

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JANUARY 21, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Reorganization
 - Swear in new and re-appointed members
 - Elect offices and appoint officials
4. Approve minutes from December meeting
5. Old business
 - Approve resolutions
 - Committee reports
6. Review correspondence
7. Consider vouchers
8. New business
 - Adopt resolutions for meeting calendar and professional appointment(s)
 - Other new business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
FEBRUARY 18, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from January meeting
4. Old business
 - Appointment of an engineer
 - 2004 Budget
 - Committee reports
5. Review correspondence
6. Consider vouchers
7. New business
 - New Code Officer
 - Other new business
8. Public Comment
9. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
APRIL 21, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from February meeting
4. Hearing on application of Cindi Vee, 204 Broad Street for a Bed & Breakfast
5. Hearing on application of Thomas Campbell, 203 Cinnaminson Street for setback relief
6. Old business
 - 2004 Budget
 - Disclosure Forms
 - Committee reports
7. Review correspondence
8. Consider vouchers
9. New business
 - New Code Officer
 - Other new business
10. Public Comment
11. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
MAY 19, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from April meeting
4. Continued hearing on application of Cindi Vee, 204 Broad Street for a Bed & Breakfast
5. Adopt and memorialize resolution for Thomas Campbell, 203 Cinnaminson Street
6. Old business
 - 2004 Budget
 - Committee reports
7. Review correspondence
8. Consider vouchers
9. New business
 - Possible upcoming hearings
 - Other new business
10. Public Comment
11. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JUNE 16, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from May meeting
4. Public Hearings on Applications before the Board (Order of presentation at discretion of the chair):
 - Continued hearing on application of Cindi Vee, 204 Broad Street for a Bed & Breakfast
 - Brandenburger/Sheridan, Inc. on application for Site Plan and Major Subdivision approval on the “Sitzler” property between Main and Cinnaminson Streets
 - Kathleen & Barry Grahn, Lippincott Avenue, fence on corner lot
5. Old business
 - Committee reports
6. Review correspondence
7. Consider vouchers/invoices
8. New business
 - Possible upcoming hearings
 - Other new business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JULY 21, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from June meeting
4. Public Hearings on Applications before the Board (Order of presentation at discretion of the chair):
 - Brandenburger/Sheridan, Inc. on application for Site Plan and Major Subdivision approval on the “Sitzler” property between Main and Cinnaminson Streets
 - Flamini, Cedar Lane Mews on application for Site Plan and Major Subdivision approval for construction of townhouses behind the existing apartments on his property on Cedar Street
 - Joseph Blanche, Linden Avenue, on variance application for addition on a home with pre-existing non-conforming side yard setback
5. Old business
 - Adopt Resolutions for hearings completed last month
 - Committee reports
6. Review correspondence
7. Consider vouchers/invoices
8. New business
 - Possible upcoming hearings
 - Other new business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
SEPTEMBER 15, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from August meeting
4. Public Hearings on Applications before the Board:
 - Request for existing side yard setback relief and any other variances to construct an addition on her residence by Nancy Gorman, 402 Seventh Street, Block 1102, Lot 19
 - Request for continuation until October by applicant: Brandenburger/Sheridan, Inc. on application for use and bulk variances, site plan and major subdivision approval on the "Sitzler" property between Main and Cinnaminson Streets
 - Cedar Lane Mews on application for use, and bulk variances, development and site plan approval, to construct townhouses behind the apartments on Cedar Street
5. Old business
 - Any old business before the board
6. Review correspondence
7. Consider vouchers/invoices
8. New business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
OCTOBER 20, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from September meeting
4. Public Hearings on Applications before the Board:
 - Request for existing side yard setback relief and any other variances to construct an addition on her residence by Nancy Gorman, 402 Seventh Street, Block 1102, Lot 19
 - Brandenburger/Sheridan, Inc. on application for use and bulk variances, site plan and major subdivision approval on the “Sitzler” property between Main and Cinnaminson Streets
 - Cedar Lane Mews on application for use, and bulk variances, development and site plan approval, to construct townhouses behind the apartments on Cedar Street
 - Request for side yard setback relief on a corner lot and any other variances to construct an addition and move a garage by Debra Lengyel and Christopher Halt at 400 Linden Avenue, Block 701, Lot 1
5. Old business
 - Any old business before the board
6. Review correspondence
7. Consider vouchers/invoices
8. New business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
NOVEMBER 17, 2004**

1. Meeting called to order
2. Open public meetings notice act statement
3. Approve minutes from October meeting
4. Public Hearings on Applications before the Board:
 - Request for side yard setback relief on a corner lot and any other variances to construct an addition and move a garage by Debra Lengyel and Christopher Halt at 400 Linden Avenue, Block 701, Lot 1 – TO BE WITHDRAWN
 - Cedar Lane Mews on application for use, and bulk variances, development and site plan approval, to construct townhouses behind the apartments on Cedar Street – REQUEST TO CONTINUE
5. Old business
 - Resolutions:
 - ⊖ Approved existing side yard setback relief and any other variances to construct an addition on her residence by Nancy Gorman, 402 Seventh Street, Block 1102, Lot 19
 - ⊖ Brandenburger/Sheridan, Inc. approved use variance for site plan and major subdivision on the “Sitzler” property between Main and Cinnaminson Streets
 - Any old business before the board
6. Review correspondence
7. Consider vouchers/invoices
8. New business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
DECEMBER 15, 2004**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement
3. Approve minutes from November meeting
4. Public Hearings on Applications before the Board:
 - Continuation of use variance portion of Cedar Lane Mews application for use, and bulk variances, development and site plan approval, to construct townhouses behind the apartments on Cedar Street
 - Request for side yard setback relief to construct an addition by Kathleen and Andrew Shover at 422 Linden Avenue, Block 701, Lot 12
5. Old business
 - Any old business before the board
6. Review correspondence
7. Consider vouchers/invoices
8. New business
9. Public Comment
10. Adjournment

RIVERTON BOROUGH ZONING BOARD
MINUTES
January 21, 2004

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 7:40 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 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 13, 2003.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

REORGANIZATION - 2004

William Brown was sworn in as a new alternate member of the board and Rick Mood and Alan Adams were sworn in to new terms as full member and alternate member respectively by Board Solicitor Janet Zoltanski Smith.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, Alan Adams, and Bill Brown.

ABSENT: None.

OFFICIALS: Board Solicitor Janet Zoltanski Smith was present. Secretary Ken Palmer and Councilwoman Muriel Alls- Moffat were present.

Chairman: Kerry Brandt was nominated by Fritz Moorhouse and seconded by Fred DeVece to serve as Chairman. A poll vote was taken and the vote was unanimous.

Vice Chairman: Ed Smyth was nominated by Fred DeVece and seconded by Al Adams to serve as Vice Chairman. A poll vote was taken and the vote was unanimous.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Ed Smyth and seconded by Fritz Moorhouse to serve as the Zoning Board Solicitor for 2004. A poll vote was taken and the vote was unanimous.

Secretary: Kenny Palmer was nominated by Rick Mood and seconded by Fred DeVece to serve as the Board Secretary for 2004. A poll vote was taken and the vote was unanimous.

Engineer: It was discussed that the board should have an engineer on call for more complicated matters that may involve site plan issues. Several firms were discussed. A motion was made by Fritz Moorhouse and seconded by Fred DeVece that the appointment be tabled until the next meeting so further research could be conducted. The vote was unanimous.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Fred DeVece, and unanimously approved by the members eligible to vote to accept the minutes of December 17, 2003 as distributed.

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolution was reviewed, considered and adopted by the Board:

- **Resolution 2004-10, Brian and Anna Marie Bearint, 309 Midway, Block 1301, Lot 1** – A motion was made by Ed Smyth and seconded by Fritz Moorhouse to adopt and memorialize the resolution as distributed. The resolution was unanimously approved by a poll vote of the members eligible to vote as follows: Mr.

Smyth, aye; Mr. Trotman, aye; Mr. Moorhouse, aye; Mr. Adams, aye.

Smart Growth Grant for Ordinance Rewrite – The secretary reviewed that there had been no further information from the state on Mayor Gunn’s follow up letter concerning approval of the change of scope and has been dropped from planning’s agenda

Planning Board Issues – The secretary reported that a public hearing on the multi unit ordinance had been held and that further review and more hearings would be conducted over the next few months. The secretary reviewed the purpose and intent of the proposed ordinance.

Fence Ordinance Review – The chair reported that there had been no further meetings and he needed to follow up on the issue now that the holidays were over.

2004 Budget – The chair reviewed that he would get together with Mary Longbottom to discuss input prior to Council’s next meeting.

CORRESPONDENCE

None.

NEW BUSINESS

Vouchers and Invoices: Janet Smith, 1/9/04 – \$300.00 for attendance at the December meeting, the Bearint application and resolution, and legal services. Following discussion, a motion was made by Fred DeVece and seconded by Rick Mood to approve the voucher for payment. The motion was unanimously approved. The secretary will make sure the voucher is signed and submitted for payment.

Board Meetings for 2004 Resolution B Resolution Z2004-1, the calendar of meetings for February 2004 through January 2005 was reviewed. A motion was made by Fritz Moorhouse, seconded by Rick Mood and passed unanimously to accept the resolution, to have it published in the Burlington County Times and posted in the Borough Hall.

Appointment of Solicitor Resolution B Resolution Z2004-2 announcing the appointment of a solicitor was reviewed. A motion was made by Fritz Moorhouse, seconded by Rick Mood and passed unanimously to accept the resolution, and to have it published in the Burlington County Times.

Possible Subdivision and Town Homes behind the Cedar Lane Apartments: The secretary discussed that Dominic Flamini owner of the Cedar Lane Apartments wanted to come before the Planning Board to make an informal presentation on the possibility of subdividing and erecting town homes behind the apartments. Because town homes represent a change of use, the matter would come before zoning. Janet Smith discussed the process of an informal presentation. The Board and solicitor reviewed the issues involved and decided that an informal presentation would not be in the best interest of the Board, Mr. Flamini, or the town. There are just too many complicated issues to be discussed and no one wants to have the public feel the board is doing something behind its back. Because the public often misunderstands the process, it was decided it would be better, if he wishes to, make a site plan application, he should do so and supply all the necessary documentation needed to allow the Board to properly review the proposal. A motion was made by Fritz Moorhouse, seconded by Rick Mood and unanimously passed that a formal site plan application would be needed before the Board would discuss/hear the matter. Janet Smith stated that she would contact Mr. Flamini’s attorney, Mr. Colaguori, on the Board’s review and decision.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment.

Ed Gilmore, spoke to the Cedar Lane issue and reviewed that the issue had come before the board many years ago

and had been denied. He also reviewed the discussion about constructing a single family home and exchange of land with the Borough that was discussed about a year ago. He doesn't want to lose informal arrangement that allows park visitors to use the apartment's parking area on 8th street. He feels things should be left as they are. Ed Smyth concurred that there really is no such thing as an informal presentation. He agrees that the board should insist on a formal application if one is to be made.

Muriel Alls-Moffat, applauded the common sense approach the board is taking on matter such as Cedar Lane and she looks forward to representing the board before Council.

MISCELLANEOUS

Ed Smyth commented that it had been a busy year with a meeting every month and that on behalf of himself and the chairman the efforts of the Board are very much appreciated. He also thanked the Board's solicitor and secretary for their efforts.

Meeting adjourned at 8:46 PM.

Next meeting is on 2/18/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
February 18, 2004

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 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, Alan Adams, and Bill Brown.

ABSENT: None.

OFFICIALS: Board Solicitor Janet Zoltanski Smith was not present. Councilwoman Muriel Alls- Moffat was present. Code Enforcement Officer Anthony Dydek was not present. Secretary Ken Palmer was present.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Rick Mood, and unanimously approved by the members eligible to vote to accept the minutes of January 21, 2004 as amended (chair of the meeting corrected).

OLD BUSINESS

Adoption and Memorialization of Resolutions – There were none.

Appointment of an Engineer – Discussion on this appointment was tabled at the January meeting. The chair stated that he had talked with Remington & Vernick an engineering firm that is used by Council and comes highly recommended by other professionals and members of other boards and officials in the Borough. The firm understands and agrees that they are contracted on a case by case basis as needed and they submitted their schedule of fees. The chair distributed the copies of the brochure he had received. Councilwoman Alls-Moffat stated that the firm is the Borough's consulting engineer and that Council was very impressed with the firm and Mr. Rick Arango in particular. It was discussed that the board would only need the services of an engineer when an application, such as a site plan application with a use variance was submitted. In such a case, once the board hears and grants the variance, it can continue to hear the application. Site plan applications typically call for a review by an engineer. The costs in this case are normally paid out of the escrow funds of the applicant. The chair stated he could also envision the need for an engineer's opinion if a ruling of the board was appealed along grounds where an engineer's review and opinions were the best qualified to help support the board's decision. Also, there is no cost involved unless the services are actually requested. Following discussion that the board was satisfied with the information provided and feeling the best choice had been presented, a motion was made by Ed Smyth, seconded by Fred DeVece, and unanimously approved by poll vote of 7 to 0 to appoint Rick Arango of Remington, Vernick and Arango as the board's consulting engineer for 2004.

2004 Budget – The chair stated that he had submitted the budget to Mary. Ed Smyth discussed the need for relevant publications concerning zoning laws and cases. He thinks perhaps they should be made available for the board. The secretary discussed certain Municipal Land Use Law related materials available. Everyone agreed the board needs to be better informed on the types of things they may be asked to consider and research should be made to seek suitable examples. The chair stated that there is money in the budget for "operating expenses" and he feels there are sufficient funds that can be earmarked for this type of expenditure.

Smart Growth Grant for Ordinance Rewrite – Fred DeVece reported that he had heard nothing on the project. The secretary reviewed that the planning board, due to lack of response from the state and the likely inability to meet the extended completion deadline of 12/31/2004, had approved a motion requesting Council to proceed with canceling the grant and to return any received monies back to the state. Since the project is now ended, it will be dropped from the board's agenda.

Planning Board Issues – The secretary reported that the draft of the commercial property maintenance ordinance had been referred back to the subcommittee for a thorough analysis of the issues raised at the public hearing as well as reviewing with the board's solicitor if current laws on the books will achieve the same results. There was discussion among the zoning board members about what the new code was being designed to cover and its relation to similar state statutes. The need to establish an accurate accounting of multi-family units in the Borough was also discussed.

Fence Ordinance Review – The chair reported that another meeting is scheduled tonight following the board meeting.

CORRESPONDENCE

- Janet's contract for 2004 was received to be signed and returned for her signature. The chair briefly reviewed the contents.

NEW BUSINESS

Appointment of Engineer Resolution – Resolution Z2004-3 announcing the appointment of an engineer was reviewed using the fact that the legal wording is exactly the same as for the solicitor. The only difference is that the appointment is for an engineer and the name will be the engineer's instead of the solicitor. A motion was made by Fritz Moorhouse, seconded by Rick Mood and passed unanimously by a poll vote of 7 to 0 to adopt the resolution of the appointment, have it published in the Burlington County Times, and for the secretary to request a contract from the firm.

Vouchers and Invoices: Janet Smith, 2/9/04 – \$131.25 for attendance at the January meeting and legal services. Following discussion, a motion was made by Fred DeVece and seconded by Rick Mood to approve the voucher for payment. The motion was unanimously approved. The secretary will make sure the voucher is signed and submitted for payment.

New Code Enforcement Officer: The chair mentioned that Anthony Dydek had been hired by the Borough as the new code enforcement officer. Councilman Alls-Moffat apologized for not inviting him to tonight's meeting and will try to have him present at the next meeting.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none.

Meeting adjourned at 8:15 PM.

Next meeting is on 4/21/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
April 21, 2004

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 Edward Smyth.

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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Edward Smyth, John Trotman, Ken Mills, Fritz Moorhouse, and Alfred DeVece.

ABSENT: Kerry Brandt, Richard Mood, Alan Adams, and Bill Brown.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Code Enforcement Officer Anthony Dydek, and Secretary Ken Palmer were present. Board Engineer Richard Arango was also present.

MINUTES: A motion was made by Alfred DeVece, seconded by Fritz Moorhouse, and unanimously approved to accept the minutes of February 18, 2004 as distributed.

PUBLIC HEARING:

APPLICATION FOR CONDITIONAL USE APPROVAL WITH USE VARIANCE TO OPERATE A BED AND BREAKFAST ESTABLISHMENT IN THE NEIGHBORHOOD BUSINESS DISTRICT BY CINDI S. VEE, 204 BROAD STREET, BLOCK 800, LOT 31:

Summary – The applicant desires to operate a bed and breakfast establishment in a residence located in the Neighborhood Business district. Bed and breakfast establishments are a conditional use where permitted and require a site plan review before approval. In addition, the location is in the Neighborhood Business District where such a use is not permitted and thus the applicant is seeking a use variance. The Board has reviewed the application and deemed that all jurisdictional requirements have been met and the application can be heard. ~~it is complete.~~ The applicant was advised that she would need unanimous approval of the five members present if the use variance was to be granted and she had the right to request the hearing be continued until additional members are present. The applicant stated she wished to be heard with the minimum number of members present.

Testimony and Board Questions – Cindi Vee and Gary Ford were sworn in. She testified as to her prior experience in operating various bed and breakfast establishments. Cindi feels the location will support an establishment. Cindi reviewed the business plan attached to the application as well as the plans to replace the fence with fencing of style and material approved for the previous owner by the planning board when the former owner was approved to operate a business with an apartment. Overall, the board felt the applicant's plans for the building met the requirements of the code. It was noted that a variance may be required regarding the size of the breakfast room. There were several issues discussed in regards to the report submitted by the board's engineer Mr. Arango. The applicant distributed copies to the board and the engineer of an initial response to Mr. Arango's report. While the initial response to the engineer's report provided some answers, the board felt that there were other issues that were not properly addressed, among them: size of the parking stalls, handicapped access provisions, plans for an entrance at the rear of the property off of Maple Avenue, landscape buffers, and lighting. The applicant referenced the plans of the previous owner but they were not submitted as exhibits since it was deemed they should be revised to properly reflect the actual plans of the applicant. Ms. Vee and Mr. Ford reviewed what relief was hoped for and how they would meet the concerns of Mr. Arango. Mr. Arango reviewed his response and discussed what he felt would be needed to provide for a proper review of the plans and to show either how the applicant could demonstrate compliance or why relief should be granted. Concerning the entrance from Maple Avenue, the secretary reviewed that the previous owner while granted approval by the local planning

board, could not obtain approval from the county planning board to have a driveway entrance from Maple Avenue in that the entrance would be too close to the intersection of Maple Avenue and Broad Street. The vice chair was concerned that there were numerous issues that had not been addressed both in the building and the site in general. Mr. Ford stated that he hoped to come away from this meeting with a fairly clear understanding of what issues they may be granted relief on and where they had to clearly demonstrate compliance. It was discussed that perhaps the board could decide the use variance while waiting for the input on the site issues. While this is possible, it was decided that it would be better if it was determined that the site will work as a bed and breakfast before granting the use variance.

Deliberation and Decision – The board feels that the applicant needs to satisfy the concerns raised by Mr. Arango, the board’s engineer, or to adequately show why at least partial relief can be granted. Fritz Moorhouse stated he felt the applicant should review the engineer’s concerns with her professionals and that revised plans should be submitted for consideration by the board and its professionals. The applicant was urged to thoroughly review the sections of the Borough codes that govern the site issues raised. Section 128 deals with the zoning issues and Section 109 deals with site plan issues. The applicant concurred that a continuation was warranted and agreed to same. Fritz Moorhouse made a motion seconded by Fred DeVece that the hearing be continued until the applicant can resolve the issues raised at tonight's meeting and to show that the site will support the requested use as a bed and breakfast. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of 204 Broad Street for site plan approval with use variance on the property identified as Block 800, Lot 31 is continued, applicant having granted an extension of time for consideration of the matter until the next regular meeting of the Board on May 19, 2004.

The chair will be contacted concerning review of the tape by absent members in order that they may be allowed to participate in the hearing given that the minimum number of members was present for tonight’s hearing.

APPLICATION FOR SIDE YARD SETBACK RELIEF OF THOMAS J. CAMPBELL, 203 CINNAMINSON STREET, BLOCK 402, LOT 9:

Summary – The applicant desires to replace an existing greenhouse structure with a 1-story addition over a concrete basement area that is in noncompliance with the required side yard setback. The addition would replace an approximately 80 year old greenhouse which is seriously deteriorated. The poor condition of the green house is causing water leakage into the basement where the heater and electrical panel are located. The vice chair reviewed that all jurisdictional requirements have been met and the application could be heard. Mr. Campbell and the applicant’s architect, Mr. Hank Croft were sworn in.

Testimony and Deliberation – The applicant wants to replace the existing green house over an approximate 12’ 6” x 10’ area with a 1-story addition that would be in keeping with the architecture of the building. The only existing basement is beneath this area and contains the heating system and electrical panel. The applicant is concerned with water leakage from the existing structure and would also like to increase the usable living area of the house. The vice chair reviewed that the applicant had been before the board last year with a similar application which had been denied. Mr. Campbell acknowledged that he had appeared previously; however, the deteriorating conditions warrant action and present a hardship. Further, he hoped that by scaling back the addition to one story and not planning to touch the encroaching outside basement steps, he hoped the board would look favorably on the application this time. To support his application exhibits A1, A2, and A3 were submitted which were various photographs of the property including steps he has had to take to temporarily alleviate the leakage. The board’s solicitor stated that the issue of the encroachment of the exterior stairs was not an issue since the applicant was not proposing any changes to them. Drainage would be handled by a gutter which would extend no further into the side yard than the gutter currently installed along the foundation wall at the base of the green house. The renovations will be entirely on and within the existing footprint of the building. Mr. Croft reviewed the plans for the addition and explained how there would be no further encroachment from the gutter and the design of the roof. Drainage would be directed to the rear of the property. The hearing was opened to the public. Muriel Alls-Moffat, 202 Fulton Street has no objections to the plan. Avery MacDonald, 207 Cinnaminson Street stated that he was not opposed to the plan and thought the new construction would be more pleasing to look

at. There was no further comment and the hearing was closed to the public. There being no further comments or questions from the Board, John Trotman moved the application be approved. Fritz Moorhouse seconded the motion. A poll vote of the members was taken and the application was approved by a vote of 5 to 0 as follows:

Mr. Smyth	- aye	Mr. Trotman	- aye
Mr. Mills	- aye	Mr. Moorhouse	- aye
Mr. DeVece	- aye		

OLD BUSINESS

Financial Disclosure Forms – The secretary reviewed that forms were outstanding from several members.

2004 Budget – Tabled until the chair is present.

Planning Board Issues – The secretary reported that the draft of the commercial property maintenance ordinance is still in committee and vigorous discussion continues. Council is still determining how to return the grant monies for the Smart Growth Grant.

Fence Ordinance Review – Tabled until the chair is present. The secretary reviewed that he understood meetings were continuing.

Zoning Seminar – Fred DeVece and John Trotman thanked the board and council on the zoning seminar they attended. Copies of the schedule and the handouts were distributed.

CORRESPONDENCE

- The secretary reviewed that he had received several letters/notes from Michael Robinson addressed to the chair, mayor and Council concerning possible developments of the old Sitzler property between Main and Cinnaminson Streets and impact on the Pompeston Creek by any development behind the Cedar Lane Apartments on Cedar Street.
- A copy for the planning and zoning boards of the new state residential site improvement standards is being held by the secretary and is available on request.

NEW BUSINESS

New Code Enforcement Officer: The chair introduced Anthony (Tony) Dydek the new Code Enforcement Officer.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none.

Meeting adjourned at 9:08 PM.

Next meeting is on 5/19/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
May 19, 2004

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 7:35 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, Richard Mood, Ken Mills, Fritz Moorhouse, and Alan Adams.

ABSENT: John Trotman, Alfred DeVece, and Bill Brown.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Board Engineer Richard Arango, and Code Enforcement Officer Anthony Dydek were not present. Councilwoman Muriel Alls-Moffat and Secretary Ken Palmer were present.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Rick Mood, and unanimously approved to accept the minutes of April 21, 2004 as amended (minor legal wording pertaining to an application being okay to be heard).

PUBLIC HEARING:

APPLICATION FOR CONDITIONAL USE APPROVAL WITH USE VARIANCE TO OPERATE A BED AND BREAKFAST ESTABLISHMENT IN THE NEIGHBORHOOD BUSINESS DISTRICT BY CINDI S. VEE, 204 BROAD STREET, BLOCK 800, LOT 31 (CONTINUED):

The applicant appeared before the Board and formally requested an additional continuation so responses to the site plan issues addressed at the last meeting could be prepared. Fritz Moorhouse made a motion seconded by Allan Adams that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of 204 Broad Street for site plan approval with use variance on the property identified as Block 800, Lot 31 is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on June 16, 2004.

The chair and Rick Mood submitted affidavits attesting that they had listened to the tape of the hearing in April and that they were prepared to participate in the hearing when it continues. The affidavits were placed in the file. Allan Adams was given the tape to review so he will also be able to participate in the hearing.

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolution was reviewed, considered and adopted by the Board:

Resolution 2004-01, Thomas J. Campbell, 203 Cinnaminson Street, Block 402, Lot 9 – A motion was made by Ed Smyth and seconded by Fritz Moorhouse to adopt and memorialize the resolution as distributed and read at the meeting. The resolution was unanimously approved by a poll vote of the members eligible to vote as follows: Mr. Smyth, aye; Mr. Mills, aye; Mr. Moorhouse, aye.

2004 Budget – Councilwoman Alls-Moffat reported that the 2004 budget had been passed by Council.

Planning Board Issues – The secretary reported that a motion to recommend the draft for Council consideration had died for lack of a second. The planning board has requested additional direction from the new Council as how to proceed on the matter. Council has not received a response from the state on returning the grant monies for the Smart Growth Grant. Until direction is received from the state, the funds will remain in an interest bearing account.

Fence Ordinance Review – The chair reported that several additional meetings have been held, more are scheduled and he hopes that a draft of the changes can be available in the next few months. There are a lot of issues to consider. Plans call for an informal review before both the zoning and planning boards prior to it going to Council.

CORRESPONDENCE

- The secretary reported that the NJPO had sent certificates for the course attended by Fred DeVece and John Trotman. He will hold onto them until the members are in attendance at the next meeting.
- The secretary reviewed the 4/21/04, letter to board chairmen from William Connolly, Director, Division of Codes and Standards, State DCA, reminding that site plans should be reviewed with the construction official regarding site accessibility. Ramifications of this directive were discussed and how the site plans that are coming before the board make the information timely to the board.

NEW BUSINESS

Vouchers and Invoices: Janet Smith, 5/17/04 – \$356.25 for attendance at the April meeting and the Campbell hearing and resolution. Following discussion, a motion was made by Fritz Moorhouse and seconded by Rick Mood to approve the voucher for payment. The motion was unanimously approved. The secretary will make sure the voucher is signed and submitted for payment.

Possible Upcoming Hearings: The secretary reviewed the following new applications may be on the agenda for June:

- Flamini, Cedar Lane Apartments – have requested to appear – use variance to erect town homes behind the apartments.
- Brandenburger, Sitzler property between Main and Cinnaminson Street – date not yet formally requested – use variance for mixed use of the site.
- Blanche, 629 Linden Ave. – have requested to appear – side yard set back relief for existing non conformity for an addition.
- Grahn, 401 Midway – date not yet requested – setback relief for fence on a corner property.

Issues concerning limiting the time of the meeting and the length of comments were discussed. It was agreed that an applicant could not be advised not to appear and because continuances may change the time involved for a particular hearing, it was decided that if an applicant requests to appear they will be placed on the agenda.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment.

Councilman Gilmore reviewed some of the history concerning possible building on the site of the Cedar Lane Apartments. He also stated that he as well as others was very interested in the possible plans for the Sitzler property as well as the plans for the Cedar Lane Apartments.

The meeting was closed to public comment.

MISCELLANEOUS

Issues concerning illegal signs and the enforcement powers of the Zoning and Code Enforcement Officer were discussed. Members stated that they would address any concerns with Tony Dydek. It was reviewed that enforcement powers are basically limited to the Zoning Code. For other sections of the Borough Codes, Tony can act as the conduit to bring complaints and issues to the proper authorities for enforcement and resolution.

Councilwoman Alls-Moffat reported that Council would begin an overview of the Redevelopment Plan at the next Council meeting.

Meeting adjourned at 8:30 PM.

Next meeting is on 6/16/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
June 16, 2004**

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 7:40 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Fritz Moorhouse, Alfred DeVece, Alan Adams and Bill Brown.

ABSENT: Ken Mills.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Board Engineer Richard Arango, Councilwoman Muriel Alls-Moffat and Secretary Ken Palmer were present.

PUBLIC HEARINGS:

BLANCH HEARING: The chair announced that the Blanch, 629 Linden hearing for an addition to the home would not be held because the applicant had not properly published notice in the newspaper. The applicant will re-notice for next month.

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE "SITZLER" PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1:

The applicant's attorney had formally notified the board in writing requesting a continuance to comply with the board's desire to hear the application in its entirety rather than consider the use variance alone. Following review of the correspondence, Fritz Moorhouse made a motion seconded by Richard Mood that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Brandenburger/Sheridan, Inc. for a site plan and subdivision approval with use and bulk variances to develop the above named property in the Neighborhood Business and R4 Districts is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on July 21, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

MINUTES: A motion was made by Alfred DeVece, seconded by Fritz Moorhouse, and unanimously approved to accept the minutes of May 19, 2004 as distributed.

APPOINTMENTS: The chair reviewed that due to several complex site plans with use variances coming before the board, the board needs to appoint a professional planner to represent the board. The chair has contacted Tamara Lee, the planning board's planner about serving the zoning board in this capacity and requested she submit a contract. The chair reviewed the contract. Fritz Moorhouse motioned and Fred DeVece seconded that the board appoint Tamara Lee Consulting LLC to serve as the professional planner to the board for the remainder of 2004.

There was a unanimous poll vote to approve. The secretary read resolution Z2004-4 regarding the appointment. There being no discussion, Ed Smyth motioned and Rick Mood seconded that the resolution be adopted and that the secretary have it published in the newspaper. There was a unanimous poll vote to adopt the resolution.

PUBLIC HEARINGS:

APPLICATION FOR CONDITIONAL USE APPROVAL WITH USE VARIANCE TO OPERATE A BED AND BREAKFAST ESTABLISHMENT IN THE NEIGHBORHOOD BUSINESS DISTRICT BY CINDI S. VEE, 204 BROAD STREET, BLOCK 800, LOT 31 (CONTINUED):

Summary – The applicant desires to operate a bed and breakfast establishment in a residence located in the Neighborhood Business district. Bed and breakfast establishments are a conditional use where permitted and require a site plan review before approval. In addition, the location is in the Neighborhood Business District where such a use is not permitted and thus the applicant is seeking a use variance. Following the initial hearing, the applicant submitted revised plans to address the issues raised by the board's engineer.

The board's solicitor asked if there were additional members qualified to participate in the hearing. The secretary reviewed that the chair, Rick Mood and Allan Adams had submitted affidavits attesting that they had listened to the tape of the hearing in April and that they were prepared to participate in the hearing.

Testimony

Cindi Vee and Christopher Ford were sworn in and reviewed the revisions to the plan. The engineer's points were discussed as follows:

Parking, Circulation and Arrangement

- A1. Due to the shape of the lot the required setbacks for the proposed parking cannot be met. The applicant is requesting a variance for the setback.
- A2. The applicant proposes that the length of the parking stalls will be 20 feet as required.
- A3. Following discussion that it was okay to have a gravel surfaced handicapped parking space as long as there was access to a hard paved surface for the occupants, the applicant stated that the 16 foot wide space would use the concrete patio as the surface. The plans would be revised to reflect this. The space would be appropriately delineated.
- A4. The gravel drive and paths are not an issue for handicapped access since the entrance off the patio would be used for that purpose. The engineer has stated that the site complies with ADA requirements. The building requirements are beyond the purview of the hearing and subject to building code official's approval.
- A5. There is no plan to designate any spaces as employee only. Two of the spaces off the driveway entrance from Lippincott will be used.
- A6. A variance is being requested for the 12 foot wide drive instead of the 25 foot wide drive. The site will not accommodate a drive that wide since the access way is only 14 feet wide and landscaping and clearance from the building only allow a 12 foot wide path. John Trotman questioned if there was sufficient turning area in the parking area and the engineer replied there was. Christopher Ford stated that bringing the spaces in to full compliance provides extra turning space at the end of the area. The applicant testifies that signage inside would control use of the door that opens on to the drive. Site lighting was being worked out with PSE&G and would be appropriate and not impinge on the neighbors. Asked if the board can approve a design not yet made, it was discussed that the board can stipulate that approval is granted only if the engineer approves any plans.
- A7. Testimony was given that landscaping timbers would be used through out the parking and driveway areas to keep the gravel in place. While wheel stops were not proposed, they will be used since they are the only way to delineate the parking spots. The wheel stop for the handicapped space will be appropriately painted and a sign installed. The existing paved driveway and landscaping along the sidewalk will prevent gravel from the parking area encroaching on the public right of way.
- A8. See A7.
- A9. The existing shed at the rear of the property is to be removed and is not an issue.
- A10. See A5.

A11. Trash removal is planned to be no different than regular residential use. The location of the enclosure will be shown on the plans as described and will be hidden from street view.

Stormwater Management

B1. The applicant testified that there have been no observed drainage problems and the use of porous gravel suitably graded to control runoff onto adjacent property should not impact existing drainage on the site.

Grading

C1. The applicant testified that no top soil would be removed or used as a subsoil.

C2. Spot elevations shown confirm that the site appears to appropriately graded.

C3. See C2.

Utilities (D) – None are proposed.

Planting Design

F1. The applicant testified that due to the location of the existing driveway and proposed extension there is insufficient room to install the 10 foot buffer and is requesting a variance at this location. There is only two to three feet maximum available. A new six-foot privacy fence will be installed and there are existing trees and other landscaping present. Testimony was provided that the ordinance permits the board latitude on this requirement. While the buffer is for noise, it is also for privacy and a fence does provide privacy. While still concerned about noise, the board agreed that the proposed fence did provide for the safety, security and privacy issues. Since the proposed use is residential in nature and the traffic will not be extensive, the use of a fence instead of a landscape buffer would suffice in this area. It was noted that if the board concurs with the need for relief from the buffer requirement, then per Section 128-67 of the ordinance, a variance is not needed.

F2. The applicant agrees that the 10 foot wide buffer planned for the parking area facing Broad Street will also be extended along the Maple Avenue side.

Lighting

F1. The applicant testified that PSE&G is going to assess the lighting needs and plans call for using an existing utility pole for any above ground lighting. Landscape lighting will be used for path lighting where applicable. The recommendations of PSE&G will be to ensure safety and not impinging on the neighboring properties. It was agreed that the engineer should review and approve final plans after they are provided.

F2. See F1.

F3. The use of an existing light on the building is proposed to illuminate the drive and pad at the rear of the building. Wattage will be sufficient for safety and the use of a motion sensor could be considered to minimize time light is on.

Signage

H1. Signage will not to be part of this application. The applicant will comply with the Borough codes when a sign permit is applied for.

Site Safety

H1. It was commented that the applicant had previously testified that proper supervision was to be provided during all construction phases.

Conditional Use Satisfied

The board reviewed and the applicant testified that the plans for the building satisfied the conditional use requirements of the code. Following a brief recess, testimony was offered that the proposed use was more in keeping with the residential character of the site. As to the use variance, it was noted that the use is not in conflict with the Master Plan of the Borough and it is a beneficial use for the community. The proximity to the light rail station will support the use and the residential business type of business is in keeping with the town.

Public Comment

The meeting was opened to public comment. There was none and Fritz Moorhouse moved and Rick Mood seconded that the hearing be closed to public comment. The vote was unanimous.

Deliberation

The secretary commented that based on prior attempts to redevelop the property and the lack of interest in maintaining it as a private residence, he feels it is a good use. The chair reviewed that the board cannot change the zoning code but can grant a use variance on a case by case basis. Since a use variance is involved, five votes to approve are required rather than a simple majority. The engineer and solicitor concurred. The chair reviewed that a motion was needed that would include:

- A use variance to permit a B&B “Home” in the NB district.
- A bulk variance for the parking setback due to the shape of the property.
- A bulk variance permitting a 12 foot wide driveway.
- Board approval of the fence along the adjoining property instead of the landscape buffer.
- Incorporating an amended site plan application based on the engineer’s comments and applicant’s agreements including:
 - a. The handicapped parking space
 - b. Installation of wheel stops
 - c. Stone in the handicapped spot adjacent to a patio access
 - d. Landscape timber barriers to retain stone
 - e. Location and hiding the trash enclosure
 - f. Engineer review and approval of lighting recommendations
 - g. Removal of any sign references as part of the approval.

There were no objections to placing the above in a single motion and that the existing street side fencing would be addressed separately. Fritz Moorhouse moved to accept the motion as proposed above with the assistance of the solicitor. Rick Mood seconded the motion. A poll vote of the members was taken with approval being granted by a vote of 6 to 1 as follows:

Mr. Brandt – aye Mr. Smyth – aye
Mr. Trotman – nay Mr. Mood – aye
Mr. Moorhouse – aye Mr. DeVece – aye
Mr. Adams – aye

Concerning the fence along the street sides of the property, the applicant testified that the existing fence is in need of replacement and it is desired to replace the fence all at once rather than piecemeal as is permitted in the code. Further, the replacement fence would be of a style and construction more suited to the architectural style of the town and the property. Testimony was provided that a hardship existed concerning security and privacy if replacement was not permitted. Testimony and board questions elicited that the proposed fence is more in keeping with the style present before the current wooden picket fence. An ornamental iron gate with brick piers is proposed. A three-foot height for the fence is agreed to. The site plan will be amended to show the revisions to the fence. The hearing was once again opened to public comment on the fence issue and there was none. Fritz Moorhouse moved, Ed Smyth seconded and there was unanimous approval to close the hearing to public comment. There being no further discussion, Ed Smyth moved and Fred DeVece seconded that the fence plans be approved as amended. A poll vote of the members was taken with approval being granted by a vote of 7 to 0 as follows:

Mr. Brandt – aye Mr. Smyth – aye
Mr. Trotman – aye Mr. Mood – aye
Mr. Moorhouse – aye Mr. DeVece – aye
Mr. Adams – aye

The question of additional escrow amounts was tabled until additional information is obtained.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF A FENCE ON A CORNER LOT BY KATHLEEN AND BARRY GRAHN, 401 MIDWAY, BLOCK 1300, LOT 10:

Summary – The applicants desire to replace a 4-foot wood picket fence with a 4-foot vinyl picket fence in the rear yard and side yard of the property. Because the lot is a corner lot they are seeking a variance on the setback requirements for corner lots to have full utilization of the rear yard and side yards. The property is in the R4 district. The chair reviewed that all jurisdictional requirements have been met and the application could be heard. Mrs. Grahn was sworn in.

Testimony and Board Questions – The applicant reviewed that the existing fence was in poor condition. The ARC has reviewed and approved the proposed fence. Pictures were provided. It will be a hardship to not have a fence and maintaining/repairing the existing fence will prolong an unsightly and unsafe fence. The board voiced concerns about sight lines, and granting side yard variances. A picket fence does provide more visibility than a solid fence. The applicants desire to have secure use of the side yard and to keep the fence symmetrical to the fence on the other side of the house. The consensus of the board is that the fence should be angled in near the garage to provide a better view when using the garage.

Public Comment – The hearing was opened to public comment. There being none, Fritz Moorhouse moved, Fred DeVece seconded and the vote was unanimous to close the hearing to public comment.

Deliberation and Decision – The applicant was asked and agreed to amend the application to include angling a section of the fence in from the property line to the garage as long as she could maintain the side yard fence. The angled section will be a minimum of 8 feet at a 45 degree angle. The fence will be no closer to the sidewalk than 1-foot or the property line whichever is greater. The board had no further questions or comments. Ed Smyth moved the board approve the application as amended for the angled section, that it be no closer than 1-foot from the sidewalk and that the 4-foot picket fence be of the style “classic gothic” as presented. The motion was seconded by Rick Mood and a poll vote of the members approved the application by a vote of 6 to 1 as follows:

- Mr. Brandt – nay; likes the fence but is concerned about side yards
- Mr. Smyth – aye Mr. Trotman – aye
- Mr. Mood – aye Mr. Moorhouse – aye
- Mr. DeVece – aye Mr. Adams – aye

OLD BUSINESS

There were no resolutions to adopt and other issues were tabled due to the late hour.

CORRESPONDENCE

The secretary reported that there is the possibility of an application being submitted to erect a cell tower by Omnipoint Communications.

NEW BUSINESS

Brandenburger hearing issues: Janet asked if there were any conflicts that precluded members hearing the application. John Trotman stated he has a business relationship and would have to recuse. Fred DeVece owns a store next to the site and would have to recuse. Ken Mills may have a conflict. The chair will not be able to attend the August meeting. Research on pulling in member(s) from the planning board will be researched as needed. It was discussed that additional escrow was needed above the \$2,500.00 deposited to bring the initial amount up to \$4,000.00. Fritz Moorhouse motioned, Fred DeVece seconded and the vote was unanimous to request the additional amount and to have the secretary contact the applicant.

Vouchers and Invoices:

- Rick Arango, 5/13/04 – invoice for \$280.00 for the period 3/16/04 to 4/15/04 for work on the Vee application to be paid from escrow.
- Rick Arango, 5/13/04 – invoice for \$56.25 for the period 4/16/04 to 5/15/04 for work on the Vee application to be paid from escrow.

Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow account. The secretary will make sure the invoices are signed and submitted for payment.

Possible Upcoming Hearings: The secretary reviewed the following new applications may be on the agenda for June:

- Blanch, 629 Linden, home addition is being re-noticed.
- Flamini, Cedar Lane Apartments – they have requested to appear – use variance to erect town homes behind the apartments.
- Omnipoint may request a hearing for a cell tower.

Miscellaneous: The secretary reminded the board he would not be available for the July meeting.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 11:20 PM.

Next meeting is on 7/21/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
July 21, 2004**

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 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, Alan Adams and Bill Brown.

ABSENT: None.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Board Engineer Richard Arango, and Board Planner Tamara Lee were present. Secretary Ken Palmer was not present.

PUBLIC HEARINGS:

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2:

The chair reviewed a written request from the applicant's attorney requesting a continuance agreed to by the applicant until the August meeting. The chair explained the process to the members and to the public. Fred DeVece made a motion seconded by Fritz Moorhouse that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, use, and bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on August 18, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

HOUSEKEEPING: The chair established a time limit of 10:45PM for the meeting. The hearings would conclude at 10:30PM in order for the board to conduct other required business before the deadline. The Brandenburger application will be first and then the Blanch application. During public comment, comments will be limited to five minutes.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Rick Mood, and unanimously approved to accept the minutes of June 16, 2004 as distributed.

PUBLIC HEARINGS:

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE "SITZLER" PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1

(CONTINUED):

The chair asked the board if personal or business conflicts prevented any member from hearing the application. Due to a business relation with the applicant, John Trotman and Ken Mills recused themselves. Fred DeVece recused himself since he is a notified adjoining property owner. The board's solicitor stated it would be best if the recused members sit in the audience during this portion of the meeting. The chair reviewed that all jurisdictional requirements have been met and the application could be heard.

David Oberlander, attorney for the applicant, noted that there were only six members present to hear the application and raised the concern that additional members should be brought in. The chair stated that following legal review, additional members from the planning board cannot be brought in unless there is a lack of a quorum within the zoning board to conduct the hearing.

The chair briefly reviewed the location of the property, presented a brief overview of the plans and the variances being requested. The use variance(s) would be decided first, followed by the bulk variances and finally the site plan review. In order to maintain continuity, the board desires to hear the entire presentation to know how the site works then separately decide on the various issues. The chair also reviewed the state Municipal Land Use law governing the hearing as well as the role of the Borough's Master Plan and codes. The board cannot make the law but can consider exceptions or variances. He referred to the review provided by the board's planner, Tamara Lee and what needs to be shown in order to grant a use variance. The board cannot consider a current lack of permitted use as a basis for granting a use variance. The members are obligated to vote on whether the applicant has met the burden of proof to justify a change of use for a site. Use variances require five votes rather than a simple majority to approve. The process of hearing testimony, board questions, public comment, deliberation and voting on the topic will be followed during each phase of the hearing. James Brandenburger the applicant, Andrew Ott the applicant's engineer, and Marc Shuster the applicant's planner were sworn in.

Summary and Testimony – The applicant's attorney summarized the application to develop a mixed use project on the plot along Main Street, the rail line and Cinnaminson Street. The commercial development will be along the Main Street and be part of the existing business district. Residential development will be in the Cinnaminson Street residential area. The site had previously been approved for 17 town houses, but never developed. The attorney summarized the uses they feel are being sought.

The applicant presented a short introduction. He reviewed that the original plan for the property did not work and that the plan proposed provides commercial use in the business district along Main Street and retains the residential character along Cinnaminson Street. A full lot in the site has been reserved to address storm water concerns. The plan was developed with input from both professionals and residents of the Borough. He discussed some preliminary revisions which are not presented tonight including providing pedestrian access in place of closing the current through pedestrian access on the site. He presented a picture marked as exhibit A1 of the proposed design for twin homes. The applicants are willing to closely follow recommendations from the ARC as to the final design of the structures. Designs for the commercial buildings are still conceptual and will be heavily based on input from the ARC. It is proposed to construct the commercial space to accommodate up to four commercial units of approximately 1000 square feet each. This could be less if a client needed a larger space. There are plans for four two bedroom apartments over the commercial space of approximately 1,000 square feet each. The applicant proposes to own and lease out the commercial space. The chair reviewed that the intent of allowing apartments over businesses is ancillary to the commercial use and is intended to meet the objectives of fostering small businesses typical of a small town center. The applicant has no problem in limiting the maximum size of the commercial sites to preserve the character of the businesses that might wish to occupy the site.

Mr. Shuster stated his credentials and work in the area. He reviewed the three things he needed to demonstrate. He will demonstrate why the proposed use is a better fit than other uses. Granting the variance will not result in a substantial detriment to the public good with emphasis on the word substantial. The change in use will not result in a substantial impairment to the zone plan in the zoning ordinance, again with emphasis on the word substantial. The site is located in a mixed use area that already contains businesses and residential in close proximity to each other. The commercial development along Main Street will reflect the types of uses currently present while the

residential development on Cinnaminson Street will go along with the residential character of the street. Mr. Shuster feels the proposed uses fit well within the confines of the existing land uses in the area. The proposed detention basin will be located in an area that already serves this purpose and will be enhanced by the proposed development. It is the intent of the applicant to assume responsibility for the maintenance of the catch basin. The apartments are a variance on a conditional use and the proposed development provides no external impact and acts in the manner intended in the code. The design and appearance of the final plan will ensure compatibility with the area. Mr. Shuster gave examples from other developments to support his contentions. The chair asked him to address the impact of high traffic versus low traffic uses. Mr. Shuster submitted that the proposed eight dwelling units would have a minimal impact on traffic compared to a 5,000 square foot commercial development that could be built there and provided details to back up the statement. Thus he feels the residential area meets the goal of lessening traffic impact. He continued to testify why the proposed development will enhance and blend in with the existing uses in the area. He provided testimony as how the plan will not negatively impact the neighborhood. The plan prevents commercial uses impacting the residential area of the site and enhancing the commercial character of the area along Main Street and the detention basin enhances the entire area for everyone. Thus he feels there is no substantial detriment caused by the proposed plan. He testified that the plan does not impair the zone plan. He feels the light rail line has presented a major change in the land use characteristics envisioned in the Master Plan. The chair stated and the board's planner reinforced that the Master Plan rather than ignoring or failing to take into effect changes like the light rail instead encourages changes where they do not substantially effect or change the character except to improve things such as lessening the impact of vehicular traffic. Mr. Shuster maintains that the light rail presents a major change in the character of the area and the Master Plan does not preclude the Borough subsequently considering land use changes in the allowed uses in the area as a result of the change in character. He feels he has met the enhanced burden of proof as to why the current Master Plan did not take into consideration the proposed use of the property. Asked if he would still consider the use appropriate without the presence of the light rail, Mr. Shuster stated he didn't know since he only considered the use with the presence of the light rail system. Asked if he thought the light rail station made the proposed twin homes more appropriate, Mr. Shuster replied "indirectly." He stated there were other reasons why the townhouses are more appropriate for the area. The river line goes to the enhanced burden issue. He maintains the community did not consider the impact of the River Line on land use. Ed Smyth wanted to know if the contention being made was that the light rail has improved conditions or increased the value of property in proximity to the line since he feels the noise near the line and traffic congestion on Main Street from the light rail has done anything but improve conditions. Further discussion resulted in the statement that this is not the primary point of the testimony but only presented to support the proof required. The applicant and his professionals feel the plan meets the goals of the Master Plan by enhancing while preserving the commercial and residential characteristics of the site. Also, the plan meets the goals by fostering economic vitality, providing for adaptive reuse of under utilized properties in the town, and encouraging compatible infill on vacant parcels in the area. Janet Smith stated she felt the board is looking for an explanation as to why the proposed twin homes are more appropriate than single family structures which are permitted in the zone. The chair added that the bulk variances being requested add an additional concern to why the applicant feels twins are needed and that the board cannot consider nor the applicant claim economic hardship as a reason. Mr. Shuster replied that economic suitability is an issue. In the plan rather than the existing homes absorbing the impact of the commercial area, the new homes will bear that impact and that lowers the residential desirability and marketability of the site and thus the type and style of residential construction should reflect the diminished economic conditions present on the lots. Asked about proof, Mr. Shuster offered that in thirty years of experience it has always been a given that residential property adjacent to commercial property is less desirable than residential property adjacent to other residential property. Mr. Shuster believes that contention is self evident.

The chair feels that proof has not been presented that it is not possible to put single family detached residences on the proposed site. A use variance should never be approved because there is a fear that something worse will be proposed. The chair offered that the board needs proof that the site is not suited for the currently permitted use and that if numerous bulk variances are needed for the proposed use, perhaps that proves that the site is not suited for the proposed use. There has been no testimony that detached residences cannot be erected on the parcel proposed as residential construction. The applicant asked for a five minute recess after which Mr. Brandenburger offered that he feels the planner did a good job presenting the applicants case. It was not Mr. Shuster's intention to state that the light rail is integral to the development but rather could be one of many reasons to consider it a viable project and maybe a valid reason for the Borough to consider revisiting the Master Plan concerning properties in the

vicinity of the line. Jim feels that twin homes best fit the both the market potential of the site as well as compliment twin homes that already exist in the vicinity as well as detached homes that are on very narrow lots. To erect detached homes would probably involve bulk variances to match the existing character of lots and homes in the immediate vicinity of the site. The applicant feels if single homes are the only possibility, he cannot develop the site as a split use as proposed. It is not his intention to threaten the community to place an allowed but perhaps undesirable use on the site. He does not want to construct a large single use unit on the sight. He feels the proposed plan does not put an undue burden on the community. He wishes to see the plan done correctly. As such he is requesting a two-month continuance until September to come back and address the board's concerns. He will request the engineer to revise the plans to show the revised proposed location of the commercial structure. Ed Smyth was concerned if the applicant was planning on acquiring additional properties for the development. The answer is no, he plans to purchase the entire "Sitzler" site and proposes to split the uses between commercial and residential use. The chair stated that the board would be happy to act on the request for a continuance but perhaps the applicant would like or be well served to walk away with input from the board and its professionals.

Issues – The board and professionals offered the following:

- Tamara Lee, board planner, offered that previous approvals or plans for the site should not be relied upon since the Master Plan was completely rewritten and the town rezoned subsequent to previous approvals. The Master Plan did consider the possible impact of the light rail and mass transit and to reflect the wide division of opinions on the subject. The orientation of the proposed commercial structure should mirror the existing structures in the area. It is recommended the applicant be familiar with the large streetscape plan proposed for the area. The streetscape along Broad Street and the impact of the catch basin should be addressed. The argument for twin homes as a needed buffer between existing homes is not supported given the current location of the neighborhood business zone and the mix of residences and businesses already present. In small towns the provision of a gradient from residential to business is not always possible and the use of buffers is more suitable. The Master Plan addresses the current stock of multifamily construction and while part of the character of the town it also addresses the impact on traffic and congestion and the desire to lessen that impact with future development/redevelopment. The applicant asked if Tamara feels there should be no residential development and it should be all commercial. Tamara feels commercial uses can be put there and are well suited if broken up into smaller units with adequate provision for and encouragement of pedestrian traffic. The smaller scale of such a plan would be oriented to pedestrians. While appearance is important, the uses are important and smaller establishments are much more suited to the Master Plan's goal of encouraging pedestrian oriented businesses rather than businesses that generate or are dependent on vehicular traffic. The applicant commented that retail is difficult to market currently and the residential portion would help carry the site. If the site is going to rely heavily on vehicular traffic, perhaps a traffic engineer should be prepared to offer testimony given the conditions that currently exist at the location on Main Street.
- Rick Arango, board engineer, referred to his report of July 13, and highlighted the following specific concerns referenced by page and item number:
 - page 4, item 11
 - page 4, item 12
 - page 5, item 9
 - page 7, item 4
 - page 7&8, item 6 (various)
 - page 8, item 7 (access)
 - page 11, item M.1
- Kerry Brandt, has a problem with the twins and is not sure other than economics, which cannot be a consideration, how they can be justified. He is also concerned about the impact of the twins on density, sewerage, schools and traffic. He feels, if town homes are allowed, it will establish a precedent for other properties in the area and impact the intent of the zoning. He is concerned about the maintenance of the detention area and what is to prevent it being sold off for other use and the stormwater control being lost. While traffic is not an issue for the use variance it is an issue for the site plan review and therefore needs to be kept in mind. While the Master Plan encourages use/re-use of underdeveloped property, a use variance cannot be granted just to fill up a property. The board cannot create zoning laws or rezone just to fill up a vacant space. There must be proof that the site can never be used as provided for under the current use plans.

Continuance – The applicant wishes to continue the hearing to the September meeting. Because a change of date is being considered and the change is not yet confirmed, the applicant agreed to a continuance until the August 18th meeting and then the applicant or his representative will then seek a further continuance until the established September meeting date. It was moved, seconded and unanimously approved and resolved that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Brandenburger/Sheridan, Inc. for a site plan and subdivision approval with use and bulk variances to develop the above named property in the Neighborhood Business and R4 Districts is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on August 18, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

Following a short recess the meeting was reconvened at 9:50PM.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION ON THE REAR OF THE HOME, BY JOSEPH E. BLANCH, 629 LINDEN AVENUE, BLOCK 1003, LOT 18:

Summary – The applicant desires to construct an addition on the rear of the existing home that will align with the lines of the existing structure. The side yard setback of the existing building is closer than the 10 feet required by the code and the applicant is seeking a bulk variance to allow the new construction to follow the lines of the existing structure. The property is in the R4 district. The chair reviewed that all jurisdictional requirements have been met and the application could be heard. Mr. Joseph E. Blanch IV, the owner, was sworn in.

Testimony and Board Questions – The applicant reviewed that he wishes to remove an existing small shed addition and concrete porch. The shed addition contains a mudroom and powder room. The existing kitchen is too small for the family. The new approximately 18 by 11, one-story addition will contain an expanded kitchen and a new mudroom and powder room. The addition will extend along the existing building line and not extend further into the setback area. While not finalized, the applicant plans that any roof overhangs and gutters will not extend beyond the roof lines of the existing building. When asked if he would assure and agree that no part of the new structure would extend further than the existing house, the applicant agreed to this condition. There were concerns by the board that the addition may exceed the impervious lot coverage requirement. The applicant testified that reusing existing coverage area as well as removing any concrete that is no longer needed at the rear of the addition should bring the total impervious lot coverage under 40 % and within code. The applicant stated that new addition needs to be constructed as planned because of the location of the existing kitchen. He does not feel it will detract from the neighborhood because it is designed to appear to be part of the current structure and not look like an addition. There were no further comments or questions from the board.

Public Comment – The hearing was opened to public comment.

A member of the public not identified on the tape questioned the applicant as to what he was doing to maintain the existing character and appearance of the house in the new addition. The applicant explained his plans.

There being no further comment, the hearing was closed to public comment.

Deliberation and Decision – There were no further questions by the board. Fritz Moorhouse moved the board approve the bulk variance to extend the building along the existing setback line of approximately 6.93' from the property line, that any roof overhangs or gutters extend no further than the existing roof line and that portions of sidewalk be removed to assure the impervious lot coverage does not exceed the 40% maximum in the code. The motion was seconded by Alan Adams and a poll vote of the members approved the application by a vote of 7 to 0 as follows:

Mr. Brandt – aye Mr. Smyth – aye

Mr. Trotman – aye Mr. Mood – aye
Mr. Mills – aye Mr. Moorhouse – aye
Mr. DeVece – aye

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolutions were read, reviewed, considered and adopted by the Board:

Resolution 2004-02, Cindi Vee, 204 Broad Street, Block 800, Lot 31 – A motion was made by Fritz Moorhouse and seconded by Rick Mood to adopt and memorialize the resolution as read at the meeting. The resolution was unanimously approved by a poll vote of the members eligible to vote as follows: Mr. Brandt, aye; Mr. Smyth, aye; Mr. Trotman, aye; Mr. Moorhouse, aye; Mr. DeVece, aye; Mr. Adams, aye.

Resolution 2004-03, Kathleen and Barry Grahn, 401 Midway, Block 1300, Lot 10 – A motion was made by John Trotman and seconded by Rick Mood to adopt and memorialize the resolution as read at the meeting. The resolution was unanimously approved by a poll vote of the members eligible to vote as follows: Mr. Smyth, aye; Mr. Trotman, aye; Mr. Moorhouse, aye; Mr. DeVece, aye; Mr. Adams, aye.

Fence Ordinance Review – The chair reported that there had been no new meetings of the committee due to preparing for the site plan applications and business related conflicts. He hopes to resume things as soon as possible, but possibly not until September.

NEW BUSINESS

Vouchers and Invoices:

- Janet Smith, 7/16/04 – invoice for \$1,293.75 for attendance at the June meeting and work on the Vee and Grahn applications. Work on the applications to paid from escrow.
- Janet Smith, 7/16/04 – invoice for \$456.25 for the various professional services for the period 5/6/04 to 7/15/04.

Fred DeVece moved, Fritz Moorhouse seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

Possible Upcoming Hearings: The chair reviewed the following new applications may be on the agenda for July:

- Cedar Lane Mews – they are scheduled to appear – use variance to erect town homes behind the apartments.
- Omnipoint Communications may request a hearing for a cell tower.

Hearing related issues:

Ed Smyth wanted to know if Council was aware of these major hearings involving use variances and if there should be input from them. Councilwoman Alls-Moffat replied that she reports to Council on the board meetings. Janet Smith stated that when granted use variances can be appealed to Council. The board has to act in a limited legal situation where it considers the application on its merits based on the ordinance. While Council members can attend as members of the public, she is not certain it is advisable for them to comment as Council members since they could be directly involved if the board grants the use variance and it is appealed to Council. Muriel wanted to know if she can take the plans before Council for their review. Janet suggested that Muriel review things with the Borough's solicitor. Janet does not think it is appropriate for the board to seek Council input.

Janet raised the issue of changing the September meeting date since it falls on Rosh Hashanah. Various dates were considered and possibly changing the location. It was decided the date would be moved to the second Tuesday of

September (9/14/2004). Due to September beginning on a Wednesday, this ends up being the day before the normal date for the meeting. This date will be announced to all parties at the August meeting and appropriately noticed as required.

CORRESPONDENCE

The chair reviewed that any correspondence received was related to the applications being/to be considered and should be considered as part of the applicable hearings. Janet stated that correspondence related to the applications should be forwarded to the applicants.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. Comments should be related to general matters and any comments specific to an application need to be reserved until the appropriate time during the hearing and when the applicants are available to hear them.

Bernie O'Reilly, 200 Lippincott Avenue, is concerned the language in the Master Plan is not strong or clear in its intent. She feels it is vague and, absent clear statements, may be an avenue for appeal. She feels the current zoning code is also unclear or does not address the issues at hand. She feels the code and Master Plan are not in agreement. She feels the board needs to communicate these concerns to Council and the concern they are vulnerable to having the Borough's intentions overridden by a developer. She feels they need to be clearly defined. Janet replied that the Master Plan resides within the Planning Board. The chair stated that the board can only follow what exists statutorily and is in the codes of the Borough. Muriel stated she was impressed with the way the zoning board conducts itself and will report the same to Council. The chair feels Birnie's comments are well taken but the board must conduct itself as the existing laws allow. Birnie went on to insist that the way things are now leaves the Borough wide open to challenges. Council has decided not to pursue the grant awarded to rewrite the ordinances. Except for piecemeal efforts, the board's hands are tied. Birnie went on to pursue her argument that things need to change.

Frank Cioci, 408 Lippincott Avenue, wants to know when comment will be allowed on the application. The chair replied that the hearing had not progressed to that point, but it will be allowed and is encouraged when appropriate. Janet Smith added that there is nothing precluding a person directly approaching an applicant and stating their concerns "off the record" and plans to raise them at the hearing and perhaps the applicant would like to be prepared to address them. Frank was concerned the applicant was not hearing the concerns of the board. Janet concluded that the hearing process is not one of trying to ambush the applicant but as the word states a process to present all sides of the issue and come to a legal decision that is welcomed by all sides.

There was no further comment and the meeting was closed to public comment.

Meeting adjourned at 10:45 PM.

Next meeting is on 8/18/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
August 18, 2004**

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 Ed Smyth.

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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Edward Smyth, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, Alan Adams and Bill Brown.

ABSENT: Kerry Brandt and John Trotman.

OFFICIALS: Councilwoman Muriel Alls-Moffat was present. Board Solicitor Janet Zoltanski Smith, Board Engineer Richard Arango, Board Planner Tamara Lee, and Code Enforcement Officer Tony Dydek were not present. Secretary Ken Palmer was present.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Fred DeVece, and unanimously approved to accept the minutes of July 21, 2004 as distributed.

PUBLIC HEARINGS:

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE "SITZLER" PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1 (CONTINUED):

Continuance – The secretary reviewed a written request from the applicant's attorney requesting a continuance agreed to by the applicant until the September meeting. Fritz Moorhouse made a motion seconded by Rick Mood that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Brandenburger/Sheridan, Inc. for a site plan and subdivision approval with use and bulk variances to develop the above named property in the Neighborhood Business and R4 Districts is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on September 15, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2:

Continuance – The secretary reviewed a written request from the applicant's attorney requesting a continuance agreed to by the applicant until the September meeting. Fred DeVece made a motion seconded by Rick Mood that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, use, and bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on September 15, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolution was reviewed, considered and adopted by the Board:

Resolution 2004-04, Joseph E. Blanch, 629 Linden Avenue, Block 1003, Lot 18 – A motion was made by Bill Brown and seconded by Ken Mills to adopt and memorialize the resolution distributed to the members prior to the meeting. There was no discussion and the resolution was unanimously approved by voice vote.

Date for September Meeting – The Board reviewed why the changed meeting date of Tuesday, 9/14 had been changed back to the original date of Wednesday 9/15. The secretary reviewed that:

- Board professionals could not make the 9/14 date.
- No board members had a problem with 9/15, only Brandenburger's professionals.
- The Cedar Lane Mews applicants and professionals had no problem with the 15th.
- Janet Smith suggested given the above facts that the Board meet on the 15th and if needed discuss a special meeting date.
- There are only about 3 days available for an alternate meeting.

Ed Smyth stated that he did not want to consider special meetings without the chair's presence. The Board concurred that it would therefore meet on the 15th. Bill Brown stated that he could not make the meeting since he had rescheduled things after he thought the meeting had been moved to the 14th. This will mean there are only five members that will hear the Brandenburger application if they decide to be heard on the 15th. The secretary will convey this information to the applicant.

CORRESPONDENCE

The secretary reviewed the correspondence.

- Letters from the attorneys for Brandenburger and Cedar Lane Mews requesting continuances.
- Letter from Robert and Joanna Walch requesting a refund of unused escrow.
- Letter from attorney for Omnipoint Communications advising that the hearing was on hold until further notice.
- Notice from NJLM (New Jersey State League of Municipalities) of early registration for the annual New Jersey State League of Municipalities Conference in Atlantic City in November.
- Memo from NJLM explaining an attached Question and Answer discussion on the Smart Growth – Fast Track Law.

NEW BUSINESS

NJLM Annual Conference – Councilwoman Alls-Moffat stated she was fairly certain that the Borough had funds to pay for any Board member's attendance at the conference.

Vouchers and Invoices:

- Janet Smith – invoice for \$718.75 for attendance at the July meeting, legal issues and work on the Blanch application. Work on the application to paid from escrow.
- Tamara Lee – invoice for \$2,471.00 for work on the Brandenburger application.
- Tamara Lee – invoice for \$1,196.00 for work on the Cedar Lane Mews application.
- Rick Arango – invoice for \$420.00 for continuing review of plans for the Cindi Vee B&B application.
- Rick Arango – invoice for \$210.00 for continuing review of plans for the Cindi Vee B&B application.
- Rick Arango – invoice for \$1,180.00 for work on the Brandenburger application.
- Rick Arango – invoice for \$280.00 for work on the Cedar Lane Mews application.

The secretary stated that continually reviews the escrow accounts with the Borough Treasurer and contacts the applicants as needed to maintain sufficient funds in the accounts. Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

Walch Escrow Refund – The secretary reviewed the request for a refund of the balance of the account and the amount in the account. He also discussed the memo that will go to Council if the Board approves the request. Ken Mills motioned, Bill Brown seconded and the vote was unanimous endorsing the request and to send the memo to Council for action.

Hearing Related Issues – Fred DeVece wanted to know if there were variances granted to Sitzler for construction of the town homes on his property. It was stated that if they were granted they would still be in effect; however no one is sure any were granted. Since Brandenburger is proposing a different project, new variances are being requested.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 7:50 PM.

Next meeting is on 9/15/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
September 15, 2004**

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 7:35 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, and Alan Adams.

ABSENT: Bill Brown.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Board Engineer Richard Arango, and Board Planner Tamara Lee were present. Code Enforcement Officer Tony Dydek was not present. Secretary Ken Palmer was present.

MISCELLANEOUS: The chair announced that former board member John Perry had passed away. The chair recognized John's long and faithful service as a member of the board.

MINUTES: A motion was made by Fred DeVece, seconded by Rick Mood, and unanimously approved to accept the minutes of August 18, 2004 as distributed.

PUBLIC HEARINGS:

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION ON THE REAR OF THE HOME, BY NANCY J GORMAN, 402 SEVENTH STREET, BLOCK 1102, LOT 19:

Alternate Counsel – Janet Smith announced that she needed to step aside because of a possible conflict of interest. She had requested that Tom Coleman solicitor for the planning board and solicitor to the Borough's redevelopment committee step in to hear this matter. There was no objection by the board and Mr. Coleman took over for Janet to assist the board in this hearing.

Continuance – During review of the jurisdictional requirements it was discovered that the property owners within 200 feet had not been properly notified. The notices were not sent by certified mail as required by statute. The notices were mailed in time. All other jurisdictional requirements were met. Tom Coleman informed the board that if it they were satisfied all other requirements had been met; a continuance was in order so the applicant could re-mail the notices. After review with the applicant that she would have to re-notify the property owners a continuance was requested. Fritz Moorhouse made a motion seconded by Fred DeVece that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed by a poll vote of 7 ayes and one abstention to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Nancy L. Gorman for side yard set back relief for construction of and addition is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on October 20, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation. Tom Coleman stepped down and Janet Smith resumed her position.

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE "SITZLER" PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1 (CONTINUED):

Continuance – The secretary reviewed a written request from the applicant’s attorney requesting a continuance agreed to by the applicant until the October meeting. Ed Smyth made a motion seconded by Fritz Moorhouse that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Brandenburger/Sheridan, Inc. for a site plan and subdivision approval with use and bulk variances to develop the above named property in the Neighborhood Business and R4 Districts is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on October 20, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2:

The chair asked the board if personal or business conflicts prevented any member from hearing the application. There were none. The chair reviewed that all jurisdictional requirements have been met and the application could be heard. The chair established that the hearing would continue until 10:30 PM with 10:45 PM the very latest. Public comment will be limited to five minutes per person.

attorney for the applicant, noted that there were only six members present to hear the application and raised the concern that additional members should be brought in. The chair stated that following legal review, additional members from the planning board cannot be brought in unless there is a lack of a quorum within the zoning board to conduct the hearing.

The chair briefly reviewed the location of the property, presented a brief overview of the plans and the variances being requested. The use variance(s) would be decided first, followed by the bulk variances and finally the site plan review. In order to maintain continuity, the board desires to hear the entire presentation to know how the site works then separately decide on the various issues. The chair also reviewed the state Municipal Land Use law governing the hearing as well as the role of the Borough’s Master Plan and codes. The board cannot make the law but can consider exceptions or variances. He referred to the review provided by the board’s planner, Tamara Lee and what needs to be shown in order to grant a use variance. The board cannot consider a current lack of permitted use as a basis for granting a use variance. The members are obligated to vote on whether the applicant has met the burden of proof to justify a change of use for a site. Use variances require five votes rather than a simple majority to approve. The process of hearing testimony, board questions, public comment, deliberation and voting on the topic will be followed during each phase of the hearing. The following were sworn in:

- Dominic Flamini the applicant
- Thomas Scangarello the applicant’s planner
- Robert Stout the applicant’s engineer
- Walter Croft the applicant’s architect
- Alexander Litwornia the applicant’s traffic engineer.

Summary and Testimony – Louis A Colaguori, the applicant’s attorney stated that he would like each of the

professionals to provide a summary of the application from their perspective in order to develop the flavor of the application for the board. He further requested that while he didn't expect the proceedings to reach the point of public comment, he requested that one of the neighboring property owners be allowed to comment this evening since he would not be present during future sessions. The chair stated he had no problem with that.

The applicant presented a short introduction. He reviewed his long involvement with the site since 1978, his dedication to maintaining a class site, and he stated that regardless of the outcome of the application he and the partnership intended to remain as owners and no changes to the operation would occur.

Mr. Colaguori reviewed the plan to construct 16 age restricted town homes. He reviewed the qualifications of qualifying and retaining the age restricted status. This will benefit the town by restricting impact on the school. In addition it will provide an option for empty nesters who wish to remain in town, but no longer need a larger home. The homes will be constructed on the current site. The wetland impact has been reviewed and there will be no invasion of the wetlands area. There is no provision in the Borough's codes for town homes. Therefore a use variance is being sought for them. Bulk variances will also be considered since there are none for town homes. He feels the planned units are suitable for the site. Traffic and parking will not have a significant impact on the area. A two-car garage is planned for each unit and a driveway will exist for each unit. There will be some impact on the existing parking lots. Ed Smyth asked questions about the age restriction and it was answered that the Master Deed would contain the restrictions. 80% of the residents would need to be 55+ and a census is required every two years. The units will be sold not rented. There are no plans to change the operations of the apartments. They will remain as rental units.

Mr. Stout, after being qualified, testified as to the existing use of the site and how the new construction would fit in with the existing use of the site. The applicant is seeking new DEP approval certification of the wetlands. The units will be approximately 2,000 square feet and contain two-car garages. The stormwater management plans meet all the new codes. There will be a non-public accessible fire lane.

Mr. Croft, after being qualified, reviewed the design considerations. The homes would have a carriage house feel to the design. He reviewed the design considerations. They will have brick exteriors, period garage doors, period exterior lighting and will fall within the 35 foot height limitation. They will contain elevators. The footprint of each unit is approximately 800 square feet. The front façade will face the creek and the entrance and garages will face the other direction.

Mr. Litwornia, after being qualified, reviewed the traffic study conducted and presented a brief review of the conclusions. Ample parking exists for the existing apartment units. The proposed use as age restricted housing of the new units will have the least impact of any other use. While there will be 16 units, the impact will be the same or probably less than the impact of four single family homes on the same site. Currently, there are many unused parking spots. Even with the loss of some of the existing spots, there will still be more than are currently used. The chair asked how many existing spots would be lost. The answer was six. The current Residential Site Improvement Standards (RSIS) calls for 2.5 spots for a home. Four are planned with two in the garage and two in the drive. Studies show that age restricted housing actually uses less. The chair is concerned about the loss of existing parking for the apartment units. It was stated that the small size of the existing apartments does not lend itself to increased parking needs. Mr. Flamini stated that the proposed parking is the same as it was 19 years ago. Janet Smith voiced concern as to the relevancy of the time period used for the traffic study. Mr. Litwornia replied that the study was done when it was thought the applicant would originally appear.

Mr. Scangarella, after being qualified, provided in depth testimony on the use variance. He stated he needs to show why a use variance is justified and that the good outweighs the bad. He reviewed the Master Plan's goals and objectives. He feels the proposed use is compatible with the Borough's small town character and will enhance the Borough. It will be low impact and environmentally sensitive. He cited the Rutgers Extension Service study on the area including the site. It will improve tax ratables and he cited studies that show a single family home has the worst impact on tax ratables versus services provided while offices are the best. Age restricted housing lessens any impact on the school system. He discussed relativities of the Land Use Law as to granting use variances. He discussed density which, while not specifically defined in the Borough's code, equates between 3 and 10 units per

acre depending on the residential zone. He showed that the current apartments equate to approximately 5.5 units per acre and the planned town homes would equate to six units per acre. Thus the proposed density is compatible in character and use with the existing development in the Borough. He introduced as exhibit A-1 an annotated copy of the Borough's zoning map to illustrate his testimony. He discussed the need to create a desirable visual environment. Discussing the requirement to demonstrate that the plan creates a desirable visual environment, case law was cited where a proposed plan improves the existing visual environment. The architect has designed the structures so they are compatible with existing styles. Exhibit A-2 was entered which added landscape concepts to the concept elevation plans. The exhibit showed the front elevation with the many existing trees. The rear elevation showed a berm, trees and landscaping. This exhibit helps show that the plan will create a desirable visual impact. Testimony then moved to the requirement that the good things outweigh the bad. The bad points were listed:

- non compliance with lot size, density and use
- an increase in existing traffic
- impact on environment – there is nothing there now.

The planner contends that it cannot be demonstrated that these points do not substantially outweigh the positive aspects of the plan. Ed Smyth stated that the applicant must demonstrate that the positive points outweigh the bad. The planner stated that the plan gives people in town the ability to stay in town as they downsize; an opportunity not available now. It was contended that perhaps the residents won't walk, it is too far. It was stated that the plan will generate tax dollars above the tax costs in services provided. It will be visually appealing and improve the existing environment. It complies with the goals of the Master Plan. As to COAH requirements, it was noted that the Borough currently satisfies COAH. The planner has talked with COAH and while the new regulations have not been confirmed, the applicant is committed to help the Borough meet any changed requirements. It was stated that the existing apartments could be used as credits towards any revised COAH requirements. Fritz Moorhouse asked about the impact on wastewater treatment. Mr. Stout stated that had not been done yet. Mr. Colaguori stated that they wanted to concentrate on the use issues tonight. All site plan issues will be fully addressed when that portion of the hearing is reached. The planner addressed the issue of usable yard area. There is very little individual area and it will be maintained by the homeowners association. There is a large amount of common area that can be used. Studies have shown that older residents do want to have to maintain a large yard and if they have one would prefer maintenance be performed by someone else. Asked to summarize the positive and negative criteria of the application as per the State law as well as the special reasons, the planner listed:

- the site is well suited to the proposed use
- it creates a higher end of housing than currently exists on the site
- it provides a place to live for people wishing to downsize and remain in the Borough where that opportunity does not currently exist.
- the plan preserves environmental integrity
- the plan limits traffic impact
- it complies with the goals of the Master Plan
- housing quotas under COAH will be met
- the plan minimizes impacts on schools, traffic, and infrastructure.

There are negative criteria but they are not substantial as defined in the Land Use Law and are outweighed by the positive aspects of the plan. Mr. Colaguori again cited the law with emphasis on the term substantial. The board can vary the terms of the ordinance if the substantial requirements are satisfied. Mr. Scangarella stated that he feels the plan meets all the requirements and if not, he requests the board state why and give the applicant the opportunity to address the board's concerns. Mr. Colaguori stated that this concluded the testimony on the use variance. He asked if the Board would consider hearing from the resident Mr. Sauer. The chair stated he intended to comply with that request but wished to hear board questions first followed by comments from the board's professionals.

Board Questions and Professional Comments – The chair asked if there were questions from the board. Fred DeVece asked if the Borough's senior quota had been met. When confirmed that he meant COAH requirements, it was stated that the Borough's plans and efforts regarding affordable housing currently comply with COAH. The chair asked for clarification on the statement concerning how the applicant would help the Borough meet its requirements. Mr. Scangarella replied that the third round of COAH is being finalized. Until the rules and regulations are finalized, all requests for extensions of COAH Certifications are currently frozen. The applicant

intends to assist the Borough in meeting any changed requirements especially if changes result from granting the applicant's application. The chair asked if any of the existing apartments satisfy COAH requirements. At present, the answer is no because none are rent restricted. That could be changed however. The chair feels that if granting the application impacts COAH by increasing the number of COAH units needed, it could be a major negative impact on the Borough. Mr. Scangarella stated that demographics for the Borough have declined over the past 10 to 20 years. The chair stated that these are cyclical in nature and could easily reverse in the coming years. Mr. Colaguori stated that over the past approximately 40 years, the town's population has shown a net decline while the percentage of 65+ has increased and is above average for the County. Ken Mills asked if there was a subdivision plan involved. It was answered that no only a site plan because only the units would be sold and owned fee simple while the land would remain in the hands of the developer/homeowner's association. Lou Colaguori emphasized that there would be no absentee landlord situation. The apartments are not being sold or converted. The plan provides and enhances the multiplicity of use. The chair questioned about subsequent owners. Lou feels that anything memorialized in the resolution and built into the master deed will ensure that these concerns are taken care of. Ken Mills wants to know if there are other options for parking to meet the parking requirements other than a variance. The applicant is willing to accommodate the concerns. History has shown that there has been more than sufficient parking spots for the apartments and the loss proposed would still leave a net surplus; but, the applicant is willing to make sure sufficient spaces exist to meet current and future needs. Rick Arango suggested that the applicant's engineer "ghost" the necessary spaces on the plan and then if the need arises, the Borough has the record to show where they were proposed. Kerry is concerned that the zone is R8 and needs to know why it should be changed. The board cannot rezone and it needs to be convinced as to why it should grant a variance. Mr. Scangarella replied that the apartments are preexisting and can continue as a nonconforming use. It is very possible a case could be made to possibly build more apartments with less of a hurdle to jump as a continuation of a nonconforming use than the proposed plan. The current ordinance defines town homes but does not provide for their use. The proposed units comply with the definition. The apartments are the only garden apartments in town and they comply with the existing definition. There is a need in the Borough for the town home type of unit. They are a recognized building tool to provide age restricted housing for an aging population. Lou believes the people of the town now desire this type of housing. Ed Smyth asked the age of the apartments and was informed that they are approximately 50+ years old. Ed acknowledges that the apartments are grandfathered but as a new use they are not allowed. A question about the standards for the retention basin was answered that the RSIS would apply. There are many issues involved. There are many concerns of the Borough's citizens. Mr. Scangarella feels that apartments were neglected in the zoning plan. The chair disagrees. The Borough, because of its age, is full of nonconforming uses and in the big picture it is not possible to delineate or accommodate every existing use as a separate zone. The simple intermixing of uses often on adjoining properties within an area makes that an impossible task. The zones were delineated based on the predominant characteristics of use in the zone and addressed the stated goals of the Master Plan. Mr. Scangarella feels it is not fair that anything the applicant wishes to do that doesn't involve single family detached homes requires a variance. The chair replied that much of Riverton contains nonconforming uses. The board cannot rezone. Lou stated that the board is not being asked to rezone. It is being asked to recognize that a legitimate variance exists in this instance only. It is not spot zoning and not rezoning; but a request to grant a variance based on the criteria presented. He feels the plan as presented satisfies the needs of the Land Use Law and goals and objectives of the Borough's Master Plan; and as such allows the board to grant a variance. The chair asked if there were comments from the board's professionals. Tamara Lee, the board's planner feels it was an excellent presentation and she thanks the applicants planner for his candor in presenting both the good and bad points in the plan. Tamara would like to go through things point by point. The big issues are two and in her report – density and traffic. Density was a major issue when the Master Plan was written. The town is very densely populated, perhaps too much so. Subsequent development/redevelopment should work to lessen the density not increase it. Traffic is a problem and any future development/redevelopment should work to lessen the impact of traffic and to make the town more pedestrian friendly. Existing multi-family uses are okay, but there should be no more because they will only serve to worsen the density and traffic problems. The proposed density is more than the zone allows and Tamara is not certain how many units would need to be removed to meet the density of the zone. New multi family housing will increase density and traffic in the area and both are specific items the Master Plan recognized needing to be reduced. She does not think the applicant has met the burden of enhanced proof. He has not met demonstrated that if the plan is such a good idea, why isn't it in the ordinance. It is not in the ordinance because multi family housing specifically more of the same was considered to be a detriment to the state of Riverton. These are the two big items why Tamara feels the burden has not been met.

There are other points that have been made that may seem like nit picking, but since they are on the record require a response. She appreciates the architecture and the effort put into the design. However they are not carriage houses. The carriage houses in the town are single family units and the proposed units exceed the mass of existing carriage houses. The chair thanked Tamara for her summary and looks forward to her more detailed response. The chair asked the board's engineer Rick Arango if he had any comments. Rick responded that his were more site engineering related and he preferred to leave planning and use related issues to Tamara.

Public Comment – The chair asked if there was anyone present who would absolutely be unavailable to comment at a future meeting. Frank Cioci is concerned that he has been to two hearings and is concerned the public has not had a chance to speak. There is not a real estate professional present to address what is needed for the Borough. The chair assured him that when the hearings reached the point for public comment, ample opportunity would be provided to address the board as well as the applicants. Neither of the site plan applications is at that point yet. As agreed to at the beginning of the hearing, the floor was opened to allow a statement by William E. Sauers, 903 Cedar Street. He stated that he was the former chair of the zoning board. He was a real estate broker and appraiser. He is familiar with real estate and feels the use is excellent for the site. He has lived in the area since 1958 and feels the apartments as managed by Mr. Flamini's partnership have been great neighbors. He has added to his home several times and feels the proposed use will not detract from the value of his property. He has known the applicant for a long time. He approves of the proposed use, is himself an empty nester, and is interested in owning one of them. He feels the plan is similar to ones in Haddonfield. He thinks the higher-end price of the new units will elevate property values in the area.

Continuance – The chair, board and applicants agreed that it was a good point to break the proceedings and continue them next month. Fritz Moorhouse made a motion seconded by Fred DeVece that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, use, and bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having agreed to a continuance for consideration of the matter until the next regular meeting of the Board on October 20, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

Rick Arango asked if would be helpful if he met with the applicant's engineer in the interim. The chair stated that it would be up to the applicant and his professionals if that was warranted. There was no objection from the board.

OLD BUSINESS

Adoption and Memorialization of Resolutions – There were none.

Fence Committee – The chair stated that no additional meetings had been held.

Escrow Accounts – The secretary reviewed that he is monitoring the accounts and notifying the applicants when necessary. There are no problems or concerns to report.

CORRESPONDENCE

The secretary reviewed the correspondence.

- 7/26/04, copy of letter to Cindi Vee from Rick Arango regarding submission of the report on proposed lighting that was to be prepared by PSE&G.
- 9/1/04, Rick Arango's review of the Cedar Lane Mews application.
- Letter from the attorney for Brandenburger requesting continuance.
- Announcement from Rutgers University concerning the Fall 2004 Zoning and Planning Course schedule.
- Announcement from the National Business Institute of NJ Land Use seminars.
- Pre-registration for the annual League of Municipalities Conference in November is available through Borough Clerk, Mary Longbottom.
- A question and answer sheet from the State on the impact of the new Smart Growth – Fast Track Law.
- Copies of the Environmental Commission's booklet on the Pompeston Creek.

NEW BUSINESS

Vouchers and Invoices:

- Kenny Palmer – voucher for \$20.00 for copying July 21, 2004 tapes for Brandenburger's attorney. Pay from escrow.
- Rick Arango – invoice for \$2,240.00 for work on the Cedar Lane Mews application. Pay from escrow.
- Rick Arango – invoice for \$2,190.00 for work on the Brandenburger application. Pay from escrow.
- Rick Arango – invoice for \$115.00 for continuing review of plans for the Cindi Vee B&B application. Pay from escrow.

The secretary stated that he continually reviews the escrow accounts with the Borough Treasurer and contacts the applicants as needed to maintain sufficient funds in the accounts. Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 10:30 PM.

**Next meeting is on 10/20/2004, 7:30 PM at Borough Hall.
Tape is on file.**

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
October 20, 2004

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 7:35 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, Richard Mood, Fritz Moorhouse, Alfred DeVece, and Alan Adams.

ABSENT: John Trotman, Ken Mills, and Bill Brown.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Code Enforcement Officer Tony Dydek, Board Planner Tamara Lee, and Melanie Yousey (substitute for Board Engineer Richard Arango) were present. Secretary Ken Palmer was present. Special substitute counsel Tom Coleman was present for the Gorman application.

HOUSE KEEPING: The chair announced that with the large case load he wished to have a cut off time of 10:45 PM unless things could be wrapped up by staying a little longer. Public comment would be strictly limited to five minutes per person.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Rick Mood, and unanimously approved to accept the minutes of September 15, 2004 as distributed.

NOVEMBER MEETING: At the conclusion of the Gorman hearing and before the other hearings, while all professionals and members were present, the chair reviewed that the November meeting is scheduled for November 17, which is during the annual League of Municipalities Convention. He asked if the members, board professionals or the applicants and their professionals would have a conflict on that date if the hearings needed to be continued. None of the parties present stated they had a conflict. The chair then announced that unless something critical arose in the interim, the November meeting of the board would occur on the previously published date of Wednesday, November 17, 2004.

PUBLIC HEARINGS:

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION ON THE REAR OF THE HOME, BY NANCY J GORMAN, 402 SEVENTH STREET, BLOCK 1102, LOT 19:

Alternate Counsel and Introduction – Janet Smith announced that she needed to step aside because of a possible conflict of interest. She had requested that Tom Coleman solicitor for the planning board and solicitor to the Borough's redevelopment committee step in to hear this matter. There was no objection by the board and Mr. Coleman took over for Janet to assist the board in this hearing. The chair and Mr. Coleman reviewed that all jurisdictional requirements had now been met and the hearing could commence. The applicant and her architect Roy Vollmer were sworn in by Mr. Coleman.

Testimony and Board Questions/Comments – Mr. Vollmer described the plan to construct an addition on the rear of the home consisting of an addition to the residence, a deck, and gazebo. A revised plan marked as exhibit A-1 was distributed to the board. The new addition will follow the setback of the existing residence, retain the existing architectural style, and keep the same lines of the house. The home is in the R4 district. On one side the existing structure is only 9' 6" from the side yard line where 10' is required. The rear yard setback will be 15' with the deck and gazebo attached to the house. Lot coverage is within the code. A hardship will exist if the lines of the addition

cannot follow the existing structure and there is insufficient space on the deck if the rear yard variance is not granted. There will be buffering along the side closest to the property line. Aside from the clarifications elicited by the chair and several board members there were no additional questions from the board.

Public Comment – The hearing was opened to the public and was closed since there was no comment.

Deliberation and Vote – There was no further deliberation by the board and a motion was made by Fritz Moorhouse, seconded Fred DeVece to grant a 9’ 6” side yard variance and 15’ rear yard variance. A poll vote unanimously approved the application by a vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mood	aye	Mr. Moorhouse	aye
Mr. DeVece	aye	Mr. Adams	aye

Tom Coleman stepped down and Janet Smith resumed her position as board solicitor.

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2 (CONTINUED):

Continuance – The attorney for the applicant having determined that several members of the board who were present at the earlier hearing were absent expressed his and the applicant’s desire to have more than six members present to hear the use variance portion of the application. As such he requested that the matter be continued until there were more members present. Fritz Moorhouse made a motion seconded by Fred DeVece that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed by a unanimous poll vote as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mood	aye	Mr. Moorhouse	aye
Mr. DeVece	aye	Mr. Adams	aye

To the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, use, and bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having agreed to a continuance for consideration of the matter until the next regular meeting of the Board on November 17, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

APPLICATION FOR SITE PLAN AND SUBDIVISION APPROVAL WITH USE AND OTHER VARIANCES BY BRANDENBURGER/SHERIDAN, INC., FOR THE “SITZLER” PROPERTY MAIN AND CINNAMINSON STREETS, BLOCK 904, LOTS 2&3; BLOCK 905, LOT 6; BLOCK 906, LOT 1 (CONTINUED):

Summary and Testimony – David Oberlander, attorney for the applicant, provided a review of the previous testimony. The applicants propose to construct a mixed use development on four lots. Three of the lots are in the Neighborhood Business district and one is in the R4 district. As currently proposed, eight twin homes and commercial space with apartments over the businesses would be erected in the NB area. A retention basin is proposed for the lot in the R4 district. Three witnesses testified previously; Mr. Brandenburger the applicant, Mr. Shuster the applicant’s planning professional, and Mr. Ott the applicant’s engineer. At this point testimony has been presented to support the contention that use variances are justified to permit the planned mixed use of the site. While several use variances are being requested, the allowance of the eight residential units in the NB district is the

most critical and without it the applicant feels he cannot proceed with his plans. The request for four apartments over what may or may not be four separate commercial units could be postponed until the site plan is considered. Consideration of the lot in the R4 area could also be postponed until the site plan is considered. The lot in the R4 area currently serves as a basin and the applicant proposes to bring it up to current stormwater standards and provide the necessary containment and management of runoff from the proposed commercial parking area. The commercial space will be along Main Street and the twin homes will be along Cinnaminson Street. The hearing had been continued to permit the applicant to revisit the plan to attempt to address concerns of the board presented at the prior hearing.

The chair reviewed that several members had to recuse themselves from the hearing: Mr. Trotman and Mr. Mills due to a business relation with the applicant and Mr. DeVece as a notified adjoining property owner. Mr. Brown, present at the prior session was absent tonight. The chair inquired if the applicant wished to proceed with only five members present when all five must approve any use variances. The applicant stated he wished to proceed and the chair reviewed that members Brandt, Smyth, Mood, Moorhouse, and Adams will hear the matter. Tamara Lee, board planner, clarified the variance being requested for the apartments over businesses which is a conditional use in the NB district. The variance for apartments over businesses is due to the fact that while four apartments are planned to be over four commercial establishments, the applicant wishes to reserve the ability to customize the commercial space as needed which might result in there being less than four separate businesses. Mr. Brandenburg, Mr. Shuster, and Mr. Ott were re-sworn and testimony continued. The chair reviewed that once the applicants had completed their testimony, Tamara Lee would respond. Following additional board discussion, public comment on the matter would be heard. Following public comment, the board would hopefully move on the use variance.

The applicant presented a short review. He reviewed that the original plan approved for the property by a previous developer did not work and that the plan he proposes provides commercial use in the business district along Main Street and retains the residential character along Cinnaminson Street. A full lot in the site has been reserved to address stormwater concerns. The plan was developed with input from both professionals and residents of the Borough. He discussed some preliminary revisions which are not presented tonight including providing pedestrian access in place of closing the current through pedestrian access on the site. He realizes that there are differences of opinion between himself and the board as to what may be appropriate for the site. Jim introduced a rendering of the planned commercial building (exhibit A-2) and a colorized version of the site plan (exhibit A-3). The renderings show how he proposes to have the new construction blend in with the town. The site is a difficult one to develop due to its shape and location. He plans to market the commercial areas as two-story fee simple units with the ability to use the second floor as either commercial office space or as an apartment. The commercial buildings would be four separate but connected units. While he would prefer strictly commercial/office use, he feels the residential use is needed to spread the risk of relying strictly on retail use. As to the issue of twin homes versus single-family detached, he doesn't see the difference raised by the board last time. The chair explained it as a density issue and the goal of the Master Plan to relieve the existing density within the town. Mr. Oberlander commented that regardless of the type of residences, a use variance is needed to build them in the NB district. The chair stated that in addition the applicant is proposing something not permitted anywhere in the town. Mr. Oberlander stated that the plan is not proposing twins in a residential area, but a town village concept and that twin homes are a great use in a business area to promote the town village mixed use concept. To support the town village concept, exhibit A-4 was entered showing an aerial photo of the area and testimony was offered using exhibit A-3 that the proposed development would actually provide more green space and less dense use of the area that currently exists in the surrounding developed area. He is committed to developing the site as presented and wants to do it in the town. The chair feels that it is commendable and prefers that local residents wish to develop the site, but his overwhelming concern is still density. Jim commented that the type of residential units planned would by design be self limiting as to number of residents, children, etc. Tamara stated that the board should not consider children but traffic density. Is the plan going to worsen an already dense traffic condition in the area? The board can discuss relative ratables and uses. Jim stated that the proposed design is intended to lessen the impact that could exist if the site was developed to the full potential permitted under the existing code. Mr. Shuster provided statistics supporting that on average twins generate less children and family size than single family detached homes. The proposal will generate less traffic than permitted uses allow. Tamara stated that she likes the plan and is intrigued by the thought of using both floors as commercial and office use. However, she is concerned though if the second floor areas were a mixed use of apartments and offices. She feels they should all be one or the other.

Mr. Oberlander commented regarding COAH impact that the applicant plans to meet all requirements of any changes that may result from the granting of his variance request. Tamara stated that only a use variance is being considered here. The zone already provides for mixed use though not in the form presented in the plan. It provides for apartments over businesses. Granting the use for twin homes or other attached/semi-detached homes does not of itself grant a specific number of units, although that can be made part of any approval. The chair stated that he would prefer that numbers be addressed so that if approved the applicant has a clear idea as to what he can or cannot develop. Jim referred to exhibit A-2 which represents a change in concept to the original plan in that it shifts the building to the front along Main Street and moves the parking to the rear thus further complimenting the existing streetscape of the area. Tamara stated that the proposed revision placing the parking in the rear addressed one of her major concerns. Tamara stated that a big issue is still the twin homes. She also agreed that the issues of apartments vs. offices over retail and the retention basin might best be addressed during the site plan presentation. Her concern is that the while the twins will be located on residential Cinnaminson Street, they will be too close to Broad Street and the River Line, and they will encroach on the streetscape planned for Broad Street. Tamara stated that a large number of bulk variances will be needed if twins are permitted. Mr. Oberlander reiterated their premise that twins are a better use in the site than single-family detached. The chair asked if the existing and proposed buffer would solve the proximity to the rail line and Broad Street issue. Jim stated he would take all steps needed to make the homes desirable to sell. After all, if they don't sell, he is hurting himself. The chair again stated that he is concerned that the board cannot rewrite the code and wants to make sure that the decisions made on this application do not come back to haunt the Borough or result in a law suit. Jim stated that having a definitive number of residential units approved would allow him to configure the plan to comply yet maximize the potential he sees in the site. In the time between the first hearing and now he has revisited the plan and still feels he needs at least eight residential units to make it work. He entered exhibit A-5 which is an illustration concept of the revised plan. It shows an eight unit town home structure instead of the twins as originally proposed.. Tamara stated that the board can approve retail with residential mix including quantities but leave the exact type of residential construction open to future consideration. This would grant the mixed use desired by the applicant yet reserves the final decision until the site plan is fully developed and presented. Mr. Shuster stated that revised plan as proposed tonight could not be approved without onsite stormwater management details. Jim stated he would very much like to know if the board is inclined to grant the use variance. He feels he has done the best he realistically can to comply with what the board requested in July.

The chair asked if the board had questions. Ed Smyth granted that it is a problem location and asked what the current plan is. Jim stated that the revised plan is the original plan, revised based on exhibits A-2 and A-5. Fritz Moorhouse appreciates the flexibility shown by the applicant to work with the board to address the board's and its professional's concerns. Janet feels the number of residences should be defined in any variance approval. Tamara reminded the board that voting on a use variance is not voting on the plan, but rather just the use and the board needs to be quite specific as to the variance(s) being granted. Kerry asked how the board qualifies things and Tamara replied that specific ranges rather than square footage is the aim of the use variance. The types of dwellings that are allowed can be considered. The use can also be conditioned on approval of a site plan or the use is revoked. She feels that residential use along Cinnaminson Street represents a better use for this part of the site than commercial use. The amount of proposed parking has been discussed and it can also be considered but may best be considered with the site plan. Jim again stated that he has finished his presentation and he asks that he can go away tonight knowing that he can proceed or not. The chair reviewed that he sees the following items to be considered: straight residential use in the NB district, higher density than the R4 district permits, twin homes which are not now permitted in the code, and apartments over commercial use that again increases density. He wishes to know just how much "horse trading" is allowed. Tamara feels the types of residential units that are justified can be considered. Mr. Shuster feels the number of units cannot be limited. Mr. Oberlander stated that the board can set limits on the number of residential units but it cannot limit the types of commercial use as long as the proposed uses are permitted. Tamara states the board could define a range of residential types that will be allowed which are firmed up during the site plan process. Mr. Oberlander stated that deed restriction could also be considered but he pointed to examples where that has proved to be not beneficial. Mr. Brandenburger stated that he would rather do offices but may need apartments to meet COAH. Tamara stated that things can be negotiated regarding COAH. The chair asked if there were additional comments from the board. There being none the meeting was opened to public comment. A strict limit of five minutes would be observed. The chair doesn't want a dialog among the public, he wants direct comments as to why the plan is liked or disliked and ways it can be improved if needed.

Public Comment: The hearing was opened to public comment.

- Michael Robinson, 6 Second Street, feels that a public walkway is needed from Main Street to Cedar Street and the park. Jim stated he would be glad to do it if he had the right of way which he does not. If the Borough some day gained access to the intervening property, would the applicant consider such a walkway? The answer was yes.
- Michael Heine, 206 Carriage House Lane, observed that there is a strong legislative and public policy opinion against use variances and that a town should rely on its ordinances. He urges denial: there hasn't been a showing of special reasons; the negative criteria has not been discussed as to no substantial detriment to the public good or the intent of the zoning plan; the Master plan and code only consider second floor apartments over commercial uses in the NB zone – not other residential types; business is the intent of the district not residential; economic hardship cannot be considered when granting a variance; the plan is a whitewash of the economic case; there is a synergy between this site and the rest of the NB district if the site is developed as business; the consideration of the residential character of Cinnaminson street is a red herring; the plan does not fit in with the existing multi-use – it is not a good example; and residences on the site will lessen the economic quality of the area. The applicant and his planner commented that the burden of proof had been discussed at the prior meeting and believes it was sufficiently addressed these criteria in prior testimony.
- Bill Koltonuk, 404 Lippincott Avenue, has watched this vacant eyesore for a long time and feels this is the best plan yet. Obviously a developer should expect to get a return on his investment. There is a substantial risk to developing commercial retail with no straight residential in this area and the mix proposed is justified. He pointed to Main Street in Voorhees as an example which failed. Lastly he would hate to see the plan flipped and the town has to wait another twenty years for a valid plan to be proposed. The chair stated that while the board understands these very real concerns, the board cannot consider financial hardships or the fact that the site has sat vacant for a long period of time as merits for or against the plan.
- Donna Tyson, 206 Carriage House Lane, stated this is a nice town with great structures. Successful retail development depends on a needs radius to pull from and the Borough's is cut off by the river. There are regional implications such as the large mixed use development going up in Cinnaminson that any plan in Riverton needs to complement not oppose. She questions if a valid traffic study has been done and Kerry stated that it can be considered. Donna reviewed the study done for Kaplan on the large Cinnaminson development and commented that it was done before and did not include the impact of the light rail. She feels that the loss of trees should be avoided at all costs. The Borough is in danger of losing a large number of its trees.
- Roy Vollmer, 521 Howard Street, feels it is a hardship site. The plan is the beginning of the first truly sensitive consideration of the site. The revised plan presented tonight is a big improvement from the first presentation. He wants a public way between Main Street and Cedar Street if at all possible.
- Phyllis Rogers, 405 Lippincott Avenue, feels it is not economically feasible to develop the site as a strictly commercial/retail site. She thinks this is the best proposal yet. Mixed use is the perfect use. Traffic studies will only show there is some impact. Any use will generate traffic. A good use is better than no use at all. She feels the proposed architecture fits in with the area. She likes the use of green space. As a neighboring business owner she would welcome the plan and the effect that it can have on the area.
- John Shaw, 703 Ninth Street, approves of the plan and Mrs. Rogers' comments. An increase in traffic means an increase in potential customers. There are already many existing twins on Cedar Street so new ones would fit right in.
- John Laverty, 616 Main Street, lives right in the vicinity of the site. It is a hardship site. The building that existed on the site had three to four times the square footage and 100 percent impervious coverage compared with the proposed use. The town can exercise control over the design. He prefers the second proposed design over the first. There are many uses and issues, but they can be worked out. The town needs the site developed. The town cannot compete with big box concerns up on Route 130, but it can create the small business atmosphere that attracts a loyal customer base.
- Gary Ford, 311 Bank Avenue, asked Tamara to define a variance and the board's role. She defined it and Gary asked if the board can change things. The chair stated that the board walks a fine line where it cannot rezone but only consider a variance within the fine lines which constrain its activities and options. Gary asked if the site is split use and the chair replied that over 90 % is NB and the rest R4 residential. Can the board recommend to Council to rezone the site? Tamara replied that such a request could be construed as spot zoning which is not allowed. The variance process is the method of allowing deviation from the established code

when the merits of the particular case clearly meet all the required criteria for granting a deviation. Mr. Ford encourages continued research via the variance process and wants to give people a chance to make something of the site. Businesses in the town are suffering and change and redevelopment of the area is needed to improve things.

- Ed Gilmore, 103 Main Street, feels the second version is great. HE recalled what was on the site before and stated that this is vast improvement. He discussed the T21 Streetscape Grant for Broad and Main Streets and the Borough's plans in the NB area and feels the proposed plan will fit in. He does not think density is a problem in the proposal except perhaps that office use or one-bedroom apartments are preferable to other uses on the second level. Allowing traffic to exit the site on Cinnaminson Street will help alleviate traffic on Main Street and not adversely affect Cinnaminson Street. Ed supports upscale residential development on the site. He is tired of looking at an empty site and he supports the village concept and feels it is a good plan architecturally.
- Frank Cioci, 408 Lippincott Avenue, feels it is great idea and one the town badly needs. It will provide an option for empty nesters in the town where no suitable option currently exists. From a real estate perspective it is a good use. He would be glad to discuss it with the board after the meeting. Janet stated that any comments to the board on this topic should be part of this deliberation process and in the presence of the applicants. It would be best if he could summarize his comments now. Frank went on to state that things are changing regarding the light rail. There are people who want to be in close proximity to the light rail and are looking for property that provides that access. While some properties may have initially suffered due to proximity to the rail line; that is turning around as a changed interest is generated by new comers looking to locate in the town because of its proximity to the rail line.

There being no additional comment, the hearing was closed to public comment.

Deliberation and Vote – Mr. Oberlander presented a closing summary. Use variances are part of the law and the board has the authority to grant them. He feels the burden of proof required by the law has been met; that the positive criteria outweigh the negative criteria; and that there is no substantial impairment to the community. He feels the proposed use is the best of those allowed and it is appropriate for the board to consider what could happen if the proposed plan is not allowed to proceed. The plan respects the adjacent area. It is not creating a domino effect if a use variance is granted. It is a unique site requiring a unique plan. It is not the end of the process. The site plan and redesign process will continue if the use variance permits the project to go forward.

Since the established time limit for adjournment was approaching, the chair asked if the board as well as the other applicants were willing to extend the time since the chair would like to bring this item to a vote and he feels the other case can be heard in short order. There was no objection and deliberation continued. The chair requested guidance in constructing the motion. Can the board limit the number of residential units or the types? Should the retention basin be considered tonight? Are there three use variances involved (permitting pure residential use in NB district, allowing other than single-family detached dwellings, and use of a residential lot as a retention basin for stormwater control)? Mr. Oberlander offered that perhaps the board should be more general in its approach. There has been a lot of discussion surrounding the new plan which at this stage the applicant does not truly know if it can be constructed as presented. This will be part of the site plan process. Tamara offered that the board should not dismiss the new plan presented tonight since it appears to better support the concerns of the board. The applicant has demonstrated he can work with the goals of the Master Plan. Tamara suggested the board could approve the use variance(s) regarding residential uses conditioned on limitations concerning the number and form of single-family units. Approval can and should also be conditioned on the timely submission and successful approval of a site plan based on the testimony given to date. If the latter does not occur, the use variance will expire and be revoked. Fritz Moorhouse stated he was impressed with the flexibility demonstrated so far. Following a brief recess, Janet Smith and Tamara Lee offered direction and Janet summarized the issues to be granted with a use variance which provide flexibility yet retain the concerns voiced by the board and the town and which will not be a detriment to the intent of the Master Plan. A motion was made by Fritz Moorhouse and seconded by Al Adams to approve the motion as suggested:

To grant a use variance permitting a maximum of ten (ten) residential units, which includes any second floor apartments over commercial space, and of the total number of residential units, there may be a maximum of eight (8) single family residences which are semi-detached, attached, or townhouses as defined in Ordinance §128-12, conditioned on approval of a site plan which is consistent with the testimony and exhibits presented at the hearing, such site plan process to be completed within two years; a

use variance regarding a residential lot being used as a detention basin, is reserved for approval or disapproval during the site plan process.

The motion was approved by a unanimous poll vote of the five members voting as follows:

- Mr. Brandt aye, he believes the concerns of the board and town have been met. The proposed revisions to the site plan as presented are an improvement and addressed his concerns over density among other issues and will not be a detriment to the Master Plan. He believes it will benefit the town.
- Mr. Smyth aye, he believes a lot of progress has been made and after 20 years he feels the plan is a good step forward.
- Mr. Mood aye, he feels the plan will improve the downtown area. He likes the revised design presented.
- Mr. Moorhouse aye, he likes the way the applicants presented their case and the willingness to be flexible in working with the concerns of the board and the town.
- Mr. Adams aye, he feels that the plans of the old town were laid out a long time ago and must change to adapt to the changing times. He feels the plans as presented are a change for the better and the future.

Mr. Oberlander confirmed that the applicant was not seeking a further continuance at this time. The applicant will begin the process of revising the site plan in accordance with the proposed designs put forth this evening. At such time in accordance with the provisions of the approval granted tonight, a revised site plan will be submitted, a request to be placed on the agenda will be made, notices will be published and mailed and the process will be restarted.

Following a short recess the meeting was reconvened.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION AND MOVING A GARAGE, BY DEBORAH LENGYEL & CHRISTOPHER HALT, 400 LINDEN AVENUE, BLOCK 701, LOT 1:

Introduction and Testimony – The chair reviewed that all jurisdictional requirements had been met and the matter could be heard. The applicants and their architect Walter Croft were sworn in. The applicants reside in the R8 district on a corner lot. They propose to add an addition to the home, one corner of which will only be 21.6’ from the street-side side property line where 25’ is required. The rear of the addition will also be closer than the calculated 35’ set back from the rear line. They also wish to move an existing garage from the interior rear corner of the lot towards the street and the set back will only be 15.49’. The garage would remain 3’ from the rear yard line. Moving the garage and removing the concrete will maximize the area that provides a naturally landscaped rear yard and the garage will form a privacy barrier for the rear yard. The design and placement of the addition is designed to take maximum advantage of solar heating and natural lighting. It would be a hardship to have to reorient the addition. The addition will not exceed the lot coverage allowed. The addition will be used as an artist and design studio. There will be no regular flow of customers. The chair noted that since other residential buildings along Fourth Street may come closer to the street than the proposed addition, a variance may not be needed. He is concerned with moving the garage as close to the street as proposed. The applicants stated they wished to keep the garage, yet remove it from the small back yard area and allow it to form a barrier for privacy of the rear yard. The applicants stated that they had not heard or received any complaints from the neighbors about the proposed plans. As with the addition, if it can be shown that the proposed setback of the garage is in line with the setback of neighboring homes, there may not be a need for a variance. The code allows for setbacks which conform with the setbacks of adjacent existing structures. A survey of the adjacent properties is needed to confirm this condition. There is concern about the setback of the garage from the rear yard line. Borough code is moot on rear yard setback of accessory buildings, so the only concern may be the setback from the street side property line. The applicants are willing to modify the location of the garage within reason to try and comply with the code; but, they wish to preserve the sight lines from addition to the rear yard. In summary, the Board is not sure without surveys of the adjacent property/properties if a variance is needed for the proposed setbacks. The board is almost positive the addition will not require a variance. It is less sure about the garage which will be closer to the street. A survey needs to be produced to reach a conclusion. The applicants will attempt to obtain a survey. Janet suggested that the matter be continued so additional documentation can be obtained. The continuance allows the process to proceed if needed. If needed, this hearing will proceed first.

Continuance –Fritz Moorhouse made a motion seconded by Al Adams that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously by voice vote to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Deborah Lengyel and Christopher Halt for side yard set back relief is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on November 17, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

OLD BUSINESS

There being no outstanding critical items, old business was tabled until the next meeting due to the late hour.

CORRESPONDENCE

The secretary reviewed the correspondence.

- 9/27/04, revised drawing for the Gorman application from Roy Vollmer, AIA, distributed to the board.

NEW BUSINESS

Vouchers and Invoices:

- Rick Arango & RVE – invoice for \$1,067.28 for work and meeting attendance for the Cedar Lane Mews application. Pay from escrow.
- Tamara Lee – voucher and invoice for \$382.50 for work and meeting attendance for the Cedar Lane Mews application. Pay from escrow.

Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

None – There were no members of the public remaining at this portion of the meeting.

Meeting adjourned at 11:21 PM.

**Next meeting is on 11/17/2004, 7:30 PM at Borough Hall.
Tape is on file.**

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
November 17, 2004

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 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, and Alfred DeVece.

ABSENT: Alan Adams and Bill Brown (both had advised the chair they could not attend).

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Code Enforcement Officer Tony Dydek, Board Planner Tamara Lee, and Board Engineer Richard Arango were not present. Secretary Ken Palmer was present.

MINUTES: A motion was made by Fritz Moorhouse, seconded by Rick Mood, and unanimously approved to accept the minutes of October 20, 2004 as distributed with the changes noted.

PUBLIC HEARINGS:

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2 (CONTINUED):

Continuance – The chair and secretary reviewed correspondence from the attorney for the applicant requesting an additional continuance due to the absence of their planner. Fred DeVece made a motion seconded by Fritz Moorhouse that the hearing be continued at the request of the applicant. There was no further discussion and the motion was passed by a unanimous voice vote to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, use, and bulk variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having agreed to a continuance for consideration of the matter until the next regular meeting of the Board on December 15, 2004.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

The chair stated that he had stressed to Alan and Bill and he also stressed to the members present that everyone should attempt to be present at the next meeting since the Cedar Lane Mews hearing is scheduled to be resume. The chair stated that he had talked with Janet and she had communicated to the applicants the Board's request that the property be staked out to show where the proposed development would take place. There was a question regarding riparian rights and it was stated riparian rights go only to the point of low tide. There were some other general review comments and questions but the chair stated that he wished to get off the subject until all parties were present.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION AND MOVING A GARAGE, BY DEBORAH LENGYEL & CHRISTOPHER HALT, 400 LINDEN AVENUE, BLOCK 701, LOT 1:

Withdrawal – The secretary reviewed a note from the Code Enforcement Officer, Tony Dydek that upon further review of the property and the front yard setbacks of neighboring properties, setback relief was not required and that the application could be withdrawn as not required. A copy of the approved zoning permit issued was attached to the note. The chair stated that as far as he is concerned, the appearance of the applicants should properly be treated as an informal request for interpretation for which there is no charge.

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolutions were reviewed, considered and adopted by the Board:

Resolution 2004-06 for:

Application For Site Plan And Subdivision Approval With Use And Other Variances By Brandenburger/Sheridan, Inc., For The “Sitzler” Property Main And Cinnaminson Streets, Block 904, Lots 2&3; Block 905, Lot 6; Block 906, Lot 1: Following reading of the resolution and insertion of a few minor typographical in nature corrections, there was no further discussion or amendments and a motion was made by Fritz Moorhouse and seconded by Rich Mood to adopt the resolution as amended. A poll vote of the members eligible to vote unanimously adopted the resolution by a vote of 4 to 0 as follows:

Mr. Brandt aye Mr. Smyth aye
Mr. Mood aye Mr. Moorhouse aye

Resolution 2004-05 for:

Application For Side Yard Setback Relief For Construction Of An Addition On The Rear Of The Home, By Nancy J Gorman, 402 Seventh Street, Block 1102, Lot 19: Following reading of the resolution, there was no further discussion and a motion was made by Fred DeVece and seconded Rich Mood to adopt the resolution. A poll vote of the members eligible to vote unanimously adopted the resolution by a vote of 5 to 0 as follows:

Mr. Brandt aye Mr. Smyth aye
Mr. Mood aye Mr. Moorhouse aye
Mr. DeVece aye

Fence Committee – The chair stated that a meeting was scheduled for the 22nd.

Escrow Accounts – The secretary reviewed that he is monitoring the accounts and notifying the applicants when necessary. All parties will be notified of shortages as applicable following the meeting.

CORRESPONDENCE

The secretary reviewed the correspondence.

- 10/21/04, copies of a letter to the mayor and Council from the Environmental Commission urging action on a Stream Corridor Protection Ordinance – copies distributed to members.
- 10/21/04, letter to the chair, with a copy to the planning board from the Environmental Commission requesting that the requirement the boards make available informational copies of development applications be observed in the future – copies distributed to the members.
- 10/21/04, letter from David Oberlander, Mr. Brandenburger’s attorney, confirming the statement made at the last meeting that the applicant intends to re-file a revised site plan application and that there is no continuance of the hearing concluded last month.
- 11/16/04, letter from Lou Colagouri, the attorney for Cedar Lane Mews, requesting a continuance of the hearing on their application.
- A note from Mary Longbottom to the chair requesting preliminary 2005 budget submissions.

NEW BUSINESS

Vouchers and Invoices:

- 11/1/04, Tamara Lee – invoice for \$510.00 for work on the Brandenburger application and appearance at the hearing. Pay all from escrow.
- 11/17/04, Janet Smith, -- invoice for \$1562.50 (\$850.00 for the Sept. and Oct. meetings and \$712.50 for work on the Brandenburger application). Pay \$712.50 from escrow and \$850.00 from general funds.
- 11/17/04, Tom Coleman – invoice for \$462.00 (\$210.00 for attending meetings and \$252.00 for hearing and resolution related research and work) as special counsel for the Gorman hearing. Pay \$252.00 from escrow and \$210.00 from general funds.

Following discussion that Mr. Coleman's charges should be split and charged accordingly to general expense and to escrow, Fritz Moorhouse moved, Rick Mood seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

Reference Materials for Board and related matters – Fred DeVece discussed the board's purchase of reference materials that were suggested as well as used in a League of Municipalities seminar. Following discussion of the need for them, a motion was made by Fred DeVece, seconded by Fritz Moorhouse and passed unanimously to purchase nine copies of the "Millennium Guide" a guide to the Municipal Land Use Law and two copies of the Municipal Land Use Law. Fred will handle ordering of the materials and will invoice the board. Fred also discussed that applicants, where applicable, be required to utilize aerial photographs of sites and the surrounding area to aid in their presentations. Finally, Fred encouraged members to attend the seminar course he and John Trotman attended earlier in the year. He believes the next offering is on February 26, 2005.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment on general zoning matters. The chair cautioned that comments concerning any ongoing matters would be stopped since not all parties are present.

- Louis Koppenhoefer, 901 Cedar Street, wanted to know if Mr. Brandenburger can be compelled to establish a walkway between Main and Cedar Streets. It was explained that Mr. Brandenburger does not own all the property involved. He also commented that perhaps area between Cinnaminson and Cedar Streets was owned by the Light Rail and maybe they would be willing to consider having a public access way in that location. Fred DeVece commented that he thought Mr. Brandenburger was willing to construct some form of public access between streets at least between Main and Cinnaminson Streets, but he was not aware of where the access would be located. He also wanted to know how the EPA referred to under correspondence has its fingers in the Borough's business. He was informed that he was referring to the Environmental Commission which is a duly constituted body in the Borough.
- William Harris, 502 Cedar Street, talked about an "established" access (Mattis Alley?) along the Sitzler site, its historic significance and that he remembered it at one time went all the way to Cedar Street. He feels it has always been there and should remain. He also commented that the area between Eighth and Tenth Streets along Cedar Street where the apartments are now located was once a dump. The chair deferred any comment on the latter topic until all parties are present for the ongoing hearing.
- Barbara Winters, 610 Main Street, wanted to know what traffic patterns were being considered and the impact on Main Street. The chair stated that was a site plan issue and the revised plans have not been submitted yet. Traffic concerns will be addressed when the site plan is considered.
- Donna Tyson, 206 Carriage House Lane, talked about attempts to obtain the traffic study commissioned for the Kaplan development in Cinnaminson. She stated that Laurie Villari had not been able to get a copy yet. The chair again stated that this issue should be addressed as part of the site plan process.

There was no further comment and the meeting was closed to public comment

Meeting adjourned at 8:50 PM.

Next meeting is on 12/15/2004, 7:30 PM at Borough Hall.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
December 15, 2004**

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 7:40 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 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 26, 2004.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

PRESENT: Kerry Brandt, Edward Smyth, John Trotman, Richard Mood, Ken Mills, Fritz Moorhouse, Alfred DeVece, and Alan Adams.

ABSENT: Bill Brown.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilwoman Muriel Alls-Moffat, Code Enforcement Officer Tony Dydek, Secretary Ken Palmer, Board Engineer Richard Arango, and Board Planner Tamara Lee were present.

MISCELLANEOUS: The chair announced that there were two applications before the board. The continued Cedar Lane Mews application would be heard first. The Shover application would be heard second.

MINUTES: A motion was made by Fred DeVece, seconded by Rick Mood, and unanimously approved to accept the minutes of November 17, 2004 as distributed.

PUBLIC HEARINGS:

APPLICATION BY CEDAR LANE MANOR t/a CEDAR LANE MEWS FOR DEVELOPMENT, SITE PLAN APPROVAL, USE, AND BULK VARIANCES TO CONSTRUCT TOWNHOUSES AT 811-817 CEDAR STREET, BLOCK 1700, LOT 2:

The chair asked the board if personal or business conflicts prevented any member from hearing the application. There were none. The chair and board solicitor asked if there were any additional people that would be testifying for the applicant and needed to be sworn in. There were none and the Janet Smith reminded the applicant and his representatives that they were still under oath. The chair stated that he would like to have a review of application.

Summary and Testimony – Louis A Colaguori, the applicant's attorney reviewed the location of the property, presented a brief overview of the plans and the variances being requested. The use variance(s) would be decided first, followed by the bulk variances and finally the site plan review. At the prior session, the following professionals had been sworn in and provided testimony:

- Dominic Flamini the applicant
- Thomas Scangarello the applicant's planner
- Robert Stout the applicant's engineer
- Walter Croft the applicant's architect
- Alexander Litwornia the applicant's traffic engineer.

Referring to the conceptual plan, Mr. Colaguori reviewed that the applicant plans to construct 16 age restricted, high-end town homes in three units on the property behind the existing apartment complex which is four units with 36 apartments. Access to the town homes would be from both Eighth and Ninth Streets. Density issues have been raised which require a use variance. Parking issues were raised and it was noted that as of 7:00 PM tonight there were 21 vehicles on the site. The applicant maintains that there are more than sufficient spaces for the use. The

property comprises approximately 8.6 acres. Drainage calculations have been done and presented. Testimony was provided to the positive and negative criteria of the application. Federal Law provides for and permits the restrictions surrounding age restricted housing for seniors. Issues regarding the Master Plan raised by the board's planner were addressed and he feels the plan meets the intent and spirit of the plan. He feels the concern over multifamily housing was aimed at the conversion of the existing housing stock to multifamily use. The plan before the board is for new single family attached dwellings. The site supports the construction of the homes. The wetland impact has been reviewed and the plan will meet the current 50 foot setback requirement and there will be no invasion of the wetlands area. If the use is granted, approvals will be obtained for all state requirements.

There is an increase in density. While the Borough's code does not provide a number of units per acre figure, the property is in the R8 zone which requires a minimum lot size of 8,000 square feet for a permitted single family detached home. The board's planner had provided a theoretical calculation that this equaled roughly 5.4 homes per acre. Using that calculation and based on the acreage of the site, it is calculated that constructing the 16 additional homes would result in a density of approximately 6 units per acre or approximately 10% over the calculated figure. Testimony was given that the figure used for the size of the property is the total acreage of the site and not the net developable acreage. It is recognized that due to wetland considerations, some of the site cannot be developed; however, it is felt that calculation based on total acreage is proper and permitted. Mr. Colaguori stated that density limits are to limit the number of people and he went on to provide various ways that density can be calculated. He stated that he feels the proposed new homes plus the number of existing housing units would still result in a density figure that is less than the town as a whole. Board Planner Tamara Lee reminded the board that if new testimony is to be given concerning census data and population density calculations, she feels the board should and she would prefer that the board hear this type of expert planning testimony from the applicant's planner. The chair stated that while the theoretical calculations were an interesting statistic, they are not part of the code. Testimony should stick to the Master Plan. The board cannot rezone and he doesn't feel the board can consider other statistics but must base its decisions on what is provided for in the current code. The chair feels the current code is specific to the type of dwelling permitted and the minimum size of the building lot. The chair feels the application is to develop undeveloped land and that the code requires the land be developable since it states that there will be a minimum lot size for each home. Further he feels the proposed plan far exceeds the density permitted on the undeveloped land. Mr. Colaguori stated that while there may be room to agree to disagree, he feels the Master Plan uses census data to support its goals and therefore census data is permitted to support the application. The figures developed in the Master Plan support the proposed use. State law allows use variances if the use is not permitted and also where density is exceeded. He feels a prima facie case has been presented, that it is a viable project, the project meets a need for age restricted senior housing that is not addressed in the current plan, and that the site is adaptable for the proposed use. The chair asked that perhaps the applicant can better summarize just how the positive and negative criteria have been addressed. Tamara stated that testimony at the last meeting began to address density and that she feels more numbers are still needed. The board is considering two basic variances. Tamara feels that proofs for the possible need for town homes may have been presented; but, that the density issue has still not been addressed. Ed Smyth feels that the existing apartments already create a density issue. Tamara stated that density is not just people. The Master Plan considered more than just people when addressing density. It also included the impact of traffic and the character of the town – whether it should be a dense urban town or quaint little town. The chair feels that since wetlands are not developable, they should not be considered in any density discussion. Tamara stated the ordinance is silent on that issue. It does not base density on net area which excludes land which is not developable. Nor does the ordinance stipulate a "buy right" provision which bases the number of lots on the number that can be built without variances. If a "buy right" calculation was done on the site, many of the existing apartments would not be permitted. The chair asked how then does the board calculate bulk density? Tamara stated that was why she developed her calculation of 5.4 homes per acre based on the R8 district requirement of 8,000 square foot per lot. Theoretically, if a developer came in with a proposal to develop a site, and the application was for single family use, they might base their proposal on such a density calculation. The fact that a fair percentage of the site may not be developable would present a case for bulk variance relief justified on the hardship that the site meets the code requirements except that part of the property is not buildable. Tamara conceives that such a theoretical claim could be substantiated based on the current ordinance. Tamara stated that an applicant has no absolute right to a variance for density but may request it; and she wanted to know how many units they would need to delete from the plan to bring the density more in line with the code's theoretical requirement. While the current code may not require that an applicant bring the density calculation to or below what is allowed; the Master Plan does address the look and

feel of the Borough. If the perceived look and feel of the proposed plan does not meet the goals of the Master Plan, then perhaps the board does have a means to require proof that a variance should be granted. The chair again stated that he feels the board is required to base its decisions based on the codes and Master Plan currently in effect. Tamara concurred that only the planning board has jurisdiction over the Master Plan. Tamara feels the board should consider both variances together. Ken Mills asked again what exactly are the two variances being considered. Tamara stated there are two – the ability to build a type of home other than the permitted single family detached home; and the issue of density. The chair asked if density is based on the code's R8 definition of one home per 8,000 square feet and Tamara stated that is correct; but, that if a use other than single family detached is to be granted, then the density requirement might better be based on the theoretical 5.4 units per acre figure that roughly equates with the R8 requirement.

The chair asked if Tamara might review what the board is allowed to consider and what it is not permitted to consider. The decision should not be based on the number of school aged children or on economic issues. Referencing her 7/14/04 report, Tamara stated that Section 2.2 tried to lay out how the board could review the plan. In that section, points a, b, c, and d represent positive criteria. The application needs to support the purposes of the Municipal Land Use Law. It should advance the local master plan. The site should be well suited to the use. Denial of the use variance will create a substantial hardship. The more of these latter proofs provided, the stronger the case for granting a variance. Against the positive criteria are the negative criteria. Is there any substantial impairment to the master plan or zoning code? Is there a substantial detriment to the public good? Environmental impact can be considered as a public good issue. Tamara feels that there is no public detriment in the classical sense such as odors or hazardous conditions. However, if the board feels that a case for negative impact on the environment can be presented, then that impact can be considered a detriment to the public good. Under enhanced proof, the applicant must provide good reason why the use(s) are not in the ordinance and should be. For the positive criteria, as many proofs as possible should be met. For the negative criteria, all proofs must be met. The chair reviewed that he understands that, for each variance requested, the applicant must satisfy at least one of the positive criteria and must satisfy all the negative criteria. He would like to see if they meet the above requirements for each variance and let the Environmental Commission speak to the environmental impact. Tamara agreed that was a suitable way to address the issues. The chair asked the applicant to proceed along the lines discussed and to try and be as concise as possible. Mr. Colaguori feels the two issues are intertwined and that latitude is needed. Mr. Scangarello stated he wasn't sure he could provide what the board is requesting. He does not feel the board can consider two use variances and needs to know jurisdictionally where they stand. He feels that if the density issue has been met, then the only variance is over the type of dwelling. The chair asked what Janet thought and she said that she would defer to Tamara's opinion that two basic issues of type of home and density exist and that they overlap. She thinks the board should proceed as stated. The chair reviewed that he feels under sections 128.18 (type of dwelling) and 128.20 (bulk lot size) that two separate variances are being requested. Mr. Scangarello feels it is a complicated issue especially if a decision is appealed and he needs a legal opinion on how to proceed. Tamara suggested that the board could hear and decide on the type of use while not making a commitment to the number of units. Granting a use for a type of unit does not guarantee a specific number of units. The chair stated that the minimum lot size code is 8,000 square feet. Tamara replied the board can decide on the use variance and that the decision has absolutely no bearing on whether the plan will work or the number of units will work. The chair stated that he was still confused over the issue since while the code defines lot size, the application is not providing for building lots but for condominiums or town homes on a jointly owned land. Mr. Colaguori reviewed that condominium law states that different standards cannot be set for condominiums and that if a plan meets the density requirements, the law provides for common ownership. The chair asked that if a single lot is being considered, what the impact of the existing apartments is. Testimony was given that perhaps providing the conceptual site plan may be clouding the issue. What is being proposed is to construct an additional 16 units of some form of attached housing on a site where attached housing units already exist. The use variance does not address the specific form of housing or the actual number of units but rather the variance to construct a form of housing not currently permitted under the Borough's code. The proposed plan is what the applicant feels is the best way to proceed but what they hope to come away with is the approval to construct additional attached housing not to exceed 16 units on the site. They are prepared to demonstrate that the proposed site plan is the best way to meet their need providing they are provided the use variance. They understand that the use variance is not an approval of the site plan but provides the ability to proceed with the site plan. Janet asked if the information was going to be provided and that the board could proceed. Tamara reviewed that the applicant had come before the board

requesting a use variance and preliminary and final site plan approval. Most such applications are bifurcated and the use variance is considered separately from the site plan. The board has sort of back tracked and is now considering the use variance without deleting the site plan testimony. To resolve the use issue, Tamara suggests the board move forward and considers the use variance which is to allow the construction of additional attached housing on a site where apartments already exist. The type and number of such units does not have to be part of the variance and can be reserved to being considered during the site plan portion of the application. There was discussion that the application had been presented in the form and manner that the board and planner requested. The chair stated that the efforts of the applicant are not wasted since the board feels it needs to have a good sense of what is planned for the site to properly determine that granting a use variance is warranted. What he wishes now is for testimony to sum up concisely how the necessary proofs have been met. Mr. Scangarello replied that previously and again tonight they feel they have spoken to the positive and negative aspects of the plan which includes:

- the need for age restricted housing in the town
- the issue of environmental sensitivity
- the benefits of providing new housing in the Borough
- the use will meet or enhance the goals and objectives of the Master Plan
- the proposed plan will enhance the neighborhood
- it will decrease the volume of traffic versus other permitted uses
- it encourages walking over vehicle use
- it supports the State Plan.
- there is no substantial impact to traffic and the environment
- the plan maximizes light, air, and open space
- they have met the enhanced quality of proof
- the plan preserves value
- the plan provides for a need not provided for under the current Master Plan or codes of the Borough.

The chair feels it is hard for him to make a decision based on the review provided. He sees two good points: it provides for a form of housing not currently allowed which he feels is needed, and while perhaps not properly considerable as a primary issue, it does provide increased ratables. However, the chair does not feel the issues of environmental impact and density have been addressed. Mr. Scangarello stated that if the board wants him to repeat in detail the prior testimony, he is willing to do so. However, if the density issue continues to be a sticking point he is not willing to proceed without a legal opinion on how it impacts the use issue. Tamara replied that if you are requesting approval for 16 units then the board can properly consider density. If however you are requesting approval of a type of housing then density is not a real issue at this time. Mr. Scangarello replied that they are seeking a use variance for a type of housing and that conceptually they feel they can fit 16 units of same on the site. Tamara stated that while planning boards have the ability to consider conceptual or sketch plans, zoning boards do not have that ability. The chair stated that he just wants it made clear that if the applicant does not wish the board to consider density at this time, then the applicant needs to understand that granting approval for the use has no bearing at all on the determination of how many units will be approved. The site plan review will determine that issue. If the applicant's plans are predicated solely on the approval to construct 16 units, then he runs the risk that may not occur even though a use variance has been granted. Tamara concurred that if the board is not allowed to consider density, a variance is being requested for a type of housing that does not now exist in the ordinance. The board cannot consider bulk issues for a type housing that does not exist without considering density issues. Janet stated that if the applicant is not willing to address density issues at this point then perhaps the board should just move ahead and address whether or not to grant the use variance for the type of housing with numbers to be considered at a later time when the site plan is addressed.

Tamara stated she would guide the board. If the request supports the Municipal Land Use Law, a variance can be considered. If it promotes the goals and objectives of the master Plan that is a plus. The application speaks to the site providing a variety of housing for all age groups and preserving the views and character of the Borough. Tamara feels that the carriage house claim may be stretched given the mass of the proposed units. If the board feels the application not only supports but enhances the Master Plan, then this can be considered a special reason for approving the use.

Ed Smyth stated the Borough is surrounded by town houses. While we may be in an era of housing change and that

change may be needed, he can't conceive of where the proposed units will go. While he feels the prior presentation was good, he feels the proposed construction may not be feasible given the dense growth behind the existing buildings as well as the drop off to the creek. He also feels the proposal does not address the issue of reducing the existing density of the Borough. Tamara commented that the Master Plan is very concerned about traffic and the proposal makes a positive point that age restricted housing would provide less traffic and a different time impact than other forms of housing. As to whether the site is particularly well suited to the proposed use, the board should consider whether the site is isolated and perhaps the use conceived isn't better suited closer to the downtown area. Tamara feels this is a relative issue. If the board feels proximity to the town center is relevant, then this location may be better than say near the golf course or if there are issues that make this site better suited than say right on Broad and Main Streets or behind the NuWay. Mr. Scangarello stated he feels the site is well suited for the planned use and preserves the view. Tamara stated that a helpful example might be locating a cell tower on the highest point of a town. While the location may represent the site being particularly well suited for the planned use, the negative criteria when considered may outweigh the best use criteria. Tamara discussed that the Master Plan and resulting code could have zoned for the apartments and multifamily uses, but did not. Why, because the goal is to decrease density. The Master Plan envisions future development in the Borough as lessening density in all ways and thus a code which encourages apartments and other forms of multifamily use is counter to that goal. That does not preclude however finding that such a use might possibly represent the best suitable use for a particular site given all considerations. If the board can conceive that a use does not substantially impair the plan then it may approve the use. The chair asked about considering developable versus un-developable. Tamara stated that since the code is moot on the subject, it can't consider gross versus net issues when deciding on use. Mr. Scangarello stated that the proposed use is a good thing for the town because it goes to reducing the overall density of the town compared to other uses. The chair stated that permitting only detached single family housing is because it is the least dense use. Tamara restated that density is only one tool that is used to gauge the intensity of a use. Issues such as age restricted use also address that issue and the board can properly consider that a mitigating factor when gauging the impact of allowing a requested use. It was again commented that what is being discussed is whether the requested use is valid. Density is an issue better left to the site plan consideration. Ed Smyth asked Tamara if it would make a difference to her if the applicant came back with a plan for a lower number of units. She replied yes that theoretically since it provided a less dense use than anticipated, it would make a difference to her. Asked by Mr. Scangarello if she feels area covered or number of people is more important, Tamara stated, that personally she prefers a clustered concept which preserves as much usable open space as possible. However, she went on to state that this was only a personal opinion and is not a recommendation to the board in this matter. The chair commented that to him everything is relevant; the environment, people, roads, drainage, etc. and needs to be considered. Personally he feels the type of housing is positive for other reasons already presented; however as it relates to density he has concerns. Mr. Scangarello stated density is only related to units per acre not people. Further if the decision, whatever it may be, is appealed, that distinction would be critical. The chair reiterated that his goal was that if an approval was to be granted, he wishes the applicant to go away with a clear understanding of what may be doable. Mr. Scangarello stated that feels they have demonstrated there is not a substantial detriment based on Tamara's provided calculation of 5.4 units per acre and that there is no distinction between developable and un-developable land. The chair stated that we need to move on. Rick Arango, the board's engineer stated that he feels many of the issues brought up tonight are site plan related issues and are essentially moot if the use variance is not granted. Fritz Moorhouse asked if the applicant was flexible in the number of units. Mr. Scangarello replied he was certain the number was flexible but if the board is basing its decision on density, then he feels the applicant needs a clear understanding of what the board considers density.

Concerning the issue of environmental impact, Tamara said she would defer to the Environmental Commission's report. As to whether the use is inherently beneficial, Mr. Scangarello stated that if compared to the letter of what is normally considered such a distinction, such as a school, hospital, etc., then he was not making such a distinction. However, if only provision for a beneficial type of housing that is not currently provided for is considered then he feels the enhanced proof has been provided. Tamara stated that if a truly inherently beneficial use is being considered, enhanced proof is not required. In this instance however, she feels the enhanced proof is needed. Tamara further stated that if the board believes the Master Plan is truly outdated and there have been substantial changes in the town that warrant the Master Plan being changed, then the board can consider that as a reason for granting a variance. Another example of a valid consideration is where the code does not provide for something because it legally cannot, such as split lot zoning. If a board believes that in a particular instance that split use is

the only truly beneficial use, then it may properly consider a variance in that instance. The chair asked if there had been a substantial change to which Mr. Scangarello replied that it was his professional opinion that the change in the value of the traditional and permitted form of housing in the Borough had outstripped the ability of older citizens to occupy that housing and the change in demographics in the area demonstrated the need for the type of proposed housing which the current code does not provide for. Mr. Scangarello believes they have demonstrated that need.

The chair stated that if the board concurred he wished to allow for further board questions. He then would consider the comments of the Environmental Commission and then hear public comments. The chair stated that given the need to conduct other business including another hearing that he wished to establish a cut off for consideration of the use variance of 10:20 PM if it had not already been concluded. There was no disagreement. There were no further questions from the board and the floor was given to the Environmental Commission. The following commented after being sworn in:

- Michael Robinson, Riverton, NJ, Secretary of the Environmental Commission commented based on three items distributed and entered into evidence as EC #1 – General Remarks, EC #2 – Density and Traffic, and EC#3 – History of Stream Corridor Protection Ordinance Proposal. He also referenced the Commission’s booklet on the Pompeston Creek that is available to all. Nothing has addressed the impact of the proposed development on the existing residents of the apartments. Their view and/or access to the creek area will be blocked/restricted. The commission objects to the proposal as imposing too many units which are too high and too close to the creek. The plan will adversely impact the area. The plan will adversely impact four initiatives underway to protect the waterway. Existing laws do not protect the creek and the initiatives under way will provide the protection. Building the units will destroy a natural habitat and restrict access to the area for all citizens. This type of development belongs closer to the center of town. The chair asked speakers to limit their comments to the environmental impact of the plan. Michael feels the issue of density is properly related to the issues. The chair stated that some of those comments are better left to general public comment and asked that speakers for the commission restrict their comments to environmental impact of the proposal. Michael summarized that woods and growth that form a natural barrier to protect the creek will be destroyed. The existing natural view will be destroyed. The board as well as other entities in the Borough is charged with protecting the environment. These are detriments to allowing the plan. Lastly, Michael wanted to know if the board can legally restrict development to age restricted housing. The chair once again asked speakers to adhere to the issue.
- Deborah Grant Lord, President of the Pompeston Creek Watershed Association, spoke to the \$250,000 grant to develop a Regional Stormwater Management Plan for the creek and that the type of proposed development is the type any such plan will try to discourage. There is already too much impervious coverage in the creek area. There will be undesirable destruction of vegetation that naturally helps protect the creek. The plan does nothing to help preserve the creek or the stream corridor. The creek and corridor are an environmentally sensitive area. The site is specifically unsuited for this development as it applies to the health of the creek. As for possible impact on the general public, the site and the creek sit on the recharge area of the aquifer. Any impact on the quality of the creek can also possibly impact the aquifer and the intake for the water company which is near the mouth of the creek in the Delaware River.
- Barbara Rich, Moorestown, NJ, is a resident of the Pompeston Watershed is concerned about riparian rights. Determining these rights directly impacts on what land is actually owned and can be considered in any calculations. The chair asked the board engineer if this was an issue and he replied that he would research it since it would be a site plan issue. Fred DeVece asked what area the Pompeston Watershed Association oversees. They oversee the four towns that are along the creek.

Public Comment: The hearing was opened to public comment. The chair stated that speakers would be limited to five minutes and that remarks should be restricted to the application and delivered as comments not as establishing a dialog with the applicant or board. Following the public comment the board and applicant would have time to respond. All speakers were sworn in prior to speaking.

- James Aguilar, 1134 Bannard Street, Cinnaminson, NJ, feels the plan will directly affect him the most. He lives near the base of the creek and feels there are new or increased flooding issues. He wants to know if lights, runoff, etc. will impact him.
- Cynthia Pierson, 626 S. Pompess Avenue, Cinnaminson, NJ, feels there has already been an adverse impact on

the creek from runoff connected to the Wall Mart. She hears all the noise from Cinnaminson High School events in their stadium. She feels there is already too much impact and doesn't want any more impact on the wildlife in the creek area.

- Michael Heine, 206 Carriage House Lane, feels the application is simply an application by a developer to make money and all comments otherwise shouldn't detract from that fact. The application must be decided along strict guidelines. He referred to the MUL and proceeded to comment that the land area being developed is not the entire site but is restricted to that area that will be deeded to and under control of any condominium association. He disagrees with Tamara and feels the R8 designation is very clear as to what density is – a single family home on no less than an 8,000 square foot lot. He feels the application is propagating a myth used by developers that age restricted housing will soften the impact on the town, provide tax relief to the property owners in the town, and provide a net increase in ratables. There is ample proof that residential development usually has a net negative impact on the tax burden and the municipal services required to maintain the area exceed the taxes generated. Age restriction is a myth. Older people are having children. This is not the place for this type of development. Define the town's assets and don't give them away.
- Christopher Halt, 400 Linden Avenue and also an Environmental Commission member, commented on the impact of traffic. He referred to the Master Plan's objections to additional multifamily impact as it promotes density. He also referenced the commission's handout exhibit EC#2.
- William Henry Harris, 502 Cinnaminson Street, recalled that the area in question used to be the town dump. Developers on the Palmyra Harbor area had to utilize pilings to form a stable foundation for the homes and feels this site will have similar problems if not properly stabilized. The town already has dwellings that meet the supposed need stated by the applicant and doesn't feel the town needs additional town homes. He doesn't feel the site is viable for the plan. A better location may be along the Delaware, not a small creek.
- Louis Koppenhoefer, 901 Cedar Street, feels the existing apartments have been well maintained and make for good neighbors. Cedar Street is used as a bypass for Main Street and such use has increased with the operation of the light rail line. He only envisions more traffic not less if the development is allowed. He does not see in any way that the use is inherently beneficial. He wonders how a sewer line could be installed along Ninth Street since there is none there now because the land slopes in the wrong direction.
- Bennett Landsman, 909 Cedar Street, commented that he is also a member of the Environmental Commission. He has difficulty imagining how the addition of up to 32 more vehicles will not adversely impact an already deteriorating traffic condition along Cedar Street. People already park on both sides of Cedar Street between 8th and 9th Streets. If any existing slots are removed, that will only worsen the situation. The plan will probably remove an existing path along the creek and he referenced the Master Plan where it encourages the Borough to if necessary acquire land to help preserve open space and public access to it. He is concerned the existing views as well as vegetation and trees will disappear.
- Deborah Lengyel, 400 Linden Street, recalls that the apartments at the location were once envisioned as senior housing. Now children are permitted. If the board approves age restricted housing, what can prevent that from changing? Kerry stated that while occupancy can be restricted, there is no guarantee that the law may not change and outlaw such types of restrictions.
- Ed Gilmore, 103 Main Street, is a councilman and the council representative to the environmental commission. He spoke to the existing flora and fauna along the creek and the impact the plan might have. He stated the owner has presented different ideas before. He feels town homes along 9th Street are not a bad idea; but, feels the plan being presented tries to squeeze too much into the site.

There being no additional comment, the hearing was closed to public comment.

Deliberation and Vote – Janet Smith asked the applicant what they hoped to achieve tonight. Mr. Colaguori replied that they had originally presented a site plan with use and other variances. Upon advice that they should pursue the use variance first they have done so with the intent of obtaining a use variance and to later seek approval of the site plan. The chair inquired as to what they hoped the variance would grant and if they had considered subdivision of the area to be controlled by any association connected with the new homes. Lou replied they had not contemplated subdivision especially as it relates to density issues. Asked what they want, Lou feels they are seeking a use variance for the existing site to construct town homes, or other than single family detached homes, or some form of multifamily structure(s). Granting a use variance allows the pursuit of a site plan approval. The chair asked if the applicant would be comfortable having approval allowing a type of housing but without having any idea as to the number of units that might be allowed. Mr. Scangarello wants to know if approval can be granted

conditioned on satisfaction of environmental concerns and providing that the number of units does not exceed 16. The chair stated he was not comfortable talking numbers until the density issues are resolved. Ken Mills stated he is not comfortable if the type of home is not clear. Lou reiterated that the owner is committed to remaining and maintaining the site; he is committed to the Borough. The chair asked for guidance on what he board needs to consider. The chair doesn't feel that the board can approve multifamily without addressing detriment to the public good and considering density as it includes traffic impact and environmental concerns. Tamara replied that the chair's concerns were one reason she used the theoretical density figure to provide a guideline the board might use to equate the use to the R8 definition. If the board can conceive of a number, whatever it might be, then it might consider granting a variance allowing a number of age restricted homes along with the existing apartments. The chair again stated he wasn't sure considering a number now was good. Mr. Scangarello stated that while the applicant feels 16 is a good number, they aren't sure. They may be prepared to go back and review and possibly have to come back with a lower number. The chair feels there is a danger of insisting that a number be included now since if it as voted down, aside from appealing, the applicant would need to completely re-apply and begin the whole process over. Mr. Colaguori replied that having a use variance without a number implied or granted is okay since that is what the site plan approval process is for. Mr. Flamini stated that he is sensitive to the situation and concerns raised. He is confident the board will make a good decision and he is prepared to live with the chance that any approved site plan may allow a much lower number. He has a big investment in the site and wants to protect it. Ed Smyth wants to move beyond the numbers and asked where the units would go if approved since there is concern with the location currently proposed is not suitable. Ed feels the board needs to know the site will work before a use is granted. Lou replied that the applicant needs to know he has the right to proceed with the planned use before he can finalize the appropriate plans. This follows the accepted process – first obtain the use approval and then develop an approvable site plan. John Trotman inquired that if a use without a number is granted, what determines the number. The chair replied that was part of the site plan review. The chair is concerned if approving for this site is akin to approving it for any site. Tamara stated that the process is always site specific and each must stand on its own merits. John Trotman asked if the number is not stipulated, what the board can do to limit the number later. What grounds are used? Tamara replied that the use doesn't currently exist, therefore everything is a variance. Fritz asked if the use is turned down, they can still come back with another plan. Tamara stated that is correct. The use if granted can also be contingent on approval of a site plan.

The board discussed the proper wording of the motion it wished to consider. Janet stated that based on what she had heard from the members, she thinks the board wishes to consider a:

“Motion for use variance to permit multifamily, age restricted, side by side condominiums with existing apartments with the number of units to be determined at site plan, contingent to site plan approval.”

Fritz Moorhouse motioned that the motion be approved as so stated by the solicitor. Fred DeVece seconded the motion. Mr. Colaguori commented the applicant had no problem with the motion being considered. There being no additional discussion, a poll vote was taken and the motion to grant a use variance was approved by a vote of 5 to 2 as follows:

- Mr. Brandt – nay: The applicant has not proved there was no substantial detriment to the public good. He feels there is a substantial impairment of the zone plan.
- Mr. Smyth – aye: Understands the chair's objections, but use approval is just words that allow them to proceed with producing an acceptable site plan.
- Mr. Trotman – aye: Wishes to commend the applicants, concerned residents, and people concerned with the environment and creek for taking time participate in the process. While sympathizing with the chair's feelings, approval now only permits the applicant to come back with an acceptable site plan that addresses all concerns.
- Mr. Mood – aye: This is only the first step which states they may proceed. The specifics will follow in the next steps.
- Mr. Mills – nay: The hardships and impacts were not properly addressed. He is concerned if there are safety nets available to stop the project if approved at this stage.
- Mr. Moorhouse – aye: Listened to the public and heard their concerns. He too is concerned about the condition of the creek and the impact of development along it. He has listened to the concern over

numbers, but feels there is flexibility in them. Approval allows them to proceed with presentation of a site plan that will justify the final number that is approved. The board retains the final say.

Mr. DeVece – aye: He agrees with Ed, and feels Ed’s comments express his feelings on the subject.

Continuance – The chair, board and applicants agreed that it was a good point to break the proceedings and continue them next month. The applicant plans to continue the process and move forward to consider the site plan. Asked if they were wished to seek granting of a continuance or intended to reapply when they were ready to present their site plan, they replied that they wished to continue the current proceedings until next month. They hoped to be ready to proceed at least initially with the site plan. Fritz Moorhouse made a motion seconded by Rick Mood that the hearing be continued at the request of the applicant. There being no further discussion, the question was called and the motion passed unanimously to the effect that:

Be it resolved by the Zoning Board of Adjustment of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application by Cedar Lane Manor t/a Cedar Lane Mews for development, site plan approval, and all necessary variances to construct townhouses at 811-817 Cedar Street, Block 1700, Lot 2 is continued, applicant having agreed to a continuance for consideration of the matter until the next regular meeting of the Board on January 19, 2005 or thereafter if an additional extension of time is deemed necessary.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

Following a short recess the board continued with the meeting.

APPLICATION FOR SIDE YARD SETBACK RELIEF FOR CONSTRUCTION OF AN ADDITION ON THE REAR OF THE HOME, BY ANDREW AND KATHLEEN SHOVER, 422 LINDEN AVENUE, BLOCK 701, LOT 12:

Introduction –The chair and solicitor reviewed that all jurisdictional requirements had now been met and the hearing could commence. The applicant Mr. Shover and his architect Walter Croft were sworn in.

Testimony and Board Questions/Comments – The residence is in the R8 district and not within the historic district. There is an existing non conforming side yard set back of approximately five feet and the proposed addition which will follow the lines of the existing structure will not extend any closer to the side yard boundary. It actually will be a little less than the current incursion. The mass and style and lines of the addition will match the existing house except where the lower level is stucco with clapboards above, the addition will be all clapboard. The siding material will be wood not vinyl. An existing one story mudroom will be removed. Asked if they couldn’t comply with the setback requirements, it was stated that it will be a hardship and greatly restrict the ability of the addition to meet the needs of the family and match the style and feel of the home if they have to adhere to the required setback. Asked about the proximity of the neighboring home to the side yard line in question, it was stated that there is not impact since the neighbor property is located more than 10 feet away from the common property line. It was also discussed that the home was similar to others in the area and that many had been similarly modified.

Public Comment – The hearing was opened to the public and was closed since there was no comment.

Deliberation and Vote – There was no further deliberation by the board and a motion was made by John Trotman, seconded Rick Mood to grant side yard set back relief on extension of a non conforming building. A poll vote unanimously approved the application by a vote of 7 to 0 as follows:

Mr. Brandt	aye:	Feels there is no way to adapt the plan to comply with the required setback and there is no detriment to the neighborhood by granting the variance.	
Mr. Smyth	aye	Mr. Trotman	aye
Mr. Mood	aye	Mr. Mills	aye
Mr. Moorhouse	aye	Mr. DeVece	aye

OLD BUSINESS

Adoption and Memorialization of Resolutions – There were none.

Fence Committee – The chair reported one meeting had been held and another is scheduled for early January.

Escrow Accounts – The secretary reviewed that he is monitoring the accounts and notifying the applicants when necessary. There are no problems or concerns to report.

CORRESPONDENCE

The secretary and chair reviewed the correspondence.

- 11/24/04, copy of letter from Janet Smith to Lou Colaguori requesting that proposed construction be staked out to allow members to better understand the impact. This was not done. The applicant provided aerial photograph with the new construction overlaid
- 12/3/04, copies of the above mentioned aerial photograph.
- 12/8/04, memo from Treasurer Betty Boyle re; the lack of funds in the current budget for the purchase of books for the board.

NEW BUSINESS

Vouchers and Invoices:

- 12/3/04, Tamara Lee – voucher for \$85.00 for work on the Cedar Lane application. Pay from escrow.
- Rick Arango – invoice for \$437.60 for work on the Brandenburger application. Pay from escrow.

Fred DeVece moved, Fritz Moorhouse seconded and the vote was unanimous to pay the invoices as presented providing there are sufficient funds in the escrow accounts. The secretary will make sure the invoices are signed and submitted for payment.

Annual Reorganization Meeting in January – It was discussed that the mayor wishes to reappoint existing members if they desired to return. It was stated the board wishes the secretary to return. It was commented that unless business required it, the board professionals did not need to attend.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 11:13 PM.

**Next meeting is on 1/19/2005, 7:30 PM at Borough Hall.
Tape is on file.**

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