

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
MINUTES – JUNE 14, 2017**

Mr. Thompson 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: Nicholas Angarone, Mark Blackwell, Deborah Gnatt, Eileen Heinzl, William B. Meytrott, Katherine L. O'Neill, James Reilly, Douglas Schotland, Winn Thompson. Also Present: Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson; Michael Bolan, Planner; Brandon Fetzer, Van Note-Harvey Associates; Rick Smith, Supervisor, Public Works, Mary W. Mistretta, Secretary. Absent: John Flemming, Zoning Officer.

**CUGINO'S PENNINGTON, LLC, d/b/a Cugino's Italian Market, Old Mill Square,
147 West Delaware Avenue, Block 206, Lot 13, Amended Preliminary and Final Site Plan
Approval, Variance and Waiver Relief. Application No. P16-005.**

Present: Dino Spadaccini, Attorney Owner; Gary E. Mertz, Architect; Russell M. Smith, Hopewell Valley Engineering, PC; Applicants: Ben Sanford and Joe Egitto, Cugino's Pennington, LLC, d/b/a Cugino's Italian Market.

Mr. Spadaccini explained that the applicant had received previous site plan approval on August 10, 2016. The applicant is now requesting amended approval for an approximate 236 sq. ft. increase to the previously approved addition along the east side of the property with a basement which would be used for storage. The only variance needed is for lot coverage which would be increased to 90%, the maximum is 60%, 86% exists and 89% was previously approved. The impervious coverage would not be increased as the addition will be cantilevered and supported on piles. Mr. Spadaccini stated that they were in agreement with the recommendations in the following reviews: Hopewell Valley Bureau of Fire Safety, June 12, 2017; Michael P. Bolan, Planner, dated June 8, 2017; Van Note-Harvey Associates, dated June 7, 2017. He also stated that they have met with the Fire Inspector and have no issues with his recommendations.

Mr. Schmierer announced that Proof of Notice and Proof of Publication were in order and the Board could take jurisdiction. Russell M. Smith and Gary E. Mertz were sworn in and the Board accepted their qualifications. Mr. Reilly, Chair of the Application Review Committee reported that the applicant requested a waiver to item 8 B on the checklist. This is a requirement to provide information based on soil borings when a basement or cellar is proposed. ARC recommended that the waiver be granted since there is a proposed drainage system and if the Board or the Engineer felt that further information was needed it could be a condition of approval. Mr. Reilly made a motion, seconded by Mr. Meytrott, to approve a waiver for item 8 B on the checklist and the Board agreed.

Mr. Thompson asked Mr. Spadaccini to provide a little history regarding Cugino's previous application. Mr. Spadaccini stated that at the last hearing the Board approved an addition that would extend over the existing patio area. The seats on the patio area and parking were approved back in 1996, but at the last hearing they agreed to reduce the seating from 78 to 76 seats. Mr. Spadaccini described some of the previous work done to Old Mill Square including a structural problem caused by water from W. Delaware Avenue during a storm in 2010. At that time they had to rebuild the foundation and rear of the Old Mill structure. When the adjacent bank, now TD Bank, was built their detention basin was oversized and specifically designed that way to allow additional stormwater runoff from the neighboring property. In 2012 Old Mill received approval to install a French drain on the lot line between TD Bank and the rear of Old Mill and connecting some drainage to the TD Bank's detention basin. Mr. Spadaccini stated that it was a difficult process and suggested that perhaps the town might be able to help them work with TD Bank regarding the detention basin.

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Mr. Thompson asked if anything further had been done about getting approval to use the Borough's adjacent property during construction as it is shown on the plans for this application. Mr. Spadaccini stated that this was not a condition of approval for the previous application, but the applicant has talked to Council and everyone was in favor of them using the old public works property although an agreement is not yet in place. This would be used initially as a construction staging area and, hopefully, thereafter used as employee parking for the center. Ms. Heinzel clarified for the record that Mr. Sanford came to Council and agreed to have his attorney provide a draft of a license agreement for Council discussion. Benjamin Sanford was sworn in. Mr. Sanford stated that another attorney was working on the license agreement and he thought there were ongoing discussions with the Borough Attorney and he would look into it. Mr. Reilly asked if the use of the Borough's property was necessary for the operation of the business during construction and Mr. Spadaccini responded that it would not be necessary. Mr. Smith stated that the staging area for construction was originally shown on the grassy area of the site, but on the amended plan it is shown on the Borough property as it would be less of a disturbance although he agreed that the project could still be done without the use of the Borough property. Mr. Smith stated that there are easements required including one for the public stormwater system, a temporary construction easement if they do not receive a license agreement from the Borough and they would need a permanent maintenance easement from the Borough. Ms. O'Neill stated that she had concerns about parking during construction. Mr. Spadaccini stated that he is also concerned since he has other tenants and they will be looking for ways to help reduce the problem. Mr. Reilly asked what the time line would be for construction. Mr. Mertz stated that the site work would take a considerable amount of time, but once that is completed the addition would take approximately six months.

Mr. Spadaccini stated that after having conversations with the County Engineer regarding the relocation of the stormwater pipe from under the existing patio, they found that they will be able to keep it within the curb line and this will eliminate a lot of disturbance on West Delaware Avenue. The pipe basically drains the water from the intersection of Route 31 and Delaware Avenue and ends up in the stream. Mr. Smith stated that they have enlarged the pipe and have talked to the County about what they are doing and they have approved the relocation. He stated that the applicant and the Borough would have to grant an easement to the County for the portion of the pipe on their properties. Entered into evidence: Exhibit A-1 Master Site Plan, Cugino's Kitchen, Composite of all Drawings, June 14, 2017, Exhibit A-2 Cugino's Building Addition, August 10, 2016, exhibit used at the August hearing. Mr. Smith pointed out the addition that was originally approved and the changes that are proposed. An additional handicapped parking space has been added making a total of 35 regular parking spaces. The addition was originally proposed as 1,299 sq. ft. and is now proposed to be 1,465 sq. ft. of floor area. The addition and basement will help make that side of the building more attractive as the coolers will be moved into the basement area that is proposed and will no longer be out in the open. Mr. Smith pointed out that the addition and wooden walkway would count towards the lot coverage, but not towards the impervious coverage since the addition was cantilevered and off the ground. Mr. Smith stated that they have met with PSE&G and added a light to the parking area and another lantern style light to the northwest area of the site which had been recommended at the last hearing.

Mr. Mertz explained that the addition will be enclosed and cantilevered on piers. Ms. Heinzel asked why it was being done this way and Mr. Mertz stated that it was more cost effective as they would use the same foundation and the utilities could stay on the same shared wall. Mr. Smith stated that the ground starts to drop down at that point and it would be better to leave the existing foundation wall. Mr. Mertz pointed out that the façade will be similar to what exists and the large doors on the W. Delaware side will open up to the outside area. He then described the

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layout which includes a bar and indoor stairs to the basement area which includes locked storage and coolers. A small ramp is proposed at the rear of the building for deliveries. Mr. Mertz explained that deliveries could come from the front of the building and along the path and would mostly be off hours. Entered into evidence were Exhibit A-3 Mertz Architects, pc, Floor Plans, May 15, 2017 and Exhibit A-4 Mertz Architects, pc, Elevations, May 15, 2017. The building addition proposed before was 16.5 ft. and will now be 17.5 ft. in width. Mr. Smith explained that there appears to be a discrepancy in the measurements they have given for the setbacks of the addition and explained that the building does not stay parallel to the property line. Mr. Spadaccini stated that the grease interceptor is 4,000 gallons and should be sufficient, but he will submit the necessary information. In response to questions regarding the liquor license, Ms. Heinzl explained that Cugino's was the Borough's bidder for the liquor license and satisfied the minimum bid and the Borough is now in the process of going through the necessary background checks. Mr. Sanford explained that the expansion of the kitchen will help them to operate the market as well as the catering operation more efficiently. They would have had to work expanded hours with the size of the previous kitchen, but with the expansion they will be able to do that work along with the operation of the restaurant. Expanding the basement will provide more needed refrigeration and storage in the basement area and the cooler that is presently located outside the building will be located in the basement which will improve the area.

Michael Bolan, Borough Planner and Brandon Fetzer, Borough Engineer were sworn in. Mr. Bolan reviewed his memorandum of June 8, 2017 and stated that there are eight existing nonconformities on the property. In the prior 2016 approval six bulk variances were approved some of which were extensions of the existing nonconformities. The amended site plan is requesting approval for three variances: maximum lot coverage of 90%, where 60% is permitted, 86% existing and 89% approved in 2016; minimum right side yard setback, 30 ft. required, being reduced from 11.1 ft. to 3.8 ft. along the length of the 36 ft. proposed addition; total both side yards, 75 ft. required, being reduced from 41.7 ft. to 34.4 ft. along the length of the 36 ft. proposed addition. Mr. Bolan explained that the variances for the 2016 application were approved under the C2 criteria and he feels that there is not a lot of difference with this amended application. He noted concerns regarding previous flooding as did the Health Department in their memorandum of May 24th and he felt that these issues should be addressed. Mr. Bolan noted that the basement is not sprinkled and Mr. Spadaccini stated that they have met with the Fire Official and will be installing a fire wall between the existing basement and the proposed and they have hard wired alarms. They will also be placing a Knox box at the front of the building.

Mr. Thompson asked for clarification about the sump pumps. The applicant explained that there are presently four sump pumps in the basement and one more will be added. There was discussion regarding the sump pump water going into the stormwater. The Borough Engineer is concerned about downstream flooding, but they would consider it after they have received additional information. The concern was that there might be contaminants in the water from washing the floor and Mr. Blackwell suggested that the pump could be raised off the ground a little to avoid this. It would be up to the Borough Engineer to approve and make recommendations concerning this. Brandon Fetzer referred to the Van Note–Harvey memorandum dated June 7, 2017 and reviewed some of the more important points. He stated that the applicant has addressed some of the concerns and suggested that the exact location of the sump pump should be on the plans. There was discussion regarding the sewer lateral and Mr. Smith explained that there were many pipes running to the sewer lateral and there are two grease interceptors on the site.

Mr. Thompson asked if there was anyone in the public with comments or questions, there being none the public portion of the hearing was closed and members of the Board were asked for

their comments. Ms. Heinzl asked if the cantilevered addition and the wooden walkway were considered impervious coverage. Mr. Smith stated that they were counted in the lot coverage, but not in the impervious coverage. Mr. Bolan stated that this is covered in the stormwater management law. Mr. Angarone came into the meeting a little late, but stated that he understood the application and Mr. Schmierer stated that he could vote. Mr. Meytrott stated that there were quite a few easements and conditions that were necessary for the original application and he had concerns that they would be addressed and approved. Mr. Schmierer stated that the Board could address this by adding to the resolution that all of the conditions of prior approvals, unless modified by this approval, would have to be addressed. Mr. Meytrott felt that the application would benefit the area and the town and felt that the amended application was adding a minimal amount. Ms. O'Neill had concern that the use has grown as much as it can with this application. Mr. Schotland stated that it was very de minimis and he was in favor of the application, but wondered if the closeness of this building would affect future plans on the adjacent Borough site. Ms. Heinzl felt that if this endeavor was successful it would probably help find a developer for the Borough's land. Mr. Thompson stated that when the Board looked at the landfill site previously the actual areas that could be developed were isolated since the landfill is on one side and the stream on the other side. Mr. Reilly stated that he would support the application with the conditions that have been discussed. He also felt that there should be a condition that the Borough Engineer approves the stormwater management plans to ensure that there would be no drainage runoff on other properties. Ms. Heinzl agrees with Mr. Bolan that there was not that much change with this amended site plan and with Mr. Meytrott regarding the conditions of approval being met. Based on the testimony from the applicant that they did not need use of the Borough property to go ahead with the project she felt more comfortable with approving the application. Mr. Blackwell agreed with the previous members and feels it will be an improvement with the cooler no longer on the outside of the building and he would approve the application. Ms. Gnatt stated that she is in favor of the application with the conditions stated and feels that the benefits outweigh any detriments. Mr. Angarone stated that he did not hear anything about the construction phasing that had been mentioned. Mr. Spadaccini stated that it referred to using the Borough property and if they do not obtain approval they will phase it on their own property. Mr. Reilly stated that it had been mentioned that it would take six months from the time it's started and asked if that was sufficient information for a phasing plan. Mr. Thompson stated that if they do not receive approval from the Borough to use the land they will have to have a much more detailed phasing plan that will have to go to the Borough Engineer.

Mr. Reilly made a motion, seconded by Mr. Meytrott to approve the application with conditions. Voting yes: Angarone, Blackwell, Gnatt, Heinzl, Meytrott, O'Neill, Reilly, Schotland, Thompson. Absent: None.

MINUTES – Ms. Heinzl made a motion, seconded by Ms. O'Neill to approve the February 8, 2017 minutes with a correction and the minutes were approved.

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Mary W. Mistretta
Planning Board Secretary