

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

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

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

ROLL CALL OF MEMBERS: Mr. Wes Suckey, Chairman (Present)
Mr. John Christiano, Vice – Chairman (Present)
Mr. Nick Giordano, Mayor (Absent)
Mr. Stephen Skellenger, Councilman (Present)
Mr. Floy Estes (Present)
Mr. Jim Nidelko (Present)
Mr. Jim Williams (Present)
Mr. Richard Knop (Absent)
Mr. John Friend (Present)
Mr. Ted Bayles, Alternate #1 (Present)
Mr. Michael Raperto, Alternate #2 (Present)
Mr. Stephen DeFinis, Alternate # 3 (Present)
MS. Sharon Schultz, Alternate #4 (Present)

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

Approval of Minutes:

Franklin Borough Planning Board meeting minutes for November 20, 2018
Mr. Suckey asked for a motion to accept the November 20, 2017 minutes as printed.
Motion made by **Mr. Friend**. Seconded by **Mr. Estes**.

Upon Roll Call Vote:

AYES: **Friend, Nidelko, Williams, Estes, Christiano, Bayles, DeFinis, Schultz**
NAYS: None ABSTENTIONS: **Mr. Skellenger, Mr. Suckey, Mr. Raperto**
Approved

PAYMENT OF BILLS

Franklin Borough Planning Board Escrow Report for December 17, 2018
Mr. Suckey asked for a motion to accept the December 17, 2018 Escrow Report. Motion made by **Mr. Williams** Seconded by **Mr. Estes**.
All were in favor. ABSTENTIONS: **Skellenger**
Approved

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

Applications of Completeness:

There were no applications for completeness

Approval of Resolutions:

Memorializing Resolution for Bubalo Properties, LLC PB # 01-18-1 Block 2701, Lot 6 For Preliminary and Final Site Plan Approval and Parking Variance Relief.

Mr. Suckey asked Mr. Kelly who was sitting in the public if he was here this evening for this resolution. Mr. Kelly stated that he was indeed here for the approval of the resolution. Mr. Kelly asked if he could come forward and address the board. Mr. Kelly stated that he has two or three small changes that need to be made to the resolution that was prepared for this evening by Mr. Brady. Mr. Kelly explained to Mr. Brady that two are spelling. Mr. Kelly reassured Mr. Brady and the board members that the changes would be very small. Mr. Kelly asked for Mr. Brady and the board to refer to the resolution. The first typo being Mr. Kelly's clients name is spelled Petar. Mr. Kelly asked the board to turn to page 3 paragraph Mr. Kelly believes that the numbers were most likely rounded up. However the exact numbers would be 4,605.5 Ft. and 4,071.6. Mr. Kelly also referred to page 7 where it discusses the location of the new trash container which was discussed and decided between Mr. Knutelsky and Mr. Campbell. The new trash container is going to be rebuilt and located on the gravel area along the grassy area on the southern part of the property.

Mr. Brady stated to Mr. Kelly that these issues were very small changes and he advised Mr. Suckey and the board members to go ahead with voting on memorializing the resolution tonight.

Mr. Estes made the motion to memorialize the resolution. Seconded by **Mr. Christiano.**

Upon Roll Call Vote:

AYES: Friend, Nidelko, Williams, Estes, Christiano, Suckey, Bayles, DeFinis, Schultz

NAYS: None ABSTENTIONS:

CORRESPONDENCE

There were no correspondence

DISCUSSION

The Historic Main Street Redevelopment Plan – Ken Nelson

Mr. Nelson stated that he revised the two paragraphs on page 34 that was discussed at the last meeting which was revising the wording and eliminating the idea of residential development on the lower portion of the Zinc Mine property. Mr. Nelson also provided an executive summary. Mr. Nelson stated that at this point the board can decide if they want to pass on to the council or if they would like to further discuss this in more detail. Mr. Nelson stated that he had nothing left to add at this point.

Mr. Suckey asked if there were any questions or concerns from members of the board.

Mr. Christiano stated that in previous conversations in discussing the changes that Mr.

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

Nelson has made to the plan. The board is in agreement that the lack of sewer services down there did not impact the use of the property, along with the railroad service not being utilized the way it should be. Mr. Christiano went on to tell the board that he was driving on white lake road and came across Sparta Business Park was built without sewers. They are using septic services for all the small business that are being built in there. Mr. Christiano stated that he pulled down the driveways of the properties and spoke to the contractors. They explained to Mr. Christiano that the businesses were being contracted with only septic services and seemed to be managing just fine. They also mentioned the railroad services. Mr. Christiano stated that the buzz on the street is that the future businesses were interested in this location. The businesses were very interested in the railroad services. These ideas seem to make sense for Sparta and Mr. Christiano does not understand with the corrections made by Mr. Nelson how this same plan could work for Franklin too. Mr. Christiano asked for Mr. Skellenger to pass these two photos and the information discussed to the Mayor and council. Mr. Skellenger reassured Mr. Christiano that he would pass on the information.

Mr. Brady stated, that Mr. Nelson brought up in one of his memos which relates to the Main Street Redevelopment discussion. The council has potential interest in doing something with the Highlands council. Mr. Suckey asked Mr. Nelson how that would tie into the main street redevelopment plan. Mr. Nelson explained that the memo that Mr. Brady was referring to is solely to give the planning board ideas of what they should be thinking of doing in 2019 depending on time and money. Mr. Nelson stated as far money goes the Highlands council is a state agency. The agency has money available for various planning, studying and reports. Mr. Nelson went on at length to explain what the Highlands Council is and what their main purpose is used for. Mr. Nelson gave the history of how the Highlands Council. Mr. Nelson explained, the Highlands Council is basically a regional master plan. Mr. Nelson explained that it is a very complicated issue. Mr. Nelson went on to explain the two general areas. The Highlands area has been divided into preservation area and the planning area. In the preservation area the restrictions are substantial. In the planning portion of the highlands, the highlands council does not have direct control of those areas. If the municipality wants to enter into an arrangement with the Highlands Council and go through the plan conformance process. At that time the town's master plan and zoning regulations would be brought in to conformance with the Highlands regulations. Mr. Nelson went on to explain that Franklin is entirely in the planning area.

Mr. Nelson went on to say that the goal for the Highlands Council is to have eighty plus municipalities to conform to their plan. In doing so the Highlands Council has offered incentives. The Highlands council is indicating that you can take their money and conduct these studies and we will not hold the town to complete the plan conformity process if it doesn't want to.

Mr. Nelson went on to explain in detail on what the Highlands council was looking to do as far as their plan. Highlands would be offering Franklin to conduct studies and conform to the Highlands conformance process. Mr. Nelson wanted to make note that

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

the Highlands council money aspect of all this would be working on a reimbursement plan. Therefore, the town would have to budget accordingly if they agreed to look into being part of the Highlands Council.

Mr. Nelson stated that he thought that it would be in Franklin's best interest to start the process. The Highland's council will want Franklin to execute a plan conformity agreement.

Mr. Suckey asked if Mr. Nelson is it something that will be worthwhile for the Borough to at least explore when it comes to the Main Street Plan. Mr. Nelson believed that the Highlands council could indeed help with the Main Street redevelopment growth.

Mr. Brady explained that at this time it would be a good time for the board members to have a brief discussion and come to some sort of conclusion on where the planning board sits as far as their recommendations whether it be yay, nay or indifferent. Mr.

Christiano asked what does the town and council want from the planning board a resolution or a recommendation. Mr. Suckey stated that the town and council has asked for nothing from the planning board. Mr. Suckey went on to explain that this discussion was to help us better understand what this means for the redevelopment of Main Street.

Mr. Brady stated at this point what the planning board can do is give a recommendation to the Town council to processed with exploring the ideas and process with the Highlands council. Mr. Brady also stated or the planning board could recommend they not explore the process with the Highlands Council. Mr. Brady suggest we give the town council some sort of yay or nay recommendation at this point. Mr. Estes stated that we need to move forward with this and sending a recommendation to go forward with exploring the ideas that the Highlands council has to offer. Mr. Estes stated than at least it's moving forward. The main Street plan has been stagnant for much too long and the planning board along with the town council has to move forward. Mr. Estes stated if that means a recommendation is needed from the planning board to give our approval to go ahead with exploring the Highlands conformance planning process then that is what the planning board needs to do.

Mr. Suckey stated with caution. Mr. Knutelsky gave a brief summary of what he believes to be the process in which the founding and reimbursement aspect of how the Highlands Council works. Mr. Suckey also went on to say that he would like to wrap this up. Mr. Suckey stated he is under the impression that the board would like to recommend to the council to go ahead with exploring and investigating the conformance plan through the Highlands Council. Mr. Brady stated that he would like to add a note that the planning board is concerned about the founding and that it should be contractedly not the current policy that the board has now. If the town was to adopt the conformance plan would there be any penalties on opting out three or four years from now. Mr. Brady also went on to say that at this time the board should take a vote on what the board wants to do to further this process. Mr. Brady also stated he will send the town council a letter stating this information in his letter along with a resolution of some sort so that there is a paper trail to go along with this process.

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

Mr. Suckey asked for a motion to make a recommendation to the town council specifying everything that Mr. Brady just stated.

Mr. Estes made a motion to send a recommendation to the town council suggesting they go ahead with exploring and looking into working with the Highlands Council on the conformance plan. **Seconded by Mr. Christiano**

Upon Roll Call Vote:

AYES: **Friend, Nidelko, Williams, Estes, Christiano, Suckey, Bayles, DeFinis, Schultz**

NAYS: None ABSTENTIONS Skellenger

Mr. Christiano asked Mr. Suckey if the board would be voting tonight on adopting the Historic Main Street Redevelopment Plan.

Mr. Suckey said yes, they need to vote on adopting the Historic Main Street Redevelopment Plan dated December 10, 2018 accepting and recommending it to the town council.

Mr. Suckey stated that we discussed the corrections made by Mr. Nelson. Mr. Suckey asked if anyone had any more questions and concerns.

Mr. Suckey asked for a motion to accept the Historic Main Street Redevelopment Plan and to recommend it to the town council.

Mr. Christiano made the motion. Seconded by Mr. Friend.

Upon Roll Call Vote:

AYES: **Friend, Nidelko, Williams, Estes, Christiano, Suckey, Bayles, DeFinis,**

NAYS: None ABSTENTIONS

Applications to be heard:

Prestige lawn maintenance, PB# 09-18-02, Block 2702, Lot 20, 7 RT. 23 Preliminary and Final Site Plan Use D variance in a HC-2 zone.

Mr. Skellenger and Mr. Suckey recused themselves from this application at 8:10PM. Mr. Suckey explained that the Vice Chairman Mr. John Christiano would be chairing this application.

Mr. Brady stated that the board has received proof of notice and he finds it to be in order.

Mr. William Askin introduced himself along with his client the applicant this evening Mr. Brian Snyder. Mr. Askin went on to explain why he and his applicant are here this evening. Mr. Askin explained that Mr. Snyder the applicant runs a lawn maintenance/ Snow removal business off of this property here in town. Mr. Askin stated that it is important to know that Mr. Snyder has owned this property for a few years now and has been operating his business off of this property not knowing that the property is not in compliance with the zoning codes. Mr. Askin states that he and Mr. Drossel had a friendly conversation and was in agreement to come forth to the planning board with this

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

application and site plan to be complaint with the zoning codes and to get the use of the property approved.

Mr. Askin goes on to state that it is important that everyone learns the history of the property. The prior owners had ownership since 1940. My client bought the property from them three years ago (2015). The prior use for the property was used for a trucking business. Trucks were stored and coming in and out of the property that property was clearly grandfathered in and would not be in compliance with the zoning codes on that property today. This is a very unique property. This particular property is very restricted in what it can be used for in a commercial highway zone. The property is surrounded by high tension wires, transformers, generators and other heavy equipment. The property sits off of the road behind a tire business called JC tire. The property has no road frontage. Behind the property there are three resident homes development on the property is very limited. The potential of development is very limited as well. The way my client is using it today is obviously to the best of the properties ability which is strictly storage and for staging, staging for the employees where they start and end their day. Mr. Askin's client owns another location where the employees, booking, billing and phones exist. This is really the ideal scenario for this property. Mr. Askin's client is using this property in the best way considering all the restrictions on the property, even though the property is not being used in a specifically approved use in the HC Zone. Mr. Askin stated that at this time he would like to introduce his client the current owner of the property and owner of the landscaping business Prestige Lawn Maintenance. Brain Snyder to testify and to better explain how exactly the property is used on a day to day basis. Mr. Askin also introduced the engineer they have with them to this evening as well Mr. Jason Dunn from Dykstra Engineering. Mr. Askin asked Mr. Brady if both Mr. Snyder and Mr. Dunn could be sworn in at the same time, Mr. Brady agreed and asked both Mr. Snyder and Mr. Dunn to raise their right hands and proceeded to swear them in under oath.

Mr. Askin addressed Mr. Brady and the board asking if he needed to qualify Mr. Dunn as an expert engineer, Mr. Askin stated that he knows that Mr. Dunn has been before this board a number of times as a professional engineer. Mr. Brady and Mr. Christiano both agreed that they would accept Mr. Dunn as a professional engineer without qualifying him at this time.

Mr. Snyder went on to give a brief description on how the property is being used and a summary of how the day to do day operations are ran on the property. Mr. Snyder explained that the summer months are busier than the winter months of course, unless it snows. The hours of operation are from 7:45AM to between 3:00-5:00PM Mr. Snyder explained that he has six employees and hopefully all of them show up on a daily bias. Mr. Snyder explained what a typical day is like and what is typically done for the day on the property. Mr. Snyder went on to explain the equipment he has on the property along with the things he has stored in the garages. Mr. Snyder explained that anything hazardous is sealed in air tight containers and stored safely in his garages. Salt for the winter months and pesticides for the summer months. Mr. Brady asked if Mr. Snyder

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

worked on his vehicles on his property, oil changes, etc. Mr. Snyder assured Mr. Brady that he did not. Mr. Snyder Uses the Jiffy Lube in Franklin for maintenance on his vehicles.

Mr. Askin stated that Mr. Knutelsky has recommended that an access easement be added to the deed to your property and the three residential properties behind the property that use your property to access their property.

Mr. Askin explained that he did not represent Mr. Snyder when he bought the property, but he would have no problem getting the information quickly for Mr. Knutelsky if need be. Mr. Knutelsky explained to Mr. Askin that is just something Mr. Knutelsky came across when researching the property and in reviewing the application. Mr. Knutelsky stated now is the best time to address such matters to have them resolved going forward. Mr. Knutelsky explained that Mr. Askin can provide that document at a later date. Mr. Knutelsky explained to the board that Right now there is a driveway that goes through Mr. Snyder's property that allows access to the residential homes. There is no access agreement or an easement to grant those residents access to that property. Mr. Knutelsky explained that the deed would cover the access road easement, maintenance and snow removal. Mr. Askin believes that all three neighbors should be willing to come to terms with coming up with an agreement to easements for the deed.

Mr. Askin finished going over Mr. Knutelsky's report.

At this time Mr. Christiano opened the portion of the meeting to the public for anyone in the public who would like to ask any questions to the applicant or the applicant's professionals to please come forward now.

Yvonne Dunay 7 C Rt. 23, Franklin NJ

Mr. Brady suggested that at this time seeing how Ms. Dunay might be the only one coming forward tonight on behalf of this application that we swear Ms. Dunay in now so we can do both testimony and questions.

Ms. Dunay raised her right hand and was sworn in by Mr. Brady.

Ms. Dunay stated that she was here tonight because she has more of a complaint than a question or statement. Ms. Dunay explained that she lived on top of the hill behind Mr. Snyder's property in one of the three residential properties that has been discussed tonight. Ms. Dunay stated that all the materials he receives from his landscaping jobs he dumps along the property. The pile has gotten higher and higher. Ms. Dunay Stated that she was finally sick of seeing the growing pile and she called the DEP, the next day after calling the DEP the pile of miscellaneous

materials from jobs that he and his employees worked on was pushed over the embankment and below the embankment is a stream that runs down there and these materials are only within 25 ft. of the stream. Ms. Dunay explained that he is always dumping things over the embankment. Ms. Dunay goes on to state that there are tires in the stream as well. Ms. Dunne stated that she has never specifically seen Mr. Snyder dump the tires into the stream. Ms. Dunay stated that Mr. Snyder does so much

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

dumping that she can only believe that Mr. Snyder dumped them. Ms. Dunay asked if she could show the board pictures.

Ms. Dunne went on to describe what she has seen in the last few months and Ms. Dunay has been documenting with pictures and her own personal notes. Ms. Dunay goes on to say that to answer the question of whether or not she has an easement agreement in her deed.

Ms. Dunay stated that she has an easement in her deed from when she bought her house forty five years ago. Ms. Dunay goes on to state in those forty five years she has never encountered this kind of behavior. Ms. Dunay states the materials that she has seen being dumped over the embankment. Clippings, Millings, shingles, chunks of pavements, Christmas trees, and other materials Ms. Dunay could not clearly identify. Ms. Dunay states that she has pictures to share and would like everyone to look at exactly what she is referring to.

Mr. Brady stated that he suggests that at this time we mark the pictures. Mr. Brady asked if Ms. Dunay if she wanted all the pictures to be marked as evidence. Mr. Dunne explained that each picture has a different prospective. Mr. Brady stated that makes 23 pictures. Mr. Brady asked again if Ms. Dunay wanted to speak about each picture or did she want to look at the pictures and choose specific ones. Ms. Dunay replied yes, and started describing the first picture. Exhibit A1 A2 these pictures were taken in July and are the same picture. One being a close up and one being taken further away. Mr. Raperto asked Ms. Dunay to go to the site plan and show the board where exactly the picture was taken.

A-1 shows mound of debris, taken in July 2018

A-2 show same as A-1 just zoomed in. Picture taken in July 2018

A-3 shows a chair in an embankment also taken in July 2018

A-4 Shows logs, considerable large logs also taken in July 2018

A-5 shows shingles in the debris

A-6 show millings and shingles

A-7 shows the heaping pile of debris with chunks of blacktop and pavement

A-8 shows that the heaping pile was pushed over the embankment. Picture taken in August

A-9 shows the pile that was leveled- Picture taken in August 2018

A-10 shows zoomed in picture tree trunks and branches in a pile.

A-11 shows the same picture as A- 10

A-12 shows a picture of the debris when it had been pushed over the embankment

A-13 A- 14 shows treated wood that was thrown into the pile of deb

A-14- shows same as A-13 just zoomed in

A-15& A-16 shows the stream and materials that were dumped

A-17 shows the stream with debris in it.

A-18 shows a tire in the stream

A-19 shows a tree logs and tree trunks in a pile. Picture taken in November 2018

A-20 picture of a closer look at the pile of debris that was pushed of the embankment.

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

A-21 big dirt with all kinds of different kinds of landscaping scraps. Taken in November 2018

A-22 picture of landscaping equipment and a boat.

A-23 an 8x11 picture that was dumped 12/14/18

picture taken 12/16/18 pushed over bank 12/17/18

Ms. Dunay explained each picture and passed them around for all the board members to see.

MS. Dunay stated that she just wants the property cleaned up and she does not like the dumping.

Mr. Brady suggested at this time Ms. Dunay should ask Mr. Snyder any questions she may have about the pictures.

Mr. Snyder stated that he did clean up the area. Mr. Snyder went on to say that the pile that Ms. Dunay is referring to he removed. He did not dump it, he removed it. Mr. Snyder also stated that the tires that Ms. Dunay mentioned were there prior to Mr. Snyder buying the property. Mr. Snyder stated that he would be more than willing to go down and remove the tires.

Mr. Christiano asked if the board members had any questions or concerns at this point. There were no questions or concerns.

Mr. Christiano asked for a motion to approve the application including all the items that Mr. Brady has listed and the agreement made with the applicant. **Mr. Estes** made the motion, Seconded by **Mr. Raperto**.

Upon Roll Call Vote:

AYES: **Friend, Nidelko, Williams, Estes, Christiano, Bayles, DeFinis,**

NAYS: None ABSTENTIONS

OPEN PUBLIC SESSION:

Mr. Christiano stated that he would like a motion to open the meeting to the public. **Mr. Williams made a motion to open the meeting to the public. Seconded by Mr. Friend. All were in Favor.**

Mr. Christiano stated not seeing any one coming forward, Mr. Christiano closed the meeting to the public.

Mr. Christiano stated the last item on the agenda is executive session.

EXECUTIVE SESSION – TO DISCUSS LITIGATION THE OPEN PUBLIC MEETINGS ACT ALLOWS THE PLANNING BOARD TO EXCLUDE THE PUBLIC FROM A PORTION OF A MEETING IN CERTAIN CIRCUMSTANCES, BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF FRANKLIN, THAT THE PUBLIC SHALL BE EXCLUDED FROM DISCUSSION OF MATTERS ALLOWED BY NEW JERSEY LAW. THE EXECUTIVE SESSION MINUTES WILL BE PLACED ON FILE IN THE PLANNING BOARD OFFICE, AND WILL BE AVAILABLE TO THE PUBLIC AS

Franklin Borough Planning Board
Meeting Minutes for
December 17, 2018

PROVIDED FOR BY NEW JERSEY LAW. MINUTES OF THE SAME MAY BECOME AVAILABLE AFTER THE NEED OR ATTORNEY CLIENT PRIVILEGE NO LONGER EXSITS.

Be further advised this Resolution shall take effect immediately.

Co-Chairman Christiano made an announcement stating that the board would be adjourning from the conference room and that they would not return to this room after the executive meeting. Mr. Christiano requested a motion to adopt a resolution to adjourn into Executive Session to discuss certain items that relate to litigation.

Mr. Estes made the motion to adopt the resolution to adjourn into Executive session. Seconded by **Mr. Friend**.

All were in favor.

At 10:05 the board left the public meeting to enter into Executive Session. Mr. Christiano stated the meeting will adjourn from the Executive Session.

Respectfully submitted,

Michelle Babcock
Planning Board Secretary