

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of Regular Meeting
Wednesday, August 28 2013– 7:30pm
Main Meeting Room
400 Witherspoon Street, Princeton, NJ 08540

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

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

ABSENT: Sara Segal

There were eleven (11) members of the public present.

The meeting commenced at 7:31 p.m. with Chairman Royce reading the Open Public Meetings Act statement.

1. MINUTES:

Upon motion made by Penelope Baskerville and seconded by Steven Cohen, a motion was made to approve the minutes of July 24, 2013 as written and approved.

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

2. RESOLUTIONS OF MEMORIALIZATION:

- a) RODAN INVESTMENTS**
27 Morgan Place
Block 6802, Lot 18, R-5
C1/C2 – Lot Area and Lot Width
File No. Z13 13-050V

Upon motion made by Michael Floyd and seconded by Steven Cohen, a motion was made to adopt the resolution as written and amended.

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

b) 52 Aiken Ave LLC
52 Aiken Ave
Block 52.01, Lot 85.01, R-3
C1 – Front-yard Parking
File No. Z13 13-058V

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

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton**
 Aye **Richard Kahn**
 Aye **Barrie Royce**

3. APPLICATIONS:

a) BOGY CONSTRUCTION
48 Dorann Avenue
Block 7308, Lot 16, R-7
C1/C2 – Lot Area for new house
File No. Z13 13-054V

Present for the hearing were Darko Radoycic, applicant and Miyuki Kaneko, Attorney.

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 went over the highlights of his memo saying the applicant has applied for a C1 hardship variance and in the alternative a C2 variance for the lot area. He said the subject lot is located at 48 Dorann Avenue which is located in the R-7 zoning district. He said the required lot area is 10, 890 sf and this lot is only 10, 500 sf. He said the applicant would like to demolish the existing structure and rebuild a new home on the lot. He noted that the applicant will meet all other zoning requirements and will not require any other variances.

Ms. Kaneko stated that she is an Attorney with Steven's & Lee LLP who are representing the applicant Bogy Construction. She said the applicant has applied for a C1 or C2 variance for the lot area of the subject lot. She said the required lot area is 10, 890 sf and this lot had 10, 500 sf. She said the request is *de minimus*. She said the existing home is not functional and the applicant would like to demolish the existing structure and rebuild a new home on a similar footprint. She said the applicant will comply with all of the other bulk requirements. She noted that the lot is located in a developed neighborhood and all of the surrounding lots are also non-conforming to the lot area, so there was no opportunity to purchase land or to make this lot more conforming. She said two lots theoretically could be combined, but if that was done, the lot would have a much higher FAR and the home that could be built on the lot would not fit well in the neighborhood. She said this is a classic hardship variance but would also meet the criteria for a C2 variance as there will be no detriment to the zone plan, the neighborhood or the towns Master Plan.

Attorney Cayci swore in Darko Radoycic.

Mr. Radoycic said Bogy Construction was hired to build a new home on the lot. He said the new house would be about the same size as what is existing there now. He noted that the new structure will meet all of the other zoning requirements for the zoning district.

Chairman Royce inquired about the size of the home (e.g. the number of stories) as also about the trees on the property.

Mr. Radoycic said the new home will be 2.5 stories and there is only one major tree that will have to be removed.

Chairman Royce asked if there were any drainage issues on the property.

Mr. Radoycic said no presently but he will be working with the municipality to ensure there are no drainage issues.

Chairman Royce asked if it was the applicant's testimony that the new home will meet all of the other zoning requirements.

Mr. Radoycic said yes, the new structure will meet all of the requirements; he does not want to come back for any other variances.

Member Clayton verified that the only variance being requested is for lot area.

Mr. Radoycic said yes, that is correct.

Member Kahn noted that the variance is for lot area only and the board should not be discussing the architecture of the new house.

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.

Chairman Royce asked if any Board members had comments or if someone would like to make a motion on the application.

Upon motion made by Michael Floyd and seconded by Richard Kahn, a motion was made to approve the application as it has been presented to the Board.

ROLL CALL:

Aye	Penelope Baskerville
Aye	Louisa Clayton
Aye	Michael Floyd
Aye	Richard Kahn
Aye	Ravi Manchi
Aye	Steven Cohen
Aye	Barrie Royce

The original agenda had the Stengle application listed as being heard second....Do to the late submission of the noticing documents, the application was pushed to third so Attorney Cayci could review the noticing documents

b) MRM Construction
15 Marion Road West
Block 4704, Lot 3, R-5
C1 – Lot Area for a new home
File No. Z13 13-081V

Present for the hearing were Mark Solomon, Attorney for the applicant and Frank Falcone, Engineer/Professional 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.

Mr. Solomon said he is an Attorney with Pepper Hamilton and he is representing the applicant MRM Construction. He said the applicant is requesting lot area relief for the lot located at 15 Marion Road West in the R-5 zoning district. He said the zoning requires 21, 780 sf and the lot is only 20,000 sf as are many other lots in the neighborhood. He said the request is for a hardship variance because of the condition of the lot. He noted that there will be no substantial detriment to the general welfare and this is the only variance that the applicant is requesting; all other standards will be met. He submitted Exhibit A-1 which are letters to the adjacent property owners seeking to purchase property and offering to sell this lot. He said he received no response from any of the property owners.

Attorney Cayci swore in Frank Falcone.

Mr. Falcone said he is a principal in Princeton Junction Engineering and is a licensed Professional Planner, Land Surveyor and Engineer. He submitted Exhibit A-2 titled the Tax Map Plan where he pointed out all of the undersized lots in the neighborhood. He also submitted Exhibit A-3 titled the Enlarged Detailed Sheet where he showed the details of the subject lot. He said the existing house is an L-shaped 1-story ranch which is about 2300 sf. He said there is only one tree that will need to be removed and they will pay close attention to the drainage to ensure they bring the water to Marion Road West and not to the adjacent lots. He said the neighborhoods consists of ranches, bi-level and newer homes.

Mr. Solomon asked if the applicant would need any other variance relief.

Mr. Falcone said no, the new structure will meet all of the zoning requirements.

Mr. Solomon asked Mr. Falcone to review the adjacent lots with the Board.

Mr. Falcone said the lot to the north is also undersized with 20,000 sf, the lot to the rear is also 20,000 sf and the lot to the south is 5.4 acres but they did not respond to the letter that was sent to them.

Mr. Solomon asked Mr. Falcone if, in his opinion, he thought that this proposal would cause substantial detriment to the neighborhood.

Mr. Falcone said in his opinion, it will meet all of the requirements and there will be no detriment to the zone plan, general welfare or the neighborhood. He noted that there have been 3 or 4 new homes built in this neighborhood recently and that this neighborhood is currently in a transition.

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

Mr. Gerald Tully said he lives at 18 Marion Road West and he would like to hold his comment until others have spoken but that the neighbors have gathered a petition with over 18 signatures on it.

Attorney Cayci stated that the Board cannot accept the petition if all of the people that signed the petition are not present. She said opinions can be expressed, but the petition cannot be submitted into the formal record.

Chairman Royce noted that the Board needs to be able to cross-examine anyone who testifies. He also noted that those present could express opinions.

Ms. Jennifer Jang said she is in attendance representing her friends at 25 Marion Road West who could not be present at the meeting.

The Board then held a brief discussion on whether or not Ms. Jang could present the statement.

It was determined that Ms. Jang could present the statement, however Mr. Solomon noted that as a matter of law its inappropriate, yet on the other hand the applicant is transparent. He said he would like to reserve the right to object after the public comment.

Attorney Cayci swore in Jennifer Jang.

Ms. Jang read a letter from the property owners at 25 Marion Road West. The statement said, but is not limited to, the owners stating that Marion Road is a small, secluded road off Shadybrook lane where the neighbors know each other and the children run around and play on the street. They said the houses were built in the 1950's and most of the lots are less that the required .5 acres. They said some of the homes have been expanded or even rebuilt over the years – but in doing so, the spirit of the neighborhood was kept. They said they are worried that the applicant will build a very large home on the small lot and it will overshadow the surrounding houses and reduce privacy. They said they are not against construction but they want the new house to fit in with the rest of the neighborhood. They asked the Board to do everything in its power to make sure that the applicant can only build a house that will fit into the neighborhood in terms of height, size and style.

Mr. Leopold, 89 Shadybrook Lane, apologized for not responding to the letter that was sent to him and noted that he is not interested in selling any land or purchasing the subject lot. He said his concern is with the quality of the neighborhood. He said the houses are being replaced with McMansions in the neighborhood which ruin the character of the neighborhood. He said he would like the Board to limit the height of the home to no larger than 25 feet. He said 25 people signed the petition. He said the existing house is not secluded in the winter time, he can see into the neighbor's house.

Mr. Okeke, 28 Marion Road West, said that he just moved into the neighborhood 2 weeks ago and he also signed the petition. He is concerned that the neighborhood that he wants to live in will change and that he also has concerns over privacy.

Chairman Royce explained that the Board does not have jurisdiction over the structure that will be built. He said the Board is only concerned with the lot area variance that is being requested.

Mr. Gerald Tully, 18 Marion Road West, set up his computer and showed the Board pictures of various homes in the neighborhood. At the end of the presentation he said he would like to see the Board limit the structure to 2 levels.

Member Kahn noted that he will be abstaining from voting on the application because he lives in the neighborhood, but is not within 200 feet of this lot. He said there have been 3 new homes built and all received variances from the Zoning Board for lot area. He noted that the new homes that have been built meet all applicable zoning requirements.

Chairman Royce noted that the Board operates under constraints and they cannot consider the architecture of the structure if the applicant is not seeking a variance for it.

Mr. Tully said he would appreciate it if the builder takes the neighbors concerns under consideration,

Member Cohen suggested that the neighbors bring their concerns to the Town Council as the Zoning Board does not create the ordinances it only enforces them.

Mr. Tully reminded the Board that 18 other people who are not in attendance signed the petition.

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.

Mr. Solomon thanked the residents and stated that the applicant knows this issue is important to them. He also noted that he has no objection to the testimony that was given during public comment. He stated that the ordinance and the ordinance requirements are what govern the construction – the zoning standards dictate what can be built. He said it has been noted on the record that the applicant will adhere to all of the zoning requirements. He said the applicant has met the criteria and heard all of the comments and will consider them as he moves forward. He noted that his client always tries to work with the neighborhood and he tries to do his best and do a job. He said the applicant has met the criteria and he hopes the Board approves the variance request.

Chairman Royce asked the Board for comments on the application.

Member Kahn noted that he will abstain but noted that the Board does not have the power to restrict zoning – that is something that needs to be done in a different venue.

Member Manchi said he does not agree that the variance should be granted.

Member Clayton said this is a case that involves an undersized lot and there is not much that the Board can do about it. She said she would like to make a motion to approve the application.

Chairman Royce noted that the Board will be putting the issue of undersized lots in its annual report that is distributed to the Planning Board and Town Council at the end of every year.

Attorney Cayci noted that Mr. Tully could provide the Zoning Office with a disc of the photo's he presented.

Mr. Solomon noted that he did want to place an objection on the constant mention of the 18 additional signatures on the petition.

Upon motion made by Louisa Clayton and seconded by Steven Cohen, a motion was made to approve the application as it has been presented to the Board.

ROLL CALL: **Aye** **Penelope Baskerville**
 Aye **Louisa Clayton** ‘
 Aye **Michael Floyd**
 Abstain **Richard Kahn**
 Nay **Ravi Manchi**
 Aye **Steven Cohen**
 Aye **Barrie Royce**

c) STENGLE, Sylvia
42 Markham Road
Clock 53.06, Lot 57, R-3
C1 or C2 – Setbacks and Coverage for Shed and Generator
File No. Z13 13-075V

Present for the hearing was the applicants Architect, Heidi Fichtenbaum.

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

Mr. Bridger said the applicant has applied to a C1 and in the alternative a C2 variance in exception to the required setbacks. He said this structure is ½ of a duplex in a single family zone where 2-family use is permitted. He said the subject lot is non-conforming to lot area and lot width. He said other existing non-conformities are combined side-yard setback, smaller side-yard setback, front-yard setback, lot coverage and parking. He said the applicant is seeking variances for the generator – the required setback is 5 feet and the applicant would like to place the generator 2 feet 3 inches from the property line; for the shed – the requirement is 8 feet and the applicant would like to place the shed 7.1 feet from the property line; lot coverage – 25% is the maximum and the applicant is proposing 30.4% ; and he also noted that the air conditioning unit will be replaced and the required setback is 5 feet and the ac unit as it exists now is 2 feet 3 inches from the property line so the applicant will need relief for that as well.

Attorney Cayci swore in Ms. Fichtenbaum and asked her if she was a licensed Architect in New Jersey.

Ms. Fichtenbaum said yes, she is a licensed Architect in the state of New Jersey.

Ms. Fichtenbaum said the owner, Ms. Stengle apologized for not being at the meeting but she had a prior commitment and if her application was not heard at this meeting, it may not have been able to be heard until late fall.

Ms. Fichtenbaum said the lot is very narrow and is located at the corner of Pelham and Markham. She said the applicant would like to have a shed to store her garden tools and her bicycle. She said the shed is very modest with a size of 30 sf. She also said the applicant would like to amend her application to include the air conditioning unit that is presently violating the

setback requirement. She said the applicant would also like to have a generator to keep her house from flooding during these bad storms we have been experiencing. She entered Exhibit A-1 titled Enlarged Site Plan to show the Board what the lot looks like. She described the backyard saying there is an existing garden and bluestone patio and she emphasized the narrowness of the lot. She said they would like to place the generator next to the air conditioning unit (where the electric meter is) as there is an existing wood fence to screen the generator from view. She said she feels there will be no detriments and this proposal will preserve the open space and the vegetation on the lot. She noted that there are a number of other lots in the neighborhood with the same lot size – this lot is not unusual.

Chairman Royce noted that the exhaust from the generator will go towards the fence and not the house.

Member Clayton asked how far the generator needs to be from the house.

Ms Fichtenbaum said there is a construction code that states the generator must be at least 5 feet away from any window. She also noted that the shed will be constructed with cement board because of the generator. She said this approval would not be detrimental to the neighborhood and would preserve open space and vegetation.

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.

Upon motion made by Ravi Manchi and seconded by Michael Floyd, a motion was made to approve the application as it has been presented and to also include the variances for the air conditioning unit as well.

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

4. ADJOURNMENT:

Upon motion made by Steven Cohen and seconded by Richard Kahn, a motion was made to adjourn the meeting at 9:05 p.m.

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

Respectfully Submitted,



Debra Rogers, Secretary

Date Approved: September 18, 2013