

Franklin Borough Planning Board
Meeting Minutes for
November 19, 2012

ORIGINAL

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. Lermond, Mr. Suckey,
Mr. Foulds, Mr. Cholminski

ABSENT: Mr. Kulsar, Mr. Oleksy, Mr. Zydon

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

APPROVAL OF MINUTES:

Mayor Crowley made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for July 16, 2012**. Seconded by Mr. Lermond.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Lermond, Suckey, Foulds, Cholminski

NAYS: None ABSTENTIONS: None

Mr. Lermond made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for October 15, 2012**. Seconded by Mayor Crowley.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Lermond, Suckey, Foulds

NAYS: None ABSTENTIONS: None

APPROVAL OF RESOLUTIONS:

There are no resolutions to approve.

Chairman Cholminski said there is an Application to be Heard and does not see the applicant's attorney and will proceed with the administrative agenda.

APPLICATIONS FOR COMPLETENESS:

There are no applications for completeness.

PAYMENT OF BILLS:

Mr. Christiano made a motion to approve the **Franklin Borough Planning Board Escrow Report for November 19, 2012 and November 19, 2012 Escrow Report # 2**. Seconded by Mr. Lermond.

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Upon Roll Call Vote:

AYES: Christiano, Lermond, Suckey, Foulds, Cholminski

NAYS: None ABSTENTIONS: Crowley

DISCUSSION

Mr. Cholminski said under discussion in the packet were Area C and D. Mr. Kilduff provided a summary of his memo in the Board packet regarding scheduling a public hearing for the finalization of the redevelopment areas; which is tabled until further discussion at the January Reorganization Meeting for scheduling determination.

Ms. Hough brought up the necessity for the Professional Evaluations Committee to meet. Mr. Cholminski suggested an email be forwarded with prospective dates.

Mayor Crowley commented he was contacted by an established company from Parsippany interested in the area, have preliminary plans for the mine area. They are looking at the area and are enthused about the redevelopment zone. Their ideas are to train 200 disabled adults; for short term, and to acquire life skills. A commercial component is in discussion with potential hope. Mr. Cholminski asked if it's a taxable entity. Mayor Crowley said they haven't gotten to that point, but the commercial component would be flexible. He's unsure if it would go before a Board or be part of the rehabilitation process.

Mr. Cholminski said it would depend on the Mayor and Council's decision for redevelopment. Mr. Brady said, even if it's Redevelopment, they go before the Board to demonstrate that their plan is consistent with Redevelopment.

Mayor Crowley said it may be a conceptual plan at first to see whether it would be entertained. If there's no interest, it's better to terminate initially.

APPLICATIONS TO BE HEARD:

PB-09-12-1 Transbanc International Amended Final Site Plan Block 2401 and Lots 21 and 22.

Mr. Cholminski said there were questions in the engineer's report and the attorney's interpretation on Lot 22 and asked Mr. Brady to clarify.

Mr. Brady said Proof of Publication and Service were okay. He said there was no requirement of Notice under Municipal Land Use Law. The other issue was if the other lot should be included in the application (Mr. Brady referred Lots 21 & 22 as Lots "1 & 2"), and provided their background. He said Lot 2, was not part of an earlier application and the only implication of not having lot 2 involved would be that the building coverage ratio percentage is higher than permitted in the Ordinance, but was approved and built in the 1980's. In this situation, there's no reason to include "Lot 2". The industrial lot was built slightly different and smaller than approved. There's no reason to involve it and complicate the jurisdictional implications.

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Mr. Kelly provided a brief overview. He's trying to work things out between Transbanc and the Borough so all records are updated. As a result, they submitted the Amended Final Site Plan application. They put all approvals they could find as attachments A – F in their application. The first approval started in 1982, the second in 1988 and several thereafter. Tenants moved in & out, all that was approved was not built and they've been reconciling them with respect to Lots 21 and 22 or as referred to "Lot 1 & 2." There are references made throughout the years and agree as expressed by Mr. Brady. The purpose of this being is not to introduce new construction, proposals or impervious coverage.

Mr. Cholminski wanted to introduce the term flexibility. It's a "multi-use" industrial building where tenants come in and out; the building can be made to accommodate the tenants. As long as it's a permitted use in the zone, it's fine. He said a Resolution is needed and testimony that allows the flexibility to issue CO's without exceeding the overall parking requirements, site ability or allowed in the zone.

Mr. Brady explained an application he had in Jefferson. He said some of the resolutions Mr. Kelly attached, are a similar process possibly from 1982 that speaks of notifying the Planning and Zoning Boards regarding tenant change. He said since it's an amended final, he'll probably put some things back in the resolution and repeat them for the Zoning Officer's knowledge.

Mr. Cholminski said what they're trying to accomplish is get an accurate record of what's there and offer flexibility.

Mr. Kelly agreed completely and said as Mr. Brady read from the initial approval; it's superseded by the Municipal Borough Ordinance. Also, they've attached a Building Layout and Unit Specification for all the internal tenant use and space which was prepared under the direction of the Construction Official in 2010.

Mr. Knutelsky referred to his report dated November 14, 2012. He noted the following for the record:

- **Section B, Item #1**; Addition of Lot 21 and 22; Lot 22 no longer part of the application. The Chairman requested confirmation on record. Mr. Kelly also confirmed this for the record.
- **(Item) #2**; Coverage issues same Lot: As brought up by Mr. Brady, there will be an existing coverage variance that's an existing non-conforming aspect; excluding Lot 22 as Board attorney commented the need for a variance. Mr. Brady said there is no need for a variance and explained why.
- **Item #3**; applicant provided NJDEP correspondence detailing mitigation for the wetlands in the rear of the property. The applicant delineated the mitigation proposal on the site plan as requested to provide mitigation status and conformance with DEP compliance.

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Mr. Wentink was sworn in at this time. He said he spoke with Mr. Fletcher today; on Friday the DEP representative was present, had test pits dug, and is happy with it. Mr. Cholminski asked Mr. Knutelsky if proof would be received and what would be required. Mr. Knutelsky said he requires correspondence from DEP. He said typically, Bret Callahan of Land Use Enforcement performs site visits. If it's a Notice of Violation, a response is issued. Mr. Knutelsky said they would require correspondence stating everything was done to their satisfaction. Mr. Kelly said he would provide it. Mayor Crowley said a paper in his packet indicates it was a Notice of Violation on July, 2010. Mr. Knutelsky said an official response would be sent and the town, the municipal engineer and clerk get copied automatically.

Mr. Cholminski said as a condition of approval, if the applicant agrees, proper correspondence be received and included. Mr. Kelly agreed.

- **Item #4;** Original preliminary site plan revealed an additional 10,700 sq. feet; Mr. Wentink's plan shows 8,700 sq. ft. have been constructed. He said Mr. Kelly provided documentation of the lease area totaling 116,500 sq. ft. He wants the discrepancy resolved. Mr. Kelly agreed to do so.
- **Item #5;** Applicant has submitted a requested document authorizing the continued right to discharge storm water from Munsonhurst onto the property. Mr. Knutelsky requested proof of document filing be provided to the Borough and for Mr. Brady's review. Mr. Knutelsky said the actual easement document should be provided to Mr. Brady. Mr. Brady said he would review and coordinate with Mr. Ursin.

Mr. Christiano inquired of the storm water run-off affect. Mr. Knutelsky said none, because it's an existing condition prior to the enactment of the storm water rules.

- **Item #6;** Parking Spots Required Table; sheet 3 indicates 6 tenants, this goes into the tenancy issue where applicant testimony will be needed. They occupy the building with a parking demand requirement of 78 stalls. The applicant should indicate the individual lease areas for the tenants in the building. Mr. Knutelsky said a table is needed to identify tenant, area and parking stall requirements. Mr. Wentink asked if this is based on ordinance or tenant lease. Mr. Knutelsky said there's an approved 184 site Parking Variance from 1998. A brief discussion regarding percentage, ratio and striping were discussed. Mr. Cholminski asked if the applicant agrees to work towards Mr. Knutelsky's satisfaction for the Zoning Official. The applicant was in agreement. Mr. Brady spoke about flex space. Mr. Knutelsky recommended it be based on need rather than what the ordinance indicates. Mr. Cholminski said as long as it doesn't exceed 184.
- **Item #7;** Banked parking stalls indicate 130 parking stalls to be provided on-site. 130 stalls are to be striped. Mr. Wentink requested a striping delay until the warmer climate and for economic conditions. Mr. Knutelsky discussed the striping issue and recommended a Bonding solution. Mr. Cholminski said, "a

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Bond to determine and agreed to by Mr. Knutlesky with the applicant's engineer." Mayor Crowley asked about the time frame. June 1st was agreed to for the striping of existing paved areas. Mr. Knutelsky recommended the applicant provide the banked stalls on the plan. The applicant agreed.

- **Item #8;** Sign Data Summary Sheet: They were described, don't meet current I-Zone requirements and are considered existing non-conforming signage. Mr. Brady commented that's the practical approach. Mr. Knutelsky said from a sign area stand point, they meet the sign area for the I-Zone and not the setbacks or number. Mr. Cholminski said they're going to consider the signs as existing conditions as documented in the plans received.
- **Item #9;** Applicant to describe the existing on-site signage as indicated in the plans as well as future signage for future tenants. He said they would be looking for a condition and approval granted indicating the applicant meet the sign ordinance for I-Zones. Mr. Kelly said he has a problem with it. He said the ordinance contemplates a building with one tenant. The signage allowances were further discussed. Mr. Cholminski recommended the ordinance be reasonably changed and was further discussed. Mr. Cholminski said a recommendation for an ordinance change needs to be presented to the Council. I-Zone and HC were further discussed. Mr. Cholminski recommended as a Borough, to an agreeable ordinance and asked if Mr. Kilduff would draft it. Mr. Kilduff requested the planner review it. Flex space signage was discussed. Mr. Kilduff said until the ordinance is changed, the applicant follow current signage or otherwise request variances. Mr. Cholminski provided his opinion regarding variance cost. Mr. Kilduff said, "for tonight," it's for an existing condition. Mr. Brady said they are approving existing signs; future signage is applicable to future zoning. Mr. Brady will draft it. Mr. Cholminski summarized saying the signage is as is and the Borough will proactively work to recommend an ordinance change to the Mayor and Council. Mayor Crowley agreed.
- **Final item;** ADA accessible stalls located throughout the parking area. He wants to ensure the proper accessible stall signage. Mr. Wentink said Mr. Fletcher will comply.

Mr. Kelly was in agreement with all discussed matters.

Mr. Nelson reported on the landscaping requirements. He said given the nature of the application he wasn't sure what control the Board had over landscaping or if the Board wanted to address the issue. The property has little landscaping and wanted to bring it to the Board's attention. Mr. Cholminski wanted to get this property documented and closed. The landscaping clarity issue was briefly discussed.

Mayor Crowley requested a 10 minute recess to provide Mr. Nelson's report to Mr. Kelly.

Mr. Kelly said they have taken care of all the items except #3 (landscaping) of Mr. Nelson's report. He would like to remain with the Chair's comment for now. Mr.

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Cholminski commented being nothing definite was in the as built, they can't be enforced. Mr. Kelly said he will speak to his client.

Mr. Lermond commented that the tenants would appreciate this. Mr. Christiano was curious about the work remnants and asked if it was original unmaintained landscaping. Mr. Nelson said it looks like it; it's hard to tell who maintained it.

Mr. Cholminski said he agreed with Mr. Brady regarding enforcement. Previous plans were briefly discussed.

Mr. Cholminski said a motion is needed to approve the application and expressly note:

- Lot 22 is not part of the project in the motion
- Item #3; DEP letter to the town be complied with whether it comes from the DEP or Mr. Kelly
- Square footage resolve
- Documentation needed for the storm water discharge
- Parking places delineated and need a table depicting the total not to exceed 184 by each lessee today and for future changes
- Applicant post a Bond to be determined by the Board engineer, Ken Wentink and agreed to by Mr. Knutelsky be provided as a condition of approval within 30 days
- Striping completed by 6/1/2013
- Signage is in as is condition and to abide by future town ordinances
- Town commitment to work toward fixing ordinance
- ADA accessible stalls delineated

Mr. Brady said banked stalls have to be shown on the plans and the plan has to be amended. The plan must also be amended to show the signs existing on the site now. Mr. Brady had said he would incorporate the old conditions and reiterate the most pertinent conditions of the old resolutions. He said he would review old resolutions for the Zoning Officer's reference.

Mayor Crowley talked about an opening in the fence that had a roadway leading to the State property. The fencing issue was further discussed.

Mr. Cholminski said they have to go back to see if a fencing around the property was required. The opening was further discussed. Mr. Cholminski said he wants the gate put back. The discussion continued with the plans being reviewed.

Mr. Lermond made a motion to Open to the Public **Application ZB-09-12-1 Transbanc International Amended Final Site Plan Block 2401 and Lot 21 and 22**. Seconded by Mayor Crowley. All were in favor.

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Mr. Kilduff said if you're going to show banked parking spaces on the plan, it would be helpful for the applicant and the zoning officer to have a triggering mechanism for it. Mr. Cholminski said it would be in the Resolution.

Mr. Lermond made a motion to Close to the Public **Application ZB-09-12-1 Transbanc International Amended Final Site Plan Block 2401 and Lot 21 and 22**. Seconded by Mayor Crowley. All were in favor.

Mayor Crowley made a motion for approval **Application ZB-09-12-1 Transbanc International Amended Final Site Plan Block 2401 and Lot 21 and 22**. Seconded by Mr. Christiano.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Lermond, Suckey, Foulds, Cholminski

NAYS: None ABSTENTIONS: None

OPEN PUBLIC SESSION:

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

No one from the public stepped forward.

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

ADJOURNED CASES:

There are no adjourned cases.

OTHER BUSINESS:

CORRESPONDENCE:

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 8:34 PM on a motion by Mr. Christiano. Seconded by Mr. Foulds. All were in favor.

Respectfully Submitted,



Ruth Nunez
Secretary