

RIVERTON BOROUGH ZONING BOARD
MINUTES
April 17, 2008

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 25, 2008.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Ken Mills, William Corbi, Patricia Manzi, Craig Greenwood, Janine Miller, Don Deitz, and Joe Della Penna.

ABSENT: None.

OFFICIALS: Board solicitor Janet Smith, Councilman Bill Brown, Planner Tamara Lee, and Secretary Ken Palmer were present.

REORGANIZATION

Janine Miller was sworn in as a regular member of the board.

MINUTES

A motion was made by Ed Smyth, seconded by Janine Miller, and unanimously approved to adopt the minutes of February 21, 2008 as distributed.

PUBLIC HEARINGS:

Request for Interpretation of the Zoning Map, Robert Recchiuti, 101 Lippincott Ave, Block 305, Lot 13

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the interpretation. Planner Tamara Lee is present to testify regarding the zoning map. The board is being asked for an interpretation of the Borough's Zoning Map. No approvals regarding any pending/future application are being requested, just the interpretation of the map. The chair introduced Mr. James D. Nowak attorney for Mr. Robert Recchiuti who is requesting the interpretation. Mr. Nowak stated that Mr. Recchiuti as well as Leonard Strickland, PLS a surveyor would be testifying. Both were sworn in. Tamara Lee was also sworn in as the board's planner.

Testimony – Mr. Nowak reviewed that in the process of applying for a minor subdivision before the planning board an issue had arisen as to how the two lots should be treated as pertains to which zoning district applies to each lot. The current tax map indicates that Mr. Recchiuti's property consists of two lots. It has been established through deed that the two lots are conjoined and a subdivision is required. The zoning map indicates that the boundary between the R15 and R8 districts split his property along the lot line between the two lots shown on the tax map.

The following exhibit was marked into evidence:

- P1 – Zoning and Tax Map Sketch prepared by Leonard Strickland, PLS showing details of the Borough's Zoning Map and the Tax Map to indicate that the Zoning line splits Mr. Recchiuti's property

Mr. Recchiuti has lived on the property for over 20 years and wishes to subdivide the property. He filed the subdivision based on his interpretation of the zoning map. During the subdivision hearing, the planning board's professionals stated the entire property should be treated as R15 and subject to the requirements of that district. Mr.

Recchiuti feels his interpretation is correct and following instructions that only the zoning board can issue interpretations, has requested same from the zoning board. Mr. Nowak stated that if the two lots are treated based on the current zoning map, the two lots will be in compliance. They are requesting an interpretation that the zoning map is correct as shown and the two lots should be subject to the different zones. Janet questioned if there was any dispute that the property was purchased as a consolidated lot and must be subdivided. There was no dispute. Janet stated that the board is only being asked to consider if it was the intent of the zoning map to split the property between the two zones. She asked if the board understood this and there were no questions. Janet explained that the result of the interpretation does not affect the property owner pursuing the subdivision; but, may impact the bulk requirements that have to be satisfied. The zoning map was revised in 1998 as part of the rewrite of the Master Plan. Janet reiterated that the issue before the board is what is the intent of the current zoning map and was it intended to effectively split zone the property. Mr. Recchiuti stated that he always thought that there were two lots based a statement from the prior owner; but, he never took the steps to have the property properly recorded as two lots. Janet stated that regardless the lots are conjoined through deed and use. Janine asked Mr. Recchiuti if he had ever attempted to subdivide the property and the answer was no. Mr. Strickland testified that his client was appraised that a subdivision was needed. He further stated that he advised his client that based on the zoning map it appeared he could subdivide the property as desired. Mr. Strickland testified that in his professional work he has never intentionally split zoned a residential property; and, in this matter he prepared the subdivision plan based on the zoning map.

Janet stated the board needs to hear from Planner Tamara Lee who helped prepare the current map and how the current zone districts were created. Tamara testified that at the subdivision hearing the question of was it the intent to split zone the property arose and since only the zoning board can issue an interpretation the interpretation was referred to zoning. Tamara reviewed the history of the current zoning map as to how it was created based on what lots actually exist in the town and since the town is essentially built out what exists on the lots. She testified that the previous zone districts and their bulk requirements did not reflect what actually existed and would usually require variance(s) to construct on many of the lots. Tamara reviewed that she was specifically charged to ensure that: split zoned properties do not exist, zones should reflect what actually exists, and zone requirements should minimize the need for variances due to lot size. Tamara stated that there was a very limited budget provided to do this. The primary tools used in developing the zone boundary lines were the tax maps and the actual land use data. There was not sufficient budget to research each and every deed to further verify if the lot lines on the tax map were correct and that all the lots shown were truly separate lots. The boundary line in question was based on the tax map and not a deed search. Kerry asked how the tax maps are created or updated and how was the Borough supposed to know the lots were consolidated. Tamara reviewed the various ways; but, concluded that the only way the Borough's engineer would know that the map needed correction is if he was informed that it was incorrect. Why this did not occur, Tamara would not speculate. If a dispute should arise, the document that takes precedent is the deed not the tax map. Janet asked Tamara if she had known of the single lot at the time, would the boundary line have been different. Tamara testified that the portion of the R8 district in that area was extended because the tax map indicated that the lots shown were applicable to R8 lots not R15. However, had it been known at the time that the tax map was incorrect and the two lots in question were indeed one, then the boundary would have been drawn along the actual boundary of the property and not through it as occurred since it was specifically a goal to not create split zoned properties. Janine asked about the impact if the subdivision was granted and the entire lot was R15. Tamara stated that variances would be needed to create the lot. The created lot would still be subject to the R15 requirements and any attempt to build may require extensive variances to reasonably construct a home. Other questions were asked regarding the subdivision intent and related conditions and while answered, Janet reminded the board that such discussion does not have any bearing on the board's decision. The zoning board can only rule on the intent of the zoning map boundaries and should not consider the impact if any on the property in question.

Mr. Strickland testified that his deed research using public records showed that the property was always one lot and he could not determine why or when the tax map showed it as two lots. Without the file(s) or testimony from the person(s) used to prepare and maintain the tax maps it cannot readily be determined how or when the tax map was created/changed to show the property as two lots. Kerry stated that he feels that if the property owner had made it known that the tax map was incorrect; then it would have been corrected. Janet reminded the board that while it has the right to discuss the possibilities and impacts, it still must restrict its decision on what was the intent of redrawing the zoning districts on the zoning map. After additional discussion, Tamara again stated that had she known that the two lots on the map were actually one lot, she would drawn the boundary along the property line and not split the property. Secretary Ken Palmer was sworn in and testified that as both a member of as well as

secretary for the planning board during the preparation and adoption of the new master plan it was clearly the charge of the board that the zoning districts reflect the town and not result in split zoning; and, that the board approved the new boundaries based on the assumption that those conditions had been met. The applicant did not have any further questions of the secretary or Tamara. There being no further discussion, the chair entertained and a motion was made by Pat Manzi and seconded by Craig Greenwood to open the matter to public comment.

Public comment – All who commented were sworn in prior to speaking.

- David and Helene Styer, 107 Lippincott Ave., Mr. Styer with assistance of his wife Helene stated that he was a member of the zoning board when the owner prior to Mr. Recchiuti sold the property and never recalled a subdivision existing. He has lived in the area for 51 years and never recalls the property being other than the single lot as currently exists. He asserted that to the best of his knowledge, the property has never been subdivided. Ed Smyth commented that he was on the board at the same time as when the garage was erected and while variance(s) were required and granted, subdivision or split lots were not an issue.

There was no further public comment and Joe Della Penna motioned and Janine Miller seconded to close the matter public comment.

Deliberation – There were no further comments or questions from the board. Craig Greenwood motioned that the board should interpret that the intent of the zoning map was to include the entire property in the R15 zone. Janine Miller seconded the motion. There was no further discussion and the motion was approved by a poll vote of 6-1 as follows:

| | | | |
|-------------|-----|---------------|-----|
| Mr. Brandt | aye | Mr. Smyth | aye |
| Mr. Mills | nay | Mr. Corbi | aye |
| Mrs. Manzi | aye | Mr. Greenwood | aye |
| Mrs. Miller | aye | | |

Mr. Brandt commented during the vote that the testimony provided indicated to him that the intent of the zoning map was to not split zone the property and the boundary should be along the property line not dissecting it.

Mrs. Miller was excused from the meeting.

Variance Application by Sheryl Telford and Mark Grocott, for side yard setback relief for an addition to their home at 618 Main St., Block 1102, Lot 8

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. It was concluded that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant's and their architect John Martin were sworn in.

Testimony – Mr. Martin reviewed the plans and showed that the existing structure was nonconforming along the one side yard boundary since it was too close to the property line. To maintain the style of the home the addition along that side would follow the existing setback and would not encroach any further. All other bulk requirements are well within requirements. The other side yard line is more than the required size with an existing driveway. A portion of the existing rear section of the house will be removed due to existing structural problems and the addition will be replace and add to the rear of the house. Following a request by the chair the architect testified to the hardship to the circulation patterns in the home if the addition could not follow the existing line of the house and that it would be a detriment to the community to not attempt to preserve the existing style and sight lines from the street side of the home. There were no further questions or testimony and the chair entertained and a motion was made by Ken Mills and seconded by Craig Greenwood to open the hearing to public comment. There was none and Ken Mills motioned and Craig Greenwood seconded to close the hearing to public comment.

Deliberation – There were no further comments or questions from the board. Ken Mills motioned that the board approve the variance for side yard setback as long as it followed the existing building lines and that there is no additional encroachment by the addition. Bill Corbi seconded the motion. There was no further discussion and the motion was approved by a poll vote of 7-0 as follows:

| | | | |
|------------|-----|---------------|-----|
| Mr. Brandt | aye | Mr. Smyth | aye |
| Mr. Mills | aye | Mr. Corbi | aye |
| Mrs. Manzi | aye | Mr. Greenwood | aye |
| Mrs. Deitz | aye | | |

Mr. Brandt commented during the vote that it was an existing condition and the plans provide the best way to expand the home with the minimum impact. Mr. Smyth commented on the ambitious nature of the project and the desire to retain the original home's character.

OLD BUSINESS

Planning Board & Council Matters – The secretary reported that the planning board continues to table any action on the Proposed Historic Preservation Changes to Chapter 128-Zoning Code, Sidewalk Signs, or other possible zoning code changes until they have an idea of what recommendations may be coming from the task force. The task force continues to meet and is close to concluding its work and making recommendations to Council. There was no budgeting for the task force and in order to pay for Tamara Lee's services, Council authorized that her charges be split between the planning and zoning budgets. Other items were also covered.

CORRESPONDENCE

- Four articles related to historic preservation passed on to planning and zoning by mayor and council. Board members were copied.
- DCA certificates for members completing mandatory training during 2007.

NEW BUSINESS

Vouchers and Invoices:

- 3/4/08, Tamara Lee, \$90.00, for work during February reviewing the submitted plans for the Guzman/Cedar Lane Project. (PAY FROM ESCROW)
- 4/1/08, Tamara Lee, \$180.00, for work during March reviewing the 300 foot state buffer issue impact on the Guzman/Cedar Lane Project. (PAY FROM ESCROW)

Craig Greenwood motioned, Pat Manzi 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

A motion was made by Ken Mills and seconded by Bill Corbi to open the meeting to public comment.

- Tom Ehrhardt, Esq., 527 Main Street, stated he represents Mr. Guzman and there is concern the approaching April 30, 2008, date when the variances granted for the twin homes at Cedar Lane will expire because construction will not have started. He wanted to advise the board that Mr. Guzman may be seeking to come before the board to ask for an extension on at least the start date and perhaps also the completion date.

There was no additional comment and a motion was made by Ken Mills and seconded by Craig Greenwood to close the meeting to public comment.

Meeting adjourned at 9:15 PM (motion by Ken Mills, second by Craig Greenwood).

Tape is on file.

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