

Franklin Borough Planning Board
Meeting Minutes for
August 17, 2009

The meeting was called to order at 7:32 PM by the Chairman, Mr. John Cholminski, who then led the assembly in the flag salute.

Mr. Cholminski read the Statement of Compliance pursuant to the "Open Public Meetings Act, Chapter 231, PL 1975."

ROLL CALL OF MEMBERS PRESENT: Mr. Christiano, Mr. Lermond, Mr. Zschack,
Mr. Oleksy, Mr. Suckey, Mayor Crowley,
Mr. Cholminski

ABSENT: Mr. Maugeri

ALSO PRESENT: Mr. David Brady, Esq.
Mr. Thomas G. Knutelsky, P.E.
Mr. Ken Nelson, P.P.
Mr. James Kilduff, Director

Mr. Cholminski said if anyone here from the public that was interested in application PB-12-08-1 Braen Aggregates, Preliminary and Final site plan/restoration plan for block 64 lots 53, 56, 49.01 & 49.04 the applicant has requested to be carried until the September meeting.

APPROVAL OF MINUTES:

Mr. Oleksy made a motion to approve the **Franklin Borough Planning Board Workshop Meeting Minutes for June 17, 2009**. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Oleksy, Suckey, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mr. Zschack made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for July 20, 2009**. Seconded by Mr. Lermond.

Upon Roll Call Vote:

AYES: Christiano, Lermond, Zschack, Oleksy, Crowley, Cholminski

NAYS: None ABSTENTIONS: None

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(Motion Approved)

APPROVAL OF RESOLUTIONS:

There were no resolutions approved.

APPLICATIONS FOR COMPLETENESS:

PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lots 1.01 & 1.06.

Mr. Cholminski asked Mr. Kilduff, on the agenda the Wal-Mart application and the GHB Tree Farm application are applications we are going to hear and are they complete. Mr. Kilduff said they are both on for completeness, there is a note on the agenda if the Board is satisfied with the submissions those applications could be heard tonight. Mr. Kilduff said that is what the professionals are recommending as well as his office.

Andrea David, attorney for Wal-Mart, stepped forward. Ms. David said we are here tonight in connection with a minor subdivision application for a lot line adjustment to correct the location of a common lot line between Block 70 Lot 1.01 owned by Wal-Mart and Lot 1.06 owned by US Sprint Communications Company. Ms. David said the lot line on the previous subdivision map does not match the Franklin Borough tax map. Ms. David said the Planning Board approved the minor subdivision lot line adjustment application by Wal-Mart to correct the discrepancy; however, it could not be perfected and the expiration date expired last month.

Mr. Knutelsky said there are a couple of waivers that the applicant has requested. Mr. Knutelsky referred to his report dated August 11, 2009, section B. Mr. Knutelsky said checklist item #15, front, rear and side yard setback. Mr. Knutelsky said he recommends a waiver be granted.

Mr. Knutelsky referred to checklist #20, water courses and any natural features shown on a plat. Mr. Knutelsky said he recommends a temporary waiver for completeness with that information for the map filing laws to be shown on the plat. Mr. Knutelsky said checklist items 22, 23, 42 and 48 are all waivers that have been requested that he would recommend to the Board. Mr. Knutelsky said those are all waivers that were approved at the last (application) back in 2008. Mr. Knutelsky said with those waivers he recommends this application be found complete.

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Mr. Kilduff said there is an administrative memo on administrative checklist items 1-12. Mr. Kilduff referred to checklist item #1, waiver from the full submission requirements is recommended since the Board has already seen this application before. Mr. Kilduff said proof of publication service is not required for a minor subdivision without variances, which is the case here. Mr. Kilduff referred to checklist item #8 waiver for disclosure of stockholder information, that has been previously granted before. Mr. Kilduff referred to checklist #9, a list of all variances, there are none applicable. Mr. Kilduff said checklist #12, required copies of protective covenants and deed restriction, he suggested that the applicant should explain why the utilities easement and cross easement provide access to the property have no bearing on this.

Mr. Cholminski asked Ms. David to address checklist item #12. Ms. David said with respect to the access utility easement, which is actually an easement agreement between Wal-Mart and Sprint. Ms. David said Sprint needs access to this easement to access utilities, so the lot line adjustment will have no impact on that utility and access.

Mr. Cholminski said we have an application for completeness requesting waivers for checklist #15, 22, 23, 42 and 48, administrative waivers requested for checklist items # 1, 8, 9 and 12. Mr. Cholminski said there is a temporary waiver requested for item #20 for completeness.

Mayor Crowley made a motion to deem complete application **PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lots 1.01 and 1.06**. Seconded by Mr. Zschack.

Upon Roll Call Vote:

AYES: Christiano, Lermond, Zschack, Oleksy, Suckey, Crowley, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Application to be Heard:

PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lot 1.01 and 1.06.

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Andrea David said we are seeking the lot line adjustment to have the township map match up to the description for the deeds and the tax map.

Mr. Knutelsky said the applicant will be filing this minor subdivision not through deeds which is customarily done, but through a plat. Mr. Knutelsky said the map filing law requires that natural and artificial streams, watercourses, shorelines and water boundaries be shown on the plat. Mr. Knutelsky said the applicant is going to have to get that information, he is sure they have the topography already; they can transfer from the topo map onto the plat to be filed for the subdivision. Mr. Knutelsky said that is what the temporary waiver is for. Mr. Cholminski asked Mr. Knutelsky, your recommendation would be to grant this as a condition of approval that they provide the updated plat showing the appropriate boundaries. Mr. Knutelsky said correct.

Mr. Zschack made a motion to open to the public application **PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lots 1.01 and 1.06**. Seconded by Mr. Lermond.

No one from the public stepped forward.

Mr. Zschack made a motion to close to the public application **PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lots 1.01 and 1.06**. Seconded by Mr. Suckey.

Mr. Cholminski said we need a motion to approve this application with one condition they provide the final plat to Mr. Knutelsky office. Mr. Brady said he would suggest that any other terms and conditions in the prior approval also be included in this approval.

Mr. Zschack made a motion to approve application **PB-07-09-2 Wal-Mart Real Estate Business Trust, Minor Subdivision, Lot Line Adjustment, Block 70 Lots 1.01 and 1.06**. Seconded by Mayor Crowley,

Upon Roll Call Vote:

AYES: Christiano, Lermond, Zschack, Oleksy, Suckey, Crowley, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Application for completeness

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PB-07-09-1 GHB Tree Farm, Minor Subdivision, "C" Variance, Block 39 Lot 29.01.

Ms. Megan Ward, attorney for the applicant, stepped forward.

Mr. Zschack said (he needs to) step down from this application due to the fact that he is on the Franklin Council and Mr. Garrera is an employee of the Borough. Mayor Crowley also stepped down from this application.

Mr. Brady said this morning he called Ms. Ward to indicate his office review of proof of service indicated one of the letters that was addressed to a home owner, 121 Davis Road, had been returned to the sender not deliverable as addressed. Mr. Brady said even though it appeared to have been addressed by the address given by the tax collector, when he looked at his copy that had been forward by Robin (Planning Board Secretary) it looked like the last name didn't make it on the envelope. Mr. Brady said he had stressed the fact to contact the individual and get them to sign a waiver. Mr. Brady said this evening Robin brought to his attention when she looked at the original envelope as opposed to the fax he had, the yellow sticker was over top of the last name. Mr. Brady said in fact it was sent to the address provided by the tax assessor's office so service on that person is effective under the statute. Ms. Ward said it is abandoned, there isn't even a mail box and she brought her proof from last year and they weren't able to deliver it last year either. Mr. Brady said it was miss communication the way things were faxed.

Ms. Ward said this is a minor subdivision application with a variance that was approved in 2008 and we resubmitted the same application since the deeds to perfect the minor subdivision were not recorded within the 190 days. Ms. Ward said she received Mr. Knutelsky's report dated August 11, 2009, in regards to waivers, partial waivers and temporary waivers. Ms. Ward said she sent a letter that they agreed with Mr. Knutelsky's report.

Mr. Knutelsky referred to his report dated August 11, 2009, section B. Mr. Knutelsky referred to checklist item #15 front, rear and side yard setback. Mr. Knutelsky said applicant requested a waiver and he recommends that waiver to be granted. Mr. Knutelsky referred to checklist items #16 and 20, the applicant requested waivers. Mr. Knutelsky said he recommends temporary waivers for completeness only with the items (added) as a condition of approval. Mr. Knutelsky referred to checklist items# 22, 23 and 42 would be full waivers recommended to the Board. Mr. Knutelsky said with

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those waivers granted he recommends this to be found complete. Mr. Knutelsky said all those waivers were recommended and approved as part of the 2008 application.

Mr. Cholminski said we have an application requesting waivers on checklist item # 15, #22, #23 and #42. Mr. Cholminski said a temporary waiver on checklist item # 16 and 20. Mr. Cholminski said the secretary has brought to his attention that the applicant has also asked for waiver of full submission for checklist item #1. Ms. Ward said right because it was resubmitted (we submitted part of it) and we sent certified true copies of everything else. Mr. Cholminski said add checklist item #1 which is a partial waiver.

Mr. Lermond made a motion to deem complete application **PB-07-09-1 GHB Tree Farm Minor Subdivision, "C" Variance, Block 39 Lot 29.01** with the waivers noted. Seconded by Mr. Christiano.

Upon Roll Call Vote:

AYES: Christiano, Lermond, Oleksy, Suckey, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Application to be Heard:

PB-07-09-1 GHB Tree Farm, Minor Subdivision "C" Variance, Block 39 Lot 29.01.

Ms. Megan Ward said in regards to Mr. Knutelsky's report dated August 11, 2009, for the record we relied entirely on the record that was already made with regards to the 2008 application and we did submit, as part of the resubmittal, the last revised plan/plat dated January 19, 2009. Ms. Ward said that incorporated the conditions of the resolution and Mr. Knutelsky's comments. Mr. Knutelsky said the plans that were submitted with this application are the same plans we reviewed and approved back in January of 2009. Mr. Knutelsky said as far as he is concerned the plans were signed off upon.

Ms. Ward said in regards to Mr. Knutelsky report of August 11, item 4 on page 3 and item 6 on page 4, raising questions about the operation that are previously addressed and incorporated into the resolution of approval. Ms. Ward referred to items in the resolution. Ms. Ward said items 4 and 6 in his report (Mr. Knutelsky's) are not applicable and have been addressed as set forth in the resolution. Mr. Knutelsky said they are applicable in this fashion, as long as there is no change from the original

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application. Ms. Ward said no change. Mr. Knutelsky said then we are fine with that comment.

Ms. Ward referred to comment #10 in Mr. Knutelsky report, future site plan. Ms. Ward said the applicant has already agreed with that. Ms. Ward said that is incorporated in paragraph 15 on page 4 of the resolution that the applicant would apply to the Board with a site plan approval with respect to any development of the site other than what is on the January, 2009 plan. Ms. Ward said in regards to number 11, complying with DEP regulations, that was also addressed. Ms. Ward said in view of the requirements the Board granted waivers for checklist items 16 and 20. Ms. Ward said the applicant will apply and has consented to the Board it would apply for site plan approval prior to taking any development of the site and we do not propose any change that was established and memorialized in the resolution.

Mr. Knutelsky said he is in agreement with the fact that the application has not changed. Mr. Knutelsky asked the resolution that is in effect is that still in effect or does that resolution have to be readopted. Mr. Knutelsky said as long as all the old (information) is in the new resolution he is fine. Mr. Brady said if there is a motion to approve it we are going to make sure it includes all terms and conditions of the prior resolution.

Mr. Knutelsky said he knows there is a letter from the tax assessor that indicates the lot numbers. Mr. Knutelsky said he would want conformation of that and he thinks everything else would be from the original resolution. Ms. Ward said the new lot is approved by the tax assessor as lot 29.09 and the remainder lot is still 29.01.

Mr. Lermond made a motion to open to the public application **PB-07-09-1 GHB Tree Farm, Minor Subdivision, "C" Variances Block 39 Lot 29.0.** Seconded by Mr. Oleksy.

All were in favor.

Marilyn and Frank Hennion, 145 Davis Road, Franklin, were sworn in together. Mr. Hennion said he fully supported what these guys were doing. Mr. Hennion said he has a problem with the survey; he find there are two gore areas. Mr. Hennion explained to the Board what the problem was with the survey and he gave the history of when the town put in the pump station. Mr. Hennion said the surveyor picked up the wrong pin. The Board followed along on the map with what Mr. Hennion was explaining. Mr.

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Hennion said as a result of this survey we picked up a quarter of an acre of their property. Mr. Hennion said he doesn't want to take it from the boys.

Marilyn Hennion said what she was annoyed with was (that) the surveyor was telling her where the pins were and she happens to know where the pins were located because she originally bought the property.

Mr. Knutelsky said they did their research and obviously there is something wrong with the line. Mr. Knutelsky said it doesn't effect the minor subdivision, this professional that prepared the survey it is his opinion that this is the property line. Mr. Knutelsky said this is something that has to be addressed before we can file the deeds, maybe something can be drafted in the resolution. Mr. Knutelsky said our level of review doesn't get into the line, unless there is a problem with the line and they don't add up. Mr. Brady asked Mr. Knutelsky if the dotted line is a Beardslee line that Mr. Hennion thinks is correct and the solid line is the line of Loede. There was a discussion on the two lines and gore area. Mr. Brady asked if either of these lines are changed is that material to the subdivision? Mr. Knutelsky said it doesn't effect the application from that standpoint. Mr. Cholminski said we have plans in front of us from a licensed surveyor that says this, and the Board has to rely on the licensed surveyors that we have. Mr. Brady said he thinks before we sign off on the deeds that this get taken care of with such speed that we don't hit that 190 days.

Mr. Cholminski said how do we ensure that the deed is right. Mr. Knutelsky said there is a certain level of review that we have to undertake; trying to satisfy both parties on what could be a property dispute he doesn't think that is up to the reviewer to do that. Mr. Knutelsky said he is looking at a licensed survey, a surveyor presenting this to us, with an application and an applicant submission to us and that is what we need to look at. Mr. Knutelsky said we now have someone saying this isn't correct; the applicant has to ensure this is correct. Mr. Brady asked Ms. Ward if she had any objection, if this is approved, putting in a condition that says this will be straightened out before the deeds are final. Ms. Ward said she is not sure what is even necessary to do to straighten this out and she didn't realize this was going to come up. Ms. Ward said they will work with Mr. Hennion to resolve the boundary lines.

Mr. Lermond made a motion to close to the public application **PB-07-09-1 GHB Tree Farm, Minor Subdivision, "C" Variance, Block 39 Lot 29.01**. Seconded by Mr. Oleksy. All were in favor.

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Mr. Cholminski said he would like to see the deeds corrected. Mr. Brady said since this is not material whether it follows one metes and bounds or another metes and bounds, it wouldn't have an effect on the approval process tonight. Mr. Brady said in terms of conditions of approval he suggests and the attorney of the applicant agreed, that we put in a condition that says by the time the deeds are filed there will be an agreement that resolves this discrepancy.

Mr. Lermond made a motion to approve application **PB-07-09-1 GHB Tree Farm, Minor Subdivision, "C" Variance, Block 39 Lot 29.01**, with all the conditions noted. Mr. Brady said all the conditions and findings of the last resolution and a condition to resolve this and whatever conditions that may have been in Mr. Knutelsky's report. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Christiano, Lermond, Oleksy, Suckey, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mayor Crowley and Councilman Zschack rejoined the meeting.

ADJOURNED CASES:

APPLICATIONS TO BE HEARD:

OTHER BUSINESS:

PAYMENT OF BILLS:

Mr. Christiano made a motion to approve the **Franklin Borough Planning Board Escrow Report for August 17, 2009**. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Christiano, Lermond, Oleksy, Suckey, Cholminski

NAYS: None ABSTENTIONS: Zschack, Crowley

(Motion Approved)

DISCUSSION:

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Mr. Nelson said the goal tonight is to get through the list of proposed zone changes that are identified A-N.

Item A: Block 45 Lot 15, recommendation to include the entire lot in the R-3 zone.

Mr. Cholminski asked the Board if everyone is in agreement with that. No one disagreed with the recommendation.

Item B: Block 70 Lot 70.02, recommendation is to include all of the lot in the golf course zone.

Mr. Nelson said the property owner suggested that it (the property) all be zoned Highway Commercial. Mr. Zschack said if that property stands alone it can never be a golf course. Mr. Cholminski said he thinks you would have to amend the zoning requirement. Mr. Zschack said no matter what size it can't be a golf course. Mr. Cholminski said it can be if you amend the size.

Mr. Zschack said he needs to step down from this application. Mr. Zschack said his comments then were made as a member of the public. Mayor Crowley said what we ultimately want it to be is remain as a golf course. Mayor Crowley said he understands what Mr. Zschack brought up that it can't stand alone as a golf course in all probability he can't imagine that Hardyston will take away their property that would make it a stand alone golf course. The Board discussed this property. Board members expressed agreement with the recommendation to zone this property all golf course.

Mr. Zschack rejoined the meeting.

Item C: Block 3 Lot 13 and 14, recommendation is to include all of the site in the HC zone.

Mr. Nelson said this property involves the Franklin Village shopping center recently approved by the Board. Mr. Nelson said at the time we became aware that a small part of the property was in the R-1 zone and this would put all of the property in the HC zone. The Board discussed this property. The Board members agreed with the recommendation to include all of the site in the HC zone.

Item D: Block 54 Lot 1, in order to establish a more uniformly configured commercial lot, the owner has requested that this lot be zoned HC.

Mr. Lermond stepped down from this discussion.

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Mr. Nelson said this involves a piece of property in the R-3 zone that is adjacent to the HC zone. Mr. Nelson said the name of the applicant in connection (with this) is Damoa. Mr. Nelson gave a summary of the Damoa applications. Mr. Nelson said the applicant's planner is here tonight.

Mr. Zschack made a motion to open to the public **item D**. Seconded by Mr. Oleksy. All were in favor.

Mr. Robert Tessier, Planner for Damoa, stepped forward. Mr. Tessier passed out a rezoning map for this property. Mr. Tessier explained the map, the property and the changes they are proposing.

Mayor Crowley said this doesn't show topography on here, as he remembers the land slopes down. Mr. Tessier said yes it slopes down. Mayor Crowley asked if that remains as a house there will you need retaining walls around it. Mr. Tessier said yes there would be retaining walls around it. Mr. Tessier explained what the new retail structure would look like. Mr. Christiano asked if the new structure would be higher than the parking lot or will all that be dug out and removed. Mr. Tessier said removed.

Mr. Kevin Lermond, 44 Taylor Road, stepped forward. Mr. Lermond said he opposed this from the development aspect and buffering is his biggest concern. Mr. Lermond said historically there was a smaller operation there that still had plenty of buffering around it. Mr. Lermond said from the Taylor Road aspect the residential across the street becomes a significant buffer to the noise. Mr. Lermond is concerned about the uses, deliveries, emptying of garbage and then the business hours. There was a discussion on the buffers and buffers for this property.

Mayor Crowley said this is going to be a commercial entity no matter what we do. Mayor Crowley said what we are hearing from the neighborhood people is a lot of the stuff they don't like (that) are really site plan things. Mayor Crowley said they don't want to see the change, the traffic or commercial aspect but they are going to be there anyway. Mr. Cholminski said you are going to have it anyway because it is highway commercial. As a Board we have more to work with if we make that a commercial lot and we can make the builder do more things with it. Mr. Lermond said the issue is what is substantial buffering. Mayor Crowley said that is a site plan issue. Mayor Crowley said he feels we should rezone this into commercial to square

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off the property and then leave it to whatever Board gets the site plan, whether it is the Zoning Board of Adjustment or this Board to ensure the neighbors are protected. Mr. Zschack said he agrees with Doc (Mayor Crowley). Mr. Cholminski said he agrees with Doc (Mayor Crowley) too.

Mr. Zschack made a motion to close to the public **item D**. Seconded by Mayor Crowley. All were in favor.

The Board members said they were in agreement with the recommendation.

Mr. Lermond has rejoined the meeting.

Item E, Block 66 Lots 1, 2, 3, 4, 17.02, 17.03 and 17.04 and Block 74 Lot 23.

Mr. Nelson said this involves lots along Rte 517/Munsonhurst Road. Mr. Nelson said this area is part of the Master Plan Amendment in 2007 which created the age restricted zoning in the Munsonhurst area. Mr. Nelson said the Council never acted. Mr. Nelson said this recommendation is to enact the NC zone but only along the west side of Route 517. Mr. Nelson said the Master Plan Amendment shows a portion on the east side to be incorporated in the NC zone but that property has been purchased by the State of New Jersey. Mr. Nelson said it will no longer be appropriate to zone that NC. Mr. Cholminski asked the Board members if they agreed with that recommendation, no one opposed.

Item F, Block 45 Lot 8.

Mr. Nelson said this involves the Borough water tanks. Mr. Nelson said this would involve zoning this OSGU; it is currently in the R-3 zone. There was a brief discussion. Mr. Cholminski asked the Board members if F was ok. The Board members agreed with the recommendation.

Item G, Block 25 Lot 1

Mr. Nelson said this is the property next to Hooters; it is currently zoned R-4 and it's adjacent to the HC zone. Mr. Nelson said Block 25 Lot 1 fronts on Rte 23, but the property to the rear of it, if this is approved, will have an HC zone immediately adjacent to it. The Board discussed this property. Mr. Cholminski said we are ok with G, (to rezone this property HC).

Item H, Block 70 Lot 13, Hardyston Elementary School

Mr. Cholminski said we discussed this many times. Mr. Nelson said he doesn't believe it (this property) belongs in the R-1; the question is should it be rezoned now

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or whether it should be noted in the Master Plan Re-examination report that this property should be rezoned at some point in the future. Mr. Nelson said the issue he has is it is a fairly large piece of property and he believes it would be appropriate to include some of the adjoining properties in the rezoning. Mr. Nelson said his concern is that if it is zoned HC there is a likelihood that we will get another big box project. Mr. Nelson said it would be beneficial for the ratables but from an overall planning point of view would (it be) the best use of this property. Mr. Nelson said he thought this would be the opportunity to create some mixed use zone to create the kind of development that DOT has been suggesting along the Rte 23 corridor. Mr. Cholminski asked Mr. Nelson if he had a zone in mind that existed already because if we have to suggest a new zone we would have to give it more thought. Mr. Nelson said the proposed NC zone is something along the line he was thinking of for this property. There was a discussion on this property, the surrounding properties and the NC zone. Mr. Cholminski said let's leave this property to be determined.

Item I, Block 52 Lots 32 and 33

Mr. Nelson said this is another intrusion into a residential zone, the property is in the R-3 zone and the proposal is to put this in the HC zone. Mr. Cholminksi said this is a tough one because it is by the school. The Board discussed this property. Mr. Zschack said he was for it. Mayor Crowley said he was for it to become commercial, he doesn't see to much use for it otherwise. Mayor Crowley said residential can always go into commercial but it is more appropriate to be commercial. Mr. Christiano said this is to far of an intrusion into a residential zone. Mr. Lermond agreed with Mr. Christiano. The Board members gave there opinions on this change and discussed if there was access to Washington Ave. Mr. Suckey asked if you make this (in the) HC zone and you have a public hearing and the public is against it can we change it back. Mr. Zschack said that is the purpose of the public hearing to get information from the public. Mr. Cholminski said we have the majority to move this along. The Board agreed to recommend the change.

Item J, Block 33 Lot 8

Mr. Nelson said this was a discussion at the last meeting; it is at the corner of junction and High Street, it is currently in the R-3 zone and the property owners Mr. Crab and Mr. Sowden are requesting that it be in the B-1. The Board discussed the change for this property to B-1, possible OSGU, redevelopment or leave it as is. The Board's recommendation would be no change.

Item K, Block 45 Lot 1.02

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Mr. Nelson said (this is) firemen's field, change from R-3 to OSGU. Mayor Crowley said originally this was Zinc Company owned and it was given to the Borough. Mayor Crowley said there is a deed restriction that says it was given to the Borough for use as a public park. Mayor Crowley said it is owned by the Borough, leased to the firemen and the lease is not up for another 10 or 15 years. Mayor Crowley said it isn't being used as a public park but the chance that it would be R-3 is almost impossible with the deed restriction, he thinks it should go to OSGU; it is owned by the Borough and would probably remain owned by the Borough. Mr. Cholminski said he agrees. Mr. Cholminski asked if anyone disagreed. The recommendation is OSGU.

Item L, Block 45 Lot 1.01

Mr. Nelson said (this is) the open pit mine. Mr. Christiano asked is that the flooded pit the Phillips family owns. Mr. Nelson said yes. Mr. Christiano said it is under private ownership and we are going to rezone it. Mayor Crowley said it is OSGU. Mayor Crowley said right now it is OSGU and he doesn't see any reason to change it. The Board discussed this property. The recommendation is no change.

Item M, Block 51 Lot 2, Block 52 Lot 43, Board of Education/School Property.

Mr. Nelson said the school property is zoned R-3. Mr. Nelson said by allowing it as a permitted use in a residential zone, you can't differentiate between a public school and a private school; you are allowing for a private school to be developed in the zone. Mr. Nelson said he thought the OSGU zone should be extended to allow schools as a permitted use in the OSGU only. The Board discussed this property and permitted uses for OSGU, residential zones and conditional uses. Mr. Cholminski asked Mr. Nelson what is his recommendation, OSGU or make it conditional. Mr. Nelson said OSGU and get development condition use standards for any schools in a residential zone. Mr. Cholminski said this will go OSGU with a condition for residential use language elsewhere.

Item N, Block 16 Lot 78, Zinc Mine Property.

Mr. Nelson said that he and Jim had walked the property; he has some material and he would present it at the next meeting. Mr. Nelson said this is a very difficult issue. Mr. Nelson said he was thankful to make it through there without any serious injuries. Mr. Cholminski said for the record, that is why he stated at the last meeting, he doesn't want to own this property as a tax owner of Franklin. Mr. Cholminski said that is the reason we always tied that property to the top, it is a disaster down there and he doesn't want the town to be liable and he doesn't want to own it because it is

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going to become a disaster forever. Mr. Christiano said (the lower part of the property) if the town wants to take it over, it would be a disaster if we are still thinking residential, retail box. Mr. Christiano said if you look at it as an industrial site it has more potential. The Board discussed this property. Mayor Crowley said he would say leave it the way it is until we hear more from Mr. Nelson. Mr. Kilduff said to be determined.

The recommendation is to be determined.

Land Development Regulations

Mr. Nelson said the first one is simple, to allow automotive repairs in the I Zone. Mr. Kilduff said he would like to add automotive uses. Mr. Kilduff explained an application before the Board now for a certification of non conforming use has to do with automotive. Mr. Kilduff said automobile sales, automobile services stations and automotive repair services are all under the same use category. There was a discussion on automotive uses or repairs. The recommendation is automotive repairs. Mr. Kilduff said that doesn't include a service station or dealership.

Auctions: Allow auction in I zone, B-1 and B-2 zones.

Mayor Crowley said he brought this up because he was approached by someone that would like to open up an auction in the industrial zone. Mayor Crowley said (this person) wanted to have an auction and it wasn't worthwhile to get a variance and the zoning officer didn't feel that it was a use permitted by regulations. Mayor Crowley said that is why he would like to include auctions so if someone wanted to have an auction they could. Mr. Nelson said his only concern is that it would attract a substantial number of people and he is not sure how you would handle the parking related to that use. The Board discussed allowing auctions.

Mr. Nelson said (numbers) three and four we can handle together. Mr. Nelson said minimum lot size for the HC zone is 5 acres and we know many existing lots in the HC zone are below 5 acres. Mr. Nelson said he isn't sure if he would suggest decreasing the 5 acre minimum; the problem that he has seen is the drive thru requirements for the HC zone is tied into the minimum lot size. Mr. Nelson said if you don't meet that requirement you go to the Board of Adjustment for the D variance. Mr. Nelson said he would suggest leaving the 5 acre minimum but change the requirements for drive thru so if you have less than 5 acres you come before this Board. The Board agreed with this recommendation.

Mr. Cholminski said the NC zone we will discuss next time.

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Mr. Kilduff said we need to talk about a workshop meeting and plan a public hearing on this (Master Plan re-examination). The Board discussed dates for these meetings. The dates are a workshop on September 29, 2009 and a public hearing for October 21, 2009. Mr. Kilduff said he put a memo in your packets on the Plan Endorsement meeting. Mr. Kilduff thanked the Mayor and Mr. Zschack who both traveled down to Trenton with him along with Mr. Nelson to present to the Office of Smart Growth.

Mr. Kilduff said there is a letter Re: Franklin Village, their application was dismissed without prejudice. Mr. Kilduff said we will finish up next month with draft 2 and a red line copy at that meeting. Mr. Nelson said right.

Mr. Suckey asked (in regards to) Braen Aggregates has any inspection been done yet; have they done anything according to the ordinance. Mr. Suckey said there was supposed to be an annual inspection, well testing and foundation testing. Mr. Kilduff said all this will be part of the site plan testimony.

CORRESPONDENCE:

OPEN PUBLIC SESSION:

Mr. Zschack made a motion to Open to the Public. Seconded by Mr. Oleksy. All were in favor.

No one from the public stepped forward.

Mr. Zschack made a motion to Close to the Public. Seconded by Mr. Suckey. All were in favor.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 10:10 PM on a motion by Mr. Suckey. Seconded by Mr. Zschack. All were in favor.

Respectfully Submitted,

Robin Hough
Secretary

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