

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
WEDNESDAY, August 27, 2014 7:30 P.M.
Municipal Complex – Main Meeting Room
Princeton, New Jersey

PRESENT: Louisa Clayton; Steven Cohen, Michael Floyd, Barrie Royce, Doreen Blanc-Rockstrom

ALSO PRESENT: Karen Cayci, Attorney and Derek Bridger, Zoning Officer

ABSENT: Richard Kahn, Sara Segal and Harlan Tenenbaum

There were eight members of the public present.

1. OPENING STATEMENT

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

2. MINUTES:

a) July 23, 2014 – carried to next meeting.

3. RESOLUTION OF MEMORIALIZATION

a) BIELAUS, ROBERT AND KARINA
7 Boudinot Street; Block 11.02, Lot 22.02; R1 Zone
C-1 Hardship variance to permit a parking area within the front yard setback
File No. Z1414-065V
Denied

A motion was made by Michael Floyd and seconded by Louisa Clayton to adopt the resolution of BIELAUS, ROBERT AND KARINA, as it has been written.

ROLL CALL: Aye Louisa Clayton
 Aye Michael Floyd
 Aye Barrie Royce

4. APPLICATIONS:

a) COASTAL STEEL CONSTRUCTION OF NJ LLC
9 Vandeventer Avenue; Block 28.01, Lot 2, R4 Zone
D Variance, Minor Site Plan - expansion of a non-conforming use
File No. Z1414-055U

Present for the application was Marcie Shavel, owner and applicant. Also present was Christopher S. Tarr, Esquire, Stevens and Lee, P.C.

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 use variance approval pursuant to Sections 17A-20(d) 2 of the Borough of Princeton Land Use Ordinance and N.J.S.A. 40:55D-70(d) 2 to allow for the construction of a new covered front porch to an existing non-conforming use. He said that the subject property is joint occupancy building containing office space on the first floor and two apartments on the upper floors. He said that the property is located in the R-4 zone and is subject to the use and bulk regulations set forth under Sections 17A-253 and 17A-254. Joint occupancy buildings are not a permitted use. The current joint occupancy use is a pre-existing legal non-conforming use. The construction of the porch is considered an expansion of a non-conforming use.

Mr. Bridger noted that a use variance was granted in 1954 to permit the first floor to be used as a dentist office on the first floor. In 1961, another variance was issued allowing a total of two residential apartments on the second floor. Additional variances were issued in 2003 to allow a conversion from the prior dental office to an administrative office for the Princeton Regional Chamber of Commerce and in 2011 to permit the current owner to use the first floor as office space.

Mr. Bridger testified that the applicant is proposing to construct a 320 sf. wooden covered front porch on the first floor which will wrap around the front and southern elevation of the first floor. The porch will extend approximately 1 ft. 6 inches beyond the existing second floor porch. He considers this to be *de minimus* request but it is an expansion of a non-conforming use which requires use variance approval pursuant to Section 17A-20(d) 2 of the former Princeton Borough Land Use Code and N.J.S.A. 40:55D-70(d) (2). Mr. Bridger said that the applicant has sought classification as a minor site plan and approval of same with waivers from a number of site plan checklist items, as set forth in the application. He advised that Board staff recommend that the application be classified as a minor site plan and the Board grant site plan approval with the requested waivers. Mr. Bridger explained that the application has not been reviewed by the Site Plan Review Board (SBRAP) and recommends that review by SBRAP be a condition of approval.

Attorney Cayci swore in Marcie Shavel.

Attorney Chris Tarr said that this application is to take this property to a more of a residential character which is in fact the permitted use in this zone. The office use only takes a third of the building. He said that his client wants a porch like the one her neighbors have.

Ms. Shavel advised that she is looking to place a wraparound porch in front of her office entrance. Ms. Shavel noted that the building is the only structure on Vandeventer Avenue without a front porch. She confirmed that proposed porch will not affect the current curb line nor will it interfere with the driveway. However, she referenced historical photos taken in approximately 1915 (which are included in the application) which show the Property with a covered porch on the first floor. Her

goal in constructing the porch is to enhance the residential appearance of the building. Ms. Shavel also testified that as a result of damage from Superstorm Sandy, she has completed a number of improvements to the building including replacement of front steps, placement of overhead wires underground, and repair of gutters and underground sewer lines.

Chairman Royce asked for any public for comment and the following individuals made comment:

Attorney Cayci swore in Tina Clement.

Tina Clement, 13 Vandeventer Avenue, indicated her support for the application advising that the property is very well maintained.

Attorney Cayci swore in Jim Firestone.

Jim Firestone, 13 Vandeventer Avenue, advised that he also supports the application particularly because it will enhance the residential character of the building.

A motion was made by Steven Cohen seconded by Louisa Clayton, to approve the application of COASTAL STEEL CONSTRUCTION OF NJ LLC for a D variance and site plan classification to construct a front porch on a pre-existing legal non-conforming use with conditions.

ROLL CALL: Aye Louisa Clayton
 Aye Steven Cohen
 Aye Michael Floyd
 Aye Barrie Royce

b) PROSPECT PRINCETON LLC
686 Prospect Avenue, Block 5903, Lot 19; R5 Zone
C1- Lot area and lot width
Z1414-071V

Present for the application was Christopher H. DeGrezia, Esq., Drinker Biddle & Reath; Ann Motola, Esquire and Eric Rupnarain, P.E.

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 an application 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 the applicant seeks to demolish the existing single-family dwelling and construct a new single-family residence on the property.

Mr. Bridger said that the property is located in the R5 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. The subject lot is non-complying with respect to the following bulk requirements: the required lot area is 21,780 sf. and the existing lot area is 18,530 sf.. The required lot width is 100 ft. the existing is 90 ft.

Mr. Bridger said that the existing single family dwelling will be demolished and a new structure will be constructed. The new single family dwelling will be required to meet all of the applicable setbacks and bulk requirements or seek the applicable variance relief. Mr. Bridger advised that should the new dwelling be determined to be noncompliant, the applicant will be required to seek appropriate variance relief. He noted that applicants seek approval for the proposed improvement as a C (1) variance.

Member Clayton asked for clarification in regards to the garage. Mr. Bridger said that the garage is going to remain; it is prior non-conforming as is the parking space in front of it, they are legal non-conforming pre-existing conditions.

Mr. Christopher H. DeGrazia, Esq., said that there is no available land; all of the lots that surround this property are non-conforming and smaller. He noted that the property was in the market since 2011 on and off and it sold last year to his client so there was plenty of opportunity for the surrounding property owners to purchase it.

Attorney Cayci swore in Eric Rupnarain.

Mr. Rupnarain said that he is a licensed professional engineer in the State of New Jersey and a graduate of Villanova University. The Board agreed to accept him as an expert witness regarding this application. Mr. Rupnarain spoke to the board regarding the required variances and referenced the following exhibit which was marked and entered into the record:

Exhibit A-1: Variance Plan, dated July 9, 2014 submitted with the application prepared by Eric Rupnarain P.E. License No. 44508, Goldenbaum Baill Engineering, Inc.

Mr. Rupnarain said that the subject property is noncompliant with respect to lot area and lot width. He explained that based upon the existing tax maps, the surrounding residential lots are nearly all noncompliant with respect to lot area. Mr. Rupnarain noted that although the immediately adjacent lots to the property are not currently undersized, those lots are sufficiently small that they could not provide additional acreage to the property without becoming noncompliant. He believes that the applicant cannot mitigate the nonconformities of undersized lot area and lot width.

Mr. Rupnarain said that the applicant will retain the original foundation but will demolish the remainder of the existing dwelling. He noted that the existing non-conforming garage (with regard to side yard setback) would be retained and expanded to the south within the permitted setbacks. He advised that anticipated size of new dwelling will be 4262 sf. which will comply with the R5 zone floor area ratio requirements.

Mr. DeGrazia noted that the neighbor to the right, Mr. Schultz of 694 Prospect Avenue, requested that plantings be installed between his property and the driveway. The applicant agreed.

Chairman Royce asked for clarification regarding the front yard setback and Ms. Clayton asked about the prevailing front yard setback.

Mr. Bridger noted that in the former Township there is no prevailing front yard setback.

In response to questioning from the Board, Mr. DeGrazia explained that the front yard setback will be reduced as a result of construction of the new dwelling but that it will still comply with the zone requirements.

Attorney Cayci swore in Ann Motola, Esquire.

Ms. Motola advised that she serves as counsel for the applicant and had been authorized to speak on its behalf. She advised that applicant had met with the four adjoining property owners to determine whether any owners wished to purchase the property but all declined. Ms. Motola also advised that the adjacent property owner, Mr. Richard Schultz of 694 Prospect Avenue had requested that additional landscaping be added on the common property line to provide screening. She confirmed that the applicant is willing to provide such landscaping which is anticipated to be a hedge of shrubs which will remain green all year.

Chairman Royce opened the hearing for public comment and the following members of the public testified:

Attorney Cayci swore Richard Shultz of 694 Prospect Avenue.

Richard Schultz, of 694 Prospect Avenue, Princeton, advised that he has resided in the neighborhood since 1983. He believes that the neighborhood retains the character of a country road, even though the lots are generally small, due to the proportion of the homes to lot sizes. Although he does not object to the property being improved, he expressed a concern regarding the anticipated size of the new dwelling. He noted that the current dwelling is approximately 2200 square feet and that the anticipated new dwelling will be double in size. In comparison to the size of his home, Mr. Schultz said that the new dwelling would be nearly three times the size of his home.

Chairman Royce explained that the Board's jurisdiction was limited to whether a variance is appropriate to permit construction of a new residence and that the Board does not have site plan jurisdiction. He further explained that should the new residence fail to comply with the zone bulk requirements other than lot area and width, the applicant would be required to apply for additional variances.

A motion was made by Louisa Clayton seconded by Michael Floyd, to approve the application of PROSPECT PRINCETON LLC for a hardship variance c (1) for non-conforming lot area and non-conforming lot width to permit the development of a single-family dwelling with conditions.

ROLL CALL: Aye Louisa Clayton
 Aye Steven Cohen
 Aye Michael Floyd
 Aye Barrie Royce
 Aye Doreen Blanc-Rockstrom

- c) CHUNG-WU HO AND FALAN C.
22 Chestnut Street
Block 30.01, Lots 29; R-4 Zone
C1 – Accessory structure lot coverage area
Z1414-075V

Member Cohen recused himself from consideration of the application.

Present for the application was Chung-Wu Ho.

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 provided an overview of the application. Mr. Bridger advised that an application was made for variance relief pursuant to Section 17A-20 (c) (2) of the former Borough of Princeton Land Use Ordinance to permit the construction of a two car detached accessory structure in exception to the required rear yard lot coverage for accessory structures. Mr. Bridger said that the subject property contains a two-and-a half story single-family dwelling. The subject property is located in the R4 Zone and is subject to the use and bulk regulations in accordance with Sections 17A-254 & 257 of the Princeton Land Use Ordinance. The existing single-family use is permitted as of right. The subject lot is non-complying with respect to the following bulk requirements: Lot area required is 6,000sf. the existing-5,360sf. the lot width required is 60 ft. the existing is 40ft.; the smaller side yard setback required is 8 ft. and the existing is 2ft. The combined side yard setback required is 20ft. the existing is 10 ft. The height to setback ratio required is 3.0:1 the existing is greater than 3.0:1.

Mr. Bridger said that the proposed structure complies with the required setback (required is 5 ft. proposed is 6 ft.) and height requirements (required is 15ft. and proposed is 14ft.). Section 17A-380(c) requires that an accessory structure shall not occupy more than 20 percent of the side or rear yard. The structure is located within the 35 ft. rear yard setback. The area of the rear yard setback is calculates by multiplying the rear yard setback (35ft.) by the lot width (40ft). This equates to 1,400sf. The proposed garage cannot exceed 20% of this figure or 280sf. The proposed garage is 380 sf.

Attorney Cayci swore in Chung-Wu Ho.

Mr. Ho explained that he and his wife wish to build a 380 sf. two car garage in their rear yard. He noted that the original garage had been demolished in 2008. Mr. Ho advised that his lot is approximately 1/3 less than the required lot width in the R4 zone. He advised that the permitted garage size of 280 sf. would be too small to adequately house two cars, which is their goal.

Chairman Royce noted that when he visited the property, there were 3 vehicles outside.

Mr. Ho explained that he and his wife legally rent a room to a Princeton University professor and for that reason has three cars parking on their property. Mr. Ho advised that due to its proposed location, he does not believe that the garage will visually impact their neighbors as the proposed garage will be only partial visible to the neighbors because it will be located within the zone setback requirement. He noted that other properties on Chestnut Street have detached garages located in the

rear yard, including his immediate neighbor. In addition, he advised that does not believe that the proposed garage will affect the existing site drainage. Mr. Ho also advised that he intends to create a K-turn area next to the proposed garage to facilitate exiting onto Chestnut Street.

Chairman Royce noted that the light source of any new exterior light fixtures may not be visible and such fixtures must be shielded to prevent light spillage onto surrounding properties and Mr. Ho. agreed.

Mr. Ho advised that he believes the proposed garage will not substantially impact the public good or the zone plan because other homes on Chestnut Street have detached garages in their rear yard, the proposed garage will located within the setback requirements and only be partially visible to his neighbors and the garage construction will not affect existing drainage. Mr. Ho further stated that he believes his application would further the purposes of zoning as set forth in the Municipal Land Use Law, *N.J.S.A. 40:55D-2*, specifically subsection (d) which refers to promoting development which does not conflict with the general welfare and (i) which references promotion of a desirable visual environment through good civic design.

The application was opened to the public for comment, but no member of public offered comment.

A motion was made by Louisa Clayton seconded by Doreen Blanc-Rockstrom, to approve the application of CHUNG-WU HO and FALAN C. for a C (2) variance to permit construction of a 380 sf. two car garage in the rear yard of the property with conditions.

ROLL CALL: Aye Louisa Clayton
 Aye Michael Floyd
 Aye Barrie Royce
 Aye Doreen Blanc-Rockstrom

d) JILL JACHERA, TRUSTEE & FERNANDO M. GUERRERO, TRUSTEE
60 Hodge Road Block 11.01, Lot 3, R1 Zone
C2 – Front yard setback for a two car attached garage
Z1414-078V

Present for the application was Mark Solomon, Esquire, Glen Fries of Glen Fries Associates Architects and Landscape Architects, Jill Jachera and Fernando Guerrero,

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 provided an overview of the application. Mr. Bridger said that an application was made for variance approval pursuant to Sections 17A-20(c) 2 of the Borough of Princeton Land Use Ordinance to allow for the construction of a new two-car attached garage and mudroom within the required front yard setback. The subject property is located in the R-1 zone and is subject to the use and bulk regulations set forth under Sections 17A-227 and 17A-231. The subject lot is non-complying with respect to the require lot width as follows: the lot width required is 125ft. and the existing is 106ft.

Mr. Bridger said that the subject property is non-complying with respect to the following bulk requirements: 1) the prevailing front yard setback required is 50.25ft (+-2ft) and the existing: 41.1ft. 2) The height to setback ration require is 1.5:1 and the existing is 1:3. 3) The combined side yard setback required in 30ft. and the existing is 28 ft.

Mr. Bridger advised that the applicants are proposing to construct a 625 sf. two-car attached garage and a mudroom within the required front yard setback over an existing parking area. Parking within the front yard setback is not permitted in accordance with Section 17A-387 (c). The existing parking area is considered legal non-complying with respect to the front yard setback. The prevailing front yard setback is 50.25 (+- 2 ft.) feet whereas the proposed setback is 18.75 feet. The applicant has requested variance relief pursuant to Section 17A-20 (c) 2.

Mr. Bridger discussed the criteria for the Board when considering C2 variance.

Mr. Mark Solomon, Esquire, Pepper & Hamilton LLP, said that this is an interesting application the Board is about to hear because the zone requires 125 ft lot width and this lot is only 106 ft wide, the lot is rather deep, it exceeds by good amount the area in the zone that is required, the house which dates to 1904 covers the entire frontage. Mr. Solomon said that in the rear there are some very significant trees and we will also describe the landscaping that screens the property line. The applicant hired Glen Fries, Architect, who looked at all the alternatives including the by right plan which includes what can you do variance free and determined because the shape of the property and the location of the house, there was only one good solution. Mr. Solomon said the proposed plan conceals the cars and provide a location to store all the materials that currently are stored externally but more important very little new impervious coverage because this will place over the existing parking area and in the rear the magnificent trees will be safe. The alternative, the by right plan requires a longer driveway down the side of the structure creating a large turning area in the rear and in the process resulting of the loss of magnificent trees. Mr. Solomon noted that he believes that this is both a C1 and C2 variances because there are very unusual conditions associated with this property.

Attorney Cayci swore in Glen Fries of Glen Fries Associates Architects and Landscape Architects.

Mr. Fries said that he has an Architect degree from Montana State University, graduate degree from the University of Virginia, registered architect in New Jersey, Connecticut, Pennsylvania, Massachusetts, Montana, Colorado and California. The Board agreed to accept him as an expert witness regarding this application.

Mr. Fries said that the house was built in 1904 and it takes most of the width of the lot. He said that the only good place to put a garage is in the front of the house on the left side as you are facing the house, there is an existing stair case and a power room and a little pantry room, which make it the ideal situation to come in and be able to have access to the kitchen and the family room. He talked about making the building look like a garden pavilion. Exhibit 1 “VA-1 Existing Conditions”.

Exhibit 2 “VA-1 Proposed Garage” Mr. Fries presented the proposed plan showing the proposed garage and proposed mud room; garage is 25’ by 25’, which provides enough space for two cars and storage space. Mr. Fries said that the pavilion would have a height of 10 feet all around the building and the connection piece is lower and steps in two feet on each side, the two feet was picked up with

the pillars on each side to kind of match the old house.

Mr. Fries said that from the street, there is very little impact. The garage doors do not face the street, they will face the existing auto court, as you drive by you are not looking at garage doors, you are looking at two windows with shutters that match the existing house. He noted that looking from the neighbor's house, again, there is very little impact, the shingles will be brown, the trim will be white, the garage doors will look like carriage house doors, he said it will be a very nice detailed building.

Mr. Solomon noted that this will sit on existing coverage. Mr. Fries concurred.

Mr. Fries spoke regarding about the Ginko tree 50" in diameter and a Kentucky Coffee Tree, Mr. Fries said that if any construction was to take place in the back these two trees will go down along with the beautiful garden.

Mr. Fries said this proposed garage is of minimal impact.

He referred to Exhibit 3 "VA-3" which shows the proposed garage vs. what could be built as of right, which it is a building in the back of the property and a road along the property line all the way back to a turn around, losing two magnificent trees (Exhibit 5 – shows scheme A and scheme B).

Member Cohen said that the neighbor next door will be impacted by the proposed garage, there is a very nice porch next door and this addition will block the porch as you drive down Hodge. Mr. Fries responded that he disagrees; the hedge on the side is 10 feet high which the same height as the building's height is; Mr. Fries referred to Exhibit 4 which shows a shadow and sight line diagram, Mr. Fries said that the shadow is really minimal, he said that he would rather look a garden and shrubs than garbage cans, rakes, shovels and hose.

Mr. Cohen said the issue is that there is going to be a big box in front of the house. Mr. Fries said that is not a big box, it is a 25' by 25' feet garage. Mr. Cohen said that this 25' by 25' box will break the street line as you come down Hodge; he said that none of the homes on Hodge come this close to the street; they all have nice front lawns. Mr. Cohen said that there is enough room next to the house for a driveway.

Mr. Solomon asked Mr. Fries that in his professional opinion if this the best alternative and Mr. Fries said yes.

Member Floyd asked if the existing driveway was classified as impervious coverage and Mr. Bridger said that compacted gravel is classified as impervious coverage. Mr. Floyd inquired regarding the percentage of impervious coverage on the not preferred as of right option Mr. Fries responded that the impervious coverage allowed is 8678 sq. ft. if the garage is built in the front the impervious coverage is approximate 6500 sq. ft..

Attorney Cayci swore in Jill Jachera.

Ms. Jachera presented pictures Exhibit 6. She said that she researched with the Historical Society, Kale's Nursery and Woodwins, she said that this property was part of the Morven Tract, owned by the Stocktons. Ms. Jachera said that the area where the lot sits was actually the woods and it is very well documented by the Historical Society. She spoke about the trees, saying that they date back to 125 – 150 years, this lots were sold in the late 1800's and this was the first home built in 1904, she is

concerned with the age of the trees and the historical nature, specifically the Ginko and the Coffee Tree, she has been told that they are two of finest trees in Princeton. Ms. Jachera said that one of the main reasons to not put a garage in the back of the property is to save the trees and the beautiful landscape on the west side. If a driveway was place on either side the landscape would have to be removed which would result on a complete lack of privacy of either side. She noted that she can hear the cars next door, the garbage cans being rolled back and forth, people talking, when the dog is led out, it creates disturbance which would not happen if their garage was in the front. She said that if the garage is in the back it would have to be a paved driveway to be able to plow in order to get in and out, with gravel you can't plow. She said that going out to the car with groceries has been extremely dangerous; she has an elderly mother who has fallen several times. Another main reason to have a garage is to be able to house the cars, to be able to enter the house without having to go on that slippery, treacherous driveway. By placing the garage in the back, a quarter of the yard would be lost as well as the majority of the landscaping. She said that the trees are also important to her neighbors because the trees create shade to their yard.

Ms. Jachera said that putting the garage in the front is the most logical way, you come in with your groceries, children drop off their sporting equipment, bicycles. As of right now, there isn't a coat room, there is no place to put anything, and there is no mud room. Unfortunately, the house is a nice size but there is not practical space for people to put place their stuff. She pointed that when she looks outside her kitchen she sees the beautiful trees and landscape that it would be lost if the garage is built in the back and then she would have a view of the inside of her garage.

Mr. Solomon said that there are drainage issues in the area. Mr. Solomon said that it is possible to place a driveway on either side, trees would be lost, impervious coverage would be increased and that is going to have consequences to the drainage in an area that is already troubled by the subject. Mr. Solomon said that the question is that placing a garage in the back is really preferred to using existing impervious in the front where cars already park. Mr. Solomon said that this is a pretty elegant solution to having cars parked in the front but the Board would suggest that trees be lost instead.

Member Floyd said that there is another option of not to build the garage at all. There is a lot of non-garage properties in the neighborhood.

Ms. Jachera said that they have lived with that option the last 15 years. She considered building the garage 12 years ago and decided then to live with it.

Chairman Royce said that the Board is concerned with the front yard issue.

Member Cohen said the garage in the back yard is an inconvenience to the applicant, but the garage in the front is an inconvenience to the community because it takes a beautiful street and puts a box in the front yard.

Ms. Jachera presented pictures of other properties having garages in the neighborhood. She said that her neighbors had a 2 car garage and got a variance for a 3 car garage.

Member Cohen said that he is concerned with the street escape, it is all very open. Ms. Jachera responded that her box would be smaller than the neighbor which also has an apartment above it.

Member Rockstrom said that by looking at the pictures, it looks like the setbacks have not been violated, and perhaps the garage was built original with the house. Ms. Rockstrom said that she is concerned with the way this model is so close to the street.

Ms. Jachera said that as of right she can build the garage in the back but she is trying to save the trees and not ruin a quarter of the yard.

Attorney Cayci swore in Carlos Rodrigues.

Mr. Rodrigues said that he is a Professional Planner graduated from Rutgers University, he teaches Planning at Rutgers, past President of the New Jersey Planners Association. The Board agreed to accept him as an expert witness regarding this application.

Mr. Rodrigues said this is a situation where the zoning code allows applicants without any obstacles to trash their back yard but raises all kinds of obstacles in doing the right thing, which he believes is the proposal in front of the Board. He said that this is an interesting neighborhood, it is a pre-zoning subdivision, no two lots are identical in lot area, configuration, width, depth, etc., they are all slightly different, and it doesn't fit any kind of a template. This neighborhood was developed pre-automobile. This neighborhood has been in the process of being retrofitted for 40 or more years to accommodate the vehicles and the garage to store them. Not all but some have done that in a way that reflect the diversity of the lot sizes and configurations and found appropriate solutions where to place the garage. Wider lots can place the garage as an extension of the building along the same setback or they can place the garage behind the building without too much disturbance. Lots where the buildings were oriented with the short side facing the depth of the lot have more room to maneuver and could run driveways and or attached garages to the main buildings all without violating any of the setbacks. He said that this lot is one of the few that is narrower and deeper than the norm and has building that is oriented to face the street and therefore pinches the two sides and constraints the entry into the backyard.

He continued by saying that the Board was presented half dozen samples in the neighborhood within two blocks of this lot, where the solution of attaching the garage in a L shape with the existing building was adopted. So that is one of the established ways in which some houses in this neighborhood have been retrofitted to allow for the garage to take place. He said he would argue that this is an established way in which these lots have evolved as part of the character of the neighborhood. It has been happening for decades and it has been happening with the blessing of the Zoning Board, at least two cases received variances for precisely what is being asked tonight. He said that there is nothing in the Zoning that prevents the placement of the garage on the front yard.

He noted that Hodge Road has 70 foot right of way which means that the 18.5 feet setback that we are talking about it is measure from the edge of the right of way not from the curb. Hodge Road is 28 feet, you have another 28 feet from the road, so the idea of this encroachment in to the setback overwhelming the street escape is not accurate, it maintains a respectful distance and it will not seem out of context with the street escape that already exists.

Mr. Rodrigues said that hardship is applicable, what would be required to comply with the ordinance will be a hardship, in order to get a permitted garage you have to destroy your backyard, destroy your property.

He said that the applicant's proposal is far more creative than the only solution that is permitted under the code, which would ruin a beautiful backyard, removing various trees and mature vegetation which would substantially increased impervious coverage, completely paving the backyard. Mr. Rodrigues requested that the Board grant this application and grant the relief.

Mr. Solomon said that those trees are community resources. Mr. Solomon said that he is shocked that the Board would think that it is better to take down one or more trees than to allow what the applicant considers not a bad intrusion, not a substantial detriment.

Mr. Rodrigues present Exhibit A7 extract from the Town's planimetric showing two blocks of Hodge Road, Bayard Lane, it contains the streets' right of ways, foot prints of every building along with the street address. He proceeded to show Exhibit A8 – showing a satellite image of the applicants' property.

Attorney Cayci swore in Fernando Guerrero, (applicant).

Mr. Guerrero said that he has been advised that the property has the room, if the chooses, to place the garage in the back. He informed that he has decided that if he is forced to put in the rear, he is not going to walk though the library, definitely not walking through the living room, through the entrance way, through the dining room. He assured the Board that if the garage goes in the rear, the garage will go on the east side of the property where his wife will be within close proximity to the kitchen. He noted that he has lived without a garage for 15 years and it will not be 15 more months.

Mr. Rodrigues presented Exhibit A9 showing four pictures of neighboring properties with a garage in the front 50 Hodge Road, 31 Hodge Road, 26 Lilac Lane and 23 Hodge Road. He said at least one received a variance for a front yard setback.

Chairman Royce open the meeting for public comment.

Attorney Cayci swore in Mr. Leavell.

Mr. Leavell of 57 Hodge Road, he said that he lives across the street. He stated that he was in attendance to support the application. He informed that he has some concerns: that this is only 18 feet from the road and to minimize the effect to the street escape, by landscaping in the front of the garage and by eliminating the decorative device called the lantern and lastly he would like reassurance that someone is not going to place a second floor on it.

Member Clayton inquired regarding any other neighbors reached out. Mr. Bridger said that some neighbors came in and viewed the plans. Mr. Bridger said their reaction was not favorable but they did not attend.

Ms. Jachera assured her neighbors that there are no plans of to ever put on a second floor and will certainly install landscape to the extent necessary to cover the building and will eliminate the lantern on the top to try to reduce the height.

Mr. Solomon thanked the Board and he reviewed the criteria for a C1 and C2.

The Board members discussed the proposal and the applicant agreed to return to the Board with revisions.

5. ADJOURNMENT

There being no further business the meeting was adjourned at 10:48 PM.

Respectfully Submitted,

Claudia Ceballos
Secretary

Approved: October 22, 2014.