

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
WEDNESDAY, February 25, 2015 7:30 P.M.
Municipal Complex – Main Meeting Room
Princeton, New Jersey

1. OPENING STATEMENT

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

2. ROLL CALL

PRESENT: Louisa Clayton, Steven Cohen, Wendy Farrington, Michael Floyd, Doreen Blanc-Rockstrom, Barrie Royce and Harlan Tenenbaum.

ALSO PRESENT: Karen Cayci, Attorney and Derek Bridger, Zoning Officer, Elizabeth Kim, HPC Officer, Robert Von Zumbusch, HPC Member and Claudia Ceballos, Board Secretary.

ABSENT: Richard Kahn.
There were twenty seven (27) members of the public present.

3. MINUTES

a) December 10, 2014 – Motion was made by Mr. Cohen to accept the minutes, seconded by Mr. Floyd and carried with a voice vote of four ayes. No one opposed. No one abstained.

4. ZBA ANNUAL REPORT

a) 2014 Annual Report – Chairman Royce reviewed with the Board members the report prepared by Mr. Bridger, which included a summary of variance applications heard by the Board. Chairman Royce noted that the Board has transmitted recommendations to Princeton Council about changes to the zoning ordinance. Motion was made, seconded and carried with a voice of seven ayes.

5. RESOLUTIONS OF MEMORIALIZATION

a) VASSELLI, Anthony & MAGUIRE, Mary
12 Lytle Street
Block 15.01, Lot 97 Zone R4 (Boro)
C1 variance – New home, left side setback and ht. to bldg. setback
Z1414-099V

A motion was made by Ms. Clayton and seconded by Ms. Rockstrom to adopt the resolution of Anthony Vasselli and Mary Maguire, as it has been written and amended.

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

b) RB HOMES, INC.
28 Hillside Road
Block 7208, Lot 13 Zone R6 (Twp)
C1/C2 lot area and lot width
Z1414-112V

A motion was made by Mr. Floyd and seconded by Mr. Cohen to adopt the resolution of RB Homes, Inc., as it has been written and amended.

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

c) CARSON, Steven R. and RAMAGE, Elizabeth, H.
12 Harrison Street
Block 53.01 Lot 19 Zone 3 (Boro)
C1/C2 rear setback and building coverage (addition)
Z1414-021V

A motion was made by Ms. Clayton and seconded by Mr. Floyd to adopt the resolution of Steven R. Carson and Elizabeth H. Ramage, as it has been written and amended.

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

d) FANG, Jingyu
159 Linden Lane
Block 7304, Lot 6 Zone R8 (Twp)
C1 Lot area (new house)
Z1414-128V

A motion was made by Mr. Cohen and seconded by Mr. Floyd to adopt the resolution of Jingyu Fang, as it has been written and amended.

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

6. APPLICATIONS

a) GOLDER, Nina (carried from 1/28/15)
 619 Lawrenceville Road
 Block 9301, Lot 14 Zone R1 (Twp)
 Princeton Battlefield and Stony Brook Settlement Historic District
 Relief of Use Variance Approval Condition
 Z1414-106U

Chairman Royce noted that this is an application carried from January 28, 2015 and asked that Mr. Bridger go over the variances requested.

Present for the application Mark Solomon, Esquire and Sue Cook, Real Estate Agent.

Attorney Cayci swore in Mr. Derek Bridger, Zoning Officer.

Mr. Bridger said that Elizabeth Kim, Historic Preservation Officer and Robert Von Zumbush, member of the Princeton Historic Commission were present.

Mr. Bridger said that Nina Golder, the applicant, has filed an application pursuant to Princeton's Land Use Code for relief from a condition of a use variance approval that was granted in 1998. The property is located on the King's Highway and the Lincoln Highway and is located in the Princeton Battlefield-Stony Brook Settlement Overlay Historic District. The property consists of approximately 2 acres. The barn and its shed addition consist of approximately 3223.80 square feet.

Mr. Bridger said that in 1998, the subject property was granted a use variance to convert an existing barn in to a second detached single family residence in exception to the ordinance which prohibits more than one principal single family residence per lot in the

R1 zone. Mr. Bridger noted that several bulk C variances were also granted at the time.

Mr. Bridger said that the applicant proposed to use both residences as a single entity and agreed to a deed restriction prohibiting the subdivision of the main house from the renovated barn.

Mr. Bridger said that the applicant also agreed to restrict the residential use of the renovated barn to the use and occupancy provisions of the former Princeton Township flat ordinance as per 10B-274 (e).

Mr. Bridger, said that in 1998 the Township Historic Preservation Commission presented a report to the Zoning Board supporting the requested variance stating that preservation of the barn is dependent upon allowing a variable use of the structure.

Mr. Bridger said remind the Board that this is a D variance and 5 out of seven affirmative votes are required to approve the application.

Mr. Bridger said that key issue here is that they want to separate the houses as condominiums and be able to sell the house and the barn separately without the residency requirement.

Attorney Casey swore in Elizabeth Kim.

Elizabeth Kim, Historic Preservation Officer, said that the application was heard by the Historic Preservation Commission on November 17 and December 8, 2014 meetings. She said that the applicant's attorney Mark Solomon and Sue Cook, realtor advised the HPC that despite extensive effort, the applicant had been unable to sell the property as prospective buyers were interested in either the main house or the barn, but not both.

Ms. Kim said that the applicant proposed to create two condominium units at the property, consisting of the main house and the barn with each owning one acre of land along with a master deed to address common areas such as portions of the driveway, the septic system and maintenance responsibilities to be undertaken by a homeowners association and a master deed.

Ms. Kim advised that the HPC was concerned that if a sale of the property cannot be accomplished, the required maintenance and repair of the historic structures on the property will not occur.

Ms. Kim said that the HPC considered single ownership to be preferable, it recommended that the relief sought by the applicant be granted as an alternate option for preservation of the property.

Ms. Kim said that the HPC subsequently referred the application to a subcommittee to review the proposed details of the proposed condominium.

Ms. Kim said that the subcommittee could not reach agreement and the matter was returned to the full Commission for hearing at its December 8, 2014 meeting at which the HPC voted 4-1-2 in favor of recommending approval of the application and supporting the condominium creation with various conditions.

Attorney Casey swore in Robert Von Zumbusch.

Robert Von Zumbusch said that he is a member of the HPC and served on the HPC subcommittee tasked with reviewing the details for the proposed condominiums.

Mr. Von Zumbusch advised that the HPC generally concluded that the property could function as a condominium and that it would be a better alternative than a subdivision of the property.

Mark Solomon said that he represents the owner, and that this is a request to amend or to remove a condition that was imposed in an approval almost 18 years ago by the Zoning Board in connection with an application to permit two residences in a single lot, with the condition that occupancy be in accordance with the flat ordinance.

Mr. Solomon said that this property is known as Worth's Mill, it is located on Route 206 as you leave Princeton past the Stony Brook. The Barn dates to the 1740's, the house dates to 1811, there are various other structures around the property.

Mr. Solomon said his client beautifully restored the barn, and there were a series of approvals at that time four resolutions; three minor site plan approvals and HPC approvals for the actual improvements. Everything external received the proper approvals.

Mr. Solomon noted that there are no proposed changes to the property. Any changes will have to come back to the HPC and to this Board.

Mr. Solomon said that all conditions imposed by the HPC are agreeable.

Mr. Solomon said his client purchased the property and invested over three million dollars on its restoration and upkeep, the barn is finished, the house is not done, and still needs work.

Mr. Solomon said that circumstances have changed, the applicant's mother and children have moved out, applicant finds herself alone.

The property has been marketed with no success, people are interested either in the barn or the house but not on both to finish the restoration of the house.

Mr. Solomon noted that the HPC approved the proposed condominium proposal.

Mr. Solomon said that without relief of that condition that the property be occupied in accordance with the flat ordinance this property cannot be sold.

Mr. Solomon said that this is a very unique circumstance and this is the best for the property.

Attorney Cayci swore in Nina Golder, owner.

Nina Golder said she purchased the property in 1997 at which time the barn was condemned.

Ms. Golder said property had been used as a dump site by others and that the barn, in particular, was completely unusable due to great neglect. She said that she spent several million dollars restoring the barn as well as the property grounds and the main house.

Ms. Golder said that she performed extensive work on the property including lead abatement, replacement of plumbing and piping, new bathrooms, replacement of windows, new roofs, ground water issues and replacement of the stone driveway.

Ms. Golder said that she worked extensively with the HPC to insure that the renovations were historically appropriate.

Ms. Golder said that she wants to sell the property due to changes in her personal situation. She explained that her mother, who had previously resided on the property, is not physically able to live in either the main house or the barn.

Ms. Golder said that she has tried to sell property over the past two years but no one wants to take on maintenance and continued preservation of both the main house and the barn. She wants to insure that the property continues to be preserved in light of its historical significance and believes that allowing separate ownership of the main house and barn is the best way to accomplish this purpose.

Ms. Golder said that she can't live there, in two acres, as a single woman she can't afford to continue to live there.

Attorney Cayci swore in Susan Cook with Callaway Henderson Real Estate

Ms. Cook said that she is a licensed realtor in the State of New Jersey with Callaway Henderson Sotheby's International Realty. She said that she is the listing agent for the property which has been on the market for approximately two years. Ms. Cook provided a copy of the marketing brochure for the property which was marked as Exhibit A-1.

Ms. Cook noted that the property was initially listed at \$2,049,500.00, which Ms. Cook testified she believes is an appropriate price but the price has been reduced to \$1,999,700.00 0 in an effort to attract buyers.

Ms. Cook noted that buyers are primarily interested in the barn.

Attorney Cayci swore in Lisa Thompson.

Lisa Thompson said that she is a licensed realtor of the State of New Jersey and explained that she was the original co-lister of the property with Ms. Cook. She said that she is very familiar with historical renovations. Ms. Thompson said that she believes that conversion of the property into a condominium will provide the best avenue for historic preservation of the property.

Attorney Cayci noted that the Board did not have Mr. Solomon's memo describing how the homeowners association will function and then the memo was amended later in response to HPC comments, so then Mr. Solomon distributed the memo and marked as Exhibit A-2.

Mr. Solomon explained that the applicant proposes a condominium regime in which the main house and the barn would each be considered a condo unit with approximately one acre of land for each unit with the septic system, driveway and stone ruins as common elements to be maintained by the homeowners association. Mr. Solomon also clarified that although the applicant is seeking the requested relief as a "d" variance, he also believes that there is a basis to grant relief on the basis that the occupancy condition imposed in the 1998 variance approval frustrates the applicant's goal of historic preservation.

Mr. Solomon noted that historic preservation of the property meets the positive criteria for granting a "d" variance and that the requested relief will not cause substantial detriment to the zone plan or the general welfare.

The application was opened to public comment and the following was provided:

Attorney Cayce swore in Christopher Tarr, Esquire and Victoria Dingwall.

Christopher Tarr, Esq., Stevens & Lee, PC, representing Virginia Dingwall of 629 Lawrenceville Road. Mr. Tarr noted that he originally represented Mrs. Dingwall in 1998 and that she spoke in opposition to the 1998 approval.

Mr. Tarr presented to the Board a power point slide exhibits which were placed into evidence:

Dingwall Exhibit 1- A tax map of the property and the Dingwall property outlining the boundaries of each property.

Dingwall Exhibit 2- Municipal topographic map indicating that the Dingwall house is closer to the barn on the property than the main house.

Dingwall Exhibit 3- Black and white photo of the Barn on the property.

Dingwall Exhibit 4- Page 2 of the 1998 Approval highlighting the condition requiring a deed restriction against subdivision of the property.

Mr. Tarr noted that the proposed condominium regime has the same effect as a subdivision of the property as it is creating two residences with approximately one acre of land for each residence and that the basis for the use variance approval in 1998 was the applicant's willingness to maintain the property under common ownership.

Mr. Tarr said that any economic hardship suffered by the applicant is self-imposed and that the sale price of the property is within her control.

Mr. Tarr also said that the surrounding properties are 3-5 acres in size and that the proposed condominium regime would create one acre lots, inconsistent with the neighborhood.

Chairman asked if there is a deed restriction in place.

Attorney Cayci said that the Board has not seen the deed restriction however the resolution from 1998 imposes as a condition the review and approval of that deed restriction by the Board Attorney at that time.

Member Cohen asked if the creation of a condominium is a subdivision. Does the creation of a condominium violates the intent of zoning?

Attorney Cayci said that a condominium is not the same as subdivision, however this condominium rather than having a common element of land, they associating with each of the homes one acre of land and splitting the land in half.

Attorney Cayci advised the Board to look at the resolution from 1998 and determine whether this applicant meets the criteria for a d variance. Ms. Cayci noted that prohibiting the subdivision had importance to the original Board. She also noted that in proposed condominium each property owner would separately maintain the house and one acre of land.

Attorney Cayci swore in Eric Goldberg, Esquire and Roy Carman.

Eric Goldberg, Esq., Stark and Stark, representing Roy Carman of 611 Lawrenceville Road.

Mr. Goldberg said that this approval is not needed to preserve the barn and that the core of the 1998 Approval was the continued common ownership of the property and the condition against subdivision.

Mr. Goldberg said that the proposed condominium regime is a de facto subdivision and that there will be substantial detriment to the neighboring properties as there would no longer be a common owner of the property.

Mr. Carman presented photos of the property taken by himself from the perspective of his front door, which were marked as Carman Exhibit 1 and entered into evidence as follows:

Photo1: View of Main house.

Photo 2: View of Barn.

Photo 3: View of adjacent bridge.

Photo 4: View of adjacent bridge.

Mr. Carman said that allowing the residences on the property to be sold separately will have a negative impact on the surrounding properties as it will take them out of central ownership and there will be greater potential for increased parking, noise and rental of units. He noted that his photos demonstrate that there is very little landscape screening between his home and the property and that he would be directly impacted by any increase in parking or noise.

Attorney Cayci swore in Edwin Bryant of 537 Stockton Street.

Edwin Bryant noted that he supports the application. He said that he lives approximately 100 yards from the property and that he believes that the proposed relief is the only feasible way of continuing the historic preservation of the property.

Ms. Golder said that she had previously installed a border of 12-14 ft. trees in response to objections raised in 1997 by her neighbor and current objector, Virginia Dingwall.

Ms. Golder also noted in response to objections raised by her neighbor Roy Carman, that his concerns regarding potential increased parking around the barn are ill-founded as physically there is no room in that area of the property to do so.

In response to some of the comments, Ms. Cook advised that she believes that tenants maintain properties to a lesser standard than owners and for that reason allowing the residences to be owned separately will provide the best avenue for continued historic preservation. She also noted that selling the property for a price less than market value will have a negative impact on the value of surrounding properties.

Mr. Solomon noted that ownership is better than rental.

Mr. Floyd said that the property is deed restricted to one family.

Mr. Solomon said that a variance was granted for two principal structures on a single lot.

Mr. Solomon said that he and his client are asking for relief from item “e” of the flat ordinance which essentially says that the owner has to live on one of the other.

Mr. Solomon advised that the applicant is willing to create a deed restriction prohibiting any subdivision of the property or further creation of condominium units and will record such deed prior to the master deed. The applicant is amenable to a condition of approval prohibiting a flat arrangement in either unit without approval of the Zoning Board, but argued that it is unfair to create a deed restriction to that effect.

Mr. Solomon noted that prohibiting rental of the units would be an unfair restriction and would impede the applicant’s ability to sell the units.

Mr. Solomon argued that the applicant has met the criteria for approval of a “D” variance, noting that the application promotes the purposes of zoning as it promotes appropriate development.

Recess taken from 9:48 to 9:54 pm.

Chairman Royce noted that this was a very complicated case.

Member Floyd noted that he needed more time. He noted that the preservation of the structures is a very important issue and maybe the top issue. He noted that he worries about setting a precedence. The creation of a condominium is about as close as a subdivision that you could get.

Member Clayton said that at the beginning she was under the impression that this was about preserving the structures on the property, but it seems like this is because they can’t sell it and that it’s a personal issue not the Board’s issue. She worried about breaking up lots, but felt comforted by the idea of condominium because the lot will not actually be separated.

Member Cohen said that he agreed with Members Floyd and Clayton.

Member Rockstrom said that the condominium arrangement it is a way to get around the subdivision, but this property is very unique and feels that the proposal is acceptable.

Member Tenenbaum agreed with all the comments but still wrestles the idea.

Mr. Floyd said that he would like to see the final documents and vote on it.

After a very long discussion, the applicant requested that the matter be carried to March 25, 2015 meeting and agreed to notice by first class mail.

- b) RISTABA
7 Lytle Street
Block 15.02, Lot 62; RB (Boro)
C1– lot area, lot width, lot depth, building coverage, front yard setback side and rear yard setbacks - Single-family dwelling
Z1414-135V

Present for the application Christopher Tarr, Esquire, and Lewis Barber, applicant.

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

Mr. Bridger presented his memorandum dated February 13, 2015. Mr. Bridger said that an application was made for hardship variance C1 for, lot area, depth, width, front, side and rear yard setbacks, building coverage to permit the construction of a new single family dwelling.

Mr. Bridger said that the property is currently vacant except for the remnants of a foundation. The applicant applied for and was issued all of the appropriate permits and the existing building was demolished in December 2014. The property is located in the RB Zone and is subject to the use and bulk regulations in accordance with Sections 17A-284 & 287 and by reference section 274 of the Princeton Land Use Ordinance. The proposed single-family use is permitted as of right.

Mr. Bridger noted that the property is non-compliant with respect to the following bulk requirements: the lot depth required is 100 ft. and the existing is 30.01 ft., the lot area required is 6,000 sf. and the existing is 810 sf. and the lot width is 60 ft. and the existing is 27.33 ft.

The subject property (existing foundation) is non-complying with respect to the following bulk regulations: The required Front yard setback is 25 ft. and the existing encroaches on property line; the required smaller side yard setback is 8 ft. and the existing is 0.7 ft., and the required combined side yard setback 20 ft. and the existing is 2.7 ft.

Mr. Bridger said that the required rear yard setback is 35 ft. and the existing 5.5 ft. and the required lot coverage is 30% the existing is 70.3%.

Mr. Bridger said that the applicant is proposing to construct a new 1,411 sf. three-story single-family dwelling on the site. The structure will contain a finished basement with a bedroom and full bath, a first floor containing a one car garage, bike room, laundry/entry hall area. The second floor will feature the living room and kitchen area. The third floor consists of a bedroom with a full bath and a deck.

The proposal will require the following variances:

Standard	Required	Existing	Proposed	Variance Relief Required
Front yard setback	25 ft.	None-encroaches 4 ft into right of way	None* (but no encroachment into the right of way)	Yes
Smaller side yard setback	8 ft.	7 ft.	1.4 ft.	Yes
Combined side yard setback	20 ft.	2.7 ft.	2.9 ft.	Yes
Rear yard setback	35 ft.	5.5 ft.	5.5*	Yes
Building Coverage	30% maximum	70.3%	74.1%	Yes
Lot area	6,000 sf.	810 sf.	810 sf.	Yes
Lot Width	60 ft.	27.33 ft.	27.33 ft.	Yes
Lot Depth	100 ft.	30.01 ft.	30.01 ft.	Yes

* Amended during hearing, at Board request.

Mr. Bridger said that in accordance with Section 17A-403 the applicant can reconstruct the structure as of right as follows:

Sec. 17A-403. Reconstruction

A noncomplying building legally existing on November 19, 1968, may be reconstructed to the same floor area ratio as existed on such date; provided, that such reconstruction shall not create a new noncompliance or increase the degree of noncompliance. When such reconstruction occurs, only that amount of accessory off-street parking will be required for the new building as existed prior to reconstruction. (Ord. No. 77-1, § 2; Ord. No. 82-30, § 4.)

Mr. Bridger said that applicant seeks approval for the proposed improvement as a C (1) variance and reviewed with the Board the standards for granting such variance.

Attorney Cayci swore in Lewis Barber.

Mr. Barber presented a slide show showing a zone plan, surrounding properties, the current property, and proposed layout which was marked into evidence as Exhibit A-1.

Mr. Barber noted that this lot is one of the smallest lots in Princeton with dimensions of only 27 feet by 30 feet. Mr. Barber said the prior residence was determined to be totally uninhabitable by the municipality and for that reason the current owner tore down the dwelling.

Mr. Barber said that the proposed new dwelling will allow on-site parking along with a one car garage based upon a three-story design. He noted that on-street parking on Lytle Street is limited and providing on-site parking will be a benefit. Mr. Barber noted that the surrounding lots on Lytle Street to the right and left of the property are undersized and that it would not be possible for them to provide additional land to the property without becoming further noncompliant.

Mr. Barber said that he contacted the adjacent owner to the back of the property to determine whether that owner would sell land but the owner refused.

Mr. Barber advised that the front of the previous dwelling intruded approximately 4 feet into the public right of way and the proposed new dwelling would be located four feet back from the front property line and would result in a rear yard setback of approximately four feet. He said that the proposed rear yard setback would be consistent with 3-5 Lytle Street.

Members Cohen and Floyd said that they would like to see a smaller house on the lot.

Member Tenenbaum mentioned that as of right he is allowed to build on the existing foundation.

Mr. Barber advised that he would be willing to move the proposed dwelling forward on the lot, so as to have a zero front yard setback, in order to increase the useable area in the backyard.

Mr. Tarr, said that the applicant had met the criteria for approval of a C (1) variance. He noted that the MLUL encourages promotion of appropriate density and that Lytle Street was created prior to the implementation of the zoning standards with fully developed homes and lots. Mr. Tarr noted that not allowing the proposed new residence would allow continuing use of the property as a residential property consistent with the streetscape of the surrounding neighborhood.

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

A motion was made by Harlan Tenenbaum and seconded by Chairman Royce to approve the application of Lewis Barber for a C (1) variance from the requirements of Section 17A-284 and 287 of the former Princeton Borough Land Use Ordinance regarding lot area, depth, width, front side and rear yard setback and building coverage for a lot area of 810 square feet, lot width of 27.33 feet, lot depth of 30.01 feet, zero front yard setback, smaller side yard setback of 1.4 feet, combined side yard setbacks of 2.9 feet, rear yard setback of 5.5 feet and building coverage of 74.1% to permit construction of a new single family dwelling as set forth in the application with conditions.

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

c) RB HOMES

203-5 Nassau Street; Block 47.02 Lot 9

Zoning ordinance interpretation pursuant to N.J.S. 40:55D-70(b) regarding floor area ratio and exemptions relating to “mixed use” and “joint occupancy buildings”.
Z1515-153

Present for the application Christopher Tarr, Esquire.

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

Mr. Bridger presented his memorandum dated February 13, 2015. Mr. Bridger said that an application was made for an interpretation of Section 17A-201 with respect to the definition of “floor area aggregate” and its application to joint occupancy buildings pursuant to *N.J.S.A. 40A: 55D-70(b)* for property located at 203-205 Nassau Street, Princeton, New Jersey (being Block 47.02, Lot 19 on the Princeton Tax Map), in the RO zoning district; and

Mr. Bridger said that RB Homes, Inc. is the owner of 203-205 Nassau Street, Block 47.02, Lot 19, the subject property, which is located in the RO zoning district and the applicant herein.

Mr. Bridger said that the property is joint occupancy building, consisting of a two-story and three story structure containing approximately 4,599 square feet. The building currently contains a retail florist shop and offices on the first floor, a rooming house, office and apartment are located on the upper floors.

Mr. Bridger said that the RO zone permits a Floor Area Ratio (FAR) of 0.90 for multiple dwellings and 0.6 for joint occupancy buildings.

Mr. Bridger noted that the existing building is in poor condition and the applicant is considering replacing the current building with a new structure to comply with the existing FAR and setbacks. During such discussions, it was discovered that Section 17A-201 provides certain exclusions in the definition of “floor area aggregate” for nonresidential uses and residential uses including such uses in attached and multiple dwellings but does not specifically reference joint occupancy buildings.

Mr. Bridger said that the applicant has requested an interpretation of Section 17A-201 by which, in a joint occupancy building, the developer may apply the exclusions from floor area set forth in the ordinance for “nonresidential uses” in the areas devoted to nonresidential use and the exclusions from floor area for one and two family residential uses, attached dwelling uses and multiple dwelling uses to those parts of a joint occupancy building devoted to residential uses. Mr. Bridger advised that Board staff do not object to the requested interpretation by which the non-residential and residential floor aggregate exclusions would be applied to respective uses in a joint occupancy building.

Mr. Tarr presented a slide show referencing the exclusions from floor aggregate as set forth in Section 17A-201, which was marked as Exhibit A-1.

Mr. Tarr said that the basis for this requested interpretation is that there appears to be no policy reasons to support differential treatment for joint occupancy buildings with respect to the same treatment of floor area as given to the types of buildings. Mr. Tarr said that the “Floor Area Aggregate” definition, as set forth in Section 17A-201, can reasonably read to apply to all buildings, given its initial wording referencing “the sum of gross horizontal areas of the *several floors of the buildings on a lot...*” (emphasis added).

Mr. Tarr said that the extent that the exemption from floor area aggregate which permits exclusion of a covered porch or parking space for an all- residential building encourages open-air living and installation of off-street parking, the same policy should be applied to all types of buildings which contain residences. Similarly, the permitted exclusion from floor area aggregate for roof areas or basement storage in nonresidential buildings should also be permitted in the nonresidential portion of a joint occupancy building because roofs and basement storage will not differ in a joint occupancy building.

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

After discussing the Board members determined that it would not reasonably be the intention of the governing body to exclude joint occupancy buildings from the definition and application of floor area aggregate exclusions.

The Board found that it is reasonable to conclude that that the governing body intended to include joint occupancy or mixed use buildings in the application of floor area aggregate exclusions, under Section 17A-201, by giving each use in the building, whether residential or nonresidential, a separate treatment of its floor area.

A motion was made by Steven Cohen and seconded by Harlan Tenenbaum to interpret “Floor Area Aggregate” as set forth in Section 17A-201 such that the exclusions provided therein for nonresidential uses shall be applied to the nonresidential portion of a

joint occupancy building and the exclusions provided therein for residential uses shall be applied to the residential portion of a joint occupancy building.

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

- d) TARR, Christopher and Susan
 93 Overbrook Drive
 Block 5802 Lot 6; R5 (Twp)
 C1/C2 – Lot area (new house)
 Z15-155V

Present for the application Chris Tarr, Esquire.

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

Mr. Bridger presented his memorandum dated February 6, 2015. Mr. Bridger said that an application is made for a hardship variance N.J.S. 40:55D-70 c (1) and in the alternative a c (2) 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.

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. Mr. Bridger noted that the existing single-family use is permitted as of right.

Mr. Bridger said that the lot is non-complying with respect to the following bulk requirement: the required lot area is 21,780 sf. and the existing is 20,000 sf.

Mr. Bridger said that the applicant proposes that the existing single family dwelling will be demolished and a new structure will be constructed.

Mr. Bridger noted that applicants seek approval for the proposed improvement as a C (1) variance or in the alternative as a C (2).

Christopher Tarr said that property has existed as a residential lot since the 1950's and

was created prior to the creation of the applicable zoning.

Mr. Tarr said that there is no adjacent land available to purchase.

The application was opened to public comment and the following individuals provided comment:

Douglas Davis inquired as to the purpose of the variance and the Zoning Officer and Board members provided an explanation.

Ruth Wedelich, 85 Overbrook Drive, testified that she lives next door to the property and supports the application.

A motion was made by Steven Cohen and seconded by Louisa Clayton to approve the application of Christopher and Susan Tarr for a C (1) variance from the requirements of Section 10B-253, 255 and 10B-246 of the former Township Land Use Ordinance regarding lot area to permit demolition of an existing single family residence and construction of a new single-family home on the property with conditions.

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

7. ADJOURNMENT

There being no further business the meeting was adjourned at 11:35 PM.

Respectfully Submitted,

Claudia Ceballos
Secretary

Approved: May 27, 2015.