

**RIVERTON BOROUGH ZONING BOARD
MINUTES
December 16, 2010**

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 Vice Chairman Ken Mills.

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, 2010.
2. Timely notice published by the applicants in the Burlington County Times.

ROLL CALL

PRESENT: Ken Mills, William Corbi, Joe Della Penna (8:05PM), Craig Greenwood, Deborah Weaver, and Barry Wells.

ABSENT: Kerry Brandt, Charles Veasey, and Robert Kennedy.

OFFICIALS: Solicitor Janet Zoltanski Smith, Councilman Joe Katella, and Secretary Ken Palmer were present.

MINUTES

The vice chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Bill Corbi, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the September 16, 2010 regular meeting as distributed.

OLD BUSINESS

Planning Board & Council Matters – The secretary stated that the planning board does not meet until the 21st. The secretary briefed the board on code changes being considered. The secretary briefed the board that action by the legislature on COAH was still pending. Final Signoff of the BWC plans for the post office and new homes is complete and pending the results of tonight's hearing they are ready to draw permits.

CORRESPONDENCE

1. Letter from Tamara Lee offering her services as professional planner for 2011.

NEW BUSINESS

Vouchers and Invoices – None presented.

Return of Escrow for BWC Site Plan/Subdivision Escrow Account – Secretary Ken Palmer reviewed that he had received a request from Jim Brandenburger for a refund of unused escrow for the site plan/subdivision application and that the board must approve any refunds. The secretary reviewed that all submitted charges have been paid, the plans have been signed off and completed and any inspection escrows are established in a separate account with the Borough. A motion was made by Bill Corbi, seconded by Craig Greenwood, and passed by unanimous voice vote to approve the refund of unused escrow. The secretary will notify the Borough Treasurer of the board's approval.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

A motion was made by Barry wells and seconded by Deb Weaver to open the meeting to public comment. There was none and a motion was made by Bill Corbi and seconded by Craig Greenwood to close the meeting to public comment.

PUBLIC HEARING

Case #2010-06, Variance Application by BWC Realty Associates, LLC, for the three proposed residences at 608, 610, 612 Cinnaminson Street, Block 906, Lots 4.01, 4.02, 4.03, for front yard setback relief.

Introductions: The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mr. Della Penna joined the meeting while the hearing was in progress and after attesting that he was fully cognizant of the issues and variances needed and there being no objections from the applicant or applicant's counsel, participated in the matter. The applicant was represented by David Oberlander, Esq. who was introduced and asked to present the matter. Mr. Oberlander introduced James Brandenburger and Dr. Paul G. Grena, both principals of BWC Realty Associates LLC. and the applicant's architect Walter Croft, AIA. Mr. Oberlander requested they be sworn in order to offer testimony. All three were sworn and testified.

Testimony: Mr. Oberlander reviewed that the applicant had previously received use variance relief per Resolution Case#2009-09; and received major subdivision, site plan and variance approvals as necessary as per Resolution Case #2010-01. The applicant has submitted an application for an interpretation of the previous approvals, and variances as necessary, to allow for the construction of homes on the residential property with foundation lines of 30 by 40 feet, and constructing front steps and overhang that would encroach on the front yard. Jim Brandenburger testified that the building that he presented to the Board during his previous application was intended by him to be 40' by 30'; however, there was no specific testimony about the dimensions except square footage being approximately 1,800-2,000 square feet of living space. There had been no discussion of the need for a roof over the front door, the steps, the eaves, and siding. Therefore, the applicant is requesting an interpretation of the previous approval to determine whether he can construct the building as currently submitted. Jim stated he thought the foundation of the home could extend to the envelope approved previously and that this was the case based on his experience constructing homes primarily in Pennsylvania. The board and its solicitor discussed that the board had consistently interpreted that while the definitions for front side and rear yards were based on their relation to the buildings foundation, the set back requirements applied to the entire structure and any permanent portions of the structure that extend beyond the main foundation. The board concurred that it had thus intended that any proposed homes would lie within the approved envelope and that the plans would meet the percent coverage requirement of the neighboring R4 residential zone. The proposed deck on the original plans while beyond the rear of the envelope was still within the required setback.

The applicant then proceeded to offer testimony as to the extent of variances needed and why they should be granted. Jim offered two photographs of essentially the same home as built in two towns in Pennsylvania that were marked as exhibits A1 and A2. Jim referred to the plans and elevations submitted with the application which showed the site plan for the homes and included the foundation dimensions and the proposed location of the steps. Jim testified that the proposed home was the same home that was discussed during the previous application. The same stone façade and design of the roof detail is as presented as a proposed design during the site plan hearing. Jim stated he feels that if the overhang over the front door is eliminated, it will diminish the appeal of the home. He testified that the square footage of "living space" is 1,976 square feet which does not include the garage and the basement. Jim stated he felt the homes are consistent with his previous testimony for an approximately 1,800-2,000 square foot home. Regarding the height of the proposed homes, Jim testified that the height would be 34 feet 8 inches from the lowest grade to the peak of the roof. The house will contain three bedrooms and the room sizes are marketable according to his opinion. Walter Croft testified that from the aesthetic standpoint, the stoop and the roof over the stoop strengthens the front door appearance and it makes it more welcoming. Concerning the height of the foundation at the front of the homes, Jim and Walter explained that the grading of the lots fall from the back to the front and the height is required to provide the required above grade clearance at the rear of the homes. When asked by the board if there was another model he could design, Mr. Croft testified that he could not provide the same effect of the façade. The applicant testified that by keeping the plan the way it is they do not see it as a detriment to the neighborhood. The porch and steps as planned would be 6 feet by 6 feet, the landing 3 feet and the steps 3 feet. There would be no additional square footage of living space. The houses in the application will require up to 14 inches from the foundation at the front and rear for the soffit, gutter and eaves. The gutter returns and downspouts as well as the rake boards and

siding on the sides of the homes will extend no further than 6 inches from the foundation. The stone façade and siding on the front would also slightly encroach into the 20 foot setback that was previously approved. The Board calculated the percent impervious coverage, including the 10' by 12' deck that was discussed at the previous meeting, as being 39 percent. There was discussion about the front setback of the home being 20 feet and pushing it back 6 feet. The previous approvals provided for a 40 foot rear yard because of the very minimal buffer allowed between the post office property, Lot 4, and the residential properties. The applicant had received a variance from the 10 foot buffer to a 2 foot buffer including a 6 foot fence, and landscaping with canopy trees on the residential side of the fence. Therefore, the board concluded it was not possible to move the homes back so that the steps could comply with the 20 foot setback. The board had previously used and continued to use the requirements for the R4 Residential Zoning District in analyzing this property because the remainder of Cinnaminson Street are in the R4 district. The applicant stated that he feels the proposed homes carry out the intent of the Board to avoid moving the houses back for planning considerations. There was no further testimony or questions from the board.

Public Comment: Joe Della Penna motioned and Craig Greenwood seconded to open the hearing for public comment. There was none and Craig Greenwood motioned and Joe Della Penna seconded to close the hearing to public comment.

Deliberation: The Board discussed allowing the application but including a condition that the maximum impervious coverage would be limited to 40 percent. There was no further discussion and the board asked Janet if she would guide the board in what was needed if the board was to approve the application. Janet suggested that the board might consider a motion to modify the subdivision and site plan approval to the extent necessary to grant bulk variances to: allow a 30 foot by 40 foot foundation for the residences; allow a 6 foot by 6 foot porch and steps and front porch overhang; allow up to 14 inches for soffit, gutter and eaves in front and rear of the home; allow up to 6 inches for the gutters, rake boards and siding on the sides of the home up to 6 inches; allow the stone fascia and siding on the front as proposed; allowing a deck of 10 feet by 12 feet; and limiting the impervious coverage for the residential properties to 40 percent. There being no further discussion Barry Wells motioned and Craig Greenwood seconded to approve the application as suggested. The motion was approved by a poll vote of 6 to 0 as follows:

Mr. Mills	aye	Mr. Corbi	aye
Mr. Della Penna	aye	Mr. Greenwood	aye
Mrs. Weaver	aye	Mr. Wells	aye

Comments were made by members as to why they approved the application. Approvals were based on: that to deviate from the proposed plans would hurt the proposal; the applicant has already received approval and begun improvements to the property; the property is located in a residential area and maintaining the buffer is important; the positives outweigh any negatives; and the proposal is consistent with the neighborhood and consistent with how the board viewed it upon its previous approval, and that the construction would be good for the neighborhood.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair noted for the record that there were no members of the public present following the conclusion of the hearing.

**Meeting adjourned 8:52 PM (motion by Corbi, second by Greenwood)
Tape is on file.**

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