

**PENNINGTON BOROUGH
SPECIAL PLANNING BOARD MEETING MINUTES
JULY 27, 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: Eileen Heinzl, Mayor's Designee; William B. Meytrott; Katherine O'Neill; James Reilly, Vice Chairman; Winn Thompson, Chairman; Thomas Ogren. Absent: Mark Blackwell, Keelan Evanini; Deborah Gnatt; Josh Levy; Nadine Stern.

Also Present: Edwin W. Schmierer, Mason, Griffin & Pierson, Board Attorney; 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.

MEMORIALIZATION OF RESOLUTIONS

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

Robert Ridolfi, attorney for the applicant asked if condition number 9 could be changed from "no food preparation" to "no cooking" since they would be preparing the food and coffee to serve and the Board agreed to the change. Mr. Ridolfi also suggested a change to condition number 11, regarding the crossing guard. He requested that the wording be changed to indicate that if one crossing guard is having a difficult time controlling traffic attributable to the coffee shop ... the Applicant shall be responsible for the cost of a second crossing guard during the morning commute hours and the Board agreed to this addition. There was discussion about the intent of condition 10 that there shall be no rear door deliveries. Mr. Morrison stated that there might be times when it would be necessary to use the rear door for deliveries. Since the only objection to rear door deliveries was made by the neighbor at 248 South Main Street, the Board agreed that there would be no deliveries to the rear door unless there was consent of that neighbor. Mr. Morrison reported that he had met with Ms. Theresa Anderson, 248 South Main Street, Michael Bolan, Borough Planner and James Kyle, applicant's planner and Ms. Anderson agreed on the placement of a six foot fence between her property and Curlis Center. The fence will start behind a large tree and will not be in the front yard setback. Shrubbery will be installed towards the front and the fence will not be noticeable from the street. The Board was shown the certified plan, James T. Kyle, PP/AICP, Kyle Planning and Design, dated 5/23/15, which showed the location of the fence and the dumpster details. Ms. O'Neill made a motion, seconded by Mr. Reilly to adopt the resolution with the changes discussed. Voting yes: Meytrott, O'Neill, Reilly Ogren; Not voting: Heinzl, Thompson; Absent: Blackwell, Evanini, Gnatt, Levy, Stern.

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

Mr. Reilly made a motion, seconded by Mr. Meytrott to adopt the resolution with conditions. Voting yes: Meytrott, O'Neill, Reilly, Thompson; Absent: Blackwell, Evanini, Gnatt, Levy, Stern; Not Voting: Heinzl, Ogren.

ZONING OFFICER'S REPORT

Mr. Flemming reported that there was a lot of activity involving regrading of a large area on the Stylianou property located on the corner of Route 31 and West Franklin Avenue. Ricky Smith, Superintendent of Public Works, called the County and the DEP as the area has wetlands and the Mercer County Soil Conservation has also been notified. Mr. Flemming stated that he wrote a letter to Mr. Stylianou, but he does not feel there are any zoning violations. Mr. Thompson stated that it

was more of an issue for the Borough Engineer. Mr. Ogren suggested that there was a stream corridor ordinance that might cover this kind of activity.

Mr. Flemming asked if the Board had approved overhangs for stoops that were in the front yard setback. Mr. Ogren stated that the Board had addressed them and they are permitted. It is included in the setback definition in the zoning ordinance.

Mr. Flemming stated that Pennington Square came in with a plan to do a major spruce up on the façade in the front of the building that was formerly owned by the McNulty family. Mr. Flemming advised the owner that he would need Planning Board approval. Mr. Thompson stated that at the very least they would need to come in with a survey.

WORK SESSION

Mr. & Mrs. Sweetman, 1 E. Welling Avenue, received approval for a fence in June and had a question regarding vegetation in condition 1 of their resolution. Mr. Schmierer explained that the Board agreed to not require an easement, but the owner of the property would be responsible to keep at least seventy-five (75%) percent of the fence screened with trees and vegetation at all times.

COAH - Mr. Schmierer stated that they have filed a declaratory judgement with the Court regarding Pennington Borough's COAH plan. Out of twelve towns in Mercer County, eleven have filed with the Court. Trenton did not have to as they are an urban aid center. We should be hearing from the courts in the next couple of weeks. Mr. Schmierer stated that the numbers put out by the fair share advocates were very high, but they also covered numbers for the next 25 years and not 10 years. The Borough did hire Dr. Robert Burchell from Rutgers to look at the Borough's numbers and hopefully come up with a more realistic number. His report should be done by the end of August. The League of Municipalities has commissioned two studies which will be made available to Pennington and other towns for free. One group from the University of Pennsylvania has worked with Dr. Burchell and will be advising municipalities regarding the steps in the fair share formula. Mr. Bob Howell has also been hired by the League to do a historical study about how New Jersey has developed and how many houses have actually been built in New Jersey over various periods of time. Mr. Schmierer stated that if the Borough had to build 200 affordable housing units in the next 10 years it would probably constitute 30% of everything that ever got built in New Jersey and it's always been more like 5% or 6%. Mr. Howell will be trying to point out that the global projection of the fair share group is not practical. Mr. Schmierer stated that after Dr. Burchell's report and the other reports are received they may be able to work on a reasonable number that the Borough could actually achieve and present it. Mr. Schmierer feels that they will probably be called in for a conference in the next two weeks. The hearings will probably take place in the fall. Mr. Schmierer noted that there are about fifteen states that are involved with affordable housing.

American Properties – Mr. Reilly stated that Ms. Carmela Roberts, Borough Engineer, will do a completeness review instead of the Application Review Committee and Mr. Bolan, Borough Planner, would be doing a review. Mr. Bolan had suggested that the engineer do the completeness review since it was a major site plan. Mr. Reilly pointed out that ARC has reviewed minor site plans in the past. Mr. Schmierer stated that if ARC reviewed it for completeness first it would be too late for the professionals to point out technicalities that were still needed as part of completeness. He agreed that for a major application like this the engineer should review for completeness as it is very technical and there might be things a lay person would not pick-up. He suggested that after this is done there may be issues resulting from the professional reviews that ARC might need to resolve.

Ms. O'Neill asked if ARC would be looking at Pennington Square. Mr. Thompson felt that the engineer should first review it for completeness and then ARC could look at it. He felt that it is too

big a project that includes lighting issues and it might be more than just doing something on the façade, it may mean other things and it would be good to have the engineer looking at it first. Mr. Schmierer agreed with Mr. Flemming and stated that residential sites were exempt from site plan review, but anything nonresidential where there is work being done to the exterior of the property is subject to site plan review. If it is something small such as changing a sign they can get a waiver of site plan approval. Mr. Schmierer stated that even if it was a large property and they were just doing a few things it could be considered minor site plan. Mr. Schmierer stated that in this case it is a complete upgrade, they will be taking off part of the façade, putting up a parapet to hide mechanicals and changing light fixtures. He stated that this would be an opportunity for ARC to recommend other changes to improve the property. Mr. Reilly pointed out that ARC has only been doing completeness reviews and suggesting items that are needed or making suggestions regarding information that would be helpful to the Board, but they have not been making improvement recommendations. Mr. Thompson stated that it is probably because most of the applications are residential and not site plan applications, but an application like Pennington Square could be handled differently. Mr. Schmierer stated that for an application like American Properties ARC could share suggestions regarding the application to the applicant and they do have the authority to do this. Mr. Schmierer also suggested that if the professionals had issues regarding completeness ARC might want to consider holding a meeting to work them out and the application could then be deemed complete.

A letter was received from Frank J. Petrino, Esq. of Eckert Seamans Cherin & Mellott, LLC, representing American Properties, dated July 21, 2015 regarding escrow calculations. Ms. Mistretta had checked with the professionals and they are agreeable that American Properties can post \$35,300 initially as escrow with the application. The Board agreed to this amount with the understanding that the escrow would be replenished as necessary. Ms. Heinzl asked if this would have any effect on the water connection fees and Mr. Schmierer stated that it would not as they are based on a formula. Mr. Schmierer suggested that the Secretary should notify the applicant for additional money when escrow is getting close to \$10,000.00.

MINUTES - Mr. Ogren made a motion, seconded by Mr. Reilly to approve the May 13, 2015 minutes with a correction and the minutes were approved. Ms. O'Neill made a motion, seconded by Mr. Reilly to approve the June 10, 2015 minutes with corrections and the minutes were approved.

Ms. Heinzl reminded the Board that tomorrow night, Tuesday, July 28th, the Hopewell Township Board of Health was having a hearing regarding the Penn-East Pipeline. Also, the N.J. Department of Transportation will be at Pennington Borough Hall, July 30th, Thursday, 5:00 p.m. – 8:00 p.m. with information regarding the CSX bridge replacement on Route 31. Mr. Ogren brought up the possibility of rezoning the east side of South Main Street where 41-43 S. Main is located. There is a row of houses and one office that is adjacent to a residential house. There is no retail use in that area and it would be better suited as the Town Center Buffer Zone instead of the Town Center. Mr. Ogren stated that the change, if approved, would only require a change on the Zoning Map.

There being no further business, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Mary W. Mistretta, Planning Board Secretary