

**PENNINGTON BOROUGH  
PLANNING BOARD MINUTES  
REGULAR MEETING  
FEBRUARY 9, 2022**

Mr. Reilly, Board Chair, called the meeting to order at 7:30 p.m. and announced compliance with the provisions of the Open Public Meetings Act. He stated that the meeting was being held via a Zoom webinar and access to the meeting had been noticed.

**BOARD MEMBERS PRESENT:** Mark Blackwell, Deb Gnatt, Andrew Jackson, Seung Kwak, Cara Laitusis, Katherine O'Neill, James Reilly, Douglas Schotland, and Hilary Burke

**BOARD PROFESSIONALS PRESENT:** Edwin W. Schmierer, Planning Board Attorney, Mason, Griffin & Pierson, John Flemming, Zoning Officer, James Kyle, Planner, KMA Associates

**REGULAR MEETING**

**OPEN TIME FOR PUBLIC ADDRESS** – Mr. Reilly asked if there was any member of the public who had joined the meeting and had comments. There were participants and no comments.

**ZONING OFFICER**

Mr. Flemming mentioned the increase in requests for variances for generators. He recommends that the Board finds a way to support the increased use of generators. He also mentioned the storm water questions on the application and the frequent need for waivers in this area. Mr. Reilly noted that the Master Plan committee is cognizant of these issues and will be working on them as they take a close look at the Plan. Mr. Jackson suggested that we consider adding an emergency use only condition to the requirements around generators.

The Pennington School has asked for a temporary permit for a large tent. Mr. Flemming proposes that this not be sent before the Board because it is solely for temporary use. There were no objections to this proposal.

Mr. Flemming has a question about the allowance of Marijuana dispensaries. He asked if there is any other information that he can share with applicants or information seekers. Mr. Schmierer shared that all applicants would have to come through the Board as this requires a conditional use permit and that there is an ordinance that can be sent to anyone inquiring about Marijuana dispensaries.

Mr. Rotundo, invited by Mr. Flemming, has modified his previously withdrawn request to include only modifications to the basement staircase. The newly proposed staircase would be no closer to the rear property line than the bilco doors but would not be the exact same design as in the prior proposal. The new stair design would be parallel to house and not perpendicular. Mr. Kyle summarized that this is not a public hearing and that Mr. Rotundo is not asking for a variance but is only asking the Board to rule on whether or not the new configuration needs a variance. Mr. Rotundo does not want to pay for another application that may be rejected outright. The question is whether or not this configuration increases the degree of non-conformity because the area for the stairs will be enlarged but the stairs will not be closer to the neighbor's yard. Mr.

Reilly stated that he believes it would increase the non-conformity because of the larger area of intrusion. Mr. Schotland suggested that the Board refer to the ordinance 215-52 to help guide the answer. Mr. Rotundo asked the Board to vote on whether or not this revision needs a variance because the new design does not increase the nonconformance with regards to the setback. Mr. Blackwell made the point that without a variance, there is a risk that the Board could be sued and any stairs that would be built would have to be taken out; thus it might behoove the applicant to seek a variance. Mr. Rotundo expressed that his neighbor's objections centered on there being no hardship; and the new configuration would also not be a hardship thus any new application would incur expenses and be rejected outright. Mr. Kyle and Mr. Blackwell made the point that that the revisions made to the initial request make it a substantially different application so presentation before the Board might be the best course of action. Ms. Laitusis stated that, in the prior discussion of this issue, she said that she thought not having outside stair access to a basement is not a hardship. Mr. Rotundo believes the hardship is that his home was built with a non-conforming to the rear-yard setback. Mr. Reilly suggested that Mr. Rotundo ask for an interpretation to be considered at the next meeting. Mr. Schmierer stated that if the applicant asks for an interpretation and if the Board agrees that a variance is not necessary, the process ends. If the interpretation is not in the applicant's favor the Board can consider the variance immediately or at a later date. Mr. Reilly summarized that Mr. Rotundo can send in a written, formal, detailed request for an interpretation from the Board on whether or not the new configuration needs a variance.

### **OLD BUSINESS**

No Old Business at this time.

### **NEW BUSINESS**

Application # P22-01, Zambrano, 314 Sked Street, seeking approval to install a gas generator.

Mr. Zambrano was sworn in by Mr. Schmierer. Mr. Zambrano has requested a waiver of 6A and B regarding storm water management. Motion to waive was made by Mr. Blackwell and seconded by Ms. Laitusis. There was unanimous agreement via voice vote.

Mr. Zambrano presented his argument regarding placement of the generator on the north side of the house where there is not the necessary 15 foot clearance from the property line. Photos presented showed that the north side of the residence is where the utilities are currently located. The photos also showed the property line, the distance to the neighbor's home, and a front view and side view of the home with a mock-up of the generator placement.

Per Mr. Zambrano's electrician, 5 feet from house where there are windows is ok. Mr. Jackson asked if it was possible to get a definitive answer on the necessary clearance. Mr. Kyle was sworn in and has researched the specifications and reports that if the generator is enclosed it should be within 5 feet of windows and doors and 18 inches from a combustible surface and manufacturer's specifications should be taken into consideration. Mr. Zambrano estimated that the generator will be about 3 feet from the property line and 100 feet from the next home which faces Voorhees Ave. Ms. O'Neil asked whether or not Mr. Zambrano was happy with the placement of the generator on the north side. Mr. Zambrano reports that this area is nearly exclusively for utility use and thus suitable for the generator. Mr. Zambrano also stated that he will increase the plantings in this area to further block the view from the street. Mr. Reilly asked if there were a specific reason, other than convenience, for needing or wanting a generator. Mr. Zambrano replied that there are no other specific reasons.

Mr. Flemming was sworn in and stated that the construction department will review specifications and electrical and fire code compliance once the permit moves to them.

The chair called for comments from the public. There being no comments, the public portion of the public hearing has been closed

Ms. O'Neill asked if the landscaping is a condition of the variance. Mr. Reilly clarified that if landscaping is not a condition of the motion, the specific landscaping is left in the hands of the landowner. Mr. Flemming mentioned that to put a condition on vegetation could be a burden to the homeowner and inspectors in the long run.

Mr. Jackson moved that the application be approved with no conditions; Ms. O'Neil seconded.

Blackwell-yes

Gnatt-yes

Kwak-yes

Laitusis-yes

Burke-yes

O'Neil-yes

Reilly-yes

Schotland-recused

Motion is approved unanimously.

#### **Master Plan Review-Climate Change**

At the January meeting a new Master Plan Review Committee was constituted. Mr. Schmierer has collected items of interest regarding climate change that might be useful for the MPR committee and shared with Betty Sterling to disseminate to the committee. Mr. Kyle shared an example of Bordentown's Master Plan Review showing information on the effects of climate change. Mr. Jackson noted that there is a toolkit from the state available online. Mr. Jackson asked if it has been considered to do a plan that incorporates Hopewell Township and possibly other surrounding areas. Mr. Reilly mentioned that in the past there has been some joint planning specifically on a disaster mitigation plan created in conjunction with Hopewell Township. Mr. Kyle will do some research regarding the status of disaster planning in Mercer County as a whole. There is a discussion about whether to fully re-do the prior master plan or to simply update it. Not all elements will require a full update. Mr. Kyle will generate a proposal that includes a range of options from a full re-write to only updating certain sections. Mr. Schmierer recommends that the proposal and recommendations be made fairly quickly so they might be included in the 2022 budget. Mr. Reilly is working on scheduling a Master Plan Review Committee meeting to move this work forward.

Due to no applications being received, the March meeting will be cancelled unless an emergency arises.

**MINUTES** – It is anticipated that minutes will be available in the near future.

Ms. O'Neill made a motion, seconded by Ms. Gnatt to adjourn the meeting. All voted in favor to adjourn via voice vote.

Respectfully submitted,