

November 28, 2023
Regular Meeting
7:00p.m.

STATEMENT:

PUBLIC NOTICE of this meeting pursuant to the Open Public Meetings Act has been given by the Riverton Borough Planning Board in the following manner:

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

- 1) Posting written notice on the official bulletin board and the door of the Borough Hall on January 30, 2023.
- 2) Having written notice published in the Burlington County Times on February 2, 2023.
- 3) Forwarding written notice for informational purposes only to the Courier Post on January 30, 2023.

This Regular Meeting of the Riverton Borough Planning Board was held on the above date at 505A Howard Street.

Roll Call: Mayor Cairns Wells, Ms. Hack, Councilman Wilburn, Mr. Della Penna, Ms. Reis, Mr. Martin, Mr. Paszkiewicz, Mr. Aird (7:54), Mr. Brandt, Chairman Threston. Mr. Flade was absent. Solicitor Koutsouris and Engineer Hanson were in attendance.

MINUTES:

Motion made by Mr. Della Penna and seconded by Mr. Brandt to approve the meeting minutes of the October 24, 2023 Regular Meeting with the changes noted by Chairman Threston.

Ayes – All members present.

Nays - None.

Abstentions – None.

NEW BUSINESS:

Mr. Brandt recused himself from the meeting.

Jeff and Darlene Myers
619 Elm Terrace
Block 1001, Lot 22
Bulk Variance

Chairman Threston asked if there was jurisdiction to proceed with the hearing. Attorney advised that there is jurisdiction to proceed.

Attorney swore in Mr. Jeff Myers, owner of property and Mr. Jeff Hansen, Engineer of Board

Mr. Myers advised that an application has been submitted to the Board after review with ARC. Mr. Myers advised that he has a single-car garage and carport that does not currently meet the code, both of which are pre-existing and pre-date his ownership of the property. Mr. Myers advised that he is proposing to take down half of the single-car garage and extend the carport both out and to the rear of the property. The structure would also be elevated to park an RV or boat, not both at the same time.

Chairman Threston asked Mr. Myers if he received the Engineer letter, to which he responded yes. Engineer provided a summation of the application, advising that there is pre-existing side yard setback that should be reaffirmed, as well as additional variances for square footage and front yard setback.

Engineer asked Mr. Myers the following questions:

- 1) Materials compliance: Mr. Myers advised that the intent is to comply recommendations. The posts will be white and roofing will match the existing principal structure.
- 2) Drainage: Engineer noted that the roof drain should go to the back. Mr. Myers indicated that the current structure drains to the back of the property and will continue to do so. This is sufficient as to not drain onto neighboring property on short side.
- 3) Permits: Engineer noted that permits are required prior to the start of construction. Mr. Myers agreed.

Chairman Threston asked as to use, which is stated as storage, as he cannot store the boat or the RV in the garage at this time. Mr. Myers concurred that it would be for storage only. Chairman Threston asked as to the hardship and the benefit that it would be to grant variances. Mr. Myers noted that the setback exacerbation is diminimus. Furthermore, four properties on the roadway each have garages of similar age and design. The improvements fit with the neighborhood, and will be an improvement. In addition, the desire to save a tree has motivated the desire to renovate, rather than tear down and build new.

Motion made by Mr. Martin and seconded by Mr. Wilburn to open the application to the public.

Ayes – All members present.

Nays - None.

Abstentions – None.

No public comment.

Motion made by Mayor Cairns Wells and seconded by Mr. Martin to close the public comment.

Ayes – All members present.

Nays - None.

Abstentions – None.

Chairman Threston asked if there were any additional questions or comments.

Mayor Cairns Wells commented that she walks by Mr. Myers home often and believes that this improvement would be beneficial to both him and the neighborhood.

Motion made by Mayor Cairns Wells and seconded by Mr. Martin to approve the application of 619 Elm Terrace.

Ayes – All members present.

Nays - None.

Abstentions – None.

Mr. Brandt returned to the meeting.

- 1) James C. Tucci
2 Linden Avenue
Block 200, Lot 5 & Block 201, Lot 5
Bulk Variance

Mr. Floyd came forward on behalf of the applicant, Mr. Tucci, and provided a summation of the application. Mr. Floyd advised that the application before the Board was to construct a split-rail fence along the property boundary that abuts Bank Avenue, in identical fashion as to the fence to the North along the Borough pocket park. Mr. Floyd advised that Mr. Tucci will provide testimony on the application, as well as responses to the review letter from Planner.

Attorney swore in Mr. James Tucci, owner of the property and Mrs. Michelle Taylor, Board Planner.

Mr. Flyod distributed copies of photos to walk through with the Board during testimony. The full exhibit list is attached hereto as a matter of record. Mr. Floyd advised that the exhibit will illustrate the issues with which Mr. Tucci is faced that necessitate the fence installation. Mr. Tucci confirmed that all photos have been taken by personally from his home and the types of activities that are displayed occur on a daily basis. Mr. Tucci advised that he has spent much time and effort renovating the home, particularly the landscaping, so the cars driving on the lawn make maintenance difficult. Mr. Tucci advised that the area is used as a parking lot for various vehicles, as well as an area where people congregate for a host of activities. Mr. Tucci believes that the fence would stop these various activities from happening by and large. Mr. Tucci believes that the wood split-rail fence would be the best way to conform with the existing neighborhood and Borough pocket park. Mr. Floyd advised that these types of activities create an unnecessary liability for Mr. Tucci.

In response to the Planner's review letter, Mr. Tucci confirmed that there would be no new lighting installed, that all Utility mark outs would be obtained and that there would be no concrete footings or colors, so that the fence could be removed if necessary and would match the existing one at the pocket park in color and style.

Chairman Threston asked Mr. Tucci how long he has owned the property. Mr. Tucci advised that in 2021 he bought and in 2022 he moved in to the property. Mr. Tucci asked if there were deed restriction as to placement of fence. Mr. Tucci indicated not that he is aware. Chairman Threston asked if law enforcement has been involved to date. Mr. Tucci indicated that he has not, as he has not felt threatened, so it feels as an inefficient use of Borough staff. Chairman Threston asked if it is only property with beach. Mr. Tucci advised yes. Mr. Wilburn asked if the stairs are still there. Mr. Tucci advised yes. Mr. Paszkiewicz asked if the fence would corral in the fire hydrant. Mr. Tucci advised that he would install between the river and the hydrant and signs.

Planner advised that she has a long history with Bank Avenue from previous experience. Planner pointed out that the area is functioning as a right-of-way. Planner advised that a two-rail fence is the least intrusive, and would recommend that it does not make the turn around the South side.

Chairman asked if there is a desire to grant relief, but a deed restriction is later found, how does the Board proceed. Attorney advised that if the Board grant relief is should be contingent on a title binder. Mr. Brandt advised that the Master Plan advises that the area on Bank Avenue is deed restricted, whether or not that is correct. Mr. Brandt asked if it has been a public right-of-way for decades, where does that leave us. Attorney advised that an easement and a right-of-way are two very different things. Adverse possession and buyer be ware are also two very real things as well.

Mr. Floyd interjected that a variance is being requested and the proofs have been put on the record and will be surmised; it is a benefit, not a detriment. This beach is unique because of park, as well as the sea wall and launch. It is not being disputed that there are public utilities and agree that the fence must be set behind hydrant and signs for health, welfare and safety and further agree that this will not be a permanent structure so that it can be removed for repaving or utility work. Mr. Tucci advised that he is putting fence up at own risk and would have to work with town or utilities. Mr. Floyd advised that a Title Policy can be provided as condition of any approval, but should not be a part of the variance proofs.

Motion made by Mr. Della Penna and seconded by Mr. Brandt to open the application to the public.

Ayes – All members present.

Nays - None.

Abstentions – None.

Amy Maute came forward and was sworn in by the Attorney. Ms. Maute advised that cars on the lawns are a common occurrence, even extending to large events, and that injuries have

occurred from people walking on what is a front yard. Ms. Maute believes that the fence is the best solution to preventing some of these things and is in full support of this application. Ms. Maute also noted for the record that there is signage indicating that Bank Avenue is a walking path, but it is a street.

Michael Kearney came forward and was sworn in by the Attorney. Mr. Kearney advised that he supports this application. Mr. Kearney pointed to Delecci versus Riverton indicating that the Borough has no rights of ownership between Bank Avenue and Delaware River.

Joe Augustyn came forward and was sworn in by the Attorney. Mr. Augustyn noted on A-6 that there is an open area on the neighboring property so that the area where the hydrant is located could be a good spot for an opening. In addition, precluding the wrap around would be a balance for granting the variance relief while granting access.

Bill Corby came forward and was sworn in by the Attorney. Mr. Corby questioned as to what would prevent this application from setting a precedent. Chairman advised that if it is granted it would be unique to this property. Mr. Corby thanked Mr. Tucci for the improvements he has done to his property.

Helen Hughes came forward and was sworn in by the Attorney. Ms. Hughes advised that she is next to a parking lot and there are all tops of activities that occur at all hours. This is private property and people are not respecting it, thus creating a liability to the property owners, not the Borough.

Maryanne Shea came forward and was sworn in by the Attorney. Ms. Shea indicated that she lives in the house that is the second one off of Lippincott and people park on the front lawn to watch the sun set. Ms. Shea believes that a split-rail fence would be attractive along Bank Avenue and would help to solve the recurring problems.

Kirk Fullerton came forward and was sworn in by the Attorney. Mr. Fullerton advised that he is in support of the application.

Joseph Pro came forward and was sworn in by the Attorney. Mr. Pro advised that he is in support of the application. The incidents that are occurring spill over into all of the properties, creating liabilities for all property owners.

Chairman Threston asked if there is any signage. Mr. Pro advised that no, it is up to property owners, but Borough has indicated that it cannot be done. Chairman Threston noted that may this is something that the Governing Body may want to look into for a global solution. Chairman Brandt further noted that maybe signage could be the solution. Mr. Pro advised that he has asked for the Governing Body to close the roadway for weekends only, which has historically been denied due to the fact that there is a public park at the end of Linden. Ms. Hughs advised that private property signs and blocks have been thrown in the water. Mr. Tucci advised that the split-rail would fit in with the neighborhood more that large signs. Chairman Threston advised that these matters are the jurisdiction of the Borough Council.

Motion made by Mr. Della Penna and seconded by Mr. Brandt to close the public comment.

Ayes – All members present.

Nays - None.

Abstentions – None.

Chairman Threston asked Attorney to direct the Board. Attorney advised the Board that a bulk variance cannot affect the legality of an easement or a right-of-way, so the professionals need to review the Title Policy to condition the approval. The question for the Board, however, is can this bulk variance be granted, even with contingencies. Mr. Brandt asked about the 200-foot list, as this application affects everyone in town. Secretary advised that the MLUL only requires applicants to notify property owners within 200 feet. Ms. Taylor advised that a variance can be granted outside of the monuments. Mr. Brandt asked if the research can be done first, as he is concerned over precedent. Mr. Della Penna advised that he expected to hear something completely different in terms of wanting to prevent all individual access, not just respectful access, so he would like additional information as well.

Mr. Floyd made a request to continue the Hearing to December 19, 2023 to provide additional documents to the professionals. Mr. Floyd requested, however, that all exhibits be into evidence and that the appropriate announcement(s) of no additional need to notice be made.

Motion made by Mr. Della Penna and seconded by Mr. Paszkiewicz to carry the application of 2 Linden Avenue with no additional notice required.

Ayes – All members present.

Nays - None.

Abstentions – None.

COMMITTEE REPORTS:

Historic Preservation Update – Chairman Threston asked that this be removed from the agenda.

Ordinance Review Committee Update – Chairman Threston advised that the next order of business is the year-end report, at which time the working group would advise as to suggested changes to Borough Ordinances.

Council Liaison Report – Mr. Wilbrun that the Environmental Commission went to The League. Mayor advised new Zoning Officer, Ed Ruggiero, was hired with Michelle leaving. Mayor advised that the Borough is participating as Revolution 250 town.

Environmental Commission Report – Mr. Wilburn advised of the upcoming event at farm. Ms. Hack asked if it has gained any Sustainable New Jersey points. Chairman Threston advised that it is a work in progress.

Minor Site Plans Report – Ms. Hack advised that the 301 South Broad Street subdivision was approved and executed.

CORRESPONDENCE:

None.

PUBLIC PORTION:

Chairman Threston opened the meeting to the public.

Mr. Corby advised Ms. Hack has been an asset and will be missed. Mr. Corby thanked Mayor Cairns Wells for the years and years of dedication to the Borough in various ways. Mr. Corby believes that she was treated unfairly and wanted to go on the record as having said so.

Mr. Fullerton thanked Ms. Hack for all of the hats she has worn in the Borough, and that she has been a pleasure to work with in all facets. He thanked Mayor for bringing him along in this realm, as well as for her time and efforts in the way she has handled all that came her way.

Motion made by Mr. Aird and seconded by Mr. Della Penna to close the public portion.

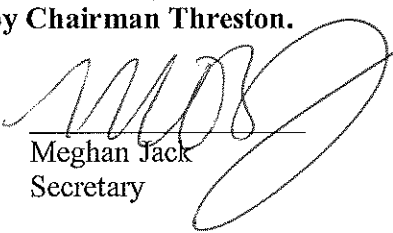
Ayes – All members present.

Nays - None.

Abstentions – None.

Chairman thanked Ms. Hack for her hard work for the Board and the Borough, noting that she will be missed.

There being no further business to attend to, motion made by Ms. Hack and Mr. Wilburn that the meeting be adjourned, and so declared by Chairman Threston.



Meghan Jack
Secretary