

**RESOLUTION OF MEMORIALIZATION
BOROUGH OF PENNINGTON PLANNING BOARD**

**12 N MAIN STREET PENNINGTON NJ LLC
APPLICATION FOR MINOR SUBDIVISION, d(2) USE VARIANCE, BULK
VARIANCES, NJSA 40:55D-35 MLUL VARIANCE FOR A LOT THAT DOES NOT
ABUT A PUBLIC STREET AND APPLICATION CHECKLIST WAIVERS
12 NORTH MAIN STREET; BLOCK 205, LOT 22 PENNINGTON BOROUGH TAX
MAP
APPLICATION NO. 25-001**

WHEREAS, 12 North Main Street Pennington NJ LLC (hereinafter referred to as the “Applicant”) has filed an application with the Borough of Pennington Planning Board (hereinafter referred to as the “Board”) for minor subdivision, d(2) use variance, bulk variances, N.J.S.A. 40:55D-35 MLUL Variance for a lot that does not abut a public street and checklist waivers for 12 North Main Street which is designated as Block 205, Lot 22 on the Pennington Borough Tax Map (hereinafter referred to as the “Property”); and

WHEREAS, the Board held a virtual hearing on this application on April 9, 2025; and

WHEREAS, the Board received and considered the following staff reports:

1. Van Note-Harvey Associates Engineering Report dated March 28, 2025; and
2. Kyle+McManus Associates Planning Report dated April 8, 2025; and

WHEREAS, during the course of said hearing on the application, the Board considered testimony presented by the following witnesses:

1. Wayne Ingram, PE, PP, PLS, French and Parrello Associates, Applicant’s Engineering and Planning Consultant; and
2. Brandon M. Fetzer, PE, Van Note-Harvey Associates, Board Engineering Consultant; and
3. James T. Kyle, PP/AICP, Kyle+McManus Associates, Board Planning Consultant.

The Board also considered a power point presentation made by the Applicant which included the following:

1. Plan Entitled: “Existing Conditions Survey”, prepared by Wayne Ingram, PLS, French & Parrello Associates, dated 5/2/2024.
2. Plan Entitled: “Minor Subdivision Plat”, prepared by Wayne Ingram, PLS, French & Parrello Associates, dated 10/10/2024.
3. Nine slides including a portion of the Pennington Borough Zoning Map, aerial site view of the Property and additional information on variances requested for proposed Lot 22.01 and 22.02; and

WHEREAS, the Board having considered the above-referenced staff reports, testimony presented, application materials, and exhibits makes the following findings:

1. The Applicant was represented by Ryan P. Kennedy, Esq., Stevens & Lee.
2. The Applicant is the owner of the Property.
3. The Property is located within the Town Center (“TC”) Zoning District and is improved with two buildings.
4. The Applicant proposes separating the two existing buildings. The minor subdivision would create one lot measuring 1,443 square feet in size with frontage on North Main Street and is designated as proposed Lot 22.01. This proposed lot has a commercial use on the first floor and a residential use on the second floor fronting on North Main Street. The second building to the rear of proposed Lot 22.01 consists of 12,129 square feet and is used as office space and is proposed Lot 22.02. This proposed lot has no frontage on a public street and is accessed through the adjacent Borough of Pennington Parking Lot.

5. In order to subdivide and create separate lots for the two existing buildings, the Applicant requires the following relief from the Board:

A. d(2) Use Variance: By subdividing the Property, the use of proposed Lot 22.02 which has office use on the first floor represents an intensification of a nonconforming use in the TC Zoning District.

B. For proposed Lot 22.01, the smaller mixed-use building with frontage on North Main Street, the following bulk variance relief is required:

(a) Section 215-71.E(3) requires a side yard setback of at least five feet. The Applicant proposes a 1.67-foot setback from the new side lot line.

(b) Section 215-71.E(4) requires a minimum rear yard setback of 25 feet. The building on the lot would have a 0.0-foot rear yard setback from the new rear lot line.

(c) Section 215-71.E(6) permits a maximum impervious coverage of 80%. The impervious coverage for this lot would be 99.2%.

C. For proposed Lot 22.02:

(a) Section 215-71.E(3) requires a minimum side yard setback of 5 feet. The building on this lot would have a side yard setback of 0.0 feet from the new side lot line.

(b) Section 215-71.E(6) permits a maximum impervious coverage of 80%. For this proposed lot the impervious coverage would be 99.2%.

(c) Section 215-13 Lot fronting a public street (see MLUL variance below):

D. N.J.S.A. 40:55D-35 MLUL Variance: Pursuant to this Section of the MLUL and Section 215-13 referenced above, all buildings or structures must be on a lot that abuts a public street. Proposed Lot 22.02 with the office building does not abut a public street.

Checklist Waivers: Since there are no proposed physical changes to either the mixed-use commercial/residential building on proposed Lot 22.01 and the office building on proposed lot 22.02, the Applicant is seeking waivers from all the application checklist requirements.

6. As indicated above, there are no changes proposed to the Property or the structures located thereon. The purpose of the application to the Board is to separate on separate lots the commercial/residential uses which abut North Main Street on proposed Lot 22.01 from the office use in the building to the rear of said lot which is now used for office use. By separating the two uses, the Applicant will have flexibility to use or redevelop primarily the building on Lot 22.02 at a future date.

The Board having made the above-referenced findings, voted unanimously to grant to the Applicant minor subdivision, d(2) use variance, bulk variance, the MLUL variance and approve the checklist waivers for the following reasons subject to the following conditions:

1. By subdividing existing Lot 22 into the two proposed Lots 22.01 and 22.02, there will be no physical changes whatsoever to either of the buildings on the proposed lots. While proposed Lot 22.02 does not abut a public street, the building has full access to it from the adjacent Pennington Borough parking lot and has easements which provide access to North Main Street. Existing Lot 22

is irregular in shape and contains an unusual configuration of two separate and distinct buildings and separate and distinct uses. By separating Lot 22 into two separate lots there will be greater flexibility in the future for the uses that would be permitted on each of the newly created lots. The Board supports allowing the owners of the lot to have this flexibility for future use primarily of the proposed Lot 22.02. The intensification of the nonconforming use on the first floor within the building on proposed Lot 22.02 is a technicality which occurs by reducing the overall lot size of Lot 22. There is, in fact, no physical intensification of the office use as a prior nonconforming use. The checklist waivers are appropriate since no construction or changes are proposed to either of the new lots.

This approval is granted, however, subject to the following conditions:

1. The minor subdivision deeds creating the new lots shall be reviewed and approved as to form and content by the Board Engineer and attorney.
2. The cross-utility easements for both lots shall be blanket easements.
3. The Applicant shall amend the existing conditions survey dated May 2, 2024, to identify on said survey Borough Lot 38. Sheet 1 shall also state whether or not it is a Boundary Survey.
4. The name of the adjoining property owner shall be added to the survey.
5. If any portion of either existing building extends across property lines, that should be shown on the survey.

6. On the minor subdivision plat, Note 3 references a Boundary and Topographic Survey. If the existing Condition Survey is intended to serve this purpose, then the existing conditions survey shall be revised to reflect this.
7. Notes from the Existing Conditions Survey referencing Map Reference 1 appear on the Subdivision Plat. A listing of map references shall be provided on the Subdivision Plat.
8. The minor Subdivision Plat shall be amended to show offset dimensions to existing adjacent buildings.
9. On the Subdivision Plat, a note shall be added indicating that proposed Lot 22.02 will be accessed via the existing parking lot at 30 North Main Street.
10. On the Minor Subdivision Plat, Certification/Approvals, revise the notes to reference Pennington Borough.
11. On the Minor Subdivision Plat, all Certification Signature lines shall conform to the Title Recordation Law.
12. On the Minor Subdivision Plat, remove the Health Officer Certification.
13. Coordination values for at least 2 additional corners shall be provided for each lot on the Subdivision Plat.
14. The Applicant shall show monumentation in accordance with the Title Recordation Act. Property corner markers shall be provided for the proposed property lines.
15. Property Owners name and information shall be shown on the minor Subdivision Plat.
16. Lot closure reports shall be provided for the proposed lots.

17. The two new lot numbers shall be confirmed with the Pennington Borough Tax Assessor.
18. In the metes and bounds descriptions for the two new lots, State Plane Coordinate grid or ground references shall be provided for the proposed POB in both lot descriptions.
19. The lot descriptions for the two new lots shall be referenced in the Minor Subdivision Plat.
20. The Applicant shall bring current all real property taxes, sewer charges, water charges and land development escrow charges associated with the Property within 30 days of the date of the adoption of this memorializing resolution.

A copy of this Resolution shall be furnished upon its adoption to the Applicant through the Applicant's attorney, Ryan P. Kennedy, Esq., Stevens & Lee, 510 Carnegie Center Drive, Suite 400, Princeton, New Jersey 08540, as well as to the Pennington Borough Zoning Officer and the Pennington Borough Construction Official, and a brief notice of this decision shall be published as required by law.

James Reilly, Chairman
Pennington Borough Planning Board

Application Approved at the April 9, 2025 Meeting
Resolution of Memorialization Adopted on May 15, 2025 Meeting