

**RIVERTON BOROUGH PLANNING BOARD  
MINUTES  
November 20, 2012**

The Public Session of the Planning Board was called to order at 7:00 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, Craig Greenwood, Joseph Threston, Councilman William Corbi, Mary Lodato, Deborah Weaver, Tracy Foedisch, Robert Martin, and Michael Powers.  
**Also Present:** Solicitor Tom Coleman and secretary Ken Palmer.

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

**MINUTES:** A motion was made by Ken Mills and seconded by Craig Greenwood to adopt the minutes of the October 16, 2012, regular meeting of the planning board as distributed. The voice vote was unanimous.

**CORRESPONDENCE/ANNOUNCEMENTS**

1. None presented.

**OLD BUSINESS**

**Affordable Housing** – Tom Coleman reported that the homeowners of the Beechwood Drive property had decided not to sell the home to QMA and that the previously executed agreements with QMA and Habitat for Humanity remain in effect. Deb Weaver stated she had nothing to report.

**Council Matters of Importance to the Board** – Councilman Corbi reported that there was nothing additional to add regarding QMA and that there was nothing else new to report.

**Environmental Commission** – Joe Threston reported the Commission continues to work on the Sustainable Jersey initiatives. The Commission plans to submit reports in the near future which will include requesting Sustainable Jersey credit for the Borough on several items.

**Minor Site Plan Applications** – Mary Lodato reported that none had been submitted.

**Housekeeping** – Prior to going to the public hearing on the Porch Club application, the chair and solicitor Coleman reviewed that several members are recused from hearing this matter. Mr. Brandt and Mr. Corbi left the meeting. Mr. Della Penna, Mr. Kennedy, and Mr. Brown, were not present. Vice Chairman Ken Mills chaired the rest of the meeting.

**PUBLIC HEARING**

**Continued from September, Site Plan Waiver & Variance Application: Case# 2012-03, Porch Club of Riverton, 213 Howard Street, site plan waiver, variance application for setback relief and any and all use and/or other bulk variances required to construct a handicapped access ramp to the building:**

**Introduction** – The chair and Mr. Coleman reviewed the matter. Since a use variance is needed, only seven members will vote on the application. For the use variance, five members must vote for approval, while a simple majority is required to approve any bulk variances. The first, second, and third alternates, (Weaver, Foedisch, and Martin) are eligible to vote, replacing the three regular recused members. The Class I and Class III members are not replaced – hence only seven voting members for this matter. The secretary reported there

were no escrow issues and the account is current. Mr. Coleman reviewed that the matter had been continued so the applicant could refine the plans and try to resolve issues raised by the board.

**Testimony** – Applicant's attorney, Mr. Sitzler was introduced and he re-introduced Michelle Daniel, representing the Porch Club, and Hank Croft, applicant's architect. Both were reminded that they remained under oath. Mr. Sitzler recalled Mr. Croft to testify regarding the previously submitted for board review proposed landscape plan and revised survey showing a proposed concrete pad between the curb and sidewalk for ease of handicapped access. The concrete pad will be five foot wide and allow access to the sidewalk and ramp. Mr. Croft asked Mr. Barry Emens, Chairman of the Shade Tree Commission to discuss the landscape plan. Mr. Emens was sworn in and he and Mr. Croft testified. Mr. Emens reviewed his experience and credentials. Mr. Emens stated he reviewed and provided input into the plan and recommended the plantings. He recommended that the plantings be "Emerald Green" Arborvitae which are disease and wind resistant and drought tolerant. He does not see any drainage issues and feels the proposed drip irrigation will provide the necessary additional watering required until they become established and as needed during excessive dry times. There will be approximately ten trees planted three feet apart shielding the proposed ramp. The trees initially will be around six feet tall, are slow growing, will reach a height of 15-20 feet, and have a thirty to forty year lifespan. The trees should actually improve drainage as they will absorb most water. "Emerald Green" is a newer variety of arborvitae which is tolerant of shade and is tighter than other varieties and thus better able to withstand ice damage. The trees will provide both a visual barrier and some sound barrier. The existing beech tree will have some minor trimming at the ground level. Mr. Croft reviewed that the proposed ramp supports, framework, and guard rail will be pressure treated lumber. The decking and handrail will be of smoother material, as yet undecided, but possibly man-made. The handrail may be aluminum to provide a splinter-free surface. The supports will be anchored in concrete. There were no further questions from the board and Mr. Sitzler stated there was no further planned testimony. Mr. Coleman suggested it was appropriate to reopen the hearing to public comment before any deliberation.

**Public Comment** – Mr. Threston motioned and Mr. Martin seconded to open the hearing to public comment.

- Muriel Alls-Moffat, 202 Fulton Street, asked if the board members were familiar with the ADA requirements. The board answered that some were familiar. She asked why it has taken over three months for the matter to be decided. Mr. Coleman briefly reviewed the history and that the length of time was also to accommodate the request of the club. Mrs. Alls-Moffat also thought that it was offensive that she heard that the board did not support the ramp. It was suggested that, if anyone wished to review them, the minutes of the July and September meetings, where the matter was discussed, were available on the Borough's web site as well as filed in Borough Hall.
- Mary Murphy, 211 Howard Street, respects the club as an organization and does not dispute the need for the ramp. She does dispute the location and the impact of the ramp on her property and property values. She feels she is the only neighbor directly impacted directly by the club and even more so by the proposed ramp. She feels there are no positive benefits to locating the ramp as proposed and stated a list of reasons to support her conclusion.
- Jeanne Bianchini, Homewood Drive, commented that while she initially thought that the group home on Homewood Drive would negatively impact her property, she now feels that it has not impacted her property and that the positive impacts outweigh any perceived negative impact. She feels the Porch Club may actually improve the property values in the town.
- Johanna Rooney, Porch Club Rental Chairperson, Salem Drive, Cinnaminson Township, stated: she has been the Rental Chairperson for 10 years; that the most events in a year was 54; most were bridal/wedding showers in the afternoon; and during the last year, only three events had extended beyond 9:00 pm. The rental pricing structure has been changed to increase the fee after 6:00 pm. Caterers will not use the entrance since they have direct access through the kitchen or front door.
- Ann Reed, Pastor, Christ Episcopal Church, Riverton, commented that there had been prior issues with use of the church's parking lot off Howard Street, but they had all been quickly and positively resolved. The club has always acted as good neighbor. The church is also faced with creating ADA access to their church hall and understands the impact of the law. She supports the club and their efforts.
- Carol McCarthy, Palmyra, commented that the club is not only used for rentals but supports numerous

charity events and needs ADA access.

- Pat Brunker, Thomas Avenue, stated the building is used by rentals only 15% of the year. The club uses it about 35% of the year and the building is vacant the other 50%. Only three of the rentals have gone beyond 9:00pm.
- Mrs. Murphy, again stated her concern is not ADA access. She is concerned about the location of the ramp and the impact on her property by rentals of the club. She feels ADA access is not required. And, for anyone's information there was an event a recent weekend that went beyond 11:00pm.
- Barbara Beck, Porch Club President, Perkins Lane, Edgewater Park, read excerpts of the ADA requirements pertaining to the club regarding preservation of historic structures and existing buildings. She read a document detailing the club's plans to preserve the building, provide ADA compliant access, and stated that the main entrance would continue to be the Howard Street entrance.

There was no further public comment and Mrs. Lodato motioned and Mr. Threston seconded to close the hearing to public comment.

**Board Questions and Deliberation** – Mr. Threston questioned and Mr. Coleman concurred that since several of the people who commented during public comment had testified as members of the club board, they should be sworn in to accept that testimony. Mrs. Rooney, Mrs. Brunker, and Mrs. Beck were all sworn in as to their prior comments and that they wanted their comments to be treated as testimony. Concluding her testimony, Mrs. Beck referred to a series of five annotated photos prepared by Mr. Croft which supported the testimony that the proposed location and entrance for the ramp was the only location that did not involve changing the exterior of the structure while providing ADA compliant access. The photos were marked as exhibit A3. Mrs. Beck also asked that the fact sheet signed by the club executive board be admitted as an exhibit so copies could be provided to the board. Mrs. Beck attested to the accuracy of the facts and the sheet was marked as exhibit A4. Mrs. Lodato asked if anyone knew how long the club been renting out the building for events. Mrs. Brunker stated she had examined club records and there was evidence of rentals at least since 1911 or 1912. Mr. Mills summarized what he thought were the issues raised regarding loitering and noise, the long existing neighbor conflict, how best to control loitering, and the green fence/barrier. He feels there is no disagreement that the ramp is a benefit; but, he is not sure of the best answer to address the neighbor's issues. Mrs. Daniel stated she did not know the best method to "police" the use of the ramp or parking and wondered what other organizations did for their properties when used for events. Mr. Mills stated the board has to weigh the benefits and detriments and reach a conclusion based on those facts. Mrs. Foedisch commented that she feels the board has thoroughly reviewed the matter and that the board has enough information to move forward and vote on the matter. The board cannot dictate or regulate how the neighbor and club get along with each other. There were no further comments or questions and Mr. Threston asked if Mr. Coleman could summarize where things are and how the board might best proceed. Mr. Coleman stated it might be best if the board considered the use variance first then proceed to the bulk variance(s). Mr. Coleman asked the secretary to review who would be voting on the matter. The secretary reviewed that of the eight members present, all except for Mr. Powers would be voting. Mr. Coleman reviewed that the use variance is for expansion of an existing nonconforming use by adding the ramp. The other variances are all bulk related, are already existing, and are being expanded/increased.

**Use variance** – Mr. Threston asked if Mr. Coleman would guide the board as to approving the use variance. Mr. Coleman suggested the board could consider a motion to grant a use variance for 213 Howard Street to allow the expansion of a nonconforming use to permit addition of the ramp as designed and presented by Mr. Croft in his drawings and testimony. Mr. Threston motioned that the board approve the use variance as suggested by Mr. Coleman and Mrs. Foedisch seconded the motion. There was no further discussion and a poll vote was taken and the use variance was approved by a vote of six (6) ayes and one (1) nay as follows:

Mr. Mills	aye	Mr. Greenwood	aye
Mr. Threston	aye	Mrs. Lodato	aye
Mrs. Weaver	nay	Mrs. Foedisch	aye
Mr. Martin	aye		

Ken Mills commented that the benefits of removing an access barrier, efforts to remove/prevent drainage problems, providing additional privacy, and that the club will continue to improve relations with the neighbors by making sure the ramp is used as intended outweighed any perceived detriments. Mr. Threston reiterated the chair's comments. Mrs. Lodato reiterated the chair's comments and added that other locations for the ramp were shown not to be feasible. Mrs. Foedisch felt the club had done everything possible to accommodate the neighborhood and the neighboring property owner, and that there is a definite benefit by providing handicapped access. Mrs. Weaver felt that although there is a need for the ramp, the applicant did not meet the burden of proofs that the benefits outweighed the negative impacts of intensifying the nonconforming use and locating the ramp where proposed.

**Bulk variances and conditions** – Tom Coleman reviewed that in addition to considering approval of the existing bulk related variances, the board should also consider specifying the conditions previously discussed regarding use of the ramp and maintaining the landscape barrier. It was discussed and agreed that the board felt there should be guarantees and enforcement regarding use of the ramp and requiring that the arborvitae be replaced within 30 days if it died. Mr. Sitzler stated that the club has agreed it would attempt to ensure that the ramp would only be used for its intended use and that there should be no loitering, smoking, drinking or congregating on the landing and ramp area and that these stipulations would be included in the rental agreement. As to monitoring, there is no provision now except for opening and closing the club. Mrs. Daniel stated that someone opens and closes the building. The club does not try to discriminate; but, currently tries to enforce that it is a residential neighborhood and that certain uses are not appropriate. The club could institute a provision that events beyond a certain time of the day will incur an extra charge. Mrs. Daniel was not sure the club board can get members let alone board members to act as a policing function. The club could stipulate in the contract that complaints will result in forfeiting the deposit. Mr. Martin and Mr. Threston summarized that the board was looking for a condition that there would be no loitering, smoking or drinking on or near landing and ramp areas and that those conditions be part of the rental agreement. Mr. Sitzler stated he would help the club craft the rental agreement to include the conditions and forfeiture penalty and violators would not be allowed to rent the facility in the future. Mr. Coleman stated that he felt the board was looking for some accommodation on the monitoring and that the burden of monitoring not be left just to the neighbor. Mr. Greenwood stated that he knew that other organizations require/provide periodic monitoring/presence of their venues. Mrs. Foedisch suggested that there at least be some form of periodic monitoring especially at evening events. Mr. Sitzler stated he can't agree without club board approval. Mr. Coleman suggested that since many of the club board members were present, that perhaps a recess was in order so they might confer. The chair declared a two minute recess and that the tape be paused. Following resumption, Mr. Coleman announced that during the recess Mr. Martin was excused from the meeting and Mr. Powers would now be the seventh member voting on any additional motions. Mr. Coleman reviewed that in addition to considering the related bulk variances, the board was seeking several conditions concerning controlling/enforcing the use of the ramp and the preservation of the landscape barrier. Mr. Coleman further reviewed that he was informed that the club board has stated that three members of the club have agreed to take turns monitoring functions that go into the evening hours. Also, the conditions and penalties for violating the use of the ramp restrictions will be included in the rental contract. Mr. Greenwood motioned that the board approve the bulk variances and conditions as discussed and the motion was seconded by Mrs. Foedisch. The secretary reviewed his and Mr. Coleman's notes that the motion had been made and seconded that the board was voting to approve several existing bulk variances related to expanding a nonconforming structure, increasing the incursion into the rear yard setback, and increasing the impervious coverage. In addition the board was requiring the following conditions: that the ramp and landing are restricted for handicapped access only; that there be no loitering, drinking, or smoking in the ramp and landing area and that these restrictions and penalties for violating them will be included in the rental contract; that any of the new landscaping trees that are lost or die will be replaced within 30 days; and that for evening events the club will provide for periodic monitoring by the membership. There was no further discussion, a poll vote was taken, and the bulk variances and conditions were approved by a unanimous vote of seven (7) ayes as follows:

Mr. Mills	aye	Mr. Greenwood	aye
Mr. Threston	aye	Mrs. Lodato	aye

Mrs. Weaver aye Mrs. Foedisch aye  
Mr. Powers aye

Several members commented that they were encouraged by the club's efforts to improve relations with the neighbors and hoped they will continue to do so.

The chair declared a short recess and the tape be paused while any applicants and members of the public who wished to depart did so.

## **NEW BUSINESS**

**Invoices and vouchers: None**

**Public Hearing for resubmitted variance application in December** – Secretary Palmer announced that he had received communication from Mrs. Meehan that she intended to resubmit and re-notice for the December meeting.

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

**Meeting adjourned at 8:24 PM. (motion by Threston, second by Greenwood)**

**Next meeting is at 7:00 pm on 12/18/2012 in Borough Hall.**

**Tape is on file for one year.**

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