

**BOROUGH OF RIVERTON**  
**ZONING BOARD OF ADJUSTMENT**  
**AGENDA**  
**January 21, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Annual reorganization – Swear in new/reappointed members; announce appointments; elect chair, vice chair, and professionals
4. Adopt minutes from December 17, 2009 meeting
5. Public Hearing – Continued hearing on Use Variance Application by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to use the existing building for permitted use(s) and to erect four attached homes on the portion of the site fronting on Cinnaminson Street
6. Old business
  - Adopt and memorialize resolution regarding the approval of a variance application by Michael and Diane Jassmann of 211 Elm Ave., Riverton, NJ, Block 501, Lot 19
  - Education Update – 2010 NJPO Winter-Spring Session Schedule released
  - 2010 Budget
  - Any other old business before the board
7. Review correspondence
8. New business:
  - Consider vouchers/invoices
  - Consider resolutions adopting board calendar, appointment of professionals, and annual report to planning board and Borough Council
  - Any other new business before the board
9. Public Comment
10. Adjournment

**BOROUGH OF RIVERTON**  
**ZONING BOARD OF ADJUSTMENT**  
**AGENDA**  
**February 18, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from January 21, 2010 meeting
4. Old business
  - Adopt and memorialize resolution regarding the approval of a use variance application by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to use the existing building for permitted use(s) and to erect residential homes on the portion of the site fronting on Cinnaminson Street
  - Council and Planning Updates
  - 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  
March 18, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Reorganization, swear in Barry Wells as a reappointed alternate member
4. Adopt minutes from February 18, 2010 meeting
5. Public Hearing – Hearing on Site Plan and Major Subdivision Application with variances by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to rehabilitate the existing structure and to subdivide the site to define three new lots for the construction of three residential units along Cinnaminson Street
6. Old business
  - Council and Planning Updates
  - 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**  
**April 15, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from March 18, 2010 meeting
4. Public Hearing – Hearing on Variance Application by Heather Thress and Doug Aird, 623 Main St., Block 906, Lot 7, to erect an addition to a nonconforming structure which extends the nonconformity
5. Request for interpretation of the zoning code regarding determination of current use of property at 408 Main Street.
6. Old business
  - Adopt and memorialize resolution approving the Site Plan and Major Subdivision Application with variances by BWC Realty Associates, LLC, for the Post Office property at 613-615 Main Street, Block 906, Lot 4, to rehabilitate the existing structure and to subdivide the site to define three new lots for the construction of three residential units along Cinnaminson Street
  - Council and Planning Updates
  - 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**  
**May 20, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from April 15, 2010 meeting
4. Continuation of the request for interpretation of the zoning code regarding determination of current use of property at 408 Main Street.
5. Old business
  - Adopt and memorialize resolution approving the Variance Application by Heather Thress and Doug Aird, 623 Main St., Block 906, Lot 7, to erect an addition to a nonconforming structure which extends the nonconformity
  - Council and Planning Updates
  - 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**  
**June 17, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from May 20, 2010 meeting
4. Continuation of the request for interpretation of the zoning code regarding determination of current use of property at 408 Main Street.
5. Old business
  - Council and Planning Updates
  - Any other old business before the board
6. Review correspondence
  - 6/16/10, Letter from Tom Ehrhardt, attorney for Carlos Guzman owner of Cedar Lane Manor Apartments, LLC requesting refund of COAH payment since the plans to build four townhomes is abandoned.
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**  
**July 15, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from June 17, 2010 meeting
4. Old business
  - Adopt and memorialize resolution for interpretation of the zoning code regarding determination of current use of property at 408 Main Street
  - Council and Planning Updates
  - 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**  
**August 19, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from July 15, 2010 meeting
4. Public Hearing – Variance Application by Robert and Mary Carpenter, 616 Thomas Avenue, Block 1003, Lot 1, for front yard setback relief to replace the concrete steps with a landing and steps
5. Public Hearing – Variance Application by Brooks and Kim Paulsen, 401 Cinnaminson Street, Block 900, Lot1.01, for side yard setback relief to replace a deteriorated fence along the rear yard line that extends to the property line at the street side of a corner lot
6. Old business
  - Council and Planning Updates
  - 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**  
**September 16, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from August 19, 2010 meeting
4. Old business
  - Adopt and memorialize resolution approving the variance application by Robert and Mary Carpenter, 616 Thomas Avenue, Block 1003, Lot 1, for front yard setback relief to replace the concrete steps with a landing and steps
  - Adopt and memorialize resolution approving the variance application by Brooks and Kim Paulsen, 401 Cinnaminson Street, Block 900, Lot 1.01, for side yard setback relief to replace a deteriorated fence along the rear yard line that extends to the property line at the street side of a corner lot
  - Council and Planning Updates
  - 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  
December 16, 2010**

1. Meeting called to order at 7:30 PM
2. Open public meetings notice act statement and roll call
3. Adopt minutes from September 16, 2010 meeting
4. Public Hearing – Variance Application by BWC Realty Associates, LLC, for the three proposed residences at 608, 610, 612 Cinnaminson Street, Block 906, Lots 4.01, 4.02, 4.03, for front yard setback relief
5. Old business
  - Council and Planning Updates
  - 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

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**January 21, 2010**

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 to conduct the annual reorganization of the board.

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 21, 2009.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**REORGANIZATION - 2010**

Reappointed regular members Robert Kennedy and William Corbi were sworn in for their new terms by Janet Smith. Secretary Palmer reviewed that he remained the secretary as a Borough employee (with the board's approval) for 2010. Mary Lodato has been reappointed as the Code Enforcement Officer, and Councilman Joseph Katella will be the board's council liaison. Ken Palmer was asked to conduct the rest of the reorganization.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, Charles Veasey, Robert Kennedy, and Deborah Weaver.

**ABSENT:** Barry Wells.

**OFFICIALS:** Solicitor Janet Zoltanski Smith, Councilman Joe Katella, Planner Tamara Lee, and Secretary Ken Palmer were present.

**Chairman:** Kerry Brandt was nominated by Ken Mills and seconded by Bill Corbi to serve as Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

**Vice Chairman:** Ken Mills was nominated by Kerry Brandt and seconded by Craig Greenwood to serve as Vice Chairman. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

**Solicitor:** Janet Zoltanski Smith Esq. was nominated by Ken Mills and seconded by Kerry Brandt to serve as the Zoning Board Solicitor for 2010. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

**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 Craig Greenwood and seconded by Ken Mills that Tamara Lee of Tamara Lee Consulting LLC be appointed to serve the board as its planner on an on call basis for 2010. There were no other nominations and the nominations were closed. 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 Kerry Brandt and seconded by Ken Mills that Rick Arango of Remington, Vernick & Arango Engineers be appointed to serve the board as its consulting engineer on an on call basis for 2010. There were no other nominations and the nominations were closed. A voice vote was taken and the vote was unanimous.

Kerry assumed chairing the meeting.

**Board Meetings for 2010** – Resolution Z2010-01, the calendar of meetings for February 2009 through January 2010 was reviewed by the secretary. The board decided that meetings will continue to be held on the third Thursday of the month at 7:30 PM. A motion was made by Ken Mills, seconded by Craig Greenwood, 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 2010** – Resolution Z2010-02 announcing the appointments of a solicitor, planner and engineer was reviewed by the secretary. A motion was made by Craig Greenwood, seconded by Ken Mills and passed unanimously to accept the resolution, have it published in the Burlington County Times, and mailed to the professionals.

## MINUTES

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Craig Greenwood, seconded by Ken Mills, and unanimously approved to adopt the minutes of the December 17, 2009 regular meeting as distributed.

## OLD BUSINESS

**Adopt and memorialize Resolution Case #2009-11 for the Variance Application by Diane and Michael Jassmann, 211 Elm Avenue, (Block 501, Lot 19) for bulk variances to construct a kitchen addition and deck on house that is on a nonconforming lot and the addition will exceed permitted impervious coverage** – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Ken Mills motioned and Deborah Weaver seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous poll vote of 4 to 0 of the members present and eligible to vote on the resolution as follows:

Mr. Brandt	aye	Mr. Mills	aye
Mr. Greenwood	aye	Mrs. Weaver	aye

Chairman Brandt stated he needed to recuse himself from the BWC matter and asked to be excused from the meeting. Kerry stepped down and Ken Mills chaired the rest of the meeting.

## PUBLIC HEARING

**Use variance application by BWC Realty Associates, 100 Park Avenue, for 613-615 Main Street, block 906, lot 4 in NB zone, to subdivide the former Post Office property at 613-615 Main Street and erect townhomes and rehabilitate the existing building for permitted use(s).**

**Housekeeping:** Board Counsel Janet Smith reviewed that this matter had originally been heard in December and continued to this meeting. The application had been deemed jurisdictionally complete. Because there were only four members of the board available to hear the matter and a use variance requires a minimum of five votes for approval, a member of the planning board had been requested to assist the board in establishing the quorum needed to hear a use variance. This decision had been made using the provisions of the State's Municipal Land Use Law which allows using substitute members from the planning board to establish a quorum where there are insufficient members of the zoning board available to establish a quorum. Subsequent to the meeting, she and applicant's attorney Mr. Oberlander had received correspondence from Mr. Fred Hardt, Esq. counsel for objector Mr. John Laverty. Mr. Hardt contends that the board's decision was incorrect and that the section of the MLUL only applies to establishing a quorum to conduct a meeting. His contention was that the only proper action by the board in December was to have continued the matter without any testimony. Janet stated that the statute is mute on the interpretation and there is no case law on the matter. Rather than contest the opinion, she and applicant's attorney had concurred that since the hearing had been properly noticed and continued without decision, it would be appropriate to re-present the application in its entirety tonight and to discard and ignore all prior testimony. Applicant's attorney David Oberlander stated he also felt that Mr. Hardt's objections were incorrect; but, rather than contesting Mr. Hardt's conclusions and further delaying the matter, he concurred with Janet's statements. He further stated he hoped the board would agree to hear the application as if it was being presented for the first time and the applicants were prepared to present their case in its entirety. Janet concluded she felt the board could proceed in this manner and asked if the board concurred. The board concurred.

**Introductions:** Ken Mills introduced the application as stated above and introduced Mr. Oberlander. Mr. Oberlander introduced the following who were the applicants or their professionals and would provide testimony and asked that they be sworn in:

- Jim Brandenburger, principal of BWC Realty and a developer
- Michelle M. Taylor, PP of Taylor Design Group
- Joseph R. Hirsh, PE of Environmental Resolutions, Inc.
- Dr. Paul G. Gena, a principal of BWC Realty

Janet swore in the above. Prior to testimony, Board Planner Tamara Lee was sworn in as the board's professional.

**Testimony:** Mr. Oberlander gave an overview of the application and reviewed that the applicants understood that while, as a bifurcated application, only the use variance(s) are being requested at this hearing, the board will certainly consider the impact of bulk variances in considering the merits of the site plan and subdivision applications and that approval of the use variance(s) is contingent on obtaining the required site plan and subdivision approvals. Mr. Oberlander asked Jim Brandenburger to explain the application. Jim reviewed that the application was to:

- Preserve the currently vacant former post office building,
- Rehabilitate the building for permitted commercial uses in the NB district,
- Subdivide the property to permit construction of 4 single family townhome residences as two semidetached structures on Cinnaminson Street,
- Preserve and improve the existing mixed use character of the area with primarily commercial use along Main Street and residential use on Cinnaminson Street,
- If the entire site is maintained as all NB use, the property will probably remain vacant for a prolonged period of time and very may likely result in the structure being expanded to better utilize the site as allowed in the zone or perhaps demolished and replaced by a structure more suited to fully utilize the uses permitted in the NB zone,
- Provide the economic means to preserve the area and allow the needed rehabilitation of the post office building,
- The entire approximately 30,000 sq. ft. site is currently zoned as NB and the use variance(s) will permit the site to be subdivided to permit residential use on Cinnaminson Street,
- While only seeking the use variance(s) that will allow the project to proceed they understand the requirement and intend to submit all required full site plan and subdivision applications for approval.

During testimony, the following exhibits were introduced and entered as part of the testimony:

A-1 – Photo of the rear of the property showing the rear of the building and parking lot

A-2 – Photo of residences across Cinnaminson Street from the property

A-3 – Concept plan #4 showing revised entrance to the commercial building from Cinnaminson Street

A-4 – Concept plan #3 original plan presented in the application with access from Main Street

A-5 – A-11 – Photos showing examples of existing parking where the parking is next to residences with little or no buffering

A-12 – Aerial photograph of site and surrounding area labeled to show orientation of photos in A-13

A-13 – Series of eight photos showing mixed residential and commercial use character of the neighborhood surrounding the site

A-14 – Concept plan #10 showing three residences instead of four on Cinnaminson Street.

Jim explained that the existing building built during the depression as a WPA project is essentially sound but requires extensive rehabilitation to preserve the structure, upgrade the mechanicals, and permit the current habitable areas to be utilized for a use permitted in the NB zone. The rehabilitation and renovations are estimated at approximately \$100,000.00 not including any fit out required by new tenants. The basement currently houses the mechanicals, is used for storage, and will not be converted to Class A space. He explained that he does not want to demolish the building because of the historical importance to Riverton. Moreover, he indicated that the construction of the building is substantial, that demolishing it would be cost prohibitive. He explained the possible interest for use as an office by a company that builds medical prosthetic devices. They would not conduct fitting at that location, so clients were unlikely to visit the site and it would have a low impact on parking. However, Jim

acknowledged that there may be other office uses or other uses for the property by future owners. Subdividing the rear of the site, which was the parking/loading area for the post office, will allow the construction of residences which will preserve the residential use and zoning of most of Cinnaminson Street. Jim referred the two photos entered as exhibits A-1 and A-2 which respectively showed the rear of the property and of the residences across Cinnaminson Street from the rear entrance. Jim stated that he thought the smallest of those properties only had a front footage of 25 feet. Jim referenced exhibits A-3 and A-4 to explain the concept of the plan. Exhibit A-3 (Concept Plan #4) shows the entrance to the parking lot for the commercial structure moved to Cinnaminson Street. Exhibit A-4 was Concept Plan #3 presented in the original application with the entrance from Main Street. The revision followed conversations with the owner of the adjoining property at 617 Main Street. The owner is a dentist who maintains the large single family home as his family residence and also has his dental practice. The proposed entrance from Main Street would be next to the residential side of the building and would disrupt the privacy provided by the current side yard of the post office building. To further minimize intrusion, Jim explained that the new residence next to the property would not have windows on the side and that any deck would include appropriate screening. Jim stated that it was not unusual for attached dwellings to restrict windows to the front and back of the building. Concerning parking for the commercial building, Jim testified that he originally planned to provide ten spaces for the parking for the converted post office building. He has since determined that the loading dock on the rear of the post office can be taken down without impacting the main structure. There is no basement under the loading dock and therefore he plans to remove it which will provide additional parking as well as remove the part of the building considered the principal eyesore on the building. Jim indicated that there are other locations in town where residential units are located next to public parking. Concerning the fact that the proposed residences will be looking at the proposed commercial parking, Jim stated that is common in mixed use areas for commercial parking to abut residential lots and it is already common in this area of Riverton. He referred to exhibits A-5 through A-11 to show examples. A-5 showed the Borough lot behind the former Beneficial Bank building, A-6 and A-7 showed parking for Mrs. Rogers' Tea Room which is next to a residence, A-8 showed Freddy's Shoe Service which is next to Riverton Square and has the townhomes in the rear, A-9 was a former bank converted to a residence and office, A-10 is the back of the same property that abuts the new townhomes, and A-11 showed a property near Broad and Main Streets with no yard between the buildings. Jim stated that he believed there were only two commercial spaces in the NB zone, Zena's and the Riverton Gym, which because they adjoin other commercial areas do not have parking lots next to residences. While admitting that the parking proposed for the building may not satisfy all possible uses, Jim feels there is ample on-street and nearby off-street parking available. Jim mentioned that the Riverton Square development down the street is 85% occupied and has a rear parking field for 25 vehicles that is currently rarely if ever occupied.

Jim introduced Michelle Taylor and Mr. Oberlander had her present her qualifications as a planner which were accepted by the board. Mr. Oberlander prefaced Michelle's testimony by stating she is being asked to speak to the proofs required to show that a use variance satisfies both the positive and negative criteria used to define if a use variance is warranted. She is not addressing the any site plan or subdivision issues which will be filed in the future. Michelle testified she is the VP of Taylor Design Group, Inc. and the planner testifying on behalf of the applicant. She testified as to her qualifications, the action she took to prepare for the testimony which included site visits and an analysis of the Master Plan, its updates and subsequent studies commissioned by the Borough. She proceeded to discuss the permitted and conditional uses in the NB District. Michelle referred to exhibit A-12, an aerial photograph of the site and surrounding area that provided references for the location of the photos in exhibit A-13 which provided several pictures of the site, the rear of the site and the surrounding area. Michelle testified why it is important from a planning perspective that the existing building remain to preserve the character of Main Street. It was Michelle's opinion that in order to generate business there should be high residential densities of 10 to 20 units per acre and to create employment centers. Michelle feels the current parking requirements of the Borough are too high based on currently accepted downtown parking standards and should be reduced. She referred to the recently completed study of the downtown area commissioned by the Borough which concluded that the downtown area does not need additional parking than already exists. She referred to the statements in the study that spot surveys made at multiple times of the day on business, weekend and holidays supported the conclusion that there was sufficient parking. She feels the proposed plan supports the Borough's and State's master plans and the results of the reexamination report of the Borough's plan. Michelle Taylor further testified that the Master Plan included housing as a viable option for the downtown area. She further testified that the parking review indicated that there is no shortage of parking spaces. It was her opinion that parking lots can create blights in a streetscape. Michelle Taylor testified as to the positive and negative criteria. The post office building is an

important building to Riverton. It needs remediation and the residences would subsidize the necessary work, thus the historical building would be preserved and further the new residences would enhance the streetscape of Cinnaminson Street. Further, there is no detriment because sewer and water is already available. There would be no noise, dust or odors and the surrounding uses are consistent with the uses proposed. She was of the opinion that no additional traffic impact would be felt and future traffic would likely be less than the traffic that the post office itself had generated when it was operating from the site. Michelle concluded that in her opinion the plan satisfies the special reasons needed to support granting use variances.

Paul Grena a principal of BWC testified that he is a resident of Riverton and is concerned about preserving the post office building and preserving the character of the neighborhood. He feels that the permitted utilization of the site could allow a by-right application that would not be in the best interests of the town. He stated that he and Jim had agreed that they would be willing to use the square footage in the basement for storage space only. He and Jim also testified that they could possibly agree to restrict the number of residential units to three. There was additional questions and answers among Janet, Jim, Michelle and Paul as to possible ways to help the board decide the worthiness of the project and address possible concerns.

Tamara Lee, the planner for the Zoning Board, testified that she assisted the Borough in the preparation of its Master Plan and its updates. Tamara stated she feels it is important for the board to remember that while economic needs and conditions have been presented, economic concerns are not valid points in considering the merits of a variance request. However, she does recognize that the applicant's are seeking and should be given some concrete direction as to the number of units the board feels is appropriate if it grants the use variance. Tamara is concerned that the proposed new homes properly transition the new development at Riverton Square into the existing smaller homes; and for that reason she feels three units may be better than four. Since the proposed plan will greatly reduce the available space for parking, the board would be advised to try and restrict the useable areas of the existing building. Answering an inquiry as to the Master Plan's concern for increased density, Tamara responded that the concern regarding density was predicated on the assumption that increased density generates more traffic and parking problems and the most common source for undesirable increases in local density came from inappropriate minor subdivisions that squeeze an extra house into an established residential neighborhood. She stated that as to this application, the residential neighborhood would actually benefit from the new homes and the transformation of a deteriorated parking lot. She stated that the amount of traffic will not increase adversely. Since the Board seemed determined to take steps to insure that the parking would be satisfied, parking also would not become a problem; therefore, the underlying issues regarding density, as addressed by the Master Plan, were not a factor in this application. Concerning the size of the site within the NB zone, Tamara Lee explained that when the Master Plan and Zoning Map was prepared the post office utilized the entire lot and that the Borough was committed to eliminating split lot zoning on their zoning map. For these reasons, the post office lot was zoned entirely NB. Tamara Lee discussed issues regarding the commercial driveway and she stated that it would be easier to buffer the residences from the commercial driveway if the number of homes was reduced to three, creating more space for effective buffering.

After additional discussion concerning the number of new residences and the location of the driveway and number of spaces available, Jim presented Exhibit A-14 which was Concept Plan #10 showing a proposal for three residences, two attached homes and one single family residence. Jim mentioned that the plan showed the loading dock which he had since determined could and would be removed providing more parking area. Jim stated that he would provide as many spaces as possible for the building. Testimony concluded with additional questions and answers from the board concerning the proposed residential lots, the access driveway entrance/location and usable space in the building. It was concluded many of these items would best be addressed during the site plan process. Jim also stated he has not been able to meet with the county to get a better idea of the recommended location of the access to the parking area. Jim stated the economic proceeds from the residential construction will provide the needed capital pay for the rehabilitation of the existing building which will be going on at the same time the residences are built. Jim feels the proposed plan make sense and best fits in with current development in the area and is similar to the development he did for Riverton Square. He realizes that the board cannot consider economic issues; however, he does need to come away from this application with a good idea if he can proceed. Tamara added that while use variances go with the land, she feels the board can craft any approval contingent on that if the site plan and subdivision plans never materialize, the use variance disappears.

**Public Comment:** The chair stated that he felt rather than continue to debate increasingly narrow points it was time to open the matter to public comment. There was no opposition and a motion was made by Bill Corbi and seconded by Joe Della Penna to open the hearing to public comment. The meeting was opened to the public and the following people were sworn and testified.

- Christy Quinn, owner of 607 Cinnaminson Street, stated that she had previously lived at this home at 607 Cinnaminson Street and now rents it. The property is directly across the street from the rear of the former post office and currently and previously the view from the home was “awful.” She likes the idea of a residential area across the street and supports the application.
- Muriel Alls-Moffat, 202 Fulton Street, Riverton, had questions about the procedure and the why the matter was being re-presented in its entirety tonight. Her questions and concerns were addressed.
- Don Deitz, 304 7<sup>th</sup> Street, Riverton, wants to make sure that any new buildings will be commensurate with the other buildings in the Borough especially on Cinnaminson Street. He is concerned about the size and mass of new construction in the area and hopes the post office building remains.
- John Laverty, 616 Main Street, prefaced his testimony by stating he lives across the street from the proposed development and finds it hard to object to the application since he knows and respects the applicants. He stated that the Neighborhood Business Zone does not provide for residences. Currently townhouses are not a permitted use anywhere in the Borough according to the land use code. He stated that parking will be inadequate for the business use and residences. He stated that according to his calculations for the property, which he has been in, 20 spaces would be required for the first floor of the building plus 16 if the basement is utilized. The proposal provides only 9 to 10 spaces. John stated that the depth of the residential lots would only be 88.5 feet with the buffer. He stated that the entrance to the commercial lot off of Cinnaminson Street would be one way and it should be two way and with the buffer would leave only 90 feet for the width of the lots not 100 feet. The 12 foot proposed deck on the proposed residential units would be less than or equal 13 feet from the rear property line. He stated that the properties referred to in the applicant’s testimony regarding other parking lots next to residences were existing, and that the parties had no ability to provide the buffer because they were pre-existing. He calculated that the first floor has 4,375 square feet, the second floor has 655 square feet and the basement has 4,090 square feet. The building and the lot presently has sufficient parking for that amount of square footage. He was concerned that since attached homes are not currently permitted, allowing them will set a precedent which would be hard to refuse later. He indicated that any reuse of the post office as it currently exists would require a major site plan and that a bigger building could not be allowed because of the parking calculation. It was his opinion that the proposed residences are not consistent with the architecture in the area. He noted that it was difficult to restrict the use of the post office building in the future. Future uses could require more parking. He stated that Cinnaminson Street is already congested and narrow. The proposal will require several bulk variances, where no variances are needed for the current site. He stated that the basement can be occupied. He stated that the proposal crammed too much onto the lot. He provided pictures, marked as Objector’s 1-11, which showed the Riverton Square site, the street near that site and the townhomes built next to the site which were constructed by James Brandenburger. Pictures, 1 and 2, showed a job trailer on the site. Pictures 3, 4, 5, 6 and 7 showed the parking for the homes that were constructed at Riverton Square. There is a van across a sidewalk and people are parking at the business location spaces. Pictures 8 and 9 show the tight cartway on Cinnaminson Street and Picture 10 shows the deck and its proximity to the commercial property. Picture 11 is of the townhouses and shows their size and mass. John stated that the density proposed by the applicant was 21.72 units per acre and reducing it to three units made it 16.3 units per acre. He further stated that ingress and egress could be on Main Street and that the driveway should be on Main Street thereby reducing the density of the property as follows: 4 residential units would be 16.67 units per acre and 3 units would be 12.35 units per acre. Regarding the appearance of the post office building, he suggested that Riverton consider enforcing the property maintenance ordinance which would improve its appearance.

There was no further public comment and Bob Kennedy motioned and Chick Veasey seconded to close the hearing to public comment.

**Deliberation:** Tamara spoke to the proofs needed when considering a use variance and feels the applicant may have addressed them. Janet raised the issue of COAH and Tamara stated that it will be an issue to be addressed



during site plan and will be subject to whatever rules are in effect at the time which appear to be subject to change almost daily with the new administration and possible plans for the COAH agency in Trenton.

The board deliberated the application with comments being made by all the members. The board concluded that the post office building is an important historical site for the Borough; but, that it requires significant repair. The board concluded decided that residential uses on Cinnaminson Street would be appropriate though concerns persist about how the subdivided lots would fit on the site. The board considered, and the applicant agreed, that if the subdivision, bulk variances and site plan did not satisfy the Board's concerns then the variance would become void immediately. With this stipulation, there was an expressed understanding that the Board would review the subsequent subdivision, bulk variance and site plan applications in relationship to the conceptual design testimony of this use variance application. The members felt that a maximum of three units was warranted. Jim stated he would prefer that the board decide on an actual number since a maximum number might be reduced at site plan which would make the plan unfeasible to him. There being no further discussion, the chair asked if Janet would offer guidance to the board for an appropriate motion. Janet Smith suggested that the board might make a motion to grant a use variance allowing the development of three (3) residential units on Cinnaminson Street contingent on subdivision, site plan, and bulk variance approvals and further contingent on the improvement and renovation of the existing post office building, consistent with the historical character of the building, and further contingent on the basement of the post office building being restricted for storage or other uses approved by the Board that do not create a parking demand. The chair asked if everyone understood the suggested content and if anyone was prepared to make a motion. A motion was made by Joe Della Penna to approve the application as suggested by Janet. Craig Greenwood seconded the motion. There was no further discussion and the board approved the motion by a unanimous poll vote of 7 ayes and 0 nays with comments as follows:

Mr. Mills	aye	Mr. Corbi	aye
Mr. Della Penna	aye	Mr. Greenwood	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye		

Mr. Mills felt the residential use on Cinnaminson Street is appropriate and that redevelopment of the existing post office building while retaining the existing building is to be commended. Mr. Corbi agrees that the residential use is appropriate and looks forward to seeing the site plans. Mr. Della Penna felt that the plans discussed will preserve the character of the structure and prevent what could become an eyesore in the center of town. Mr. Greenwood stated he looks forward to seeing the plans. Mr. Veasey stated that while he has questions regarding the bulk variances needed he feels the proposed residential use fits Cinnaminson Street. Mr. Kennedy applauded the preservation efforts and feels residential development is appropriate for Cinnaminson Street but wants to see the height of any structures in keeping with the character of the street. Mrs. Weaver felt the residential aspect is appropriate and wants to see the site plans.

### **OLD BUSINESS (Continued)**

**Planning Board & Council Matters** – Councilman Katella commended the board in the professional manner in which the board conducted the hearing. He stated he feels Code Enforcement Officer Mary Lodato is doing a top notch job and should be defended when criticized on any dealings with the post office property. The property has been a tricky issue for a long time. The secretary reported that the planning board had amended the master plan once again by adopting the latest revised Housing Element and Fair Share Plan in its efforts to satisfy COAH's requirements in the Borough's petition for recertification under third round regulations. The board has established a subcommittee to continue to examine recommended changes to the zoning code. Joe Katella stated he felt the planning board had done a good job in addressing most of the concerns from the zoning board.

**2010 Budget** – The proposed budget has been submitted by Kerry

**Mandatory Education for Board Members** – The secretary reported that he is preparing to submit the registration for the members who have signed up for the session in March.

**CORRESPONDENCE**

None received.

**NEW BUSINESS**

**Vouchers and Invoices**

1. 01/20/10, Janet Zoltanski Smith, \$78.00, for general professional services and guidance in December.
2. 01/20/10, Janet Zoltanski Smith, \$234.00, for professional services in December and January for the Diane and Michael Jassmann, 211 Elm Avenue application. (PAY FROM ESCROW)
3. 01/20/10, Janet Zoltanski Smith, \$767.00, for professional services October – December for the BWC Realty Associates, LLC application for the old Post Office. (PAY FROM ESCROW)
4. 01/02/10, Tamara L. Lee LLC, \$630.00, for preparation and attendance at the board meeting connected with the Brandenburger/BWC Realty use variance application in December. PAY FROM ESCROW

The secretary stated there were no escrow shortage issues. There was no discussion and a motion was made by Craig Greenwood, seconded by Joe Della Penna, and the voice vote was unanimous to pay the invoices as discussed. The secretary will make sure they are signed and submitted for payment.

**Annual Report of Applications and Recommendations** – The secretary reviewed Resolution Z2010-03 which is the annual report to the planning board and Borough Council of applications heard and recommendations for amendments to the zoning code. This report is required under the Municipal Land Use Law. The chair asked if the members had any comments or additions to the report. A motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved by voice vote to adopt the report resolution and submit it to the planning board and Council.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 10:55 PM (motion by Bill Corbi, second by Chick Veasey)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
February 18, 2010**

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 January 25, 2010.

**ROLL CALL**

**PRESENT:** Kerry Brandt, William Corbi, Joe Della Penna, Craig Greenwood, Charles Veasey, Robert Kennedy (7:40 PM), and Deborah Weaver.

**ABSENT:** Ken Mills and Barry Wells.

**OFFICIALS:** Councilman Joe Katella and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Craig Greenwood, seconded by Chick Veasey, and unanimously approved to adopt the minutes of the January 21, 2010 regular meeting as distributed.

**OLD BUSINESS**

**Adopt and memorialize Resolution Case #2009-09 for the Use variance application by BWC Realty Associates, 100 Park Avenue, for 613-615 Main Street, block 906, lot 4 in NB zone, to subdivide the former Post Office property at 613-615 Main Street and erect townhomes and rehabilitate the existing building for permitted use(s)** – The chair referenced the resolution by title and asked if everyone had received and read the resolution and if there were any comments. Only members who approved the application can act on the resolution. Bill Corbi motioned and Craig Greenwood seconded that the resolution referenced by title be adopted and memorialized. The motion carried by a unanimous poll vote of 5 to 0 of the members present and eligible to vote on the resolution as follows:

Mr. Corbi	aye	Mr. Della Penna	aye
Mr. Greenwood	aye	Mr. Veasey	aye
Mrs. Weaver	aye		

The resolution would be delivered to Mr. Mills for his signature and return.

**Planning Board & Council Matters** – There were no updates on planning board activity. Councilman Katella reported that Council had voted and approved to install 4-way stop signs on Thomas Ave. to help control speeding on Thomas Ave. Council has decided not to pursue at this time a study by Rutgers University on stormwater maintenance. If a revision to the Borough's ordinance, it will be considered. The Borough's ordinance covers the areas of the Pompeston Creek that do not fall under the regional storm water ordinance; which is the area from Broad Street to the Delaware River. The chair asked about COAH and it was reviewed that Council activity is on hold until further information is available regarding the current moratorium on any action by COAH. There was no update on the 2010 budget.

**Mandatory Education for Board Members** – The secretary reported that he had submitted the registration to NJPO for those members attending the March 6 session in Burlington Township.

## **CORRESPONDENCE**

None received.

## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 02/3/10, Raymond & Coleman, \$150.00, for attendance at the hearing and preparation of the resolution for the variance application by Erica Alfano, 8 Linden Avenue in August 2009. PAY FROM ESCROW
2. 02/03/10, Tamara L. Lee LLC, \$540.00, for preparation and attendance at the board meeting connected with the BWC Realty Associates, LLC use variance application in January. PAY FROM ESCROW
3. 02/18/10, Janet Zoltanski Smith, \$994.50, for professional services in January and February for the BWC Realty Associates, LLC use variance application for the old former post office property at 613-615 Main Street. (PAY FROM ESCROW)
4. 02/18/10, Janet Zoltanski Smith, \$240.50, for general professional services and guidance in January.

The secretary stated there were no escrow shortage issues. There was no discussion and a motion was made by Craig Greenwood, seconded by Robert Kennedy, and the voice vote was unanimous to pay the invoices as discussed. The secretary will make sure they are signed and submitted for payment.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 7:50 PM (motion by Chick Veasey, second by Joe Della Penna)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**March 18, 2010**

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 25, 2010.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**REORGANIZATION**

Reappointed alternate member Barry Wells was sworn in.

**ROLL CALL**

**PRESENT:** Ken Mills, Joe Della Penna, Charles Veasey, Robert Kennedy, Deborah Weaver, and Barry Wells.

**ABSENT:** Kerry Brandt, William Corbi, and Craig Greenwood.

**OFFICIALS:** Solicitor Janet Zoltanski Smith, Councilman Joe Katella, Planner Tamara Lee, Engineer Rick Arango, and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Bob Kennedy, seconded by Joe Della Penna, and unanimously approved to adopt the minutes of the February 18, 2010 regular meeting as distributed.

**PUBLIC HEARING**

**Site Plan and Subdivision application by BWC Realty Associates, 203 Thomas Ave., for 613-615 Main Street, block 906, lot 4 in NB zone, to rehabilitate the existing building for permitted use(s) and to subdivide the site to define three new lots for the construction of three single family detached residences fronting on Cinnaminson St.**

**Housekeeping and Introductions:** The secretary reviewed and affirmed that all the jurisdictional requirements had been met. Kelly Young introduced himself as alternate counsel for the applicant appearing instead of Dave Oberlander. Mr. Young asked if the applicant and all others could be sworn in at one time. The following were sworn in and as applicable presented their qualifications:

- Jim Brandenburger, principal of BWC Realty and a developer
- Joseph R. Hirsh, PE of Environmental Resolutions, Inc.
- Dr. Paul G. Gena, a principal of BWC Realty

**Testimony:** Mr. Young asked that the following be entered as exhibits:

- ASP-0, Resolution Case #2009-09 that granted the use variance
- ASP-1, a binder containing supporting documentation that will be referred to during testimony. Copies were provided to the board.

Mr. Hirsh reviewed the plans for the site, including the buffering on the commercial site and the plans for the proposed residential lots. He reviewed that some minor changes to satisfy concerns of the board's engineer will be made to the parking stall location. The revision will not cause a change in the number of spaces planned for the site. Mr. Hirsh stated that there were no problems with the reviews dated 3/16 provided by Rick Arango and Tamara Lee and the applicant was prepared to address all their concerns. Mr. Hirsh and Jim provided a detailed

response to Section III-Performance Standards in Rick's review that indicate variances or waiver are needed or that testimony be provided to assure that the proposed plans can be complied with:

A. Streets:

- The chart and photographs in the handout were referenced to provide the details of the sight triangle and that a satisfactory sight triangle existed.
- It was testified there would be no restrictions to parking on Main Street along the site frontage.
- It was testified and demonstrated via the site plan and a photograph of the type of housing planned that each residential site will provide for two off street spots by providing a garage and sufficient driveway space.

B. Parking on the commercial site:

- The applicant is requesting a variance permitting the parking stalls be 9'x18' instead of the required 10'x20'. Mr. Arango stated this is a common variance request and given the intended use of the stalls and he has no concerns with the request.
- The applicant testified to the suitability of a variance for the planned 11 spaces. Principally, the proposed number of spots exceeds that provided by most existing businesses in the area with the exception of the new Riverton Square development. The board questioned and Jim Brandenburger responded that while he has strong interest in the building that would meet a specific type of use, he didn't feel he should be totally constrained to one form of permitted use since he really has no guarantee of what the eventual use may be. Janet explained that some form of firm decision needs to be agreed to so the board could properly weigh the impact and scope of the parking variance needed. Further, it was explained that if in the future a different permitted use is proposed which changed the parking requirements; that would require a site plan at that time. The applicant testified that he feels the most probable use will be some type of professional or medical office use and that he would agree to base the variance on the requirements for that type of use. Based on the proposed usable floor space of 4,945 square feet, that equates to 25 required spaces. The applicant agreed to abide by that calculation and understands that if the eventual use differs from that, then a new/amended site plan will be required. It was determined that the number of spots per number of employees calculation does not apply since there is another use specific standard being used. It was also discussed on reorienting where the spaces are located so as to provide better driveway access where the drive enters the rear parking area. The applicant agreed to consider revising the parking layout without decreasing the number of planned spaces.
- Testimony was provided that the variance for the proposed two foot wide buffer incorporating a six foot vinyl fence along the rear of the lot would provide sufficient buffering for the parking yet still maximize the available area for parking and a variance is being requested. There was discussion on how to possibly expand the buffer area; but, it was determined that to maintain proper drive and parking access and provide a suitable property depth for the residential sites, the planned width of the buffer probably cannot be expanded.
- The applicant testified that the variance for the buffer along the driveway access side of the property is needed in order to provide a minimum access driveway width and maximize parking stalls. The proposed buffer along that side of the site will vary from seven feet at the front and along the side decreasing to two feet at the rear parking area.
- The applicant is proposing an 18' wide driveway access which meets the county mandated minimum curb access, but is less than the 25' required in the local code. Rick confirmed those statements. The applicant feels a variance is warranted since the 18' is only about 1 foot less than the marked right of way on Main Street for the 18' proposed width; and, because it maximizes the available landscape buffering along the side of the property. It was further testified that the county prefers the location of the planned access and it does not want a wrap around the building pattern with a separate entrance and exit since that configuration requires two curb cuts and further loss of on-street parking. It was testified that stop signs are not required by statute; but, adequate caution, warning indications, and suitable varied materials will be used to clearly delineate the pedestrian walkway. In addition the entrance will be properly graded to promote pedestrian flow. The applicant agreed that some suitable signage will be added warning that there is a pedestrian crossing at the entrance.
- The applicant agreed that the proposed fence would extend across the entire rear of the site and along the side sufficient to minimize intrusion of vehicle headlights.

C. Loading:

- The applicant testified that a designated loading area was not planned since the envisioned uses would have deliveries made by smaller vans or UPS type carriers that would either pull up to the building as is currently done with other businesses in the area or could pull up to the back of the building and drop off or pickup packages as needed.

D. Pedestrian Circulation:

- The applicant testified that the final site plans as well as the construction plans will comply with the requirements.

E. Stormwater Management:

- The applicant testified he would ensure the drainage easements were included as part of the subdivision and subsequent deeds to permit their inclusion and maintenance.
- The applicant agreed that drywells will be provided to lessen the impact of runoff from the residential buildings into the proposed side swales.
- Rick Arango noted for the board that the plans do not plan to change the existing grading and that the removal of the existing paved surface will provide a significant increase in pervious coverage which will allow for natural absorption of runoff from the remaining parking area. Mr. Hirsh testified that except for unusual excessive rainfalls, the proposed pervious areas should naturally absorb any runoff. The need for the easements is to ensure that the planned 2% grading will be maintained to ensure runoff and eliminate ponding. Rick concurred that the planned 2% grading will prevent ponding and the planned swales will properly channel any runoff away from the homes.
- There were concerns raised by several board members regarding both the concept of allowing runoff through the residential sites and the possible impacts on usable space available to the property owners. Jim Brandenburger, Joe Hirsch, and Rick Arango explained the drainage plans that had been submitted with the application. It was testified that any decks would be included in the allowable building foot print area and are not impacted by the contouring for drainage. It was felt that in the rear yards most of the property is usable space. The major impact of the swales would be concentrated between the homes in the 10' total side yard areas. Mrs. Weaver is concerned about the number of variances needed to create the three lots and possible future variances that might be needed for the future homeowners to fully utilize their lots. Mr. Hirsh provided estimates as to the amount of space available in the rear yard.

F. Grading:

- The applicant testified that the homes are proposed to have basements and soil boring will be done and the dwellings will conform to the elevation requirements based on the test results.
- The applicant testified that the plans will be revised to address the rest of the concerns raised in the review.
- Tamara what were the planned first floor elevations since the since the supplied exhibit of the proposed homes showed a significant elevation. Jim explained that the photo was form a development that had a high water table and those homes also had daylight basements. The elevation for this development will be two feet above grade with the garages 20 inches below that level.

G. Utilities:

- The applicant stated that the final plans will comply with all the points raised.
- The utilities for the commercial site will be from Main Street and will be underground from the pole to the building.
- The utilities for the homes will be from Cinnaminson Street and will be underground from the pole(s) to the buildings.

H. Construction Details:

- The applicant agreed to all points raised in this section.

I. Lighting:

- The applicant referred to the lighting plan and testified to the types of lighting planned. All will be wall mounted approximately 10 feet above ground. All proposed lighting will be subject to approval by Tamara to address her concerns.

J. Trash Enclosure (Solid Waste Management)

- The applicant explained why the proposed usage did not require a trash enclosure and that they would agree to stipulate that responsibility for trash removal is the responsibility of the tenant/owner and

must comply with the Borough codes.

K. Signage

- The applicant confirmed that except for signage required by law, e.g., handicapped, no other is currently proposed; but, all signage will comply with the Borough code.

L. Traffic:

- In support of the request for a waiver of a traffic report, the applicant referenced the requested trip number data included in the exhibit package based on accepted ITE standards requested by the board's engineer. All the numbers represent less usage than the post office except for eating establishments on a weekend. Rick stated he would review the material and would determine if a waiver if granted is warranted. The plans address the revised access from Cinnaminson Street to Main Street.

M. Fences:

- The requested gate detail will be added to the plans.

N. Site Safety:

- The requested notation(s) will be added to the plans.

O. Miscellaneous:

- The requested revisions will be made.

Regarding Section V-Summary of variances and Waivers, the applicant and their professionals agreed to the accuracy of the summary. Janet Smith commented that the members should also reference this section in their deliberation as she agreed that it accurately indicated the variances and waivers that are needed to approve the application. Janet also referenced Section II of Rick's report which detailed the zoning variances needed.

Mr. Hirsh responded to Tamara's review. He asked if he could concentrate on those items not previously addressed in the engineer's review and Tamara stated that was fine since he had addressed her similar concerns.

Detailed responses are as follows:

5.6 Architectural plans:

- Mr. Hirsh again referenced the photo of the proposed residential units and the photo of existing homes in the immediate area. Jim commented that the photo represented the planned buildings except that the elevations would be lower as testified earlier. The proposed homes are approximately 1,800 square feet in size and in keeping with the size of existing homes in the vicinity. Jim also provided further details as to the garage entrance and what would be above and to the rear of the garage area. The testimony addressed Tamara's concerns.

5.7 Building height:

- Jim testified that the building height would comply with the revised ordinance and in no case would they exceed a maximum of 35 feet above grade as measured from the peak of the roof. Tamara stated that addressed her concerns.

5.4 Lighting and 5.8 Landscaping:

- Mr. Hirsh reiterated previous testimony that all final lighting and landscaping plans would be contingent on Tamara's approval. Tamara stated that she was satisfied with that stipulation as long as the board concurred.

6.1 Affordable housing:

- The applicant and professionals stated that they would ensure that all regulations were complied with. Tamara reviewed the current impact and fees with the board and requested that the obligation should be specified in any approving resolution.

6.2 – R-4 Zoning:

- Mr. Hirsh and Jim responded that they had use R-4 as a guide when developing the plans for the residential sites. Tamara reviewed the item with the board and explained that it was provided for comparison purposes only and might prove helpful in weighing the impact of the proposed residential sites. Tamara also noted that the R-4 zone only requires a 20 foot front setback while 25 feet is proposed. She stated that by requesting that the homes be moved forward by five feet would allow for additional rear yard area and help with the buffering and usable rear yard concerns raised by the board. Tamara strongly recommended the proposed lot size of 4,000 square feet not be reduced. Jim stated he would be willing to revise the plans to have a 20 foot front yard setback since the garage location still provided sufficient space to maneuver around any parked vehicle.



**Public Comment:** There was no further testimony and the board stated they wished to hold any questions until they had heard from the public. A motion was made by Chick Veasey and seconded by Joe Della Penna to open the hearing to public comment. The meeting was opened to the public and the following people were sworn and testified.

- Cindy Schweich, 617 Main Street, thanked the applicant for planning to remove the pole mounted light. She feels arborvitae are a poor choice for buffering since her experience is they do not do well in the area and will be a constant maintenance source. She is concerned about parking in front of her house. She wants two one-hour parking in front of her home. She realizes that the board can't grant this but doesn't want the concern lost. Otherwise she likes the plans and feels they will be an improvement since the post office did not properly maintain the property. It was remarked that the restricted parking that used to be in front of the post office is no longer there.
- Don Deitz, 304 7<sup>th</sup> Street, Riverton, asked what changed between January and now concerning the size of the homes. Mr. Grenna replied that he feels the smaller proposed homes are now more commensurate with the area. Don asked if the height of the proposed homes will be 35 feet and it was again stated by the applicant that the absolute maximum height above grade will be 35 feet. Mr. Deitz lamented that while change may be needed, he is concerned that the number of new homes is too many.
- John Laverty, 616 Main Street, prefaced his testimony by stating that he has some exhibits and graphics that he would like to enter and would review them with the applicant and hoped the board would take the time to consider them. John made the following points:
  - there is way too much development being proposed for the site which is a density issue
  - there are too many variances needed to grant the approvals requested
  - the proposed building footprint area for the homes will result in way too large a home for the lots that will not be in character with the existing older homes on the street
  - the plans now call for the commercial access from Main Street. This is a completely new pattern, yet he has not seen a traffic engineer's report as to the impact of new traffic pattern on the flow of traffic on Main street or the impact on the neighboring properties
  - the sight line testimony does not represent the real world of cars parked cars along the street and their impact on sight lines
  - the loss of onsite parking cannot be undone. Once it is gone it will be gone forever
  - the impact of the loss of parking spaces is more than testified to. John feels the loss of spaces on Main Street will be a minimum of two spaces and feels a traffic engineer would recommend at least one or two spaces in front of the Schweich property be striped off to ensure an adequate sight line.

John asked if he could use his exhibits and was informed he could. He presented copies to the applicant and the board of a chart marked Objector's Exhibit 7 – On-Site Parking Requirement Analysis which was entered and marked as O-1. John stated he is presenting his material not as an expert but as a concerned citizen who has done some basic mathematical calculations and feels all the information has not been properly reflected by the experts or properly presented to the board. He prepared the chart using what he feels is defined in the off-street parking section of Borough Code and is intended to show that the number of off-street spaces required for various uses of the post office building. The chart breaks down the building into four areas including the basement and the currently non-enclosed, covered, loading dock area. John contends the required number of spaces for all areas of the building is only satisfied if the least intensive use is considered. All other possible uses require a number of spaces in excess of what even the current site can provide. Therefore John feels it is wrong to consider creating an additional shortage impact than currently exists. Janet Smith commented that the use resolution had precluded using the basement for any use that would increase the parking needs of the site. John stated as a citizen he wants to know how such a restriction is policed and he was informed that is what the code enforcement officer is for. The board feels that issue has already been adequately addressed. John went on to explain that he believes the existing site can be configured to accommodate 31 to 38 parking spaces. He offered into evidence six versions of Alternate Plans for the site which were an aerial view of the site with a graphic overlay to define the plan. The exhibits were marked O-2 – O-7. The exhibits included examples of both the current site and a subdivided site.

John commented that while it is rare for the zoning board to hear a site plan application let alone both a site plan and subdivision, the need for a use variance to even permit the proposed plan to proceed dictated the

board hears the matter. He feels the board should carefully consider that the hardships and need for variances are being created by the proposed plan. Subdividing the site creates a parking deficiency where one might not exist now or will be less intense. He feels site plans and subdivisions should not create substandard lots or conditions; but that is occurring with this application. The remainder lot will be substandard for parking and the new residential use lots will be substandard for bulk variances. He feels that comparisons to existing conditions in the area should not be made or used as justification when one is creating conditions that don't currently exist on a site. Janet reviewed the variances being requested and the efforts by the applicant to minimize the type and number needed. John stated he did not want nor is he qualified to argue law; however, he contends a bulk variance is a bulk variance and that a subdivision should not create variances where none exist. John also contends that what he feels is a minimum 35% reduction in the number of required parking spaces is excessive and again should not be created by subdividing the site. John commented that contrary to the testimony provided, he feels the proposed homes are not even close to being consistent with the character and style of the neighborhood. Janet asked if John doesn't feel the applicant has done a lot to overcome the objections to attached homes and the number of homes by accepting the number of homes as three and providing for detached units. John stated he understood that perhaps the board's concerns may have been reduced; but, he still does not feel that residential construction is a good use of the site and he does not accept that the proposed homes are in keeping with the character of the neighborhood. John feels that allowing drainage across the residential properties is bad from any aspect and that maintenance will always be an issue. He feels onsite seepage structures should be required to channel the runoff from the site without having it flow across the residential properties. He has no objection to allowing 9'x18' stalls and feels the town should allow them. John feels any plans to have the homeowners maintain the buffers will not work and would be unenforceable. He feels the drive isle should be larger and could and should be made as wide as possible for safety. While conceding that easements can create their own set of issues, John feels it is worth pursuing an easement to share the drive with the property adjoining the north side of the site to help with traffic flow issues. John again stated he feels a proper traffic engineering study will help provide solutions. John contends the plans do not make enough provisions for deliveries and trash removal. He went back to the storm flow issues. As a citizen he doesn't want to hear that Council is being besieged with complaints of ponding or other drainage related issues. He again stated on-site underground seepage is needed. John stated he feels any kind of restricted parking is detrimental to the parking situation on Main Street. Many existing homes have to rely on on-street parking and it is not beneficial to subject them to further hardship by restricting the use of existing spaces. John totally disagrees that increasing the housing density on Cinnaminson Street is beneficial. John again referred to exhibits O-2 – O-7 to demonstrate that there are alternatives to the subdivision as proposed by the applicant that may be a better alternative. Lastly, John commented that adding housing is considered by many experts to be a tax revenue negative proposition. John concluded by asking the board to remember that when it comes to granting variances, they may dictate to the applicant for the town but should not be dictated to by the applicant.

- Fred DeVece, owner of the property at 609 Main Street, wanted to know if the 20 foot front setback being discussed was established by the new twins erected behind his property. The answer was no. The 20 foot front yard setback is the existing bulk requirement in the neighboring R-4 district.
- Don Deitz, commented that several years ago when Council was considering using the post office building as a new town hall he kept hearing about ratables. If the existing and new housing or municipal use is so negative to increasing ratables then all decisions where business is concerned should prevail. he feels that there other important considerations than just ratable.

There was no further public comment and Joe Della Penna motioned and Chick Veasey seconded to close the hearing to public comment.

### **Deliberation**

Ken Mills asked Rick Arango if a traffic engineering study was needed. Rick replied that he would like time to review the material presented tonight. After he reviews the material if he still feels a traffic engineering report is needed, he will require one to be provided. Janet asked if this decision precluded the board granting any approval if it deems approval to be warranted. The conclusion was that the board could always grant preliminary approval. It could also consider granting final approval conditioned on the issue of a traffic study being resolved. Rick stated the county might possibly ask for a study. Joe Della Penna and Barry Wells both asked Jim on what he feels is opinion of the county on the issue. Jim replied that the county appeared to prefer the present plan and did not

mention needing a traffic engineering study. While the county has not stated they specifically do not want the entrance to be from Cinnaminson Street or that it should be on the other side of the property, they appear to prefer the current planned location. Jim stated he felt it was the best location and presented the least amount of redesign of the site to accommodate it. Rick Arango again stated his concern that the minimum width of the planned access drive would provide sufficient clearance if someone was attempting to exit as someone was trying to enter from Main Street. Jim Brandenburger stated that he is understand he needs the approval of the board's engineer and he would have his engineer reexamine the plans to see what can be done. There is an existing utility pole at the corner of the site that most likely precludes widening the access any further towards the adjoining property. It was agreed the county's concerns and decisions supersede the board's and must be satisfied. It was asked by the board and answered by Rick Arango that the county's jurisdiction is the right of way, the curb cut, and the apron. Jim stated that he did not want to lessen the planned buffer with the adjoining property and conceded that while it may be possible to widen the access from the street to the front of the building; he did not see it possible to widen the entire driveway and maintain the planned buffer. Mr. Wells asked about trash and his concern it would be properly handled. Jim explained that he did not think an enclosure was needed for at most a small dumpster and that private trash removal will be arranged if necessary especially if a dumpster is utilized. Jim stated that the larger dumpster used by the post office was delivered by a small truck that could maneuver in the planned area and he did not foresee needing a dumpster that size. Further he envisions that the majority of trash would remain inside the building and be handled by the maintenance contractor. Mr. Wells is concerned about drainage across the residential properties and asked about pollution concerns. He asked about permeable surfaces and Jim explained that the existing pavement and what will remain is 6-inch reinforced concrete. In addition Jim feels the amount of paved area is being significantly reduced and the situation will be similar to run off from a driveway between properties not something subject to excessive amounts of polluting materials. Rick Arango replied that while the plans do provide for catch/absorption areas along the property line the plans allow for overflow to continue to flow, as currently occurs, to Cinnaminson Street between the properties. The plans as presented do allow for the flow and will have to be constructed to plan. Plus there is concern about the continuing maintenance to be provided and that periodic examinations following completion of the construction will be made before any maintenance bonds will be released. Rick Arango stated he feels the soil conditions will provide sufficient absorption for most runoff and natural absorption is the best way to naturally filter drainage. Concerning trash, Rick Arango reviewed that he understood a dumpster will not be needed and that trash removal will be handled by the maintenance contractor. Jim stated that he is not really sure how the trash would be handled but does not envision it being that significant to require multiple dumpsters in an enclosed area. Rick stated he feels they may be trying to shoehorn too much into the available space. Rick and Tamara both stated they were under the impression there would not be a dumpster and disposal would be handled by smaller trash receptacles. Jim stated he would agree that there would be no dumpster. Tamara stated that eliminated her issue. Rick asked if there would be a designated area for trash receptacles and Jim stated yes near the building but would not be in a specific enclosure. He agreed to make sure it was marked on the plan. Jim stated that he wanted to avoid an enclosure since he has maintenance/vandalism issues with the larger enclosure at Riverton Square. It was agreed that as long as normal trash can type receptacles were to be kept in an area near the building an enclosure is possibly not needed.

The chair asked if there was further deliberation and hearing none asked if the board was ready to consider a motion. Janet was asked to provide guidance. Janet asked if all the changes had been discussed and agreed to. The answer was yes. Janet asked if the residential lot changes had been the decided specifically if the front yard setback was being changed from 25 feet to 20 feet which will allow for a 30 foot rear yard. The answer was yes. Janet referred to the zoning requirement charts provided in Rick's review. She stated that for the residential lots a variance is needed for a side yard setback to permit five feet on each side from the property line for a total of 10 feet instead of the 10 feet (total of 20 feet) required. A variance is also needed to permit a front footage of 40 feet instead of 50 feet. For the commercial lot, a variance is needed for the rear buffer where 2 feet is proposed and ten feet is required. A variance is required to permit 9'x18' parking stalls where 10'x20' is required. For general office use a variance is needed for the planned 11 parking spaces where 25 (for general or professional office use) are required. A variance is needed for the access driveway. A waiver of the traffic impact study is being requested. Janet asked and the applicant confirmed they were hoping to obtain both preliminary and final approvals tonight. There was discussion about whether just preliminary approvals or final approvals were appropriate; and, that if only preliminary approvals were granted, the applicant would need to notice and appear for final approvals. It was explained to the board members that if they feel they need to fully review the plans before

approving them, then they should only grant preliminary approvals. However, if the board feels the plans are far enough along and the board feels that its professionals are capable of making sure the final site and subdivision plans concur with the board's approvals, then a preliminary and final approval with conditions is warranted. Final approval means that required sign offs by the county and the board's planner and engineer are sufficient to allow the chair and secretary to sign off the plans for the board. Tamara stated she was comfortable with what has been presented and discussed and having sufficient input to make sure the final plans address and meet the board's concerns. Rick also concurred and stated that if he and the applicant cannot come to an agreement concerning the plans and his decision regarding the traffic study, then he would tell the applicants they have to come back before the board. The chair stated that he feels the plans are very close to what the board desired given that the commercial entrance is now on Main Street, there are only three residences, and they are detached single family structures. Ken feels the scope of the additional changes is such that he is willing to let the professionals deem they have been complied with. The board concurred and asked for Janet's guidance in crafting a motion. Janet suggested the board could grant the variances for the residential lots:

- permitting a minimum side yard setback of five feet each side and 10 feet total where 10 and 20 feet are required
- for a front footage of 40 feet where 50 feet is required.

For the commercial lot variances and waivers could be granted:

- permitting a two foot landscape buffer at the rear where 10 feet is required
- for a landscape buffer varying from two to seven feet on the southern side where 10 feet is required
- for 9'x18' parking stalls where 10'x20' is required
- for 11 parking stalls where 25 are required
- for a parking buffer at the rear of the site of 2 feet where 10 feet is required
- for an access driveway of 18 feet or larger but less than the 25 feet required
- waiving the traffic impact study contingent on the board's engineer determining that one is not required.

The board could grant preliminary and final major subdivision approval consistent with the plans submitted. The board could grant preliminary and final site plan approval contingent on all conditions raised in Tamara's and Rick's review letters and agreed to at the hearing being met and that county and board planner and engineer approve the plans. The chair asked if someone was prepared to make a motion to approve along the lines that Janet had suggested. Deb Weaver asked if the height of the new homes had been resolved and it was reviewed that the issue had been raised by Tamara and agreed to by the applicant that a maximum height of 35 feet at the ridge of the roof would be maintained. Joe Della Penna motioned that approvals be granted along the lines as suggested by Janet and Robert Kennedy seconded the motion. There was no further discussion and the board approved the motion by a unanimous poll vote of 6 ayes and 0 nays with comments as follows:

Mr. Mills	aye	Mr. Della Penna	aye
Mr. Veasey	aye	Mr. Kennedy	aye
Mrs. Weaver	aye	Mr. Wells	aye

Mr. Mills felt the residential use on Cinnaminson Street is appropriate and that the three single family detached homes are in keeping with the character of Cinnaminson Street and will improve the streetscape. He feels the access drive to the commercial building off Main Street is beneficial and much better than being off Cinnaminson Street. He believes that the plans make the best use of the site for the town. He feels the board had a beneficial impact in the final plans providing for the best use. Mr. Della Penna was impressed with the willingness of the applicant and the board to participate in a civil and intense give and take discussion and with the applicant trying to make sure he could address the concerns of the board. He feels this is the best use to improve what is now an eyesore in the center of the town. Mr. Veasey feels his doubts were removed based on the recommendations and agreements reached with the board's professionals and that the variances granted are less than he originally envisioned would be requested to make the plans work. Mr. Kennedy complimented the applicant's efforts and desires to address the concerns raised by the board and its professionals and feels the plans as approved are beneficial for the town and the area. Mrs. Weaver stated while she liked the plans she had concerns until the efforts of the planner and engineer and the willingness of the applicant to work with them addressed those concerns. Mr. Wells stated that based on his review of the plans prior to the meeting, he thought his leaning toward voting no would not be changed. However, he had changed his mind after listening to the work of the professionals and the applicant's willingness to negotiate and make concessions to alleviate the major concerns of

the board. He conceded that Mr. Laverty had some very valid points regarding parking and in effect creating the need for variances. However he feels the plan even with the reduced parking is beneficial to the town; but, that it may come back to haunt the applicant by limiting possible uses for the building. He is concerned that the board may have been too willing to grant variances; but, understands the board cannot change the code and feels the variances granted for this particular application are warranted. He supports the plans as approved tonight.

## **OLD BUSINESS**

**Planning Board & Council Matters** – Councilman Katella reported that Council had endorsed the amended Housing Element and the Fair Share Plan. Council has submitted all the materials to COAH in the expectation the Borough’s submission will be deemed complete. To date, no word has been received from COAH. The secretary reviewed there were no developments from the planning board; but, they have formed the review subcommittee to continue to review possible ordinance changes. The secretary also advised that at the present time all members of the board are certified as having completed the state mandated education course.

## **CORRESPONDENCE**

None received.

## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 03/01/10, Tamara L. Lee LLC, \$112.50, for work connected with the Brandenburger/BWC Realty use variance application in February. PAY FROM ESCROW

The secretary stated there were no escrow shortage issues. There was no discussion and a motion was made by Barry Wells, seconded by Chick Veasey, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 11:30 PM (motion by Wells, second by Weaver)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
April 15, 2010**

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 January 25, 2010.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, William Corbi, Craig Greenwood, Charles Veasey, Deborah Weaver, and Barry Wells.

**ABSENT:** Joe Della Penna and Robert Kennedy.

**OFFICIALS:** Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Chick Veasey, seconded by Deb Weaver, and unanimously approved to adopt the minutes of the March 18, 2010 regular meeting as distributed.

**PUBLIC HEARING**

**Variance Application by Douglas Aird and Heather Thress, 623 Main Street, (Block 906, Lot 7) to construct an addition that will expand the nonconforming structure.**

**Testimony:** The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mrs. Thress was sworn in and explained the project. The applicants wish to add a small 3'-10" x 14'-7½" 1-story addition to the side of the house for a ½ bath and living space. The existing house is nonconforming because it is part of a twin home and the side of the house lies within the required side yard setback. The addition will maintain the existing building line set back of the structure which is approximately 6.71 feet from the side lot line and the roof details will extend less than the roof details of the current structure. The floor plan of the house does not allow for the addition to be otherwise located without major renovations. The applicants need the addition to better accommodate the needs of their family and small children. The design of the addition will maintain the exterior design of the existing house and will have minimal visual impact on the neighborhood. The chair asked if there was additional testimony or questions from the board. There being none the chair requested the hearing be opened to public comment. Ken Mills motioned and Craig Greenwood seconded to open the hearing for public comment. There was none and Ken Mills motioned and Chick Veasey seconded to close the hearing to public comment.

**Deliberation:** Following discussion of what the approval should require, Janet was asked to review and suggest a motion. Janet suggested the board might grant a variance to allow construction of an addition that does not extend beyond the existing rear or side building lines consistent with the plans submitted and does not encroach any further into the side yard than the existing structure. Barry Wells motioned and Deborah Weaver seconded to approve the application as suggested. The motion was approved by a poll vote of 7 to 0 as follows:

Mr. Brandt aye      Mr. Mills   aye  
Mr. Corbi   aye      Mr. Greenwood aye  
Mr. Veasey aye      Mrs. Weaver   aye  
Mr. Wells   aye

Various members commented that they felt the variance was minimal, that a hardship exists, there is minimal impact on neighborhood, and there is no further encroachment.

**Request for Interpretation of Zoning Code Regarding Determination of Current Use of Property at 408 Main Street.**

The chair explained to the board that this matter had come up only in the last few days and that the contact purchasers of the building were seeking an interpretation of what is the current use of the building. He explained that while the purchaser was requesting the interpretation, the owner also needed to consent to the interpretation and have a chance to provide testimony. Further, while it is very possible that a conclusion may not be reached tonight he thought it was unfair to make the parties wait another month before even considering the matter. Rather he wished to have testimony heard tonight and then further research as needed can be conducted. Janet stated the board is being asked to provide an interpretation as to what is the current use, what use(s) were/are grandfathered, and if there has been any abandonment of the use(s).

Dr. Anthony T. Cherico was sworn in and stated he consents to the interpretation. He testified that he is the current owner and that he purchased the building in 1982 from Dr. T. Bruce Dixon who used the first floor as an office and rented out the two apartments on the second and third floor. Dr. Cherico testified that he understood Dr. Dixon had used the building as such from 1945 until he sold it in 1982. Dr. Cherico stated that his research showed the building had been used for a Doctor's office at least from the turn of the last century. Doctors Marcy and Rogers were mentioned as prior occupants. Dr. Cherico testified that when he purchased the building there were two apartments and the office. The office occupies the entire first floor and there is an apartment on each of the second and third floors. Access to the office was from an entrance on the front of the building. Access to the apartments was from a side entrance that has a stairwell to the upper floors. All entrances to all three levels from the stairwell are secured and there is separate access to each unit from the stairwell. When purchased, the second floor apartment consisted of two bedrooms, living room, dining room, kitchen, and a full bath. The third floor had a kitchen, bedroom, living room, and full bath. The first floor office has nine rooms consisting of a waiting room, three rooms used for reception and files, five exam rooms and a ½ bath. After he occupied the building he continued to use the first floor office. He and his wife occupied the second floor and his son lived on the third floor. Janet asked if the son used the kitchen and Dr. Cherico stated yes and that they had also installed a washer and dryer on the third floor. He vacated the office in the last few weeks and his son is vacating this weekend in preparation for final sale. Kerry asked what alterations had been made. Dr. Cherico stated that approximately a year ago the furnace was replaced on the second floor and that fire code alterations were required to separate the furnace area from the bathroom. He testified that no alterations had been made to the access to each unit. He has maintained the three electric and three gas meters. There is a single bill for both water and sewer but the charges are based on the building having three units.

Ken Mills asked what the board was being asked for. Dr. Cherico stated he understood that the buyer wished to maintain the two rental units/office scenario. Asked when he put the building on the market, Dr. Cherico stated it has been on the market for four years. Janet asked how long he has continued to use the office on the first floor since she understands he relocated the practice to larger facilities at 600 Main Street. Dr. Cherico replied he has maintained the office at 408 for file storage and to see patients on weekends and weeknights after regular office hours. He has continued to use the office for night and weekend office hours rather than opening the main office. Ken Mills and Barry Wells again asked for clarification of the issues. The chair explained that until the testimony tonight there have been questions as to what was the prior and current use of the building and asked the board to maintain an open mind until all testimony was presented, issues discussed, and the legal ramifications researched. The building is in the R4 residential zone which does not permit strictly commercial

use. Janet stated that the information presented to the zoning officer was unclear and the zoning officer could not make an interpretation. Also there are legal issues to consider. Currently the uses of the building are not permitted and it must be determined when they were permitted and subsequently grandfathered. Also there is an issue if any of the uses have been abandoned. Barry asked if there is a period of elapsed time that constitutes when a use is grandfathered. Janet explained that the use(s) must have been legal at some point in time for them to be legally grandfathered when subsequent changes to the code no longer permit the use(s). The testimony being presented tonight has not been available or presented prior to now. Kerry stated that while bills, etc. can be used as supporting evidence, he feels the board needs to determine how the building was used and has been used up to the present. Janet stated that only the testimony and further research can allow for an interpretation to be made to determine that the use was indeed legal at one time and there has been no abandonment.

Kerry asked how Dr. Cherico came by the history of the building. Dr. Cherico replied that he obtained the knowledge from his patients that were patients as adults or children of the prior occupants of the office. Prior to his purchase of the building and office he had used some of the space with Dr. Dixon and Dr. Dixon had occupied the office from 1945. Through conversations with the son of a previous occupant, a Dr. Rogers, Dr. Cherico learned that Dr. Rogers and before him Dr. Marcy who used to live next door at 406 Main Street had used the building as a doctor's office. Dr. Cherico volunteered that he understood that at sometime in the past, perhaps during the 1920's, the second floor had been used as a maternity hospital. When he purchased the building from Dr. Dixon there two people living upstairs. One lived rented the second floor apartment and the other rented the third floor apartment.

Dr. Cherico stated that when he bought the building he bought it with the intention of using it as an office and as a residence for himself and his family so he had to ask the occupants of the apartments to leave so he and his family could use the upper floors. Asked how old his son was when they occupied the building, Dr. Cherico replied he was sixteen and he lived on the third floor. Janet asked if he knew when the use of the second floor changed from a maternity hospital to an apartment. Dr. Cherico stated he did not know for sure; but that he knew from Dr. Dixon that he had used the first floor as his office and rented the upper floors to tenants from the time he purchased the office in 1945.

Janet asked when Dr. Cherico had last seen a patient had last seen patients at 408 Main Street and he replied about four weeks ago. Asked how many patients he treated on average at the 408 office since moving the main office, Dr. Cherico replied it varied with the season but on the average he thought it was five or six over a weekend mostly during the winter. Dr. Cherico was asked and confirmed that the only access to the upper floors was via the stairwell and access to each unit was only from the stairwell.

Kerry asked if there were other questions from the board for Dr. Cherico. There were none and he thanked Dr. Cherico for his testimony especially on such short notice. Kerry asked if there were others being requested to present testimony prior to hearing from members of the public. Robert Yearly, the Borough Fire Official, was asked by the board provide testimony. He was sworn in and testified that he is required to inspect a building for smoke and carbon monoxide detectors any time a home is sold or the tenants change. He stated he has recently performed an inspection of 408 and it was in compliance. He stated the building is as has been described from what he saw. He did not go into every single room; only where he is required to check. He concurred that the only way to access the upper units is through separate locked entrances from the side stairwell. He did not see evidence of recent renovations. He did notice a kitchen on the second floor. He did not see the kitchen on the third floor but he did not need to look for one as part of his inspection. Asked if a unit had to have a kitchen to be considered an apartment, Mr. Yearly stated he thought that was so. Janet asked if he saw a bathroom on the second floor and Bob replied yes. On the third floor he did not see a bath but there were closed doors and he did not need to open them to verify the presence of the required detectors.

Raymond Skorny one of the contract purchasers of the building and Delores DeFritas a realtor with Riverline Realty were sworn in. Dr. Cherico asked if the statements sworn to were correct and he stated yes. Mr. Skorny



testified that he and Kirk Fullerton are the contract purchasers of the property and that they were purchasing it as having three units. There is a discrepancy between the tax records and the mortgage appraiser as to the number of units and they requested a ruling from the board. An exhibit marked as INT-1 was provided that showed the existing floor plans of the building prepared by Walter Croft, Architect. Dr. Cherico was asked and explained the plans to the board. Dr. Cherico testified that while there is currently no stove in the third floor kitchen, there is a refrigerator and microwave and gas service for a range. Mr. Skorny testified that he had been through the building and that there was a complete kitchen on the second floor and what he described as a kitchenette with a washer and dryer on the third floor. There is no kitchen on the first floor. Asked what he hoped to use the building for, Mr. Skorny and Ms. DeFritas testified that the purchasers hoped to use it for three rental units. However if that was not allowed they would probably wish to use the building as one rental unit on the first floor and a second unit on the second and third floors. Mr. Skorny stated they did not wish to use the building for a commercial use. Mr. Skorny also agreed that his proposed use was not really under consideration at this time; however with the discrepancy between the tax records and the bank appraisal they wanted to know how many units there are and what use was allowed/grandfathered. Mr. Skorny testified that the appraiser had appraised the upper floors as two apartments but did not know how to appraise the first floor since it was just empty rooms without a full bath or kitchen. Dr. Cherico offered that he believes the back room on the first floor was maybe the original or part of or the kitchen and has a large sink and gas service. He agreed that it was not a kitchen when he purchased the property and never had used as such since he owned it and Dr. Dixon owned it before him. Kerry stated that he thought the board was being asked to interpret what is the current legal use of the building; and while it may or may not impact the proposed use, the board should restrict itself to determining the current use. Kerry stated that in his current uninformed opinion he feels the building cannot be interpreted as three apartments; but, as most perhaps two apartments and a commercial use on the first floor. Kerry feels that given that the site is in the R4 zone, the purchaser can use it either as a permitted single family residence or for whatever is determined as a grandfathered use. Janet concurred that is basically correct. Janet feels the testimony presented so far indicates that the first floor has been used as a doctor's office at least since perhaps 1945 and that there may have been two apartments on the second and third floors. Mr. Skorny asked that if not at this meeting perhaps by the next a decision could be made. Janet replied that was the intent. Barry Wells asked if it was important to distinguish whether the first floor use was specifically as a doctor's office or a professional office use. Kerry stated he thought it might be since it could make a difference in the number of employees and traffic. Kerry asked if there was any further testimony. Mr. Skorny stated again that they hoped to use the building for residential purposes. Kerry asked if there were further questions from the board and there were none. Kerry asked if Dr. Cherico wanted to have anyone else to speak on the matter. Dr. Cherico stated he had asked a patient to attest to the use as a doctor's office. Mrs. Wark, 406 Howard Street, was sworn in and testified she is a patient and was also a patient of Dr. Dixon before that. She has been seen at both 408 Main Street and the new office. She also testified that she recalls her father telling her that other doctors had their offices there before Doctors Cherico and Dixon. Mrs. Wark could not recall the last time she was seen at 408 but that it has been several times since the main practice was moved. She also recalled that when Dr. Dixon had the practice, there were two apartments on the upper floors.

A motion was made by Ken Mills and seconded by Bill Corbi to open the matter to public comment.

- Patricia Solin, 406 Main Street, was sworn in and testified that the Chericos have always been good neighbors since the Solins moved into their home in 1983. Mrs. Solin stated that she recalled being told by Mr. Kroll, from whom the Solins purchased the house, that his father-in-law, Dr. Marcy, had moved his practice from his home at 406 next door to 408 and she guessed that had occurred perhaps much earlier in the last century. Mrs. Solin learned from Mr. Kroll and her historical research that Dr. Marcy had purchased/built the home in the late 19th century and had later purchased the 408 property so he could relocate his practice. Asked by the board if she knew any history of the upper floors, Mrs. Solin stated that she only new that in the last 27 years only the Chericos had lived there and she was not aware that the units had ever been rented to anyone else. While Dr. and Mrs. Cherico had moved out several years ago, their son John had continued to live there off and on continually since the Solins had lived at 406 Main. Mrs. Solin stated she was concerned that the character of the home and area be maintained. She is concerned

about changes to the structure, parking concerns, and she feels three apartments is too dense a use. She is also concerned about changes within the Historic District. Kerry explained that at this point the board is only being asked to interpret what is the current allowed use of the property. Janet explained that there is no application before the board requesting a particular use. Rather, an interpretation is being sought as to whether the use can only be what is currently permitted or if there are grandfathered uses. Mrs. Solin stated that as far as she knew the upper floors had never been rented and had always been used just by the family and son. Mrs. Solin stated that as far as she was aware, that after Doctor and Mrs. Cherico moved out about three years ago, the building had been on the market and only the son had actually continued to live there. Mrs. Solin asked if way the Chericos had used the upper floors means the use as rental apartments had been abandoned and Janet stated that was one of the issues to be resolved in rendering the interpretation. There was some additional discussion regarding the parking; but, it was stated that it was not relevant to the issue of determining the use. Mrs. Solin stated she feels the anxiety of her and her neighbors is the possible impact on the character and conditions of the neighborhood if the property is to become a fully occupied multi-unit rental property. Janet stated while her concerns are valid, they are really beyond the scope of what is before the board. Kerry stated that he understood Mrs. Solin's concerns; but, there are current codes and requirements that have to be followed regarding any possible future changes to the property and further any deviation from those requirements would require variances and noticing of all neighboring property owners. Kerry also explained that the board would be asked to consider the results of all research and legal considerations and would then attempt to render a determination as to either the currently permitted or grandfathered use(s). Kerry thanked Mrs. Solin for the time she put into her comments and that her observations and testimony were important in establishing the background as to the actual use of the property over time.

There was no further public comment and a motion was made by Ken Mills and seconded by Chick Veasey to close to public comment. The chair asked if the parties had any further comment or questions for the board. Mrs. DeFritas commented that the tax records say the property is three units; but, the mortgage appraiser could only class it as two units. The purchaser needs to know if is two or three units and what are the permitted uses. Mrs. DeFritas stated only the Chericos know for certain what living arrangements existed and what if any rental arrangements existed. Janet asked Dr. Cherico how old his son was when they moved in and Dr. Cherico stated 16. Kerry asked if the son paid rent and the answer was yes bur not when he was 16. Janet asked if the Chericos had ever rented to anyone other than their son and the answer was no. Asked if the son had always lived there, the answer was yes except when serving in the Navy. Barry Wells asked for clarification on the stairway entrance and it was explained that the stairway was the only access to the upper floors and that the entrances to those floors as well as the first floor from the hallway were secured by doors with dead bolts. Kerry stated that his intent tonight was to gather as many facts as possible and that the board needed to consider both uses and abandonment issues. The board and Janet intend to review the testimony, case law, and other research as needed to hopefully allow the board to present an interpretation by next month. Kerry requested that if there are additional facts to be presented to please get them to the board as soon as possible. Dr. Cherico commented that his son was moving out this weekend and the office was already vacant and he was concerned that these actions not constitute abandonment. Kerry and Janet both commented that these actions constitute the normal process of selling the property and are not considered abandonment. Craig Greenwood asked how the property was owned. Dr. Cherico stated the building was privately owned by him and the practice is a corporation and it paid rent.

## **OLD BUSINESS**

**Adopt and Memorialize Resolution Case#2010-01, Approval of the Site Plan and Subdivision application by BWC Realty Associates, 203 Thomas Ave., for 613-615 Main Street, block 906, lot 4 in NB zone, to rehabilitate the existing building for permitted use(s) and to subdivide the site to define three new lots for the construction of three single family detached residences fronting on Cinnaminson St. –** Chairman Brandt asked Vice Chairman Mills to conduct this portion of the meeting since he was not present for the hearing. Ken asked if the members had received and read the resolution and if there were any comments or

questions. There were none and Deborah Weaver motioned and Barry Wells seconded to adopt and memorialize the resolution by title. The motion was passed by a unanimous poll vote of 4-0 of the four members eligible to vote as follows:

Mr. Mills aye            Mr. Veasey aye  
Mrs. Weaver aye        Mr. Wells aye

Kerry resumed chairing the meeting.

**Planning Board & Council Matters** – The secretary reported that the planning board does not meet until next week and he was not of any Council matters. The secretary briefed the board that the process is ongoing to seek final approvals from the county and to prepare the final site plans and subdivision documents for signature for the former post office property now owned by BWC Realty Associates.

**CORRESPONDENCE**

None received.

**NEW BUSINESS**

**Vouchers and Invoices**

1. 04/01/10, Remington Vernick and Arango, \$3,395.00, for work on the Brandenburger/BWC Realty applications from 2/16-3/15/2010. PAY FROM ESCROW
2. 04/01/2010, Tamara L. Lee LLC, \$900.00, for work on the Brandenburger/BWC Realty applications during March. PAY FROM ESCROW
3. 04/15/10, Janet Zoltanski Smith, \$1,202.50, for professional services February-April 2010 for the BWC Realty Associates, applications for the former post office property at 613-615 Main Street. (PAY FROM ESCROW)
4. 04/15/10, Janet Zoltanski Smith, \$286.00, for general professional services and guidance in March-April 2010.

The secretary stated that with these invoices the BWC Realty escrow account will go short and he would advise the applicants. There was no further discussion and a motion was made by Chick Veasey, seconded by Craig Greenwood, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 9:50 PM (motion by Corbi, second by Mills)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
May 20, 2010**

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 January 25, 2010.
2. Posting notice and publication in the Burlington County Times of this meeting by the applicants.

**ROLL CALL**

**PRESENT:** Kerry Brandt, William Corbi, Joe Della Penna, Charles Veasey, Robert Kennedy, Deborah Weaver, and Barry Wells.

**ABSENT:** Ken Mills and Craig Greenwood.

**OFFICIALS:** Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. The secretary commented he had been informed of a revision needed on page 5 to correct the wording to correctly reflect the comments being referenced. There was no further comment and a motion was made by Bill Corbi, seconded by Chick Veasey, and unanimously approved to adopt the minutes of the April 15, 2010 regular meeting as amended.

**PUBLIC HEARING**

**Request for Interpretation of Zoning Code Regarding Determination of Current Use of Property at 408 Main Street.**

The chair explained that this is a continuation from last month of a request for an interpretation of the zoning code as to the possible grandfathered current uses and/or the abandonment of the uses for the property located at 408 Main Street. Dr. Anthony Cherico, Rev. Alan K. Salmon, and Gregory M. Costantini were sworn in by Janet. During the course of testimony the following were entered as exhibits:

- INT-2, 2a 1946 blueprint of the 1st floor offices
- INT-3, 1946 blueprint of the 2nd floor apartment
- INT-4 1946 blueprint of the 3rd floor apartment
- INT-5 Letter from Rev. Salmon
- INT-6,7,8 Copies of the three PSE&G April 2010 utility bills for the three units (3rd floor, 2nd floor, 1st floor respectively)
- INT-10 Copy of 1982 survey appraisal describing the building being purchased by Dr. Cherico
- INT-11 Copy of 12/13/1982 Deed of Sale of 408 Main Street to Dr. Cherico from Dr. Dixon
- INT-12,13 Copies of the 1/1/1981 leases to the two apartments by Dr. Dixon to the tenants
- INT-14 Copy of 1/1/2010 lease between Anthony T. Cherico and John Cherico for the 2nd floor
- INT-15 Copy of 1/1/2010 lease between Anthony T. Cherico and John Cherico for the 3rd floor
- INT-16 Copy of 1/1/2010 lease between Anthony T. Cherico and Anthony T. Cherico, MD & Associates for the 1st floor

Dr. Cherico provided copies of the blueprints of the building from 1946 prepared for Dr. Dickson which showed the doctor's offices on the first floor, a three bedroom apartment on the second floor, and a one bedroom apartment on the third floor. Dr. Cherico, offered a copy of a letter to him from Rev. Alan Salmon former Rector of Christ Episcopal Church which provided his recollections of the doctor's office and two apartments at 408 Main Street during the time he was rector of the church. Rev. Salmon attested to the information and stated he personally knew the tenants and Dr. Dixon. Dr. Cherico explained which unit each of the utility bills applied to. It was noted that the tax bill states it is for a three-unit building. The survey appraisal described that the property contained a doctor's office and two apartments. Dr. Cherico explained the three 2010 leases all dated 1/1/2010. The minimal rent for the two apartments was in exchange for the management and maintenance services to the building provided by son John. Kerry asked if the rent for the two apartments was reflected in tax returns and it was answered most likely not since it was \$12.00 a year for each apartment.

Kerry reviewed that in his opinion there are two issues to be resolved: are there any grandfathered uses; and, if there are, have any of them been abandoned. Barry Wells asked if there were materials missing from what was requested. Kerry stated there were and he reviewed the list of items requested via e-mail to Dolores DeFritas that she was asked to provide to Dr. Cherico and the purchasers as soon as possible. Barry Wells asked if the concern was one of abandonment and if so what evidence of payment of rent by the son was required. He asked this because he wondered if the Chericos, as testified to previously, had moved in as a family, did that constitute abandonment of the rental apartments. Kerry stated that he wasn't sure himself but right now he wanted to make sure everyone was aware of what had been requested and what had been supplied. Kerry stated it is Dr. Cherico's responsibility to provide evidence that abandonment has not occurred. There was additional discussion including that Dr. Cherico had not had sufficient time to gather all that was requested. Board members felt they needed more supporting evidence such as utility bills and leases. The board was also sympathetic to the short notice provided Dr. Cherico.

Dr. Cherico testified that the main practice had been moved to 600 Main Street in 2000 because the offices at 408 were too small. He testified that he had also moved the practice completely out of the building when he placed the building on the market. Dr. Cherico testified that all the utilities had remained in his name and the leases reflected this. The chair and other members concurred that they felt additional information was needed to properly document the history of the use of the building since Dr. Cherico has owned it. Asked about tax payments and more information as to when his son had resided at the address Dr. Cherico stated that he had supplied all the paper and answers that he was going to provide. He thought the board was turning the entire process into a game and that they had more than enough information to render an interpretation. It was his opinion that the entire process was ridiculous. The chair tried to explain that he and the board most certainly did not treat the process lightly and wished to make sure both Dr. Cherico's rights were protected as well as the rights of the neighbors and the goals of the Borough were protected. Dr. Cherico is of the opinion that the board is requesting personal information that is none of its business. It was discussed that any supporting information such as tax returns be redacted to only support the information that supported the claimed use of the property. Again Dr. Cherico demurred stating that he thought personal tax information was beyond the scope of what the board needed or could request and if the board insisted, they could go through his attorney. Janet explained that perhaps his attorney could assist Dr. Cherico in properly providing the needed documentation while protecting his personal information. Janet explained to Dr. Cherico that supplying the information needed to render an opinion is more beneficial than leaving the board with insufficient legal supporting information to consider that what may have been grandfathered at the time he purchased the property has not subsequently been abandoned.

Barry Wells asked if there was any formal request before the board on which it is required to act; or, if everything comes to a halt, does it all go away. Janet replied that an informal request had been initiated and there is nothing in the Borough's code providing for a formal request. It was reviewed that the issue arose when the appraiser for the mortgage company for the purchasers did not know how to appraise the building and needed some formal documentation that the claimed use was indeed correct and permitted. Therefore the request was allowed to proceed with no requirement that formal notice be given. Janet stated that as she

understands it Dr. Cherico is representing that there are two apartments upstairs and a doctor's office downstairs and that these uses are grandfathered and have not been abandoned. As Janet sees it, the board has been asked and needs to interpret if under the code: first that the uses were indeed grandfathered, and secondly if any of the uses have been abandoned. Janet further stated that while it appears the first floor may have been intended to continue to be used as a doctor's office, she recalls that Dr. Cherico testified at the last meeting that it was the intent for he and his family to reside on the upper floors as their residence. Thus there is a legitimate issue as to whether a case exists that at the least the apartment use may have been abandoned and it is up to Dr. Cherico to provide the proof that the uses were not abandoned.

Barry Wells again asked if the board should be making a formal opinion without a formal document requesting such an opinion. It was explained that while there is not a formal request to provide an interpretation, the parties clearly stated and agreed at the last meeting that it was desirous that the mortgage company be provided with legally supporting documentation of the use of the property. Bob Kennedy asked what kind of power the board's interpretation has. Janet explained that the zoning board is empowered to provide an interpretation of the code when requested and that properly done carries considerable weight. The finding is memorialized by resolution and in effect becomes "res judicata" and having once been decided is very difficult to change if the parties ask again in the future. In other words it essentially becomes law. That is why the board is encouraged to examine all the information available and to request any information it feels is needed to come to a fair decision. It is in the state law that one of the duties of the board is to provide such interpretations.

Barry stated he does not feel he has sufficient information to decide and he does not feel Dr. Cherico has been given sufficient time to respond. He feels Dr. Cherico should be given time to reconsider and supply additional information to support his opinion that the uses are grandfathered and have not been abandoned. The general consensus of the board agreed with Barry. Kerry asked Janet if the board needs to continue to move to a decision. Janet stated that if the request is withdrawn, the board needs act no further. However, she is not aware that the request has been withdrawn; only that at this time Dr. Cherico has stated he will not provide any more information. When asked, Janet felt that while the typical tolling of time may not apply, she feels the board still has time to continue the matter until next month. When the question was again asked from the board as exactly what was at issue and who requested what, the secretary volunteered and read from the minutes including that both the owner and purchaser agreed that a resolution of the use questions was needed and wanted. Mr. Skorny, one of the purchasers, reviewed that initially the purchasers wanted the interpretation; however, Dr. Cherico also agreed the issue needed to be resolved so he knew what he kind of property he was selling. Janet reminded all that the interpretation was limited to the current use of the property and the board feels it needs additional information before it can reach a decision. Mr. Skorny stated he feels it will be very difficult to sell the property if the commercial use of the first floor is restricted to a doctor's office. Janet stated the interpretation cannot change the use and that is why she issued a review letter which was provided to the board and other parties outlining the proofs the board needed to make a decision. In her opinion she doesn't feel there has been any evidence provided that the first floor has been used for anything other than a doctor's office. If Dr. Cherico or a future owner of the building was to seek a change of use, Janet commented that case law is pretty clear that an existing nonconforming use cannot be expanded or changed to another nonconforming use. Dr. Cherico asked if the building could be sold as a single family residence and Janet stated yes since that is what the building is zoned for in the residential district. However, selling it as such would definitely constitute abandonment of any grandfathered uses. Mr. Costantini, commented that he owns and rents commercial property and feels it is not unusual for there to be periods when a unit remains vacant. He stated that is even more true in the current business climate and he feels non rented time should not constitute abandonment. Mr. Costantini feels a few months utility bills cannot support abandonment or not. The chair stated there is nothing in the code that states there is a length of time involved; but, it is his understanding that if you change the use, that constitutes abandonment of the grandfathered use.

Kerry polled the board as to their feelings. Bill Corbi, Joe Della Penna, and Chick Veasey all felt not enough time to respond has been provided and that they needed more information. Kerry feels it is important to have enough information to make a decision. Bob Kennedy feels he does not have enough information. Barry Wells

is concerned that if the purchasers are the original requestors of the interpretation, they should be the ones to supply the documentation. Kerry stated his goal is to protect Dr. Cherico. Janet stated that if the seller and buyer wish to go ahead then it behooves them to work together. However, the information requested may only be available from the seller. If the seller won't provide the information, then the purchaser can certainly try but it may not be available except from the seller. Deb Weaver wondered if the issue could be broken down into two parts: defining the uses for the prospective buyer, and aiding the seller in how to market the property. Kerry asked Janet if a decision is requested now, can the board still vote to table the matter until next month. Janet responded that there appears to be time to continue the matter and the board can table the issue if it feels it needs additional information and that if by providing the time, additional information may be forthcoming. Mrs. Cherico, commented that she can't understand all the concern about John's rental agreements. She related the history of Dr. Cherico's setting up his practice in Riverton and their dealings with other professionals. She commented she couldn't recall any contacts being signed, it was all done by handshake and the realization that your word was your honor and you should be held to it. Additional back and forth discussion ensued with the purchasers stating it was up to Dr. Cherico how he wished to proceed. Janet stated it was advisable to expend the effort before a decision is made. Kerry asked Dr. Cherico if providing a compilation of the board's concerns would help. Dr. Cherico, stated that if he could leave with a specific list, it would help as long as the board didn't keep changing what it wanted. Janet ventured her opinion that probably sufficient evidence has been provided that could let the board reasonably conclude that the uses were grandfathered when Dr. Cherico purchased the property. However the board still feels it needs additional information to determine if any abandonment has occurred. The members all provided input as to what they thought was appropriate to reach a decision. It was agreed to by all parties that all the comments would be reduced to writing and a letter would be prepared and mailed to Dr. Cherico by the secretary no later than the following Monday. Dr. Cherico and the purchasers will be mailed a copy; and, the board and its counsel will receive a copy via e-mail.

A motion was made by Deb Weaver and seconded by Chick Veasey to open the matter to public comment. All persons commenting were sworn in.

- Keith Betton, 404 Main Street, commented that Dr. Cherico should be able to sell and get the best benefit as possible. He is concerned about the possible impact on the neighboring properties. He recognizes it is the board's job to determine the current use and doesn't feel it is too much to request information from Dr. Cherico to prove the use. He has rented properties for many years and has copies of information going back many years.
- Barry Solin, 406 Main Street, asked if the board was requesting a timeline of when the son lived there over the past 26 or 28 years. The answer was yes.

There was no further public comment and a motion was made by Kerry Brandt and seconded by Joe Della Penna to close to public comment.

The chair asked if the parties had any further comment or questions for the board. Mr. Costantini spoke to the occupancy by the son. He has known the Chericos for a long time and he attested that he has seen John at the property and working there. He does not know what the agreement was. Joe Della Penna asked the son's age and the answer was 45. Dr. Cherico stated that he was not certain he could provide all the information requested or if the material even exists. There being no further comment or testimony, the chair asked if both parties were in agreement to continue the matter until next month. They agreed and a motion was made by Bob Kennedy, seconded by Joe Della Penna and passed unanimously to continue the matter until next month.

## **OLD BUSINESS**

**Adopt and Memorialize Resolution Case#2010-02, Approval of the Variance Application by Douglas Aird and Heather Thress, 623 Main Street, (Block 906, Lot 7) to construct an addition that will expand the nonconforming structure.** – The chair asked if the members had received and read the resolution and if there were any comments or questions. There were none and Deborah Weaver motioned and Barry Wells seconded to adopt and memorialize the resolution by title. The motion was passed by a unanimous voice vote of the members eligible to vote.

**Planning Board & Council Matters** – The secretary reported that COAH had updated the Borough on comments filed during the 45 day comment period. The secretary also briefed the board that the process is ongoing to seek final approvals from the county and to prepare the final site plans and subdivision documents for signature for the former post office property now owned by BWC Realty Associates.

#### **CORRESPONDENCE**

The secretary reviewed a copy of a letter to Council and Kerry from Maryann Shea suggesting changes to tighten up on the definitions of what constitutes dividing a property. Kerry asked if a member would volunteer to review the letter and report back to the board next month. The board would then issue a comment to the planning board.

#### **NEW BUSINESS**

##### **Vouchers and Invoices**

1. 05/07/2010, Tamara L. Lee LLC, \$135.00, for compliance review work on the Brandenburger/BWC Realty revisions to the site plans and subdivision documents during April. (PAY FROM ESCROW)
2. 05/20/10, Janet Zoltanski Smith, \$149.50, for professional services 4/14-5/14/2010 regarding the Aird Thress variance application for 523 Main Street. (PAY FROM ESCROW)
3. 05/20/10, Janet Zoltanski Smith, \$884.00, for general professional services and guidance in April and May 2010, mostly related to work regarding the zoning interpretation for the uses of 408 Main Street. (ALL paid from the zoning budget.)

There was no discussion and a motion was made by Chick Veasey, seconded by Deb Weaver, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

##### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at 10:12 PM (motion by Corbi, second by Veasey)  
Tape is on file.**

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



**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
June 17, 2010**

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 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 January 25, 2010.

**ROLL CALL**

**PRESENT:** Kerry Brandt, William Corbi, Joe Della Penna, Charles Veasey, Deborah Weaver, and Barry Wells.

**ABSENT:** Ken Mills, Craig Greenwood, and Robert Kennedy.

**OFFICIALS:** Solicitor Janet Zoltanski Smith and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Bill Corbi, seconded by Joe Della Penna, and unanimously approved to adopt the minutes of the May 20, 2010 regular meeting as distributed.

**PUBLIC HEARING**

**Continuation of Request for Interpretation of Zoning Code Regarding Determination of Current Use of Property at 408 Main Street.**

The chair explained that this is a continuation from April and May of a request for an interpretation of the zoning code as to the possible grandfathered current uses and/or the abandonment of the uses for the property located at 408 Main Street. Following the May meeting, a letter was sent to Dr. Cherico outlining the documentation the board would like to see to help reach a decision. The materials submitted had been provided to the board prior to the meeting. Kerry reviewed the materials submitted by Dr. Cherico. Kerry noted that Dr. Cherico was not present at the meeting; and, that Dr. Cherico had stated, in his correspondence submitted with his materials, that he would not attend and provided instructions for communicating the board's decisions to him. The chair asked if the members had any comments on the materials before he opened the matter to public comment. There was none and a motion was made by Chick Veasey and seconded by Joe Della Penna to open the matter to public comment. All persons commenting were sworn in.

- Muriel Betton, 404 Main Street, asked what leases had been supplied and who leased what. The chair explained as well as allowed the public to examine them and the summary listing of them.
- Patricia Solin, 406 Main Street, asked if there was a need to differentiate between the leases for the office and the upper floors and what leases were supplied. It was explained that leases for all three units for the period 2005-2010 have been supplied.
- Barry Solin, 406 Main Street, stated he found the lease amounts confusing at best.
- Pat Solin asked if the board felt that, as testified to by Dr. Cherico, that John had been a more or less regular presence except for when he was supposedly in the Navy. Kerry asked if Pat was tactfully referring to the public information as to John's incarceration. Pat stated yes and Kerry stated the board was aware of this information and it raised concerns as to when John could have possibly been considered a renter.

- Keith Betton commented that while he had seen the second floor with the kitchen, he had never been to the third floor. Further he had always had the impression that the two floors were being used as a single family residence by the Chericos and that the third floor was used for bedrooms. Over the course of time once John finished high school, Keith recalls John was there at times, but most of the time he does not recall him most of the time. Keith does not consider John as a steady tenant. It was also thought that John had lived in Palmyra or Pennsauken. Janet asked if anyone knew if John's grandmother lived in Palmyra or Pennsauken since testimony had been previously provided that John lived with her for awhile. No one was sure.
- Pat Solin referenced a news item from The Philadelphia Inquirer in 1988 that stated John was from Palmyra. Janet asked if what she was referring to could be marked as an exhibit. Marked as P-1, was 5 pages (2 pages of fires in Riverside 1980-1986, the newspaper item regarding John's first incarceration, and 2 pages from the State DOC public website regarding the second incarceration). Joe Della Penna asked Pat if when the Chericos moved into 408 in 1982 they moved in as a family. Pat stated yes and the Chericos had been the only tenants from 1982 forward. Pat stated that the information she offered cast some doubt on when John could have been in the Navy for four years. Janet Zoltanski Smith described for the record her letter to the board regarding the periods of John's incarceration and she mentioned that the leases for 2005-2007 are to John and have his signature even though he was incarcerated during those times. Kerry stated that he and the board appreciate the delicacy of the subject of John's incarceration and both the Bettons and Solins reluctance to make an issue of it. However, the board was interested in any additional evidence or testimony that would allow them to help them try and determine if the grandfathered uses of the office and two apartments had been abandoned.
- Keith Betton stated that since the Chericos purchased the property in 1982 there had never been another tenant. Further, Keith felt that the office had not been used since the practice was moved to 600 Main Street even during the period after the fire when the practice temporarily moved to a location in Cinnaminson. Janet referred to prior testimony from a patient that she had been seen in the 408 office. Keith stated that approximately three years ago when his son helped clear things out of the building, there is no way the first floor could have been used as a doctor's office. It was cluttered, filthy, and full of stored items including personal effects and furniture in all the first floor rooms. Kerry stated that given the building has been on the market for the last three years, he could overlook the last three years. However, if anyone felt that there was evidence that the office was being used as something other than an office, Kerry stated the board would like to know. Keith stated that the amount of material present and conditions certainly appeared there was no way the first floor could have been used for an office for some time.
- Pat Solin stated she was surprised as to the testimony regarding the number of patients seen at the 408 office on weekends or after hours; since the traffic at the site did not support those statements. She stated the lack of traffic was evident from when he moved the practice.
- Muriel Betton stated that she and her family were patients and not once after the practice was moved did she or her family have the option to see the doctor after hours or at the old office. They only knew that there were regular hours Monday-Friday and someone else was on call on weekends. Janet asked if anyone was aware that Dr. Cherico continued to see patients at 408 after he moved the practice until he moved out.
- Keith Betton stated not to his knowledge; and certainly not his family.
- Pat Solin stated that, based on the volume of traffic, she couldn't attest to the volume of patients that Dr. Cherico testified to.
- Keith Betton stated that as he remembers, the first floor was always dark nights and weekends after the practice moved in 1998. Chick Veasey stated that he thought Dr. Cherico had stated that it was only used for emergencies.
- Muriel Betton stated that there was nothing there, he had moved out of the house. Kerry again stated that the period he is concerned about is the period between when the practice was moved in 1998 up until when Dr. Cherico moved to Palmyra Harbor in 2007.
- Keith Betton stated he did not recall seeing anyone in the first floor after hours or on weekends after 1998. Keith also recalled that Mrs. Cherico who was friends with the church organist at his church had permitted a friend of the organist to store personal effects/furniture in the old front waiting room area and that had

occurred from at least 2003 through 2007. Chick Veasey asked Keith if there was stuff in every room and Keith stated it appeared so especially the front rooms where people would come in the office. Keith stated it looked like any office related material was old, unused, and just stored there. Deb Weaver asked if there was any evidence that the facility was set up to see/treat patients or if there was even a phone and Keith stated he didn't think so.

- Barry Solin stated the only times he recalls seeing lots of people was on the 4th of July when friends were there to watch the parade.
- Pat Solin commented that she and the other neighbors were reluctant to bring up the personal items and considered the Chericos good neighbors. However, they are concerned that the building has not been used as it has been testified to and are interested in the board's decision.
- Muriel Betton stated she is concerned about the future impact on the neighborhood especially if it is possible the building would become multiple apartments with a nonresident owner/landlord.
- Keith Betton stated that in the immediate area any multi-family units were owner occupied with at the most one or two rental units and he hopes it remains so.

There was no further public comment and a motion was made by Deb Weaver and seconded by Joe Della Penna to close to public comment.

Kerry stated that he thought the board had a difficult task to balance not only the rights of the property owner but also the neighbors and the intent of the zoning code. He feels there are five issues. First is the issue of the uses being grandfathered. He feels there is sufficient evidence that the uses existing when Dr. Cherico purchased the property were grandfathered. The consensus of the board was that the uses were grandfathered when Dr. Cherico purchased the property. Kerry stated he felt the next three issues were if the third floor or second floor or first floor use had been abandoned. Fifth, is if the first floor use is not abandoned, what exactly is the grandfathered use. Janet stated she feels that based on the proofs provided, the board can only define the first floor use as a medical or doctor's office. Barry Wells asked Janet if there is any distinction between residential or commercial uses to the standards for determining abandonment. Janet stated no. Kerry reviewed the points provided in Janet's letter concerning case law regarding abandonment.

Janet reviewed that while an owner will claim they never intended to abandon the use, the courts looked at all the factors not just the stated intent when they rendered their decision. In the matter before the board, Janet feels there are several significant facts. First is that there is no longer a kitchen on the third floor based on the "as exists" plan prepared by Mr. Croft for the possible purchasers. Second is the fact that Dr. Cherico never attempted to rent out the third floor when it was known the son was not available and they could have used it as a rental unit. Third is the statement made by Dr. Cherico that he purchased the property with the intent to use it for his office and a residence for his family. He had to ask the existing tenants to leave. There is the fact that the only washer and dryer in the building are on the third floor in what was the third floor kitchen. The failure to provide any contradicting evidence by supplying pictures leaves the board no alternative but to use the evidence it has been provided. Janet feels that a stated intent is not enough; rather, the board needs to consider all the facts. Janet feels the board needs to move on to consider the issues and the members should make very clear through their comments why they decided the way they did. The chair stated that if there were no objections he was ready to move forward and reach some conclusions. Joe Della Penna motioned that the use of the first floor as a doctor's office and the second and third floors as rental apartments were grandfathered uses when Dr. Cherico purchased the property. Following discussion it was determined that only those members who had been in attendance for all three meetings could vote. Only members Brandt, Corbi, Veasey, Weaver and Wells are eligible to vote on the matter. Joe withdrew his motion. Bill Corbi remade the same motion and it was seconded by Chick Veasey. The motion that the uses when purchased were grandfathered passed by a poll vote of 5 ayes - 0 nays with comments as follows:

Mr. Brandt aye      Mr. Corbi aye  
Mr. Veasey aye     Mrs. Weaver aye  
Mr. Wells aye

Mr. Brandt stated the evidence provided including old plans and testimony regarding the use prior to Dr. Cherico made it clear to him that the uses were grandfathered. Mr. Corbi stated he agreed that the evidence provided that the uses were ongoing back to at least 1946 if not earlier. Mr. Veasey stated he doesn't feel there is any question that he purchased the property with grandfathered use as a doctor's office and two rental units. Mrs. Weaver stated that it was clear to her that all the evidence and testimony supported that there was long standing use of the property as a doctor's office on the first floor and two rental units on the second and third floors. Mr. Wells stated he agreed with everyone else that Dr. Cherico had done a thorough job of documenting the uses that existed when he purchased the property.

The chair suggested that the next issue is to determine if the uses had been abandoned. Chick Veasey asked for clarification of the intent to abandon. He feels that if no change was made and there was no other use then perhaps there is no abandonment. Kerry feels that the apartment use may have been abandoned since there was no attempt to rent the third floor unit when the son clearly could not rent it. He also is concerned there is no longer a kitchen on the third floor and the room was being used as a laundry room. There is also Dr. Cherico's testimony that he intended to use the upper floors for his family. However, the fact that he has continued to maintain separate utilities and sewer for the three units could indicate intent to maintain the separate units. But again, based on the evidence supplied that he modified the third floor unit so that it essentially became an integral part of the second floor unit. Joe Della Penna asked if the board had to consider the abandonment as one issue or if it could split the two. Kerry stated that each use could be considered separately or together. Janet concurred it is up to the board. Barry Wells feels that while there are factors supporting both sides and that he leans toward the fact that the use of the separate apartments may have been abandoned he is not certain cleaning out the office to sell the property is abandonment. However, if the office has truly not been used for a long period before the building was put on the market, then perhaps the use was abandoned. Kerry suggested and the board concurred that they consider the apartments and office separately with the apartments first. Deb Weaver is also concerned over the factors considered for abandonment. If changes are made that indicates abandonment, then there is abandonment; but, were any changes made. She questions the validity of the leases to support actually renting the units and that she feels the utility bills support abandonment. The fact there is no kitchen on the third floor speaks to abandonment even if there were no changes to maintain the separate access to each unit. Further discussion indicated the board feels the use of the two apartments may have been abandoned. Bill Corbi made a motion that the use of separate apartments on the second and third floor were abandoned after Dr. Cherico took possession of the property. Barry Wells seconded the motion. The motion that the use of the separate rental apartments on the second and third floors was abandoned by Dr. Cherico passed by a poll vote of 5 ayes - 0 nays with comments as follows:

Mr. Brandt aye      Mr. Corbi aye  
Mr. Veasey aye     Mrs. Weaver aye  
Mr. Wells aye

Mr. Brandt stated that although the separate entrances and utilities were preserved, the leases for a dollar a month which never changed over the years did not support actual intent to use the apartments as rental units. There was no attempt to rent the one unit when the son could clearly not occupy it. The plan prepared for the purchaser indicates the kitchen on the third floor had been changed to be used as a laundry room. The failure to provide any pictures to support the use as two separate units had actually remained leaves him no choice but to decide on the testimony and evidence provided. Mr. Corbi stated that although the separate entrances maintained the appearance of two separate units, he feels the testimony provided by Dr. Cherico that he intended to use the upper floors as a residence for his family indicates abandonment of the upper floors as two rental units. Never attempting to rent the third floor while the son was incarcerated further indicated that the use of the third floor as a rental unit was no longer intended. Mr. Veasey stated that while there were no structural changes made, he doesn't feel that use of the upper floors by Dr. Cherico, his wife, and 16 year old son as their family residence shows intent to use the two floors as separate rental units. The existing tenants were asked to leave the separate units. Mrs. Weaver commented part of her decision was based on Dr. Cherico's testimony that he moved his family into the building with the intent to use the upper floors as their residence.

Even though the separate utilities were maintained; the questionable nature of the leases and lack of pictures or additional supporting evidence did not convince her that the intention was to maintain the use as two separate rental units. Laundry facilities only being on the third floor and a kitchen only on the second floor, clearly indicated to her that the intended use of the two floors was as a single family residence. Mr. Wells stated he believes moving in as a family with a teen aged son using the third floor does not constitute using the upper floors as two separate units. He feels the doctor failed miserably even when provided with ample time to provide documentation supporting his claimed use. The testimony that the reduced rate for the leases was in exchange for the maintenance and supervision of the property does not hold up, since you can't perform those duties when incarcerated for an extended period of time.

The chair asked for comments on the use of the first floor. Barry Wells stated he had a problem with the apparent long period of vacancy from 1998-2005 or until the building was put on the market. He feels the board has to keep in mind that it has an obligation when considering grandfathered nonconforming uses to encourage returning the uses to conforming uses when possible. He feels there were no records or proofs provided that the premises continued to be used as a doctor's office after the practice was moved in 1998. Contrary to the claimed use is testimony that the first floor waiting rooms were used to store personal effects/furniture and unused office furniture and that the area was no longer suitable for office use. Kerry stated he thought that Dr. Cherico may have seen patients at the old office while he still resided at 408. However, if he didn't see patients after he relocated the practice, or used the first floor as storage of office and personal effects, then perhaps the office use was abandoned. Barry Wells is concerned that justice is best served by leaning towards returning the use to the current permitted uses of the zone and thus preserving the neighborhood. Janet commented that she does not think that justice in this case includes protecting the property value of the neighbors as it does when considering granting variances. Rather, in this case, it must be based on the use that occurred in the house. Barry asked if the definition of justice applies only to the person asking for the interpretation or for both sides. Janet stated that it is not sufficient to base a decision solely on the impact of preserving the property values by returning it to a single family home. If in fact the board finds the property was used as doctor's office not abandoned, the board must find the first floor was used as a doctor's office. The board also cannot consider types of housing. Kerry asked if parking can be considered and Janet stated this is not a variance and the board is only considering abandonment of a grandfathered use. Janet again clarified that the justice to the neighbors in this matter is the fact the board is even considering abandonment. The intent behind grandfathering uses is to not take away things or lively hoods of people that they already have or had before the code was changed. While the intent of the zoning code may be to return a use to the current permitted uses; it must be proved that the grandfathered use was clearly abandoned. Kerry stated that he is very sensitive to possibly taking away what may have been part of Dr. Cherico's plans for he and his family and the decision cannot be taken lightly. He is also sensitive to the personal issues such as the incarceration. However he is also concerned that the first floor was being used as a storage area when it was supposedly a doctor's office. Joe Della Penna asked if the first floor is also considered abandoned then the building goes back to a single family residence. That was affirmed. Joe then asked if the first floor has not been abandoned then what is the board's decision on the use of the building. Is it a single family residence on the upper floors with a doctor's office on the first floor? Janet stated that was her feeling based on the law. She wants the parties to clearly understand that the first floor cannot be considered a general commercial use; rather it is narrowly confined to what it was actually being used for. That is not to say a purchaser could not come forward with a use variance request; but, that is an entirely different application and they would have to fulfill the burden of proofs necessary to grant a use variance. Deb Weaver stated she feels from examining the timeline, considering the testimony provided by the neighbors, and the lack of further documentation by Dr. Cherico, that for the period following 1998 shows there was an intent to abandon the office use. Kerry spoke to the lack of physical changes. While the kitchen on the third floor appears to have been used as a laundry room doesn't mean kitchen appliances can't easily be hooked back up. It appears the physical separation of the three units has been maintained. Kerry also realizes that what it takes to maintain an auxiliary office may not be the same as for a main office; but, testimony has been provided that perhaps the first floor did not even meet those standards. The board concluded that, as Janet had explained, there is little case law to provide a clear one way or another decision and it needed to carefully weigh the apparent intent of the owner. Barry Wells made a motion that the

use of the first floor as a doctor's office had been abandoned by Dr. Cherico. Deborah Weaver seconded the motion. The motion that Dr. Cherico abandoned the use of the first floor as a doctor's office passed by a poll vote of 4 ayes - 1 nay with comments as follows:

Mr. Brandt aye     Mr. Corbi   aye  
Mr. Veasey nay     Mrs. Weaver   aye  
Mr. Wells   aye

Mr. Brandt felt Dr. Cherico had the burden of proof and failed to satisfy it. He has a problem taking away something; but, testimony was provided that indicated the first floor was clearly no longer in a condition to be used as an office. Mr. Corbi thanked the public for trying to fill in some of the blanks. He was on the fence but the knowledge of the periods of incarceration, inconsistencies of the timeline and leases, and failure to meet the burden of proof led to his decision to vote aye. Mr. Veasey doesn't feel he abandoned the use. He felt that testimony that even an occasional patient being seen after the practice had been moved and Dr. Cherico still lived upstairs did not show the use as a doctor's office had been abandoned. Mrs. Weaver feels the use was abandoned because he moved the practice in 1998, he did not provide sufficient supporting evidence that he continued to use the area as an office, and there was testimony provided that appeared to support he no longer used the space as a doctor's office even before he decided to put the building on the market. Mr. Wells doesn't feel the proof needed that it was not abandoned was provided by Dr. Cherico and he had to decide based on what was provided.

## **OLD BUSINESS**

**Planning Board & Council Matters** – The secretary reported that a final decision on the fate of COAH had not yet been made and that meanwhile the Borough has appointed personnel to represent the Borough at the mediation to resolve the objection filed to the Borough's submission. The downtown revitalization grant will provide additional sidewalks. There is a site plan being submitted for the old bank building on Main Street. Progress continues on BWC Realty Associates continues the process of obtaining final approvals and sign offs for the old post office property.

**Mrs. Shea's proposed changes to the fence ordinance** – Chick Veasey reviewed the contents of the proposal with the board. Mrs. Shea feels adding the words entirely and/or entire to the definition of a fence would remove the confusion that led to the lawsuit against her. Chick proposed to the board that the board was able to interpret the code as it exists and that adding her suggested revisions may confuse the issue. Janet concurred stating that such a revision might lead to more confusion especially along lot lines. For instance, does a fence along a property line which leaves gaps for a side walk or driveway become not a fence because the openings mean it is not entirely enclosed separates the entire part of the property? The board concurred that the suggested changes while they may have helped Mrs. Shea in a narrow interpretation of her case may serve to make the existing code harder to interpret or enforce. The board felt a short note to the committee and the planning board should be prepared. The secretary will communicate this information.

## **CORRESPONDENCE**

**Letter from Thomas Ehrhardt, Esq. concerning Mr. Guzman owner of Cedar Lane Apartments** – The secretary reviewed that Mr. Guzman is seeking refund of his COAH payment for the townhomes since the project has been abandoned based on the LOI from the State DEP on the wetland impacts on the portion of the property that was to be used to build the townhomes. Mr. Ehrhardt was informed by the Borough that his client needed to provide proof that the payment was made before a refund can be considered. At this time there is no action needed by the board.

## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 06/11/10, Remington, Vernick & Arango, \$1,550.00, for completeness and compliance review of revised site and subdivision plans for BWC Realty Assoc. LLC (old post office) 3/16-4/15/10. PAY FROM ESCROW
2. 06/11/10, Remington, Vernick & Arango, \$2,040.00, for completeness and compliance review of revised site and subdivision plans for BWC Realty Assoc. LLC (old post office) 4/16-5/15/10. PAY FROM ESCROW

There was some discussion over the amount of the charges; but in the end the board decided to approve the invoices. A motion was made by Joe Della Penna, seconded by Bill Corbi, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair stated for the record that no members of the public were present.

**Meeting adjourned at approximately 09:50 PM (motion by Corbi, second by Veasey)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**July 15, 2010**

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 January 25, 2010.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, Robert Kennedy, and Deborah Weaver.

**ABSENT:** Charles Veasey and Barry Wells.

**OFFICIALS:** Secretary Ken Palmer was present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Bill Corbi, seconded by Joe Della Penna, and unanimously approved to adopt the minutes of the June 17, 2010 regular meeting as distributed.

**OLD BUSINESS**

**Adopt and Memorialize Resolution Case#2010-03, Request for Interpretation of the Zoning Code Regarding Determination of Current Use of Property at 408 Main Street** – The chair asked if the members had received and read the resolution and if there were any comments or questions. There were none and Deborah Weaver motioned and Bill Corbi seconded to adopt and memorialize the resolution by title. The motion was passed by a unanimous poll vote of the three members present eligible to vote on the matter as follows:

Mr. Brandt aye    Mr. Corbi aye  
Mrs. Weaver aye

**Planning Board & Council Matters** – The secretary reported that the planning board will not meet until the 20th. There is no news on the petition to COAH for third round certification.

**Progress on final signoff of the BWC Site Plan and Subdivision for the former post office site** – The secretary reviewed that the compliance reviews continued both with the board professionals and the county.

**CORRESPONDENCE**

None



## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 07/01/10, Remington, Vernick & Arango, \$3,198.75, for completeness and compliance review of revised site and subdivision plans for BWC Realty Assoc. LLC (old post office) 5/16-6/15/10. PAY FROM ESCROW
2. 07/15/10, Janet Zoltanski Smith, \$1,462.50, for professional services and meeting attendance 5/20-7/15/10 for miscellaneous zoning matters and work on the interpretation of the zoning code as it applies to grandfathered and abandoned uses at 408 Main Street. PAY FROM ZONING GENERAL FUNDS

There was some discussion again over the amount of the charges by the engineer except the hours appear relevant. A motion was made by Craig Greenwood, seconded by Bob Kennedy, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

Ken Mills motioned and Deb Weaver seconded to open the meeting to public comment. There was none. Ken Mills motioned and Craig Greenwood seconded to close the meeting to public comment.

**Meeting adjourned 7:45 PM (motion by Corbi, second by Mills)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD**  
**MINUTES**  
**August 19, 2010**

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 January 25, 2010.
2. Timely notice published by the applicants in the Burlington County Times.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, William Corbi, Craig Greenwood, Charles Veasey, and Deborah Weaver.

**ABSENT:** Joe Della Penna, Robert Kennedy, and Barry Wells.

**OFFICIALS:** Solicitor Janet Zoltanski Smith, Councilman Joe Katella, and Secretary Ken Palmer were present.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Ken Mills, seconded by Bill Corbi, and unanimously approved to adopt the minutes of the July 15, 2010 regular meeting as distributed.

**PUBLIC HEARINGS**

**Case #2010-04, Variance Application by Robert and Mary Carpenter, 616 Thomas Avenue, Block 1003, Lot 1, for front yard setback relief to replace the concrete steps with a landing and steps.**

**Testimony:** The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mary and Robert Carpenter were sworn in. Mrs. Carpenter explained the project. The applicants wish to replace the existing front steps with a landing and new steps. The current steps are in need of repair, lack railings, and are considered too steep. The project will extend the steps into the front setback by approximately an additional four feet. Currently the steps are approximately 18 feet from the front property line where 20 feet is required in the R4 district. The bottom of the new steps will be approximately 14 feet from the front property line. The landing will be 4 feet deep by 8 feet wide. The steps will be 4 feet deep by approximately 7½ feet wide. The lack of a landing presents an unsafe condition for using the front entrance since when exiting the door one is immediately on the steps. The landing will allow a safe transition from the door to the steps. The depth of the landing is the minimum for a safe landing area. The new steps will have wrought iron or aluminum railings. The applicants feel there is a minimum impact of having a portion of the landing and the steps extend further into the front setback, and providing a safe entrance is a benefit not a detriment, and the project will enhance the property. The board elicited further details of the project and reviewed the survey to determine the encroachment. The board determined that the steps would be no closer than 14 feet from the property line. The chair asked if there was additional testimony or questions from the board. There being none the chair requested the hearing be opened to public comment. Ken Mills motioned and Craig Greenwood seconded to open the hearing for public comment. There was none and Ken Mills motioned and Craig Greenwood seconded to close the hearing to public comment.

**Deliberation:** Following discussion of what the approval should require, Janet suggested the board might approve the application and grant a variance to allow construction of new steps and a landing that will encroach

into the front yard setback no closer than 14 feet from the front property line. Ken Mills motioned and Chick Veasey seconded to approve the application as suggested. The motion was approved by a poll vote of 6 to 0 as follows:

Mr. Brandt aye      Mr. Mills    aye  
Mr. Corbi    aye      Mr. Greenwood aye  
Mr. Veasey aye      Mrs. Weaver    aye

Various members commented that they felt the variance was minimal, that a hardship exists, there is a safety issue, and there is minimal impact on neighborhood. The chair and the secretary reviewed the next steps of the process with the applicants and when they could apply for permits.

**Case #2010-05, Variance Application by Brooks and Kim Paulsen, 401 Cinnaminson Street, Block 900, Lot1.01, for side yard setback relief to replace a deteriorated fence along the rear yard line that extends to the property line at the street side of a corner lot.**

**Testimony:** The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Brooks and Kim Paulsen were sworn in. The applicants wish to replace an existing 4 foot picket fence along their rear yard property line with a new 4 foot bamboo fence similar to the fencing of their neighbor. The existing fence is very deteriorated and sections are collapsing. The fence will extend approximately 21 feet beyond the side building set back to join an existing wrought iron fence along the street to enclose the backyard. The fence will keep the rear yard secure and provide privacy. The applicants feel there is no detriment to maintaining the existing fence lines and the new fence will improve the neighborhood. The applicants supplied photographs to document the deteriorated condition of the existing fence as well as documentation showing the new fence. The chair and the board reviewed that only the 21 feet of fence from the building line to the side street property line. There appears to be a hardship in that the existing fence needs to be replaced rather than repaired, that the application will not change the height of the fence or existing fence lines, and that a new fence will actually improve the property and neighborhood. The chair asked if there was additional testimony or questions from the board. There being none the chair noted for the record that there were no members of the public present for public comment on the application.

**Deliberation:** Following discussion of the merits of the application, Ken Mills motioned and Craig Greenwood seconded to approve the application and grant a variance to permit a new 4 foot bamboo along the rear property line to extend 21 feet beyond the side yard building line to tie into the existing wrought iron fence at the Cinnaminson Street side property line. The motion was approved by a poll vote of 6 to 0 as follows:

Mr. Brandt aye      Mr. Mills    aye  
Mr. Corbi    aye      Mr. Greenwood aye  
Mr. Veasey aye      Mrs. Weaver    aye

Various members commented that they felt the variance was minimal, that a hardship exists, there is a security issue, and there it will improve the existing street view of the property. The chair and the secretary reviewed the next steps of the process with the applicants and when they could apply for permits.

**OLD BUSINESS**

**Planning Board & Council Matters** – Councilman Katella reported that Council had informally concerns that the board's engineer appeared to be rather "aggressive" in its billings for the BWC "post office" application. The secretary reported that the planning board had not yet recommended any new changes to the zoning code, that there is no news on the COAH submission, and that the site plan for the former Beneficial Bank building on Main Street had been approved.

**Progress on final signoff of the BWC Site Plan and Subdivision for the former post office site** – The secretary reviewed that the compliance reviews continued both with the board professionals and the county.

**CORRESPONDENCE**

None

**NEW BUSINESS**

**Vouchers and Invoices**

1. 08/10/10, Remington, Vernick & Arango, \$3,045.00, for completeness and compliance review of revised site and subdivision plans for BWC Realty Assoc. LLC (old post office) 6/16-7/15/10. PAY FROM ESCROW

There was some discussion again over the amount of the charges by the engineer except the hours appear relevant. A motion was made by Craig Greenwood, seconded by Chick Veasey, and passed by unanimous voice vote to pay the invoice as presented. The secretary will make sure it is signed and submitted for payment.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair noted for the record that there were no members of the public present.

**Meeting adjourned 9:00 PM (motion by Mills, second by Corbi)  
Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
September 16, 2010**

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 January 25, 2010.
2. Timely notice published by the applicants in the Burlington County Times.

**ROLL CALL**

**PRESENT:** Kerry Brandt, Ken Mills, William Corbi, Joe Della Penna, Craig Greenwood, Charles Veasey, Robert Kennedy, Deborah Weaver, and Barry Wells.

**ABSENT:** None.

**OFFICIALS:** Secretary Ken Palmer.

**MINUTES**

The chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Ken Mills, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the August 19, 2010 regular meeting as amended.

**OLD BUSINESS**

**Adopt and Memorialize Resolution Case #2010-04, Variance Application by Robert and Mary Carpenter, 616 Thomas Avenue, Block 1003, Lot 1, for front yard setback relief to replace the concrete steps with a landing and steps** – The chair asked if the members had received and read the resolution and if there were any comments or questions. There were none and Craig Greenwood motioned and Chick Veasey seconded to adopt and memorialize the resolution by title. The motion was passed by a unanimous voice vote of the six members present and eligible to vote on the matter.

**Adopt and Memorialize Resolution Case #2010-05, Variance Application by Brooks and Kim Paulsen, 401 Cinnaminson Street, Block 900, Lot1.01, for side yard setback relief to replace a deteriorated fence along the rear yard line that extends to the property line at the street side of a corner lot** – The chair asked if the members had received and read the resolution and if there were any comments or questions. There were none and Bill Corbi motioned and Deb Weaver seconded to adopt and memorialize the resolution by title. The motion was passed by a unanimous voice vote of the six members present and eligible to vote on the matter.

**Planning Board & Council Matters** – The secretary reported that the planning board will not meet until the 21st. There is no news on the petition to COAH for third round certification.

**Progress on final signoff of the BWC Site Plan and Subdivision for the former post office site** – The secretary reviewed that the county has approved the plans and copies of the plans and subdivision are being prepared for final signatures.

**CORRESPONDENCE**

None

## **NEW BUSINESS**

### **Vouchers and Invoices**

1. 08/10/10, Remington, Vernick & Arango, \$1,160.00, for completeness and compliance review of revised site and subdivision plans for BWC Realty Assoc. LLC (old post office) 7/16-8/15/10. PAY FROM ESCROW
2. 9/14/10, Janet Zoltanski Smith, \$91.00, for general professional services 8/19-9/2/10.
3. 9/14/10, Janet Zoltanski Smith, \$169.00, for work on the easements in conjunction with the BWC Realty Assoc. LLC (old post office) application 6/22-9/8/10. PAY FROM ESCROW
4. 9/14/10, Janet Zoltanski Smith, \$195.00, for work on the Carpenter, 616 Thomas Avenue variance application. PAY FROM ESCROW
5. 9/14/10, Janet Zoltanski Smith, \$195.00, for work on the Paulsen, 401 Cinnaminson Street variance application. PAY FROM ESCROW

There was some discussion again over the amount of the charges by the engineer except the hours appear relevant. The secretary reported that Jim Brandenburger was discussing the charges with the engineer. A motion was made by Craig Greenwood, seconded by Ken Mills, and passed by unanimous voice vote to pay the invoices as presented. The secretary will make sure they are signed and submitted for payment.

### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair noted for the record that there were no members of the public present.

**Meeting adjourned 7:45 PM (motion by Mills, second by Kennedy)**

**Tape is on file.**

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

**RIVERTON BOROUGH ZONING BOARD  
MINUTES  
December 16, 2010**

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 25, 2010.
2. Timely notice published by the applicants in the Burlington County Times.

**ROLL CALL**

**PRESENT:** Ken Mills, William Corbi, Joe Della Penna (8:05PM), Craig Greenwood, Deborah Weaver, and Barry Wells.

**ABSENT:** Kerry Brandt, Charles Veasey, and Robert Kennedy.

**OFFICIALS:** Solicitor Janet Zoltanski Smith, Councilman Joe Katella, and Secretary Ken Palmer were present.

**MINUTES**

The vice chair asked if everyone had received and reviewed the minutes. There was no comment and a motion was made by Bill Corbi, seconded by Craig Greenwood, and unanimously approved to adopt the minutes of the September 16, 2010 regular meeting as distributed.

**OLD BUSINESS**

**Planning Board & Council Matters** – The secretary stated that the planning board does not meet until the 21<sup>st</sup>. The secretary briefed the board on code changes being considered. The secretary briefed the board that action by the legislature on COAH was still pending. Final Signoff of the BWC plans for the post office and new homes is complete and pending the results of tonight's hearing they are ready to draw permits.

**CORRESPONDENCE**

1. Letter from Tamara Lee offering her services as professional planner for 2011.

**NEW BUSINESS**

**Vouchers and Invoices** – None presented.

**Return of Escrow for BWC Site Plan/Subdivision Escrow Account** – Secretary Ken Palmer reviewed that he had received a request from Jim Brandenburger for a refund of unused escrow for the site plan/subdivision application and that the board must approve any refunds. The secretary reviewed that all submitted charges have been paid, the plans have been signed off and completed and any inspection escrows are established in a separate account with the Borough. A motion was made by Bill Corbi, seconded by Craig Greenwood, and passed by unanimous voice vote to approve the refund of unused escrow. The secretary will notify the Borough Treasurer of the board's approval.

**PUBLIC COMMENT ON GENERAL ZONING ISSUES**

A motion was made by Barry wells and seconded by Deb Weaver to open the meeting to public comment. There was none and a motion was made by Bill Corbi and seconded by Craig Greenwood to close the meeting to public comment.

## **PUBLIC HEARING**

### **Case #2010-06, Variance Application by BWC Realty Associates, LLC, for the three proposed residences at 608, 610, 612 Cinnaminson Street, Block 906, Lots 4.01, 4.02, 4.03, for front yard setback relief.**

**Introductions:** The chair announced the matter and the secretary stated that all jurisdictional requirements have been met. No members needed to recuse themselves from the matter and Janet Smith stated the hearing could proceed. Mr. Della Penna joined the meeting while the hearing was in progress and after attesting that he was fully cognizant of the issues and variances needed and there being no objections from the applicant or applicant's counsel, participated in the matter. The applicant was represented by David Oberlander, Esq. who was introduced and asked to present the matter. Mr. Oberlander introduced James Brandenburger and Dr. Paul G. Grena, both principals of BWC Realty Associates LLC. and the applicant's architect Walter Croft, AIA. Mr. Oberlander requested they be sworn in order to offer testimony. All three were sworn and testified.

**Testimony:** Mr. Oberlander reviewed that the applicant had previously received use variance relief per Resolution Case#2009-09; and received major subdivision, site plan and variance approvals as necessary as per Resolution Case #2010-01. The applicant has submitted an application for an interpretation of the previous approvals, and variances as necessary, to allow for the construction of homes on the residential property with foundation lines of 30 by 40 feet, and constructing front steps and overhang that would encroach on the front yard. Jim Brandenburger testified that the building that he presented to the Board during his previous application was intended by him to be 40' by 30'; however, there was no specific testimony about the dimensions except square footage being approximately 1,800-2,000 square feet of living space. There had been no discussion of the need for a roof over the front door, the steps, the eaves, and siding. Therefore, the applicant is requesting an interpretation of the previous approval to determine whether he can construct the building as currently submitted. Jim stated he thought the foundation of the home could extend to the envelope approved previously and that this was the case based on his experience constructing homes primarily in Pennsylvania. The board and its solicitor discussed that the board had consistently interpreted that while the definitions for front side and rear yards were based on their relation to the buildings foundation, the set back requirements applied to the entire structure and any permanent portions of the structure that extend beyond the main foundation. The board concurred that it had thus intended that any proposed homes would lie within the approved envelope and that the plans would meet the percent coverage requirement of the neighboring R4 residential zone. The proposed deck on the original plans while beyond the rear of the envelope was still within the required setback.

The applicant then proceeded to offer testimony as to the extent of variances needed and why they should be granted. Jim offered two photographs of essentially the same home as built in two towns in Pennsylvania that were marked as exhibits A1 and A2. Jim referred to the plans and elevations submitted with the application which showed the site plan for the homes and included the foundation dimensions and the proposed location of the steps. Jim testified that the proposed home was the same home that was discussed during the previous application. The same stone façade and design of the roof detail is as presented as a proposed design during the site plan hearing. Jim stated he feels that if the overhang over the front door is eliminated, it will diminish the appeal of the home. He testified that the square footage of "living space" is 1,976 square feet which does not include the garage and the basement. Jim stated he felt the homes are consistent with his previous testimony for an approximately 1,800-2,000 square foot home. Regarding the height of the proposed homes, Jim testified that the height would be 34 feet 8 inches from the lowest grade to the peak of the roof. The house will contain three bedrooms and the room sizes are marketable according to his opinion. Walter Croft testified that from the aesthetic standpoint, the stoop and the roof over the stoop strengthens the front door appearance and it makes it more welcoming. Concerning the height of the foundation at the front of the homes, Jim and Walter explained that the grading of the lots fall from the back to the front and the height is required to provide the required above grade clearance at the rear of the homes. When asked by the board if there was another model he could design, Mr. Croft testified that he could not provide the same effect of the façade. The applicant testified that by keeping the plan the way it is they do not see it as a detriment to the neighborhood. The porch and steps as planned would be 6 feet by 6 feet, the landing 3 feet and the steps 3 feet. There would be no additional square footage of living space. The houses in the application will require up to 14 inches from the foundation at the front and rear for the soffit, gutter and eaves. The gutter returns and downspouts as well as the rake boards and



siding on the sides of the homes will extend no further than 6 inches from the foundation. The stone façade and siding on the front would also slightly encroach into the 20 foot setback that was previously approved. The Board calculated the percent impervious coverage, including the 10' by 12' deck that was discussed at the previous meeting, as being 39 percent. There was discussion about the front setback of the home being 20 feet and pushing it back 6 feet. The previous approvals provided for a 40 foot rear yard because of the very minimal buffer allowed between the post office property, Lot 4, and the residential properties. The applicant had received a variance from the 10 foot buffer to a 2 foot buffer including a 6 foot fence, and landscaping with canopy trees on the residential side of the fence. Therefore, the board concluded it was not possible to move the homes back so that the steps could comply with the 20 foot setback. The board had previously used and continued to use the requirements for the R4 Residential Zoning District in analyzing this property because the remainder of Cinnaminson Street are in the R4 district. The applicant stated that he feels the proposed homes carry out the intent of the Board to avoid moving the houses back for planning considerations. There was no further testimony or questions from the board.

**Public Comment:** Joe Della Penna motioned and Craig Greenwood seconded to open the hearing for public comment. There was none and Craig Greenwood motioned and Joe Della Penna seconded to close the hearing to public comment.

**Deliberation:** The Board discussed allowing the application but including a condition that the maximum impervious coverage would be limited to 40 percent. There was no further discussion and the board asked Janet if she would guide the board in what was needed if the board was to approve the application. Janet suggested that the board might consider a motion to modify the subdivision and site plan approval to the extent necessary to grant bulk variances to: allow a 30 foot by 40 foot foundation for the residences; allow a 6 foot by 6 foot porch and steps and front porch overhang; allow up to 14 inches for soffit, gutter and eaves in front and rear of the home; allow up to 6 inches for the gutters, rake boards and siding on the sides of the home up to 6 inches; allow the stone fascia and siding on the front as proposed; allowing a deck of 10 feet by 12 feet; and limiting the impervious coverage for the residential properties to 40 percent. There being no further discussion Barry Wells motioned and Craig Greenwood seconded to approve the application as suggested. The motion was approved by a poll vote of 6 to 0 as follows:

Mr. Mills	aye	Mr. Corbi	aye
Mr. Della Penna	aye	Mr. Greenwood	aye
Mrs. Weaver	aye	Mr. Wells	aye

Comments were made by members as to why they approved the application. Approvals were based on: that to deviate from the proposed plans would hurt the proposal; the applicant has already received approval and begun improvements to the property; the property is located in a residential area and maintaining the buffer is important; the positives outweigh any negatives; and the proposal is consistent with the neighborhood and consistent with how the board viewed it upon its previous approval, and that the construction would be good for the neighborhood.

#### **PUBLIC COMMENT ON GENERAL ZONING ISSUES**

The chair noted for the record that there were no members of the public present following the conclusion of the hearing.

**Meeting adjourned 8:52 PM (motion by Corbi, second by Greenwood)  
Tape is on file.**

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