

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of Regular Meeting
Wednesday, April 24, 2013– 7:30pm
Main Meeting Room
400 Witherspoon Street, Princeton, NJ 08540

PRESENT: Barrie Royce, Michael Floyd, Penelope Baskerville, Louisa Clayton, Sara Segal, Steve Cohen and Doreen Blanc-Rockstrom and Richard Kahn

ALSO PRESENT: Derek Bridger, Zoning Officer; Karen Cayci, Attorney; and Debra Rogers, Secretary

ABSENT: Ravi Manchi

There were ten (10) members of the public present.

The meeting commenced at 7:35 p.m. with Chairman Royce reading the Open Public Meetings Act statement.

1. MINUTES:

a) March 27, 2013

Upon motion made by Penelope Baskerville and seconded by Michael Floyd, a motion was made to approve the minutes as written and amended.

ROLL CALL: **Aye Penelope Baskerville**
 Aye Louisa Clayton
 Aye Michael Floyd
 Aye Sara Segal
 Aye Steven Cohen
 Aye Doreen Blanc-Rockstrom
 Aye Barrie Royce

b) 2012 Borough Minutes

The following minutes were approved: February 23, 2012, March 22, 2012, April 26, 2012, May 24, 2012, June 28, 2012, September 27, 2012, October 25, 2012, November 15, 2012, and December 20, 2012.

ROLL CALL: **Aye Steven Cohen**
 Aye Michael Floyd
 Aye Barrie Royce

2. RESOLUTIONS OF MEMORIALIZATION:

a) Hopkins, Thomas & Dartha

288 Jefferson Road

“C1/C2” – Sideyard Setbacks for enclosed porch and shed

File No. Z13 13-013V

Upon motion made by Louisa Clayton and seconded by Penelope Baskerville, a motion was made to adopt the resolution of Thomas and Dartha Hopkins as written and amended.

ROLL CALL:

Aye	Penelope Baskerville
Aye	Louisa Clayton
Aye	Michael Floyd
Aye	Sara Segal
Aye	Steven Cohen
Aye	Doreen Blanc-Rockstrom
Aye	Barrie Royce

b) BHATIA, Deepinder

100 Bayard Lane

Block 7.02, Lot 10.01, R-1

“C” Front yard parking setbacks

File No. Z13 13-018V

Upon motion made by Sara Segal and seconded by Penelope Baskerville, a motion was made to adopt the resolution of Deepinder Bhatia as written and amended.

ROLL CALL:

Aye	Penelope Baskerville
Aye	Louisa Clayton
Aye	Michael Floyd
Aye	Sara Segal
Aye	Steven Cohen
Aye	Doreen Blanc-Rockstrom
Aye	Barrie Royce

c) GARONIAK, Anita

1 Harris Road

Block 21.03, Lot 23.01, R-4

“C” – Sideyard setbacks for AC unit and generator

File No. Z13 13-022V

Upon motion made by Louisa Clayton and seconded by Penelope Baskerville, a motion was made to adopt the resolution of Anita Garoniak as written and amended.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Sara Segal**
 Aye **Steven Cohen**
 Aye **Doreen Blanc-Rockstrom**
 Aye **Barrie Royce**

3. APPLICATIONS:

a) MRM Construction

24 Balsam Lane

Block 8705, Lot 16, R-5

C1 – Lot Area for new home

File No. Z13 13-036V

Present for the hearing were Mark Solomon, Attorney; and Frank Falcone, Engineer/Planner.

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

Member Cohen will be hearing the application in the absence of Member Manchi.

Attorney Cayci swore in Derek Bridger, Princeton Zoning Officer.

Mr. Bridger reviewed his memo stating that the applicant is seeking a C1 variance in order to construct a single family dwelling on the property. He said the lot is non-conforming with respect to the size of the lot. He said the property is located in the R-5 zoning district and requires a minimum lot size of 21,780 square feet and this lot only has 21,165 square feet. He said there is an existing structure on the lot that will be demolished in order for the new house to be built.

Mr. Solomon said he is the attorney representing the applicant. He said the applicant is seeking a C1-hardship variance in order to be able to construct a new home on the lot. He said the lot area is short by only 616 square feet. He said he would like to have Mr. Falcone testify as well.

Attorney Cayci swore in Frank Falcone, Engineer/Planner.

Mr. Falcone gave his qualifications and the Board allowed him to testify as an expert witness.

Mr. Falcone entered **Exhibit A-1** into the record – An enlarged Site Plan sheet showing the lot.

Mr. Solomon noted that letters were sent to the north and south property owners asking if they would like to purchase the subject lot or if they would be interested in selling any of their land to the applicant. He said both letters were returned stating the owners had no interest in either

selling or buying the property. He noted that both of those lots are larger than that of the subject property. These letters were marked as **Exhibit A-2**.

Mr. Solomon noted that the three lots behind the subject lot, 134 Cedar, 142 Cedar and 148 Cedar are all non-conforming lots and there was no correspondence received back from any of those lots. These letters were marked as **Exhibit A-3**. He said the applicant has demonstrated that he is unable to purchase any land to augment this lot and he is unable to sell this lot to any of the adjacent property owners. He said he would like Mr. Falcone to address the negative criteria.

Mr. Falcone entered **Exhibit A-4**, an enlarged Tax Map Sheet. He noted that 30/43 lots in the neighborhood are undersized which equals 70% of the lots are non-conforming. He said this speaks to the character of the neighborhood and shows that this lot is in character with the other lots. He noted that this lot was originally approved back in 1956 and at that time it must have conformed to the zoning regulations. He said the lot is non-conforming by 616 square feet which is *de minimus*. He said if this variance is approved it will not impair the zone plan or zoning ordinance.

Mr. Solomon asked if the new structure will conform to the zoning requirements.

Mr. Falcone said yes it will. He said it is the applicants' intent not to return to this Board for any other variances.

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

Attorney Cayci swore in Mrs. Wightman, 16 Balsam Lane.

Mrs. Wightman noted that she lives next door to the subject lot. She said there was a new home built in her neighborhood recently. She said the house is very large and sticks out like a sore thumb. She said the Board must find a good reason to approve the variance. She said she would like to see the old house renovated rather than torn down and she expressed her dismay at that the fact that there may be construction going on next door for up to one year. She said she would like to see the plans for the new house.

Chairman Royce explained to Mrs. Wightman that the applicant is not required to show plans of the new house.

Mr. Moyer, 40 Balsam Lane, was sworn in by Attorney Cayci and said that the houses in the neighborhood were constructed back in the 1950's and are all about the same size. He also noted that there are many large mature trees in the neighborhood. He said he fears that the new building will be much larger than the other homes and that the contractor will be removing a lot of trees. He said he thinks granting this variance would be a mistake.

Chairman Royce explained that the applicant has testified that what they will build will be conforming to the zoning regulations.

Member Floyd asked Mr. Bridger when the zoning went into place for this neighborhood.

Mr. Bridger said he is not sure; he would have to research that.

Chairman Royce asked if there were any other members of the public who wanted to comment on the application. Hearing none, he asked Mr. Solomon if he had any closing comments before the Board enters into deliberative session.

Mr. Solomon said the applicant had proven the hardship exists and has also proven that there will be very little detriments if this variance is granted. He said the new home will meet all of the requirements of the zoning regulations and will not need any additional variance approval. He respectfully asked the Board to approve the application.

Chairman Royce asked if there were any Board members who would like to comment.

Member Cohen asked about the process and if the applicant would need to come back to the Board when the building plans are finalized.

Mr. Bridger said no it will not come back to the Board unless the applicant cannot meet any of the bulk requirements.

Member Clayton said there is a certain conformity to the street, however, homes are larger now than they were in the 1950's and that's how neighborhoods evolve and change.

Member Kahn said this is an undersized lot and it is a hardship for this property owner. He said it may not be what the neighborhood wants – but the applicant is coming to the Board and clearly stating that whatever they build will be what the zoning allows. He said the Board is not in a position to deny the variance.

Chairman Royce said if approved, it could be conditioned upon the fact that the applicant meets all of the bulk requirements.

Member Baskerville noted that the applicant has said they will build something that meets the zoning requirements, and she wanted it to be clear that it seems that the zoning would allow for a much bigger house than what is there now. She did not want the public to think that when the applicant said the new house would meet the zoning requirements that the new house would be the same size as the existing structure on the lot now.

Upon motion made by Penelope Baskerville and seconded by Louisa Clayton, a motion was made to approve the application of MRM Construction as it has been presented to the Board.

ROLL CALL: **Aye Penelope Baskerville**
 Aye Louisa Clayton
 Aye Michael Floyd
 Aye Richard Kahn
 Aye Sara Segal
 Aye Steven Cohen
 Aye Barrie Royce

b) TAL, Erel and Marilyn Marks
36 Herrontown Circle
Block 3101, Lot 13, R-2
C1/C2 – Sideyard Setbacks for Generator
File No. Z13 13-032V

Present for the hearing was Marilyn Marks Tal.

Member Cohen will be hearing the application in the absence of Member Manchi.

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

Attorney Cayci reminded Mr. Bridger that he was still under oath.

Mr. Bridger reviewed his report. He said the applicants have applied for a C1 variance and in the alternative a C2 variance in order to be able to place a generator within the side-yard setback. He said the property is located in the R-2 zone and required setback is 15 feet. He also noted that the lot is non-conforming with respect to lot area, lot depth and lot width.

Attorney Cayci swore in Marilyn Marks Tal.

Mrs. Tal said her property is located at 36 Herrontown Circle and she would like to install a whole house generator and they would like to locate it near the existing air conditioning unit. She said the alternative would be for the generator to be placed in the rear of the property, but that would require the gas line to be trenched and would be very costly. She said the main reason they would like to install the generator is for her parents who are 90 and 86 years old. She said she and her husband travel frequently and right now they have a portable generator that is not safe for the parents when by themselves. She said she spoke to her neighbor and he does not have a problem with the generator being on his side, it's actually safe and not as loud as a portable one. She said he is in the audience if the Board would like to speak with him.

Attorney Cayci swore in Jeff Leonard, 40 Herrontown Circle.

Mr. Leonard said the generator will be safer and quieter and he doesn't have any reservations about its installation.

Chairman Royce 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.

Member Clayton said she feels this is a reasonable request and she would vote favorably for the variance.

Upon motion made by Sara Segal and seconded by Richard Kahn, a motion was made to approve the C2 variance request of Erel and Marilyn Marks Tal as it has been presented to the Board.

ROLL CALL:

Aye	Penelope Baskerville
Aye	Louisa Clayton
Aye	Michael Floyd
Aye	Richard Kahn
Aye	Sara Segal
Aye	Steven Cohen
Aye	Barrie Royce

- c) **Trustees of Princeton University**
119 Fitzrandolph
Block 50.01, Lot 12, R-2
C1/C2 for Garage, Parking Stall Size
File No. Z13 13-011V

Present for the hearing were Christopher DeGrazia, Attorney for the applicant; and Gene Bradbury, Architect.

Chairman Royce recused himself and Vice Chairman Kahn took over the meeting.

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

Members Cohen and Rockstrom will be hearing the application in the absence of Members Royce and Manchi.

Attorney Cayci reminded Mr. Bridger that he was still under oath.

Mr. Bridger reviewed his memo stating that the applicant is requesting a C1/C2 variance to permit the construction of an attached garage and also for a variation from the required parking stall size of 9 X 19. He said the property is located in the R-2 zoning district and that single-family use is permitted as of right. The applicant is demolishing the screen porch and the laundry room and proposing to build a new mudroom, terrace and an attached garage to the rear of the property. The access to the lot would be provided from an adjoining lot (115 Prospect

Avenue) which is also owned by the applicant. He said there had been an easement agreement for the access previously, but once the old garage was demolished the easement ceased to exist. He said the garage will require relief from the smaller side yard setback and the rear yard setback, and the outdoor parking will require relief for the parking stall size. He suggested that if the Board is inclined to approve the variance requests, a condition should be placed on the approval requiring an easement agreement between this lot and 115 Prospect Avenue.

Mr. DeGrazia said the applicants request is a fairly simple one. He said the applicant wants to construct a single car garage which triggers variances for side yard and rear yard setbacks. He said there are only 10 houses on the block and all of the homes access their garages through the rear yards. He said if you look down the street you will not see any parking in the front yards. He said a parking space will be created in the garage and another one will be in the driveway, however, the driveway is odd shaped and technically a 9 X 19 parking stall would overhang on the sides of the driveway triggering another variance.

Attorney Cayci swore in Gene Bradbury, Architect.

Mr. DeGrazia entered Exhibit A-1 – a colored rendering of the site plan.

Mr. Bradbury described the existing structure explaining that they demolished portions of it, and are proposing to construct a new garage. He said there used to be a garage but it was actually located on an adjacent property and has since been demolished. He said this lot has a very deep front yard and a very small rear yard. He said the most logical place for the garage would be to the rear of the property. He entered Exhibit A-2 – House Elevations and described the materials that would be used.

Member Clayton noted that the required setbacks are not shown on the plans.

Member Rockstrom inquired about the driveway.

Mr. Bradbury said it will be new asphalt and will come from the access area to the garage.

Mr. DeGrazia noted that the existing pavement is located on the neighbor's lot and an easement will be granted for use.

Member Cohen noted that it make more sense to pave more area in order for the vehicles to be able to make a k-turn.

Mr. DeGrazia said the applicant did not want to pave any more area because it would trigger more variances.

Member Segal asked if the mudroom was already built.

Mr. Bradbury said yes, the project is being done incrementally.

Member Segal asked if the University owns the access property and the adjacent properties.

Mr. DeGrazia said yes, the University will sell the property to faculty but the property will revert back to the University in the event that the person vacates the property. He said all of the properties are deed restricted.

Member Segal asked why the garage is not tied to the mudroom.

Mr. Bradbury said it would have to be turned 90 degrees in order to do that.

Member Clayton inquired about the access area.

Mr. DeGrazia said other lots also have access to this paved area that runs over 115 Prospect. He said 115 Prospect is the Masters House and it is owned by Princeton University as well.

Attorney Cayci swore in Jennifer Ealy.

Ms. Ealy said the access area has an entrance off of 115 Prospect, the Masters House, and runs alongside 3 properties. She said they use it to get to their garages on their properties.

Mr. DeGrazia said Fitzrandolph has 10 homes and all of them (with the exception of 1) have access at the rear of the property to their garages. He said this design is in keeping with the character of the neighborhood.

Attorney Cayci inquired about the access easement.

Mr. DeGrazia said the Mr. Bridger asked that the University enter into an access agreement and the University does not have a problem doing that, they just want the availability to terminate that agreement in the future should the circumstances and the access on that street change.

Vice Chairman Kahn 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.

Member Cohen said he thinks the location of the garage is the least intrusive spot but it is not great.

Member Clayton said the renovations to the house and the mudroom is almost complete and said the applicant is now coming in for the variance for the garage. She said if the garage was thought of originally it could have been configured differently.

Mr. DeGrazia said that often projects are started before there is ever any prospective buyer. He said the buyer came in with the request much later in the process and that's why they are before the Board now.

Ms. Ealy said that the University provides housing for faculty only and garages are not historically part of the properties. She said there was a garage there, but it was located on

another lot and has been demolished. She said they went back and forth about the garage but the professor who will be living in the house has small children and wanted to have the garage.

Member Rockstrom express her concern over setting a precedent and if the Board approves this request are they opening themselves up for the homes on the street to come in and ask for the same thing.

Ms. Ealy noted that this house is the only one without a garage.

Vice Chairman Kahn said his concern is not only setting a precedent on this street but throughout Princeton.

Mr. DeGrazia entered Exhibit A-4 – Vicinity Plan. He handed out copies to the Board members and noted that this lot is the only one without a garage.

Member Clayton asked if the University has future plans to build larger garages to house larger vehicles for these properties.

Ms. Ealy said there are no plans at this time to do that.

Member Floyd asked if the University maintains the lawns or if that is done by the homeowner.

Ms. Ealy said it is up to the property owners.

Vice Chairman Kahn said perhaps this would be more appealing and acceptable if the applicant could turn the garage 90 degrees and slide it back against the mudroom.

Member Clayton said she recommends that the Board deny this application because she thinks more research needs to be done and if approved, the future ramifications are endless.

The motion was seconded by Member Segal.

Vice Chairman Kahn suggested giving the applicant the opportunity to go back to the drawing board with this request and then come back to the Board next month.

Attorney Cayci asked the applicant if they would like to request a continuance.

After a brief discussion, the applicant respectfully requested a continuance so that the applicants could take the opportunity to review alternatives.

There was a discussion about re-noticing and it was decided that if the applicants just amend the plan that has been presented they can send it out a “courtesy” notice by regular mail only. However, if there are substantial changes to the plan then they will need to re-notice by certified mail.

4. ADJOURNMENT:

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

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Michael Floyd**
 Aye **Richard Kahn**
 Aye **Sara Segal**
 Aye **Steven Cohen**

Respectfully Submitted,



Debra Rogers, Secretary

Date Approved: May 22, 2013