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**PENNINGTON BOROUGH
REGULAR PLANNING BOARD MEETING MINUTES
MAY 12, 2010**

Chairman 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: Jeanne Donlon, Eileen Heinzl, William B. Meytrott, Thomas Ogren, Mayor's Designee, Anthony J. Persichilli, Mayor (present for Hopewell Township, Capital Review), James Reilly, William Reuter, Winn Thompson, Chairman, Josh M. Levy, Alternate #1. Absent: Mark Blackwell, Katherine O'Neill, Anthony J. Persichilli, Mayor, (Alternate #2 vacant)

Also Present: Cindy Coppola, Borough Planner; Kent Scully, Acting Borough Engineer, Michael W. Herbert, Acting Board Attorney for Huntsman application, Herbert, Van Ness, Cayci & Goodell; Edwin W. Schmierer, Board Attorney, Mason, Griffin & Pierson; John Flemming, Zoning Officer; Mary W. Mistretta, Planning Board Secretary.

OPEN TIME FOR PUBLIC ADDRESS – Mr. Thompson asked if there was anything that the public would like to address that was not on the agenda, there being none the public portion of the meeting was closed.

APPLICATIONS

Laura Huntsman & Stephen LeMenager, Block 205, Lot 14, 40 North Main Street, Town Center Buffer Zone. Variance Application P10-002

The applicant is requesting variances to replace an existing 2-story barn/garage. The application was scheduled and noticed for the March 10, 2010 Planning Board meeting and the applicant requested the Board to take jurisdiction of the application and carry it to the April 14th meeting to enable them to address comments in the Coppola & Coppola Associates review memo of March 3, 2010. The application was heard at the April 14th meeting and the Board agreed to continue the hearing to the May 12th meeting in order for the applicant to present additional information regarding the impact the barn/garage would have on the neighbors. Michael W. Herbert, Attorney with Herbert, Van Ness, Cayci & Goodell filled in as Planning Board Attorney for this application, since Mr. Schmierer has a conflict of interest.

Ms. Huntsman presented Exhibit A-7 Board with pictures of the present building as it would be seen by the adjacent neighbor and Exhibit A-8 Google map of the site, along with list identifying locations on map. Mrs. Huntsman pointed out on the exhibits the height and location of the trees and vegetation to demonstrate that the new barn/garage would not have a significant impact on the neighbors to the north or south. Ms. Huntsman reviewed the Google map and pointed out the Heino's house to the north and stated that her architect verified that the distance from the corner of the new barn and the Heino's house to the north was 52 feet. She also pointed out the Heino's garage and the turning radius between the barn and the tree line. The distance between the tree line and the current barn is 24 feet. If the barn expanded towards the north the distance would become 21 feet and if it expanded towards the south it would stay 24 feet. Ms. Huntsman stated that the highest point of the barn is the peak and would be 25 feet. Ms. Donlon pointed out that the style and colors of the proposed barn would merge quite nicely with the Municipal Building.

1 There was discussion regarding the turning area in front of the barn/garage and moving the
2 structure three feet closer to the northern property line. Mr. Kent Scully, Planning Board
3 Engineer, was sworn in. Mr. Scully stated that he had not reviewed the application, but had
4 attended the previous meeting. He felt that 21 feet for the turn-around area would just make
5 it, but felt that 24 feet would be better if it was available. Mr. Scully felt that either removing
6 the tree for more space or moving the barn an additional 3 feet closer to the northern
7 property (as shown in latest submitted plans) would make the turning area much more
8 practical. Mrs. Donlon stated that it was helpful to visit the site and felt that not only the
9 trees, but their height would help reduce the impact of the barn to the neighboring
10 properties. Ms. Coppola pointed out that the architect's plans that were submitted were not
11 to scale and there is a discrepancy with the submitted survey done in 1976 regarding the
12 driveway. Mr. Thompson asked if there was anyone in the public who had comments or
13 questions regarding the application, there being none the public portion of the hearing was
14 closed.

15
16 Board members felt that the trees were very thick and tall and would provide screening to
17 the neighboring properties and the impact would be very minimal. Mr. Reuter suggested that
18 a condition of approval should be Board Engineer's approval of the new dry well and the
19 stormwater management system. Mr. Ogren felt that the Norway Maple would be the only
20 tree that would be a problem for a turn around and he did not feel that it would last much
21 longer than 5 years. Mr. Ogren asked Ms. Coppola for clarification regarding her comment
22 that the driveway would be widened. Ms. Coppola responded that the orientation of the
23 driveway on plan A-0.02 appears to be closer to the southerly property line than the 1976
24 survey. Ms. Huntsman responded that it was not their intention to widen the driveway. Mr.
25 Reilly agreed that the trees would be sufficient screening and also felt that moving the barn
26 an additional 3 feet would have less impact on the tree roots. Mr. Meytrott stated that he had
27 also visited the site and felt that the trees provide a large buffer area and also based on Mr.
28 Scully's testimony he felt he would support the application. Mr. Thompson felt that it was
29 important to keep a buffer by the southerly side of the property line because the Municipal
30 Building is quite close to the property line and felt that the application was appropriate. Ms.
31 Donlon made a motion seconded by Mr. Reuter to approve the application with the condition
32 of the Board Engineer's approval of the dry well and stormwater management plan. Voting
33 yes: Donlon, Heinzl, Meytrott, Ogren, Reilly, Reuter, Thompson, Levy. Absent: Blackwell,
34 O'Neill, Persichilli. The hearing ended at 8:05 p.m.

35
36 **Hopewell Township, Capital Review – Teen Center on Capital Health Site**, Block 102,
37 Lot 1, 105 W. Franklin Avenue

38
39 Mr. Meytrott announced that he had a conflict of interest and stepped down from the
40 hearing. Mr. Schmierer explained that Municipal Land Use provides that when a
41 governmental entity proposes a capital project, whether in their town or another town, it is
42 appropriate for them to come into the other town and make a concept presentation for the
43 capital project. The Board is allowed to share comments regarding the project and can
44 endorse it with conditions.

45
46 Mr. Paul Pogorzelski, Hopewell Township Administrator, stated that the Teen Center would
47 occupy an existing 1500 sq. ft. building on the Capital Health Site. The building has been
48 used in the past for physicians' offices. Mr. Pogorzelski gave a brief summary of the history
49 of the Youth Advisory Board who has been making presentations in support of the center
50 and doing fund raising. In 1999 the Hopewell Valley Municipal Alliance held a forum and
51 there was a large sentiment at that forum that there should be a something provided for

1 teens in the Valley. In 2003 the Hopewell Township Committee created the Youth Advisory
2 Board to have the youth engaged in local government and to advise the Township regarding
3 any issues or concern they have with the government. This group found that about 57% of
4 their peers felt that a teen center would be viable as long as it was within walking distance of
5 the schools. In 2008 a survey put out by the Health Department found that 67% of the adults
6 would support a teen center. The Youth Advisory has been working on this and in 2009 they
7 presented a concept to the Hopewell Township Committee. A Task Force was then
8 appointed by the Mayor to look into locations and programs. The Capital Health System site
9 was selected as the best location for the teen center. It is not too big and it is available.
10 There is presently limited parking and lighting on the site. Mr. Pogorzelski stated that the
11 proposal is just for a temporary use of the building. It is intended that the building would be
12 used by senior citizens as well as teens. The seniors would like supplemental space that
13 they could use besides the senior center. The temporary use of a teen center is not intended
14 to interfere with the zoning for the affordable housing program that is planned for this site.

15
16 Mr. Pogorzelski stated that the YMCA will help the programming and the management of the
17 facility, but it is independent of the YMCA. Capital Health Systems owns the property and
18 the YMCA is under contract to purchase the property. A small area, about an acre and a half
19 will be created around the building that will be considered a lease area and would have to
20 be signed off on by both Capital Health and the YMCA. They have talked to the Assessor
21 and she has advised that one and half acres would become exempt and the rest of the site
22 will remain fully taxable. She felt that there would be a local tax loss of approximately
23 \$1,569.

24
25 The Teen Center is intended for teens 6th through 12th grades. They expect that there will be
26 25–30 teens in the building with one or two instructors. The building would be open from
27 3:00 p.m. – 7:00 p.m. on Wednesday and Thursday and 3:00 p.m. – 9:00 p.m. on Friday and
28 Saturday would be 3:00 p.m. – 9:00 p.m. The seniors could use it from 10:00 a.m. – 2:00
29 p.m. and other windows of time when it is not being used. The Youth Advisory feels that the
30 majority of teens will be walking to the center and that there will not be a lot of traffic. There
31 is an existing horseshoe shaped driveway 10 ft. wide, two handicapped spaces and five
32 conventional spaces, all paved.

33
34 Some of the thoughts for programs are educational, home work help and tutoring, financial
35 life skills, career exploration, college preparation, health and wellness and recreation.
36 Recreation could also include pick-up ball games outside on the grassy area. Mr.
37 Pogorzelski stated that the Youth Advisory Board would like to make minor modifications
38 inside the building which would include a lounge area with games and electronics and a
39 snack bar. There would be other rooms used for music, art and computer lab and a larger
40 room which would also be good for the seniors.

41
42 Ms. Kim Bruno stated that she was the adult on the Youth Advisory Board and there are
43 fourteen high school students that make up the Board and are from all three municipalities.
44 She stated that they have been visiting the municipalities and organizations in the
45 community explaining the plan. She stated that they were before the Pennington Borough
46 Council in March and felt that the Council supported the idea, but did not have the finances
47 to contribute. She stated that Hopewell Borough will be considering a resolution to support
48 the center.

49
50 Mr. Pogorzelski handed out a copy of a survey that the YMCA had done on the site in which
51 the acre and a half was marked off. He stated that there were two flood lights which lit the

1 parking area and the other one the handicapped spaces. He stated that there was another
2 pole with flood lights which they would not need. Ms. Bruno stated that they had met with
3 Pennington Point residents and the School Board. Mr. Reuter asked who would be
4 responsible for supervising the activities and Ms. Bruno stated that the YMCA would help
5 hire a manager and staff who would also be responsible for security on the site.

6
7 Ms. Heinzel stated that Council members had a lot of questions and concerns. One of her
8 concerns was the students crossing Route 31 where there are no crosswalks. She stated
9 that taxes were also a concern since the Borough was already making difficult cuts to the
10 budget. She also was concerned that the use does not come under the allowed uses of the
11 zone. Ms. Donlon questioned if the tax amount mentioned includes the building and Mr.
12 Pogorzelski stated that it did, but \$1,569 was the amount of local taxes and did not include
13 County or school taxes. The title of the property would remain under Capital Health until the
14 time the YMCA takes title. Ms. Bruno stated that the teens are doing fund raising and their
15 goal was to raise enough funds for two years operating costs and renovation costs. Ms.
16 Coppola pointed out that the Planning Board has not received anything from the YMCA. Ms.
17 Coppola has concerns because the Borough has a contract with COAH to provide
18 affordable housing on this site as part of their Second Round certification. She pointed out
19 that neither the YMCA nor the teen center is a permitted use on the site under the Borough's
20 Ordinance and the Borough could not change the zoning without permission from COAH.
21 Mayor Persichilli affirmed that there are COAH requirements and the Y has not met with the
22 Borough concerning the zoning or the COAH requirements. Mr. Pogorzelski stated that the
23 lease for the Teen Center would be with Capital Health and not the YMCA. The lease would
24 be month to month as this is a temporary situation and they would confer with the Borough
25 regarding the wording. He stated that they are very sensitive towards affordable housing
26 and would not want the Borough penalized. Ms. Coppola suggested that no improvements
27 be made to the exterior of the building other than regular maintenance since it is temporary.
28 Mr. Schmierer stated that the use is temporary, the zoning is not being changed and he
29 does not feel that it has to be approved by the State.

30
31 Mr. Thompson stated that he was familiar with the property. Capital Health formerly ran
32 seminars in the building and some of the kids from the Cambridge School would use the
33 fields to play soccer and he stated that it was a limited use roadway. In responding to a
34 question regarding procedure, Mr. Schmierer explained that this was an informal concept
35 review and not a development application which is stricter. Pennington is the host
36 community and if they were to approve it, it could be subject to conditions. Mayor Persichilli
37 had questions regarding handicapped access and water and sewer to the property. Ms.
38 Bruno responded that there was a handicapped bathroom in the building, but they may have
39 to provide a ramp into the building. Mr. Pogorzelski stated that the big issues were heating
40 and air conditioning because the building has not been used for several years. Mayor
41 Persichilli asked if the Borough would be responsible for any of the services. Ms. Heinzel
42 asked what would be done about the taxes. Mr. Pogorzelski stated that the teens would pay
43 the \$1,500, but the taxes through this year would be paid. Ms. Heinzel suggested that this
44 should be a condition of approval. Mr. Schmierer suggested that if the Teen Center area
45 came off the tax rolls, one of the conditions of approval would be that a payment in lieu of
46 taxes be made to the Borough in the amount of the estimated taxes. Mr. Schmierer did not
47 feel that the County or the School Board would have any objections to the loss of taxes,
48 since it was a project for the teens. Mr. Reilly pointed out that it would be hard to approve a
49 site plan that would tear down the building after the teens have invested so much money in
50 it. Ms. Bruno stated that the teens were aware of this, but wanted to go ahead with it and not

1 wait for the Y. If the YMCA did get approvals and build on the site the teens would be
2 included.

3
4 Mr. Thompson asked if there was anyone in the public who had comments or questions. Mr.
5 Bill Farmer, Senior Advisory Board, stated that they had talked with the teens. He pointed
6 out that they have a one room facility at the senior center and they look forward to sharing
7 the building when the teens are not there. Mayor Persichilli asked who would care for the
8 driveway and sidewalks for the seniors when it snowed. Ms. Bruno stated that the teens
9 have discussed budgeting for their activities and hours, but there has not been anything
10 finalized regarding the seniors. Ms. Heinzl asked if something came up unexpectedly who
11 had the ultimate responsibility for the teens, the Y or the Township. Ms. Bruno stated that
12 the Township's liability insurance would cover the center and the Y would have the staff
13 covered by liability insurance. Ms. Bruno stated that they would be hiring a part time director
14 and assistant. Ms. Heinzl stated that she feels it is great that the teens have come this far,
15 but she has concerns since the Borough is unable to financially help out and in an
16 emergency who would have the ultimate responsibility. Mr. Pogorzelski stated that the
17 Township Committee shared her concerns about where responsibilities lie.

18
19 Mr. Dave Haggerty thanked the Board for engaging in the conversation and stated that his
20 daughter has been involved for four years and that the other teens are just as committed.
21 He hopes that the municipalities could get together to support the teens and support the
22 center. Ms. Cheryl Stone, Chairman of the Municipal Alliance, stated that the Recreation
23 Foundation was created from the alliance and they have committed \$15,000 to the staffing
24 of the teen center. This is a show of support and they hope that the municipalities could
25 think a little harder about how it would help all the teens valley wide. Mr. Thompson allowed
26 Ms. Bruno to read a letter from a resident since this was an informal review. The letter was
27 from Mary Clare Garber, a resident of Pennington Borough, expressing the importance of a
28 teen center in the community and requesting the Board to support the teen center. Mr. Jim
29 Burd, Committee Member of Hopewell Township, stated that he has been the liaison to the
30 Youth Advisory Board for a couple of years and felt that they have done an outstanding job.
31 He stated that twice they have done a survey including members of Timberlane and the high
32 school and the results after both surveys were the same. The surveys showed that 25% of
33 the students are turn-key children and he feels that this should be taken into consideration
34 as this would give them an alternative place to go. He stated that the teen center would also
35 offer activities that are not offered after school.

36
37 Ms. Coppola reiterated her concerns regarding the Board approving the center and felt that
38 the resolution should include wording that it is a temporary use and any improvements that
39 are done are at their own risk of what may happen to the building when the property is
40 developed, but the full intent of the Borough and of the Board is to have this property
41 developed as presently zoned and as required under the Second Round Substantive
42 Certification from COAH. Mr. Schmierer agreed and stated that the resolution will include
43 that it is a temporary use only with a month to month lease, will reaffirm the COAH zoning
44 commitment for the property; Planning Board professionals will review the lease that it is
45 consistent with the Board's approval and that it is month to month; and that the Youth
46 Advisory Board will make a contribution in lieu of taxes for the estimated local tax on the 1.5
47 +/- acre parcel, estimated to be \$1,500 per year; no external improvements to the site other
48 than maintenance will be done. Ms. Donlon made a motion seconded by Mr. Reilly to
49 approve the capital review with conditions as reviewed. Voting yes: Donlon, Heinzl,
50 Persichilli, Reilly, Reuter, Thompson, Levy. Voting no: none. Absent: Blackwell, O'Neill,
51 Ogren. The review ended at 9:25 p.m.

1
2 **ZONING OFFICER'S REPORT**
3

4 Mr. Flemming reported that he had received a letter from John Hall, Construction Official,
5 regarding 228 S. Main Street. The house had Planning Board approval for Gary Mertz. Mr.
6 Hall stated that the half-story attic space is carpeted, air conditioned and sheet rocked. The
7 ceiling height is less than 7 ft. and it is not built to meet the definition of habitable space, but
8 it is clearly finished as a usable third floor. The resolution states that the applicant testified
9 that the space is to be used solely for storage and will not be habitable space.

10 Mr. Schmierer stated that he had spoken to Gary Backinoff, Esq. regarding this and the
11 buyers understand and they do not want to use the area for living space. Mr. Schmierer
12 suggested a Deed Notice stating that the use of the third floor is for storage only and cannot
13 be used as habitable space. Mr. Flemming and the Board agreed with the Deed restriction.
14 Mr. Flemming stated that having climate controlled storage areas is not unusual. There was
15 further discussion regarding this and Mr. Flemming stated that the Board does not get
16 involved on the building level concerning electric, venting, heating, etc. Mr. Schmierer stated
17 that Mr. Hall had no choice, but to issue a CO if the house was built according to the
18 construction code and to the approved plans.

19
20 Mr. Flemming stated that there is a potential of a tear down on Hale Street and the house is
21 designed to use all the buildable space on the property. Mr. Schmierer stated that he had
22 received a call from Al Kettell, Esq. and a copy of the elevation of the proposed house. The
23 house is a two-story house similar to homes in the Borough and is large, but will not require
24 any variances. It has a detached two-car garage connected by an open breezeway. The
25 second floor of the garage has a separate living area consisting of a bedroom, sitting area
26 with sink and a bathroom. It also has exterior stairs. The buyers have adult children and
27 grandchildren and they would use this area when they visit. Mr. Schmierer stated that it
28 conforms in every way to the zoning regulations and the buyers understand that it cannot be
29 used as a separate living area. Mr. Schmierer recommended a Deed restriction stating that
30 the unit over the garage cannot be used as a separate living area or as a rental unit. Ms.
31 Donlon pointed out that the Board has approved many living spaces of all sorts over
32 garages in the past few years and there was further discussion regarding this. Mr. Flemming
33 stated that this house might cause discussion regarding the FAR (floor area ratio). Ms.
34 Coppola stated that the problem with FAR in the R-80 zone is that there is such a large
35 variable in the size of the lots. There was further discussion regarding the FAR in the R-80
36 zone.

37
38 **MEMORIALIZATION OF RESOLUTION**
39

40 **The Pennington School – 112 West Delaware Avenue, Block 205, Lot 1, and Block 502,**
41 **Lot 4.**

42 Ms. Donlon made a motion, seconded by Mr. Reuter to adopt the resolution. Voting yes:
43 Donlon, Heinzl, Meytrott, Reilly, Reuter, Thompson. Abstain: Levy, Ogren; Absent:
44 Blackwell, O'Neill, Persichilli. Ms. Donlon questioned the expiration date of the approvals.
45 Mr. Schmierer stated that the approvals are locked up with the Permit Extension Act and
46 they have vesting with the site plan approval. He stated that the law will dictate how long the
47 approvals will be valid. Mr. Schmierer stated that site plan approval is good for three years.
48 and the work which needed variances is covered under the site plan approval time
49 constraints. Mr. Schmierer suggested that a follow-up could be done in three years if the
50 school has not done any more work.
51

1 WORK SESSION

2
3 Ms. Coppola noted that the last Master Plan Reexamination Report adopted was in 2005
4 and the six year period for another reexam is coming up in 2011.

5
6 Ms. Coppola stated that there are problems when applicants reduce their plans and they are
7 not to scale. She suggested that when the Board is working on the checklist, the applicants
8 should be required to submit full scale plans to the professionals. She also suggested that a
9 signed, sealed survey be required for the professionals. (Ms. Coppola left the meeting.)

10
11 MINUTES – Ms. Donlon made a motion, seconded by Mr. Reuter to approve the
12 minutes of the April 14, 2010 Planning Board meeting with a correction and the minutes
13 were approved by voice vote.

14
15 HISTORIC ELEMENT – Ms. Heinzl stated that Eric Holtermann attended the last Council
16 meeting and made a brief presentation to Council. The Mayor then appointed a committee
17 to write the ordinances with the help of Eric Holtermann. The committee consists of: Tom
18 Ogren, Kit Chandler and Eileen Heinzl.

19
20 Ms. Heinzl also reported that Vito's temporary dining area was approved by Council. She
21 also reported that Mr. Lawver was working on a resolution for the bidding on a liquor license.
22 Mr. Ogren stated that the Planning Board should look into potential sites where the license
23 could be used if the zoning was changed.

24
25 Ms. Donlon made a motion, seconded by Ms. Heinzl to adjourn the meeting and the
26 meeting was adjourned at 10:20 p.m.

27
28 Respectfully submitted,

29
30
31 _____
32 Mary W. Mistretta
33 Planning Board Secretary