

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

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

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

ROLL CALL OF MEMBERS PRESENT: Mrs. Bonis, Mr. Correal, Mr. Kopcso,
Mr. Martinez, Mrs. Murphy, Mr. Swiss,
Mr. Soules, Mr. Kell

ABSENT: Mr. Estes

ALSO PRESENT: Mr. Thomas G. Knutelsky, P.E.
Mr. David Brady, Esq.
Mr. James Kilduff, Plng. & Comm. Dev. Dir.

APPROVAL OF MINUTES:

Mrs. Murphy made a motion to approve the **Franklin Borough Zoning Board of Adjustment Executive Session Meeting Minutes for March 5, 2014**. Seconded by Mr. Swiss.

Upon Roll Call Vote:

AYES: Bonis, Kopcso, Martinez, Murphy, Swiss, Alt. #1 Soules, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mrs. Bonis made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for March 19, 2014**. Seconded by Mr. Kopcso.

Upon Roll Call Vote:

AYES: Bonis, Kopcso, Martinez, Alt. #1 Soules, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve

APPLICATIONS FOR COMPLETENESS:

ZB-03-14-1 Drost (91 Main St. Realty, LLC) Amended Final Site Plan; "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7

Deborah Nicholson Esq., applicant's attorney said they'll try to do the Completeness and the Public Hearing. They reviewed the engineer's report with waivers and have been working on complying or meeting all issues.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky read from his March 26, 2014 report **Section B**; based upon Completeness review found the following:

- **Checklist Item #18:** Applicant requested waiver of report for existing and proposed contours. Due to minimal grading disturbances associated with the project, recommends granting the waiver
- **Checklist Item #19:** Grading Plan: Applicant requested a waiver. Due to minimal disturbances, recommends granting the waiver. He asked the spot of elevation for ADA purposes be provided as applicable on the Site Plan
- **Checklist Item # 20:** Location of existing water courses and natural features: Applicant requested a waiver. He said those items are N/A to the application and recommends granting the waiver
- **Checklist Item #24:** Stormwater Management Plan: Applicant requested a waiver. Due to minimal disturbances and drainage areas, items will not be affected and application is not a major development, recommends granting the waiver
- **Checklist Item (#27):** Circulation Plan: Applicant requested a waiver. He found necessary information regarding site circulation was placed on the plans. No waiver necessary
- **Checklist Item #28:** Plans and profiles of potable water & sewer: Applicant requested a waiver. Since no new connections will be provided as part of the application, information is N/A. No waiver necessary
- **Checklist Item #31:** Provisions for storage & solid waste: Applicant indicated information was completed, but not found on the plans. Recommends temporary waiver for Completeness and the applicant provide it during the public hearing
- **Checklist Item #33:** Proposed Landscaping: Applicant indicated information is N/A. He recommends temporary waiver for Completeness with applicant discussing the need for landscaping in the parking lot during public testimony
- **Checklist Item #38:** Environmental Impact Statement: Applicant requested a waiver. Due to minimal disturbances recommends granting the waiver
- **Checklist Item #39:** Submitting Traffic Impact Statement: Applicant requested a waiver. Due to minimal changes in traffic site generation, recommends granting the waiver
- **Checklist Items #43 – 47:** Items were indicated as N/A but, specifically address Final Site Plan issues; recommends granting temporary waivers with information supplied as a condition of any favorable resolution

In summary, recommends waivers granted for Checklist Items #18, 19, 20, 24, 38 & 39. Temporary waivers for Item #31, 33, 43 – 47 and Checklist Items # 27 & 28 don't have to act on waivers because that information is either N/A or provided. He recommended the application complete.

Mr. Kell asked Mr. Kilduff regarding Administrative Completeness. Mr. Kilduff said a Completeness letter was sent with a mistake regarding fees which have been corrected. Ms. Nicholson agreed with temporary waivers for completeness and will comply with Board requests during the hearing or as condition of approval.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Correal made a motion to **Deem Complete ZB-03-14-1 (91 Main St. Realty, LLC) Amended Final Site Plan; "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7.** Seconded by Mr. Swiss.

Upon Roll Call Vote:

AYES: Bonis, Correal, Kopcsó, Martinez, Murphy, Swiss, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

APPLICATIONS TO BE HEARD:

ZB-03-14-1 (91 Main St. Realty, LLC) Amended Final Site Plan; "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7

Mr. Kilduff requested Mr. Brady's comment on Application Notice. Mr. Brady found the Notice to be adequate.

Ms. Nicholson, the applicant's attorney said she attached an Explanation of the Application narrative which she prepared and presented to Mr. Brady who then added comments. She said it's a combined work product providing understanding why it went before this Board. Ms. Nicholson thought it better protocol for Mr. Brady to explain Whispering Woods then do her presentation.

Mr. Brady said Whispering Woods Hearing is something they don't frequently do or done at all. In addition, there's a new portion to the application. Mr. Brady explained what the previous application was for, its outcome, eventual suit, Board's settlement and giving him authorization. He discussed it with Ms. Nicholson who indicated if it was approved, the case would be dismissed. Mr. Brady provided settlement information to should the applicant be unsuccessful, have the option of returning and the case will be dismissed if approved.

Mr. Brady said there's a case lawyers refer to as Whispering Woods and proceeded to explain. Therein he said during Whispering Woods, the applicant isn't required to return to square one and present proofs for every single aspect as customary. To some sense, it's been done in the initial application. He expects Ms. Nicholson will briefly touch on some of those proofs though not at the same detailed level.

Mr. Brady said the public will have a right to ask questions, hear their concerns and if it concludes with the Board voting whether to approve settlement indicated, the testimony, the fact they've indicated they're willing to settle does not mean they have to vote yes. That's why these hearings are had, so the public understands something may come up, somebody didn't think about, and is suddenly a big issue. That's not typically the way a Whispering Woods Hearing goes.

Mr. Brady said the original Site Plan portion was not heard and only dealt with the seminal nature. Tonight they'll also hear the Site Plan portion and provided further explanation.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Ms. Nicholson commented on better understanding Whispering Woods and because it's a public notice process they're going through, it's not a hearing with proofs and can say things on the record to have the public and (Board) aware where she would normally have other professionals' testimony. As Mr. Brady said, when they initially submitted the application, it required a use variance to convert any remaining vacant first floor space for commercial purposes. Ms. Nicholson said a lot of testimony is on record of the Millers' and Mr. Drost's efforts, planning/engineering testimony, where Main Street is situated, difficulty attracting commercial uses and much public interest. The community's continually passed Master Plans, adopted Master Plans and revisions with hopeful Main Street revitalization and is why where conversions weren't had, you were seeking to maintain commercial ability to attract businesses.

Ms. Nicholson said litigation compromise granting her client to convert the rear unit to residential allows removal of someone off his long waiting list, place a tenant, and have revenue while using commercial realtor services, internet, building signs, and agreement of (Franklin's) economic development team's assistance finding reasonable commercially allowed permitted uses fronting Main Street.

Ms. Nicholson said it was a compromise resolving all litigation, does not put the ordinance at risk with their second challenge and for all intents and purposes, nobody in Franklin will really know a variance was granted of use variance nature because it doesn't affect Main Street's façade in any way. She said that's the process they went through to get to this point.

Ms. Nicholson said there's a small gain for her client and a big concession they won't go into the actual ordinance challenge where a lot hasn't happened on Main Street in 30 years. It could result in judicial determination and thinks it's not a risk the town wants to take. This compromise enables her client if he shows a good faith effort, if any of the (Board) are still here, hasn't rented space on Main Street three years from now-showing commercial and recognizable standards placed in the settlement with assistance of the Board, Mr. Kilduff and the Economic Development group, could return saying he's done everything the Board asked and still hasn't happened, now needs relief.

Ms. Nicholson said that's the balancing test; that's what the plus is, to rely the Board have rationale to grant this, and as far as positive/negative criteria and not violate the zone scheme, it's readily ascertainable that if it doesn't appear on Main Street there's a residential use because an entrance to the rear, gives rationale that this particular request can be granted in furtherance of Board duty in supporting your zone scheme. That's the rationale and we can open to the public to see if anyone objects to that, handle that part of it and go to vote.

Mr. Brady said he doesn't know if the Board wants any testimony, they have a set of drawings in their packet showing the plan for Unit B. He doesn't know if the Board's interested in having Ms. Nicholson or somebody point out where it's going to be. Maybe someone from the public may be interested to make it available. Mr. Brady

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

said, Mr. Chairman, just for the record, it appears there's two members of the public and Ms. Nicholson is in the audience showing them.

Ms. Nicholson said currently, the stairwell to the rear and a door there exists instead of accessing some rear commercial space. It'll be accessed out an apartment that will be built there. Mr. Brady thought an important point nobody's discussed in settlement was Main Street's front façade that still has commercial uses. Hopefully see residential rented and used as commercial based use, makes it better.

Mrs. Bonis made a motion to **Open to the Public ZB-03-14-1 Drost (91 Main St. Realty LLC), Amended Final Site Plan; "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7.** Seconded by Mr. Swiss. All were in favor

No one from the public stepped forward.

Mr. Swiss made a motion to **Close to the Public ZB-03-14-1 Drost (91 Main St. Realty LLC), Amended Final Site Plan; "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7.** Seconded by Mrs. Murphy. All were in favor.

Mr. Brady said Mr. Chairman just for the record, as I indicated before, Ms. Nicholson was in the audience showing the map to two public members present, and when the Chairman asked me to speak those questions, I did not speak. Ms. Nicholson said based on that, she respectfully requests a motion be proposed to accept and approve settlement which allows them to proceed to their presentation.

Mr. Kell said they have a proposal to approve the settlement and go into the hearing for the apartment in the back. Mr. Brady said he'll prepare a resolution incorporating the terms of the settlement and end with a formal resolution for Board vote. There will be contents concerning there was an application considering the settlement hearing on the approval of all the conditions from the settlement.

Mr. Kell said requested a motion to approve the settlement of the conditions of settlement of the one bedroom apartment at the rear of the building.

Mrs. Bonis made a motion to **approve settlement of conditions of settlement of the one bedroom apartment at the rear of the building.** Seconded by Mr. Swiss.

Upon Roll Call Vote:

AYES: Bonis, Correal, Kopcso, Martinez, Murphy, Swiss, Kell

NAYS: None ABSTENTIONS: None

(Motion Approved)

Ms. Nicholson said the reason for the second part of the application is in getting ready for the hearing Mr. Kilduff found resolutions from 1984, 1986 and referenced one from 1978 which Mr. Wentink was involved when Clint Miller had his pharmacy. The night before the hearing, Mr. Kilduff discovered language in the old resolution.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Ms. Nicholson read a portion of it. She said it went in a drawer, nobody knew about it, Mr. Miller had apartments for non-SCARC residents and it never got picked up on. The building sold to Mr. Drost. In his attorney's, not her, due diligence reviewing it didn't come across it. Mr. Kilduff called her upon finding it the night before.

Ms. Nicholson said they appeared before the Board ready to go on the use variance, bifurcate the application and get through that hurdle first; and if not, address it as separate applications to be compliant. SCARC no longer had residents and whether people walk, drive, take the bus or whatever triggers this circumstance. The conversion to one unit residential compared to the parking requirements for commercial isn't a factor; it just occurred. They have a building with no plans to change anything on the outside and the parking lot's been there since the beginning including Main Street's parking. Nobody's witnessed any overload or illegal parking anywhere as it's always been adequate.

Ms. Nicholson said they'll present testimony to request the Board allow what's always been in place continue as they've demonstrated there's no need for additional parking, after they have proofs. She's asked Mr. Wentink to testify not only as an engineer but as a licensed professional planner who's been involved with the building since the 70's. He's previously qualified before the Board as an expert and asked if the Board wants to hear his professional credentials and to accept him as an expert planner/engineer. Mr. Kell said they accept.

Kenneth A. Wentink was sworn in and provided his credentials which were approved by the Board as an expert.

Ms. Nicholson asked if he prepared the application plans, is familiar with the site and if he received Mr. Knutelsky's report. He responded yes to all. Ms. Nicholson requested he indicate the property's location and describe the current parking. Mr. Wentink said it's on Junction and Main Streets, have six angled parking spaces in front of the building on Main Street that's been there for years, and improved parking spaces at the building rear off Junction Street; entrance to those spaces are off Junction Street-not Main Street.

Ms. Nicholson asked if 35 spaces are required; 14 residential and 21 non-residential uses according to the ordinance. Mr. Wentink agreed. She further asked if there's currently 21 spaces in the rear and six testified to along Main Street. Mr. Wentink said 27 spaces are available including the six on Main Street. Mr. Brady said, 21 in the rear plus six slots. Mr. Wentink agreed.

Ms. Nicholson asked if variance is needed for eight spots. Mr. Wentink agreed. She said by technical computation the six in front can't be counted making it a 14 space variance. Mr. Wentink agreed. She asked if parking variances were granted to the prior owner, Clint Miller. Mr. Wentink agreed. She asked if he's familiar with the actual building and if he's frequently traversed Main Street to testify to any parking

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

problems in the building's vicinity. Mr. Wentink said he's driven up and down Main Street many times, walked it a few times and never saw any parking problems.

Ms. Nicholson asked if in his experience, would residential and commercial use offset one another, giving examples asked, how that ratio works. Mr. Wentink said yes, it's a function of the business type like his that's closed weekends and for other businesses, opening weekends is advantageous; it depends.

Ms. Nicholson asked if tenant parking is entered from the building rear. Mr. Wentink agreed. She asked if a resident would use the front space. Mr. Wentink said no. Ms. Nicholson questioned the front parking being available for retail commercial spaces. Mr. Wentink agreed.

Ms. Nicholson asked if there are enough employees parking for commercial uses in the rear parking lot. Mr. Wentink said it's included in the parking ordinance requirements and employees are included with the customers in the calculation. Ms. Nicholson asked to his recollection at the point and time when the building was fully occupied with the pharmacy and bigger deli, were there parking problems. Mr. Wentink said not to his knowledge.

Ms. Nicholson requested he discuss the rear trash disposal. Mr. Wentink said in his opinion, the three dumpsters would remain, continue to be used and addition of one apartment won't overpower it but if it does, order a larger one. Regarding parking, he said the area the apartment would use vs. being commercial, actually reduces the parking space requirement load. Under RSIS in the ordinance for a one bedroom apartment, 1.8 is required. They need parking for 1,000sf commercial; it somewhat reduces the overall load.

Ms. Nicholson said this parking lot has never been fully paved or striped. She requested Mr. Wentink explain the rear parking lot. Mr. Wentink said it's immediately to the rear of the building, is paved and the remainder is stone or part processed stone. Ms. Nicholson asked if it well serves the building's needs and is a stable parking. Mr. Wentink agreed. Ms. Nicholson asked if he thinks it appropriate for the Board to waive any striping and paving requirement because what's been there has worked well all these years. Mr. Wentink agreed.

Mr. Knutelsky commented for the Board saying, in regard to paving of the site and if it works now with the building, a portion is not currently occupied. Should that portion be occupied, rear parking lot usage will be intensified from a commercial aspect-not just a residential aspect. He sees gravel driveways for residential purposes and nothing requires a residential driveway to be paved. He said our Ordinance requires commercial Site Plans have paved parking areas because of the uneven nature of gravel parking and further elaborated regarding its maintenance which is over-looked in residential and not commercial.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky said the Borough currently does not have commercial development with gravel parking areas, aside from certain industrial uses in the particular Borough. Right now everything is paved. He said in residential, people can park next to each other in a gravel area. For commercial purposes, how do they designate stalls and maintain the required parking number requested as part of this variance if areas aren't delineated. Mr. Knutelsky requested the parking lot be paved, allow certain commercial parking stalls be permanently dedicated by parking stall and striping than a half hazard arrangement in a gravel parking area.

Mr. Knutelsky discussed gravel parking area effects and said a paved parking area permanently delineates the parking field and is why they specifically recommend it for commercial use; residential uses are something the Board may consider not to have paved. He understands the cost factor is why the applicant doesn't want to pave. From a commercial standpoint, he'd like to see it paved for as there may be use in the next couple of years. Back when condition #4 came out, approval in that resolution is probably null and void now and is for Mr. Brady to decide. The applicant indicated 21 parking spaces previously approved as part of building usage were to be paved in that resolution. It never did because development never happened and further explained. He advised someday there'll be a restaurant, dance studio or a commercial use intensification requiring additional parking to be delineated.

Ms. Nicholson said when the building was fully utilized it was partially paved and graveled. Residential seemed to use gravel while business used paved. They can continue to facilitate that while emerging knowing any tenant brought in and intensity thereof, more paving is needed. Currently, for all commercial space utilized, paved parking is readily available and works. Mr. Wentink said the six out in the street works. Ms. Nicholson concurred and commented its locale won't attract a restaurant or commercial kitchen.

Mr. Kell commented if they're trying to market the property and he goes to look at it, sees parking out front, but then goes out back and sees that. Ms. Nicholson said it's a very well maintained parking with a substantial paved portion.

Mr. Brady asked Mr. Knutelsky about the simulated WB40 truck circulation through delineated parking spaces. Mr. Knutelsky said it's a very tight turning radius and can't say how the parking stalls were established and Mr. Wentink may confirm. He imagines he tried to circulate the truck through first and then was able to put parking stalls on the outside or at least confirm they weren't being encroached upon. Cars are a little further in the gravel than back into a parking stall. Mr. Brady said because there are no lines on the gravel. There are four stalls kind of in the interior of the turning radius that's not accurately delineated and the geometry doesn't work. Mr. Knutelsky agreed and said a similar thing could happen in a paved parking lot if someone doesn't pull all the way in.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Wentink commented Mr. Knutelsky had a comment about that in his report. He thinks he shouldn't have done that and explained he used a WB40 because it's the largest non-over-the-road truck to demonstrate a large vehicle can still maneuver in that parking lot. Typical deliveries to the deli now are a straight truck not a tractor-trailer. He explained why he used the WB40 template; doubts a WB40 would go there and is only demonstrative to indicate something fairly large could fit there.

Ms. Nicholson said the deli currently uses his van and people moving in/out of these apartments are in their car or rental but not a huge moving van moving an entire single family home with furniture. She doesn't think it's ever been a problem all these years; it's been there or anyone ever observed problems; but for this application, wouldn't have stumbled across this circumstance necessitating a return.

Mrs. Murphy queried should a dance studio come, a significant number of cars may be had. Ms. Nicholson said if a dance studio was brought in they'd be before the Board for approvals. Mr. Knutelsky said it's a permitted use and doesn't know if they'd to return before the Board which is why he's trying to formalize parking now and further elaborated. He's unsure if they'd return for approval other than a zoning permit in a tenancy change and the ZO will look at the site plan approval.

Mrs. Bonis commented the applicant provided photos/exhibitions of the Main Street built with nice finishes, nice apartments and nice clientele, would put gravel parking. Ms. Nicholson said the building has an economic reality. As Mr. Drost gets commercial tenants, he'll facilitate their needs; further improvements aren't currently feasible. He'll provide a nice façade, build, and finish the space resulting from settlement. A tenant drives parking improvement needs. She said to partner with people bringing community improvements and is helping Main Street. Ms. Nicholson discussed things he's done and wants. Her client is a smart businessman maintaining a certain level, doesn't allow apartments deterioration, takes pride in maintaining/upgrading them and is establishing a better clientele.

Mr. Brady asked Mr. Knutelsky about four parking spaces in the interior of the turning radius regarding gravel and of having actual parking spaces around the perimeter, paved.

Mr. Knutelsky said he's seen that primarily in recreational uses. The difficulty, with a parking variance is delineating parking stalls. There's always parking delineation in a recreational facility whether it's a wood box fence where people pull into the area between the posts; similar to a stall. He continued explaining staggering effects and said paved lines preserve parking. From that particular plan in gravel, even if you did that paved access way you're talking about, the four stalls nearest Junction Street will get lost. He wouldn't park there unless he had a type of delineator. If the Board is going to look at relief in terms of resident parking vs. commercial parking, he would delineate the commercial parking on new pavement-and is not talking about paving everything, just adding pavement there.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky prefers keeping residents far from the building to allow commercial use enter the building on paved parking area. He understands Mr. Brady's point-it's hard to delineate. He's seen curb bumpers used to delineate, discussed its maintenance and said that's where a paved parking lot helps.

Ms. Nicholson offered a compromise when they reach 75% occupancy of the first floor, they'll have the economics to pave/strip the whole lot and probably match the demand of better delineation. It would address the owner's needs and community's needs while having a practical trigger when parking dynamics change. It's partnering together to get there.

Mr. Knutelsky said regardless Mr. Chairman, whether the Board contemplates some condition and approves resolution requiring parking related to occupancy and percentages, it's critical to establish the parking lot and formalize a delineating mechanism. If that gravel parking lot remains as shown on the plan, you're losing four additional stalls as no one will park in those stalls; they don't know they're there. People will pull through and park along the back. If someone parks in that gravel area without delineation, they'll block someone else. Then we won't be able to preserve that 24' drive aisle. Delineation is required and though he doesn't want to reiterate, paving is the easiest way.

Ms. Nicholson said they could put wooden railroad tie curb stops in the gravel area giving the appearance where to line up in the interim. Much more than that would be a real burden.

A Board Member addressed Mr. Brady saying if voted down, they could continue the walkway as it is now rather than be in hock. It was said commercial could be rented right now with the lots the same way for this or we could withdraw the whole application. Mr. Correal said they don't let it happen. Mr. Brady said there's something though Mr. Correal, in the sense that the prior resolution was in the 70's & 80's indicated once SCARC moved, didn't have drivers etc. moved out, some form of application had to be made. This site is under-parked.

Mr. Correal asked if that commercial lot was approved after they moved out. Mr. Brady said not that he knows of. Mr. Correal said no-one knows. Mr. Brady said nobody seemed to, I'm sure Ms. Nicholson would have brought that to our attention that somehow it was approved after they moved out. What appears to have happened is it got approved; there was a condition in place if they moved out had to come back and address the parking deficiency. It never happened and went under the radar for a couple of decades.

Ms. Nicholson said 30 years. It hasn't been a problem and after SCARC moved out it was fully utilized. All apartments were rented, the pharmacy was downstairs and the much bigger deli was a non-issue. Everybody peacefully co-existed. The applicant needs and is desperate for relief. She believes their proposal tries to

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

accommodate. If the curb stops with railroad ties help people see how to line up and if they get commercial tenants to afford to install parking, it's a win/win for everyone.

Mr. Knutelsky said he doesn't like railroad tie but if the Board's contemplating paving this as a function of usage of the site, right now the building other than the deli is empty and no-one is using it right now. An office with one employee won't over intensify parking lot use. If a permitted use like a dance or kung-fu studio comes, you'll have to address parking. As Mr. Correal is saying, the building is being used to a certain degree and is working. Mr. Knutelsky is hopeful and optimistic it will be used more in the future based upon incoming clientele; specifically with delineation. He further discussed delineation, curb types and stall placards with its issues. Mr. Knutelsky recommended a wood beam; something heavy duty for traffic purposes.

Mr. Brady said, perhaps that might improve it. The applicant's representation once it hits 75% occupancy, will pave. It's a way to address the concerns we have and further elaborated.

Mrs. Murphy asked if the upstairs is rented out. Ms. Nicholson agreed. Mrs. Murphy asked if they park in the back. Ms. Nicholson said in the rear. Mr. Kopcsó queried the 75%. Ms. Nicholson said the entire six; the deli's rented, and then the 1st floor apartment. Mr. Knutelsky said right now the commercial space isn't proposed to be separated into different tenants; only one. It'll be either 100% or just the deli; there is no 75%. Ms. Nicholson said we're hoping if a tenant comes and isn't a large one, subdivide it and get to that point with three smaller or 2 ½. We're prepared to do whatever it takes in the front to get it rented. Mr. Brady said what was indicated, 75% is the 1st floor. Ms. Nicholson agreed. Mr. Brady said we're not worried about what's going to the apartments. Ms. Nicholson agreed and said on the 1st floor. Mr. Knutelsky said ¾ of the building being rented is a fair number. It was asked of renting the 75% space. Ms. Nicholson said the commercial space on the 1st floor. A brief discussion followed.

Mr. Knutelsky understands it would be a wooden guard rail/fence installation that'll come up at the head of each bank space and be numbered. Mr. Wentink asked if the Board approve, to allow him to work it out with Mr. Knutelsky. Mr. Brady agreed. A discussion followed.

Ms. Nicholson said she misunderstood her client. He was at 75% of the vacant space because it would trigger more of a demand as currently there's no demand or issue for paved parking. Mr. Brady said you're saying 75% are vacant. Ms. Nicholson said commercial; would say yes and that 1785sf. Mr. Brady said it would be the triggering number. Ms. Nicholson agreed and said the total space and 75% of that would be the triggering point where we'd see to have the demand.

Mr. Brady asked, the vacant spot not counted as total commercial; the deli. Ms. Nicholson said of the vacant space. That would be how the economics work and if the demand that space creates, would trigger that. Ms. Nicholson said another

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

concept from her client was instead of railing people could run into, he'd get posts cemented in buckets and put numbers on it. If they had to be reconfigured, it could be readily done and would be delineating. Mr. Knutelsky said he'd like something more permanent as someone could lift those buckets and move them around. A brief discussion followed.

Ms. Nicholson said they've had no problem for 30 some years. Requests are an expense her client doesn't have because the building isn't carrying its own debt due to vacancy. He needs commercial tenants to have money to do anything. He's gone into pocket to build this out and the façade improvement. There's no more to get from him, he writes a check every month because the building doesn't carry itself without the commercial space rented.

Mr. Brady asked Mr. Knutelsky if the cost in putting posts in the ground 6' apart, a spray painted 2x10 with a stenciled number is more expensive than 21 posts with numbered signs. Mr. Knutelsky appreciates the applicant needing money for the recommended work. If they're just putting a post in a bucket or post in the ground, maintenance-wise, people plowing it will bend the post. The fence and the actual wood post and beam to delineate where parking's to be established is probably the most cost-effective way for this site and be attractive to Borough's standards.

Ms. Nicholson said if her client gets 75%, it will be paved and won't have to have that because it'd all be striped. You have 12 months to finish the build out. If within 24 months, they haven't got to 75%, he'll have paid for the build out, have more money to put railing and numbers, and if he still hasn't created the demand for all the parking to be regulated because he still has so much empty space. She asked if that works and if he gets to 75% next week, he'd be doing cartwheels and will pave and stripe it. He's trying to work with the Board and the rationale for giving time frames, work. There are no parking problems.

Mrs. Murphy said there are no parking problems because the top ½ didn't have driver's licenses. Ms. Nicholson said they've been gone for 25 years. Mrs. Murphy said all residents on Main Street don't have vehicles. Ms. Nicholson said the SCARC who left is not a recent development and the Highland's Workshop closed. Mr. Wentink said he thinks the discussion started because of commercial space issues, not residential. Ms. Nicholson agreed and said it was the residential spaces triggering it. When the commercial was full and had many businesses on Main Street, people were vying for on-street parking and no longer have that situation. It was fully occupied when NORWESCAP was there. After the pharmacy left and the deli down-sized, there still was no parking problem.

Mr. Correal requested clarification of their offer for a two-year window. If nothing happens they'll complete the berm with ever everything for the parking spots. If the 75% more, he'll pave. Ms. Nicholson agreed. Mr. Correal said it'll be delineated and striped. Mrs. Murphy asked him to repeat it. Mr. Correal said, their offering is within two years put a berm around the parking spot, without that, we don't. If within two

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

weeks they get 75% rented, they'll pave and stripe. They're meeting what we want; either way, two years. Ms. Nicholson said that's exactly what we're saying. So we have a default to delineate in a worst/best case scenario where everybody wins. We have tenants and are paving. Ms. Nicholson asked to poll the Board knowing they still have to discuss to Open to the Public and see if it's a compromise they can work with then proceed with the remaining presentation.

Mr. Kell said the question is-do we allow a two-year time span if within two years it's 75% empty commercial space downstairs not rented out they'll pave that parking lot. If within two years it hasn't happened, they'll put the wooden berm, the wooden guard rail on the outer parking lot to delineated spaces.

Mr. Brady said enforcement is always difficult and institutional memory is difficult. The best we can do in all resolutions is try to make clear what the condition is and hopefully somebody, the Zoning Officer, Mr. Kilduff, or somebody in this Board remembers it's there and calls it to somebody's attention. There's no magic way to ensure it happens.

Mr. Kilduff said his experience is instead of contingency, put in definitive time lines. If the Board wants to extend a time period to get this done, it could for a period they feel is reasonable. Having a certain date in a resolution says certain action has to be accomplished by that date. It helps the applicant with their issue which is funds. Mr. Martinez asked Mr. Kilduff if they can ask them to define the date. Mr. Kilduff said you can define the specific date and work you want done at that time.

Mr. Brady said that would be easy enough and would have to find a way regarding the 75% trigger and further elaborated on ways to address it. Mr. Martinez referred to the 75% within a 24 month period. Mr. Brady said that could be 24months from the time the resolution is adopted. Ms. Nicholson agreed.

Ms. Nicholson requested a poll. Mr. Kell said those that approve that poll within that time frame should raise their hands. The Board members raised their hands and Ms. Nicholson said great.

Ms. Nicholson said going back to Mr. Wentink's testimony we're in agreement with restricting parking in the front of the building in all leases and further elaborated. She referred to Mr. Knutelsky's Report C 6 and asked Mr. Wentink for the current traffic pattern from the parking lot to the front. Mr. Wentink said none because all apartment entrances are in the rear and commercial are in the front. He thinks Mr. Knutelsky is referring to a provision of the ordinance.

Mr. Knutelsky said what' he's indicating is because of the parking variance condition required for this application. Only six parking stalls are available to the front of the building where the commercial entrance is. The remaining parking portions are in the rear. Ms. Nicholson said there's a door and central hallway for the commercial space if there are employees or a need to access.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky said but not for the general public; employees are different. To maximize availability of the entrance along Main Street they need connection from the parking lot up to that point. Ms. Nicholson said through that building. If you look at the architect's plan, it would have a door and designation into the main space as it was for the drug store. Mrs. Murphy asked if you have a guest in the front, people can park in the back and walk through the building. Ms. Nicholson agreed. Mr. Knutelsky asked where it comes out. At this time Mr. Knutelsky, Mr. Wentink and Mr. Drost convened.

Brian Drost, Jr. was sworn in. Mr. Brady said for the record, he's a principal in the company that owns this and is familiar with the property and proposed uses. Mr. Drost agreed.

Ms. Nicholson asked him to explain how someone would enter a future commercial business from the rear parking lot. Mr. Drost said there are two entrances in the rear. The 2nd entrance opens up and is a common hallway to the 1st level apartment and entry into the main commercial space. Mr. Brady said that turns off at the stairs into the rear of the building. Mr. Drost agreed and said you'll see the stairs and it's a secondary entrance for tenants to go upstairs-most use the main entrance.

Ms. Nicholson asked if the common hallway will be maintained if he had a tenant that wanted to break up the commercial vacant space. Mr. Drost agreed and said it runs in the middle of the space where they'd partition, it would be maintained and probably go directly through the front for an even split. Ms. Nicholson asked if he foresees any reason why someone would walk along Junction Street to come around the building to the front when they could come straight through. Mr. Drost said he doesn't know anyone who'd want to walk around the building in zero degree temperature instead of walking through it from the back where they were.

Ms. Murphy said when you're walking past the entrance to that apartment. Mr. Drost said the entrance to the apartment is separated; it goes in the same hallway to the commercial space; a common hallway. Mr. Brady said he's thinking in terms of conditions in his resolution, given that you may not keep the commercial rental space as one huge space, you may divide it up in order for what you just described as access from the rear, we concur. The reason some form of common hallway is always available to access the units from the rear. Mr. Drost agreed. Mr. Brady asked if that works for him. Mr. Drost agreed and said if they have one or two tenants in the commercial space, they'd still want them to use the main hallway to access commercial spaces.

Mrs. Murphy said if there's a dance studio, there's a lot of traffic down that hallway and come down hallway past that apartment. Mr. Drost agreed. Mrs. Murphy said that's a lot of noise. Mr. Drost explained there'll be sound-proofing like he has in any of his apartments and any new build and further elaborated. He said whether it's commercial or not, they try to keep sound-proofing as best as possible.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky asked what it would take to connect the rear parking lot to the front of the building utilizing a sidewalk along Junction Street. He knows it's pointed out there's a connection from the back of the building to the tenant area. If that tenant area isn't split, that back door is providing perfect access into the tenant area then have a problem with connectivity. Mr. Knutelsky questioned their reluctance to saw-cut pavement along the front, if there are underground tanks or something structural, and of the site entrance.

Ms. Nicholson said the gas line was recently installed and there's never been a sidewalk there. Mr. Knutelsky understands about the sidewalk but doesn't know if that's a supportive reason not to have it especially when a parking variance being requested. Mr. Wentink said he looked at the response in Mr. Knutelsky's report of the area along Junction Street between the curb and building. Mr. Wentink said it's very irregular; there's all kind of concrete, it was the Zinc Co. Store and referred to the viaduct. He doesn't like to start fooling with stuff because you don't know what's going to happen.

Mrs. Murphy asked if there's a sidewalk from Main Street partially running down Junction Street. Mr. Knutelsky said there's no sidewalk there; what's shown on the plan at the corner of Main and Junction is a hatched area along the curb line and further explained.

Mr. Brady asked, "In that paved area." Mr. Knutelsky concurred and said it's mounded up like there was a tank or something of that nature. Referring to the hatched area on the plan, he said it's at grade where walking could be facilitated and as you get close to the parking lot there's a 40' length of that shade area where there's no pedestrian connection without stepping onto the road shoulder, walk around and connect to Main Street. He believes the site would benefit from connectivity than relying upon the back door and a narrow corridor by the residents and further elaborated. Mr. Knutelsky recommended investigation of the 40' length and he'd condition it upon connectivity and a reason why it can't be done.

Mr. Soules commented of seeing parked cars there. Mr. Knutelsky said that could have been the reason why and appears that concrete hatch area looks like it could have been an old loading area because it's at grade and further commented. He recommended the Board condition it on any favorable resolution.

Mr. Wentink said the big issue is what's under it. Mr. Knutelsky said the Board can feel safe there's the rear parking lot access to a portion of the building; whatever the future use, is not before us yet. He further discussed roadway connectivity and said pedestrian safety should be provided. If the applicant finds a compelling reason they can't provide, it's to condition based on their explanation. Ms. Nicholson said they'd be happy to put appropriate obvious signage on that rear door for any businesses to that space. She commented to when Franklin was bustling and downtown was busy, there was no sidewalk connectivity, no safety issue or demand for it. She commented there's no sidewalk there, there's sidewalks all over town, but #1, this one isn't needed.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mrs. Murphy said she doesn't agree because it's been that way should stay that way. It's a liability issue, agrees with Mr. Knutelsky to check into it and reiterated because it's been that way forever doesn't mean it's right-now.

Mr. Brady referred to Mr. Knutelsky's 4' sidewalk installation recommendation and investigation determination. Mr. Knutelsky said something unconventional that can't be avoided. A discussion followed.

Ms. Nicholson addressed her client's area excavation concern. If it was a logical place for a sidewalk, it would have been there a long time ago. It's an unusual grade and the gas main's been extended to there. Mr. Brady asked about the gas main. Ms. Nicholson said when he converted the building and they ran the connection. Mr. Brady asked, through that paved area. Mr. Drost said Elizabethtown brought the line down Junction Street. At this point a discussion regarding the main, Elizabethtown Gas work and the unusual feature were discussed. Therein, Mr. Brady offered advice.

Ms. Nicholson asked if they can research what's there and if they can't demonstrate to satisfaction by submitting to the Board engineer it's not feasible, it would then be additional pavement; not necessarily a sidewalk but level surface. Mr. Kell asked level surface of what. Ms. Nicholson said instead of a concrete poured sidewalk, it would be graded and paved. If physically possible, that would be something their engineer would submit to as a condition they have to show it's not a practical matter to construct or it would be graded and just asphalt. A relative discussion followed.

Ms. Nicholson asked if they could open to the public for their insight, knowledge or recall on this limited issue. Mr. Kell thought it hearsay. She said it could help if it gives insight on the limited issue. It was discussed and determined to continue.

Ms. Nicholson said if parking lot landscaping is required, they request a waiver. It's behind the building, never had or proved to be a problem and doesn't know where to put it. They're also requesting a bike rack waiver as there hasn't been a tenant need and there's inside parking for a tenant with a bicycle.

On ADA accessible parking for the site, Ms. Nicholson believes the front curb cut is for parking. Mr. Wentink said in his opinion it's the municipality's obligation because it's the municipal curb and can't cut it. The sidewalk would have to be depressed to accept the ramp.

Mr. Knutelsky said ADA parking could be put in the rear and make the building ADA accessible from that point. Mr. Wentink said there's no elevator in the building. Tenants on the 2nd floor which would be ADA, have no way up than to climb stairs. Mr. Brady asked Mr. Knutelsky if the commercial space would have to be ADA accessible. Mr. Knutelsky agreed and said it was part of the reason for ADA accessibility comment of the building front and further elaborated. A brief discussion followed.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Knutelsky said he doesn't remember seeing on site ADA accessibility signage. The new tenancy space, especially if further broken, will require ADA accessibility. Ms. Nicholson said "it's on grade." Mr. Knutelsky said the parking isn't so really there's parking in the rear. Mr. Wentink said the rear is lower and to get to the building in the rear you have to go up the steps. Mr. Knutelsky said the parking in the rear servicing the commercial part as well as the residential have to be some type of ADA accessible parking on site as part of the marketing plan.

Mr. Brady said Mr. Knutelsky, if you park it there's no curb cut in the front; the six spaces there are not ADA accessible. He said somebody has to be able to park in the rear and gave an example. Mr. Knutelsky said typically, ADA parking is supposed to be the closest direct point to the building's front entrance. Residents' ADA requirements portion due to the fact it's an existing step up situation is a building department issue and further elaborated.

Ms. Nicholson said it requires the town to cut the curb. Mr. Knutelsky said those parking stalls agreement were used by the building and believes ownership goes to the applicant and doesn't know if it would be that apartment or not. We're not providing an ADA parking stall for municipal purposes. Mr. Brady said right, towns don't provide ADA stalls on the street. Ms. Nicholson said we're saying an ADA stall but to have your sidewalk ADA compliant. Mr. Brady said that's the town issue but doesn't mean you have now provided ADA compliant parking spaces. A discussion was had.

Mr. Knutelsky said he would like to have a provision in the resolution that they complied with ADA pertaining to this site, grading and existing conditions found thereon. Ms. Nicholson was in agreement. Mr. Knutelsky said if they don't need it they don't need it. If they do, they're to return and show how they're providing it. Mr. Brady said essentially, they're not exempt. Mr. Knutelsky said or waived. Ms. Nicholson said seven apartments are fully occupied and doesn't know their driving status but knows they're not SCARC residents/supervisors; just publicly rented units.

Ms. Nicholson said lighting is as it's always been and asked Mr. Wentink to discuss lighting in the area. Mr. Wentink provided their locations. Mr. Knutelsky asked Mr. Wentink's opinion of the site's illumination is Borough Ordinance compliant for residents/ retail users. Mr. Wentink said he didn't do those calculations but what's there serves tenants' needs. Mr. Knutelsky asked if there is flood or external lights in the rear entrance. Mr. Wentink agreed. Mr. Drost said there's flush mounted lights by the two entrances and a hall light.

Mr. Knutelsky said there's an area flood light in the parking lot, Cobra area lighting for the street with light spillage on the property. Mr. Wentink agreed. Mr. Knutelsky said he brought that up to say the site is well illuminated ensuring tenants have adequate lighting and to confirm that with the applicant.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Ms. Nicholson said #12; the truck issue was discussed and why that movement was shown. Signage is not proposed because no new apartment signage is necessary and parking is what already existed and doesn't need directional parking signage.

Ms. Nicholson asked Mr. Drost to address current/future basement use and if it's for tenant storage. Mr. Drost responded. Mr. Knutelsky asked if there are tenancy plans to upgrade the basement area and of commercial use. Mr. Drost responded no to both.

Mr. Knutelsky reviewed how parking is being counted. Mr. Drost said if they lease the vacant retail space, they'd permit a few boxes but not for space occupancy. Mr. Knutelsky wanted to ensure its reflected in any resolution basement use would be for typical building storage purposes, are not devoted to office/retail space or permitted use as a 2nd occupant floor which would increase parking demand. Mr. Brady said he could condition the basement for those purposes only.

Ms. Nicholson asked for the applicable COAH requirements are and they'll comply. Mr. Brady provided an explanation and said the Tax Assessor does the evaluation. Ms. Nicholson said they'll be communicating with the Borough Water & Sewer Department and Construction Department as part of the next phase. If they get approval they can go to the construction and build out phase. She believed that concluded all items of Mr. Knutelsky's Report.

Mr. Knutelsky said he knows the applicant requested a parking landscaping waiver. He noted Mr. Nelson's 3/26/14 Report didn't mention landscaping need and further elaborated. He said a waiver at this point is worthy.

Mr. Knutelsky discussed three dumpsters in the building's rear have no enclosure, are unevenly lined up and doesn't know the refuse/recycling schedule. He recommended they be relocated to a typical area had on Site Plan applications. Ms. Nicholson explained a dumpster is being returned to the respective dumpster company. Mr. Drost concurred and said he'll contact them for its removal and will properly align the others. Mr. Brady said that means you'll have two dumpsters and asked if it's sufficient even if fully occupied. Mr. Drost agreed and said they always have plenty space in those dumpsters.

Mr. Knutelsky asked for their location. Mr. Drost said in the same location better lined up. Mr. Knutelsky said it's in the parking area and can't place them in that particular gravel area. At this time a discussion was had regarding dumpster location, truck access, enclosure type, maintenance issues, and Borough ordinance. Mr. Knutelsky recommended board on board enclosure and of the relocation area.

Ms. Nicholson said the sidewalk issue remains. She'd like to open to the public for input or for the Mayor's insight which may help. Mr. Brady asked if she concluded with her direct testimony. Ms. Nicholson agreed and reserved the right to add if something comes up in public session.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mrs. Murphy asked if lighting was enough. Mr. Knutelsky said the parking lot lighting and along the building frontage on both sides for that portion of the Borough is typical for that area. The applicant installed lights at the residential entrance was important to know. He spoke of the residents' familiarity with land hazards, commercial and parking lot area is sufficient.

Mrs. Murphy questioned if there would be landscaping after paving. Mr. Knutelsky said if the applicant's going to pave, they'll pave everywhere you see striping leaving hatched areas available making landscape plowing difficult and creates site burden for maintenance purposes and further elaborated. He recommended grass preservation in the triangle area as long as it doesn't encroach and keep getting gravel on it. It's already disturbed and is the existing condition.

Mrs. Murphy questioned the hatched area and paving. Mr. Knutelsky said that'll be paved and striped just like you see it. Mr. Wentink said the reason they showed those hatched areas because there's no parking spaces. Mrs. Murphy said she understands. Mr. Knutelsky further explained and said having an edge of perimeter paved with grass beyond is sufficient for this site.

Mr. Kell requested a motion to open to the public not only to address the sidewalk but any testimony brought forth. Settlement negotiation is not open to the public. Mr. Swiss made a motion to **Open to the Public sidewalk issue and testimony.** Seconded by Mr. Martinez. All were in favor.

Mayor Crowley, 9 Woodland Road was sworn in. He spoke of his daily visit to the deli and doesn't recall if there's a depressed sidewalk. Mayor Crowley told of a motorized wheelchair incident getting up there so it's somehow handicap accessible. He said there are six stalls, believes there's a 30 minute limit sign and is unsure if there's an ordinance. Mayor Crowley said it was brought up for the town to place street handicap parking and spoke of one at the library. He mentioned owning commercial property on Main Street for 20 years, renting an office there for 10 years, good friends with Mr. Miller and is knowledgeable about parking. The Mayor provided a history of the area's parking usage and recalls parking never being a problem. Whether there's one in the future is dependent on what's to there and can't imagine anyone parking in the rear to go back to the front.

Ms. Nicholson asked for his knowledge or recollection of the unusual hump. Mayor Crowley said it was left over from the mine area. It's solid whereby trucks illegally park to deliver to the deli and agrees with Mr. Wentink it would be very hard because it's all cement. It's not his opinion to make it a sidewalk.

Sean Kidd, 3 Evan Street was sworn in. He talked about what transpired when the daycare facility was there which didn't interfere with traffic. Regarding ADA he asked how a handicap employee would get into the building. Ms. Nicholson discussed ADA compliance with a historical building like this one and of reasonable accommodations. Mr. Kidd addressed sidewalks and the town's ROW to which Mr.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Knutelsky and Mr. Brady responded. Mr. Kidd also discussed landscaping and dumpsters offering his opinion to make them appealing. He further spoke of sidewalks and working together for improvement and its good seeing someone make a business decision and take the risk to get it occupied.

Borough Administrator, Jim Kilduff was sworn in. He informed two grants were applied for and received one for \$183,000 for High Street from NJDOT. He's trying to get sidewalks built in town a foot at a time, is cognizant of the developer's costs, and sidewalks cost money. Mr. Kilduff requested the Board review the plan and determine what direction to take for the sidewalk. They can agree to approve the plan subject to 4' wide and whatever length it is. If they want to work with the applicant, recognize finances are involved, could extend the applicant time so it's not a financial burden now-but to understand things have to get done down the road. He said they try to get this done with every application and the Board required sidewalks for many applications and are beginning to make progress. Mr. Kilduff understands the applicant but it's a Board direction regarding sidewalks and how they want the town to look.

Ms. Nicholson asked if Mr. Kilduff has knowledge regarding the paved area and why it's not level as in the 1900's. Mr. Kilduff said he recalls Ms. Miller doing limited paving and also paved that area which had a slope at that time. He's uncertain and perhaps Mr. Drost knows. Mr. Kilduff said at one time there were underground oil tanks and recalls Mr. Miller removing it and putting one above-ground. Paving was done 5-10 years ago.

Mr. Swiss made a motion to **Close to the Public sidewalk issue and testimony.** Seconded by Mr. Correal. All were in favor.

Ms. Nicholson believes testimony was heard by the applicant and engineer/planner's rationale in granting the parking variances and further elaborated. She requested any approval be worded that on street parking map counts or quantity of the variance and the alternative be for the number of spots required. In reviewing the conditions they've tried to partner with the Board for reasonable accommodations on aspects presented by Mr. Knutelsky. She said the applicant has an extraordinary burden, rental attempts are unsuccessful and though he was denied, he is and will continue actively pursuing space rental. With the sidewalk issue, the underlying reason is unknown and requests conditioning it upon outcome confirmation, and time extension are needed. Testimony was heard paving isn't necessarily the most desirable and they're volunteering to pave while they have excavation equipment and is cost-effective.

Ms. Nicholson said they'll grant easements to continue concrete sidewalks should the town receive future grants. She requested they do a balancing test, work with and applaud the applicant as he continues improvements and needs community support. He's a young entrepreneur with an expensive investment requiring help; however the Board conditions the 75% vacant space trigger. She discussed the

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

dumpster issue, said the Mayor's historical commentary when it was fully utilized was insightful, Mr. Kidd's balance search and condition additions. She respectfully requested granting the parking variance and reasonable conditions knowing what the applicant's consented to or feels he can do be accepted.

At Chairman Kell's request, Mr. Brady reviewed the following conditions:

- Regarding parking, in two years regardless of what happens with the 1st floor space, install a wooden guard rail system with spaces. Once 75% of 1,785sf are currently vacant and commercial space rented, within 6 months of that happening it will be paved and striped;
- No residential parking on Main Street which will be in tenant leases
- Regarding ADA accessible parking, it will be clarified between the applicant and Building Dept. If the building is exempted from requirements, they don't have to worry. If not exempt, ADA accessible parking needs to be installed somehow by the applicant as the Building Dept. will require it;
- The complicated analysis to find retroactive to the building. It comes into play when you rehab a building but doesn't come in to play in new buildings. There's still some waivers and exemptions;
- He'll put in language regarding complying with building fees on COAH
- Three on-site dumpsters will be reduced to two which they'll place on the paved area on the back. He'll provide wording to describe that and have a board on board enclosure. Assuming they use that approach and not with the landscaping approach;
- He's unsure of the Board's resolution direction regarding the sidewalk on Junction & Main Streets. Mr. Kopcsó said Mr. Nelson's input is needed and Mr. Brady said both, Mr. Nelson and Mr. Knutelsky. At this time Mr. Brady discussed possible approaches the Board could use. A discussion followed regarding potential investigation findings and time frames, verbiage for the resolution, how complicated resolutions are handled by the Board and applicant's expense for a possible return. Additionally discussed therein, was the municipal ROW and a condition agreement to have the analysis done in four months for the Board.

A discussion regarding the sidewalk was had. During that discussion Ms. Nicholson suggested a compromise to work with the Borough. She requested they partner and plan to get it done. Further discussion followed and therein Mr. Brady said he hears to put a condition the Board is requiring concrete sidewalk subject to the applicant forming an investigation and Mr. Knutelsky seeing and reviewing that investigation to ensure it suits his criteria. If the investigation reveals there's something physically or financially extraordinarily expensive or difficult, it won't have to be done. If there is a disagreement on that, they return to the Board. Ms. Nicholson said it's agreeable.

Mr. Knutelsky drew the Board's attention to their specific design standards and read a portion of it regarding container enclosure. He further elaborated and said the Board could grant a waiver and provide vegetative screening but it would have to be a waiver. Mr. Kell said he believes the Board should take the approach of what is a standard structure with the ordinance.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

Mr. Kell said for the most part, the Board has worked with the applicant. When the applicant first came they said no, only commercial development downstairs. We came back and allowed the one bedroom apartment and are giving the applicant two years to complete what has to be done and recognize the financial strain. He requested a motion to approve the application pending Ms. Nicholson and Mr. Brady summarize.

Mrs. Bonis referred to Mr. Knutelsky's notes, item #14 regarding signage was not proposed as part of the application and said posting a sign on the back door for people. Ms. Nicholson agreed. Mr. Brady said he'll add that in the conditions. Mr. Knutelsky asked if it's just going to be entrance or other commercial advertisement and said entrance is regulatory. Mr. Wentink said it's not for advertisement. It was further discussed. Mr. Knutelsky said the distinction could be made in the resolution.

Mr. Swiss made a motion to **approve the application pending Ms. Nicholson and Mr. Brady's summary for ZB-03-14-1 Drost (91 Mains Street Realty, LLC) Amended Final Site Plan, "C" Variance (Parking) Litigation Settlement; Block 904, Lot 7.** Seconded by Mr. Martinez.

Upon Roll Call Vote:

AYES: Bonis, Correal, Kopcso, Martinez, Murphy, Swiss, Kell

NAYS: None ABSTENTIONS: None

(Motion approved)

Ms. Nicholson thanked the Board for their time and partnering with them.

ADJOURNED CASES:

PAYMENT OF BILLS:

Mrs. Bonis made a motion to approve the **Franklin Borough Zoning Board Escrow Report for May 7, 2014.** Seconded by Mr. Correal.

Upon Roll Call Vote:

AYES: Bonis, Correal, Kopcso, Martinez, Murphy, Swiss, Kell

NAYS: None ABSTENTIONS: None

(Motion approved)

OTHER BUSINESS:

Mr. Kilduff was pleased to report to the Board two members took and completed the mandatory Training Program. Mr. Estes who's not present and congratulated Mr. Soules.

DISCUSSION:

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for
May 7, 2014

CORRESPONDENCE:

Mr. Kell acknowledged the correspondence.

OPEN PUBLIC SESSION:

Mr. Swiss made a motion to **Open to the Public**. Seconded by Mrs. Bonis. All were in favor.

No one from the public stepped forward.

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

ADJOURNMENT: There being no further business Mrs. Murphy made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mrs. Bonis. All were in favor. Meeting was adjourned at approximately 10:40 PM.

Respectfully submitted,

Ruth Nunez
Secretary