

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
February 4, 2009

The meeting was called to order at 7:30 PM by the Chairman, Mr. Richard Kell, who then led the assembly in the flag salute.

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

ROLL CALL OF MEMBERS PRESENT: Mr. Correal, Mrs. Bonis, Mr. Gardell,
Mr. Kopcso, Mr. Swiss,
Mrs. Murphy, Mrs. Alexander, Mr. Kell

ABSENT: None

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

APPROVAL OF MINUTES:

Mrs. Murphy made a motion to approve the **Franklin Borough Zoning Board of Adjustment Reorganization Meeting Minutes for January 7, 2009**. Seconded by Mr. Kopcso.

Upon Roll Call Vote:

AYES: Correal, Bonis, Gardell, Kopcso, Swiss, Murphy, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mrs. Murphy made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for January 7, 2009**. Seconded by Mr. Swiss.

Upon Roll Call Vote:

AYES: Correal, Bonis, Gardell, Kopcso, Swiss, Murphy, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPROVAL OF RESOLUTIONS:

ZB-08-08-1 Damoa LLC. Preliminary and Final Site Plan, "C" and "D" Variance, Block 54 Lots 1, 22.01 and 22.02. Bifurcated application, Use Variance was denied.

Upon Roll Call Vote:

AYES: Correal, Gardell, Kopcso

NAYS: None ABSTENTIONS: None

(Motion Approved)

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APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

APPLICATIONS TO BE HEARD:

ZB12-07-1 Garrera and Millier, "D" Variance, Block 40 Lot 35.

Mr. Kell said we have two members that are stepping down from this application, Mr. Kopcsó and Mrs. Bonis. Mr. Kell said Mr. Christiano from the Planning Board is going to sit in their spot. Mr. Brady said for the record, there was a request to get a full membership, we asked for volunteers from the Planning Board and Mr. Christiano has agreed to come over and sit as a Zoning Board member.

Mr. Kevin Kelly, attorney for the applicant, stepped forward.

Mr. Kelly said Mr. Garrera is going to testify tonight and at the next meeting we will have the testimony of our professional planner Marcia Shiffman. Mr. Kelly described 36 Wildcat Road. The property is 22.5 acres in the R-1 Zone. Mr. Kelly said all of the activities involved including 2 acres of farming take place within 4.5 acres of the 22.5, mostly up along the road frontage of Wildcat Road. Mr. Kelly said 75% of the property is undisturbed and will remain undisturbed. Mr. Kelly said this is not an application for development it is an application to legitimize the activities that are going on there. Mr. Kelly said there are about 2 acres involved in farming, there are stock piles of some material, some equipment that Mr. Garrera uses for the snow plowing and landscaping businesses. Mr. Kelly said Mr. Millier uses the property to park trucks there.

Mr. Kelly marked exhibit A-1. Mr. Brady said A-1 is a blow up of the legal notice that was sent to the paper. Mr. Kelly said Mr. Garrera and his partner purchased the property in 1996 and they made a tremendous number of improvements.

Mr. Kelly marked A-2, before conditions, how the property looked before they purchased it. Mr. Brady said A-2, a board consisting of 6, 8x10 pictures. Mr. Kelly marked A-3, after improvements done to the property. Mr. Brady said A-3 is 6 photos on a board about 8x10 in size, current condition. Mr. Kelly marked exhibit A-4 map of the entire property dated 10-15-05, prepared by Eric Smart, title is variance map for Block 40 Lot 35. Mr. Brady asked if there were any revision dates. Mr. Kelly said there is something on there noted 06-26-07, updated certified list. Mr. Knutelsky asked Mr. Kelly if that was the map submitted with the application. Mr. Knutelsky said he noticed that there was a 06-26-07, revision dated with an updated certified list notation with the plans that were submitted. Mr. Kelly said he was not sure because he did not submit the application.

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Mr. Frank Garrera was sworn in at this time. Mr. Garrera said his occupation is a full time sergeant with the Franklin Police Department for 23 years. Mr. Garrera said he resides at 92 Wildcat Road with his wife and two children. Mr. Kelly asked Mr. Garrera if he owns the property at 36 Wildcat Road. Mr. Garrera said yes with a partner Mr. Millier. Mr. Kelly referred to page three of Maria Shiffman's report. Mr. Kelly asked Mr. Garrera to describe the property as it was when he purchased it.

Mr. Garrera said he believes it was 1998. Mr. Kelly said the planner has 1996. Mr. Garrera said he would agree with her (the planner). Mr. Garrera explained what the property was like when he purchased it. Mr. Kelly asked Mr. Garrera what the property was used for by the prior owner. Mr. Garrera said he had an excavating company, auto body shop, glass repair; he had several businesses on the site.

Mr. Garrera used exhibit A-2, to describe the pictures of the property before he purchased it. Mr. Garrera said the property was in very poor condition when he purchased it. Mr. Garrera said a major storm had gone through and a tree hit it (the building) and made it senseless to repair which pointed him in the direction of building a new one. Mr. Kelly asked Mr. Garrera what was his intentions of cleaning the property up. Mr. Garrera said basically because he lives a quarter of a mile from the property and he wanted it to look nice. Mr. Garrera said he was interested in doing a little farming and housing his trucks for his snow plowing business.

Mr. Garrera used exhibit A-3, and explained the after pictures of the property. The pictures were of a new building they had constructed, a 40 x 60 building that replaced the building that was hit by the tree. Mr. Kelly asked what that building was used for. Mr. Garrera said during the winter months, we store whatever we can fit in there, the snowplows and bucket loaders, whatever we might need. Mr. Garrera said on the property there is approximately eight vehicles, pickups from Ford F250 to 350's, two mason dumps and a mason dump used basically for hauling leaves and grass. Mr. Kelly said those are in detail on page three in Ms. Shiffman's report. Mr. Garrera said that is correct. Mr. Kelly asked Mr. Garrera what he does with those vehicles and that equipment. Mr. Garrera said they are used for snow removal, for the winter months. Mr. Garrera said they do most of their work within the Borough; one of their primary accounts is Shop Rite of Franklin. Mr. Kelly asked Mr. Garrera if he does that himself. Mr. Garrera said myself, my partner and my son. Mr. Kelly asked which partner. Mr. Garrera said Brian Snyder. Mr. Kelly said he isn't a partner who is an owner of the property. Mr. Garrera said no he is not; he is a partner solely in the snow removal and the ice control business.

Mr. Kelly asked Mr. Garrera what he does with the equipment in the summer time. Mr. Garrera said the same equipment is used to do the landscaping business. Mr. Kelly asked do you use that equipment in the summer or the winter on the property. Mr. Garrera said no. Mr. Garrera continues to explain exhibit in A-3. Mr. Garrera described the hay field and the poultry. Mr. Garrera said there is a rental on the property. Mr. Garrera explained the agriculture activities on the property.

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Mr. Kelly asked Mr. Garrera to describe how Mr. Millier used the property. Mr. Garrera said from time to time his son Alan Millier will drop a trailer or a piece of equipment over until his next job. Mr. Kelly asked if he had a specific place where he would keep those. Mr. Garrera said there is no specific place, it is behind the garage, wherever he can park that is out of the way.

Mr. Garrera explained using exhibit A-4, the location of where certain things are located. Mr. Garrera marked the residence. Mr. Brady said for the record; put a slash through the dwelling. Mr. Kelly asked where the agriculture is being done. Mr. Garrera said for the record to the left of the red slash. Mr. Christiano asked if that area was the livestock area. Mr. Garrera showed where the chickens were housed. Mr. Brady said (mark it with) a small circle. Mr. Garrera said he usually houses maybe 150 chickens; right now he has maybe 50. Mr. Kelly asked Mr. Garrera to mark where the equipment is located. Mr. Garrera marked where he keeps the equipment. Mr. Brady said to describe that he circled the garage and above that looking at A-4 is the area you put a square around where the trucks are parked. Mr. Garrera said most of his activity is with the building with the x, directly behind that is where he parks two or three trucks depending on the weather, behind that is a salt shed all in line and some trailers in a solid red block. Mr. Kelly asked how do you get in and out of the property. Mr. Garrera said through the driveway. Mr. Garrera marked the driveway. Mr. Brady said put an arrow on the driveway.

Mr. Kelly asked is there anything we left out in terms of activities or uses at the property right now or seasonally. Mr. Kelly said we might have forgotten one thing, in terms of outdoor storage, he had mentioned mulch and things like that. Mr. Garrera said there are woodchips, small pills of top soil, which is used with the landscaping on the premise. Mr. Garrera said he is in the process of closing on 40 more acres and he plants a tree farm, he stores the mulch to put around the trees he is going to plant. Mr. Christiano asked as part of your landscaping business will you be collecting tree and branches and generating your own mulch with a chipper on site. Mr. Garrera said no, we don't have a chipper.

Mr. Kelly asked Mr. Garrera if he had any future plans to do any other activities anything you are aware of to let the Board know. Mr. Garrera said no I don't, other then maybe a larger chicken coop, he has applied and been denied because he is not farm assessed at this point. Mr. Kelly said none of the property is farmland assessed. Mr. Garrera said no, he is in the second year of that process.

Mr. Kelly referred to Mr. Nelsons report. Mr. Kelly said Mr. Nelson asked what are Mr. Garrera and Mr. Millier's relationship to each other and to the application. Mr. Kelly said you are partners and own the property equally. Mr. Garrera said that is correct. Mr. Kelly said the next question he (Mr. Nelson) asked are they both owners of the business and owners of the property. Mr. Kelly said you (Mr. Garrera) said they are two different businesses. Mr. Garrera said correct. Mr. Kelly said but you

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are both owners. Mr. Garrera said right, of the property. Mr. Kelly said Mr. Nelson also asked what level of truck traffic can be anticipated and what will the hours of operation be especially with trucks entering and leaving the site. Mr. Garrera said the landscaping crew arrives at 8:00 and they come back around 4:00, the latest 6:00. Mr. Garrera said the snow plowing depends on the weather. Mr. Brady asked does the landscaping crew work six days a week, five days a week or seven days a week. Mr. Garrera said Monday through Friday. Mr. Brady asked how many employees for snowplowing or landscaping. Mr. Garrera said it is basically two but with these types of businesses one person could go out and mow and one person could go out and snowplow.

Mr. Christiano said Mr. Garrera has done a very good job with cleaning up this property, and it appears that the previous owner was careless with the use of the property. Mr. Christiano asked was any environmental assessment done on the property for buried oil drums, spoiled oil, as part of the clean up. Mr. Garrera said all the drums were empty that they found there. Mr. Garrera said they were taken to a junk yard.

Mr. Christiano asked what kind of machinery do you use, how do you get the salt out of the shed and into the machines. Mr. Garrera said with a backhoe. Mr. Knutelsky asked if the operation was loaded up the night before so you are ready to go the next day or is it continuous during the plowing operations. Mr. Garrera said unfortunately with salt unless you had a building that is heated if you were to load it, it would freeze into a block. Mr. Knutelsky asked do you load the trucks once and then you are off or do you have to come back and reload. Mr. Garrera said once again that goes back to the weather. Mr. Knutelsky asked what is the number of salt trucks that go out. Mr. Garrera said we only have one spreader.

Mr. Nelson asked if Mr. Gallagher lived on the property. Mr. Garrera said yes he did. Mr. Nelson said I assume he was there for many years. Mr. Garrera said as far as he can remember. Mr. Nelson asked did his operation predate zoning, I assume he didn't get any approvals. Mr. Garrera said other than this application I'm oblivious to any zoning ordinances. Mr. Nelson said the nature of your landscaping business, your planner didn't mention mowers or tractors but you made some reference to mowing. Mr. Nelson asked do you do a full range of landscaping activities. Mr. Garrera said yes. Mr. Nelson said if the Board was heading in the direction of an approval we always try to determine what conditions would be attached to any approval. Mr. Nelson said do you put conditions on this relevant to the amount of equipment or level of activity. Mr. Kelly said their planner is going to make some recommendations.

Mr. Nelson said you didn't mention any intent to conduct any retail operation from this site like the sale of plant material but then again you have an agriculture operation there, do you have any intent of growing and selling. Mr. Garrera said absolutely not.

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Mr. Kell said approximately 25 percent of the land is used and 75 percent isn't, is that because it is in the wetlands. Mr. Kelly said he used the term environmentally constrained. Mr. Knutelsky said environmentally constrained is probably the best term; there isn't wetlands creeping right up to the edge of where the disturbance is, there are stream buffers and buffers that are required to preserve streams and wetlands. Mr. Knutelsky said those features are not right up to the disturbance area. Mr. Knutelsky said the disturbance and any of the agriculture uses that have been discussed are exempt from environmental review and the wetlands that were noticed are not in the location of the disturbances. They are elsewhere on the property. Mr. Knutelsky said the stream and the floodplain is what the environmental constraint is for this portion of the property.

Mr. Gardell made a motion to open to the public application **ZB-12-07-1 Garrera and Millier, "D" Variances, Block 40 Lot 35**. Seconded by Mr. Correal. All were in favor.

Mr. Brady said at this point you can cross examine the witness at the end of the applicant's case if any of the public wishes to make statements, give their own testimony and present their own case, like a closing argument.

Thomas Markert, 14 Wildcat Road, stepped forward. Mr. Markert asked Mr. Garrera if he used subcontractors for plowing. Mr. Garrera said yes. Mr. Markert said they are coming and going from the property in addition to your own company vehicles. Mr. Garrera said at times yes. Mr. Markert said with landscapers, do you use subcontractors. Mr. Markert asked if you sell any of the landscaping materials to other landscaping contractors. Mr. Garrera said no.

Bob Matisko, 26 Wildcat Road, stepped forward. Mr. Matisko commented on the clean up of the place. Mr. Matisko is concerned about the traffic. Mr. Matisko said he had pictures that a lot of the wetland had been filled in and he called Trenton. Mr. Matisko said no one seemed to take interest in it but he does have names. Mr. Brady said at this point we are asking questions of this witness, you will have an opportunity to be sworn in, if you want to present your pictures. Mr. Garrera said what you have seen there for the last eight years is what you are going to see from here on out. Mr. Matisko asked about a pond that had been filled. Mr. Kelly objected to this for a few reasons, first it is totally irrelevant to this application; none of those issues are in any way jurisdictional before this Board. Mr. Kelly said the Board has nothing to do with wetlands and the enforcement thereof; they have nothing to do with this application. Mr. Kelly said if the gentleman has a complaint, there is a place to go and that is the DEP. Mr. Brady said Mr. Matisko may be able to submit that information later when he is under oath, right now he isn't. Mr. Brady said in regards to Mr. Kelly's objections he thinks this Board will clearly place conditions on any approval. If an approval is granted, a condition that says some application or conformation with the DEP in regards to the filling that may or may not have

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occurred could be appropriate. Mr. Kelly said what relevance can any of this have to a use variance application. Mr. Brady said because in a sense this is dealing with the site, the use of the site and the extent of the improvements of the site. Mr. Kelly said if someone wants to investigate that, they should make the appropriate complaint to the DEP. Mr. Matisko said the property looks nicer but all he was going to say is it was the wetlands. Mr. Kelly said there is an innuendo that he has to let it go or object to, it can't just be let out there that there is some innuendo that he (Mr. Garrera) has done something wrong. Mr. Brady said Mr. Matisko if you want to present evidence we will deal with it at another time. Mr. Brady said Mr. Kelly even invited you to contact the DEP and that may be the appropriate way.

Jim Kilduff, 48 Wildcat Road, stepped forward. Mr. Kilduff asked Mr. Knutelsky if he was familiar with the Highlands mapping for wetlands for this property. Mr. Kilduff showed him a picture. Mr. Kelly said he understands they are directing questions at this witness, are we not. Mr. Kilduff said this is his only chance to ask questions on what was said tonight, Mr. Knutelsky said earlier that there were no wetlands impacting the area that they are proposing all these multiple uses. Mr. Kilduff said he is asking a question to the engineer, (are you) familiar with the mapping from the New Jersey Highlands Council that shows the wetlands for that property. Mr. Kelly said he objects to any testimony about wetlands in this application, it is completely irrelevant and beyond this Board's jurisdiction. Mr. Kilduff said the heart of the issue for this application is the appropriateness of the property for the use being proposed, obviously wetlands is an issue. Mr. Kelly said for the record, direct testimony was that there was, confirmed by the engineer, no activity being conducted on the wetlands. Mr. Brady said it seems Mr. Kilduff wants to test the creditability of that statement, by examining where exactly the wetlands is on the property.

Mr. Knutelsky said he is not familiar with the Highlands interactive map for wetlands on the property. Mr. Kilduff said looking at that map would you say it is fair to say that the Highlands mapping is showing wetlands that would certainly infringe on the areas were the applicant is talking about. Mr. Knutelsky asked if he could answer in his own opinion what he feels about the map that has been presented to him. Mr. Brady said answer any way you feel is the most appropriate and honest. Mr. Knutelsky said in his honest answer when I look at the Highlands Council interactive map it reminds me of a DEP map called I map. It is a GIS database that is free to use. Mr. Knutelsky said he doesn't believe the I map shows wetlands for this area. Mr. Knutelsky said the mapping that is shown here doesn't show any aerial data. Mr. Knutelsky said it looks like it shows wetlands right up to the edge of the disturbance area, almost to the edge of the drive. Mr. Knutelsky said as the drive curves, they are including all that land as wetlands and that is absolutely incorrect. Mr. Knutelsky said it is constantly proven to be wrong; it is to be used as a planning guide.

Mr. Knutelsky said the only thing that can definitely state what is wetlands is a LOI, Letter of Interpretation, which has to be applied for and issued by the DEP. Mr. Kilduff asked if there was a LOI on the property. Mr. Knutelsky said to his

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knowledge there is no LOI issued for this property. Mr. Knutelsky explained the process of an LOI. Mr. Knutelsky said being a wetlands delineator himself, he can go out at any time and know uplands versus wetlands. Sometimes it is very obvious. Mr. Knutelsky said he is also basing his statement on discussions with Wander Ecological. Mr. Wade Wander did work for the applicant and visited the site. Mr. Knutelsky said they agreed that in the areas of the disturbance the wetlands is not present. Mr. Kelly said he wants to withdraw his objection. Mr. Knutelsky explained the Highlands Map. Mr. Kelly asked to mark this as an exhibit. Mr. Brady marked the exhibit K-1, 02-04-09. New Jersey Highlands Council color map one of one, Block 40 Lot 35 hand written. Mr. Kilduff said he wrote that. Mr. Kelly asked if it came from a website. Mr. Brady said it looks like it. Mr. Kilduff said from the New Jersey Highlands website.

Mr. Kilduff asked about the accessory structures on the property. Mr. Garrera explained the structures by using exhibit A-3. There was a discussion on the sheds and the accessory structures. Mr. Kilduff said you paid for two "C" variances and two use variances. Mr. Kilduff said there was additional money paid but he can't tell from the notice the uses that are being applied for.

John Chominski, 25 Foxhill Drive, Franklin stepped forward. Mr. Cholminski said he also is the Planning Board chairman. Mr. Cholminski said he is also the president of the Franklin Golf Course, that was noticed for this application. Mr. Cholminski said now this year he is vice-president/treasurer. Mr. Cholminski said he is here as a representative from the golf course.

Mr. Chominski questioned the hours of operation, when the trucks would be entering and leaving the site, to see how much activity would be coming in and out for the neighbors. Mr. Cholminski gave his opinion of the Highlands Act. Mr. Cholminski asked Mr. Knutelsky what his opinion was of those maps (Highland's map) that was brought in. Mr. Knutelsky said in regards to Highlands, this property would be in the Highlands planning area, so it wouldn't fall into the Highlands regulation at this point. Mr. Knutelsky said in regards to the Highlands mapping overall, it is a GIS based mapping tool, it is a tool. Mr. Cholminski said no where does it delineate wetlands; the only way to see wetlands on that piece of property is to have someone do a wetlands delineation. Mr. Knutelsky said that is correct. Mr. Cholminski asked if Mr. Knutelsky was certified to do that. Mr. Knutelsky said yes, he is certified to do that. Mr. Knutelsky explained how he does a wetlands delineation. Mr. Cholminski said I thought I heard you testify based on your opinion and having walked the property that none of the activity here is within the wetlands. Mr. Knutelsky said not within wetlands, correct.

Mr. Cholminski asked about the structures on the property. Mr. Cholminski asked about the process of farm assessment. Mr. Garrera explained this process.

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Hector Acevedo, 8 Wildcat Road stepped forward. Mr. Acevedo is concerned about CDL vehicles, Class A CDL with air breaks on the property. Mr. Acevedo is concerned about the children on the road and these vehicles.

Tim Becker, 64 Wildcat Road, stepped forward. Mr. Becker said he was confused and concerned. Mr. Becker said he wasn't aware of how many businesses are being run from that property. Mr. Becker said he wasn't aware of the fact there is a landscaping business, a snowplowing business, agriculture component and he wasn't aware that there was from time to time parking on the property from a construction company. Mr. Becker said when Mr. Kelly started this meeting he said we are here to legitimize what is currently going on (at) the property. Mr. Becker said this is how you are going to legitimize what is already existing on the property. Mr. Becker asked are there any permits for any of those businesses. Mr. Becker is concerned if this is just a parking lot or is it as a location for four businesses. Mr. Garrera said this is a place were we park, go do our business and return, we don't bring grass there; we don't bail hay and have the public come and buy hay. The hay is delivered from the site. Mr. Garrera said the eggs aren't even sold on the site; they are sold out of his house. Mr. Garrera said he doesn't understand the question; it isn't a parking lot because if we park vehicles there, we park, do our business and come back. Mr. Garrera said we don't operate or have forty employees coming in and operating a business on that property. Mr. Becker said the confusion is that Mr. Kelly started this meeting off by saying he wants to legitimize what is already going on. Mr. Becker is concerned if there are any permits to run a business. Mr. Brady asked Mr. Garrera if there is a permit from the town or county. Mr. Garrera said no.

Mr. Becker said everyone wants to be a good neighbor and if you question someone's activity often it is not popular. Mr. Becker said it is quadruple hard to deal with that question when someone is a police officer. Mr. Becker said when you have someone that has four businesses operating on a piece of property with no permit and is a police officer that is a concern for him. Mr. Becker is concerned about the agriculture permit that is lapsed. Mr. Becker asked how many vehicles are there, how many people are there and what are the repercussions for not having any permits to operate businesses. Mr. Kelly said objection Mr. Chairman this presupposes that there are some permits and that there are some violations. Mr. Kelly said it is in this record that there is no violation outstanding against Mr. Garrera or his partner for any use of this property. Mr. Garrera referred to his planner's report stating the number of vehicles on the property.

John Cholminski stepped forward. Mr. Cholminski asked if there were any permits needed? Mr. Kelly said no, there are no violations pending against Mr. Garrera or his partner for anything with this property.

Mr. Christiano said you have a number of employees that will come to the site to get equipment for plowing and landscaping. Mr. Christiano asked while they are out with their equipment where do they leave their cars. Mr. Garrera said they will park them

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behind the garage and then go. Mr. Christiano asked Mr. Knutelsky are all of your findings and discussions still subject to an LOI from the DEP. Mr. Knutelsky said the only official way to have wetlands shown on the property is to have an LOI. Mr. Knutelsky said sometimes in an application when something isn't going to be effected by wetlands or transition areas an LOI is something that is seen as a cost to the applicant. Mr. Knutelsky said DEP has been to the site after the flood of 2000 and noticed major changes to the contours. Mr. Knutelsky said Mike Nystrom indicated, however, the site is when he visited it, is ok with him, that is the way the site should remain. Mr. Knutelsky explained wetlands and uplands. Mr. Knutelsky said as long as the disturbance doesn't increase, DEP has already stated that they are ok with it. Mr. Knutelsky said he wouldn't recommend an LOI be required for this application, unless expansion is proposed.

Mrs. Murphy asked Mr. Garrera if he was snowplowing the property. Mr. Garrera said absolutely not but we do plow. Mrs. Murphy said you have to plow your driveway to get out. Mrs. Murphy asked Mr. Garrera if he was doing his landscaping business on that property. Mr. Garrera said no, they leave at 8:00 they come back at 4:00. Mrs. Murphy said so business is not being done on that property. Mr. Garrera said absolutely not.

Tom Markert, stepped forward. Mr. Markert asked if there was a wood splitting operation going on. Mr. Garrera said yes. Mr. Markert asked if that occurs on the property. Mr. Garrera said yes it does. Mr. Markert asked if he sells the firewood off the property. Mr. Garrera said he sells a minimal, since he put a wood burning stove at his house. Mr. Markert said you have logs delivered to that site. Mr. Garrera said from the tree company. Mr. Markert said the woodsplitter runs whenever you need. Mr. Garrera said right. Mr. Brady asked if that was part of another business. Mr. Garrera said it is something that any homeowner would run. Mr. Brady asked is it for selling wood. Mr. Garrera said in the past he has but now that he bought his own stove (he) saves the wood for himself.

Jim Kilduff, stepped forward. Mr. Kilduff asked what is the name of the landscape business. Mr. Garrera said Prestige Landscaping. Mr. Kilduff asked if he had partners in that business. Mr. Garrera said yes, Brian Snyder. Mr. Kilduff asked if it was an LLC. Mr. Garrera said correct. Mr. Kilduff asked if he was a member in this. Mr. Kilduff asked if Mr. Garrera knew what he meant by that. Mr. Garrera said no. Mr. Kilduff asked Mr. Kelly to advise his client. Mr. Garrera said the landscaping is mainly owned by Brian Snyder. Mr. Kilduff asked are you a member, meaning, are you an owner of record on the LLC of the landscaping (business). Mr. Garrera said no. Mr. Kilduff asked if Mr. Garrera knew who the other members are. Mr. Garrera said no. Mr. Kilduff asked about the other businesses on the property.

Mr. Brady said Mr. Garrera stated he was a partner in the snowplowing and landscaping business now he seems to have indicated he is not a member of the LLC. Mr. Brady asked if he was a principal of the LLC. Mr. Brady said his concern

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is if he is not a member of the LLC then the testimony he gave might not be binding. Mr. Brady asked Mr. Kelly if he was aware of the relationship Mr. Garrera has with the LLC and whether or not he can speak for the LLC. Mr. Kelly said he would get clarification prior to the next meeting.

Mr. Correal made a motion to close to the public application **ZB-12-07-1 Garrera and Millier, "D" Variances, Block 40 Lot 35**, seconded by Mrs. Murphy. All were in favor.

Mr. Kell asked Mr. Kelly if he wanted to do a general wrap up. Mr. Kelly thanked the Board. Mr. Kelly said (next meeting) the primary witness will be their planner. Mr. Kell asked do you think with the next meeting if your planner is here you will be able to finish up. Mr. Kelly said yes. Mr. Kell said this application will be heard again March 4, at 7:30.

At this time Mr. Christiano (Planning Board member) left the dais and Mr. Kopsco and Mrs. Bonis returned to the dais.

OTHER BUSINESS:

PAYMENT OF BILLS:

Mrs. Bonis made a motion to approve the **Franklin Borough Zoning Board Escrow Report for February 4, 2009**. Seconded by Mr. Kopsco.

Upon Roll Call Vote:

AYES: Correal, Bonis, Gardell, Kopsco, Swiss, Murphy, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

DISCUSSION:

Mr. Kilduff told the Board there will be a Planning Board workshop on February 11. Mr. Nelson told the Board about the Master Plan re-examination, Plan Conformance and Plan Endorsement. Mr. Nelson also talked about DEP, sewer service area in Franklin and COAH. Mr. Kilduff said we will also be looking at the current zoning.

CORRESPONDENCE:

OPEN PUBLIC SESSION:

Mrs. Murphy made a motion to Open to the Public. Seconded by Mr. Swiss. All were in favor.

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Paul Crowley, Mayor of Franklin, stepped forward. Mayor Crowley thanked the Board members for their time and being on the Board.

Mr. Swiss made a motion to Close to the Public. Seconded by Mrs. Bonis. All were in favor.

ADJOURNMENT: There being no further business Mr. Swiss made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mrs. Bonis. All were in favor. Meeting was adjourned at 9:42PM.

Respectfully Submitted,

Robin Hough
Secretary