RIVERTON BOROUGH ZONING BOARD
MINUTES
June 16, 2004

Pursuant to the Sunshine Laws and other statutes of the State of New Jersey, the regular meeting of the Riverton Zoning Board of Adjustment was called to order at 7:40 PM by Chairman Kerry Brandt.

Public Notice of this meeting, pursuant to the Open Public Meetings Act, has been given in the following manner:

1. Posting notice of a schedule of all meetings on the official bulletin board in the Borough Office and publication of the schedule in the Burlington County Times on January 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Fritz Moorhouse, Alfred DeVece, Alan Adams and Bill Brown.

ABSENT: Ken Mills.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Board Engineer Richard Arango, Councilwoman Muriel Alls-Moffat and Secretary Ken Palmer were present.

PUBLIC HEARINGS:

BLANCH HEARING: The chair announced that the Blanch, 629 Linden hearing for an addition to the home would not be held because the applicant had not properly published notice in the newspaper. The applicant will re-notice for next month.

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE "SITZLER" PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1:

The applicant's attorney had formally notified the board in writing requesting a continuance to comply with the board's desire to hear the application in its entirety rather than consider the use variance alone. Following review of the correspondence, Fritz Moorhouse made a motion seconded by Richard Mood that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

> Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Brandenburger/Sheridan, Inc. for a site plan and subdivision approval with use and bulk variances to develop the above named property in the Neighborhood Business and R4 Districts is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on July 21, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

MINUTES: A motion was made by Alfred DeVece, seconded by Fritz Moorhouse, and unanimously approved to accept the minutes of May 19, 2004 as distributed.

APPOINTMENTS: The chair reviewed that due to several complex site plans with use variances coming before the board, the board needs to appoint a professional planner to represent the board. The chair has contacted Tamara Lee, the planning board's planner about serving the zoning board in this capacity and requested she submit a contract. The chair reviewed the contract. Fritz Moorhouse motioned and Fred DeVece seconded that the board appoint Tamara Lee Consulting LLC to serve as the professional planner to the board for the remainder of 2004.

There was a unanimous poll vote to approve. The secretary read resolution Z2004-4 regarding the appointment. There being no discussion, Ed Smyth motioned and Rick Mood seconded that the resolution be adopted and that the secretary have it published in the newspaper. There was a unanimous poll vote to adopt the resolution.

PUBLIC HEARINGS:

APPLICATION FOR CONDITIONAL USE APPROVAL WITH USE VARIANCE TO OPERATE A BED AND BREAKFAST ESTABLISHMENT IN THE NEIGHBORHOOD BUSINESS DISTRICT BY CINDI S. VEE, 204 BROAD STREET, BLOCK 800, LOT 31 (CONTINUED):

Summary – The applicant desires to operate a bed and breakfast establishment in a residence located in the Neighborhood Business district. Bed and breakfast establishments are a conditional use where permitted and require a site plan review before approval. In addition, the location is in the Neighborhood Business District where such a use is not permitted and thus the applicant is seeking a use variance. Following the initial hearing, the applicant submitted revised plans to address the issues raised by the board's engineer.

The board's solicitor asked if there were additional members qualified to participate in the hearing. The secretary reviewed that the chair, Rick Mood and Allan Adams had submitted affidavits attesting that they had listened to the tape of the hearing in April and that they were prepared to participate in the hearing.

Testimony
Cindi Vee and Christopher Ford were sworn in and reviewed the revisions to the plan. The engineer's points were discussed as follows:
Parking, Circulation and Arrangement

A1. Due to the shape of the lot the required setbacks for the proposed parking cannot be met. The applicant is requesting a variance for the setback.
A2. The applicant proposes that the length of the parking stalls will be 20 feet as required.
A3. Following discussion that it was okay to have a gravel surfaced handicapped parking space as long as there was access to a hard paved surface for the occupants, the applicant stated that the 16 foot wide space would use the concrete patio as the surface. The plans would be revised to reflect this. The space would be appropriately delineated.
A4. The gravel drive and paths are not an issue for handicapped access since the entrance off the patio would be used for that purpose. The engineer has stated that the site complies with ADA requirements. The building requirements are beyond the purview of the hearing and subject to building code official's approval.
A5. There is no plan to designate any spaces as employee only. Two of the spaces off the driveway entrance from Lippincott will be used.
A6. A variance is being requested for the 12 foot wide drive instead of the 25 foot wide drive. The site will not accommodate a drive that wide since the access way is only 14 feet wide and landscaping and clearance from the building only allow a 12 foot wide path. John Trotman questioned if there was sufficient turning area in the parking area and the engineer replied there was. Christopher Ford stated that bringing the spaces in to full compliance provides extra turning space art the end of the area. The applicant testifies that signage inside would control use of the door that opens on to the drive. Site lighting was being worked out with PSE&G and would be appropriate and not impinge on the neighbors. Asked if the board can approve a design not yet made, it was discussed that the board can stipulate that approval is granted only if the engineer approves any plans.
A7. Testimony was given that landscaping timbers would be used through out the parking and driveway areas to keep the gravel in place. While wheel stops were not proposed, they will be used since they are the only way to delineate the parking spots. The wheel stop for the handicapped space will be appropriately painted and a sign installed. The existing paved driveway and landscaping along the sidewalk will prevent gravel from the parking area encroaching on the public right of way.
A8. See A7.
A9. The existing shed at the rear of the property is to be removed and is not an issue.
A10. See A5.

A11. Trash removal is planned to be no different than regular residential use. The location of the enclosure will be shown on the plans as described and will be hidden from street view.

Stormwater Management

B1. The applicant testified that there have been no observed drainage problems and the use of porous gravel suitably graded to control runoff onto adjacent property should not impact existing drainage on the site.

Grading

C1. The applicant testified that no top soil would be removed or used as a subsoil.

C2. Spot elevations shown confirm that the site appears to appropriately graded.

C3. See C2.

Utilities (D) – None are proposed.

Planting Design

F1. The applicant testified that due to the location of the existing driveway and proposed extension there is insufficient room to install the 10 foot buffer and is requesting a variance at this location. There is only two to three feet maximum available. A new six-foot privacy fence will be installed and there are existing trees and other landscaping present. Testimony was provided that the ordinance permits the board latitude on this requirement. While the buffer is for noise, it is also for privacy and a fence does provide privacy. While still concerned about noise, the board agreed that the proposed fence did provide for the safety, security and privacy issues. Since the proposed use is residential in nature and the traffic will not be extensive, the use of a fence instead of a landscape buffer would suffice in this area. It was noted that if the board concurs with the need for relief from the buffer requirement, then per Section 128-67 of the ordinance, a variance is not needed.

F2. The applicant agrees that the 10 foot wide buffer planned for the parking area facing Broad Street will also be extended along the Maple Avenue side.

Lighting

F1. The applicant testified that PSE&G is going to assess the lighting needs and plans call for using an existing utility pole for any above ground lighting. Landscape lighting will be used for path lighting where applicable. The recommendations of PSE&G will be to ensure safety and not impinging on the neighboring properties. It was agreed that the engineer should review and approve final plans after they are provided.

F2. See F1.

F3. The use of an existing light on the building is proposed to illuminate the drive and pad at the rear of the building. Wattage will be sufficient for safety and the use of a motion sensor could be considered to minimize time light is on.

Signage

H1. Signage will not to be part of this application. The applicant will comply with the Borough codes when a sign permit is applied for.

Site Safety

H1. It was commented that the applicant had previously testified that proper supervision was to be provided during all construction phases.

Conditional Use Satisfied

The board reviewed and the applicant testified that the plans for the building satisfied the conditional use requirements of the code. Following a brief recess, testimony was offered that the proposed use was more in keeping with the residential character of the site. As to the use variance, it was noted that the use is not in conflict with the Master Plan of the Borough and it is a beneficial use for the community. The proximity to the light rail station will support the use and the residential business type of business is in keeping with the town.

Public Comment

The meeting was opened to public comment. There was none and Fritz Moorhouse moved and Rick Mood seconded that the hearing be closed to public comment. The vote was unanimous.

Deliberation
The secretary commented that based on prior attempts to redevelop the property and the lack of interest in maintaining it as a private residence, he feels it is a good use. The chair reviewed that the board cannot change the zoning code but can grant a use variance on a case by case basis. Since a use variance is involved, five votes to approve are required rather than a simple majority. The engineer and solicitor concurred. The chair reviewed that a motion was needed that would include:

- A use variance to permit a B&B "Home" in the NB district.
- A bulk variance for the parking setback due to the shape of the property.
- A bulk variance permitting a 12 foot wide driveway.
- Board approval of the fence along the adjoining property instead of the landscape buffer.
- Incorporating an amended site plan application based on the engineer's comments and applicant's agreements including:
    a. The handicapped parking space
    b. Installation of wheel stops
    c. Stone in the handicapped spot adjacent to a patio access
    d. Landscape timber barriers to retain stone
    e. Location and hiding the trash enclosure
    f. Engineer review and approval of lighting recommendations
    g. Removal of any sign references as part of the approval.

There were no objections to placing the above in a single motion and that the existing street side fencing would be addressed separately. Fritz Moorhouse moved to accept the motion as proposed above with the assistance of the solicitor. Rick Mood seconded the motion. A poll vote of the members was taken with approval being granted by a vote of 6 to 1 as follows:

Mr. Brandt – aye Mr. Smyth – aye
Mr. Trotman – nay Mr. Mood – aye
Mr. Moorhouse – aye Mr. DeVece – aye
Mr. Adams – aye

Concerning the fence along the street sides of the property, the applicant testified that the existing fence is in need of replacement and it is desired to replace the fence all at once rather than piecemeal as is permitted in the code. Further, the replacement fence would be of a style and construction more suited to the architectural style of the town and the property. Testimony was provided that a hardship existed concerning security and privacy if replacement was not permitted. Testimony and board questions elicited that the proposed fence is more in keeping with the style present before the current wooden picket fence. An ornamental iron gate with brick piers is proposed. A three-foot height for the fence is agreed to. The site plan will be amended to show the revisions to the fence. The hearing was once again opened to public comment on the fence issue and there was none. Fritz Moorhouse moved, Ed Smyth seconded and there was unanimous approval to close the hearing to public comment. There being no further discussion, Ed Smyth moved and Fred DeVece seconded that the fence plans be approved as amended. A poll vote of the members was taken with approval being granted by a vote of 7 to 0 as follows:

Mr. Brandt – aye Mr. Smyth – aye
Mr. Trotman – aye Mr. Mood – aye
Mr. Moorhouse – aye Mr. DeVece – aye
Mr. Adams – aye

The question of additional escrow amounts was tabled until additional information is obtained.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF A FENCE ON A CORNER LOT BY KATHLEEN AND BARRY GRAHN, 401 MIDWAY, BLOCK 1300, LOT 10:

Summary – The applicants desire to replace a 4-foot wood picket fence with a 4-foot vinyl picket fence in the rear yard and side yard of the property. Because the lot is a corner lot they are seeking a variance on the setback requirements for corner lots to have full utilization of the rear yard and side yards. The property is in the R4 district. The chair reviewed that all jurisdictional requirements have been met and the application could be heard. Mrs. Grahn was sworn in.

Testimony and Board Questions – The applicant reviewed that the existing fence was in poor condition. The ARC has reviewed and approved the proposed fence. Pictures were provided. It will be a hardship to not have a fence and maintaining/repairing the existing fence will prolong an unsightly and unsafe fence. The board voiced concerns about sight lines, and granting side yard variances. A picket fence does provide more visibility than a solid fence. The applicants desire to have secure use of the side yard and to keep the fence symmetrical to the fence on the other side of the house. The consensus of the board is that the fence should be angled in near the garage to provide a better view when using the garage.

Public Comment – The hearing was opened to public comment. There being none, Fritz Moorhouse moved, Fred DeVece seconded and the vote was unanimous to close the hearing to public comment.

Deliberation and Decision – The applicant was asked and agreed to amend the application to include angling a section of the fence in from the property line to the garage as long as she could maintain the side yard fence. The angled section will be a minimum of 8 feet at a 45 degree angle. The fence will be no closer to the sidewalk than 1-foot or the property line whichever is greater. The board had no further questions or comments. Ed Smyth moved the board approve the application as amended for the angled section, that it be no closer than 1-foot from the sidewalk and that the 4-foot picket fence be of the style "classic gothic" as presented. The motion was seconded by Rick Mood and a poll vote of the members approved the application by a vote of 6 to 1 as follows:

Mr. Brandt – nay; likes the fence but is concerned about side yards
Mr. Smyth – aye Mr. Trotman – aye
Mr. Mood – ayeMr. Moorhouse – aye
Mr. DeVece – aye Mr. Adams – aye

OLD BUSINESS

There were no resolutions to adopt and other issues were tabled due to the late hour.

CORRESPONDENCE

The secretary reported that there is the possibility of an application being submitted to erect a cell tower by Omnipoint Communications.

NEW BUSINESS

Brandenburger hearing issues: Janet asked if there were any conflicts that precluded members hearing the application. John Trotman stated he has a business relationship and would have to recuse. Fred DeVece owns a store next to the site and would have to recuse. Ken Mills may have a conflict. The chair will not be able to attend the August meeting. Research on pulling in member(s) from the planning board will be researched as needed. It was discussed that additional escrow was needed above the $2,500.00 deposited to bring the initial amount up to $4,000.00. Fritz Moorhouse motioned, Fred DeVece seconded and the vote was unanimous to request the additional amount and to have the secretary contact the applicant.

Vouchers and Invoices:

- Rick Arango, 5/13/04 – invoice for $280.00 for the period 3/16/04 to 4/15/04 for work on the Vee application to be paid from escrow.
- Rick Arango, 5/13/04 – invoice for $56.25 for the period 4/16/04 to 5/15/04 for work on the Vee application to be paid from escrow.

Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow account. The secretary will make sure the invoices are signed and submitted for payment.

Possible Upcoming Hearings: The secretary reviewed the following new applications may be on the agenda for June:

- Blanch, 629 Linden, home addition is being re-noticed.
- Flamini, Cedar Lane Apartments – they have requested to appear – use variance to erect town homes behind the apartments.
- Omnipoint may request a hearing for a cell tower.

Miscellaneous: The secretary reminded the board he would not be available for the July meeting.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 11:20 PM.
Next meeting is on 7/21/2004, 7:30 PM at Borough Hall.

Tape is on file.

Kenny C. Palmer, Jr., Secretary
RIVERTON ZONING BOARD