

**PENNINGTON BOROUGH
PLANNING BOARD MINUTES
REGULAR MEETING
September 14, 2022**

Mr. Reilly, Board Chair, called the meeting to order at 7:31 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, Cara Laitusis, Katherine O'Neill (arrived at 7:34), James Reilly, Douglas Schotland, and Amy Kassler-Taub

BOARD PROFESSIONALS PRESENT: Jim Kyle, Planner, KMA Associates, Brian Perry, Engineer, Van Note Harvey, Ed Schmierer, Attorney, Mason, Griffin & Pierson, Katie Ronollo, Board Secretary

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 on items not on the agenda. There being no comments, the open time for public address was closed.

NEW BUSINESS

Amy Kassler-Taub took the oath of allegiance and is welcomed to the Board as Alternate #2 for an unexpired term ending December 31, 2022.

Mr. Reilly noted that Alternate #1, Jeanne Van Orman, has resigned from the Board.

Ms. Kassler-Taub was nominated to the Application Review Committee. A motion to appoint Ms. Kassler-Taub was made by Mr. Jackson and seconded by Ms. Laitusis. All were in favor via voice vote with no further discussion.

APPLICATIONS

PB 22-007, Zhang- 161 E. Delaware Ave, Block 403, Lots 33 & 34, d(4) use variance for a new home exceeding Maximum Gross Floor Area by 800 square feet.

Chris Tarr, Stevens & Lee, attorney for the applicant, introduced the architect for the applicant, Bob Hillier, Studio Hillier, and the applicant, Kathy Zhang who were sworn in to testify.

Mr. Tarr explained that the applicant desires a greenhouse that is connected to the primary structure. Generally a greenhouse, an accessory structure, does not count toward the gross floor area. He further explained that once the greenhouse, or any other accessory structure, is attached by a covered walkway to the primary structure, the

accessory structure and its connecting walkway need to be included in the floor area calculation.

Mr. Hillier shared Exhibit A1 which is a series of 12 slides labeled ZZ1-ZZ12. Slide ZZ1 is a topographical map of consolidated lots 33 and 34 showing the footprint of the proposed home, driveway, greenhouse and attached walkway. Mr. Hillier testified that slide ZZ1 illustrates the position of the home on the lot and that the applicant intends to keep the majority of trees on the combined lot. Slide ZZ2 shows the floor plan for the first floor, ZZ3 shows the floor plan for the second floor, ZZ4 shows the exterior elevations of the proposed new structures and the rain chains that are proposed in the place of roof drains. Mr. Hillier explained that the chains are helpful in directing runoff from the roof. Mr. Hillier mentioned that the applicant intended to use muted brown house colors in order to make a quiet statement and blend into the nature of the site.

Slide ZZ5 is a perspective plan of the home looking up at the site which shows the height of the greenhouse compared to the rest of the home. Slide ZZ6 highlights the 2nd floor area which is open to below. After a brief discussion, Mr. Kyle agreed that, by definition of a story, if there is no ceiling above, the area open to below should not be counted twice in the gross floor area calculation. (Note-slide ZZ7 was skipped)

Slide ZZ8 shows the basement floorplan and highlights its compliance with zoning regulations. Per Mr. Tarr, Pennington Zoning Code specifies that floor area is the “sum of all stories” and that a basement is considered a story “...when the distance from the undisturbed natural grade to the finished surface of the floor above the basement is more than three feet for more than 50% of the total perimeter of the building...” Mr. Hillier testified that using the definition in the ordinance, 53% of the basement of the proposed home meets the criteria for the basement not to be considered a story.

Regarding a d4 variance, Mr. Tarr explained that the positive criteria is met because the site can accommodate any problems associated with exceeding the gross floor area. Mr. Tarr believes that any perceived problems are solved by having a larger site with abundant landscaping. Slide ZZ9, sight plan as of right, highlights the enclosed walkway between the greenhouse and the solarium area. The applicant desires an enclosed walkway in order to protect the plants as they are transitioned between the solarium and the greenhouse. The enclosed walkway will make it easier to access the greenhouse in all types of weather.

Slide ZZ10 shows the proposed site plan with the lots merged compared to the as of right site plan with the lots not merged. Mr. Hiller explained that if the lots were not merged, the allowable living space would be 8,000 square feet, or 2 homes, in the same lot area where the applicant is now proposing to build one home that is slightly larger than currently allowed. Slide ZZ11 shows the proposed home and neighboring property footprints. Mr. Hillier testified that the proposed construction is not unique in this area and fits within the character of the neighborhood. In addition, use of this lot in the way proposed will help to conserve the park-like atmosphere of this section of Pennington. Slide ZZ12 is comprised of photos from the proposed home site at 3 different angles. Mr. Hillier testified to the natural screening that the trees provide between the location of the proposed home and neighboring properties.

Mr. Tarr summed up the presentation by noting that the question is whether there can be an enclosed connector between a primary and an accessory structure where each structure complies with the code in its own right but, once connected, the structures do not comply. Mr. Hillier responded to a question from the Board regarding the demolition of the home and the status of the swimming pool. Mr. Hillier clarified that the swimming pool is included in the demolition.

Brian Perry, Engineer for the Board, testified that he is ok with delaying any soil boring until the site plan is complete. The engineering review will happen once the plot plan review occurs which is further along in the construction process. The schematics provided thus far look adequate. Mr. Perry specified that site plan approval is not required for a single family home. He noted that all other approvals would need to be received from the Mercer County Soil Conservation District, Mercer County for drainage and right of way, and to the Delaware Raritan Canal Commission for judgement on jurisdiction.

Mr. Reilly called for a motion to waive item 6b on the application. Ms. Laitusis made the motion to waive 6b with the condition that further engineering review take place at the time of plot plan review. The motion was seconded by Mr. Schotland and all were in favor via voice vote. The motion to waive #6b with further engineering review at the time of plot plan review passed.

Mr. Kyle testified on his memo dated September 9, 2022 which provided a summary of the zoning criteria. Mr. Kyle reiterated that he agreed that the floor area should not be counted twice for areas of the home open to below. Regarding the basement, Mr. Kyle mentioned that in the Markinson case, the zoning officer had noted that he considered any area of a basement that could potentially be used as living space as part of the gross floor area. This determination is different from the requirements. Mr. Kyle testified that the basement as presented by Mr. Hillier satisfies the requirement to not be counted in the gross floor area. He recommends the condition that Mr. Perry review the grading and plot plan at time of construction.

Mr. Jackson, the Board representative from the Environmental Commission, noted that there were concerns about the storm water which have already been addressed. He noted the recommendations that the applicant consider green building options when possible and that waste be reduced through the use of effective recycling techniques. Mr. Hillier noted that they use the LEED point system to guide their construction and make plans with sustainability in mind. Mr. Hillier noted that Hillier is re-using materials whenever possible.

Ms. O'Neill inquired about the location of the current house on the plot. Mr. Hillier showed the outline of the current house and pool which gave a sense of the setback of the proposed home vs. the current setbacks. Ms. O'Neill asked about the chain drains. Mr. Hillier showed slide ZZ13 which details the rain chain construction. The drainage from the house and roof will be directed the same way that it is currently with modernization of the pipes. Mr. Hillier explained that the home will have a French drain around the periphery that will help to collect water and direct it toward the drain system.

Mr. Blackwell asked if the intent was to direct all water off the site into the county drain system. Mr. Hillier confirmed that it is the intent to drain all water from the site into the county system and that permission will be sought from Mercer County. If the county denies permission to use their system, the alternate plan is to create a raingarden to recoup any water that may not drain. Ms. Burke asked Mr. Perry if any other homes use the county drainage system. Mr. Perry noted that he is not sure how many homes use this system but that the county has granted homeowners permission to use the system in the past. He also mentioned that there is some sheet flow noted in the plans which may not drain into the county system. Mr. Perry explained that since this site already drains into the county system, when applying to Mercer County, the applicant will need to show that the increase in impervious coverage will not adversely affect the drainage system.

With no more questions from the Board, Mr. Reilly opened the hearing for public comment.

Meredith Moore, 153 East Delaware Avenue, was sworn in to testify. Ms. Moore lives directly west of the applicant's property. She noted that the home was an impressive design but her primary concerns are water management and light. There has been an increase in storms and drainage has gotten worse. She has put in French drains and done other things to manage the water issues on her property. Ms. Moore wants to be assured that there is no increased runoff from the new property and that the west to east flow of water will not be impeded. Regarding lighting, Ms. Moore stressed that the area is very dark and park like but that has changed a bit with some residents putting in exterior lighting. Ms. Moore reported that bright lights were installed on the site in question just after the home was sold and that these lights were on all night. She would like to know the lighting plan for the construction phase in addition to the lighting plan for once the home is occupied. Ms. Moore expressed concern that a "glass box" -type home may emanate more light. Mr. Hillier responded that no grading will be changed on the side of the property next to the Moore home and that whatever flow has been sheeting will continue to do so. The intention is to use brick pavers in the circle of the driveway to help reduce impervious coverage. If bricks are not possible then pervious asphalt will be used. Mr. Hillier explained that reducing light pollution has been taken into consideration. Bollard lights are planned for outdoor lighting. There will be no large lights on the driveway or elsewhere on the property. The greenhouse lights will not be on overnight. Mr. Hillier shared slide ZZ14, the tree plan, to demonstrate that very few trees will be removed which will provide additional protection from lighting. Ms. Moore asked if lighting will be indicated in a plan and Mr. Hillier replied in the affirmative and agreed to share the lighting plan once it has been finalized. Ms. Moore explained that when she built a garage she had to agree to remedy any water concerns to the satisfaction of her neighbor. Ms. Moore requested that a letter be co-signed by the Moore's and the new homeowner where the new homeowner agrees to remedy any water concerns to the satisfaction of the Moore family. Mr. Schmierer stated that a condition has been made that the drainage plan has to be cleared by the Borough engineer. Mr. Perry explained that part of his review of the plot plan will be to ensure that the drainage is not directed toward other people's property or impeding the flow across the property. Ms. Moore stated that she will be submitting a letter to the Borough. Mr. Reilly advised that the matter will be decided this evening. Mr. Schmierer

noted that instead of letters between neighbors there will be a professional engineer checking out the project to make sure the stormwater situation is not exacerbated. Mr. Perry explained that he would be looking at the runoff pre-construction, during construction and post-construction. Mr. Reilly further explained that there would not be any further contractual agreements beyond what the Board decides this evening.

Bob Long, 15 Chadwell Court, was sworn in. His property is directly behind the proposed home. His concern is that the home will be appreciably further back on the plot and closer to his property. It appears that the structure could be as close as 25 feet from his property and he would like clarification on the setbacks. Mr. Hillier explained that the closest corner of the green house to the closest point on Mr. Long's property is 39 feet, from the closest corner of the first story of the house is 78 feet and from the closest corner of the second story it is 89 feet. Mr. Hillier confirmed that there will be no night lighting in the greenhouse. Mr. Long wants to make sure that the foliage screening between the properties is adequate. He will discuss this issue with the new owners.

Ms. Laitusis asked if the design team had considered placing the greenhouse on the Delaware Ave. side of the home instead of in the rear. Mr. Hillier explained that the green house location was selected due to the amount of sunlight on the plot and that, as an accessory structure, it is customary to be in the rear of the property.

Kathleen Mahle, 151 East Delaware Ave, was sworn in. Ms. Mahle testified that she lives west of the subject property and is concerned about the runoff. She wants to ensure that the water keeps flowing down to the creek and not pond in adjoining yards. Mr. Reilly explained that the engineer will endeavor to be sure that the system is correctly designed and that water flow is not impeded.

Ms. Burke asked if there was a current drainage easement in the neighborhood. Mr. Perry testified that he is not aware of a drainage easement in the area but he will look into it. Mr. Perry explained that the builder will submit a plot plan and, as the Engineer, Mr. Perry will submit a response memo. This memo will be open to public review. There being no other comments from the public, the public comment section was closed.

Mr. Tarr reiterated that the question at hand is whether there can be an enclosed connector between a primary and an accessory structure where each structure complies with the code in its own right but once connected the structures do not comply. Mr. Schmierer specified that the question is whether or not the merged lots can accommodate the increased FAR and whether the increased size will be appropriate for the area.

Responding to a question from Mr. Reilly, Mr. Kyle confirmed that a roof over the walkway would need to be attached to the house and greenhouse but not necessarily enclosed in order to be calculated in the floor area. Mr. Reilly noted that this is a request for a d(4) variance. As a d(4) variance the Board is operating as a Zoning Board. Five affirmative votes are necessary to approve the variance. Ms. Burke is the Mayor's representative and ineligible to vote.

Mr. Reilly asked for a motion to address the application. Mr. Blackwell made a motion to approve the application as submitted with the condition that Engineering review the water management plan. Ms. Laitusis seconded the motion.

ROLL CALL:

Blackwell-Yes	Burke-Abstain	Gnatt-Absent
Jackson-Yes	Laitusis-Yes	O'Neill-Yes
Reilly-Yes	Schotland-Yes	Kassler-Taub-Yes

With 7 in favor, the motion is approved unanimously.

PB 22-003, Pennington School, amended preliminary and final site plan approval for the athletic facilities improvements: bleachers, press box, improvements to existing turf field and fence/wall surrounding the field

Mr. Schmierer confirmed that noticing was in order and the Board has jurisdiction. Mr. Reilly explained that the ARC reviewed a more comprehensive application from the Pennington School which has been pared down to what is being presented tonight. Other components of the application will be presented at a later date.

Eric Goldberg, Stark and Stark, attorney for the applicant, reiterated that tonight's presentation is limited to preliminary and final site plan approval and a variance pertaining to athletic facility changes. The variance is specifically for the side yard setback for the press box. The box is 5.6 feet from the side yard where the requirement is 10 feet. They are requesting a 3.13 foot setback which includes the stairs.

Jim Bash, Van Cleef Engineering, was sworn in by Mr. Schmierer and accepted as an expert witness. Mr. Bash testified that the Pennington School's proposal is for replacing and upgrading the existing press box and bleachers which are accessory structures to the turf field. A portion of the fence will be updated to create a "stadium style" entrance for the players. There will be additional improvements to sidewalks to increase accessibility and some turf repair where the entrance was altered. All of the improvements discussed tonight will be on block 501 lot 4 and limited to the turf field area of the campus. While the larger application is still pending, approval for this portion is being sought so construction can be scheduled during the off-season for sports.

Mr. Bash shared Exhibit A-1, a color rendering of the proposed press box and stadium entrance gate prepared by FVHD, dated September 13, 2022. The press box will be approximately 37 feet tall. The bleachers, not shown, will be similar in size to the current bleachers and 14.7 feet tall. Impervious coverage will be increased minimally with no negative effects on storm water control. No new utility work is planned. In response to Mr. Kyle's September 9, 2022 memo, Mr. Bash showed Exhibit A-2, an aerial view of the campus including the football field. The existing press box has a setback of 5.6 feet. The new press box will have a setback of 3.13 feet due to the position of the stairs. Mr. Bash testified that there will be no adverse effects to the surrounding properties if the variance is granted. Due to its location on the campus, the press box is very well screened from any surrounding homes. With regards to positive criteria these improvements will be aesthetically pleasing and will increase both student and staff

enjoyment. Mr. Bash testified that Mr. Perry's September 9, 2022 memo had seven comments. In response to the comments Mr. Bash indicated that the wall will be 53 inches high and constructed of red brick veneer; the "PLUG INV" notation will be removed from the plan; the slope be revised to be fully compliant; the intended height of the bleachers is 14 feet 7 inches with gravel and decorative landscaping underneath; at time of construction footing details for the bleachers will be provided; the remainder of Mr. Perry's comments dealt with items left on the sheet from the Pennington School's larger plan and do not pertain to this amended application.

Mr. Jackson asked about the presence of enough toilet facilities for spectators, including attendees who need accessible toilets. Mr. Bash replied that the Pennington School is aware of this issue and is always evaluating this situation. Mr. Jackson asked about the amount of parking places. Mr. Bash testified that most of the games are after school hours therefore students and teachers might not be parked on campus. Mr. Jackson asked about the potential of recycling the old bleachers for use at another facility. Mr. Bash indicated that they would take recycling into consideration. Mr. Jackson asked about notification of the CSX train line. Mr. Bash confirmed with Mr. Goldberg that the train company had been notified.

Mr. Perry noted that there was a typo in his September 9 memo regarding impervious coverage. Mr. Perry asked where the drainage on the field is directed. Mr. Bash noted that the drainage from the field primarily goes to a basin in the parking lot. Mr. Perry inquired about other approvals that might be needed including DEP, Mercer County Soil and Delaware and Raritan Canal review. Mr. Bash replied that they have sought all approvals for the overall plan from the appropriate agencies.

Mr. Kyle testified that all items in his memo were already addressed by Mr. Bash's testimony.

With no more questions from the Board, Mr. Reilly opened the hearing for public comment. Since there was no one among the public to comment, the comment period was closed.

Board members agree that this appears to be a good plan with minimal impact on the neighborhood.

The motion to approve the application and variance with changes noted by Mr. Bash was made by Ms. O'Neill and seconded by Mr. Blackwell.

ROLL CALL:

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

The motion was approved unanimously.

Resolutions of Memorialization

The meeting was paused for members to review the two resolutions up for memorialization.

All members were present at the resumption of the meeting.

PB 22-006, 421 South Main Street, Bent-Zoning Officer appeal that construction of garage with living space for aging parent constituted an apartment. Appeal Upheld. Ms. O'Neill made the motion to approve the resolution with corrections noted. Mr. Jackson seconded the motion.

ROLL CALL:

Blackwell-Abstain	Burke-Yes	Gnatt-Absent
Jackson-Yes	Laitusis-Abstain	O'Neill-Yes
Reilly-Yes	Schotland-Yes	Alt.# 2 Kassler-Taub-Not voting

With 5 votes in favor the resolution was approved.

PB 22-005, 132 South Main Street, Thompson-Bulk Setback Variance for construction of an addition. Approved.

Ms. O'Neill made the motion, seconded by Ms. Laitusis, to approve the resolution with the noted change.

ROLL CALL:

Blackwell-Yes	Burke-Yes	Gnatt-Absent
Jackson-Yes	Laitusis-Abstain	O'Neill-Yes
Reilly-Yes	Schotland-Abstain	Alt.# 2 Kassler-Taub-Not Voting

Motion was approved with 5 votes in favor and one abstention.

ZONING OFFICER REPORT

John Flemming reported to Mr. Reilly that there are no pressing Zoning issues at this time.

OLD BUSINESS

Approval of the 2021 Annual Report

Mr. Jackson moved to approve the Annual Report with Ms. Burke seconding. All were in favor via voice vote. The annual report will be forwarded to Council.

MASTER PLAN COMMITTEE UPDATE

Mr. Jackson reports that Mr. Kyle is working on the draft reexamination report. We have lost a valuable member because of Ms. Van Orman's resignation. Please let Mr. Reilly and Mr. Jackson know if you are interested in joining the Master Plan Committee. Mr. Jackson has been looking at nearby local town's master plans as the Pennington Committee is in the process of updating their elements. The Historic Preservation Commission will be updating their element and the Environmental Commission will take responsibility for the 3 elements that fit under their purview.

Ms. Laitusis mentioned that on Saturday from 9-12 Princeton Future will be hosting a meeting regarding the Princeton Master plan. It will take place at the Princeton Methodist Church in downtown Princeton.

Mr. Jackson mentioned that Princeton has a great Master Pan website that is very user-friendly. Pennington's re-exam is due by September 2023. The goal is that the re-exam will lead into an update which will essentially re-do the plan. The cost of a total re-do might be prohibitive right now.

Ms. Laitusis asked if members of the Master Plan committee had to be members of the Board. Mr. Schmierer has not heard of this before but believes that a community member could volunteer but would not have an official role.

Ms. Kassler-Taub has volunteered to join the Master Pan Committee. Mr. Reilly asked the Board's concurrence to have Ms. Kassler-Taub on the committee. There were no objections.

MINUTES – The remainder of the 2021 minutes have been reviewed in depth by Mr. Reilly, Ms. O'Neill and Mr. Jackson.

Mr. Jackson moved to approve the following 2021 minutes: December 8, 2021, November 10, 2021, October 13, 2021, July 14, 2021, June 9, 2021, May 12, 2021, April 14, 2021, March 10, 2021, and February 10, 2021. Ms. Laitusis seconded the motion and all agreed via voice vote. The remaining minutes from 2021 are approved.

Mr. Jackson made the motion to approve the June 8, 2022 minutes with noted change. Ms. Burke seconded the motion. All were in favor via voice vote. The June 8, 2022 minutes are approved.

There are no applications for October so the Board will most likely not meet.

Mr. Reilly explained that the Mayor is looking to fill the open Alternate position.

Mr. Blackwell made a motion, seconded by Ms. Laitusis, to adjourn the meeting. All voted in favor to adjourn via voice vote at 10:24pm.

Respectfully submitted,

Katie Ronollo, Board Secretary