

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
September 15, 2009**

The Public Session of the Planning Board was called to order at 7:02 PM by Chairman Joseph Katella. 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 Katella, Joseph Creighton, Muriel Alls-Moffat, 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: Armand Bianchini.

MINUTES: A motion was made by the mayor and seconded by Joe Threston to adopt the minutes of the August 18, 2009 regular meeting as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **8/20/09, announcement and invitation from the Housing and Community Development Network of New Jersey to attend a Housing Choices Showcase Bus Tour to hear about housing choices for low and moderate income residents in Burlington County. Tour is October 15, 8:30 am – 12:30 pm, deadline to RSVP is 9/25. Coordinated by Stephanie Blackwell of MEND.**
2. **9/14/09, copy of “Mayor’s Fax Advisory” from NJLM encouraging municipalities to write state legislators and: 1) request release to the public data regarding population projections, and 2) encourage a resolution to address the inequality of the court decision in Homes of Hope v Township of Easthampton.**
3. **3 vouchers/invoices as presented under New Business.**

OLD BUSINESS

COAH Matters – During the report on correspondence, Tamara was asked if the court decision on the Easthampton Township matter meant that even if a community has met all its COAH requirements; it was still subject to builder’s remedy suits. Tamara offered an opinion that this was not what is usually considered a builder’s remedy suit. As she understands the court’s ruling, the court determined that you can’t decide that what has been previously decided as always “inherently beneficial” is not just because the municipality has satisfied its mandated obligation. In this case, the board had based its denial on the decision that providing affordable housing was not “inherently beneficial” since the municipality had already satisfied its obligations.

Tamara reported that the planned conference call with COAH scheduled for today, 9/15, had been rescheduled to tomorrow, 9/16. However, COAH has initially responded to the “options” letter Tamara sent. COAH is not willing to waive the “family” requirement which means using the proposal to use the credits only from two group homes will not work. Tamara reviewed that while all current and proposed revisions for Round Three submissions have been based on the more expedient process of developing a plan that simply accepts COAH’s assessments; she is still concerned that COAH’s assessment does not appear to reflect the results of the Vacant Land Adjustment granted under Round Two. She has inquired of COAH what can be done to show that COAH’s assessment does not reflect actual conditions. COAH has suggested Riverton do a Gross Projection Adjustment (GPA). This is not a quick or cheap process and consists of three parts: 1) use past experience to project future growth which Tamara feels has already been done with the current submissions; 2) assess the development ability of vacant residentially zoned properties; and 3) provide a similar assessment of vacant non-residentially zoned properties. Tamara feels the vacant property assessments were done with the Vacant Land Adjustment made under Round Two which had reduced the number of vacant land parcels COAH had considered developable. Tamara stated she would like to try and convince COAH to recognize the Vacant Land Adjustment figures. The only hitch in this is a change for Round Three that now requires that any residential lot that can contain more

than one unit but less than five units must be defined as developable. Tamara feels that aside from property already zoned for affordable housing under Round Two, (the lots on Martha's Lane), there are no other vacant residentially zoned parcels capable of accommodating more than one unit. Aside from evaluating the employment projections of non-residential properties, Tamara feels she may be able to reduce the obligation from ten units to one or two additional units from the two required under Round Two; however, she feels the minimum COAH will probably accept is two additional units. Also, COAH appears to be sticking to the requirement that 50% of units are family qualified housing and 13% is very low income housing. The group home would satisfy the very low income requirement; but, the family provision remains to be met. One method of providing the family unit could be through an accessory apartment. Tamara feels that the combination of one accessory apartment and one group home would result in 4.75 credits which would exceed the two units that will probably be the minimum approved by COAH. Based on the current and projected availability of the Borough's Housing Funds, either a two group home proposal or a one group home and one accessory apartment proposal is all the funds will support. Muriel stated she has had no response regarding anyone willing to COAH restrict an existing accessory unit and she inquired why can't the Borough appeal to COAH that after all the continued attempts to jump through COAH's hoops to meet their demands, what exists is what exists and it cannot be changed. Tom Coleman stated that such an approach would probably result in decertification. Tamara ventured that while accessory apartments are currently restricted to the NB district, perhaps opening up the use to all residential districts might help such as permitting an owner occupied property to provide an accessory apartment and designate it as COAH qualified and make the owner eligible for the Borough subsidy. The mayor asked if this meant opening up development of new accessory units or could it be restricted to designating existing units. Tamara stated she was not aware of any COAH rules that would prevent such a restriction of existing versus new. Tom Coleman stated that all COAH wants to see is that such a unit is realistically provided for in the plan. Muriel stated among other probable strong objections from the town to creating additional density; she doesn't feel that, even for existing units, since COAH units must be marketed, the loss of a property owner's ability to control whom they make the unit available to would convince the owner to make the unit COAH eligible. Tamara concurred that while Muriel's assessment is possible; making the change could buy the Borough up to five or more years of breathing room since any COAH required plan revisions would not occur until after the periodic reviews showed the plan was not going to work. And, Tamara added, that with the ongoing political climate surrounding COAH, who knows what kind of requirements will exist in the future. Discussion continued as to why any ordinance changes are needed if the proposal would extend to existing units only. Tom and Tamara reviewed that new ordinances would have to be crafted meet COAH's requirements that the town's codes adequately provide for such a development. Asked what control the town has over having to grant requests for funding to providing more COAH accessory apartments than planned, Tamara reviewed that once a Spending Plan has been approved by COAH, a town cannot be required to fund requests for which the funds do not or will not exist. Asked what time frame is available to better consider such an ordinance change, Tamara and Tom explained that once COAH approves a plan, the town has 45 days to enact the governing ordinance(s). Tamara and Tom reviewed the entire submittal and approval process timeline. The steps needed to revise, adopt, and submit the revised Fair Share Plan, Housing Element and other legal requirements were reviewed. While a recognized and accepted timeline exists, COAH working on preparing a review letter that will declare the Borough not compliant and once the letter is released gives the Borough a specific deadline in which to respond. Tamara stressed that all the things needed to complete the process take time and she needs to be able to start the process sooner rather than later. Tamara stated she needs direction on how to proceed beginning with the rescheduled conference call tomorrow. Tamara suggested she propose the Borough intends to proceed with a plan that incorporates the one group home and one accessory apartment concept. Tamara will also attempt to get agreement to simplify the growth share assessment process and what is needed to do so based on the previously granted Vacant Land Adjustment and the experience projections already provided in the current submissions. Finally, she needs to present that she has been granted the ability to move forward in the most expeditious time frame possible to meet COAH's deadlines while still having the time needed to complete all the required legal steps. The board stated she should proceed along those lines and hoped for a positive response from COAH. The next steps will be considered at the next board meeting based on what develops between tomorrow and the next meeting. Tamara will keep the board informed.

Council Matters of Importance to the Board – Suzanne reported that last week the Borough had been included among the five communities spotlighted by the County’s River Route Committee during a River Line train tour of towns along the river front corridor. The other towns on the tour included, Burlington City, Beverly, Palmyra and Riverside. Joe Threston participated in the event and he gave a report on the details of the visits to each of the five communities. Joe felt the event was beneficial to the Borough. Suzanne stated that she had no recent update from Mike Kinsler regarding where the board stood on its budget utilization. She stated that Mike would have informed her if there were over budget concerns.

Board Review of the Mayor’s/Council’s Task Force Report on Proposed Changes to the Zoning Code – The board reviewed the revisions suggested for demolition requirements. Mary Lodato and Suzanne Wells lead the discussion. The board decided that formal definitions were needed for historically significant and architecturally significant structures. Joe Threston asked if the regulations would apply to every structure in every zone. It was decided that terms such as habitable or occupancy be added to the language to help qualify which structures being included. The proposed revisions were based on the revisions suggested by the Historical Society. The board authorized Tom Coleman to proceed to prepare draft revisions to the code based on the decisions made tonight. These revisions will go along with the previously requested draft for sidewalk signs. The draft code changes will be reviewed by Borough Solicitor Bruce Gunn who will present them to Council who, if satisfied, will refer the changes to the board for review and a hoped for recommendation that the changes be adopted by Council. Suzanne stated that the code revision tasks were completed except for considering the zoning board’s recommendation that the code be revised to address setback requirements specific to accessory buildings in rear yards. It was mentioned that Palmyra’s code contained such requirements and that it might be useful to review them when considering any changes. It was decided to obtain those requirements to review their suitability for including in any changes to Riverton’s code. Suzanne suggested that since the board had concluded considering the changes recommended in the Historical Society’s report, that she be authorized to request that Mary Longbottom have the society’s report removed from the Borough’s website. The board agreed to the request.

Environmental Commission – Joe Threston reported that there while he had not attended the last meeting, he planned on attending the two meetings scheduled before the board next meets. Joe stated he remains in contact with and receives updates and materials from Mike Robinson.

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

Delinquent Escrow Collections – The secretary reported that there has been no response from Mr. Recchiuti. Another notice will be sent to Mr. Recchiuti. There are no other serious delinquencies. Due to recent receipt of additional invoices for JRP Architects, that account may have recently again gone delinquent and that will be addressed.

Mandatory Education – The secretary reported that NJPO had released their Fall schedule and that the only sessions in South Jersey would be at the annual League of Municipalities Conference in Atlantic City in November. He will follow up with new members who have not taken the course.

NEW BUSINESS

Invoices and vouchers:

1. 8/31/09, Tamara Lee, \$1,125.00, for COAH Planning related work during August. PAY FROM TRUST FUND DEVELOPMENT FEES
2. 9/4/09, Raymond & Coleman, \$300.00, general business advice and attend August meeting.
3. 9/4/09, Raymond & Coleman, \$28.00, for COAH related work during August. PAY FROM TRUST FUND DEVELOPMENT FEES

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

PUBLIC COMMENT – Councilwoman Wells motioned and Joe Threston seconded to open the meeting to public comment.

- Frank Cioci inquired about the progress of possible COAH units being made available at the 204 Main Street apartment building. Muriel and Tom Coleman updated Frank on what has transpired and why it was probably not going to happen which included the discussion at tonight’s meeting regarding accessory apartments and funds availability. Tom Coleman also reviewed the details of discussions he has had with the owners.

There was no further comment and Muriel Alls-Moffat motioned and Joe Threston seconded to close the meeting to public comment.

Meeting adjourned at 8:13 PM. (motion by Wells and second by Threston)

**Next meeting is on 10/20/2009 at 7:00 pm in the Borough Hall.
Tape is on file.**

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