

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
April 17, 2012**

The Public Session of the Planning Board was called to order at 7:05 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 on the official bulletin board in the Borough Office on January 18, 2012.
2. Required Service of notice and publication in the Burlington County Times on January 25, 2012.

PRESENT: Kerry Brandt, Ken Mills, Joe Della Penna, Craig Greenwood, Robert Kennedy, Joseph Threston (arrived 7:20pm), Mayor William Brown, Councilman William Corbi (arrived 7:09pm), Mary Lodato, Deborah Weaver, Tracy Foedisch, and Robert Martin.

Also Present: Solicitor Tom Coleman and secretary Ken Palmer.

ABSENT: Robert Bednarek.

MINUTES: A motion was made by Robert Kennedy and seconded by Deb Weaver to adopt the minutes of the March 20, 2012, regular meeting of the planning board as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. 4/16/12, copy of Borough Resolution 47-2012, adopted by Council on 4/11/12, Supporting Assembly Bill A-2717 Extending The Time Period For Municipalities To Commit To Expend Collected Development Fees And Payments-In-Lieu Of Constructing Affordable Units. (e-mailed to members 4/16/12)
2. 3 vouchers/invoices as presented under New Business.

PUBLIC HEARING

Variance Application: Andrea Rost, 713 Cinnaminson Street, Block 1400, Lot 16; setback requirements & any other variances required under the Swimming Pool Ordinance; and, impervious coverage bulk requirements under the Variance Ordinance for the R4 District to install an in ground swimming pool.

Introduction: The chair introduced the matter. The secretary reviewed that all completeness and filing requirements had been met and Tom Coleman concurred that the hearing could proceed. The chair asked if the members were ready to proceed and whether any of the members needed to recuse themselves. No members needed to step down.

Testimony: The applicant, Ms. Rost was introduced and was sworn. Following a review of the application by Mr. Coleman, Ms. Rost presented what she wished to do. Ms. Rost stated that adhering to the required side yard setbacks and impervious coverage presented a hardship in that it would limit the size of the pool to essentially a "lap pool" suited only for exercise and not a pool that can also be used for relaxation and entertainment of family and friends, including children. The chair reviewed the process and the criteria for granting a variance. Ms. Rost introduced Chris Volk and Larry Stoelker, representatives from Budd's Pools of Deptford, NJ. After being sworn in, the two presented background and technical details of the plans for the pool. The following exhibits were introduced and referred to during their testimony:

A-1: Topographical survey and lot coverage calculation.

A-2: Typical structural and installation details for a rigid braced, vinyl lined, in-ground pool.

A-3: Three photographs of the property.

The representatives provided testimony both prepared and in response to questions from the board and counsel as to the construction plans for the property including the need to use a lot of manual preparation and construction in order to not disturb the neighboring properties. The plans for the infiltration trenches along the side yard sides of the pool to facilitate proper drainage were discussed in detail. Testimony was given that the type of construction planned was commonly used by the firm and followed accepted standards wherever there were drainage concerns. The possibility of installing complete perimeter drainage to direct any splash out or back flush spillover to the trenches was discussed and agreed to that it would be included if required by the

board. The impervious coverage was reviewed. It was concluded and agreed to that based on additional testimony and revised calculation which included egress steps from the back of the home as well as the pad requirements for the pool equipment would result in a total coverage very close to 50% which is 10% over the 40 % permitted. As to the need and appropriateness of the required setbacks, the board did not agree with the testimony that the pool company representatives feel the prime reason for having the required setbacks was more a noise issue than anything else. Several members stated that they were having engineering related concerns.

Public comment: The chair suggested that before the board deliberate further the hearing be opened to public comment. A motion was made by Ken Mills and seconded by Joe Threston to open the hearing to the public. Robert Hicks, 715 Cinnaminson Street, stated he was present to object to the application. Mr. Hicks presented a copy of a letter that he had written to Ms. Rost stating his objections and asked to read it. Mr. Coleman reviewed the letter and stated that the contents of the letter really constituted testimony and asked that Mr. Hicks be sworn in before the letter was presented. Mr. Hicks was sworn in and the letter was introduced as exhibit A-4 and copies were given to the board. Mr. Hicks feels that runoff will impact his property since the grading showed that excess runoff will flow to his property. He doesn't feel the fencing issues have been addressed. He doesn't feel the proposed location and construction plans properly addresses technical requirements such as "angle of repose" dealing with excavation. The pool company representatives attempted to address his concerns; but, Mr. Hicks feels that further professional review by the board is warranted. There was no further comment and Ken Mills moved and Joe Threston seconded to close the hearing to public comment.

Deliberation: Mr. Coleman stated that before the board deliberated further, that it would be proper to return to the concerns already voiced by the board and see if there was any consensus of the members as to where they feel things stand. All the members were asked to voice their opinion. The consensus of the board was that there were: concerns over the impact on neighboring properties; the possibility of a perceived precedence being established by granting the variances; the coverage issue was too much a variance; and the primary concern that the members were being asked to make a decision concerning technical issues that were clearly beyond their expertise and require a professional review. The chair explained to the applicant that for residential applications especially by a owner occupied property owner where a site plan is not required, the board tries to work with the applicant and not make the process any more complicated and expensive than necessary. However, when issues are raised that the board feels are beyond the expertise of its members and require expert opinion, the board has the right and duty to require professional review. The board feels that it needs professional input to address the concerns of the board and public. The chair asked that the hearing be reopened to the public to ensure that its consensus as to professional review would address the concerns previously raised. Craig Greenwood moved and Joe Threston seconded to reopen the hearing to the public. Mr. Hicks was asked if the professional review which would be discussed with public comment in a public address his concerns. Mr. Hicks stated that as long as the issue was open to public review and comment that he was comfortable with the process. There was no further comment and Deb Weaver moved and Joe Threston seconded to close the hearing to public comment. The chair proceeded to discuss the impact of further needed review including the applicant granting a suspension of the "tolling" of the time to decision to obtain the review. The issue of escrow needed to cover the board's professional review was discussed and a figure of an additional \$2,000.00 was agreed as not unreasonable and that any unused escrow is refunded upon request of the applicant. It was also explained that there was no guarantee that the application would be approved even after the engineers from both parties have provided their input.

Withdrawal of application: The applicant was offered and asked for a short break to discuss the issues and reach a decision. Following a short pause, the applicant stated that she wished to withdraw the application. Tom Coleman explained the judicial impact on any future applications for the same matter that preclude simply resubmitting essentially the same application. Ms. Rost stated she understood the explanation. A motion was made by Joe Threston, seconded by Bob Kennedy and unanimously approved by voice vote to accept the applicant's decision to withdraw the application.

OLD BUSINESS

Affordable Housing – Tom Coleman addressed the pending legislation contained in Assembly Bill A-2717 to

extend the time period to commit housing funds; and, that he and Tamara concurred that the Borough, Council and board should not count on the bill being passed and enacted. Further, the board should continue to expeditiously identify suitable candidates that can be part of a revised spending plan. Suzanne's continuing efforts to work with QMA in regards to the current or a future group home were recognized. Deb Weaver's properties research efforts were discussed. There is strong interest from a property owner of a twin home on Broad Street in taking the steps to deed restrict the property to qualify the property as affordable housing. The owner is asking for financial help in exchange for the required 30 year deed restriction. A twin property on Cinnaminson Street was discussed as a possible candidate for Habitat for Humanity work. The vacant lot at 604 Broad Street, next to Erin Cleaners was discussed as not being a suitable property. There is a vacant property at 303 Third Street near the AME church; but it presents variance issues to make it a buildable lot and it may not be able to make it comply with handicap access rules. The board feels that the community favors pursuing rent/purchase deed restricted agreements with property owners rather than actively pursuing the group home approach. The board concluded that: it would move forward pursuing the Cinnaminson Street property as a Habitat candidate; help property owners willing to agree to the deed restriction; work with Tamara or whomever to develop the formal agreements; and, not completely ignore looking at opportunities similar to QMA and group homes. Kerry agreed to pursue with Tamara to clarify what could happen and present details to the property owner. Deb Weaver agreed to follow up with Habitat regarding the Cinnaminson Street property. The board was reminded that a maximum of four members can jointly participate/discuss the process at any one time outside of a public board meeting. Tom Coleman in closing the discussion reiterated that both he and Tamara strongly encourage the board to explore all possible options; but, to concentrate on the most promising prospects.

Council Matters of Importance to the Board and 2012 Budget – The mayor and Councilman Corbi reported that the 2012 budget had been adopted at April 11, 2012 Council meeting. There will be a very small property tax rate increase.

Environmental Commission – Joe Threston reported that Council had approved the Borough's participation in the Sustainable Jersey program and that the commission will function as the "green team." The commission intends to begin its work at the next meeting on 4/19. A "Rain Dance" event is scheduled at the school to fund raise in support of the rain garden. The commission is urging support and help with the town-wide clean-up event on 4/28 sponsored by the Improvement Authority.

Minor Site Plan Applications – Mary Lodato reported that none had been submitted since the last board meeting.

NEW BUSINESS

Invoices and vouchers:

1. 4/1/12, Tamara Lee Consulting, LLC, \$650.00, services during March 2012 on affordable housing issues. (DEVELOPMENT FEES TRUST FUND)
2. 4/4/12, Raymond Coleman & Heinold, LLP, \$308.00, services during March 2012 on affordable housing issues. (DEVELOPMENT FEES TRUST FUND)
3. 4/6/12, Raymond Coleman & Heinold, LLP, \$237.00, legal services during March and attending the March 2012 board meeting. (PLANNING BOARD GENERAL FUNDS)

A motion was made by Craig Greenwood, seconded by Joseph Threston, and unanimously approved to pay the vouchers and invoices as presented. The secretary will have them signed and submitted for payment.

PUBLIC COMMENT – The chair noted for the record that no members of the public were still present.

Meeting adjourned at 9:53 PM. (motion by Threston, second by Della Penna)

Next meeting is at 7:00 pm on 5/15/2012 in Borough Hall.

Tape is on file for one year.

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