

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
June 15, 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 7:30 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 23, 2005.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**PRESENT:** Kerry Brandt, Edward Smyth, Richard Mood, Fritz Moorhouse, Alfred DeVece, and Bill Brown.

**ABSENT:** John Trotman, Ken Mills, and Alan Adams. All had notified the chair prior to the meeting.

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

**MINUTES:** A motion was made by Fritz Moorhouse, seconded by Ed Smyth, and unanimously approved to adopt the minutes of May 18, 2005 as distributed.

**PUBLIC HEARINGS:**

**APPLICATION BY BRANDENBURGER/SHERIDAN, INC. FOR SITE PLAN APPROVAL AND ALL RELATED VARIANCES AS NEEDED TO DEVELOP THE FORMER "SITZLER" PROPERTIES ALONG MAIN & CINNAMINSON STREETS (BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1). (CONTINUED):**

**Continuance** – The chair reviewed that the applicant was still seeking final site plan approval and had asked for a continuance until July to complete work. The secretary reviewed the correspondence he had received from Mr. Oberlander regarding the continuance. Fritz Moorhouse made a motion seconded by Ed Smyth that the hearing be continued at the request of the applicant. There was no further discussion and the motion was passed by a unanimous voice vote 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 Brandenburger/Sheridan, Inc. for final site plan approval and all related variances as needed to develop the former "Sitzler" Properties Along Main & Cinnaminson Streets (Block 904, Lots 2&3; Block 905, Lot 6; Block 906, Lot 1) is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on July 20, 2005.

This notice will be posted on the bulletin board and is the only official notice required of the continuation. The secretary will follow up with the applicant.

**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 (CONTINUED):**

**Continuance** – The secretary reviewed the June 14, 2005, correspondence from the attorney for the applicant requesting an additional continuance to complete their plans to address the density issues as regards the riparian rights issue. Possible changes have been discussed with the board's attorney, planner and engineer. The chair

stated that he was troubled that there appear to have been substantial changes to the plan and that the board and public were not aware of them. The secretary stated that he understood Mr. Colaguori had told the board's attorney of their plans to appear in July and that they were going to republish and re-notice providing the revisions. The ramifications of not granting a continuance were discussed. A use variance has been granted for an age restricted condominium. The chair understands they may now be considering a form of fee simple housing; but nothing formal has been submitted. The board was in agreement that if a continuance was granted it is conditioned that the applicant or his representative(s) must appear at the next meeting and they must republish and re-notice with a complete description of the revised application. Fritz Moorhouse made a motion seconded by Rick Mood that the hearing be continued at the request of the applicant and that the continuance is conditioned upon an appearance in July to at least explain the delays and discuss any substantial changes to the application. There was no further discussion and the motion was passed by a unanimous voice vote 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 bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having requested a continuance for consideration of the matter until the next regular meeting of the Board on July 20, 2005.

This notice will be posted on the bulletin board and is the only official notice required of the continuation. The secretary will follow up with the applicant.

## **OLD BUSINESS**

### **Resolution Case # 2005-03:**

**Application by Brandenburger/Sheridan, Inc., For Site Plan Approval And All Related Variances As Needed To Develop The Former "Sitzler" Properties Along Main & Cinnaminson Streets (Block 904, Lots 2&3; Block 905, Lot 6; Block 906, Lot 1):** The chair stated the resolution needed to be read. Prior to the reading of the resolution, Mr. Michael Heine, an attorney, attempted to interrupt the proceedings claiming that having entered an appearance he had a right to be heard. The chair informed Mr. Heine that the meeting was not open to public comment. Mr. Heine stated he is not a member of the general public and has a right to be heard. The chair informed Mr. Heine that he was out of order and he should please sit down. Mr. Heine continued his demands and the chair again asked Mr. Heine to please stop disrupting the meeting and if he did not, that the police would be notified. Mr. Heine did not sit down and continued his attempt to be heard. The chair once again stated to Mr. Heine and other members of the public that this is not the time for public comment and he advised Mr. Heine that he needed to properly advise his clients. Mr. Heine continued his attempt to interrupt the meeting and the chair stated one last time that he was going to summon the police. Mr. Heine did not cease and the chair summoned the police. Prior to the police arriving Mr. Heine and several members of the public left the meeting. When the police arrived, Mr. Heine walked back in and the chair explained why he had summoned the police. Mr. Heine attempted to interrupt again but left the meeting. A member of the public who had also made some comments asked if he had to leave. The chair stated that if he could remain quiet until the meeting was opened to public comment, he was more than welcome to remain. The chair asked the police officer if it was okay if he spoke with them after the meeting since he did not want to delay things any further. He was informed it was okay. Fred DeVece, being absent from the last meeting, asked what had just occurred. The chair stated that during the last meeting, Mr. Heine had attempted to disrupt the meeting by demanding as much time as he thought he needed to comment at the hearing when everyone had been informed that there was a time limit on public comments. The chair stated there is a time for public comment, that this was not the time, it was not fair to the public or the board to allow someone to disrupt the meeting, and he was not going to allow it at zoning board meetings.

The board proceeded to read the resolution which grants, with numerous conditions: final subdivision approval, a use variance for use of a residential lot for parking, numerous bulk variances, and preliminary site plan approval. There was some discussion surrounding the Mattis Lane issue and a minor typographical error was corrected in Item 28 of the findings. Following reading of the resolution and confirmation of the members eligible to vote on the resolution, there was no further discussion and a motion was made by Fritz Moorhouse and seconded by Rick Mood to adopt the resolution as amended. A poll vote of the members eligible to vote unanimously adopted the

resolution by a vote of 5 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mood	aye	Mr. Moorhouse	aye
Mr. Brown	aye		

**Fence Committee** – The chair distributed a draft of the proposed revisions to the board and asked if the members would informally review and get back to him if there were any concerns prior to the revisions being submitted to the planning board for official consideration. The chair discussed the major revisions including front yard fences. Front yard fences will be require the formal approval of the ARC with provision of appeal to the planning board. The members should get back with Kerry within two weeks with the hope the draft can be presented to the planning board at its July meeting. Fred DeVece asked about hedges and it was replied they are still considered a fence and enforcement is up to the Code Enforcement Officer.

**Reexamination of the Master Plan** – The secretary reviewed the planning board’s responsibility to reexamine the master plan and stated that a joint meeting had been held with Borough Council on June 8<sup>th</sup>. Councilwoman Muriel Alls-Moffat distributed a handout from the planning board’s subcommittee. She reviewed the subcommittee’s efforts in greater detail and stated that the subcommittee wants comments and suggestions from the zoning board. It was discussed that a member of the zoning board should be on the subcommittee. It was decided that, if he accepts, John Trotman will be the board member of the subcommittee. Muriel discussed several issues with the members and again stated that the comments of the board would be duly considered since the zoning board has probably the best insight as to the types of variances that are coming before it and whether or not it indicates a need for change or not. Ed Smyth voiced his concern regarding apartments. The chair is concerned about future lawsuits perhaps outlawing age restricted developments. Concerning cell towers, the chair reviewed that they are very hard to turn down since the “beneficial use” defense has generally prevailed when denials are appealed.

#### **CORRESPONDENCE**

- 5/20/05 copy of the latest edition of the State’s Residential Site Improvement Standards.
- 5/24/05 copy of a “Legislative Alert” from the New Jersey League of Municipalities explaining their opposition to how bill S-2133/A-3803 defining education requirements for zoning and planning board members would be implemented.
- 5/24/05, copy of open unsigned letter to borough officials, Council, and boards concerning operations at the New Leaf property. Deemed not a board issue, Code Official’s responsibility.
- Borough Fire Official’s review of the latest Cedar lane site plan with four units.
- Board Engineer’s review of the latest Cedar Lane site plan revisions.
- An additional letter from the Riverton Environmental Commission regarding the Cedar Lane application.
- The chair asked that acknowledgement of the receipt of Mr. Heine's letter requesting to appear be noted for the record. The chair stated again he did not feel it would have been appropriate to allow testimony or comments regarding the application without the applicant being present.

#### **NEW BUSINESS**

##### **Vouchers and Invoices:**

- 6/2/05, Tamara Lee, \$807.50 for work and hearing attendance for the Brandenburger/Sheridan application. (ESCROW)
- 6/13/05, Janet Smith, \$62.50 for attendance at the May meeting for general advice.
- 6/13/05, Janet Smith, \$1,250.00 for the Brandenburger/Sheridan hearing and preparation of the resolution. (ESCROW)
- 6/13/05, Remington Vernick & Arango Engineers, \$420.00 for plan review and report preparation for the Brandenburger/Sheridan application. (ESCROW)

- 6/13/05, Remington Vernick & Arango Engineers, \$627.50 for plan review and report preparation for the Cedar Lane Mews application. (ESCROW)

Bill Brown moved, Rick Mood 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. The secretary reviewed that he advises the applicants when shortages arise in escrow accounts. To date, accounts have been made current when advised that shortages exist.

**Code Enforcement and Zoning Officer's Resignation** – Councilwoman Muriel Alls-Moffat discussed that Tony Dydek had resigned effective the end of the month due to pressures from his full time business and that efforts to secure a replacement have begun. Fred DeVece felt the person should be more proactive and not wait for official complaints. Muriel stated Tony had been proactive but his contract is just for approximately two hours a week. She has requested that additional time be authorized but given budget constraints she doubts it will be approved. Fritz Moorhouse provided thoughts on his experience in the position and how he would hope the new official would be a resident of the town. He concurs that it is more than a two hour a week job.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The meeting was opened to public comment with a limit of five minutes set.

Mary Ann Shea, 205 Bank Avenue, asked how the proposed revised fence ordinance impacted existing fences. It was explained that existing fences that are or become nonconforming are always grandfathered. Asking about a row of trees in the middle of a property, it was explained that this was probably a code enforcement issue subject to the terms of the ordinance.

There being no further comment, the meeting was closed to public comment.

### **Miscellaneous**

- The secretary informed the board that due to a personal conflict, he would not be present for the July meeting and would make arrangements with the chair.
- Jim Brandenburger's application for a setback variance on his new home due to an error in construction should be on the heard in July since Mr. Brandenburger had asked the secretary to be on the July agenda.
- Rick Mood commended the chair on how he handled the disruption of the meeting and fully supports him. The rest of the board concurred. Councilwoman Alls-Moffat recommended that if the chair does fill out a complaint that he do so in his official capacity as the chairman. As to board concerns about further developments on the issue, the chair commented that he feels any further legal action connected to this matter might be considered as a "slap lawsuit" designed to intimidate members of public bodies and, as such, have been deemed illegal by the courts.

**Meeting adjourned at 9:12 PM.**

**Next meeting is scheduled for 7/20/2005, 7:30 PM at Borough Hall.**

**Tape is on file.**

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