

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
JANUARY 17, 2007**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Annual Reorganization – announce mayoral and Council appointments, swear in new/reappointed members, elect chairman and vice chairman
4. Resolutions for meetings and appointment of professionals – chair and secretary
5. Adopt minutes from the November 15, 2006 meeting
6. Old business
 - Mandatory education update – secretary
 - Council/Planning issues report – secretary
 - Other old business
7. Review correspondence and announcements
8. New business
 - Other new business
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
FEBRUARY 21, 2007**

1. Meeting called to order at 7:30 PM
2. Introduce new & reappointed members and swear in by Janet Smith
3. Open public meetings notice act statement and roll call
4. Elect chair and vice chair
5. Adopt minutes from January 17, 2007 meeting
6. Old business
 - Update on education classes
 - Update on Sign Ordinance Revisions
 - Any other old business before the board
7. Review correspondence
8. New business:
 - Consider vouchers/invoices
 - Proposed Changes to Zoning Code concerning historic preservation and volunteer(s) for planning board subcommittee considering changes
 - Any other new business before the board
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON
ZONING BOARD OF ADJUSTMENT
AGENDA
APRIL 18, 2007**

1. Meeting called to order at 7:30 PM
2. Swear in new member by Janet Smith
3. Open public meetings notice act statement and roll call
4. Adopt minutes from February 21, 2007 meeting
5. Public Hearing – MP Townsend, LLC for 523 Howard Street, Block 903, Lot 25, requesting a use variance to convert portion of existing one-floor structure in the NB district for use as a residential apartment
6. Old business
 - Update on Sign Ordinance Revisions
 - Proposed Changes to Zoning Code concerning historic preservation
 - Council/Planning Issues of importance to board
 - Update on education classes
 - 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
MAY16, 2007**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from April 18, 2007 meeting
4. Public Hearing – Raymond & Rebecca Reis, for 306 Seventh Street, Block 1103, Lot 12, requesting a bulk variance for fence on a corner property
5. Public Hearing – Mark & Amy Thomas, for 105 Main Street, Block 401, Lot 13, requesting bulk and expanding non-conforming structure variances for addition to home
6. Old business
 - Adopt & memorialize resolution denying use variance for MP Townsend, LLC for 523 Howard Street, Block 903, Lot 25
 - Change meeting dates
 - Proposed changes to Zoning Code concerning historic preservation
 - Update on Sign Ordinance revisions
 - 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
JUNE 21, 2007**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from May 16, 2007 meeting
4. Old business
 - Adopt & memorialize resolution regarding action taken on the application of Raymond & Rebecca Reis, 306 Seventh Street, Block 1103, Lot 12, for a bulk variance for a fence on a corner property
 - Adopt & memorialize resolution regarding the action taken on the application of Mark & Amy Thomas, for 105 Main Street, Block 401, Lot 13, for bulk and expanding non-conforming structure variances for addition to home
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - 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
OCTOBER 18, 2007**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from June 21, 2007 meeting
4. Public Hearing – Variance Application by Carlos Guzman, PO Box 380, Totowa, NJ 07511, for Waiver or Relief from Ordinances 22-16 and 128-97 (Expiration of Variances) for approved twins on 8th & 9th Streets, Block 1700, Lots 2.01, 2.02, 2.03, and 2.04
5. Old business
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - Education Update
 - 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 15, 2007**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from October 18, 2007 meeting
4. Old business
 - Adopt and memorialize resolution approving Variance Application by Carlos Guzman, PO Box 380, Totowa, NJ 07511, for Waiver or Relief from Ordinances 22-16 and 128-97 (Expiration of Variances) for approved twins on 8th & 9th Streets, Block 1700, Lots 2.01, 2.02, 2.03, and 2.04
 - Report on Planning Board and Council activity of interest to the Zoning Board
 - Education Update
 - Any other old business before the board
5. Review correspondence
6. New business:
 - Consider vouchers/invoices
 - 2008 Budget
 - Any other new business before the board
7. Public Comment
8. Adjournment

RIVERTON BOROUGH ZONING BOARD
MINUTES
January 17, 2007

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 Secretary Ken Palmer.

Secretary Palmer has been appointed by the mayor as Board Secretary for 2007. Chairman Kerry Brandt and Bill Corbi have not yet been reappointed and Vice Chairman John Trotman was absent.

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 23, 2006.

PRESENT: Edward Smyth, Richard Mood, Ken Mills, and Alfred DeVece.

ABSENT: John Trotman, Bill Corbi, and Rob Hoag.

OFFICIALS: Secretary Ken Palmer was present. The presence was not required of any of the other board officials. Councilman Brown was not present.

REORGANIZATION - 2007

Secretary Palmer reviewed that the mayor had appointed him, as a Borough employee, the secretary (with the board's acceptance) for 2007. Mary Lodato has been reappointed as the Code Enforcement Officer, and Councilman William Brown will be the board's council liaison. The mayor has not yet announced the new and reappointed members of the board. New and reappointed members will be announced at the February 7, 2007, Work Session of Borough Council.

Chairman and Vice Chairman: Due to the absence of new and reappointed members, a motion was made by Fred DeVece, seconded by Rick Mood, and passed unanimously to table selection of a chair and vice chair until the next meeting of the board.

Solicitor: Janet Zoltanski Smith Esq. was nominated by Rick Mood and seconded by Fred DeVece to serve as the Zoning Board Solicitor for 2007.

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 Ed Smyth and seconded by Ken Mills that Tamara Lee of Tamara Lee Consulting LLC be reappointed to serve the board as its planner on an on call basis for 2007. The nominations were closed and 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 Ed Smyth and seconded by Ken Mills that Rick Arango of Remington, Vernick & Arango Engineers be reappointed to serve the board as its consulting engineer on an on call basis for 2007. The nominations were closed and a voice vote was taken and the vote was unanimous.

Board Meetings for 2007 – Resolution Z2007-01, the calendar of meetings for February 2007 through January 2008 was reviewed by the secretary. Meetings will continue to be held on the third Wednesday of the month at 7:30 PM. A motion was made by Ed Smyth, seconded by Rick Mood, 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 2007 – Resolution Z2007-02 announcing the appointments of a solicitor, planner and engineer was reviewed by the secretary. A motion was made by Fred DeVece, seconded by Rick

Mood and passed unanimously to accept the resolution, have it published in the Burlington County Times, and mailed to the professionals.

Elect Acting Chair for meeting – A motion was made Rick Mood, seconded by Ken Mills, and passed unanimously to have Ed Smyth serve as acting chair for the meeting. Ed assumed the chair of the meeting and asked the secretary to continue down the agenda for the meeting.

MINUTES: A motion was made by Fred DeVece, seconded by Ken Mills, and unanimously approved to adopt the minutes of November 15, 2006 as distributed.

OLD BUSINESS

Mandatory Education Update – The secretary updated the board on the state approved course offerings by NJPO. The next course offering in the local area is March 17, 2007 in Burlington Township. The secretary will contact NJPO regarding course registration. Several members are interested in this session as well as members of the planning board. The course is approximately 5 hours long and there is an exam. Current members have 18 months from the time the law was enacted or when courses became available whichever is later to take the course. New members have 18 months from their appointment to complete the course.

Sidewalk Signs – The secretary reviewed that the planning board has begun review of the sign ordinance and was looking for a volunteer from the zoning board if one wished to serve. Ed Smyth motioned and Ken Mills seconded that the matter be tabled until the next meeting unless a volunteer stepped up tonight. It was discussed that the revisions may be completed by the next meeting and if the board wanted to have input on the draft, it should appoint a member sooner rather than later. There was no vote.

Planning and Council Matters – The secretary reported that the planning board was working on completing the Master Plan Reexamination Report and complying with COAH's preliminary review of the Borough's petition for Third Round Certification. The subdivision at 815 Homewood was continued following initial testimony, and Mr. Rainer requested an additional continuation on the site plan for 515 Main Street.

CORRESPONDENCE

- Announcement from NJPO of upcoming mandatory training sessions.
- 1/17/07, letter to Kerry Brandt from John Trotman resigning from the board. The secretary read the letter to the board.

NEW BUSINESS

None!

PUBLIC COMMENT ON GENERAL ZONING ISSUES

The meeting was opened to public comment.

- Kerry Brandt, 719 Main Street, commented the board may wish to reconsider tabling the selection of a volunteer to the planning board's sign ordinance revision committee. If the board wishes to have input, a volunteer is needed now since the planning board wishes to consider this matter as soon as possible and has already asked planning board counsel to begin drafting the revisions. Fred DeVece stated he would volunteer and asked who he should contact. The secretary stated that chair of the committee is Joe Katella. The board agreed and Fred said he would contact Joe. Kerry asked if the new members of the board would receive zoning code books and the answer was yes.

There was no further public comment and a motion was made to close the meeting to public comment.

Meeting adjourned at 7:51 PM.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
February 21, 2007

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 acting chair Edward Smyth.

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 27, 2007.

REORGANIZATION - 2007

Solicitor Janet Smith administered the oath of office to new/reappointed regular members Patricia Manzi, William Corbi, and Kerry Brandt and new alternate member Janine Miller. New alternate Craig Greenwood was not present and will be sworn in at the next regular meeting of the board.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Ken Mills, Alfred DeVece, William Corbi, Patricia Manzi, and Janine Miller.

ABSENT: Richard Mood.

OFFICIALS: Board Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present. The presence of the planner and engineer were not required. Councilman Brown and Mary Lodato were not present.

Elect Chairman: Kerry Brandt was nominated by Fred DeVece and seconded by Ed Smyth to serve as Chairman. The nominations were closed and a voice vote was taken and the vote was unanimous.

Elect Vice Chairman: Ken Mills was nominated by Fred DeVece and seconded by Bill Corbi to serve as Vice Chairman. The nominations were closed and a voice vote was taken and the vote was unanimous.

The rest of the reorganization was completed at the January meeting. Kerry Brandt assumed chairing the meeting. Kerry welcomed the new members and discussed the role of the zoning board and the types of matters typically brought before the board. Janet also encouraged members to be familiar with the Borough's Master Plan.

MINUTES: A motion was made by Fred DeVece, seconded by Ed Smyth, and unanimously approved to adopt the minutes of January 17, 2007 as distributed.

OLD BUSINESS

Mandatory Education Update – The secretary updated the board on the time frames for existing and new members to take a course. Current/reappointed members have 18 months from the time the law was enacted or when courses became available whichever is later to take the course. New members have 18 months from their appointment to complete the course. The secretary reviewed the state approved course offerings by NJPO. The next course offering in the local area is March 17, 2007 in Burlington Township. The secretary has contacted NJPO regarding course registration. Several members are interested in this session as well as members of the planning board. The course is approximately 5 hours long and there is an exam. Ken is coordinating registering all members who wish to take the March 17 course. Members interested in the March 17 session should notify the secretary by the 28th at the latest. The cost of the course and the guide book will be paid by the Borough and funds included in the board's budget.

Sidewalk Signs – The secretary reviewed that there has been no new activity besides continued review of the possible revisions to the sign ordinance. Fred DeVece had nothing new to report.

Planning and Council Matters – The secretary reported that the planning board was working on completing the Master Plan Reexamination Report. The ERI project is on track with outreach meetings to be scheduled soon. COAH certification is on hold until the state complies with the recent court ruling. There was discussion on what Third Round certification involved and what must be re-worked once new rules are promulgated. The subdivision at 815 Homewood was approved with several conditions. Kerry reviewed the variances involved with the subdivision. He feels that there may be a call to review and possibly revise the yard definitions and setback requirements in the residential zones. The site plan application for 515 Main Street was again continued with the stipulation that Mr. Rainer must republish and re-notice.

Cedar Lane Mews – The secretary reviewed that the property has been sold and it appears the new owner may wish to proceed on the site plan for the new homes. The secretary asked the solicitor if there was not some portion of the zoning code that establishes a deadline for site plan approvals. Janet replied that since there were numerous variances involved, Section 128-97 concerning expiration of variances may have a bearing on the life of the approval.

CORRESPONDENCE

- Proposed changes to the zoning code by the Historical Society – copies provided to the board.

NEW BUSINESS

Historical Society Proposed Changes to Chapter 128 – Zoning Code – The chair referenced the handout provided the members and reviewed that the Historical Society is proposing changes to increase the protection and preservation of historic properties. The proposed changes were taken from the Haddonfield and new Moorestown laws. There was a lengthy discussion regarding the increased role of the ARC and concerns raised regarding possible controls being placed on a homeowner as to what they can or cannot do to their home. The proposal is currently being reviewed by the planning board and a committee has not yet started any drafting of changes. Janet discussed the background of the Borough's present historic district and code rules in place. There was discussion surrounding the controversy that surrounded both the Haddonfield and Moorestown ordinances and the recent lawsuit filed against the Moorestown law. The chair asked that the members review the proposal and develop an opinion on it. Ed Smyth recalled the turmoil that surrounded the property maintenance proposal that was eventually removed from consideration. The chair feels the intent of the changes is good but he has concerns about the public perception of it. The secretary stated that he believes planning board member Patricia Bruncker will be heading the committee to draft the changes. Patricia is also a member of the Historical Society and was the one who presented the proposed changes to Council.

Brandenburger Main Street Site Possible Landscape Plan Change – The chair advised the board that Mr. Brandenburger may want to make some minor changes to what was on the last submitted landscape plan for the site and will be approaching the board as to whether he will have to apply for an amended site plan or whether it can be considered an aesthetic change that can be approved informally. He has not yet been able to complete the plans and does not want to bring the matter before the board until the plans are prepared.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

There was none.

Meeting adjourned at 9:00 PM.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
April 18, 2007

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 7:40 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 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 27, 2007.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

REORGANIZATION - 2007

Solicitor Janet Smith administered the oath of office to new alternate member Craig Greenwood.

ROLL CALL

PRESENT: Edward Smyth, Richard Mood, Ken Mills, Alfred DeVece, William Corbi, Patricia Manzi, Craig Greenwood, and Janine Miller.

ABSENT: Kerry Brandt.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilman William Brown, and Secretary Ken Palmer were present. The presence of the planner and engineer were not required. Mary Lodato was not present.

MINUTES: A motion was made by Fred DeVece, seconded by Janine Miller, and unanimously approved to adopt the minutes of February 21, 2007 as distributed.

PUBLIC HEARING:

APPLICATION FOR USE VARIANCE TO CONVERT PORTION OF A COMMERCIAL BUILDING TO A RESIDENCE IN THE NEIGHBORHOOD BUSINESS DISTRICT, BY MP TOWNSEND, LLC, 523 HOWARD STREET, BLOCK 903, LOT 25:

The vice chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. There were none. Review of the submissions showed that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant/owner Michael Turley and his architect Richard Sauder were sworn in and applicants attorney Thomas Ehrhardt was introduced.

Testimony – Janet reviewed the applicable sections of the code concerning apartments in commercial structures within the Neighborhood Business district. Mr. Ehrhardt stated the applicant desired an interpretation whether a use variance was needed or if the proposed use could be treated as a conditional use under the zoning code which permits an apartment over a business in the district. Mr. Ehrhardt feels that the proposed use is similar to the intent of the code and may be considered a conditional use. Ken Mills stated he feels it does not meet the provisions of the code. Ken asked if the possibility of adding a second floor to the structure had been considered. The answer was yes but deemed not feasible and will be explained later as needed. Ed Smyth feels the proposed use before the board does not meet the code and a use variance is needed to proceed. Ed reviewed why the conditional use was established when the neighborhood business district was expanded. Janet suggested the board consider a motion that interpretation of the ordinance is that a conditional use of an apartment over a business in the neighborhood business district requires that the apartment be separated from the business and that it be over the business on an upper floor. Fred DeVece motioned that the interpretation is as so stated by the board's attorney and that the board feels a use variance is required for this application. The motion was seconded by Rich Mood. After discussion the

motion passed by a poll vote of 7 to 0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mr. Greenwood	aye		

Janet suggested that Mr. Ehrhardt present the applicants case for a use variance. Michael Turley and his sister are the principals of the LLC and have owned the property for a year. The store-front area is currently rented out to a retail establishment. A portion of the rear area is used by the applicant as a studio for his commercial photography business. Mr. Turley wishes to construct an apartment in the remainder of the rear of the building for his family and for occasional use of the kitchen area for set pieces for his and his wife's photography work. He likens the concept to an artist's loft where the business is conducted essentially as an integral part of the residence. His wife is a photographer also. Living on site also will provide additional security for his equipment which is valuable and his livelihood. Living on site also permits greater utilization of the studio and the ability to better care for the family. The old garage entrance at the front of the building would be used as parking for the proposed residence, delivering product as needed, and an entrance for business clients. There will be little customer traffic to his business. Mr. Turley described the plans for the residence. He also described the construction of the building which is a single story block structure with large steel girders and a very high ceiling. He testified that a second floor residence could not be constructed within the existing structure; a second story would have to be added. Asked if the space could be used for office space, the applicant testified there would be parking issues since there is no off-street parking suitable for such a use and he feels the proposed use will have less of an impact on the town and its parking problems. The location is close to the River Line for his clients and to the park for use of the family. Except for plans to restore the exterior of the building to its original styling, no major changes to the exterior are planned. Locating his residence in the building may actually lessen the number of vehicles arriving and departing the site. The applicant is not aware of similar uses in the district or town unless they are preexisting. The board was not aware of any similar use currently existing.

Janet asked the applicant to address why he feels the residential use is beneficial to the town beyond why he feels it is good for him since the use, if granted, goes beyond his proposed use and goes with the site. She specifically mentioned that: the proposed use stays with the site, the use creates a residence where none exists now, the use mixes commercial and residential use in close proximity to each other, there is apparently no yard area, there is no offsite parking, and there is no space for a buffer. Janet also asked if the plan was feasible from a construction code perspective. Mr. Turley stated that according to the Borough Construction official, the project could be done and comply with the building codes. Mr. Turley explained the location of the structure in relation to the surrounding buildings. Mr. Turley feels the currently vacant space is not suitable for retail space based on the parking needs for a larger retail use. Parking is not available for office space use. Asked if a second story could be added, Mr. Turley stated the existing structure was too high to make a second story feasible. Also, he feels it is safer to have the residence on the first floor. Statements from the board provided history that the building was originally a new car dealership with a showroom in front with service/storage in the rear. The old showroom serves the current retail use. Mr. Turley does not intend to rent out the apartment but to live in it for the foreseeable future. The height of the building and its construction realistically rules out erecting a second story. Mr. Turley feels the proximity to the school, the park, the windows in the building, and the seclusion of the rear area all serve to make the space suitable for a residential use in the building. He feels the proposed use would have the least impact on the town, is ideal for his needs, and it would be beneficial for the town to foster this kind of use.

Ken Mills stated that while the site as currently configured may not be suitable for all commercial use, the site could possibly be reconfigured for better retail/commercial uses. Since there has been no site plan filed or professional review, the uses are pure conjecture at his time. Mr. Ehrhardt stated that the building is not suitable for straight commercial/retail use without major renovations. Janet asked if there was a hallway present now and the answer was no it would part of the residence construction. Janet stated that the circumstances being discussed were current only to the present use and it is conceivable the owners could rent the entire site to a single tenant with renovations to be made to accommodate a single commercial/retail use. Janine Miller asked if there were building code issues to properly separate the residence from the commercial space. The answer was yes but that would be an issue for the construction code officials and the builder to ensure the construction met codes. Mr. Corbi feels the applicant purchased the site as a commercial site and it should probably remain as such. Mr. DeVece also feels the

site should be retained for commercial use and if a residential component is to be added, it should be built above the current structure.

Mr. Sauder, the architect, was introduced and following presentation of his credentials, testified to his experience with mixed use structures. He feels the building and site does not lend itself to multiple commercial tenants. He feels the proposed mixed use provides the best use with the least impact on the town. He doesn't feel there is a detriment to the proposed use and it will benefit the town by permitting more complete utilization of the resource. The building is approximately 18 feet high now and to overbuild the existing roof to allow a second story would result in a second story starting at least 20 feet high. An elevator for a single tenant is not justified. He doesn't feel there is sufficient frontage to support more than one mercantile establishment which needs frontage exposure to be viable. He feels the structure will support the planned use.

Janet asked that while it is common to have mixed use buildings in cities, is it common practice to have residential units on the same floor as the commercial uses. The architect did not really provide an answer. Mr. Sauder asked the board for clarification on the town's code regarding apartments over businesses and it was provided. Asked to speak to the suitability of the proposed use, Mr. Sauder stated it is appealing for what the owner wants, meets the owner's needs, and is the best multiple use with the least impact on the town. Mr. Corbi asked if the existing structure could be modified to lower the height and add a second story. The existing structure is block and steel girders and would require a major renovation, the expense of which probably can't be justified. Mr. Ehrhardt asked Mr. Sauder to restate his objection to adding a second story and he again referred to the need to overbuild the roof to permit the addition of a second story which will result in the need to have an approximately 20 feet high stairway to reach the second story. Mr. Turley stated if a second story was added, it would be at least 6-8 feet higher than the neighboring two-story structure. Vice chair Mills asked the applicant if he had considered other uses than what is being proposed. Mr. Turley reviewed his previous thoughts and why he feels that the proposed use is not only best for him but also best for the town. He feels if it was reasonable to use the site differently, it would have been. Instead it has stood vacant or underused for a long time. Mr. Turley stated again that it is his intent to use the structure as proposed for the long term. He feels it is what he needs and he has no plans to move if the use is permitted.

There were no additional questions from the board and the vice chair asked for a motion to open the matter to the public. Ed Smyth motioned and Rich Mood seconded opening the hearing to public comment. All persons were sworn in before commenting.

- Cynthia Brooks, 304 Broad Street, stated she has known the applicant for a long time on a professional level. She herself runs a business on the first floor and lives above it on the second floor in the district. She appreciates the artist in residence concept and feels the proposed use serves that concept. She asked if there is any other situation in the town where this concept exists. The studio on Main Street was mentioned; but, it was also mentioned that the living space was on the second floor. Janet stated that there is nothing in the code currently related to "artist in residence." Cynthia asked if the proposed use would be marketable. Janet stated that while it may be marketable, that is not the issue. The issue is that what is proposed is not permitted and the board needs to determine if it is suitable for the area, benefits the town, and serves the overall good of the Borough. Just because it is marketable doesn't satisfy the reasons to provide a use variance. In addition there are not the amenities usually connected with residences at this site.
- Roy Vollmer, 521 Howard Street, stated he had his architect business next to the site. He supports the application and feels the site is great for an artist in residence use. He mentioned examples in Philadelphia and New York City where factory or strictly commercial sites had been successfully renovated to mixed use or strictly residential use. He feels that as long as the health, welfare, and safety issues are addressed there is no problem with the residential use being on the first floor. Professional photographers are more artists than business people and their work is particularly suited to artist in residence use where it is more a studio with living accommodations rather than an apartment. When he first moved to town he operated his architect business out of his home. Janet asked and received details of how Mr. Vollmer operated out of his home. Janet stated that the code does provide for home based occupations; but, that in those cases the occupation use is ancillary to the residential use. The home based occupation dedicates a portion of the residence for business use. It does not, as is being proposed here, convert a primarily commercial use to an ancillary residential use. Perhaps the master plan and codes need to be revised if there is deemed a need for this type of use; but, that is not the case now. Janet reviewed that the second floor residence concept came about because of the many

structures in the district that had already had that type of use or it provided a way to utilize multilevel structures in the district that because of the particular conditions in the district were better suited to that type of mixed use rather than strictly residential use.

There was no further public comment and Fred DeVece motioned and Janine Miller seconded that the hearing be closed to public comment.

Deliberation – There were no further questions of the applicant and Ken asked if the board was prepared to make a motion on the matter. Tom Ehrhardt suggested he summarize things for the board and he was asked to do so. He summarized the applicant’s position that the rear of the site does not lend itself to for multiple business use, it is particularly suited to a studio/residence use, it is not a detriment to the public good, he feels the use was contemplated by the conditional mixed use provisions in the district and maximizes the possible use of the site. Mr. Ehrhardt went on to further define why he feels the proposed use meets the ideals of the Master Plan.

Ed Smyth commented that he doesn’t feel the applicant has met the burden to justify a use variance. While Mr. Turley has testified why the use would be a convenience to him and that the site is currently underutilized and may be considered a detriment to the downtown; he has not demonstrated that it is best for the town that the site be changed to permit a residence in a commercial area. While the board does consider the particular merits of the application, the applicant, and the immediate effects of a proposal; the board must also consider the long term impact on the town and all the impacts granting the use variance might have. Ken Mills stated that the board cannot consider economics of a proposal when considering approving or denying an application especially a use variance. Apartments over businesses in the neighborhood business district are a conditional use and as such are subject to review and consideration on a case by case basis. The use must be suitable to the site. Janet added that it is important to keep in mind that apartments are not a permitted use anywhere in town and they are only a conditional use with strict definitions in the neighborhood business district. Also it should be noted that the artists lofts concept discussed are residential not commercial. Finally the application is a significant change in the nature of the property. Ken stated he feels if there is no more testimony to be given, the board needs keep the matter at hand in mind and needs to consider making a motion to approve or deny the application. The applicant is owed as much. Ed Smyth concurred and moved that the applicant’s request for a use variance to construct an apartment on the first floor of the building be denied. Fred DeVece seconded the motion. Janet reviewed that for the motion as made, a vote of aye is a vote to deny the application and a vote of nay signifies a vote against denying the application. A poll vote of the board denied the application by a vote of 5 to 2 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	nay
Mr. Greenwood	nay		

OLD BUSINESS

Sidewalk Signs – Fred DeVece stated he had not heard anything from Joe Katella since contacting him to be on the committee and asking to be kept informed. The secretary reviewed that there has not been any new activity since the board is concentrating on completing the reexamination of the master plan.

Proposed Historic Preservation Changes to Chapter 128 – Zoning Code – The secretary briefly reviewed the letter from the ARC regarding the proposed changes, copies of which had been distributed to the board. Janet asked about the attached table of contents. The secretary related it was supposedly related to a model property maintenance ordinance that is not overly intrusive and was included as a possible interest to the planning board. The history of property maintenance issues in the Borough was discussed and the ebb and flow of interest in the subject.

Council Matters – Councilman Brown related that there is interest in putting together a committee of ARC, Historical Society, planning board and zoning board members to discuss the preservation/maintenance issue. Council sees merit in the gist of the proposal and has tasked the planning board to consider and make a recommendation on the matter. Mr. Brown feels the current code enforcement officer is doing a good job. He has concerns regarding the use of the Health Department to address issues and their statement that they cannot enter a private property without just cause. Janet stated that when it comes to private property issues, public agencies are very restricted in the actions available to them. Mr. Brown stated there is a lot of concern over some properties that appear to be in a constant need of repair yet nothing was being done.

Mandatory Education Update – The secretary reported there was no update on new classes other than previously reported on the possibility of a class in Maple Shade in September. The secretary also briefed the board on his research on class requirements. He had obtained information from the state DCA web page that states the class must be taken one-time only. In addition, for members serving as of July 2006, when the law was enacted, the deadline for taking the course is January 2008.

CORRESPONDENCE

- ARC Response to the proposed changes to the zoning code by the Historical Society – copies provided to the board.

NEW BUSINESS

Vouchers and Invoices:

- 3/2/07, Janet Zoltanski Smith, \$492.00, professional services 10/06 – 2/07 and meeting attendance in February.

Fred DeVece moved, Rick Mood seconded, and the vote was unanimous to pay the invoice as presented. The secretary will make sure the invoice is signed and submitted for payment.

Change Meeting Date – The vice chair suggested that the board consider changing the meeting date to the third Thursday of the month. There were unresolved issues raised. It was also discussed moving it just for the summer months; but again nothing was decided. It was noted by the secretary and Janet that procedurally all that had to occur was for the board to approve a resolution to the change the date and that the new dates would be published and posted. The secretary suggested that nothing be done for May as he had already discussed with possible applicants that the May date was the 16th. The matter was tabled until the May meeting.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

There was none.

Meeting adjourned at 10:05 PM.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
May 16, 2007

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 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 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 27, 2007.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Edward Smyth, Richard Mood, Ken Mills, Alfred DeVece, William Corbi, Patricia Manzi, and Janine Miller.

ABSENT: Kerry Brandt and Craig Greenwood.

OFFICIALS: Board Solicitor Janet Zoltanski Smith, Councilman William Brown, and Secretary Ken Palmer were present. The presence of the planner and engineer were not required. Mary Lodato was not present.

MINUTES: A motion was made by Fred DeVece, seconded by Richard Mood, and unanimously approved to adopt the minutes of April 18, 2007 as distributed.

PUBLIC HEARINGS:

APPLICATION FOR BULK VARIANCE FOR A FENCE ON A CORNER PROPERTY, BY RAYMOND & REBECCA REIS, 306 SEVENTH STREET, BLOCK 1103, LOT 12:

The vice chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. Rich Mood, as a notified property owner, recused himself and stepped down. Review of the submissions showed that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant Raymond Reis was sworn in.

Testimony – Janet reviewed the applicable sections of the code concerning fences on corner properties and the setback requirements. The applicant wishes to erect a fence along part of the side yard and rear yard that will extend to the property line. On corner properties, the street side setback of the side and rear yards is the same as the front yard setback. This will severely limit the area of his yard that can be secured for children and pets. A four foot picket fence is proposed. The fence will be no closer than six feet from the garage at the rear of the property to preserve site lines to the street. The neighbor's side yard hedge row on the other side of the garage that extends to the front property line is actually closer and more restrictive than the proposed fence. Asked to explain the side yard portion, the applicant stated the fence would extend to the rear of a side porch to allow steps from the porch to access the fenced area. The property line is inside the sidewalk line. Ed Smyth asked if Lippincott Avenue was wide at his residence and the applicant stated it is and does not narrow until further East. Janet explained the rationale for the ordinance since the proposed fence creates an inconsistent streetscape because the adjoining properties cannot have a fence in the front yard. The applicant stated that the neighbor's hedge row at the back of his property already extends to the front property line. Also, the applicant commented that there are other side yard fences on corner properties in the area similar to what he is proposing. In reality the yard area between the street and the house is larger than his rear yard because it is a corner property.

There were no additional questions from the board and the vice chair asked for a motion to open the matter to the public. Fred DeVece motioned and Bill Corbi seconded opening the hearing to public comment. All persons were

sworn in before commenting.

- Rich Mood, 620 Lippincott Avenue, stated the applicants are good neighbors, have improved the property, cleaned up the yard, and he feels the variance is worth while.

There was no further public comment and Fred DeVece motioned and Patricia Manzi seconded that the hearing be closed to public comment.

Deliberation – There were no further questions of the applicant and Ken asked if the board was prepared to make a motion on the matter. Janet suggested that he board might consider granting a variance to permit erecting a fence along the side and rear yard of the street side of his property from the rear of the side porch to the rear as presented on the plan that will be one foot inside the property line or sidewalk whichever provides the greater setback. Fred DeVece motioned that the variance be granted as suggested by Janet and Janine Miller seconded the motion. A poll vote of the board approved the application by a vote of 6 to 0 as follows:

Mr. Smyth	aye	Mr. Mills	aye
Mr. DeVece	aye	Mr. Corbi	aye
Mrs. Manzi	aye	Mrs. Miller	aye

APPLICATION FOR BULK VARIANCES AND EXPANDING A NONCONFORMING STRUCTURE, BY MARK & AMY THOMAS, 105 MAIN STREET, BLOCK 401, LOT 13:

The vice chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. There were none. Review of the submissions showed that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant Mark Thomas and his architect Walter “Hank” Croft were sworn in.

Testimony – Hank reviewed that it is a corner property and the existing structure is nonconforming regarding the set back from the side street. An addition is proposed that while not as close to the street as the existing structure still will be closer than the code permits. On the other side of the property, an extension of the existing front porch is proposed which will join a proposed new side yard patio with an outdoor fireplace that will be four feet from the adjoining side yard property line. They also propose to move the existing garage towards the street; but, it will be located at least three feet from the rear lot line and twenty-five feet from the street. Hank discussed the orientation of the fireplace. He also produced photos of the existing property to help orient the board. With the addition, patio, and side porch, the amount of lot coverage will be 41% which exceeds the allowable 35%. Janet asked why the fireplace needed to be so close to the property line. Hank explained it had to do with the orientation of the patio to the house and to maintain the fireplace a desired distance from the house. Members asked and received clarification on the need for the side yard variance on the side street side. The issue and need for lot coverage variance was discussed and clarified. It was testified that the proposed porch and patio were planned to better utilize an existing low area of the property that retains a high level of moisture. Regarding drainage in the area of the porch, Hank stated that the design of the gutters and downspouts would make sure the drainage did not impact the side yard area between the two properties. Ken Mills suggested that something similar to a drywell might ease the drainage impact of the increased lot coverage. Hank stated the applicant was willing to consider adding a drywell that will be rated to handle the runoff from the increased lot coverage and to provide the calculations to the engineer for approval.

There were no additional questions from the board and the vice chair asked for a motion to open the matter to the public. Fred DeVece motioned and Rich Mood seconded opening the hearing to public comment. All persons were sworn in before commenting.

- Ed Gilmore, 103 Main, asked and received clarification of the side yard issues. While he likes the overall plan he feels the screened in portion of the proposed porch extension should not be screened and the resolution should ensure the style of the new porch is kept to the style of the current structure.

- Teresa Larson, 103A Main Street, asked if the front porch was nonconforming and would the new porch also be non-conforming. It was explained that the nonconformity was for the side of the building facing Second Street. There is no nonconformity concerning the porches. The only nonconforming issue along the side is the proposed patio area with the fireplace. The rear yard issue was clarified for her.
- Sherman Larson, 103A Main Street, feels the drainage from the patio should be treated the same as from the new porch roof. Ken Mills agreed and any resolution of the plans if they are approved will deal with drainage from the new impervious area. Mr. Sherman asked about regulations concerning outdoor fireplaces and it was explained they are subject to the building code. Mrs. Larson feels the fireplace may be too close to the property line and may be too close to the existing carriage house on her property; but, this may not be an issue. She referred to a survey of her property which was entered into the evidence as exhibit P-1.

There was no further public comment and the hearing was closed to public comment.

Deliberation – Janet asked if the plans had been reviewed by the ARC and Hank stated not yet but will be. Bill Corbi suggested the proposed fireplace be relocated to avoid the need for a variance. Ken Mills asked if the applicant was open to revising the patio and fireplace area and the applicant stated they were willing to listen to opinions and based on the vote on that issue may be willing to reconsider the design. Janet suggested that the board could consider the various variances separately specifically the fireplace issue. The applicant is entitled to a vote on the application variances requested. Hank asked if a denial of any of the issues precluded the applicant revising and coming back if needed. He was told no, they could always reapply if necessary; and, if he revises the plan to have the patio and fireplace at least ten feet from the property line, no variance is needed. There were no further questions of the applicant and Ken asked if the board was prepared to consider motions on the matter.

Janet suggested that the board first consider granting a variance to permit constructing the addition twenty feet from the side yard street and thus also granting the extension of a non-conforming building. Fred DeVece motioned that the variance as suggested be granted and Rich Mood seconded the motion. Following clarification that the board was considering the variances separately the motion was approved by a poll vote of 7-0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Janet suggested the board consider allowing impervious coverage of 41% conditioned on the applicant providing a drywell to handle the additional 6% excess impervious coverage over the 35% permitted in the ordinance with the calculations being provided to the board’s engineer for approval. Rich Mood motioned that the variance as suggested be granted and Fred DeVece seconded the motion. There was no further discussion and the motion was approved by a poll vote of 7-0 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Janet suggested the board could grant a variance to allow the four-foot side yard setback for the fireplace and patio on the North side of the property. There was no motion made.

Janet suggested the board consider a motion denying the variance for the four-foot side yard setback for the fireplace and patio. Ed Smyth motioned that the variance for the side yard setback for the fireplace and patio be denied as suggested. Patricia Manzi seconded the motion. There was no further discussion and the motion to deny the variance was approved by a poll vote of 6-1 as follows:

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	nay	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye
Mrs. Miller	aye		

Hank Croft asked for a clarification regarding the impact of the denial of the fireplace and patio. If the plans are revised to not build the patio and side porch the impervious coverage is within the 35% allowed. As long as the coverage is within the allowable limit, does the drywell have to be provided? The answer was no as long as the coverage does not exceed the permitted coverage. There is concern that the coverage issue will not be caught if it is not addressed up front. The requirement for the drywell is not required unless the impervious coverage exceeds 35%. The variance is only good for two years to complete construction.

OLD BUSINESS

Resolution, Case # 2007-01: Denial of the Application For Use Variance To Convert Portion Of A Commercial Building To A Residence In The Neighborhood Business District, By MP Townsend, LLC, 523 Howard Street, Block 903, Lot 25 – Only members who participated in the hearing may act on the resolution. The chair asked if the members had read the resolution and if there were any comments or questions. All stated they had read the resolution and there were no comments or questions. Ed Smyth motioned and Janine Miller seconded that the resolution referenced by title be adopted and memorialized. The motion passed by a unanimous poll vote of the members eligible to vote.

Mr. Smyth	aye	Mr. Mood	aye
Mr. Mills	aye	Mr. DeVece	aye
Mr. Corbi	aye	Mrs. Manzi	aye

Change Meeting Date – The vice chair stated that he had talked over this matter with the chair and the mayor and they had no objection to changing the meeting date to the third Thursday of the month. Borough Hall is available. There was discussion and while some members stated they may have a conflict in certain months there was no general objection. Ken Mills motioned that the meeting date of the board be changed permanently beginning with the June 2007 date to the third Thursday of the month. Janine Miller seconded the motion. Following additional discussion, the motion was approved by a unanimous voice vote. The secretary will have a revised schedule for the rest of 2007 and January 2008 published and posted as required. He will also make sure the web site is revised.

Proposed Historic Preservation Changes to Chapter 128 – Zoning Code – The secretary reported that the planning board is currently deciding on a new chair for the committee and the general feeling of the board was not to vigorously pursue the matter until a way of addressing the perceived opposition to property maintenance controls can be determined.

Sidewalk Signs – The planning board is not pursuing this issue until the reexamination of the master plan is completed.

Planning Board & Council Matters – The secretary reported on the planning board's action on the reexamination of the master plan, the ERI study and other activities. A public hearing on the reexamination report will be held next month. The ability of the planning board to issue guidelines concerning inconsistencies in the zoning code was discussed. Grant activity by Council was reviewed. Janet reviewed correspondence she had that there is legislation being proposed that will limit a municipality's ability to control development.

Mandatory Education Update – The secretary distributed the books ordered for the members and stated there was nothing new on the next course offerings.

CORRESPONDENCE

- There was none.

NEW BUSINESS

Vouchers and Invoices:

- 5/16/07, Janet Zoltanski Smith, \$169.00, professional services during April and May and meeting attendance in April.
- 5/16/07, Janet Zoltanski Smith, \$546.00, for services connected with the MP Townsend LLC application. (To be paid from escrow.)

Fred DeVece moved, Rick Mood seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

There was none.

Meeting adjourned at 9:50 PM.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
June 21, 2007

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 May 25, 2007.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Ken Mills, Alfred DeVece, Craig Greenwood, and Janine Miller.

ABSENT: Richard Mood, William Corbi, and Patricia Manzi.

OFFICIALS: Secretary Ken Palmer was present.

MINUTES: A motion was made by Fred DeVece, seconded by Ed Smyth, and unanimously approved to adopt the minutes of May 16, 2007 as distributed.

OLD BUSINESS

Resolution, Case # 2007-02: Approval of the Application For Bulk Variance For a Fence On a Corner Property, By Raymond & Rebecca Reis, 306 Seventh Street, Block 1103, Lot 12– Only members who participated in the hearing may act on the resolution. The chair asked if the members had read the resolution and if there were any comments or questions. All stated they had read the resolution and there were no comments or questions. Ed Smyth motioned and Ken Mills seconded that the resolution referenced by title be adopted and memorialized. The motion passed by a unanimous poll vote of the four members eligible to vote.

Mr. Smyth	aye	Mr. Mills	aye
Mr. DeVece	aye	Mrs. Miller	aye

Resolution, Case # 2007-03: Partial Approval and Partial Denial of the Application For Bulk Variances and Expanding a Nonconforming Structure, By Mark & Amy Thomas, 105 Main Street, Block 401, Lot 13 – Only members who participated in the hearing may act on the resolution. The chair asked if the members had read the resolution and if there were any comments or questions. All stated they had read the resolution and there were no comments or questions. Ken Mills motioned and Fred DeVece seconded that the resolution referenced by title be adopted and memorialized. The motion passed by a unanimous poll vote of the four members eligible to vote.

Mr. Smyth	aye	Mr. Mills	aye
Mr. DeVece	aye	Mrs. Miller	aye

Proposed Historic Preservation Changes to Chapter 128-Zoning Code – The secretary reported that the planning board is currently going to review the report from the ARC and thoroughly review the proposal by Mrs. Bruncker. This will be a topic for next month’s meeting. The planning board is concerned about the property maintenance issues of the proposal. Now that the reexamination of the Master Plan is complete, greater effort will be devoted to this topic.

Sidewalk Signs – The secretary reported that this matter has also been tabled until the reexamination of the Master Plan was completed. The matter will be brought up next month. The chair stated he was going to contact the planning chair on the matter.

Planning Board & Council Matters – The secretary reported that the planning board had completed and adopted the reexamination report of the Master Plan. It is now an official amendment to the plan. The chair asked what the report stated regarding the conditional use apartments over businesses in the NB district since he has heard there has been some opposition to allowing any more apartments in the Borough. The secretary reported that the report recommended that the issue be looked at as to whether the use needs to be revised or possibly rescinded. Work on the ERI study continues with the public meetings being pulled together. Council continues to pursue various grants. Council has approved placement of the Peace Pole in the park.

CORRESPONDENCE

- There was none.

NEW BUSINESS

Vouchers and Invoices:

- 6/20/07, Janet Zoltanski Smith, \$78.00, professional services during May and meeting attendance in May.
- 6/20/07, Janet Zoltanski Smith, \$279.00, for services connected with the Reis, 306 Seventh Street application. (To be paid from escrow.)
- 6/20/07, Janet Zoltanski Smith, \$416.00, for services connected with the Thomas, 105 Main Street application. (To be paid from escrow.)

Fred DeVece moved, Craig Greenwood seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

Subdivision Requiring Use Variance:

The secretary reviewed that Gary Ford has submitted a minor subdivision application for his property on Bank Avenue. During review it was noted that the property is an existing multi family use. As such the application will require a use variance because subdivision is considered an expansion of a nonconforming use. Case law supports that subdividing the property intensifies the nonconforming use because the density is increased by the subdivision. There are also bulk variances involved. Mr. Ford has indicated that he wishes to still pursue the application and has stated that he will republish and re-notice an amended application. He may try to be prepared for the July meeting. The chair commented that this will be an important application. He reviewed the code as he understood why the use variance is needed. He also stated that he would make sure the members had copies of the pertinent material for their review along with the application including the case referenced.

Condominiums – The chair and the board discussed the rumors that there appears to be interest in erecting condominiums in the NB district. The fact that they are not permitted anywhere in the Borough was discussed as well as the affordable housing aspects.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

A motion was made by Fred DeVece and seconded by Janine Miller to open the meeting to public comment.

- Dorie Yezzi, 421 Elm Avenue, had questions about a variance for an above ground swimming pool. The chair discussed the matter in broad strokes; but, also informed her that she needs to review the matter with the code enforcement officer and that the board cannot render any opinion nor grant a variance unless it has an application before it to hear. The board also cannot state ahead of time whether a variance will or will not be granted.

There was no further comment and a motion was made by Fred DeVece and seconded by Ken Mills to close the meeting to public comment.

Meeting adjourned at 8:21 PM.

Tape is on file.

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

RIVERTON BOROUGH ZONING BOARD
MINUTES
October 18, 2007

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 May 25, 2007.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

ROLL CALL

PRESENT: Kerry Brandt, Edward Smyth, Richard Mood, William Corbi, and Patricia Manzi.

ABSENT: Ken Mills, Alfred DeVece, Craig Greenwood, and Janine Miller.

OFFICIALS: Board solicitor Janet Smith, board planner Tamara Lee, and Secretary Ken Palmer were present.

MINUTES: A motion was made by Ed Smyth, seconded by Bill Corbi, and unanimously approved to adopt the minutes of June 21, 2007 as distributed.

PUBLIC HEARINGS:

Variance Application by Carlos Guzman, PO Box 380, Totowa, NJ 07511, for Waiver or Relief from Ordinances 22-16 and 128-97 (Expiration of Variances) for approved twins on 8th & 9th Streets, Block 1700, Lots 2.01, 2.02, 2.03, and 2.04

The chair introduced the topic and asked the board if personal or business conflicts prevented any member from hearing the application. There were none. Following resolution of questions regarding proof of notice to the property owners it was concluded that all jurisdictional requirements had been met and Janet stated the hearing could proceed. The applicant's attorney Thomas Ehrhardt stated that the applicant and his architect would testify. Mark Guzman and his architect Walter "Hank" Croft were sworn in.

Testimony – The chair reviewed the history of the site plan application filed by the previous owner of the property and the approvals granted including use variances, subdivision, bulk variances, and final site plan approval to erect four semidetached dwellings for age restricted housing. Copies of the prior resolutions regarding the site plan application approvals being considered for variances were distributed to the members for review. Board solicitor Janet Smith added some details. Mr. Ehrhardt summarized the application as seeking relief from the two sunset provisions of the code regarding starting construction within six months of approval of the variances (Section 22-16) and completing construction within two years of the approval (Section 128-97). A minor change to the proposed and approved design of the dwellings is also requested. The applicant desires an additional six months to complete all requirements and conditions of the original approval and at least a one year extension of the completion requirement. The six month tolling had expired prior to the applicant purchasing the property and the delay in beginning construction caused by the issues necessitating this variance application do not permit completing construction by the two year tolling. Janet explained that the board may wish to consider granting extensions prior to any further approvals being considered. The chair stated that he feels that the issue of dates must be definitively established. The applicant agreed to a defined start date and completion date. Janet summarized that before construction can begin, additional research has determined that: the subdivision needs to be re-filed as a major subdivision via map filing instead of the minor subdivision that was filed by deed; and the site plan was never modified per condition of the approval and never signed (perfected). The question of how the COAH requirement was to be satisfied was never resolved.

Janet Smith reviewed her report which stated that case law allows time limits to be set on variances as well as providing for extensions for good cause. The board can and should consider whether due diligence was exercised. Since the only issue is whether to waive the ordinance deadlines and the use variances previously granted are not at issue, the current members can hear this matter and decision can be rendered by a simple majority vote of the members present.

Tamara Lee reviewed her report where she discussed that the subdivision had been incorrectly filed as minor rather than major. Further, an agreement has never been reached on how to satisfy the Borough's Round Three COAH obligation. Tamara feels the board needs to consider why it has taken so long to begin construction, if the applicant has shown due diligence, and if anything has changed in the town's codes or other circumstances that would lead the board to conclude differently than it did during the site plan hearings.

Mr. Guzman testified that he finally closed on the property in August 2006, following protracted negotiations. Part of the delay was due to questions over whether the subdivision was minor or major. Based on the opinion of the board's engineer that it was a minor subdivision the subdivision was filed as such and Mr. Guzman concluded the purchase. Correspondence between Mrs. Smith, Mr. Arango and the attorney for the applicant's bank related to the subdivision questions were entered as exhibits A1 and A2. Mr. Guzman testified that when he purchased the property all he had was proof that there were four building lots and the renderings approved during the site plan approval. It was his opinion that the renderings did not meet the requirement of a design that compliments the town and age restricted needs. He also needed complete working plans before he could begin construction. He initially approached Mr. Croft in the fall of 2006 to see if the plans could be redesigned. Mr. Guzman testified that additionally as owner of the existing apartments he had to devote considerable time and effort to correcting existing deficiencies and maintenance issues. By the time he could devote his full efforts to redesigning the houses, it was winter and the finance market had greatly softened to where he might be unable to obtain the construction financing. In the February-March 2007 time period, Mr. Guzman officially retained Mr. Croft to prepare a full set of construction plans for the redesigned homes. Following numerous revisions and with possible financing in hand he and Mr. Croft approached the Borough zoning and construction officials for permits only to find out that the site plans he was given had never been revised or perfected as conditioned in the approval. Also he discovered that the time period for beginning construction had expired and the time period to complete construction would expire in November 2007. He retained Mr. Ehrhardt to help straighten things out and to seek any extensions, waivers, or additional variances needed to go forth with construction.

As to why it took so long to complete the working plans, Mr. Croft testified that the plans presented during the site plan hearings were testified to as preliminary and that the original applicant felt they were suitable. Mr. Croft stated that he was completely taken by surprise when he learned that Mr. Flamini had sold the property. When Mr. Guzman approached him, he became aware that Mr. Guzman's opinion of what was suitable differed greatly from Mr. Flamini's. Once many questions regarding contractors and other design issues were resolved; preparation of the working plans began in May 2007, and were completed in July. Mr. Croft stated it is not unusual to take several months and revisions until the client and architect were in full agreement and all details are worked out.

Bill Corbi asked if Mr. Guzman had ever been informed that the variances had or may be expiring and the answer was no. Mr. Guzman stated that he was not aware of the six month requirement and he thought the two year time period began when construction started. The chair asked if the attorneys involved with the purchase had ever apprised Mr. Guzman of concerns about the variances or site plans. Mr. Guzman stated that during the purchase the only issue that kept coming up was the subdivision issue and once that was supposedly resolved, the purchase was completed.

Mr. Ehrhardt and Janet discussed the validity of and agreed that consideration of the difficulty in obtaining financing can be considered. Janet was also concerned that the new revisions and cost of the units may price the homes out of the market range of the intended purchasers. Mr. Guzman stated that he feels he and Mr. Croft have come up with a set of plans that will result in a better designed home and within the desired price range of the higher end empty nester wishing to downsize from their existing home, avail themselves of age restricted housing and plans that allow for aging in-place.

The chair reviewed that the site plans need to be perfected, the subdivision properly filed, and the COAH issue resolved. Mr. Guzman testified that he was prepared to satisfy the COAH obligation as suggested by Tamara Lee. He is prepared to make a payment of \$35,000.00 to the Borough for deposit in the proper account as directed. The chair asked the applicant if he was aware that he could either pursue the extensions or choose to reapply. Mr. Guzman stated he wished to pursue the necessary extensions and the minor changes to the design.

There was no additional testimony and no additional questions from the board. The chair asked for a motion to open the matter to the public. Pat Manzi motioned and Rich Mood seconded opening the hearing to public comment. All persons were sworn in before commenting.

- Brian Craig, 711 10th Street, expressed surprise that the applicant as a developer was not aware at closing of the expiration of the variances.

There was no further public comment and Rich Mood motioned and Bill Corbi seconded to close the hearing to public comment.

Deliberation – The chair asked Janet to summarize the issues to be considered and approvals needed. Janet stated that all approvals being requested were decidable by a simple majority of the five members present. She reviewed that to grant approvals and variances the board needs to be convinced that the applicant has shown due diligence in pursuing the matter and that there is no detriment to the town by granting any approvals. The chair stated that the members should also be prepared to state for the record the reasons for their votes. Mr. Ehrhardt summarized his client’s position that he had shown due diligence in both maintaining the existing apartments and in moving forward with the plans to construct the new homes. While granting that errors had been made regarding knowledge of the ordinances, Mr. Ehrhardt feels his client relied on professional opinion and he does not know why the matter of incorrect filing of the subdivision as well as lack of concern or awareness of the expiration provisions of the ordinances were not better flagged by the applicant’s professionals or the title company. He does not feel his client should be penalized for relying on professional opinions. Mr. Guzman stated he feels he has exercised due diligence, acted in a professional matter, and has been present almost every week since he purchased the properties. Ed Smyth asked and received answers concerning the applicant’s professional background. Mr. Ehrhardt would like the board to consider the positives and move forward.

The chair asked Janet to summarize what is needed from the board. Janet suggested that the first thing the board should do is to consider whether an extension of the time is warranted. If the board decides in the affirmative then the timeframes should be set, the conditions needed defined, and lastly the board should consider the modification of the building plans. There were no further questions of the applicant and the chair asked if the board was prepared to consider motions on the matter.

Patricia Manzi motioned that the board approve the extensions contingent on scheduling specific deadlines and Ed Smyth seconded the motion. The chair reviewed from Janet’s and Tamara’s memos what the board should consider in approving or denying this motion and the members should state why they are voting for or against the motion. Mr. Ehrhardt and Mrs. Smith discussed whether the board was properly instructed on the points of the law they were considering and agreement was reached. The motion was approved by a poll vote of 3-2 as follows:

Mr. Brandt	nay	Mr. Smyth	aye
Mr. Mood	aye	Mr. Corbi	nay
Mrs. Manzi	aye		

Mr. Brandt feels that due diligence was not exercised, the reasons not fully explained, and that conditions have sufficiently changed in town to warrant that the site plan needs to be re-considered. Mr. Smyth feels while professional shortcomings should not be the final deciding point; the merits of the plan due warrant it proceeding. Mr. Mood feels the applicant was right to rely on professional advice and that he acted appropriately and has proceeded properly to rectify the problems. Mr. Corbi does not feel due diligence was exercised. Mrs. Manzi feels due diligence was exercised.

Janet suggested the board consider setting the timelines and the conditions for approving the site plan. The applicant needs to prepare a final site plan incorporating all comments in the original approving resolution. The subdivision needs to be re-filed as a major subdivision. The site plan needs to be perfected following satisfaction of all contingencies defined in the original resolutions and at this hearing. The COAH obligation needs to be satisfied before the site plan is perfected. All outside agency approvals of plans approved by the board's engineer and planner must be obtained before the plans are consider approved. The need for the applicant to retain a new engineer was discussed. The chair feels that the time frames be reasonable but not open ended. Following discussion on the steps and time needed to permit construction to commence and then complete construction, Kerry Brandt motioned that the board grant an extension of Section 22-16 to April 30, 2008 to begin construction on the four units and that Section 128-97 be extended to have construction completed by January 31, 2009. Rich Mood seconded the motion. There was no further discussion and the motion was approved by a poll vote of 5-0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mood	aye	Mr. Corbi	aye
Mrs. Manzi	aye		

The chair asked the applicant and Mr. Croft to review the design changes and reasons for the changes. Testimony was provided to explain the scope and reasons for the changes. Exhibits showing the old and new renderings of the proposed units were entered as A3 and A4 respectively. Testimony was provided that all agreements regarding grading of the sites would be maintained. Testimony included that the age restricted use was still in effect and that the intent of the changes was to better provide for in-place aging and use by the occupants. Tamara feels the intent of the age restricted use is preserved. The chair stated the changes should be opened to public comment. Pat Manzi motioned and Rich Mood seconded to open the hearing to public comment and there being none, Rich Mood motioned and Ed Smyth seconded to close the hearing to public comment. There being no further comment or questions, Kerry Brandt motioned and Richard Mood seconded that the board approve the amendment to the site plan for the revised footprint and design changes as presented in the revised plan and exhibit. There was no further discussion and the motion was approved by a poll vote of 5-0 as follows:

Mr. Brandt	aye	Mr. Smyth	aye
Mr. Mood	aye	Mr. Corbi	aye
Mrs. Manzi	aye		

Mr. Guzman thanked the board and following some discussion about the next steps, the hearing was concluded.

OLD BUSINESS

Planning Board & Council Matters – The secretary reported that the planning board had tabled any action on the Proposed Historic Preservation Changes to Chapter 128-Zoning Code and Sidewalk Signs issues. Councilman Brown was not present to report on Council activities.

Mandatory Education – The secretary briefed the members on the upcoming education sessions that will be conducted by the NJPO at the annual League of Municipalities Conference in Atlantic City in November. Members interested in attending either of the two sessions should notify the secretary and he will coordinate registering them with the NJPO.

CORRESPONDENCE – None current

NEW BUSINESS

Vouchers and Invoices:

- 10/18/07, Janet Zoltanski Smith, \$1,014.00, for services connected with the Guzman application. (To be paid from escrow.)
- 10/18/07, Janet Zoltanski Smith, \$663.00 for professional advice services from July through October.

Richard Mood moved, Patricia Manzi seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

There were no members of the public present at this portion of the meeting.

Meeting adjourned at 10:30 PM.

Tape is on file.

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

**RIVERTON BOROUGH ZONING BOARD
MINUTES
November 15, 2007**

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 7:35 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 May 25, 2007.

ROLL CALL

PRESENT: Kerry Brandt, Richard Mood, Ken Mills, Patricia Manzi, and Craig Greenwood.

ABSENT: Edward Smyth, Alfred DeVece, William Corbi, and Janine Miller.

OFFICIALS: Councilman William Brown and Secretary Ken Palmer were present.

MINUTES: A motion was made by Pat Manzi, seconded by Rich Mood, and unanimously approved to adopt the minutes of October 18, 2007 as distributed.

OLD BUSINESS

Adopt and Memorialize Resolution for Case # Z2007-04 Approving Variance Application by Carlos Guzman, PO Box 380, Totowa, NJ 07511, for Waiver or Relief from Ordinances 22-16 and 128-97 (Expiration of Variances) for approved twins on 8th & 9th Streets, Block 1700, Lots 2.01, 2.02, 2.03, and 2.04

The chair reviewed the resolution and it was read into the record by Ken Mills. There were no board questions. Thomas Ehrhardt, attorney for the applicant discussed the fact that changes discussed between him and Janet Smith were not present. He was concerned about the language in the resolution concerning payment of escrow; however, the applicant does not have a concern about keeping the account current. Mr. Ehrhardt is also concerned that the resolution on page 2, paragraph 4, did not reflect the correct month when the construction plans were perfected. They were finished in July 2007, not May 2007. The board concurred that this error should be hand corrected. Kerry Brandt motioned and Rich Mood seconded to adopt and memorialize Resolution Z2007-04 as amended. There was no further discussion and the motion was adopted by a poll vote of 3 to 0 of the members eligible to vote as follows:

Mr. Brandt aye
Mr. Mood aye
Mrs. Manzi aye

Planning Board & Council Matters – The secretary reported that the planning board meeting was not until next week and there was nothing to report since the last meeting. Councilman Brown had nothing to report on Council activity.

Mandatory Education – The secretary reviewed that Ken Mills had attended one of the sessions at the League of Municipalities Conference and that the NJPO had not released any new schedule of sessions.

2008 Budget – The chair commented he would get it submitted to Council.

CORRESPONDENCE – None

NEW BUSINESS

Vouchers and Invoices:

- 11/5/07, Tamara Lee, \$1,417.50, for work during October on the Guzman application. (To be paid from escrow.)
- 11/15/07, Janet Zoltanski Smith, \$702.00, for services connected with the Guzman application. (To be paid from escrow.)
- 11/15/07, Janet Zoltanski Smith, \$91.00 for professional advice services during October and November.

Ken Mills moved and Richard Mood seconded, and the vote was unanimous to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

Resignation – The chair mentioned that Fred DeVece intends to resign; however, the chair is not certain if it is immediately or as of the end of the year.

PUBLIC COMMENT ON GENERAL ZONING ISSUES

A motion was made by Kerry Brandt and seconded by Craig Greenwood to open the meeting to public comment.

- Lisa Michalski, 131 Oxford Rd., Cinnaminson, NJ, had several zoning questions regarding the Red Balloon property on Howard St. She understands the property is up for sale. She is looking for commercial property to operate a business. She doesn't feel she would utilize the entire space and wants to know if she could rent out the rest as another business. The zoning code issues were briefly discussed including conditional vs. permitted uses. The chair also commented that unless there were use variances involved the matter would be heard before the planning board as a site plan. She was encouraged to discuss her plans with the Code Enforcement Officer and Construction Official.

There was no further public comment, and the chair motioned and Ken Mills seconded to close the meeting to public comment.

Meeting adjourned at 8:10 PM.

Tape is on file.

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