

**RIVERTON BOROUGH ZONING BOARD
MINUTES
January 19, 2005**

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 7:46 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.

REORGANIZATION - 2005

John Trotman, Ken Mills, Fred DeVece, and Bill Brown – alternate were sworn in as reappointed members of the board by Board Solicitor Janet Zoltanski Smith.

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

ABSENT: None.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Secretary Ken Palmer, Board Engineer Richard Arango, and Board Planner Tamara Lee were present. Code Enforcement Officer Tony Dydek was not present.

Chairman: Kerry Brandt was nominated by Fritz Moorhouse and seconded by Rick Mood to serve as Chairman. A voice vote was taken and the vote was unanimous.

Vice Chairman: Ed Smyth was nominated but declined saying while he was honored to be nominated this was his last year on the board and it was time for someone new to take over. The chair thanked Ed for his assistance during the chair's time on the board. John Trotman was nominated by Kerry Brandt and seconded by Al Adams to serve as Vice Chairman. A voice vote was taken and the vote for vice chair was unanimous.

Secretary: Kenny Palmer was nominated by Kerry Brandt and seconded by Rick Mood to serve as the Board Secretary for 2005. Fritz Moorhouse wished to be on the record that he thanked the secretary for his excellent work during the past two years and especially his work preparing the minutes for the Brandenburger and Cedar Lane Mews hearings. A voice vote was taken and the vote for secretary was unanimous.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Fritz Moorhouse and seconded by Ed Smyth to serve as the Zoning Board Solicitor for 2005. Janet thanked the board for its confidence in her. A voice vote was taken and the vote for solicitor was unanimous.

Planner: It was agreed that the board should retain a professional planner on call for more complicated matters that may involve site plan issues. A motion was made by Fritz Moorhouse and seconded by Rick Mood that Tamara Lee of Tamara Lee Consulting LLC be reappointed to serve the board as its planner on an on call basis for 2005. A voice vote was taken and the vote was unanimous.

Engineer: It was agreed that the board should retain a professional engineer on call for more complicated matters that may involve site plan issues. A motion was made by Fritz Moorhouse and seconded by Kerry Brandt that Rick Arango of Remington, Vernick & Arango Engineers be reappointed to serve the board as its consulting engineer on an on call basis for 2005. A voice vote was taken and the vote was unanimous.

MINUTES: A motion was made by Ken Mills, seconded by Bill Brown, and unanimously approved to adopt the minutes of December 15, 2004 as distributed.

PUBLIC HEARINGS:

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2:

The chair reviewed developments during the last month. The applicant is developing a revised site plan and has not yet submitted the plans for formal review. There is also the question regarding the need for a density variance and the issue regarding riparian rights to portions of the property. Research by the engineer and solicitor has confirmed that part of the property is considered impacted by tidal waters and as such a riparian grant from the state is required. Such grants are no longer given and if one does not already exist, it will never exist. Since no plans have been presented for professional, board or public review, the board is not yet prepared to begin considering any approvals. However, to keep the process moving forward, to enable the applicant to be kept abreast of concerns and to allow the public to be kept current, the chair stated the board would permit the applicant to present their efforts to date. There would be no comment from the board. The board could question the applicant and his professionals. The board's professionals could ask questions and offer comments. The Environmental Commission and public would also be given time to comment. Janet concurred with the chair's review and stated that a presentation with public response would be helpful; but, no official action would be taken at this time. Janet reminded all presenters that they were still under oath.

Presentation and Questions – Louis A Colaguori, the applicant's attorney reviewed that the applicant was prepared to seek all state DEP approvals. He stated the riparian issue would be resolved. Tamara reviewed that the riparian issue was fixed; either the owner had the grant or does not. A grant cannot be sought if one does not now exist. Lou stated that following receipt of the use variance, the applicant was preparing to seek preliminary site plan approval and is revising the plan to address concerns by the board, public and Environmental Commission that the initial plan was for too many units, that were too high and too close to the creek. The revised plan will contain substantial modifications. Referring to an aerial photograph (from 2002 in answer to a question from Mr. Arango), of the site overlaid with the new plans, Lou commented that:

- The number of units is being reduced to five from 16 with two facing 8th Street and three facing 9th Street.
- The units have been relocated closer to the street and further back from the wetland boundary.
- They will not be readily visible from the creek.
- The height has been reduced to two stories and the units will have a slightly larger footprint to accommodate the reduced height.
- The units will be staggered to break up the façade facing the street and provide owners a view of the property along the creek.
- The units will meet or exceed current setback requirements from the street.
- A condominium concept will be followed that accommodates the new units and the apartments.
- With the reduced number of units proposed, there should not be a density issue since the number of apartments plus the proposed units was substantially less than the theoretical 4.75 units per acre discussed previously.

Mr. Robert Stout, the engineer, offered the following:

- There is much less impervious surface.
- There is much less or no clearing of the land along the creek boundary.
- The reduced number of units will not require constructing a stormwater basin. Stormwater runoff from the roofs which is considered clean will be directed to catch tanks and allowed to percolate into the ground.
- The revised plan will eliminate the basin, maintain the wetland buffer, preserve vegetation and no longer require an access road.
- There will be green space in front of the driveways.
- There will be two sections of two and three units.
- The existing fence line will not be disturbed except for a small section near 9th Street.

- In response to a question from Mr. Colaguori, Mr. Stout feels the revised plan is much more environmentally safe than the original plan.
- There will be no disturbance of the wetlands buffer and the closest point will be approximately 25 feet from the existing 50 foot buffer. Mr. Stout further explained the buffer boundaries in response to a question by John Trotman.

Mr. Walter (Hank) Croft, the architect, reviewed the revised elevations:

- The units would now be two-story with an attached garage
- They will be approximately 2,200 square feet on the first floor.
- This is about 500 square feet total increase from the prior plan.
- There will be no elevator with the master suite on the first floor and two bedrooms sharing a bath on the second floor.
- Flexibility of the floor plans is planned to accommodate individual tastes and needs.
- It is proposed that they will be all brick or brick and stucco sided to provide as maintenance free a façade as possible.
- John Trotman asked about the position of the front façade and garage and Hank replied they will face the Street.

Lou stated that their presentation was concluded and that they wished to hear questions from the board. The chair reminded the board that since no formal consideration would occur, questions and no comments should be observed. Ed Smyth stated he appreciated the applicant's efforts to address the concerns previously raised and asked and received clarification about the proposed two clusters of two units facing 8th Street and three units facing 9th Street. Ken Mills asked about the distance from the street and loss of existing parking and it was stated the new units would be no closer to the street than the apartments and additional parking was planned along Ninth Street. Asked by Fritz about the setback along 8th Street, it was commented that the plan would meet all current requirements. Janet asked about off street parking at the new units and it was commented that the requirements will be exceeded by the two-car garage and two-car width driveway. Fritz asked if the driveways would be impervious and the answer was yes. The number of spaces for the apartments was discussed and it was commented that new parking cuts are planned on Cedar Street to increase the number of spaces available. Ed asked and was assured that all stormwater runoff would be discussed with the board's engineer and would meet all mandated impact requirements. Percolation tests would be conducted as needed and that the proposed solutions met commonly accepted practices. Tamara was concerned about the proximity of the two-unit cluster to the apartments and was assured they would be at least 20 feet from the apartments. The gross height of the new units at about 30 feet is higher than the apartments but the impact would be lessened due to the slope of the property. Tamara stated that orientation of any roof slopes should be such as to lessen impact on the apartments. There were no further questions from the board or professionals at his time.

The Environmental Commission representatives were asked if they wished to comment. Michael Robinson read a letter, copies of which were provided to the board. The letter thanked the applicant for his efforts to address the commission's concerns and that all decisions should be what is best for the town and the environment. The letter reiterated the commission's concerns about setbacks and impacts on the creek. The letter addressed the fact that the decisions being made were precedent setting on how the stream, marsh, and corridor are treated and protected and represented the Borough's efforts in these areas. The commission feels things are moving in the right direction but wishes that all impacts be kept to a minimum and or steps taken to preserve the environment where disturbed.

Public Comment: The hearing was opened to public comment and questions.

- Cynthia Pierson, 626 S. Pompess Avenue, Cinnaminson, NJ, asked if there would be basements and how deep they would be. There will be full height basements and the depth of exposed foundation walls will be dependent on the contours of the property. The plans do not call for extensive re-contouring of the site. Placement and size of windows will be made accordingly. She also reminded the board and applicant about the concerns for the turtles and disturbing of their egg laying areas along the creek.
- Michael Robinson, Six Second Street, has concerns about the riparian issues and stated he and the Environmental Commission strongly oppose further encroachment on the creek and any riparian grants. Tamara explained that she doesn't feel the applicant plans any such encroachment and further if they do not

already have a riparian grant, it can no longer be purchased. Mike hopes that things do not move backwards, only forward. Michael also is concerned about public access to the creek area. He and the commission wish to see access available but realize there may be liability issues to the property owner(s). It was stated that this is not an issue for tonight. Fred DeVece asked if there was room for a path and Michael thought there was. Michael just wishes that the path not be forgotten. Lou commented that there had been no unwillingness by the applicant to consider such things.

- William Henry Harris, 502 Cinnaminson Street, asked if the applicant plans to turn the apartments into condominiums and the answer was no. Kerry asked for further clarification on the plans and Lou replied that the current thinking was not to pursue any subdivision but to have a sectionalized condominium association which allows the property owner to continue ownership of the apartments, designate an association governing the property occupied by the condos and to management of the entire site. The condo units themselves are owned fee simple by the purchasers. The condo owners and owner of the apartments would compose the association not the residents of the apartments. Mr. Harris stated he had concerns about conflicts between the owners of the condominiums and the owner of the apartments.
- Councilwoman Muriel Alls-Moffat was concerned about COAH impact. Tamara stated that the new regulations set a one COAH unit for every eight units of new construction in the town. As to plans to perhaps designate one or more of the apartments as COAH units, there are issues as to whether the apartments meet the size requirements for COAH units.

There being no additional comment, the hearing was closed to public comment.

Mr. Colaguori asked if the applicant and his professionals are allowed free access to the board's professionals. The chair stated that while correspondence is probably fine, he desires that the whole process be kept as open as possible and no decisions would be considered binding or official unless fully reviewed during the public hearing process. Mike Robinson asked if the commission could avail itself of the board's professionals. Janet replied that they are entitled to see and review all submitted materials. The chair stated that it was not acceptable if the board was billed for such efforts since the board's professional's time is charged to the applicant where issues involving an application are concerned. Rick Arango suggested that all contact should be reduced to writing and the board and applicant copied. Concerning next steps, Lou stated he did not think any new notices were required since this is a continuation of the process. The applicant plans to proceed developing the plans and will keep the secretary informed if additional time is needed. Tamara reminded the board that sufficient time to review all submissions is needed, since essentially everything is a variance from the current code requirements.

Continuance – The chair, board and applicant's attorney agreed that it was a good point to break the proceedings and continue them next month. The applicant plans to continue the process and move forward to present the revised site plan. The applicant agreed to supply any plans directly to the professionals for review and to supply eighteen copies to the secretary for distribution. If the plans will not be available in time for review prior to the next meeting, the applicant will request a further continuance. Fritz Moorhouse made a motion seconded by Fred DeVece 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 by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, and all necessary variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having agreed to a continuance for consideration of the matter until the next regular meeting of the Board on February 16, 2005 or thereafter if an additional extension of time is deemed necessary.

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

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolutions were reviewed, considered and adopted by the Board:

Resolution Case #Z2005-01:

Application For Side Yard Setback Relief For Construction Of An Addition On The Rear Of The Home, By Andrew and Kathleen Shover, 422 Linden Avenue, Block 701, Lot 12: Following a statement summarizing the resolution and confirmation that members had read and reviewed the resolution, there was no further discussion and a motion was made by Ken Mills and seconded Rich Mood to adopt the resolution. A poll vote of the members eligible to vote unanimously adopted the resolution by a vote of 7 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Trotman	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. Moorhouse	aye
Mr. DeVece	aye		

Resolution Case # Z2005-02:

Application By Cedar Lane Manor t/a Cedar Lane Mews For Development, Site Plan Approval, Use, And Bulk Variances To Construct Townhouses At 811-817 Cedar Street, Block 1700, Lot 2: Following a statement summarizing the resolution and confirmation that the members had reviewed the resolution, there was no further discussion and a motion was made by John Trotman and seconded by Fred DeVece to adopt the resolution granting a use variance permitting multi-family, age restricted, side by side, condominiums with existing apartments, with the number of units to be determined at the site plan, contingent on site plan approval. A poll vote of the members eligible to vote unanimously adopted the resolution by a vote of 5 to 0 as follows:

Mr. Smyth	aye	Mr. Trotman	aye
Mr. Mood	aye	Mr. Moorhouse	aye
Mr. DeVece	aye		

Fence Committee – The chair reported there would be a meeting on January 24. The secretary stated that committee member Donna Tyson had reported to the planning board that meetings continued, good progress was being made and that a draft should be available in the near future.

2005 Budget – The chair reported that he was attempting to put together preliminary figures, that he wished to meet with the secretary to go over figures supplied by the Borough Treasurer, and that the board had gone over budget last year. The chair also stated that the board needs to decide how Janet’s professional services are charged. Typically the board has absorbed all charges for Janet’s presence at meetings and only charged applicants for items directly related to the application. It needs to be considered that much of the time the solicitor is present at a meeting is directly related to the board’s hearing an application and perhaps the time related to hearing the application should also be charged to the applicant. Councilwoman Alls-Moffat stated she and the rest of the Finance Committee needed to get input as soon as possible. Fritz Moorhouse stated he feels if Janet is working for the board, she should be paid by the board. Janet stated that other boards she serves do have her charge her time according to the service provided and if applicable split the time among applicants. Janet stated that, for this board, she currently invoices the charges the applicant all work directly related to an application and the board is charged for the time she is present at the meeting. Concerning the practice of charging a flat fee for meeting attendance, she feels that since this board meets only on call and the length of the meetings can greatly vary, a flat fee may be a disservice to the board and the community and she feels the hourly rate is better. It is up to the board how or if she allocates her time. The consensus of the board was that Janet’s time should be allocated among the applicants as applicable. Janet stated she would begin to charge accordingly.

Escrow Accounts – The secretary reviewed that he is monitoring all accounts and notifying applicants when necessary. A follow up notice will be sent to Mr. Brandenburger.

CORRESPONDENCE

The secretary reviewed the correspondence.

- 1/3/05, letter to chair and board from the Environmental Commission concerning their position regarding the Cedar Lane Mews proposal. A copy was also sent to the applicant. Copies had been provided to board members.
- 1/5/05, copy of memo from Mark L. Husik, Exec. Director, NJ Society of Professional Land Surveyors concerning a Division of Consumer Affairs Notice – regarding that only professional land surveyors can prepare Topographical Surveys and Existing Conditions Depicted on Site Plans. The full text of the notice is included. It was commented that most land use engineering firms retain surveyors to ensure proper compliance.
- 1/5/05, brochure from New Jersey Planning Officials regarding 2005 Basic Accreditation Programs in Planning and Zoning being offered.
- Winter 2004-05 Vol. 65, No. 5, “The New Jersey Planner,” bimonthly publication of the New Jersey Planning Officials.

NEW BUSINESS

Board Meetings for 2005 – Resolution Z2005-01, the calendar of meetings for February 2005 through January 2006 was reviewed. Meetings would continue to be held on the third Wednesday of the month at 7:30 PM. A motion was made by Fred DeVece, seconded by Fritz Moorhouse and passed unanimously to accept the resolution, to have it published in the Burlington County Times and posted in the Borough Hall.

Appointment of Professionals for 2005 – Resolution Z2005-02 announcing the appointments of a solicitor, planner and engineer was reviewed. A motion was made by Fritz Moorhouse, seconded by Rick Mood and passed unanimously to accept the resolution, and to have it published in the Burlington County Times.

Vouchers and Invoices:

- 1/5/05, Tamara Lee – voucher for \$467.50 for work on the Cedar Lane application. Pay from escrow.
- 1/19/05, Janet Smith – voucher for \$1,662.50: for general services (\$468.75), work on the Shover application (\$156.25), and work to date on the Cedar Lane application (\$1,037.50). General services to be paid by the board and application work to be paid from escrow.

Fred DeVece moved, Al Adams seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

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 9:37 PM.

Next meeting is scheduled for 2/16/2005, 7:30 PM at Borough Hall.

Tape is on file.

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