

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
September 18, 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, Mayor William Brown, 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, and Robert Kennedy.

MINUTES: A motion was made by Joe Threston and seconded by Craig Greenwood to adopt the minutes of the August 21, 2012, regular meeting of the planning board as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **4 vouchers/invoices as presented under New Business.**

OLD BUSINESS

Affordable Housing – Tom Coleman and Deb Weaver announced that there were no updates to report.

Council Matters of Importance to the Board – The mayor and Councilman Corbi reported that there was nothing new to report.

Environmental Commission – Joe Threston reported that there was nothing new to report this month.

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. At 7:05 PM, Mr. Brandt, Mr. Brown, and Mr. Corbi left the meeting. Mr. Della Penna and Mr. Kennedy were not present. Vice Chairman Ken Mills chaired the rest of the meeting.

PUBLIC HEARING

Continued from August, 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 matter and that for the use variance five members must vote for approval of the use variance 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 II members are not replaced – hence only seven voting members for this matter.

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 stated that the Porch Club wishes to go forward with the application with no changes to the construction of the wood ramp as originally presented and they are prepared to address additional screening as needed, or conditioned and to address any possible new drainage issues. It is felt that other issues as presented by the neighboring property owner, Mrs. Murphy are peripheral to the application but the club in the spirit of being a good neighbor still wishes to try and resolve. Mr. Croft described a slight amendment to the survey plan. Introduced as exhibit A1, was a revised plan that shows Mrs. Murphy's house in relation to proposed location of the ramp. Also Exhibit A2 was introduced which is a sheet of 4 photographs of the site and Mrs. Murphy's property in the vicinity of the proposed ramp. Mr. Croft reviewed the plans for the ramp and new sidewalk. The supports for the ramp will utilize concrete footings. The ramp surface may be constructed of a synthetic material instead of wood if the budget permits. The ramp will not extend beyond the front of the building. The existing two-foot wide concrete sidewalk from the building to the street side sidewalk will be removed, and a three-foot wide concrete sidewalk, properly graded to not collect water as currently exists with portions of the present walkway, will be installed from the foot of the ramp to the street. Mr. Croft and the applicant feel a natural vegetation approach rather than a fence is more in keeping with the character of the neighborhood. Enhancing the current three-season types of vegetation are proposed if the conclusion is that they are needed. Mr. Croft stated that he feels the wooden ramp as proposed will not cause an increase in any runoff to the neighboring property. Mr. Croft and Mrs. Daniel hope that the board would concur that any additional drainage concerns could be addressed with commonly used landscaping "rock trench" drainage. Mrs. Daniel stated that it is very difficult getting a consensus from the club's committee and that the ramp and interior changes are needed to address the handicapped issues of current and prospective members of the club not just to accommodate outside use of the building. While the club is going forward on the interior renovations to make the building more ADA compliant, it is hoped this application can be resolved without further significant strain on the club's very limited funds. Bob Martin asked how the club will preserve privacy. Mrs. Daniel stated the club intends to: label the entrance as for handicap use only; that the area or perhaps the entire property will be labeled as a no smoking site; that any contracts with outside parties will include language that events are restricted to inside use only; that rentals that extend beyond "a specified time, perhaps 6:00 PM," would entail an additional fee; and finally, the club stay away from multi-day rentals. Ken Mills asked Tom Coleman what he feels the issues are. Mr. Coleman reviewed the enhanced proofs and number of approvals needed for any use variance. Tom stated that while the ramp could well be recognized as a public benefit the board needs to determine that benefit is not outweighed by any impacts on neighboring properties. Tom also cautioned the board that while Mr. Croft's experienced opinions may be viable, he cannot testify as an engineer. There was no additional testimony.

Public Comment – Ken Mills suggested that before the board continue questioning the applicant that the hearing be opened to public comment. Joe Threston motioned and Deb Weaver seconded to open the hearing to public comment.

- Mary Murphy, 211 Howard Street, stated that she doesn't feel the board can properly appreciate the problems experienced as a next door neighbor. She feels any disturbance to the ground will increase drainage issues. While she appreciates the clubs efforts, she feels the ramp is overkill since she does not believe there is any requirement to do so since the club is not a publically owned building and she feels the club is exempt from ADA requirements. Mr. Sitzler replied that while ADA mandates may not be required, there may be insurance liability issues if there is no proper handicapped access.

There was no further comment and a motion was made by Joe Threston and seconded by Craig Greenwood to close the hearing to public comment.

Board Questions – Tracy Foedisch asked Mrs. Daniel about the amount of handicapped use and if other alternatives to the ramp had been considered. Michelle replied that the ramp wasn't just for prospective rentals but was needed to benefit current and future members. So called temporary or portable ramps had been researched for the current front entrance, but it was concluded they were not feasible due to storage issues, the need for additional steps/ramps inside the building and the physical ability of the members being able to set up and use them. The use of the kitchen entrance was not feasible due to location and door width issues. Craig Greenwood asked if there had been further conversations with Mrs. Murphy. Michelle stated that Mrs. Murphy has been invited asked several times to join the club. Michelle reiterated that she and other club members felt overwhelmed by Mrs. Murphy's comments at the 7/21 hearing since they had not been addressed to that degree

before the hearing. Mr. Sitzler stated he felt Mrs. Murphy was even more opposed tonight than she was at the July hearing. He feels only any drainage issues and privacy barriers are before the board. He was aware that Mrs. Murphy had concerns before the first hearing in July and encouraged the club to reach out to her. They did but he doesn't think the club can reasonably satisfy her concerns. It was suggested to reopen to public comment so Mrs. Murphy could respond to Mr. Sitzler and the board.

Reopen to Public Comment – Joe Threston motioned and Craig Greenwood seconded that the hearing be reopened for additional public comment. Mike Powers asked Mrs. Murphy if she felt the testimony was correct. Mrs. Murphy stated she has never concealed her opposition to the location of the ramp. She also reiterated many of the comments she made in July, concerning use of her driveway for drop offs, distrust due to previous bad experiences, etc. She prefers a fence along the entire side all the way to the sidewalk. There being no further comment, Joe Threston motioned and Mary Lodato seconded to close the hearing to public comment.

Board Questions and Deliberation – Mary Lodato confirmed with Hank the location of the ramp. Mary asked if the board should consider drainage only if it is proven to be an issue or as a normal course of the hearing to which Tom Coleman replied that either was suitable. Mr. Sitzler stated that the club feels a fence as the preferred approach is not suitable for both aesthetic and there may be variance issues if extending the fence to the sidewalk is considered. Mr. Sitzler also reviewed why the club feels there is no suitable alternative location for the handicapped access and that the ramp will primarily benefit the club's members not rentals. Several board members felt either that the issues outside of the board's scope may never be resolved to the satisfaction of both sides and/or were conflicted if the issues are outside the issue of allowing a ramp or not. Mr. Sitzler suggested that the board might consider drainage correction as a condition only if it becomes apparent. He also realizes the possible risks the club is taking working without a professional engineer but feels the board might reliably rely on recognized accepted landscaped solutions such as field drains and additional suitable vegetation. Bob Martin stated he feels the board could reasonably consider addressing possible drainage issues as a condition of approval and that the board should condition approval on the ramp and entrance being clearly designated as handicap use only. Further discussion among the board showed there was no consensus on how to proceed or what was open to discussion. Michelle Daniel stated she respects the board's position; but, she feels the club needs a vote and decision on how the club should proceed. She stated that given the time and expense already expended, even if the board approves the project, there is no guarantee the club can even complete the project. There was discussion among the members of whether a curb cut or other changes to provide suitable access to the sidewalk near the proposed ramp location were needed or advisable. Mr. Coleman asked Mr. Sitzler if the applicant wanted a final vote now and reviewed the ramifications if the board voted to deny the application. Mr. Sitzler thinks the club needs to know what the board is looking for. Ken Mills replied that the board needs a more definitive response to how privacy and drainage will be addressed. The board cannot do "planning" for the applicant but it also cannot be asked take a shot in the dark as to what is being proposed. The board needs more concrete testimony/plans as to how the club proposes to address the issues raised concerning drainage, privacy, curbside access, smoking, noise, etc. Ken felt the board would be willing to grant an additional continuance if the applicant so desires. Mr. Sitzler conferred with his client and announced that the club wished to have time to try and address the board's concerns.

Continuance – Mr. Sitzler, with applicant's approval, requested an additional continuance until the November board meeting and continued to waive any time requirements in order to address the board's concerns. There being no further discussion, a motion was made by Joseph Threston and seconded by Craig Greenwood, that the hearing be continued until the November so all stated requirements can be met and that a notice to that effect be posted on the bulletin board of Borough Hall. The voice vote was unanimous that:

Be it resolved by the Planning Board of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Porch Club of Riverton for site plan waiver and approval of all related variances as needed for construction of a handicapped access ramp on the premises, at 4th & Howard Streets (Block 403, Lot 4) is continued, applicant having requested an extension of time for consideration of the matter until the regular meeting of the Board on November 20, 2012.

The secretary will post the required continuation notice. Mr. Coleman reviewed that no additional notification is required by the applicant and all present tonight are properly notified of the continuance.

NEW BUSINESS

Invoices and vouchers:

1. 9/13/12, Burlington County Times, \$41.24, publish Horn Notice of Decision. (HORN ESCROW ACCOUNT)
2. 9/7/12, Raymond Coleman & Heinold, LLP, \$91.00, services during August and attending the August 2012 meeting. (PLANNING BOARD GENERAL ACCOUNT)
3. 9/7/12, Raymond Coleman & Heinold, LLP, \$91.00, legal service during August for preparing the Horn resolution. (HORN ESCROW)
4. 9/7/12, Raymond Coleman & Heinold, LLP, \$58.50, legal services during June for preparing the Martino resolution. (MARTINO ESCROW)

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

Possible Public Hearing for new Variance Application in October – Ken Palmer announced that he had received a request from an applicant for a variance application to be heard at the October meeting. Bulk variance(s) are needed to erect an addition to a home.

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

Meeting adjourned at 8:36 PM. (motion by Greenwood, second by Threston)

Next meeting is at 7:00 pm on 10/16/2012 in Borough Hall.

Tape is on file for one year.

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