

Franklin Borough Planning Board
Meeting Minutes for
July 21, 2014

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, Mayor Crowley, Mr. Zydon,
Mr. Cholminski, Mr. Nidelko, Mr. Friend

ABSENT: Mr. Foulds, Mr. Giordano, Mr. Williams

ALSO PRESENT: Mr. David Brady, Esq.
Mr. James Kilduff, Plng. & Comm. Dev. Dir.

APPROVAL OF MINUTES:

Mr. Christiano made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for June 16, 2014**. Seconded by Mayor Crowley.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Zydon, Nidelko, Cholminski

NAYS: None ABSTENTIONS:

(Motion Approved)

APPROVAL OF RESOLUTIONS:

PB-04-14-1 Santé Bus, LLC and Franklin Square Health & Wellness, LLC, Preliminary and Final Site Plan Approval and Dimensional Variance Relief Phase 2, Block 701; Lots 6 & 11

Mr. Brady said prior to discussing it, he wanted the Board to know he spoke with the Applicant's attorney and Mr. Knutelsky this morning regarding the last ¶, Condition # 34 to clarify where the stream runs and added an amendment to it. He read the revised condition and further explained.

Mayor Crowley made a motion to approve **PB-04-14-1 Santé Bus, LLC and Franklin Square Health & Wellness, LLC, Preliminary and Final Site Plan Approval and Dimensional Variance Relief Phase 2, Block 701; Lots 6 & 11** with the changes made by Mr. Brady. Seconded by Mr. Nidelko. Ms. Nunez questioned his vote and Mr. Brady informed the only people that can vote on the Resolution are people who voted-approved the application. Mr. Cholminski read the eligible voting member's names and Mr. Zydon Seconded.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Zydon, Cholminski

NAYS: None ABSTENTIONS:

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APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness

ADJOURNED CASES:

APPLICATIONS TO BE HEARD:

There were no applications to be heard

OTHER BUSINESS:

Statutorily Mandated Review of Ordinance No. 7-2014

Mr. Cholminski said he was going to ask Mr. Giordano to explain the logic and impetus behind the changes but isn't present then asked the Mayor to provide a background of what they're trying to accomplish this evening.

Mayor Crowley explained it was brought to the Mayor and Council for people desiring to park a larger truck in their residences. It went back & forth and people felt it should be a heavier weight load. He thought the ordinance was ok, many town roads have weight limits and; changing the ordinance to allow heavier vehicles park- that aren't supposed to be on the road. Mayor Crowley said adjoining towns have different weight limits and further explained. The matter arose from the ZO following up on a tow truck driver bringing his tow truck home for availability on nights and weekends which wasn't allowed. He felt some people want to make it easier for people like him to keep their truck at home.

Mr. Zydon said it's why he said 19,500 as the industry's going toward heavy vehicles that look like pick-up trucks and further elaborated. Mr. Christiano asked what a Ford 250 is. Mr. Zydon and Mr. Nidelko responded.

Mr. Zydon commented that season businesses pay town taxes; there wasn't an epidemic, one vehicle created the firestorm and recreational trailers were brought in due to a neighbor dispute wanting the town to settle it. Referring to the memo, he thought Hardyston's 2,000lb weight limit was a typo and as such nobody will be able to drive a car there. Mr. Kilduff said it may have to do with a trailer or the like.

Mr. Zydon said his issue is zoning only for commercial plated vehicles and further explained. Mr. Cholminski commented on commercial vehicles and the like with advertising, devalue property.

Mr. Nidelko commented F350's and F450's are good trucks, but still a pick-up unlike a box van depicted in some of the pictures and further elaborated. He commented to a person with a moving van that parked it nightly at the residence. Mr. Zydon said he also saw it and was too heavy. According to the (Ordinance) you could put it in if you have a big enough garage but doesn't allow a service truck to sit out front.

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Mr. Cholminski said he understands the point and the way he reads it, will create lots of argument, devalue his property, and further explained. Mr. Zydon commented that's what the ZO is for.

It was commented on what it would look like, standing at the end of the street with three, four or five trucks parked in the driveway. Mr. Zydon commented he doesn't see a problem-they're working class people. It used to be a mining town and perhaps should be a cottage industry town.

Mr. Christiano said the other issue is wear and tear on curbing which the town is responsible for. Trucks won't make the radius in the driveways and should a truck become immovable or break down in the driveway, can a commercial sized tow truck pull it out. When this owner wants to leave in the morning and return in the afternoon, have to ask his neighbors to move their cars so he can pull into his driveway. Mr. Zydon said that's neighborly. As a governing body, what does that have to do them? Mr. Christiano said that's how it started. Mr. Zydon said exactly, and why are we brought into it to begin with.

Mr. Brady said on October 24th he wrote to the Mayor and Council based on the October 21, 2013 Meeting whereby a similar discussion was had. At that point there was a 1st Responder, tow vehicles and the like language. The recommendation back to Town Council was, drop the tow vehicle and 1st Responder language and make it one non-passenger commercial vehicle not exceeding 19,500 GVWR. The recommendation was taken at that time.

Mr. Zydon referred to a comment in the ZO's memo of knowing whether the tow was on call or not. Mr. Brady said that's why they changed it to a weight limit. Mr. Zydon commented on leaving it at one weight limit which removes questions.

Mr. Cholminski addressed his concerns regarding advertising, property value and aesthetics. A brief discussion followed.

Mr. Brady said it comes back a 2nd time for us for comment which was revised and sent back for the First Reading. For the Second Reading, by MLUL you will all have to come back for this. Mr. Cholminski said in other words, we're doing our job. Mr. Zydon said he's standing on the first weight. Mr. Cholminski said so don't we need it. Mr. Christiano said no. Mr. Zydon asked if there will be negotiation on weight size or returning it the way it was.

Mr. Cholminski queried Mr. Kilduff that the Borough's is much higher than everybody else. Mr. Kilduff said it's what's being recommended. Mr. Cholminski said he's concerned about commercial vehicles with advertising and asked if that's what Mr. Christiano (meant). Mr. Christiano said a vehicle that big is likely used as a business and the owner can afford to build a garage. A relative discussion followed.

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Mr. Cholminski asked Mr. Kilduff if other towns have a way to delineate, if there's compromising or can say commercial vs. residential; should a commercial vehicle be limited. A discussion regarding weight, representations from the memo and a prior HC repair facilities application were discussed.

Mr. Christiano asked about earth moving trucks. Mr. Zydon said it's not registered but is heavy equipment. It was asked if it's street legal. Mr. Nidelko and Mr. Christiano responded, if it has plates.

Mr. Christiano said look at the town's equipment. Mr. Zydon said it's because they're Town, County, State and Municipal equipment registered as such which doesn't matter. When you have private equipment like a rubber tire loader, they'd be registered In Transit and aren't supposed to drive them. There are In Transit Laws, driving heavy equipment on the roads and maybe mileage restriction.

Mr. Cholminski asked if it means you could park. Mr. Kilduff said there's a commercial vehicle ordinance definition which mainly pertains to vehicles with tires. A truck, bus, van, sedan, delivery vehicle, station wagon with advertising matter on the side or any other commercial use vehicle except a passenger car with no advertising matter exposed to view, is the commercial vehicle definition.

Mr. Cholminski said according to the Ordinance change you could have one up to 19,500 on your property. Mr. Kilduff agreed and said the question was about construction equipment. Mr. Brady said it doesn't say commercial vehicle, it says trailers, tractors and mechanized equipment. Mr. Kilduff asked where he's looking. Mr. Brady said N^o. 5 and referred to Ordinance No 7-2014 Section 1 D, (5) & (a). He said it starts with a broader concept when it talks about commercial vehicles.

Mr. Cholminski said he assumes you could have one commercial vehicle up to 19,500. Mr. Kilduff said you can have more than one if stored within a garage. Mr. Brady said I guess it is vehicles. Mr. Zydon said the (b) was farming equipment included. Mr. Cholminski said he saw the weight size increase. Mr. Kilduff asked for the weight and Mr. Zydon said an F350 is about 13,000-13,500.

Mr. Cholminski said he's against signed vehicles, box trucks, and mentioned a Frito Lay box truck in front of a house every day. Mr. Zydon queried the ordinance on roadway being spelled out. You can't leave it on a roadway overnight but be in the driveway. A brief discussion followed.

Mr. Brady said that setback requirement is in the mobile dwelling trailer. Mr. Kilduff said it's a different section. You can park a commercial vehicle on the street in daytime during the allowed months. Mayor Crowley said overnight also. Mr. Kilduff said except in the winter. Mr. Zydon commented to no commercial street parking overnight. Mr. Cholminski said according to this you can park it in the street. A discussion followed.

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Mr. Brady referred to his October 24, 2013 letter regarding Page 2, #'s 2 through 4. Mr. Christiano said everything in that letter is pertinent to the conversation. Mr. Zydon said it never conceded into this and didn't get with the comment as written. Mr. Cholminski felt what Mr. Brady read covers the concerns.

Mr. Brady said the Board suggested Council was in a position to (join) zoning districts and consider different regulations (in) different parts of the Borough. Mr. Cholminski said you know where you live and gave an example of living next to a golf course. At this time a discussion was had.

Mr. Brady referred to §161-32D (6) Mobile Dwellings, Trailer and Recreational Equipment on Pg. 3 of his (10/24/13 letter to Council) and said the Board felt one size fits all is not appropriate. He then referred to and read from (a) to the remainder of his letter.

Mr. Cholminski said it seems the Ordinance Committee didn't consider the last statements from the Board and should be re-pulled. He thinks the drafted Ordinance creates more problems than it solves and doesn't take into consideration what the Planning Board recommended. He further elaborated and said in the October 24, 2013 response, various concerns and issues associated with the Ordinance as written were not addressed. The ordinance is too simple in approach and the one size fits all in a diverse community with significant differences in lot sizes across residential districts would therefore, not be in favor of changing the ordinance unless these things are addressed.

Mr. Nidelko said Section D seems to refer back to mobile homes, recreational, trailers. Mr. Cholminski added they left out the commercial discussion.

Mr. Nidelko made a motion to **Open to the Public Ordinance No. 7-2014 Discussion**. Seconded by Mr. Zydon. All were in favor.

Bob Allen, Jenkins Road said he has enough property for his 30' travel trailer and even pour a concrete pad; no matter how rulings are changed, he has enough property for his trailer. Mr. Cholminski asked for his thought of smaller Sterling Street properties. Mr. Allan said you have a problem there. Mr. Cholminski said the Ordinance problem is one size doesn't fit all. Mr. Nidelko commented on a box truck whereby a brief discussion followed. Mr. Allen said recreation vehicles talks about everything that moves on wheels and what about those with boats in their yard, two motorcycles and a couple of sports cars.

Betty Allen 24, Jenkins Road, said her property is 127x150, have had their RV for about 10 years of which "John" goes by everyday can tell whether its offensive or not. She explained how they keep it enclosed and at times request their neighbors to move their cars. Ms. Allen commented on having a problem with people parking p/u trucks and prefers it in their backyard. Ms. Allen said being restrictive will be a

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problem and spoke of the Zinc Co. homes and their issue. She commented a Board Member referenced the town as a Blue Collar town in a derogatory manner and further elaborated. Ms. Allen hoped they won't be restricted by it and neighbors haven't had a problem with it for 10 years.

Mr. Friend made a motion to **Close to the Public Ordinance No. 7-2014**. Seconded by Mr. Zydon. All were in favor.

Mr. Cholminski noted to send a letter saying they looked at it and will stand by their old recommendations. The introduced Ordinance as is, the one size doesn't fit all and will create problems. Mr. Nidelko said fencing and hedges to hide commercial vehicles.

Mr. Brady said fencing and hedges used to be in the RV section was taken out. Mr. Christiano said if you put fencing and shrubbery in there, you'll get the same thing where a commercial developer puts in something this big and in 20 years will hide vehicles. Mr. Cholminski said to stand by their letter as before.

Mr. Cholminski went about the dais for a Voice Vote. Mr. Christiano agreed, Mr. Nidelko agreed, Mr. Zydon said as written the first time, Mayor Crowley agreed. Mr. Zydon said no changes to the GVW requirements. Mr. Christiano said we all stand by the letter.

Mr. Brady said he'll say something to the effect that we reviewed it and compared it to our recommendations in the October 24th letter found many recommendations were not included or considered. We think the one size fits all approach creates conflicts and as a Planning Board it doesn't addresses planning consideration.

Mr. Zydon asked if the Ordinance Committee have reasons why they didn't add or cut. Mr. Kilduff said the Mayor and he had the benefit of sitting through lengthy meetings at the Council level. Two moratoriums were had on this particular ordinance because of the controversy it engendered. A room full of people came forward to discuss the ordinance. He hoped to have gotten some resolution. Mr. Cholminski said the resolution is we addressed our concerns, think it creates more problems than it solves and don't recommend it be adopted as written.

Mr. Kilduff asked if it pertains for both the commercial and recreational vehicle. Mr. Cholminski said just as written. If you look at the whole plan they did, they want to start over again which is their prerogative as elected officials. They should start with our letter again, look at setback requirements, size of all the areas and then write an ordinance that fits the whole which seems like a lot of work.

Mr. Zydon asked what happens if they kick it back the same way. Mr. Cholminski said they have to say why. Mr. Brady said to his recollection, when Council does not take the recommendation from the Board they're supposed to give explanations and

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a statement of reasons. Mr. Zydon said they're supposed to explain themselves and Mr. Brady agreed.

Mr. Cholminski stated the record Mr. Williams' arrival (8:18PM). Mr. Cholminski asked if a vote needs to be taken. Mr. Brady advised he doesn't think it's needed. Mr. Cholminski went about the dais inquiring if the Council should re-visit the recommendations and the (Planning Board) will not favorably adopt it as it is written. The following members responded yes: Mr. Christiano, Mayor Crowley, Mr. Nidelko, Mr. Friend and Chairman Cholminski. Mr. Zydon said No.

Mr. Cholminski queried Mr. Zydon's vote. Mr. Zydon said its how this started. Mr. Williams said you agree with everybody else. Mr. Zydon said he doesn't because they want to send it back for the way they wrote it. He reviewed it and didn't find a problem with it and he doesn't approve of it. Mr. Zydon said his concern was they're going to start from the weight rating there are things in that writing we did that I agreed from the get go. Mr. Cholminski said he's not questioning it and can vote any way he pleases. Mr. Zydon said the ordinance as written-no problem.

PAYMENT OF BILLS:

Mr. Christiano made a motion to approve the **Franklin Borough Planning Board Escrow Report** for July 21, 2014. Seconded by Mr. Zydon.

Upon Roll Call Vote:

AYES: Christiano, Zydon, Nidelko, Friend, Cholminski

NAYS: None ABSTENTIONS: Mayor Crowley

(Motion Approved)

DISCUSSION:

CORRESPONDENCE:

Mr. Christiano asked what the letter from DOT means. Mr. Kilduff said basically, it's not applicable and had spoken about it to the engineer. As part of their application they're required to apply to the DOT. DOT has no interest for there's no access from Route 23 though the property is on Route 23. It was asked which application. Mr. Kilduff said Santé Bus. He said it's a received letter which they get a copy which has no bearing. Mr. Brady said DOT was on the 200' Notice and had discussed it with Mr. Knutelsky. He said there's no access to the highway, while they may in fact Notice and expressed interest, the fact is no application is necessary.

OPEN PUBLIC SESSION:

Mr. Christiano made a motion to **Open to the Public**. Seconded by Mr. Zydon. All were in favor.

Betty Allen, Jenkins Road, Franklin wanted the Board to encourage Borough Council to do something about Main Street. She commented on it being the center and eye

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of Franklin which looks horrible and many changes could be made and regulations enforced. To achieve it, TLC is needed and hopes they receive this message. She's tired of hearing about heroin users by the Herald regarding Main Street and said it's about time you stop thank you.

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

Mr. Christiano remarked to sitting at the Sit n' Chat Diner having the view of the two buildings across the street and asked if any progress is being made. Mr. Kilduff said they're making progress and put it in front of Council at the next meeting for a motion to approve the Asbestos Environmental Study that has to be done as a prelude. He wants Council to appropriate funds to do the demo, remove the oil tanks on the side of the house and building. It's in the works and is a long, slow arduous process. Council will have to appropriate much money; put a lien on the house, on the property. After that, it may be a long time before they get the money back. He's been working on this a long time and wants to see it happen.

Mayor Crowley said he called John Ursin the other day. It has legal problems for the town that are cleared up. Everybody's been notified and nobody came forth to say no. We have a green light legally and want to make sure Council knows what the financial undertaking will be.

Mr. Friend asked if it's both properties. Mayor Crowley said it's all on one property. Mr. Friend said he understands there are tanks under Route 23. Mayor Crowley said it's under Route 23 which the State owns.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 8:27PM on a motion by Mr. Christiano. Seconded by Mr. Nidelko. All were in favor.

Prepared by R. Nunez

Submitted by Robin Hough, RMC/CMR