

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

The meeting was called to order at 7:30 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. Zschack,
Mr. Oleksy, Mr. Suckey, Mayor Crowley,
Mr. Maugeri, Mr. Cholminski

ABSENT: Mr. Lermond

ALSO PRESENT: Mr. David Brady, Esq. (Left at 8:10)
Mr. Thomas G. Knutelsky, P.E.
Mr. Ken Nelson, P.P.
Mr. James Kilduff, Director

APPROVAL OF MINUTES:

Mr. Zschack made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for May 18, 2009**. Seconded by Mayor Crowley.

Upon Roll Call Vote:

AYES: Christiano, Zschack, Suckey, Crowley, Maugeri

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mr. Cholminski said if anyone is here for (PB-03-09-1) Franklin Village LLC. Amended Preliminary and Final Site Plan that was an application for completeness and will not be heard this evening. Mr. Cholminski said PB-12-08-1 Braen Aggregates, Preliminary and Final Site Plan/ Restoration Plan, Block 64 Lot 53, 56, 49.01 and 49.04, that applicant has requested the application be carried until the next meeting.

APPROVAL OF RESOLUTIONS:

There were no resolutions approved.

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

ADJOURNED CASES:

PB-10-08-1a Wal-Mart, Amended Preliminary and Final Site Plan, "C" Variance, Block 70 Lots 1.01 and 1.04.

Mr. Mark Solomon, Pepper & Hamilton, attorney for the applicant, stepped forward. Mr. Solomon said the issue from the last meeting was COAH and whether this application would be subject to a Growth Share and a two and a half percent developer fee. Council has written a letter to COAH and received a response indicating that this project would not trigger a Growth Share. Mr. Solomon said he received that letter today and shared it with council and Mr. Kilduff. Mr. Solomon said there is a draft resolution that he has seen prepared by council (Mr. Brady) which says that it may be applicable into the extent it is applicable, that the applicant will have to pay it. Mr. Solomon said his company is comfortable with that language. Mr. Solomon said the determination as to whether it is applicable is really going to go before the Division of Taxation. Mr. Solomon said the right of appeal we have is not an appeal of action by this Board but rather to the director of the Division of Taxation. Mr. Solomon said the resolution in his view covers your requirements and our requirements and we are agreeable to the draft.

Mr. Brady said he doesn't disagree with anything Mr. Solomon said. Mr. Brady said a letter came today with COAH letterhead, saying that it is not going to be counted twice and there will be no additional Growth Share obligation from the change to TCO to permanent CO. Mr. Brady said we solved that issue. The Board members took a few minutes to look over the resolution and ask questions.

Mr. Kilduff asked Mr. Cholminski to do two votes, first vote on the application because not all members here are eligible to vote tonight. The second vote would be on the memorialization.

Mr. Cholminski said when the Board members are ready we can do one vote with the eligible voters to approve both the application and the resolution. Mr. Kilduff said we have one member Mr. Oleksy that has missed a meeting; he has listened to the tape and signed an affidavit. Mr. Kilduff said Mr. Cholminski is not eligible to vote. Mr. Kilduff said everyone else is eligible for tonight, our alternate Mr. Maugeri is eligible to vote. Ms. Hough said do you want two votes or one. Mr. Brady said approve it and authorize the resolution. Mr. Kilduff said if there are any negative votes they can't vote on the resolution.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

Mayor Crowley made a motion to approve the resolution and the memorization of Wal-Mart Real Estate Business Trust application **PB-10-08-1a Wal-Mart, Amended Preliminary and Final Site Plan, "C" Variance, Block 70 Lots 1.01 and 1.04.** Seconded by Mr. Zschack.

Upon Roll Call Vote:

AYES: Christiano, Zschack, Oleksy, Suckey, Crowley, Maugeri

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPLICATIONS TO BE HEARD:

No applications were heard.

OTHER BUSINESS:

Sign Ordinance #10-2009

Mr. Cholminski said the issue here before us is only the new section F. The rest of the sign ordinance was taken out of our jurisdiction. The Board discussed ordinance #10-2009 and the old sign ordinance. After the discussion Mayor Crowley suggested that the Planning Board send it (the sign ordinance) back that they had no comment. Mr. Cholminski said that would be his comment.

Mr. Knutelsky said he knows this is a sign ordinance related to signs but in that paragraph F it does say things like all light used for the illumination of any use of buildings and also flood light used for the illumination of said premises. That is lighting standard found in chapter 161 and is direct conflict. Mr. Knutelsky said he would recommend that the Board mention that in their response back to the Council. Mr. Knutelsky said you're dealing with lights and light standards in the sign ordinance that is in conflict with light standards in our design standards. Mr. Cholminski said Mr. Knutelsky is suggesting we clarify the fact that the light standards override the sign ordinance standards so that people don't come in and start putting flood lights, illuminate the whole building and say it is under the sign ordinance when that is really a light ordinance issue. Mr. Brady said then the Board has no comment on the proposed changes except what was pointed out by the Board Engineer that the Council should look at whether there is a conflict between the lights that are regulated here and the design standards.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

Mr. Cholminski said the only recommendation is to make sure the design standards override. Mr. Brady said that the design standards control it.

Mr. Oleksy made a motion to return to Council sign ordinance #10-2009 with no comment but with the Board Engineer recommendation. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Christiano, Oleksy, Suckey, Maugeri, Cholminski

NAYS: None ABSTENTIONS: Zschack, Crowley

(Motion Approved)

Mr. Brady left the meeting at 8:10.

PAYMENT OF BILLS:

Mr. Suckey made a motion to approve the **Franklin Borough Planning Board Escrow Report for June 15, 2009**. Seconded by Mr. Oleksy.

Upon Roll Call Vote:

AYES: Christiano, Oleksy, Suckey, Maugeri, Cholminski

NAYS: None ABSTENTIONS: Zschack, Crowley

(Motion Approved)

DISCUSSION:

Zoning Review

A draft of the revised zone map was passed out to the Board members. Mr. Cholminski asked if the extra maps could be passed out to the public. Mr. Kilduff said he just wants to make it clear that this is not an adopted zoning map as of yet. Mr. Kilduff said he is happy to have the public review it but it may create confusion until it is adopted by Mayor and Council. Mr. Cholminski said for the record he is writing draft on these extra copies (of the zone map) as a courtesy to the audience and for the minutes, these copies, if they get out anywhere have my initial and draft all over them.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

Mr. Nelson gave the Board a brief overview of nine potential zoning map changes that were identified during the course of the work that has been done so far with connection with the Master Plan re-examination report.

Mr. Nelson said the first property had to do with a subdivision on Evans Street and it involves a property in the R-3 zone. A portion of the municipal property in the OSGU zone was subdivided and attached to the lot in the R-3 zone. The recommendation is to change that small area of the OSGU to R-3 so the entire lot will be in the R-3 zone. That subdivision went under the name of Wagner. Mr. Zschack asked if this map reflects all the changes he was speaking of now. Mr. Nelson said no.

Mr. Nelson said the next item involves Black Bear Golf Course. Mr. Nelson said the zone for the golf course is very irregular in shape. Mr. Nelson said the portion of the golf course where the club house is, is zoned HC. Mr. Cholminski gave the history as to why this was HC. Mr. Cholminksi said his logic on this piece of property is it is a golf course; clearly and distinctly the whole piece should be a golf course. Mr. Nelson said the entire lot should be in the golf course zone.

Mr. Nelson said the next item involves Franklin Village in the north end of town. Mr. Nelson said there is a small area of the shopping center lot that is in the R-1 zone and the recommendation would be to extend the highway commercial zone to include all of that property.

Mr. Nelson said the next item is at Taylor and the corner of Rte 23. Mr. Nelson gave some history on this property.

Mr. Nelson said the next item is along Munsonhurst Road and 517; we created a MAAH zone and NC zone. Mr. Nelson said the MAAH zone was enacted by the Council but the NC zone never was. Mr. Nelson said the Master Plan Amendment shows a small area on the east side included in that NC zone. Mr. Nelson said that property on the east side was acquired by the state. Mr. Nelson said there is no rational for that portion to be enacted but the portion on the west side of 517 should be. Mr. Nelson said there were six individual lots and the recommendation would be to follow the configuration in the Master Plan Amendment for the Munsonhurst area except for that portion of the east side of 517.

Mr. Knutelsky said this Board may remember that when work was done a few years ago for the cellular tower application, we found out a portion of the fence

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

surrounding the compound was actually on the adjoining property. Mr. Knutelsky said there was a subdivision deal, lot line adjustment between that property owner and the Borough to actually make the fenced in compound all exclusive on Borough property. Mr. Knutelsky said then part of the R-3 zone would become part of the OSGU as part of the Franklin Borough water tank property.

Mr. Nelson said the next property involves a small piece of property to the north of Hooters; it is the Giordano property, located at the corner of Rte 23 and Mabie. Mr. Nelson said the commercial zone stops one lot short of Mabie Street, so the question is should that zoning be extended up to Mabie. Mr. Nelson said one concern is what the impact will be on the adjoining residential property that does not front Rte 23 it fronts on Mabie will now have a commercially piece of property next to it.

Mr. Nelson said the next item is the Hardyston School. Mr. Nelson said the issue is if that site will eventually become available for use other than a school. Mr. Nelson said does the Borough want to plan ahead for the eventual redevelopment of that site and should it simply be rezoned as highway commercial. Mr. Nelson said this might need some discussion as part of the future Master Plan Amendment. Mr. Cholminski said the reason he thinks it should be included in this re-evaluation is we already had talked about the Big Box store and that reconnection road and the possibility of commercial property off of that; we should finish that thought while this is still an active Board.

Mr. Nelson said the last one is the Gulf Station up by Washington Ave. and Rte 23. Mr. Nelson said behind that there is some residentially zoned area that might logically be included as part of the HC zone.

Mr. Kilduff said he attempted to reach out to all the property owners on the list. Mr. Kilduff told the Board about his conversations with the property owners.

Mr. Cholminski said it always concerned him that the Rte 23 corridor wasn't highway commercial on both sides all the way through town. Mr. Cholminski asked if that was too big of a discussion to have on the Master Plan. Mr. Nelson said he thinks it is a discussion we should have as part of the re-examination report. Mr. Cholminski said Rte 23 is meant to be a highway commercial area and maybe we should just change it. Mr. Nelson said he would be prepared to discuss this Wednesday.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

Mr. Nelson said did we discuss the R-1 zone that is behind the industrial zone on Munsonhurst. Mr. Kilduff said he did have a brief conversation with Mr. Fletcher about that; basically it is all wetlands, that particular lot. Mr. Kilduff said it is unlikely that you will see any kind of development on it. Mr. Kilduff said he thinks that Mr. Fletcher would agree to that. Mr. Cholminski said why don't we make that a recommendation. The Board discussed that area and lots that are non-conforming in the R-4 zone. Mr. Nelson said he would have to take a look at the lot size distribution.

Mr. Suckey said he is trying to figure out how the lot size was derived (for the R-4 zone). Mr. Kilduff said you have to look at what the average lot size is in the zone and to see if the 6250 is consistent with the zone or if it is way over. Mr. Nelson said he is not sure of the history of this and how long this has been the minimum lot size. The Board discussed the minimum lot size in the different zones. Mr. Zschack said if you look at the R-1 zone, it is the same situation there, his property is an acre and he is in a three acre zone. Mr. Nelson said the lot size for the R-1 zone was established for environmental reasons and yes there will be a number of non-conforming lots in that zone. Mr. Nelson asked is there a similar concern with the R-3 zone. Mr. Suckey said we have a lot of non conforming lots in the town and we are trying to clean them up and we can't because it doesn't meet the current standards.

Mr. Cholminski said to summarize, we want to look at the R-1 on the industrial property by Fletcher and the lot next to it, we want to look at all the (Rte) 23 corridor for the highway commercial issue, and we want to look at the lot sizes specifically in the R-4. Mr. Cholminski said look at R-3 too but he doesn't think that is as big of a problem when you look at it.

Mr. Bob Tessier, Planner from Dysktra Associates, represented the owners of the property on Taylor Road. Mr. Tessier said there are three lots involved, which was subject to a site plan with the Planning Board then, went over to the Zoning Board of Adjustment. Mr. Tessier said two of those lots are HC. Mr. Tessier explained the lots. Mr. Tessier said to the rear there is a third lot in common ownership with the other lots, 50 by 100. Mr. Tessier described this lot. Mr. Tessier said if this parcel is put into commercial that will allow them to make a site plan with a continuous line and will allow them to work on a buffer with a continuous line.

Mr. Maugeri asked what that would do to the residents there. Mr. Tessier said it would make it easier to buffer for the residents. Mr. Maugeri said you want us to go

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

into the residential area and rezone it highway commercial, he fails to recognize the importance of going into a residential area for highway commercial. Mr. Tessier said by squaring it off they would be able to do a better landscaping buffer. Mr. Tessier explained reasons why it would be better. Mr. Christiano said he agreed with Mr. Maugeri on the amount of scoping out we are doing of the residential portion of that area. Mr. Tessier said it will be easier to design it with this squared off, easier to grade it and to complement the residential. Mr. Maugeri said he doesn't see himself changing that from R-1 to HC. Mr. Tessier said R-3.

Mr. Knutelsky said what Mr. Tessier is saying is that corner is going to get developed in an HC fashion no matter what, whether you have that additional 50 feet or not. Mr. Knutelsky said by leaving that 50 (ft) in residential and developing it now you have an extra corner in the lot with an extra off set that makes a weird looking building versus having a clean corner. Mr. Knutelsky said from a development stand point that is essential to a good design, a nice clean area to develop. Mr. Knutelsky said another option for the applicant is maybe not to have as big of a building there. Mr. Kilduff explained the history of the application. The Board discussed this property.

Mayor Crowley said for the development of a very odd shape piece of property you would be better off squaring it off; the biggest objection seems to be the people on Taylor Road who are opposite that, and they are going to end up looking at the back of a building and the back of a development anyway, no matter what happens. Mayor Crowley said the protection of those people is more in the site plan than in the zoning and the zoning would be better squared off to allow more space for the site plan. Mr. Cholminski said he agrees with the Mayor on that and as the Board works through an application they can make the back of the building look anyway we would like within reason. Mr. Zschack said you say if you go 50 (feet) further into a residential area how does that help you with buffers. Mr. Tessier explained the buffering.

Dale Pierson, stepped forward. Ms. Peirson works for Andy Mulvihill. Ms. Pierson said she is his Administrator of Development for his companies. Ms. Pierson read a letter to the Board from Andy Mulvihill regarding changing the zone line for Black Bear Golf Course. A portion of the lot is highway commercial and (the rest) golf course. Ms. Pierson said Black Bear has been made aware that Franklin Borough is considering a zone change for that portion of the property in the HC zone; to all golf course zone. Ms. Pierson continued that Black Bear opposes any such down zoning

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

related to the property. While portions of the property are being used for golf related activities Black Bear should not be limited to that use in the future. Ms. Pierson said Black Bear suggests that if any modification is to be considered during the Master Plan process the entirety of lot 7.01 should be zoned highway commercial to then include golf course as a permitted use. Ms. Pierson continued reading the letter.

Mr. Zschack said for the record he is not going to be part of this discussion due to the fact that he works for Crystal Springs.

Mr. Cholminski asked as far as the zoning of the golf course they can come in at anytime and accommodate anything they want with an application. Mr. Cholminski said if we zoned it highway commercial then they can come in and request it to be changed to the golf course. There was a discussion on the golf course property and the history of the property.

Mr. Cholminski said his first answer is the applicant can always come in and make an application to change. Mr. Cholminski said we should zone it consistently with what is there. Mr. Cholminski said Mr. Maugeri made a good point that we are adding hardship to the applicant and we are trying to be a friendlier town.

Mayor Crowley said to him it is a golf course and why they put that strip in there highway commercial, he thinks is inconsistent with what is there. Mayor Crowley said it would be more consistent to keep it a golf course. Mr. Cholminski said one or the other. Mayor Crowley said if no one is playing golf and they need a major change then they should come in and ask for a change. Mr. Christiano said for the sake of consistency he agrees with the Mayor. Mr. Maugeri said there are valid points on both sides. Mr. Cholminski said for the sake of consistency a golf course is a golf course and the applicant can come in and request a change anytime it is warranted. Mr. Cholminski said there will be more discussion on Wednesday.

Douwe Dykstra, from Dykstra Associates, father of Lisa Wagoner, stepped forward. Mr. Dykstra said he bought property from Franklin (Borough) one tenth of an acre, resulting in the new lot for his daughter in two zones. Mr. Dykstra said the planner explained it very well in the beginning, to combine it all in the R-3 zone. Mr. Dykstra said he is in total agreement with that. Mr. Cholminski said he doesn't think there is an issue on that.

Franklin Borough Planning Board
Meeting Minutes for
June 15, 2009

CORRESPONDENCE:

OPEN PUBLIC SESSION:

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

Betty Allen, 24 Jenkins Road, Franklin, stepped forward. Mrs. Allen is concerned she didn't hear any discussion on the zoning of the zinc mine property tonight. Mrs. Allen is concerned if the Board is aware of what is going on in Wantage Twp. Mrs. Allen asked if there are any plans to discuss the zinc mine issue. There was a discussion on Zinc Mine, Revitalization of Main Street and the Redevelopment Committee. Mr. Cholminski said Mr. Suckey (chairman of the redevelopment committee) will make a recommendation to Mr. Nelson, and to this Board for that zone. Mr. Cholminski said as far as your other comment as to the town center in Wantage, if you can bring us as an Economic Development Committee, a builder with a lot of money and land, that wants to do anything in town, we would like to listen. Mrs. Allen explained what she has worked on so far. Mrs. Allen passed around photos she took at East Stroudsburg.

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 9:37PM on a motion by Mr. Maugeri. Seconded by Mr. Christiano. All were in favor.

Respectfully Submitted,

Robin Hough
Secretary