

**Franklin Borough Zoning Board of Adjustment**  
**Meeting Minutes for**  
**June 26, 2013**

The meeting was called to order at 7:30 PM by Acting Chairman Liz Bonis, who then led the assembly in the flag salute.

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

ROLL CALL OF MEMBERS PRESENT: Mr. Correal, Mrs. Bonis, Mr. Gardell  
Mr. Kopcsco, Mr. Swiss, Mr. Lermond (PB)  
Mrs. Alexander, Mr. Martinez

ABSENT: Mrs. Murphy, Mr. Kell

ALSO PRESENT: Mr. James, Kilduff, Administrator  
Mr. Robert Correale, Esq.

Mrs. Bonis stated in the absence of Mr. Kell and Mrs. Murphy she will be acting chairman for this meeting. Mr. Lermond is joining us [Zoning Board] from the Planning Board to take the place of another individual on the Board.

**APPROVAL OF MINUTES:**

Mr. Kopcsco made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for June 5, 2013** . Seconded by Mrs. Alexander.

Upon Roll Call Vote:

AYES: Correal, Gardell, Kopcsco, Alexander, Martinez

NAYS: None      ABSTENTIONS: None

**APPROVAL OF RESOLUTIONS:**

**ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, Conditional use and Dimensional Variances, Block 1401 Lots 12, 13, and 14.**

**Part A: Drive Thru Conditional Use**

Mrs. Bonis stated the first resolution for approval is; ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, C Variances Conditional Use, we are going to talk specifically about part A which is the drive thru conditional use.

Mrs. Bonis asked for a motion to approve the resolution for part A.

Mr. Kopcsco made a motion to approve resolution **ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, Conditional Use and Dimensional Variances, Block 1401 Lots 12,13 and 14. Part A: Drive Thru Conditional Use**, denying the drive thru Conditional Use.

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Mr. Correale, Esq. stated it is his understanding there are three individuals who voted in opposition to this resolution to the application, is that true.

Mr. Lermond stated it was bifurcated.

Mrs. Bonis stated the motion is that we denied it, three people voted affirmatively to deny it.

Mr. Correale stated Martin Swiss, John Kopcsso and Kevin Lermond were the three members who voted against the application [drive thru conditional use]. Mr. Correale stated the resolution is to memorialize that denial [of the drive thru conditional use]. Mr. Correale asked if he was correct.

Mrs. Bonis said that is correct.

Mr. Correale commented voting on approving this resolution can only be partaken by those three individuals.

Mrs. Bonis stated she had a motion by Mr. Kopcsso.

Mr. Lermond seconded the motion.

Upon Roll Call Vote:

AYES: Kopcsso, Swiss, Lermond

NAYS: None      ABSTENTIONS: None

**ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, Conditional use and Dimensional Variances, Block 1401 Lots 12, 13, and 14.  
Part B: Site Plan Approval with Bulk Variances.**

Mrs. Bonis said we are going to move onto part B of the site plan approval of bulk variances for ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, C variance conditional use Part B.

Mrs. Bonis stated the voting eligibility is Mr. Correal, Mrs. Bonis, Mr. Gardell and Mr. Martinez.

Mr. Lermond said he had some comments before we hear a motion.

Mr. Kilduff stated we should have a motion [first].

Mr. Correal made a motion to approve resolution **ZB-09-12-1 Eden Franklin LLC. Preliminary and Final Site Plan, Conditional use and Dimensional Variances, Block 1401 Lots 12, 13, and 14; Part B: Site Plan Approval with Bulk Variances.** Seconded by Mr. Gardell.

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Mr. Lermond commented some of the conditions we discussed to great length was construction, buffering, landscaping, security during demolition and the other areas. Mr. Lermond stated he didn't see any of those conditions in here [the resolution].

Mr. Martinez stated he had a note regarding that himself; he asked if we could add that into this [the resolution]. We [the board] actually said during construction we were requesting a tree line be put into place; he didn't find that either.

Mr. Lermond stated he was shocked it wasn't in there Mr. Brady is usually very thorough.

Debra Nicholson, attorney for the applicant stepped forward. Ms. Nicholson commented the developers agreement that her client has to enter into addresses the police, safety, the temporary measures that happen. The timing of the trees going in is subject to the review and approval of your Board Engineer, there won't be any irrigation in place to put those trees in prior to construction so that was resolved as conditions under the supervision of your Board Engineer.

Mr. Correal read part of the resolution.

Ms. Nicholson stated there is a separate agreement called the developers agreement.

Mr. Correal stated we [the Board] discussed preconstruction as well as security and fencing around the property for safety issues at the time of demolition.

Mr. Lermond stated that is a lot of discussion to just be in a developers agreement that we [the Board] don't see.

Mr. Correal said if someone can memorialize what you believe should be added as a condition in the resolution, he will take notes, unless it is something very substantial you can vote on the resolution as amended.

Ms. Nicholson stated the Board attorney clarified the procedures on the safety, police to direct traffic during demolition and all of those things are all part of the Borough's protocol for site development when it moves from developers agreement through pre construction meetings. That is when the Board professionals all participate in, it is typically something you don't find in resolutions.

Ms. Nicholson commented perhaps a clarifying statement as was discussed and agreed to at the hearing all appropriate protocol should be found in the developers agreement and pre construction meeting will be followed.

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Mr. Lermond stated he felt the way the discussions went on was because this was more than a typical situation/construction, it is so close to a school and to that neighborhood, to get more buffering, safety and security.

Ms. Nicholson referred to and read condition 42.

The Board had a brief discussion regarding the buffering, plantings, preconstruction meeting and the developers agreement

Mrs. Bonis stated we don't need to do amendments at all, it is there. Mrs. Bonis asked if there was any other discussion from the Board members.

Mrs. Bonis asked for a roll call vote:

Upon Roll Call Vote:

AYES: Correal, Bonis, Gardell, Martinez

NAYS: None      ABSTENTIONS: None

**APPLICATIONS FOR COMPLETENESS:**

There were no application for completeness.

**ADJOURNED CASES:**

There were no adjourned cases.

**APPLICATIONS TO BE HEARD:**

There are no applications to be heard.

**OTHER BUSINESS:**

**PAYMENT OF BILLS:**

Mrs. Bonis stated for the record Mr. Lermond left the meeting at 7:45PM.

Mr. Gardell made a motion to approve the **Franklin Borough Zoning Board Escrow Report for June 26, 2013**. Seconded by Mr. Martinez. All were in favor.

**DISCUSSION:**

**CORRESPONDENCE:**

**OPEN PUBLIC SESSION:**

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

Dick Durina, 23 Lozaw Road, Franklin NJ, stepped forward. Mr. Durina asked when and where he can pick up a copy of the resolution.

Mr. Correale stated he doesn't know what the procedure is here, every town is a little different. Mr. Correale asked Mrs. Bonis if she knew the procedure.

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Mrs. Bonis didn't not know the procedure.

Mr. Kilduff stated for Mr. Durina to go to the Administrator's office, fill out an OPRA request to get a copy.

Mr. Correale stated he had two extra copies and asked if there was any objections if he gave Mr. Durina two unsigned copies.

There was no objection. Mr. Correale gave Part A and Part B to Mr. Durina. Mr. Correale stated they are not executed yet but they have been approved by vote tonight.

Mr. Durina asked if the procedure now is that this will be advertised in the New Jersey Herald.

Mr. Correale stated if that is the official paper.

Mr. Durina commented the right of appeal period runs for 45 days.

Mr. Correale replied after publication, yes.


Mr. Durina commented he will be out of town the next few days.

Mr. Kilduff stated he has to prepare the notice, send it to the paper, they let us know what the publication date is. We will be happy to share that with you when we know what that date is.

Mr. Martinez made a motion to **Close to the Public**. Seconded by Mrs. Alexander. All were in favor.

**ADJOURNMENT:** There being no further business Mr. Martinez 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 7:50PM.

Respectfully Submitted,



Robin Hough                      for Ruth Nunez  
Municipal Clerk/CMR