

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
February 20, 2007**

At the direction of board counsel, the secretary was instructed to call the meeting to order until a chair had been selected by the board. The Public Session of the Planning Board was called to order at 7:00 PM by Secretary Ken Palmer.

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: Joseph Katella, Suzanne Wells, Muriel Alls-Moffat, Keith Wenig, Mayor Robert Martin, Councilman Robert E. Smyth, Mary Lodato, Joseph Creighton, and Patricia Brunker.
Also Present: Solicitor Tom Coleman, Planner Tamara Lee, and Secretary Ken Palmer.

ABSENT: None.

REORGANIZATION - 2007

Solicitor Coleman administered the oath of office to new regular members Suzanne Wells and Keith Wenig, and new alternate members Joseph Creighton and Patricia Brunker. The mayor introduced the new members.

Chair: Joseph Katella was nominated by Councilman Smyth and seconded by Muriel Alls-Moffat to serve as the Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous. Joe Katella assumed chairing the meeting and asked the secretary to finish the reorganization tasks.

Vice Chair: Suzanne Wells was nominated by Mayor Martin and seconded by Joe Katella to serve as the Vice Chairwoman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Engineer: Following review of two proposals submitted by Stout & Caldwell and Remington, Vernick & Arango, Mark Malinowski of Stout & Caldwell Engineers, LLC was nominated by Councilman Smyth and seconded by Mayor Martin to serve as the Planning Board Engineer for 2007. The nominations were closed. A voice vote was taken and the vote was unanimous.

Environmental Commission Representative: Borough code requires that one of the members of the commission be a regular Class IV member of the planning board. Chris Halt, while resigning from the board has not resigned from the commission. Muriel and Keith volunteered to serve. The mayor stated that he would hopefully resolve the issue by the next meeting. The appointment was tabled.

Resolution Appointing Engineer – Resolution P2007-03 announcing the appointment of an engineer was reviewed. A motion was made by Suzanne Wells and seconded by Muriel Alls-Moffat to adopt the resolution. The board approved by a unanimous voice vote that the resolution: be adopted, published in the Burlington County Times and the firm be formally notified and requested to submit a contract.

PUBLIC HEARINGS

**Minor Subdivision Application by the Estate of Agnes L. Greco, James J. Greco, Executor, for 815
Homewood, Block 1600, Lot 16**

Introduction and testimony – The chair introduced the topic. This matter was continued from the January

meeting when it was deemed that, due to the irregular shape of the proposed rear yard line between the two lots being created by the subdivision, further review was needed to determine if a rear yard variance was needed or if the area was a side yard that did not require a variance. The applicant consented to the continuation until the board's planner conducted a review. Tamara Lee was introduced and presented her findings. There appears to be a conflict in the way the ordinance is written as to whether a variance is needed and the applicant could either proceed under the assumption that a variance is needed or it could request an interpretation of the ordinance. Interpretations can only be made by the zoning board. The frontage and front yard set back variances pertaining to the original/ proposed remainder lot are pre-existing and are not impacted or changed by the subdivision. After conferences between the board's and applicant's attorneys, the applicant has decided to request a bulk variance from the rear yard set back provisions created by the proposed subdivision. The board's solicitor concurred with Tamara's review and conclusions. Tom stated that the applicant should be allowed to present testimony regarding the rear yard variance as well as be permitted to speak to any other issues raised during the previous testimony. In addition the hearing should be reopened to public comment before the board deliberates on the application. Tom Erhardt, counsel for the applicant, concurred with the statements presented. Mr. Ehrhardt reviewed the testimony to date and updated several items. Concerning the question about the percent impervious coverage of the remainder lot shown on the plan, it was stated that it was the amount as subdivided. Mr. Ehrhardt reintroduced Mr. Greco who testified that he felt the code permitted the subdivision of the lot and that the benefits of the subdivision outweighed any perceived detriments and that the variance was warranted. As to the issue of the hedgerow of trees along Eighth Street, a 1959 survey of the original property was introduced as exhibit A1 which showed that the trees were on the applicant's property. The applicant stated that he did not intend to disturb the hedge. Mr. Greco consented to establishing a conservation easement regarding preservation of the trees except for any required access to the new property being granted even though he feels it is an unfair burden to place the easement only on the one property since the row extends the length of the street. Mr. Greco responded yes to a question from Mr. Coleman that the irregular shape of the property necessitated the irregular lot line being proposed and otherwise a variance would not be needed. There was no additional testimony and the applicant, Tamara Lee, and Tom Coleman responded to questions from the board to clarify where and why the variance was needed.

Public comment – A motion was made by Muriel and seconded by Bob Smyth to open the hearing to public comment. All of the people who commented were sworn in prior to presenting their comments:

- Walter Croft, 2 Woodside Lane, asked and received a brief review as to why the row of trees was under discussion. Mr. Croft asked if the board feels it is unfair to the applicant, should the restrictions apply to all the properties on that side of the street. Also he feels it is unfair to restrict access to the property to an area closer to Cedar Street. It was explained that the board could only consider the property that is part of the application. Borough Council is the only body that can consider the other properties.
- Kerry Brandt, 719 Main Street, reiterated that he does not feel the owner has a "by right" ability to request a subdivision excepting the variance being considered. He feels that all existing and created conditions and non-conformities require consideration and warrant conditions being set by the board if it chooses to grant the application. He feels the placement of future fences unless conditioned by height or placement would impact both the properties involved and the neighboring properties. He feels that the hedgerow becomes a front yard fence on the new property and that a variance is needed to allow it since front yard fences are not permitted. There was discussion on his points. Mr. Brandt re-stated his belief an additional variance was needed concerning a front yard fence and that the fact that any variances exist negates any "by right" ability to be granted approval. The board needs to consider and impose conditions on any approval. The board asked and received clarification from Mr. Coleman concerning the points raised by Mr. Brandt. Tom stated that the front yard fence issue is valid and must be considered.

There being no further public comment, a motion was made by Muriel and seconded by Keith to close the hearing to public comment.

Deliberation and continuance – The chair asked for comments and guidance by Mr. Coleman. Tom asked the applicant, if he, based on the issue regarding front yard fences, wished to amend the application to request a variance for a front yard fence of the trees or if he would he agree to the removal of the trees. The applicant stated he feels removal is counter to the wishes of the town, detrimental to the character of the area, adversely impacts the existing streetscape, and outweighs the restriction prohibiting front yard fences. He therefore wishes

to amend the application to request a variance to preserve the trees as previously discussed. Mr. Ehrhardt asked if the previously discussed conservation easement was still an issue. Mr. Coleman stated that the board had the right to consider such an easement. Muriel asked if a separate deed restriction was needed to preserve the hedge and Tom stated an easement is a restriction. The form of the conservation easement and amount of opening permitted was discussed. The issue of sight lines was discussed. It was discussed that the conservation easement can be formed to maintain the hedge in its current condition after all construction requirements had been determined. This allows for the ongoing preservation of the remaining hedge. As to the concern that granting the variance establishes precedence for front yard fences, Tom explained that a variance only applies to the property at issue and is granted solely because the particular merits or conditions warrant the granting of a variance. Any future requests must be consider on the same basis. The board discussed the conditions and variances needed if it approves the application. Tom Coleman suggested that the board may be willing to consider approval conditioned on:

- recognizing that the existing two non-conforming issues on lot 16.01 are two preconditioned variances,
- that a rear yard variance be granted for the new rear yard line between the two lots,
- that a variance for a front yard fence be granted to preserve the hedgerow of trees on proposed lot 16.02,
- that a conservation easement be created for lot 16.02 which preserves the hedge as it exists after allowances for a safe and approved access to the new lot, said easement to be developed between Tamara and the applicant and approved by the board,
- that access for utilities be restricted to the driveway access with no additional disturbance of the trees,
- that any fence between the two properties be limited to four feet, and
- that any fences between the neighboring lot 15 and lot 1be limited to four feet in height.

A motion was made by Muriel Alls-Moffat and seconded by Councilman Smyth that the approval with conditions as discussed and suggested by Mr. Coleman be granted. A poll vote of the members eligible to vote (present for the previous hearing in January) passed the motion unanimously as follows:

Mr. Katella	aye	Mrs. Moffat	aye
Mr. Martin	aye	Mr. Smyth	aye
Mrs. Lodato	aye		

Housekeeping

Mr. Coleman stated that based on court decisions he recommends the board’s professionals be sworn and attest to their qualifications to represent the board as qualified professionals in their respective fields. Mr. Stout and Mrs. Lee attested under oath to their qualifications. A motion was made by the mayor, seconded by Councilman Smyth and passed unanimously to accept the qualifications made under oath by the professionals. The professionals are considered sworn for all business they are required to present testimony for the duration of their appointments.

NEW BUSINESS

Proposed Revisions to the Zoning Code by the Historical Society – The chair announced he wished to consider this topic now before continuing with the rest of the agenda. Councilman Smyth introduced the topic. He stated that Patricia Bruncker of the Historical Society had presented to Council a proposed set of revisions to the current Zoning Code which are designed to provide better control over the preservation of historic structures in the town. Council has agreed the matter has merit and has requested the board review the proposal and to hopefully draft revisions as needed to implement the stated purpose of the proposal. The board has been provided copies of the proposal. Mrs. Bruncker was asked to review the proposal. Pat stated that the society had become very concerned there was not enough protection in the code to encourage and provide for preservation of the many recognized historic structures in the town. After a thorough review of codes in other towns, principally Haddonfield and Moorestown, the society put together the proposals delivered to Council and now before the board. The proposal includes increased binding authority by the ARC and requires issuing of a certificate of appropriateness by the planning board for any building permits over \$1,000.00. Design guidelines should be developed for residential structures. A mandatory public hearing must be held before any demolition permit is granted for a historic

structure within the historic district. The proposal included a list of properties that had been deemed having historic value when the original list was compiled for submission to have the town designated a historic site by the state and federal governments. The chair asked Hank Croft of the ARC what the committee felt about the proposal. Hank replied that the committee while aware of the proposal had not made a complete review of it. The committee feels that any procedures and criteria be clearly spelled out regarding historic preservation and that any changes fully protect the rights of homeowners. The Architectural Review Committee does not have any binding authority now and some committee members feel that might be best. The proposal increases the number of things that would require approval by the committee and while this may be warranted for historic structures, perhaps it doesn't need to be applied to a structure solely because it lies within the district. Not every home within the district was/is considered of historic relevance. Councilman Smyth commented on the recent lawsuit filed against the Moorestown ordinance and wonders if anything in the proposal would lead to similar action in Riverton. Bob feels the board and Council do not wish to establish an adversarial relationship with homeowners. Hank commented that Burlington City has a very strong historic review committee that the board may wish to examine. Hank feels that any ordinance with enforcement provisions will always have some adversarial impact. Asked if he feels the committee should have more binding authority, Hank stated he would reserve judgment at this time. Suzanne stated that since the board was seeing this for the first time, perhaps the members should have time to review it before coming to any conclusions. Tamara and Tom were asked if they had comments. Tamara stated that this represented a substantial change and should be reviewed from a planning perspective. She suggested that the issue could either be included in the current consideration of the reexamination report or it can be handled later by a minor amendment to the master plan. Both methods ensure any changes were discussed and considered during a public hearing on the issues and that the master plan then provides a firm foundation for any changes made to the code. The mayor suggested that further discussion be tabled at this time until the members had time to review the material and consider the possible impact. The chair concurred especially since he wanted the new members to have time to review the draft reexamination report before discussion next month. The secretary stated that he would also bring up the topic and distribute copies of the proposal at tomorrow's zoning board meeting. He asked who he could refer the zoning members to if they had questions and/or wished to make known they wished to participate in any committee established to further consider the proposed changes. Joe stated and the members concurred that Pat Bruncker should be the point of contact.

Request for Continuance on 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) – The secretary reviewed with the board Mr. Rainer's request for an additional continuance until March to submit requested revisions to the plan prior to continuation of the hearing. While the board felt that a further continuance was warranted, there was discussion that the number of continuances was unfair to the public who are interested in the matter and have come to every meeting only to find out there is a further postponement. Asked how many continuance are permitted, Tom replied that as many as the board was willing to grant. Tom further stated that given the number of continuances and the time that has past since the hearing was first continued, it was not unheard of and the board was warranted in requesting that the continuance be conditioned on the applicant republishing and re-noticing the property owners. Tom stated that the board could also deem the application abandoned and require a new application to be filed and restart the entire process. Suzanne Wells motioned and Joe Katella seconded, that the board grant the continuance conditioned on the applicant republishing and re-noticing the property owners. Muriel objected since she feels the process has been dragged on for too long, is unfair to the board and the public, and if the applicant wishes to proceed he should re-file his application. There was no further discussion and because of the requirement that the applicant re-notice, a poll vote was called for. The motion was adopted by a poll vote of six to one as follows:

Mr. Katella	aye	Mrs. Warren	aye
Mrs. Moffat	nay	Mr. Wenig	aye
Mr. Martin	aye	Mr. Smyth	aye
Mrs. Lodato	aye		

The secretary read the following:

The Planning Board of the Borough of Riverton approved the following resolution at its regular meeting on February 20, 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 conditions 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 March 20, 2007.

This continuation is conditioned on the applicant re-noticing in the newspaper and proper service of notice on the listed property owners. Said re-noticing must comply with the statutory time requirements.

This notice to be posted as required on the Borough Hall bulletin board together with the required re-noticing provides the only official notification required of this continuance. The secretary will communicate this decision to the applicant.

CORRESPONDENCE/ANNOUNCEMENTS

- 1. Announcement from Burlington County Department of Resource Conservation of a Stormwater Management Forum March 8, 2007.**
- 2. 1/15/07, Letter to Board chair (copy of same letter to mayor) and announcement from ANJEC of 2007 Smart Growth Planning Grants for Municipalities with instructions and application cover sheet – applications are due March 30th.**
- 3. 1/26/07, Copy of letter to mayor from Eileen Swan, Executive Director Office of Smart Growth acknowledging receipt of town's Center Designation Monitoring Report with attached 1/19/07 submission cover letter from Mary Longbottom and 1/16/07, letter from County Department of Economic and Regional Planning answering concerns that East Riverton is officially part of Cinnaminson Township and not Riverton Borough.**
- 4. Announcement by the Burlington County Chamber of Commerce of the Quarterly Economic Development Forum on 2/27/07. The event is free to board members.**
- 5. Four vouchers/invoices as presented under New Business.**

OLD BUSINESS

Reexamination of the Master Plan – Joe stated that he wished to set a deadline on this matter. However he also wished to provide the new members time to review the draft document and he requested that all comments be addressed through him or directly to Tamara by March 10th so the board can begin considering the matter next month. Copies will be provided to new members.

Revisions to COAH Petition for Third Round Certification – Tamara reported that the Borough had made the deadline and filed the requested changes and was waiting for a decision when last month the courts struck down several provisions of COAH's Third Round rules. COAH has been given six months to come up with revisions. Tamara reviewed the areas struck down and those not changed and the impact on the Borough's submission. Tamara stated that there was nothing further the town needed to do regarding the submission since all petitions are stayed until COAH comes up with the required revisions. She also emphasized that the Borough should not stop the agreed upon processes to form the Affordable Housing Committee, create and staff the new Municipal Housing Liaison employee position and to begin reaching out to non profits for assistance. All continuing efforts only help to create "bonus points" in COAH's eyes. The mayor and Bob Smyth stated the matter would be addressed at the next Council meeting. The employee can be a member of the committee. Joe Augustyn has

already volunteered for the committee. It was suggested that Muriel as the current COAH Liaison be a member. Bob Smyth volunteered to serve on the committee. Tamara recommended the committee have at least four members. The committee will need at least one more volunteer. Bob suggested that Muriel be appointed as the new Municipal Housing Liaison and that was countered that Bob hold the position. Bob stated that if that was acceptable he would accept.

Smart Growth Grant/Environmental Resource Inventory study – Suzanne reviewed the progress to date and Tamara’s efforts with the county. Progress is being made in establishing the outreach meetings. Tamara reviewed that there would be four targeted group meetings (waterfront residents, business owners, seniors, plus one more to be determined) and one general meeting with concentration on families. It is hoped the meetings may be completed by the end of March. Tamara is continuing to draft the report. Suzanne stated she would make sure the new members received copies of the scope and the original draft document.

Revision to Sign Ordinance to Allow Sidewalk Signs – The chair stated he had nothing new to report at this time.

Council Matters of Importance to the Board – Councilman Smyth reported that budget submissions are needed ASAP or at least no later than the first week in March. Concerning redevelopment, Bob stated an application is being submitted for a grant to conduct a redevelopment and revitalization study. Bob briefed the board on progress concerning other grant applications being considered or made. Bob mentioned that the town will be featured on the local access cable channel tomorrow night as part of a series profiling all the communities along the light rail line.

Environmental Commission – Report was tabled until the mayor appoints a new board member to the commission.

COAH Activity – Muriel stated she felt Tamara had covered everything. Muriel did however relate that she had received an inquiry looking for affordable housing and she had referred the person to MEND in Moorestown since there are currently no units in Riverton.

ARC Report – Chris Halt was the liaison. Pat Bruner agreed to act as a board liaison to the ARC.

Mandatory Education for Board Members – The secretary reported that there was sufficient time to register for the March 17 session in Burlington Township. Ken reviewed the time limits for completing the course. He plans to attend the March 17 session and will coordinate registering all members who wished to attend this session. Interested members need to advise Ken within the next week. Ken reviewed the session contents. There is short test that must be passed to be certified as having successfully attended the course.

MINUTES: A motion was made by Muriel Alls-Moffat and seconded by Joe Katella to adopt the minutes of the January 16, 2007 regular meeting as distributed. The voice vote was unanimous.

NEW BUSINESS

ANJEC 2007 Smart Growth Planning Grants – Councilman Smyth asked Tamara if this was something the Borough should consider since it was already working on a smart growth planning grant. Tamara replied that while it cannot be used for the ERI study, new grants are always helpful and she recommended that a worthwhile choice would be for the shade tree commission which dovetails with the ERI. Bob remarked that the Borough can receive free grant writing from the bridge commission.

Vouchers and Invoices:

1. 2/1/07, Tamara Lee, \$637.00, for work during January on the COAH 3rd Round Report and Borough response.
2. 2/1/07, Tamara Lee, \$170.00, for work during January on the 815 Homewood Drive minor subdivision. (PAY FROM ESCROW.)
3. 2/2/07, Raymond & Coleman, \$715.00, for general services and meeting attendance during January.
4. 2/2/07, Raymond & Coleman, \$182.00, legal advice and services during January regarding the 815 Homewood Drive minor subdivision. (PAY FROM ESCROW)

A motion was made by Muriel Alls-Moffat, seconded by the mayor, and passed unanimously to pay the items as presented. The board secretary will have them signed and submitted for payment.

PUBLIC COMMENT – The meeting was opened to public comment:

- Josh Cooper, 513 Main Street, asked what was required for a plan by him to acquire 10 foot strip of his neighbor's property along the side yard line for his property. He feels that the purchase would meet all bulk requirements. Tom Coleman stated that this would be a minor subdivision of both properties similar to the matter heard earlier this meeting. Tom reviewed the requirements for submitting the application and complying with the jurisdictional requirements to present a complete application which can be heard.

There was no further comment and the meeting was closed to public comment.

Meeting adjourned at 9:420 PM.

Next meeting is on 3/20/2007 at 7:00 pm in the Borough Hall.

Tape is on file.

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