

PENNINGTON BOROUGH
JOINT PLANNING & ZONING BOARD MINUTES
REGULAR MEETING
April 12, 2023

Mr. Reilly, Board Chair, called the meeting to order at 7:32 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, Hilary Burke, Andrew Jackson, Amy Kassler-Taub, Cara Laitusis, Katherine O'Neill, James Reilly, Doug Schotland, Jen Tracy
Absent-Deborah Gnatt

BOARD PROFESSIONALS PRESENT: Beth McManus, Planner, KMA Associates, Ed Schmierer, Attorney, Mason, Griffin & Pierson, Brian Perry, Engineer, VanNote Harvey, Katie Ronollo, Board Secretary

OPEN TIME FOR PUBLIC ADDRESS

Mr. Reilly asked if there was any member of the public who had joined the meeting and had comments on items not on the agenda. There being no member of the public wanting to comment, the open period for public comment was closed.

ZONING OFFICER REPORT

John Flemming confirmed with Mr. Schmierer that the appeal of the fence at 1 North Main Street has been withdrawn and the opportunity to appeal has passed. Questions were asked about the approval of a fence that interfered with operations of a business. John clarified that Emily's was using the 1 North Main Street site for deliveries without an easement in place. The owner of 1 North Main is free to alter his property within the limits of the ordinance without consulting the adjoining property owners. 9-11 North Main Street (Emily's Café) may still come before the Board regarding a door on the north side of the building and plans to accept deliveries without an easement for use of the property to the North.

The Harbat property may be coming in for an appeal of a site plan. The uses currently on the site are not approved and there have been numerous complaints from residents.

Mr. Flemming noted that he picks up unpermitted signs as he sees them and he deputizes members to pick up signs in the public right of way.

NEW BUSINESS

No new business

OLD BUSINESS

PB 23-004, Emily's Café, 9 North Main Street, Block 301 Lot 5.01, appeal of the Zoning Officer's decision to approve a fence at 1 North Main Street. This application has been withdrawn by the applicant.

PB 23-002, Neary, 51 Eglantine, Block 302 Lot 2, minor subdivision with pre-existing non-conformities which will not be exacerbated by the subdivision and 2 d(1) use variances. This application has been carried from the March 8, 2023 meeting.

The total of requested variances as outlined by Mr. Kyle in his March 6, 2023 memo are:

Proposed Lot 2.01

- Minimum lot area, 12,000 square feet required and 9,763 square feet proposed
- Minimum lot width, 80' required and 59.79' proposed

Proposed Lot 2.02

- D(1) use variance to permit a driveway as a principal use
- Minimum lot area, 12,000 square feet required and 3,847 square feet proposed
- Minimum lot width, 80' required and 30.04' proposed
- Maximum lot coverage, 40% permitted and 56.6% proposed

An additional variance has been requested as of the date of this meeting:

- D (1) use variance for 2-family property in the R-80 zone.

Mr. Schmierer swore in Ms. McManus. All other professionals and applicant representatives remained under oath from the March 8, 2023 meeting. Mr. Ridolfi, lawyer for the applicant, introduced Mr. Neary, the applicant and Mr. Falcone, Professional Planner with Princeton Engineering, the planner for the applicant. Mr. Neary explained that the front house (302/2) is a 2-family home and today they are requesting an additional variance for this use which is not permitted in the R-80 Zone.

Mr. Falcone reiterated all the requested variances which were discussed in detail at the March 8, 2023 meeting. He stressed that the appearance and current uses of the lots would not be changing. This subdivision and associated variances would serve to codify the current use of the properties. It is believed that Hopewell Township will look less favorably at expanding a landlocked lot. The requested subdivision will provide access and frontage to 46.04/18 and enabling it to be more accessible and saleable.

Mr. Neary testified that the purpose of the sub-division is to make the process of sale easier. He noted that 51 Eglantine (302/2) has been a 2-family house since the 1930s.

Mr. Ridolfi said that the applicant agrees to these conditions: The driveway (proposed 302/2.01) for 302/2 and 46.04/18 will not be expanded; the landscaping and trees will remain for the life of the trees; replacement of trees with a similar size will be noted; there will be a maintenance and access driveway easement between proposed lot 302/2.01 and 302/2.

Questions from the Board included: What is the benefit to the Pennington property owner of 302/2? What are the tax implications of properties split between 2 towns? What is the rationale behind increasing the size 46.04/18 in Hopewell Township? Mr. Falcone replied that a benefit to the owner of 302/2 is that it will actually be increased in size if the proposed rear line adjustment is approved. Any tax implications will be decided upon by the tax assessor. Increasing 46.04/18 brings it more in line with Hopewell township zone regulations without infringing on 46.04/8.01.

Ms. McManus noted that the applicant is attempting to create the most logical lot lines available within the constrictions of the lots. Mr. Kyle's memo recommends conditions discussed in his memo and that the deeds and easements be shared with the Planning Board for the files. The applicant's professionals have no issues with conditions mentioned. One main condition on the applicant's end is approval by Hopewell Township of the full plan in their jurisdiction.

Ms. Tracy asked for clarification on the MLUL preference for frontage that Mr. Ridolfi referenced. Mr. Schmierer said that the MLUL provides that a building lot must abut a street and if it does not, it is not developable without a use variance. Mr. Schmierer believes there will be a better likelihood of approval of the subdivision in Hopewell Township if frontage has been secured via this subdivision.

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Mr. Reilly opened the meeting for public comment.

Kathleen and George Nash, 49 Eglantine Ave in Pennington. Ms. Nash remained under oath from the March meeting. Mr. Nash was sworn in by Mr. Schmierer. Ms. Nash read comments for the record. The Nash's would prefer that an easement be used to assure access to 46.04/18 and that the full frontage on Eglantine remain as one lot in Pennington. Mr. Nash appreciated that many of the concerns have been dealt with by the conditions mentioned this evening. Their main point is that is preferable to have the property remain "as is" i.e. the lot lines remain as they are today.

Dan Pace, 9 Railroad Place, Pennington, NJ. Mr. Pace commented that he believes the application is reasonable and serves both the Borough and Mr. Neary appropriately.

Lyn Gustafson, 105 Lewis Brook Road, Hopewell Township NJ, commented that she would like to be certain that the associated conditions be included in the approval.

There being no other members of the public wanting to comment, the public comment period was closed.

Mr. Schmierer clarified that the Mayor's representative and the Council representative are not eligible to vote due to d(1) variances being considered. The three Board members who were absent for the March meeting have certified that they have watched a recording of the meeting and therefore are eligible to vote today. A supermajority of 5 affirmative votes would be necessary for the variances to be granted.

The consensus of the Board members is that this application, with associated conditions, provides a solution for a complicated situation and there will be little detriment to Pennington Borough. One Board member disagreed with this assessment. Mr. Schmierer clarified that fee title (ownership) is generally preferable to an easement to assure frontage to a lot.

Mr. Blackwell made the motion to approve the requested variances with associated conditions.

Mr. Schotland seconded the motion to approve the application. There was no further discussion.

ROLL CALL:

Blackwell Yes	Burke Recused	Gnatt Absent
Jackson Yes	Laitusis No	O'Neill Yes
Reilly Yes	Schotland Yes	Alt. #1 Kassler-Taub Yes
Alt. #2 Tracy Not Voting		

With 6 in favor, the motion passed.

RESOLUTION OF MEMORIALIZATION

PB 23-003, Ellis, 326 Burd Street, Block 705 Lot 19, bulk variance for a full bathroom in an accessory structure approved at the March 8, 2023 meeting.

Mr. Reilly and Ms. Kassler-Taub have recused themselves due to being within the 200 foot notification area.

Motion to approve was made by Mr. Blackwell and seconded by Mr. Jackson.

ROLL CALL:

Blackwell Abstain	Burke Yes	Gnatt Absent
Jackson Yes	Laitusis Abstain	O'Neill Abstain
Reilly Recused	Schotland Yes	Alt. #1 Kassler-Taub Recused
Alt. #2 Tracy Yes		

The resolution is memorialized.

MASTER PLAN REEXAMINATION

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Mr. Jackson noted that the draft reexamination report was shared with Borough Council. Comments were favorable with one question regarding the space available for affordable housing. Mr. Jackson and Mr. Kyle will confer about the language to include in the plan. Council was supportive of conducting a full new Master Plan.

The Planning Board agreed via voice vote that the date for public meeting will be May 10, 2023 at 7:30PM, in person at the Borough Office. The meeting will be advertised and shared with the County and State Planning Boards. The report will be posted on the website and available for review at the Borough office prior to the public hearing. At the hearing, Mr. Kyle will present the Master Plan and the public will have the opportunity to ask questions. After the public comment period, the Board will vote on passage of the reexamination plan.

ZOOM MEETING FORMAT

The pros and cons of moving meetings to in-person were discussed. The May 10, 2023 meeting will be in-person but there will be no permanent switch to in-person meetings at this time.

POSTING OF BOARD MATERIALS ONLINE

Materials for current applications have been posted online. There was a question of access today but the materials have been available prior to today. Due to changes in the website, posting of the applications is a work in progress.

MINUTES

The March 8, 2023 minutes were approved with noted corrections via a motion by Ms. Burke and a second by Mr. Jackson. All eligible voters were in favor via voice vote.

Ms. O'Neill made a motion, seconded by Ms. Laitusis, to adjourn the meeting. All voted in favor to adjourn via voice vote at 9:58PM.

Respectfully submitted,

Katie Ronollo
Board Secretary