

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
January 10th, 20189

Call to order: **Call to Order by Mr. Waddington 8:03 pm**

Pledge of the Flag: **Led by Mr. Waddington**

Sunshine Law: This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.

Swearing in Reappointed Members:

Class III: Councilman Robb
Class IV: Mr. Michael Hagarty
Class I: Mr. Felix James (Arrived at 8:05)
Alternate #1: Joann Jones

Roll Call: **Present:** Mr. James, Mr. Waddington, Mr. Castor, Mr. Hagarty, Mayor Green, Councilman Robb, Mrs. Ciotto, Mr. Hagarty, Mrs. Jones, Mrs. Gilson
Absent: Mr. Ford
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty,

ELECTION OF OFFICERS AND APPOINTMENT OF BOARD SECRETARY

Resolution 2019-1: **Chairman:** Felix James

Resolution 2019-2: **1st Vice Chairman:** Kevin Waddington

Resolution 2019-3: **2nd Vice Chairman:** Michael Hagarty

Resolution 2019-4: **Secretary:** Les Gallagher Jr

Resolution 2019-5: Meeting dates 2nd Thursday each month at 7:30 PM
January 10th
February 14th
March 14th
April 11th
May 9th
June 13th
July 11th
August 8th
September 12th
October 10th
November 14th
December 12th

Resolution 2019-6: **Solicitor:** William E. Sitzler, Esquire

Resolution 2019-7: **Engineer:** Hugh Dougherty: P.E.C.M.E. from Pennoni & Associates

Resolution 2019-8: **Planner/Application Process Review:** Joseph Luste: PP from Pennoni & Associates

Correspondence: **New Jersey Planner Vol. 79, No.6**

Approval of Minutes: **Mr. James:** At this time I will entertain a motion to approve the minutes the previous minutes from December 13th.

Mr. Castor: I make a motion; seconded by Mrs. Ciotto

Roll Call: **“Abstained”:** Mr. James
All others ‘aye”
Minutes Approved

Resolution 2018-13 **Mr. James:** 2018-13 Pine Valley Developers: 501 West Branch Ave Block 15.03 Lot 1; Granting Use Variance for Age Restricted Housing

Mr. James: I entertain a motion to approve.

Mr. Castor: I was not here

Mr. Sitzler: It has to be some one that was here

Mr. Hagy: Motion to approve seconded by Mrs. Ciotto

ROLL CALL: Abstentions: Mr. Waddington, Mr. Castor, Mayor Green, And Councilman Robb; Aye's: Mr. James, Mr. Hagy, Mrs. Ciotto, Mr. Hagarty, Mrs. Jones and Mrs. Gilson

Application 2018-7

Mr. James: Next we have application 2018-7; 315 W Branch LLC Block 78 Lots 1-28; Major Site Plan

Mr. Facenda the Attorney for the applicant 315 W Branch LLC introduced himself, Mr. Portnoy the applicant and Mr. McKenna the Engineer from Monarch Surveying & Engineering

Mr. Facenda gave an overview of the application and that the use variance was already approved by this board at an earlier date and made reference to the resolution 2018-9 approving such. He stated they met or exceeded requirements for setbacks and size of buildings, he then added that there would be some waivers and a variance along with this would be a preliminary and final major site plan approval.

Mr. Sitzler then swore in Mr. Portnoy and Mr. McKenna for their portion of the testimony

Mr. McKenna was the first witness he gave his address and employer and his qualifications.

After the Chairman agreed to his qualifications Mr. McKenna proceeded to describe the current configuration of the property including where the buildings would be per the site plan with the setbacks storm water retention ponds, fencing and parking. He pointed out the uses of the surrounding properties. He then covered the access to the property there will be emergency access gates and one main access with entry by access card or by office personal during office hours. He stated there will be two buildings that will only have units on one side one on the east side of the property and one on the west side all others will have units on both side of the buildings and that there would be a retaining wall. He stated that they did meet with the County and were requested to widen West Branch to provide easy bypass of other vehicles when one was entering the property. They will be extending the curb the length of the property and angle in to meet the curbing of the pizza shop. He covered that they will only have a small gender neutral bathroom and only needed one lateral.

Mr. McKenna stated the buildings will have exterior fixed down lighting on each building from dusk to dawn and controlled from the main office.

Mr. Facenda: I did mention one variance earlier can you cover that

Mr. McKenna: We did fence in the entire property the one fence we do have along the front top of the walk along the basins with gates so during snow removal it can be plowed into the basin. The Variance we need is because it goes beyond the setback line. So the variance for the fence is needed is because of the location not necessarily because of any other standard or request for compliance. It will still be set 40 feet off the road and not on top of the road.

Mr. McKenna then pointed out the positive and negative criteria of the property will be met and that the variance will not affect the public good. He also mentioned that they did request a reduction in the sizes of the parking spaces to 9X18 since they are not a typical retail operation.

Mr. Sitzler: Does any member of the board have any questions?

Mr. Hagy: You stated the lights in the facility would be on from dusk until dawn

Mr. McKenna: I believe that Matt would be able to testify to that, I can tell you that the intent of the lighting is to provide adequate lighting for safety

Mr. Hagy: For safety and security?

Mr. McKenna: Yes

Mr. Hagy: Okay; when are the tenants allowed to be there? Do they have access 24/7

Mr. Portnoy: From 6 in the morning until 10 at night

Mr. Hagy: In the office building itself you said it had a restroom in it is that accessible to the tenants?

Mr. McKenna: Yes

Mr. Portnoy: Only during business hours

Mr. McKenna: It does not have outdoor access

Mr. Hagy: You also mentioned for the storage units some have two doors

Mr. McKenna: No; there will be units that have a fifteen foot deep unit on both sides and two that only have a fifteen foot deep unit on one side. I was just trying to illustrate the fact that we had access around the entire building

Mr. Hagy: The fence height is that uniform around the entire property?

Mr. McKenna: Yes; six feet high

Mr. Hagy: Thank You

Mrs. Jones: What about the fire hydrants

Mr. Facenda: There is nothing in the water and sewer connection there is nothing identified for an onsite fire hydrant

Mr. Sitzler: It is in the Fire Marshals report

Mr. Dougherty: Did you receive the Fire Marshals report dated 12/7/18?

Mr. Facenda: We did not

Mr. Castor: I still think we need the larger parking spots doesn't the ordinance call for 10/20; when someone comes in with a truck where are they going to put it?

Mr. Facenda: Then intent is just to be there long enough to load and unload

Mayor Green: This is not like a retail operation where they will be taking up two spots

Mr. Castor: Is there a retention pond by the front entrance?

Mr. McKenna: Yes there is two of them

Mr. Castor: Are they individually fenced in

Mr. McKenna: No they are not

Mr. Castor: There is a Borough Ordinance that requires it

Mr. McKenna: I would like to request a waiver but if the board does not approve then we will have to put up a fence. Would that be a chain link fence? I would request that we be able to use a post rail instead

Mr. Castor: About how much water will be draining in there?

Mr. McKenna: about 3 ½ feet

Mr. Castor: I rest my case enough for a little kid to drown in there

Mr. Waddington: And it is across from the apartments

Mr. Facenda: Will a post and rail with wire mesh work?

Mr. Castor: What is a toddler's life worth? The reason we have this is a few years back in Gloucester Township a two year old drowned crawling through a rail fence

Mr. Facenda: We will extend the fencing around the basin as well and would ask for a waiver

Mr. Sitzler: So that would be the fencing in the front along with the two basins

Mr. Facenda: Yes

Mr. James: You also said they will have access keys to go back and forth

Mr. Portnoy: Like our other facilities it will be like a key pad where you press in your code

Mr. James: Now does that get shut off at 10:00 so they can't access it

Mr. Portnoy: Yes the computer shuts it off

Mr. Waddington: Is there a bypass on it for the Fire Department?

Mr. Portnoy: They would go in the other gate where there is a Knox Box

Mr. Waddington: What is the width in between the buildings for the drive way?

Mr. McKenna: 25 feet

Mr. Waddington: For all of them

Mr. McKenna: Except for the mail drag that is 30 feet

Mr. Waddington: So 25 is the minimum?

Mr. McKenna: Yes

Mr. Hagy: I know this was brought up at the last meeting; the color of the roof for astatic reasons you have people living above the property on top of the hill. Would it be something other than Red or Orange and if was to be sold it would be easier to be sold that way

Mr. McKenna: It would be a neutral color

Mr. Hagarty: I just want to be clear you are going to comply with the all the items listed on the Fire Marshal's letter dated December 7th 2018

Mr. Facenda: Unfortunately we just received a copy of the letter tonight and there is a very significant item with respect to the fire hydrant requirement with the looping and the timing of this has put me at a disadvantage because I have not seen this. It is an interesting question if you have a complex across the street and if it is already deficient with respect to fire pressure I don't know if we are necessarily adding to that. You can refer to your solicitor it almost sounds like an off track improvement I don't know if this project is necessitating the additional flow requirement. I think the flow requirement is what it is right now so I'm having a tougher time accepting that. I know that this board meets to make it a condition of approval and obviously we would have to satisfy the Fire Chef as an outside approval that would not necessarily make it a condition

Mr. Dougherty: This also goes to the MUA and now we are getting into conditions of approval. They actually have in their Master Plan to extend the line from 3rd Avenue down to Branch Avenue so the MUA is requesting because you're coming in there they know that there is an existing fire code problem down there so to add anything else would be problematic. So the MUA is requesting that line be installed as a part of this development

Mr. Facenda: I don't have anything from the MUA; I know there was a letter from your office to the MUA but I don't know if the MUA ever formerly responded to your letter so I did not know what the MUA was requiring

Mr. Dougherty: They are requiring what is in my letter

Mr. Facenda: Did they indicate that in writing? I did not see that

Mr. Dougherty: I make the recommendations and the board and the board accepted my recommendations

Mr. Facenda: I did not know that the board had accepted the recommendations because we never got anything from the MUA supporting your letter but again I go back to the issue of if there is already a deficiency. Number one we are not creating the deficiency and I don't know how you go about determine how much we are exasperating that deficiency if at all with basically a structure that is not inhabited.

Mr. Waddington: It is not inhabited by personal but with the storage that is inside those units the fire load is much heavier in those units that what is right there now which is nothing

Mr. Facenda: That is the question how much are we adding to the already deficient fire code

Mayor Green: Unless you can tell us exactly what is in every single storage unit at every time of the day and every day of the year we have an issue because short of me coming in and saying I'm going to be storing toxic chemicals in my unit you really don't know what I'm putting in that unit. So how are we to know if a fire breaks out if we have sufficient water flow to cover someone's unit? For all we know someone might have something flammable in there like illegal fireworks even legal fireworks

Mr. Facenda: Typically what I have seen in regards with respect to these off track improvements there are two things number one there is an ordinance that requires off track improvements which I'm not sure Pine Hill has in addition that ordinance is supposed to specify a reasonable formula for apportioning these issues. I didn't see that in the ordinances either

Mr. Dougherty: The Pine Hill MUA actually provides the water and sewer service so it is under the rules and regulations of the Pine Hill MUA and there is provisions under the rules and regulations of the Pine Hill MUA that would require and it is part of the Master Plan that the MUA can require it. Now they have in the past done recapture moves where the first person in does the installation and then recaptures later on. Earlier this evening on the resolution that was approved there was a use variance that was granted for 91 unit single family homes right down the street from you so that would be a potential for recapture but that would be with the MUA not the Planning Board

Mr. Facenda: I'm back to what is the current deficiency? We don't know that. Is there a document, is there a test, and is there a study that has been conducted to establish the deficiency?

Mr. Dougherty: Yes; so when there was a fire and there was no water no water in the hydrant

Mr. Facenda: That does not make us responsible for 100% of the charge. I sympathize and I understand the issue and God knows we don't want any accidents to happen on this property but to hold us 100% responsible for a problem that already exists. You just indicated there is no water in the hydrant now; I'm not sure how 100% of the cost and expense falls on this developer when he is probably adding to the issue but he hasn't created the issue and that is where these ordinances are supposed to deal with these types of issues so that one developer doesn't get saddled and it doesn't. And there are no criteria to follow as to the apportionment of the cost of this work and I readily acknowledge that when the roads were vacated the vacated ordinance required us to provide the easement and obviously we will have no problem with that but I think we are getting into an area of requiring off track improvements. Number one we are not we are not going to tie into we are not getting water from it and like I said we may be adding to the deficiency problem somewhat but to what percent or what degree that problem already existed and to my understanding the MUA was already dealing with those issues on its own.

Mr. Dougherty: It is part of the Master Plan to provide that water service but you have development right there where the problem is

Mr. Facenda: I get it but my location to the problem shouldn't necessarily saddle me with 100% of the cost to fix the problem

Mr. Dougherty: But there is not sufficient water in that line

Mr. Facenda: So the MUA should have addressed this problem long before now if there was a fire at those apartments and there was not enough water I think that is exactly is September 2018 the MUA listed Branch Avenue fires loop as an active item or project on its list of things to do. MUA to install water main at 3rd Avenue right away vacated need easement to install water main at 3rd Avenue. They were developing plans I'm not sure but it seems like the MUA is saying we don't have to do this because there is a developer coming in lets shift it over to the developer's side; I can't agree to that unless there is a set percentage if there is a 50% deficiency and after Mr. Portnoy develops his project there is a 49% I will gladly contribute he 1% but don't know what that deficiency is. We don't know any of that stuff that is why the off track improvement ordinances are very important in these types of matters

Mr. Dougherty: I think you are before the wrong board to argue that point because this board does not have any purview over the MUA. It is the MUA Board so any condition that this board would make would be a condition upon MUA approval

Mr. Facenda: We are happy to go to the MUA Board

Mr. Sitzler: I think that is what we are saying any condition of approval here would be that you would get here would be on condition you get approval for the project from the MUA

Mr. Facenda: 100% I would agree but I'm not necessarily agreeing to the contents of the MUA's letter of the Fire Chief's Letter in those regards here. Outside approvals I can live with I know I have to get outside approvals I'm not even arguing that. That was a question and I went down that road I apologize we know we need outside approvals

Mr. Waddington: What about the other conditions in that letter that came from the fire department?

Mr. Facenda: I think a Knox-Box should not be a problem, the fire hydrant we just discussed. I don't know what number 3 is. Does anyone know what number 3 is?

Mr. Waddington: Did you have a gate on the other side on your previous plan?

Mr. McKenna: I may have a don't remember seeing it

Mr. Waddington: Because it looks like you know how the driveway goes down besides that other building, I thought there was a gate there and I think he is referring to your prior plan to have access there to get a piece of fire apparatus there into that back corner. So that is what he was asking to pave that to have access.

Mr. McKenna: That is outside the property line there and there is a substantial grading in there as well

Mr. Facenda: Since this is an outside approval I guess we can deal with the Fire Chief on that

Mr. Dougherty: If this board says your approval tonight if granted is conditional upon satisfying the Fire Marshal; you have to satisfy the Fire Marshal and also the condition upon satisfying the MUA you have to satisfy the MUA. The board is then done with that

Mr. Sitzler: What that means is that the argument you are making now needs to be grieved with the Fire Chief that same as the MUA

Mr. Facenda: So at some point the Fire Chief and the MUA issue a letter saying we are good

Mr. Sitzler: So any conditions the board approves tonight are based on the condition of approvals from the outside agencies. I'm saying this also for the edification of the board members

Mr. Facenda: Does the Engineer have any idea of the cost of this fire hydrant loop?

Mr. Dougherty: I don't

Mr. Facenda: If everyone is done with the engineer I will have the applicant testify

Mr. Portnoy then gave testimony on the hours of operation Monday thru Sunday with Sunday having shorter hours and number of employees one full time and one part time. He gave testimony on the parking, lighting

Mr. Hagy: The lighting is to be on dusk to dawn

Mr. Portnoy: Yes 75 watt wall mounted lights shining down

Mr. Waddington: You testified someone would be in the office from 9 to 6 but the public will still have access from 6 to 10

Mr. Portnoy: Yes

Mr. Waddington: So they are 6 to 10 7 days a week

Mr. Portnoy: Yes

Mr. Dougherty: Mr. Chairman I do have a letter dated October 23rd that the applicant needed supplemental submittals and it did address a lot of the concerns in my and that review letter is part of your packet. There is also a letter dated January 8th 2019 and as the applicant testified about the fence on page 2 there. He also agreed to extend the side wall to the curb line along the entire property.

Mr. McKenna: The only thing I would like to suggest that is to go along the same access instead of trying to go on the angle only because you are cutting into their property because the property line comes so close to the curb line

Mr. Dougherty: That is because there is no sidewalk there only blacktop

Mr. McKenna: That is correct

Mr. Dougherty: There was another waiver for landscaping and it is permitted in the ordinance that if the board determines that if the buffer shading is necessary, but we were concerned about the retail property next door between the property lines. They were spoken to and they did not want their building blocked. So in theory you would have a buffer between the property lines.

Mr. McKenna: Right also on the east side we are looking at planting more vegetation along the property line

Mrs. Jones: We are also talking about those properties along that back of that property both Clementon and Pine Hill. Can you address property erosion once you start moving around equipment? There are homes that border the top of that property

Mr. Facenda: Right we are not going up that hill we are stopping at the edge there we are not going to the top

Mr. Dougherty: there is a retaining wall

Mr. Facenda: Right

Mr. Dougherty: I would have no objection to a waiver for additional buffers between the property lines so that would be another waiver.

Mr. Dougherty: Then on the water supply and sanitary sewer on page 3 that would be on a condition of approval from the MUA because the board does not focus on utilities, and the Fire Department. There was also a waiver for the parking stalls and I think at that point there; Joe someone was using one of those bays and they drive their truck in aren't they just park by the bay they are not going to use one of those parking spaces

Mr. Facenda: Right the only one using those spaces would be someone going back to the office

Mr. James: You mean no one is going to come in with a truck to register

Mr. Facenda: Well they may

Mr. James: Where will they park?

Mr. Facenda: They may come in with a box truck there is no way I can park a box truck there either

Mr. Portnoy: We would open the gate there is plenty of room to park once in the facility

Mr. Castor: Are you going to have in there at all

Mr. Portnoy: Just one 15 foot box truck

Mr. Dougherty: Does that stay on site then

Mr. Portnoy: Yes when it is not rented

Mr. Dougherty: Where will that be stored?

Mr. Portnoy: In the back in employee parking or the in back corner

Mr. Dougherty: That was not part of the application we would have defiantly noted that. I would prefer it to be in the back but that would be on condition of approval to store it in the back. That was a concern to have other vehicles stored there

Mr. Dougherty: There were some other items in here as far as engineering such as direction isles, stop signs. Just so it is clear when people see that other gate it is clear you are not entering that way. And the two assess drives out onto a County Road you will need County Approvals so that would be the outside agency approvals.

Mr. Dougherty: For recyclables and trash I know you said generally you don't generate trash but I know you had in your report recyclables held in at least one unit. If we can identify which one it will be that could be the trash and recycle

Mr. Portnoy: The ones closest to the office

Mr. Dougherty: That needs to be identified on the plan. 10 Parking spaces is all that is needed 5 in the back for personal and the owner and 5 in the front for customers. I noticed the site is all concrete is there a reason for that?

Mr. McKenna when over why they had both concrete and asphalt paving on the plan just in case pricing changes

Mr. Dougherty went over the signage and that all need to conform to the Borough Code he then went over the storm water control stating it has been handed down from the Federal Level to the State Level and then to the Local Government Level and that the local level is now watch dogs for the EPA and that some of the things in the plan are not consistent with the local plan and need to be adjusted and corrected

Mr. McKenna: I did have some questions on the Trash Racks, they will be on all structures they don't show but it is annotated on the plan

Mr. Dougherty: I did see on the note they will be there

Mr. McKenna: The calculations will be provided by the contractor

Mr. Dougherty: I will have to take a look at that; the Borough Engineer will be checking on this in the field and the more I can have on the plan for them to follow the better and we can also be guaranteed that what this board approves is what is going to be built

Mr. Hagy: I have a question on the trash. You said your residents are going to have access to that

Mr. Portnoy: No

Mr. Hagy: Okay my concern was them dumping oil or something like that in there

Mr. Facenda: Or chairs and sofas and leaving them for Matt to clean up I've seen that too many times

Mr. James: How do you prevent that?

Mr. McKenna: There will be a deposit for disposal if you leave it you lose your deposit

Mr. Dougherty: Another thing in the report the drainage areas I would like to see that map revised. And then grading so in that corner by the retail area there seems to be some issues with the elevation so that is something you are going to have to take a look at. The rest of the letter is the County Approval and the security area between the retaining wall and the 1,700 SF building and then solicit comments from the Fire Marshal and you have that letter. So that would be the outside agency approvals the Fire Marshal, the MUA, the County Planning Board and the Soil Conservation District. And that is all you have Mr. Chairman

Mr. James: Does the board have any questions?

Open Floor to Public:

Mr. James: At this time I will entertain a motion to open the floor to the public.

Motion was made to open the floor to the public

All "aye" Floor opened no public

The owner of the retail building was sworn in he would like to see the waiver go through on the buffer vegetation since they already have limited site of view when exiting the property and had safety concerns if the vegetation was too high. He was also concerned that it would block his stores from the view of cars passing by

Close Floor to Public:

Mr. Castor: Motion to close: seconded by Mr. Waddington

All "aye" floor closed

Mr. Sitzler: The Application was for preliminary and final site plan approval for this operation and they are also asking for this self-storage facility there be a variance that would encompasses a front yard setback for the fence during the testimony it was about what 40 feet? The front original wire fence

Mr. Facenda: no 30 feet

Mr. Sitzler: 30 Feet; and the basins are also in the front that will be fenced separately but they are also in the front yard

Mr. Facenda: That is correct

Mr. Sitzler: So the applicant to have a six (6) foot fence in the front for two basins and for the continuous fencing around the entire buildings across the front that is a bulk variance that would be one. Then there is two (2) waivers one (1) for the landscaping (as addressed in the testimony by the owner of the strip store next door to avoid blocking sight of his building from the street) and the waiver for the Ten (10) parking spaces five (5) by the front office and (5) in the back for the 2 employees a(testimony was given this is not like a retail store)and a 15 foot box truck that could be parked in one of those spots or in the back corner it will be used as a rental for customers so it is only there when not being used. Is that about right?

Mr. Facenda: Yes the only addition we have is the fence is at 51 feet

Mr. McKenna: Yes the first one is about 51 feet and the other is about 55 feet off the roadway

Mr. Dougherty: I think you are right at 30 feet because the way the variance reads the fence cannot proceed past the front wall of the building. So it is 30 feet off the front of the building and 50 feet off the roadway. So it is the way the numbers go it is a variance for 30 feet in front of the building.

Mr. Sitzler: I believe that is everything and if the board has any questions there will be as the applicant is well aware any approval tonight is conditioned upon approval by both the MUA the Fire Marshal the Camden County Planning Board and any other outside agencies that may require. If the board is familiar I always state any bodies Federal State or County that may have jurisdiction over the application

Mr. James: Do I have a motion?

Mr. Sitzler: That would be two waivers one variance together with preliminary and final site plan approval

Mr. Castor: I make a motion to approve seconded by Mayor Green

Roll Call all "aye" Motion carried

OPEN Floor to Public: Motion to open the Floor made by Mr. Castor all were in favor

Close Floor to Public: No Public Mr. Castor Motioned to close all were in favor

Old Business: None

New Business: Next Meeting February 14th 2019 at 7:30 PM

Motion to Adjourn:

Mr. Castor: Motion to adjourn: seconded by Mrs. Ciotto

All in favor of adjournment