

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
August 17, 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 7:35 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, John Trotman, Edward Smyth, Richard Mood, Ken Mills, Alfred DeVece, and Bill Brown.

**ABSENT:** Fritz Moorhouse and Alan Adams.

**OFFICIALS:** Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Todd Day PE for Board Engineer Richard Arango, Board Planner Tamara Lee, and Secretary Kenny Palmer were present.

**MINUTES:** A motion was made by Fred DeVece, seconded by Rick Mood, and unanimously approved to adopt the minutes of July 20, 2005 as distributed.

**HOUSEKEEPING:** The secretary read Alan Adams letter of resignation from the board. Alan resigned because he has accepted the position of Borough Code Enforcement Officer and can no longer be a member of the zoning board. The chair stated he will work with the mayor on getting a replacement.

**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 (CONTINUED):**

The chair asked the board if personal or business conflicts prevented any member from hearing the application. There were none. The secretary reviewed that the applicant had republished and re-noticed as required and that the escrow account was current. All present for the applicant were reminded that they had been sworn and were still under oath. Chairman Brandt reviewed that there were several issues concerning the application and that tonight the board would be conducting a completeness review. Applicant's attorney Lou Colaguori was present as well as Mr. Stout, the applicant's engineer.

**Form vs. Substance** – There have been numerous conversations among the chair, Janet Smith, Tamara Lee, Rick Arango and applicant's attorney Lou Colaguori concerning whether a new application needs to be re-filed or the application can be heard as amended. In a desire to keep the process moving forward and with the advice of counsel that the board can act accordingly, the applicant is being allowed to present a case for amending the current application and providing testimony in support of an application that is substantially changed from the initial application heard in December 2004. The applicant is willing to submit a revised application as needed to reflect the changed nature of the plan – four units instead of 16 and a subdivision instead of a condominium association for the new units. It was also discussed that the prior use resolution cannot be amended and may need to be rescinded based upon the revised plans. The applicant agrees that the prior use variance that was granted may be moot and going forward needs to be reconsidered. The applicant hopes that in going forward, if approval is granted, the resolution(s) will reflect that all prior resolutions are rescinded and approval is based on the new testimony and resolutions and approvals granted.

**Riparian Issues** – The chair stated that it appears and is fairly well agreed to the fact that the applicant does not hold riparian rights. Tamara stated she had not heard back from the state on the matter. Mr. Colaguori stated the applicant is willing to proceed under the assumption they do not have rights since they cannot produce documentation that they obtained them. It was agreed that the plans will be revised to clearly delineate the portion of the property that is developable even though the 100 year flood line is reflected on the plans. Tamara reiterated this is important when considering bulk variances because it impacts what percentage of the property is actually developable.

**Professional Review** – The chair asked Lou if they had received Tamara’s review and it was stated that they had. Because the issue of completeness had not been resolved, the engineer did not submit a formal review for this meeting. He had communicated to the chair that at this point the planning issues were more important to resolving whether or not the application is going forward. Todd Day, present for Rick Arango, reiterated this point and added that Rick had observed that stormwater calculations and other mostly minor issues would need to be revisited if the revised plans go forward. They will be reviewed if the board approves that the application can go forward. Tamara briefly reviewed the findings she had submitted and it was agreed that the plans will be revised accordingly. There was a brief review of the current version of the plans and the revisions being discussed were noted.

**Conclusions** – The chair asked if the board had any additional questions or comments. There were none. Lou Colaguori commented that he thought that the applicant needed a motion to receive the application as submitted conditioned on the changes and information requested and agreed to at the meeting and in Tamara’s review letter being submitted. Tamara commented that should be okay as long as the applicant understood that it is a good possibility that the original resolution will be rescinded. Janet Smith suggested that the board could consider a motion to receive the application as amended conditioned on the applicant supplying the additional/revised information as requested at the meeting including: information required on the Borough’s application form and check list; the information in Tamara’s letter of 8/16; the plans will clearly delineate the riparian line delineation; and conditioned on providing architectural information regarding the grading for the buildings and floor plans. Fred DeVece moved that the motion as suggested by Janet be approved. Ken Mills seconded the motion and there being no further discussion it was approved by a poll vote of 7 to 0 as follows:

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

**Continuance** – Mr. Colaguori asked that the board grant a continuance with the applicant agreeing to a waiver of all time limits. Fred DeVece made a motion seconded by Rick Mood 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 Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, and any and all 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 September 21, 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. Regarding public comment, the solicitor advised that there has been no testimony provided and the proceeding was limited to considering the completeness of the application. While it was not appropriate to have public comment tonight, it was stated that public comment will be solicited and that the board would not take any action regarding approval of the plan until the public had been heard.

**APPLICATION FOR FRONT YARD SETBACK RELIEF FOR A NEWLY CONSTRUCTED HOME, BY JAMES AND JANET BRANDENBURGER, 203 THOMAS AVENUE, BLOCK 600, LOT 1.02:**

The chair asked the board if personal or business conflicts prevented any member from hearing the application. Chairman Brandt, John Trotman, and Ken Mills stated they needed to recuse themselves from the matter as they feel they have or it may appear that they have personal and/or business relationships with the applicant. The chair asked Ed Smyth to chair the meeting for this hearing. The recused members stepped down for the hearing. The four members remaining constitute a quorum. As to the question if a jurisdictional review had been done, the secretary stated he had reviewed the file and it appeared it was done at the last meeting. The secretary stated he had also reviewed the submissions and that all jurisdictional requirements had been met. It was concluded the hearing could proceed.

**Testimony** – Acting chair Ed Smyth reviewed that purpose of the application and the variance requested. Jim Brandenburg was sworn in and presented into evidence:

- A1 – Final Construction Survey Plan,
- A2 & A3 – Photographs of the portion of the dwelling needing the variance.

Jim reviewed the condition that it was a corner lot and that as a condition of the subdivision approval he was required to hold the building as close as possible to the street side setback lines so as to preserve as much distance as possible from the existing dwelling on the adjacent lots. Jim testified that he is not certain how the error occurred that the a portion of the front of the house facing Thomas Avenue as built encroaches on the front set back line by just over one foot. Jim feels there is a hardship in that he cannot move the dwelling and he feels the benefit of locating the home as far as possible from the neighboring structures outweighs the detriment of the minor encroachment. For the record, Jim stated that he had brought the condition to the attention of Borough officials. Ed Smyth asked if there were any additional questions from the board and there were none. Janet stated that the board could consider the facts that the home is located more than the required distance from the curb line, that the majority of the front of the home complies with the setback, and the home complies with the setback requirements along Second Street as required by the subdivision approval. The hearing was opened to public comment. There was none and the hearing was closed to public comment.

**Deliberation** – Bill Brown motioned and Fred DeVece seconded that the application be approved and the variance granted. Under discussion, Ed Smyth feels the benefits outweigh any negative impact and that a hardship does exist. He commended Jim for being forthright in bringing the condition to the attention of the Borough and following the correct process to resolve the situation. There was no further discussion and the motion was passed by poll vote of 4 to 0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. DeVece	aye	Mr. Brown	aye

The members who had stepped down for the hearing rejoined the board and Chairman Brandt resumed his position.

**OLD BUSINESS**

**Resolution Case # 2005-04:**

**Application by Brandenburger/Sheridan, Inc., For Final Subdivision and Final Site Plan Approval 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 asked if the members had received and read the resolution. All present stated they had. The chair asked if there were any comments or questions and there were none. Rick Mood motioned and Bill Brown seconded that reading the motion be waived and the motion referenced by title be adopted and memorialized. A poll vote of the members eligible to vote unanimously adopted the resolution by a vote of 4 to 0 as follows:

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

Members Trotman, Mills and DeVece had recused themselves from the application.

**Fence Ordinance Review Committee** – The chair stated he had not received any comments from planning board members. Councilwoman Alls-Moffat reported that Donna Tyson again requested comments from planning board members and further action was tabled until next month.

#### **CORRESPONDENCE**

- 8/3/05, 7/1/05, Copy of “Mayors Fax Advisory” bulletin from the NJLM concerning S-2133/A-3803, Education Requirements for Zoning and Planning Board Members – was signed into law July 7, 2005; and, updating activity on S-2118 which would modify the “time of decision” rule – copies distributed to the board.
- 8/4/05, Revised plans for Cedar Lane Mews – copies distributed to board.
- 8/8/05, Resolution for Brandenburger/Sheridan from Janet Smith – copies distributed to board.
- 8/10/05, Letter from Colaguori regarding Cedar Lane – copies distributed to board.

The chair briefly discussed the education requirements that the board members will have to comply with and the impact of not complying.

#### **NEW BUSINESS**

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

- 7/21/05, Remington, Vernick & Arango Engineers, \$840.00, for Brandenburger/Sheridan application work, May 16 – June 15, 2005. (PAY FROM ESCROW)
- 8/1/05, Tamara Lee, \$1,211.25, for Brandenburger/Sheridan application work, June 2005 – 7/25/05. (PAY FROM ESCROW)
- 8/8/05, Janet Smith, \$787.50, for Brandenburger/Sheridan application, 6/10 – 8/5/05. (PAY FROM ESCROW)
- 8/8/05, Janet Smith, \$493.75, for general legal services, 5/17 – 7/27/05.

Fred DeVece 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.

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

The meeting was opened to public comment.

- Brad Young, 907 Cedar Street, commented that there is no public sewer along the portion of Ninth Street where two of the proposed Cedar Lane dwellings are going and wanted to know what the impact on the neighboring properties with septic systems would be. While it is improper to debate the issue without the applicants being present, several possible outcomes were discussed and it was concluded the topic should be fully discussed during the hearing. It would help to make sure any Borough policy on the matter is known.

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

**Meeting adjourned at 9:50 PM.**

**Next meeting is scheduled for 9/21/2005, 7:30 PM at Borough Hall.**

**Tape is on file.**

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