

PRINCETON ZONING BOARD OF ADJUSTMENT

Minutes of the Regular Meeting

September 16, 2015 7:30 P.M.

Municipal Complex – Main Meeting Room

Princeton, New Jersey

1. OPENING STATEMENT

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

2. ROLL CALL

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

ABSENT: Richard Kahn, Wendy Farrington

ALSO PRESENT: Karen Cayci, Attorney, Derek Bridger, Zoning Officer, and Claudia Ceballos, Board Secretary.

There were twenty one (21) members of the public present.

3. MINUTES

June 24, 2015 - Motion was made by Mr. Tenenbaum to accept the minutes as written and amended, seconded by Mr. Floyd and carried with a voice vote of five ayes among those members eligible to vote. No one opposed. No one abstained.

4. RESOLUTIONS

- a) Din Attarwalla
364 Cherry Hill Road, Block 3901, Lot 7, RA Zone
Hardship variance C1 and C2 for lot area and lot width to permit construction of a new single family house on a non-conforming lot. Use “D” variance for temporary placement of two houses on a lot in exception to ordinance requirements.
Z1414-133V
Approved with conditions

A motion was made by Mr. Cohen to adopt the resolution, seconded by Mr. Floyd and carried with a voice vote of six ayes among those members eligible to vote. No one opposed. No one abstained.

- b) Joel and Caroline Burger
277 Walnut Lane, Block 7205, Lot 3, R6 Zone
Hardship variance C1/C2 for lot width to permit construction of a new single family house
Z1515-220V
Approved with conditions

A motion was made by Mr. Tenenbaum to adopt the resolution, seconded by Ms. Rockstrom and carried with a voice vote of six ayes among those members eligible to vote. No one opposed. No one abstained.

5. **APPLICATIONS**

- a) Alku Pena, Piyush Patel, and Pankti Mashruwala
341 Witherspoon Street, Block 7104, Lot 2, B1 Zone
C1 Variance to permit construction of two-story rear addition to an existing single family dwelling in exception to the required side yard setback
Z1515-171V

Present for the application Piyush Patel.

This case was carried from August 26, 2015 meeting.

Member Clayton confirmed that she had reviewed the application and the tape of the August 26, 2015 hearing of the application.

Attorney Cayci swore in Mr. Bridger, Zoning Officer.

Mr. Bridger said that the applicant has submitted a survey showing the building envelope. Mr. Bridger said that it appeared that the north side of the foundation encroaches ½ ft. into the north side setback (left side yard). The left side setback is already noncompliant being +- 4 ft with a zone requirement of 15 ft.

Mr. Patel was sworn in. Mr. Patel distributed Exhibit A- revised survey, showing the building envelope.

Mr. Patel said that he wants to construct the same addition as proposed at the last hearing. He said that because of the shape of the lot he cannot stay within the building envelope. Mr. Patel advised the Board that he had discussions with the Lucillos and they have no objection to his application.

The Board had concerns regarding drainage and lighting and Mr. Patel said that drainage would flow underground and lighting will not spill onto neighboring properties.

Chairman Royce opened the meeting to the public and the following members provided comment on the application:

Christopher S. Tarr, Esq. appeared on behalf of Lucullo, Inc., the owner of properties on either sides and on the back of the applicant's property. Mr. Tarr said that the Lucillos and the applicant have come to an agreement. Mr. Tarr presented exhibit Neighbor-1, survey of the property on which the building envelope was highlighted. Mr. Tarr noted that a conforming addition would be more visually intrusive than the proposed addition. Mr. Tarr said that the Lucillos support the requested variance.

The Board discussed the application. Member Clayton noted that she was annoyed that the applicant had already started construction without obtaining the proper approvals.

A motion was made by Mr. Cohen and seconded by Mr. Tenenbaum to grant C1 variances to allow a right side yard setback of 11.1 ft. and to allow a left side yard setback of +-3.5 ft to

permit construction of a two-story addition and to accommodate an existing foundation encroachment as set forth in the application and amended herein, with conditions.

FOR: Clayton, Cohen, Coulson, Floyd, Rockstrom, Royce, Tenenbaum
AGAINST: No one
ABSTAIN: No one
ABSENT: Kahn, Farrington

b) 39 Random LLC

347 Mount Lucas Road, Block 5501, Lot 8, R2 Zone
C1/C2, for lot width and area to permit construction of a new single family house
Z1515-206V

This case was carried from August 26, 2015 meeting.

Member Clayton confirmed that she had reviewed the application and the tape of the August 26, 2015 hearing of the application.

Present for the application Eric S. Goldberg, Esquire.

Mr. Bridger said that the applicant has new information to present at this hearing and he has no additional comments.

Mr. Goldberg informed the Board that the applicant had withdrawn the requested variance for setback to height ratio but still seeks variances for lot width and lot area. Mr. Goldberg presented Exhibit A-4: Architectural floor plan with elevations of proposed residence.

Chairman Royce opened the meeting to public comment but no comment was provided.

The Board discussed the application, drainage and lighting issues.

A motion was made by Ms. Clayton and seconded by Mr. Tenenbaum to grant C1 variances to allow lot area of 23,637 sf. and lot width of approximately 100 ft. to permit demolition of the existing single-family residence and construction of a new single-family house with conditions.

FOR: Clayton, Cohen, Coulson, Floyd, Rockstrom, Royce, Tenenbaum
AGAINST: No one
ABSTAIN: No one
ABSENT: Kahn, Farrington

c) Gilbert and Sarah Collins

155 John Street, Block 17.03, Lot 67, R4 Zone (Boro)
C1 to permit installation of an air conditioning condenser in exception building coverage requirements. Additional variance relief is requested to permit creation of a parking space in exception to the required setback
Z1515-160V

Present for the application Mark Solomon, Esquire; Gilbert and Sarah Collins and 2 sons.

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. Collins was sworn in.

Mr. Bridger provided an overview of the application using his memorandum dated July 6, 2015. Mr. Bridger said that the property is located in the former Borough in the R4 Zone and the existing single-family use is permitted as of right. Mr. Bridger said that the applicant is seeking approval for the installation of an air conditioning condenser in exception to building coverage requirements and approval to permit the development of a parking space in exception to the required setback.

Mr. Bridger said that the property is non-complying with the following: lot area required is 6,000 sf. and the existing is 2,160 sf.; the required lot width is 60 ft. and the existing is 30 ft.; the required lot depth is 100 ft. and the existing is 72 ft; the combined side yard required is 20 ft. and the existing is 5 ft.; the required smaller side yard is 8 ft. and the existing is 1 ft.; the maximum building coverage is 30% and the existing is 40.07 %; the required rear yard setback is 35 ft. and the existing is 11.5 ft.

Mr. Bridger said that the applicant installed an air conditioning unit, then applied for a zoning permit. Mr. Bridger noted that the air conditioner complies with the required five foot setback for accessory structures but it exceeded the allowable building coverage, which is 30% and the proposed is 40.36%.

Mr. Bridger said that on 12/9/14 two cars were parked in the front yard of this property. A “Notice of Violation” was issued. The applicant was informed that the practice needed to stop within 2 weeks or the alternative would be to request a variance.

Mr. Bridger said that the prevailing front yard setback for this section of John Street was determined to be 4.3 ft. plus or minus two feet and the proposed parking space is proposed to be setback 4.3 ft. which complies with the front yard setback. The 9’X19’ parking space does not comply with the required four foot setback for a side yard. Mr. Bridger noted that a parking space may be located in either the side or rear yard but must be setback at least four feet from the property line and the parking space is located on the property line.

Mr. Bridger reviewed with the Board the criteria for granting a C1variance.

Mr. Floyd said that his brother lives on Quarry Street (which is within 200 ft of applicant’s property) but he stated that he can objectively consider the application.

Mr. Solomon said that the applicant had no objection to Mr. Floyd’s participation.

Mr. Solomon said that the Collins are applying for a variance for the air conditioner condenser and for the parking.

Mr. Collins said that he purchased the property in May of last year. Mr. Collins said that he believed that the contractor had obtained the necessary permits for the air conditioning unit, which will be 30” x 30”, fenced-in and located at least five feet from the property line.

In regards to the parking, Mr. Collins presented to the Board the following:

Exhibit A1: Google Map Photo of the property, which was taken before he bought the property and shows cars parked on the same location that he is proposing to park.

Exhibit A2: Copies of recorded deeds for 155 John St. (5-19-87) and 159 John St. (10-3-86)

Mr. Collins said that the deeds reflect an easement for the owner of 155 John St. to be able to park on the driveway of 159 John St. and use that driveway for access to 155 John St.

Exhibit A3: Photos of 21 properties in the neighborhood showing parking within 2 ft of their neighbors’ properties.

Mr. Collins said that Mrs. Woods of 159 John St. has no objection to the use of the space. Mr. Collins said that parking in front of his house is not feasible there is a fire hydrant and a 2 hour parking restriction.

Mr. Cohen noted that Exhibit 1 shows two cars parked. Mr. Collins said that he will be parking one car in that location.

Mr. Bridger spoke about the prevailing front yard setback standard and recommended that if a variance was to be granted regarding the parking, the applicant be required to mark the parking space to make clear that only one car may be parked in the space.

Chairman Royce opened the meeting for public comment:

Cathleen Carroll of 167 John St. asked how loud is the a/c unit going to be and Mr. Collins said that unit was already installed. Ms. Carroll said she feels uncomfortable with the cars being so close to the sidewalk.

The Board discussed the application, drainage and lighting issues.

A motion was made by Mr. Tenenbaum and seconded by Ms. Rockstrom to grant C1 variances to permit one 9’ by 19’ parking space in the side yard setback within 4 ft. of the property line and to permit an increase in lot coverage to 40.36% to allow installation of an air conditioning condenser with conditions.

FOR: Clayton, Cohen, Coulson, Floyd, Rockstrom, Royce, Tenenbaum

AGAINST: No one

ABSTAIN: No one

ABSENT: Kahn, Farrington

d) Robert and Judith Levine

581 Lake Drive, Block 8801, Lot 9, R5 Zone (Twp)

D (4) floor area ratio for a dormer and the conversion of unfinished to finished space above an existing garage

Z1414-140U

Present for the application and sworn in were Chris Tarr, Esquire; Max Hayden, Architect; Robert and Judith Levine.

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 provided an overview of the application using his memorandum dated August 31, 2015. Mr. Bridger said that applicants applied for a D (4) variance for the construction of a dormer, finish space that is currently unfinished above the existing garage to be utilized as a study. The maximum allowable FAR is 20 % the proposed FAR is 20.7%.

Mr. Bridger said that the property is in the former Township R5 Zone and the existing single family use is permitted as of right.

Mr. Bridger said that this house was constructed to the maximum allowable FAR.

Mr. Bridger reviewed with the Board the criteria for granting a D (4) variance.

Mr. Robert Levine said that he and his wife purchased the house from a prior owner who had it built. Mr. Levine said that they want to finish the space above the garage and make it a study in order to create a more suitable living area to accommodate his 92 yr. old mother-in-law who will living with them.

Maximilian Hayden informed the Board that he is a licensed architect in the State of New Jersey. The Board agreed to accept Mr. Hayden's credentials.

Mr. Hayden presented Exhibit A-1: Power Point slide presentation consisting of ten slides.

Mr. Hayden reviewed photos of the house and the original permit plan which he believes showed a staircase leading to the space over the garage. Mr. Hayden noted that the only proposed exterior change will be to construct a dormer which will match the existing dormer.

Chairman Royce open the meeting for public comment. The following provided comment:

Charles Kearney of 702 Prospect Avenue, said that did not oppose to the application but he stated that the Board should clarify the interpretation of the zoning ordinance and that he believes that the ordinance is being incorrectly applied.

Mr. Tarr said that the space over the garage already exists and the building footprint will not increase. Mr. Tarr noted that the applicants do not have to have the dormer but further noted that the dormer will not increase the proposed floor area ratio.

Ms. Clayton noted that the house is very large and already built out to the maximum FAR.

Chairman Royce said that the FAR variance of 0.7% will not cause a change in the footprint of the house and that the requested variance represents a *de minimis* increase.

The Board discussed the application. A motion was made by Mr. Tenenbaum and seconded by Mr. Floyd to grant a D (4) variance for FAR to permit the construction of a dormer and the conversion of 352 sq. ft. of unfinished space to finished space above the existing garage with conditions.

FOR: Cohen, Coulson, Floyd, Rockstrom, Royce, Tenenbaum
AGAINST: Clayton
ABSTAIN: No one
ABSENT: Kahn, Farrington

- e) RB Homes
15 Harris Road; Block 7108, Lot 3, Zone 8 (Twp)
C1 – lot area for a new single-family dwelling
Z1515-238V

Present for the application Chris Tarr, Esquire and Daniel Barsky of RB Homes.

Attorney Cayci swore in Mr. Barsky.

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 provided an overview of the application using his memorandum dated August 12, 2015. Mr. Bridger said that the property is located in the former Township R8 Zone. The existing single-family use is permitted as of right.

Mr. Bridger said that the applicant wants to demolish the existing structure and build a new structure. Applicant has applied for a hardship variance C(1) to permit the construction of single-family house on a non-conforming lot in exception to the required lot area. Mr. Bridger said that the lot is non-complying. The required lot area is 8,500 sf. and the existing is 7,750 sf.

Mr. Bridger reviewed with the Board the criteria for granting a C1 variance.

Daniel Barsky of RB Homes, Inc. presented the following:

Exhibit A-1 - Four slides showing tax map with subject lot, properties to rear and side of subject lot and existing garage.

Mr. Barsky said that the lots to the rear and adjacent to the subject lot are non-compliant with respect to lot area or lot width and none of the properties could provide additional land to the applicant.

Mr. Barsky said that the existing house and a detached garage are in poor condition and will be demolished.

Chairman Royce opened meeting to public comment and the following provided comments:

Virginia Kerr of 124 Jefferson Road, was sworn in. Ms. Kerr said that she is very concerned with the demolition of the existing house and garage, which give character and charm to the neighborhood. She informed the Board that in 2005, the applicant received subdivision approval from the Planning Board. She feels that any hardship is self-created.

Ms. Kerr said that houses on Harris Road are set back further than 25 feet

Carolyn Abbate of 120 Jefferson Road was sworn in. She said she was very concerned with the removal of the existing garage. Ms. Abbate noted that her back property line meets the rear of the subject lot and there is currently a paved area in front of that existing garage where some of the neighbors make a K-turn in and out. There is a 10 ft. alleyway which runs along the rear of her home. Ms. Abbate said that if a fence is installed she would not be able to exit from the rear of her property.

Karen Armington of 118 Jefferson Road was sworn in. She asked the Board not to approve the application until the neighbors can review the alleyway issues.

Anita Garoniak of 1 Harris Road was sworn in. She said that residents on Harris Road use the paved area in front of the existing garage to make a K-turn to avoid backing down the alleyway.

Marco Gottardis of 9 Harris Road was sworn in. Mr. Gottardis said he is concerned that removal of the house will affect the neighborhood and also that he is concerned with tree removal.

Mr. Tarr said that in fact there is a 10 foot alleyway in the rear of the lot and noted that the alleyway would remain the same and the proposed new house construction will not affect it.

Mr. Tarr said that in 2005 the Planning Board approved a subdivision of the lot on the basis that it was better planning to create two smaller lots, rather than having one oversized lot.

After hearing the public comments, the applicant requested to carry the application to October 28, 2015.

- f) Jeffrey and Susan VanderKam
231 State Rod, Block 5403, Lot 7, R6 Zone (Twp)
C2 – side yard setback to allow oil tank installation
Z1515-259V

Present for the application Jeffrey and Susan VanderKam.

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 provided an overview of the application using his memorandum dated September 1, 2015. Mr. Bridger said that the applicants are requesting a C2 variance to install an exterior oil tank within the required 15 ft. side yard setback.

Mr. Bridger said that the property is located in the R6 Zone of the former Township. An existing single-family use is permitted as of right. The subject lot is non-complying with the required lot width of 85 ft. the existing is 75 ft.

Mr. Bridger said that currently a 250 gallon oil tank is on a concrete slab under a deck and needs to be replaced. Mr. Bridger said that the applicants said that there is no viable location behind the house because of the a/c unit and deck and are proposing that the exterior oil tank be installed on the right side of the house within the required 15 ft side yard setback, the proposed side yard setback is 12 ft.

Jeffrey and Susan VanderKam were sworn in.

Mr. Bridger reviewed with the Board the standards for granting a C2 variance.

Jeffrey and Susan VanderKam said that their oil tank is located under a crawl space under a deck and that the tank is rotting and the oil company recommended a new vertical tank.

Mr. and Mrs. VanderKam noted that their lot width is undersized and there is no room in the rear of the house to install the tank. They noted that the new tank will be a vertical tank to minimize its footprint.

Mr. Floyd asked if a portion of the deck could be removed and place the tank under the deck.

Applicants responded that partial removal of the deck would affect the exterior access to their kitchen.

Ms. Coulson asked about connecting to natural gas and the applicants said there is no gas connection currently available.

Chairman Royce opened meeting for public comment but no one provided comment.

A motion was made by Mr. Tenenbaum and seconded by Ms. Cohen to grant a C2 variance to permit the installation of a vertical exterior oil tank in the right side yard of the property to permit a 12 ft. side yard, as shown on the application with conditions.

FOR: Clayton, Cohen, Coulson, Rockstrom, Royce, Tenenbaum
AGAINST: Floyd
ABSTAIN: No one
ABSENT: Kahn, Farrington

6. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:16 PM.

Respectfully Submitted,

Claudia Ceballos
Secretary
Approved: 12/9/15