site without the proposed expansion of the sewage treatment plant and he felt it would be possible. Mr. Ogren stated that he has contacted Capital Health and they are considering the idea. It would also need approval from Council and the Planning Board. The proposal is that Capital Health donate three (3) acres out of the thirteen (13) acre parcel as shown on the map distributed to the Board (attached). Mr. Ogren explained that the existing Spending Plan has allocated only \$50,000 for affordable housing on the Capital Health site and that would not be adequate to subsidize twelve units. Mr. Ogren proposed that the Board amend the Spending Plan and transfer funds from other categories to the Capital Health site. Mr. Ogren stated that he was still not sure if that amount of money would be sufficient and we should keep our options open regarding the site. The Zoning Ordinance allows for detached and attached units and for a group home. Mr. Schmierer noted that the original plan was to put two or three bedroom units on this site. Mr. Thompson pointed out that two buildings like the ones in Railroad Station could easily fit in the area and each building would hold approximately seven units. Ms. Heinzl asked what would happen if the Borough did not do anything further with the Spending Plan and what would the State do with the money if they took it. Mr. Schmierer stated that the State would use the money for other affordable housing initiatives and the towns where the funds came from would not get any credit. Mr. Ogren stated that he presented the option to Council and feels that they would support it. Mr. Schmierer felt that it would be acceptable if the bulk of the trust money was dedicated to this project and the remainder and any other money coming in could be dedicated to accessory apartments or the affordability program.

Mr. Ogren felt that if Capital Health was agreeable to the plan the next step would be to consult with Ms. Coppola and send a letter to the State with the proposed revision to the Spending Plan and a document from Capital Health stating that they would be willing to donate the land. If this was agreed upon the affordable housing plan and the Zoning Ordinance would have to be revised some time later. Mr. Schmierer stated that Mr. Ogren was correct and a letter would also be sent to COAH stating that this is what we are anticipating to commit our trust money and ask if it would be acceptable. COAH should review the proposal and respond to the Borough. The next step would be to have a more formal agreement authorized by Borough Council with Capital Health. We would then amend the Housing Element Fair Share Plan. The Board would adopt it as part of the Master Plan and it would then go to Council and they would have to endorse it. Council would also need to approve the revised Spending Plan by resolution.

Mr. Blackwell felt that the Board should move and attempt to propose a project so that the trust funds will not be lost. Mr. Schmierer suggested that the Board could by motion endorse the concept of the revision to the Spending Plan and Fair Share Plan as outlined tonight and Mr. Ogren and Ms. Heinzl could take the endorsement to Council. Mr. Blackwell made a motion to endorse the suggestion and Mr. Reilly seconded the motion. Roll call: Blackwell, Heino, Heinzl, Levy, Ogren, O'Neill, Reilly, Thompson. Absent: Meytrott, Evanini.

Mr. Reilly stated that a revised Waiver Procedure had been distributed to the Board with the suggested changes that were made by the Board at the last meeting. He stated that the Application Review Committee received Ms. Roberts' suggestions for the checklist and an amended checklist will be forthcoming to the Board. Mr. Levy asked about the deadline for applications and inquired about the procedure for distributing them to the Environmental Commission. Mr. Thompson stated that the Environmental Commission usually reviews only the larger applications and noted that there was a question regarding the Old Mill Shopping Center and TD Bank. This was a request for a waiver of site plan and was not considered an application and, therefore, not treated as an application. Ms. Mistretta suggested that she give Mr. Levy the applications when they are received and he could then take them to the Environmental Commission meetings.

**MINUTES** – January 11, 2012 – Mr. Reilly made a motion, seconded by Ms. Heino to approve the minutes with corrections and the minutes were approved by voice vote.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary