

**Franklin Borough Zoning Board of Adjustment**  
**Meeting Minutes for**  
**September 2, 2009**

The meeting was called to order at 7:34 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: Mrs. Bonis, Mr. Gardell  
Mr. Swiss, Mr. Kell

ABSENT: Mr. Correal, Mr. Kopcso,  
Mrs. Murphy, Mrs. Alexander

ALSO PRESENT: Mr. Thomas G. Knutelsky, P.E.  
Mr. James Kilduff, Director

**APPROVAL OF MINUTES:**

Mr. Kell said there are only two members of the Zoning Board that can vote on the approval of the minutes from the meeting for July 1, 2009, we will carry this until the next meeting so more members are here to approve those minutes.

**APPROVAL OF RESOLUTIONS:**

There were no resolutions approved.

**APPLICATIONS FOR COMPLETENESS:**

**ZB-08-09-2 Spartan Management Associates, Certification of Non-Conforming Use, Block 20 Lot 1 & 2.**

Mr. Edward Maske, attorney for the applicant, stepped forward. Also present was president of the corporation Mr. Carl Cipollone, who is the owner of the building. Mr. Maske gave the Board a brief over view of the application. Mr. Maske said the reason they are here is because of a change in the zoning ordinance in 2004. Mr. Maske said since this became a B-2 zone the automotive use was no longer permitted in that zone. Mr. Maske said this application is to prove to the Board this is a non-conforming use.

Mr. Maske said they are requesting a site plan waiver as part of the application because there are no changes there, no impact on the property and it is an internal operation. Mr. Maske said parking is unaffected, access is unaffected; it is the same type of operation people drop off a car and leave. Mr. Maske said proof of publication and proof of service will be provided before the hearing.

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Mr. Kell asked what the business was being used for now. Mr. Maske said the building is partially used by Mr. Cipollone's personal business that is a cabinet shop. Mr. Maske said he had the cabinet business there simultaneously with the automotive business for over 20 years, since he bought the building in 1988. Mr. Maske said the main purpose of the application is for the other portion of the building which is now empty. Mr. Maske said he (Mr. Cipollone) has a tenant that will do automotive work, transmission work; it is a perfect location for the business. Mr. Maske said the tenant is ready to move in; when he (Mr. Cipollone) applied for the zoning permit it was denied because of the non-conforming use.

Mr. Kilduff said in regards to completeness on the application he sent a letter to Mr. Maske on August 14, 2009, and he made copies for the Board tonight. Mr. Kilduff said we don't have a formal checklist that applies to a certificate of non-conforming use application. Mr. Kilduff said there were a few items missing administratively and we asked the applicant to supply those. Mr. Kilduff said the relevant copies from the zoning officer which resulted in the application were not provided on time for this particular hearing. Mr. Kilduff said Mr. Maske did provide those and they were handed out to you tonight so that item has been addressed. Mr. Kilduff said Mr. Maske has brought the certified 200 foot list with him tonight so that will be addressed. Mr. Kilduff said the other items have to do with the notice, affidavit of service and proof of mailing. Mr. Kilduff said those are the items he asked the applicant to supply (since) we don't have a normal checklist for this application.

Mr. Gardell asked what is the burden of proof on this? Mr. Kilduff read from NJ Zoning and Land Use Administration by William Cox what the book said about non-conforming use.

Mr. Knutelsky referred to his report dated August 26, 2009. Mr. Knutelsky said he summarized what Mr. Kilduff had in his memorandum from the administrative aspects, since there is no formalized checklist for a site plan. Mr. Knutelsky said he is recommending that this application be deemed incomplete at this time until all that information is supplied and provided to the Board 14 days before the next hearing. Mr. Knutelsky said do completeness next month and if it is found complete go right into the public hearing. Mr. Knutelsky said in regards to the site plan waiver he has no problem with there being no site plan for this application since it is just based upon existing uses on the site; there are really no changes to the site. Mr. Knutelsky said he recommends to the applicant to bring exhibits; if he has a site plan bring it to put up so we can see the property and if you don't that is fine. Mr. Knutelsky said at this time he recommends this to be found incomplete until next month.

Mr. Kell said at this time he needs a motion to deem this application incomplete. Mr. Kilduff said with the understanding the applicant will supply the missing items mainly related to notice and be in position to be heard. Mr. Maske said he will have the information 14 days before the next hearing.

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Mr. Swiss made a motion to deem incomplete application **ZB-08-09-2 Spartan Management Associates, Certification of Non-Conforming Use, Block 20 Lot 1& 2**. Seconded by Mrs. Bonis.

Upon Roll Call Vote:

AYES: Bonis, Gardell, Swiss, Kell

NAYS: None            ABSTENTIONS: None

(Motion Approved)

**ZB-08-09-1 Franklin Star LLC. "C" Variances, Block 70 Lot 1.08.**

Mr. Kell said there is no one here to represent the client tonight. Mr. Kilduff said he received a call from Mr. Nardella, (he was) unable to come to the meeting. Mr. Kilduff said he (Mr. Nardella) did indicate to him that he was familiar with the contents of Mr. Knutelsky's report and the recommendations in the report. Mr. Kilduff said he (Mr. Nardella) provided verbal assurance that he will provide those things in advance of the meeting. Mr. Kilduff said if the Board finds them incomplete tonight and complete next month and their notice is adequate, they will also be able to go directly into the hearing.

Mr. Knutelsky said he did speak with the applicant's engineer to discuss the checklist items that we had made comments on. Mr. Knutelsky said the engineer was agreeable to every single comment that we made and understood what needed a waiver. Mr. Knutelsky said they will be providing additional plans to the Board prior to the next hearing to satisfy all the comments that he did make in the report.

Mr. Knutelsky referred to his report dated August 26, 2009. Mr. Knutelsky said checklist item #15, requires a waiver that he recommends, checklist item#16, is not applicable to the application even though a waiver was requested, we don't have to act on that. Mr. Knutelsky referred to checklist item# 17, the sheet provided for the variance plan; he recommends to be incomplete at this time. Mr. Knutelsky referred to checklist item #20 and 21; he recommends that waivers be granted. Mr. Knutelsky said checklist item #23, in regards to the location survey of existing structures within 200 feet, he is recommending a temporary waiver for completeness only; the applicant is going to bring in an aerial exhibit that shows the property in relation to the surrounding buildings. Mr. Knutelsky referred to checklist item #24 through #40, they are not applicable to the application even though some waivers have been requested, they don't have to be acted upon. Mr. Knutelsky referred to checklist item # 41; he recommends that a waiver be granted. Mr. Knutelsky said checklist item# 42, he recommends a waiver be granted. Mr. Knutelsky referred to checklist item# 43-47; they are not applicable to the application so they don't have to be acted upon. Mr. Knutelsky said checklist item #48, in regards to the survey, he finds that incomplete and checklist item #49, he recommends a waiver.

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Mr. Knutelsky said going back to the incomplete items, the sheet that was provided was for an amended preliminary and final site plan, this is a sign variance plan. Mr. Knutelsky said he discussed this with the professional and he is going to provide new plans with a stand alone document, key map, 200 foot property owner list on it as well as references to the survey that was approved as part of the original site plan. Mr. Knutelsky said checklist item #17 is incomplete for that reason. Mr. Knutelsky said the applicant said they would provide us with that before the next hearing. Mr. Knutelsky said checklist item #48, there is survey information on the plan but it is signed by a professional engineer that is not correct and there is no survey reference to a survey that was done. Mr. Knutelsky said he recommends this be incomplete it is important that a setback variance and the property line should have a survey associated with it. Mr. Knutelsky said that is something that the applicant has agreed to provide on the plan as a reference at this point and possible if an approval be granted for the application to provide as-builts of the property.

Mr. Knutelsky said in summary for the record, full waivers for checklist items#15, #20, #21, #41, #42 and #49. Temporary waivers for completeness only for checklist item #23. Mr. Knutelsky said checklist items #16, #24-40, #43-47, are not applicable to this application, any waivers requested do not need to be acted upon. Mr. Knutelsky said checklist items #17 and #48 are incomplete and require action be taken by the applicant prior to next month's hearing. Mr. Knutelsky said due to the simplicity of the application if they provide that information 14 days before the next hearing we will have a new completeness report and recommend it go into the hearing, but that would be up to the Board. Mr. Knutelsky said they will provide a technical report so it will be a dual report checklist and comments. Mr. Knutelsky said there was an existing sign approved along the Wal-Mart entrance drive and that was where the only sign was supposed to be on site. Mr. Knutelsky said that is not on the plan you (the Board) have before you; it just shows the new location. Mr. Knutelsky said he is requiring the applicant to put the sign on (the plan) with a big X through it that says no longer valid, so we don't have the applicant come in and say we had this sign approved as well.

Mr. Knutelsky said he recommends that this application be deemed incomplete. Mr. Kell said he needs a motion to deem this application incomplete.

Mr. Swiss made a motion to deem incomplete application **ZB-08-09-1 Franklin Star LLC. "C" Variances, Block 70 Lot 1.08**. Seconded by Mr. Gardell.

Upon Roll Call Vote:

AYES: Bonis, Gardell, Swiss, Kell

NAYS: None            ABSTENTIONS: None

(Motion Approved)

**ADJOURNED CASES:**

There were no adjourned cases.

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**APPLICATIONS TO BE HEARD:**

There were no applications to be heard.

**OTHER BUSINESS:**

**PAYMENT OF BILLS:**

Mr. Gardell made a motion to approve the **Franklin Borough Zoning Board Escrow Report for September 2, 2009**. Seconded by Mr. Swiss.

Upon Roll Call Vote:

AYES: Bonis, Gardell, Swiss, Kell

NAYS: None            ABSTENTIONS: None

(Motion Approved)

**DISCUSSION:**

Mr. Kilduff said he wanted to inform the Board that this week he received a flood insurance study and draft map from FEMA the Federal Emergency Management Agency. Mr. Kilduff said they are working on new flood maps and these are the maps used for the purpose of determining flood insurance.

**Master Plan Re-examination**

Mr. Kilduff said on the Master Plan Re-examination he wants the Board to be aware that the Planning Board has been having meetings on it and we are going to have a workshop. Mr. Kilduff said we are conducting Master Plan Re-examination discussions at the Planning Board meetings and we also had one workshop and probably another. Mr. Kilduff explained what the Planning Board has been discussing and different properties that they plan on rezoning. Mr. Kilduff said we are going to have a public hearing on the Master Plan Re-examination report; there will be a notice.

**Visioning**

Mr. Kilduff said we have already begun the Plan Endorsement Process with the State; they have a very elaborate requirement for visioning. Mr. Kilduff said we have a vision statement for the Master Plan and we have completed our Transportation Vision Plan. Mr. Kilduff said he is looking for input on the visioning process for Franklin; if anyone has different ideas as to what the vision statement should be from our current Master Plan, please feel free to give me your comments. Mr. Kilduff told the Board they had a pre-petition meeting in Trenton.

**CORRESPONDENCE:**

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**OPEN PUBLIC SESSION:**

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

No one from the public stepped forward.

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 Mr. Gardell. All were in favor. Meeting was adjourned at 8:06 PM.

Respectfully Submitted,

Robin Hough  
Secretary