

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of Regular Meeting
Wednesday, January 22, 2014– 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

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

ABSENT: Doreen Blanc-Rockstrom

There were seventeen (17) members of the public present.

The meeting commenced at 7:34 p.m. with Chairman Royce reading the Open Public Meetings Act statement.

1. ADMINISTRATIVE MATTERS:

a) Election and Appointment of Chairman:

Attorney Cayci asked for nominations for the position of Chairman of the Princeton Zoning Board of Adjustment for the year 2014.

Steven Cohen nominated Barrie Royce; Richard Kahn seconded that motion. Attorney Cayci asked if there were any other nominations for the Chairman position; hearing none she closed the floor to nominations.

Upon motion made by Steven Cohen and seconded by Richard Kahn, a motion was made to appoint Barrie Royce as Chairman of the Princeton Zoning Board of Adjustment for the year 2014.

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

b) Election and Appointment of Vice Chairman:

Chairman Royce asked for nominations for the position of Vice Chairman of the Princeton Zoning Board of Adjustment for the year 2014.

Sara Segal nominated Richard Kahn; Louisa Clayton seconded that motion. Chairman Royce asked if there were any other nominations for the Vice Chairman position; hearing none he closed the floor to nominations.

Upon motion made by Sara Segal and seconded by Louisa Clayton, a motion was made to appoint Richard Kahn as Vice Chairman of the Princeton Zoning Board of Adjustment for the year 2014.

ROLLCALL:

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

c) Appointment of Board Attorney:

Upon motion made by Steven Cohen and seconded by Richard Kahn, a motion was made to appoint Karen Cayci as the Attorney for the Princeton Zoning Board of Adjustment for the year 2014.

ROLLCALL:

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

d) Appointment of Board Secretary:

Upon motion made by Louisa Clayton and seconded by Richard Kahn, a motion was made to appoint Debra Rogers as the Secretary for the Princeton Zoning Board of Adjustment for the year 2014.

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

2. MINUTES:

a) December 11, 2013:

Upon motion made by Steven Cohen and seconded by Louisa Clayton, a motion was made to approve the minutes as written and amended.

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

3. RESOLUTION OF MEMORIALIZATION:

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

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

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

4. APPLICATIONS:

a) DEVLIN PROPERTIES

446 Nassau Street

Block 32.08 Lot 38, R-2

C1/C2 – Front-yard setback and D – FAR

File No. Z13 13-111UV

(Carried from 12/11/13)

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

Mr. Gibbons reminded the Board that he is the Attorney representing the applicant Devlin Properties. He said the applicant were in front of the Board on December 11, 2013 with requests for both front-yard setback and FAR. He noted that in light of all the discussion and suggestions at that meeting, the applicant has made revisions to the plans in order to address the concerns of the Board. He said the plans were submitted to the Board and he would like to have Ms. Motola explain the changes to the Board.

Attorney Cayci swore in Ann Motola.

Ms. Motola said the proposal has been revised and amended – the applicant formally withdraws the request for a “d” – FAR variance. She also noted that the design of the house changed in order to accommodate an 81 foot front-yard setback rather than the 65 foot front-yard setback that was originally requested. She said the house is now proposed to be setback 81 feet which is the average with the outlier property excluded. She said the garage was also re-oriented taking the Boards comments into account.

Chairman Royce verified that the FAR variance was withdrawn and also asked the applicant if they would be able to save the tree.

Ms. Motola said they won’t know if the tree can be saved until they start digging. She said if they are unable to save the tree they will do extensive landscaping.

Member Cohen asked if there would be adequate space to turn the car around so no one would be backing out onto Nassau Street.

Ms. Motola said she believes there will be enough space.

Mr. Gibbons asked if the Board had any other questions for Ms. Motola.

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

Mr. Gibbons said he would like to have Mr. Doran also testify as to the changes that were made.

Attorney Cayci swore in William Doran.

Mr. Gibbons asked Mr. Doran various questions and he responded as follows.

Mr. Doran said he prepared the plans and redesigned the building so it would now be set back 81 feet instead of 65 feet. He said they also re-arranged the placement of the garage and the house was re-designed to accomplish this. He said they also reduced the square footage to bring it down to the allowable FAR. He said with regards to the C1 standards, he feels that the lot is unique in its shape and should the Board decide to grant the relief it would be consistent with the Master Plan and the zoning ordinance of Princeton. He said regarding the C2 standards, the benefits definitely outweigh the detriments because the development would promote a desirable visual environment. He said granting the variance would not be a detriment to the Master Plan, zoning ordinance or the neighboring properties in Princeton.

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

Mr. Gibbons gave his closing statements saying that the application reflects concerns made by the Board at the December 11, 2013 meeting. He said the Board could grant relief under either the C1 or C2 standards. He said the proposal will not be out of character in the neighborhood and he respectfully asked the Board to approve the application.

Chairman Royce noted that he did not think a C1 variance was appropriate for this application and then asked for comments from the Board.

Member Cohen said the changes that were made addressed the Board's concerns and he was happy with the plans. He said he would suggest approval of the application.

Member Kahn said the applicant did a good job incorporating the Boards comments and was happy with the revised plans.

Member Clayton said she appreciated the applicant's efforts to re-design the proposal and said she would support an approval.

Upon motion made by Steven Cohen and seconded by Louisa Clayton, a motion was made to approve the application of Devlin Properties, LLC under the C2 standards.

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

- b) NAMES, Lauri**
16 Madison Street
Block 28.02, Lot 39, R-4
C1/C2 – Front-yard Parking REMAND
File No. Z13 13-094V
(Carried from 12/11/13)

Present for the hearing were Lauri Names, applicant; Mark Roselli, Attorney; and Christine Cofone, Planner.

Also in attendance for the objectors was Anne Studholme, Attorney and Matthew Sprung, Planner.

Member Cohen recused himself from this application.

The six eligible zoning board members all handed in certifications stating that they had read the transcripts from the previous zoning board meeting in July 2012.

Chairman Royce stated that the binding legal document from the previous hearing is the resolution of memorialization. He stated that the applicant is back tonight and there will be additional information presented for and against the granting of this variance.

Member Floyd asked Attorney Cayci if this application should have gone to the governing body for the appeal.

Attorney Cayci said no, this type of application goes straight to Superior Court. She said the applicant, Lauri Names came before the Princeton Borough Zoning Board for a front-yard parking variance and the request was denied. She said the applicant then appealed the Board's decision and the court remanded it back to the Zoning Board so the applicant could present additional information.

Attorney Cayci suggested that the Board follow a certain protocol for this application and suggested that it proceed this way; Staff would make its presentation; Mr. Roselli would make his presentation and hear from his witnesses – Ms. Studholme would have the opportunity to cross-examine those witnesses; Ms. Studholme would make her presentation and hear from her witnesses and then Mr. Roselli would then have the opportunity to cross-examine her witnesses; staff would then make any final comments and the Board would hear from the public and then go into deliberative session.

Chairman Royce said that seemed reasonable and asked Mr. Solow to make his presentation.

Attorney Cayci swore in Lee Solow, Planning Director for Princeton.

Mr. Solow said he reviewed all of the previous documents pertaining to the case including the transcripts from the Zoning Board meeting in July 2012. He noted that the Board had denied this

application, the applicant appealed that decision to Superior Court, and the judge remanded it back to the Board. He said submitted Exhibit Z-1 shows the R-4 zoning district in the former Princeton Borough. He said the lot and the structure at 16 Madison Street are non-conforming and he noted that most parking exists in the side-yard setback, on the street, but not in the front-yard setback. He said the applicant is proposing to install pavers for the parking area and a new bluestone walkway, and that the proposed driveway is 5 feet from the south property line and 11 feet from the northern property line. He said he wanted to make sure that the driveway and/or car would not be overhanging onto the sidewalk area. He also stated that it wasn't clear as to which variance the applicant was requesting; whether it is a C1 hardship or flexible C2 variance. He said the core question that the Board will need to ask regarding the C-1 hardship variance is: did the applicant show that there is a peculiar and undue hardship (physical features of the lot) that results in a hardship. He said with regards to the C-2 variance, the applicant would need to show that benefits outweigh the detriments and that it will promote one or more purposes of zoning. He said the applicant will need to show that there is no substantial detriment to the public good, zone plan and zoning ordinance. He noted that the Madison Street neighborhood is an isolated neighborhood and any detriment or impact will only be felt on Madison Street. He also noted that the Board must consider whether the request is consistent with the Master Plan and zoning ordinance. He stated that currently there is not a lot of discussion in the Master Plan regarding front-yard parking.

Member Floyd noted that the R-4 zoning district is filled with small lots and small buildings. He asked Mr. Solow if he thought that any impacts will affect the complete zone and not just Madison Street.

Mr. Solow said the R-4 zone is scattered throughout the former Borough and for the purposes of this application he just focused on Madison Street.

Member Floyd noted that it is the Zoning Board's job to think about zoning in general not just Madison Street.

Attorney Cayci asked Mr. Bridger if he would like to make any comments.

Mr. Bridger said he would like to reserve his comments for the end of all the presentations.

Attorney Cayci asked the applicant to proceed with their presentation.

Mr. Roselli stated that he is the attorney for the applicant and he was not present at the November meeting however, it was suggested that the applicant send out a courtesy notice via regular mail; he said he wanted to put on the record that the applicant did do that.

Mr. Roselli noted that the applicant submitted a binder with all of the exhibits that were presented at the original hearing. He said the applicant plans to supplement testimony to the original record. He said he will have Lauri Names the applicant and Christine Cofone, the planner testify.

Attorney Cayci made note of the exhibits that were submitted at the original hearing in July 2012. She said the applicant submitted A-1 which was a depiction of the plot plan and driveway; A-2 which was 36 photos and 3 maps of Madison Street. She noted that exhibits entered into the record at this hearing will begin with A-3.

Mr. Roselli said that was correct.

Attorney Cayci swore in Lauri Names, 16 Madison Street, Princeton, NJ.

Mr. Roselli asked Ms. Names various questions regarding her property. He asked her if she knew the age of her property.

Ms. Names said it was built in the early 1900's sometime before 1905.

Mr. Roselli submitted exhibit A-3, an appraisal that was done of 16 Madison Street.

Attorney Cayci asked Mr. Roselli if Ms. Names was an appraiser.

Mr. Roselli said no, she is not an appraiser, the appraisal is being used to establish the age of the residence.

Ms. Names said she paid for an appraisal to be done by David Ricigilano on July 12, 2012. She referred to page 2 under 'general description' to note that it states the house was built in 1907. She said she also did other research on her own. She went on to the Princeton Historical Society website and obtained photos of Madison Street. These photos were marked as exhibit A4 & A-5. She said that A-5 shows 14 Madison Street next to 16 Madison Street and the back of the photo has handwritten notes. She referred to A-4 which showed 18 Madison existed in the early 1900's.

Attorney Cayci verified that these photos were obtained from of the Princeton Historical Society website.

Ms. Names said yes, she obtained them from the "search for documents" area.

Chairman Royce asked why Ms. Names was showing the Board the photos.

Ms. Names said she is trying to establish the age of the residence.

Ms. Names said she has been living at 16 Madison Street since 2012. She said she has seen the parking habits of her neighbors and she took the photos of the existing parking conditions not only on Madison Street but other surrounding streets as well. These photos were marked as exhibit A-6. She went over the 6 pages of black & white photos that show homes with parking in the front of their houses. She said the photos were taken by her over several months on Madison Street, Park Place, Wiggins Street, Moore Street and Jefferson road.

Chairman Royce asked if they were taken on different days at different times.

Ms. Names said yes they were.

Ms. Names noted that the photos show that these homes have driveways and some of the driveways extend beyond the front of the house and some are on grassy areas in front of the homes. She also showed pictures of Madison Street which shows the parking habits of the neighborhood. She obtained these photos from Google Street View. She said the pictures establish that the parking habits have remained the same since before she owned her home. She submitted exhibit A-7 which is a picture of 23 Madison Street where the car is parked in front-yard setback, she said it also shows parking within the setback at 12,14 & 18 Madison Street. She noted that the photo showing 16 Madison Street has a “for sale” sign in the front of it, noting that these photos are from before she bought the house. She said she has not sub-divided her property, and it exists today as it has since she bought it. She also stated that it had been owned by the previous owners since 1920. She referred to exhibit A-1 of a plot plan showing her proposed parking area. She said it would be 8 feet wide and 24 feet long. She said her car is 8 feet long so there would be more than enough room so that her car does not overhang the sidewalk. She said she wants to have bluestone pavers with grass in between the pavers. She noted that right now her front yard consists of shrubs and wood chips and her proposal would allow it to become green space.

Mr. Solow stated that the driveway does not scale to what she is describing. He said it only scales 20 feet not 24 feet.

Ms. Names noted that the plan is not to scale and that there would still be sufficient room to park the car and not have the end of the car overhang the sidewalk.

Chairman Royce asked Mr. Bridger what the parking stall requirement is in the ordinance.

Mr. Bridger said 9 X 19 feet.

Mr. Roselli said the walkway is proposed to be 2 X 18 and 2 dry pad parking areas that are 8 X 18 feet.

Chairman Royce said the requirement is 9 X 19 feet.

Mr. Roselli stated that there is 24 feet from the porch to the sidewalk; 19 feet would fit but the applicant would like to minimize impact and reduce it to 8 X 18 feet.

Member Clayton asked if it was the applicants’ intention to only pave where the wheels of the car would be.

Ms. Names said yes, that was correct.

Chairman Royce said the side-yard setback is 5 feet.

Mr. Bridger also noted that the applicant would need to be at least 4 feet off of the front-yard setback.

Mr. Roselli submitted exhibit A-8 pictures of 16 & 18 Madison Street.

Ms. Names described her proposal for how much green area she will have as compared to the others. She said she prepared the drawing herself, and described how she came up with the dimensions on the plan. She said it is an artist rendering and is not necessarily scaled.

Member Kahn said he doesn't believe the 8 foot length is accurate.

Member Floyd asked the applicant if she found that other homes on Madison had zoning approvals for front-yard parking.

Ms. Names said she had heard that 12 Madison received a variance but said she does not know of any other properties that have received approvals for front-yard parking.

Mr. Bridger said he does not believe that 12 Madison received a variance. He said there were notes in the files regarding the violation but no other correspondence. He said 16-18 Madison applied for a variance back in the late 1980's but it was not granted.

Mr. Roselli said that the Board has granted other applicants (on other streets in the same zoning district) the same variances that are being requested. He noted that there are others on Madison Street that park in the front-yard setback.

Attorney Cayci swore in Christine Cofone, Professional Planner.

Ms. Cofone gave her qualifications and the Board accepted her as an expert witness.

Ms. Cofone said she reviewed the application and related documents and prepared a report dated October 2013. She said, based on her review and research that her office did, that the Board can grant the relief as either a C-1 or C-2 variance. She said that based on the C-1 criteria the Board could grant the variance because the property is significantly undersized and with regards to the C-2 criteria this proposal could promote 2 purposes of the Municipal Land Use Law. She went on to discuss the criteria for each one. She said the lot is pre-existing undersized and because of the narrowness of the property, Ms. Names cannot have a conforming driveway. She said Ms. Names tried to obtain an easement to park her car in the rear of her property but was unsuccessful. She said this is a classic C-1 hardship variance. She went on to say that if the Board felt this request fell under the C-2 criteria, there is a provision in the MLUL that the request provides adequate light, air and open space. She referred to exhibit A-8 saying that the bluestone strips with grass in between and along the paved area would gain more green area than what exists now. She said this exhibit is a good example of how the parking strips would be placed. She also noted that this design would allow her to have more plantings in the front-yard as well. She discussed a few court cases where a C-2 variance could be granted for something that was a "neighborhood norm" and parking is a "neighborhood norm" in this area. She said there is sufficient space to have the parking in the front-yard. With regards to the negative

criteria, she said there is a statutory requirement that there is no substantial detriment to the public good, zone plan or zoning ordinance and that the benefits need to outweigh and detracts. She said each application should rise and fall on its merit; however she did review other variance applications that the Board has heard. She referred to an application at 74 Jefferson Road where the Zoning Officer, Derek Bridger was quoted as saying “it’s a common practice in the Borough to park in the front-yard setback as many homes don’t have driveways”. She noted that front-yard parking does occur on Madison Street now. She said the applicant has given the Board evidence that there is parking on 11 lots on Madison Street and this is common place. She said impact will be contained to other residences on Madison Street and there will be no impairment to the public good. She said the Board can place a condition on an approval that the applicant keeps the grass in between the pavers and she can never put asphalt or cement over the pavers. She again noted that there will be no substantial detriment to the public good. She also stated that there is an ordinance on the books that states that any new home must provide off-street parking. She said if the applicant were to demolish the existing house and rebuild a new home she would be required to have off-street parking. She said the applicant may be violating the front-yard setback requirement but she will be providing off-street parking – it’s a great balancing act. She said based on the evidence presented, the Board can grant either a C-1 or C-2 variance without substantial detriment.

Chairman Royce referred to exhibit A-8 and asked how many hours a day the applicant would be parking on the pavers.

Ms. Cofone said the applicant works outside of her home so more than likely she would only be parking at night.

Chairman Royce said he doesn’t know how beautiful and green the grass would look after a car has been parking on it.

Ms. Cofone noted that it is no different than the others that are parking on their lots on Madison Street.

Member Floyd asked Ms. Cofone if she saw a difference with 18 Madison Street parking on the side of the structure and 16 Madison parking right in front of the structure.

Ms. Cofone said there are different views. She noted that one could say that 18 Madison is obstructing the view to the rear of the property. She also noted that 14-12 Madison have their vehicles parked in front of the structure.

Mr. Solow referred to A-8 saying that if you look at the diagram, the left-side should have a 5 foot buffer – as if so, the green space would actually shrink.

Ms. Cofone noted that A-8 is not drawn to scale it is just being present to show that there will be green space added.

Mr. Roselli said that Ms. Names had no intent to draw that diagram to scale – it was given to show the Board what she was planning on doing. He noted that the plan can always be altered to

have more green area. He also asked that Ms. Cofone's planners report be marked as exhibit A-9.

Mr. Roselli stated that he has presented all of his witnesses. He said he would like to hear the testimony of the objectors and reserve the right to rebuttal at the end.

Attorney Cayci asked the objectors attorney to proceed with her presentation.

Ms. Studholme said she is the attorney for some of the residents on Madison Street and she also lives on Madison Street herself. She noted that exhibit A-7 shows 23 Madison Street and a car within the front-yard parking overhanging onto the sidewalk. She said she lives at 23 Madison and will do her best to keep the car inside the driveway so it does not overhang the sidewalk area. She said the residents that she is representing live at the following addresses on Madison Street; 4, 14, 18, 19, 13 and 9 Madison Street. She said she had a couple of questions for Ms. Names. She asked Ms. Names if she was a licensed realtor for Thompson land.

Ms. Names said yes, she is.

Ms. Studholme asked Ms. Names if she works 500-600 feet away from her home.

Ms. Names said she works 1.5 blocks away from her home.

Ms. Studholme referred to the appraisal that was submitted and asked if Ms. Names if she was presenting this as evidence of the value of her house.

Mr. Roselli said no, she only offered the appraisal to show the age of the home.

Chairman Royce noted that it was 9:45 p.m. and the Board ends its meetings at 11:00. He asked Ms. Studholme to keep on point to move this along quickly.

Ms. Studholme said this application is in front of the Board on a remand from the court. She said the applicant originally made her presentation, the neighbors presented, the Board made a decision and then the applicant appealed that decision to Superior Court. The court sent it back so that the applicant could present more testimony. She said nothing really has changed since that original application and the Board would have to find that there is a change now. She said the applicant has presented a planner this time as do the objectors. She said she has some reason to believe that the applicant should be requesting a "d" variance because this is a prohibited use, but she said she will not go down that road right now. She said the Board has granted front-yard parking variances to 114 Mercer Street, 34 Linden Lane and 52 Aiken Avenue, and the applicant has called these "creeping" approvals, however, each of those approvals were unique. She noted that each of those applications had undesirable pre-existing conditions. She another difference with those approvals is that the neighbors were in favor and thought it to be an improvement. She noted that the neighbors on Madison Street are against this because it will be a detriment to their neighborhood. She said if the Board grants this request; the Board could have hundreds of more applications like this. She said she quickly wanted to address the C-1 standard of undue hardship and noted this is limited to the lot, not personal. She said the applicants have presented

that the lot is narrow however, this is a self-created hardship and the relief should be denied. She said she referred to the Sandborn maps and in 1902 the maps show 14 Madison was in existence; in 1903 lot 16 was sub-divided off lot 18 with only a 25 foot width. She also noted that 18 was built with a driveway and 16 was not. She said it is crystal clear that the size of the lot was a self-created hardship by the predecessors. She said there is no hardship here.

Attorney Cayci noted that there was no zoning in effect at the time of the subdivision – 1951 was the start of zoning.

Ms. Studholme said if the ordinance required parking on the lot Ms. Names would have a C-1 variance, but she is saying that she wants to park in the lot but it's too narrow.

Member Kahn said he is confused about the self-created hardship issue. He said when this lot was created it was not a hardship, there was no zoning.

Mr. Roselli said Ms. Studholme is not a witness and she can't testify. He said the Board cannot take her testimony into consideration and he wanted to put that objection on the record.

Member Clayton said that there are many applicants that come before this Board and the Board does not go back to the Sandborn maps. She said she does not believe this is a valid point and there should be no further discussion on it.

Member Kahn said he does not see this as a self-created hardship.

Ms. Studholme said she would like to call her first witness, Ms. Rebecca Cox.

Attorney Cayci swore in Rebecca Cox, 9 Madison Street.

Ms. Cox read from a prepared statement and submitted her statement and accompanying pictures as exhibit O-1. She said she purchased her house in 1995 but has lived in the neighborhood for most of her life. She said Madison Street is a very pretty street and only one block long. She noted that most of the homes were built in the early 1900's and most are Victorian style. She said the neighbors who live on the street have consistently objected to applications for front-yard parking because it would harm the home values and the look of the street. She clarified front-yard parking by saying she means parking directly in front of the porch, the entrance steps or part of the house containing the front door. She also noted that the Zoning Board has consistently denied applications for front-yard parking in this neighborhood. She noted that the photo's attached to her statement that was handed out to the Board shows that all of the Madison Street properties that provide parking on site have driveways between their homes, and in many cases the residences share driveways. She said there are no cases of parking in the front of a house on Madison Street, except for an unresolved zoning violation at 12 Madison, which she believes has contributed to a misimpression that front-yard parking is permitted on the street. She said she also researched the history of 16 Madison Street and learned that the lot was deliberately created in 1903 without space for a driveway along the side of the house. She said respectfully she would like to remind the Board that nothing has changed between the last hearing on this application and this hearing ~~now~~. She said the judge permitted Ms. Names to submit a planner's

report, as well as the neighbors, but none of the facts have changed. She asked the Board to confirm its prior ruling against this application.

Ms. Studholme asked Ms. Cox a hypothetical question referring to the applicants exhibit A-7 (Google pictures) and this same exhibit was marked as O-2. She asked about placing the car in front of a structure that is 3 windows wide.

Attorney Cayci asked Ms. Studholme exactly what she was asking.

Ms. Studholme said she is asking Ms. Cox is that would be a more realistic depiction of what it would look like if the car was parking in front of a structure.

Member Kahn reminded her that the pictures are not to scale and it is not appropriate to ask that question.

Ms. Studholme said she would like Ms. Cox to give her opinion.

Ms. Cox said the picture looks like what 15 Madison Street looked like when they were parking in the front-yard.

Chairman Royce stated that this questioning does not have any foundation.

Attorney Cayci said that Ms. Studholme took exhibit A-7 and drew a picture of a car in the front-yard.

Ms. Studholme said it shows a big ugly car parked up against the building.

Member Kahn said this is a hypothetical drawing.

Ms. Studholme said she would like to hear from some of her clients that would like to make a statement.

Attorney Cayci swore in Steven Weiss, 14 Madison Street.

Mr. Weiss said he lives next door to Ms. Names and he has had water issues which require him to have three sump-pumps in his basement. He said his water issue has become more severe over time and he is down-hill from Ms. Names and doesn't want any more run-off to come onto his property. He asked if she will be removing the tree or any shrubs. His statement was marked as exhibit O-3.

Attorney Cayci swore in Ms. Raybould, 18 Madison Street.

Ms. Raybould said when 16 Madison Street was up for sale, it was made clear that the lot did not have parking or a driveway. She said Ms. Names bought the house at a reduced price because there was no parking. She said now Ms. Names wants to dramatically increase the price by

getting parking. She said someone who works within 5 minutes of the property would have known that parking is an issue in the area.

Attorney Cayci swore in Brian Weeks, 18 Madison Street, who said he has invested a lot of money in house to make it look better and had also helped the previous owner of 16 Madison renovate it for the better of the community. He said his car will sit right in front of the porch and he will be forced to look at a car.

Member Segal asked if he was looking at a car now because there is a car parked on his lot.

Member Clayton also noted that Ms. Names asked to share a driveway with 18 Madison and they refused and there are other properties on the street that share a driveway.

Ms. Studholme said her client does not have a legal obligation to grant an easement.

Member Kahn noted that the purchase price that Ms. Names paid for her property has nothing to do with this case and should not be a subject for discussion. He also suggested that the case be carried to the next meeting as there is still a significant amount of testimony that needs to be given. He said it is 10:45 and the planner still needs to testify as well as the public and then rebuttal from the applicant.

Mr. Roselli said he had no objection to a continuance.

After discussion it was noted that this application would be carried to the February 26, 2014 meeting however, the Board would start the meeting an hour earlier at 6:30 p.m. rather than 7:30 p.m.

Mr. Roselli asked that the Board limit the timing to one hour.

A discussion then arose as to whether or not the applicant would have to re-notice.

Attorney Cayci said that given the fact that the Board will be starting the meeting an hour earlier, it would be a legal issue and she suggested that the applicant re-notice as the Board will be noticing the change in meeting time.

Attorney Cayci noted that the applicant would like to open the meeting to the public prior to the Board adjourning for the evening in case there is anyone here who will not be able to attend the meeting next month.

Attorney Cayci swore in Daniel Friedan, 12 Madison Street.

Mr. Friedan noted that when he purchased the house in 1994 he did not know that they couldn't park in the front of the house. He said when the issue started being discussed, he moved his parking to the side of the house.

Attorney Cayci swore in Catherine Hanson, 24 Madison Street.

Ms. Hanson said if this variance is granted, the next owner could come back and ask for 2 parking spaces. She noted that there is alternate parking available at the Spring Street parking garage which she and her husband have utilized in the past. She said she does not want to see a car parked in front of the house.

5. ADJOURNMENT:

Upon motion made by Richard Kahn and seconded by Louisa Clayton, a motion was made to adjourn the meeting at 11:00 p.m.

ROLL CALL:

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

Respectfully Submitted,



Debra Rogers, Secretary

Date Approved: February 26, 2014