

**PENNINGTON BOROUGH
PLANNING BOARD MEETING MINUTES
OCTOBER 14, 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, left at 8:40 p.m.; Eileen Heinzl, Mayor's Designee; Joshua Levy; William B. Meytrott; Katherine O'Neill; Thomas Ogren; James Reilly, Vice Chairman; Winn Thompson, Chairman. Absent: Mark Blackwell, Nadine Stern.

Also Present: Cory Kestner, Mason, Griffin & Pierson, Attorney; John Flemming, Zoning Officer; Mary W. Mistretta, Planning Board Secretary. Absent: Carmela Roberts, Borough Engineer.

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

Charles P. Rotondo, Block 1005, Lot 2, 1 Maple Lane, R-100 Zone. Bulk Variance Application No. P15-010.

Mr. Kestner announced that Proof of Publication and Proof of Notice were in order and the Board could take jurisdiction. Charles P. Rotondo (Chuck) was sworn in. The applicant is proposing to add a second story to the existing one-story dwelling and dormers to the front. Dormers are also proposed for the front and rear of the existing garage. The proposal will increase the nonconformity of the dwelling in the rear yard setback of 23 ft. where 30 ft. is required and will need a bulk variance. Mr. Rotondo is also requesting to place two air conditioner units on a 4 ft. x 8 ft. pad at the rear of the house, one of which is being moved from another area. Sheet A-3 that was submitted does not include the dormers, but was submitted as it has more details regarding the construction material and the lighting. The applicant explained that the house has been vacant for three years and while renovations are being done he would like to add more living space for his family. The applicant explained that the air conditioner was being relocated so that a small porch or deck can be built in that area in the future and the breezeway made into living space. The deck would be approximately 10 ft. x 8 ft. and would be flush with the breezeway. Ms. O'Neill asked what existed there now and the applicant stated that there were only steps from the breezeway. Mr. Reilly had questions regarding the height of the chimney. Mr. John Flemming, Zoning Officer, was sworn in and explained that the height allowed was 35 ft., but there was allowance for chimneys and there is not any issue. Mr. Thompson stated that the roof would be raised approximately 3 ft. along with adding the dormers and this would require the chimney be raised. There were questions regarding the deck area and Mr. Rotondo testified that it would be a wooden framed deck and would not extend further than the existing house and not go past the garage. It was suggested that the deck area be included in the application and Mr. Kestner added the proposed deck to Sheet S-1 and it was entered as Exhibit A-1. Mr. Flemming was sworn in and asked if the deck would be level with the existing breezeway and the applicant agreed that it would.

Mr. Michael Bolan, Borough Planner, was sworn in and referred to his review of October 7, 2015. Mr. Bolan asked the applicant to testify if there was an exceptional situation regarding the property. Mr. Rotondo explained that the house sits all the way to the rear of the property and is currently in violation of the setbacks and anything that he does to the rear of the house would be nonconforming. The property is unusual and is set back to line up with the other properties, but it is on a very narrow lot and there is a very small back yard. The second floor is not useable and the application would provide more livable space for his family. Ms. Heinzl felt that if the applicant tried to add space within the setbacks it would not make a very attractive house. Mr. Flemming stated that the proposed plan is not out of line for the area and the applicant is trying to stay consistent with houses in the neighborhood. Mr. Bolan agreed that this was an unusual property where the house sits all the way to the rear of a narrow lot and anything done to the property would require a variance. If it was oriented in the other direction they

could do a lot more. Mr. Bolan asked the applicant if he would move the air conditioner pad 1.6 feet towards the center of the house and he would then not require a front yard setback for it and Mr. Rotondo agreed. Mr. Bolan also stated that the house is oriented the wrong way as lots are always more deeper than wider and by having the house front on Maple the opposite situation was created and if oriented the other way there would be a lot more depth and it is an exceptional situation. Mr. Thompson felt that the proposed application will make the house more conforming with the neighborhood. Mr. Flemming asked the applicant if he planned to install a generator and Mr. Rotondo responded that he did not have any plans for a generator. Mr. Reilly asked Mr. Rotondo if he was aware of any easements on his property and he stated that he was not aware of any. Mr. Thompson asked if there was anyone in the public who had comments or questions regarding the application, there being none the open time for public comment was closed. The Board agreed that that the proposed application will improve the neighborhood. There is also a buffering of trees between the applicant's house and the neighbor to the rear. Mr. Ogren made a motion and Mr. Reilly seconded to approve the application as presented with the addition to Exhibit A-1 and the normal conditions regarding permits, COAH fees and escrow. Voting yes: Gnatt, Heinzl, Levy, Meytrott, Ogren, O'Neill, Reilly, Thompson; Absent: Blackwell, Stern. The hearing ended at 8:05 p.m.

MEMORIALIZATION OF RESOLUTION

David & Diana Butcavage, Block 1002, Lot 19, 10 East Welling Avenue, R-80 Zone. Use variance application P15-005. Ms. Heinzl made a motion, seconded by Mr. Ogren to adopt the resolution. Voting yes: Gnatt, Heinzl, Levy, Meytrott, Ogren, O'Neill, Reilly. Not voting: Thompson; Absent: Blackwell, Stern.

ZONING OFFICER'S REPORT

Mr. Flemming reported that the only issue he had to report on was the Exxon Station on Route 31. He just became aware that they are all decorated with too many flags and a big balloon. They are under new management and Mr. Flemming will contact the owner.

Mr. Ogren asked Mr. Flemming about the work being done at 149 S. Main Street. Ms. Heinzl stated that they are preserving the exterior walls of the original house and are taking down an old addition in the rear and are replacing it. Mr. Flemming stated that he would check into it.

WORK SESSION

Mr. Reilly gave the Board an overview of changes to the ordinances that the Application Review Committee have suggested. The Committee is requesting approval from the Board to have the Planner review and work of some of them this year. The changes are in response to previous problems or suggestions. The Committee is suggesting that swimming pools should be in the building setbacks, but no less than 15 ft. from any property line and only located in the rear yard. Mr. Flemming explained that currently a pool could be constructed 6 ft. off the property line in the side and rear of the property and he has had complaints from the neighbors. People are not allowed to have a deck that close to property lines and either should swimming pools that could be just as noisy. Mr. Thompson asked if this included a hot tub and Mr. Flemming stated that they would be included because of the definitions. The change would be made to Chapter 185-6A of the Code Book and would be consistent with the Zoning.

Mr. Ogren did research for changes regarding the sign ordinance. The changes are mostly dealing with LED signs and banners. Mr. Flemming suggested that it might be a good idea to get input from the business community and Mr. Thompson stated that he could send a revised copy to the Pennington Business Association members to see if they had any comments or suggestions.

ARC recommended that the area in the Town Center Zone on the east side of S. Main Street, south of the cemetery be rezoned from the Town Center Zone to the Town Center Buffer Zone. ARC felt that

this area is better suited to office and residential uses. Mr. Thompson suggested that perhaps the Board should look at the Town Center zone since there have been several use variances in the last few years. It's very hard for retailers today and retail has changed since the TC Zone was adopted. He felt that it is better to see a space filled rather than empty. There was discussion concerning this and that the intent has been to change a very small area. Mr. Bolan noted that the Board would have to do a reexamination of the Master Plan or notice all the owners in the area being rezoned and all owners within 200 ft. of that area. Mr. Ogren felt that the town area is in much better shape than when he moved here 13 years ago. It was agreed to hold off and get feedback from the business association members.

ARC recommended that the Board Planner be asked to review the definition of Gross Floor Area and clarify what areas should be included and that it is consistent with the current Municipal Land Use Law.

Ms. Heinzl researched reconstruction of buildings and presented three alternatives. Mr. Flemming feels that the Borough's Ordinance is very vague and out of date. The alternative that was preferred was following the Metuchen ordinance: "The following provisions shall apply to valid nonconforming uses and structures at the time of adoption of this chapter: Any lot containing a nonconforming use or structure that is hereafter removed or more than 50% destroyed for any reason, with the result being that the nonconforming use shall cease thereby, shall be required to have any subsequent use or structure thereon conform with all provisions of this chapter."

Pennington's Site Plan Ordinance is narrower than permitted by current land use law and this limits the ability of the Board to influence some projects that would have a major impact to the site. ARC recommended that the Planner review the Site Plan Ordinance.

ARC also recommended that the Board professionals be encouraged to periodically advise the Board of ordinance changes in order to adhere to the current State law and best practices.

Mr. Reilly stated that ARC was seeking the go ahead from the Board for the Planner to start working on the revisions. Mr. Bolan felt that swimming pools, sign ordinance and reconstruction of buildings should take priority. Mr. Reilly will revise the list and send it to Mr. Thompson for distribution to the Pennington Professional Association for their comments. Mr. Reilly made a motion seconded by Ms. Heinzl to follow the process that was discussed above with Mr. Bolan working on draft language and the Board agreed by voice vote.

CLOSED SESSION - Mr. Bolan stated that he would review his memorandum concerning the Housing Plan Element and Fair Share Plan, but Mr. Kestner would be reporting on the litigation issues and this should be done in Closed Session. At 8:55 p.m., Mr. Reilly made a motion, seconded by Ms. Heinzl to go into Closed Session to discuss litigation issues regarding affordable housing and the Board agreed by voice vote.

OPEN SESSION - At 9:40 p.m. the Planning Board returned to open session.

MINUTES – Ms. O'Neill made a motion, seconded by Mr. Reilly to approve the August 12, 2015 with a correction. Ms. Mistretta will check ARC minutes regarding Pennington Square, Route 31 on page 3. The Board approved the minutes by voice vote. Mr. Reilly made a motion, seconded by Ms. Heinzl to approve the minutes of September 9, 2015 and the minutes were approved.

There being no further business, the meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Mary W. Mistretta, Planning Board Secretary