

PRINCETON PLANNING BOARD
MINUTES OF THE REGULAR MEETING

Thursday, March 3, 2016
PRINCETON – Main Meeting Room
Princeton, NJ

PRESENT: Julie Capozzoli, David Cohen, Jenny Crumiller, Wanda Gunning, Liz Lempert, Fern Spruill, Mildred Trotman, Gail Ullman,

ALTERNATES: Timothy Quinn, Dwaine Williamson

ABSENT: Cecilia Birge

ALSO PRESENT: Allen Porter, Esq., Board Attorney; Lee Solow, Planning Director; Ilene Cutroneo, Board Secretary; Jack West, Land Use Engineer; Derek Bridger, Zoning Officer

Chairperson Gunning called the meeting to order at 7:35 p.m., acknowledging the opening statement as required by the Open Public Meetings Act, stating that notice of this meeting was issued on November 5, 2015 and December 9, 2015

ANNOUNCEMENTS: Mayor Lempert advised that Council will be holding a special meeting on March 10 to introduce the ordinance for the Witherspoon/Jackson Historic District.

MINUTES:

a) Regular Meeting – June 18, 2015. Motion was made by Ms. Crumiller to accept the minutes, seconded by Mrs. Trotman and carried with a voice vote of seven ayes among those members eligible to vote. No one opposed. No one abstained.

HEARINGS:

Prior to the start of the hearings, Mr. Cohen advised that he is an adjacent neighbor to both applications scheduled for this evening's hearing and he is recusing himself.

a) GEORGE & SUSAN STEIN
Minor Subdivision
147 Terhune Road; Block 7009, Lot 5.03
File #P1515-296MS

Mrs. Gunning advised that the application will not be heard at this meeting and will be carried to the April 21, 2016 agenda. The Board has accepted jurisdiction and no further notice is required.

b) ZIAD & NADA HADAYA
Minor Subdivision

289 Jefferson Road; Block 7009, Lot 3
File # P1515-299MS

Mr. Solow was sworn in and provided the Board with an overview of the application. Mr. Solow advised that the Subdivision Committee reviewed this application, using sheet 1 of 2 marked as exhibit PB1 (two other zig zag minor subdivision applications were reviewed as well) on February 16. During this meeting the committee and staff expressed concern regarding the non-traditional subdivision(s) being proposed. The applicant advised that it understood the concerns and suggested an alternative proposal that required variances. The Committee did not have jurisdiction to review or recommend/approve any application with variances and determined that the subdivision(s) should be sent to the full Planning Board for a complete review. Mr. Solow brought to the Board's attention an email that was sent by Mr. Porter advising of a design standard in the former Township Code (10B-182) regarding side lot lines. Also noted that if the subdivision was filed today, it would not comply as the ordinance was amended in December 2015 requiring the width of the lot to be equal to the frontage.

Eric Goldberg, Esq., was sworn in and appeared on behalf of the applicant. Mr. Goldberg questioned staff on the use of 10B-182 in prior application and for reasons of denial. Mr. Solow advised that applicants have been directed to that section in prior applications and noted that has been part of the code for quite a while. Mr. West advised that he has only been with the municipality for five years but was aware of the citation prior to Mr. Porter's email.

Mr. Goldberg acknowledged that the applicant met with staff professionals in the fall of 2015 and was advised that the zig zag line was not preferred. Mr. Goldberg presented a chronology of the process starting with the filing of the application, adoption of the ordinance (exhibit A1), date of completeness, filing an objection to notice for the subdivision committee meeting (exhibit A2) citing it as a violation of the MLUL, and letter advising of a change in the width (exhibit A3). Mr. Porter advised that Section 182 applies whether or not it was included in a report or advised during meetings. Mr. West added that the ordinance was amended in December to make the frontage requirement equal to that of the lot width.

At this time, the following witnesses for the applicant were sworn in: Robert Gazzale, PE, Ziad Hadaya, owner; Thomas Stearns, PP. The applicant agreed to the engineering report and Mr. Gazzale provided the Board with a plan showing a complying subdivision, noting that the staff reports had no mention of Section 182 as it was first raised just prior to this meeting. An alternative plan (colored version – exhibit A4) was presented and Mr. Gazzale advised that he felt this option did not need variances. Mr. West disagreed stating that alternative plan is considered a flag lot and from the appearance it does not meet the conditions of the flag lot ordinance.

Thomas Stearns, PP, was sworn in and used exhibits A6 (portion of the zoning map), A7 (tax map sheet 70), and A8 (tax map sheet 71) to discuss the zoning and other lots in the area, noting irregularities that currently exist in lot configuration. Mr. Stearns stated that Section 182 is not a requirement, but a guideline. Mr. Goldberg and Mr. Stearns both repeated that this

section has never been brought up in prior discussions with the applicant. Testimony was presented by Mr. Stearns that the subdivision as proposed will not have a negative impact on the neighborhood.

Mr. Quinn disagreed and stated that the issue regarding the irregular line was made very clear, while not referenced, and discussed at great length and the applicant should be requesting a design waiver. Chairperson Gunning added that the design as proposed will change the prevailing street scape.

Meeting recessed at 8:55 pm and resumed at 9:05 pm with the following present:

PRESENT: Julie Capozzoli, Jenny Crumiller, Wanda Gunning, Liz Lempert, Fern Spruill, Mildred Trotman, Gail Ullman,

ALTERNATES: Timothy Quinn, Dwaine Williamson

ALSO PRESENT: Allen Porter, Esq., Board Attorney; Lee Solow, Planning Director; Ilene Cutroneo, Board Secretary; Jack West, Land Use Engineer; Derek Bridger, Zoning Officer

HEARING (continued):

- b) **ZIAD & NADA HADAYA**
Minor Subdivision
289 Jefferson Road; Block 7009, Lot 3
File # P1515-299MS

Mr. Hadaya advised that he met with staff on numerous occasions and wanted to submit several variations of the subdivision plan. He also presented a copy of the Valley Road subdivision (exhibit A9) stating that the same subdivision was previously approved. Mr. Hadaya continued to offer conditions that would be agreeable to him with the proposed subdivision that included: limiting the height to more than 25 feet, limiting the size of the houses; agree to construct two different style homes; keeping the existing house at the current location. Mr. Goldberg added that Mr. Hadaya is offering options as they understand the concerns of the homes built on Valley Road. Chairperson Gunning reminded the applicant that the Board is only reviewing subdivision and building envelope lines, not site plans. Mr. Porter added that the Valley Road lots were approved by the Subdivision Committee and the applicant agreed to bring a revised plan to the full Board to eliminate the zig zag lot line.

Chairperson Gunning opened the meeting to the public for comment at this time.

David Cohen, address not provided, was sworn in stating that he is a member of the Planning Board, and an adjacent neighbor. Mr. Porter noted that his position as a Planning Board member is not an expert witness. Mr. Cohen added that he is a licensed architect and that was not testifying on behalf of the neighbors. Mr. Cohen advised that he has filed an appeal with

the Zoning Board of Adjustment (ZBA) regarding the Zoning Officer's interpretation regarding the line segment creating the lot line. Mr. Cohen disagreed with the Zoning Officer's report that the lot lines created two conforming lots. Mr. Cohen stated he felt that the lots are not complying since the proposed lot line changes direction and does not create a continuous line. He asked that the application be postponed until the ZBA makes its ruling.

David Nicholson, 281 Jefferson Road, was sworn in and stated that he objects to the application as the lot is not wide enough for a front/back placement of homes as this creates a runoff problem and that he supports Mr. Cohen's interpretation of lot line.

Kip Cherry, address not provided, was sworn in and advised that she is a licensed planner. Ms. Cherry stated that the applicant does not conform to the flag lot ordinance requirements, the required 50' setback along Jefferson Road and will create stormwater issues in the area.

George Stein, 149 Terhune Road, was sworn and disagreed with Mr. Cohen's position regarding continuous lines, noting that lines can be made up of many segments.

The following people were sworn in and spoke against the application and supported the comments made by Mr. Cohen and Ms. Cherry: Johnathan Besler, 32 Dempsey; Dartha Hopkins, address not provided; Roxanne List, 280 Jefferson; and Julia Hughes, 25 Cuyler Road.

Hearing no further comments, the public portion was closed. Mr. Goldberg indicated that the applicant has agreed to the conditions found in Mr. West's memorandum. Mr. Gazzale advised that he would work with the municipality and address concerns as appropriate. Mr. West added that improvements proposed by the applicant with the roof leaders and sump pump tied to the proposed stormwater system so the development will not make the drainage problem worse. Mr. Gazzale also stated that he disagreed with Mr. Cohen's interpretation of the lot line.

Mr. Porter asked the applicant if it would provide the Board with an extension until the ZBA hears Mr. Cohen's appeal. Mr. Goldberg refused and stated if there is an appeal it should be taken to court and felt that the Board should review the application based upon the current zoning standards.

Board members continued to express concern regarding the irregular lot line of the original proposal and that the direction recommended from the subdivision committee was not addressed by the applicant. Mrs. Gunning stated that staff was not given an opportunity to review the revision presented by the applicant and that needs to be done before the Board can make a decision.

Several Board members continue to focus on whether the application is impacted by Section 182 as the lot line had several turns to create the two lots and Board members wanted to know if the application can be denied based on that section. Comments included that a 'classic' subdivision, along Jefferson Road was not provided and the submission does not appear to be

conforming. Board members also expressed concern regarding the public's comments on water problems and runoff onto adjacent lots.

Mrs. Ullman questioned whether an alternative proposal could have the front lot provide the same setback distance as the other homes along Jefferson, which would then control the placement of the second residence. Mrs. Trotman stated that she agreed with the comments of the Board members objecting to the application, but noted that the applicant filed the application prior to the current ordinance being in effect.

Mr. West advised that continuous does not mean the line cannot have an angle point, noting that there are lots throughout town which have angle points in the lot lines. He also stated that it never has been interpreted that because there is an angle point it is not a side lot line, noting that the prior zoning office used the same interpretation.

Mr. Porter noted that some of the concerns and issues raised are site plan issues and may not support a denial of the subdivision. Mr. Porter also noted that there are no assurances that section 182 would be upheld if the Board uses it to deny the application. Mr. Porter recommended that instead of taking an action that would lead to litigation, perhaps a better alternative could be worked out with the applicant and staff to include lot conditions, size, height, drainage characteristics, driveway placement, etc. and return to the board with an engineered plan reviewed by staff. Mr. Goldberg advised that the applicant is willing to work with the Board to find something that would be appropriate.

Mr. Quinn stated that the Board should wait to see what the decision of the Zoning Board is regarding Mr. Cohen's appeal of the ordinance. Mr. Porter advised that the Zoning Board appeal should not be used in the Board's decision on the application tonight. Mr. Porter stated that the Board has three options for the application tonight: vote to approve as submitted, vote to deny as submitted or ask staff, the applicant and a committee to work to come up with an alternative that include site plan standards with location, structure design for two homes on two lots. It was noted that the third option would require an extension from the applicant on the Board's time to act. The next available meeting for the application to return would be April 21 and Mr. Porter requested an extension from the applicant through May 5. Mr. Goldberg advised that the applicant was granting an extension only to April 22.

Motion was made by Mrs. Trotman to table action on the application until April 21 and have the applicant meet with staff and a committee of the Board to develop with alternative design standards and conditions for the lot. The motion was seconded by Ms. Spruill carried with the following roll call vote:

FOR: Capozzoli, Lempert, Spruill, Trotman, Ullman, Gunning, Williamson

AGAINST: Crumiller, Quinn

ABSTAIN: No one

Mr. Porter advised that the application will be carried to the April 21 Planning Board meeting, no further notice will be given and the board retains full jurisdiction. It was noted that the applicant granted the Board its extension until April 22, 2016.

Motion was made by Mrs. Trotman to adjourn and was seconded by Ms. Capozzoli.
Meeting adjourned at 11:00 pm.

Respectfully submitted,

Dated: 9/22/16

Ilene Cutroneo, Board Secretary
PRINCETON PLANNING BOARD

Approved: 6/1/17

Wanda Gunning, Chairperson
PRINCETON PLANNING BOARD

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