

**PRINCETON ZONING BOARD OF ADJUSTMENT**  
**Amended Minutes of Regular Meeting**  
**Wednesday, May 28, 2014– 7:30pm**  
**Main Meeting Room**  
**400 Witherspoon Street, Princeton, NJ 08540**

PRESENT: Penelope Baskerville, Louisa Clayton, Steven Cohen, Richard Kahn, Barrie Royce, Doreen Blanc-Rockstrom, and Harlan Tenenbaum

ALSO PRESENT: Karen Cayci, Attorney; Derek Bridger, Zoning Officer.

ABSENT: Michael Floyd and Sara Segal

There were thirteen (13) members of the public present.

**1. OPENING STATEMENT**

The meeting commenced at 7:30 p.m. with Chairman Royce reading the Open Public Meetings Act statement.

**2. MINUTES:**

a. April 23, 2014

A motion was made by Louisa Clayton, seconded by Penelope Baskerville to adopt the minutes of April 23, 2014 as written and amended.

ROLL CALL:       Aye    Louisa Clayton  
                      Aye    Steven Cohen  
                      Aye    Barrie Royce  
                      Aye    Doreen Blanc-Rockstrom  
                      Aye    Harlan Tenenbaum

**3. RESOLUTIONS OF MEMORIALIZATION:**

a) NAMES, Lauri

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

A motion was made by Louisa Clayton and seconded by Penelope Baskerville to adopt the resolution of Lauri Names as it has been written.

ROLL CALL:       Aye    Penelope Baskerville  
                      Aye    Louisa Clayton  
                      Aye    Richard Kahn

- b) MITCHELL, Dean  
45 Hodge Road  
Block 7.01, Lot 19, R-1  
C1/C2 – Front-yard Setback for new house  
File No. Z13 13-115V

A motion was made by Louisa Clayton and seconded by Steven Cohen to adopt the resolution of Dean Mitchell as it has been written.

ROLL CALL:           Aye    Louisa Clayton  
                          Aye    Steven Cohen  
                          Aye    Doreen Blanc-Rockstrom  
                          Aye    Harlan Tenenbaum

- c) ADELMAN, Jeremy & PRENTICE, Deborah  
7 Evelyn Place  
Block 34.01, Lot 9, R-3  
C2 – Side-yard Setback for garage  
File No. Z14 14-018V

A motion was made by Louisa Clayton and seconded by Penelope Baskerville to adopt the resolution of Jeremy Adelman and Deborah Prentice as it has been written.

ROLL CALL:           Aye    Louisa Clayton  
                          Aye    Steven Cohen  
                          Aye    Barrie Royce  
                          Aye    Doreen Blanc-Rockstrom  
                          Aye    Harlan Tenenbaum

**4. APPLICATIONS:**

- a) MRM CONSTRUCTION LLC  
232 Russell Road  
Block 8202, Lot 14, R-2  
C1 – Lot Area & Lot Width for New House  
File No. Z14 14-019V

Present for the application were Mark Solomon, Esquire, Pepper Hamilton, LLP, and Frank J. Falcon, PLS and PP, Princeton Junction Engineering.

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 provided an overview of the application. Mr. Bridger advised that an application has been filed for a hardship variance N.J.S. 40:55D-70 c (1) pursuant to Section 10B-20 of the

Princeton Township Land Use Ordinance to permit the development of single family dwelling on a non-conforming lot. He said that the subject property is located in the R2 Zone and is subject to the use and bulk regulations in accordance with Sections 10B-253 & 255 and 10B-246 of the former Princeton Township Land Use Ordinance. The existing single-family use is permitted as of right. He said that the subject lot is non-complying as the lot area requirement is 65,340 sf and this lot contains 30,000 sf. It was also noted that the lot width requirement is 175 ft and this lot has 150 ft. He said that the applicant indicates that the existing single family dwelling will be demolished and a new structure will be constructed.

Mr. Bridger said that the new single family dwelling will be required to meet all of the applicable setbacks and bulk requirements or seek the applicable variance relief. The applicant has requested a C1 variance for the substandard lot area and the inferior lot width.

Mr. Bridger discussed the criteria for the Board when considering C1 variance.

Mr. Solomon stated that he is the attorney for the applicant, MRM Construction LLC. He said that Mr. Bridger had accurately described the application and informed the Board that letters were sent to the adjoining property owners in an attempt to acquire property to either mitigate the variance or sell the property; but no one responded to the request.

Mr. Solomon said that he received a call today from someone asking for the price. He explained that the price is the fair market value as if the variance was granted and they declined to purchase. Mr. Solomon entered the letters sent to the adjoining property owners as evidence marked Exhibit A-1.

Attorney Cayci swore in Frank Falcone.

Frank J. Falcone, PLS and PP, reviewed his credentials for the Board. Mr. Falcone has been a licensed survey and planner in the State of New Jersey has previously been accepted as an expert witness by the Board. Mr. Falcone testified with respect to the required variance and referenced the following exhibits which were marked and entered into evidence:  
Exhibit A-2: Enlargement of Variance Request Plan submitted with the application prepared by Frank J. Falcone, NJ PLS 32112, dated March 17, 2014.

Exhibit A-3: Sheet 82 of the Tax Map of Princeton, NJ the purpose is to show the other structures in relation to the property that is the subject of application.

Mr. Falcone testified that the subject property is noncompliant with respect to lot area and lot width as it is 30,000 square feet in size and 150 feet wide while the zone requirements are 65,340 square feet and 175 feet respectively. He said that there are 4 properties that touch the property but owners declined to sell. He said that the site has a 2 story frame dwelling and a rather large driveway with a garage in the rear; it has some terraces, a sanitary sewer easement. The site slopes from Russell Road down through Hun Road.

Mr. Solomon clarified that lots that front on Hun Road, are 1.06 acres and 1.43 acres so those lots are themselves also deficient.

Mr. Falcone said that that approximately 87% of the surrounding properties are undersized and

approximately 50% of the surrounding lots do not meet the lot width requirements. Mr. Falcone advised that he believes the property is very consistent with the surrounding properties with respect to lot area and width. He confirmed that the applicant will construct a new house on the property which will comply with all other bulk standards other than lot width and area. Mr. Falcone confirmed that the setback of the proposed house will be consistent with the surrounding properties. Based on the foregoing, Mr. Falcone advised that he believes that granting the variance will not cause a detriment or impairment to the neighboring lots or the zone plan and that denial of the variance will cause a particular hardship to the owner as the noncompliant bulk conditions cannot be mitigated.

Chairman Royce asked Mr. Falcone, if the distance of the front of the building from the road, is it going to be consistent with the houses of that stretch of the road. Testimony was presented that it will be approximately aligned with the other houses.

Mr. Kahn stated that the Board sees this type of application all the time, and it really has to do with the way the zoning was laid-out in the town. The exhibit showed every lot in that area would need a variance in order to build a new house.

Mr. Kahn said that there is not a lot that the Board can do for this application, unless the Board says you cannot build on this lot.

Mr. Kahn said that approximately 40 % of the lots in Princeton are undersized.

Chairman Royce asked if there was any public comment:

Attorney Cayci swore in Mr. Chris Lawn.

Mr. Chris Lawn of 219 Russell Road asked about the size of the new house, noting that the applicant had advised him that the house would be approximately 4600 square feet.

The Board advised that it does not have site plan jurisdiction regarding the size of the new house, provided that it meets the bulk standards of the zone.

Attorney Cayci swore in Mr. Michael Koortbojian.

Michael Koortbojian, 218 Hun Road, testified in opposition to the application. Mr. Koortbojian expressed his concern that the new house will be considerably larger than the existing residence and will be inconsistent with the surrounding residences.

Chairman Royce said that if the Board rejects this proposal, the Board will set a precedent and any home owner that wishes to come in with a proposal to demolish and build another house on the site will have to be rejected. The only security the residents of Princeton have it is based on the nature of the zoning ordinance which regulates floor area ratio, setbacks, height, etc. and the Board is assured by applicants that buildings will adhere to all the requirements.

Chairman Royce also said that if the proposed house exceeds the setbacks or height or other zoning perimeters, it will need to come before the Board.

Mr. Cohen advised that these concerns should be brought up to Princeton Council to request for the zoning ordinance to be adjusted for undersized lots.

Mr. Kahn said that the Board has no jurisdiction or architectural review authority regarding the size of the new residence and that their jurisdiction is limited to interpreting and enforcing the zoning ordinances.

Mr. Solomon said that the requirements to satisfy the request for C-1 variance have been met; this application is about the lot size and not about of what is going to be proposed for construction. Mr. Solomon requested approval for C-1 variance.

A motion was made by Steven Cohen seconded by Penelope Baskerville, to approve a C-1 variance to permit demolition of the existing single-family dwelling and construction of a new single family home on the Property.

ROLL CALL:       Aye   Penelope Baskerville  
                      Aye   Louisa Clayton  
                      Aye   Steven Cohen  
                      Aye   Richard Kahn  
                      Aye   Doreen Blanc-Rockstrom  
                      Aye   Harlan Tenenbaum

b) CAPEILLERES, FABIEN  
55 Princeton Avenue  
Block 54.01, Lot 6, R2  
C1/C2 – Setbacks for AC Units  
File No. Z1313-057V

Present for the application was Mr. Fabien Capeilleres.

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

Chairman Royce reminded Mr. Bridger that he was still under oath.

Mr. Bridger provided an overview of the application advising that an application has been filed for a hardship variance pursuant to Section 17A-20 (c) 1 and in the alternative (c) 2 of the former Princeton Borough Land Use Ordinance to permit the installation of two air conditioning condensers within the required setback for an accessory structure. He said the subject property is located in the R2 Zone and is subject to the use and bulk regulations in accordance with Sections 17A-239 and 17A-240 of the Princeton Land Use Ordinance. He noted that the existing single-family use is permitted as of right. He said the lot is non-complying with respect to the following bulk requirement: the lot width requirement is 75 ft and the existing is 70 ft. He said that the existing single family dwelling and detached garage are non-complying with respect to the smaller side yard setback required- 10ft. and the existing is 2.2 ft., the garage setback required is 5 ft. and the existing is 2.9 ft.

Mr. Bridger said that the applicant is proposing to locate two air conditioning condensers on the southern boundary of the subject property along the Patton Avenue elevation. The condensers are considered accessory structures and subject to the bulk requirement in Section 17A-380, specifically that section requires a 5ft setback however in the case of a corner of lot, such buildings in this case structures shall not be located in that part of the side or rear yard which is nearer to the street line than the front yard setback required for a principal building on the adjacent lot. Mr. Bridger said that the average front yard setback along Patton Avenue is 18.25 feet +/- 2 feet and the applicant is proposing 12 ft for the two air conditioners. He said that there is a survey in the application that demonstrates that. He said that the applicant indicated an alternative location which would be complying, however, the applicant should explain why he would prefer to proceed with the proposed location. Mr. Bridger said applicant is requesting a C-1 variance and in the alternative is C-2.

Attorney Cayci swore in Fabien Capeilleres.

Mr. Capeilleres said that he recently renovated his house, and while he was not on site, the designer didn't pay attention to the location of these condensers. He said the condensers ended up in a place that is inconvenient and dangerous.

Mr. Capeilleres said that condensers would block the passageway to one of the entrances/exits to the house which also connects the backyard to his children's playroom. This location also provides a stairway which poses a safety issue for his young children if they were to fall onto the condenser units. He said if the condensers are located along Patton Avenue; it would make the condensers even closer to what he is requesting now. The southern side of the backyard would place the condensers very close to the neighboring property of 57 Princeton Avenue being only six feet from the property line. These neighbors frequently use their rear entrance for convenience and would accordingly pass by the condenser units several times a day. He advised that the units would pose an aesthetic and acoustic nuisance for his neighbors.

Mr. Capeilleres proposed locating the condensers on the northwest corner of the property in an L-shaped area around the house, where the location will not block any access to the house. This will allow the units to be completely shielded with an existing hedge and will be far from the neighboring property.

Chairman Royce asked if this was a new air conditioning system.

Mr. Capeilleres said that it was a new system.

Chairman Royce inquired about the noise the new system will create.

Mr. Capeilleres said that the information is in the technical specifications booklet. He said condensers make as much noise as the dishwasher.

Ms. Clayton said that she visited the site, and the proposed option seems to make the most sense, for the homeowner, for the neighbors and for the neighborhood.

The application was opened to public comment but no members of the public commented.

A motion was made by Louisa Clayton and seconded by Doreen Blanc-Rockstrom, to approve a C-1 variance to permit the location of two air conditioning condensers on the northwest corner of lot 12 feet from the property line with no conditions.

ROLL CALL:           Aye    Penelope Baskerville  
                          Aye    Louisa Clayton  
                          Aye    Steven Cohen  
                          Aye    Richard Kahn  
                          Aye    Doreen Blanc-Rockstrom  
                          Aye    Harlan Tenenbaum

**5. ADJOURNMENT**

Chairman Royce adjourned the meeting at 8:38 PM.

Respectfully Submitted,

Derek Bridger  
Secretary

Dated: 6/12/14

Approved: 6/25/14 as amended.