

**PENNINGTON BOROUGH
PLANNING BOARD MEETING MINUTES
JULY 10, 2013**

Chairman Thompson called the meeting to order at 7:45 p.m. and compliance with the provisions of the Open Public Meetings Act was announced.

Board Members Present: Mark Blackwell, Keelan Evanini, Josh Levy, Thomas Ogren (arrived 9:30 p.m.), Katherine O'Neill, Deborah Gnatt, Alternate (arrived 7:50 p.m.), Winn Thompson, Chairman Absent: Eileen Heinzl, William B. Meytrott, Nadine Stern, Alternate.

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

Absent: 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. Mr. Thompson announced that the order of the agenda items would be changed to allow time for an alternate Board member to arrive to hear the Mertz application.

RESOLUTIONS

The Pennington School, Block 502, Lot 4, E-1 Zone, Site Plan, Preliminary/Final. Application No. P13-003. Preliminary/Final Site Plan, approval given for two temporary modular trailers at the June 12, 2013 Planning Board meeting.

Mr. Levy made a motion, seconded by Ms. O'Neill to adopt the resolution.

Voting yes: Evanini, Levy, O'Neill, Thompson.

Absent: Heinzl, Meytrott, Ogren, Stern, Gnatt; Not voting: Blackwell, Reilly.

Alisandra B. Carnevale, LLC requested an interpretation of a 1994 Resolution of Memorialization for 134 South Main Street, Block 505, Lot 19.

The resolution was tabled until the next Planning Board meeting due to the lack of eligible voters.

WORK SESSION

Mr. Thompson suggested that the Board discuss the Route 31 Development Study and if they would like to proceed with the recommendations and the procedures that would need to be taken. Ms. Coppola and Mr. Schmierer both agreed that the elimination of the affordable overlay was very important. The Board should discuss why they thought it should be eliminated from this area and suggestions for more suitable locations. There was discussion whether the whole Study or portions should be made part of the Master Plan.

Ms. Mistretta announced that there was a problem with the recorder. Mr. Evanini volunteered to record the meeting with his I phone. Ms. Mistretta also announced that the additional Board member that was needed for the Mertz application had arrived. Mr. Thompson announced that the Board would now hear the Mertz application and the Route 31 Study would be continued after the hearing.

APPLICATIONS

Gary Mertz, Block 505, Lot 17, 126 S. Main Street, R-80 Zone, Historic District. Bulk and Use Variance for Floor Area Ratio. Application No. P13-003.

Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Mr. Gary Mertz was sworn in and stated that the Executors for the property, Henry and Judith Wagner, were in the public. Mr. Mertz stated that he was requesting bulk variances for slope, setbacks and conditional use for home occupation. A use variance is also being requested for the floor area ratio. Mr. Mertz stated that the house was built in 1840, has a balloon frame and is a Greek Revival style. He felt that the house was built in two separate time frames judging from the style. He stated that there is a commercial scale window in the front for a tobacco shop that had been in the house. He described the lots in the area stating that they were all small and most of the houses had front porches. Mr. Mertz described the existing wing and stated that it has low ceilings, small windows and not as livable as the front of the house. Mr. Mertz would like to remove the wing in the rear of the house and replace it with a 2-story wing. The existing wing encroaches on the property to the north and he proposes to place the new wing three feet from the northern property line. Entered into evidence were Exhibits A-1-3 Photographs of existing house, interior living room and interior or existing attic, Exhibit A-4 Drawing of layout of existing and proposed two-story addition, Exhibit A-5 Floor Plans, Sheet A1.1, Mertz Architects. Mr. Mertz described the proposed two-story, 18 x 40 ft. addition. The attic area would be used only for the mechanicals and the addition would have radiant heat. The addition would be on slab and there would not be any basement or crawl space. A sump pump would be installed in the existing cellar.

Ms. Cindy Coppola was sworn in and addressed her memorandum of June 27, 2013. Ms. Coppola asked for the square footage of the addition and Mr. Mertz responded that it was 1,440 sq. ft. Ms. Coppola pointed out that the application states that the FAR would be 0.3697 which is based upon the size of the dwelling after construction. The definition of FAR is “the sum of the area of all floors of buildings or structures compared to the total area of the site.” There is a large shed (259 sq. ft.) and a one car garage (245 sq. ft.) that should be included in the calculations. Ms. Coppola stated that the FAR would be 0.44 after construction and the maximum allowed is 0.265. Ms. Coppola stated that it would be impossible for the applicant to conform to the slope and setbacks, but she felt that the positive criteria far outweighed the negative. The neighbor to the north will benefit since the rear of the structure will be moved away from the property line and improve the setback.

Mr. Mertz described his architectural business and indicated that he would like to discuss a conditional use for a home occupation office. Mr. John Flemming, Zoning Officer, was sworn in and stated that the use would not meet the criteria of Ordinance 215-89b and the applicant had not noticed for a conditional use. Mr. Schmierer agreed that the applicant had not noticed for this and it was too significant to come under the category “any other variances or waivers that may be needed” which was in the Legal Notice. Mr. Mertz would have to come back to the Board for a use variance.

Mr. Thompson felt that the applicant would have to obtain a maintenance agreement with the neighbor to the north as this issue has been very contentious in the past. He also stated that he thought there was a discrepancy on the survey since he did not remember the house being shown on the property line when the neighbor to the north came in with an application. Mr. Reilly pointed out that while the applicant would have an easement to use the driveway

they may not be able to block the driveway with construction materials or equipment and a maintenance agreement may also be necessary with the neighbor to the south. Mr. Schmierer agreed that the applicant would have to work out agreements with both neighbors. Mr. Mark O'Dea, 124 S. Main Street, neighbor to the north, was sworn in. Mr. O'Dea stated that he has gone through the courts for 6 ½ years to resolve problems with his neighbor regarding his addition and stated that it was important for the Board to spell out exactly where the addition will be placed. In discussion, it was suggested that the applicant calculate the coverage for the garage and Ms. Coppola agreed that this could be conditioned. Mr. Schmierer stated that the agreements should be reviewed and recorded by deed. Mr. Flemming suggested that an as-built survey be submitted before permits are issued. Mr. Mertz stated that a discrepancy in the measurement of the easement was found in the title search and a more recent easement that had been filed. Mr. Mertz was requested to confirm the correct easement. Mr. Mertz must get a review from the Historic Commission if the application is approved. It was pointed out that the application should be forwarded to the Historic Commission at the time of submission to the Board. In regards to lighting, Mr. Mertz indicated that there will be low density, residential lighting next to the doors and on the porch. Mr. Levy asked about trees and Mr. Mertz stated that there was a Locust tree that he would like to save and no other trees would be involved.

Mr. Thompson asked if there was anyone in the public who had questions or comments. Ms. Cathy Nemeth, Real Estate Agent with Callaway Realty, was sworn in. She stated that they have had people interested in buying the property, but was sure that none of them would make the improvements that Mr. Mertz was proposing. She felt that the proposed addition would improve the streetscape.

Mr. Mark O'Dea, neighbor to the north, was previously sworn in. Mr. O'Dea asked where the heat pump would be placed. Mr. Mertz stated that it would be placed in the rear towards the back of Mr. O'Dea's garage along with the air conditioner condensers. Mr. O'Dea stated that he had approvals to build a second floor on his garage and he would not like to see the units that close to his garage. Mr. Mertz was informed that he would also need a variance for them. Mr. Mertz stated that he would place them on the other side where they would conform to the setbacks. Mr. Reilly asked if the whole house was going to be resided and Mr. Mertz stated that it was with Hardi Plank. Ms. Coppola reviewed the variances that are needed and stated that the applicant does not have the ability to purchase land from either neighbor. The setbacks already exist and the northern setback will be moved and improve the lot. The existing garage has a setback of 4.5 ft., but is in line with the neighbor's garage. The Board agreed that the addition would not have any impact on the light and air on the neighbors and there would be no negative visual impact on the neighborhood.

A condition of approval would be a grading and drainage plan prepared by a N.J. Licensed Engineer submitted to the Borough Engineer for approval before building permits are submitted. The elevations should be shown to ensure that they are not being raised above grade and that the proposed grades will not create any drainage problems. Mr. Thompson noted that if the Historic Commission does not approve the application, the applicant must come back to the Board for any revisions. This would also apply to the Borough Engineer's approval of the grading plan. Mr. Blackwell stated that the lights and mechanicals should have been shown on the plans submitted to the Board. Mr. Thompson agreed, but felt that the applicant had addressed them. Ms. O'Neill suggested a condition that the existing shed should be no closer than 3 ft. to the property line when it is moved. (Also entered into evidence during the hearing were Exhibit A-6 Drawing showing angles of the sun after

proposed addition, Exhibit A-7 Boundary and Topographic Survey, Site Works Consultants, Inc., June 23, 2013.

Ms. O'Neill made a motion, seconded by Mr. Reilly, to approve the application with conditions. Voting yes: Blackwell, Levy, O'Neill, Reilly, Evanini, Gnat, Thompson. Absent: Heinzl, Meytrott, Stern; Not voting: Ogren. The hearing ended at 9:40 p.m.

WORK SESSION

Mr. Thompson asked Mr. Schmierer how the Board should proceed with the Route 31 Study. Mr. Schmierer stated that if Council were supportive of the Study they could ask the Planning Board to proceed and outline their suggestions. Mr. Ogren pointed out that Council had received the study and felt that the Board could go ahead with discussions. Mr. Schmierer suggested that the Board address the affordable housing issue and if they agreed to eliminate the affordable housing overlay they should discuss the reasons for eliminating it and come up with other areas that would be more suitable. He stated that if the Council is supportive of the Study the Board should go ahead to make it part of the Borough Master Plan to implement the ordinance changes that would be necessary.

Ms. Coppola suggested that the Study could be referenced as an attachment to the Master Plan if everything is acceptable to the Board, otherwise, just the items that the Board agreed on could be spelled out and added as an addendum to the Master Plan.

The Board agreed to hold a work session on July 17, 2013 at 7:30 p.m. to go into more detail regarding the Study.

MINUTES – Ms. O'Neill made a motion, seconded by Mr. Ogren, to approve the June 12, 2013 minutes with corrections and the Board approved by voice vote.

There being no further business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary