

**RIVERTON BOROUGH PLANNING BOARD**  
**MINUTES**  
**August 21, 2007**

The Public Session of the Planning Board was called to order at 7:00 PM by Vice Chairwoman Suzanne Wells.

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

1. Posting notice on the official bulletin board in the Borough Office on January 18, 2007.
2. Required Service of notice and publication in the Burlington County Times on January 23, 2007.

**PRESENT:** Suzanne Wells, Muriel Alls-Moffat, Keith Wenig, Mayor Robert Martin, Councilman Robert E. Smyth, Mary Lodato, Joseph Creighton, and Jeffrey Myers.

**Also Present:** Solicitor Chuck Petrone, Planner Tamara Lee, Engineer Mark Malinowski, and Secretary Ken Palmer.

**ABSENT:** Joseph Katella.

**PUBLIC HEARINGS**

**Application by Shops of Riverton, LLC., for Minor Subdivision Approval and All Required Variances and Waivers and Other Relief As Needed to permit approval of redefining the current four lots into three lots at 700-716 Broad Street, (Block 1501, Lots 20, 21, 22, & 23)**

**Introduction and Housekeeping:** The vice chair introduced the topic and introduced David Oberlander, counsel for the applicant. The secretary attested that the applicant had properly noticed and that all jurisdictional requirements had been met and the board solicitor concurred that the hearing could proceed. Keith Wenig stated that he needed to recuse himself from voting on the matter and stepped down until the conclusion of the hearing. The secretary noted that both alternate members were eligible to vote. Applicant James Brandenburger was sworn in.

**Testimony and Board Questions:** Mr. Oberlander reviewed that the history of the project. The applicant wishes to join the existing four lots and to subdivide the site into three new lots that delineate the current construction of the CVS store, the four strip stores, and the pad site. There are no changes planned for the site. The sole purpose of the subdivision is to facilitate financing for the sites. Mr. Brandenburger was introduced. Jim explained that due to the credit worthiness of the various types of clients, to obtain reasonable financing, it was necessary to finance the sections of the project separately. CVS is highly rated and thus receives the most favorable financing. The strip stores being small businesses will be the least favorable and the proposed bank tenant of the pad site better rated. There are no plans by Jim to sell and part of the financing agreement requires the current site owners to own for at least ten years. Because the site was developed and can only be maintained and operated as a single contiguous site, the applicant realizes and agrees the site needs to be encumbered by a cross access and restriction easement. To that end, the applicant's professionals and the board's professionals are working to finalize a Restrictive Covenant, Easement and Maintenance Agreement (easement) for the site. The easement is close to being finalized between the professionals. The types of variances are technical in relation to developing the proposed lot lines. The vice chair asked Tamara and Mark to discuss their reviews. Tamara discussed her memo. The applicant agreed to revise the plan to reflect the variances. The easement is needed and should protect the town if ownership of the site is broken up. The lot lines for Martha's Lane need to be clearly defined. Proposed Lot B needs to front on a public street and that can only be Martha's Lane. Mr. Oberlander explained that as part of the original approval the applicant had improved that portion of Martha's Lane needed to service the site. The right of way can be dedicated to the Borough any time the Borough desires. There was discussion and agreement that the Borough doesn't need the street dedicated at this time since it only serves the current site. It best serves the town if the applicant maintains responsibility for the maintenance of the road. If the other lots along the line of the paper street are developed/redeveloped and the street needs to be extended, then the street can be dedicated to the Borough. The technical reasons for defining the conditions of the street dedication were discussed and

agreed to by the applicant. Mark Malinowski reviewed his memo and the applicant agreed to clearly define the lot lines for proposed Lot C and other minor changes suggested. Chuck Petrone explained the concept and content of the discussed easement and how it addresses the need for common maintenance and access to the entire site. Muriel asked about recent activity at the detention basin. Jim explained that the basin had been cleaned of accumulated construction runoff and was now properly functioning as a detention basin. When the pad site is developed and/or as needed ongoing, the proper functioning of the basin will be maintained. There were no further questions from the board.

**Public Comment:** A motion was made by Councilman Smyth and seconded by Muriel Alls-Moffat to open the hearing public comment:

- Eric Saia, 401 Martha's Lane, asked about the possible dedication of Martha's Lane and if it impacts National Casein's deed. It was explained there was no impact on National Casein. The easement still exists if the street is ever fully developed.
- Nick Coletti, 309 Manor Court, wanted to know when the buffer zone would be completed and was concerned about the detention basin. Jim explained that the landscaping will be completed. There are no requirements that the detention basin be fenced. Except for following an exceptionally heavy rainfall event, the basin is usually dry or maybe has a few inches of water for a short period following normal rainfalls. The existing sediment buildup has been removed. The original approvals granted the board the ability to require fencing the basin if deemed necessary. Maintenance requirements don't expire even if the property is sold.
- Jeff Mack, 311 Manor Court, is concerned about the lights. It was discussed that the lights were supposed to be dimmed/extinguished after close of business. This will be looked into. Mr. Mack was concerned about what type of lighting would be on the rear of the strip stores. Jim explained that at the most, normal entrance style lamps would exist and would be extinguished when the stores are closed. Mr. Mack asked when the additional trees would be planted. Jim stated he thought they would be planted in a few months. The board discussed the existence of the existing fencing that has been installed. The vice chair stated that while it appears that current concerns have been or will be addressed, future concerns should continue to be brought to the board's attention. Mr. Mack asked who had any approval on the sale of the lots. The answer is no one; however any redevelopment of the site is subject to site plan approval. Furthermore, any purchaser is subject to the easement and maintenance agreements.

There being no further comment, Muriel Alls-Moffat motioned and Joseph Creighton seconded to close the hearing to public comment.

**Board Deliberation and Voting:** The mayor asked the professionals if they saw any negatives. All concurred that the easement was needed and that properly worded, the town's interests would be protected and also the site would properly function as designed. Chuck stated that he saw some minor changes needed to the easement and that there was nothing that should prevent things being worked out. Chuck stated these types of conditions and agreements were not unique to this site. Mr. Oberlander feels the variances are technical in nature and the board can condition any approval on all issues being worked out subject to meeting approval of the board's professionals. Suzanne is concerned the board has not seen the proposed agreement. It was agreed that the existing as well as final drafts will be submitted to the board. Mr. Oberlander stated that while it was convenient to his client to have the agreement this far along, typically the drafting of such agreements did not start until approvals had been granted. Chuck and Tamara stated they would be glad to make sure the board was aware of the progress and to keep them informed of changes and to see the version they were considering approving. However, it is generally the policy for the board to allow their professionals to act on the board's behalf on developing a final version that meets the needs of all the parties. Jim commented that he hoped the approval could be granted tonight due to the increasing fluid condition of the finance market. There were no further comments or questions from the board and the vice chair asked Chuck Petrone what the board could reasonably consider tonight. Chuck stated the board may wish to consider approving the minor subdivision, conditioned on:

- any variances to be identified and finalized by the board's professionals,
- a final version of the Restrictive Covenant, Easement and Maintenance Agreement approved by the board's planner and solicitor being prepared,
- that there are no changes to the prior approvals granted in the site plan approval process,
- that legal descriptions requested are submitted,
- that the plans are revised according to the professionals review memos and/or as amended during the hearing,

and

- that the subdivision is approved by the county.

The mayor made the motion as suggested by Mr. Petrone and Muriel Alls-Moffat seconded the motion. There was no further discussion and the motion was approved by a poll vote of 7 to 0 as follows:

Mrs. Wells	aye	Mrs. Alls-Moffat	aye
Mr. Martin	aye	Mr. Smyth	aye
Mrs. Lodato	aye	Mr. Creighton	aye
Mr. Myers	aye		

Mr. Wenig rejoined the board.

**Application by Joe Rainer, for Preliminary and Final Site Plan Approval and All Required Variances and Waivers and Other Relief As Needed to Erect an Addition to 515 Main Street, (Block 803, Lot 9)**

**Introduction and testimony** – The vice chair introduced Mr. Rainer. Mr. Rainer stated that he had submitted the plans as prepared by his engineer and hoped they satisfied the board and its professionals. Suzanne reviewed the application’s history. Mr. Petrone advised the board that while all members may participate in the hearing, only the four members of record present can actually vote. The members eligible to vote are Wells, Lodato, Martin, and Smyth. Mr. Rainer asked for a copy of Mark’s review since it had been sent to his engineer and he had not seen it. It was provided. Copies of Mark’s memo were distributed to the board. Mark reviewed his comments. The setback variances were discussed. The protrusion of the foundation (below grade) extending into the right of way even though the building itself is within the property line may be a problem with the county. The lack of any buffering may be a problem. The parking variances were discussed. Mr. Rainer stated he wanted to know what he needed to do to resolve the issues and hopefully favorably conclude the process. Mark feels the parking plans need to be nailed down so the variance needed can be determined. It appears that one spot is required for every two employees, two spots for the apartment residents, and for the salon patrons at least two spots. Mark feels the spots should be delineated for purpose. Mr. Rainer feels not dedicating spots for the apartment residents allows better utilization of the two spaces since they are normally empty during the day. Chuck Petrone had no comment on the review. Mr. Rainer addressed his concerns that some of these items while still requiring a waiver or variance still represents an improvement over what is currently there and he wants to know how much more he needs to do. Councilman Smyth stated that the county also has to review and approve the plans and many of the concerns mentioned by Mark are most likely going to be required by the county before they approve them. The county may also have concerns about access to the parking from Main Street. Councilman Smyth stated his concerns that even if the board approves the plans, the county may not, and the applicant then has to amend the plan and come back for another hearing. The mayor asked and received clarification on the location on the irregular shaped lot of the various setbacks being discussed, particularly rear yard versus side yard setback locations. Keith Wenig voiced concern that while the walls may be inside the setback line, the roof overhangs will encroach and that is not allowed. Keith is also concerned about fire ratings. Mr. Rainer stated that issue has already been discussed and the addition will contain fewer windows than planned.

**Public Comment** – The mayor motioned and Mary Lodato seconded that the hearing be opened to public comment. There was none and Mary Lodato motioned and Muriel Alls-Moffat seconded to close the hearing to public comment.

**Board Discussion and Continuance** – Vice Chair Suzanne Wells asked the applicant if he wished to request a continuance to discuss the review with his engineer. Mr. Rainer stated he wished to do so and agreed to a continuance on his behalf although he was not sure how long it might take. At this point he is not certain of the tenant’s opinion about the suitability of the revised size of the addition. It was recommended Mr. Rainer apply to the county as soon as possible or at least get a preliminary opinion from them since the county approval is required prior to the board signing off on the plans. Suzanne asked for a motion to continue and a motion to grant a continuance at the applicants request was made by the mayor, seconded by Councilman Smyth, and passed unanimously by the four members eligible to vote.

The Planning Board of the Borough of Riverton approved the following resolution at its regular meeting on August 21, 2007:

Be it resolved by the Planning Board of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Joseph Rainer for preliminary and final site plan approval and all related waivers, variances and other as needed to erect an addition on the property at 515 Main Street (Block 803, Lot 9) is continued, applicant having requested an extension of time for consideration of the matter until the regular meeting of the Board on September 18, 2007.

This notice provides the only official notification required of this continuance granted by the applicant unless subsequent amendments to the application require that formal notification be made. The secretary will have the notice posted as required.

**MINUTES:** A motion was made by Muriel Alls-Moffat and seconded by Mary Lodato to adopt the minutes of the July 17, 2007 regular meeting as distributed. The voice vote was unanimous.

### **CORRESPONDENCE/ANNOUNCEMENTS**

**1. 1 voucher/invoice as presented under New Business.**

### **OLD BUSINESS**

**Proposed Revisions to the Zoning Code by the Historical Society** – Discussion was tabled due to the chair’s absence.

**Smart Growth Grant/Environmental Resource Inventory study** – Suzanne Wells updated the board on the progress to schedule and hold the series of public meetings. She is attempting to schedule the rest of the meetings. Keith stated that there has been no response or input from the Environmental Commission. Suzanne asked him to pursue the matter with them since their input is important.

**Revision to Sign Ordinance to Allow Sidewalk Signs** – Discussion was tabled due to the chair’s absence.

**Council Matters of Importance to the Board** – Councilman Smyth stated that on 8/9, a letter was received from the Post Office of their plans to vacate the current site; however, they plan to maintain a presence in the Borough. They need about 500 square feet. They will probably vacate Spring, 2008. Following an appraisal, the existing building goes on the market with right of first refusal going to the state, county, and borough in that order before it goes on the market for public sale. The NJDOT bike and pedestrian grant study will be presented at a meeting on 8/30. The Borough did not get a safe routes to school grant. The Borough is pursuing possible shared services with Palmyra and Council members will attend an upcoming conference on 9/18. The proposed skateboard ordinance is being reconsidered. The mayor commented on the train horn issue. The meeting on 8/6 in Palmyra was attended and options are being reviewed and considered as long as they make things safer if implemented. The mayor thanked Eric Saia, Jerry Cureton, and Councilman Brown for their efforts. Quiet zones are being looked at which may require “quad gates” to be installed.

**Environmental Commission** –Keith Wenig reported that the commission had supported the attempt to stop planned dumping of dredge spoils in Palmyra Cove. The commission is trying to expand recycling efforts, especially regarding latex paints. The commission has been working getting comments together on the regional stormwater management plan for the Pompeston Creek.

**COAH Activity** – Muriel reported that there was no meeting this month. She has asked Tamara to attend the next meeting in September.

## **NEW BUSINESS**

### **Vouchers and Invoices:**

1. 5/16/07, Stout & Caldwell, \$1,062.50, engineering services during March and April regarding Rainer, 515 Main Street site plan application. (PAY FROM ESCROW) ((ITEM HELD FROM JUNE MEETING!!))
2. 8/2/07, Raymond & Coleman, \$442.00, general legal services and July meeting attendance.

Due to the chair's absence, consideration of the Stout & Caldwell invoice was tabled. There was no discussion on the other invoice and the mayor motioned and Muriel Alls-Moffat seconded, and it was passed unanimously to pay the other item as presented. The board secretary will have it signed and submitted for payment.

**PUBLIC COMMENT** – Mary Lodato motioned and the mayor seconded to open the meeting to public comment. There was none and Muriel Alls-Moffat motioned and Joe Creighton seconded to close the meeting to public comment.

**Meeting adjourned at 10:00 PM.**

**Next meeting is on 9/18/2007 at 7:00 pm in the Borough Hall.  
Tape is on file.**

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