

RIVERTON BOROUGH ZONING BOARD
MINUTES
May 16, 2007

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 vice chairman Ken Mills.

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 27, 2007.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Edward Smyth, Richard Mood, Ken Mills, Alfred DeVece, William Corbi, Patricia Manzi, and Janine Miller.

ABSENT: Kerry Brandt and Craig Greenwood.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilman William Brown, and Secretary Ken Palmer were present. The presence of the planner and engineer were not required. Mary Lodato was not present.

MINUTES: A motion was made by Fred DeVece, seconded by Richard Mood, and unanimously approved to adopt the minutes of April 18, 2007 as distributed.

PUBLIC HEARINGS:

APPLICATION FOR BULK VARIANCE FOR A FENCE ON A CORNER PROPERTY, BY RAYMOND & REBECCA REIS, 306 SEVENTH STREET, BLOCK 1103, LOT 12:

The vice chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Rich Mood, as a notified property owner, recused himself and stepped down. Review of the submissions showed that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant Raymond Reis was sworn in.

Testimony – Janet reviewed the applicable sections of the code concerning fences on corner properties and the setback requirements. The applicant wishes to erect a fence along part of the side yard and rear yard that will extend to the property line. On corner properties, the street side setback of the side and rear yards is the same as the front yard setback. This will severely limit the area of his yard that can be secured for children and pets. A four foot picket fence is proposed. The fence will be no closer than six feet from the garage at the rear of the property to preserve site lines to the street. The neighbor's side yard hedge row on the other side of the garage that extends to the front property line is actually closer and more restrictive than the proposed fence. Asked to explain the side yard portion, the applicant stated the fence would extend to the rear of a side porch to allow steps from the porch to access the fenced area. The property line is inside the sidewalk line. Ed Smyth asked if Lippincott Avenue was wide at his residence and the applicant stated it is and does not narrow until further East. Janet explained the rationale for the ordinance since the proposed fence creates an inconsistent streetscape because the adjoining properties cannot have a fence in the front yard. The applicant stated that the neighbor's hedge row at the back of his property already extends to the front property line. Also, the applicant commented that there are other side yard fences on corner properties in the area similar to what he is proposing. In reality the yard area between the street and the house is larger than his rear yard because it is a corner property.

There were no additional questions from the board and the vice chair asked for a motion to open the matter to the public. Fred DeVece motioned and Bill Corbi seconded opening the hearing to public comment. All persons were

sworn in before commenting.

- Rich Mood, 620 Lippincott Avenue, stated the applicants are good neighbors, have improved the property, cleaned up the yard, and he feels the variance is worth while.

There was no further public comment and Fred DeVece motioned and Patricia Manzi seconded that the hearing be closed to public comment.

Deliberation – There were no further questions of the applicant and Ken asked if the board was prepared to make a motion on the matter. Janet suggested that he board might consider granting a variance to permit erecting a fence along the side and rear yard of the street side of his property from the rear of the side porch to the rear as presented on the plan that will be one foot inside the property line or sidewalk whichever provides the greater setback. Fred DeVece motioned that the variance be granted as suggested by Janet and Janine Miller seconded the motion. A poll vote of the board approved the application by a vote of 6 to 0 as follows:

Mr. Smyth	aye	Mr. Mills	aye
Mr. DeVece	aye	Mr. Corbi	aye
Mrs. Manzi	aye	Mrs. Miller	aye

APPLICATION FOR BULK VARIANCES AND EXPANDING A NONCONFORMING STRUCTURE, BY MARK & AMY THOMAS, 105 MAIN STREET, BLOCK 401, LOT 13:

The vice chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. There were none. Review of the submissions showed that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant Mark Thomas and his architect Walter “Hank” Croft were sworn in.

Testimony – Hank reviewed that it is a corner property and the existing structure is nonconforming regarding the set back from the side street. An addition is proposed that while not as close to the street as the existing structure still will be closer than the code permits. On the other side of the property, an extension of the existing front porch is proposed which will join a proposed new side yard patio with an outdoor fireplace that will be four feet from the adjoining side yard property line. They also propose to move the existing garage towards the street; but, it will be located at least three feet from the rear lot line and twenty-five feet from the street. Hank discussed the orientation of the fireplace. He also produced photos of the existing property to help orient the board. With the addition, patio, and side porch, the amount of lot coverage will be 41% which exceeds the allowable 35%. Janet asked why the fireplace needed to be so close to the property line. Hank explained it had to do with the orientation of the patio to the house and to maintain the fireplace a desired distance from the house. Members asked and received clarification on the need for the side yard variance on the side street side. The issue and need for lot coverage variance was discussed and clarified. It was testified that the proposed porch and patio were planned to better utilize an existing low area of the property that retains a high level of moisture. Regarding drainage in the area of the porch, Hank stated that the design of the gutters and downspouts would make sure the drainage did not impact the side yard area between the two properties. Ken Mills suggested that something similar to a drywell might ease the drainage impact of the increased lot coverage. Hank stated the applicant was willing to consider adding a drywell that will be rated to handle the runoff from the increased lot coverage and to provide the calculations to the engineer for approval.

There were no additional questions from the board and the vice chair asked for a motion to open the matter to the public. Fred DeVece motioned and Rich Mood seconded opening the hearing to public comment. All persons were sworn in before commenting.

- Ed Gilmore, 103 Main, asked and received clarification of the side yard issues. While he likes the overall plan he feels the screened in portion of the proposed porch extension should not be screened and the resolution should ensure the style of the new porch is kept to the style of the current structure.

- Teresa Larson, 103A Main Street, asked if the front porch was nonconforming and would the new porch also be non-conforming. It was explained that the nonconformity was for the side of the building facing Second Street. There is no nonconformity concerning the porches. The only nonconforming issue along the side is the proposed patio area with the fireplace. The rear yard issue was clarified for her.
- Sherman Larson, 103A Main Street, feels the drainage from the patio should be treated the same as from the new porch roof. Ken Mills agreed and any resolution of the plans if they are approved will deal with drainage from the new impervious area. Mr. Sherman asked about regulations concerning outdoor fireplaces and it was explained they are subject to the building code. Mrs. Larson feels the fireplace may be too close to the property line and may be too close to the existing carriage house on her property; but, this may not be an issue. She referred to a survey of her property which was entered into the evidence as exhibit P-1.

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

Deliberation – Janet asked if the plans had been reviewed by the ARC and Hank stated not yet but will be. Bill Corbi suggested the proposed fireplace be relocated to avoid the need for a variance. Ken Mills asked if the applicant was open to revising the patio and fireplace area and the applicant stated they were willing to listen to opinions and based on the vote on that issue may be willing to reconsider the design. Janet suggested that the board could consider the various variances separately specifically the fireplace issue. The applicant is entitled to a vote on the application variances requested. Hank asked if a denial of any of the issues precluded the applicant revising and coming back if needed. He was told no, they could always reapply if necessary; and, if he revises the plan to have the patio and fireplace at least ten feet from the property line, no variance is needed. There were no further questions of the applicant and Ken asked if the board was prepared to consider motions on the matter.

Janet suggested that the board first consider granting a variance to permit constructing the addition twenty feet from the side yard street and thus also granting the extension of a non-conforming building. Fred DeVece motioned that the variance as suggested be granted and Rich Mood seconded the motion. Following clarification that the board was considering the variances separately the motion was approved by a poll vote of 7-0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Janet suggested the board consider allowing impervious coverage of 41% conditioned on the applicant providing a drywell to handle the additional 6% excess impervious coverage over the 35% permitted in the ordinance with the calculations being provided to the board’s engineer for approval. Rich Mood motioned that the variance as suggested be granted and Fred DeVece seconded the motion. There was no further discussion and the motion was approved by a poll vote of 7-0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Janet suggested the board could grant a variance to allow the four-foot side yard setback for the fireplace and patio on the North side of the property. There was no motion made.

Janet suggested the board consider a motion denying the variance for the four-foot side yard setback for the fireplace and patio. Ed Smyth motioned that the variance for the side yard setback for the fireplace and patio be denied as suggested. Patricia Manzi seconded the motion. There was no further discussion and the motion to deny the variance was approved by a poll vote of 6-1 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	nay	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Hank Croft asked for a clarification regarding the impact of the denial of the fireplace and patio. If the plans are revised to not build the patio and side porch the impervious coverage is within the 35% allowed. As long as the coverage is within the allowable limit, does the drywell have to be provided? The answer was no as long as the coverage does not exceed the permitted coverage. There is concern that the coverage issue will not be caught if it is not addressed up front. The requirement for the drywell is not required unless the impervious coverage exceeds 35%. The variance is only good for two years to complete construction.

OLD BUSINESS

Resolution, Case # 2007-01: Denial of the Application For Use Variance To Convert Portion Of A Commercial Building To A Residence In The Neighborhood Business District, By MP Townsend, LLC, 523 Howard Street, Block 903, Lot 25 – Only members who participated in the hearing may act on the resolution. The chair asked if the members had read the resolution and if there were any comments or questions. All stated they had read the resolution and there were no comments or questions. Ed Smyth motioned and Janine Miller seconded that the resolution referenced by title be adopted and memorialized. The motion passed by a unanimous poll vote of the members eligible to vote.

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye

Change Meeting Date – The vice chair stated that he had talked over this matter with the chair and the mayor and they had no objection to changing the meeting date to the third Thursday of the month. Borough Hall is available. There was discussion and while some members stated they may have a conflict in certain months there was no general objection. Ken Mills motioned that the meeting date of the board be changed permanently beginning with the June 2007 date to the third Thursday of the month. Janine Miller seconded the motion. Following additional discussion, the motion was approved by a unanimous voice vote. The secretary will have a revised schedule for the rest of 2007 and January 2008 published and posted as required. He will also make sure the web site is revised.

Proposed Historic Preservation Changes to Chapter 128 – Zoning Code – The secretary reported that the planning board is currently deciding on a new chair for the committee and the general feeling of the board was not to vigorously pursue the matter until a way of addressing the perceived opposition to property maintenance controls can be determined.

Sidewalk Signs – The planning board is not pursuing this issue until the reexamination of the master plan is completed.

Planning Board & Council Matters – The secretary reported on the planning board's action on the reexamination of the master plan, the ERI study and other activities. A public hearing on the reexamination report will be held next month. The ability of the planning board to issue guidelines concerning inconsistencies in the zoning code was discussed. Grant activity by Council was reviewed. Janet reviewed correspondence she had that there is legislation being proposed that will limit a municipality's ability to control development.

Mandatory Education Update – The secretary distributed the books ordered for the members and stated there was nothing new on the next course offerings.

CORRESPONDENCE

- There was none.

NEW BUSINESS

Vouchers and Invoices:

- 5/16/07, Janet Zoltanski Smith, \$169.00, professional services during April and May and meeting attendance in April.
- 5/16/07, Janet Zoltanski Smith, \$546.00, for services connected with the MP Townsend LLC application. (To be paid from escrow.)

Fred DeVece moved, Rick Mood seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

There was none.

Meeting adjourned at 9:50 PM.

Tape is on file.

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