

**PENNINGTON BOROUGH
PLANNING BOARD MEETING MINUTES
MARCH 9, 2016**

Mr. Thompson called the meeting to order at 7:30 p.m. and announced that it was in compliance with the provisions of the Open Public Meetings Act.

Roll Call: Mark Blackwell, Deborah Gnatt, Katherine O'Neill, James Reilly, Douglas Schotland, Winn Thompson. Absent: Eileen Heinzl, Joshua Levy, William B. Meytrott, Thomas Ogren.

OATH OF OFFICE – Mr. Schmierer gave Deborah Gnatt the oath of office as Council Representative to the Planning Board for the term January 1 – December 31, 2016.

OPEN TIME FOR PUBLIC ADDRESS - None

APPLICATIONS

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.

American Properties requested to continue the hearing to the April 13th Planning Board meeting. Ms. Gnatt made a motion, seconded by Mr. Reilly to continue the hearing to the April 13th meeting and the Board unanimously agreed. Mr. Schmierer stated that there would be no further noticing regarding this.

AN ORDINANCE CONCERNING LAND USE AND LAND USE APPLICATIONS AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON

Council introduced the ordinance at their March 2nd meeting and referred it back to the Planning Board for review that it is in compliance with the Master Plan. The ordinance includes revisions to: 163-4 Site Plan, 215-31 Zoning Definitions and word usage, 215-38 Prohibited signs, 215-43 Signs permitted in Highway Business Zone, 215-55 Restoration, removal of 215-57 Alterations. Mr. Blackwell stated that he had objections to the changes in restoration and asked why partial restoration or repair was based on "less than 50% of the assessed value" of the building. He also felt that it was targeted towards certain properties. He stated that if something happened to one of his buildings he would be unable to rebuild them under this proposed amendment. Mr. Flemming pointed out that there was a need to establish a basis for restoration. Mr. Reilly stated that the Application Review Committee did research regarding this and looked at formulas used in other municipalities, but did not look at a specific properties. Ms. Gnatt made a motion, seconded by Ms. O'Neill to refer the ordinance back to Council for adoption. Voting yes: Gnatt, O'Neill, Reilly, Schotland, Thompson; Voting no: Blackwell; Absent: Heinzl, Levy, Meytrott, Ogren.

WORK SESSION

CVS – Mr. Thompson stated that Henry Kent-Smith, Esq. of Fox Rothchild was here representing CVS to explain the CVS application to the Board and to see how they would like them to proceed. The application has been filed with Hopewell Township for property located at Route 31 and Ingleside Avenue where Al's Sunoco is presently located. The proposal is to take down the existing Sunoco station and construct a new CVS pharmacy. The application has been deemed complete in the Township and they will be proceeding with a public hearing on March 30th. Mr. Kent-Smith explained that he was before the Pennington Board because the property consists of a small triangular piece of property that is in the Borough. They do not intend to do anything with that property and have stipulated to Hopewell that they would deed restrict it as open space or if the Borough wants the land they would give it to them. Mr. Schmierer explained that this was a unique situation with the property in two separate municipalities, but there are no site improvements proposed for the strip of land in the Borough. He stated that improvements could be imposed at the Township hearing to help protect residents in the Borough and the Board could also decide that they need a use variance for the strip of

property in the Borough. Mr. Schmierer stated that he does not know if they need site plan approval from the Borough as they are not building anything on the Borough property and there was no clear direction that he could find in the law. Mr. Kent-Smith stated that he was also unaware of any law or anything in the Municipal Land Use Law regarding a situation like this. He stated that he previously had a similar application and they placed the piece of land in a conservation easement that the Boards in both towns agreed to.

Mr. Thompson pointed out that they were getting water and sewer from the Borough and asked if they had received any feedback regarding this. Mr. Kent-Smith agreed and stated that there is an existing lateral line that they will use and there is an existing agreement to service the Sunoco station through the Borough. Mr. Thompson asked if they were proposing sidewalks and Mr. Kent-Smith stated that they were only proposing sidewalks along the frontage in Hopewell, but suggested that if the Borough wanted them he was sure his client would agree. Mr. Thompson stated that if they were looking for a 24 hour operation it would have an impact on the Borough residents. Mr. Kent-Smith stated that they were looking for 24 hours of operation. Mr. Thompson stated that he would like to see some formal role for the Borough so that they could have some direct input in the process. There was discussion regarding the water rights and the Sunoco property had previously been grandfathered to receive water since they had land in the Borough. Ms. Gnat agreed that the application would have more impact on the Pennington residents than the Township. Mr. Thompson suggested that it should be left to Mr. Schmierer on how the applicant should proceed.

Mr. Schmierer noted that there were residents in the audience that may like to make comments, but they would have to be restricted to comments about the procedure only. Mr. Thompson opened the work session to the public.

Tania Tenbarga, 2 Vannoy Avenue, asked when the Township meeting would be held. Mr. Kent-Smith stated the meeting would be March 30th and residents would be getting a notice. Ms. Tenbarga stated that she did not get a notice regarding tonight's meeting. Notices are not sent for work session items, but Mr. Thompson responded that if there is a formal hearing the residents within 200 ft. would be noticed.

David Hunt, 424 Burd Street, had environmental concerns regarding contamination of the Borough's property and traffic issues and hoped they would be addressed.

Mary Lou Ferrara, 16 Vannoy Avenue, stated that she is a resident in both Hopewell Township and Pennington Borough. Ms. Ferrara requested the Borough to take jurisdiction and request a full use variance application. She feels that the Township and Borough's goals are different, but both have found that the area was appropriate to be used as a residential zone. She also felt that Pennington residents may not go to a meeting in Hopewell Township, but would likely go to a meeting taking place in the Borough. She asked if a full traffic light was being requested at the corner which would bring a lot more traffic into Pennington and Mr. Kent-Smith responded that they had applied to NJDOT concerning this.

Jacklyn Petrin, 7 Vannoy Avenue, the property diagonally across from the property, stated that she agrees with Ms. Ferrara that Pennington Borough should have a formal use application. She also stated that she has four children who bike to school and there is no sidewalk on Vannoy and an increase in traffic would be a concern to her. She would also prefer not to see the lights on CVS from her front yard since they just put a large amount of money into their home and they feel the property value would decline.

Elizabeth Maguire, 14 Vannoy Avenue, stated that they have property both in the Borough and the Township and have lived there since 1978. They have concerns about the CVS being placed in a residential area and the greater footprint and activity it would cause. She agrees with Ms. Ferrara and also had concerns about increased traffic in the area.

Catherine Hogan, 101 Ingleside Avenue, Hopewell Township resident, stated that there are many Township residents who are in line with the Pennington Borough residents and do not want the project to move forward. She lives directly across from the gas station and stated that cars are dropped off early and the station closes at 6-6:30 p.m. They get about five customers a day and there is a big difference between the traffic at the station and what there would be for the CVS, particularly if they are open 24 hours. She stated that this would deeply impact her family and the increase in traffic would be tremendous. She also agrees with Ms. Ferrara's comments.

Brogan Sandford, resident of Hopewell Township, stated that he hoped that the Borough would take full jurisdiction and have a formal application since the impact will be on the Borough residents and they should have an opportunity to voice their concern.

Josette Mayes, 30 Ingleside Avenue, stated that they moved here 20 years ago with a tree lined street and no sidewalks and they love it. She hopes that the Board would take the comments into consideration. She feels that the 24 hour operation would destroy the property values and there would be garbage blowing through the neighborhood.

Christa Moriello stated that they just started to build a home on Vannoy and are shocked to learn about the proposed CVS. She feels that Pennington is a quaint town and you do not see big stores and she would hate to see the additional traffic through the neighborhood.

Mary Ann Brannigan, 3 Vannoy Avenue, stated that she has lived on Vannoy for over 40 years and she has seen it change completely and it's getting worse and worse with the traffic that already zooms down the street. She has concerns that the increased traffic from CVS will be going down their street to circumvent Route 31 and will make the traffic even worse and there are young children and no sidewalks.

Mark Blackwell stated that he is hearing the residents remarking that they want sidewalks and stated that not too long ago there was an application in that area and the neighborhood residents did not want sidewalks and asked if they now wanted sidewalks. The majority of the group responded that they did want sidewalks.

Mr. Thompson stated that they understand the issues and feel that Mr. Schmierer after discussions with Mr. Kent-Smith would have to decide how the Board should proceed. Mr. Kent-Smith stated that everyone within 200 ft. of the site would be sent notices regarding the hearing at the Township. Mr. Flemming stated that all the issues brought up tonight would be discussed at the hearing in Hopewell Township where the site is located and they will have jurisdiction. Everyone would have an opportunity to speak whether they are within 200 ft. of the site or not. A member of the public inquired about the plans for a full traffic light and Mr. Thompson stated that this was an issue for NJDOT to decide. Ms. Ferrara asked for clarification on the direction given to Mr. Schmierer. Mr. Schmierer stated that it was a clear sentiment of the Board that there would be some type of formal application in the Borough and home owners within 200 ft. of the site would receive notice. Mr. Thompson closed the public comment session.

ZONING OFFICER

Mr. Flemming stated that there is a minor subdivision that will be submitted with bulk variances. The former ZA's restaurant will be submitting an application for a major modification. They want to expand the restaurant area and create an area that may be used for our first liquor license. They would like to enclose the area where the outside dining is located. Mr. Flemming stated that he feels that they would have to submit a full site plan application with variances. Mr. Thompson also suggested that the Board has a conceptual application which is designed for larger projects, but he felt it would be possible for somebody like Mr. Spadaccini to come before the Board for a short time during the work session for

feedback. The Board did not have any objections to this. Mr. Reilly pointed out that Mary Mistretta had questioned the ARC members concerning a similar request for the committee and they agreed that their job was only to review formal questions and traditionally they have left the consultation function to the Zoning Officer. Mr. Reilly also stated that there was discussion regarding applicants attending the ARC meetings. They agreed that an applicant can attend the meeting, but not participate or discuss various options with the committee. Mr. Flemming stated that he explains to the applicants that the function of the committee is to decide if the application has enough information to be sent to the Board. Mr. Schmierer stated that in the bigger municipalities they have committees for this, but since Pennington is smaller he agreed that coming to the work session would be a good idea and the Board could make informal suggestions that would be helpful to the applicant.

Mr. Flemming stated that the owner of the former McNulty site (Pennington Square Shopping Center) on Route 31 has informed him that they would like to put a Thai restaurant in the former flower shop space. Restaurants are allowed, but it is a change of use and would have a more intense impact on parking and he asked if it required Board review. Mr. Thompson stated that the applicant should provide a site plan showing parking spaces and the whole site should be looked at regarding the space not just the proposed restaurant. Mr. Schmierer stated that it should also be known how they would be using the interior space, would they have a take-out counter, the number of tables and seats and would there be enough parking. Traffic flow should also be addressed. Mr. Flemming stated that at that level he would not be qualified to decide and it was agreed they should go to the Board for site plan review. Mr. Blackwell noticed that the poles were gone on the south side of the property and Mr. Flemming stated that he had talked to the new owners and they were agreeable to move them to help traffic flow move across to Delaware Avenue.

MINUTES – Mr. Blackwell made a motion, seconded by Ms. Gnatt to approve the February 10, 2016 Planning Board minutes and the minutes were approved.

Mr. Thompson appointed Mr. Reilly as temporary Chairman of the Application Review Committee until they have their first meeting and appoint a chairperson.

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

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary