

September 24, 2024
Regular Meeting
7:10p.m.

After the salute to the flag, Chairman Threston made the following 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:

Present: Mr. Ruggiano, Councilman Wilburn, Mr. Della Penna, Mr. Martin, Mr. Levins, Mr. Brandt, Chairman Threston, Solicitor Koutsouris, and Engineer Hanson

Absent: Mayor Quinn, Ms. Reis, Mr. Paszkiewicz, Mr. Flade, Mr. Aird, Ms. Curcie

MINUTES:

Motion made by Mr. Ruggiano and seconded by Mr. Della Penna to approve the meeting minutes of the July 23, 2024 Regular Meeting.

Ayes – All members present.

Nays - None.

Abstentions – None.

RESOLUTIONS:

303 Bank Avenue:

Solicitor Koutsouris spoke about the vote to approve the minor subdivision and 3 variances, and noted the vote was 7 in favor, 1 unexplained abstention, and 1 no, and that, as an abstention counted as a no, the vote was 7-2 in favor of approval of the application.

He stated that he wrote a resolution for approval of the subdivision and variances.

Mr. Koutsouris noted that there were individuals that testified that they did not receive notice of the hearing despite owning property abutting and within 200' of the subject property. Mr. Koutsouris stated that by appearing at the hearing, they waived their right to notice, but that if others were not properly noticed by fault of the applicant, the Planning Board did not have jurisdiction to hear the case.

Mr. Koutsouris also noted that Minor Subdivisions do not necessarily require notice by the NJ Municipal Land Use Law (MLUL) unless required by local ordinance, but that bulk variances do require notice.

Mr. Koutsouris stated his opinion that this application does require notice because of the 3 bulk variances requested.

Mr. Koutsouris summarized noticing procedures in detail.

Mr. Koutsouris stated that the applicant, in not properly listing the addresses, blocks and lots on the application (the application listed only Block 303 lots along the river and not Block 304), did not get a proper list of persons requiring notice, and therefore persons were not properly noticed.

Mr. Koutsouris outlined two options for the Planning Board to follow:

Option 1: adopt the approval resolution, noting the noticing was not proper, or

Option 2: rescind the approval because of improper notice and the board not having jurisdiction.

Mr. Koutsouris stated that Mr. Burns, the applicant's attorney, prepared a letter responding to the notice sent to him regarding the improper noticing. The letter stated that there may have been no harm, and that he doesn't yet have the list of persons who should have been noticed to compare with the list of persons actually noticed. Mr. Burns' letter requested the Board delay any vote on rescission until the next meeting in October.

Mr. Koutsouris asked if the Chair would recognize Mr. Burns, who was present at the meeting.

Chairman Threston recognized Mr. Burns and the receipt of his letter, distributed the letter to board members, allowed time for members to read the letter, and read the last paragraph of letter into the record.

Mr. Burns (applicant's attorney) stated that the applicant complied with the certified list of persons requiring notice, the application was deemed complete, and that he and his client were unaware of any issues with noticing.

Mr. Burns stated that he believes rescinding the approval would prejudice his client.

Mr. Burns said the MLUI states that the abstention was a yes, so the final vote to approve was 8-1.

Mr. Burns requested that he and his client get the corrected list of property owners within 200' so they could compare it to the list of persons noticed

Chairman Threston requested Solicitor Koutsouris to provide the board guidance

Solicitor Koutsouris stated the board should make a motion to either accept or deny Mr. Burns' request

Mr. Brandt made a motion to deny the request to delay and to rescind the approval. He stated that the board had ample information to know that persons were not properly noticed and that the board did not have jurisdiction. The motion was seconded by Mr. Della Penna.

Mr. Threston asked for any other motions

Solicitor Koutsouris explained the motion on the table to the members

Mr. Della Penna questioned why financial considerations were being testified both in this hearing and the last

Mr. Wilburn made a motion to approve Mr. Burns' request to table the matter at the next meeting. Mr. Ruggiano seconded Mr. Wilburn's motion.

Chairman Threston asked for any other motions

Mr. Wilburn asked about the flood plain, and if the applicant's drawings accurately depicted it
Engineer Hanson stated that he had reviewed it further, and that it was correct

Chairman Threston asked for discussion from the board

A **VOTE** was taken on Mr. Brandt's motion to rescind the approval. Mr. Della Penna, Mr. Martin, and Mr. Brandt voted yes. Mr. Ruggiano, Councilman Wilburn, Mr. Levins and Chairman Threston voted no. The motion failed 4-3

Solicitor Koutsouris reviewed the motion in front of the board, and stated that if as few as one person was not properly noticed and was not present at the original hearing, he would advise the board to rescind the approval of the application

A **VOTE** was taken on Councilman Wilburn's motion to approve Mr. Burns' request to table the matter until the October meeting. All members voted yes. The motion passed 7-0.

COMMITTEE REPORTS:

Chairman:

Ordinance Review Committee Update – Chairman Threston stated there would likely be a meeting next week.

Annual Report – Chairman Threston stated that work on the annual report would be deferred due to the resignation of the board secretary

Parking Committee – Chairman Threston stated the Committee's work was essentially done, and they were waiting for the new signs to be installed

Chairman Threston stated that the board needed a technical review committee. Solicitor Koutsouris and Engineer Hanson agreed.

Council Liaison Report – Councilman Wilburn stated that the tree ordinance was passed at the August meeting.

Councilman Wilburn discussed details of the storm water control ordinance and reported that both readings of the ordinance passed, and it needs to go to the county

Councilman Corbi reported that a resolution to repave some roads passed and discussed details

Environmental Commission Report – Councilman Wilburn reported on the Commission's discussion with a Rutgers University representative about bees, particularly honeybees. Mr. Threston discussed additional details of that meeting.

Historic Preservation Commission Report – As Mr. Aird was not present, Chairman Threston asked Mr. Roger Prichard, a member of the Commission who was present, to review. Mr. Prichard stated there have been no applications for demolitions, the public was coping well with the requirements and have been mostly amenable and responsive to suggestions. Mr. Ruggiano advised that he referred a couple of people to HPC, and one was resistant.

Minor Site Plans Report –

Mr. Ruggiano discussed the old National Casein property and that he was diligently working on issues there. He stated the owner intended to apply to the Planning Board in October with some changes. There has or soon will be a change in ownership of the land. Mr. Ruggiano stated he was in contact with the owner of the old WSFS building near CVS, and that the new sign will be covered as the owners don't want to remove it for fear of damaging the building. Mr. Ruggiano said the owner of the building informed him that the future tenants will be notified that they need to come before the Planning Board.

CORRESPONDENCE:

None

PUBLIC PORTION:

Mr. Roger Prichard stated that Mr. Burns was on point on the noticing, and mentioned that the mailing address is the front door of the old mansion

Councilman Kirk Fullerton asked about whether the application will have to be rescinded if anyone was not noticed and did not appear. Solicitor Koutsouris affirmed.

Councilman Fullerton strongly requested the Planner be present. Chairman Threston said she will be here for a new hearing. Councilman Fullerton suggested council be notified

Councilman Bill Corbi asked about attendance of Planning Board members, and possible recourse for poor attendance. Chairman Threston responded with various solutions, and stated most were for good reason. Chairman Threston read paragraph from Cox regarding vacancies (4 consecutive meetings) as suggested by Solicitor Koutsouris

Mr. Michael Kearney stated that it is not an unreasonable request for an applicant to fill out an application properly and stated that "an error on their part does not constitute an emergency on our part".

Mr. Joe Augustyn discussed the current challenges in working with the DEP regarding the storm water ordinance and the frustration of unfunded mandates. He stated he would have preferred a rescission of the approval of the application but was happy with the delay. He suggested the school gym as a venue for the next meeting, and Chairman Threston agreed to consider it. Mr. Augustyn commended Zoning Officer Ruggiano for his work on the old National Casein site. Chairman Threston said he also appreciated Mr. Ruggiano's staying on top of the issues there. Mr. Augustyn mentioned round 4 of affordable housing. Chairman Threston asked about calculating numbers. Mr. Augustyn said Rutgers is preparing the numbers, and a lawsuit has already been filed before the numbers were even released.

CLOSING COMMENTS:

After the meeting was closed to the public, the following comments were made:

Mr. Della Penna commented that the Board Planner should have been at the hearing, and that we need to use all our expertise. Chairman Threston responded that having a technical review committee would likely improve decision making on which professionals are required for a particular application

Solicitor Koutsouris commented that the lifeblood of an organization is the secretary and talked about turnover and the importance of filling that role.

Chairman Threston discussed the inability of the Planning Board Chair and Vice Chair (and members) to access Planning Board records and correspondence. Solicitor Koutsouris stated that there needs to be access to these records.

There being no further business to attend to, a motion was made by Chairman Threston and seconded by Mr. Della Penna that the meeting be adjourned. A vote was taken, all responded yes, and Chairman Threston adjourned the meeting.