

**PENNINGTON BOROUGH PLANNING BOARD  
PENNINGTON, NEW JERSEY  
MINUTES – REGULAR MEETING  
JULY 13, 2016**

Mr. Thompson called the meeting to order at 7:35 p.m. and compliance with the provisions of the Open Public Meetings Act was announced.

Board Members Present: Mark Blackwell, Deborah Gnat (arrived 7:45 p.m., left 10:15 p.m.), Eileen Heinzl, William B. Meytrott, Thomas Ogren, Katherine L. O'Neill, James Reilly, Vice Chairman, Douglas Schotland, Winn Thompson, Chairman. Absent: Josh Levy. Also Present: Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson; Michael Bolan, Borough Planner; Carmela Roberts, Borough Engineer; John Flemming, Zoning Officer, Mary W. Mistretta, Secretary.

**OPEN TIME FOR PUBLIC ADDRESS** - Mr. Thompson asked if there were any issues that the public wished to address that were not on the agenda. There being none the open time for public address was closed.

**MEMORIALIZATION OF RESOLUTIONS**

**American Properties at Pennington, LLC**, Heritage at Pennington, 105 West Franklin Avenue, Block 102, Lot 1, MR Zone, Application No. P15-009. Present: Frank J. Petrino, Eckert, Seamans, Cherin & Mellott, LLC, applicant's attorney.

Mr. Schmierer stated that a draft of the resolution had been circulated to the professionals and Board Members and there have been additional issues and comments that needed to be addressed. Mr. Schmierer reviewed the changes and additions with the Board. There was a question regarding the need for a variance for the rear yards of the affordable buildings, paragraph 4, g and h and Mr. Schmierer will look into this. If they are needed they will be kept in the resolution or deleted if not. Ms. Heinzl asked for clarification regarding trash pick-up at the affordable units, condition 2. f. Mr. Petrino stated that there would be enclosures not dumpsters and the trash would be picked up in trash cans by the Borough. Ms. Heinzl stated that they had agreed on eight (8) pick-up areas for trash and it would now be eleven (11). There was discussion that each property owner was allowed two cans according to the Ordinance which would be the amount allowed for each lot. If the units were condominiums and not rentals they would be allowed two cans for trash. Mr. Bolan pointed out that rental units get a double credit with COAH. It was agreed to reference the Borough Ordinance Sec. 172-10 regarding this.

Mr. Schmierer stated that Mr. Thompson felt that the phasing element of the approval should be discussed. Ms. Roberts requested a change to the performance bond and inspections fees for Phase II and suggested that it should be bonded. It was agreed to tweak the wording to show that the applicant will bond the work that needs to be done on Phase II so that Phase I can be constructed on a stand-alone basis whether or not Phase II is constructed. It was noted that if there were any changes to the number of units, the applicant would have to come back with an amended site plan.

Mr. Blackwell mentioned that he thought there were supposed to be two back flow preventers in the pump house. Mr. Petrino agreed and it will be added "there should be a backflow preventer prior to the fire pump in the pump house tested annually by the Homeowners' Association."

Ms. Heinzl asked to go back to the emergency generator and stated that she recalled Mr. Nelson stating that he had never seen a fire system that did not have an emergency

generator. Mr. Schmierer will add a note stating that the Board recommended an emergency generator. Mr. Petrino stated that the things they had to clarify were the two variances and the back flow preventers.

Ms. Heinzl made a motion, seconded by Mr. Blackwell to adopt the resolution with the changes discussed. Voting yes: Blackwell, Gnatt, Heinzl, Ogren, O'Neill, Reilly Thompson. Not voting: Meytrott, Schotland. Absent: Levy.

**Michael & Kristen Kramley**, 204 King George Road, Block 403, Lot 10, R-100 Zone, received variance approval to construct a one-story addition and deck to the rear of their existing home. Mr. Reilly made a motion, seconded by Ms. Heinzl to adopt the resolution with corrections. Voting yes: Blackwell, Gnatt, Heinzl, Meytrott, Ogren, O'Neill, Reilly, Thompson. Not voting: Schotland; Absent: Levy.

### **APPLICATIONS**

**J & M Schragger, LLC**, 212 S. Main Street, Block 703, Lot 14, R-80 Zone, Historic District, Application No. P16-001. The Board took jurisdiction of the application at the April 13<sup>th</sup> meeting and it was carried to the July 13, 2016 meeting. The application requires a D Variance and representatives from Council, Ms. Heinzl and Ms. Gnatt, recused themselves and stepped down.

The applicant is requesting variances to remove the rear and side portion of the existing dwelling, retaining the front two-story section with a footprint of approximately 15 ft. by 20 ft. A two-story addition, with a footprint of approximately 15 ft. by 37.5 ft. is proposed to the rear, with a new front porch. Also proposed is a two-car garage 24 ft. by 24 ft. and a 9.5 ft. wide driveway along the northern part of the lot. The lot has existing nonconformities regarding lot area, lot width and slope ratio for the existing dwelling to be retained. The proposed development requires the following bulk variances: minimum front yard, 34.6 ft. proposed, where 40 ft. required, minimum side yard of 6.75 ft., where 15 ft. is required. The existing side yard is 0.01 ft. and 6.75 ft. for the portion of the existing dwelling to remain. The proposed addition complies with the 15 ft. side yard setback, minimum side yards combined, 22.42 ft. proposed. The proposed development also requires a D (4) use variance for exceeding the permitted floor area ratio (FAR), .265 permitted and .292 proposed. Square feet proposed, 2,608 and permitted is 2,365.

James Schragger, attorney for the applicant introduced John Schragger, one of the partners of J & M Schragger, LLC and George A. Fett Architects, LLC and they were sworn in. Mr. Fett gave his qualifications which the Board accepted. Mr. Reilly stated that the Application Review Committee reviewed the application and the applicant has submitted the required information and does not require any waivers. The Committee considered the application complete.

Mr. Fett described the sections of the building that would be demolished and stated that they were only built on a stone foundation and were in disrepair and should be demolished. Entered into evidence were: Exhibit A-1 Proposed and existing rear of house; Exhibit A-2 Nine photographs showing current conditions and front of the house which is historic and will be saved and showing the rear of the existing house that is right on the property line; A-3 Proposed outline of building showing setbacks, Mr. Fett pointed out that the majority of the houses in the area do not meet the setbacks; A-4 Final Design, showing the addition to the rear. Mr. Fett stated that the existing house has 8 ft. ceilings and in the new section they proposed 9 ft. ceilings which raised the house a little and enhances the design. He stated that the design was dictated by the required egress windows for the bedrooms. A-5

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Photographs of the existing house and other houses on the street for comparison. Mr. Fett explained that he tried to keep under the floor area ratio, but found it hard to make the house liveable and keep below the FAR. They are trying to make sufficient closet space to handle the amount of stuff people have today and bedrooms big enough to accommodate larger beds and furniture. Mr. Fett stated that if the lot was four feet wider the FAR would have been met and pointed out that the project did not go over the impervious coverage. Mr. Fett pointed out the FAR's of neighboring houses which also exceed the minimum and stated that the ones that conform are very small houses. Entered into evidence was Exhibit A-7 Portion of Pennington Borough Tax Map showing other properties in the vicinity of Block 703, Lot 14 with FAR's greater than permitted and A-8 Photo display Board with 15 color photographs of other existing homes in the neighborhood. Mr. Schragger, applicant, pointed out houses that have similar architecture and are close to the road. He also pointed out 149 S. Main Street where an addition has been added and they are very close to the road, but did not need any variances since it is a very long lot. Mr. Ogren asked the applicant to give the floor area ratios of the neighboring houses and they were .275, .208, .284 and .286.

Mr. Fett next described the layout of the proposed house and stated that a two-car unattached garage is also proposed to the rear of the house. The existing driveway is very wide and will be removed and replaced with a driveway and a back out area in front of the garage. There are two existing sheds in the back that will be removed. The applicant has a Certificate of Appropriateness from the Historic Preservation Commission who has required them to maintain the original house. Mr. Schragger stated that the Commission looked at the whole plan and approved it. The lighting will be minimal, porch lights with lighting by the garage. Mr. Schragger stated that Hardi plank siding will be used and they are trying to save existing architectural details on the original house and will try to carry details around on the new section.

Mr. Thompson asked if the ground water elevation of 8 ft. below grade was correct since this area has experienced ground water problems. Mr. Fett stated that it was correct and the basement should be about 6 ft. below which will be well above that. Ms. O'Neill asked if they were planning on putting in a full basement under the addition. Mr. Fett responded that they were and the mechanicals will be in the basement and a possibility of a second heating/air conditioner unit in the attic space. The attic has a pitched roof and could not be converted to living space. Mr. Flemming, Zoning Officer, was sworn in and pointed out that the builder should make sure that the basement can be built as shown, since making it higher would raise the building which then might need to come back to the Board for a variance for the slope. Builders have previously run into this type of problem in this area.

Mr. Schotland noted that the great room on the first floor was very big and asked if it could be reduced. Mr. Fett stated that it would serve as a living room and dining room and if he reduced the area all of the bedrooms and the kitchen area would have to be smaller. There was further discussion regarding this. Mr. Fett felt that if they started making the rooms smaller or eliminating a bedroom the house would not be functional as people are looking for four bedrooms and closet space. The new addition will have fewer violations than the old sections that would be removed. They have improved all the existing violations except for the increase of the FAR to get the extra bedroom. Mr. Thompson stated that he felt the positive thing was that the applicant will be maintaining a good part of the streetscape by keeping the existing house and it helps to justify the rest of the house. Mr. Blackwell agrees and stated if the Historic Commission wants to preserve these homes you have to give something to help provide liveable areas. Mr. Schragger explained that the 25 ft. by 25 ft. space is not just a great room, but that space also includes a half bath, stairwell and serves as a traffic pattern.

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Michael Bolan, Borough Planner, was sworn in and reviewed his report of April 8, 2016. Mr. Bolan pointed out that the front yard variance being requested for the porch, which will be narrower and longer, would be an improvement over the existing porch. The new addition setbacks will comply, but the combined setbacks do not. He noted that there will be a very slight deviation of the slope ratio that cuts into the gutter and Mr. Fett stated that this area was a little higher to enable him to add matching trim board. In considering the hardships, Mr. Bolan stated that there is a hardship in that the lot is very narrow and the purposes of the Land Use Law would be advanced by the benefits of the application and will substantially outweigh the detriment. The D Variance being requested is for the floor area ratio, 2,608 sq. ft. proposed and 2,365 sq. ft. permitted and it would be 243 sq. ft. over, around 10%. Mr. Bolan explained that there is case law for a D-4 use variance and it is not quite the same strict standards that are used for a use not permitted in the zone. Mr. Thompson noted that the applicant did show similar houses in the area with the same FAR. Ms. O'Neill pointed out that the new addition at 149 S. Main juts in because they started with a wider house, but the applicant's addition juts out and she feels that the addition looks very large. Mr. Meytrott stated that he does not think that 212 S. Main appears to be as hemmed in as 149 S. Main. There was discussion regarding the addition and that the addition may appear to look longer on the rendering.

It was pointed out that there is a very small piece of land, Lot 15, that juts into the neighboring yard that is owned by the applicant. Mr. Reilly stated that the Application Review Committee had discussed it and agreed to suggest that they be consolidated if they were both owned by the applicant.

Carmela Roberts, Borough Engineer, was sworn in and reviewed her report of April 8, 2016. Ms. Roberts stated that they requested soil borings and have received the report giving the water table as 8 ft. below with an infiltration rate of one inch per hour which are very respectable. Ms. Roberts stated that based on that and the drawings regarding a stormwater impact they have made a number of recommendations in the report. She stated that with the recommendations the stormwater should act the way it does today. She stated that they needed an analysis of pre and post and changes to the elevation of the garage. An as-built survey should also be provided before obtaining a certificate of occupancy. Mr. Reilly asked Ms. Roberts if she had any concerns regarding the maintenance of these things to ensure that water does not run off on the neighboring property. Ms. Roberts felt that it should work well if it is constructed right. Ms. Roberts stated that there should probably be two sump pumps and they would have to go in to a dry well in the rear yard as it cannot go into the stormwater drain.

Mr. Thompson asked if there was anyone in the public who had comments or questions, there being none the public portion of the meeting was closed.

Ms. O'Neill asked if they planned to replace the patio and the applicant stated that none was planned. Mr. Meytrott stated that he was conflicted at first, but after hearing Mr. Bolan's testimony and seeing similar houses he would be inclined to support the application. Ms. O'Neill felt that there were a lot of houses with three bedrooms and she was concerned that the addition looked large, but she is glad that the historical house is being saved. She also pointed out that there were no neighbors at the meeting that were against the application and she would be inclined to support it. Mr. Ogren agreed with Ms. O'Neill that the addition looked large and the setback for the kitchen and back bedroom were small and suggested that another foot would help a lot. He stated that he didn't see a lot of justification for a four bedroom house, but the bedroom will be on the second floor and not very visible and he would be inclined to vote for it. Mr. Reilly stated that his concern was runoff, but he has been reassured by Ms. Roberts that there should not be any runoff on the neighboring property

which has been the Board's major concern. He agrees with Mr. Ogren's suggestion of bumping in the rear a little more to break up the bulk of the addition and if this was done he would be inclined to support the application. Mr. Schragger agreed to make the bump in 1.5 ft. Mr. Schotland shared the previous concerns about the massing and he is not convinced that everything was done that could have been done to reduce the bulking. He is sympathetic with the applicant since the lot is small and feels that even if the fourth bedroom were on the first floor it still would not make the FAR. Mr. Blackwell is in support of the application and feels that when the Historic Commission wants to preserve these old homes in disrepair there should also be some support for their applications. He does not feel that the addition will look as massive as it appears to on the rendering and it is set back from the road and will not be noticed. Mr. Thompson is in support of the application and feels it is important that the historic house is being saved to preserve the character of Pennington, but will not be that useable for most families and it is important to have a trade-off.

Mr. Blackwell made a motion, seconded by Mr. Meytrott to approve the application with conditions including a dry well for the sump pump, consolidate the lots, address Engineer's recommendations. Voting yes: Blackwell, Meytrott, Ogren, O'Neill, Reilly, Schotland, Thompson. Not voting: Heinzl, Gnatt; Absent: Levy. The hearing ended at 10:15 p.m.

**KRISTIN C. & TIM MCGEENEY**, 329 Sked Street, Block 705, Lot 1, R-80 Zone. Applicant is requesting bulk variances for addition to existing house.

Mr. Reilly stated that he was within 200 ft. of the property and recused himself and stepped down. Ms. O'Neill reported that ARC reviewed the application and the applicant has submitted required information for checklist no. 8A and ARC and Ms. Roberts recommended approval of waiver 8B agreeing that the information be submitted and approved at the time of building permit application. The applicant is proposing to add a two-story addition, two porches and a one-car garage on a 10,800 sq. ft. lot on the corner of Sked Street and W. Welling Avenue. The addition has a footprint of 725 sq. ft. which will be built mostly over existing concrete slab. Amy Moran Taylor, Designer, Kristin & Tim McGeeney were sworn in. Mr. Schmierer announced that Proof of Publication and Proof of Notice were in order and the Board could take jurisdiction. Mr. McGeeney stated that the house is on a corner lot and was built around the middle '40's. Exhibit A-1, and stated that they have permits in place to start phase one of the renovation to bring things like electric and stairs up to code. They have also removed a wall to open up the downstairs area. He explained that Amy Moran Taylor helped them design the addition to fit in with the neighborhood. Entered into evidence, Exhibit A-2 Proposed Floor Plans and elevations. They had proposed to change the orientation of the house, but have decided to keep the front of the house on Sked Street and add a front porch as well as one on the W. Welling side and they both require variances. The existing house has six nonconformities and the proposed application requires bulk variances for both front yards, side yard and slope ratio. Exhibit A-3 was entered into evidence – pictures showing similar porches that do not meet the 40 ft. setback. Mr. McGeeney stated that there is an existing carport which they are replacing with a small one car garage. Ms. Taylor stated that they tried to design the house to look similar to houses in the area and explained that it was difficult with two front yards and the size of the lot. Ms. McGeeney pointed out that the lot is 60 ft. wide on the W. Welling side and 180 ft. long on the Sked Street side and there was no way to meet the setbacks. A lot of existing concrete paths on the lot will be removed and over 50% of both frontages will be lawn. Mr. McKeeney stated that they have a contract with an engineer to provide the requirements of the Borough Engineer. Mr. Thompson pointed out to the applicant that they wanted to make sure the basement elevations that are approved would not have to be changed later because of the water table and maybe require a return trip to the Board. Mr. McGeeney stated that the addition steps down and there are a few dormers.

Mr. McGeeney described some of the changes to the interior of the house and Mr. Thompson asked about the proposed/bonus room over the garage. The applicant explained that a lot of that space would probably be used for closet space since some was lost in bringing the staircase up to code. Ms. O'Neill had questions concerning the porch and Ms. McGeeney stated that she wanted an architecture element because that side of the house was so flat and she wanted a porch that would provide living area. She stated that what appear to be French doors on the porch will actually be sliders. Mr. Flemming asked if they were having an air conditioning unit or generator and the applicant stated that there is an air conditioner unit and generator to the left of the garage that are in line with the existing house. Mr. Flemming stated that they should be included in the variance. The only lighting will be on the porches and by the garage and there will not be any spot lights. Mr. Ogren stated that the front porch will look more like a back porch since it is screened in. He felt that if it was open it would be more inviting and less intrusive as it is only 20 ft. from the sidewalk and asked if they would consider leaving the porch open. Mr. McGeeney stated that they would be able use it more if it was screened in. Mr. Bolan (review June 28, 2016) felt that the variances have been discussed and the difference in the setbacks are not that substantial. A slope variance is needed, but it is less than what exists. Ms. Roberts stated that there would be an increase of impervious coverage, but the applicant's engineer is providing a site plan with grading, soil borings and stormwater analysis and will need to address the stormwater as needed as per the recommendations in her review of May 26, 2016. The sump pump discharge will also have to be addressed.

Mr. Thompson asked if there were any comments or questions from the public.

Jim Morrison, W. Welling Avenue, stated that their house is diagonally across the street and he feels it will fit right in with the neighborhood and be a wonderful improvement. There being no further questions, the public portion of the meeting was closed.

The Board felt that the application was thoughtful and would fit in with the character of the neighborhood and the improvements outweigh the detriments. Mr. Ogren felt that the overall development was great, but he did not feel that the screened in porch was appropriate.

Mr. Blackwell made a motion, seconded by Ms. Heinzl to approve the application with the conditions discussed. Voting yes: Blackwell, Heinzl, Meytrott, O'Neill, Scotland, Thompson. Voting no: Ogren; Absent: Gnatt, Levy. Not voting: Reilly. The hearing ended at 11:00 p.m.

**REQUEST FOR EXTENSION OF TIME** – Anthony Timothy Lomma, 208 King George Road, Block 403, Lot 12, Application No. P15-002. The applicant was granted an extension of time to start construction. A one year extension to May 13, 2017 was granted. Mr. Blackwell made a motion, seconded by Ms. Heinzl and the Board approved the extension.

**ORDINANCE CONCERNING LAND USE APPLICATIONS AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON** – an amendment to Section 215-50 of Chapter 215 – Permitted yard area modifications, A. Front yards. The Board is recommending that "vacant" be removed from the following: Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any [vacant] lot within such area shall be the average of the existing front yards on the developed lots. This will now pertain to properties with buildings as well as vacant lots. Having agreed that the amendment was consistent with the Master Plan, Mr. Blackwell made a motion, seconded by Mr. Reilly and the Board voted to refer the amendment back to Council recommending approval of the amendment.

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**MINUTES** – Mr. Ogren made a motion, seconded by Mr. Blackwell, to approve the May 11, 2016 minutes and the minutes were approved. Ms. O’Neill made a motion, seconded by Mr. Ogren to approve the June 8, 2016 minutes and the minutes were approved.

The meeting was adjourned at 11:10 p.m.

Respectfully submitted,

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Mary W. Mistretta  
Planning Board Secretary