

**RED BANK** — Is a note taped to the Borough Hall door enough public notice that a meeting is canceled?

The Planning Board wasn't about to test those legal waters related to an application which has already spawned one law suit.

Monday night's hearing about plans to build a proposed six-story Hampton Inn on Route 35 at the banks of the Swimming River was put off until Nov. 7 until officials can legally notify nearby residents and other interested parties of the continued hearing.

Meanwhile, a lawyer representing RBank Capital LLC, which has applied to build the hotel, raised questions about Prospect Street resident Steven Mitchell, who filed a law suit last month against the applicant, the planning board and Zoning Board of Adjustment. Mitchell has attended all the hotel hearings and raised questions throughout the hearing.

"We just inquired whether he is in a competitive business, we're looking for a clarification," said Martin McGann Jr., lawyer for the applicant after the meeting. "There should be transparency in disclosure."

During the meeting, McGann directly asked directly if Mitchell had any affiliation with any hotel.

Mitchell's attorney Ronald S. Gasiorowski said he would provide information to the board "in the future."

Mitchell said after the meeting that he did not work for a competing hotel and said his profession was civil engineer.

"I'm just a concerned neighbor," he said.

In his suit filed in state Superior Court Sept. 7, Mitchell challenged a board of adjustment decision that sent the application to the planning board to be heard, and that stated a use variance isn't needed.

The suit contends that RBank Capital erred when it failed to appeal a zoning officer decision in 20 days that the application required a use variance and instead filed an application asking the board to make an interpretation whether the residential zone in that area included the site of the proposed hotel.

In July, the zoning board determined the one-acre property on the corner of Rector Place and Route 35 wasn't part of the residential zone that overlays Rector Street, and that the former gasoline station site was zoned commercial, meaning a use variance wouldn't be needed and that the planning board would hear the case.

Gasiorowski also sought a stay on the planning board resuming the hearing until the matter is heard in court. A hearing won't be scheduled on the suit until the defendants respond to the filing, he said.

Gasiorowski raised a concern about the meeting notice because other residents who are interested in the application wouldn't have been notified that the hearing was being held Monday night.