

RIVERTON BOROUGH PLANNING BOARD
MINUTES
June 16, 2015

The Public Session of the Planning Board was called to order at 7:00 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 on the official bulletin board in the Borough Office on January 21, 2015.
2. Required Service of notice and publication in the Burlington County Times on January 23, 2015.

PRESENT: Ken Mills, Joe Della Penna, Craig Greenwood, Joseph Threston, Councilman Joseph Creighton, Mary Lodato, Deborah Weaver, Richard Gaughan, Robert Martin and John Kohms.
Also Present: Solicitor Tom Coleman and secretary Ken Palmer.

ABSENT: Kerry Brandt, Robert Kennedy, and Mayor William Brown.

MINUTES: A motion was made by Robert Martin and seconded by John Kohms to adopt the minutes of the May 19, 2015, regular meeting of the planning board as distributed. The voice vote was unanimous.

PUBLIC HEARINGS:

Case#2015-02, Variance Application by Penny Biehl, 616 Elm Terrace, Block 1005, Lot 1 for relief from corner lot setback requirements for a rear yard fence.

Introduction: Mr. Mills reviewed that the hearing had been continued from last month at the request of the applicant in order to consider revising the plans for the fencing to address the concerns of the board and the ARC. It was reviewed that while the entire board can participate in the matter, only the four members present tonight who were present last month (Mills, Lodato, Martin, and Kohms) are currently eligible to participate in any vote on the matter. The secretary reported that Mr. Threston and Mrs. Weaver had requested and were provided the tape of the May meeting in order to listen to the hearing. Both members had signed an affidavit attesting that they had listened to the tape and considered themselves able to render an informed and impartial decision on the matter. Mr. Coleman stated that these two members could also participate on any vote on the matter. Mr. Mills invited Mrs. Biehl and Mr. Marshall to present any new testimony. Mr. Coleman reminded the applicants that they were still sworn.

Testimony and Board Questions: Mrs. Biehl reviewed the revised plan previously submitted to the board. She now proposes to erect fencing in the setback area on the portion of the yard that extends from the edge of the garage to the rear of the property and along the rear property line. This reduces the proposed amount of fence in the setback along the street to approximately 60 feet from the original 130 feet originally requested. The fencing along the street would be setback five feet from the property line. Fencing with a gate would extend from the corner of the garage to toward the street. The corners of the fence at the rear of the lot and the garage would be angled at 45 degrees for approximately six feet to provide adequate sight lines at the corners. The height of the fence would be five feet rather than six feet. A copy of the revised plan had also been submitted to the ARC and they had endorsed the revised plan. Mrs. Biehl submitted a copy of an email from the ARC stating their endorsement. The email was accepted as exhibit A1. Asked if the neighboring property owner had reviewed the revised plan, Mrs. Biehl stated she had not sent him a copy, but felt certain all his concerns were addressed since his suggestion was only to provide the slanted corner and she is also proposing to hold the fence back five feet from the sidewalk. It was reviewed that only the portion of the fence from the garage to the rear of the property and its related portions that were in the setback area were being considered by the board. Mrs. Biehl stated that a final decision had not been made on the style of the fence. There was no further testimony or questions from the board.

Public Comment: Mr. Threston motioned and Mr. Kohms seconded to open the hearing to public comment. There was none and Mr. Threston motioned and Mr. Kohms seconded to close the hearing to public comment.

Deliberation: Mr. Mills asked if the board had any further questions or discussion or if the board was ready to make a decision. Mr. Martin asked if Mr. Coleman might help review what the board is granting if it decides to

approve the application. Mr. Coleman stated that if the board is inclined to approve the relief requested, it might consider a variance for a fence that is no higher than five feet, that will be five feet inside the sidewalk property line, and will be angled at 45 degrees at the driveway and rear property line corners. Mr. Martin motioned for approval as suggested and Mr. Kohms seconded. There was no discussion and the motion passed by a unanimous poll vote of six ayes of the members eligible to vote as follows:

Mr. Mills	aye	Mr. Threston	aye
Mrs. Lodato	aye	Mrs. Weaver	aye
Mr. Martin	aye	Mr. Kohms	aye

Mr. Mills, Mr. Threston, and Mrs. Lodato commented that they thought the revised plan addressed all the concerns and was not a detriment to the area.

The next steps were reviewed with the applicant.

Case# 2015-03, Variance Application by Andrew & Jennifer Comerford, 712 Linden Ave., Block1204, Lots 5&6 for rear yard setback requirements to replace a deteriorated deck with a new screened porch on the back of the home. The house is a nonconforming structure due to insufficient rear yard setback. The proposed porch will occupy the same space as the existing deck.

Introduction: Mr. Mills stated that he needed to recuse himself from the matter and suggested that Mr. Threston might chair the board for the hearing. Mr. Coleman stated that was the proper procedure the board needed to motion and approve this. Mr. Greenwood motioned, Mr. Della Penna seconded and the board unanimously approved Mr. Threston acting as temporary chair for the hearing. The secretary reviewed that all jurisdictional items were complete. Mr. Coleman concurred the application was jurisdictionally complete and the hearing could proceed. Mr. Threston introduced the matter and asked the applicants to introduce themselves and anyone who would be testifying. The applicants, Jennifer and Andrew Comerford, were sworn in.

Testimony and Board Questions: The applicants testified that the existing 14 by 12 foot deck is badly deteriorated, unusable, and needs to be replaced. They wish to replace the deck with a covered porch on the same sized footprint as the deck. The stairs from the porch would be in the same location as the existing steps. The property is extremely shallow with an irregular shaped rear property line and has a rear yard only 10 feet at most deep beyond the deck/proposed porch. The deck was part of the house when they purchased the property and they do not know when it was installed. The applicants testified they feel the proposed porch is in keeping with the style of the home and feel a porch in the rear of the home improves the property and is not a detriment to the property or the neighborhood. Asked by Mr. Coleman if the irregular shape of the rear property line presented a hardship, the applicants stated it did since it further interfered with having a rear yard with or without the porch. There was discussion regarding how far the property line was from the rear of the house and proposed porch. Using the survey and its dimensions, the board concurred it was determined that at most there might be 8 to perhaps 12 feet maximum depth depending on how it is measured. There was no further testimony or board questions.

Public Comment: Mrs. Weaver motioned and Mr. Greenwood seconded to open the hearing to public comment. Ken Mills, 105 Midway, a notified property owner stated he knows the applicants and approves of the plans. There has never been any problems and you can't even see the rear of the property from the street. There was no further comment and Mrs. Weaver motioned and Mr. Della Penna seconded to close the hearing to public comment.

Deliberation: Mr. Threston asked if the board had any further questions or discussion or if the board was ready to make a decision. Mr. Greenwood asked if Mr. Coleman might help review what the board is granting if it decides to approve the application. Mr. Coleman stated that if the board is inclined to approve, it would be granting a C1 variance to allow a nonconforming structure as proposed that will be no closer than 8 feet to the rear property line from any given point of reference. Mr. Greenwood motioned for approval as suggested and Mr. Martin seconded. The motion passed by a unanimous poll vote of nine ayes as follows:

Mr. Della Penna	aye	Mr. Greenwood	aye
Mr. Threston	aye	Mr. Creighton	aye
Mrs. Lodato	aye	Mrs. Weaver	aye
Mr. Gaughan	aye	Mr. Martin	aye
Mr. Kohms	aye		

Mr. Della Penna, Mr. Threston, and Mrs. Lodato commented that they thought the plan was an improvement to the property and there was an existing hardship and need to do something to remove the hazardous conditions.

The next steps were reviewed with the applicants. Mr. Mills resumed chairing the meeting.

Case# 2015-04, Variance Application by Keith & Muriel Betten, 404 Main St., Block 801, Lot 18, for accessory building setbacks to replace an existing deteriorated nonconforming garage with a new slightly larger structure but retain the nonconforming setbacks to allow vehicular access to the new structure.

Introduction: Mr. Mills introduced the matter and asked if any members needed to recuse themselves from hearing the application. Rich Gaughan stated he needed to recuse himself from the matter. The secretary reviewed that all jurisdictional items were complete. Mr. Coleman concurred the application was jurisdictionally complete and the hearing could proceed. The applicants Keith and Muriel Betten were sworn in.

Testimony and Board Questions: Mr. Betten reviewed they lived three doors from 4th Street. Their lot is narrow and they would be limited to on-street parking except that a former owner purchased a 17 foot wide strip of property that enters from 4th Street along the rear of the two adjoining properties and provides access to a circa 1916 rather small 16 feet wide by 17½ foot deep shed style garage. It has no period architectural style, is deteriorated and is too small to use as a garage and for storage of yard tools and equipment. The existing structure sits 1½ foot or less from the side and rear property lines. The new proposed structure would be a 17½' wide by 22' deep architecturally appropriate "carriage house" style structure. It will be three feet off the "South" side yard property line and between zero and approximately 1½ feet off the "West" rear property line. The applicant introduced two photographs and a sketch plan that were entered as exhibits A1, A2, and A3. A1 and A2 were photographs, one which showed the excessive "sway back" of the existing ridge line and the other showed the structure as observed from the driveway entrance on 4th Street. The sketch, A3, demonstrated that due to the narrowness of the property it would extremely difficult to negotiate a jog to go from the driveway to the new garage door if the structure has to be erected three feet off the rear property line. The applicants feel the proposed structure is an improvement and is beneficial to the property and the neighborhood. They feel a hardship exists due to the shape of the property that prevents them using the garage without the variance. They intend to re-survey the property after the existing structure is demolished to accurately define the property lines. Mr. Coleman asked if the applicant would be willing to provide a copy of the new survey for the board's case file and the answer was yes. Mrs. Lodato asked if the applicants were aware of the fire code requirements and hence the three foot setback. They answered yes and intended to meet all construction requirements. They also intend that no portion of the proposed structure extends over any property lines. Board members complimented the applicants on the thought that went into the architect renderings. There was no further testimony or questions from the board.

Public Comment: Mr. Threston motioned and Mr. Della Penna seconded to open the hearing to public comment.

- Rich Gaughan, 401 Main St., is in favor of the plan and feels it benefits the neighborhood and the property. Anything that helps alleviate or preserve the lack of off-street parking is a benefit.
- Barry Solin, 406 Main St., lives next to the Bettens and looks forward to the existing structure being replaced by an appropriately styled structure that adjoins their Victorian styled yard and gardens.

There was no further comment and Mrs. Weaver motioned and Mr. Della Penna seconded to close the hearing to public comment.

Deliberation: Mr. Mills asked if the board had any further questions or discussion or if the board was ready to make a decision. Mr. Martin asked if Mr. Coleman might help review what the board is granting if it decides to approve the application. Mr. Coleman stated that if the board is inclined to approve the relief requested, it

might approve replacing the existing structure with a 17½' by 22' structure consistent with the plans presented that would be no closer than three feet from the Southeast or side property line and nothing to overhang the Southwest or rear property line; and conditioned on a copy of the new survey prepared post demolition being supplied for the record. Mr. Martin motioned for approval as suggested and Mr. Threston seconded. The motion passed by a unanimous poll vote of nine ayes as follows:

Mr. Mills	aye	Mr. Della Penna	aye
Mr. Greenwood	aye	Mr. Threston	aye
Mr. Creighton	aye	Mrs. Lodato	aye
Mrs. Weaver	aye	Mr. Martin	aye
Mr. Kohms	aye		

Mr. Mills, Mr. Della Penna, Mrs. Lodato, and Mrs. Weaver commented that they thought a hardship exists, applauded the thoughtfulness that went into the plans, and recognized and appreciated the strong support of the neighbors.

The next steps were reviewed with the applicant.

CORRESPONDENCE/ANNOUNCEMENTS

None

REVIEW/CONSIDER INVOICES & VOUCHERS

1. 6/1/15, Tamara Lee Consulting LLC, \$1,785.00, for continued work on the draft housing element and fair share plan during May. (COAH/AFFORDABLE HOUSING BUDGET)

A motion was made by Joe Threston, seconded by Craig Greenwood, and unanimously approved to pay the voucher as presented. The secretary will have it signed and submitted for payment.

OLD BUSINESS

Affordable Housing – Tom Coleman reported that there has been no new information or direction released. He and Tamara intend to submit the draft plan to Judge Bookbinder the first or second week of July requesting a declaratory judgment action. There is concern that there are any funds available for the expenses involved and the impact on the Borough's budget. The possible impact of legislating and imposing any development fees on new construction was discussed.

Council Matters of Importance to the Board – Councilman Creighton reported that a new Freeholder Grant had been received for the park and would be used to resurface the tennis courts. He also reported that the budget had been adopted.

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

Minor Site Plan Applications – Mary Lodato reported there were none in the last month.

Subcommittee for Accuracy of the Zoning and Related Ordinances – Joe Della Penna and Joe Threston stated there was no update.

NEW BUSINESS – None

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

Meeting adjourned at 8:19 pm. (motion by Weaver, second by Threston)

Next meeting is at 7:00 pm on 7/21/2015

Tape is on file for one year.

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