

**TOWNSHIP OF PRINCETON
ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
Wednesday, March 23, 2011 - 7:30 P.M.
Municipal Complex, Main Meeting Room
400 Witherspoon Street, Princeton, New Jersey**

PRESENT: Carlos Rodrigues, Richard Kahn, Antonio Pirone, Penelope Baskerville, Brent Krasner, Louisa Clayton and William Spadea

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

ABSENT: Barbara Felton and Robert Ross

There were no 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 by William Spadea and seconded by Penelope Baskerville, a motion was made to adopt the minutes of February 23, 2011 as written and amended.

ROLL CALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Antonio Pirone
Aye Richard Kahn
Aye William Spadea
Aye Carlos Rodrigues

2. RESOLUTION OF MEMORIALIZATION:

a) **INNIS, Edith**
178 Birch Avenue
Section 6903, Lot 12.01, R-9
“C” & “D” Variances for Addition
File No. 2364-10Z (9817)

Upon motion made by Richard Kahn and seconded by Penelope Baskerville, a motion was made to adopt the resolution of EDITH INNIS as written and amended.

ROLL CALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Antonio Pirone
Aye Richard Kahn
Aye William Spadea
Aye Carlos Rodrigues

3. APPLICATIONS:

- a) **TARQUINIO, Peter**
694 Ewing Street
Sect. 5403, Lot 13, R-6
Request for change in condition
File No. 2350-09Z (9719)

Present for the hearing were Mr. Peter Tarquinio, applicant and; Mr. James Manahan, Attorney.

Attorney Casey noted that this application was carried from the February meeting and the Board was still within jurisdiction to entertain the request.

Attorney Casey reminded Mr. Tarquinio that he was still under oath from the previous month.

Chairman Rodrigues appointed Member Spadea to hear the application in the absence of Member Felton.

Mr. Manahan explained that the applicant was before the Board in February and as a result of requests from the Board, the applicant is returning with plans of what he is proposing to install in lieu of replacing any future trees that may die or are destroyed. He said the applicant has no intention of removing or destroying any of the arborvitae.

Chairman Rodrigues asked the applicant if he was asking the Board to allow the proposed privacy screen in lieu of the arborvitae/vegetative screening as it was conditioned on the approval.

Mr. Tarquinio explains the site line issue between him and his neighbor. He said the proposal is just to increase privacy for himself and that of his neighbor. He said he thinks this is a fair solution so he does not have to incur the costs of replacing trees should they die. He said this additional privacy screen will allow him to enjoy his deck.

Mr. Manahan reminded the Board that this request for the change in the condition will be deed restricted and run with the land – whoever owns the property must adhere to the restriction. He said by not requiring the replanting of “arborvitae” it will also save money for future owners of the property.

Attorney Casey gave the Board a brief overview of the application and all its stages in the past year and a half. He said the applicant originally came before the Board requesting a variance for the deck. The Board at that time denied the variance. The applicant then returned to the Board and the Board found that the screening at the rear of the property was a substantial change from the original application. The Board then approved the application with the condition that the arborvitae screening at the rear of the property was to be maintained. He said now the applicant has returned with a request to change the wording in the deed restriction and the resolution to an alternative non-vegetative screening. He said The Board may want to consider a new application because there will be new impacts – or – the Board can consider this an acceptable alternative – or – the Board can simply deny the request to change the wording.

Member Kahn asked if the neighbor has seen the proposal for the alternative screening.

Mr. Tarquinio said no, because this alternative can be built without the need for a variance – he said he is asking that the proposed screening be approved to meet the screening requirement as set forth in the

resolution. He said he spent a lot of money over the summer watering the trees and then spent days in the winter out shaking the snow off of the trees. He said he thinks this plan is reasonable and it would eliminate the burden of having to replace the trees.

Attorney Casey noted that the original approval given to the applicant was to allow the deck to encroach into the setback given the fact that the Board agreed with the condition that the arborvitae screening is maintained at the rear of the property. He stated that the issue in front of the Board is whether or not this alternative screening that is being proposed will satisfy the Boards condition of screening.

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.

Chairman Rodrigues asked for comments from the Board.

Member Spadea said the alternative plan is coming before the Board because the requirement of having to replace the arborvitae will cause a financial hardship for the applicant and any future owners of the property. He said he thinks the applicant is making a reasonable request.

Member Clayton said that part of the reason the Board approved the deck in the first place was because of the vegetative screening.

Chairman Rodrigues said the resolution specifically mentions arborvitae because they provide adequate screening. He said the requirement for the screening was to screen the neighbor from the deck.

Member Krasner said he agreed with Chairman Rodrigues however, he would be willing to relax the requirement from arborvitae to another type of vegetation.

Mr. Tarquinio pointed out that there is also a 5 foot fence along the rear property line and that should help with the screening.

Member Kahn pointed out that what the applicant is proposing is very different from what was approved by the Board. He said part of why the deck was approved in the first place was because of the arborvitae screening at the rear of the property.

Member Pirone stated that when the Board approved the deck, they looked at everything and the arborvitae was part of the approval.

Member Spadea said the original deck was approved based on a “privacy screen” and the alternate plan would accomplish that without the economic hardship of having to replace the trees.

Member Kahn said if the trees die, then they should be replaced.

Chairman Rodrigues said he is not convinced that in the event the trees die, the proposed plan would work both for Mr. Tarquinio and his neighbor. He said the screening the Board was looking for was to screen the deck from the neighbor because the property slopes down and the neighbor would be looking up at the deck; the arborvitae screening was 12 feet high and would accomplish the screening.

Member Baskerville noted that the resolution does not stipulate how many trees have to die before they are replaced.

Chairman Rodrigues stated that the resolution states “any” trees that die or are destroyed have to be replaced”.

Mr. Manahan suggested changing the working in the resolution to state that “when a “substantial amount” of trees die or are destroyed, they shall be replaced”.

Member Krasner said that he would be willing to relax the species to any species that provides an effective screen. He also noted that the key is that the screening is on the property line and not on the deck.

Member Clayton noted that when taken care of, arborvitae trees last for a very long time.

Member Spades made a motion to accept the alternative plan as it has been presented. There was no second to that motion.

Member Krasner said that he would like to make a motion to amend condition #4 of the original approval to read “acceptable vegetation that will be providing effective screening”....

Attorney Casey noted that the Board needs to discuss any other wording changes.

Chairman Rodrigues noted that the word “any” should be removed from condition #4.

Member Krasner said he would like to amend his previous motion to the following wording for condition #4. “allow asuitable vegetative screen on the property line as determined by the Township Zoning Officer and Arborist; and also to eliminate the word “any”.

Upon motion made by Brent Krasner and seconded by Penelope Baskerville, a motion was made to amend condition #4 of the original approval to the following wording: “allow a suitable vegetative screen on the property line as determined by the Township Zoning Officer and Arborist; and also to eliminate the word “any”.

ROLL CALL:	Aye	Penelope Baskerville
	Aye	Louisa Clayton
	Aye	Brent Krasner
	Aye	Richard Kahn
	Aye	Antonio Pirone
	Nay	William Spadea
	Aye	Carlos Rodrigues

Upon motion made by William Spades and seconded by Brent Krasner, a motion was made to approve the applicants request for alternative screening.

ROLL CALL: Nay Penelope Baskerville
Nay Louisa Clayton
Nay Brent Krasner
Nay Richard Kahn
Nay Antonio Pirone
Aye William Spadea
Nay Carlos Rodrigues

Upon motion made by Antonio Pirone and seconded by Penelope Baskerville, a motion was made to deny the applicants request for alternative screening.

ROLL CALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Richard Kahn
Aye Antonio Pirone
Nay William Spadea
Aye Carlos Rodrigues

Attorney Casey noted that he will work with the applicant’s attorney for the final wording in the deed restriction.

- b) WRIGHT, John and Maria**
706 Princeton Kingston Road
Section 5904, Lot 29, R-5
“C” – Various for Garage and Preservation Plan
File No. 2362-10Z (9730)

Present for the hearing was Mr. John Wright, applicant.

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 Member Spadea to hear the application in the absence of Member Felton.

Attorney Casey swore in John Wright.

Mr. Wright said about a year ago one of his neighbor’s trees fell on his garage causing extensive damage to the garage. He said they would like to rebuild the garage with something very similar just slightly higher than what was there. He noted that the neighbor did not like the window that was proposed in the garage so they changed it. He said they will be using wood from old barns for the garage, and that is the reason that they need the garage to be slightly higher so they can store the wood before it is used. He also noted that there will be no change to the historic character of the house.

Chairman Rodrigues asked Mr. Wright if he agreed with all the conditions that are listed in the Historic Preservation Commission memo.

Mr. Wright said yes, he is agreeable to those conditions.

Chairman Rodrigues verified that the variances being requested are for the setback to height ratio and the side-yard setback requirements.

Mr. Wright said yes.

Chairman Rodrigues asked Ms. Lewandoski if she had any comments to make.

Ms. Lewandoski said that the variances are no different than what the present conditions are for the garage. She noted that the Historic Preservation Commission voted unanimously to approve the Wright application.

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.

Member Kahn said the applicant is respecting the character of the neighborhood and he would like to move that the application is approved.

Upon motion made by Richard Kahn and seconded by Antonio Pirone, a motion was made to approve the application with the condition that all the conditions mentioned in the HPC memo are met.

ROLLCALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Richard Kahn
Aye Antonio Pirone
Aye William Spadea
Aye Carlos Rodrigues

c) **MARSHALL, Berit & Tom**
170 Jefferson Road
Section 7107, Lot 12, R-8
“C” – Sideyard setback for addition
File No. 2367-10Z (9820)

Present for the hearing were Berit Marshall, applicant; and Gary Mertz, architect.

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 Member Spadea to hear the application in the absence of Member Felton.

Attorney Casey swore in Berit Marshall and Gary Mertz.

Mrs. Marshall said she and her husband bought their house back in 1962 and have lived there ever since. She said they would like to age in place and not have to worry about moving somewhere else. She said they would like to add a family room and a bathroom .

Mr. Mertz explained the orientation of the addition noting that in order to gain access to the living room the addition needed to be pushed out 2 feet.

Mrs. Marshall said she spoke with her neighbor and she had no problems with the request.

Member Kahn suggested moving the addition to the other side in order to eliminate the need for a variance.

Mrs. Marshall and Mr. Mertz explained that all the piping was located on the right side of the house which made more sense to place the addition there. Mrs. Marshall also stated that if the addition was moved to the other side, it would cut off some of her sunlight in the living room.

Mr. Mertz explained Exhibit A-1 which were pictures of the existing house.

Member Clayton asked the applicant if she explored the idea of making the addition longer and deeper.

Mrs. Marshall said the proposal is more in line with the other homes and she didn't want to make something that would take away their green space and possibly the loss of some trees.

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.

Member Kahn said there are other options available but since the variance will not be detrimental to anyone he moved that the Board approve the application.

Upon motion made by Richard Kahn and seconded by Antonio Pirone, a motion was made to approve the application of Berit & Tom Marshall as it has been presented to the Board.

ROLLCALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Richard Kahn
Aye Antonio Pirone
Aye William Spadea
Aye Carlos Rodrigues

4. ADJOURNMENT:

Upon motion made by Brent Krasner and seconded by Penelope Baskerville, a motion was made to adjourn the meeting at 9:15 p.m.

ROLLCALL: Aye Penelope Baskerville
Aye Louisa Clayton
Aye Brent Krasner
Aye Richard Kahn
Aye Antonio Pirone
Aye William Spadea
Aye Carlos Rodrigues

Respectfully Submitted,

Debra L. Rogers, Secretary

Date Approved: April 27, 2011