

RIVERTON BOROUGH ZONING BOARD
MINUTES
January 15, 2009

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, Craig Greenwood, and Joe Della Penna.

ABSENT: Janine Miller, and Don Deitz.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilman William Brown, and Secretary Ken Palmer were present.

REORGANIZATION - 2009

Reappointed members Ken Mills, Craig Greenwood, and Joe Della Penna were sworn in for their new terms by Janet Smith. Secretary Palmer reviewed that the mayor had appointed him, as a Borough employee, the secretary (with the board's acceptance) for 2009. Mary Lodato has been reappointed as the Code Enforcement Officer, and Councilman William Brown will be the board's council liaison. Kerry Brandt announced that Pat Manzi had recently informed him that she has decided not to accept reappointment to the board. Ken Palmer was asked to conduct the rest of the reorganization.

Chairman: Kerry Brandt was nominated by Ed Smyth and seconded by Ken Mills to serve as Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Vice Chairman: Ken Mills was nominated by Kerry Brandt and seconded by Bill Corbi to serve as Vice Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Ken Mills and seconded by Craig Greenwood to serve as the Zoning Board Solicitor for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Planner: It was agreed that the board should retain a professional planner on call for more complicated matters that may involve site plan issues. A motion was made by Kerry Brandt and seconded by Craig Greenwood that Tamara Lee of Tamara Lee Consulting LLC be appointed to serve the board as its planner on an on call basis for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Engineer: It was agreed that the board should retain a professional engineer on call for more complicated matters that may involve site plan issues. A motion was made by Kerry Brandt and seconded by Ed Smyth that Rick Arango of Remington, Vernick & Arango Engineers be appointed to serve the board as its consulting engineer on an on call basis for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Kerry assumed chairing the meeting.

MINUTES

A motion was made by Ken Mills, seconded by Bill Corbi, and unanimously approved to adopt the minutes of December 18, 2008 as distributed.

PUBLIC HEARINGS:

Variance Application by John and Gwen Lodise, 419 Elm Avenue, Block 701, Lot 25, for variance to expand a nonconforming structure to add a second story addition to the house.

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 were sworn in. The applicants testified that they wish to add a second story at the rear of the home to a portion of the their house. The addition will not change the footprint. It will be for a bedroom. A black and white photo of the existing house was introduced and marked as exhibit A-1. The existing house extends into the side yard setback and is only 5’ 6’’ from the property line. The addition will not extend that far. It will be the same as the existing first story portion of the home over which the proposed addition will be constructed. They testified that the location of the addition was best utilizing the existing floor plan and preserving the open space on the property. There was no further testimony. A motion was made by Ken Mills and seconded by Kerry Brandt to open the hearing to public comment. There was none and a motion was made by Ken Mills and seconded by Kerry Brandt to close the hearing to public comment.

There was no additional discussion and Kerry Brandt motioned that the variance be granted for a side yard setback of less than 10 as long as it is no closer than 5’ 6’’ from the side yard line or no closer than the existing structure whichever provides the least encroachment. Joe Della Penna seconded the amended motion. There was no further discussion and the motion was unanimously approved by a poll vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mills	aye	Mr. Corbi	aye
Mr. Greenwood	aye	Mr. Della Penna	aye

Mr. Brandt stated he does not feel there is any detriment to the public good, the addition does not further the encroachment, and it is common to build up from the existing structure when adding the type of planned addition. Mr. Mills felt it was the obvious place to add on to the home.

The chair explained the rest of the process regarding adopting the resolution and when permits can be applied for. Mrs. Lodise explained that she had originally hoped to have the permits granted a few months ago. Her delivery date for her baby is approaching and she wants to have construction completed before delivery. She also has a contractor lined up. She feels that having to wait until the February meeting will jeopardize completing the project before the baby is born. She asked if the board would consider holding a special meeting before the scheduled February date to consider the resolution. She has the ARC approval and the construction official is ready to sign the permits as soon as the resolution is adopted. The secretary reviewed that Borough Hall was available Wednesday, Thursday, or Friday of next week. Notice of a special meeting must be published a minimum of 48 hours before the meeting. The board discussed the issue and decided a quorum could meet Thursday, January 22, 2009. A motion was made by Ken Mills and seconded by Craig Greenwood that the board holds a special meeting on Thursday, January 22, 2009, at 7:00 PM for the purpose of adopting and memorializing the resolution for the application approved tonight. The voice vote was unanimous and the secretary will publish the required notice and post same in the bulletin board.

Mr. Smyth was excused from the meeting.

OLD BUSINESS

Planning Board & Council Matters – The secretary reviewed that the mayor’s zoning code task force report has not been presented to Council yet; but it may be provide to the planning board next week. The planning board did adopt and Council endorsed the revised Housing Element and Fair Share Plan and the revised petition to COAH for third round approval was submitted prior to the deadline.

Mandatory Education – The secretary reviewed that the Winter/Spring session offerings by NJPO had been distributed and he was waiting for confirmation from the members who are required to attend.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

Board Meetings for 2009 – Resolution Z2009-01, the calendar of meetings for February 2009 through January 2010 was reviewed by the secretary. The board decided that meetings will continue to be held on the third Thursday of the month at 7:30 PM. A motion was made by Ken Mills, seconded by Kerry Brandt, and passed unanimously to accept the resolution, to have it published in the Burlington County Times and posted in the Borough Hall.

Appointment of Professionals for 2009 – Resolution Z2009-02 announcing the appointments of a solicitor, planner and engineer was reviewed by the secretary. A motion was made by Kerry Brandt, seconded by Ken Mills and passed unanimously to accept the resolution, have it published in the Burlington County Times, and mailed to the professionals.

Annual Report of Applications and Recommendations – The secretary reviewed Resolution Z2009-03 which is the annual report to the planning board and Borough Council of applications heard and recommendations for amendments to the zoning code. This report is required under the Municipal Land Use Law. The chair asked if the members had any comments or additions to the report. Kerry Brandt stated he felt an additional recommendation be added concerning expansion of a nonconforming structure. Currently the code states that any expansion of a nonconforming structure requires a variance. He feels that especially for single family structures when the expansion is of itself fully conforming and does not increase the nonconforming nature of the structure, a variance should not be required. Kerry feels the current code results in numerous applications that the board has never denied due to the very reason he is suggesting the code be revised. In many cases, the nonconformity is because the structure was constructed before the current codes were in effect. Janet concurred that the change is beneficial and she is not certain state law requires a variance if the expansion does not expand the nonconformity. While the exact wording was not resolved the board agreed the report should be amended to include the recommendation that Section 128-A be revised to not require a variance when expansion of a nonconforming residence does not expand the nonconformity. The chair stated he would work with the secretary to finalize the wording. A motion was made by Kerry Brandt to adopt the report resolution as amended and submit it to the planning board and Council, Ken Mills seconded, and the board unanimously approved.

Pending applications – The secretary briefed the board on the a use variance to be submitted for next month so a hot tub can be installed on a property used as an apartment. It is critical that as many members be present as possible to hear the use variance. Janet stated that she would need to recuse herself because she is personal friends of the applicant. Janet suggested that the board needs to consider the possible ramifications of private versus public uses, how is the use regulated/enforced, etc.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

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

Meeting adjourned at 8:45 PM (motion by Ken Mills, second by Craig Greenwood).

Tape is on file.

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