

PRINCETON ZONING BOARD OF ADJUSTMENT
Minutes of the Regular Meeting
WEDNESDAY, June 24, 2015 7:30 P.M.
Municipal Complex – Main Meeting Room
Princeton, New Jersey

1. OPENING STATEMENT

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

2. ROLL CALL

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

ABSENT: Louisa Clayton, Wendy Farrington, Richard Kahn and Harlan Tenenbaum

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

There were twenty nine (29) members of the public present.

5. APPLICATIONS

d) KREIPKE, Per and Adrienne

15 Maple Street; Block 33.02, Lot 103; R4 Zone (Boro)

C1/C2 & D – FAR, smaller & combined side yard setbacks and height to setback ratio

Expansion of attic dormer

Z1515-186UV

Attorney Cayci advised that all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application. Chairman Royce said that not enough members were in attendance to vote on a D variance application. The application was carried to the July 22, 2015 meeting.

e) REIN, Richard K.

36 Park Place, Block 28.03, Lot 83; R4 Zone (Boro)

D – FAR to permit the enclosure of the existing covered front porch

Z1515-183U

Attorney Cayci advised that all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application. Chairman Royce said that not enough members were in attendance to vote on a D variance application. The application was carried to the July 22, 2015 meeting.

3. **MINUTES**

a) March 25, 2015 – Motion was made by Member Cohen to accept the minutes, seconded by Member Floyd and carried with a voice vote of four ayes. No one opposed. No one abstained.

4. **RESOLUTIONS**

- a) LABOVITZ, Hunter and HOWARD, Heather
50 Aiken Avenue
Block 52.01, Lot 85.02; R3 Zone (Boro)
C1/C2- smaller side yard setback and height to setback ratio for Attic dormer
Z1515-170V

A motion was made by Member Floyd and seconded by Member Cohen to adopt the resolution to approve the application of Hunter Labovitz and Heather Howard for C (2) variances from the requirements of Section 17A-241 and 246 of the former Princeton Borough Land Use Ordinance to allow a smaller side yard setback of 0 ft., a combined side yard setback of +- 6 ft. and a height to setback ratio of 31:92:0 to allow construction of an attic dormer as set forth in the application, as it has been written and amended.

ROLL CALL: Aye Cohen
 Aye Floyd
 Aye Royce
 Aye Rockstrom

- b) RACICH, Joseph and Barbara
72 Arreton Road, Block 2501, Lot 20.01, RB Zone
Donald G. Herring Estate –Old Arreton Road Historic District
C2 & Historic Preservation Plan –
Expansion of existing garage in exception to the required front yard setback
Z1515-173V

A motion was made by Member Floyd and seconded by Member Cohen to adopt the resolution to approve the application of Joseph and Barbara Racich for a C (2) variance from the requirements of Section 10B-246 of the former Princeton Township Land Use Ordinance for front yard setback to permit the expansion of a two-car existing detached garage as set forth in the application, as it has been written and amended.

ROLL CALL: Aye Cohen
 Aye Floyd
 Aye Royce

- c) CARR, Charles
373 Ewing Street; Block 7204, Lot 12; R6 Zone
C1/C2 – lot area and lot width
Addition
Z1515-201V

A motion was made by Member Cohen and seconded by Member Floyd to adopt the resolution to approve the application of Charles Carr for C (1) variances from the requirements of Section 10B-246 of the former Township Land Use Ordinance regarding lot area and lot width to permit partial demolition of an existing single family residence and construction of an addition to the first floor and addition of a second floor on the property as set forth in the application, as it has been written and amended.

ROLL CALL:	Aye	Cohen
	Aye	Floyd
	Aye	Royce
	Aye	Rockstrom

5. APPLICATIONS

- a) SCOTT, Michael P. and Ruth M.
73-75 Leigh Avenue, Block 6904, Lot 30, R9 Zone
C1/C2 lot area, front yard setback and front yard parking setback
New single-family dwelling
Z1515-180V

Chairman Royce said that this was application carried from May 27, 2015 meeting.

Present for the application Christopher Costa, Esquire and Marina Rubina, Architect.

Attorney Cayci swore in Mr. Bridger, Zoning Officer.

Mr. Bridger noted that his FAR calculation is higher than the applicant's calculation. Mr. Bridger said that applicant is not seeking a variance for the FAR so anything that applicant presents will have to comply with the floor area ratio requirements.

Mr. Costa said that as he stated at the May meeting, he represents Michael and Ruth Scott, who have entered into a contract to purchase the property located at 73-75 Leigh Avenue.

Mr. Costa advised the Board that the applicants provided floor plans and elevations. Mr. Costa said that the application reflects a 9 ft. setback for the front yard and front yard parking setback.

Mr. Costa said that the applicants were willing to move their proposed residence back an additional 3 feet which would compensate for any alleged deficiencies in setback calculations.

Mr. Costa said they are seeking a 12 foot setback for both front yard setbacks, as measured from

the porch.

Mr. Costa said that this is compliant design and that the alignment of the proposed residence and parking will be consistent with neighboring properties. Mr. Costa said that if the applicants comply with the 25 ft. setback, the house will be aligned with the easterly neighbor's rear yard which would cause negative impact on her use of her backyard.

Attorney Cayci swore in Mr. Michael Scott.

Mr. Scott said that he and his wife wish to construct a contemporary style, energy efficient house which is consistent with the streetscape. Their desired design would also allow a private backyard space. Mr. Scott testified that he and his wife and met with some of the neighbors, since the May 27, 2015 meeting.

Attorney Cayci swore in Marina Rubina, Architect.

Marina Rubina presented the following exhibits:

Exhibit A-1: Composite photos of lot and tax map.

Exhibit A-2: Historic tax maps dated 1906, 1911, 1918, 1927, 1943 and 1956 showing pattern of infilling of empty lots.

Exhibit A-3: Composite drawing showing proposed prevailing front setback and compliant front setback.

Exhibit A-4: Photos showing neighborhood residences.

Exhibit A-5: Drawing showing originally proposed 15 ft. setback with new proposed 9 ft. setback superimposed.

Exhibit A-6: Ground Floor plan: first floor with 5 ft. open porch.

Exhibit A-7: Second story floor plan.

Exhibit A-8: Schematic exterior elevations.

Exhibit A-9: Proposed elevations.

Exhibit A-10: Schematic attic floor plan.

Marina Rubina said that the applicant is seeking two 9' x 19' parking spaces to be located in tandem on the proposed driveway. Ms. Rubina said that the applicants are intentionally locating the driveway closer to the western side of the property to allow a larger buffer for the neighbor to the east.

Ms. Rubina said that the applicants will comply with all FAR requirements. Ms. Rubina noted that the proposed porch will be located 2.6 ft back from the average setback on Leigh Avenue and that she believes it will be aligned with the porch to the east.

The application was opened to public comment and the following members of the public commented:

Attorney Cayci swore in Joseph Weiss, of 70 Leigh Avenue. He said that he is concerned that the proposed decreased front yard setback will negatively impact the neighbor to the east by casting a large shadow on the neighbor's house.

Mr. Weiss said that he had independently checked the setback calculations for neighboring

residence provided by the applicants in their exhibits and he said that he believes they are inaccurate with respect to 64 Leigh Avenue and 71 Leigh and are off by several feet.

Mr. Weiss said that the proposed porch location will in fact be located in front of the easterly neighbor's porch.

Mr. Weiss questioned the accuracy of the elevation calculations provided by the applicants.

Mr. Weiss said that he feels the scale of the new dwelling will dwarf the house to the east and for that reason the calculations should be accurate in order to minimize impact on the neighbor.

Attorney Cayci swore in Robin Reed of 71 Leigh Avenue (the house to the east).

Ms. Reed said that she does not oppose development of the site but is concerned about the effect of the proposed setback on her residence, which is to the east of the subject lot and asked that the porch be set back two more feet in order to be consistent with her home's setback.

Ms. Reed said that she is concerned that the new dwelling will be much larger than her own and will block sunlight at the front and back of her residence.

Attorney Cayci swore in Paloma Moscardo of 77 Leigh Avenue. She agreed with Ms. Reed's request to increase the setback.

Attorney Cayci swore in Holly Nelson of 70 Leigh Avenue. Ms. Nelson said she a consistency question, she is concerned that the floor plans and elevations are not consistent with respect to the placement of anticipated windows.

Ms. Rubina also confirmed that proposed elevations did not accurately show window placement which is more accurately shown on the floor plans.

Mr. Costa noted that the proposed design is compliant. Mr. Costa said that the neighbors' message is that they would like the house set back a few more feet and he said that the applicant would move it two feet in order for the applicant to present some back yard.

Mr. Costa said that the lot size variance was previously granted, Mr. Costa said that the house is complaint in terms of the size, and that the applicants have taken every effort to set the house back as far as possible from the dwelling that its nearest to the property and the house has been aligned consistent with the other houses along the block and the house has been moved back.

Mr. Costa said that he believes that the applicant has met the requirements for the C2 variance for the setback and he went over the criteria for a C2 variance.

Chairman Royce went into deliberative session.

Member Cohen said that he feels the applicants have satisfied the Board's concerns.

Member Floyd said that until the Municipality changes its zoning and downsizes, the majority of the houses aren't built to the max.

Member Rockstrom said that she is pleased to see that the applicant moved the house.

Chairman Royce said that the Board will condition that the light don't spill to neighboring properties.

A motion was made by Member Cohen and seconded by Member Rockstrom to grant to the applicants Michael P. and Ruth M. Scott a C (1) variance from the requirements of Section 10B-246 of the former Princeton Township Land Use Ordinance to allow a lot area of 4000 sf. and a c (2) variance for front yard setback and front yard parking setback to permit a 12 ft. setback to allow construction of a new single-family dwelling as set forth in the application and amended herein with conditions.

ROLL CALL

Aye:	Cohen
Aye:	Floyd
Aye:	Royce
Aye:	Rockstrom

b) ABILHEIRA, Elias & Mariola
159 Snowden Lane; Block 7505, Lot 11; R5 Zone
C1 – lot area
New single-family dwelling
Z1515-179V

Present for the application Elias Abilheira, Esquire and Frank Falcone, PLS, PP.

Attorney Cayci advised that all the noticing documents were in order and the Board was in a position to entertain jurisdiction of the application, she noted that the meeting was re-noticed for the lot width.

Mr. Abilheira explained that he was amending his application to include a variance for lot width. He noted that the subject lot is undersized and that the width of the lot is also irregular.

Mr. Abilheira wishes to provide a front yard setback consistent with surrounding properties for aesthetic purposes but doing so would restrict the available rear yard usage and the ability to add a deck to the rear.

Mr. Abilheira said that he is requesting a lot width variance and confirmed his willingness to construct the new residence 50 feet from the edge of the street or 40 feet from the property line.

Attorney Cayci swore in Frank J. Falcone, PLS and PP.

Mr. Falcone said that the application is for a lot size variance, the required lot size is 21,780 square feet and this lot is 16,961 square feet. He said that more than half of the surrounding lots are also undersized and of similar size to this lot.

Mr. Falcone presented Exhibit A-1 – 20” scale drawing of the lot in relation to the other lots.

Mr. Falcone said that the average front yard setback is 50-60 feet but because the subject lot is located on a curve in the road and it has a trapezoid-like shape and is undersized, providing a comparable setback would significantly reduce the usable rear yard area and would cause the property to be noncompliant.

Mr. Falcone said that the applicant is replacing an existing single-family home with another home which will comply with all bulk standards with the exception of lot area and lot width.

Mr. Falcone presented another Exhibit A-2 – tax map showing the undersized lots in the area.

Mr. Falcone said that the house will comply with all the bulk requirements except the lot area and lot width.

The application was opened to public comment and the following members of the public commented:

Attorney Cayci swore in Zygmunt Andreovski of 151 Snowden Lane. He requested clarification regarding the proposed building envelope.

Mr. Falcone advised that the proposed new house would be two stories and slightly larger than Mr. Andreovski's house.

A motion was made by Member Cohen and seconded by member Rockstrom to approve C (1) variance from the requirements of Section 10B-246 of the former Township Land Use Ordinance regarding lot area and lot width to permit demolition of an existing single family residence and construction of a new single-family home as set forth on the application with conditions.

ROLL CALL

Aye:	Cohen
Aye:	Floyd
Aye:	Royce
Aye:	Rockstrom

c) MCINTYRE-FENN, Juliana
34 Edgehill Street; Block 36.01, Lot 14; R1 Zone (Boro); Mercer Hill Historic Overlay
C1/C2 – parking space within the required front yard setback
Z1515-176V

Present for the application Christopher Tarr, Esquire and Juliana Carter McIntyre-Fenn, 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 June 5, 2015. Mr. Bridger said that the applicant is requesting a C (1) variance and the alternative C (2) to permit the development of a 9'X19' parking space within the required front yard setback.

Mr. Bridger noted that Historic Preservation Plan approval is required from the Historic Preservation Commission.

Mr. Bridger said that the property is located in the R1 Zone and is subject to the use and bulk regulations in accordance with Sections 17A-241 & 246 of the former Princeton Borough Land Use Ordinance. Mr. Bridger said that the existing single-family use is permitted as of right.

The lot is non-compliant with respect to lot area, lot width and lot depth. The existing residence is noncompliant with respect to front yard setback, height to setback ratio, smaller side yard setback and combined side yard setback requirements.

Mr. Bridger said that the required front yard setback is 19.54 +/- 2 ft. (prevailing) and the existing is 14.7 ft.; the height to setback required is 1.5:1 the existing is non-complying; the smaller side yard setback required is 10 ft. and the existing is 5.3 ft. and the combined side yard setback required is 20 ft. and the existing is 11.7 ft.

Mr. Bridger said that currently there is one parking space located within the front yard setback on the southern elevation of the property. This space was granted a variance for parking within the required front yard by the zoning board in 1981. (ZBA Case #456-2).

Mr. Bridger said that the applicant is now seeking variance relief to permit a 9'X19' parking space on the northern elevation within the required front yard setback.

Mr. Bridger said that the prevailing front yard setback is 19.15 feet plus or minus 2 feet. The proposed parking space will be located within the front yard setback.

Mr. Bridger said that the drawings show the proposed driveway being located completely within the front yard setback and the applicant's narrative describes extending the parking area all the way to the front of the house so that part of the parking space would be located within the side yard setback.

Mr. Bridger noted that Section 387 (c) requires the following: "Parking spaces shall not be provided within a required front yard. If in a rear or side yard, parking spaces shall not be located within four feet of any lot line."

It is the zoning officer's interpretation that if the proposed parking space is located in the side yard a variance is required for the four foot setback as the proposed setback is only three feet, in addition the intent of the ordinance appears to be to provide a four foot setback from the side property line in order to allow people to exit an automobile on their own property.

Mr. Bridger reviewed with the Board the standards for granting the requested bulk variances as either a C (1) or C (2) variance.

Attorney Cayci swore in Elizabeth Kim, Historic Preservation Officer.

Ms. Kim presented a memorandum from Julie Capozzoli, Chair of the Princeton Historic Preservation Commission, dated June 22, 2015, which she read into the record (attached).

Ms. Kim advised that the application was approved by the HPC with four affirmative votes with two abstentions.

Attorney Cayci swore in Christopher Tarr, Esquire.

Mr. Tarr distributed three sheets of paper, one sheet is a drawing which applicant will explain showing the modifications made according the HPC recommendations and two of the sheets are taken from the Zoning map.

Attorney Cayci swore in Julianna McIntyre-Fenn.

Ms. Fenn said that she was born and raised on Edgehill Street and that has lived at tis address for 45 years.

Ms. Fenn said that the Princeton Seminary, which owns an adjacent parking area, has given her a lifetime license to park a vehicle in their parking lot but that the Seminary will not grant a similar right to any future owners.

Ms. Fenn advised that the Seminary has agreed to grant permission for a future owner to park in their lot for two years.

Ms. Fenn said that she has tried unsuccessfully to sell the property because of the lack of two on-site parking spaces. She also said that she has tried to rent a second parking place from neighbors without success and that overnight parking on the street is not permitted by ordinance.

Ms. Fenn is requesting permission to install a second parking space and that the installation of the second driveway be postponed until such time as the Seminary advises that it will no longer allow use of their parking area for the second vehicle in order to avoid disruption of the current landscaping for as long as possible.

Ms. Fenn presented the following exhibits:

Exhibit A-1: Zoning Map showing the property and surrounding lots.

Exhibit A-2: Larger scale zoning map showing property highlighted and proximity to E-4 zone.

Exhibit A-3: Site Drawing revised to show proposed parking area 4 ft. from property line.

Ms. Fenn presented seven photos to the Board.

Photo 1: right-hand side area of the property is larger than the left-hand side area

Photo 2: close-up of the existing dogwood tree as well as the adjacent driveway

Photo 3: existing plantings on the property which will be replaced

Photo 4: adjacent driveway owned by the Seminary

Photo 5: next door residence known as “The Barracks” (32 Edgehill Rd)

Photo 6: wall and hedge to the north of 34 Edgehill Street

Photo 7: existing driveway and cars parked next door on the driveway at 32 Edgehill Street

Christopher Tarr, Esq. noted that the parking space has been relocated, as shown on Exhibit A-3 so that a side yard parking variance is no longer required.

Mr. Tarr said that the time restriction in Section 17A-213 with respect to receipt of a building permit and use of the variance, Mr. Tarr noted that until the proposed condition precedent is satisfied, i.e. a letter from the Seminary ending the ability to park a second car on their property, the obligation to obtain a construction permit would not be triggered.

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

Attorney Cayci swore in Ira Lackey of Callaway Henderson International Realty.

Ira Lackey advised that he is the listing agent. He believes that the property will be more marketable if the installation of the second parking space can occur immediately.

Member Cohen advised that he believes that the applicant has demonstrated the need for a second parking space. He believes that the proposed design preserves the historic appeal of the property.

Member Floyd noted that the proposed location for the parking space, although technically in the front yard setback is almost completely on the side of the house and noted that the current dwelling is large and that a need for a second parking space has been demonstrated.

Chairman Royce advised that although he is not in principle opposed to the requested front yard parking setback relief, he does not believe that the Board should deviate from the provisions of Section 17A-213 to allow an open-ended time period for the applicant to obtain the construction permit.

A motion was made by Member Floyd and seconded by Member Cohen to approve a C (1) variance from the requirements of Section 17A- 387 (c) of the former Princeton Borough Land Use Ordinance to permit parking in the front yard setback as set forth in the application with compliance by the applicant with all conditions set forth in the review memorandum dated June 22, 2015 issued by the Historic Preservation Commission with the exception of the recommendation that a gate be installed near the end of the new driveway and written confirmation from the Princeton Theological Seminary that it will no longer provide access to the owner of 34 Edgehill Street for parking on the Seminary property and other conditions.

ROLL CALL

Aye:	Cohen
Aye:	Floyd
Nay:	Royce
Aye:	Rockstrom

- f) WILSON, Clifford and Louise & BRENNAN, Christopher S.
16 and 18 Lytle Street; Block 15.01 Lot 104.02, R4 Zone (Boro)
C1 – Side yard setback and building coverage for generator and existing shed
Z1515-202V

Present for the application Clifford Wilson.

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 June 5, 2015.

Mr. Bridger said that this is an existing two family dwelling with each unit owned separately under condominium ownership. The existing two-family use is permitted as of right and the property is compliant with respect to applicable bulk requirements.

Mr. Bridger said that the Wilsons seek variance relief from the required five foot setback and building coverage limitations to install a natural gas generator. The proposed generator setback is 4 ft. 11 inches with a zone requirement of 5 feet.

Mr. Bridger said that Wilsons and the Brennans jointly seek variance approval to permit an existing shed to remain on the property.

Mr. Bridger noted that during the application process it was determined that the 8'3" X 10'3" shed located on the western property in the rear yard was never approved for zoning.

Mr. Bridger believes the developer added the shed after the building plans had been approved.

Mr. Bridger said that the required setback for the shed is five feet, but is located one foot from the property line.

Mr. Bridger said that the generator and the existing shed will increase the building coverage to 32% whereas the zone requirement is 30%.

Mr. Bridger reviewed with the Board the standards for granting the variances as either C (1) or C (2) variances.

Attorney Cayci swore in Mr. Wilson.

Mr. Wilson said that he has been authorized to appear on behalf of Christopher and Kathleen Brennan.

Mr. Wilson said that they wish to install the generator in the event of an emergency.

Mr. Wilson said that they experienced significant flooding during Storm Sandy and that having a generator would facilitate addressing that problem.

Mr. Wilson noted that they were not aware that the shed was located in a noncompliant location and explained that the shed is needed to store gardening tools, lawnmower and related items. They have no storage in the units on the first floors.

Mr. Wilson noted that there is no other compliant location for the shed.

Mr. Wilson said that the location of the generator is driven by the location of their gas line and that there does not appear to be any compliant location for the generator.

Mr. Wilson agreed to install a one panel 3-4 ft. high fence at least 18 inches from the generator in order to provide a buffer and shield it from view.

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

A motion was made by Member Cohen and seconded by Member Rockstrom to approve a C (2) variance from the requirements of Section 10B- 257 regarding the location of an accessory structure to permit an existing 8'3" x 10' 3" shed to remain in its current location and to permit the installation of a natural gas generator with a setback of 4 feet, 11 inches and to allow collectively a 32% lot coverage, as shown on the application materials with conditions.

ROLL CALL

Aye:	Cohen
Aye:	Floyd
Aye:	Royce
Aye:	Rockstrom

6. **CLOSED SESSION**

10 Madison Avenue
Litigation update

RESOLUTION OF THE PRINCETON ZONING BOARD OF ADJUSTMENT

(TO GO INTO CLOSED SESSION)

Whereas, the Zoning Board has determined that it is necessary to review the status of pending litigation known as Weiss at al. v. Names and the Princeton Borough Zoning Board of Adjustment; and

Whereas, N.J.S.A. 10:4-12 permits the Board to conduct a meeting from which the public is excluded for the foregoing purpose; and

Whereas, the discussion conducted in closed session shall be made available at such time as the issues discussed therein are resolved and its disclosure would not subvert any particular exception for convening a closed session.

NOW THEREFORE BE IT RESOLVED, that the Princeton Zoning Board of Adjustment shall go into closed session for the purpose of discussing pending litigation as permitted by N.J.S.A. 10:4-12.

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:39 PM.

Respectfully Submitted,

Claudia Ceballos
Secretary

Approved: September 16, 2015.