

**PRINCETON ZONING BOARD OF ADJUSTMENT**

**Minutes of the Regular Meeting**

WEDNESDAY, October 22, 2014 7:30 P.M.

Municipal Complex – Main Meeting Room

Princeton, New Jersey

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

ALSO PRESENT: Karen Cayci, Attorney, Christine Lewandoski, Historic Preservation Officer and Jack West, P.E., Land Use Engineer.

ABSENT: Derek Bridger, Zoning Officer.

There were sixteen 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) August 27, 2014 – motion was made by Mr. Cohen to accept the minutes, seconded by Mr. Floyd and carried with a voice vote of four ayes among those members eligible to vote. No one opposed. No one abstained.
- b) September 17, 2014 – carried to next meeting.

**3. RESOLUTION OF MEMORIALIZATION**

- a) FOSTER, DEBRA AND CHARLES  
150 Mercer Street; Block 39.01, Lot 5, R-1 Zone  
Mercer Mill Historic District  
C1/C2 & D- FAR and Lot Coverage variance  
Demolition of rear addition, new addition and preservation plan and site work  
22HP-2014 and Z1414-040UV

A motion was made by Michael Floyd and seconded by Steven Cohen to adopt the resolution of DEBRA AND CHARLES FOSTER, as it has been written and amended.

ROLL CALL:           Aye   Steven Cohen  
                          Aye   Michael Floyd  
                          Aye   Barrie Royce  
                          Aye   Harlan Tenenbaum

- b) WOLFE, WILLIAM AND ELIZABETH  
31 BIRCH AVENUE; BLOCK 6902, LOT 17, R9 ZONE  
C2- SITE YARD SETBACK  
Z1414-079V

A motion was made by Michael Floyd and seconded by Steven Cohen to adopt the resolution of WILLIAM AND ELIZABETH WOLFE, as it has been written.

ROLL CALL:           Aye   Steven Cohen  
                          Aye   Michael Floyd  
                          Aye   Barrie Royce  
                          Aye   Doreen Blanc-Rockstrom  
                          Aye   Harlan Tenenbaum

- c) GRANT HOMES TUCKER, LLC  
232 Edgerstoune Road; Block 8203, Lot 18, R2 Zone  
C1 – lot area and lot width (new house)  
Z1414-088V

A motion was made by Michael Floyd and seconded by Harlan Tenenbaum to adopt the resolution of GRANT HOMES TUCKER, LLC, as it has been written.

ROLL CALL:           Aye   Steven Cohen  
                          Aye   Michael Floyd  
                          Aye   Barrie Royce  
                          Aye   Doreen Blanc-Rockstrom  
                          Aye   Harlan Tenenbaum

#### **4. APPLICATIONS:**

- a) JILL JACHERA, TRUSTEE & FERNANDO M. GUERRERO, TRUSTEE  
(Cont'd from August 27, 2014 meeting)  
60 Hodge Road Block 11.01, Lot 3, R1 Zone  
C2 – Front yard setback for a two car attached garage  
Z1414-078V  
Deadline for action: 12/6/14

Chairman Royce informed that it has been requested that the application to be carried to the next meeting of the Board on November 12, 2014.

b) KUCERA, CYRIL

130 Westcott Road; Block 2.01, Lot 18, R-1 Zone

C1/C2 – Prevailing front yard setback - new single-family dwelling

Z1414-076V

Deadline for action: 1/23/2015

Present for the application Richard Schatzman, Esq., Schatzman & Baker and Cyril Kucera, P.E., owner and Engineer.

Attorney Cayci advised that 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 Christine Lewandoski, Historic Preservation Officer, Deputy Zoning Officer.

Ms. Lewandoski presented a memorandum prepared by Mr. Bridger, Zoning Officer. Ms. Lewandoski reviewed the current status of compliance with the zone requirements and the required variances for the proposed addition. She said that an application is made for variance pursuant to Section 17A-20(c) 1 of the Princeton Land Use Ordinance (formerly known as Princeton Borough) to permit construction of a new single-family dwelling in exception to the required prevailing front yard setback. Ms. Lewandoski said that the subject property currently contained a single family dwelling which was demolished. The applicants are proposing to construct a new single family dwelling. The property is located in the R1 Zone and is subject to the use and bulk regulations in accordance with Sections 17A-227 & 231 of the Princeton Land Use Ordinance. The proposed single-family use is permitted as of right.

Ms. Lewandoski said that the applicants are proposing to construct a new +- 2,980 SF. single family residence. The home features a covered porch, a deck, and a three car garage built in the basement. Two air conditioning condensers and a generator are located five feet from the eastern property line. A shed is proposed in the rear yard. The shed meets the applicable setbacks. The height to setback ratio is applicable only to the primary building not accessory structures.

Ms. Lewandoski said that the proposed development meets all of the applicable bulk requirements except the prevailing front yard setback. The required setback is 35 feet however whenever the prevailing front yard setback is five feet greater or less than the prevailing front yard setback, it shall be within two feet of the prevailing setback. The applicant submitted calculations for the prevailing front yard setback along this section of Westcott Road and determined the setback to be 45.5 feet (+- 2 feet). Ms. Lewandoski noted a correction to the staff calculation, explaining that the front yard setback for the previously existing single-family dwelling on the subject lot had been 35.3 feet, not 36 feet as set forth in Mr. Bridger's memo which would result in a prevailing front yard setback of 45.38 feet. It has been the practice of the board to exclude outlier setbacks. The setback for 168 Westcott is 76' which is roughly double the other setbacks in the range. If this setback is disregarded

the prevailing setback is 197'<sup>7</sup>/<sub>5</sub> or 39.4 feet (plus or minus two feet). The proposed setback is 35 feet, which is the same as the current front yard setback for the existing house.

Ms. Lewandoski provided an overview of the criteria for C1.

Mr. Richard Schatzman, Esq. noted that the request for the mean front yard setback is for 35 feet and he also requested the application be amended to request a C2 variance, where the benefits of the variance outweigh any detriments. He ask the Board to balance positive and negative criteria.

Attorney Cayci swore in Mr. Kucera.

Cyril Kucera advised that he is a licensed engineer in the State of New Jersey and advised the Board that he has previously testified as an expert witness in other land use applications. The Board accepted Mr. Kucera as an expert witness.

Mr. Kucera advised the Board that he is making the application on behalf of the owners, Andrew Roeser and Katerina Kucerova, his daughter and son-in-law. He said that the proposed new residence and the requested variance and referenced the following exhibits:

Exhibit A-1: "Plot Plan" as submitted with the application, prepared by Cyril Kucera, P.E.

Exhibit A-2: Photos of surrounding residences and design of proposed new single-family dwelling, prepared by Cyril Kucera, P.E.

Mr. Kucera said that the owners seek to construct a new single-family residence. The proposed residence will comply with all applicable bulk regulations with the exception of the front yard setback. Mr. Kucera explained that the front yard setback requirement in the R1 zone is 35 feet. However, pursuant to Section 17A-376.1, he acknowledged that the required setback must be adjusted to reflect the average prevailing setback. Mr. Kucera advised that the previously existing residence on the property has been demolished but that the owners propose to construct the new residence with the same front yard setback of 35 feet. Mr. Kucera noted that the front yard setbacks of the surrounding properties, particularly at 131,141 and 146 Westcott Road with setbacks of 35 feet, 34 feet and 38 feet respectively, are consistent with the proposed setback of 35 feet. He noted that 168 Westcott with a setback of 76 feet is nearly double the setbacks of other surrounding residences and that inclusion of that property in the prevailing average setback calculation skews the calculation to the applicant's detriment.

Mr. Kucera advised that the proposed single-family dwelling will be a two-story structure with a three car garage located at the basement level. He advised that there is a retaining wall in the front yard located in the municipal right-of way. Mr. Kucera said that a portion of that wall would be relocated in order to allow for a new opening for the proposed driveway. He advised that the garage design will be similar to that of a surrounding property at 146 Westcott. He noted that the proposed residence will be approximately 2809 square feet and will be smaller than the previously existing residence and the side yards will be increased in size. Mr. Kucera advised that the proposed residence will be screened on three sides from the neighboring properties by existing trees. He testified that the owners will preserve the

existing trees with the exception of two trees which may need to be removed. Mr. Kucera believes that the proposed 35 foot setback will permit better use of the backyard and it will be consistent with the neighborhood. Mr. Kucera said that this lot is undersized but it is grandfathered according to the Princeton Rules.

Mr. Richard Schatzman, Esq. noted that this application will promote better vision environment. He said that the proposed application is a better alternative for the Municipality.

Mr. Kucera informed that two more trees will be removed but will be replaced on a one by one basis.

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

Member Clayton inquired about the lot being grandfathered in if it is undersized. Mr. West informed that in the former Borough undersized lots are grandfathered in. (17A;373-A1).

Member Clayton does not want to set a precedence and feels they should comply with the prevailing setback.

Members Kahn and Tenenbaum disagreed with Member Clayton.

A motion was made by Harlan Tenenbaum seconded by Richard Kahn, to approve the application of the applicant Cyril Kucera a C (2) variance from the requirements of Section 17A-231 and 376.1 of the Princeton Land Use Ordinance (formerly Princeton Borough) to allow a front yard setback of 35 feet to permit construction of a new single-family residence as shown on the application subject to the following conditions.

ROLL CALL:	Nay	Louisa Clayton
	Aye	Steven Cohen
	Aye	Michael Floyd
	Aye	Richard Kahn
	Aye	Barrie Royce
	Aye	Doreen Blanc-Rockstrom
	Aye	Harlan Tenenbaum

c) JUNIOR LEAGUE OF GREATER PRINCETON  
159 Library Place; Block 11.01, Lot 1, R1 Zone  
D – Temp Use Variance for Designer Showcase  
Z1414-095U

Present for the application T. Sandburg Durst, Esquire.

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

Ms. Lewandoski presented a memorandum prepared by Mr. Bridger, Zoning Officer. Ms. Lewandoski said that an application is made for use variance approval pursuant to Section

17A-20(d) 1 of the Princeton Land Use Ordinance (formerly known as Princeton Borough) to allow for the temporary use of the existing single family development site for the Junior League Designer Showhouse Program. The program is scheduled for November 13, 2014 until November 23, 2014.

Ms. Lewandoski said that the subject property is located in the R1 Zone and is subject to the use and bulk regulations in accordance with Sections 17A-227 & 231 of the Princeton Land Use Ordinance. The existing single-family use is permitted as of right.

Ms. Lewandoski noted that the applicants are requesting a D1 use variance to permit the establishment of a temporary Junior League Designer Showhouse Program which is not a permitted use in this zone. The program is scheduled for November 13, 2014 until November 23, 2014. The program will consist of 13 interior exhibits and five exterior exhibits.

The Designer Showcase will be open as follows:

Thursday	11/13	10:00 am- 2:00 pm
Friday	11/14	11:00 am- 8:00 pm
Saturday	11/15	11:00 am- 4:00 pm
Sunday	11/16	11:00 am- 4:00 pm
Thursday	11/20	10:00 am- 4:00 pm
Friday	11/21	11:00 am- 8:00 pm
Saturday	11/22	11:00 am- 4:00 pm
Sunday	11/23	11:00 am- 4:00 pm

Ms. Lewandoski said it is anticipated that 140 guests will visit the Property and its gardens daily. The applicant will provide on-street guest parking on Hodge Road and Library Place. She advised that the staff has recommended that that applicant provide testimony with respect to the proposed location for staff parking, the availability of staff to direct visitors to available parking and any anticipated adverse impacts of lighting on adjoining residential properties.

Ms. Lewandoski noted that the proposed program will consist of 13 interior exhibits and five exterior exhibits. She also reviewed with the Board the standards for granting a D (1) use variance.

Attorney Cayci swore in Sandra Moran.

Sandra Moran spoke on behalf of the applicant. Ms. Moran advised that she is a member of the board of the Junior League of Greater Princeton, a non-profit organization, and that the Designer Show Houses facilitate the League's fund raising efforts for community-based programs. Ms. Moran testified that the applicant had made arrangements with the Morven Museum as well as the YWCA to provide ten parking spaces each, all of which the applicant intended to use for staff parking. She confirmed that there would be approximately 10 staff people per shift with three expected shifts. Ms. Moran further testified that the applicant proposes only three exterior exhibits, rather than five and that no structural changes will be made to the residence on the subject Property. She confirmed that any exterior lighting will be pointed towards the residence and away from surrounding residential properties. Ms. Moran also confirmed that the applicant will have volunteers available to direct visitors to

available parking.

Mr. Durst noted that the applicant has previously conducted show houses in the same neighborhood without negative impacts on neighbors.

The application was opened to the public for comment.

Attorney Cayci swore in Ruth Sayer of Library Place.

Ruth Sayer, of Library Place said that she is in support of the application. Ms. Sayer noted that she has served as past president of the Junior League and is very familiar with the event. She also noted that she resides very close to the subject property. She said that in the past, no neighbors have objected to the designer show houses conducted by the Junior League and that the proposed event should be much less intrusive than events held at Morven such as weddings or parties.

The Board agreed that the applicant has made adequate arrangements for parking and will take measures to minimize any adverse impacts on surrounding properties.

A motion was made by Harlan Tenenbaum seconded by Doreen Blanc-Rockstrom, to approve the application of the applicant Junior League of Princeton a temporary D (1) variance from the requirements of Section 17A-227 of the Princeton Land Use Ordinance (formerly Princeton Borough) to allow use of 159 Library Place for a Designer Show House program as set forth in the application

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

#### Discussion

a) ZONING ORDINANCE CONSOLIDATION AND ZBA NEEDS

Chairman Royce informed the Board that he will be presenting the following report to the Princeton Council at their November 10<sup>th</sup> meeting.

### Comments for discussion with respect to Zoning ordinance consolidation and ZBA needs

In the last few months development of undersized lots has been a returning issue and in the ZBAs opinion it would probably be advantageous to have to have the Council introduce new legislation to cover this class of applications. In 2013, 6 such cases came before the board and so far in 2014 there have been 7. Most zones in Princeton have a significant number of non-complying lots – many in clusters – and these introduce a desirable diversity into our residential options. It would be advantageous to have zoning ordinances that recognized this and make it unnecessary for individual home owners to appear before the Board for this class of issues

Some of the issues listed below require new Zoning ordinances whereas other may only require administrative changes. They are listed in an approximate order of priority.

1. **Preservation of Neighborhoods:** As about 60% of lots in a Zone are ‘sub-standard’ it may be useful to recognize this when they occur in clusters and designate such regions as a sub-zone with a recognized lower lot area than the zone requires. Rebuilding or modification would be allowed as of right on such a site provided all the setback and FAR rules are adhered to.
2. **Floor Area Ratio (FAR):** For isolated undersized lots the FAR that can be built is increased to permit a new building to have a size more in keeping with other neighboring houses. For the sub-Zones identified in 1) no increased FAR due to the lot size would be allowed. This would also tend to maintain the local character as more sites are redeveloped.
3. **Height to Setback ratios:** These should be rationalized for all Zones, and a decision needs to be made about the property boundaries to which they apply. The intent is to provide minimal obstruction of light and air to neighboring properties. Desirable sustainable solar energy needs may increase the importance of these provisions with winter sun angles being taken into consideration.
4. **Front yard setbacks:** these are important in defining a streetscape and new homes or modifications of an existing home in all zoning districts shall conform to the “average prevailing setback” concept either in a block or for a run of four houses on either side of the given property. *Any building with a significantly larger or smaller setback (outlier) should be excluded from the calculation.* Typically, a flexibility of +/- six feet could be allowed to define a practicable compliance range.
5. **Front Yard Parking:** Parking should not be allowed within the front yard setback. This is particularly important in streets where most homes define a small such setback. A home set back to a distance larger than required by the ordinance may be permitted to have parking between the house and the required setback, as on a U shaped driveway, provided suitable evergreen foliar screening or some other suitable visual barrier is provided.
6. **On-Street Parking:** Presently inconsistencies exist as to overnight parking but in some former Borough streets there are designated street parking places that can be used by adjacent homeowners. *Although not a zoning issue this issue needs review.*
7. **Sight Triangles:** For safe traffic and pedestrian negotiation of street junctions and driveway exits it is desirable to have sight triangles that provide unobstructed views for a person **seated in a car** at such intersections. For street intersections these are nominally 45 degree triangles on either side of the junction. Driveways should use a similar or narrower angle. It is also becoming fashionable to have street plantings in some of these locations, and on traffic circles, of such a height that they hamper visibility. This should be formally prohibited in the ordinance.
8. **Flag-Lots:** There are a number of deep lots in the former Borough that could be divided to make two legal lots with the rear lot of the pair provided access by a driveway normal to the street. The rear building potentially intrudes on the back yards of the neighbors and to minimize this problem the ordinance should require the rear lot to be 50% bigger than the required lot size for the zone. The township currently has an ordinance that addresses these issues. *The municipality should consider a similar ordinance to address this issue in the entire community.*
9. **Signage:** The signage regulations should be made compatible between the two previous sets of regulations. Simplification may be required and fewer ‘types’ recognized.

**5. ADJOURNMENT**

There being no further business the meeting was adjourned at 8:42 PM.

Respectfully Submitted,

Claudia Ceballos  
Secretary

Approved: December 10, 2014