

PRINCETON PLANNING BOARD
MINUTES OF THE REGULAR MEETING

Thursday, February 16, 2017
PRINCETON – Main Meeting Room
Princeton, NJ

PRESENT: Jenny Crumiller, Julie Capozzoli, David Cohen, Wanda Gunning, Timothy Quinn, Mildred Trotman, Zenon Tech-Czarny, Gail Ullman

ALTERNATES: Dwaine Williamson, Louise Wilson

ABSENT: Fern Spruill

ALSO PRESENT: Gerald Muller, 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 pm, acknowledging the opening statement as required by the Open Public Meetings Act, stating that notice of this meeting was adopted on December 1, 2016 and published in the December 9, 2016 edition of the Princeton Packet.

FINDINGS OF FACT:

- a) **PRINCETON DAY SCHOOL – 12/8/16**
Prelim/Final Major Site Plan w/variances & extended protection
650 Great Road; Block 3501, Lots 11, 12, 1.01, 2.01
File #P1515-190P

Motion was made by Ms. Crumiller to accept the findings, seconded by Mrs. Ullman and carried with a voice vote of eight ayes among those members eligible to vote. No one opposed. No one abstained.

MINUTES:

Prior to the vote on the minutes, Mrs. Cutroneo advised that the October 6, 2016 regular meeting minutes would be tabled and placed on a future agenda.

- a) **Regular Meeting – July 14, 2016.** Motion was made by Ms. Crumiller to accept the minutes, seconded by Mr. Cohen and carried with a voice vote of seven ayes among those members eligible to vote. No one opposed. No one abstained.
- b) **Executive Session – October 6, 2016.** Motion was made by Ms. Capozzoli to accept the minutes, seconded by Ms. Crumiller and carried with a voice vote of eight ayes among those members eligible to vote. No one opposed. No one abstained.

- c) Regular Meeting – October 20, 2016. Motion was made by Ms. Crumiller to accept the minutes, seconded by Mr. Cohen and carried with a voice vote of eight ayes among those members eligible to vote. No one opposed. No one abstained.
- d) Executive Session – December 8, 2016. Motion was made by Ms. Capozzoli to accept the minutes, seconded by Ms. Crumiller and carried with a voice vote of eight ayes among those members eligible to vote. No one opposed. No one abstained.
- e) Regular Meeting – January 19, 2017. Motion was made by Ms. Crumiller to accept the minutes, seconded by Mr. Quinn and carried with a voice vote of nine ayes among those members eligible to vote. No one opposed. No one abstained.

HEARINGS:

- a) 39 RANDOM, LLC
Prelim/Final Major Subdivision & Prelim/Final Major Site Plan
522 & 536 Prospect Avenue; Block 7701, Lots 46 & 47
File # P1616-404SPF/P

Mr. Solow was sworn in and provided the Board with an overview of the application. Using sheet 1 of 6 (PB1), Mr. Solow advised that the applicant is seeking to subdivide the property into three conforming residential lots. It was noted that since the application is for three lots it is considered a major subdivision that includes a site plan component. Mr. West and Mr. Bridger were sworn in. Mr. West advised that the Traffic Safety Committee reviewed the plan and provided no comments.

Mr. Solow summarized the PEC memorandum which was distributed electronically to the Board. Mr. Bridger advised that the report is not correct regarding non-compliant frontage, explained how the frontage for the lots was determined and is complying with the zone.

Mrs. Ullman questioned if the prevailing setback applies to the application. Mr. Solow advised that the applicant filed prior to the change in the ordinance so it is not applicable. Mr. Quinn asked staff to respond to the PEC memorandum regarding the mounding proposed for the new lots. Mr. West advised the applicant is not mounding the site as lot 47.02 which had the demolished house had a finished grade of 102.71 and the proposed finished grade is 102.75 and the on lot 46.01 the existing grade is 107.81 and proposed is 105.21.

Eric Goldberg, Esq., was sworn in and appeared on behalf of the applicant. Mr. Goldber introduced his witnesses, Robert Gazzalle, PE requesting he be recognized as an expert witness and Timothy Burton, Architect. The Board accepted the witnesses.

Mr. Gazzalle reviewed the existing conditions and construction grading of the plan. He advised that the lots were under the maximum impervious coverage. Testimony was presented that the applicant agreed to extend the storm sewer from Riverside Drive across the frontage of the property and connect the roof leaders to the municipal storm drain. The applicant agreed to

comply with the staff reports. Responding to the comments received from PEC, the applicant advised that it cannot support the installation of rain gardens and bio swales given the soils that are on the site, noting that the grading is the same for all three lots and does not exceed what was previously on site. It was also noted that the lots proposed are conforming.

Mr. Burton advised that he is an architect and licensed building inspector and was accepted as an expert witness. Using exhibits A1 to 3 (first floor, second floor and exterior rendering) he noted that each house is approximately 4,000 sf. Board members asked for further details as to the floor space above the second floor. Mr. Burton advised that as proposed, it is an attic, the windows are for architectural detail and stairs are not part of the design. An alternative house rendering was also shown to the Board (exhibit A4). The remainder of the items from report from the Princeton Environmental Commission (PEC) was reviewed and the applicant advised that would look into the recommendations from the PEC and determine if they were economically feasible for the project.

Chairperson Gunning opened the hearing to the public for comments at this time.

Melanie Stein, 541 Prospect Avenue, was sworn in and stated that the proposed submission is not in keeping with the prevailing setback ordinance. She also spoke about the increased intensity of use, water runoff and wants tree replacement to be larger than what is being proposed. Ms. Stein requested that the Board delay the application stating that it is a holiday weekend.

Beth Behrend, 492 Riverside was sworn and stated that she agreed with Ms. Stein's comments. Ms. Behrend cited personal problems with water flooding the basement of her home.

Michael Littman, 551 Riverside, was sworn in and stated that the applicant had demolished the existing dwelling over nine months ago. He also commented that this applicant changes the character of the neighborhood.

Paul Suozzo, 492 Prospect, was sworn in and stated that the setbacks of the homes were out of character with the neighborhood.

Hearing no further comment, the public portion was closed.

Mr. West responded and advised the Board that there is a major drainage concern by staff and to maintain any water on site will create more flooding during periods of heavy rain. Therefore the recommendation was made to connect to the stormwater system and to direct as much runoff as possible to the street.

Board members also asked the applicant to change the application by providing the prevailing setback and removing the garage from the front. Mr. Gazzalle advised that aside from creating possible variances, using the prevailing setback would impact the rear slope of the lot and require the stormwater connection to be extended further than currently proposed, which

would increase the impervious coverage. In response to the garage placement, Mr. Gazzalle advised that design was based on the existing drive and the constraint of the lot. Several Board members disagreed with the applicant's engineer and the Board's engineer by continuing to request that the applicant provide the rain gardens and bio swales as part of the project.

Staff reminded the Board that the submission filed complies with the ordinance. If the Board wants to require the prevailing setback it may be made a condition along the PEC interior recommendations for the homes (noting that interior design is not reviewed), but the attorney should advise if the condition(s) are legal. Mr. Muller advised that the Board can impose reasonable conditions, such as the garage not extending in front of the front door.

Mr. Tech-Czarny again requested that the rain gardens and bio swales be included as a condition of approval. Mr. Gazzalle advised that the triangular lot had poor drainage and Mr. West added that the entire parcel has drainage problems and the installation of PEC's recommendations would cause additional drainage problems. Mr. Gazzalle advised that the soils will not support the filtration device. Mr. Cohen agreed with the engineers regarding the stormwater maintenance, adding that rain gardens would make the problems worse. Mrs. Ullman urged the Board to take the advice from its professional engineer regarding the stormwater problems. Mrs. Ullman also commented that the applicant when submitting its application has the right to expect that the Board upholds the ordinance(s) in that are in place at time of submission.

Mr. Goldberg requested a recess to consult with the applicant to discuss the changes requested by the Board. The meeting recessed at 9:10 pm and resumed at 9:30 pm. Mr. Goldberg advised that the prevailing setback will not work with the application. However, the applicant can move the garage on lot 46.01 back so that the plane of the garage is in line with the plane of the house, but the garage doors will still face the street. Ms. Crumiller stated that the prevailing setback requirement be a condition of approval. Mr. Muller advised that the Board can only impose reasonable conditions and the prevailing setback has implications with stormwater management.

Board members continued to ask the applicant to move the homes further back into the site. The request ranged from creating the prevailing setbacks to anywhere from 10 to 40 feet. Mr. Gazzalle advised that moving the homes further back creates a drainage issue. Mrs. Ullman noted that the applicant designed the plan with the zoning that was existing at the time.

Mr. Goldberg requested a recess to consult with the consultants regarding changing the setback of the homes. Meeting recessed at 9:50 pm and resumed at 9:55 pm. Mr. Goldberg advised that lots 47.01 and 47.02 can be moved 10 feet further into the site.

Motion was made by Mrs. Ullman to approve the application with the conditions as described in staff reports and discussed during the hearing. The motion was seconded by Mrs. Trotman and carried with the following roll call vote:

FOR: Crumiller, Capozzoli, Cohen, Quinn, Tech-Czarney, Trotman, Ullman, Gunning, Williamson

AGAINST: No one

ABSTAIN: No one

- b) JAMES & JUDITH BETLYON
Minor Subdivision – lot consolidation
369 Riverside Drive; Block 7901, Lots 4 & 6
File #P1616-421MS

Mr. Solow was sworn in and provided the Board with an overview of the submission. Mr. Solow advised that the applicant is proposing to consolidate lots 4 and 6, creating a new conforming lot, 4.01. Lot 4 is a flag lot that is currently vacant and directly behind lot 5. The pole of the flag lot, serving lot 4, is 20 feet wide and provides an 11 foot wide driveway, from Riverside Drive to the house on lot 4. Lot 6 is located to the south of lot 5 runs from Riverside Drive east to Lake Carnegie. The proposed lot consolidation will eliminate the lot that runs between lot 4 and lot 6.

Robert Casey, Esq., was sworn in and advised that the applicant is seeking a lot line adjustment, no variances are proposed. It was noted that the site received a variance for insufficient frontage in 1976 and the variance runs with the land. No improvements are proposed and the applicant proposes to sell the lot to allow the new purchaser to construct a dwelling.

Chairperson Gunning opened the hearing to the public at this time for comments. The following members of the public spoke against the application, no one provided their address. Robert Taub, Bob Gleason, Steven Just, Gretchen Thiele, Anastasia Betrov, objected to the future lack of access on lot 6 to Lake Carnegie should the lots be consolidated. They indicated that the access has been an implied access and in place since 1953. [After the public session closed, the members of the public questioned why the consolidation did not take place with lot 9.]

Kathryn D'Acosta, address not provided, was sworn in and advised that she purchased lot 9 that had a fence constructed which prevented access to lot 6 and questioned if any proof was provided that the area had common access.

Kathryn Summers, address not provided, was sworn in and advised that the character of the neighbor has changed and there is a major increase in traffic.

Hearing no further comments, the public portion was closed.

Mr. Muller explained the merger doctrine to the Board and indicated that the issue raised by the public why the prior lots did not merge in that manner could be a valid point. However, he advised that those questioning the ability for this application must file an appeal in the courts,

it is a private issue not a decision of the Planning Board. Mr. Casey advised that if there is a valid easement, it will not be invalidated as the only change is to lot lines.

Motion was made by Mr. Cohen to approve the application with the conditions as discussed in staff reports and during the hearing. The motion was seconded by Mrs. Trotman and carried with the following roll call vote:

FOR: Crumiller, Capozzoli, Cohen, Quinn, Tech-Czarny, Trotman, Ullman, Gunning, Williamson

AGAINST: No one

ABSTAIN: No one

DISCUSSION:

a) Ordinance referral – Home Occupations. Mr. Solow advised that as part of the harmonization process the amendment to proceed by filing for permit and demonstrate that it can provide one additional parking space to avoid using on street parking for the use. Mrs. Ullman questioned why home occupations are being regulated as it has become an accessory use. Hearing no further comments, a motion was made by Ms. Crumiller to find the ordinance amendment consistent with the Master Plan, seconded by Mr. Quinn and carried with a voice vote of nine ayes. No one opposed. No one abstained.

Mr. Tech-Czarny requested that the Board schedule the Stormwater Presentation from the Watershed Association. Chairperson Gunning advised that the chair of PEC should contact the office to schedule the presentation. Motion was made by Mrs. Trotman to adjourn and was seconded by Mr. Cohen. Meeting adjourned at 11:00 pm.

Respectfully submitted,

Dated: 4/18/17

Ilene Cutroneo, Board Secretary
PRINCETON PLANNING BOARD

Approved: 6/1/17

Wanda Gunning, Chairperson
PRINCETON PLANNING BOARD