

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**July 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, Craig Greenwood, Janine Miller , and Joe Della Penna.

**ABSENT:** Patricia Manzi and Don Deitz.

**OFFICIALS:** Board solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

**MINUTES**

A motion was made by Ed Smyth, seconded by Ken Mills, and unanimously approved to adopt the minutes of June 19, 2008 as distributed.

**PUBLIC HEARINGS:**

**Variance Application by Renee and Thomas Azelby, 706 Thomas Avenue, Block 1200, Lot 4, for variances to construct an addition and reconstruct a fence on a corner property.**

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. There were none. Following conclusion that all jurisdictional requirements had been met, Janet Zoltanski Smith stated the hearing could proceed. The applicants, their architect Walter Croft, and contractor Elmer Adams were sworn in. Janet reviewed the sections of the code which required variances being granted. The plans expand an existing nonconforming structure. The home is an existing nonconforming structure due to side yard and front yard setbacks, and the front lot line footage is nonconforming. The fence being replaced is now an existing nonconforming fence due to corner property setback requirements. Asked by the board, Mr. Croft testified that lot coverage was not an issue. Mr. Croft reviewed the plans for the addition and the fence. The kitchen and mud room will be expanded and a master suite and guest room will be constructed on the second floor. The existing style and character of the house will be maintained. The fence will be similar in style, height, and location as the existing fence – portions to be removed for the construction and the need to replace the deteriorated existing fence. The new fence may be vinyl instead of wood. Janet recalled that her firm was the board's solicitor at the time the original fence was approved but could not recall the details. Ed Smyth stated he was on the board and recalled the hearing for the existing fence. Following discussion, it was agreed that the hearing be recessed so the applicants could retrieve the original documentation. A motion was made by Joe Della Penna, seconded by Craig Greenwood, and passed unanimously to recess the hearing to allow the applicants to retrieve their copy of the original fence resolution.

The hearing resumed after the Sherrer hearing and Janet had reviewed the original resolution concerning the fence. Janet reviewed that the resolution, 98-2, provided an interpretation that the existing fence did not require a variance for the rear yard but required and granted a variance for the side yard portion of the fence along the side of the house. Janet thanked the applicants for retrieving the original resolution. Subsequent changes to the code have rendered the entire fence nonconforming. Since it is being replaced with a different material, variances are required. If the existing fence was replaced in kind, variances would not be required. There was no further discussion or questions on the residence plans. The applicants were asked to describe the planned fence. They stated they wished to replace the fence with a similar style, vinyl or wood fence along the same lines as the current

fence. The fence would be a five-foot shadow boxed privacy fence near the house decreasing to a four-foot open picket style fence enclosing the rear yard.

**Public Comment** – The chair asked for a motion to open the matter to the public. Ken Mills motioned and Joe Della Penna seconded opening the hearing to public comment. There was none and Janine Miller motioned and Craig Greenwood seconded to close the hearing to public comment.

**Deliberation** – The chair stated that unless there were any further comments or questions, he would entertain a motion on the application. He felt and there was no objection from the board or Janet that the fence and the addition should be addressed separately. The board agreed to address the fence first. Following suggestions and guidance from Janet, Ken Mills motioned and Joe Della Penna seconded that the board grant a variance permitting reconstruction of the existing fence with a new fence in the same location as the existing fence, with the same heights and scalloped styles, to be of wood or vinyl, with open spaced pickets along the rear yard and shadow boxed privacy along the side of the house from the front porch to the rear of the home. There was no further discussion and the motion was approved by a poll vote of 7 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mills	aye	Mr. Corbi	aye
Mr. Greenwood	aye	Mrs. Miller	aye
Mr. Della Penna	aye		

Mr. Brandt stated he approves even though he is not sure a variance is needed for the fence but because the original fence was subject to a variance and he understands the hardship created of small children along a street.

Mr. Smyth excused himself from the meeting. The chair reviewed that he feels the minor nature of the expansion should not require a variance but the code requires it. The chair noted for the record that there were no members of the public present and he would forgo opening the hearing to public comment. There being no further comments or questions from the board and following guidance from Janet, a motion was made by Janine Miller and seconded by Bill Corbi to approve the expansion of the nonconforming structure allowing the addition as proposed which does not increase the nonconformity nor create a nonconformity. There was no discussion and the motion was approved by a poll vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Corbi	aye	Mr. Greenwood	aye
Mrs. Miller	aye	Mr. Della Penna	aye

Mr. Brandt stated he approves for the reasons previously stated and that the code requires it.

**Variance Application by Austin and Amy Sherrer, 3 Seventh Street, to replace a fence on a corner property**

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Ken Mills recused himself and stepped down since he was a notified property owner. Following conclusion that all jurisdictional requirements had been met, Janet Zoltanski Smith stated the hearing could proceed. The applicants were sworn in and testified they wished to replace an existing four-foot deteriorated chain link fence with a new wood or vinyl privacy fence. The new fence will be in the same location of the existing fence which is nonconforming due to the corner lot setback requirements for fences. There is a pool in the rear yard and the applicants wish privacy from the street as well as additional height for screening to discourage children from being tempted to gain access to the pool. The pool requires a fenced enclosure for security and insurance reasons. They wish to retain the maximum use of the rear yard and meeting current setback rules would cut their rear yard almost in half. The size of the pool would also in effect provide no usable back yard space. Under questioning, the applicants testified they planned a scalloped solid stockade style fence no higher than five feet at its maximum with a double gate on either side of the house. There will be no gate on the Elm Terrace side. The current location of the fence is set back far enough from the street to not cause any sight triangle issues and there are no driveways near the fence. While the applicants may be willing to compromise on the final style, they prefer the privacy and security offered by a solid fence. They are currently thinking of cedar but vinyl is also an option. Janet commented the current appealing vista will be blocked. The chair would prefer some openness since

the fence is close to the street. Janine commented that the privacy helps dissuade kids from being tempted to access the pool. The chair feels any approval should contain a description of the approved fence and prefers that the new fence not be chain link. The applicants concluded they would like approval for a scalloped, maximum five-foot, solid or spaced, wood or vinyl fence along the existing fence line.

**Public Comment** – The chair asked for a motion to open the matter to the public. Janine Miller motioned and Craig Greenwood seconded opening the hearing to public comment.

- Ken Mills, 105 Midway, complimented the applicants on their maintenance and improvement to the property. He feels they are good neighbors, does not feel the proposed fence will detract from the neighborhood, and trusts them to install a fitting and quality product.

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

**Deliberation** – The chair stated that if there were no further questions or comments from the board he would entertain a motion on the matter. Janet suggested a possible motion which would both approve as well as suitably describe the fence. Janet with board input suggested the board might approve a variance to allow construction of a fence in the same location as the current chain link fence along Elm Terrace and returning to the rear corner of the house, to be constructed of wood or vinyl, to be scalloped along the top with a maximum height of five feet, and to be solid or spaced pickets. Craig Greenwood motioned the application be granted as suggested and Janine Miller seconded the motion. There was no further discussion and the motion was approved by a poll vote of 6 to 0 with one recused as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mills	recused	Mr. Corbi	aye
Mr. Greenwood	aye	Mrs. Miller	aye
Mr. Della Penna	aye		

The chair stated he feels the variance will replace an existing nonconforming fence with one of higher quality, the fence will not detract from the neighborhood, and he understands the hardship of ensuring adequate security. Mr. Smyth feels it will further enhance the neighborhood.

Mr. Mills rejoined the board.

## **OLD BUSINESS**

**Adopt and memorialize resolution Case # 2008-05, regarding Variance Application by Suzanne and Barry Wells, 304 Eighth Street, Block 1301, Lot 10, approving relief from the side yard setback requirements on a corner property to reconstruct the historic porch on their home** – The chair asked if everyone had received and reviewed the resolution and if there were any comments or questions. There were none and Ken Mills moved and Janine Miller seconded that the resolution referenced by title be adopted as written. The voice vote was unanimous of those members eligible to vote.

**Adopt and memorialize resolution Case # 2008-06, regarding Variance Application by Gary Lamon, 2101 Berwick Drive, Cinnaminson, NJ, for the home at 706 Main Street, Block 1104, Lot 5, denying a variance for a front yard turn around to the driveway and approving the erection of steps to a side door that encroach the side yard setback contingent the steps do not preclude a driveway to the rear of the property** – The chair asked if everyone had received and reviewed the resolution and if there were any comments or questions. There were none and Ken Mills moved and Bill Corbi seconded that the resolution referenced by title be adopted as written. The voice vote was unanimous of those members eligible to vote.

**Planning Board & Council Matters** – The secretary reviewed that due to the late hour of the planning board meeting all old business was tabled. Ken reviewed the status of Mr. Brandenburger’s application for a bank at the Broad Street/CVS center and the subdivision hearing on Cedar Street that was approved contingent that an existing deed restriction be removed. The main issue from the public was not the proposed subdivision but what might be constructed on the new lot. They were concerned by the size of the home that was built on Eighth Street.

**Escrow Shortages** – The secretary stated the subject was tabled by the planning board for the reason stated above.

**CORRESPONDENCE**

- There was none.

**NEW BUSINESS**

- **Vouchers and Invoices** – there were none.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 9:20 PM (motion by Bill Corbi, second by Craig Greenwood).**  
**Tape is on file.**

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