RIVERTON BOROUGH ZONING BOARD
MINUTES
November 20, 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 7:40 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, Ken Mills, William Corbi, Patricia Manzi.

ABSENT: Edward Smyth, Craig Greenwood, Janine Miller, Don Deitz, and Joe Della Penna.

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

MINUTES
A motion was made by Ken Mills, seconded by Bill Corbi, and unanimously approved to adopt the minutes of October 16, 2008 as distributed.

PUBLIC HEARINGS:
Variance Application by Scott Mirkin and Jenny Woo, 707 10th Street, Block 1801, Lot 11, for variance to install double gate at driveway entrance, extend side yard fence 15 feet past front building line.
The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Following conclusion that all jurisdictional requirements had been met, Janet Zoltanski Smith stated the hearing could proceed. The applicants and their landscape architect Kerry Mentzer of the Essex Group were sworn in. Janet explained that with only four members present, a majority vote requires three out of the four votes and that the applicants could request a continuance until more members were present. The applicants stated they wanted to proceed. The applicants testified that the home is on a cul-de-sac on 10th Street. A copy of the survey with their plans highlighted was marked as exhibit A1. Their property abuts the creek and they have had a problem with people using their driveway as a turnaround and vehicles parked in the drive near the house. The wish to detract this activity and better designate that it is private property. They wish to install a three-foot high split rail fence along the side yard line that will extend 15 feet past the front of the house to tie into existing heavy shrubbery. They also wish to install a four-foot high, 12-foot split rail double gate across the foot of the driveway at the street. Both of these proposed constructions are not permitted under the fence code. They feel their plans are attractive and fit the neighboring area and also serve due diligence to delineate their property and that they do not wish people to enter their property uninvited. The 15 feet of fence beyond the front foundation line will extend an existing privacy fence that is being replaced with a new split rail fence. They are concerned vehicles could pull up under their deck and not be seen from the street. The applicants were asked if they considered erecting the fence closer to the house where a variance would not be needed and construct fencing to block access to the side and rear of the property. The applicants feel the proposed location of the gate will tie into shrubbery and involve less fencing and be more attractive than a lot more mass of fence across the large side yard area adjacent to the driveway. Additionally, the fence further back would not stop vehicles turning or stopping in their driveway. Jane tasked how they planned to keep people walking around the gate. The applicants testified that they only wished to discourage people and clearly indicate the property lines. They have done this with plantings that create a “soft” boundary along the front of the property. Following testimony that the privet plantings would eventually fill in more to clearly indicate that this is a barrier. When questioned if they feel the plantings will eventually fill in enough to be considered a hedge, the applicants agreed that is the case. The chair reviewed the code as it promotes openness and informed the applicants that a hedge is considered a fence and

therefore is also not permitted in the front yard. The chair reviewed that the purpose of the prohibition of front yard fences is to promote an open atmosphere of the town. The chair also reminded the applicants that they need to demonstrate a viable hardship if the variances are not granted and that the plans are not a detriment from the surrounding area. When asked, Kerry Mentzer testified that the privet plantings will fill in and grow to about a 6-foot height. The chair stated he is concerned plantings of that height will block sight lines to the street when exiting the driveway. It was suggested that tying the side yard fence on the one side to the front foundation and adding additional side yard fencing or planting shrubs and tying it to the front of the house with a gate for the driveway would provide the same desired lack of access to the deck and rear of the house. The applicants testified they feel their plans closely follow similar conditions already in town and they don't feel it is a detriment to the properties around their home. Their plan utilizes existing plantings and provides the least visual impact on the area. Mr. Mirkin feels his safety and privacy concerns are a legitimate hardship if the application is not allowed and that the plans are much less massive an intrusion than other discussed methods. The chair asked that since there is agreement that code provides that the privet plantings constitute a fence, if the applicants wished to amend their application to include the privet bushes. If they do not, then the plants will have to be removed. The applicants agreed to include the privet plants in the application. The chair noted for the record that there were no members of the public present and he would not ask to open the hearing to public comment.

The chair asked Janet for guidance. Janet stated the board could deny the entire application, or approve parts of it. The board can also seek conditions concerning the height of the shrubs. The chair granted that conditions in this area of the town are not the same as other traditional areas of the town. However, he feels that the intent of the code is to promote an open streetscape rather than everything locked up behind a wall. The chair summarized that he feels the applicants are asking for a variance to install 15 feet of three-foot split rail fence beyond the front of the house along the one side of the property, a variance to permit the privet plantings along the front property line, and a variance to install a 4-foot high, 12 foot wide split rail double gate at the foot of the driveway. The applicants agreed that this is what they are requesting. The chair asked if the board had any more questions or was ready to propose a motion. There were no questions and Ken Mills motioned that the board approve a 15 foot extension of three-foot high split rail fence beyond the front foundation of the house along the side of the property; permit privet plantings along the front line of the property to not exceed four feet high; and, to permit a four-foot high 12-foot wide split rail double gate across the foot of the driveway. Bill Corbi seconded the motion. Under discussion, the chair stated and other members concurred they felt four feet was too high. Kerry Mentzer testified that the shorter the height the more they will fill in. Privets are semi deciduous and not dense if allowed to grow higher. There was additional discussion on the height of the shrubs and Ken Mills amended the motion to limit the height of the shrubs to 30 inches. Bill Corbi seconded the amended motion. There was no further discussion and the motion was approved by a poll vote of 3 to 1 as follows:

Mr. Brandt	nay	Mr. Mills	aye
Mr. Corbi	aye	Mrs. Manzi	aye

Mr. Brandt granted that it is an irregular shaped property and conditions are different from the rest of the town. He stated he understood the concerns for safety and privacy. However, he did not feel a hardship had been demonstrated since other locations for the fencing and gate as discussed would provide the same results. He felt the plantings presented a safety issue and approval of the application may establish a precedent for permitting front yard fences. Mr. Mills felt the split rail construction promotes openness and is fitting for the conditions in that portion of the town. Mr. Corbi felt the section of Riverton is unique and the openness of the fence does not provide a walled effect. Mrs. Manzi also felt the ascetics of the plan were appropriate to that area of the town and creek area. Mr. Mirkin thanked the Board for its consideration in what was a difficult matter.

OLD BUSINESS

Planning Board & Council Matters – The secretary reviewed that the mayor's zoning code task force report will be presented to Council. The planning board will hold a public hearing on the revised Housing Element and Fair Share Plan on December 16 with plans to adopt the element and submit it to COAH as required to file its 3rd Round petition by 12/31/08.

Escrow Shortages – The secretary stated that all notices had been sent regarding shortage of escrow for variance applications and that payments were coming in. The secretary stated that there still had been no payments from Mr. Recchiuti. The chair reviewed that the current code does not provide for fees or escrow for interpretations of the zoning code or zoning map. He feels that this gives the impression that there is no charge for this service and does not provide for the board's professionals to be paid by an applicant for services directly connected to the interpretation request. The chair feels that the board's solicitor and planner need to be paid for their services in the Recchiuti matter and he asked for a motion to pay them from the board's professional expense budget account. The chair felt there were sufficient funds available and will request transfers if necessary. Pat Manzi motioned and Bill Corbi seconded that the professional expenses of the board's planner and solicitor in connection with the interpretation of the zoning map by Mr. Recchiuti, 101 Lippincott Avenue be paid from the board's general budget. The voice vote was unanimous.

Mandatory Education – The secretary reviewed that the final course offerings by NJPO for this year are complete and he will keep the members apprised of future offerings.

CORRESPONDENCE

- Request for 2009 budget from Mary Longbottom.

NEW BUSINESS

Vouchers and Invoices

1. 11/14/08, Janet Zoltanski Smith, $351.00 for general professional services 6/26/08-11/13/08.

Ken Mills motioned, Bill Corbi seconded, and the vote was unanimous to pay the invoice as presented. The secretary will make sure it is signed and submitted for payment.

2009 Budget – The chair stated he would submit the budget request by the December 1st date after he received additional details from Mary Longbottom and Betty Boyle.

Pending applications – The secretary briefed the board on three possible applications that may be submitted shortly. One of these would be for a use variance concerning an apartment building.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

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

Meeting adjourned at 9:10 PM (motion by Ken Mills, second by Pat Manzi).
Tape is on file.

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