

**PENNINGTON BOROUGH
PLANNING BOARD MEETING MINUTES
NOVEMBER 12, 2015**

Mr. Thompson, Chairman, 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: Deborah Gnatt; Eileen Heinzl, Mayor's Designee; William B. Meytrott; Katherine O'Neill; Thomas Ogren; James Reilly, Vice Chairman; Nadine Stern, Alternate 1; Winn Thompson, Chairman. Absent: Mark Blackwell, Joshua Levy.
Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Attorney; Carmela Roberts, Roberts Engineering Group, LLC, Borough Engineer; Michael Bolan, Borough Planner; John Flemming, Zoning Officer; Mary W. Mistretta, Planning Board Secretary.

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 public address portion of the meeting was closed.

APPLICATION

American Properties at Pennington, LLC, 105 West Franklin Avenue, Block 102, Lot 1, MR Zone. Preliminary/Final Major Subdivision & Site Plan, Variances, Application No. P15-009.

Mr. Meytrott lives on the property and recused himself because of a conflict of interest. Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Mr. Frank Petrino of the law firm Eckardt Seamans, attorney for the applicant, described the application for a development to be known as the Heritage at Pennington. The property is approximately 13 acres and is located in the MR (mixed residential) Zone. The property has frontage on West Franklin Avenue and Knowles Street. The applicant is the contract purchaser of the property and will construct a residential community consisting of 80 dwelling units, 64 market rate (32 town houses and 32 villas.) The villas will be age-targeted units. There will also be 16 affordable apartment units in three different buildings. Also proposed is onsite parking, a stormwater management basin, and a tot lot. Mr. Petrino stated that they are also requesting several technical variances: permitting one affordable unit building to encroach into a side yard setback; permit community and sidewalks to individual lots to encroach into perimeter setbacks in several areas; permit the boundary lines of fee simple market rate lots in multiple locations to encroach in the building setback; permitting the rear yards of all the affordable buildings to be 20 ft., 15 ft. permitted, no variance required if were condominium.

The development has already received the following approvals: 2008 Flood Hazard Applicability Determination; wetlands Letter of Interpretation, wetlands on the site are either intermediate that require a 50 ft. buffer or ordinary wetlands which do not require a buffer; Mercer County Planning Board approval. Mr. Petrino stated that they must obtain a permit from the NJDEP Sanitary Sewer Extension to provide public sewers for the 80 units and a permit from NJDEP, Bureau of Safe Drinking Water. If they receive Planning Board approval they will then be in a position to apply for those permits and they will have to get endorsement from the Stony Brook Sewerage Authority and the local water authority. Mr. Petrino stated that the approval if granted would be subject to their ability to obtain those permits.

Mr. Petrino stated that there were four potential witnesses present: Randy Czik, Principal and applicant; Fred Coco, Engineer and Planner; Richard Arzberger, Architect; Karl Pehnke, Traffic Consultant. Mr. Thompson noted that the Board had additional items to discuss and they would need to end the hearing around 10:00 p.m. Mr. Petrino agreed that Mr. Schmierer had mentioned that and that the hearing would probably have to be continued to the December 9th Planning Board meeting. Mr. Thompson asked for additional copies of the Traffic Engineer's report for the Board members. Ms. Roberts stated that if revisions were being done as a result of the discussions tonight, December 9th may not be enough time to have them submitted and reviewed by the professionals and asked the Board to take

this into consideration. Mr. Thompson stated that they also had to consider that the Thanksgiving holiday will be coming up and they will discuss this at the end of the hearing.

Mr. Alfred Coco, President, Menlo Engineering Associates, engineer, professional planner and surveyor in New Jersey, was sworn in. Mr. Coco gave his qualifications which the Board accepted. Mr. Petrino reviewed the various reports and plans that Mr. Coco prepared and submitted for the application. Entered into evidence was Exhibit A-1 Aerial of the site and general vicinity, 2013. Mr. Coco described the surrounding area and stated that there was currently a home, office building and pool on the site. Pennington Point is located between the site and North Main Street and Knowles Street, which runs parallel to the railroad, is to the east and West Franklin Avenue to the south with the Straube Center across the street. There is a wetland area that borders along Pennington Point and a small swale that runs out to Knowles Street. There are three single-family homes in the southwest corner on West Franklin Street. Well #2 is located on the site and is owned by the municipality with a driveway easement that runs out to the street for access to the well. Entered into evidence was Exhibit A-2 Heritage at Pennington Site Plan. Mr. Petrino distributed 11" x 17" colored copies of the exhibits to the Board. He pointed out that there are 19 buildings with three different styles throughout the site: eight buildings with four units are villas which are larger with two car garages; town houses with one car garages; and eight buildings with four units in each. There are three affordable (COAH) buildings with 16 units, two one bedroom, ten two bedrooms and four three bedrooms which are broken down in accordance with affordable housing rules. The villas and town houses are all three bedroom units. There will be full access driveways to the site from West Franklin Avenue and Knowles Street. A tot lot is planned in the southeast corner of the lot which will be fenced. A sidewalk system is planned throughout the site to allow the residents access to both streets. A sidewalk is also proposed along West Franklin and Knowles. The site was developed following the zoning ordinance and the State's Residential Site Improvement Standards. Mr. Coco stated that there are 6.2 units per acre proposed which is a little less than what the zone permits and has about 20% less density as Pennington Point. They adhered to the zoning requirements with several exceptions and meet the parking requirements as required by the ordinance and RSIS. They have provided 192 parking spaces between garages and driveways and are providing 36 spaces on the street for the COAH units and an additional 32 spaces. Mr. Coco stated that they are requesting a setback variance of 33 ft. +/-, where 50 ft. is required for the affordable building number 13. They originally had the building in the correct setback, but it made it an awkward arrangement. The total setback between building 13 and the Pennington Point building will be approximately 80 ft. and they feel that this is adequate. Entered into evidence was Exhibit A-3 Subdivision Plan, Heritage at Pennington, Block 102, Lot 1, West Franklin Avenue, Menlo Engineering Associates, November 12, 2015. Mr. Coco explained that they have fee simple lots around each of the individual units. He explained that this is being done for strictly financial reasons and to make it easier to obtain mortgages. There are 11 different locations where the lot line is within the building setback which is not allowed in the ordinance and a variance is being requested. They are also requesting to increase the setback for the COAH units. Mr. Thompson asked if each of the COAH units was on one lot and Mr. Coco stated that was correct. Ms. Roberts stated that she did not feel there was enough room to do that. Mr. Coco stated that the architect would get in to more detail concerning the COAH lots. They are also asking that sidewalks be permitted to encroach into the sidewalks which he feels would be a minor variance. Mr. Coco stated that one of the benefits to approving these variances would be that it would allow the project to proceed and will provide COAH housing that the community needs and will provide a variety of housing types. It is also in conformance with the zoning ordinance. Mr. Coco stated that they are technical map type variances and the only one that will be discernible from a physical standpoint is the affordable building no. 13 in the corner and that will only be in the rear yard area. Mr. Coco stated that they do not think there will be any impairment to the zoning ordinance or to the physical plan and feels that they could be granted under a Flexible C2.

There will be a stormwater collection system which will collect stormwater from the parking lots, buildings and other improved areas and directed to a proposed detention basin in the northeast corner which will be adjoining the detention basin on the Pennington Point development. There will be an outlet structure which discharges into a pipe that currently crosses Knowles Street and a second pipe

that crosses the railroad and goes towards the east. Mr. Coco stated that Ms. Roberts has suggested in her reports that they look at this a little more carefully and install more nonstructural measures and introduce more of the runoff into the swale and not discharge directly into the pipe systems. Mr. Coco stated that they will work with the Borough Engineer on implementing other techniques. The second issue is the soil report which shows that the soils are very impermeable and do not percolate very well and as a result there is no infiltration on the site. They have agreed to do additional soil testing to see if there are areas that will infiltrate better and will work with the Borough Engineer on this also.

Sewer and water will have to be deferred to a later time. Mr. Coco stated that the applicant may want the option of phasing the project depending on the sewer availability and how quickly it is decided. The applicant has prepared a woodlands management plan and Mr. Coco described how it was done. They have estimated that there will be approximately 255 trees that will be removed and have based this on a sample area counting trees with a 10" caliper. This number may increase after an arborist inspects the trees. They propose to plant a variety of 533 trees as is reflected on the landscape plan. Approximately 250 shrubs will be planted around the units and parking lots. They will use PSE&G acorn/ Colonial looking fixtures which will direct the light downward. The developer will pay PSE&G for the installation and the Borough through the homeowner's pays the bill. They also need approvals from Mercer County Soil Erosion, NJDEP Wetlands Permit, Delaware & Raritan Canal Commission, Stony Brook Regional Sewerage Authority and local water permit and NJDEP for both water and sewer extension.

The review memorandum dated November 5, 2015 from Carmela Roberts of Roberts Engineering Group, LLC was reviewed. Ms. Roberts and Mr. Thompson had questions regarding the variance request for fee simple lots encroaching on the setback line. Mr. Petrino stated that there would be a homeowner's association declaration file that will have various requirements included which could also include what they do to the buildings or on the lots. The Board's professionals would review this document to be sure the Board's concerns are included. Mr. Coco stated that even if an individual owns a lot it will be treated like a condominium and the homeowner's association would maintain up to the building walls. Mr. Thompson asked what the maximum impervious coverage would be and Mr. Schmierer responded that he looked back and under the old zone there were requirements, but there was not a requirement in the new ordinance and he stated that it was agreed to regulate it by the density requirements. Mr. Coco stated that he would provide the impervious number. Mr. Thompson stated that he would like a better overall view of drainage on the whole site and where the drainage is going since there are problem areas in the Borough, particularly on North Main Street where there is flooding. Ms. Roberts requested a downstream drainage analysis and they have done what is required, but they will look further at the downstream analysis.

In reference to Ms. Robert's comments regarding the recommendation in the Master Plan that sidewalks should be 5 ft. in width, Mr. Coco stated that RSI standards call for a 4 ft. sidewalk when it is next to a grass area and for the onsite community, but Mr. Coco stated that they will take this into consideration and get back to the Board. Mr. Ogren felt the issue was more for the sidewalks on the perimeter and not the interior ones.

Ms. Roberts stated in her memorandum of November 5th that the applicant has satisfied and addressed all of the completeness requirements and recommended that the application be deemed complete. It was noted in the memorandum that the project is proposed to be constructed in two phases. At the present time there is enough sewer capacity for at least 40 units which would be one phase. The Stony Brook Sewerage Authority is waiting for NJDEP to adopt another round of revisions for the final part of their design to expand and they are hoping to have the design done in 2016. Mr. Petrino stated that they must have approval from the Planning Board before they can get a definitive answer from Stony Brook regarding capacity.

Mr. Coco stated that they used the RSI standards in providing the needed number of parking spaces and explained the formula resulting in the need of 154 spaces for the market rate units, but counting the

garages and driveways the total is 192 spaces which exceeds that number. They also provide 32 spaces on the street with an addition of 36 spaces on the street for the affordable buildings. He stated that in his experience the numbers usually work out. No parking will be allowed on the 24 ft. wide streets, on street parking that is referred to is surface parking in marked areas.

Mr. Thompson referred to the memorandum from the Pennington Fire Department representatives dated October 29th requesting a meeting to discuss their concerns. Mr. Coco stated that they will get information from the fire company regarding the equipment they use and will use templates to make sure there is enough turning radius throughout the main roads in the site.

Mr. Coco agreed that they will remove all of the existing sidewalk and construct new sidewalks and curbing along the entire Knowles Street frontage. The applicant agreed that the old sidewalk will not be removed until the new one is scheduled to be installed. There was discussion regarding the Borough Engineer's suggestion to widen West Franklin Avenue to 30 ft. They are not in a position to acquire any sidewalk easements or right-of-way from private property owners that this would require and would like to use 12 ft. from the center line to eliminate moving the poles. Mr. Ogren asked about curbing and Mr. Coco responded that he will look into what could be done and discuss it with the applicant. Mr. Thompson asked if they could extend the sidewalk past Lots 6, 7 and 8, but Mr. Coco stated that there would not be enough room. Carmela Roberts, Borough Engineer and Michael Bolan, Borough Planner were sworn in. Ms. Roberts stated that it would be helpful to know what the Board would like regarding the street. She stated that the Master Plan and Borough documents indicate that it should be a 30 ft. wide road and all the Borough documents promote sidewalks. A 24 ft. wide road will not allow for parking and a minimum width of 28 ft. would be needed to allow parking. Mr. Petrino stated that their traffic consultant has looked at the Borough documents and they refer to new streets and they did not find anything in the Master Plan that suggested adding sidewalks on Franklin Avenue. Mr. Coco stated that their proposal was to go to 24 ft. and curb it. Mr. Thompson stated that he felt that most of Pennington Borough's Master Plan indicates that they would like sidewalks throughout the town and there will be a lot of pedestrian traffic in this area. Mr. Coco stated that the sidewalk is not a huge issue if the cartway width is 24 ft., but if it is beyond that it is a significant issue. Mr. Thompson stated it will be helpful hearing from the traffic engineer regarding this issue. Mr. Ogren suggested that maybe Knowles Street could be considered for parking as it was considered an option when the zoning ordinance was discussed for this site. Mr. Coco continued the review of the Roberts Engineering memorandum. He agreed that they would submit plot plans for review and approval prior to building permits as requested in number 8. There was discussion regarding the Developer's Agreement. Ms. Roberts stated that it would be a formal document between Council and the developer that spells out the sequence of construction and would include the hours that they will work and other details concerning construction. It will also address water, sewer, paving and whether it is being built on preliminary or final approval. Ms. Roberts stated that if the applicant received preliminary approval Land Use Law allows all the site improvements without a performance guarantee and if half way through they are unable to continue the property would just sit until someone else buys it. If they receive preliminary and final approvals they would have to post performance guarantees. Ms. Roberts stated that she would recommend that it cover all the site improvements. She also noted that a subdivision map cannot be filed until final approval is received. Mr. Petrino stated that they could create a phasing bond, but stated that he would talk to the applicant the Board attorney and engineer to come to a solution regarding this. Mr. Petrino stated that they were requesting both preliminary and final approval. Mr. Coco stated that they agree with Ms. Roberts comments regarding subdivision recommendations. Ms. Roberts stated that she felt monuments on the exterior property corners would be sufficient and she did not feel that the interior property corners needed pins as suggested in her letter. Mr. Coco stated that they would add interior lot lines to the subdivision plans to make it easier to understand. Mr. Coco agreed to Ms. Robert's comments regarding the subdivision plans. She also mentioned that the Board could suggest street names. Mr. Ogren asked if the applicant would submit a list of names for the next meeting. Ms. Roberts wanted to add to her comments that there should be a blanket easement for the water and sewer lines. In regards to site plan comments, Mr. Coco stated that under RSIS a multi-family driveway that is less than 300 ft. long can have a dead end driveway and feels that both of their

drives comply with that provision. Mr. Coco stated that residents could bring their trash out to the drive, but Mr. Ogren stated that mail trucks and delivery trucks would have to use them and it would be too far to back out. Ms. Roberts suggested that it might be possible to add a little extra room at the end to provide room for k turns. Ms. Heinzl stated that the Public Works Director may have a plan to make trash collection easier. Mr. Thompson asked why the first stub street could not go out to Knowles and it would make better circulation. Mr. Coco stated that he would meet with the Public Works Director to discuss this. Ms. Roberts pointed out that there are dumpsters at the affordable buildings that would have to be serviced. There is no on street parking except for the parking at the little pull in areas that are designated even though they meet the parking standards the Board had concerns regarding parking for parties and gatherings. Mr. Coco stated that basements are not proposed in the buildings. The homeowners association will maintain all of the sidewalks up to the buildings and landscaping on the site. Ms. O'Neill asked about snow removal. Mr. Randy Csik, President, American Properties, was sworn in and responded that it will be taken care of by the homeowners association. There was discussion about the rear yards for building numbers 1 and 17 that are sloped and would be useless and Mr. Coco stated that they would look at them and provide something to make them useable. Mr. Coco briefly reviewed Ms. Roberts comments regarding stormwater. Mr. Thompson asked Mr. Coco to describe the difference between intermediate and ordinary wetlands.

Mr. Coco stated that DEP has three different categories of wetlands and he described them for the Board. They are modifying the wetlands where permitted and will be submitting permits to NJDEP for approval. Mr. Thompson pointed out that there have been much smaller lots where the Board has required extensive recharge capabilities and the Board will be looking at that part of the plan. He stated that an overall map showing where the water is going would be helpful in looking at this as well as knowing the maximum impervious coverage. Mr. Coco stated that they will do additional soil testing to look further into recharging.

Mr. Schmierer suggested that if the Board had other business to discuss it would be a good time to open the meeting to the public. Mr. Thompson agreed and asked if there was anyone in the public who had questions or comments regarding the application.

Jim Peters, owner of Cambridge School located in the Straube Center, was sworn in. Mr. Peters stated that he wanted the applicant to know that there were problems with cars every morning and afternoon when students are dropped off and picked-up and there were accidents regularly on Route 31 by Franklin Avenue. He also noted that there were children walking in the area all the time.

Daniel Pace, 9 Railroad Place, was sworn in. Mr. Pace stated that he had concerns regarding lighting and would like to see photographs of the proposed lighting. Mr. Coco pointed out the picture in the Menlo Engineering Associates plans and stated that they were a PSE&G Colonial style light fixtures that would shine downward.

James Gaffney, 330 Burd Street and representative of the Environmental Commission was sworn in. Mr. Gaffney stated that the Environmental Commission met and discussed the project and he reviewed the pertinent points of the Environmental Commission memo dated October 6, 2015. He reviewed item four regarding the well located to the north of the site and stated that they are concerned that there is not enough protection from chemicals and would like further analysis of the area. He also stated that they are concerned that some of the buildings may interfere with the wetland areas. Items five and seven are closely tied together and because of the runoff discharging into Lewis Brook, a feeder stream to Stony Brook, they recommend that the applicant look into other stormwater protection alternatives. Also because the likelihood of increasing and more intensive rain storms, they feel an additional analysis for the 500-year storm event should be done. He suggested that the applicant look into other alternatives for water runoff such as dry wells. Mr. Petrino stated that they have done the analysis that is required by DEP and he is not sure if they can do an analysis of the 500 year storm event. Ms. Roberts stated that she felt the stormwater issue discussion tonight was helpful and the information that the applicant will come back with might help with the water being recharged.

Mark Godfrey was sworn in and read a statement that was his personal opinion only. He asked what had happened to the agreement that Capital Health made with Hopewell Township when they received approvals for the new hospital. He thought that the site was to be used for a YMCA and senior center. He also felt that the Borough should consider its COAH obligation and provide housing for the disabled. Mr. Godfrey also had concerns regarding adequate water supply and how much would be needed for the development. Mr. Godfrey gave the Board a copy of "N.J. Geological Survey Open File Report OFR 93-1 – Well Interference and Evidence of Fracture Flow in the Passaic Formation Near Pennington, Mercer County, NJ." for the Borough water engineer. Mr. Thompson responded that water will be discussed at the next Planning Board meeting and the agreement between Capital Health and the YMCA did not work out, but he would look into the issue.

Diana Deane, 15 Railroad Place, was sworn in and stated that she agrees with Mr. Peters and Mr. Pace. She asked why the garbage would be collected if the roads were private. Mr. Schmierer replied that this is the result of a law suit a few years ago that resulted in municipalities having to either provide trash service or the development would have to be reimbursed for part or all of the trash expense of a private firm.

Katherine Fullerton, 14 Laning Avenue, was sworn in and inquired about maintenance of the trees in the Borough's right-of-way. The Borough would maintain the trees in the right-of-way.

There being no further comments, the public portion of the hearing was closed. Ms. Heinzl made a motion, seconded by Ms. Stern to continue the hearing to the December 9th meeting and the Board agreed by voice vote. The hearing ended at 10:15 p.m.

ZONING OFFICER'S REPORT

There was discussion regarding clothing boxes appearing in the Borough and Mr. Flemming stated that there were no rules or regulations regarding them. Mr. Schmierer stated that West Windsor has had problems with them and people are upset as they are finding out that not all of them give the clothing to charities, but sell the clothes for rags. They had set up standards where people have to apply in much the same way as a zoning permit. Mr. Flemming will look into this.

Mr. Flemming stated that St. Matthew's would like to put up a 12 ft. x 8 ft. shed and asked if it would need Board approval and the Board agreed that it would. Mr. Flemming also noted that he had issued a permit to the Pennington Business Association to put a tent up at 65 S. Main Street for the Holiday Walk.

The Electrochemical Society would like to place a storage container in a parking space in their parking area. It would not take up more than one space and would be permanent. The Board suggested that it would need site plan approval.

MEMORIALIZATION OF RESOLUTION

Charles P. Rotondo, Block 1005, Lot 2, 1 Maple Lane, R-100 Zone. Bulk Variance Application No. P15-010. The applicant received bulk variance approval to increase the nonconformity of an existing rear yard setback to construct dormers, porch/deck and install air conditioner condensers. Mr. Reilly made a motion, seconded by Ms. Heinzl to memorialize the resolution. Voting yes: Gnatt, Heinzl, Meytrott, Ogren, O'Neill, Reilly, Thompson. Not voting: Stern; Absent: Blackwell, Levy.

WORK SESSION

The Board discussed the need to expand the site plan ordinance to include properties that were split between Hopewell Township and the Borough. Mr. Bolan was asked if the revised site plan ordinance could be ready by the end of the month to be sent to Council for their January meeting. They also

suggested that the other ordinance changes could be worked on this year, but did not necessarily have to be sent to Council by the end of the year.

MINUTES – Ms. Heinzl made a motion, seconded by Mr. Ogren to approve the October 14, 2015 Planning Board minutes and the minutes were approved.

There being no further business, the meeting was adjourned at 10:45 p.m.

Respectfully submitted,

Mary W. Mistretta, Planning Board Secretary