

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**May 21, 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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, Charles Veasey, Robert Kennedy, and Deborah Weaver.

**ABSENT:** Edward Smyth, William Corbi, Joe Della Penna, and Craig Greenwood.

**OFFICIALS:** Substitute Counsel Solicitor Charles Petrone of Raymond and Coleman and Secretary Ken Palmer were present.

**MINUTES**

A motion was made by Chick Veasey, seconded by Bob Kennedy, and unanimously approved to adopt the minutes of the April 16, 2009 regular meeting as distributed.

**PUBLIC HEARINGS**

**Note: Prior to calling the hearings, the chair announced that due to a possible conflict of interest, Board Counsel Janet Smith had recused herself and that she had contacted Raymond and Coleman the Planning Board's counsel and asked if they would provide a substitute counsel for tonight's meeting.**

**Variance Application by Gary & Wendy Stocker, 306 3<sup>rd</sup> Street, Block 601, Lot 18 – conforming addition to an existing nonconforming structure (front and side yard setbacks).**

**Introduction:** The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Mr. Petrone concurred the hearing could proceed. No members recused themselves from the matter. Gary Stocker was sworn in. Gary explained that he wishes to add a single story addition to the rear of the home. The addition is fully conforming; however, the existing home is nonconforming do to front and side yard setbacks. Photos of the property were entered as exhibit A-1 and the architect's plans were entered as A-2. The chair reviewed the setback requirements for the R4 zone. It was concluded that the front yard setback was okay compared to neighboring properties; however, the lot frontage (width) is nonconforming. The overhang of the eaves was discussed and found to not impact the conformity of the addition. Lot coverage is not an issue. The addition will conform to the style and size of other properties in the area. There was no further testimony and the chair asked if there were questions from the board. There were none and Ken Mills motioned and Chick Veasey seconded to open the hearing to public comment. There was none and Ken Mills motioned and Chick Veasey seconded to close the hearing to public comment. The chair stated that it appears to be a straight forward application that except for the existing bulk nonconformities, the addition fully conforms. There was no further discussion by the board and with Mr. Petrone's guidance, Robert Kennedy motioned and Ken Mills seconded that the application be approved to add the conforming addition as submitted and variance to expand a nonconforming structure due to the existing side yard and lot frontage nonconformities. The motion and application were approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye		

Mr. Brandt feels there is no negative impact on the neighbors or the zoning code and it is similar additions to other properties in the area. Mr. Mills feels it a well thought out plan and it conforms to the homes in the area. Mr. Veasey appreciates the consideration for the neighbors. Mr. Kennedy feels it is a worthwhile addition. Mrs. Weaver feels the addition is worthwhile and well thought out.

Mr. Stocker asked if there was any way the board could consider the resolution before the scheduled June meeting. The chair stated a special meeting would be very difficult to schedule and the board would only consider it under extreme circumstances. Mr. Petrone stated that it might be possible to proceed at your own risk with a risk that things might be reversed or otherwise halted. The secretary reviewed that the construction official would examine and make sure the plans are in order; but, it has been his position to not issue permits until the resolution has been adopted. The chair stated while he is sympathetic to the request he has no control over the officials. Kerry stated he might be willing to talk to the construction officials on an informal basis.

**Variance Application by Janet DeVries, 308 Main Street, Block 604, Lot 13, – use variance for expansion of a nonconforming use (grandfathered multi-family) and conforming additions to an existing nonconforming structure (side yard setback corner lot street side).**

**Introduction:** The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Chuck concurred the hearing could proceed. Chuck reviewed that the use variance being requested requires five affirmative votes which means the vote needs to be unanimous. As such the applicants have the right to request a continuance until more members are present. The applicants decided to proceed. No members recused themselves from the matter. Janet DeVries and the contractor William Mills of Buttowdown Construction were sworn in. The plans are to add a bay window addition to the conforming side of the structure and to add a small porch to the rear of the structure. The existing home is nonconforming due to the side yard setback on the street side of a corner property. In addition the home is a nonconforming multifamily use and the changes are considered an expansion of a nonconforming use. The applicant testified that the home has recently been changed from four units to two units and feels that that change and the architectural improvements to the home outweighed the existing nonconforming use. The proposed bay is fully conforming to existing bays along that side of the house and all additions will be of the same materials as on the present home. The porch will permit easier access to the rear of the property and the driveway. The only rear access now is on the side a distance away from the driveway plus the porch will provide some additional outside space. The porch will be constructed where a very overgrown Cyprus bush now exists which needs to be removed because it is too close to the foundation. After reviewing the plans it was noted that the porch further encroaches on the rear yard setback. Lot coverage was not an issue. There being no further testimony or comments from the board, Ken Mills motioned and Chick Veasey seconded to open the hearing to public comment. There was none and Ken Mills motioned and Chick Veasey seconded to close the hearing to public comment. It was discussed and decided to consider a single motion to approve or deny the application. There was no further discussion and following guidance from Chuck Petrone, Chick Veasey motioned that the board approve the addition plans as submitted; and, to grant a use variance to expand a nonconforming use; and, to grant expansion of a nonconforming structure for the side yard setback; and to grant a variance for the additional rear yard bulk variance for the porch. The motion was approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye		

Mr. Brandt feels the rear yard encroachment is minimal and a hardship exists for rear yard access. Given the applicant's already taken steps to reduce the nonconforming use by decreasing the number of units, Kerry feels there is no detriment to increasing the nonconforming use. Mr. Veasey feels the additions add to the structure and are minimal compared to the size of the house. Mr. Kennedy has concerns about the rear yard encroachment but feels there is minimal impact given the distance to the neighboring property. Mrs. Weaver feels it is reasonable expansion and a well designed addition and improvement.

**Variance Application by Mark Vink, 403 Main Street, (Block 802, Lot 6) for expansion of a nonconforming use to install a hot tub on a property used as an apartment.**

**Introduction:** The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Chuck concurred the hearing could proceed. Chuck reviewed that the use variance being requested requires five affirmative votes which means the vote needs to be unanimous. As such the applicants have the right to request a continuance until more members are present. The applicants decided to proceed. No members recused themselves from the matter. Mr. Vink was sworn in. Mr. Vink explained they wished to install a hot tub that will be restricted to the use by him and his family. The tenant will not be allowed to access the tub. The hot tub will be secured by a locked enclosure which together with the restricted allows it to not have to meet commercial codes. The rear of the property is fenced in and the location will meet all setback requirements. There was concern that while the restricted use proposed and agreed to by the applicant may be favorably received; there may not be any way to enforce the restricted use on future owners and that a use goes with the property. Mark testified he was willing to go on the record that the hot tub would be removed if the property was sold. Chuck stated that there are policing issues and the impact on neighbors if the restricted use is not followed. Mark stated that he has always been on good terms with his neighbors and does not wish to damage that relationship. In addition uses normally follow the property not the owner. While the board may consider restrictive conditions, they may face enforcement issues. There being no further testimony or comments from the board, the chair noted for the record that there were no members of the public present during this hearing. There was no further discussion and following guidance from Chuck, Ken Mills motioned Robert Kennedy seconded that the board grant the use variance to expand a nonconforming use with the installation of a secured hot tub that is limited to the use of the property owner and his family/guests; but is not for any other public use. The motion was approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt     aye     Mr. Mills         aye  
Mr. Veasey     aye     Mr. Kennedy     aye  
Mrs. Weaver    aye

Mr. Brandt is concerned by the open ended nature of use variances but feels that the restricted use is not a detriment to the neighborhood and it is a hardship to deny the property owner the use and benefits of the hot tub. Mr. Kennedy appreciates the steps taken to secure the unit.

**OLD BUSINESS**

**Adopt and memorialize Resolution Case #2009-02 for the Variance Application by Cheryl Messa Progin, 712 Thomas Avenue, Block 1203, Lot 3, for various bulk variances to replace a deteriorating deck with a brick paver patio** – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Bob Kennedy motioned and Chick Veasey seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the members eligible to vote on the resolution.

**Planning Board & Council Matters** – The secretary stated that the fee/escrow ordinance is now in effect as is also the off street parking & storage of construction equipment ordinance. There is no news on the 2009 budget. It was mentioned that Devastation University wishes to open a professional wrestling studio and to hold exhibitions at 523 Howard Street. A site plan application is required and a use variance is needed for the proposed uses. The owners have opened establishments in other communities but seem to move frequently. The chair stated that a use variance would require the application to be heard by the zoning board. The secretary stated that he had not yet had a request for an application. The owners have been told they cannot be open for business unless and until all licenses have been obtained and any required variances granted. The chair urged that the board perform due diligence in researching the issues if the matter does come before the zoning board.

**CORRESPONDENCE**

None received.

## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 5/21/09, Janet Zoltanski Smith, \$201.50, for professional services for the Progin, 712 Thomas Ave. application. (PAY FROM ESCROW)
2. 5/21/09, Janet Zoltanski Smith, \$344.50, for general professional services and guidance from January through April.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

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

**Meeting adjourned at 9:20 PM (motion by Ken Mills, second by Chick Veasey).**

**Tape is on file.**

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