

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**September 17, 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, Craig Greenwood, Charles Veasey, and Deborah Weaver.

**ABSENT:** William Corbi, Joe Della Penna, and Robert Kennedy.

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

**RECOGNITION OF ED SMYTH**

Chairman Brandt wished to recognize Ed Smyth who was a long time member of the board stating that Ed's contributions and dedicated service to the board, as well as his mentoring of new members will be missed. Kerry stated that Borough Council had passed a proclamation and an award publicly recognizing Ed's 30 years of service to the Borough and the zoning board and had requested that Mayor Robert Martin make a presentation to Ed's family at the zoning board meeting. Prior to recognizing the mayor, Kerry passed along a personal note from Fritz Moorhouse a fellow long time board member and friend of Ed who could not attend the presentation. Kerry recognized Mayor Martin who read the proclamation from Borough Council and presented the family the proclamation as well as an engraved brick commemorating Ed which will be placed in the town plaza. Kerry, Mayor Martin, Ed's son Councilman Bob Smyth, Janet Zoltanski Smith, and Councilman Bill Brown offered personal comments and remembrances of Ed.

**MINUTES**

A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the August 20, 2009 regular meeting as distributed.

**PUBLIC HEARING**

**Variance Application by Dennis Eversmeyer, 400 Fulton Street, (Block 900, Lot 1) for placement of a fence beyond the permitted set back lines on a corner property.**

**Introduction:** The chair reviewed the application. Chairman Brandt recused himself from the matter due to a possible conflict of interest and turned the meeting over to vice chair Ken Mills. Mrs. Smith reviewed that the four members could hear the matter and concurred the hearing could proceed. The secretary stated that all jurisdictional requirements were complete. Mr. Eversmeyer was sworn in and explained that he had a pool installed in his back yard and that to comply with the pool regulations; he must properly fence in the pool. He has already installed a four foot aluminum fence within the existing approved hedge and the fence is almost invisible due to the hedge. He proposes to install a similar fence approximately 27½ feet from the porch at the side of his home to connect with the existing hedge and fence along the 4<sup>th</sup> Street side of the property. The fence in the hedge extends no further than the proposed connection to the new side yard fence. All the fencing is open picket style with 4-inch spacing. A single gate is proposed in the side yard fence and a double 5-foot wide antique style gate exists in the hedge and is connected to the new installed fencing in the hedge along 4<sup>th</sup> Street. The gates must also comply with the pool codes that they open out, be self-closing and latching and the latches are at least 54" from the bottom of the gate. The antique gate will have suitable transparent Plexiglas type inserts to prevent climbing. He applied for and received a variance for the present hedge approximately 12 years ago. He did not have a copy of

the resolution. Janet commented that her firm was served as the board's solicitor when that variance would have been granted and that she would research her files for the materials and provide them to the board. Mr. Eversmeyer stated that the existing hedge complies with the variance. The fence in the hedge is already installed. He feels it would be a hardship and less the aesthetics to install the fence just around the pool due to existing structures in the yard would cut off open access to the yard, lessen the ability to enjoy the rear yard, and reduce the period landscaping of the yard. Mr. Mills is concerned that the aluminum fence inside the hedge fence complies with the previous approved variance. Janet feels that it may since the variance permitted the current location. She further stated it is important that any approvals granted to this application be contingent on establishing that the existing fence and hedge complies with the prior resolution. There was no further testimony or questions from the board. Chick Veasey motioned and Deb Weaver seconded to open the hearing to public comment. There was none and Deb Weaver motioned and Chick Veasey seconded to close the hearing to public comment.

**Deliberation:** The vice chair stated if there were no additional comments or questions from the board that perhaps Janet would guide the board in what she feels is needed to grant the applicant's request while addressing the board's concerns. Janet offered that the board might consider approving variances granting approval to construct a 4-foot aluminum fence similar to the existing fence on the 4<sup>th</sup> Street side of the house from just in front of the rear porch to the side lot line to connect with the previously approved existing hedge/fence conditioned on fulfilling all the requirements of the previous resolution; and further allowing a gate in the new fence 56" high and allowing a 58" iron double gate in the existing side lot line fence that complies with all applicable codes. Chick Veasey so moved the board approve the application as defined by Mrs. Smith and discussed by the board. The motion was seconded by Craig Greenwood and passed by a unanimous poll vote of 4 to 0 as follows:

Mr. Mills	aye	Mr. Greenwood	aye
Mr. Veasey	aye	Mrs. Weaver	aye

Mr. Mills felt that the existing variance contributes to there being no negative impact on the neighborhood and that it will blend in with the existing property. Mr. Greenwood concurred with Mr. Mills. Mr. Veasey was glad that approval is contingent on compliance with the prior resolution. Mrs. Weaver feels the terms of the existing resolution are definite addition to this approval.

Upon questioning from Mr. Eversmeyer, Janet explained she would prepare a resolution that includes the current discussion and that she would research the prior resolution. If any problems or concerns arise, Mr. Eversmeyer will be notified and they will be discussed at the next meeting. Regardless, no permits can be granted or further changes made until a resolution is adopted and memorialized. Barring any challenge during the 45 day period following memorialization, there should be no problems issuing necessary permits.

Mr. Brandt rejoined the meeting.

## **OLD BUSINESS**

**Adopt and memorialize Resolution Case #2009-06 for the Variance Application by Erica Alfano, 8 Linden Avenue, Block 201, Lot 15 to replace and erect fencing beyond the permitted set back lines on a corner property** – 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. Ken Mills motioned and Craig Greenwood seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the four members eligible to vote on the resolution.

**Planning Board & Council Matters** – Councilman Brown commented that Council is concerned about developments with Devastation University. The chair and Janet reviewed that the owners had been notified by Code Enforcement Officer Mary Lodato of the application requirements and that they either needed to apply for a use variance or provide suitable representation under oath and on the record that their intended uses do not require a use variance. To date there has been no further reply from them. The chair urged that the members familiarize themselves with the section(s) of the zoning code which applies to permitted uses in the NB zone.

The secretary stated that work continues on a revised Third Round COAH submission. Concerns with complying, failure to comply and being decertified, and the impact of recent and pending lawsuits concerning COAH were also discussed. Recommended ordinance revisions have been submitted for drafting on sidewalk signs and revising the demolition requirements. Additional changes including the zoning board recommended changes to rear yard accessory building set back requirements remain to be discussed.

**Required Education Courses Update** – The secretary briefed members that only definite Fall session course offerings he was aware of would be the NJPO courses at the annual League of Municipalities Conference in Atlantic City in November. He will keep impacted board members advised.

**CORRESPONDENCE**

None received.

**NEW BUSINESS**

**Vouchers and Invoices**

None received.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

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

**Meeting adjourned at 8:55 PM (motion by Ken Mills, second by Chick Veasey)**

**Tape is on file.**

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