

**PENNINGTON BOROUGH  
PLANNING BOARD MEETING MINUTES  
FEBRUARY 12, 2014**

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

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

**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. Costa, attorney for the Carl Fucello application, requested five minutes to meet with the adjacent neighbors at 324 Sked Street to try to come to an agreement about concerns they had and Mr. Thompson agreed.

**MEMORIALIZATION OF RESOLUTION**

Edward Fletcher, Block 906, Lot 10, 4 West Welling Avenue, R-80. Application No. P13-011. Ms. O'Neill made a motion, seconded by Mr. Blackwell to adopt the resolution.

Voting yes: Blackwell, Heinzl, Levy, Ogren, O'Neill, Reilly, Stern. Not voting: Evanini, Thompson. Absent: Gnatt, Meytrott.

**MINUTES**

Ms. O'Neill made a motion, seconded by Mr. Levy to approve the November 13, 2013 minutes with a suggested change and the minutes were approved by voice vote.

**APPLICATIONS**

**CARL FUCCELLO**, 326 Sked Street, Block 706, Lot 18, R-80 Zone.

Attending: Christopher Costa, Hartsough Kenny, Attorney; Joseph Mester, Trenton Engineering; David J. Barici, Architect; Mark Cannuli, Planner

Mr. Reilly and Ms. Stern stated that they live within 200 ft. of the property and recused themselves from the hearing and stepped down. Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction.

Mr. Costa, attorney for the applicant described the site and the application. The property currently has a one and one-half story dwelling and detached garage. The applicant proposes to construct an addition of approximately 775 sq. ft. to the first floor making it 1,145 sq. ft. and the first floor square footage will then be conforming to the 900 sq. ft. minimum. The addition will also expand the second floor and the house would then have 2,110 square feet of living space. An open wrap-around porch is also proposed. Mr. Costa stated that the applicant is a contractor and has just recently finished renovating a house in Pennington on Main Street. Mr. Fucello is planning on living in the property on Sked Street. Mr. Costa stated that there are existing nonconformities: lot is 9,600 sq. ft. where minimum lot size is 12,000 sq. ft., lot width is 60 ft. where 80 ft. is required, front yard setback is 23.65 ft., where 40 ft. is required, side yard setbacks are 9.36 ft. and 12.24 ft. where 15 ft. is

required. However, the 15 ft. requirement is reduced to 10 ft. for developed lots pursuant to section 215-50b of the Ordinance. The current dwelling does not meet the slope requirement on the northern side of the dwelling. The applicant's application will also eliminate the nonconforming roof slope and it does not exacerbate any of the pre-existing nonconformities. Mr. Costa stated that the only reason the setbacks are increased is because they are calculated from the roof overhangs, none of the walls are being moved closer to the side yard property line.

Ms. O'Neill reported that the Application Review Committee reviewed the application and checklist. They recommended approval for number 3 on the checklist since the application is not a corporation or partnership. In regards to Engineering, number 8. B, the applicant has submitted a Stormwater Management Report to the Planning Board Engineer and ARC recommended that the Board rely on the Engineer's recommendation of the waiver. The Board accepted the Application Review Committee's recommendations and Ms. Roberts stated that the engineering information was acceptable and the application was declared complete.

Joseph Mester, N.J. Professional Engineer, Trenton Engineering was sworn in and gave his qualifications. Entered into evidence was Exhibit A-1 Site Plan, Block 706, Lot 18, dated 10-15-13, last revised 01-21-14, prepared by Trenton Engineering Co., Inc. Mr. Mester stated that the lot was 60 ft. wide and 160 feet deep and there is an existing one-story and a half house, 30.8 +/- wide and 25 ft. deep. Mr. Mester reiterated the setback lines. He stated that attached to the southerly side of the house is an existing screened porch attached to a screened in deck in the rear. There is also a Bilco type cellar door entry at the rear of the house. There is presently a stone driveway which leads back to a one-car garage which is 16 ft. x 22 ft. The total impervious lot coverage is 26.9%. The applicant proposes a 370 sq. ft. addition to the rear of the house and a second floor will be reconstructed to a full second floor, except for a 5 ft. portion. The existing deck and porch will be reconstructed as an open porch and extended to the front as a wrap-around porch. The existing front entrance and brick walkway will be removed and replaced with a new entrance approximately 7.5 ft. to the south of the existing entrance and reconfigured sidewalk. The new roof line will extend one foot over the exterior walls including the porch area and this will slightly increase the setbacks and require the bulk variance that is needed, but the building setbacks will not change from their existing position. The proposed bulk variances being requested are: lot area, lot width, front yard setback, 22.9 ft. where 40 ft. is required, side yard setback on the north side, 8.36 ft. where 10 ft. is required, combined side yard of 19.81 ft. versus 20 ft. The first floor area with the addition will increase the area to 1,145 sq. ft. and will remove the previous variance that was required for an undersized first floor. The only engineering concern in Ms. Roberts' memorandum of February 6, 2014 was the stormwater management issue. Mr. Mester described the drainage areas which are two distinct drainage areas. One in the front yard and driveway that drains down to Sked Street and in the rear and northerly side of the house which includes drainage from the neighboring house and drains to a low point near the northerly property line. Mr. Mester stated that their objective was to find a way to outlet the water from the northerly low point and the only feasible alternative was to try to divert the stormwater to drain to the street by regrading the lot. He was able to design a 4–6 inch deep swale from the rear of the lot to the street at a 1% slope without crossing the northerly property line. The swale would divert all of the runoff from Lot 17 and the applicant's backyard to the street. He stated that the second objective was to infiltrate as much of the roof runoff as possible into the ground water. He designed an underground pit consisting of an 8 ft. diameter tank surrounded by 2 ft. of stone. The pit would be located in the general area of the original low point and the lot would still have regeneration in the same area and the downspouts would connect into the tank. A soils and percolation test was conducted in November to a depth of 8 ft. and the data is contained in the Stormwater Management Report which was submitted to the Borough Engineer. The

tests showed that the infiltration system was sufficient to handle at least a 25 year storm event and up to 6.6 inches of rainfall. Mr. Thompson asked the difference of the previous coverage and proposed coverage. Mr. Mester stated that the maximum allowed coverage was 42.5% and the existing condition is 26.9% and is being increased to 35.6% and they are still below the maximum allowed. Mr. Thompson asked if they were making improvements so that the conditions after development will be better than what currently exists. Mr. Mester stated that they were reducing the existing outflow and conditions should be improved and Ms. Roberts has accepted their design. Mr. Blackwell stated that it appeared that the design would also be managing the water from the neighbor's property. Mr. Evanini asked if the neighbor's downspouts go into a system and Mr. Mester stated that the water comes right out and is part of the water coming down on the applicant's property. Carmela Roberts, Borough & Planning Board Engineer was sworn in. Ms. Roberts stated that she has reviewed the project and feels that Mr. Mester has done very nice work with managing the stormwater. She stated that their concern in Pennington is water flowing from one property to another and in the past it has not always been managed as nicely as this and what they propose will improve things for themselves and their neighbor. They are putting additional impervious on the lot, but they are making sure that stormwater is not disturbing anyone else and will be helpful to others in the area.

Mr. Schmierer stated that an attorney was present to represent the neighbor and it would be more efficient if he was given an opportunity to ask questions after each witness testified. Eric Goldberg, attorney representing the neighbors, Stephanie and Kevin Heyeck, 324 Sked Street, stated that the neighbors have been living there for approximately 15 years and are concerned as to what will happen as a result of what is being proposed. He stated that no one is questioning whether it will be a nice house, but the issue is that they do not feel it is an appropriate house for that lot and feel that it is too much and too intense for that location. Mr. Goldberg asked what effort had been made to purchase additional land from adjacent property owners. Mr. Costa stated that he had certified letters that were sent to the neighboring property owner. Mr. Goldberg asked if there was any portion of the lot area in the public right-of-way and if Mr. Mester had looked over the conditions of the lot shortly after a rainfall. Mr. Mester responded that there was not any part of the lot in the right-of-way and he had not visited the site shortly after a rainfall.

Mr. David J. Barici, the applicant's architect was sworn in and gave his qualifications to the Board. Mr. Barici presented a photograph of the existing house which is a one and half story Cape Cod style house. Mr. Barici described the addition and layout of the first floor consisting of a kitchen, dining area, breakfast nook and a family room. The addition will provide a larger kitchen area and additional living and storage space. The front door will be moved away from the center of the house to make it more convenient to the driveway and will not be in front of the interior stairs. The existing house will be part of the dining room and the front room will be a den/bedroom/formal living room. Mr. Barici stated that the basement has water issues primarily on the north side and the stormwater plan should help clear up this problem. The second floor will have a master bedroom suite, two bedrooms and a full bath. Mr. Barici stated that he pulled the upper north side of the building in to address the slope ordinance. The porch will wrap around to the front and will be open. Mr. Evanini asked if the open front porch was consistent with other properties and Mr. Barici responded that it was and there are a number of wrap-around porches in Pennington. Entered into evidence was Exhibit A-2 Photographs of nearby houses with porches and Mr. Barici described the location of the houses. The porch will have recessed lighting and all exterior lighting will be downward. Mr. Barici stated that there is a large Arborvitae shown in the photograph of the existing house that will have to be removed. He stated that it was too close to the house to begin with and is probably damaging the existing house. The applicant will replace it with shrubbery and maybe a flowering tree in the front yard on the north front side. Mr. Barici referred the Board to page 6 of the architectural plans which was entered into evidence as

Exhibit A-3 and described the window configurations on the right side elevation that are small rectangular, 3 ft. x 4 ft. windows that were sized smaller due to the slope of the roof and to provide more privacy to the house to the north. Mr. Barici pointed out that the windows that are currently on the second floor are not egress windows and it is another reason for the renovation. Mr. Ogren stated that the side porch was very close to the driveway and was concerned if there was enough space between the porch and the driveway. Mr. Barici responded that it was consistent with the existing porch and they would run into roof line issues if they changed it. He stated that they felt that there was enough space as cars would drive to the back or unload towards the front of the driveway. The Board took a break from 8:40 p.m. – 8:50 p.m.

Mr. Costa asked Mr. Barici to address the results of the light and air study that was done. Mr. Barici stated that a sun study was done on the property and showed the results from July 20<sup>th</sup> the day where the most shadow was caused by the house. He also showed a day in October approximately the same time and stated that the shadow to the north did not touch the house to the north. The proposed house actually reduces the shadow that is cast and the neighbor will never get shading in their southern windows. Mr. Thompson asked if there would be lighting at the rear of the house. Mr. Barici stated that there would be down-light and there is a light by the rear door and an existing light by the garage. The siding will be horizontal siding with corner board trim. Mr. Costa asked Mr. Barici to explain how he calculated the floor area ratio and what changes were made to eliminate the need of a variance. Ms. O'Neill asked if they were going ahead with the second floor deck and what type of lighting would be included. Mr. Barici responded that it would depend on whether the Fucello's had the finances to go ahead with it and if they did the lighting would be in the overhang of the roof over the door. Mr. Goldberg asked Mr. Barici if he would agree that the applicant's lot and the one on 324 Sked Street are two of the smaller lots in the neighborhood. Mr. Barici stated that the planner would know more about the neighborhood, although he did notice that there were a number of lots that have tight square footage with similar frontage. Mr. Goldberg had additional questions concerning the calculation of the FAR. Mr. Thompson asked if there were stairs to the attic and if the basement was considered living space. Mr. Barici stated that there were pull-down stairs in the center hallway for the attic space and the attic and basement were not considered living space. Mr. Goldberg asked how much square footage was in the attic and Mr. Barici stated that the attic did not have any living space.

Mark Cannuli, NJ Licensed Prof. Planner, was sworn in and gave his qualifications to the Board. Mr. Cannuli stated that he had reviewed the professional reviews and has conducted several field investigations of the subject property and surrounding area. He described the lot and reiterated dimensions that were previously given. Mr. Cannuli stated that he reviewed the zoning code for the R-80 Zone where the property is located and that the applicant revised the plans to eliminate the need of variances for the floor area ratio and the slope ratio. Mr. Cannuli reviewed the bulk variances that were still needed. The applicant is eliminating an existing nonconforming condition for the minimum first floor area and is proposing a 1,145 sq. ft. first floor. Mr. Cannuli stated that the proposal fully complies with the requirements of the R-80 Zone and pointed out the case of Poland vs. South Plainfield Planning Board where it was determined that the Board should view the application and the benefits of the entire proposal and not just the benefits from a specific benefit granted by one variance. The only increase of the setback is the roof overhang of 1 ft. The dwelling will be made more energy efficient and will be in compliance with modern construction practices and building codes. The appearance of the lot and dwelling will be improved dramatically and the surrounding properties will benefit from the renovation. The stormwater will also be managed more effectively as the dry wells and underground drainage system will be installed. The variance is a C-1 as the applicant would have to move the encroaching wall on both sides and the front to comply with the ordinance and the conditions were inherited

when the property was purchased. Mr. Cannuli stated that due to the narrowness of the lot there is also a hardship. The variances also qualify as C-2 and the purposes of zoning are promoted by granting the variance. Mr. Cannuli read from Municipal Land Use Law demonstrating the positive criteria by approving the variances. Entered into evidence were: Exhibit A-4 Aerial photograph, 2012. Mr. Cannuli pointed out the various homes on the applicant's side of the street that all encroach into the front yard setbacks. Mr. Cannuli stated that he is testifying the proposed addition and the wrap-around porch encroachments are consistent with the neighboring properties. In addition to the positive criteria Mr. Cannuli addressed the negative criteria to prove to the Board that the variances can be granted without substantial detriment to the public good and welfare and pointed out that the only portion of the dwelling that will increase in terms of a setback variance is related to the overhangs and not walls that are being extended. The walls of the new two-story addition will meet the side and rear yard setbacks. Entered into evidence was Exhibit A-5 Photographs nearby houses with similar porches and additions. Mr. Cannuli stated that it was his professional opinion that the application will not cause substantial detriment to the surrounding properties or the zone plan as there are several other properties that have improved existing dwellings in a similar fashion to what the applicant is proposing. The improvements are complementary to the existing architecture and character of the surrounding properties. Mr. Cannuli stated he reviewed the purpose of the zone code and the intent is to provide adequate air, light and open space and he believes they are being provided in this application.

In reference to the Dallmeyer case, Mr. Cannuli stated that the applicant's attorney will testify that the applicant has sent letters to the adjacent property owners offering to purchase additional land and he has not had any response. He feels that the applicant has met the burden set forth in the Dallmeyer case and this indicates that a hardship exists today. Mr. Cannuli pointed out that the applicant is not seeking variances related to intensity and pointed out lots in the immediate vicinity that are 60 ft. or less in width and less than the required 12,000 sq. ft. lot size.

Ms. Coppola, Borough Planner, was sworn in. Ms. Coppola stated that she did not have any comments relative to the testimony, but she pointed out that the applicant is eliminating two non-conformities that exist. One is the slope ratio on the north side because of the changes to the roof line and the first floor area nonconformity. Ms. Coppola stated that there are a number of potential benefits that are derived from the improvement to the dwelling. The applicant attempted to obtain more land and could not and there is a hardship involved. There is no change in the setback to the foundation and the existing nonconformity will not be exacerbated. The applicant is eliminating the existing screen porch and is opening it up. Ms. Coppola suggested that if the Board approves the application that there be a deed restriction that the porches remain open so that they are not enclosed for future living space. She felt that the porch created an attractive element and the Board has seen many applications for front porches that help to enhance the streetscape. Ms. Coppola stated that the proposed application is a great improvement from the previous application as the applicant revised the plans so that it is under the maximum permitted floor area ratio. Ms. Coppola feels that the applicant has tried to comply as best as he can with the ordinance and the fact that it is an existing home that cannot be rectified without the removal of the home. Neither the cellar nor attic qualifies as a full story. Mr. Thompson noted that the FAR was fairly new and he felt that garages would probably not be counted as living area by the assessor. Carl Fuccello was sworn in. Ms. O'Neill asked if he had any plans for the garage. Mr. Fuccello stated that they would never use any part of the garage for living area. He stated that they are going to use Hardiplank for the siding on the house and it would also be used on the garage. He will also replace the garage door and there will be a small lantern type light on the garage. Mr. Fuccello stated that if the garage was removed from the FAR it would bring it well below the maximum. Mr. Thompson asked about the fence along the

northern property line and Mr. Fucello stated that it was a stockade fence about 6 ft. tall and belonged to the neighbors to the north. Mr. Ogren asked if the applicant would consider planting a smaller street tree and Mr. Fucello agreed that he would.

Mr. Costa asked Mr. Fucello if he had sent two letters to the neighbor to the south, Marian L. Frascella to discuss purchasing a portion of her property. Mr. Fucello agreed that he did and both of the letters were returned unclaimed. Mr. Costa stated that only one neighbor was sent a letter as the other adjacent lots are also undersized. Entered into evidence was Exhibit A-6 Letter dated January 3, 2014 certified to Ms. Frascella.

Mr. Thompson asked Mr. Goldberg if he had any questions regarding the testimony. Mr. Goldberg asked what the distance was between the applicant's house and the house to the north and Mr. Cannuli stated that it was 28.5 ft. Mr. Goldberg asked if that was one of the smaller distances between homes in the neighborhood. Mr. Cannuli stated that he had previously testified that the setbacks of this house to the existing property line are consistent with other homes in the neighborhood and in some cases may be even closer than the 28.5 ft. distance. Mr. Costa pointed out that even if the lots were normal, the minimum side yard between the houses would be 30 ft. and there is 28.5 ft. existing between these houses not that much less than a lot with the conforming setbacks. Mr. Goldberg had additional questions regarding the combined side yard setbacks and the proposed addition. Mr. Goldberg referred to Exhibit A-6 and Mr. Fucello stated that it was sent by priority mail and the other was sent certified. Mr. Fucello stated that he was not sure if Ms. Frascella had been e mailed, but he had asked that she respond by e mail or phone. Mr. Fucello stated that it was sent to Indiana, the address that the municipality had provided. Mr. Goldberg stated that the letter was sent on January 3<sup>rd</sup> and the letter stated that there was a Board meeting on January 8<sup>th</sup> and asked Ms. Frascella to respond by January 8<sup>th</sup>. Mr. Goldberg stated that the person was not given sufficient time to respond and he did not feel that the letter was adequate. Mr. Thompson asked when the notice was sent regarding the meeting. Mr. Costa stated that the notice for this meeting was sent January 31<sup>st</sup>, but prior notices had also been sent.

Mr. Thompson asked if there were any comments or questions from the public. Mr. Kevin Heyeck and Dr. Stephanie Heyeck, owners of the property on 324 Sked Street, were sworn in. Mr. Heyeck presented photographs to the Board, entered as Exhibit O-1. Mr. Heyeck stated that they have owned their property since 1987 and have multiple concerns about the design of the proposed renovation. He feels that it will have a negative impact on them both in terms of their living experience as well as the value of their house. They also feel that it will negatively impact the neighborhood and future planning for their neighborhood and the town. They feel it will undermine the intent and maybe the legitimacy of some of the building codes. He stated that they recognize that the present house is outdated and they feel that the right changes would benefit the neighborhood. They appreciate that the proposed renovation reflects characteristics of the town, but their primary concern with the house is the scale and stated that it was one of the topics that had not been discussed. He feels that the proposed application would reduce their privacy and the value of their house. Mr. Heyeck feels that a properly designed renovation in scale would increase their house value. Mr. Heyeck stated that there are drainage problems in an area where the entire back yard gets flooded. He had concerns about a large Maple tree that may be undermined by the cistern. He also stated that a cistern is a structure and needs a variance. Mr. Heyeck stated that he would also like further discussion by the Board regarding the FAR definition. Mr. Blackwell questioned Mr. Heyeck regarding the size of his lot and house and felt that the applicant's house was much bigger than the existing house on the applicant's lot. Mr. Thompson stated that Mr. Heyeck's house is two-story and looking at the photographs they look like they would be about the same height. Mr. Blackwell also questioned the photograph showing the property after it rained and Mr. Heyeck stated that it was simply an

example of what happens on that property when saturated ground is rained on. Ms. Coppola pointed out that there is no variance required for the cistern. It is an accessory structure and the variance requires a five foot setback. In regards to the FAR issue, she felt that the Board has made the interpretation after discussions and review and they have dealt with it before and she disagrees with the neighbor regarding that issue. Ms. Roberts responded to Mr. Thompson regarding the issue of whether the location of the cistern will impact the large Maple in the rear yard. She stated that it is hard to judge, but felt that it was located just past the drip line of the Maple. Mr. Heyeck stated that the renovation will affect their sunlight and their view of the sky. It will also affect their ability to use their side yard. He stated that he also would prefer that the swale not be created on the property line, but moved inwards to keep the roots of his tree safe.

Mr. Edwin Albarran, 325 Hale Street, was sworn in. Mr. Albarran stated that the east end of his property is adjacent to both neighbors and he has been a Pennington resident since 1997. He stated that he is a principal with a nearby architect firm and stated that the town is constantly changing and evolving and brings people like Mr. Fuccello into the town. He feels that Mr. Fuccello is very sensitive to creating designs that are in character with the community. He stated that the area around there had at one time been all swamp and feels that the water controls planned will improve the drainage. Mr. Albarran feels that Mr. Fuccello made a strong effort to make adjustments to his plan and that there are zoning codes to control change, but not to impede it. He stated that he has looked at Mr. Fuccello's work on two other houses in Pennington and both houses are done well and he feels that he will do a good job on this property.

Mr. Edward Fletcher of 4 West Welling Avenue was sworn in. He stated that Mr. Fuccello has been working on a house close to him and he has been a pleasure to have in the neighborhood and always reaches out to the neighbors to make sure there are not any problems. Mr. Fletcher feels that both houses that Mr. Fuccello worked on were improvements to the neighborhood and he does quality work.

Ms. Kim Welebir, representing the interests of her family's house on 109 W. Welling was sworn in. Her family has been in their home for over 50 years. She stated that the orientation of her family's house was on 329 Sked Street and the applicant's house is diagonally across the street from her house. She stated that communities change and Hale Street is changing drastically. Ms. Welebir gave the Board background regarding Sked Street and stated that the whole area had been Howe's Nursery. Ms. Welebir stated that some streets are in transition and some are solid and have not changed and Sked Street is one of them. She has concerns about future planning as there have been some real out of character circumstances. She feels changes should stay well within the character of what exists on a stable street. She feels that the Board should be considerate of where they are going and what perspective they want Pennington to look like. She stated that this section of Pennington has a lot of problems with water and one has to be respectful of their neighbors as it is common to have water in the basement. Ms. Welebir stated that she is impressed that Mr. Fuccello has responded to the community, but she also requests that the Board be responsible and consider that Hale Street also needs to maintain its character.

There being no further comments, the public portion of the hearing was closed. Mr. Costa stated that there was extensive testimony and they appreciated the comments from the public. He stated that from the testimony they learned that it is a varied neighborhood and there are a number of houses that are small and a lot of houses that are new and match the size and scale of the proposed house including the house to the north. The engineer has testified regarding the drainage system and that it will not impact the trees. He feels that the fact that the FAR requirements are new and recently evaluated by the Board and Council carries an additional weight and his client has revised his plans to meet those requirements.

The proposed house is very attractive and fits within the character of Pennington and the neighborhood and provides light and air. He stated that Mr. Fuccello will provide landscaping and the deed restriction for the outside porch. Mr. Costa again explained that they were looking for approval of variances for the side yard and front yard setbacks. There is an additional one foot for both because of the roof overhang and there is no change in the location of the foundation or the walls and they do not believe that they are substantive changes that impact the neighbors. Mr. Costa stated that the applicant could have made the addition to the rear of the property, but chose not to do that because he wanted to preserve as much of the land in the rear as possible.

Mr. Goldman stated that he did not believe the negative criteria have been met. One of the criteria is substantial harm to the public good and nobody has a greater impact than the people next door. Mr. Schmierer stated that the Board would have to decide if they feel the addition is appropriate in scale and did it fit in with the neighborhood or does it have a substantial detrimental impact on the neighbor or anyone else that might be affected by the new development. Ms. Heinzl questioned how the Board should look at what is appropriate in the zone and Ms. Coppola responded that the ordinance guides development in the different zoning districts and it is not this street or that street, but it is the whole zone. The proposed house is less than 30 ft. high which is far under the maximum of 35 ft. It meets all the requirements except the setbacks which are existing, but need variances for the roof overhang. The second story is cut back further than what presently exists on the second floor to the north side. The Board has to focus on the variances that are being requested and how they would affect the property to the north and weigh if the existing conditions are being exacerbated or improved.

Mr. Thompson asked the Board if they had any questions or comments. Mr. Blackwell stated that he liked the proposed house and felt that the applicant did everything he could to bring it into conformity. He also did a great job in addressing the drainage concerns and went above and beyond to alleviate the water problem for both himself and the neighbor and he is in support of the application. Mr. Levy stated that he could not say that he was 100% in favor of the project, but when he thinks about the specific variances being requested and when he weighs the positive and negative criteria he is inclined to support the application. Ms. Heinzl stated that she agrees with Mr. Levy that it is a tough decision, but when she looks at the application in terms of the variances that are being sought and takes into account the existing deficiencies of the lot she feels that she would approve it. Mr. Ogren stated that the variances being requested seem very minor and they are discussing building a house on the existing foundation and he does not see that as an issue. He does see the issue of whether it is in the character of the neighborhood and he is very sensitive to that issue since he has had a very large two-story house built next to his, but the fact is that in Pennington there are many situations which have small side yards and undersize lots and he does not feel that this proposal is out of character. The application is conforming in every way except for the minor setbacks that have to do with the roof overhangs and he would vote in favor of the application. Mr. Evanini stated that he felt the big issue was what defines the neighborhood and the applicant put forth testimony regarding houses in the neighborhood that are consistent with what is proposed. Mr. Evanini agrees with Ms. Coppola and feels that they have approved many applications that are smaller and much closer than what is proposed in the same zone and he does not feel that it is not out of character with the neighborhood. Mr. Evanini also pointed out that they would not be setting a precedent by approving the application. Ms. O'Neill stated that she agrees with everyone on the Board. She stated that she is sympathetic with the neighbors losing their view of the sky, but she also lives close to another house and does not have a view of the sky all the time. She feels that the house meets the requirements of the ordinance and she would support the application. Mr. Thompson stated that he lives next to a house that was built on an undersized lot and was much more massive and taller than the one that is proposed. The

Board has crafted a lot of the existing ordinances that are in place for a reason and one is the slope ordinance to make sure that there is adequate light and space between houses. He feels that a 2,000 sq. ft. house is relatively modest for these days and consistent with other houses in the area and for these reasons he would vote in favor of the application.

Mr. Blackwell made a motion to approve the application with the conditions discussed, but asked if the requirement of a Deed Restriction for the porch could be eliminated. No one agreed and Mr. Ogren seconded the motion to approve the application including the condition of a Deed Restriction. Voting yes: Blackwell, Evanini, Heinzl, Levy, Ogren, O'Neill, Thompson. Not voting: Reilly, Stern. Absent: Gnatt, Meytrott.

There being no further business, the meeting was adjourned at 11:40 p.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary