

**PENNINGTON BOROUGH  
PLANNING BOARD MEETING MINUTES  
AUGUST 14, 2013**

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: Eileen Heinzl, Katherine O'Neill, James Reilly, Deborah L. Gnatt (arrived 7:40 p.m.) Alternate, Nadine Stern, Alternate, Winn Thompson, Chairman. Absent: Mark Blackwell, Keelan Evanini, Joshua Levy, William B. Meytrott, Thomas Ogren.

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

**OPEN TIME FOR PUBLIC ADDRESS** – Mr. Thompson asked if there was anyone in the public who had comments or questions regarding items not on the agenda, there being none the open time for public address was closed.

**RESOLUTIONS**

**Alisandra B. Carnevale, LLC** received an interpretation of a 1994 Resolution of Memorialization for 134 South Main Street, Block 505, Lot 19. Ms. Heinzl made a motion, seconded by Ms. Stern to memorialize the resolution. Voting yes: Heinzl, Stern. Not voting: O'Neill, Reilly, Thompson, Gnatt. Absent: Blackwell, Evanini, Levy, Meytrott, Ogren.

**Gary Mertz**, Block 505, Lot 17, 126 S. Main Street, R-80 Zone, Historic District. Received Bulk Variances and Use Variance for Floor Area Ratio to construct an addition. Application No. P13-003. Ms. O'Neill stated that at the meeting she had suggested that the shed should be set back 3 ft. and that the Board agreed. The Board agreed that this should be added to pg. 7, condition vii. Ms. Coppola suggested the following wording: "The Applicant shall relocate the existing shed so that it is on the Property to eliminate the existing encroachment and should be set back a minimum of 3 ft. if located in the same general location. If located elsewhere on the lot it shall conform to the 5 ft. setback. Ms. O'Neill made a motion, seconded by Mr. Reilly to memorialize the resolution with an amendment. Voting yes: O'Neill, Reilly, Gnatt, Thompson. Not voting: Heinzl, Stern. Absent: Blackwell, Evanini, Levy, Meytrott, Ogren.

**Amending Meeting Date** – The Board voted by voice vote to change the November 20<sup>th</sup> meeting date to November 13<sup>th</sup>. The date was originally changed so that it would not conflict with the League of Municipalities Conference. The League moved the conference and the Board agreed to move the meeting date again to avoid the conflict.

**WORK SESSION**

Mr. Thompson stated that Ms. Coppola was at the meeting to discuss the procedure the Board could take regarding the Route 31 Development Study. Ms. Coppola stated that she had briefly looked at the report and Mr. Ogren's summary from the July 17<sup>th</sup> Work Session and there seemed to be a lot of questions raised relative to the ordinance provisions. Ms. Coppola stated that her suggestion is for the Planning Board to do a reexamination of the Master Plan that would reference the Route 31 Study. She stated that Municipal Land Use Law requires certain questions to be addressed in the reexamination and she would also focus on some of the issues that were raised in the study. Included would be the environmental issues and the stream buffer which was not known at the time the site was designated with an affordable housing overlay. She would also include changes that have come about since that time. Ms. Coppola stated that the ordinances for the site could be written at a later time. She felt that the Board still had a lot of questions as to what should go

in the ordinance and suggested that they should focus on the areas that will be included in the overlay. She stated that she drove around the area and was wondering why the shopping area on Delaware Avenue (Lot 13), the gas station and bank were not being included since they may be redeveloped some day. She felt that it would make better planning sense to apply the overlay to the whole block rather than picking and choosing properties. If the Board agreed with this, it could be mentioned in the reexamination report. Ms. Coppola stated that the reexamination would cost approximately \$2,500 which would include the Planning Board meeting.

Ms. Coppola suggested that the Board might want to have an ordinance committee to go over some of the recommendations and suggested that there were items in the report that could be made better or stronger. Ms. Coppola referred to Mr. Ogren's summary regarding parking in the rear of the buildings and noted that there was a requirement in the O-B zone that required parking to the rear. The Board should review the elements in the O-B zone and perhaps incorporate some or all of them into the new B-H zoning overlay.

Ms. Coppola next addressed the suggestion in the landfill report to eliminate the existing affordable housing overlay. She stated that no one knows when the new COAH rules will come out, but the overlay zone on the landfill site was put there as part of the Second Round compliance and has nothing to do with the Third Round. No one knows what will happen with the Third Round, but if the affordable overlay is removed it could be challenged or the Borough could have a law suit for a builder's remedy. Ms. Coppola stated that she looked at the Borough's Second Round certification and correspondence with COAH and the affordable overlay on the landfill was a condition that was tied to the granting of the Borough's substantive certification. Ms. Coppola stated that the Board could ignore the affordable overlay or state that in the overlay zoning that they are looking at there is the potential that the landfill site may not accommodate the housing that was hoped for because of the constraints that have come forward and the fact that the landfill portion of the site will probably never be developed with residential units. The Board could also indicate that new development may occur on the rest of the land and we may be able to capture some of the affordable housing in the second or third floors of the units if they are developed. Ms. Coppola stated that this could be referred to in the reexamination report. When COAH's new rules come out the Board would have to go back and prepare a new Housing Plan Element/Fair Share Plan to address the Third Round rules and at that time could talk with COAH regarding the realistic development potential of the landfill area. Ms. Coppola recommends that numbers do not have to be addressed in the reexamination report, but feels that affordable housing should be addressed. There would have to be some requirements when the Board is doing the ordinances for rezoning. She recommends that the same language regarding affordable housing in the existing overlay remain and when the rules come out it can be amended. The overlay requires a minimum of 12 affordable units. Mr. Thompson stated that the area next to Route 31 would not be a good area for residential. Ms. Coppola felt that residential flats were not a bad idea over commercial stores as second floors are generally not conducive to any type of retail use. Ms. Coppola stated that the area would be an advantage for lower income units since there is public transportation and pedestrian access to the market and shopping area. Ms. Coppola stated that there were developments in Montgomery where the developer received a bonus such as a little more building coverage or floor area ratio if they provided affordable flats. She stated that the Borough would have to be open and willing to tweak the ordinance when they are sitting down in discussions with a developer. Ms. O'Neill stated that she did not feel that it would be a bad area for residential since they would probably not be looking at Route 31, but towards the town. She noted that there was also a row of buildings between Route 31 and the landfill site. Mr. Thompson stated that the affordable housing has to be provided and that spreading it out over a larger area is a good solution. Mr. Reilly noted that Brandywine Assisted Living was located on Route 31 and the traffic noise does not seem to bother them.

Mr. Thompson stated that there was enough in the budget to cover the costs of a Reexamination Report as the Board did not use much in the last year. He asked Ms. Coppola how long it would take to put the reexam report together and she stated that if she knew by the end of the week she could get a final copy done for the September meeting, but the secretary would need 10 days to notice the meeting. There was discussion that a draft could be done for the September meeting and a public hearing held in October. Ms. Heinzl stated that she would speak to Mr. Ogren regarding this. Mr. Reilly asked about the reexam report and Ms. Coppola stated that it would probably be 3-5 pages and would go over the questions that are required for a reexam of the Master Plan. It was noted that if there were any changes to the study the Board would want to get them cleaned up. Ms. Heinzl asked about the time frame to amend the ordinances and Ms. Coppola responded that the Ordinance Committee could start as soon as possible since the framework is laid out in the document. The Committee will take the suggested ordinance provisions in the study and modify them accordingly. Ms. Heinzl stated that Mr. Levy checked with Mr. Schmierer to see if the Borough would be responsible for what is represented in the report, such as the stream buffers, if it is adopted as part of our Master Plan. Mr. Thompson stated that there was nothing definitive in the report in regards to the condition of the property, but the report indicated that there may be a 150 ft. stream buffer. Ms. Coppola stated that any buyer or developer would have to do their own due diligence to find out the constraints of the property. Ms. Coppola reminded the Board that a Master Plan document is the Planning Board's vision for future development and nothing is in stone. The document is a detailed study that may be used for guidance. Ms. Heinzl stated that there was a suggestion that the landfill portion of the property be pulled from the development plan and she asked if this would make it more attractive to a developer. Mr. Thompson stated that the Borough would have to take on the liability of anything going on with the landfill. Ms. Coppola stated that with the different lots a developer may want to pick and choose to only develop one lot. Mr. Thompson asked if it would be better to have the landfill property as one lot so that it would be developed as a whole. Ms. Coppola stated that would be the ideal way to go, but the stream cuts through the property making that difficult. Ms. Coppola stated that if the Board was looking for a draft we could contact her next week and she could prepare it for the September meeting. Ms. Heinzl stated that she would speak to Mr. Ogren regarding this and let Ms. Coppola know if she should prepare a draft or final reexamination report.

**MINUTES** – Ms. O'Neill made a motion, seconded by Mr. Reilly, to approve the July 10, 2013 minutes with corrections and the minutes were approved by voice vote. Ms. O'Neill made a motion, seconded by Ms. Heinzl to approve the July 17, 2013 Work Session minutes with a correction and the minutes were approved by voice vote.

There being no further business, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

---

Mary W. Mistretta  
Planning Board Secretary