

RIVERTON BOROUGH ZONING BOARD
MINUTES
June 19, 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, and Janine Miller.

ABSENT: Don Deitz, and Joe Della Penna.

OFFICIALS: Substitute board solicitor Chuck Petrone of Raymond and Coleman, Councilman William Brown and Secretary Ken Palmer were present. Mr. Petrone was present due to the absence of Mrs. Smith.

MINUTES

A motion was made by Ken Mills, seconded by Patricia Manzi, and unanimously approved to adopt the minutes of May 15, 2008 as distributed.

PUBLIC HEARINGS:

Variance Application by Suzanne and Barry Wells, 304 8th Street, Block 1301, Lot 10, for relief from the side yard set back requirements of a corner lot to construct a porch.

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, Mr. Petrone stated the hearing could proceed. Mrs. Wells was sworn in and provided a brief history of the home and stated they wished to reconstruct the front porch that was originally on the home. The plans are to reconstruct the porch as close as possible as originally existed. The porch will extend approximately 18" past the side of the home. Because the home already sits within the street-side side yard setback for a corner property, a variance is needed. The encroachment will be less than the existing side door steps of the home. During research, the footers of the original porch were found to verify the placement of the planned reconstruction. The ARC has reviewed and approved the plans. The chair asked if the porch will comply with the required front yard setback and the answer was yes. Ken Mills stated that the side street Lippincott Avenue is a small street in this area of town. As far as a hardship, the chair stated that he feels it exists because the house is where it is and without the variance the historic character of the plans can not be achieved.

Public Comment – The chair asked for a motion to open the matter to the public. Ken Mills motioned and Bill Corbi seconded opening the hearing to public comment. There was none and Ken Mills 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. There was no comment and Ken Mills motioned that the application for the porch be approved as submitted and the variance be granted. The motion was seconded by Janine Miller and approved by a poll vote of 7 to 0 as follows:

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

Mr. Brandt stated he favors the application for the reasons previously stated regarding the plans are to restore a historic piece of the property. Mrs. Wells thanked the board and asked about timeframes before construction could begin. She was informed that they would proceed at their own risk if they commence construction prior to the time period expires for appeals to the approval. It was stated that since there has been no opposition, it was probably rare that there would be any opposition in the future.

Variance Application by Gary Lamon, 2101 Berwick Drive, Cinnaminson, NJ, 08077, for the new home at 706 Main Street, Block 1104, Lot 5, to construct a county mandated front yard turnaround to his driveway and for side yard setback relief for the landing and steps to comply with building code requirements as to size of the landing.

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Craig Greenwood stated he would recuse himself from the matter and stepped down. Following conclusion that all jurisdictional requirements had been met, Mr. Petrone stated the hearing could proceed. Gary Lamon was sworn in. Gary testified that since the home is along a county highway he submitted the plans for county approval. The county has stated there needs to be provisions for a turnaround to avoid having vehicles back out onto the busy street. There are no plans to have a driveway past the front of the home, so a turnaround is needed in the front yard. The steps and landing to the side door were not on the original plans. When the steps were added the size required by the building code will extend into the side yard setback by approximately 9 to 10 inches. The applicant plans to replace an existing driveway strip with a new 10 foot wide concrete drive. A picture marked as A1 was submitted showing the existing driveway on the vacant lot before the home was erected. The chair reviewed the applicable sections of the code involved particularly that front yard parking is not permitted. The chair also noted that as a professional, the applicant should have been aware of the code requirements before constructing the home. Asked why he could not extend the driveway to the rear of the property, Mr. Lamon stated he was not sure if there is sufficient room with the side entrance landing and it may be too close to the gas meter. Asked about removing the side entrance, Mr. Lamon stated that would be a hardship. He was informed that a created condition can't be deemed a hardship. The chair, while agreeing that front yard parking may exist on existing homes, stated that the code now discourages this. Kerry also stated that regardless of what it is deemed to be used for, the area will end up being used for parking. The chair agrees with the county that a turnaround is needed for safety. Reviewing the plans, Ken Mills asked if there is room to provide a driveway to the rear even with the steps. Bill Corbi stated that there appears to be approximately 9' 2" available for a driveway. The applicant stated that an existing tree prevents locating the driveway on the other side of the home. It was discussed that the gas meter could be moved or adequately protected. The chair stated he would like to consider the two variances separately since the ability to erect the steps might be contingent on whether a driveway to the rear of the property can be constructed. As far as demonstrating a hardship, the chair as well as Mr. Petrone stated that self created conditions or financial reasons cannot be considered hardships. Ed Smyth stated that while he feels for the applicant, he agrees with the chair that the plans should have considered all the code requirements.

Public Comment – The chair asked for a motion to open the matter to the public. Ken Mills motioned and Bill Corbi seconded opening the hearing to public comment.

- Frank Breece, 704 Main Street, asked if county requirements supersede Borough Codes. The answer is yes when a county road is involved. He does not want front yard parking but feels a doublewide drive could be constructed. Janine stated the turnaround in the front will not solve the problem since it will be used for parking, if not at first, eventually. Also there will be better resale value if the turnaround/parking is in the rear and not the front.
- Donna Kirkland, 405 Midway, asked why the home was allowed to be located so far back on the property when all the other homes are uniformly closer to the street. The chair replied that the code does not prevent it. There is only a minimum requirement. The reason given for the location was that this is a modular constructed home and the erecting crane could not place the home closer to the street. The chair stated this is the type of occurrence that can demonstrate the need to revise the code.
- Shirley Kinsey, 708 Main Street asked why the new driveway couldn't be as it was. Most of the people now

living along this area of Main Street all back out. Mr. Petrone replied that with new construction, the county can step in and mandate conditions along its roads.

There was no further public comment and Ken Mills motioned and Janine Miller seconded to close the hearing to public comment.

Deliberation – The chair commented that he feels it is best to consider each of the two variances separately. While the steps are a self imposed condition, the variance is minor. The front turnaround is another issue. He wants to consider the steps first and reviewed the section of the code. Ken Mills motioned that a variance to Section 128.16 be granted to allow the steps to encroach into the side yard setback leaving no less than a 9’2” setback. Pat Manzi seconded the motion. Ed Smyth thinks the order of consideration is important and is concerned approval of one might preclude approval of the other. Kerry feels the variance just allows the steps. It doesn’t mean they can be built. Mr. Petrone suggested that the front drive variance be considered first. If that variance is denied, the side steps, if approved, should be conditioned that they can’t prevent a driveway to the rear. If they do, then the steps can’t be built. Ken Mills retracted the motion. Section 128.52 regarding the driveway was reviewed. The board doesn’t know if there is room for the driveway if the steps are built; however, experience would indicate a driveway can be installed.

Ken Mills motioned that the board deny the variance to Section 128.52 for a front yard turnaround as shown on the drawings. Bill Corbi seconded the motion. It was discussed that denying the variance would not preclude the applicant extending the driveway to the rear and constructing a turnaround in the rear yard. The motion to deny the variance was approved by a poll vote of 6 to 0 with one recused as follows:

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

The chair stated he voted to deny the variance because he feels if allowed it will permit front yard parking which can lead to less than desired results. He strongly suggests the driveway with the turnaround be placed in the back yard. Mr. Smyth concurred saying the public also objects to front yard parking.

Ken Mills motioned that a variance to Section 128.16 be granted allowing the side steps to encroach 10” into the setback area subject to the condition that if a driveway cannot be built to the rear with the steps in place, then the steps are not permitted so the driveway can be constructed. The motion to approve the variance was approved by a poll vote of 6 to 0 with one recused as follows:

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

The chair stated he feels the variance will have minimal impact since there is landscaping between the properties and also a driveway on that side of the adjoining property. He also feels the dimensions will permit the driveway to be constructed. Mr. Greenwood rejoined the board.

OLD BUSINESS

Adopt and memorialize resolution Case # 2008-04, regarding Variance Application by Carlos Guzman, for Extension of the Waiver or Relief from Ordinances 22-16 and 128-97 (Expiration of Variances) for approved twins on 8th & 9th Streets, Block 1700, Lots 2.01, 2.02, 2.03, and 2.04 – 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 Pat Manzi 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 – Councilman Brown briefed the members on the highlights of the recommendations made by the mayor’s zoning task force for zoning code revisions including a possible new R20 zone, establish both minimum and maximum front yard setbacks, provisions to strengthen historic preservation, and prohibiting demolition of historic structures solely to permit subdivision and construction of new dwellings. Ken Mills asked if these are concrete or if there will be a public forum on them. It was explained that these are just recommendations. The planning board, if charged, will craft ordinance(s) to provide new and revised sections to implement the recommendations. The secretary added that temporary signs will also be included. The zoning board’s recommendation that side yard setbacks of accessory buildings in rear yards was not considered at this time.

Escrow Shortages – The secretary briefed the board on the planning board’s concerns over escrow shortages and the ability to collect when an application is withdrawn or denied. Increasing escrow requirements, higher fees, or provisions to not permit a hearing to continue if escrow is not sufficient are among issues being considered.

CORRESPONDENCE

- There was none.

NEW BUSINESS

Vouchers and Invoices:

- 6/11/08, Janet Smith \$409.50, for professional services provided 5/15-6/9 regarding the Cedar lane Mews/Guzman application. PAY FROM ESCROW
- 6/11/08, Janet Smith \$416.50, for general professional services to board and Code Enforcement Officer 5/15-6/10 and May meeting attendance.

Ken Mills motioned, Janine Miller seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

Refund of Unused Escrow – The secretary reviewed that he has received a request for a refund of \$30.23 unused escrow from Mr. and Mrs. VanSciver, 431 Elm Avenue. There are no outstanding charges or any projected future charges. A motion was made by Ken Mills, seconded by Bill Corbi, and unanimously approved to authorize the refund of any unused escrow funds.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated that he did not feel it necessary to go through the motions to open and close the meeting to the public since there were no members of the public present.

**Meeting adjourned at 9:08 PM (motion by Ken Mills, second by Bill Corbi).
Tape is on file.**

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