

Franklin Borough Planning Board
Meeting Minutes for
June 21, 2010

The meeting was called to order at 7:33 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. Suckey, Mayor Crowley,
Mr. Maugeri, Mr. Zydor, Mr. Cholminski

ABSENT: Mr. Christiano, Mr. Lermond,
Mr. Zschack, Mr. Oleksy

ALSO PRESENT: Mr. David Brady, Esq.
Mr. Ken Nelson, P.P.
Mr. James Kilduff, Director

APPROVAL OF MINUTES:

Mayor Crowley made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for May 17, 2010**. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Suckey, Crowley, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPROVAL OF RESOLUTIONS:

There were no resolutions approved.

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

There were no adjourned cases.

APPLICATIONS TO BE HEARD:

There were no applications heard.

OTHER BUSINESS:

PAYMENT OF BILLS:

Mr. Suckey made a motion to approve the **Franklin Borough Planning Board Escrow Report for June 21, 2010**. Seconded by Mr. Maugeri.

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Upon Roll Call Vote:

AYES: Suckey, Maugeri, Zydon, Cholminski

NAYS: None ABSTENTIONS: Crowley

(Motion Approved)

DISCUSSION:

Master Plan Ordinance Amendments

Mr. Nelson referred to his revised ordinance package and cover memo attached to it dated June 15, 2010 and explained what needed to be discussed.

NC Zone

Mr. Nelson said on page 4 of the ordinance package there is some new language in red underlined that is based on a discussion that we had at the last meeting. Mr. Nelson explained the red line change on page 4, residential units and commercial units on the upper floor. There was a discussion on residential and commercial units on the upper floor.

Drive Through Used

Mr. Nelson referred to page 6, item B; we reduce the square footage from 1,500 to 1,000 square feet. Mr. Nelson referred to page 7; we took out the hours of operation. Mr. Nelson said his notes indicted that he modify the volume with the word maximum.

Outdoor Storage

Mr. Nelson referred to page 8, in connection with outdoor storage. Mr. Nelson said we took out the term environmentally sensitive areas and replaced it with regulated lands.

Mr. Brady said there is a typo on page 8, top paragraph, eighth line down it starts with "Furthermore." Mr. Brady said it says "Furthermore, this division" and it probably means provision. Mr. Cholminski said you have a typo on page 9, you have an "I". Mr. Cholminski said in the red line version. Mayor Crowley said that "I" is for "I-zone". Mr. Cholminski said maybe there should be a comma. Mr. Nelson said after "I" [for "I-zone"] maybe I should put zones. Mr. Cholminski said it just doesn't read right. Mr. Nelson said he would put zones in there.

Automotive Repair

Mr. Nelson gave the Board a recap of automotive repair. Mr. Nelson said to sum it up, what we are doing is we are allowing automotive repair in the I- zone, but we set up a specific set of standards that will apply to automotive repair services in that zone. Mr. Nelson said that will be section 161:33, subsection "L" will spell out what a repair service has to meet in the way of standards if it is going too be approved. Mr.

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Nelson said on page 5 he added some new language based on the discussion at the last Board meeting where we indicates vehicle and equipment are permitted, but only as accessory uses to the primary automotive repair operation. Mr. Nelson said one of the key changes from the last meeting was he restructured the definition of automotive repair services. Mr. Nelson read the new definition that was in red on page 5. Mr. Nelson said the last part of the definition is very important because there was a lot of discussion as to what type of automotive repair services should be allowed where. Mr. Nelson said he believes the consensus of the Board was in the industrial zone you can allow almost any kind of repair because the industrial zone is set aside and not in close proximity of residential areas. Mr. Nelson said in the HC zone you don't want to have some heavy duty repair operation and as a result we put in language about vehicle weight. Mr. Nelson said we are also not allowing body repair work in the HC zone because of the ventilation requirements. Mr. Nelson said the HC zone is in close proximity to residential areas so what can happen in the HC zone in terms of automotive repair is somewhat more restricted then what is in the I zone.

Mr. Kilduff referred to page 5, and asked if the L section, automotive repair services in the I-zone is supposed to be HC zone. Mr. Nelson said no, that is the I-zone. Mr. Maugeri asked how do we control that. Mr. Nelson said in terms of monitoring it and enforcing it, it becomes difficult for the Zoning Officer, but there should be some type of paper work as to when a vehicle arrives on the site and the Zoning Officer would have the right to ask for that paper work. Mr. Nelson said from a practical point of view unless someone complains about it he doesn't see the Zoning Officer going out on a regular basis to check and see. Mr. Maugeri said he likes that part, he was just wondering how do we control it. There was a discussion on how to control this.

Mr. Nelson pointed out a typo at the top of page 6, it should be section 161-34 B, not section 134 B. Mr. Nelson said the existing conditions that are there now don't change; we are just adding new ones.

Mr. Kilduff asked requirements under number 1, a, b, c, d, e, do they also apply to automotive repair services as a conditional use in the HC Zone. Mr. Nelson said yes. Mr. Kilduff said maybe all we need to do is under number 1 say automotive service stations and or slash automotive repair services. Mr. Nelson said we can do that. Mr. Kilduff said then everything applies so it is clear to someone looking at the ordinance that all of those conditions apply to both of those scenarios. Mr. Nelson

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said he can put some clarification. Mr. Kilduff said he wants it to be clear to anyone that has a conditional use in the HC Zone, which of these conditions apply, so it is A-L. Mr. Nelson said he would come up with something. Mr. Kilduff said just to indicate that repair services falls under the conditional use and is contemplated in these paragraphs.

Mr. Cholminski referred to the document at present dated 06-15-10. Mr. Cholminski said he was wondering if we could get a motion to approve this and clarify the detailed change we just made to 134B 1 in the motion, would that clear this up. Mr. Kilduff asked maybe this would be an appropriate time to discuss the zoning map; the zoning map reflects the changes that are included in the ordinance. Mr. Suckey referred to a typo on page 4. Mr. Suckey said on page 4 the second to the last paragraph it says "Automotive repair services shall be allowed "as a as a".

Zoning Map changes

Mr. Kilduff referred to page 10, the listing of lot changes for the various zone changes that were discussed and how we are going to change them. Mr. Kilduff showed the Board the zoning map that the Borough has been using since 2004 and the updated version not officially adopted yet. Mr. Kilduff said we noted some issues that need to be presented to the Board.

Mr. Kilduff said one is the Franklin Village subdivision up at the north end of town. Mr. Kilduff said you may recall that we have discussed the entire parcel in the HC commercial. Mr. Kilduff said the lots used in the ordinance was 14.01 and 14.03, it appears that through a subdivision they have been combined so it is on lot 14.03. Mr. Kilduff said we are only converting this one commercial lot to all commercial. There was a discussion on this lot. Mr. Cholminski said there are two issues; there is a little triangle you want to make a part of highway commercial and the other issue is that you are making a statement that the highway commercial zone seeps into that residential property with a different property owner. Mr. Cholminski said we didn't draw the lot line on the zoning line. Mr. Brady said the comment on letter C Block 3 Lot 14.03, says "includes both lot".

Mr. Kilduff referred to the Black Bear location. Mr. Kilduff said the problem was the zone itself was very irregularly shaped; the Boards determination was to make the entire golf course lot golf course zone. Mr. Kilduff said we found out that a portion of the golf course zone runs over into the lot that is owned by Weis. So there is a small portion of the golf course zone in the Weis property. Mr. Kilduff said we never had this discussion because we never realized this. Mr. Cholminski asked if it was a

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lot of trouble to correct that. Mr. Kilduff said we never had this discussion during our Master Plan. Mr. Kilduff asked Mr. Brady if this reopens everything.

Mr. Brady said you make changes to the zone boundary during the Master Plan or in terms of implementing the Master Plan; you don't have to give notice to all the property owners that are affected. Mr. Brady said if you are making zone boundaries that are beyond what was recommended in the reexamination report then you have to give notice and go through a separate adoption process. Mr. Cholminski said leave it. There was a discussion on the zone, the zoning map, the golf course property and what was discussed during the Master Plan reexamination report. Mr. Nelson said we still want to do what the reexamination report wanted us to do, that was to take part of the golf course property out of the HC zone. Mr. Kilduff said we are going to do that; the whole black bear lot will become GC (golf course). There was a discussion on zone lines, property lines and split zone properties. Mr. Kilduff said he wanted this Board to approve the changes, have the map prepared and send it to the Mayor and Council along with the ordinance.

Mr. Nelson said in response to Jim's question about clarifying 161:34 B 1, its current language is automotive service station period. Mr. Nelson read no building structure or premises shall be used as an automotive service station unless it conforms with the following conditions. Mr. Nelson said what he suggests is to add automotive repair services and automotive sales to the beginning of that. Mr. Nelson said that makes it clearer that those three types of uses must meet the standards as they apply in section B-1. There was a discussion on conditional uses. Mr. Kilduff said section 161:34 conditional uses B requirements for specific uses number one will be changed to read "Automotive service stations/Automotive repair services, no building structures or premises shall be used as an automotive service station or automotive repair service unless in conformance with the following conditions." Mr. Chominski asked if there was any discussion.

Mr. Suckey made a motion to open to the public **Ordinance Amendments**. Seconded by Mayor Crowley. All were in favor.

Anthony Patire, representing Zinctown Properties, 95 Main Street, Franklin. Mr. Patire asked the Board if there was any thought to have a split zone for the upper section to the lower section, so a site plan can be prepared for separate applications. Mr. Cholminski explained that the Board was waiting for a subcommittee report. Mr.

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Cholminski said at any time you can file an application with a request for a zone change or anything you would like on that property.

Mr. Maugeri made a motion to close to the public **Ordinance Amendments**. Seconded by Mayor Crowley. All were in favor.

Mr. Clominski said we need a motion to vote. Mr. Cholminski said he thinks the motion should read a recommendation to the Mayor and Council on the ordinance and subsequent zoning changes as prepared as part of the Master Plan Reexamination prepared by Mr. Nelson [The Nelson Consulting Group] and that motion should include the changes in the document as discussed this evening. Mr. Cholminski said he would reference the red line version dated 6-15-10 and he would call specifically out the changes that were made. Mr. Cholminski asked Jim (Mr. Kilduff) because that wording was changed, Jim could fill in those changes. Mr. Kilduff said that included a proposal to change the wording in section 161-34 conditional uses, B requirements for specific use paragraph one as we discussed previously.

Mr. Suckey made a motion to recommend to **Mayor and Council the ordinances and zoning changes as prepared as part of the Master Plan Reexamination**. Seconded by Mr. Maugeri.

Upon Roll Call Vote:

AYES: Suckey, Crowley, Maugeri, Zydon, Cholminski

NAYS: None ABSTENTIONS: None

(Motion Approved)

Housing Plan/COAH update

Mr. Kilduff gave the Board an update as to changes that were occurring in Trenton on COAH. Mr. Kilduff said last month we completed all the work on the Housing Plan that Mr. Nelson had prepared; this Board adopted it and it was forward to Mayor and Council, and they approved it for submission to COAH. Mr. Kilduff said we met the deadline for COAH and it is in a 45 day review period.

MD3 – LLC

Mr. Kilduff gave the Board an update on MD3 LLC. Mr. Kilduff said we will either have this project done by next month or the Board will need to take some action. Mr. Cholminski asked to speak for the Board. Mr. Cholminski said if this is not done we expect him here at the next meeting.

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Mr. Kilduff explained two pieces of correspondence that were not on the agenda. One was a letter in the Board's packets from the Franklin Fire Department. Mr. Kilduff said the other is an updated memo on the bridge replacement project; viaduct E-07. Mr. Kilduff told the Board about a stakeholders meeting that was held by the County.

Zinc Mine Site

Mr. Suckey said the Ad Hoc Committee for Redevelopment has concluded their research and their meetings last Thursday. Mr. Suckey said the report was prepared; the recommendation established by the Council responsible to the Council; the report will then go to the town Council. Mr. Suckey said they will have to review it; there is a money request in there for the Planning Board. After that the Council will have to make their comments and go back to the Planning Board. Mr. Cholminski said he has a question of the attorney. Mr. Cholminski said his understanding [is] that recommendations for Redevelopment were a function of the Planning Board and were to be made to Mayor and Council from the Planning Board. Mr. Brady said he has to go back and look at the redevelopment law.

Mr. Maugeri asked if it goes to the Borough Council and they don't like what is in there, they don't think it is feasible do they kick it back to Mr. Suckey's Ad Hoc Committee. Mr. Suckey said the Ad Hoc committee has been disbanded as of Thursday; the report went with its recommendations to the Mayor and Council because we were charged by the Mayor and Council. Mr. Suckey said they have to do their review; there are money allocations that have to be made because there are no funds to do this. Mr. Suckey said at that point they would send it back to the Planning Board because the Planning Board can't take any action because there is no money to take action. Mr. Suckey said we can't hire a planner because there is no money until the Council decides they should be able to go with this.

Mr. Suckey said there are no recommendations on changing any zones; there were no recommendations on changing any planning, no planning done whatsoever other than looking at properties that would qualify for redevelopment. Mr. Maugeri said if the Mayor and Council say it is a worthwhile plan lets give it to the Planning Board to finalize with the appropriate funds. Mayor Crowley said it is a function of the Planning Board; the Ad Hoc Committee report he has to sell to the Council to get money. If they don't buy into it, it's dead. Mr. Brady said he doesn't think it is a plan. The decision is, is it an area of need of redevelopment. That is the first step in developing a plan.

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Mr. Cholminski gave his opinion of the procedure of the redevelopment subcommittee and the process of that committee. Mr. Cholminski asked the Board attorney to look into the proper procedure to see if there was any violation of that procedure. Mr. Cholminski said he would like that on the record and in the minutes. Mr. Cholminski said he took an oath of office and he doesn't necessarily feel that things have been done the way they were told they would be done. There was a discussion on redevelopment and the subcommittee.

Mr. Kilduff said he invited Mr. Patire to come tonight because he put on the agenda discussion on the Zinc Mine. Mr. Kilduff said in addition to that Ad Hoc Committee report being finished now; we have been meeting right along with people from the Office of Smart Growth and DEP. We have had discussions; Mr. Patire was at a few of these, trying to get things going again with the Zinc Mine. Mr. Kilduff told the Board about some of the discussions during the meetings. Mr. Kilduff said he spoke to Mr. Patire about maybe forming a subcommittee to meet and go over some of the issues to see if we can get to a point where there is a level of comfort so Mr. Patire can come up with a concept plan to take in front of the Board. There was a discussion on having a subcommittee.

OPEN PUBLIC SESSION:

Mr. Maugeri made a motion to **Open to the Public**. Seconded by Mayor Crowley. All were in favor.

Anthony Patire, Zinc Mine properties stepped forward. Mr. Patire said he understands the Boards concerns. Mr. Patire said he understands the rules and regulations of the Planning Board. There was a discussion on the Zinc Mine, cleaning up the property, the DEP and having a subcommittee.

Mr. Patire said he is asking for a committee to be formed to bring out these issues and then bring the professionals in and go forward. The Board continued to discuss having a subcommittee.

Mr. Cholminski said the only thing he requests is that a professional planner be present at the meeting because we need experts. There was a discussion on having professionals at the subcommittee meetings. Three members volunteered to be on the subcommittee: John Cholminski, Wes Suckey and Ron Maugeri. A meeting date was discussed. Mr. Cholminski asked Mr. Patire if he would put up escrow for the planner to attend the meeting. Mr. Patire said ok.

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Mr. Brady said for the record, you understand Mr. Patire this doesn't mean the Board is going in any one direction; it's just an opportunity for you to talk with some of the members of the Board to find out what they think are issues that might come up and what the planner thinks are issues. Mr. Brady said later on Mr. Knutelsky and I may come in for an engineering and legal point of view. Mr. Brady said if you get some ideas from us as to where to go that doesn't mean it is going to be by the whole Board or as we get into an application whether there are other issues. Mr. Kilduff said when he gets the escrow he will send an email to the subcommittee to confirm those dates.

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

Mr. Cholminski said for the July meeting he thinks four of us [the Board members] are on vacation and there are no applications on the agenda. Mr. Cholminski said you may not have a quorum. Mr. Kilduff said you want to cancel.

CORRESPONDENCE:

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 9:12PM on a motion by Mr. Maugeri. Seconded by Mayor Crowley. All were in favor.

Respectfully Submitted,

Robin Hough
Secretary