

**TOWNSHIP OF PRINCETON
ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
Wednesday, October 24, 2012 – 7:30 P.M.
Municipal Complex, Main Meeting Room
400 Witherspoon Street, Princeton, New Jersey**

PRESENT: Carlos Rodrigues, Penelope Baskerville, Louisa Clayton, William Spadea, Sara Segal and Geoff Aton (arrived late)

ALSO PRESENT: Peter Kneski, Zoning Officer; Christine M. Lewandoski, Deputy Zoning Officer; Robert P. Casey, Attorney; and Debra Rogers, Secretary

ABSENT: Richard Kahn, Ravi Manchi

There were two (2) members of the public present.

The meeting commenced at 7:35 P.M. with Ms. Rogers reading the Open Public Meetings Act statement.

1. MINUTES:

Upon motion made Penelope Baskerville and seconded by William Spadea, a motion was made to adopt the minutes of September 19, 2012 as amended.

ROLL CALL:

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| Aye | Penelope Baskerville |
| Aye | Louisa Clayton |
| Aye | William Spadea |
| Aye | Sara Segal |
| Aye | Carlos Rodrigues |

2. RESOLUTIONS OF MEMORIALIZATION:

- a) CRAVER, Dana**
97 Castle Howard Court
Sect 7701, Lot 35, R-5
Time Extension Request
File No. 2359-10Z (9728)

Upon motion made by William Spadea and seconded by Penelope Baskerville, a motion was made to adopt the resolution of **DANA CRAVER** as written and amended.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **William Spadea**
 Aye **Sara Segal**
 Aye **Carlos Rodrigues**

b) WEISS, Danna
270 Lambert Drive
Sect 8101, Lot 22, R-1
“C” - Lot Area
File No. 2383-12Z (9835)

Attorney Casey discussed some changes to the resolution requested by the applicant’s attorney.

It was decided that the square footage numbers be removed from the resolution as they were not relevant.

Mr. Solomon explained to the Board that at the time of the last meeting the applicant did not have firm plans for the structure. He said now that there are definite plans for the home it is important to reflect the correct information in the resolution. He said the applicant will in any case comply with the adjusted FAR requirement.

There was a question from the Board with regards to the impervious surface coverage. At the previous meeting the applicant stated that the tennis court would be removed to reduce impervious coverage. The question as whether the applicant would still be able to comply with the ISC requirement while adding the porch and the terrace.

Mr. Solomon stated that the applicant will comply with all of the bulk requirements.

Upon motion made by Louisa Clayton and seconded by William Spadea, a motion was made to adopt the resolution of **DANNA WEISS** as written and amended.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **William Spadea**
 Aye **Sara Segal**
 Aye **Carlos Rodrigues**

3. APPLICATIONS:

a) BRUIN, James & Jeannine

150 Snowden Lane

Sect 7504, Lot 10, R-7

“C” – Lot Area

File No. 2382-12Z (9834)

Present for the application were Mr. & Mrs. Bruin, applicants; Frank Brennan, Attorney; and Thomas Harris, Planner/Engineer.

Chairman Rodrigues appointed Member Segal to hear the application in the absence of Member Kahn.

Attorney Casey said all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application.

Attorney Casey swore in Thomas Harris and James Bruin.

Mr. Brennan explained that he is the attorney representing the Bruins' with respect to their proposal for 150 Snowden Lane. He said this application is for a tear down because of the extremely poor conditions of the existing structure, but the lot is undersized and that is what brings this application to the Board. He said the requirement is for a lot size of 10,890 s.f. and this lot only has 9,000 s.f. He noted that the proposed new home will comply with all of the zoning requirements.

Mr. Bruin presented Exhibit A-1 -- photographs of the existing conditions of the lot. He said tree roots have broken through the walls in the basement therefore causing flooding and severe mold issues. Based on the engineering report received from the seller, the house cannot be renovated, and a new house has to be built. The house will be approximately 2,400 s.f. and have 3 bedrooms. He noted the house will comply with all zoning requirements.

Mr. Brennan asked Mr. Bruin if they had approached the adjacent property owners to see if they could purchase land from them or if the property owners wanted to buy the subject lot.

Mr. Bruin said yes they did speak to the neighbors. He said their lots are also undersized and do not have any excess land to sell and no one wanted to purchase the lot either.

Mr. Harris referred to the variance plan that was submitted with the application and noted that most of the lots in the neighborhood are also undersized and this proposal is only seeking a variance for the lot area, all other requirements will be met. He also discussed the grading plan stating that stormwater runoff will be directed towards the street and into the inlet in order to keep it off the neighbors' property. He said this will be an improvement to the current stormwater conditions in the neighborhood.

Mr. Brennan asked Mr. Thomas if he was aware of anything in the Princeton Township Land Use Code that spoke to a criteria for materials and or style of the types of homes that could be built in this neighborhood.

Mr. Thomas said no, he was not aware of any.

Chairman Rodrigues asked if the Board had any questions for Mr. Harris.

Mr. Brennan concluded by stating that the applicants are seeking a lot area variance to enable them to build a new home on the lot and it would be a hardship for them if they were not allowed to do so. He said the variance requested is for lot size and all other zoning requirements will be met.

Chairman Rodrigues asked if there any members of the public who wanted to comment on the application.

Resident, 55 Leavitt Lane, said she is here to represent herself and her adjacent neighbors who are older and were unable to attend the meeting. She said she is very concerned about the stormwater problem in the neighborhood and asked for clarification on the grading plan.

Chairman Rodrigues said the proposed grading plan is planned to cause the stormwater to flow towards the street and into the storm water system.

The resident inquired about the stormwater that gathers in the rear of the properties

Mr. Harris said the proposed grading plan will take as much stormwater off the property as possible and send it to the street. He said it is not possible to remove all stormwater, but noted the situation will be improved.

Chairman Rodrigues noted that the applicant cannot solve the entire neighborhood's stormwater issues but they are trying to minimize the flow from their property. He said the township Engineer will also review the proposed grading plan and make appropriate recommendations.

Chairman Rodrigues asked if there were any other members of the public who wanted to comment on the application. Hearing none, he closed the public portion and the Board went into deliberative session.

Mr. Brennan made one last comment noting that the grading plan was submitted to show that the applicants' had heard the concerns of the neighbors and will also be working with the Township Engineer on the issue.

Attorney Casey reviewed a draft resolution prepared for the applicant. Minor changes were made to the wording in the resolution.

Upon motion made by Antonio Pirone and seconded by Penelope Baskerville, a motion was made to approve the application and resolution of James and Jeannine Bruin as presented with the conditions that the applicant obtain final plot plan approval from the township Engineer with regards to drainage and soil removal, tree removal and protection, underground utilities and construction staging.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Antonio Pirone**
 Aye **William Spadea**
 Aye **Sara Segal**
 Aye **Carlos Rodrigues**

b) SHARON, Rafael & Lorna
108 Clover Lane
Section 7505, Lot 25, R-5
“C” & “D” Variance & Prelim. & Final Site Plan Approval
File No. 2379-12Z (9935)

Present for the application were Mr. & Mrs. Sharon, applicants; Rosalind Westlake, Attorney; and Lester Nebenzahl, Professional Planner.

Member Aton arrived at the meeting.

Attorney Casey said all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application.

Chairman Rodrigues appointed Members Segal and Aton to hear the application in the absence of Members Kahn and Manchi.

Ms. Westlake said she is the attorney representing the applicants and they are here to seek approvals for preliminary and final minor site plan approval, “d” variance for a home office and bulk variances for an addition of 380 s.f. and enclosure of a carport for a total of 180 s.f. She said they will also be adding a walkway and a porch that do not require relief.

Attorney Casey swore in Rafael Sharon.

Mr. Sharon said that he is an architect turned psychoanalyst. He said the need for these requests arise from the fact that his wife suffers from MS and spinal cord injury. He said she went from running 6 miles a day to walking a few steps a day. He said they also have children with the youngest being 11 years old. He said after weighing options the best alternative is for him to work out of the house to be there to help his wife and youngest child. He discussed the floor plan with the Board. He noted that right now most of his clients are internationally located and his sessions are via telephone. He said he has one client that would like to see Mr. Sharon at his

“office” every other week rather than speak on the telephone. He also noted that he volunteers at a clinic in northern New Jersey once a week (Thursdays) and does not work from home that day. He said he would like to build a small practice in his home for local residents. He submitted Exhibit A01 which was a colored rendering of the lot and he noted that he worked very hard to preserve the character of the neighborhood – even going as far as to find garage doors that will fit well with the character of the neighborhood. He intends to operate the office Monday – Friday (but not Thursday) from 9:00 a.m. to 5:00 p.m. He does not work on weekends and will not have any signs placed outside the home. He also noted that by enclosing the carport, it would extend in to the front-yard setback.

Ms. Westlake asked Mr. Sharon if it was his intention to keep the structure looking like a residence not a business.

Mr. Sharon said yes, that was correct. He grew up in the neighborhood and is very sensitive to the aesthetics of the area.

Mr. Sharon said they are also seeking approval for 2 parking spaces in front of the garage. He said they are required to provide 2 spaces for the home office and if they park in front of the garage it will be within the 25 foot setback requirement. He said it would not be an issue to have patients back out of the driveway, it is a very quiet neighborhood. He also noted that curb-side parking is permitted on the street. He said that there will be stepping stones on the property that will lead to the office entrance along with a covered walkway that will meet all of the zoning requirements.

Ms. Westlake noted that the applicant is seeking a waiver from the Fire Map Plan; she said the applicants have provided a Fire Protection Plan and to have to supply a Map Plan would be quite onerous on the applicants. She noted that there is one fire hydrant located 250 feet from the property and another one located approximately 500 feet away.

Chairman Rodrigues asked if the Board had any questions for the applicant.

Ms. Westlake said she would like to have the Planner testify at this point.

Mr. Nebenzahl gave his professional background and the Board accepted him as an expert witness.

Ms. Westlake asked Mr. Nebenzahl if he has reviewed the application.

Mr. Nebenzahl said yes he has reviewed the plans, he went to the site, he walked around the neighborhood and he reviewed the zone plan and master plan along with all of the application documents.

Ms. Westlake asked Mr. Nebenzahl if he thought that the use variance was justified.

Mr. Nebenzahl said yes. He said the home office requires a “d-1” variance (use) because it was determined that it does not meet the definition of Home Occupation. He said the definition calls for uses such as dance studios, art studios, and those types of uses. He said if this use met the criteria it would have been considered a conditional use in the zone, but the applicant chose not to challenge the Zoning Officer’s determination. He said in his opinion the applicant meets the positive and negative criteria. The proposal will promote the public health, safety and morals of the community. He noted that not only will it benefit the safety of the neighborhood it will also benefit the safety of the applicants as well. The proposal is also a more effective use of the land. He said with regards to the negative criteria there will be no substantial detriment to the neighborhood, zone plan or to the master plan. He referred to the bulk variances saying that one of the variances is for the front-yard setback for the garage. He said this can be justified because it needs to be done in order to provide a safe environment for Mrs. Sharon and there is no other place on the property to put this in order for it to be effective. He said that with regards to the parking in the front-yard setback, this use is a very low intensity use and, at most, there would be one car for the patient and one car for someone waiting and this would cause no detriment to the neighborhood. He urged the Board to approve the application as presented to the Board.

Chairman Rodrigues asked if the Board had any questions.

Member Segal inquired about handicap accessibility over the walking stones to get to the office door.

Mr. Sharon said that was an oversight and he will correct that to make sure there is handicap accessibility.

Member Pirone asked if there were any other home offices in the neighborhood.

Mr. Sharon said not that he is aware of.

Member Clayton asked if the use variance ran with the land or the property owners as she had concerns over future owners and the uses they may be able to have.

Attorney Casey explained that generally the uses run with the land, however, the Board does have the capability to design a resolution that is customized to this particular use, that also fits the applicant’s needs. He explained that the Board could regulate the intensity of the use, hours of operation and the number of people parking.

Ms. Westlake noted that if Mr. Sharon decides to retire the use would be abandoned and the next owner would need to come back before the Board in order to seek permission to put another use in that location.

Mr. Sharon said he has no intentions of selling his property, nor does he have any intentions of selling it as a home office. He said he would be agreeable to customizing the resolution.

Chairman Rodrigues asked if there were any members of the public who wanted to comment on the application. Hearing none, he closed the public portion and the Board went into deliberative session.

Attorney Casey asked Mr. Kneski about the Ordinance’s definition of home occupation.

Mr. Kneski said a home occupation is defined more an educational purpose; also, no signs are permitted and no more than 3 cars allowed to be parked there at any time. The specific use as proposed by the applicant is not covered in the ordinance.

Ms. Westlake read the ordinance to the Board: *Home occupation*. An occupation customarily carried on in a dwelling unit by a member of the family in residence, which occupation is clearly an accessory use incidental to the residential use, including such occupations as instruction in music, dancing, arts and crafts, and which occupation gives no external evidence of nonresidential use, and which occupation does not generate traffic nor have related parking requirements in excess of three car spaces, which spaces, if required, are provided off street on the same lot as the occupation. The area occupied by a home occupation shall not exceed forty percent of the net floor area of the dwelling unit.

Chairman Rodrigues asked if the Board had any questions for the applicant.

Member Clayton said the applicant’s requests were valid and she did not foresee any detriments to the neighborhood. She also noted that there is no other option for the placement of the garage.

Upon motion made by Louise Clayton and seconded by Penelope Baskerville, a motion was made to approve the application of Rafael & Lorna Sharon as presented with the language to be as specific as possible regarding intensity of the use, hours of operation and number of parked vehicles.

ROLL CALL: **Aye Penelope Baskerville**
 Aye Louisa Clayton
 Aye Antonio Pirone
 Aye William Spadea
 Aye Sara Segal
 Aye Geoff Aton
 Aye Carlos Rodrigues

Member Aton left the meeting.

- c) **VAUGHEY, Parker & Lynn**
544 Mercer Road
Section 10301, Lot 8, R-3
“C” – Setback to Height Ratio & Preservation Plan

Princeton Battlefield – Stony Brook Settlement Historic District
File No. 2384-12Z (9836)

Present for the application were Mr. & Mrs. Vaughey, applicant; Mark Solomon, Attorney; and Mark Brahaney, Architect.

There were no members of the public present.

Attorney Casey said all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application.

Mr. Solomon said he is the attorney representing the applicants for their variance request. He said the property is located at 544 Mercer Road, in the R-3 zoning district and is also located in the Princeton Battlefield – Stony Brook Settlement Historic District. He said this application is not for a tear-down, the applicants are proposing to remove two pre-existing additions to the original structure and add new space. He said the applicants' proposals received a favorable review from the Historic Preservation Commission. He asked to have Mr. Brahaney sworn in.

Attorney Casey swore in Mark Brahaney.

Mr. Brahaney described the site saying it is a one acre lot and he also described the photos included in the application packets. He said the home is a colonial style home with two additions done years ago. He said they are proposing a new 2-story addition on the side and rear of the structure. He said the current square footage is approximately 3,500 s.f. and the applicants are proposing to increase the square footage to 4,600 sf. He said the current structure violates the setback to height ratio requirements; however, all other bulk requirements will be met. He said the applicants would like to update the house in order to meet the needs of a typical family. He said adding dormers and enlarging other areas enables them to expand the house yet they will not be increasing the footprint. He said they tried to maintain the colonial character of the house and the neighborhood. He submitted Exhibit A-2 showing the narrowness of the lot. He noted that if the lot was at its required width there would be no setback to height violation. He said this proposal is in keeping with other homes in the neighborhood and is barely visible from Battlefield Park.

Member Pirone asked if the additions being removed were Longstreth additions.

Mr. Solomon said yes.

Mr. Brahaney said he feels the proposal will be an enhancement to the neighborhood.

Mr. Solomon noted that the applicants were able to design something that complies with all of the other bulk requirements.

Chairman Rodrigues asked if the Board had any questions.

Mr. Solomon said this proposal could be classified as a c-1 variance by virtue of the size of the lot, yet it would also be a c-2 variance because the benefits will outweigh any detriments. He concluded by saying that the applicants are respectfully requesting approval for the preservation plan, setback to height ratio and the existing conditions of the garage.

Attorney Casey said that as a matter of housekeeping, the applicants should also amend their application to include the lot area and lot width deficiency.

Member Segal left the meeting.

Ms. Lewandoski stated that the HPC (Historic Preservation Commission) reviewed the application and classified it as a low impact improvement and felt the proposal was an improvement to the structure. She stated that the HPC had 4 recommendations:

- Any new utilities should be underground
- AC condensers should be screened with landscaping so that they are not visible from Mercer Road. This landscaping should be administratively reviewed and approved by the Chair of the HPC and the Township Historic Preservation Officer
- Lighting proposed for the portico should be administratively approved by the Chair of the HPC and the Township Historic Preservation Officer
- The applicants currently intend to replace the entire roof with slate. If this does not become practicable, the applicants may request permission to utilize another roofing material and said request should be reviewed and approved administratively by the Chair of the HPC and the Township Historic Preservation Officer.

Chairman Rodrigues asked if the Board had any other comments.

Upon motion made by Antonio Pirone and seconded by William Spadea, a motion was made to approve the application of PARKER and LYNN VAUGHEY as presented with the conditions that were set forth in the HPC report.

ROLL CALL:

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| Aye | Penelope Baskerville |
| Aye | Louisa Clayton |
| Aye | Antonio Pirone |
| Aye | William Spadea |
| Aye | Carlos Rodrigues |

4. DISCUSSION:

a) Resolution opposing Assembly Bill A-2586.

The Board unanimously voted to send letters to the legislature opposing the proposed bill A-2586 which would exempt private institutions of higher learning from local land-use regulations.

Upon motion made by Penelope Baskerville and seconded by William Spadea, a motion was made to send a resolution in opposition to Assembly Bill A-2585.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Antonio Pirone**
 Aye **William Spadea**
 Aye **Carlos Rodrigues**

5. ADJOURNMENT:

Upon motion made by Louisa Clayton and seconded by Antonio Pirone, a motion was made to adjourn the meeting at 9:40 p.m.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Antonio Pirone**
 Aye **William Spadea**
 Aye **Carlos Rodrigues**

Respectfully Submitted,



Debra Rogers, Secretary

Date Approved: November 7, 2012