

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

The meeting was called to order at 7:33 PM by the Chairman, Mr. Nathan Foulds, who then led the assembly in the flag salute.

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

ROLL CALL OF MEMBERS: Mr. John Christiano (Present)
Ms. Dawn Fantasia (Absent)
Mr. Nathan Foulds, Chairman (Present)
Mr. Nick Giordano, Mayor (Absent)
Mrs. Louise Murphy, Vice-Chairwoman (Present)
Mr. Jim Nidelko, (Present)
Mr. Wes Suckey (Present)
Mr. Jim Williams (Present)
Mr. Steve Zydon (Present)
Mr. Floy Estes, Alternate #1 (Present)
Mr. Sean Kidd, Alternate #2 (Present)
Mr. Richard Knop, Alternate #3 (Present)
Mr. Ted Bayles, Alternate #4 (Present)

ALSO PRESENT: Mr. Dave Brady, Board Attorney
Mr. Ken Nelson, Board Planner
Mr. Tom Knutelsky, Board Engineer

APPROVAL OF MINUTES:

No approval of minutes.

PAYMENT OF BILLS:

NONE

APPROVAL OF RESOLUTIONS:

There were no resolutions for approval.

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: (Continuation of Hearing from 6/19/17)

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

JCM Investors 1012 LLC. (PB-04-17-1), Block 2701 Lot 2, 110 Munsonhurst Road, Use D Variances.

Mr. Foulds - At our last meeting, testimony was given from the applicant's professionals, and cross examination of the professionals was completed regarding their testimony. Mr. Kelly, anything else you would like to add.

Mr. Kelly, Esq. – I represent the applicant. Do we have seven members of the eligible voting members of the board here?

Mr. Foulds – Yes Mrs. Louise Murphy was not at the last meeting but she has since listened to the June 19th recording and has signed the Eligibility certification.

Mr. Kelly – We have completed the testimony of our expert witnesses. I would like to call Mr. Daurio. As my 1st witness.

Mr. Daurio – I am the principal investor in JCM investors. I am in the Real Estate business we own over 300 properties, approximately 2250 apartments. We have real estate in Bergen, Hudson, Passaic and Monmouth Counties. We have been in business for eight years I have personally been in the business for 12 years. We own and operate all of our properties.

Mr. Kelly – What made you purchase this property in Franklin NJ?

Mr. Daurio – We see a future in Sussex County specifically Franklin.

Mr. Kelly – Describe for the Board how you manage and operate these properties.

Mr. Daurio – We have a team of over 100 employees, we handle everything from construction to renters. We have a team of in-house attorneys, a management company and a construction company as well.

Mr. Kelly – Do you have your own security company?

Mr. Daurio – We don't own our own company, what we do is employ retired or off-duty Police Officers who can carry weapons. If there is an issue at any of our properties we put two officers on that property 24/7 until that problem is resolved and the element that we don't want there is gone.

Mr. Kelly – Are you personally going to be involved in the construction and management of this property?

Mr. Daurio – Yes, that is correct.

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

There was some discussion on site plan issues as far as access roads, and emergency entrances into the property. Mr. Knutelsky explained that this discussion is relevant to site plan issues and not the current proposal for the variances for density change and age restriction relief.

Mr. Kelly - At the TCC meeting there was discussion of keeping 30 units or approximately 20% of the development age restricted. This is in addition to the 30 COAH units. The age-restriction would probably be in one building and the COAH will be scattered throughout the entire development which will include all styles of apartments (3 bedroom, 2 bedroom and 1 bedroom). This again will be discussed at a site plan meeting if this variance is approved.

There was a question from the board – Do you have any projects other than this one currently?

Mr. Daurio – I have approximately 600 apartments in Paterson that we are currently building and these are the same as we would be building here in Franklin. A mix of COAH and age restriction as well as regular renters. We also own 1500 existing apartments in Paterson.

Mr. Nelson – The board should remember that the variances are not one in the same and the board could give relief on one or both of these variances. A concern that I have is, how is this complex going to look visually from different parts of the town.

In addition, I have one more point to make and that is I did some research on Franklin Elementary School and they are not declining in enrollment as previously stated. They have stayed about the same for the past six or seven years. In the 90's the school had approximately 600 children. Recently it's been around 516. Enrollment was in the 400's about 6 years ago. The school still probably has capacity but I don't know what individual class sizes will be.

OPEN PUBLIC SESSION:

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

Mr. Steinhagen – My client is a neighbor and owns Lot 2701 and Block 1. I was just retained and I would like to ask for a delay in the voting for ample time to find out all the details. I would like time to bring in a Professional planner as well to discuss the negative criteria.

Mr. Brady - the biggest problem I see is that the two Professional Planers have already been brought in and have already given positive and negative criteria. The Professional planners have already given their statements and been cross-

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

examined. We have already done a postponement from the last meeting. I don't know if that is fair to everyone else. There has been sufficient time since the neighbor has known about this application.

Mr. Steinhagen – There is also a secondary issue I have. I don't know if the Board can act on this tonight because of the Sunshine Meeting notice that was sent out at the beginning of the year. It was supposed to be sent to two newspapers however, it was only sent to the NJ Herald.

Mr. Brady – I will take that in to account, we have never had that challenged however there is a first time for everything.

Mr. Kelly – In regards to having any continuance of the application, we have had three meetings already on this and if we add another Professional Planner we will have to go back to the beginning. There have been a lot of chances to come here and object and there have been several who have done so and come with council.

Mr. Steinhagen – I have several questions for Mr. Daurio.

After purchasing the property in March, did you contact the town to request the borough to change the zoning to allow you to do what you're asking the council to do with this variance?

Mr. Daurio – No

Mr. Steinhagen – Can you commit to the Board that you won't be asking for any more variances if you get approval for both of the variances today.

Mr. Daurio – Who knows what we'll ask for if these are approved and we move forward to a site plan. What I said is that if approved we will sit down at a TCC meeting and decide what is best for Franklin.

Mr. Steinhagen – I have some questions for Mr. Nelson. Mr. Nelson, were you involved in the settlement agreement that was back in 2007.

Mr. Nelson – No

Mr. Steinhagen – There was talk earlier about the problems with re-zoning such a large track of land. Do you know the term aggregation in the zoning law?

Mr. Nelson – No.

Mr. Steinhagen – As a planner do you think its good practice to re-zone functionally the entire area by use variances opposed to going through the governing body.

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

Mr. Nelson – No

Corey Hennings – I just have one question for Mr. Daurio. You originally had said that you have properties in Passaic, Bergen and Monmouth Counties. But then you only mentioned properties in Passaic.

Mr. Daurio – Presently I'm only building in Passaic.

Corey Hennings – The second question is if you can't rent the units, you plan to sell them as condos. What's the plan to market them?

Mr. Daurio – We would take care of it through newspapers through neighboring NY and Pennsylvania towns as well as all over Sussex County.

Dawne Rowe - I live on Munsonhurst Road. I am very familiar with this property the access road that you are all talking about cuts across a swamp. If you build the roads your taking about my property will get flooded. What would you be asking for rent?

Mr. Daurio – Fair market which I believe for Sussex County is \$1000 a month.

Dawn Rowe – Where are these renters going to come from?

Mr. Daurio – All over Sussex County. Have you ever researched the foreclosure rate in Sussex County? It's pretty bad, we are going to keep those people that lose their houses here in Sussex County by offering affordable housing. I did my homework. There is a waiting list right now for apartments in Wantage with the same kind of apartments that I'm building. I want to get mine up quickly and they're all local people. Nobody's tapped this market yet and I'm looking to do so.

Ms. Carnes/289 Rutherford Ave – I have a quick question about the demographic that you are looking for the development. You said you are looking for 55 and older and young professionals. Why then do you have so many 2 and 3 bedrooms? That to me sounds like families would rent them which would mean more children and bigger class sizes.

Mr. Daurio – A two bedroom doesn't mean necessarily there will be more children it would probably more likely be a spare bedroom or a home office. We are looking to give people in Sussex County a place to live. It's very unlikely there will be one child per unit.

Mr. Weeks/Scott Road – Are you familiar with the High Point County Club?

Mr. Daurio – No

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

Mr. Weeks – They have multi-family rentals there. It is my opinion that when you get into multi-family housing you have a lot of problems and you have a lot of police matters there. How are you going to manage this if it becomes a problem?

Mr. Daurio – We have our own security department. We are not looking to entertain any hoodlums we will be doing criminal background checks.

Mr. Weeks – How many people do you anticipate having?

Mr. Daurio – It's hard to say, we could estimate 2 persons per unit which would be 600 people.

Mr. Weeks – Another concern I have is all the water that will be used by this development. Will wells in the surrounding areas go dry?

Mr. Daurio – There is plenty of water there and we will be fine. We are giving the town permission to tap additional wells if they need to. That is what the settlement was about not to bring that up again.

Mr. Zydon made a motion to close to the public and Mr. Williams seconded the motion.

Mr. Williams made a motion to open the meeting to the general comments and testimony and Mr. Estes seconded the motion.

Mr. Hooker - I represent ITS, Ian and Theresa Sherwood owners of the Black Pegasus horse farm. The approvals from the settlement agreement are no longer valid. They have all since expired specifically on 6/30/16. None of the approvals from the settlement are valid today. In addition permit extensions do not apply in environmentally sensitive areas. Even if there was a loophole the approvals have expired on 6/30/16.

Ian and Theresa Sherwood sworn in by Mr. Brady.

Mr. Sherwood – We purchased the 76 acer property in 2010. We have 60 horses presently. We use approximately 60 acers for pastures. Most of our property is wetlands and there is very little buildable area.

ITS 3 is an Arial picture from the DEP of our property which shows the wetland on my property. My property has approximately 70% of wetlands which is included right along our property which is where they want to build.

We have invested millions of dollars in Franklin of our own money we don't have investors. If you allow this project to happen it will directly affect our business. People will not want to bring their horses there. When you're on our property, it's so

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

serene and private. We stand to lose our entire business if they build this apartment right on my property line.

Mrs. Sherwood - We are very concerned with pesticide runoff onto our property. Horses are extremely sensitive to pesticides it could easily kill a horse. Every single one of our boarders are asking how we plan on keeping the kids out of our property so that they don't disturb the horses. If you lift the age restriction this will without a doubt directly affect our business.

Mr. Steinhagen – I represent an LLC and I just have a couple of more legal points I'd like to make. I wasn't here for Mr. Snyder's testimony. I'm concerned that the board cannot make a decision on this without a proper site plan. There is case law that suggests that you do not have to proceed with the application without a site plan. The professionals as well as the board have raised very important questions in regards to septic, access, and water issues. I don't see how this applicant can satisfy what's needed for a proper variance and I think the board should not grant this application at this time.

Dawne Rowe – Without having all the information from the site plan I don't know how you can make a decisions based on what is going to be built here. Also to say you're not going to see these building from 517 is just wrong. I know there were "expert witnesses" that gave statistics and I know that you can have numbers say anything you want to support your theory. I don't know how the traffic expert came up with the numbers he had. I urge the board to really look at the best interest of Franklin.

Patty Carnes – I grew up in Passaic County and I moved to Franklin because it was country and different from where I grew up. I'm worried about what this is going to do to the traffic if you allow these additional apartments to be build. Sometimes it takes 12 minutes to go 1 mile on route 23 north in the evening.

Kathy Hartman (sworn in by Mr. Brady) – I would like to address the board. 40% of our town is rentals as per the US census. I am a licensed realtor, there are plenty of rentals in Franklin that are not rented. I looked up Mr. Daurio's properties in Paterson and approximately 50% of them are section 8. My concern is he is going to oversaturate the market with section 8 housing and rentals in Franklin. We have many homes on Main Street that are rentals and if we add more rentals to Franklin, we are going to compound our problem we have there. We are going to have more people not able to rent their homes out and then they will end up in foreclosure. His project seems nice but the amount of units he's trying to put in is too many and if it was reduced I probably would not have a problem with it.

Roger Ziegler (sworn in by Mr. Brady) - It looks like they are looking for more and more variances down the road and there are a lot of questions that aren't getting

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

answered I think you need more information to make a decision to allow these variances.

Mr. Weeks (sworn in by Mr. Brady) – My understanding of a variance is bending a little on the rules not changing the look of an area. This is going impact this area in a big way.

Mr. Christiano made a motion to close to the public, Mr.Suckey seconded the motion.

Mr. Kelly – This is not a new idea this is just relief for age restriction. The reason for this idea was because we didn't want to over populate the schools. With the declining population in the area, that is not an issue any more. What you should be asking is that when your children come back from college where do they live, when you are retiring, do you stay in a big home with all of the maintenance and pay all the high NJ taxes.

When talking about density, the density that was allowed in the MAAH zone when it was created was 515 multi-family units, our proposal is down to 300 units. It went down because half of the property went into Green acers. The only thing this application is about is who gets to live here whether is only age restricted. This is just to modernize this application so someone can actually build here and be profitable. My client is ready to do this.

Mr. Brady – Lets have a roll call with a statement and a vote.

Mr. Kelly – There should be separate votes on each variance.

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

Mr. Brady – Lets have a roll call with a statement and a vote.

Mr. Kelly – There should be separate votes on each variance.

Mr. Brady – We are going to take a quick break

Franklin Borough Planning Board
Meeting Minutes for
July 5, 2017

Mr. Zydon made a motion to vote on the D variance removal of age restriction or to provide relief from the MAAH zone. Mr. Christiano seconded the motion.

Mr. Christiano – No
Mrs. Murphy – No
Mr. Nidelko – Yes
Mr. Suckey – No
Mr. Williams – No
Mr. Zydon – Yes
Mr. Foulds – Yes

Not granted with a 3-4 vote. Needed 5 affirmative votes to pass

Mr. Zydon made a motion to vote on the D variance to increase the density from 250-300. Mrs. Murphy seconded the motion.

Mr. Christiano – No
Mrs. Murphy – No
Mr. Nidelko – No
Mr. Suckey – No
Mr. Williams – No
Mr. Zydon – Yes
Mr. Foulds – Yes

Not granted with a 2-5 vote. Needed 5 affirmative votes to pass

Mr. Zydon made a motion to adjourn the meeting and Mr.Christiano seconded the motion. All in favor.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 11:05 PM on a motion by Mr. Zydon, seconded by Mr.Christiano. All were in favor.

Respectfully submitted,

Joyce Carr
Planning Board Secretary