

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JANUARY 15, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Annual Reorganization – Swear in new/reappointed members; announce appointments; elect chair, vice chair, and professionals
4. Adopt minutes from December 18, 2008 meeting
5. Public Hearing – Variance Application by John Lodise and Qwen Foster-Lodise, 419 Elm Ave., for expansion of a non-conforming structure to erect a second story addition within the existing footprint of the dwelling. The structure lies within the side yard setback area.
6. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - Education Update – 2009 NJPO Winter-Spring Session Schedule released
 - 2009 Budget
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Adopt resolutions for meeting calendar, appointment of professionals
 - Any other new business before the board
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
SPECIAL MEETING
JANUARY 22, 2009**

1. Meeting called to order at 7:00 PM
2. Open public meetings notice act statement and roll call
3. Motion to suspend normal business and proceed to purpose of meeting
4. Adopt and memorialize Resolution Case # 2009-01 – Variance Application by John Lodise and Qwen Foster-Lodise, 419 Elm Ave., for expansion of a non-conforming structure to erect a second story addition within the existing footprint of the dwelling. The structure lies within the side yard setback area.
5. Any other new business before the board
6. Public Comment
7. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
FEBRUARY 19, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Reorganization – Swear in new members
4. Adopt minutes from January 15, 2009 regular meeting and January 22, 2009 special meeting
5. Public Hearing – Variance Application by Mark Vink, 403 Main Street, for expansion of a non-conforming use to install a hot tub
6. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - Education Update
 - 2009 Budget
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Review of the mayor’s task force report on changes to the zoning code.
 - Review of the proposed changes to the fee and escrow requirements for variance applications
 - Any other new business before the board
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
APRIL 16, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Reorganization – Swear in new members
4. Adopt minutes from February 19, 2009 regular meeting
5. Public Hearing – Variance Application by Cheryl Messa Progin, 712 Thomas Avenue, for bulk variances to install a patio.
6. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
MAY 21, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from April 16, 2009 regular meeting
4. Public Hearing – Variance application by Mark and Constance Vink, 403 Main Street, Block 802, Lot 6 for a use variance to install a hot tub on a property used as a multifamily dwelling
5. Public Hearing – Variance application by Gary & Wendy Stocker, 306 3rd Street, Block 601, Lot 18 for a variance to construct a conforming addition to an existing nonconforming structure
6. Public Hearing – Variance application by Janet DeVries, 308 Main Street, Block 604, Lot 13, for a use variance and variance to construct conforming additions to an existing nonconforming structure
7. Old business
 - Adopt and memorialize Resolution Case # 2009-02 – Variance Application by Cheryl Messa Progin, 712 Thomas Avenue, for bulk variances to install a patio.
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget
 - Progress report on changes to the zoning code
 - Progress report on proposed changes to the fee and escrow requirements for variance applications
 - Any other old business before the board
8. Review correspondence
9. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
10. Public Comment
11. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JUNE 18, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from May 21, 2009 regular meeting
4. Old business
 - Adopt and memorialize Resolution Case # 2009-03 – Variance application by Mark and Constance Vink, 403 Main Street, Block 802, Lot 6 for a use variance to install a hot tub on a property used as a multifamily dwelling
 - Adopt and memorialize Resolution Case # 2009-04 – Variance application by Gary & Wendy Stocker, 306 3rd Street, Block 601, Lot 18 for a variance to construct a conforming addition to an existing nonconforming structure
 - Adopt and memorialize Resolution Case # 2009-05 – Variance application by Janet DeVries, 308 Main Street, Block 604, Lot 13, for a use variance and variance to construct conforming additions to an existing nonconforming structure
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget
 - Progress report on changes to the zoning code
 - Any other old business before the board
5. Review correspondence
6. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
7. Public Comment
8. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
AUGUST 20, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from June 18, 2009 regular meeting
4. Public Hearing – Variance Application by Erica Alfano, 8 Linden Avenue, Block 201, Lot 15, concerning placement of fencing on a corner lot.
5. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget
 - Progress report on changes to the zoning code
 - Any other old business before the board
6. Review correspondence
7. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
8. Public Comment
9. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
SEPTEMBER 17, 2009**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Recognition of Ed Smyth by the Borough
4. Adopt minutes from August 20, 2009 regular meeting
5. Public Hearing – Variance Application by Dennis Eversmeyer, 400 Fulton Street, Block 900, Lot 1, concerning placement of rear yard fencing on a corner lot.
6. Old business
 - Adopt and memorialize Resolution Case # 2009-06 – Variance application by Erica Alfano, 8 Linden Avenue, Block 201, Lot 15 for placement of a fence beyond the permitted set back lines on a corner property
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - Progress report on changes to the zoning code
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
9. Public Comment
10. Adjournment

BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
October15, 2009

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from September 17, 2009 regular meeting
4. Public Hearing – Variance Application by Janine Miller, 500 Cinnaminson Street, Block 903, Lot 1, concerning placement of rear and side yard fencing on a corner lot and a concrete deck.
5. Old business
 - Adopt and memorialize Resolution Case # 2009-07 – Variance application by Dennis Eversmeyer, 400 Fulton Street, Block 900, Lot 1 for placement of a fence and gates beyond the permitted set back lines on a corner property
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget
 - Progress report on changes to the zoning code
 - Any other old business before the board
6. Review correspondence
7. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
8. Public Comment
9. Adjournment

BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
November 19, 2009

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from October 15, 2009 regular meeting
4. Public Hearing – Use Variance Application by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to use the existing building for permitted use(s) and to erect four attached homes on the portion of the site fronting on Cinnaminson Street.
5. Public Hearing – Variance Application by Janine Miller, 500 Cinnaminson Street, Block 903, Lot 1, concerning placement of rear and side yard fencing on a corner lot and a concrete deck. Matter continued from October 15, 2009, meeting.
6. Public Hearing – Amended Variance Application by Dennis Eversmeyer, 400 Fulton Street, Block 900, Lot 1, concerning a hedge fence and placement of side and rear yard fencing on a corner lot.
7. Request by Maryann Shea for an interpretation of the zoning code as it applies to living fences or hedges.
8. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2009 Budget and 2010 Budget Request
 - Progress report on changes to the zoning code
 - Any other old business before the board
9. Review correspondence
10. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
11. Public Comment
12. Adjournment

BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
December 17, 2009

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from November 19, 2009 regular meeting
4. Public Hearing – Use Variance Application by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to use the existing building for permitted use(s) and to erect four attached homes on the portion of the site fronting on Cinnaminson Street
5. Public Hearing – Variance Application by Michael and Diane Jassmann of 211 Elm Ave., Riverton, NJ, Block 501, Lot 19, for bulk variances to construct a one story kitchen addition, 16' x 14', with a 14' x 10' deck to the above mentioned property
6. Old business
 - Adopt and memorialize resolution regarding the approval of a variance application by Janine Miller, 500 Cinnaminson Street, Block 903, Lot 1
 - Adopt and memorialize resolution regarding the approval of an amended variance application by Dennis Eversmeyer, 400 Fulton Street, Block 900, Lot 1
 - Adopt and memorialize resolution regarding the interpretation of the zoning code requested by Mary Ann Shea, 205 Bank Avenue
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 2010 Budget Request
 - Progress report on ordinance before Council to make changes to the zoning code
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Any other new business before the board
9. Public Comment
10. Adjournment

RIVERTON BOROUGH ZONING BOARD
MINUTES
January 15, 2009

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 25, 2008.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Ken Mills, William Corbi, Craig Greenwood, and Joe Della Penna.

ABSENT: Janine Miller, and Don Deitz.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilman William Brown, and Secretary Ken Palmer were present.

REORGANIZATION - 2009

Reappointed members Ken Mills, Craig Greenwood, and Joe Della Penna were sworn in for their new terms by Janet Smith. Secretary Palmer reviewed that the mayor had appointed him, as a Borough employee, the secretary (with the board's acceptance) for 2009. Mary Lodato has been reappointed as the Code Enforcement Officer, and Councilman William Brown will be the board's council liaison. Kerry Brandt announced that Pat Manzi had recently informed him that she has decided not to accept reappointment to the board. Ken Palmer was asked to conduct the rest of the reorganization.

Chairman: Kerry Brandt was nominated by Ed Smyth and seconded by Ken Mills to serve as Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Vice Chairman: Ken Mills was nominated by Kerry Brandt and seconded by Bill Corbi to serve as Vice Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Ken Mills and seconded by Craig Greenwood to serve as the Zoning Board Solicitor for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Planner: It was agreed that the board should retain a professional planner on call for more complicated matters that may involve site plan issues. A motion was made by Kerry Brandt and seconded by Craig Greenwood that Tamara Lee of Tamara Lee Consulting LLC be appointed to serve the board as its planner on an on call basis for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Engineer: It was agreed that the board should retain a professional engineer on call for more complicated matters that may involve site plan issues. A motion was made by Kerry Brandt and seconded by Ed Smyth that Rick Arango of Remington, Vernick & Arango Engineers be appointed to serve the board as its consulting engineer on an on call basis for 2009. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Kerry assumed chairing the meeting.

MINUTES

A motion was made by Ken Mills, seconded by Bill Corbi, and unanimously approved to adopt the minutes of December 18, 2008 as distributed.

PUBLIC HEARINGS:

Variance Application by John and Gwen Lodise, 419 Elm Avenue, Block 701, Lot 25, for variance to expand a nonconforming structure to add a second story addition to the house.

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Following conclusion that all jurisdictional requirements had been met, Janet Zoltanski Smith stated the hearing could proceed. The applicants and were sworn in. The applicants testified that they wish to add a second story at the rear of the home to a portion of the their house. The addition will not change the footprint. It will be for a bedroom. A black and white photo of the existing house was introduced and marked as exhibit A-1. The existing house extends into the side yard setback and is only 5’ 6’’ from the property line. The addition will not extend that far. It will be the same as the existing first story portion of the home over which the proposed addition will be constructed. They testified that the location of the addition was best utilizing the existing floor plan and preserving the open space on the property. There was no further testimony. A motion was made by Ken Mills and seconded by Kerry Brandt to open the hearing to public comment. There was none and a motion was made by Ken Mills and seconded by Kerry Brandt to close the hearing to public comment.

There was no additional discussion and Kerry Brandt motioned that the variance be granted for a side yard setback of less than 10 as long as it is no closer than 5’ 6’’ from the side yard line or no closer than the existing structure whichever provides the least encroachment. Joe Della Penna seconded the amended motion. There was no further discussion and the motion was unanimously approved by a poll vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mills	aye	Mr. Corbi	aye
Mr. Greenwood	aye	Mr. Della Penna	aye

Mr. Brandt stated he does not feel there is any detriment to the public good, the addition does not further the encroachment, and it is common to build up from the existing structure when adding the type of planned addition. Mr. Mills felt it was the obvious place to add on to the home.

The chair explained the rest of the process regarding adopting the resolution and when permits can be applied for. Mrs. Lodise explained that she had originally hoped to have the permits granted a few months ago. Her delivery date for her baby is approaching and she wants to have construction completed before delivery. She also has a contractor lined up. She feels that having to wait until the February meeting will jeopardize completing the project before the baby is born. She asked if the board would consider holding a special meeting before the scheduled February date to consider the resolution. She has the ARC approval and the construction official is ready to sign the permits as soon as the resolution is adopted. The secretary reviewed that Borough Hall was available Wednesday, Thursday, or Friday of next week. Notice of a special meeting must be published a minimum of 48 hours before the meeting. The board discussed the issue and decided a quorum could meet Thursday, January 22, 2009. A motion was made by Ken Mills and seconded by Craig Greenwood that the board holds a special meeting on Thursday, January 22, 2009, at 7:00 PM for the purpose of adopting and memorializing the resolution for the application approved tonight. The voice vote was unanimous and the secretary will publish the required notice and post same in the bulletin board.

Mr. Smyth was excused from the meeting.

OLD BUSINESS

Planning Board & Council Matters – The secretary reviewed that the mayor’s zoning code task force report has not been presented to Council yet; but it may be provide to the planning board next week. The planning board did adopt and Council endorsed the revised Housing Element and Fair Share Plan and the revised petition to COAH for third round approval was submitted prior to the deadline.

Mandatory Education – The secretary reviewed that the Winter/Spring session offerings by NJPO had been distributed and he was waiting for confirmation from the members who are required to attend.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

Board Meetings for 2009 – Resolution Z2009-01, the calendar of meetings for February 2009 through January 2010 was reviewed by the secretary. The board decided that meetings will continue to be held on the third Thursday of the month at 7:30 PM. A motion was made by Ken Mills, seconded by Kerry Brandt, and passed unanimously to accept the resolution, to have it published in the Burlington County Times and posted in the Borough Hall.

Appointment of Professionals for 2009 – Resolution Z2009-02 announcing the appointments of a solicitor, planner and engineer was reviewed by the secretary. A motion was made by Kerry Brandt, seconded by Ken Mills and passed unanimously to accept the resolution, have it published in the Burlington County Times, and mailed to the professionals.

Annual Report of Applications and Recommendations – The secretary reviewed Resolution Z2009-03 which is the annual report to the planning board and Borough Council of applications heard and recommendations for amendments to the zoning code. This report is required under the Municipal Land Use Law. The chair asked if the members had any comments or additions to the report. Kerry Brandt stated he felt an additional recommendation be added concerning expansion of a nonconforming structure. Currently the code states that any expansion of a nonconforming structure requires a variance. He feels that especially for single family structures when the expansion is of itself fully conforming and does not increase the nonconforming nature of the structure, a variance should not be required. Kerry feels the current code results in numerous applications that the board has never denied due to the very reason he is suggesting the code be revised. In many cases, the nonconformity is because the structure was constructed before the current codes were in effect. Janet concurred that the change is beneficial and she is not certain state law requires a variance if the expansion does not expand the nonconformity. While the exact wording was not resolved the board agreed the report should be amended to include the recommendation that Section 128-A be revised to not require a variance when expansion of a nonconforming residence does not expand the nonconformity. The chair stated he would work with the secretary to finalize the wording. A motion was made by Kerry Brandt to adopt the report resolution as amended and submit it to the planning board and Council, Ken Mills seconded, and the board unanimously approved.

Pending applications – The secretary briefed the board on the a use variance to be submitted for next month so a hot tub can be installed on a property used as an apartment. It is critical that as many members be present as possible to hear the use variance. Janet stated that she would need to recuse herself because she is personal friends of the applicant. Janet suggested that the board needs to consider the possible ramifications of private versus public uses, how is the use regulated/enforced, etc.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:45 PM (motion by Ken Mills, second by Craig Greenwood).

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
SPECIAL MEETING
MINUTES
January 22, 2009**

Pursuant to the Sunshine Laws and other statutes of the State of New Jersey, the special meeting of the Riverton Zoning Board of Adjustment was called to order at 7:00 PM by Vice Chairman Ken Mills.

Public Notice of this meeting, pursuant to the Open Public Meetings Act, has been given in the following manner:

1. Posting notice on the official bulletin board in the Borough Office and publication of the meeting notice schedule in the Burlington County Times on January 18, 2009.

ROLL CALL

PRESENT: Ken Mills, William Corbi, Craig Greenwood, and Joe Della Penna.

ABSENT: Kerry Brandt, Edward Smyth, Janine Miller, and Don Deitz.

OFFICIALS: Secretary Ken Palmer was present.

OLD BUSINESS

A motion was made by Bill Corbi and seconded by Craig Greenwood to suspend all normal business and proceed to the announced purpose of the special meeting. The voice vote was unanimous.

Adopt and memorialize resolution Case # 2009-01, regarding approval of the variance application by John and Gwen Lodise, 419 Elm Ave., (Block 701, Lot 25) for expansion of a nonconforming structure to add a second story addition to the house – The vice chair asked if everyone had received and reviewed the resolution and if there were any comments or questions. The secretary reviewed that he had corrected the date of the special meeting on the resolution. Joe Della Penna wished it be on the record that the only reason the board agreed to a special meeting was the due to the applicant's pregnancy and the possibility the child would be born and in the house before construction can be completed. If not for that fact and respect for the concerns of the expectant mother, the resolution would have been considered at a regularly scheduled meeting of the board. There was no additional comment or discussion Craig Greenwood moved and Joe Della Penna seconded that the resolution referenced by title be adopted as written. A voice vote of the four members present and eligible to vote was unanimous.

NEW BUSINESS

• **Vouchers and Invoices:**

1. 12/12/08, Janet Zoltanski Smith, \$448.50, professional services rendered 12/11-1/22 regarding the Lodise, 419 Elm Ave. application. (PAY FROM ESCROW)

Craig Greenwood motioned, Joe Della Penna seconded, and the vote was unanimous to pay the invoice as presented. The secretary will make sure it is signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The vice chair noted for the record that there were no members of the public present.

Meeting adjourned at 7:05 PM (motion by Joe Della Penna, second by Bill Corbi).

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
February 19, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, and Charles Veasey.

ABSENT: Janine Miller.

OFFICIALS: Alternate Board Solicitor Charles Petrone of Raymond and Coleman and Secretary Ken Palmer were present. Board Solicitor Janet

REORGANIZATION

The chair announced that Joe Della Penna had been appointed a regular member replacing Pat Manzi and Charles Veasey had been appointed as the new 1st alternate. Don Deitz has also resigned and Kerry announced that the second alternate would be Bob Kennedy once his appointment was announced by the mayor.

MINUTES

A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the January 15, 2009 regular meeting as distributed. A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the January 22, 2009 special meeting as distributed.

PUBLIC HEARINGS:

Variance Application by Mark P. Vink, 403 Main Street, Block 802, Lot 6, for variance to expand a nonconforming use to install a hot tub on a property used as an apartment.

Not Jurisdictionally Complete: During review of the notices to property owners it was discovered there was no proof of mailing to one of the owners. The applicant was given time to see if they could obtain the needed proof from the property owner; but that was not possible. After conferring with the solicitor, the chair announced that because the proof of noticing was not complete under the Municipal Land Use Law, the matter cannot be deemed jurisdictionally complete and the matter could not be heard. Further, the applicant must republish the notice in the paper and re-notice the property owners of the new date of the hearing. The applicant stated he understood the rulings and requirements and that he intended to re-notice for the March 19, 2009 meeting.

OLD BUSINESS

Planning Board & Council Matters – The chair stated that he needed a volunteer from the board to participate on a council subcommittee tasked to review a proposed commercial property maintenance code and/or if state or federal codes already exist to cover the requirements. The chair explained that the proposed code is essentially the same proposed code that was reviewed several years ago by the planning board and was tabled. The chair stated he has read the document and he feels it basically duplicates the state code. This code proposes an additional enforcing provision at the local governing level and the chair feels it may be an unneeded fiscal burden on the

community. Several members expressed interest in volunteering but were concerned they may have existing conflicts. The chair stated he would contact the members with additional details to help determine if a member could volunteer. The secretary reviewed that the Downtown Revitalization Committee continues to meet.

Mandatory Education – The secretary explained the requirements to Mr. Veasey and announced that two board members were signed up to attend the March 7th session. Mr. Veasey stated he was interested in attending the March 7th course if his schedule permits.

2009 Budget – The secretary reported that preliminary meetings had started on reviewing 2009 budget proposals and that he had no further details.

Mr. Smyth was excused from the meeting.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

Review of the Mayor’s Task Force on Changes to the Zoning Code – The secretary had distributed draft copies of the report to the members. The chair stated he needed to review the report and asked the members to address any comments to him. The secretary gave a brief overview of the report.

Review of the proposed Fee/Escrow Ordinance – The secretary had distributed draft copies of the ordinance to the members. The secretary reviewed the purpose of the ordinance to establish/revise fee and escrow requirements for site plan, subdivision, and variance applications. The chair feels that the fees for variance applications should remain as current and he supports raising initial escrow requirements to more closely approximate the actual professional charges accrued against the accounts. The chair asked the members to review the proposed ordinance and address any comments to him.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:20 PM (motion by Craig Greenwood, second by Ken Mills).

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
April 16, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, William Corbi, Craig Greenwood, Charles Veasey, Robert Kennedy, and Deborah Weaver.

ABSENT: Edward Smyth, Ken Mills, and Joe Della Penna.

OFFICIALS: Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

REORGANIZATION

The chair announced that Charles Veasey had been appointed a regular member to replace Janine Miller and the new 1st and 2nd alternates were Robert Kennedy and Deborah Weaver respectively. The three members were sworn in by Janet Smith prior to the roll call.

MINUTES

A motion was made by Bill Corbi, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the February 19, 2009 regular meeting as distributed.

PUBLIC HEARINGS

:

Variance Application by Cheryl Messa Progin, 712 Thomas Avenue, Block 1203, Lot 3, for various bulk variances to replace a deteriorating deck with a brick paver patio.

Introduction: The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Janet concurred the hearing could proceed. No members recused themselves from the matter. Cheryl Progin, Michael Allenbaugh, and Stephen Katz of Young's Landscape Management were sworn in. Attorney for the applicant Brian Heun, Ridgeway and Ridgeway Law Firm was introduced. The chair and Mr. Heun reviewed the variances being requested. Mr. Heun stated that all were pre-existing and will not be exacerbated by the proposed construction. Mr. Heun reviewed that they were applying for lot size, side yard setback total and one side, lot frontage, and percent impervious coverage. After review with Janet it was determined that since patios are not part of the structure, the only bulk variance needed was for percent lot coverage of approximately 56% which exceeds the permitted 35% in the R8 district. The proposed patio while of a different shape at the most may cause a de minimis increase in lot coverage. The existing deck is seriously deteriorating and needs to be replaced. The applicant wishes to replace the deck with a paver patio which they feel is more in keeping with the traditional landscaping style of when the house was built. Mr. Katz reviewed the plans for the patio. The terrain of the property as well as the proposed grading of the patio will not result in drainage issues for neighboring properties. The applicants offered a set of photos showing the lot and the existing condition of the deck. Mr. Katz reviewed pertinent construction details that will promote maximum drainage on the patio itself and minimize runoff into the yard. Chick Veasey felt that the patio being lower to the ground than the deck provided less of an impact on neighboring properties and the grading and retaining wall should remove any drainage concerns onto neighboring properties. There being no further testimony or comments from the board, the chair entertained and a motion was

made by Kerry Brandt and seconded by Craig Greenwood to open the hearing to public comment. There was none and the Craig Greenwood motioned and Bill Corbi seconded to close the hearing to public comment. There was no further discussion and following guidance from Janet, Craig Greenwood motioned that the board grant a variance for approximately 56% impervious coverage where 35% is allowed to permit replacing a deck with a brick paver patio as per the plans submitted. Bill Corbi seconded the motion and the motion was approved by a unanimous poll vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Corbi	aye
Mr. Greenwood	aye	Mr. Veasey	aye
Mr. Kennedy	aye	Mrs. Weaver	aye

Mr. Brandt feels a hardship exists and that the design minimizes any impact. Mr. Corbi feels a hardship exists. Mr. Veasey feels it will be a professional installation and a positive impact. Mrs. Weaver agrees that the design was carefully thought out and did not present a negative impact.

OLD BUSINESS

Planning Board & Council Matters – The secretary stated there was no information from the planning board since they do not meet until next week. The fee ordinance has had a first reading in Council.

2009 Budget – The chair stated he had submitted the budget and had no new details.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:08 PM (motion by Bill Corbi, second by Craig Greenwood).

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
May 21, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, Charles Veasey, Robert Kennedy, and Deborah Weaver.

ABSENT: Edward Smyth, William Corbi, Joe Della Penna, and Craig Greenwood.

OFFICIALS: Substitute Counsel Solicitor Charles Petrone of Raymond and Coleman and Secretary Ken Palmer were present.

MINUTES

A motion was made by Chick Veasey, seconded by Bob Kennedy, and unanimously approved to adopt the minutes of the April 16, 2009 regular meeting as distributed.

PUBLIC HEARINGS

Note: Prior to calling the hearings, the chair announced that due to a possible conflict of interest, Board Counsel Janet Smith had recused herself and that she had contacted Raymond and Coleman the Planning Board's counsel and asked if they would provide a substitute counsel for tonight's meeting.

Variance Application by Gary & Wendy Stocker, 306 3rd Street, Block 601, Lot 18 – conforming addition to an existing nonconforming structure (front and side yard setbacks).

Introduction: The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Mr. Petrone concurred the hearing could proceed. No members recused themselves from the matter. Gary Stocker was sworn in. Gary explained that he wishes to add a single story addition to the rear of the home. The addition is fully conforming; however, the existing home is nonconforming do to front and side yard setbacks. Photos of the property were entered as exhibit A-1 and the architect's plans were entered as A-2. The chair reviewed the setback requirements for the R4 zone. It was concluded that the front yard setback was okay compared to neighboring properties; however, the lot frontage (width) is nonconforming. The overhang of the eaves was discussed and found to not impact the conformity of the addition. Lot coverage is not an issue. The addition will conform to the style and size of other properties in the area. There was no further testimony and the chair asked if there were questions from the board. There were none and Ken Mills motioned and Chick Veasey seconded to open the hearing to public comment. There was none and Ken Mills motioned and Chick Veasey seconded to close the hearing to public comment. The chair stated that it appears to be a straight forward application that except for the existing bulk nonconformities, the addition fully conforms. There was no further discussion by the board and with Mr. Petrone's guidance, Robert Kennedy motioned and Ken Mills seconded that the application be approved to add the conforming addition as submitted and variance to expand a nonconforming structure due to the existing side yard and lot frontage nonconformities. The motion and application were approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye		

Mr. Brandt feels there is no negative impact on the neighbors or the zoning code and it is similar additions to other properties in the area. Mr. Mills feels it a well thought out plan and it conforms to the homes in the area. Mr. Veasey appreciates the consideration for the neighbors. Mr. Kennedy feels it is a worthwhile addition. Mrs. Weaver feels the addition is worthwhile and well thought out.

Mr. Stocker asked if there was any way the board could consider the resolution before the scheduled June meeting. The chair stated a special meeting would be very difficult to schedule and the board would only consider it under extreme circumstances. Mr. Petrone stated that it might be possible to proceed at your own risk with a risk that things might be reversed or otherwise halted. The secretary reviewed that the construction official would examine and make sure the plans are in order; but, it has been his position to not issue permits until the resolution has been adopted. The chair stated while he is sympathetic to the request he has no control over the officials. Kerry stated he might be willing to talk to the construction officials on an informal basis.

Variance Application by Janet DeVries, 308 Main Street, Block 604, Lot 13, – use variance for expansion of a nonconforming use (grandfathered multi-family) and conforming additions to an existing nonconforming structure (side yard setback corner lot street side).

Introduction: The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Chuck concurred the hearing could proceed. Chuck reviewed that the use variance being requested requires five affirmative votes which means the vote needs to be unanimous. As such the applicants have the right to request a continuance until more members are present. The applicants decided to proceed. No members recused themselves from the matter. Janet DeVries and the contractor William Mills of Buttowdown Construction were sworn in. The plans are to add a bay window addition to the conforming side of the structure and to add a small porch to the rear of the structure. The existing home is nonconforming due to the side yard setback on the street side of a corner property. In addition the home is a nonconforming multifamily use and the changes are considered an expansion of a nonconforming use. The applicant testified that the home has recently been changed from four units to two units and feels that that change and the architectural improvements to the home outweighed the existing nonconforming use. The proposed bay is fully conforming to existing bays along that side of the house and all additions will be of the same materials as on the present home. The porch will permit easier access to the rear of the property and the driveway. The only rear access now is on the side a distance away from the driveway plus the porch will provide some additional outside space. The porch will be constructed where a very overgrown Cyprus bush now exists which needs to be removed because it is too close to the foundation. After reviewing the plans it was noted that the porch further encroaches on the rear yard setback. Lot coverage was not an issue. There being no further testimony or comments from the board, Ken Mills motioned and Chick Veasey seconded to open the hearing to public comment. There was none and Ken Mills motioned and Chick Veasey seconded to close the hearing to public comment. It was discussed and decided to consider a single motion to approve or deny the application. There was no further discussion and following guidance from Chuck Petrone, Chick Veasey motioned that the board approve the addition plans as submitted; and, to grant a use variance to expand a nonconforming use; and, to grant expansion of a nonconforming structure for the side yard setback; and to grant a variance for the additional rear yard bulk variance for the porch. The motion was approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye		

Mr. Brandt feels the rear yard encroachment is minimal and a hardship exists for rear yard access. Given the applicant’s already taken steps to reduce the nonconforming use by decreasing the number of units, Kerry feels there is no detriment to increasing the nonconforming use. Mr. Veasey feels the additions add to the structure and are minimal compared to the size of the house. Mr. Kennedy has concerns about the rear yard encroachment but feels there is minimal impact given the distance to the neighboring property. Mrs. Weaver feels it is reasonable expansion and a well designed addition and improvement.

Variance Application by Mark Vink, 403 Main Street, (Block 802, Lot 6) for expansion of a nonconforming use to install a hot tub on a property used as an apartment.

Introduction: The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Chuck concurred the hearing could proceed. Chuck reviewed that the use variance being requested requires five affirmative votes which means the vote needs to be unanimous. As such the applicants have the right to request a continuance until more members are present. The applicants decided to proceed. No members recused themselves from the matter. Mr. Vink was sworn in. Mr. Vink explained they wished to install a hot tub that will be restricted to the use by him and his family. The tenant will not be allowed to access the tub. The hot tub will be secured by a locked enclosure which together with the restricted allows it to not have to meet commercial codes. The rear of the property is fenced in and the location will meet all setback requirements. There was concern that while the restricted use proposed and agreed to by the applicant may be favorably received; there may not be any way to enforce the restricted use on future owners and that a use goes with the property. Mark testified he was willing to go on the record that the hot tub would be removed if the property was sold. Chuck stated that there are policing issues and the impact on neighbors if the restricted use is not followed. Mark stated that he has always been on good terms with his neighbors and does not wish to damage that relationship. In addition uses normally follow the property not the owner. While the board may consider restrictive conditions, they may face enforcement issues. There being no further testimony or comments from the board, the chair noted for the record that there were no members of the public present during this hearing. There was no further discussion and following guidance from Chuck, Ken Mills motioned Robert Kennedy seconded that the board grant the use variance to expand a nonconforming use with the installation of a secured hot tub that is limited to the use of the property owner and his family/guests; but is not for any other public use. The motion was approved by a unanimous poll vote of 5 to 0 as follows:

Mr. Brandt aye Mr. Mills aye
Mr. Veasey aye Mr. Kennedy aye
Mrs. Weaver aye

Mr. Brandt is concerned by the open ended nature of use variances but feels that the restricted use is not a detriment to the neighborhood and it is a hardship to deny the property owner the use and benefits of the hot tub. Mr. Kennedy appreciates the steps taken to secure the unit.

OLD BUSINESS

Adopt and memorialize Resolution Case #2009-02 for the Variance Application by Cheryl Messa Progin, 712 Thomas Avenue, Block 1203, Lot 3, for various bulk variances to replace a deteriorating deck with a brick paver patio – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Bob Kennedy motioned and Chick Veasey seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the members eligible to vote on the resolution.

Planning Board & Council Matters – The secretary stated that the fee/escrow ordinance is now in effect as is also the off street parking & storage of construction equipment ordinance. There is no news on the 2009 budget. It was mentioned that Devastation University wishes to open a professional wrestling studio and to hold exhibitions at 523 Howard Street. A site plan application is required and a use variance is needed for the proposed uses. The owners have opened establishments in other communities but seem to move frequently. The chair stated that a use variance would require the application to be heard by the zoning board. The secretary stated that he had not yet had a request for an application. The owners have been told they cannot be open for business unless and until all licenses have been obtained and any required variances granted. The chair urged that the board perform due diligence in researching the issues if the matter does come before the zoning board.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

1. 5/21/09, Janet Zoltanski Smith, \$201.50, for professional services for the Progin, 712 Thomas Ave. application. (PAY FROM ESCROW)
2. 5/21/09, Janet Zoltanski Smith, \$344.50, for general professional services and guidance from January through April.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 9:20 PM (motion by Ken Mills, second by Chick Veasey).

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
June 18, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times.

ROLL CALL

PRESENT: Kerry Brandt, William Corbi, Joe Della Penna, Charles Veasey, and Deborah Weaver.

ABSENT: Edward Smyth, Ken Mills, Craig Greenwood, and Robert Kennedy.

OFFICIALS: Secretary Ken Palmer was present.

MINUTES

A motion was made by Bill Corbi, seconded by Chick Veasey, and unanimously approved to adopt the minutes of the May 21, 2009 regular meeting as distributed.

OLD BUSINESS

Adopt and memorialize Resolution Case #2009-03 for the Variance Application by Mark Vink, 403 Main Street, (Block 802, Lot 6) for expansion of a nonconforming use to install a hot tub on a property used as an apartment – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Chick Veasey motioned and Kerry Brandt seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the three members eligible to vote on the resolution.

Adopt and memorialize Resolution Case #2009-04 for the Variance Application by Gary & Wendy Stocker, 306 3rd Street, Block 601, Lot 18 – conforming addition to an existing nonconforming structure (front and side yard setbacks) – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Chick Veasey motioned and Deb Weaver seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the three members eligible to vote on the resolution.

Adopt and memorialize Resolution Case #2009-05 for the Variance Application by Janet DeVries, 308 Main Street, Block 604, Lot 13, – use variance for expansion of a nonconforming use (grandfathered multi-family) and conforming additions to an existing nonconforming structure (side yard setback corner lot street side) – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Bob Kennedy motioned and Chick Veasey seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the three members eligible to vote on the resolution.

Planning Board & Council Matters – The secretary stated that revised ordinance 128-52 regarding off street parking and storage of construction equipment had passed second reading and is now in effect. Copies will be provided to the members as soon as possible. It amended concerns about construction equipment. It did not change the off street parking requirements for business uses. An ordinance regarding side walk signs is being drafted. There is no news on the 2009 budget. There is no further news regarding Devastation University. The cell tower has a third co-locator. Beneficial Bank applied to planning for an amended site plan to install solar panels. The old post office is for sale to the public. Kerry feels the planning board might want to look into rezoning the post office site to best fit the needs of the area.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

1. 5/7/09, Raymond and Coleman, \$140.99, for professional services during February for the Vink 403 Main Street application. (PAY FROM ESCROW)
2. 6/4/09, Raymond and Coleman, \$277.50, for professional services during May and June for the Vink 403 Main Street application. (PAY FROM ESCROW)
3. 6/4/09, Raymond and Coleman, \$225.00, for professional services during May and June for the Stocker 306 3rd Street application. (PAY FROM ESCROW)
4. 6/4/09, Raymond and Coleman, \$255.00, for professional services during May and June for the DeVries 308 Main Street application. (PAY FROM ESCROW)

Joe Della Penna motioned, Chick Veasey seconded, and the voice vote was unanimous to pay the invoices as presented. The secretary will make sure it is signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 7:50 PM (motion by Deb Weaver, second by Bill Corbi).
Tape is on file.**

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
August 20, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, and Deborah Weaver.

ABSENT: Charles Veasey and Robert Kennedy.

OFFICIALS: Substitute Counsel Solicitor Charles Petrone of Raymond and Coleman and Secretary Ken Palmer were present.

MOMENT OF SILENCE FOR ED SMYTH

Kerry stated for the record and all present that he as well as the board were deeply saddened by the passing in July of Ed Smyth. Ed was a long time member of the board and his contributions, dedicated service to the board, and mentoring of new members will be missed. Kerry asked that all present might observe a moment of silence to remember Mr. Smyth.

MINUTES

A motion was made by Ken Mills, seconded by Joe Della Penna, and unanimously approved to adopt the minutes of the June 18, 2009 regular meeting as distributed.

PUBLIC HEARING

Note: Prior to calling the hearing, the chair announced that due to a prior commitment, Board Counsel Janet Smith is unable to attend the meeting and that she had contacted Raymond and Coleman the Planning Board's counsel and asked if they would provide a substitute counsel for tonight's meeting. Charles Petrone is present as counsel for tonight.

Variance Application by Erica Alfano, 8 Linden Avenue, Block 201, Lot 15 – placement of a fence beyond the permitted set back lines on a corner property.

Introduction: The chair reviewed the application. The secretary stated that all jurisdictional requirements were complete. Mr. Petrone concurred the hearing could proceed. No members recused themselves from the matter. Mrs. Alfano and neighbor Ted Kull, 16 Carriage House Lane were sworn in. Erica explained that she wishes to replace an existing deteriorated 6-foot wood stockade privacy rear yard fence that extends to the property line on Carriage House Lane with an adobe colored 6-foot PVC decorative stockade style fence. The rear yard fence is along the side yard of Mr. Kull's property on Carriage House Lane. She also wishes to replace a 4-foot chain link fence that extends along the street-side side yard from the front of a rear screened porch to the rear property line. The new side yard fence would be 4-foot black PVC coated chain link. She wishes to extend the new side yard fence from the home to the side property line and along the property line to the rear property line. She offered that the screened porch is approximately ten to twelve feet deep. Exhibits consisting of a listed rationale for the variance and 15 photographs of the existing and proposed fencing, her property and neighboring properties were provided and marked as exhibits A1-A16. Erica offered that the side yard restriction means that approximately 25% of her rear yard is outside the current side yard fence and is not usable as a contained rear yard. She stated that allowing the fence to run along the side yard property line would maintain a 12-foot setback from the edge of

the paved street. There is no sidewalk along the side of the property. The 12-foot setback exceeds the average of 8½ feet that exists where sidewalks exist. She needs the fence to allow her dog to be outside. Erica offered that the pictures neighboring properties showed that a precedence exists to permit similarly located fences. Mr. Kull stated he had no objections to the proposed fences. He appreciates the privacy offered by having the rear yard fence extend to the property line. He feels the location is far enough from the corner of the street to not impact the streetscape or present sight line issues. Because the fence terminates at a telephone pole at the street the continuous fence provides a natural unbroken border between their homes and guarantees privacy between Erica's backyard and his property. The board discussed the issues. The chair feels that a 6-foot high fence coming all the way to the property line may block the streetscape along Carriage House Lane. It was suggested that perhaps the first section 6-8 foot section of the rear yard fence be graduated from 4-foot high where it meets the chain link fence to the 6-foot height of the rest of the fence. Erica stated she would agree to do the graduated section as long as the fence supplier stated it was possible. In fact she thinks the suggestion is a great improvement since it better ties things together. There was no further testimony or questions from the board. Ken Mills motioned and Bill Corbi seconded to open the hearing to public comment. Mr. Kull again stated his support for the proposed fencing and stated he would even offer with any "extra" expense to provide any specialized fencing to meet the board's suggestion for the graduated height of the first section of the rear yard fence. There were no other comments and Ken Mills motioned and Joe Della Penna seconded to close the hearing to public comment.

Deliberation: The chair reviewed the proofs needed to demonstrate a hardship and that there is no detriment to the neighborhood. He stated he feels the requirements have been met. The chair stated if there were no additional comments or questions from the board that perhaps Mr. Petrone would guide the board in what he feels is needed to grant the applicant's request while addressing the board's concerns. With board comments, Chuck offered that the board might consider granting approval for a 6-foot adobe colored PVC or similar material fence along the rear yard line that extends to the property line at Carriage House Lane but no closer than 12 feet from the edge of the pavement. The first section of the fence at the corner is to be graduated in height from 4 to 6 feet. The applicant is also granted approval to install a 4-foot black PVC coated chain link fence that begins at the rear corner of the property extending along Carriage House Lane and then to the side of the house in front of the screened porch but no further forward than 12 feet from the rear of the screened porch. The side yard fence will be no closer to the street than the property line but not closer than 12 feet of the edge of the pavement. The fence along Carriage House Lane will remain as defined in the application with any change requiring a new variance. Bill Corbi motioned that the application be approved as defined by Mr. Petrone and discussed by the board. The motion was seconded by Craig Greenwood and passed by a unanimous poll vote of 6 to 0 as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Corbi	aye	Mr. Della Penna	aye
Mr. Greenwood	aye	Mrs. Weaver	aye

Mr. Brandt feels there is no negative impact on the neighborhood and that a hardship has been demonstrated.

OLD BUSINESS

Planning Board & Council Matters – The secretary stated that work continues on a revised COAH submission. A final report on the downtown revitalization study grant is due to be released shortly. There is no update on the 2009 budget. The secretary is not certain if there is any change in the board's Council liaison following Council Committee reassignments after the resignation of Mr. Cesaretti and appointment of Mr. Myers. There is no additional information on the sale of the Post Office building.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

1. 7/2/09, Raymond & Coleman, \$75.00, to complete resolution for the Vink Application during June. PAY FROM ESCROW
2. 7/2/09, Raymond & Coleman, \$75.00, to complete resolution for the Stocker Application during June. PAY FROM ESCROW
3. 7/2/09, Raymond & Coleman, \$75.00, to complete resolution for the DeVries Application during June. PAY FROM ESCROW

There was no discussion and a motion was made by Ken Mills, seconded by Joe Della Penna, and the voice vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

Upcoming Applications

Another side yard fence application has been submitted for September. Janine Miller has not submitted her revised application nor requested a date for the hearing. There has been no additional contact with Devastation University.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:35 PM (motion by Ken Mills, second by the chair).

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
September 17, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, Craig Greenwood, Charles Veasey, and Deborah Weaver.

ABSENT: William Corbi, Joe Della Penna, and Robert Kennedy.

OFFICIALS: Solicitor Janet Zoltanski Smith, Councilman Bill Brown, and Secretary Ken Palmer were present.

RECOGNITION OF ED SMYTH

Chairman Brandt wished to recognize Ed Smyth who was a long time member of the board stating that Ed's contributions and dedicated service to the board, as well as his mentoring of new members will be missed. Kerry stated that Borough Council had passed a proclamation and an award publicly recognizing Ed's 30 years of service to the Borough and the zoning board and had requested that Mayor Robert Martin make a presentation to Ed's family at the zoning board meeting. Prior to recognizing the mayor, Kerry passed along a personal note from Fritz Moorhouse a fellow long time board member and friend of Ed who could not attend the presentation. Kerry recognized Mayor Martin who read the proclamation from Borough Council and presented the family the proclamation as well as an engraved brick commemorating Ed which will be placed in the town plaza. Kerry, Mayor Martin, Ed's son Councilman Bob Smyth, Janet Zoltanski Smith, and Councilman Bill Brown offered personal comments and remembrances of Ed.

MINUTES

A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the August 20, 2009 regular meeting as distributed.

PUBLIC HEARING

Variance Application by Dennis Eversmeyer, 400 Fulton Street, (Block 900, Lot 1) for placement of a fence beyond the permitted set back lines on a corner property.

Introduction: The chair reviewed the application. Chairman Brandt recused himself from the matter due to a possible conflict of interest and turned the meeting over to vice chair Ken Mills. Mrs. Smith reviewed that the four members could hear the matter and concurred the hearing could proceed. The secretary stated that all jurisdictional requirements were complete. Mr. Eversmeyer was sworn in and explained that he had a pool installed in his back yard and that to comply with the pool regulations; he must properly fence in the pool. He has already installed a four foot aluminum fence within the existing approved hedge and the fence is almost invisible due to the hedge. He proposes to install a similar fence approximately 27½ feet from the porch at the side of his home to connect with the existing hedge and fence along the 4th Street side of the property. The fence in the hedge extends no further than the proposed connection to the new side yard fence. All the fencing is open picket style with 4-inch spacing. A single gate is proposed in the side yard fence and a double 5-foot wide antique style gate exists in the hedge and is connected to the new installed fencing in the hedge along 4th Street. The gates must also comply with the pool codes that they open out, be self-closing and latching and the latches are at least 54" from the bottom of the gate. The antique gate will have suitable transparent Plexiglas type inserts to prevent climbing. He applied for and received a variance for the present hedge approximately 12 years ago. He did not have a copy of

the resolution. Janet commented that her firm was served as the board's solicitor when that variance would have been granted and that she would research her files for the materials and provide them to the board. Mr. Eversmeyer stated that the existing hedge complies with the variance. The fence in the hedge is already installed. He feels it would be a hardship and less the aesthetics to install the fence just around the pool due to existing structures in the yard would cut off open access to the yard, lessen the ability to enjoy the rear yard, and reduce the period landscaping of the yard. Mr. Mills is concerned that the aluminum fence inside the hedge fence complies with the previous approved variance. Janet feels that it may since the variance permitted the current location. She further stated it is important that any approvals granted to this application be contingent on establishing that the existing fence and hedge complies with the prior resolution. There was no further testimony or questions from the board. Chick Veasey motioned and Deb Weaver seconded to open the hearing to public comment. There was none and Deb Weaver motioned and Chick Veasey seconded to close the hearing to public comment.

Deliberation: The vice chair stated if there were no additional comments or questions from the board that perhaps Janet would guide the board in what she feels is needed to grant the applicant's request while addressing the board's concerns. Janet offered that the board might consider approving variances granting approval to construct a 4-foot aluminum fence similar to the existing fence on the 4th Street side of the house from just in front of the rear porch to the side lot line to connect with the previously approved existing hedge/fence conditioned on fulfilling all the requirements of the previous resolution; and further allowing a gate in the new fence 56" high and allowing a 58" iron double gate in the existing side lot line fence that complies with all applicable codes. Chick Veasey so moved the board approve the application as defined by Mrs. Smith and discussed by the board. The motion was seconded by Craig Greenwood and passed by a unanimous poll vote of 4 to 0 as follows:

Mr. Mills	aye	Mr. Greenwood	aye
Mr. Veasey	aye	Mrs. Weaver	aye

Mr. Mills felt that the existing variance contributes to there being no negative impact on the neighborhood and that it will blend in with the existing property. Mr. Greenwood concurred with Mr. Mills. Mr. Veasey was glad that approval is contingent on compliance with the prior resolution. Mrs. Weaver feels the terms of the existing resolution are definite addition to this approval.

Upon questioning from Mr. Eversmeyer, Janet explained she would prepare a resolution that includes the current discussion and that she would research the prior resolution. If any problems or concerns arise, Mr. Eversmeyer will be notified and they will be discussed at the next meeting. Regardless, no permits can be granted or further changes made until a resolution is adopted and memorialized. Barring any challenge during the 45 day period following memorialization, there should be no problems issuing necessary permits.

Mr. Brandt rejoined the meeting.

OLD BUSINESS

Adopt and memorialize Resolution Case #2009-06 for the Variance Application by Erica Alfano, 8 Linden Avenue, Block 201, Lot 15 to replace and erect fencing beyond the permitted set back lines on a corner property – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Ken Mills motioned and Craig Greenwood seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the four members eligible to vote on the resolution.

Planning Board & Council Matters – Councilman Brown commented that Council is concerned about developments with Devastation University. The chair and Janet reviewed that the owners had been notified by Code Enforcement Officer Mary Lodato of the application requirements and that they either needed to apply for a use variance or provide suitable representation under oath and on the record that their intended uses do not require a use variance. To date there has been no further reply from them. The chair urged that the members familiarize themselves with the section(s) of the zoning code which applies to permitted uses in the NB zone.

The secretary stated that work continues on a revised Third Round COAH submission. Concerns with complying, failure to comply and being decertified, and the impact of recent and pending lawsuits concerning COAH were also discussed. Recommended ordinance revisions have been submitted for drafting on sidewalk signs and revising the demolition requirements. Additional changes including the zoning board recommended changes to rear yard accessory building set back requirements remain to be discussed.

Required Education Courses Update – The secretary briefed members that only definite Fall session course offerings he was aware of would be the NJPO courses at the annual League of Municipalities Conference in Atlantic City in November. He will keep impacted board members advised.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:55 PM (motion by Ken Mills, second by Chick Veasey)

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
October 15, 2009

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, Charles Veasey, Robert Kennedy, Deborah Weaver, and Barry Wells.

ABSENT: None.

OFFICIALS: Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

REORGANIZATION

Chairman Brandt announced that the mayor had appointed Robert Kennedy as a regular member replacing Ed Smyth and Barry Wells as an alternate member. Deborah Weaver is now first alternate and Barry Wells is second alternate. Mr. Kennedy and Mr. Wells were sworn in to their respective offices. The chair welcomed the new appointees.

MINUTES

The secretary reviewed a correction to the minutes as distributed. A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the September 17, 2009 regular meeting as amended.

PUBLIC HEARING

Variance Application by Janine Miller, 500 Cinnaminson Street, (Block 903, Lot 1) for replacing a fence beyond the permitted set back lines on a corner property and for a concrete deck.

Continuation: The chair announced that Mrs. Miller was unable to attend due to a death in the family and seeks approval by the board to grant a continuance at her request until the next meeting. Not wishing to penalize the applicant for matters beyond her control and after consulting the board's attorney, the chair stated that he would like the board to consider granting the continuance as long as it is confirmed that the application was jurisdictionally complete. Ken Mills so made the motion and to approve a resolution to that effect. The motion was seconded by Robert Kennedy and passed by unanimous voice vote:

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 Janine Miller for variances concerning side yard setbacks for a fence and deck on a corner property at 500 Cinnaminson Street (Block 903, Lot 1) is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on November 19, 2009.

This notice provides the only official notification required of this continuance granted by the applicant and a copy will be posted in Borough Hall.

OLD BUSINESS

Adopt and memorialize Resolution Case #2009-07 for the Variance Application by Dennis Eversmeyer, 400 Fulton Street, (Block 900, Lot 1) for placement of a fence beyond the permitted set back lines on a corner property

– The chair recused himself from discussion and consideration and asked Ken Mills and Janet Zoltanski-Smith to review the matter. Ken reviewed that the current application involved variances needed to install fencing that complies with the code regarding enclosing a swimming pool. The applicant had testified that the existing hedge had been previously approved by the board and complied with the approval. He has already installed the fencing of the same height within the hedge and was seeking approval for that and a fence from the hedge to the house that completes the enclosure. The applicant did not have a copy of the original approving resolution and did not think he could locate it; but, represented the hedge as complying with the approvals granted at the original hearing 10 or 11 years ago. At the hearing, the board had considered and decided that the fencing installed within the existing hedge was okay since the hedge was represented as approved and compliant. The board further approved the current application contingent on the current hedge being in compliance with the approvals granted at the prior hearing. Janet had stated she remembered the matter and would research her files. Janet had located the records and had forwarded copies of the prepared resolution and surveys to the secretary who distributed them to the board prior to tonight’s meeting.

The original resolution states that the board approved a hedge not to exceed 2 and ½ feet in height and that an engineering report be provided that a suitable sight triangle exists at the street intersection corner. Janet feels the current height of four feet and the testimony surrounding that height represents more than a minor discrepancy and that it should be resolved. Janet reviewed the options regarding the matter. She stated that if the board determines that testimony provided was in error or misrepresented what was originally approved and that the facts presented were material in the decision reached by the board; the board can deny memorializing the resolution and compel the applicant to re-appear and provide further testimony. If the applicant chooses to reappear, the matter must be re-noticed and republished. Janet stated that only the members who approved the current application can make the decision and they need to decide if the discovered discrepancies are serious enough, that if known at the time of the hearing, would have changed the results of their deliberation or the conditions of the approvals granted. Janet stated that if the board denies memorialization, she can prepare a resolution memorializing that decision or the board can vote to take a more informal and less negative approach by notifying the applicant of the board’s action and giving the applicant the opportunity to properly notice the intent to reappear before the board. Ken asked that the members discuss the matter and that a decision be reached. Janet provided guidance that the members could decide either: that the discrepancies are not important or would not have changed their decisions; or, that if known at the hearing, would have impacted their decision. The four members reviewed the facts and concluded that their decision that the fence installed in the hedge was not a problem was because it was the same height as what was represented as the previously approved height of the hedge. This is clearly not the case after reviewing the original approvals. The members also concluded that even though it is a living hedge, the difference between the approved 2 and ½ feet and the current three to four feet height is significant and needs to be resolved. Janet also advised the board that if the applicant agreed to reappear in November, that he could ask that the new hearing could be to consider an amended application that includes resolving the discrepancies in addition to the variances requested in the current application.

Asked for guidance on the motion needed, Janet suggested the board consider a motion to not memorialize the resolution of the action taken at the October meeting and to advise the applicant that the board declined to do so since there was misinformation presented about the prior approvals and resolution; and, that a new hearing for an amended application with proper notification is required. Craig Greenwood motioned and Chick Veasey seconded that the motion as suggested be approved. Janet stated a poll vote of the four members who approved the application was in order. The motion was passed by a unanimous poll vote of 4 to 0 as follows:

Mr. Mills	aye	Mr. Greenwood	aye
Mr. Veasey	aye	Mrs. Weaver	aye

Janet stated she would draft a letter to be sent by the secretary to notify the applicant of the decision and that the materials she supplied the board be included. It was agreed that the letter should also include the option for the applicant to present evidence that differed from the materials sent to him. Kerry resumed chairing the meeting.

Planning Board & Council Matters – The secretary reported that he had nothing from the recent Council meeting and that there was nothing new from the planning board because they do not meet until next week. Kerry reported that he had heard that Jim Brandenburger had asked to make an informal presentation to the planning board of the idea of building residential units over the row of shops at the Shoppes of Riverton on Broad Street and that the units would be deed restricted as COAH units. He was presenting this proposal as a possible way of assisting the Borough meet its COAH obligation and that no plans yet existed beyond presenting the idea for the board's consideration. The secretary confirmed that this was on the planning board's agenda and that no additional information than what Kerry had stated existed at this time. If the planning board feels it is a viable idea, absent rezoning the area, the matter would need to come before the zoning board since one or more use variances would be needed. Secretary Palmer added that if the board members wished to learn more, the planning board encourages the public to attend their board meetings and comment on planning related matters. Kerry also reviewed what he understands is the timeline the planning board faces to meet the deadlines set by COAH.

Required Education Courses Update – The secretary stated that he would shortly provide the course offering information to the members that need to attend a course. The only announced courses to date will be the NJPO courses offered at the annual League of Municipalities Conference in Atlantic City in November.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

None received.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 8:55 PM (motion by Ken Mills, second by Chick Veasey)

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
November 19, 2009

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 7:50 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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, William Corbi, Craig Greenwood, Charles Veasey, Robert Kennedy, Deborah Weaver, and Barry Wells.

ABSENT: Joe Della Penna.

OFFICIALS: Solicitor Janet Zoltanski Smith, Planner Tamara Lee, and Secretary Ken Palmer were present.

MINUTES

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Ken Mills, seconded by Chick Veasey, and unanimously approved to adopt the minutes of the October 15, 2009 regular meeting as distributed.

PUBLIC HEARINGS

Use variance application by managing member Jim Brandenburger of BWC Realty Associates, 100 Park Avenue, for 613-615 Main Street, block 906, lot 4 in NB zone, to subdivide the former Post Office property at 613-615 Main Street and erect townhomes and retain the existing building for permitted use(s).

Application Incomplete: Following a review of the jurisdictional requirements there was a problem in verifying that the required notices to property owners had been properly mailed. After consulting with Board Solicitor Janet Zoltanski Smith and discussions with the applicant's attorney David Oberlander, it was concluded that the applicant would need to republish in the paper and re-notice the property owners that the hearing would occur at the December 17, 2009 board meeting.

Variance Application by Janine Miller, 500 Cinnaminson Street, (Block 903, Lot 1) for replacing a fence beyond the permitted set back lines on a corner property and for a concrete deck.

Testimony: The chair reviewed that this matter had been deemed jurisdictionally complete last month and had been continued at the applicant's request because Mrs. Miller was unable to attend due to a personal emergency. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mrs. Miller was sworn in and explained her need for two variances. After resolving some questions as to the actual size of the lot, Mrs. Miller explained that the property used to have a fence across the front of the property and along the Fifth Street side of the property which was in poor condition and in need of replacement. She had removed the old fence and wishes to replace fencing along the Fifth Street side beginning approximately 14 feet back from the front of the house and extending along the Fifth Street side to a concrete drive and extending along the driveway to the detached garage at the rear of the property. There would be a gate for an existing sidewalk to the rear entrance to the home. She also wishes to install a section of fence that connects the side yard fence to her home. The fence would be located approximately 1 foot inside the sidewalk and approximately 8½ feet from the curb. Mrs. Miller's property is on a narrow lot and is located on the corner of Fifth and Cinnaminson Streets. Her home is located across the street from the elementary school and the street-side side yard is a little over 6-feet from the property inside the sidewalk to the side of the house. She wishes to erect a scalloped vinyl picket fence that varies in height from three to 3 to 3 ½ feet to relieve trespassing by people and animals on her property and lessen the accumulation of trash and leaves that blow onto the property. Locating the fence further back from the property

line would effectively delete any usable space in the rear yard since, the home and rear yard are very narrow. Mrs. Miller feels there is no detriment to the proposed location and there are no sight line issues since the fence does not extend to the corner. Also, the proposed height allows a clear view of the driveway and sidewalk. Mrs. Miller also wishes to remove a set of structurally unsound wood steps and a small wood deck at the rear of the house. The steps and deck would be replaced by a raised 12x15 foot concrete patio/deck with steps to the ground level. The steps and patio would be approximately 9-feet from the street side property line and 12 feet from the adjoining property. Mrs. Miller is requesting a variance to expand a nonconforming structure to add the larger deck and for relief from the required side yard setback along Fifth Street. The deck and a small ground level concrete patio will provide needed usable living space for outdoor use and entertaining. The location of the deck is within the required rear yard setbacks and does not exceed the allowable impervious coverage requirements. There was no additional testimony or questions from the board and a motion was made by Ken Mills and seconded by Bob Kennedy to open the hearing to public comment. There was none and a motion was made by Ken Mills and seconded by Craig Greenwood to close the hearing to public comment.

Deliberation: The board discussed that it felt it best to consider the fence and deck separately and the applicant agreed. There was no further discussion and the chair asked if Janet would guide the board in crafting variances for the fence and then for the deck. Janet suggested the board might consider a variance to permit erecting a 3 to 3½ scalloped vinyl picket fence beginning approximately 14 feet +/- from the front of the house extending approximately 6-feet from the side of the house to the side yard property line approximately 12 inches inside the sidewalk and extending along Fifth Street to a concrete driveway near the rear of the property and then along the driveway to the detached garage. A gate will be at the existing side walk to the rear of the home. Ken Mills made a motion to approve the fence as suggested by Janet and Chick Veasey seconded the motion. The motion was approved by a poll vote of 7 to 0 as follows:

Mr. Brandt aye Mr. Mills aye
Mr. Corbi aye Mr. Greenwood aye
Mr. Veasey aye Mr. Kennedy aye
Mrs. Weaver aye

Various members commented that they felt there was no detriment and that a hardship existed to allow the applicant to fully enjoy and utilize the rear yard of her home.

Janet suggested that the board might consider granting approval to expand a nonconforming structure to permit an approximately 12x15 foot raised concrete deck with attached concrete patio at grade and that the deck will be approximately 12 feet from the adjoining property and approximately 9 feet from the Fifth Street side property line which is less than the required side yard setback for a corner property. Craig Greenwood motioned the deck be approved as suggested by Janet and Chick Veasey seconded the motion. The motion was approved by a poll vote of 7 to 0 as follows:

Mr. Brandt aye Mr. Mills aye
Mr. Corbi aye Mr. Greenwood aye
Mr. Veasey aye Mr. Kennedy aye
Mrs. Weaver aye

Mr. Brandt feels there is no detriment and that the deck may have not have required a variance under the revised zoning code currently before Council.

Amended Variance Application by Dennis Eversmeyer, 400 Fulton Street, (Block 900, Lot 1) for placement of a fence beyond the permitted set back lines on a corner property.

Testimony: Chairman Brandt and Robert Kennedy recused themselves from the matter due to possible conflicts of interest and the meeting was turned over to vice chair Ken Mills. Mrs. Smith stated that Mr. Wells is eligible to vote on this matter. Janet reviewed the history of the application. Mr. Eversmyer had applied for variances at the September meeting to install fencing needed to secure a recently installed swimming pool. Portions of the new fence would occupy the same area as what was testified to as a hedge that was planted and complied with variances

granted in 1998. No evidence of the previously approved variances for the hedge was available at the hearing. Approval for the fencing was granted contingent on evidence being presented that the existing hedge fully complied with the previous adopted 1998 resolution. Subsequent to the September hearing and prior to adopting and memorializing the resolution in October, evidence was found that indicated the existing hedge did not comply with the granted approvals and that contingencies of the original approval had not been completed. Given the passage of time and no way to present the 1998 approval was followed, it was suggested and agreed to by the applicant that he would amend the current application to seek additional new approvals for the existing hedge as well as the fencing required to meet the code to secure the swimming pool. Filing an amended application would require republishing notice and notifying property owners of the new hearing.

The secretary stated that all jurisdictional requirements were complete. Mr. Eversmeyer was sworn in and presented his case. He stated for the record that he thought he had maintained the hedge as approved and did not realize it was not in compliance. He further testified that he had paid an engineer for the required sight triangle study. He recalled he had submitted the study and thought that the issue had been resolved. Janet and Ken suggested that Mr. Eversmyer start at the beginning and define the existing hedge and then the fencing required for the pool.

Existing hedge: Mr. Eversmyer testified that the hedge is maintained to be no closer than 1 foot from the sidewalk and within the property lines along Fulton and Fourth Streets. The hedge extends from existing bushes on the adjoining property to the front property line and then along the front property line on Fulton to the corner of Fulton and Fourth Streets. The hedge extends from the corner of Fulton and Fourth Streets along Fourth Street to the rear of the property and then along the rear property line to where it connects to an existing wood fence. The hedge is maintained at a height of three feet from the adjoining property, across the front, and approximately 50+ feet along Fourth Street. The hedge increases to four feet the remainder of Fourth Street and along the rear property line.

Fencing: The applicant has already installed a four foot aluminum picket style fence approximately three foot from the property line and within the existing hedge along the rear of the property and along Fourth Street. The fence is almost invisible when the hedge is in leaf. The fence must comply with the codes to suitably enclose the pool area secure the swimming pool. He proposes to install a similar fence approximately 27½ feet from the porch at the side of his home to connect with the existing hedge and fence along the 4th Street side of the property. The fence installed within the hedge along 4th Street extends no further forward than the proposed connection to the new side yard fence. All the fencing is open picket style with 4-inch spacing. A single gate is proposed in the side yard fence and a double 5-foot wide antique style gate exists in the hedge and is connected to the new installed fencing in the hedge along 4th Street. The gates must also comply with the pool codes that they open out, be self-closing and latching and that the latches are at least 54" from the bottom of the gate and fencing. The antique gate will have suitable transparent Plexiglas type inserts to prevent climbing. The plan also showed where suitable fencing and a gate is proposed to secure the side yard where it adjoins the neighboring property. It will tie into an existing fence. It was stated by Janet and the board that that portion of the fence by design and location did not need to be part of any variance. The applicant feels it would be a hardship to lose the open full access to his rear yard and lessen the aesthetics of the property to install the fence just around the pool due to existing structures in the yard. It would also lessen the ability to enjoy the rear yard and reduce the period landscaping of the yard.

There was no further testimony or questions from the board. Deb Weaver motioned and Craig Greenwood seconded to open the hearing to public comment. John Laverty stated he feels the applicant meticulously maintains the property and feels the proposed design fully fits in with the aesthetics of the neighborhood and the property. There was no further comment and Deb Weaver motioned and Chick Veasey seconded to close the hearing to public comment.

Deliberation: The board and Janet further clarified the location and heights of the existing hedge. The vice chair stated if there were no additional comments or questions from the board that perhaps Janet would guide the board in what she feels is needed to grant the applicant's request while addressing the board's concerns. Janet offered that the board might consider approving a variance granting approval for a hedge that is three foot in height extending from bushes along the adjoining property line approximately 12 to 15 feet to the front property line and then extending along the front of the property to the corner of Fourth and Fulton Streets. The three-foot high hedge will then extend approximately 50+ feet along 4th Street and increase to a height of 4-feet to the rear of the property line and then continue approximately 15 feet along the rear property line where it meets an existing fence.

The hedge will be maintained trimmed a minimum of 1-foot from all sidewalks. Applicant is further granted a variance for a 4-foot aluminum picket style fence that is a minimum of three feet from the sidewalk and within the existing hedge, extending along the rear property line to 4th Street and along 4th Street to a point just in front of the porch that wraps around the side and rear of the house. Approval is granted for the 58 inch antique double gate in the fence along 4th Street that is constructed and latched to meet the requirements of the code for swimming pool enclosures. Lastly, a variance is granted to erect a section of same type of four-foot fence with a suitable latching gate that extends approximately 27½ feet from the side of the house just in front of the porch to connect to the fence and hedge along 4th Street. Craig Greenwood motioned and Bill Corbi seconded that the board approve the application variances as suggested by Janet. A poll vote of 6 to 0 with two recusals approved the motion as follows:

Mr. Brandt recused	Mr. Mills	aye	
Mr. Corbi	aye	Mr. Greenwood	aye
Mr. Veasey	aye	Mr. Kennedy	recused
Mrs. Weaver	aye	Mr. Wells	aye

Request for Interpretation of Zoning Code by Maryann Shea, 205 Bank Avenue.

Maryann Shea, owner of property located at 205 Bank Avenue, Riverton, New Jersey, has applied for an interpretation of the zoning code. Janet Smith stated she needed to recuse herself from the matter. Prior to stepping down, Janet swore in Mrs. Shea. Janet offered technical guidance that the board is being asked for an official interpretation of the zoning code regarding a request by the applicant; and, that the board should, following all testimony and discussion, make its determination referencing the specific section(s) of the code it considered.

The applicant, Maryann Shea, is the owner of 205 Bank Avenue, Riverton, New Jersey 08077. The current use of the property is as an eight unit apartment house which is grandfathered under the current code of the Borough of Riverton. Mrs. Shea is involved in a court case and is requesting an official interpretation of the code to determine if a row of Leyland Cypress trees on her property constitute a living fence or are at most a landscape buffer. The applicant maintains the trees are a buffer and are not a fence. The trees are between the parking area and the apartment building and serve to buffer the parking lot from the street and apartment building. The applicant feels the trees also serve the Master Plan which advises that it is desirable that off-street parking should, where possible, be buffered from the street. The applicant has previously received a letter from the Borough's Zoning Code Enforcement Officer that the trees in question do not constitute a fence based on the definition of a fence in Chapter 128-56A of the Code of Riverton. The applicant has also received an opinion from the Borough's Solicitor that he does not feel he needs to overrule the opinion of the Zoning Code Enforcement Officer.

Tamara Lee, the Zoning Board Planner and the Borough Planner, was sworn in and testified. She was the planner who assisted the Planning Board in rewriting the Master Plan and in amending the Zoning Code in 1998. Tamara offered her opinion that a fence is defined to enclose or provide an access barrier while a buffer or screening is defined to screen or hide an area or structure from public view. In her opinion a grouping of trees serving to offer screening from the parking area and the building and the public street did not constitute a fence by definition or purpose.

The board carefully reviewed a plot plan as well as photographs provided by the applicant to determine the location of the trees and their impact on the property. The board also carefully reviewed the portion of the code dealing with fences particularly Chapter 128-56A which defines a fence. It was the general opinion of the board that they did not think the trees were a fence.

The hearing was opened to the public and Joe Augustyn and John Laverty spoke. Joe Augustyn feels that the trees in question do not constitute a fence since they don't define the property lines or divide the property. Mr. Augustyn feels the current fence ordinance may be open to interpretation and should be reviewed and perhaps changed to remove any possible ambiguities. Mr. Augustyn feels that the prior opinions offered by the Zoning Code Officer and the Borough Solicitor reinforce the opinion of the board. John Laverty agreed that the current fence ordinance could be reviewed and hopefully revised to remove some of the ambiguity that may currently exist. The hearing was closed to public comment.

There was no further discussion except that the board felt it should limit its interpretation as to whether or not the trees in question were a fence. Ken Mills made a motion seconded by Craig Greenwood that based on Chapter 128-56A which defines a fence, the Leyland Cypress trees between the house and the parking area do not constitute a fence because in their review the trees do not enclose any part of a lot or divide or separate the lots or parts thereof from any such lot or from any adjacent property. The motion was approved by a poll vote 7 to 0 of the members as follows:

Mr. Brandt aye Mr. Mills aye
Mr. Corbi aye Mr. Greenwood aye
Mr. Veasey aye Mr. Kennedy aye
Mrs. Weaver aye

OLD BUSINESS

Planning Board & Council Matters – The secretary reported that Council had passed at first reading changes to the zoning code and requested the planning board to review the changes. The planning board had reviewed the changes and made several minor amendments and recommended Council considers the amended ordinance. Council will conduct a public hearing at the December council meeting. A copy of the draft ordinance had been sent to the members prior to the meeting. The secretary reviewed the amendments and clarifications recommended to the draft by the planning board. Janet Smith and the members discussed concerns regarding the location of detached auxiliary buildings in the draft. The board members concurred that it was the board’s intent when recommending the change for side yard setbacks for auxiliary buildings, that auxiliary buildings should be restricted to the rear yard and must not extend forward of the rear building line of the primary structure. Janet has already communicated this suggested change to Borough Solicitor Bruce Gunn. The board authorized that both Janet and the chair contact Bruce and/or Councilwoman Wells to try and confirm that the draft can be changed to address this concern before it is considered by Council in December. The board concurred that the remainder of the draft changes as amended by the planning board were fine and the changes addressed several outstanding recommended changes by the zoning board.

CORRESPONDENCE

None received.

NEW BUSINESS

Vouchers and Invoices

1. 11/19/09, Janet Zoltanski Smith, \$461.50, for professional services from 9/17-10/22/09 for the Eversmyer, 400 Fulton Street. (PAY FROM ESCROW)
2. 11/19/09, Janet Zoltanski Smith, \$461.50, for general professional services and guidance from 4/29-11/18/09.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 10:30 PM (motion by Ken Mills, second by Craig Greenwood)

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
December 17, 2009

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 7:50 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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Ken Mills, Craig Greenwood, Deborah Weaver, and Barry Wells. Muriel Alls-Moffat, regular member of the Planning Board was present per law to provide a quorum to hear the BWC Realty Assoc. use variance application.

ABSENT: William Corbi, Joe Della Penna, Charles Veasey, and Robert Kennedy.

OFFICIALS: Solicitor Janet Zoltanski Smith, Planner Tamara Lee, and Secretary Ken Palmer were present.

MINUTES

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the November 19, 2009 regular meeting as distributed.

PUBLIC HEARINGS

Variance Application by Diane and Michael Jassmann, 211 Elm Avenue, (Block 501, Lot 19) for bulk variances to construct a kitchen addition and deck on house that is on a nonconforming lot and the addition will exceed permitted impervious coverage.

Testimony: The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mr. Jassmann and his architect Walter Croft were sworn in and explained the project and variances needed. Applicant wishes to remove an approximate 10' by 6' mudroom and concrete steps and add an approximate 14' wide by 16' deep kitchen/breakfast room with basement underneath. In addition a slate patio area will be removed and replaced by a 14' wide by 10' deep wood type deck with gravel underneath to promote drainage. The addition will maintain the existing set back of the structure which is 10 feet from the side lot line. However, the eaves of the addition will encroach by 1½ to 2 feet; thus the need for a side yard setback variance. The deck will result in a total impervious cover of approximately 42.9% where 40% is permitted. The deck will maintain the same side yard setback as the house on that side of the property. The lot is nonconforming in that the frontage is 49 feet where 50 feet is required. The applicant feels the application will not impact the neighbors and does not substantially impair the intent and purpose of the zoning code. Mr. Croft clarified that the eaves of the existing structure encroach the side yard setback similarly to the planned addition. Janet explained that the nonconforming lot is not really an issue; but, the side yard setback encroachment and exceeding the allowable lot coverage are issues. In addition the applicant is expanding a nonconforming structure since it also encroaches the side yard setback and the addition will expand that encroachment in a similar manner. The chair asked the applicant to define the hardship(s) that will exist if the plans were restricted to conforming to the code and to explain why there is no impact on the neighbors. There is grass between the planned deck and wheel track drive way and the existing patio does not drain onto the neighbors property. The applicant feels the approximate 2.9% excess in property coverage is minor and not an impact. The size, location, and design of the addition fits in with the existing house and provides the least redesign needed to the existing house. It also provides needed living space. The functional use of the deck would be restricted if made smaller than the planned 14x10 feet. The chair asked if there was additional testimony or questions from the board. There being none the chair requested the hearing be opened to

public comment. Ken Mills motioned and Craig Greenwood seconded to open the hearing for public comment. There was none and Ken Mills motioned and Deborah Weaver seconded to close the hearing to public comment. **Deliberation:** Deb Weaver asked if the side yard encroachment by the eaves needs to be defined. Mr. Croft replied that the eaves would encroach by no more than two feet leaving an eight foot setback. There was no further discussion and Janet was asked to review what was needed to approve the application. Janet suggested that in order to approve the application, the board might grant: a variance to allow construction of a kitchen/breakfast addition where only the eaves of the addition may encroach the side yard setback to within 8 feet of the property line; a variance to allow the construction of a 10x14 foot deck that will result in a maximum impervious lot coverage of 43%; and a variance to expand a nonconforming structure whose eaves encroach the side yard setback. Ken Mills made a motion to approve the application as suggested and Craig Greenwood seconded the motion. The motion was approved by a poll vote of 5 to 0 as follows:

Mr. Brandt aye Mr. Mills aye
Mr. Greenwood aye Mrs. Weaver aye
Mr. Wells aye

Various members commented that variance were minimal, there is no impact on the neighbors and the existing narrowness of the lot contributed to the encroachment.

Use variance application by BWC Realty Associates, 100 Park Avenue, for 613-615 Main Street, block 906, lot 4 in NB zone, to subdivide the former Post Office property at 613-615 Main Street and erect townhomes and rehabilitate the existing building for permitted use(s).

Housekeeping: Mr. Brandt stated that he would have to recuse himself from this hearing. This would leave only four members to hear a use variance where five votes are required to approve use variances. Attempts to have any of the missing zoning board members come in were unsuccessful. Board counsel Janet Smith and counsel for the applicant David Oberlander had conferred and agreed that the law permits securing the services of a regular public member of the planning board to provide the minimum number of members to hear an application. Muriel Alls-Moffat, the most senior regular member of the planning board was contacted and agreed to be a substitute member of the board for the purpose of allowing the hearing to proceed. Muriel attested that she had been briefed on the application, understood the application and concept drawing, and professional reviews provided the members and could provide an impartial consideration of the application. Mrs. Smith and Mr. Oberlander had no objections to allowing Muriel to sit on the hearing. Chairman Brandt thanked Muriel for coming in on such short notice and assisting the board. Mr. Brandt stepped down and turned the meeting over to Ken Mills.

Introductions: Ken Mills introduced the application as stated above, thanked Muriel for agreeing to provide a quorum to hear the matter, and introduced Mr. Oberlander. The secretary attested that all jurisdictional matters had been met and Janet stated the hearing could proceed. Mr. Oberlander stated that the applicant was aware that a unanimous vote of all five members was needed to approve the application for a use variance and wished to proceed rather than seek a continuance as permitted. Mr. Oberlander introduced the following who would were applicants or their professionals who would provide testimony and asked that they be sworn in:

- Jim Brandenburger, principal of BWC Realty and a developer
- Michelle M. Taylor, PP of Taylor Design Group
- Joseph R. Hirsh, PE of Environmental Resolutions, Inc.
- Dr. Paul G. Gena, a principal of BWC Realty

Janet swore in the above.

Testimony: Mr. Oberlander reviewed that the application was to:

- Preserve the currently vacant former post office building,
- Rehabilitate the building for permitted commercial uses in the NB district,
- Subdivide the property to permit construction of 4 single family townhome residences as two semidetached structures on Cinnaminson Street,
- Preserve and improve the existing mixed use character of the area with primarily commercial use along Main Street and residential use on Cinnaminson Street,

- If the entire site is maintained as all NB use, the property will probably remain vacant for a prolonged period of time and very may likely result in the structure being expanded to better utilize the site as allowed in the zone or perhaps demolished and replaced by a structure more suited to fully utilize the uses permitted in the NB zone,
- Provide the economic means to preserve the area and allow the needed rehabilitation of the post office building,
- The entire approximately 30,000 sq. ft. site is currently zoned as NB and the use variance(s) will permit the site to be subdivided to permit residential use on Cinnaminson Street,
- Applicant is only seeking the use variance(s) that will allow the project to proceed and they understand the requirement and intend to submit all required full site plan and subdivision applications for approval.

Janet stated that the board needs to understand and should consider the impact of the substantial bulk variances that will be needed to allow approval of any site plans and subdivisions in its consideration of the merits of granting the use variance(s). Mr. Oberlander stated that he agrees in principal with the statement and that while only the use variance(s) are being requested at this hearing, the board will certainly consider the impact of bulk variances in considering the merits of the site plan and subdivision applications. These topics should be addressed in the testimony.

Jim Brandenburger was asked to present the application. Jim explained that the existing building built during the depression as a WPA project is essentially sound but requires extensive rehabilitation to preserve the structure, upgrade the mechanicals, and permit the current habitable areas to be utilized for a use permitted in the NB zone. The basement currently houses the mechanicals, is used for storage, and will not be converted to Class A space. As a point of interest, there is still about 10 ton of coal in the basement used for the original coal fired heating plant since replaced. Jim referred to a photo board, entered and marked as exhibit A-1, of eight photographs to review the existing mixed but primarily commercial nature of Main Street near the site and the residential use on Cinnaminson Street. By subdividing the rear of the site, which was the parking/loading area for the post office, it allows the construction of residences which will preserve the residential use and zoning of most of Cinnaminson Street. Also the economic proceeds from the residential construction will provide the needed capital to rehabilitate the existing building. Jim feels the proposed plan make sense and best fits in with current development in the area and is similar to the development he did for Riverton Square. Jim distributed and referred to a revised concept plan labeled Concept plan #8, entered and marked as exhibit A-2, to explain the layout of the subdivision of the site. The revised concept plan shows the access to parking for the current building being from Cinnaminson Street via a 20 foot right of way along the southern side of the site. The original concept plan had proposed access from Main Street but had been changed due to concerns from the neighboring property owner as well as the possibility of not being able to obtain approval from the county since Main Street is a county road. The remaining 100 feet of frontage on Cinnaminson Street would be subdivided into four 25 foot wide by 100 foot deep residential lots on which four single family residence townhomes erected as two semidetached structures would be built. The proposed townhomes will be in character with the new townhomes constructed as part of the Riverton Square project as well as match the characteristics of the mix of existing single family detached and semidetached homes along the street. Jim feels that except for the bulk variances needed for the subdivision and construction of the proposed residential buildings, no additional variances are required and are similar to the variances considered and granted for the other recent townhomes. Jim distributed an 8x10 photograph, entered and marked as exhibit A-3 to show the existing homes across Cinnaminson Street from the rear of the site and explain how the proposed subdivision would further enhance the residential character of the street. Janet Smith interjected that she felt it important that all the exhibits be retained by the board and Dave Oberlander stated he would make sure they were left with the board secretary. Jim feels his proposal represents a much better use than what could result if the site remains entirely an NB zoned site. He feels the site could be potentially redeveloped to allow denser use, provide warehousing and storage, as well as much more parking than what is being proposed. The proposed development will provide two-car off street parking for each residence. The plan provides for eight spaces (including one handicapped space) that will provide most of the possible 14 spots required that may be required based on the proposed occupied square footage. Additional parking is available at the Riverton Square site as well as the current space along the 120 foot frontage on Main Street. Jim stated that he has a potential client for the site which fits and provides medical prosthetic devices used in the treatment of neck and head injuries. For them the eight spaces would probably be more than adequate. While other permitted uses may change/increase the parking

requirements, Jim feels they can easily be handled by the excess number of spaces at Riverton Square. Ken Mills asked why the entrance plans were changed and Jim explained that concerns by the neighbor of traffic alongside his home, loss of a parking space on Main Street, and the previously mentioned county concerns led to the change. Jim asked that the board understand that he is planning single family semidetached homes not what may be understood or considered multifamily structures. Speaking to the possible impact on the school system, Jim stated that from the new housing he has constructed there has only been one new student entered in the school system and the type of ownership envisioned for the townhomes would very likely not result in additional new students or only a very small number. Jim stated he also understood that the school system would actually welcome new students to help better utilize the existing system. Jim stated that unless there were additional questions, he would like to allow his planner to offer testimony. Janet Smith asked and received clarification on the existing walkway along the current building. Jim explained that the concept plan was based on a drawing of the current building and site with the proposed changes added. Otherwise the plan shows existing conditions.

Mr. Oberlander introduced Michelle Taylor and had her present her qualifications as a planner which were accepted by the board. Michelle spoke to the permitted uses in the NB zone and referred to an aerial photograph of the site and surrounding area, entered and marked as exhibit A-4. Michelle reviewed that the photo provided references for the location of the photos in exhibit A-1 and provided testimony as to why it is important from a planning perspective that the existing building remain to preserve the character of Main Street. She testified that the proposed townhomes enhanced and preserved the current R4 zoned area across Cinnaminson Street. Riverton Square has currently underutilized parking capacity which will adequately address any onsite parking concerns. Michelle feels the current parking requirements of the Borough are too high based on currently accepted downtown parking standards and should be reduced. She referred to a recently completed study of the downtown area commissioned by the Borough which concluded that the downtown area does not need additional parking than already exists. She referred to the statements in the study that spot surveys made at multiple times of the day on business, weekend and holidays supported the conclusion that there was sufficient parking. She feels the proposed plan supports the Borough's and State's master plans and the results of the reexamination report of the Borough's plan.

Michelle presented evidence that the positive criteria of the plan outweigh any preserved negative impact including:

- It retains the quaint historic character of the district,
- Promotes the conservation of historic sites and natural resources in the state,
- Prevents urban sprawl and degradation of the environment,
- The current structure provides character but needs serious revitalization and possible remediation to bring the structure up to current standards for commercial occupancy
- The plan assures the current building will be preserved,
- Rather than try and provide residential use over the commercial structure, the plan provides for more desirable separate residential use in character with the area,
- A more desirable visual aspect will be provided by replacing the existing parking area with the townhomes and providing screened parking.

Mr. Oberlander asked if the proposed subdivision area is suitable for the proposed residential use and Michelle presented her reasons why she thought it was. Mr. Oberlander asked if Michelle feels that granting the variance(s) advances and protects the general welfare and Michelle stated she did. Mr. Oberlander asked and Michelle affirmed that in her opinion the plan satisfies the special reasons needed to support granting use variances.

Michelle discussed possible negative impact:

- The plan will not result in an increase of dust and noise from the proposed residences,
- There will be no additional traffic impact over what the post office originally generated,
- There is no impact or need for new/additional public utility requirements by the proposed infill project
- She does not feel there is any resulting negative impact on the neighborhood,
- There is no negative visual impact by the plan,
- Based on the current master plan and other reports there are no detrimental impacts from the plan because the existing structure will not be visually changed to provide accessory housing and that desirable infill housing

will be provided to better utilize the site; it is Michelle's opinion is the positive criteria outweigh any perceived negative impact and that the special criteria have been met to warrant granting the use variance.

Janet asked if the two single family detached homes would accomplish the same result. Michelle stated aside from the fact that it is not workable for the applicant, she feels they would be out of character given the current mix of older single family detached homes, older nonconforming semidetached homes, and the approved new townhomes. Janet followed up that two single family detached homes on two lots which fully comply with the surrounding R4 zone would result in the need for far fewer bulk variances. Michelle replied that the resulting larger homes on lots that exceeded the size of several surrounding developed lots would be out of character and would not serve the purpose to blend in and ease the transition from commercial to residential. Jim testified that the proposed use of townhomes better eases the transition and are more in character with the adjoining townhomes. He also feels that the presence of two larger homes on large lots compared to other neighboring residential lots is not in character with the pre-existing smaller detached homes several of which are on lots as narrow as or narrower than the proposed lots. Jim also stated that he feels that permitting only two homes would not make the project economically possible to pursue. Ken asked Michelle if she feels a rear entrance to the commercial site is preferable to a front entrance. Michelle replied that a driveway on a street provide a break in the pedestrian flow and also lose a parking spot on the street. She feels customers will utilize an on-street spaces while the employees will utilize the off-street spot and only minimally utilize the driveway to arrive and leave from work. Also based on her experience, customers prefer to utilize parking as close to an entrance as possible rather than more remotely located spots. Janet asked that based on the testimony wouldn't be better to seek a zoning change rather than seek variances. Michelle stated that it might be a possible if very expensive change. She also feels that zoning use is usually considered on a more macro level whereas the proposal here is for a very micro level confined to one lot. Mr. Oberlander offered zoning changes are a complicated process and the applicant is only interested in best redeveloping the site; and, that seeking such a specific lot based change might be considered spot zoning. Ken asked if the loading dock area might be removed/changed to increase the number of possible parking spaces. Jim replied that they had looked at removing it; but the area is an integral part of the structure with a full foundation and basement underneath. Janet asked if the intent of the zoning plan is to reduce the density in the area, how does permitting additional structures accomplish this goal. Michelle stated she feels the proposed use is less dense than what is permitted in the current NB zone and that the proposed use is a less dense use. Janet replied that the proposal would result in a more dense residential use in an area already deemed more dense than desired and that the intent of the current code was to prevent increased density and promote less dense use. Michelle stated she feels that a downtown area requires for vitality and that the proposed use is more consistent with what exists rather than the current zoning requirements. Muriel commented that the recognized historic character of the town may require zoning requirements that are possibly not consistent with generally accepted norms and must be specific to preserve the town's specific goals. Muriel asked and received clarification from Jim of how the proposed on- and off-street parking would be utilized. Deb Weaver asked about the impact on traffic along Cinnaminson Street. Jim stated the proposal is designed to maintain the residential character of the street and will result in less commercial traffic than existed when the post office was fully operational. Also, should the proposal not be permitted, he feels any strictly permitted business use of existing site may greatly increase commercial traffic on the street. Deb is still concerned that Cinnaminson Street can properly support commercial traffic and allow access to the site. Jim replied that the proposed uses of the building would be serviced by the commercial carriers such as UPS, etc. or smaller commercial delivery trucks that will almost certainly access the site from Main Street. Similar situations currently exist with other businesses along this part of Main Street and deliveries are made. In fact, businesses throughout the downtown face a similar situation of access being limited to Main Street and there does not appear to be any negative impact. The board could restrict the rear access to not allow commercial deliveries but that would probably make the site less desirable and harder to sell. Jim feels that traffic flow in the downtown area is a known commodity and the proposed use can accommodate the conditions with no impact on the area. Michelle stated that the number of spaces required to meet the current codes are far less than the number of existing spaces and most likely any future commercial use of the planned site will be far less than the traffic generated by the post office when it was a fully operational facility. There was additional discussion on the possible merits of the four proposed residences versus a lesser number of units. Jim continued to present his opinion that more than two units were needed and that the proposed plan maximizes the quality of life issues with the homes and aesthetic concerns. Asked by the board, Jim replied that he planned to do the rehabilitation prior to any possible sale and that the only way he could accomplish this is to have the residential development he proposes. Tamara stated she feels it is important for the board to remember that while economic needs and conditions have been presented, economic

concerns are not valid points in considering the merits of a variance request. Barry Wells commented that as he understands the proposal is to rehabilitate the building using the proceeds from the residential development; but how does that reconcile with the fact that there already may be a potential purchaser of the building. Jim commented that the association has an offer to purchase the building contingent on gaining approval for the plans being presented. The potential purchaser being mentioned is only interested in purchasing the rehabbed structure not as it currently exists.

Paul Grena was recognized and said he would like to speak not only as a principal of the application but as well as a 20 year resident of the town and current president of the Riverton Improvement Association. He stated that he actually started the process when he learned that the Post Office was relocating to Riverton Square and the old building would be vacant. He has a business in town and with the currently vacant bank building on the same block he was quite concerned that the business area be maintained and not be allowed to possibly deteriorate. When he visited the site and realized that the building was in need of some necessary maintenance sooner rather than later his concerns grew. His maintenance concerns were further heightened when he learned that basic landscaping maintenance was only being done because Tom Schweich who resides next door and maintains his dental practice in his home was seeing to it. Paul stated he analyzed things as a businessman not as a professional developer and concluded that the best thing for Cinnaminson Street was to enhance and preserve its residential character. He was also able to determine that under the currently zoned NB use and bulk requirements for the site, a potential developer could add several thousand square feet to the existing building and/or even erect another building behind it and even provide pull-up business use parking access along Cinnaminson Street – all the while remaining within the conformity of the NB requirements. This would significantly increase traffic on Cinnaminson Street and certainly detract from the residential character of the street. Paul doesn't want or feel such a potential use is best for him, the neighbors, or the town. This is why he feels Michelle and Jim maintain that the proposed use before the board best meets the needs of the town and still provides a minimum impact on the existing character of the area. He is concerned that if the current proposal before the board does not become a reality, the site will be purchased by a developer who is only interested in maximizing the by right permitted use of the site regardless of any impact on the aesthetic characteristics of the area or the neighbors. Given the current less than ideal economic climate he approached Jim as a successful developer in town to try and develop a plan that would expedite the needed rehabilitation of the property and hopeful expeditious occupancy by a viable business and still preserve the character of the area. Paul felt that Jim's successful development of Riverton Square including the successful marketing and sale of the new townhomes when everyone else seemed to feel that residences in that area would be impossible to market made Jim the ideal person to hopefully solve what he thought was an undesirable but very possible outcome. BWC Realty was formed to hopefully prevent this envisioned possible outcome and has positioned itself to be first in line to purchase the site. Regardless if the plan presented cannot proceed, the site will be purchased and redeveloped. The current NB codes provide a wide latitude to a redeveloper to maximize the site while all while maintaining by right designs. Simply maximizing permitted use of the site almost certainly will not result in it being the best fit for the town or area. This proposal is not made lightly since marketing business property is certainly not easy as is readily apparent even in Riverton. Paul feels that while any developer will only proceed with what is economically viable there needs to be a proposal that includes the needs and goals of the town. He feels the board must take into consideration not only what is allowed but what in reality will happen. He doesn't believe fully conforming single family detached homes can sell in the area and the desired type of tenants will not be obtained. Thus he feels the board must consider variances that will help ensure that not only is the site redeveloped as a viable property but that provision are made that it truly is best for the community. Muriel stated she was still not convinced the proposal was the answer. Asked if there was further testimony, Mr. Oberlander stated that he didn't feel the engineer needed to testify to the use variance and that everyone would be available to answer questions. Mr. Oberlander reviewed the types of permitted uses that are allowed by right and would require no variance and would go straight to the planning board for approval of a by-right plan. Asked if the current proposal would prevent possible allowed uses that do not really support the character of the area, Jim replied probably not but he would accept restrictions as part of any variance approvals.

Before opening the matter to public comment, Ken asked if Tamara had any comments. Tamara reviewed that the comments about the appropriateness of the current zoning code as it supports the master plan were not warranted. The current code fully supports the goals of the master plan. Tamara acknowledged that the goals of the master plan must remain fluid and responsive to the realities of the present and warrant changing as conditions change;

however, that is not what is being considered. The master plan states that the density requirements for a zone should be considered the minimum desired density for a zone and should encourage less density rather than increased dense usage in a zone. As to permitting adding residences on lots such as the current site, Tamara stated that would have resulted in split zoning of a lots which is not warranted except on much larger undeveloped sites intended to be subdivide and contain mixed uses. This clearly is not applicable to fully developed lots in the middle of a small town and additionally the Borough provided clear direction that it did not want split zoning. Tamara feels the plan has merits as presented but she is not sure the needs and concerns of the neighboring area have been fully addressed. Tamara continued to resolve some questions concerning the density calculations. While acknowledging that current parking requirements may not be the best, Tamara feels the issue revolves more around traffic conditions and that the existing parking while perhaps sufficient based on the spots available is not properly distributed as to promote full usage. For the record Tamara clarified that warehousing is not permitted in the NB zone. She also stated the board should take into consideration that while demolition was possible it was also testified that demolition was highly unlikely. The allowance for residences on the site has merits but more information is needed as to how they would compare to existing structures. The possible need for signage and commercial traffic on Cinnaminson Street needs to be considered. Janet asked and was provided clarification that the plan was changed to provide access from Cinnaminson Street rather than Main Street primarily to resolve concerns of the neighbor that the new flow of traffic would severely impact the residential use of the property which didn't currently exist. Janet raised the increased commercial use of the street and Jim replied that there is already commercial usage and that he did not feel his proposal would result in a significant increase. As to Janet's concerns about parking, Jim reiterated that even with Riverton Square almost fully occupied there was ample unused parking that would easily accommodate any overflow and it is easily accessible. Michelle commented that she often concludes presentations to a town in support of commercial development that she hopes the business traffic is viable enough to eventually cause a parking shortage. That shows usage is reaching its maximum economic potential for a town.

Public Comment: Ken Mills stated that he felt rather than continue to debate increasingly narrow points it was time to open the matter to public comment. There was no opposition and a motion was made by Craig Greenwood and seconded by Barry Wells to open the hearing to public comment.

- Tom Schweich, 617 Main Street, was sworn and commented he is a dentist and long time resident of the property adjoining the site. He maintains his practice in the home. He supports the application and feels the possible commercial access on Cinnaminson Street is not a problem. When the post office was fully functional, there were multiple trips by tractor trailers each day all without incident and he doesn't feel that the proposed use will present anything close to that type of usage. He was the primary person who encouraged Jim to revise the plan to provide access from Cinnaminson Street rather than Main Street as being less of an impact on the area. Asked by Janet why he felt that access from Main Street was a problem, Tom replied that besides the intrusive nature of traffic passing close to his home, the impact on Main Street was even worse. Not only would it reduce the number of on-street parking spots available for business patrons including his patients; but when traffic is impacted by the train it would be an increased problem if there were vehicles trying to enter or leave the site especially for commercial vehicles. Lights from traffic leaving the site would directly impact the neighbor across the street. Also the width of any possible entrance between the properties is closer to being a driveway rather a fully functional access need on a busy main street. Access from Cinnaminson Street would allow for a much less intensive traffic impact than on Main Street.
- John Laverty, 616 Main Street, was sworn in offered extensive testimony which is summarized as follows:
 - While the possibility of the less than desirable use being made of the site may exist there is a review and approval process in place that ensures a complete hearing process.
 - Any plans for demolition and or construction of new/additional structures on the site are again subject to thorough review and approval before they can proceed.
 - John lives across the street from the site and contrary to offered testimony, he does not recall ever being approached by the applicants for his thoughts on the matter.
 - If the proposed use is so beneficial to the residents of Cinnaminson Street, why are no residents present to support the project.
 - Contrary to the testimony from and on behalf of the applicant John stated he intended to show that the proposal was asking to put too much on the site.

- While both the master plan and subsequent reexamination continue to support increased business development within the NB zone, neither encourage new residential growth.
- John feels that the provision for accessory apartments over a business as a conditional use was created not to encourage new residential growth in the zone but rather to encourage conversion of existing strictly residential uses within the zone that were no longer marketable as just residences but were better suited for use as a permitted business use on the first floor; but, to still permit full utilization of the building where a conditional use as an apartment was a more viable option than only permitting a business on the upper floor(s).
- The proposed project does not address any possible COAH impact under the third round requirements.
- John understands the urgency of obtaining the use variance(s) to allow the project to proceed; but, the urgency is financial and economic in nature and not a valid consideration for granting a use variance.
- All variance need to demonstrate either an existing hardship or existing special circumstances. The applicants appear to be using the special circumstances; yet, John feels the special circumstances cited are a result of the proposed plan not because they already exist.
- The application must show that the proposed use is consistent with the master plan; but, as alluded to by the board's planner, John does not feel the proposed use is consistent with the master plan.
- John reviewed the bulk requirements for the NB district and feels that the variances needed to allow the proposed plan are not present on the current site but only created by the proposed plan. Variances created by a proposed use are in fact a negative criteria and do not support approval.
- John feels the offered positive criteria and negative criteria are at best reversed and he doesn't feel there are any positive aspects to the plan.
- Why is the application bifurcated. While allowed and there is the consideration of the expense entailed to present a full site plan, the issues are so closely intertwined that they need to be considered as a whole. The variances cannot be considered separately since the use variance sets the ground for the bulk variances.
- He doesn't feel there is any legal means to compel the applicants to apply the economic proceeds from the residences to rehabilitate the existing structure as testified as a reason to approve the application.
- The representation that the new residential units improve the tax base is not considered factual. Residential use is only tax revenue neutral at best; but, usually consume more revenue than they contribute; whereas the opposite is generally true for business uses.
- He feels that the contention that two single family residential detached homes are too large for the area is not supported by the fact that several very large homes have been built on lots that only minimally supported the size yet were readily marketed.
- As to the contention that R4 zoning is not appropriate for the area the town continues to feel otherwise.
- The statement that the Riverton Square site is over parked is not valid since there is no guarantee that while the existing and possible remaining use may not utilize the available parking, future changes in use may require all the spaces.
- The current existing site can provide all needed onsite parking without having to rely on offsite availability.
- John then provided testimony based on field measurements, aerial surveys, and the available space in the building that the required parking requirements can be met on the existing site, the proposed plan does not come anywhere close to providing even the minimum required number of spaces. Thus John contends the proposed use will actually result in an overuse of the site and subdivision is not supported.

Mr. Oberlander appealed to the board that he felt the discussion besides considered overly long for a public comment was also digressing to issues not relevant to the application before the board. Janet felt that it does go to show the intertwined nature of the variances needed. Ken asked if John was close to finishing and John stated that he just wanted to emphasize that he doesn't believe all the ramifications have been properly considered before the board can even begin to consider approving the application. Further he does not feel the site can support subdivision and still properly meet the requirements of the NB zone and creation of nonconformities is not warranted.

- Kerry Brandt, 719 Main Street, was sworn in and stated that it is a difficult zone. When the entire town was rezoned as part of the new master plan, possible redevelopment considerations for existing developed lots that greatly exceeded the average lot in the NB zone could not be provided since split lot zoning was specifically not to occur. Now that the site is being sold, Kerry feels that possible multiple zoning uses may be a valid

consideration. However, it is not sold and cannot be subdivided as planned. He feels that the residential use for the Cinnaminson Street area has merit. He feels that, if feasible, access to the existing building should be from Main Street to relieve the Cinnaminson Street residents from an unneeded intrusion that has existed for too long. The rear of the existing site is an eyesore that should be properly buffered. The site is not currently R4 and cannot be held to those standards. It is NB and subject to those requirements. He feels that COAH issues are already addressed by the current codes. He feels the use of the proceeds from the residences will occur no matter what since the applicants will have to at least minimally rehabilitate the building including any remediation even to just sell it as is with no redeveloped interior.

There was no further public comment and Craig Greenwood motioned and Deb Weaver seconded to close the hearing to public comment.

Deliberation: Ken asked if the members had additional questions or concerns. Muriel addressed a concern to Janet that she has never been on a board or at a meeting where the chair has recused himself and then stood up to give testimony on the same matter. Janet and Ken explained that recusal from considering or participating in a matter does not mean the person gives up the right to voice his views as a citizen only that he cannot participate in the deliberation and rendering of any decision. Dave Oberlander asked to summarize that they are only seeking the use variance(s) that will permit them to pursue full site plan approval and subdivision approval. The applicants understand that without subsequent site plan and subdivision approvals, any granted use variances are essentially moot and useless to them. As to the positive criteria they must prove special reasons. There are three potential ways to do that: one is that the use is inherently beneficial which does not apply here; second is to demonstrate a hardship exists which they are not claiming; and the third way is to show they advance the general welfare and that the site is specifically suited for the proposed use. The testimony offered regarding residential character of Cinnaminson Street presents ample proof that they have established special reasons. As to demonstrating there are no significant negative criteria, Dave offered that he feels the applicants have demonstrated there is no substantial detriment to the public good and there is no significant impairment to the zoning plan. Rather, the proposed use promotes the business character of Main Street and the existing building and preserves and enhances the residential character of Cinnaminson Street. Janet asked Dave to specifically describe the use variance being requested by his client. Dave stated that the applicants were requesting a use variance that allows continued permitted use of the existing building and in addition to erect four single family residences in the form of two semidetached buildings the final layout to be determined during the site plan and subdivision approval process. Barry Wells asked how the board should respond to Mr. Laverty's position that, assuming his calculation of the number of required parking spaces is correct, are available on the existing site but cannot even be minimally met if the site is subdivided. Barry feels stating that the basement and other areas not currently considered habitable space will not be used as Class A space is insufficient. Dave responded that it is not unusual that as part of the site plan approval process require the basement and other areas currently not utilized as habitable office space cannot be made usable and only the existing habitable space can will be used. The available parking will be what it is. Barry stated he doesn't agree with the comment about parking since it has been presented that the site as it currently exists preserves the historic building and provides space for any required parking while the proposed subdivided site will not meet even the minimal requirement. The proposed use creates the problem where it doesn't currently exist. Dave stated that granting the use variance does not in of itself allow the applicant to subdivide the lot and redevelop the remainder of the existing site unless the variances need to approve the subdivision and redevelopment site plan are approved. Jim stated that for the sake of discussion he accepts John's calculations. However, Jim stated that he was quite certain that even if the site remains as is, it will never be sold with the existing parking area retained as is. Jim feels it will be developed in some manner. Jim categorically stated that he won't use the basement. It is not suited for Class A space now and will not be rehabbed as such. Jim referred to three pictures of the basement, entered and marked as exhibit A-5, to show why he does not feel the space could ever be made suitable as Class A office space. Jim stated he will accept deed restrictions on what can be used as office space. The planned 8 spaces meet the intended use planned. As to the allegation that the use of the proceeds from the residential portion might not be used for rehabilitation of the existing building, Jim stated that if the plans are fully approved, rehabilitation of the existing site will not be delayed until the residences are built and sold. Everything will be going on at the same time and the proceeds are the only viable source of the funds needed to pay for the rehabilitation. Jim thinks his plans are best use for the site and wants to see them rather than perhaps someone else propose a more dense use redevelopment that is permitted as a pure commercial site. Jim feels he has addressed John Laverty's

concerns. While Jim agrees with John's position that residential development usually results in more revenue being expended than collected; Jim does not feel that is the case here since trash collection and other municipal services are already being provided and the addition of four more units will have a positive impact on revenue provided. Barry asked what Tamara meant when she said the use goes against the master plan. Tamara explained that the 4,000 sq. ft. zone referred to the residential zone, not NB, and that the plan does not support more substandard dense residential use. Any use variance goes with the land. A use variance without the subdivision will create a split zoned lot and the requested subdivision will create substandard lots. Dave Oberlander supports that a contingency that the use variance be vacated if subdivision cannot be approved. Barry Wells asked if the applicant can't make it work without the variance and Jim replied that the stated goals of the project can't happen unless the use variance is approved which allows the site to be subdivided to provide the current NB use on Main Street and residential use on Cinnaminson Street. Ken Mills asked if there were no further comments, is the next step to consider a motion. Janet suggested that the applicant is requesting a use variance to permit the continued permitted NB use of the existing building and to erect two single family semidetached buildings totaling four residences on Cinnaminson Street contingent on subdivision and site plan approval. Ken asked if anyone is prepared to make a motion. Muriel asked if she understood if that if given the use variance is contingent on subdivision and site plan approval, how can board know what will happen during the site plan and subdivision process. Dave Oberlander replied that all future development and redevelopment is based on approval of the site plans and subdivision; but, since variances are needed, that gives board great leeway to compel satisfactory plans. Jim stated that approval gives them the ability to know the parameters of how to proceed. Muriel, feels things are too vague and not concise enough to know what she is voting for. Jim stated Riverton Square was approved in a similar fashion. Ken requested the board remain focused on what is being asked for tonight. Ken stated that now is the time for a motion. Janet asked if anyone was prepared to make the motion realizing that if you make the motion to approve you need to vote to approve. Barry commented that the office has been empty for some time and needs to find a use. The board is concerned about what the general neighborhood feels about the project. Janet asked if the board is prepared to vote now without a site plan and if so is anyone prepared to make a motion. Deb Weaver is concerned about density and impact of new homes on existing homes. Deb stated she is not comfortable she has enough information to decide now. Barry feels for Deb and he is troubled by potential lack of parking, density, and not following master plan. Barry likes idea but not comfortable with what has been presented. Jim feels he needs a concrete allowance on the number of units to know if he can proceed. Janet asked if Jim wanted to pursue a possible nay vote rather than unanimous approval. One nay vote kills the issue but unanimous approval allows Jim to proceed to get full approvals. Janet reminded Jim that he needed a unanimous vote to approve to have the required five votes. Jim appreciated Janet's view but he wants to know what more the board needs to allow a vote. Jim was not sure what the issues are. Muriel stated she is concerned about density of proposed plan. Barry seconded that concern. Janet feels the board is uncomfortable to render a decision based on what has been presented. Jim stated he realizes that he needs all five votes to approve tonight and feels he needs to look more closely at the numbers and cannot render a decision tonight on what he can make work. Janet asked if they were considering asking for a continuance and willing to waive all time restraints? Jim and David responded yes and wished it to be open ended. Janet replied any continuance should not be indefinite and cannot get stale time and board wise. Jim requested and was granted a five minute recess to discuss the matter off the record with the rest of the applicants and professionals. Following the recess, Jim stated he is concerned about being asked to move the driveway back to Main Street. Conceptually he feels he could come down to three units with: a 20 foot driveway, and then a forty foot single residence lot and a 40 foot semidetached lot. Janet asked if they were still asking for substandard lots. Jim commented he doesn't feel he can go forward with less than approval for three residential units and needs to permit access to post office building from Cinnaminson Street. Barry asked what the revised numbers do for board on concern for density. Ken Mills stated he was not aware of another area in town that is comparable with a request to allow creating substandard lots and housing types. There is no standard for townhomes or twins. Tamara is more comfortable with three rather than four residential units and agrees residential use better on Cinnaminson Street. Janet asked if the board has enough information to decide. Tamara stated that any approval would be contingent on site plan approval. Muriel does not feel comfortable voting based on details provided tonight. Craig feels three units better for buffering and density concerns. Barry applauds idea of confining commercial to Main Street and residential to Cinnaminson Street. Jim feels Tamara's idea of three units with a single next to drive way and a twin next to other twins smoothes the transition. Jim does not feel it is worth pursuing a vote tonight unless there is a high degree of confidence in approval and he does not feel that is the case. Tamara reviewed that the applicant has a right to bifurcate the application; and that since approval would be contingent on obtaining approvals for all subdivision and site plan submissions with the variances needed; that

failure to obtain those approvals would void the use variance. Muriel feels she needs to see more detail. Jim stated that conceptually the plan will be the same except to change the one lot to have a single family detached residence and thus reducing the density to three residences. Muriel asked if the board is being asked to vote on allowing one single family unit and one twin. Jim stated yes, it would be for one single family detached unit and a single family semidetached residence totaling three residential units. Ken asked if Muriel and the board felt comfortable voting on that tonight. Muriel stated she is still not comfortable voting on what she has before her. Jim feels he needs to review things further and feels it is best to request a one month continuance and come back in January. Mr. Oberlander stated the applicants wish to request an open ended continuation to determine if they wish to continue the matter or not. Janet stated such a continuance raises several noticing and continuity issues and she feels the board is better served by granting a continuance until January with the applicant deciding by then to either continue the hearing or deciding to withdraw the application. The applicant and their counsel agreed to the January date and to waive time. It was further reviewed that the same five people would continue to consider the matter unless a sufficient number of zoning board members not present tonight review a written or audio (the tapes) transcript of tonight's proceedings and can properly attest they are thoroughly familiar with the matter and testimony to date and feel they can render an informed decision if a vote is called for. If sufficient zoning board members are available to hear the continued matter, then Muriel would not be required to be present.

Continuation: Craig Greenwood made motion to continue the matter until January 21st with the applicant suspending the timing of the hearing. Barry Wells seconded the motion and it was passed by a unanimous voice vote:

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 BWC Realty Associates, 100 Park Avenue, for 613-615 Main Street, block 906, lot 4 in NB zone, to subdivide the former Post Office property at 613-615 Main Street and erect townhomes and retain the existing building for permitted use(s) is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on January 21, 2010.

This notice provides the only official notification required of this continuance granted by the applicant and a copy will be posted in Borough Hall. Mr. Brandt resumed chairing the meeting.

OLD BUSINESS

Adopt and memorialize Resolution Case #2009-08 for the Variance Application by Janine Miller, 500 Cinnaminson Street, (Block 903, Lot 1) for replacing a fence beyond the permitted set back lines on a corner property and for a concrete deck – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Ken Mills motioned and Craig Greenwood seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the four zoning board members present and eligible to vote on the resolution.

Adopt and memorialize Resolution Case #2009-07a for the Amended Variance Application by Dennis Eversmeyer, 400 Fulton Street, (Block 900, Lot 1) for placement of a fence beyond the permitted set back lines on a corner property – The secretary explained he had labeled the resolution as 7a to preserve continuity with the application; and the fact that the board had voted to not adopt the original resolution since the contingencies of the original approval could not be met; and the applicant filed an amended application that was approved last month and is represented by this resolution. There was no objection; and the chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Ken Mills motioned and Deb Weaver seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the four zoning board members present and eligible to vote on the resolution.

Adopt and memorialize Resolution Case #2009-10 for the Request for Interpretation of Zoning Code by Maryann Shea, 205 Bank Avenue – The chair referenced the resolution by title and asked if everyone had

received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Craig Greenwood motioned and Ken Mills seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous voice vote of the four zoning board members present and eligible to vote on the resolution.

Planning Board & Council Matters – The secretary reported that Council had passed at second reading the proposed revisions to the zoning code and they were now in effect. Copies of the adoption were distributed to the board and Janet for their records. The chair stated he had submitted the preliminary 2010 budget as requested by Council.

CORRESPONDENCE

The secretary reported that at the request of planning board counsel Tom Coleman, he had provided the chair a copy of a FCC Declaratory Ruling for cell towers defining the time periods in which a local board must consider applications to either erect a tower or attach equipment to an existing tower. The secretary also reported opinions had been issued that due to the existing time requirements in the Municipal Land Use Law for hearing applications, it was felt these federal requirements did significantly impact decisions in New Jersey.

NEW BUSINESS

Vouchers and Invoices

1. 12/01/09, Remington, Vernick & Arango Engineers, \$495.00, for engineering review work connected with the Brandenburger/BWC Realty use variance application from 10/16-11/15/09. PAY FROM ESCROW
2. 12/01/09, Tamara L. Lee LLC, \$405.00, for planning review work and attend board meeting connected with the Brandenburger/BWC Realty use variance application during November. PAY FROM ESCROW
3. 12/01/09, Tamara L. Lee LLC, \$135.00, attend 11/19 meeting and provide testimony for Shea zoning code interpretation request. PAY FROM BOARD PROFESSIONAL SERVICES BUDGET
4. 12/01/09, Tamara L. Lee LLC, \$67.50, attend 11/19 meeting during Miller hearing. PAY FROM ESCROW or BOARD PROFESSIONAL SERVICES BUDGET
5. 12/01/09, Tamara L. Lee LLC, \$67.50, attend 11/19 meeting during Eversmyer hearing. PAY FROM ESCROW or BOARD PROFESSIONAL SERVICES BUDGET
6. 12/17/09, Janet Zoltanski Smith, \$143.00, for general professional services and guidance in November.
7. 12/17/09, Janet Zoltanski Smith, \$331.50, for professional services in November for the Janine Miller, 500 Cinnaminson Street application. (PAY FROM ESCROW)
8. 12/17/09, Janet Zoltanski Smith, \$234.00, for professional services in November for the Dennis Eversmyer, 400 Fulton Street application. (PAY FROM ESCROW)

Following discussion that the charges by Tamara for her attendance during the Miller and Eversmyer applications were solely due to her requested presence for the Shea interpretation matter, the board concluded that these charges should be charged against the board's general budget as was the Shea matter. There was no further discussion and a motion was made by Ken Mills, seconded by Craig Greenwood, and the voice vote was unanimous to pay the invoices as discussed. The secretary will make sure they are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The chair stated for the record that no members of the public were present.

Meeting adjourned at 12:05 AM, 12/18/09 (motion by Ken Mills, second by Craig Greenwood)
Tape is on file.

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