

RIVERTON BOROUGH ZONING BOARD
MINUTES
May 15, 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 7:35 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, Patricia Manzi, Craig Greenwood, Janine Miller, Don Deitz, and Joe Della Penna.

ABSENT: William Corbi.

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

MINUTES

Ken Mills noted that his vote on the 618 Main Street application was incorrectly listed. He voted to approve the application. The secretary stated he would correct the minutes. A motion was made by Janine Miller, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of April 17, 2008 as amended.

OLD BUSINESS

Adopt and memorialize resolution Case # 2008-02, regarding Request for Interpretation of Zoning Map by Robert Recchiuti, 101 Lippincott Ave. – The chair asked if everyone had read the resolution and if there were any comments or questions. There were none and Ed Smyth moved and Janine Miller seconded that the resolution be adopted as written. The voice vote was unanimous of those members eligible to vote.

Adopt and memorialize resolution Case # 2008-03, regarding Variance Application by Sheryl A. Telford and Mark Grocott of 618 Main St. (Block 1102, Lot 8). – The chair asked if everyone had read the resolution and if there were any comments or questions. There were none and Pat Manzi moved and Ed Smyth seconded that the resolution be adopted as written. The voice vote was unanimous of those members eligible to vote.

Planning Board & Council Matters – The secretary reported that the planning board is scheduled to hear the Recchiuti matter next week. The chair updated the board on progress of the mayor's task force on the zoning code. The task force hopes to make its report to Council in June. The secretary stated that as far as he knew, 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.

CORRESPONDENCE

- Copy of Revised Residential Site Improvement Standards from the State – given to the chair.

PUBLIC HEARING:

Variance Application by Carlos Guzman, PO Box 380, Totowa, NJ 07511, 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 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 stated the hearing could proceed. The applicant's attorney Thomas Ehrhardt stated that the applicant would testify. Mark Guzman was sworn in.

Testimony – Mr. Ehrhardt reviewed that the application was filed under Cedar lane Apartments, LLC. Mr. Guzman is the sole owner of the LLC. Mr. Ehrhardt reviewed that in October 2007, the board had granted extensions to the expiration dates for commencing and completion of the project connected with the approved site plan and subdivision to construct four residential units as two twins. The variance to commence construction expired April 30, 2008, and the completion variance will expire 1/31/2009. At this time the applicant has not been able to obtain all the required approvals and sign offs that will allow him to obtain permits to commence construction. The applicant is seeking a further extension of the variances. The applicant has applied to the state DEP for a Letter of Interpretation regarding the wetland line on the site plan and is also attempting to begin construction under the current stream buffer laws. A pending change to the buffer zone for the creek adjoining his property may further change his ability to construct the homes where he has planned. Testifying to questions from Mr. Ehrhardt, Mr. Guzman explained that he hired an engineer to prepare the final plans. The county has granted preliminary final subdivision approval as of 5/14/08 subject to a few conditions and he hopes to have the county soil erosion control plan approved by June 5. He has applied to the state DEP for an LOI, which while not required, he recognizes that only the DEP can verify the wetland and buffer lines on his plans and that verification comes via an LOI. Mr. Guzman stated that he wants all approvals before he goes forward. The chair reviewed the two date extensions granted last October and asked what dates the applicant was now requesting. Mr. Ehrhardt explained that they are at the mercy of the state and county as to when they will offer their decisions and are perhaps looking for extensions based upon if and when they receive the approvals. The chair stated the board needs to think long and hard about the issues, the delay in commencing construction, and that if due diligence has been exercised. The secretary reviewed that the request for an LOI was filed in late April. Janine asked if the wetland lines have ever been verified and it was clarified that an LOI was never requested by the prior owner or the applicant until the current filing. Don Deitz asked and received clarification about the wetland lines and who or what agency can verify them. Janine asked if the pending change to the buffer requirements would impact the plans and the answer is it appears so. There were additional questions from the board to clarify the events and timeline for the events. The chair commented that there should be some limits applied to any extension and that they should not be open ended. Even if a favorable LOI is received, the issues surrounding the impact of the reclassification of the creek and new buffer requirements may further delay the process. Ed Smyth asked the applicant to clarify what he would do if the extensions were granted. It was agreed that it was difficult to pin down when the LOI would be issued. Janet commented she thought that if a favorable LOI was received the applicant was close to getting everything completed to allow permits be issued. However, an unfavorable LOI would further complicate matters. The secretary reviewed the basic state process and timeline included in the LOI application. Mr. Guzman hopes the board would grant an extension that would not result in his having to come back to the board again solely because the state caused the delay. Mr. Guzman hopes, if the board isn't inclined to leave the start date open ended pending state approvals, that the board might consider granting an extension to start construction by the end of the year with completion a year later. There was no additional testimony or questions from the board.

Public Comment – The chair asked for a motion to open the matter to the public. Ken Mills motioned and Don Deitz seconded opening the hearing to public comment. All persons were sworn in before commenting.

- John Laverty, 616 Main Street, feels it is incumbent on the applicant to regularly update the board with progress reports. He feels the state issues must be resolved first since it would be poor for the Borough to allow the applicant to commence building and then the state says no. He feels a tighter time frame should be adhered to and not to look too far into the future. He also questions if due diligence has been exercised.
- Richard Wagner, 802 Cedar Street, commented he before the apartments were constructed the land was used to dump trash and is concerned about coal tar issues. He is also concerned about the impact of the 100 year flood plain and if the ground under the proposed building sites is solid and suitable for construction.

There was no further public comment and Ken Mills motioned and Joe Della Penna seconded to close the hearing to public comment.

Deliberation – The chair commented that this has been a difficult project from the start requiring numerous use and bulk variances. The board has granted extensions once and needs to carefully consider continuing to grant extensions. He has a hard time agreeing that due diligence has been exercised during the current extension period. Ken Mills feels any extensions should key off receipt of the LOI. Craig feels the LOI is needed first and then the dates decided. Pat Manzi asked if the board was considering not setting a start date until the LOI is issued. The chair replied that if there is no extension, the project is over. He feels the board owes it to the applicant to not drag out the process, have him spend additional large sums, and then vote no. The board needs to determine a reasonable time. It should not leave it open ended. He prefers a firm completion date with a suitable time period to allow for a flexible start date. Janine Miller feels the board owes it to the applicant to give him time to start construction. Joe Della Penna feels everything hinges on action by the DEP. Joe Della Penna motioned and Janine Miller seconded to reopen the hearing to the public to allow Mr. Laverty to offer an additional comment regarding time frames. Mr. Laverty suggested that the start date be left open and the applicant be required to at a minimum supply a written progress report every 90 days from the professionals on progress of obtaining all the approvals and signoffs needed. If all the approvals, submissions and signoffs are obtained, then a firm start date can be set. There was no further comment and Ken Mills motioned and Joe Della Penna seconded to close the hearing to public comment. The chair asked if the board was prepared to offer a motion on the matter. Ken Mills motioned that the board grant an extension of the start date for construction until 12/31/08 with a completion date of 12/31/09. Pat Manzi seconded the motion. Joe Della Penna suggested that a sixth month extension to start construction be approved and one year to complete construction. The chair feels a longer start date with a shorter completion date is preferred. He suggested a start date of 12/31/08 with a completion date of 9/30/09. Ken Mills amended his motion to require a start date of 12/31/08 with a required completion date of 9/30/09. Janine Miller seconded the amended motion.

The motion was approved by a poll vote of 6-1 as follows:

Mr. Brandt	nay	Mr. Smyth	aye
Mr. Mills	aye	Mrs. Manzi	aye
Mr. Greenwood	aye	Mrs. Miller	aye
Mr. Deitz	aye		

Mr. Brandt felt that the board needs to uphold the rules of the borough. The seriousness of the variances granted require a careful consideration how long the board should continue to grant extensions. He does not feel due diligence was exercised and that conditions have sufficiently changed in town to warrant that the site plan needs to be re-considered. Mr. Smyth supports the extensions considering what Mr. Guzman has gone through to clean up the open issues left by the prior owner. Mr. Deitz concurs with what the chair stated; but, feels the extensions are warranted.

Mrs. Miller left the meeting due to a prior commitment.

NEW BUSINESS

Vouchers and Invoices:

- 5/1/08, Tamara Lee, \$360.00, review and testify at May meeting regarding interpretation of zoning map request by Robert Recchiuti, 101 Lippincott Ave. as it impacts his property. (PAY FROM ESCROW)
- 5/14/08, Janet Smith \$416.00, for professional services from January through 5/9/08 and April meeting attendance.
- 5/14/08, Janet Smith \$344.50, for work on the Cedar lane Mews/Guzman matter from 3/6/08 – 5/7/08. PAY FROM ESCROW
- 5/14/08, Janet Smith \$500.50, for work on the Rechiuti zoning map interpretation from 3/26/08 – 5/9/08. PAY FROM ESCROW
- 5/14/08, Janet Smith \$188.50, for work on the Telford variance application. PAY FROM ESCROW

Joe Della Penna motioned, Craig Greenwood 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

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 9:45 PM (motion by Craig Greenwood, second by Ken Mills).

Tape is on file.

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