

**PRINCETON ZONING BOARD OF ADJUSTMENT**  
**Minutes of Regular Meeting**  
**Wednesday, December 11, 2013– 7:30pm**  
**Main Meeting Room**  
**400 Witherspoon Street, Princeton, NJ 08540**

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

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

**ABSENT:** None

There were three (3) members of the public present.

The meeting commenced at 7:32 p.m. with Chairman Royce reading the Open Public Meetings Act statement.

**1. MINUTES:**

**a) October 23, 2013**

**Upon motion made** by Michael Floyd and seconded by Louisa Clayton, a motion was made to adopt the minutes of October 23, 2013 as written and amended.

**ROLL CALL:**     **Aye**   **Louisa Clayton**  
                  **Aye**   **Michael Floyd**  
                  **Aye**   **Richard Kahn**  
                  **Aye**   **Sara Segal**

**b) November 13, 2013**

**Upon motion made** by Michael Floyd and seconded by Louisa Clayton, a motion was made to adopt the minutes of November 13, 2013 as written and amended.

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

**2. ADMINISTRATIVE MATTERS:**

**a) 2014 OPMA Resolutions;**

- i. 2014 Meeting Schedule
- ii. Notice of Special Meetings
- iii. Charges for Subscribers for agenda mailings

**Upon motion made** by Steven Cohen and seconded by Penelope Baskerville, a motion was made to adopt the 2014 Open Public Meetings Act resolutions.

**ROLL CALL:**

<b>Aye</b>	<b>Penelope Baskerville</b>
<b>Aye</b>	<b>Louisa Clayton</b>
<b>Aye</b>	<b>Michael Floyd</b>
<b>Aye</b>	<b>Richard Kahn</b>
<b>Aye</b>	<b>Sara Segal</b>
<b>Aye</b>	<b>Steven Cohen</b>
<b>Aye</b>	<b>Barrie Royce</b>

**3. APPLICATIONS:**

**a) NAMES, LAURI**

16 Madison Street  
Block 28.02, Lot 39, R-4  
**C1/C2 – Front yard parking – REMAND**  
File No. Z13 13-094V

Attorney Cayci said the application is being carried to the January 22, 2014 meeting date at 7:30 p.m. She said there is no legal requirement for the applicants to do any further noticing.

Chairman Royce said he would like the applicant to send out a courtesy notice via regular mail.

Attorney Cayci said she will pass that on to the applicant's attorney but there is no legal requirement for them to do so.

**b) DEVIN PROPERTIES LLC**

446 Nassau Street  
Block 32.08, Lot 38, R-2  
**C1/C2 – Front yard Setback and “D” – FAR**  
File No. Z13 13-111UV

Present for the hearing were Ann Motola – applicants representative; Clifford Gibbons, Attorney for the applicant; and William Doran, Architect.

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 swore in Derek Bridger, Zoning Officer.

Mr. Bridger discussed his report stating that the applicant is applying for an FAR variance and a C1 variance for front-yard setback and in the alternative a C2 variance to construct a 2 ½ story addition to the first and second floor. He said the existing structure is a 1-story single family residence. He said the lot is non-conforming with respect to combined side-yard setback and front-yard setback. He said the applicants are also proposing to demolish the existing 1 car garage and rebuild a 2 car garage. He noted that the maximum coverage is 30% and the applicants are proposing 31.2%. He said this area has what is called a prevailing front-yard setback and that distance is 108.75 feet the applicants are proposing a front-yard setback that is 65 feet.

Mr. Gibbons said he is attorney that is representing Devin Properties, LLC. He said he would like to have two witnesses testify; Ann Motola, who has a power of attorney allowing her to testify on behalf of the applicant; and William Doran, Architect for the applicant. He noted that the existing structure is a 2 bedroom home and they would like to bring the home up to more modern specifications. He said the FAR request is *de minimus* as it is only 1.2% over the allowable and is triggered because the applicants are proposing to finish the attic in the garage; which again is triggering a D-4 FAR variance. He said with regards to the C1 request, it is the applicant's position that the prevailing front-yard setback is skewed by 1 property that is set back 108 feet. With regards to the C2 variance he said the benefits outweigh any detriments. He said neither variance is detrimental to the Master Plan or Zoning ordinance.

Attorney Cayci swore in Ann Motola.

Ms. Motola said that she is the general counsel for Devin Properties LLC and also the personal attorney for the owner of Devin Properties LLC. She said the applicant is requesting a front-yard setback because the prevailing front-yard setback is 108 feet; yet there are other homes that are located 95 ft., 81 ft., 67 ft., and then 108 feet, yet that lot is much larger than the other lots. She also noted that there is a lot that was subdivided and the lot sits 45 feet back and yet another house that sits 60 feet back. She said most of the homes sit back in the mid 60 feet range. She said with regards to the renovations, the front setback would be taken from the garage. She noted that there is a tree currently sitting there and she is not sure whether it needs to be removed or not. She said they would very much like to keep the tree and will do everything to keep it. She said if for some reason they can't keep the tree they will add replacement trees. She said the garage is not located on the original foundation and therefore they will need to dig only 3 feet down. She said they are proposing to build a 2-car garage because most families own 2 cars and there is no off-street parking located on the street. She said the owners will be able to back out of the garage and turn the car around and enter Nassau Street front facing which would result in a much safer atmosphere. She said that the home they are proposing is only 3500-3600 sf without the garage and it will blend nicely with the surrounding area. She said there is only 41 feet from the back of the house to the property line, and they have chosen not to push the garage back in

order to maintain the open space in the backyard. She said she feels as if the applicant has come up with a good design for this structure that will fit well in the neighborhood.

Mr. Gibbons asked Ms. Motola to explain the FAR request.

Ms. Motola said the maximum allowable square footage is 3992 which includes the 2 car garage. She said they would like to finish the space in the attic of the garage to use as a bonus room and it exceeds the allowable by a little over 100 square feet. She said the applicants would like to finish that area properly now and obtain all the necessary approvals than possibly coming back in the future to do so. She said the applicant's hardship is based upon the prevailing front-yard setback rule and the location one house on a larger lot. She said it is her opinion that the FAR request is *de minimus*. She noted that they do not need an FAR variance in order to build the house, the FAR variance is triggered by 100 square feet in the attic. She said the applicant has also built homes in the town located at 11 Westcott, 415 Franklin and 419 Franklin, none of which needed variances.

Chairman Royce said it was his understanding that the homes with larger setbacks were not generally counted in the prevailing front-yard setbacks.

Mr. Bridger said the board included the Board's concern in its annual report but Council never acted upon it and changes were not made to the ordinance.

Ms. Motola noted that the normal front-yard setback is 35 feet and yet most of the homes are setback in the mid 60 foot range. She said she would like this house to be in-line with the other homes.

Chairman Royce asked if any Board members had questions for Ms. Motola.

Member Cohen asked if the proposed house has 4 bedrooms or 5. He said there is a large study with a full bathroom on the 1<sup>st</sup> floor that can be used as a bedroom.

Ms. Motola said it is 4 bedrooms, the intended use is not to be used as a bedroom.

Member Kahn questioned the 3 piece bathroom in a study, as it can be viewed as a bedroom.

Ms. Motola said it is the intent of the developer to use that area as a study.

Member Kahn asked if this was actually a tear-down because there will be only 2 walls remaining.

Ms. Motola said no it is not a tear-down, they will be building along the existing foundation.

Member Kahn disagreed that it was not considered a tear-down. He asked why the developer could not build something a little smaller.

Mr. Bridger interjected saying that attic space is exempt from the FAR calculation, the builder is being honest and saying that it will be used. He said they could put a collar-tie in the attic and it then becomes unusable and the FAR variance goes away. But he said, there is nothing to stop the owners from coming in and removing the collar-tie and using the space. He noted that they are being honest and seeking approval now so there are no questions about the space later on.

Member Kahn said he did not think there was a basis to approve the FAR for this house when it could be made smaller.

Member Cohen noted that the lot itself could handle the area of the house. He said the small portion of the garage does not affect the overall size of the house. He said they could still build this house as presented and just place a collar-tie in the attic to remove that space from the FAR.

Mr. Gibbons stated that the applicant is trying to be forth right with this application.

Attorney Cayci swore in William Doran, architect.

Mr. Doran said he has been a registered architect for over 36 years and has appeared before many Boards and Commissions. He said the prepared the plans that are in front of the Board and noted that Member Kahn has a good point. However he said, what the applicant did was present what they feel will be utilized by the new owners. He said the actual space in the attic is 334 sf, 171 sf are exempt from the calculation, leaving the remaining 163 sf that they are seeking a variance for.

Chairman Royce noted that the size of the house will not change if that area is removed from the proposal.

Mr. Gibbons asked Mr. Doran if the property could accept the variance request.

Mr. Doran said yes, they designed something they thought would fit well and be sought out in Princeton. He noted that many of the buyers they have worked with were looking for studies and that is why they included it in this design. He said most of the elements of the proposed house are similar to those of homes in the surrounding area.

Mr. Gibbons asked Mr. Doran if it was his opinion that the granting of the “D” variance would not be detrimental and would serve one or more purposes of zoning.

Mr. Doran said that was correct.

Mr. Gibbons asked Mr. Doran if he felt that granting the “D” variance would benefit Princeton’s housing stock and promote the general welfare.

Mr. Doran said yes, in his opinion it would.

Mr. Gibbons asked Mr. Doran if he believed that the one “outlier” lot creates a unique situation and creates a hardship for the applicant; and also asked if he felt that the granting of the C1 variance would be detrimental to the neighborhood.

Mr. Doran said yes, he believes the one “outlier” lot has created a hardship for the applicant and that it would not be a detriment to the neighborhood if the variance was granted.

Mr. Gibbons asked Mr. Doran with regards to the C2 variance, does he believe that the benefits would outweigh any detriments that granting the variance may cause.

Mr. Doran said yes, and that he did not believe there are detriments.

Member Segal asked the applicant what the purpose is for the dormers.

Mr. Doran said they are strictly for aesthetic purposes. He said they were put there to break up the roofline and keep it in character with the neighborhood. He said the dormers will not be accessible per se, they will have pull down stairs.

Ms. Motola said the windows in the dormers are designed to break up the mass of the siding.

Member Segal asked if the garage could be moved back.

Mr. Doran said they are working with the existing foundation so it would be hard to move it back and it is the applicants hope to preserve as much of the backyard as possible.

Chairman Royce inquired about the HVAC units.

Mr. Doran said that they will adhere to the setbacks.

Member Segal suggested moving the garage back and removing the study room.

Ms. Motola said the lot is not large enough to have a driveway on the other side; they would prefer to have the entrance where it is.

Mr. Doran noted that the study is above the existing foundation and it would be hard to accomplish that.

Ms. Motola said if there is a front entry to the garage it will make it more cumbersome to back out.

Member Clayton said not every house in Princeton needs 4 bedrooms and a 2 car garage. She said this proposal will remove a 2 bedroom house in the town and she does not think that is a benefit to the town.

Ms. Motola said she wants to develop something that is in demand for the area.

Mr. Gibbons noted that the applicants request is not an unreasonable one.

Member Clayton also noted that the “outlier” property has nothing to do with the request.

Member Floyd said the town has an ordinance - and based on his calculations (throwing out the “outlier” lot) the average front-yard setback should be about 88 feet and this proposal is coming in at 66 feet. He said he does not think that it’s a reasonable request.

Member Kahn said this all has to do with economics; without the economics the applicant could make this house a little smaller.

Ms. Motola said she believes the average should be 81 feet not 88 feet. She said the applicant is asking for something that is in conjunction with other homes in the neighborhood.

Chairman Royce 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.

Mr. Gibbons asked the Board to allow him a few minutes to confer with his clients.

Mr. Gibbons said his clients would like to have some time to come up with an alternative plan.

Ms. Motola said they would like to redesign the plan and move the garage back. She said they will try and stay at the 81 foot mark and they will be removing the request for the FAR variance.

The Board then held a brief discussion on the continuance of this application. It was decided that the application would be carried to the January 22, 2014 meeting and it would be placed first on the agenda because the testimony has already been given, the Board would like to see the re-designed plan.

**c) BARBER, Lewis**  
9 Lytle Street  
Block 15.03, Lot 63, R-4  
**C1/C2 Bulk & D FAR**  
File No. Z13 13-112UV

Present for the hearing were Lewis Barber, applicant, and Christopher Tarr, Attorney.

Member Segal recused herself from hearing this application.

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 discussed his memo, saying first that when he recalculated the FAR it was in compliance and therefore the applicants do not need this variance; it FAR is actually reducing. He said the applicant is proposing to construct 2 dormers and a small deck to the 3<sup>rd</sup> floor/attic of the existing single family dwelling. He said they are requesting a C1 variance and in the alternative a C2 to permit the construction of the dormers in exception to the side-yard and height to setback requirements. He said existing is a 2 story single family residence with an attic and is located in the R-4 zoning district. He said the lot is non-compliant with respect to lot width, lot depth, lot area, front-yard setback, smaller side setback, rear-yard setback, proportional FAR, accessory structure setback and accessory structure coverage. He said the applicant is proposing to renovate the existing single-family house and are proposing an addition of two attic dormers and a roof top deck on the third floor/attic. He said the second floor bathroom bump out will be removed and the floor plan will be reconfigured from six bedrooms to 3. He said the attic will be finished with a finished room and a full bath. He also noted that the existing enclosed front porch and screened in front porch will be removed to provide an open porch. He said the applicant's calculations indicated a small increase in the FAR, but upon a detailed review by staff the removal of the enclosed front porch and the removal of the second floor bump out at the rear of the building, as well as the attic exemption, actually result in a small reduction to the FAR. He said it is his opinion that an FAR variance is not required.

Attorney Cayci swore in Lewis Barber, 96 Elm Ridge Road, Princeton, NJ.

Mr. Tarr said with the new construction work that the applicant is doing, he will be reducing the FAR but the existing FAR is still over the maximum.

Mr. Barber said he currently has the structure under renovations and he hopes to move in next summer.

Mr. Tarr said the coverage is decreasing as well as the FAR and he believes it will be a benefit to have the home improved. Mr. Tarr discussed the site plan with the Board explaining how the structure will be updated. He said he feels that this application is an appropriate C2 variance and it is up to the Board on whether or not to grant the FAR. The FAR is decreasing, but the existing is already over the maximum allowable FAR.

Chairman Royce 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 Rockstrom asked if the deck was being constructed or if it was being removed.

Mr. Barber said he will be constructing a deck on the roof.

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

Member Clayton said she liked the plan and made a motion to approve the application as a C-2 variance and the also the FAR.

**Upon motion made** by Louisa Clayton and seconded by Richard Kahn, a motion was made to approve the application of Lewis Barber as a C2 variance and to include the FAR variance.

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

**4. ADJOURNMENT:**

**Upon motion made** by Steven Cohen and seconded by Penelope Baskerville, a motion was made to adjourn the meeting at 9:30 p.m.

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

**Respectfully Submitted,**



**Debra Rogers, Secretary**

Date Approved: January 22, 2014

