

Franklin Borough Planning Board
Meeting Minutes for
April 19, 2010

The meeting was called to order at 7:36 PM by the Vice-Chairman, Mr. Kevin Lermond, who then led the assembly in the flag salute.

Mr. Lermond 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, Mayor Crowley, Mr. Zydon

ABSENT: Mr. Suckey, Mr. Cholminski, Mr. Maugeri

ALSO PRESENT: 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 March 15, 2010**. Seconded by Mr. Christiano.

Upon Roll Call Vote:

AYES: Christiano, Zschack, Crowley, Zydon, Lermond

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve.

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

There were no adjourned cases.

APPLICATIONS TO BE HEARD:

There were no applications to be heard.

OTHER BUSINESS:

PAYMENT OF BILLS:

Mr. Christiano made a motion to approve the **Franklin Borough Planning Board Escrow Report for April 19, 2010**. Seconded by Mr. Oleksy.

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Upon Roll Call Vote:

AYES: Christiano, Oleksy, Zydon, Lermond

NAYS: None ABSTENTIONS: Zschack, Crowley

(Motion Approved)

CORRESPONDENCE:

Mr. Kilduff explained to the Board the correspondence for the Group 5 project. Mr. Kilduff said they have filed for their Major Access Permit, they only allowed 30 days for a response. Mr. Kilduff said Mr. Knutelsky and himself provided the response [because] by this meeting the thirty days was up.

Mr. Kilduff updated the Board on the Braen Aggregates correspondence. They are in the process of filing their deeds. Mr. Kilduff said Mr. Knutelsky the Board Engineer worked with Braen Aggregates on their first annual report. Mr. Kilduff said that is complete and they have submitted 6 copies to the Borough. Mr. Kilduff said they also submitted the revised Final Site Plan. Mr. Kilduff said they posted their bond. Mr. Lermond said when you said annual he thought these were the annual reports to run a quarry. Mr. Kilduff said yes this is part of our quarry ordinance. There was a discussion on the annual report and the new access drive for Braen Aggregates. Mr. Kilduff said as part of this report he sent a letter to Braen itemizing what they had to do; that was in your packets.

Mr. Kilduff said the EDC has been meeting and trying to get things going; there was a letter sent out. Mr. Kilduff said clean up day is scheduled for May 1st.

DISCUSSION:

Mr. Lermond said under discussion was a Braen Aggregates annual report but we already talked about it in correspondence. Mr. Lermond said as part of the Master Plan reexamination the Board is going to make recommendations for zones to be looked at, reviewed, issues to be discussed and as a result ordinances to be recommend to the Governing Council.

NC Zone

Mr. Nelson referred to his report dated April 12, 2010, with a two page cover letter and after that is the ordinance package that will go to the Council. Mr. Nelson said we structured this ordinance so it has multiple parts rather than getting the ordinance to the council by piece mail. Mr. Nelson said [what] we intend is for it to be divided into separate sections with a specific topic. Mr. Nelson referred to item #1 in the document titled Amendments to the NC Zone district.

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Mr. Nelson said item #1 Amendments establishing the NC Zone District which doesn't exist at the moment as a zoning ordinance. Mr. Nelson said it exists in the Borough Master Plan and now has to be translated into a set of regulations which the Council can enact. Mr. Nelson said item #2 page 4 Amendments related to "Automotive Repair Services" item #3 "Amendments related to "Drive Through Uses", item #4 Amendment related to "Outdoor Storage", page 6 item #5, Amendments to OS/GU Zone relative to schools and item #6, Zoning map to include all the changes recommended.

Mr. Nelson said he made a few changes based on last month's discussions, specifically adding in drive through facilities as a permitted use, health clubs, and animal hospitals. Mr. Nelson said he deleted the division regarding prohibiting offices on the ground floor or at least restricting to offices that generated a lot of foot traffic. Mr. Nelson said the Board and Mr. Brady convinced him that trying to make a distinction as to what offices could go on the first floor and what offices go on the second floor would probably be an administrative nightmare. Mr. Lermond said that section is out, no trying to differentiate. Mr. Nelson said right.

Mr. Nelson said maximum building height in this draft is 30 feet and two and a half stories. Mr. Nelson said the HC Zone allows 35 feet and three stories. Mr. Nelson said he isn't sure why the NC Zone should have smaller buildings in it but if it is the Board preference we can still go with that. Mr. Christiano said he thinks the reason that height was chosen [is] because it would match the existing Sterling Plaza Building. Mr. Lermond said is there anyone that feels differently, the Board consensus seems to be 30 feet and two and a half stories. There was a discussion on the height. Mr. Nelson said if there is anything else anyone wanted to bring up we can discuss it otherwise the NC Zone regulations are pretty much set. Mr. Lermond asked if there were any comments. Mr. Zschack asked on page 3 you have a red P for drive through facilities. Mr. Nelson said that means they would be allowed. Mr. Zschack said we changed that last time. Mr. Nelson said we will need to have some discussion about that when we get into the drive through uses.

Mr. Kilduff said you have apartments on the upper floor as a conditional use. Mr. Kilduff said in our Zinc Mine, B-1 and B-2 we have them as a permitted use. Mr. Kilduff said if we are going to proceed with that we are going to need a set of conditions. Mr. Nelson said the way he structured it he indicated they be considered conditions and made part of section 161-34. Mr. Kilduff said the conditions should be listed if we are going to go ahead with this and make apartments on the upper

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floor as a conditional use. Mr. Kilduff said those conditions should be listed in a section of the ordinance under conditional uses so when someone is going through the ordinance to make a land use application it is very specific. Mr. Nelson said the conditions would be the density not to exceed 4 units per acre, no market rate unit could have more than two bedrooms and all of the units have to be on the upper floor. Mr. Kilduff said just three conditions. Mr. Nelson said three conditions. There was a discussion on apartments, office space on the second floor, having a separate entrance if there is a mixture of offices and apartments and parking.

Mr. Lermond asked the Board members their opinion. Mr. Christiano said one or the other [residential or commercial]. Mr. Lermond said it's one or the other through the whole building. Mr. Lermond said we are only talking about the upper floor so it is either the whole upper floor as residential or the whole upper floor is commercial. Mr. Zydor said that is what he says one or the other. Mayor Crowley said mix with separate entrance. The Board members continued to give their opinions. Mr. Lermond said we are split down the middle until next meeting. The discussion continued on the mix use of apartments and offices on the second floor.

Mr. Lermond referred to page 3 in the draft ordinance with the double asterisk and the note in keeping with the principles of New Urbanism. Mr. Lermond asked is that note sufficient to the kind of direction that you are trying to give in an ordinance. Mr. Nelson said this goes back to Smart Growth; the planners in Trenton want to encourage commercial development up here and not to have all that parking in the front. Mr. Nelson said merchants and customers prefer to have parking in the front of the building. There was a discussion on the note on page three and the verbiage in the note. Mr. Nelson said he could retype the language or take it out completely. Mr. Nelson said do you want to allow that flexibility for front yard setback or not, and if you don't then we can just take it out; if you do he can try and type the language up. Mr. Lermond said he would like to see a tightened up language. Mr. Zschack said he would rather see the building further away from the road. Mr. Zschack said take that note out then. Mr. Kilduff said basically you would have fixed 75 foot front yard setback in the NC Zone. Mr. Zschack said if they want to come in with something closer that is their issue and they have to go for a variance. Mr. Kilduff said they would have to go for a variance if they are going to deviate from that.

Mr. Kilduff said we have multiple lot widths and multiple areas depending on what the uses are. Mr. Kilduff said we don't have that in other zones but we have 175 foot

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single use lot width and 250 foot lot width for more than one use. Mr. Zschack said he didn't have an issue with the double. Mr. Lermond said he didn't have a problem. Mr. Lermond asked if anyone had a problem [with this]. Mr. Kilduff said the same for the acreage out there. Mr. Kilduff said there are a couple of lots that are under that 5 acre minimum.

Mr. Nelson said he included in the permitted uses in the NC Zone houses of worship. Mr. Nelson said that would be treated as a conditional use as houses of worship are treated in several other zones. Mr. Nelson said we are not creating anything new; that is already the way it is done in the Borough. Mr. Nelson said there may be someone coming in with a house of worship and they would have to meet the conditions that are in the ordinance already for houses of worship. Mr. Kilduff explained to the Board a meeting he had with a potential applicant for one of the sites in the NC Zone for putting a church in there. Mr. Nelson went over the conditions listed for the NC Zone.

Mr. Zschack had a question about connectivity. Mr. Zschack said when we did Rte 23 we didn't set where that road was going to be; the developers came in and the road went here then a developer came in and the road went that way. Mr. Zschack said there was no smooth way to connect that by-pass road on Rte. 23. Mr. Zschack asked is there any way we can make it so that it works. Mr. Nelson said the reality here is the narrowness of the lots because of the wetlands; all you are going to be able to do is connect parking lots. The Board had a discussion on connectivity and design standards. Mr. Nelson asked if he should add something for the next meeting. Mr. Kilduff said he is saying design standards because he thinks that is a logical place to put it. Mr. Kilduff said it means when they bring a site plan to us we can say the ordinance says you need to provide for that so put it on the site plan and show us you are going to do it. Mr. Lermond said is there anything else with NC. Mr. Kilduff said the schedule B he handed out to the Board which is bulk yard and schedule A which is four pages. Mr. Kilduff said each one of those pages is going to have to be amended and a new category [put] in for the NC Zone.

Automotive Repair

Mr. Nelson said he needs some direction from the Board. Mayor Crowley said is automotive repair going to include body and fender. Mr. Nelson said that is one point that we have to address. Mr. Nelson said automotive repair is allowed in the HC Zone and what we are talking about is now allowing it in the Industrial Zone. Mr. Nelson said he thinks it wouldn't be a bad thing to do, allowing autobody repair in the Industrial Zone but he didn't know if you want to encourage that in the Highway

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Commercial Zone. Mr. Nelson referred to his cover memo dated April 12, 2010, #3 on automotive use. There was a discussion on autobody repair and automotive repair. Mr. Kilduff said we also have auto sales as a conditional use. Mr. Kilduff said we need to set up conditions for automobile repairs and automobile sales, that would complete the ordinance.

Mr. Kilduff said if you go to the Franklin code attachment that he handed out 2.2, you see automobile sales, automobile service station and automobile repair services are grouped all together as a conditional use in the HC Zone only. Mr. Kilduff said we are proposing to add automobile services as a permitted use in the I Zone. Mr. Kilduff said we would have to go back to the conditional use section and add conditions for those other categories for automotive use. Mr. Nelson said there are definitions for automobile sales, automobile service station and automotive repair services. Mr. Nelson said he can use those definitions and work off of them in preparing additional requirements. Mr. Kilduff said auto repair service includes rental. Mr. Lermond said rental, leasing and parking. Mr. Kilduff said yes, but if we are going to make it permitted in the I Zone it is not a problem. Mr. Kilduff said his suggestion is in the conditional use section add a section with limited requirements with those other two conditional uses and we make auto repair permitted in the I zone and continue to use it as a conditional use in the HC Zone. Mr. Zschack said he agreed.

Mr. Zydon asked if you have to put language in there about dispensing fuel in the Industrial Zones. Mr. Kilduff said we are not putting that in as a permitted use in the I Zone; we had this discussion before; we really didn't think that fuel storage was appropriate in the I Zone. Mr. Zydon asked what about heavy truck repair in the Industrial Zone, would that be considered automotive. Mr. Kilduff said that is a good question; we don't really address that so do we want to add to the definition for automotive repair to include heavy trucking. Mr. Kilduff said we have automotive repair as a conditional use in the HC Zone, that is a service station doing repairs do we want to see tractor trailers on Rte. 23 being serviced. Mr. Kilduff said he didn't think so, you would probably want them in the I Zone. Mr. Kilduff said that is a policy decision, what does the Board want. There was a discussion on auto repair and trucking repair. Mr. Kilduff suggested making automotive repair a conditional use instead of a permitted use in the I zone, make it a conditional use in the I zone and the HC zone. There was a discussion about auto sales as an accessory use, leasing, and repairs of trucks in the I Zone and HC Zone.

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Mr. Nelson referred to item #3 on page 4, drive through uses. Mr. Nelson said he thought it would be simple to change the lot area requirements and we can still do that. Mr. Nelson said what he looked at are the conditions that drive through facilities have [to meet]. Mr. Nelson said lot area, but also setback requirements have to be met; a building has to be at least 2,000 square feet, there are issues regarding the width of the driveway, off street parking requirements have to be met and sidewalks at least 5 feet in width have to be provided along front and side building. Mr. Nelson said these are all good standards except that if drive through facilities fails to meet even one of those standards it goes to the Board of Adjustment. Mr. Nelson said then he realized it just wasn't the lot area issue it was a whole list of conditions. Mr. Nelson said keep the standards he was just reading off, but transfer them from 161:34 which is a list of conditions associated with conditional uses and transfer those standards to 161:33 which contains standards for a variety of uses and zones. Mr. Nelson said if any of those standards in that section are deviated from then they become "C" variances they don't trigger a use variance. Mr. Nelson said then the Planning Board can continue. Mr. Lermond said that makes it a permitted use not a conditional use. Mr. Nelson said right. Mr. Nelson gave the pros and cons of doing this. Mr. Nelson said Mr. Kilduff thought he should keep those standards in 161:34 and make some changes to those standards. Mr. Nelson said this would be a major policy decision and he leaves it up to the Board. The Board discussed drive through facilities, permitted use, conditional use and design standard.

Mr. Kilduff said do you want to loosen them up and move it over to the Planning Board with some standards in there or loosen it up and keep it as a conditional use which provides the maximum control. Mr. Lermond said we need to give Mr. Nelson some guide lines. Mr. Lermond said he doesn't know all the drive through's that came before every Board in this town, and which ones were knocked down; he didn't think there was many. Mr. Lermond said considering many didn't get knocked down and as we pointed out the trend is more and more of this activity; I would think we want to be business friendly with the design standards, conditions and those kinds of things. Mr. Lermond said that would be his preference that would be his suggestion. Mr. Zschack said he would like to keep it a conditional use and lax on a few of the conditions. Mr. Kilduff said we are doing a straw poll that is one and one. Mayor Crowley said keep it as a conditional use so the Borough would have more control. Mr. Christiano said he agrees with the Mayor. Mr. Zydon said he likes your (Mr. Lermond) idea better. Mr. Kilduff said three to two. Mr. Oleksy said conditional. Mr. Kilduff said four/two.

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Two Family

Mr. Nelson referred to his memo dated April 12, 2010, two family structures. Mr. Lermond asked if everyone followed that correspondence and understood the logic.

Mr. Nelson said the issue with schools, the Master Plan Reexamination report recommends including schools as a permitted use in the OSGU Zone and changing the Zoning Map so that the Franklin Elementary School would be in the OSGU Zone. Mr. Nelson said that is straight forward but the issue is about the Immaculate Conception School and the Hardyston School, whether they should remain as conditional uses in their zones. Mr. Nelson said private and public schools are allowed throughout the R-1, R-2, R-3, R-4, B-1 B-2, HC and industrial zone. Mr. Nelson said his question is should that continue to remain as something the Borough wants to encourage. Mr. Nelson said if we were to take that out of those zones as a conditional use we would still have to protect the Immaculate Conception School and the Hardyston School and allow them to continue as permitted uses because you don't want to make them non-conforming uses. Mr. Lermond said is that because of a nursery school, a profit kind of situation. Mr. Nelson said lets postpone this until the next meeting. Mr. Nelson said the outdoor storage will probably be a long [discussion].

OPEN PUBLIC SESSION:

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

No one from the public stepped forward.

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

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 9:31PM on a motion by Mr. Zschack. Seconded by Mayor Crowley. All were in favor.

Respectfully Submitted,

Robin Hough
Secretary