

July 23, 2024  
**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, 2024.
- 2) Having sent written notice to the Burlington County Times on January 30, 2024.
- 3) Forwarding written notice for informational purposes only to the Courier Post on January 30, 2024.

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

**Roll Call:** Mayor Quinn, Mr. Ruggiano, Councilman Wilburn, Mr. Della Penna, Ms. Reis, Mr. Martin, Mr. Levins, Mr. Brandt, and Chairman Threston. Solicitor Koutsouris was present. Ms. Reis, Mr. Paszkiewicz, Mr. Flade, Mr. Aird, and Ms. Curcie were excused.

**MINUTES:**

**Motion made by Mr. Della Penna and seconded by Mr. Martin to approve the meeting minutes of the May 28, 2024 Regular Meeting.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

Benjamin Kurland  
303 Bank Avenue  
Block 303, Lot 1, 2, 3, 4  
Minor Subdivision

James Burns came forward on behalf of the Applicant, Benjamin Kurland, who is a majority member of Riverside Propco LLC, owner of the subject lots in the application before the Board. Mr. Burns provided LLC documentation, which was marked Exhibit A-1.

Before Mr. Burns proceeded it was noted that the Board Attorney has reviewed a copy of correspondence and the affidavit of service and certification, indicating that the Board has jurisdiction to hear the matter of Riverside Propco LLC for Minor Subdivision.

Mr. Burns advised the members of the Board that the Applicant appears tonight for what is essentially a lot line adjustment spurred by a lending requirement. The lot adjacent to Delaware River must be subdivided for financing purposes. This is not a development application, but a consolidation of nine (9) lots that are then subdivided into two (2) lots with no intent to sell the subdivided lot. Mr. Burns indicated that the existing structures will all remain on one lot and the open space lot along the River will stand alone.

Mr. Burns presented Houtbeck, Application Engineer and David Rosenberg, Assistant to the Applicant, to the Board as witness and both were sworn in by the Attorney to provide testimony on the application. Mr. Beck then came forward as the Engineer for the Applicant and was qualified by Mr. Burns. The Board accepted Mr. Beck as a qualified expert.

Mr. Burns asked Mr. Beck to provide an overall explanation of the Subdivision Final Plat marked Exhibit A-2 dated 7-19-2024. Mr. Beck advised that his client is seeking minor subdivision approval by way of consolidating all lots and subdividing the back portion to create an open space lot. Mr. Beck explained that there are three (3) associated variances that are existing conditions, front yard setback 0, where 30 is required, side yard 13.7 where 20 is required, and coverage 65.16% where 30% is allowed.

Chairman asked to confirm that the four (4) lots along the River consolidate into one and five (5) lots on street side consolidate into one with no improvements. Mr. Beck indicated yes. Mr. Burns asked Mr. Beck to confirm that there is no planned development, no planned construction, no changes to building envelopes, and no changes to open space. Mr. Beck indicated yes. Mr. Burns asked Mr. Beck if anything changes on any of the lots, existing or created, by way of this application. Mr. Beck indicated no. Mr. Burns asked Mr. Beck if there would be any determinant to the public good or the Master or Zoning plan as a result of this application. Mr. Beck indicated no. Mr. Burns asked if the application meets the requirements of the MLUL and aids the public good. Mr. Beck indicated yes.

Mr. Martin asked why this property needs flood insurance as others do not. Mr. Burns asked Mr. Rosenberg if they pay flood insurance. Mr. Rosenberg advised that he believes so. Mr. Martin asked how we know it is a FPA. Mr. Beck advised that FEMA determines and read from the designation. Mr. Brandt asked why this is required. Mr. Burns indicated that it is a requirement of the lender. Mr. Brandt indicated that the crux of the issue is that there is a river wall there that needs to be maintained and there is a concern that the wall will not be maintained if a subdivision is approved. Mr. Burns advised that the wall exists on its own now and is required to be maintained at present. Mr. Brandt asked if there is accountability for the lot and sea wall if it is sold off. Attorney advised that property owners are always responsible for their property. Attorney also advised that deed restrictions can also be placed upon any approval. Mr. Brandt reiterated that the concern is the maintenance of the sea wall. Mr. Burns advised that the maintenance of the sea wall is in the best interest of the property owner given the investment on

the other lot. Mr. Rosenberg further advised that a full engineering report has been prepared on the sea wall and it is currently up to code. Mr. Burns further advised that FEMA has jurisdiction. Mr. Della Penna asked if the subdivision makes along the bank a buildable lot. Mr. Burns and Mr. Ruggiano advised no. Chairman Threston asked as to terms of the loan. Mr. Rosenberg advised that it was for interior renovations to the main building. Chairman Threston asked if there are any government requirements to do so. Mr. Rosenberg advised no, they are simply making enhancements for residents.

Mr. Martin asked if there is more than one tax bill. Secretary Jack answered yes. Mr. Brandt asked if this would create a negative liability. Mr. Burns advised that the property already has a negative value as it is in the flood plain. Mr. Beck delineated the current lot lines, indicating that the lots already have negative value. Mr. Brandt asked if they can be sold. Attorney advised yes. Mr. Burns advised that the lot lines are simply being moved from one side of the street to the other side of the street for lenders requirements to do interior renovations. Mr. Brandt asked what happens in the future if someone buys the lot that is created. Mr. Martin concurred that Mr. Brandt brought up a good point. Mr. Brandt advised that the land cannot be sold as is. Attorney advised that it can be, as they are pre-existing, non-confirming lots and structures. Mr. Burns advised that the property was purchased by the Applicant as is. Mr. Brandt asked why the Bank is concerned. Mr. Burns advised that it is a federal loan, so the concern is simply the flood plain. Mr. Rosenberg advised that they could place the four (4) lots in a different LLC and walk away from the property. Mr. Brandt asked if that was true. Attorney advised yes. Mr. Brandt asked if the yellow lot line was moved would that have any implications. Attorney advised no. Mr. Brandt asked they could sell the lot with the driveway currently. Attorney asked if the question is if any one of the lots could be sold as is, the answer is yes. Mr. Brandt gave an example of a previous case with two different lots and placing the lots in two different names. Attorney gave examples of how the law applies matters in different cases. Mr. Burns advised that real answer here is that you are consolidating nine (9) lots into two (2) lots, and that the open space lot created will be maintained by the owner in order to protect the main investment.

Mr. Della Penna asked if Riverside Propco LLC only owns these properties. It was answered yes. Mr. Della Penna asked why this is not one lot in the first place. Mr. Burns indicated that they were the existing lots that were purchased.

Chairman asked how many deeds and if there are any covenants restrictions on deeds. Mr. Burns cannot say, but will attest that anything will continue.

Mr. Martin asks if there are any building restrictions. Mr. Burns advised that he is not aware, but that the property does not intend to construct anything.

The Engineer review letter date July 16, 2024 was reviewed by Engineer Hansen. Engineer noted that Bank Street is an easement and the application was reviewed in the vein that under the code there are three front yards. There are three variances required as outlined by Mr. Beck. Mr. Hansen advised that if approval is granted, all documents should be reviewed by Assessor and Attorney. Chairman Threston asked why the Burlington County Planning Department is noted as having jurisdiction. Engincer advised that all subdivision approvals are required to be

reviewed by the County. Chairman asked if there are any other outside agency approvals required. Mr. Hansen advised that he is not aware of any at this time.

**Motion made by Mr. Ruggiano and seconded by Mr. Brandt to open the meeting to public comment.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

Renny Jones came forward, was sworn in by Attorney, and noted concern on Carriage House Lane side regarding the exterior of the house and the overgrown nature of the exterior. Chairman Threston advised that it is not the preview of the Board. The Applicant advised that they would speak after the meeting.

Michael Kearney came forward, was sworn in by Attorney, and suggested that the lot line should go back to the existing so that it cannot be sold without impacting existing main property. Mr. Kearney asked if we know if the flood plain map is correct, as he and his neighbors do not need floor insurance. Chairman Threston advised that flood insurance is subjective. Mr. Kearney also advised that the deed(s) should be researched.

Joseph Pro came forward, was sworn in by Attorney, and advised that clarification is need on the delineations on the flood plain map.

Mr. Burns advised that the professionals for the Applicant, who has been accepted as an expert, has testified that the property is in a flood plain, and that the applicant requires flood insurance, otherwise they would not be here before the Board. Mr. Burns made it clear that the burden of proof for deliberation by the Board has been met. Chairman Threston asked what happens if the application is denied. Mr. Burns advised that besides an appeal, that would be for the property owner to decide. Mr. Rosenberg added that they would have to see how they could proceed with improvements. Attorney advised that federally backed programs require flood insurance. Mr. Burns concurred. Mr. Burns advised that the applicant has exhausted all other avenues of funding so the request for the lot line adjustment is so that the property owner can continue to improve the property for the betterment of the Borough. Mr. Brandt asked if the lot line can be adjusted as suggested. Mr. Beck advised that it is a bad engineering practice and that would likely create additional hurdles to funding. Attorney advised that you can ask that question, but that is not the application before the Board. Mr. Brandt advised that he does not understand why that cannot be done. Mr. Beck advised that the requirement is to subdivide off the flood hazard area and keep the largest portion of the main property. Mr. Burns asked if the flood hazard area has to be separate. Mr. Beck advised yes.

Mr. Pro advised that there is an affordable housing plan for 16 units; what is to stop someone from coming in and buying the property and doing so. Mr. Burns advised that any development

would require Board approval as previously discussed and any restrictions on current deeds would remain in place.

Roger Prichard came forward, was sworn in by Attorney, and advised that based on experience, the lender would like the collateral for the loan not to include the flood zone. Mr. Prichard suggested that the land be deed restricted for open space. Mr. Prichard advised that the current deed lists various tracts/lots and a tutorial would be helpful.

Attorney advised that a deed restriction or a condition of approval is something that can be considered. Mr. Brandt asked if the applicant would consider a restriction to not sell the property without the main property. Mr. Burns advised no.

Judy Rossi advised Mr. Burns that she received notice but that she would have like to receive additional notice. Mr. Burns advised that he complied with the requirements of the MLUL. Mrs. Rossi asked if the funds will be used to improve the carriage house. Mr. Rosenberg advised that they do not have full plans as of yet. Ms. Rossi asked if the lot is grandfathered in for the variances. Mr. Burns advised yes. Ms. Rossi asked to speak with Mr. Rosenberg after the meeting.

Mike Horn came forward, was sworn by the Attorney, and advised of his concern as to consolidating 304 Carriage Lane with the larger estate. Chairman advised that he does not see any implications.

John Martin came forward, was sworn by the Attorney, and wanted to clarify that there was a deed restriction form 1984 that was not to purchase any more property. Creating two deeds, yes. Does this make it easier to offer to someone else, yes, which may not be in the best interest of the town. Would this give any future applicant relief for any future development requirements, such as waterfront development requirements, no. Mentioned the various impervious coverage at 65%, yes, that is created by virtue of the consolidation. Is there a balance test, yes, Mr. Burns, we have to show that there is no substantial determinant, but remember that these are not newly created, they are previously existing.

Mr. Brandt advised that the impervious is a substantial detriment and this is financially based.

Mr. Burns advised that is not correct; the impervious surface coverage is only on paper and Mr. Hansen concurred that the net impervious coverage change is zero. Furthermore, hardships created by an outside agency, of/for financial purposes, occur frequently.

Attorney advised that we have strayed from public comment.

John Martin advised that he did not receive notice and believes he was in 200 feet. The list was produced and Mr. Martin was not on the list.

Mr. Kearney reiterated to use the existing lot lines when consolidating the four lots for 303 Bank Avenue.

**Motion made by Mr. Ruggiano and seconded by Mr. Brandt to close the meeting to public comment.**

**Ayes – All members present.**

**Nays - None.**

**Abstentions – None.**

Attorney advised that relief has been requested from the Board, by which you are bound. You can approve, deny, as well as place conditions or restrictions. Board should entertain a motion to approve or deny the application.

Mr. Martin asked why moving the lot line is arbitrary and capricious. Attorney advised that the gathered professionals concurred that would require a new application due to the unknowns that would be created. It was noted that the application must be voted on, as presented, with any restrictions and/or conditions.

**Motion made by Mr. Ruggiano and seconded by Mr. Quinn to approve the application for minor subdivision.**

Mr. Brandt asked if he could amend the motion. Attorney advised that a new motion would be required under Roberts' Rules.

Mayor surmised that the application would essentially allow this a larger lot to improve and essentially collateralize, which does not make this property more enviable to anyone else, thus not make is more problematic. As far as the portion along the River is concerned, there is no appetite for the Borough to take as a donation or deed restrict to force the property owner into something that they do not want to do, so it will remain as is.

**Ayes – All other members present.**

**Nays – Mr. Brandt.**

**Abstentions – Mr. Martin.**

**The Board took a short recess and reopened with a roll call.**

### **COMMITTEE REPORTS:**

Historic Preservation Review Commission Report – Mr. Prichard advised that there is good momentum going. There are two applicants in for advice on their projects who are both very compliant after getting red tags, 306 Midway and 617 Lippincott. Mr. Lafferty has set the tone that everyone is here to preserve history and invest in Borough. There is some educational work that needs to be done with realtors and investors. Chairman feels as though a joint meeting may

be warranted for some educational purposes as well. Mr. Prichard advised that he feels as though the word development needs to be reviewed and discussed.

Chairman:

Ordinance Review Committee Update – Mr. Brandt advised that the committee is meeting on Monday.

Annual Report – Chairman advised that he and the Secretary are working on the report.

Parking Committee – Chairman advised that he, Mayor, Chief and a few residents are on the Committee. Borough Council passed a recent Ordinance for 90-minute parking and the signage is set to be installed in the coming weeks. There are other long-term plans for additional parking locations, which will be beneficial to residents and businesses. Mayor advised that it is resident led, which has made it a very product group with great recommendations that have led to the Ordinance changes, as well as mid-term goals and long-term goals.

Council Liaison Report – Councilman Wilburn advised that the sewer bill will increase. Council will discuss whether the usage model will be implemented or if the flat fee should remain. Council added teeth to the IPMC for property maintenance for code enforcement, which will aid the Code Enforcement Officer greatly.

Environmental Commission Report – Chairman advised that the group is out collecting stretchy materials with the goal to pull them out of the waste stream. If 1K pounds are collected, you get a treks bench. The Green Team periodically performs maintenance of the rain garden. The Borough recently rejoined with Palmyras Green Team, as sustainable NJ allows points sharing across the towns. Mayor asked if the PB has review mechanisms for EC or Shade Tree. Chairman advised that there has been the notion of this for years.

Minor Site Plans Report – Mr. Ruggiano advised that a couple of individuals have come in to discuss minor site plans, but no formal applications have been submitted to date. Mr. Ruggiano explained the applications that he expects to see before the Board.

### **CORRESPONDENCE:**

None.

### **PUBLIC PORTION:**

No public comment.

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

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