

RIVERTON BOROUGH ZONING BOARD
MINUTES
January 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 Secretary Ken Palmer to conduct the reorganization.

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 May 25, 2007.
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, and Janine Miller.

ABSENT: None.

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

REORGANIZATION - 2008

Secretary Palmer reviewed that the mayor had appointed him, as a Borough employee, the secretary (with the board's acceptance) for 2008. Mary Lodato has been reappointed as the Code Enforcement Officer, and Councilman William Brown will be the board's council liaison. The mayor has not yet announced the new members of the board. Craig Greenwood has been appointed as a regular member to replace Fred DeVece and was sworn in by Janet Smith. New members will be announced at Borough Council's February 6, 2008, Work Session.

Chairman: Kerry Brandt was nominated by Ed Smyth and seconded by Ken Mills to serve as Chairman. There were no other nominations and a motion to close the nominations was made by Janine Miller and seconded by Craig Greenwood. A voice vote was taken and the vote was unanimous. Kerry assumed chairing the meeting.

Vice Chairman: Ken Mills was nominated by Ed Smyth and seconded by Pat Manzi to serve as Vice Chairman. There were no other nominations and a motion to close the nominations was made by Janine Miller and seconded by Craig Greenwood. A voice vote was taken and the vote was unanimous.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Ed Smyth and seconded by Ken Mills to serve as the Zoning Board Solicitor for 2008. There were no other nominations and a motion to close the nominations was made by Janine Miller and seconded by Craig Greenwood. A voice vote was taken and the vote was unanimous.

Planner: It was agreed that the board should retain a professional planner on call for more complicated matters that may involve site plan issues. A motion was made by Ken Mills and seconded by Kerry Brandt that Tamara Lee of Tamara Lee Consulting LLC be appointed to serve the board as its planner on an on call basis for 2008. There were no other nominations and a motion to close the nominations was made by Janine Miller and seconded by Bill Corbi. A voice vote was taken and the vote was unanimous.

Engineer: It was agreed that the board should retain a professional engineer on call for more complicated matters that may involve site plan issues. A motion was made by Ken Mills and seconded by Craig Greenwood that Rick Arango of Remington, Vernick & Arango Engineers be appointed to serve the board as its consulting engineer on an on call basis for 2008. There were no other nominations and a motion to close the nominations was made by Janine Miller and seconded by Bill Corbi. A voice vote was taken and the vote was unanimous.

Secretary: Janet Smith noted that while the secretary is appointed by the mayor, she suggested it is appropriate for the board to affirm that appointment for the record. A motion was made by Ken Mills, seconded by Janine Miller, and passed by unanimous voice vote to affirm Ken Palmer's appointment as board secretary for 2008.

During New Business, the chair announced that Rick Mood had decided not to seek reappointment to the board and that the mayor had not yet announced the new appointments. He assumes Janine will move up to regular member and two new alternates will be appointed. Kerry also wanted to publicly thank Rick for his service to the board.

MINUTES: A motion was made by Kerry Brandt, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of November 15, 2007 as distributed.

PUBLIC HEARING:

Variance Application by Brandenburger/Sheridan, Inc., 55 Lynn Ave., Orland, PA 19075, for front yard setback variance for the box windows on the front of the commercial building at 605 Main Street, Block 904, Lot 4

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. The chair recused himself from the matter and stepped down for the duration of the hearing. The meeting was turned over to the vice chair. Following resolution of questions regarding submission of proof of taxes paid it was concluded that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant's attorney Matthew Stanger appearing for David Oberlander of Flaster Greenberg stated that the applicant and his surveyor would testify. Jim Brandenburger and Suzanne Warren were sworn in.

Testimony – Mr. Stanger asked Mr. Brandenburger to attest that the taxes are current and he will have proof supplied tomorrow. Mr. Stanger reviewed the history of the site project and the need for a front yard setback. The encroachment was not discovered until the "as built" survey was done. This is a hardship request since the only alternative is to remove the window bays which will lessen the appeal of the façade. Mr. Stanger asked Jim Brandenburger to review the issues. Jim explained that when the pins were set for the foundation they did not take into consideration the box windows. As built the windows encroach by less than three feet into the front yard setback requirement of the district. The design of the building included the boxes to help the design conform with the design criteria of the town. The problem was not discovered until the "as built" survey was done. The applicant notified Borough officials of the problem and immediately started the application process. Jim feels the aesthetics of the building would suffer if the box windows have to be removed.

The following were marked as exhibits:

- Building Location Plan prepared by Suzanne Warren of Ott and Warren Land Engineering – marked as A1
- Photograph of front of the building – marked as A2

The two boxed windows are approximately 12' 3" in length and three feet wide including the roof overhang. The building is set back 15.4 feet from the property line which results in an encroachment of approximately 2½ feet. The board asked and received confirmation that the setback from the street curb is approximately 25 feet so the windows do not present an unsafe projection into the pedestrian right-of-way. Jim stated that he would obviously rather not have to remove the windows since he feels their design enhances the building façade. Suzanne Warren explained it was her firm's mistake and not the fault of the town engineer that the pins were set incorrectly. Ed Smyth asked and received an explanation of why the request is considered a hardship request – since the only alternative is to remove the windows and thus change the design of the building from what was originally approved. There was no additional testimony and no additional questions from the board. The vice chair asked for a motion to open the matter to the public which was made by Craig Greenwood and seconded by Janine Miller. All persons were sworn in before commenting.

- Kerry Brandt, 719 Main Street, feels the board should consider the aesthetics if the window design is changed. He feels it would harm the appearance of the building and its impact on the streetscape.

- Walter Croft, 2 Woodside Lane, stated that as a member of the Architectural Review Committee, the design of the building was very important given its central location in the town and business district. He feels the design should remain and the variance granted.

There was no further public comment and Craig Greenwood motioned and Pat Manzi seconded to close the hearing to public comment.

Deliberation – Craig Greenwood commented that he feels there is plenty of right-of-way and that there is no harm or detriment to leaving the boxed windows. Ken Mills feels the only option of removing the boxed windows would lessen the appeal of the building and would not be in keeping with the design guidelines. The vice chair asked Janet to summarize the issues to be considered and approvals needed. Janet suggested the board, if it feels the request is justified, might wish to grant a set back variance of 2.6 feet for the two boxed windows only. Patricia Manzi motioned that the board approve the request for a variance to permit the boxed windows to have a front yard setback of 12.6 feet where 15 feet is required. Bill Corbi seconded the motion. There was no further discussion and the motion was approved by a poll vote of 6-0 as follows:

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

Mr. Brandenburger thanked the board and the meeting was turned over to the chairman.

OLD BUSINESS

Planning Board & Council Matters – The secretary reported that the planning board has tabled any action on the Proposed Historic Preservation Changes to Chapter 128-Zoning Code and Sidewalk Signs issues until they have an idea of what recommendations may be coming from the task force. Councilman Brown briefed the board on the zoning task force created at the request of the mayor to review the zoning code. The task force will be headed by Councilman Smyth and has been tasked with reviewing the zoning code specifically as it relates to subdivisions, historic preservation and how it relates to the master plan. The task force will report to Council and Council may task the planning board to consider revising the code. The chair commented that he had concerns about fences for through lots and corner properties. He also has concerns with apartments over businesses in the NB district. He feels the current definitions for setbacks are hard to interpret for irregular shaped lots. He feels there is a need to address side yard setbacks for accessory structures in rear yards. Ken Mills asked if there is more a problem with enforcement. The secretary reviewed the memo regarding the task force and the issues Council considers are problem areas. Councilman Brown commented that there seems to be many cases where the building officials and code official are confused when trying to interpret the code or give guidance. Janine Miller feels there is a lot of ambiguity in the current code. Janet Smith commented that this board and Riverton are not alone. In the past she has sat as Palmyra’s solicitor and has seen the same issues raised. Kerry stated he has been asked to sit on the task force and asked if the board has any input to please forward comments to him. Ed Smyth feels corner properties have always presented problems when interpreting what are the setbacks. He also feels the issue of apartments over businesses in the NB district is a concern.

Mandatory Education – The secretary briefed the members on the Winter/Spring schedule and distributed copies to interested members. He also noted that members who had attended the session at the annual League of Municipalities Conference in Atlantic City in November were listed on the NJPO website as having passed. He also reviewed the change in interpretation of when the deadline is for members in place when the rules were passed. The chair asked if the date members pass the course could be added to the member list.

CORRESPONDENCE

- Qualifications for zoning board engineer submitted by Land Engineering & Surveying Co., Inc., submitted when they submitted their qualifications to the Borough.
- Announcement from NJPO of Winter/Spring mandatory education course schedule.

NEW BUSINESS

Vouchers and Invoices:

- 12/1/07, Tamara Lee, \$90.00, for services connected with the resolution for the Guzman/Cedar Lane application. (To be paid from escrow.)

Craig Greenwood motioned, Ed Smyth seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

Board Meetings for 2008 – Resolution Z2008-01, the calendar of meetings for February 2008 through January 2009 was reviewed by the secretary. The board decided that meetings will continue to be held on the third Thursday of the month at 7:30 PM. A motion was made by Ken Mills, seconded by Janine Miller, and passed unanimously to accept the resolution, to have it published in the Burlington County Times and posted in the Borough Hall.

Appointment of Professionals for 2008 – Resolution Z2008-02 announcing the appointments of a solicitor, planner and engineer was reviewed by the secretary. A motion was made by Kerry Brandt, seconded by Ken Mills and passed unanimously to accept the resolution, have it published in the Burlington County Times, and mailed to the professionals.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

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

- Hank Croft, 2 Woodside Lane, asked if the board was going to discuss the letter to the chair and Janet Smith requesting answers to zoning related questions about a proposed development by Mr. Moccia on Broad Street. The chair stated that he recommends that the applicant seek advice from an attorney for answers. He asked Hank if the planning board's professionals had informed him that a use variance is needed, and Hank confirmed that was the case. The chair briefly reviewed the content of the letter and stated he would comment generally and offer to point to the areas of the code that most likely led to the decision of the planning board's professionals. Kerry stated to comment on any specifics would be inappropriate at this time. Hank asked if the zoning variance could be applied for without submitting a site plan. Kerry replied that the board strongly encourages that at a minimum a preliminary be prepared and submitted since it the details of the plan have a direct bearing on the board's consideration of the impact and merits of granting a use variance. Janet Smith commented that due to previous professional dealings with Mr. Moccia she would not be able to serve as the board's solicitor if this matter comes before the board. She stated that she has recommended and the board has used the planning board's solicitor before when she was unable to represent the board. Mr. Croft also wanted to know the impact of seeking county approval on any timelines if approvals are granted by the board and if the plan submitted would be sufficient. The chair replied that there is room for leeway but again he strongly urged the applicant seek professional guidance. The secretary suggested the applicant approach the County for answers as to their submission requirements and time frames. The secretary also referred Hank to the submission requirements checklist attached to the site plan application for guidance. Janet also commented that while the applicant may be trying to minimize engineering expenses up front, the matter will be submitted for review by the board's engineer and if the plans are insufficient it will only delay matters. Hank debated the expense versus the possible profit and the chair stated that the board would request a preliminary site plan be submitted for consideration of a use variance. The chair stated that the applicant could also revise his plans so a variance is not needed. Ken Mills asked if it was a state requirement that a site plan be submitted for a use variance. Kerry stated no but the board has historically asked for plans to be submitted so it could better evaluate the request. Janet stated that sooner or later a site plan is going to be needed if development is to occur and if problems can be resolved when considering the variance, it helps the applicant.

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

Meeting adjourned at 9:08 PM.

Tape is on file.

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