

**PENNINGTON BOROUGH  
PLANNING BOARD MEETING MINUTES  
JUNE 10, 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: Keelan Evanini; Deborah Gnatt (left early); Eileen Heinzl, Mayor's Designee; Josh Levy; William B. Meytrott; Katherine O'Neill; James Reilly, Vice Chairman; Winn Thompson, Chairman; Thomas Ogren, Alternate; Nadine Stern, Alternate. Absent: Mark Blackwell..

Also Present: Michael Bolan, Borough Planner; Carmela Roberts, Borough Engineer; 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 public address portion of the meeting was closed.

**APPLICATION**

**PAUL FRANK**, Block 904, Lot 8, 122 West Welling Avenue, R-80 Zone. Application No. P15-003. The application is for bulk variances and a use variance for floor area ratio. The applicant is proposing to add a two-story addition to the rear of the existing house and a second story on the existing greenhouse totaling approximately 900 sq. ft., a new porch on the westerly side of the dwelling and a new vestibule on the existing porch in the front of the dwelling. A new two-car garage with an open-air deck on the second story is also proposed. Bulk variances are required for the following: front yard setback, 36 ft. to proposed porch, where 40 ft. is required; side yard setback for porch and addition to greenhouse; side yard for proposed garage, 5 ft. required and 1.5 ft. proposed; maximum lot coverage, 4,320 sq. ft. permitted, 4,795 proposed. A use variance for exceeding the permitted floor area ratio (FAR), .265 permitted and .283 is proposed.

Ms. Heinzl, the Mayor's designee and Ms. Gnatt, Council representative, recused themselves and sat in the audience. Mr. Schmierer announced that the Board had taken jurisdiction at the May 13, 2015 meeting and the hearing had been carried to the June meeting at the applicants' request. Paul and Lucinda Frank (legal name Lucinda Anne Tiajolloff, referred to as Mrs. Frank in this hearing) were sworn in. Mr. Frank explained their need for more space and stated that with the proposed renovations all the bedrooms would be on the second floor. Mr. Frank stated that they have looked at other houses in town, but in the end it became clear that expanding their present house would be the best and more economical option. Mr. Reilly reported that the Application Review Committee reviewed the application and requested an engineering and planning review. Ms. Roberts reported that there is still information she needs to make an accurate assessment and the application should be declared incomplete and the Application Review Committee agreed and suggested that the Board declare the application incomplete. Carmela Roberts, Borough Engineer, was sworn in. Ms. Roberts indicated that if the Board approves the application she would prefer that they do not condition the needed information. She stated that the concern was stormwater since this was a small lot that does not meet all the zoning conditions as it exists and some are being exacerbated, particularly the impervious coverage. She has not received the proposed grades and the way the property sits and drains is exactly how it would drain in the future because there are not many changes that can be made. She stated that most of the property drains to the rear and some to the left and right. Ms. Roberts stated that one of the most difficult things in the Borough was to manage water between properties and the management of stormwater on this proposed plan is a concern. The applicant is willing to install a seepage tank, but nothing is known about the conditions of the soil or the depth of the water table. Ms. Roberts does not feel that the neighbors should be put in a position where potentially there could be more water running onto their property during normal storms. Her concern is that if the Board conditions the needed engineering information and

there is a problem with the soils or the water table she and the applicant will have a very difficult time sorting it out. Ms. Roberts stated that if the Board wants to assure that the project would not cause a problem to the neighbors she feels the Board should declare it incomplete. There is no way that water can be drained to the street and if there is a problem with the seepage tank there is no room for a swale. She stated that the impervious coverage is the problem on the engineering side.

Paul K. Tiajolloff, Architect, LLC was sworn in and stated that he was a licensed architect and planner in the State of New Jersey and gave his qualifications. Mr. Tiajolloff stated that they have contacted two companies to obtain the needed engineering information and both bids have come in around \$7,500 and felt that it was a big expense when the applicant may not be allowed to proceed with the project. Mr. Thompson stated the engineering issues were part of a larger picture and he suggested that if the Board agreed the applicant could make their presentation as there were a lot of other pieces of the application to discuss and it could be continued to the next meeting. Mr. Tiajolloff stated that the applicants would like to move forward and make their presentation and the Board agreed with the stipulation that they will consider the additional engineering requirements.

Mr. Tiajolloff described the application and explained that the applicants would like all the bedrooms located on the second floor, room for a family room and possible renovation of the kitchen. Entered into evidence was Exhibit A-1 Tax Map. Mr. Tiajolloff stated that the lot size is 60 ft. by 180 ft. and is among other lots of the same size that have larger homes than the applicants. The property is “v” shaped and is located approximately 30 ft. off the street as is most of the houses on that block. Entered into evidence was Exhibit A-2 Photograph showing similar houses. The original house was built 12 ft. off the property line on the left side and 36 ft. from the front yard property line. In 1998 an addition was put on the house which established the setback of 13.9 ft. on the right side yard. The existing porch is 7.9 ft. off the property line. Mr. Tiajolloff stated that the hardships are the narrowness of the lot and the construction of the house itself. They are not increasing any of the existing setbacks and they have tried to keep the addition down to fit within the slope ratio. They are proposing to build a family room at the rear of the house and build over an existing green house. There will be a small addition to the front porch to provide a vestibule in the front. They are proposing a wrap-around porch on the right side of the house. Mr. Tiajolloff stated that historically older houses have wrap-around porches and they help to conserve energy. They have tried to stay within the zoning ordinances and the proposed front porch has actually reduced the nonconformity. A two-car garage with a second floor deck was proposed in the rear of the property on the foot print of the existing garage which has a 1.5 ft. setback. Mr. Tiajolloff stated that they have met with the neighbors who have a swimming pool on the neighboring lot and they have agreed to move the proposed garage to meet the 5 ft. setback. They have also agreed to enclose the side of the deck so that it does not look out over the swimming pool. An exterior staircase is also proposed on the garage that would be on the side facing the applicants’ yard. Mr. Tiajolloff stated that they have included a drainage plan with the site plan.

Mr. Thompson asked the applicant to address how the addition will fit in with the streetscape and homes in the area. He also suggested comparing the square footage with houses on similar size lots to help address the floor area ratio use variance. Mr. Tiajolloff stated that he did Google the area and noticed that the lots are pretty similar in size and that a number of the houses are within a foot or so equal in depth to what is proposed. Entered into evidence was Exhibit A-3 Photographs of the streetscape showing nearby houses with similar front yard setbacks, porches and wrap-around porches. Mr. Tiajolloff next addressed the coverage on the property. The allowed coverage is 4,440 sq. ft. and the existing is 3,753 sq. ft. and 4,743.4 is proposed. Mr. Tiajolloff stated the addition will only provide functions in the house which are necessary and the FAR is being exceeded because of the lot size and the existing house, but the scale of the house is consistent with the neighborhood. He felt that the scale of the structure is not out of keeping with the intent of the ordinance. Mr. Reilly asked what was included in the floor area ratio calculation. Mr. Tiajolloff stated that revised calculations had been submitted on the plans. The basement and attic are unfinished spaces and have not been included. The vestibule was included, but not the second story of the

garage. Michael Bolan, Borough Planner, was sworn in. Mr. Bolan stated that the second story of the garage should have been included in the FAR calculations, but the FAR definition excludes the area used for parking. John Flemming, Zoning Officer, was sworn in. Mr. Flemming stated that the applicant gets relief on the formula for the side yard setbacks and they were very close to conforming. Regarding the front yard setback, he stated that they would not want a building pushed way back where every other building is towards the front. Mr. Flemming also pointed out that the purpose of the floor area ratio was to limit over developing of undersize lots. Mr. Thompson suggested that the applicant provide square footage of houses in the area to show that what is proposed is not inconsistent with other 60 ft. wide lots. It was suggested that Mr. Tiajolloff could get this information from the Borough office. Mr. Thompson stated that it would be in everybody's interest for the applicant to get an engineer to provide the Borough Engineer with the information that she feels is important to evaluate the project.

Mr. Ogren suggested that a detention basin could be placed in the area of the existing fish pond and stated that some lots have conservation easements in the rear to prevent indefinitely any soil disturbance. He also asked if the amount of macadam could be reduced in the turn-around area. Mr. Tiajolloff stated that they could not reduce it, but they could look at pervious materials. Ms. Roberts stated that she would not recommend it as it would be expensive and they would have to be very careful about not getting grass or dirt in it as they would clog up the pavement and it would prevent drainage of the property.

Mr. Bolan stated that he felt there should be more testimony concerning the special reasons for the floor area ratio variance. He also suggested that floor area calculations should be redone with the second floor of the garage included and they should also look at the maximum lot calculation. There was discussion regarding the second floor over the garage and some of the Board members felt that this was a problematic issue. Mr. Reilly asked about the importance of the side porch and Mr. Tiajolloff stated that it provides a good circulation flow from the front of the house to the dining room where there is presently a door and also down to the patio. It also helps reduce the heat gain by providing shading. Ms. O'Neill also had questions concerning the porch.

Mr. Thompson asked if anyone in the public had questions or comments, there being none the public portion of the hearing was closed. Mrs. Frank had questions regarding the second floor of the garage and Mr. Flemming stated that if it was made for storage it would not count in floor area ratio calculation. The applicant requested that the application be continued at the July meeting in order to obtain more information. The Board voted to agree to continue the hearing at the July 8<sup>th</sup> meeting. Mr. Schmierer announced that the applicant would not have to send notices for the July meeting. The hearing ended at 8:45 p.m.

**CURLIS CENTER, LLC, James Morrison**, Block 703, Lot 30, 250 S. Main Street, O-R Zone.  
Use Variance, Application No. P15-004

Mr. Thompson stated that he had a conflict of interest and recused himself from the hearing. Mr. Reilly, Vice Chair, stated that the application was for a use variance and the representatives for Council, Eileen Heinzl and Deborah Gnat, would not be hearing the application. Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Robert Ridolfi, attorney for James Morrison, managing member of Curlis Center, LLC, explained that it was a use variance to permit a coffee shop in the space that was formerly occupied by Ashton-Whyte. The property is located in the Office Residence Zone. Mr. Ridolfi explained that the property has been occupied by various businesses both retail and professional over the years. He stated that they have reviewed the memos from Michael Bolan, Borough Planner, dated June 4<sup>th</sup> and William Meytrott, Director of Public Safety, dated June 9<sup>th</sup> and they would address the issues raised in them. Mr. James Morrison was sworn in and testified that he is the owner of 250 S. Main Street along with his wife Becky. Mr. Morrison stated that they purchased the property in 1984 and gave a brief history of the past uses of the property. The entire building was a flower shop when

they purchased it and they eventually sectioned off the ends of the building. The Main Street end has been occupied with permitted uses and is now occupied by Deborah Leamann Interiors which has been there for 24 years. On the other end of the building there was a dentist office and later a use variance was approved for Sondra's Skin and Body Care which still occupies that end of the building. Mr. Morrison stated that he had a new survey done by Frank R. Klapinski, June 1, 2015, which identified parking spaces on the property. There is a total of 33 parking spaces, 20 on the inside area of the property and 13 of which are half on the property and half in the Borough. They have always been cooperative with the church using their spaces when needed and the stores or offices have never had a problem with parking. Mr. Morrison stated that they continued the flower shop in the middle area of the building and when that was sold it was taken over by Ashton-Whyte in 1995 and has continued to be retail since they bought the building. Mr. Bolan asked Mr. Morrison to describe the use and he responded that it was bed and bath items and women's clothing and shoes.

Mr. Jon Croner, principal of Sourland Coffee, LLC, was sworn in. Mr. Croner stated that he has lived in Hopewell Valley for about five years and is an attorney, but developed an interest in quality coffee when he was in the northwest. He felt that this site was ideal to provide a neighborhood coffee shop in a small community. The location is uniquely suited as it would serve neighborhood pedestrians as well as bikers. Mr. Croner stated that he would be focused on premium coffee and would not prepare food. He would be using a local bakery to supply fresh baked goods and there would be prepackaged foods and beverages available in a cold case. All food would be prepared off site except for coffee drinks and tea. Entered into evidence was Exhibit A-1 Floor Plan, Gary O'Connor Architect, LLC, May 20, 2015. Mr. Croner described the floor plan which consists of a pastry case, ordering station, 33 seats including a community table, a small office and storage area. It would be open Monday-Friday, 7:00 a.m.–6:00 p.m., Saturday and Sunday, 8:00 a.m.–4:00 p.m. Mr. Croner stated that there would be four-six employees in addition to himself, each shift employing two employees and maybe three at peak hours. Signage would be the same size as Ashton-Whyte which is attached to the front of the building. There is an existing spot light for the sign. He feels the peak hours would be in the morning, but they would not be that busy at lunch since they are not having salads or prepared luncheon food. There would be two small dumpsters for solid waste and recycling. Mr. Croner felt that he would have one delivery a week from his coffee supplier and would have at least Monday-Friday morning deliveries from a local bakery that would use a smaller type van. Beverage deliveries would be once a week or as needed. Mr. Croner stated that he did not have plans for outdoor seating. Mr. Meytrott asked if there would be evening deliveries and Mr. Croner responded that deliveries would be made in the morning and occasional UPS which would have to be delivered before closing at 6:00 p.m. Mr. Evanini asked if they would be getting any other foods besides pastries and Mr. Croner stated that they would just be getting food from the bakery. Ms. Stern asked what door would be used for the deliveries. Mr. Croner stated that the building had a rear service lane and space and felt that the deliveries would be made in the rear. The Board had concerns about early trash pick-up and deliveries in large trucks. Mr. Croner stated that he would be using an established hauler in Pennington that would be familiar with the Borough's regulations and his coffee supplier ships by UPS and they would be the largest trucks coming to the facility. Ms. O'Neill asked if all the products would be paper and not Styrofoam and Mr. Croner confirmed that he would not be using Styrofoam. Mr. Bolan asked how many patrons in a day they anticipated. Mr. Croner stated he did not know, but was gauging usage on other local coffee shops. Mr. Croner stated that he had looked around town for other available spaces, but could not find any that was suited for a neighborhood coffee shop. Ms. Stern suggested that an outside receptacle would be convenient for people. Ceramic cups would be used for people drinking their coffee in the café. Mr. Bolan felt the dumpsters were suitably located, but suggested that the Board require more specific details regarding the dumpster area and that it is in compliance with the standards of Section 163-20B and Mr. Ridolfi agreed that this was acceptable. Ms. Stern asked if the applicant had considered evening hours since they seem very popular with coffee shops and there was discussion regarding evening hours. The applicant asked if he could have the option of staying open until 8:00 p.m.

Mr. Ridolfi asked if the Board would allow Reverend John Belmont to speak since he had to leave for a meeting and could not stay until the end of the hearing. The Board agreed and Reverend John Belmont was sworn in and stated that he was formerly the Rector of St. Matthew's Church for 37 years. Reverend Belmont felt that a coffee shop on this property was a great idea. He stated that the property has been commercial for as long as he can remember and they have always had a good relationship with the owners of the property. They have always tried to help one another out in terms of the parking issues and activities. He feels that members of the church would probably use the coffee shop after services. Mr. Reilly stated that the Board would take a 10 minute break.

Mr. Harvey Yesowitz, Civil Engineer, specializing in traffic engineering, was sworn in. Mr. Yesowitz stated that he has been before the Board with several projects for The Pennington School. Mr. Yesowitz stated that he has reviewed the memorandums from Mr. Bolan and Mr. Meytrott. Mr. Yesowitz stated that the peak hours of traffic on South Main Street were moderate to high volumes of traffic. He observed traffic flow and the activity at the site at approximately 7:30 a.m. – 9:30 a.m. The activity is dominated by the elementary school where there is a crossing guard and two major school cross walks. He described the corner which is S. Main Street and Curlis Avenue. All the streets have sidewalks with the exception of the front of the site and all the pedestrian activity at the corner occurs away from the commercial building. Entered into evidence was Exhibit A-2 Aerial photograph, 2012. Mr. Yesowitz stated that there was almost no traffic on Curlis Avenue except for people dropping off children or parking and walking them across the street to the school and when that ended children were dropped off for St. Matthew's Nursery School. Mr. Yesowitz stated that the peak activity for the other two uses on the site would be later in the day. Mr. Yesowitz stated that there was more than enough parking to accommodate peak demand for the coffee shop as well as for the other two uses. In reference to Mr. Meytrott's concern regarding people backing out of the spaces on W. Curlis Avenue, there is not a lot of traffic on that street and most of the people using the spaces are familiar with the conditions that exist in the immediate area and he feels it will operate safely. There is an entrance at the easterly end of the property and a two-way driveway at the westerly end so traffic will not be exiting too close to the intersection. Mr. Yesowitz testified that he felt the use can be accommodated at this location and can operate safely and effectively under these conditions. The applicant agreed to add directional striping indicating in and out at the entrance as suggested by Mr. Meytrott. Mr. Meytrott stated that the configuration of the parking spots on Curlis and the site are less than ideal, but they have been there for years and they seem to work quite well.

Mr. James Kyle, Kyle Planning and Design, LLC, professional planner, was sworn in and gave his qualifications which the Board accepted. Exhibit A-3 James Kyle resume was entered into evidence. Mr. Kyle referred to Exhibit A-2 Aerial and reviewed the surrounding land uses. He stated that the church was on the corner to the south, residential homes to the northwest, a residential house to the immediate rear of the site, office building on the northeast corner and Toll Gate Grammar School on the southeast corner. A use variance is needed for the coffee shop and there are three other existing nonconformities on the site: width along S. Main Street, 110 ft. required, 106.8 ft. exist, 40 ft. required for front yard setback, 14.3 exists and maximum lot coverage 50% permitted, 61.3% exists. There are no proposed site improvements requested other than the dumpster enclosure. Mr. Kyle reviewed the required number of spaces for each use and stated that the ordinance would require a total of 20 spaces and they do meet this with just the interior spaces. Mr. Kyle also noted how the peak uses of the coffee shop will not coincide with the peak time of the other uses. Mr. Kyle feels that they meet the positive criteria for a use variance as it will promote the public welfare because the site is particularly suited for the proposed use. There have been a variety of retail type uses in this location over the years, but it has never had residential uses. Mr. Kyle stated that the church buffers the activity at this site from the houses to the south and west and described the area. There are no residential units immediate to the area of activity in the front, except the areas of activity that may come to the back which would be deliveries that will come and go very quickly. The unique thing about the area is the off street parking that is available and lends to the fact that the site is particularly suited for this use. It also promotes the

purposes of zoning since the site lends to that type of use and is in an appropriate location. Addressing the negative criteria, Mr. Kyle stated that the use is a neighborhood coffee shop designed on a small scale and will not be producing offensive odors that a grill or other cooking would produce that would be problematic for nearby neighbors. The focus of activity is away from neighborhood homes and the hours are limited. Mr. Kyle stated that the impact of the use will not be much greater than the previous uses. He also noted that the uses on this site have existed without a residential component and it does provide a transition from residential to business. Mr. Reilly noted that a video store had previously been denied and it was evident that the previous Boards wanted to restrict the intensity of uses. Mr. Kyle stated that the coffee shop was meant to be a place for the neighborhood and is unlike Dunkin Donuts or Starbucks and feels that the positive and negative criteria have been met. Mr. Bolan addressed comments made by Mr. Kyle regarding references in the Master Plan. Mr. Bolan stated that the use was allowed in the Town Center and asked Mr. Kyle if it wasn't suited better there than in a residential neighborhood. Mr. Kyle responded that he did not feel that it was in the middle of a residential neighborhood with the surrounding uses that were there. Mr. Bolan also pointed out that one of the goals of zoning was to try to move more to more conforming uses. Mr. Kyle stated that retail use has been there for over 30 years and it is doubtful that it will revert to residential or office. Mr. Kyle stated that they would agree to address item no. 6 in Mr. Bolan's memorandum and provide landscaping to the rear of the building.

Mr. Ogren stated that he would like to see customers use the interior parking spaces. Mr. Morrison stated that there are currently five signs indicating customer parking and described their locations which are also indicated on the survey. Mr. Morrison stated that the parking lot is illuminated from dusk to midnight. There being no further questions from the Board, Mr. Reilly asked if there was any one in the public who had comments or questions regarding the application.

Mr. James McGuire was sworn in. Mr. McGuire stated that he had been authorized by the lay governing body of St. Matthew's to represent St. Matthew's Church and to inform the Board that St. Matthew's Church has no objection to this application. The church has always had a good relationship with the owners of the property and it continues to exist. Mr. McGuire felt that the testimony of the professionals regarding traffic fairly represents the activities that occur at St. Matthew's. He stated that St. Matthew's presented the Board with a traffic study in the 1990's for their application and in the years since then he feels that the membership at the church has remained stable and if anything has declined slightly.

Mr. Robert Prewitt, 11 Rock Creek Woods, Lambertville, was sworn in. He stated that he previously lived in Pennington and owns Dana Communications in Hopewell Borough. He has been able to watch what Boro Bean has done for the Hopewell community and it has been a great resource for the community. People gather there to discuss what is going on in town and he feels that they are responsible for the camaraderie that is going on in Hopewell.

Ms. Teresa Ann Anderson, 248 S. Main Street, was sworn in. Ms. Anderson stated that she lived at the property immediately north of the proposed coffee shop. Ms. Anderson stated that she was very appreciative of the neighborly relationship she has had with Mr. Morrison since she has moved in to Pennington the last two years, but she does not support the use of the property for a coffee shop. She stated that all her side windows look out on the back of the property which includes the bedrooms which are immediately above the rear of the building and stated that the activity will be disturbing their sleep. She stated that if the coffee shop opens at 7:00 a.m. there will be activity starting at 6:00 a.m. or 6:30 a.m. Ms. Anderson stated that she was told that the deliveries would be in the front of the building and that there would not be any deliveries in the rear of the building. She also had concerns about the lighting, trash attracting rodents and feels that the coffee shop will change the character of the site and feels that her property value will go down. She would also like to see more specifics regarding landscaping. Ms. Anderson also stated that she does not have a driveway and Mr. Morrison has been allowing her to park in his lot and she has concerns about

parking. She suggested that the Board carry the application to give them the opportunity to meet with her and provide more specific information regarding her concerns.

Mr. John Anderson, III, 248 S. Main Street, was sworn in. Mr. Anderson had concerns about the traffic turning north from the coffee shop and going over the cross walk. He also asked the Board to consider the immediate residents.

Ms. Kathleen Hanna, 110 W. Welling Avenue, was sworn in. Ms. Hanna stated that she has been a resident for almost 30 years and has a vested interest in Pennington thriving. She is someone who visits Wayne Blauth when lawns get too high and she really wants things to do well in Pennington. She would adore seeing Ashton-Whyte turned into a coffee shop and feels it would add value to the community and give people a place they could walk to. She stated that she also had similar concerns regarding trash and other items and felt that Mr. Morrison would address them.

Ms. Tara Pierson, Penn View Heights, was sworn in. She stated that she will be dropping her children off at both the school and nursery school and will have a half hour in between drop-offs and would love to be able to go in and get a cup of coffee and socialize and she supports the application.

There being no other comments, the public portion of the hearing was closed. Mr. Ridolfi asked if the Board was in a position to vote on the application with conditions or consider carrying it to the next meeting. Ms. Stern asked if there could be a meeting with the applicant and the neighbor and report back to the Board and maybe include other neighbors. Mr. Ridolfi stated that all the neighbors within 200 ft. had been notified about the meeting. Mr. Reilly pointed out that a number of the neighbors had attended the meeting and voiced their support. Ms. Anderson said she would not be in town for the July meeting. Mr. Flemming stated that lighting had already been addressed. Mr. Ridolfi stated that the applicant would be willing to put a 6 ft. fence to enclose the dumpster area. The Health Department would have control if the dumpsters were overflowing. Mr. Reilly again opened the meeting to the public to allow Ms. Sandra Counts to speak and she was sworn in. Ms. Counts stated that she opened her business 11 years ago and she loves the location. Her hours are Tuesday and Wednesday, 9:00 a.m.–5:00 p.m., Thursday and Friday until 8:00 p.m. and Saturday 9:00 a.m.–4:00 p.m. She stated that her customers were very excited about a coffee shop opening up. Mr. Reilly again closed the public portion of the hearing and suggested that the Board members state their comments to give the applicant a sense of the Board. Mr. Ogren was not concerned with the use, but he was concerned about the traffic at the intersection when the school kids were using the crosswalks. The crossing guard has two crosswalks to take care of and there would be a lot more cars making turns. He would like to see the situation monitored at the start of the school year and if necessary have the applicant pay for a second crossing guard for the morning hour. Mr. Levy stated that he had no objection to the proposed use as there has been some form of retail over the years, but he is sensitive to the concerns of the neighbor and he would be more inclined to support the application with conditions that address the majority of her concerns. Ms. Stern is concerned that the application is being rushed at the last minute and feels more discussion is necessary. She personally loved the idea of having a coffee shop in town, but the concerns of the neighbor brings up things she had not thought about before. She would rather see it tabled and continued at another meeting to have more time. Mr. Evanini felt that it was important that this does not set a precedent for a restaurant on the premises and it would be important to see that the tenant does not extend the boundaries that are set for this use. He felt that Ms. Anderson's concerns could be addressed by conditions. Ms. O'Neill stated that she would not be prepared to vote tonight unless the questions brought up by the neighbor were addressed and resolved as conditions. Mr. Meytrott stated that he remembered when Howe nursery and the Mill flower shop were at the site and he feels that it is a unique property and has historically been a busy area and he does not have a problem seeing a neighborhood coffee shop there as it was presented. Mr. Reilly stated that based on the testimony presented he would be inclined to vote yes with conditions. Mr. Schmierer stated that if a motion was made it would include the following suggested conditions: outside trash

receptacle, reviewed and approved by the Borough Planner; details for the dumpster area be worked out and comply with all ordinance requirements, reviewed and approved by the Borough Planner; arrow striping on the westerly driveway “in and out” be improved; add signage directing customers to use the interior parking area; indicate that the approval is not for a restaurant use, the use is for a neighbor coffee shop with no preparation of food on the premise; no rear deliveries to the property; screening in the rear be worked out administratively with Mr. Bolan, the applicant and Ms. Anderson, with Mr. Bolan reporting to the Board when the resolution is being adopted, if it is not worked out the resolution will be tabled; night light testing; hours of operation, allow to 8:00 p.m. during the week and 4:00 p.m. on weekends; look at safety issues when school starts in September and if Mr. Meytrott, Director of Public Safety, determines that an additional crossing guard is needed in the morning the applicant will pay for the guard. Ms. Stern felt that Mr. Schmierer covered all the concerns that were brought up and she made a motion to approve the application with the conditions recited. Mr. Levy seconded the motion. There was discussion regarding the evening hours during the week and it was agreed that closing would be no later than 7:00 p.m. Voting yes: Evanini, Levy, Meytrott, O’Neill, Reilly, Ogren, Stern. Absent: Blackwell; Not voting: Gnatt, Heinzl, Thompson. The hearing ended at 11:30 p.m.

**MATTHEW SWEETMAN & MARIE-LAURIE PAPI**, Block 1003, Lot 13, R-80 Zone, Bulk variances for a fence. Application No. P15-006.

Mr. Schmierer announced that the proof of publication and proof of notice were in order and the Board could take jurisdiction. There was discussion whether the application should be heard or carried to the next meeting due to the lateness of the time. The Board agreed that the applicant had waited a long time to be heard and agreed to hear the application. Matthew Sweetman and Marie-Laurie Papi were sworn in. The property is located on the corner of East Welling Avenue and the auxiliary road that runs parallel to South Main Street. The applicant is requesting a variance for a 6 ft. high fence in the front yard along the South Main Street service road which would extend approximately 60 ft. The maximum height requirement is 5 ft. for front yards on corner properties. The applicant is also requesting a variance to install the fence 4 ft. from the sidewalk that runs parallel to South Main Street where 20 ft. is permitted. The fence would be cedar.

Mr. Sweetman provided the Board with a packet of information and pictures of the property and views from the surrounding areas and described the property. He stated that the property does not have a rear yard and there is no side yard to the east. The west side is the only area where the children can play and where they can have privacy. The challenge that they face is that the side yard is the very busy auxiliary road that abuts to the grammar school. It is very busy with cars parking along there during the day when school is open and in the evening when the school has activities. Ms. Papi pointed out that there are a lot of shrubs and trees along the sidewalk that would be in front of the fence and it would not be that noticeable. Mr. Sweetman stated that they also have concerns regarding the safety of their children running after a ball between trees out to an area where there is a lot of traffic. Pointed out was a diagram showing where the fence would be placed and showing the variety of trees along the sidewalk. Mr. Sweetman stated that if they had to adhere to the 20 ft. setback it would eliminate approximately 40% of their useable space. There is an existing white, 3 ft. vinyl fence in the front that runs 15 ft. and the 6 ft. fence would joint up to it. Mr. Ogren asked if they had taken into consideration the elevation of the yard from the sidewalk since it is elevated at least a foot. Mr. Ogren also pointed out that if the fence was 4 ft. from the sidewalk the trees would have to be eliminated. Mr. Flemming suggested that the applicant move the fence in further where needed to save the trees and shrubs, but in no case be closer than 4 ft. to the property line. Mr. Bolan also noted the elevation from the sidewalk and stated that a five ft. fence would meet the applicant’s objective. Mr. Sweetman felt that their property meets that qualification of an exceptional situation with their unique property that does not have any rear yard and a very small side yard to the east and reiterated the previous mentioned hardships. Mr. Thompson asked if they would be willing to change their request to a 5 ft. fence and the applicant responded that they would. Mr. Thompson felt that the critical part was the placing of the fence and they are taking

advantage of the plantings that exist to help hide the fence. Ms. Heinzl also felt it was a little different since they were not right on Main Street, but on the auxiliary road. Mr. Ogren stated that he did not see a hardship in this case and might have supported it if it did not go past the front of the house. Mr. Bolan had suggested a landscape easement and the Board discussed this as a way to ensure that the trees and shrubs would be replaced if needed. Mr. Levy made a motion to approve that application with the following conditions: at least 75% of the fence be kept screened by vegetation, fence installed as presented, except the height of the fence would be 5 feet, the fence will also transition between the 3 ft. fence and the 5 ft. fence. The motion was seconded by Mr. Meytrott. Also approved were waivers for items 3, 8A & B of the checklist. Voting yes: Evanini, Levy, Meytrott, O'Neill, Reilly, Thompson, Stern. Voting no: Heinzl, Ogren; Absent: Blackwell, Gnatt. The hearing ended at 12:35 a.m.

### **ZONING OFFICER'S REPORT**

Mr. Flemming reported that there was a new tenant in the former ZA's Restaurant in the Old Mill Shopping Center and they need to put in a walk in freezer. The only place that this could be done is at the side of the building. Mr. Flemming stated that there were air conditioning condensers along the side of the building that are well screened and face Lewis Brook and the landfill. The walk-in freezer will not increase the existing nonconformity. The Board agreed that Mr. Flemming can approve this. Mr. Schmierer also noted that the existing mechanicals were approved by the Construction Department after hurricane Sandy and they are just adding a piece of equipment next to mechanicals that were previously administratively approved.

### **RESOLUTIONS**

**David & Diana Butcavage**, Block 1003, Lot 19, 10 East Welling Avenue, R-80 Zone. Appeal of Zoning Officer's Decision. Mr. Meytrott made a motion, seconded by Ms. Heinzl to adopt the resolution and the resolution was adopted by voice vote.

**James M. Morrison**, Block 403, Lot 12, 208 King George Road, R-100 Zone, Interpretation, Application No. P15-002. Mr. Meytrott made a motion, seconded by Ms. Heinzl to adopt the resolution and the resolution was adopted by voice vote.

There being no further business, the meeting was adjourned at 12:45 a.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary