

Franklin Borough Zoning Board of Adjustment
Special Meeting Minutes for June 18, 2015

The meeting was called to order at 7:45 PM by Chairwoman, Mrs. Louise Murphy, who then led the assembly in the flag salute.

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

ROLL CALL OF MEMBERS PRESENT: Mr. Estes, Mr. Skellenger, Mr. Soules,
Mrs. Murphy, Ms. Fantasia

ABSENT: Mrs. Bonis, Mr. Kell, Mr. Kopcso,
Mr. Suckey

ALSO PRESENT: Mr. T. Knutelsky, Harold E. Pellow & Assoc.
Mr. D Brady, Brady & Correale, LLP

APPLICATIONS TO BE HEARD:

(ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, Use D Variances, Block 104 Lots 4 & 5.

Mrs. Jennifer Kovach the applicant's attorney stepped forward indicating the application is for Preliminary and Final Site Plan with variances. She said her client is requesting to build an outdoor dining area and requested if approved tonight her client would like to proceed with construction and waive the resolution. Mr. David Brady the Boards Attorney confirmed the applicant's proof of publication has been filed.

Mrs. Kovach called Mr. Damien Ryan the owner of the Irish Cottage forward and is sworn in by the Board Attorney. Mr. Ryan explained his involvement with Six Gee Corp. He is one of four partners and chief operator of the Irish Cottage. He explained the type of business and how long they have been in business. He indicated the Irish Cottage has thirty employees which is mostly part time employees. He briefed the board on his restaurant background and said he has worked extremely hard to make the Irish Cottage a community place where people can bring their family for a meal. He talked about the decline in restaurant businesses today and said the weather and seasons can affect his business. He said in the summer month's people want to be outside and commented on other towns who have outside dining to offer their customers. He indicated the business has declined and asked the board for their help to simply offer something new to his customers. He pointed out if this project is approved extra parking will also be provided.

Mr. Ryan said he is looking to put 50 seats in the outside dining site. He briefed the board on how the inside seating is arranged and talked about the layout of the outside dining area. He explained customers will enter the restaurant and then be seated in the

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outside dining area.

Mr. Ryan explained exists on the adjoining lot (Lot 5) next to the restaurant. He indicated he is leasing the area and is using it to store his dumpsters and hopes to purchase the property one day. He said he may possible have outside entertainment and is aware of the noise and time ordinance. He indicated outside entertainment will end at 10:00pm. He talked about prior outside events and said there were no complaints from neighbors regarding the noise. Mr. Ryan confirmed a one year lease dated March 1, 2015 for Lot #5. He said the hours of operation are 11:00am to 10:00pm. Mr. Ryan discussed the outside lightning around the building and indicated the patio lighting will be a basic string lighting.

Chairwoman Mrs. Murphy questioned the outside ramp, the door on the south side of the building and commented on the outside lighting. Mr. Knutelsky suggested the revised plans include more details on the outside lighting. A discussion took place on the outside lighting and Mr. Ryan explained the outside door where customers will enter and leave the patio.

Mr. Knutelsky asked the applicant to explain the seating inside the restaurant when the patio area is open. Mr. Ryan stated that fifty seats somewhere inside the restaurant will be closed when the outside patio is open. Mr. Knutelsky explained the seating and parking requirements. Mr. Knutelsky also questioned the gap between the deck floor and the railing post. The applicant indicated the outdoor dining area will be surrounded on three sides with a 6-ft rail fence attached to the deck and leave no gap between the deck floor and the railing posts. Mr. Brady requested the applicant give more details on the entertainment he may consider on the outside patio area. Mr. Ryan commented one or two man band and an atmosphere where families with children are welcome.

Mr. Knutelsky the Boards Engineer reviewed his report dated June 12, 2015 and indicated the following:

Item #4: The applicant agreed landscaping will be provided and include planters.

Item #5: Applicant explained the garbage dumpster pickup and described how the garbage will be handled. Tables and chairs will be stored in the retail store.

Item #6 (Septic Cleanout) The applicant discussed the location of the septic cleanout and indicated it will not be an issue with the deck. Mr. Knutelsky suggested a condition indicating that he will meet with the owner and DPW foreman and review the access to the cleanout location.

Item #7 thru #10 Items discussed during testimony.

Item #11 (Landscaping) Planters will be used.

Item #12 (Parking) combination of pave parking and gravel parking. Mr. Knutelsky commented on the concrete wheel blocks, line striping and the Post/Rail fencing. He recommended a heavier duty post and rail.

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Item#13 Five foot turn out area at the easterly end of the parking aisles to assist cars backing out of parking spots.

Item#14 He recommended the post & rail fence be terminated along the southerly side of the parking field to allow for snow plowing operations in the winter months.

Item #15 He recommended concrete wheel stops in front of the existing frame building. (7 parking spaces) They should be placed as shown on the plan but would like them placed in front of the building as well. He commented on the cars parked by the front of the building and showed concern of the cars hitting the building. Mr. Ryan indicated a concern with the dumpsters located in that area. Mr. Knutelsky requested the applicants engineer look into using something that could be easily removed in that area when dumpsters need to be removed. A discussion took place regarding garbage pickup, dumpster removal and wheel stops. Mr. Knutelsky commented on the sidewalks, curbs and safety of the customers. The board members discussed eliminating parking spaces. Mr. Knutelsky commented on the parking requirements for the additional seating proposed.

Item #16 The post and rail fence at the end of parking stall and recommends a three foot minimum distance. He discussed how difficult it is to line cars up on gravel parking. Mr. Ryan indicated during busy times extra help is provided to control the parking issue.

Item #17 He discussed the fence attached to the patio structure and showed concern with the gap between the patio and the fence.

Item #18 He indicated the applicant confirmed the patio will be raised pressure treated wood and raised no higher than ten inches off the ground.

Item #19 Patio will be ADA accessible.

Item #20 Six sets of the final site plans submitted by the applicant should be revised to read the HC Zone not the HC-4 Zone.

A discussion took place regarding the trees located on the site. Mr. Knutelsky suggested to visit the site and look at the layout of the parking area and the fence to see if there will be an issue with any trees. The applicant indicated the tables outside will have table umbrellas. A discussion took place regarding the noise on the outdoor seating area and the applicant indicated the noise will be minimum.

Mrs. Murphy requested a motion to open to the Public questions for the applicant.

OPEN PUBLIC SESSION:

Mr. Soules made a motion to **Open to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5**. Seconded by Mr. Estes. All were in favor.

No member of the public came forward.

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Mr. Estes made a motion to **Close to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5.** Seconded by Mr. Skellenger. All were in favor.

Mrs. Kovach called the applicants engineer Mr. George Gloede forward to discuss the site plan. Mr. Gloede is sworn in by the Boards Attorney. He agrees with Mr. Knutelsky on issues discussed regarding the fencing, changing the rail, placing of the curb stops and removing the curb stops in front of the garage door. He indicated the plan showed 25 parking spaces required and currently the plan is showing 31 but indicated it will be reduced to either 30 or 29 depending on how many spaces are lost in front of the garage door. He discussed the side yard setback. He indicated this is a temporary structure on a leased property and can be easily removed. A discussion took place on whether the structure is temporary or seasonal. Applicant's attorney stated her client is trying to negotiate a longer lease with owner of Lot #5 when the one year lease expires. Mr. Knutelsky discussed with Mr. Gloede permits needed. Mr. Gloede indicated building permits are required and no DOT permits are needed. He also presented an exhibit A-1 Aerial photo from Google, dated 9-18-15 which showed the location of the Irish Cottage Restaurant. Mr. Brady confirmed with Mr. Ryan that he fully understands the license requirements for serving alcohol beverages outside. Mr. Ryan indicated he understands the ABC Laws.

Mrs. Kovach called Mr. Jason Dunn, P.P. forward and was sworn in. He provided his credentials to the board and gives testimony on the variances request and discussed the uses on Lot #5. According to Mr. Dunn building this outdoor patio will promote business, create jobs, and will encourages the business to stay successful. He commented on the positive and negative criteria of the location. He agreed the outside dining area cannot be used by any of the other uses on Lot #5. He explained the outside dining area is a temporary nature and contingent on the success of the restaurant and also the lease agreement with the owner of Lot #5. Mr. Brady suggested the applicant consent to a condition the outside dining area will be used as an accessory to the restaurant use on Lot #4 and if the restaurant stopped operating the outside dining area must be removed.

Mrs. Murphy requested motion to Open to the Public questions for Mr. Gloede and Mr. Dunn.

OPEN PUBLIC SESSION:

Mr. Skellenger made a motion to **Open to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5.** Seconded by Mr. Estes. All were in favor.

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No member of the public stepped forward.

Mr. Estes made a motion to **Close to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5**. Seconded by Mr. Skellenger. All were in favor.

A motion was made for any further comments from the public.

OPEN PUBLIC SESSION: Comments

Mr. Skellenger made a motion to **Open to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5**. Seconded by Mr. Estes. All were in favor.

Joe Martinez resident of 39 Woodland Road stepped forward and is sworn in. He is supportive of the applicant and commented on how much the applicant does for the community. He said the Irish Cottage needs to succeed and remain in the town of Franklin.

Keri Marino resident of 45 Mabie Street stepped forward and is sworn in. She said Peter and Damien owners of the Irish Cottage have been good citizens of the Franklin Community. They have been involved and supported Franklin night, historical society and are part of the Franklin Community. The Irish Cottage is a meeting place for families to meet and connect with the community.

Nicholas Giordano of 42 Mabie Street stepped forward and is sworn in. He indicated the Irish Cottage supports all activities in Franklin. He commented on the money they have raised to support one of their employees. He supports the Irish Cottage and said they have always been fair and good to the Franklin Recreation Committee and we should support all there efforts to help grow their business and be a solid member to our community.

There were no further comments from the public.

Mr. Skellenger made a motion to **Close to the Public Application (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, D Variances, Block 104 Lots 4/5**. Seconded by Mr. Estes. All were in favor.

Mrs. Kovach addressed the Board and commented on the positive impact of the improvements to the Irish Cottage Restaurant and the community. She feels the testimony submitted tonight by the applicant and both professionals is enough to vote yes for the approval of this application. Board Members went back and forth and

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discussed the positive points to the application. Mr. Brady asked the board if there were any concerns with conditions discussed. Board Members had no comments. Mr. Brady reviewed with the Board the following highlighted discussions:

1. Use of the Patio and entertainment on the patio will end at 10:00pm.
2. Applicant will work with Tom Knutelsky and discuss the patio lighting.
3. Seating requirements on the patio
4. Design of the fence indicating no gaps between the decking and the fence post.
5. Discussed the storage of the patio furniture when not being used. All chairs, tables and umbrellas will be kept in a neat condition and properly secured at all times.
6. Mr. Knutelsky will meet with DPW and look at the sewer cleanout location.
7. Change the post and rail fence with a heavy duty material.
8. Discussed the wheel stops in front of the storage building.
9. Mr. Knutelsky will view the site to see if there is any impact with the trees on the site.
10. Comply with the noise ordinance
11. The patio will only operator as an accessory to the restaurant.
12. The seating inside the restaurant and outside dining will not exceed 200 seats.

Mr. Skellenger made a motion to **Approve Application, (ZB-05-15-2) Six Gee Corp T/A Irish Cottage, Preliminary and Final Site Plan, Use D Variances, Block 104 Lots 4 & 5**. Seconded by Mr. Estes.

Upon Roll Call Vote:

AYES: Estes, Skellenger, Soules, Murphy, Fantasia

NAYS: None ABSTENTIONS: None

Mrs. Kovach stated her client would like to proceed with construction and waive the approval of the resolution. Mr. Brady stated if an appeal was to occur they will have 45 days from the time the resolution is adopted. He said starting construction before that will be a risk of the applicant. A discussion took place regarding the construction and zoning permits. Mrs. Kovach indicated her client is well aware of the procedure.

Mrs. Murphy opened the meeting to the Public for non-agenda items.

OPEN PUBLIC SESSION:

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

No one from the public stepped forward.

Mr. Estes made a motion to **Close to the Public**. Seconded by Mr. Skellenger. All

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were in favor.

ADJOURNMENT: There being no further business Ms. Fantasia made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mr. Estes. All were in favor. Meeting was adjourned at 9:27 PM.

Respectfully submitted,

Karen Osellame
Board Secretary