

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for August 3, 2016

The meeting was called to order at 7:30 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."

Board Secretary, Karen Osellame administered the Oath of Allegiance to Mr. Wes Suckey, Zoning Board of Adjustment Member, Mr. Richard Knop, Zoning Board of Adjustment Alternate #1 and Mr. Rafael Burgos, Zoning Board of Adjustment Alternate #2.

ROLL CALL OF MEMBERS PRESENT: Liz Bonis
John Kopcsó
Stephen Skellenger
Louise Murphy (Chairwoman)
Wes Suckey
Richard Knop (Alternate #1)
Rafael Burgos (Alternate #2)

ABSENT: Floy Estes
Glen Soules

ALSO PRESENT: Dave Brady, Brady & Correale, L.L.P.
Tom Knutelsky, Harold E. Pellow & Assoc.

ELECTION OF VICE-CHAIRMAN:

There were no nominations to elect a Vice-Chairman of the Zoning Board of Adjustment.

Mrs. Bonis made a motion to **Table the Election of a Vice-Chairman to the September 7, 2016 Meeting**. Seconded by Mr. Skellenger. All were in favor.

APPROVAL OF MINUTES:

Mr. Kopcsó made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for June 1, 2016**. Seconded by Mr. Skellenger.

Upon Roll Call Vote:

AYES: Bonis, Kopcsó, Skellenger, Murphy, Knop

NAYS: None ABSTENTIONS: None

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for August 3, 2016

APPLICATIONS FOR COMPLETENESS:

(ZB-05-16-1) Matthew Smidt, 337 Rutherford Ave, Block 607 Lot 28, Interpretation.

Board Attorney, Dave Brady stated for the record that the applicant has provided Proof of Service and Publication. Attorney Mr. William Askin came forward on behalf of his client, Matthew Smidt and asked if any further testimony is needed for completeness.

Board Engineer, Tom Knutelsky discussed his report dated June 29, 2016. He specified the application for interpretation does not require a specific checklist. The applicant should provide testimony as to why the current use of the property can continue as a similar use to the previously existing non-conforming use. He recommended the Board find this application complete for interpretation only.

Mr. Brady briefly discussed the interpretation request from the applicant and commented on Land Use Laws. He said the question is whether or not Mr. Smidt current use can be interpreted and found to be a continuation of the pre-existing non-conforming use. If this application is found not to be a continuation of a pre-existing non-conforming use then a variance will be needed. Mr. Brady briefly outlined Ken Nelson's report dated June 22, 2016. Mr. Nelson was not present at the meeting.

Mrs. Bonis made a motion to **Deem Complete Application (ZB-05-16-1), Matthew Smidt, 337 Rutherford Ave, Block 607 Lot 28, Interpretation Only.** Seconded by Mr. Skellenger.

Upon Roll Call Vote:

AYES: Bonis, Kopcsso, Skellenger, Murphy, Suckey, Knop, Burgos

NAYS: None ABSTENTIONS: None

ADJOURNED CASES:

There were no adjourned cases.

APPLICATIONS TO BE HEARD:

(ZB-05-16-1) Matthew Smidt, 337 Rutherford Ave, Block 607 Lot 28, Interpretation.

Attorney Mr. William Askin came forward on behalf of his client and briefly outlined the application. He said he client purchased the property in 2013 for his electrical business. Mr. Askin talked about how time consuming and expensive it would be for his client if the Board did not approve the interpretation and a variance is needed. He said moving forward with the interpretation application he will give testimony that the previous existing non-conforming use on the property has not been changed and Mr. Smidt proposed use is in line with what the property is used for historically. He

Franklin Borough Zoning Board of Adjustment **Meeting Minutes for August 3, 2016**

said the proposed use of a storage facility for Mr. Smidt electrical business is less intense with less activity on the property. No retail is proposed and there will be no impact on the surrounding neighborhood. He said his client is very familiar with Franklin and the neighborhood.

Mr. Matthew Smidt came forward and was sworn in by Board Attorney, Dave Brady. He confirmed he purchased the property in November of 2013 and knew the previous owner. He currently owns a shop in Lafayette and would like to move the shop to Franklin. He talked about the previous welding shop and sign shop and intends to only make the site a contractor storage garage. He indicated no work will be performed on the property and all tools and work trucks will be kept inside the garage. He installed a new roof in 2014 and hopes to fix the building up in the future. Mr. Smidt discussed his electrical contractor business and indicated he has two employees. He confirmed the employees will not be in the building during working hours and there will be no deliveries or retail activity on the site. He said the garage will be used to store two pickup trucks and materials. He talked about his business in Lafayette. He said he will not be selling the Lafayette building so all deliveries can be sent there. He did indicate that deliveries go directly to the job site. He talked about daily activity at the Rutherford site and specified his employees leave around 8:00am and are back by 6:00pm. He talked about the previous owner and the type of business he had. He said there will be no fabricating or welding on the premises and the site would only be used to store equipment. He talked about the new roof he had installed and indicated there is no electricity in the building and there is only a meter for the plumbing. He discussed the previous use and described the properties that surround the site. He explained tools that are used on the job sites. Mr. Brady asked if there will be a sign on the site. Mr. Smidt responded eventually if permitted. Mr. Smidt discussed the type of fabrication done inside the garage. Mr. Knutelsky and Mr. Smidt briefly discussed the plumbing inside the garage. Mr. Smidt said when he purchased the garage everything inside was destroyed due to a leaky roof. Mr. Knutelsky pointed out how important it is for the plumbing to still be intact. Mr. Smidt discussed the improvement he would eventually like to do to the building. He also pointed out that garbage from the job sites will be minimum.

Mr. Brady brought up that the pre-existing use did include an office and a bathroom. Mr. Smidt said an office and bathroom is not important to him but eventually he would like to restore the building. A brief discussion took place on the bathroom size and office space that was removed inside the garage. Mr. Brady confirmed no storage will be kept outside and no truck repairs will be done on the site. He briefly outlined the applicant's testimony and said if the Board finds there has not been enough evidence to support the pre-existing use then the next step would be for the applicant to apply for a use variance. Mr. Suckey commented on the vehicles parked in front of the garage and referred to the photo that was attached to the application.

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for August 3, 2016

Mr. Kopcsso made a motion to approve **Application (ZB-05-16-1), Matthew Smidt, 337 Rutherford Ave, Block 707 Lot 28, Interpretation.** Seconded by Mr. Suckey

Upon Roll Call Vote:

AYES: Bonis, Kopcsso, Skellenger, Murphy, Suckey, Knop, Burgos

NAYS: None ABSTENTIONS: None

OTHER BUSINESS:

Mr. Suckey indicated he passed the Region Oil site and noticed a 500 gallon propane tank on the site. Mr. Knutelsky said he is not aware of any approvals and was not notified that work has started on the site. He will also contact Mr. Butto in Hardyston in regards to permits and will report back to the Planning Board with an update.

PAYMENT OF BILLS:

Mr. Suckey confirmed the escrow report included the July bills since the meeting was cancelled.

Mr. Skellenger made a motion to approve the **Franklin Borough Zoning Board Escrow Report for August 3, 2016.** Seconded by Mrs. Bonis.

Upon Roll Call Vote:

AYES: Bonis, Kopcsso, Skellenger, Murphy, Suckey, Knop

NAYS: None ABSTENTIONS: None

OPEN PUBLIC SESSION:

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

No one from the public stepped forward.

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

ADJOURNMENT: There being no further business Mrs. Bonis made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mr. Skellenger. All were in favor. Meeting was adjourned at 8:37 PM.

Respectfully submitted,

Karen Osellame
Board Secretary