

RIVERTON BOROUGH PLANNING BOARD

MINUTES

April 26th, 2022, 7:05 p.m.

PARTICIPANT INSTRUCTIONS:

Join Zoom Meeting:

<https://zoom.us/j/99667220224?pwd=eGMyc1NCM0tMTWRUaiB6b29Dak9ZUT09>

Meeting ID: 996 6722 0214

Passcode: 813512

Dial in +1 646 558 8656 US (New York)

Meeting ID: 996 6722 0214

Passcode: 813512

The public may submit questions or comments via e-mail to mhack@riverton-nj.com no later than 4pm on the day of the scheduled meeting. The public may also submit public comments in written letter form via mail or drop off to the municipal building located at 505A Howard Street Riverton, NJ 08077, during business hours no later than 4pm the day of the scheduled meeting. Previously submitted public comment shall be read aloud and addressed during the public meeting that will be heard to all remote participants and the public. The Board may pass over duplicate written comments; however, each duplicate comment will be noted for the record with the content summarized. Written public questions or comment will not be treated as sworn testimony.

CALL TO ORDER

The Borough of Palmyra Land Use Board meeting was called to order by Chairman Brandt at 7:05 pm.

The pledge of Allegiance was recited.

OPEN PUBLIC MEETING ACT STATEMENT

Acting Secretary Doretha Jackson read the following into the record:

Public Notice of this meeting has been given in the following manner:

1. Posting written notice on the official bulletin Board of the Borough Hall on January 26, 2022.
2. Having written notice published in the Burlington County Times on January 28, 2022.
3. Forwarding written notice for informational purposes only to the Courier Post on January 26, 2022.

ROLL CALL

Acting Secretary Jackson recorded the following:

Suzanne Cairns Wells, present	Chairman Kerry Brandt, present	Joe Della Penna, present
Councilman Edgar Wilburn, present	Pete Clifford, present	Robert Martin, present
Vice-Chairman Joseph Threston, present	Ray Paszkiewicz, present	Rebecca Reis, present
Adam Flade Alt. 1, present	Joe String, Alt. 2, present	Doug Aird, Alt 3, present
Nick Jabs, Alt. 4, present		

Also present, Mr. Chuck Petrone, Esquire and Mr. Jeff Hanson, Engineer.

MINUTES

March 22nd, 2022, minutes were submitted for approval, Chairman Brandt indicated there were some factual things that needed to be corrected. Mr. Threston indicated there was a problem with the lack of information regarding Mr. Fords testimony. Mr. Threston made a motion to table the approval of the minutes until corrections/further review could be had. Mayor Cairns Wells seconded his motion. All voted in the affirmative
Minutes to be tabled until next meeting.

CORRESPONDENCE/ANNOUNCEMENTS

No correspondence was noted. No Announcements were made.

NEW BUSINESS:

Chairman Brandt noted the new business, also indicating several members of the board were desirous of recusing themselves:

A. V-03-2022

<u>Name:</u>	Kirk & Allison Fullerton			
<u>Property:</u>	105 Bank Avenue	Block:	204	Lot: 3
<u>Action Desired:</u>	Applicant in the R15 zone seeks bulk variance to build a detached garage and screened porch proposed at 1207sq ft wherein 750sq ft is permitted under the Borough Code at Chap § 128-23(A); and any and all variances and waivers deemed necessary by the Board. All jurisdictional items have been confirmed			

Mayor Cairnes Wells, Councilman Wilburn, Mr. Threston, Mr. Martin, Mr. Wilburn, and Mr. Clifford all indicated they were recusing themselves from the hearing of this application and stepped out of the meeting.

Chairman Brandt indicated the application was for an increase in garage size.

Mr. James Miller, Planner for the applicant noted the following would be testifying in regard to the application:

Allison Fullerton, Applicant

Jeffrey King, Architect

Mr. Petrone sworn in the above and Jeff Hanson, ERI- engineer for the Planning Board, to testify on the application.

Mr. Miller indicated he is a licensed professional Planner in the State of New Jersey, certified and holds a master's degree in City and Reginal Planning from Rutgers University.

Mr. King indicated he is a licensed Architect in the State of New Jersey, holds a bachelor's degree from Ajman University and received his license to practice in 1991 and began his own practice.

Mrs. Fullerton noted the purchase of the home on Bank Avenue in April of 2021. Mrs. Fullerton noted they tore down the existing one-story home in August of 2021 with the approval of Riverton

and documentation from the Historical Society, noting no historical value. Mrs. Fullerton indicated they plan to build a larger home with extensive landscaping and a detached garage to accommodate their family. Mrs. Fullerton stated the detached garage will be a 3-car garage and will double as a storage facility and pool house, noting it will require, water, sewer, gas, and electric and no hazardous material will be stored in the garage area. She noted the garage will setback far enough from the property so it will not impose on any existing views of surrounding homes. Mrs. Fullerton indicated they would also like to extend the existing asphalt driveway to the end of the garage. Mrs. Fullerton noted they intend to put up a cedar wood fence around the perimeter of the property and additionally around the pool area.

Mr. King stated they were requesting a garage that exceeds the maximum square footage of 750 square feet. Mr. King stated the garage was 3 bay and 24 feet deep and 36 feet wide, he noted the adjunct 24 foot by 24 foot screened in porch that will double as the pool house. Mr. King noted the structure is 21 feet tall and the exterior of the garage will match the exterior of the house currently under construction. Mr. King described the materials to be used on the garage, house and fencing. Mr. King indicated there will be no runoff from this project that will adversely affect any of the adjacent neighbors. Mr. King spoke about the many positive aspects of the projects. Mr. King stated the area is for private use only and will not become a bedroom, air-b b, and will not be rented out for parties. Mr. King noted the possibility of a kitchenette and bar but only for personal use.

Mr. Miller stated the property is located at 105 Bank Avenue and within the R-15 zone district which requires a minimum lot size of 15,000 square feet and a minimum lot width of 75 feet. Mr. Miller stated the relief being sought is to allow a garage with a square footage of 1207 square feet where the maximum allowed by the zoning district is 750 square feet. Mr. Miller stated the relief being sought meets the C-2 criteria and purpose A, C and purpose I of Land Use Law. Mr. Miller explained the benefits of the project and noting he did not feel there was any extreme substantial determinant to the relief sought.

Mr. Hanson indicated Mrs. Fullerton, Mr. King and Mr. Miller did a great job of answering and describing the elements in his letter dated March 13th, 2022. Mr. Hanson asked that in regard to the stormwater management; the downspouts be directed towards the middle of the yard and the grading be consistent with the testimony that nothing will be running off site from any of the structures. Mr. Hanson asked if they had already received ARC approval. Mr. King indicated that only the house had the approval from the ARC committee, but they would be going thru the same process for the garage structure.

Chairman Brandt asked the Board if there were questions, comments regarding the application as presented.

Mr. Brandt asked if there was any on street parking. Mr. Miller indicated no. Mr. Brandt asked what percentage garage vs non garage is. Mr. Brandt noted by his calculations the garage is about 864 sq ft and the 336 sq ft for the non-garage area. Mr. King agreed.

Mr. String asked if the spacing between the neighboring property and the garage was five feet. Mr. King indicated yes. Mr. String asked if that was correct for an accessory structure. Mr. Hanson stated the accessory structure setback is three feet, and the main structure is twenty feet each side.

Mr. Jabs asked if it was correct that the lot extends all the way to the Delaware River, but lot coverage stops at Ban Avenue. Mr. Miller indicated that is correct. There was some additional discussion regarding how Bank Avenue impacts the impervious coverage of those properties.

Chairman Brandt asked for a motion to open the application to the public for comment. Mr. Della Penna made a motion to open the application to the public for comment. Mr. String second the motion.

All present voted in favor of the motion.

Mr. Horn asked if there were any restrictions on how close you can go to the property line and the size of the accessory structure. Mr. Horn noted that the accessory structure was large to be so close to the property line. Chairman Brandt noted the setback must be at least 3 ft and it is 5 ft. Mr. Petrone explained in the R-15 zone accessory structure setback requirements.

Mr. Latimer stated that for future cases regarding Bank Avenue, you should refer to Valenki VS the Borough of Riverton; it explains the nature of Bank Avenue and who owns and or can use what with the land.

Hearing no additional comments Chairman Brandt asked for a motion to close the public comment portion of the application. Mr. Aird made the motion to close to public comment portion. Mr. Della Penna seconded the motion.

All present voted in favor of the motion.

Chairman Brandt asked for a motion to approve or deny Application V-03-2022 105 Bank Avenue-Fullerton Application.

Mr. String made a motion to approve the application V-03-2022- Fullerton-105 Bank Avenue subject to the testimony presented, conditions stipulated and escrow being current at time of permitting. Mr. Aird second the motion.

At the call of the roll the vote was as follows:

Ayes: Mr. Jabs, Mr. Aird, Mr. String, Mr. Flade, Mr. Della Penna, Ms. Reis, Mr. Paszkiewicz, Chairman Brandt

Nay: none

Recuse: Mayor Cairns Wells, Vice-Chairman Threston, Mr. Clifford, Councilman Wilburn, Mr. Martin

Chairman Brandt indicated there would be a five-minute recess, to allow the other board members to return to the meeting. Meeting break 8:07 to 8:12 pm.

Mr. Hanson notified the Board and Chairman Brandt that he would need to recuse himself from the continued hearing of application DP-01-2022 JRB Properties- 409-413 Lippincott, as JRB Properties is a client of ERI.

When all returned from the recess Chairman Brandt asked for a roll call of the board to confirm Board attendance.

Secretary Jackson recorded the following:

Suzanne Cairns Wells, present	Chairman Kerry Brandt, present	Joe Della Penna, present
Councilman Edgar Wilburn, present	Pete Clifford, present	Robert Martin, present
Vice-Chairman Joseph Threston, present	Ray Paszkiewicz, present	Rebecca Reis, present
Adam Flade Alt. 1, present	Joe String, Alt. 2, present	Doug Aird, Alt 3, present
Nick Jabs, Alt. 4, present		

Also present, Mr. Chuck Petrone, Esquire.

Chairman Brandt noted the continued hearing of:

A. DP-01-2022

<u>Name:</u>	JRB Properties			
<u>Property:</u>	409-13 Lippincott	<u>Block:</u>	801	<u>Lot:</u> 5, 6, 7
<u>Action Desired:</u>	Request to Demolish structure due to being deemed unsafe			

Mr. Michael Floyd, Esquire was present to represent JRB Properties, LLC. Mr. Floyd acknowledged the presence of Mr. Jim Brandenburger on behalf of the applicant. Chairman Brandt reminded them that they were still under Oath from the last meeting. Chairman Brandt asked if there was additional testimony.

Mr. Floyd stated there was no additional exhibits or testimony. Mr. Floyd noted that at the March hearing date their testimony was concluded however the Board wished to explore the retention of a structural engineering expert and a cost estimator to provide expert advice in response to the testimony prepared by Mr. Brandenburger.

Chairman Brandt indicated Chuck Petrone got pricing from Alaimo Associates which came in at just under \$15,000.00. Chairman Brandt stated he felt it was on the high side, so he contacted the State DCA Historic Commission, which had offered the grant, noting that he had also contacted some other firms and received a price around \$9,000.00. Chairman Brandt explained he and Mr. Threston's conversations with Borough Council, noting the lack of time to get all the information.

Chairman Brandt gave a synopsis of the ordinance regarding demo of properties giving special attention to section 128.50D. Chairman Brandt indicated the application comes down to economic feasibility.

There was additional discussion regarding the ordinance and the condition of the house, the cost to rehabilitate the house and the cost to demo the current home and rebuild new. Chairman Brandt asked Mr. Floyd about a previous application submitted for a lot line adjustment in 2021. Mr. Floyd indicated the Board never acted on that application and it was withdrawn without prejudice by the applicant. There was additional discussion regarding that application and a potential buyer of the lot which the home is located on at that time Mr. Floyd explained why the applicant was requesting the lot line adjustment at that time. Chairman Brandt asked if Mr. Brandenburger was willing to sell the property. Mr. Brandenburg indicated no.

There was additional discussion regarding the economic feasibility of rehabilitating the property, various items required to be completed to rehabilitate the property and the Land Use law.

Mr. Clifford made a motion to approve the application request to demo the property at 409-413 Lippincott.

Mr. Della Penna stated he wanted to know what had to be done to make the property habitable, are there state laws that indicated what is required. Mr. Petrone stated those guidelines would fall under UCC, Uniform Construction Code, noting that the construction official would be responsible for enforcing those codes.

Vice Chairman Threston indicated he questioned Mr. Ford because they needed to understand the process, how it works and how it works in this case, noting the Board had not considered a demo application in many years.

Mr. Clifford deferred his motion until the public could be heard.

Mr. Floyd indicted the Board received the cost estimate a few days before the March meeting and understandably that meeting may have been close for the Board to dive into the line items and the various repairs cost needed. Mr. Floyd noted that the Board has now had that estimate for over a month and has had ample time to review and examine the line items and repair costs. Mr. Floyd stated again the Mr. Brandenberger has provided detailed testimony over the last three meetings regarding the house's conditions and repairs needed, noting the licensed structural engineer's report, the licensed appraisal report, and a detail cost estimate. Mr. Floyd stated he has put forth a very reasonable efforts as to why it is not economically feasible to renovate the house which is before the Board this evening.

Chairman Brandt asked for a motion to open the application to the public for comment. Mr. Martin made a motion to open the application to the public for comment. Mr. Della Penna second the motion.

All present voted in favor of the motion.

Chairman Brandt requested all comments be limited to two minutes to allow for all to be heard.

Mr. Petrone swore in all the following before they gave their comment and or testimony:

Ms. Cawley- Thomas Avenue- Ms. Cawley indicated she had a few questions regarding the application and the process. Ms. Cawley asked about the site visit on October 21, 2021, and how it was arranged. Did the property owner contact Mr. Ford directly without going thru the Borough and if so, is that commonly done? If Mr. Ford was acting in his official capacity for the Borough should not a report have been completed. Was Mr. Ford paid by the Borough for that inspection? Was his decision that the property needs to be demolished based on his own opinion? Ms. Cawley noted his demolition order was dated a month after his site visit without pictures, notes, or reports and only after the inspection report which was paid for by the property owner was received on November 16, 2021. When does the six months' time begin for the discussions regarding the applications presented to the Board? Ms. Cawley stated she didn't think the clock should start until a detail report is received from Mr. Ford detailing what violation exist and what remedies are required to make the structure habitable. Ms. Cawley asked why do people choose Riverton? There is a noisy train that runs thru town, taxes are higher than surrounding towns, too small to have their own high

school, but people do want to live here, why? It's the quality of life. We can't lose what makes us special, it all starts with a home., noting it is up for us to protect what makes us special.

Mrs. Solin – Main Street – Mrs. Solin stated she was with her husband Barry. Mrs. Solin indicated she and her husband sent a letter to both Chairman Brandt and Mayor Wells regarding moving this meeting from a Zoom meeting into a in person meeting so that those in favor or not in favor of the application would have a better opportunity to meet as neighbors, talk and express their opinions. Mrs. Solin noted that no response was received from the letters sent or the email sent to the mayor. Mayor Wells noted that she spoke with Chairman Brandt, and he stated it was his responsibility to respond. Chairman Brandt explained the reasons for the delay in responding. Mrs. Solin stated she was concerned about the demolition of the property and the effect it would have on the neighborhood, noting it was a miscarriage of what the neighborhood looks to be or is.

Mr. Horn – Lippincott Avenue – Mr. Horn asked why the first speaker giving comment was ignored but the second comment speaker received responses to her questions. Mr. Horn stated the lawyer for Mr. Brandenburg indicated the applicant will suffer an economic lost to rebuilt the property. Mr. Horn stated the Board was not obligated to assure the applicant a profit for his project. Mr. Horn indicated if there is an avenue that the state would pay for the inspection /cost estimate then the Planning Board should wait and allow them to pay for it.

Mr. Brandt indicated he would address the concerns of the first speaker. Mr. Brandt explain the land use law and how the timing works regarding applications submitted to planning boards.

Mr. Brandt noted the only thing the construction official was doing was determining if the building was inhabitable or not. Mr. Brandt noted that the building was uninhabitable based upon the UUC. Mr. Brandt noted that he is an employee of the Borough and he is paid.

Mr. Havicon – Main Street – Mr. Havicon stated one of his concerns was that a redeveloper comes in and brings his attorney and engineer and indicated the home is uninhabitable; beside the construction official indicated the home is inhabitable, why doesn't the Borough bring in an engineer to determine what is needed to make it habitable, noting that he felt it should be mandatory. Mr. Havicon indicated he felt that ordinance 128-5 should be revised to make that step mandatory and inclusive of the budget. Mr. Havicon stated the last thing that should be done is to tear down a building that has been there for 100 years or more.

Mr. Halt- Linden Avenue – Mr. Halt stated the Chairman stated the building is unsafe, however the property requires very little to be certified habitable and no realistic estimate was ever obtained. Mr. Halt indicated he questioned the process and the understanding of the process by the construction official. Mr. Halt stated the Board has done a great job with the process and he believes this application is just about money. Mr. Halt indicated he believes Mr. Brandenburger is doing the wrong thing. He believed the Board needs to do what is best for Riverton.

Mr. Hain- Lippincott Avenue- Mr. Hain explained how the application got to be where it is currently. He stated that the applicant hired a structural engineer to obtain a report then applied for a demo permit. Mr. Ford, by his own testimony, then went to the property and issued an unsafe order, noting that demo was placed on the order, as the applicant indicated to him that he only wanted to demo the property. Mr. Hain stated the applicant has given an estimate as to what the cost would be to rehab the property not to what is needed to make the property habitable. Mr. Hain stated we

are at another meeting but the answer has still not been provided regarding what needs to be done to make the property habitable. Mr. Hain spoke about the 6-month time line of the application, noting that the ordinance had not such time mentioned in it. Mr. Hain spoke about his home and the things needed to be brought up to date. Mr. Hain asked Mr. Brandenburger to withdraw the application. Mr. Hain noted that if Mr. Brandenburger did not withdraw the application then he requested the Board deny the demo permit.

Mr. Petrone explained the 6-month timing of a Land Use Board Application and the Land Use Law.

Ms. Chumley – Lippincott Avenue – Ms. Chumley stated she did not understand how Riverton can take pride in our status as a Historic Borough when the code to preserve that history is so utterly lacking. Ms. Chumley spoke about the potential of new homes being built in and around the historic areas. Ms. Chumley asked that if approved, a condition be placed in the resolution that the house be architecturally salvaged before it is demolished. Ms. Chumley indicated they would continue to fight to keep our historic Borough from becoming a free-for-all for redevelopers. Ms. Chumley requested the board vote no to the demo permit.

Mrs. Havicon- Main Street- Mrs. Havicon stated she and her husband sent an offer to Mrs. Brandenburger to purchase the three lots, noting that they received no response from him. Mrs. Havicon noted that she has sat thru many meetings listening to various plans for new construction, fences etc. Mrs. Havicon asked if the demo permit is approved what will the board allow to be built? Mrs. Havicon asked why doesn't Riverton Borough have a historic preservation commission.

Mr. Foley – Lippincott Avenue – Mr. Foley stated he purchased his property about three years ago and have invested a lot to bring the building back to its original beauty, noting that the property will always remain a single-family home. Mr. Foley thanked the Fullerton's for purchasing their home and replacing that home that was not fitting with the original plan to build a home that is more fitting and remains a single-family home. Mr. Foley inquired why as a historical town, why would we allow a new home builder to come into our town and demo a historic home in favor of three new homes in its place. Mr. Foley stated he felt the six-month time frame of the application he felt was self-imposed. Mr. Foley implored the board to do what is right for the Borough and not an out-of-town new home builder.

Mr. Prichard- Fulton Street – Mr. Prichard indicated there was a blurring of rules before everyone tonight. Mr. Prichard indicated Mr. Floyd is misdirecting attention from the wording of the ordinance, to make safe for occupancy, and using words like rehab/renovate or restore. Mr. Prichard gave examples of some items. Mr. Prichard stated the Board request, at the first meeting that Mr. Brandenburger bring his engineer, he didn't, again the board requested the applicant bring his engineer and still he didn't. Mr. Prichard noted that the applicant's attorney, Mr. Floyd indicted he felt the engineers report spoke for itself. Mr. Prichard stated the burden of proof is on the applicant, not the board to get the relief they are seeking. Mr. Prichard stated we are at the fourth meeting and the applicant has still not give the estimate of what it would take to make the property safe for occupancy. Mr. Prichard stated the applicant has failed to do his duty and has not proven his case for the demolition permit, noting that the applicant has not met his burden of proof.

Vic-Chairman Threston made a motion to close the public portion of application for comment. Mr. Della Penna seconded the motion. All present voted in favor of the motion. Seeing no other comments from the Board Chairman Brandt asked Mr. Clifford if he wished to remake his motion.

Mr. Clifford stated that notwithstanding the ordinance he is putting forward a motion to approve the application for the demolition of 409-13 Lippincott Avenue as presented.

Mr. Clifford indicated he did not feel the Board had the jurisdiction noting that the UCC regulations trump the ordinance of the Borough. Mr. Della Penna second the motion

At the call of the roll the vote was as follows:

Ayes: Ms. Reis, Mr. Clifford, Mayor Cairns-Wells

Nay: Mr. Della Penna, Mr. Martin, Mr. Paszkiewicz, Councilman Wilburn, Vice-Chairman Threston, Chairman Brandt

Application denied

Mr. Petrone indicated he would prepare a resolution of memorialization of the Boards actions tonight and have it for the next meeting.

Mr. Floyd thanked the Chairman noting that they would be putting in a request for the Boards transcripts in the next couple of days.

COMMITTEE REPORTS

Council Matters of Importance to the Board

Councilman Wilburn indicated Borough Council will begin meeting in person again in June. Councilman Wilburn noted that video will follow at some point as options are being pursued. Councilman Wilburn also noted that new coffee shops have applied to have tables outside of their locations.

Environmental Commission

Vice-Chairman Threston stated the commission meet on Thursday via Zoom and are going to try to again begin meeting in person. Vice-Chairman Threston noted they spoke about some education items regarding stormwater management training and the clean-up plan of the rain garden at Riverton School. Vice-Chairman Threston also noted the commission was trying to find a way to get water testing of the category one stream in town.

Minor Site Plan

Mr. Clifford indicated he had nothing to report.

Chairman Brandt stated he wished to discuss going back to the in-person meetings, he noted that Council would be going back to in person meeting in June and felt the Board should follow suit. Chairman Brandt noted the attendance at the Zoom meeting and thought some sort of available video would also be helpful. Chair Brandt wanted to know how the remaining Board felt about in person meeting with some sort of video interaction. Mayor Cairns Well indicated that Council was looking into some sort of system and had received estimates for 2,000.00 and upwards to 10,000.00. Vice Chairman Threston asked what the capacity of Borough Hall was not including the

dais. Mayor Cairns Wells indicated the total occupancy according to the Fire Marshall is 45 people. There was additional discussion regarding in person meetings and restrictions which could still be in place due to covid.

PUBLIC COMMENT

Chairman Brandt requested a motion to open to the public for comments. Vice-Chairman Threston made a motion to open to the public for comment. Mr. Della Penna seconded the motion.

Floor was opened for public comment however no one wished to make a comment.

Chairman Brandt requested a motion to close the public comment portion. Chairman Threston made a motion to close the public portion. Mr. Della Penna second the motion.

ADJOURNMENT

Chairman Brandt requested a motion to adjourn.

Vice-Chairman Threston made a motion to adjourn. Mr. Martin seconded the motion.

Meeting adjourned at 10:09pm

Doretha Rita Jackson, Acting Secretary

Riverton Planning Board

Approved: