

**RIVERTON BOROUGH PLANNING BOARD  
MINUTES  
October 20, 2009**

The Public Session of the Planning Board was called to order at 7:00 PM by Vice Chairman Joseph Creighton. Public Notice of this meeting pursuant to the Open Public Meetings Act has been given in the following manner:

1. Posting notice on the official bulletin board in the Borough Office on January 21, 2009.
2. Required Service of notice and publication in the Burlington County Times on January 22, 2009.

**PRESENT:** Joseph Creighton, Muriel Alls-Moffat, Armand Bianchini, Mayor Robert Martin, Councilwoman Suzanne Wells, Mary Lodato, Joseph Threston, and Cheryl Progin.

**Also Present:** Solicitor Tom Coleman, Planner Tamara Lee, and Secretary Ken Palmer.

**ABSENT:** Joseph Katella.

**MINUTES:** A motion was made by the mayor and seconded by Joe Threston to adopt the minutes of the September 15, 2009 regular meeting as distributed. The voice vote was unanimous.

**CORRESPONDENCE/ANNOUNCEMENTS**

1. 10/14/09, copy of letter to Borough and COAH, from Beth and Gene Burgess Properties LLC. owners of 204 Main Street responding to 9/29/09 letter from COAH.
2. 7 vouchers/invoices as presented under New Business.

**OLD BUSINESS**

**COAH Matters** – Tamara reviewed developments since the last meeting. Tamara reviewed her 9/17/09 memo regarding the teleconference with COAH:

- COAH will accept the Vacant Land Adjustment (VLA) from Round Two.
- The proposal for the National Casein property will not be accepted primarily because the state legislature passed a new law which states you cannot assess nonresidential development with affordable housing which is what was being proposed.
- The housing plan must contain a provision for family affordable units and that group homes don't count towards that provision.
- COAH wants 50% of any plan to be family affordable units.
- To possibly reduce the number of mandated units, the Borough must file a Workbook C and COAH feels this may result in a significant reduction in the Borough's case.

Tamara reviewed that the idea being considered by the board to provide one group home and one accessory unit would meet the 50% family unit requirement but only if the board can get COAH to agree to reduce the number of units from the current ten. The Workbook C filing consists of three parts. First is a certification by the Borough Construction official that the number of certificates of occupancy issued since 2004 for new residential on record with the state is correct. Tamara stated the state only shows two and that she feels that may be incorrect. The other two portions of the filing consist of an assessment of both residentially zoned and non-residentially zoned vacant properties and whether or not they qualify as developable for COAH housing. Round Two did not breakdown the assessment between residential and non-residential properties. Suzanne asked if COAH is willing to accept the Round Two VLA, how can require the Borough to essentially go through the same process again. Tamara responded that in addition to the new requirement to differentiate between residential and non-residential, COAH feels that a significant amount of redevelopment and development has occurred in the state since round two and they want to make sure that any assessments are still valid.

Tamara then provided an overview of the 9/29/09 review letter from COAH which:

- Reviewed the numbers for the Borough.

- Basically accepted the rehabilitation portion of the proposed Fair Share Plan which is to be administered through the county; but, they have a problem with the county's stipulation that they will only handle owner occupied buildings and does not handle rental properties. COAH wants the Borough to provide for the rehabilitation of rental properties.
- COAH continues to support the plan to fulfill the unmet need by the overlay zone placed on the golf course property.
- COAH recognizes the Martha's Lane affordable housing zone; but wants the number of lots changed from 7 and 2 to 8 market rate and 2 COAH units.
- The letter rejects the proposed affordable housing zone for the National Casein property.
- Rejects the 204 Main Street proposal since the owner has decided not to participate.
- Rejects the Baptist Home proposal since negotiations have broken off.

Tamara stated that the most recent correspondence with the owners of 204 Main Street indicate they are still interested; however, the Borough may not need all the units, there are insufficient funds for all the units, and a determination between needed vs. minimal repairs is needed. The board needs to get the construction official to provide an assessment of the repairs needed. Muriel is concerned the residents will not support the possibility of increased density housing.

Tamara stated the board needs to decide on viable options she can pursue to put together the revised plan. Tamara feels the Workbook C filing should be pursued since she feels it will positively result in a reduction of the mandated units. The board concurred. Tamara advised that the board okay her pursuing the accessory apartment approach as a means to craft a plan that included the option. Tamara reviewed the possible zoning changes needed and along with Tom recognized that given the reported response received to date for the proposal, it may not ever develop and down the line it may be ruled by COAH as no longer a viable option. Regarding 204 Main Street, the board decided that the option was worth at least one more attempt if the owners were still interested especially since it could provide a means to meet the affordable family component of the plan. The board directed Tom and Tamara to continue their contacts and if the owners agreed to the Borough's revised need for only some of the units, have the construction official assess the repairs needed and see if perhaps an agreement might be reached.

In conjunction with discussion of finding a means to provide affordable family units, the board recognized Jim Brandenburger owner of the Shoppes of Riverton on Broad Street. Jim explained that recognizing the Borough's ongoing efforts to come up with a workable proposal to provide units he had the idea that perhaps if he built residential units over the 10,000 square foot retail space in the center he could offer some of them as COAH units. He envisions providing 8 to 10 units over the stores and offering them for sale rather than renting them. He admitted he is not familiar with the COAH requirements or if the envisioned units would qualify. After further considering the idea over the past weekend, Jim stated he does not know if in reality he could make the idea work. He alluded to the fact that what he might need to be able to sell the units for is similarly available nearby in Palmyra Harbor; and, given that the Harbor's residential area is agreeably better than his proposed mixed use area, he really isn't certain that his idea is viable at all once the facts are fully analyzed. Jim concluded that in light of the more detailed analysis he has given the idea, unless the board thought such an option was really needed to satisfy COAH, he would rather consider the matter withdrawn; but, he had wanted to at least give the board a chance to hear the idea out. The board thanked Jim for taking the time to present his ideas to the board. The mayor asked if there was any truth to the rumor that Jim had purchased the old post office. Jim stated there was an offer on the table; but was not aware if it is a done deal yet. Asked if he wanted to share his ideas, Jim stated that while plans were not fully formed he envisioned retaining the post office building for permitted commercial retail uses and pursuing the necessary variances to subdivide the rear portion of the property fronting on Cinnaminson Street for residential development similar to the attached homes built next to Riverton Square.

The vice chair asked and was advised it was appropriate to open the discussion to the public. A motion was made by Suzanne Wells and seconded by Joe Threston to open the discussion of COAH options to the public and more particularly Mr. Brandenburger's proposal.

- Jeff Mack of Manor Court stated he thought the idea of apartments over stores was a bad idea at that location. Jim Brandenburger replied that as far as he was concerned the proposal was withdrawn. Jeff asked about rezoning the center property and Tamara replied that would be an option if the board had decided to pursue Jim's proposal. However, it is probably a non issue since Jim wishes to withdraw the proposal and there is a good chance COAH would not approve the idea. Suzanne stated that while one can never say never, she was not in favor of the idea at present. The mayor and Muriel also stated that they did not favor the idea.
- Nick Coletti of Manor Court asked that if Mr. Weber who owns the lots on Martha's Lane ever comes forward with a plan to develop the lots, how would it be addressed that Mr. Weber has never cared for the lots and that Manor Court property owners whose properties back up to the Weber property have for years maintained the lots to keep the weeds and brush under control. Mr. Coletti was advised to address maintenance concerns with the Code Enforcement Officer, Mrs. Lodato.
- Joe VanBernum of Manor Court asked for information about where the group home was located and an explanation was provided.
- Nick Coletti asked that besides income qualification what else is done to ensure that qualifications or controls exist to ensure residents of COAH housing are qualified. Tamara explained that it is a continuous administrative process that includes at least an annual review to make sure that individuals continue to qualify and that all requirements are followed. Jeff Mack inquired about the timeline constraints on the Borough. The timeline and process was explained and Tom Coleman stated that while not guaranteed, COAH has seemed fit to recognize that sufficient time is not being provided and has shown a willingness to grant up to 30 day extensions.

There being no further discussion, Joe Threston moved and Muriel seconded to close the matter to public comment.

To conclude the discussion, the board endeavored to provide definitive direction to Tamara and Tom to move things forward. The board asked that Tamara request an extension from COAH. Tamara should pursue the Workbook C filing and to provide guidance to the construction official for his needed part in the process. Tom should follow up with the owners of 204 Main Street to see if given recent developments there is any real interest and to pursue the things need to help bring the matter to fruition if that is an option. The board concurred with Tamara that she should pursue the group home/accessory family unit plan since Tamara still feels 204 Main Street is a long shot at best. The Borough should pursue an agreement or Memorandum of Understanding with Quality Management regarding the group home on Homewood to secure the COAH eligibility of the home. Asked how long the process might take, Tom stated that the memorandum could be finalized in 30 days as long as the parties were ready to proceed and the money would be available later if COAH approves the plan. The state should be approached to administer and help fund the rental portion of any rehab units since the Borough's funds will be essentially exhausted and the county will only administer owner occupied properties. Armand asked if the accessory units have been identified and he was informed that any actual units did not yet exist but the plan will provide how the Borough intends to provide them.

**Council Matters of Importance to the Board** – Suzanne reported that Council had requested the board's recommendations on how or whether to consider the proposed "Marlboro NJ" resolution regarding the court's Easthampton affordable housing ruling. Tom Coleman reported that it is almost an even split among towns deciding to support adopting a similar resolution and those opposed to adopting a resolution. Many of the towns who have adopted a resolution have chosen to not include the portion that calls for the legislature to abolish COAH. Following discussion it was decided the board recommends that Council adopt a resolution that calls for the legislature to address the apparent ability of the courts to mandate additional COAH housing over what has been approved by COAH. The board also feels that any resolution not include any request for the abolishment of COAH. Tom stated that Moorestown has adopted a resolution essentially identical to what the board recommends and that he would forward a copy to Mary Longbottom to use in preparing a draft for Council's consideration. Suzanne stated she had no information or indication of problems with the board's budget from Mr. Kinzler. Suzanne reported that following a presentation to Council it was announced the Borough would be receiving 100 trees to plant in the Spring. The mayor reported that the Borough tree lighting will be on December 4<sup>th</sup> and that the biennial house tour will be on December 5<sup>th</sup>. In addition, a charity fund raiser is being

held at Sacred Heart on October 25<sup>th</sup> to benefit a young member of the Borough stricken with cancer. The mayor asked that Tom Coleman had any input regarding the recent decision by Cherry Hill to settle a suit brought by a business owner who wanted to establish an adult business in the township. Tom replied he was closely monitoring a similar situation in Cinnaminson. Short of saying that there is nothing that can be done, Tamara stated that there may be ways to practically restrict such a business in Riverton. However, it may not be an easy process.

**Board Review of the Mayor's/Council's Task Force Report on Proposed Changes to the Zoning Code** – It was discussed that the board was going to consider revising the code regarding the side yards setback of accessory structures in the rear yard of a property. A copy of the portion of Palmyra's code that addresses the issue was to be obtained for review. Joe Threston stated he would obtain a copy of the portion of the code and have it available for the board to consider next month.

**Environmental Commission** – Joe Threston reported that he had attended the last two meetings and the only item of note was the commission's review of revisions/updates by the State DEP to the model stormwater ordinance and the impact on Riverton's ordinance. Any recommended changes will be presented to the board in November.

**Minor Site Plan Applications** – Mary Lodato reported that none had been submitted this past month.

**Delinquent Escrow Collections** – The secretary reported that there has still been no response from Mr. Recchiuti and that additional notices will be sent. Notices of any shortages on other accounts are sent as the secretary is notified. Regarding the \$820.00 due Stout & Caldwell on the Beneficial Bank application, the secretary reviewed for the board that the charges appear to be for work performed after S&C withdrew from the matter due to a possible conflict of interest. Councilwoman Wells concluded the discussion by making a motion seconded by Muriel Alls-Moffat that she would send a letter under Joe Katella's signature to S&C explaining why the amount will not be paid. The motion was unanimously approved.

**Mandatory Education** – The secretary reported that he shortly be providing the course information to the members that need to attend a course.

## **NEW BUSINESS**

### **Invoices and vouchers:**

1. 9/25/09, Stout & Caldwell Engineers, \$31.25, for review work through 9/6/09 on the MetroPCS site plan.  
PAY FROM ESCROW
2. 9/25/09, Stout & Caldwell Engineers, \$156.25, for review work through 9/6/09 on the Clearwire site plan.  
PAY FROM ESCROW
3. 9/25/09, Stout & Caldwell Engineers, \$93.75, for review work through 9/6/09 on the JRP Arch site plan.  
PAY FROM ESCROW
4. 10/5/09, Tamara Lee Planning LC, \$630.00, COAH Planning related work during September. PAY FROM TRUST FUND DEVELOPMENT FEES
5. 10/7/09, Raymond & Coleman, \$328.00, general business advice and attend the September meeting.
6. 10/7/09, Raymond & Coleman, \$45.00, for COAH related work during September. PAY FROM TRUST FUND DEVELOPMENT FEES
7. 10/15/09, Stout & Caldwell Engineers, \$218.75, for review work through 9/30/09 on Clearwire site plan.  
PAY FROM ESCROW

A motion was made by Suzanne Wells, seconded by Armand Bianchini, and unanimously approved to pay the vouchers as presented. The secretary will have them signed and submitted for payment.

**Revise Zoning Code Regarding Variance Needed When Expanding a Nonconforming Structure** – Joe Threston reported on a conversation with Janet Smith, the zoning board's solicitor, where she asked if there had been any action taken on the zoning board's recommendation that the code be revised to spell out when an

expansion of a nonconforming structure requires a variance. The zoning board has recommended that a variance not be required when the expansion does not expand or impact the nonconformity and otherwise would not require a variance. The secretary reviewed that the recommendation had been included in the zoning board's annual report to the planning board. Following additional discussion that the board would review the topic at the next meeting, the secretary stated he would resend a copy of the annual report to the members.

**PUBLIC COMMENT** – The vice chairman noted for the record that there were no members of the public present at this time.

**Meeting adjourned at 9:05 PM. (motion by Wells and second by Threston)**

**Next meeting is on 11/17/2009 at 7:00 pm in the Borough Hall.  
Tape is on file.**

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