

**Franklin Borough Planning Board**  
**Meeting Minutes for**  
**July 15, 2024**

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

Mr. Christiano read the Statement of Compliance pursuant to the “Open Public Meetings Act, Chapter 231, PL 1975.”

**ROLL CALL OF MEMBERS:**

John Christiano – Chairman (Present)  
John Friend – Vice Chairman (Absent)  
Wes Suckey (Absent)  
Jim Williams (Present)  
James Nidelko (Present)  
Michael Raperto (Present)  
Floy Estes (Present)  
Councilman Concetto Formica (Absent)  
Mayor John Sowden (Present)  
Sharon Schultz, Alternate 1 (Present)  
James Affinito, Alternate # 2 (Absent)

**ALSO, PRESENT:**

Robert Correale, Planning Board Attorney  
Tom Knutelsky, Planning Board Engineer

**APPROVAL OF MINUTES:**

Franklin Planning Board minutes for May 1, 2024

**Mr. Estes** made a motion to table the minutes until the June meeting. Seconded by **Mr. Affinito**.

**Upon Roll Call Vote:**

**AYES: Christiano, Williams, Estes, Nidelko, Raperto, Sowden, Affinito**

**NAYS: None ABSTENTIONS: Schultz**

**Approved**

**PAYMENT OF BILLS:**

Escrow Report for **July 15 ,2024**.

Mr. Christiano asked for a motion to approve the escrow report.

**Mr. Williams** made the motion. Seconded by **Mr. Raperto**

**Upon Roll Call Vote:**

**AYES: Christiano, Williams, Nidelko, Estes, Raperto, Schultz, Affinito**

**NAYS: None ABSTENTIONS:**

**Approved**

**APPROVAL OF RESOLUTION:**

**RC Captoni, LLC 384 Rutherford Ave. Block 605 Lot 2. PB#3-24-01 D Variance**

Mr. Christiano asked if everyone had a chance to review the resolution. Mr. Christiano asked if there were any questions or revisions needed. Not hearing any Mr. Christiano asked for a motion to approve the resolution as written.

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**Mr. Raperto** made the motion. Seconded by **Mr. Affinto**

**Upon Roll Call Vote:**

AYES: **Christiano, Williams, Nidelko, Estes, Raperto, Schultz, Affinto**

NAYS: None ABSTENTIONS:

**Approved**

**Eugenia Estell (PB# 3-22-01) 82 Davis Rd, Block 1702, Lot 3, R1 Zone**

**Minor Subdivision.** Mr. Christiano asked if there were any questions or revisions needed. Not hearing any Mr. Christiano asked for a motion to approve the resolution as written.

**Mr. Williams** made the motion. Seconded by **Mr. Schultz**

**Upon Roll Call Vote:**

AYES: **Christiano, Williams, Nidelko, Estes, Raperto, Schultz, Affinto**

NAYS: None ABSTENTIONS: **Mr. Sowden**

**Approved**

**PRESENTATION:** New Affordable Housing Legislation and Recommendations – Presented by Jessica Caldwell & Mr. Brady.

Mr. Brady stated that Jessica would be presenting as she has for so many of her towns thus far. Mr. Brady stated that it is Mrs. Caldwell's report and she can do the honors.

Mrs. Caldwell stated in light of the new affordable housing legislation passed in March of this year, our office has prepared a brief overview of these changes and our recommendations for the Board's consideration. Mrs. Caldwell gave a brief summary of her report dated April 30, 2024.

Mrs. Caldwell suggested that the board establish a subcommittee which should be a mix of the planning board members along with the governing body and both the town & planning board attorney.

Mrs. Caldwell also suggested holding public information meetings to allow for the public to get a better understanding of the process and the municipality's obligations.

Mr. Christiano stated that he liked that idea and asked the board members to think about if they wanted to be a part of the subcommittee and at the next meeting, they would come up with a subcommittee to work on the housing plan.

Mr. Christiano asked if the members had any questions for Mrs. Caldwell at this time.

Not hearing any Mr. Christiano stated that he had one. As far as the issue of builder's remedy lawsuits does this make this sort of lawsuits easier or harder to file with this new Fairshare and affordable housing process. Would builder remedies be more likely or less likely.

Mr. Brady stated that if you comply you gain immunity.

Ms. Schultz asked if we should establish a subcommittee sooner than later as suggested in the report.

Mr. Brady asked Mrs. Caldwell when they should establish a subcommittee by.

Mrs. Caldwell stated by October would be a good time to establish a subcommittee and start holding monthly meetings together to come up with a plan.

Mr. Christiano stated that they would look into that at the September meeting.

**NEW BUSINESS:**

- Quarry Zone Change – Brean Quarry is using a house that they purchased on Corkhill and they are using it as an office. The question is have they changed their zoning. To use that house as office space as part of the company.

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Mr. Christiano stated that he would have the zoning officer look into it.

Mr. Sowden stated that this issue is addressed in the report and he has not been able to read the report in its entirety.

Mr. Christiano stated that this is not an engineering issue.

Mr. Knutelsky stated that it is a lot more than just a zone change. There is a lot more that this may entail. Mr. Knutelsky stated that he would look to see what he can find has correspondences from the last time this issue was brought up and send whatever he can find to Michelle.

Mrs. Babcock stated that she would look into what exactly is going on over there and get a more diffident answer on what the actual zone is.

Mr. Christiano stated that they would readdress at a later date.

Mr. Christiano went on to state that takes us to our other issue to discuss briefly tonight which is the zone Change for B2 zone in certain areas. Mr. Christiano stated that there are three odd lots that are in the neighborhood. They are very small and surrounded by the Residential zone that they are surrounded by. Mrs. Caldwell stated that she would look into these areas and do a brief report on what she finds and different options to present to the Planning Board at the August meeting.

**OLD BUSINESS:**

There was none

**APPLICATIONS TO BE HEARD:**

**Brook Lane Holdings LLC - 175 Rt 23 and 41 & 43 Taylor Rd. Block 1404 Lots 5,6, & 7  
PB# 1-24-02 Preliminary & Final Site Plan. With Both C & D Variances.**

Mr. Christiano thanked the applicant's team for their patience and stated that they have the floor from here on out. The mayor stepped down due to the application being a D variance.

Mr. Brady stated that he also received proof of notice and finds everything to be in order.

Dan Berkendorf thanked Mr. Brady and stated that he was here on behalf of Brook Lane Holdings LLC. Mr. Berkendorf stated that this particular property consists of three lots. Those three lots include 40,41 Taylor Rd and 175 South Rt 23. The property is 1.5 acres in the HC-2 zone. Mr. Berkendorf stated that the purpose of this application is to solidate the three properties into one large property. The applicant is coming before the board for preliminary and final site approval along with two uses variances one being a conditional use D3 for residential on the top floor. The applicant is seeking is a D5 variances which is for density. Bulk variances are also a part of this application as far as fence height & wall signage. Mr. Berkendorf stated that with the site plan changes he believes that we may not need the bulk variances for these particular terms any longer. The applicant is also seeing a variance for the parking lot landscaping and buffers. Mr. Berkendorf stated that the end goal is to consolidate the three properties and bring both commercial and residential to the property.

Mr. Berkendorf stated that there is a slew of exporters' here tonight who will give testimony.

Mr. Berkendorf stated that he would like to start by swearing in his client the property owner.

Theodore Moustakis.

Mr. Moustakis stated his name and spelt his last name. Mr. Brady swore Mr. Moustakis under oath.

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Mr. Berkendorf asked if everything that was stated earlier about the application is true.

Mr. Moustakis stated yes.

Mr. Berkendorf asked Mr. Moustakis to go back to his seat.

Mr. Berkendorf stated the first professional he would like to ask up is the engineer. Taylor Vandervalk 64 Valley Rd Butler NJ.

Mr. Berkendorf qualified Mr. Vandervalk in as an expert asking Mr. Vandervalk to give the board his education and professional background.

The board excepted Mr. Vandervalk as an expert in engineering. Mr. Vandervalk thanked the board and gave the board a brief summary and history of the property in question.

Mr. Vandervalk stated that the area in which the building will be built is due to that particular piece of the property being the largest building envelope that will allow for the size building being proposed.

Mr. Vandervalk stated that not only are they eliminated the non-conforming uses they are also eliminating the non-conforming setbacks that there are with the two structures that sit on Taylor Rd.

Mr. Vandervalk went into the proposed building height the ordinance permits a three story and that is what is being proposed with this project. Mr. Vandervalk stated that the building would be at a 33.9 Ft which makes it compliant with the town ordinance.

Mr. Vandervalk explained how they came up with the height and explained the grading and where he measured from keeping in mind that the grading on Taylor Rd is significantly higher than the frontage on Rt 23.

Mr. Vandervalk went into the parking and circulation of the proposed parking lot.

Mr. Vandervalk stated that the entrance of the highway frontage has been the intention of the main entrance of the property. The DOT has painted it with a turn single.

The bottom level of the property would be where all the commercial traffic would come in from along with spaces for the tenants who will be staying in the proposed apartments.

Mr. Vandervalk went on to explain the circulation of the parking lot so that there would be no bottle necking that would cause issues with the traffic traveling on Rt 23. Mr. Vandervalk explained that it would be a one-way circulation of counter clockwise around the circle of the building. There will be 90 Degree parking. When exiting the property, you will only be able to make a right out and continue south on Rt 23.

Mr. Vandervalk went on to give a brief description of the parking lot lay out and explained that they would not be asking for a parking variance as they have configured the parking lot to be in compliance with what is needed which is 74 parking spots according to RSI and confirmed by the planners report as well. Including the 23 spots required for the residential portion of the parking lot. Mr. Christiano asked where the snow removal would go.

Mr. Vandervalk stated east of the property where there is a large piece of property that will not be used.

The dumpster area would have fencing would be a closed in solid vinyl fence. Would hidden.

The dumpsters would be private and would be covered.

Mr. Knutelsky stated that he would prefer a masonry enclosure just because it would be more durable than the vinyl fencing especially because there is intent that there would be a restaurant sharing this trash in closure as well as Tennant's.

Mr. Vandervalk stated that they would agree to having the masonry in closure.

Mr. Vandervalk briefly touched on fencing and the wall that would be needed on the property.

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Mr. Vandervalk stated that the architect and planner would get more into detail about those areas when they give their testimony.

Mr. Vandervalk explained the proposed signage that would be part of the site plan as well. There are three signs proposed for the site. One being on the Taylor Rd side, similar signage facing the rt 23 side along with signage for the restaurant and another sign within the parking lot for the residential aspect of the property.

Free standing signs Mr. Vandervalk stated that they are proposing on free standing sign would be in the parking area. Mr. Vandervalk stated that they will be in compliance with setbacks and height restrictions for all the signage being proposed for the project.

Mr. Vandervalk went on to briefly explain grading and drainage of the site.

Mr. Vandervalk stated as far as utilities go all the utilities will be public and will connect from the Taylor Road side of the project.

Mr. Vandervalk went on to discuss lighting and landscaping.

Mr. Vandervalk gave a brief description of the proposed lighting for the site.

There are 5 building mounted fixtures. 12 Pole mounted fixtures. The Taylor Rd said will be lighted with only two fixtures on the building. 15 ft high on the building to light up the parking lot. Mr. Vandervalk stated that all lighting is pointing down and not shining on the residential parts of the building. These light fixtures are a lot lower than the neighbors. There would not be any glares or shining on any of the neighboring properties. Mr. Vandervalk stated that the lights would also be on a strict lighting schedule.

Mr. Vandervalk explained the landscaping plan. Stating they are proposing a number of trees to be planted through out the site.

Mr. Vandervalk stated that they are seeking a variance for not being able to achieve the 15% percent of the landscaping of the islands. Lining the perimeters due to lack of room in the islands.

Mr. Vandervalk gave a summary of all that he discussed and stated that he had nothing left to discuss at this time and asked the board if they had any questions.

Mr. Christiano asked if the AC units would be roofing mounted units. Mr. Vandervalk stated yes.

Mr. Williams asked if there was a fire hydrant in the parking lot.

Mr. Nidelko stated there is on the side of Taylor Rd.

Mr. Vandervalk stated there is not a fire hydrant in the main parking lot.

Mr. Vandervalk stated that Mr. Knutelsky's report states that he recommends we meet with the fire department to go over the fire Matic aspect of the project. Mr. Vandervalk stated that they absolutely will set up a meeting with the fire department to go over what they will need from us.

Mr. Vandervalk stated that the building will have a sprinkler system that the architect will go over in more detail when he gives his testimony.

Mr. Vandervalk stated that he has nothing else to share at this time.

Mr. Christiano asked the board members if they had any questions. Not hearing any Mr. Christiano stated that there would be a 5-minute break and when we return, he would open the meeting up to the public to ask Mr. Vandervalk any questions they may have.

The meeting adjourned for the 5-minute break at 9:15.

Mr. Christiano brought the meeting back to session at 9:25.

Mr. Christiano stated that he would now open the meeting to the public for questions only and only from the testimony they just heard from Mr. Vandervalk.

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Mr. Brady stated that there will be a time for statements and testimony at a later time. Right now, is just for asking questions. Mr. Brady explained to the public that when they approach the microphone, they must state their name and spell their last name and give their address before asking their questions.

*David Lampone 3 Lowzaw Rd* – Asked how the trees would be affected that are between his property and the property in question. He also has concerns that the lights will be bothersome to him from where he lives.

Mr. Vandervalk stated that not all the tree will be removed and with every tree removed there would be one planted in its place. Mr. Vandervalk also explained to Mr. Lampone that he sits further up from the property and he should not have any issues with the lighting on the property that he would actually be above or even with the tops of the light lamps.

Mr. lampone discussed agreed and he believes it is going to create a lot of light and create a problem for he and his neighbors along with a lot of noise.

*Elaine Schmuhl- 11 Mountain View* stated that she was concerned about traffic. How will you prevent people from parking on Taylor & Mountain Rd.

Mr. Vandervalk stated that there will be a traffic expert giving testimony and would be best for him to answer any traffic related questions.

*Barbra Castania – 42 Taylor Rd*

Ms. Castania asked if there is an option of having a traffic light to help with the traffic that will now be created coming off of Taylor Rd on to Rt 23.

Mr. Christiano stated that is a question for the traffic expert and unfortunately, we will not have time this evening to hear testimony from the traffic expert. We will however, hear from him at the next scheduled meeting which will be August 19<sup>th</sup> you will not be re noticed so keep it on your calendar and come back on August 19<sup>th</sup> to hear testimony from the traffic study expert.

Mr. Vandervalk stated that as far as the trees that are on property that are not ours, we will and have no intentions or can we take those trees down. I do not believe that us removing the trees on our property will not affect the trees on the neighboring properties.

*Regina Bozza 7 Lowzaw Rd* – The trees that are along the outside of my shed on your property shield so much noise pollution from the 24-hr. establishment across the street and the highway noise alone. Is it my understanding that those trees will be removed during construction.

Mr. Vandervalk stated that is correct.

Ms. Bozza stated that she has extreme issues with that and gave her reasoning.

Ms. Bozza explained the issues with removal of the trees will cause even more erosion that she is already dealing with from when the road was paved back in the summer of 2022.

Mr. Vandervalk stated that nothing that they do on their property that sits below Ms. Bozza's property will do anything to her property.

Mr. Berkendorf stated that will readdress the trees and come back at the next meeting and reevaluate the tree situation.

Mr. Christiano stated there will be a tee safe plan prepared by our planner who will do her best to safe as many of the trees as possible.

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Ms. Bozza asked are you considered about the noise pollution that comes from the commercial businesses.

Ms. Bozza asked if there has been a noise study done.

Mr. Vandervalk stated no, but might better be answered for the traffic expert.

*Beverly Lampone* - 39 Taylor Rd – Ms. Lampone asked what would come first the fence or the trees. Mr. Vandervalk stated fence then the landscaping.

Ms. Lampone asked has anyone considered that maybe this lot is too small for everything that the builder wants done. Ms. Lampone asked if there was a way you good downsize the project will less apartments or one less commercial space, to make more room and not have to ask for so many variances.

Can we consider a sidewalk on Taylor Rd with a step up.

Mr. Vandervalk stated the engineer will talk more about the site and why the size is what size it is. The parking is tight but we are in compliance and as far as the building we do meet what we need for the requirements.

*Kevin Lemmon* – 44 Taylor Rd corner of Mountain Rd & Taylor.

Can you give us a better scope of where these driveways are in comparison to our driveways.

Mr. Knutelsky stated a full-scale exhibit with the proposed development with a 200 ft to show the better layout of where the neighbors are in comparison to the property.

The height of the building testimony was said to be less then 35 ft. What will I be seeing from my property.

Mr. Christiano stated that this is a better question for the architect.

Mr. Lemmon stated his concerns about the setbacks and what the buffers.

What are the setbacks when it comes to residential that meets commercial. Mr. Vandervalk stated that there is a 10 ft buffer. Mr. Vandervalk stated that the fence is part of the buffer.

Mr. Lemon stated that he does not agree with the 10 ft buffer when it comes to residential and commercial properties being so close.

Mr. Lemmon asked because the contract with the garbage company will be a private can you have the garbage not picked up by a rear loading truck.

Mr. Christiano stated is it safe to say that the applicant will make it as easy as possible for the Trucks to get in and out of the property as fast and seamless as possible weather it be front loading or rear loading trucks.

Will DOT not limit you to control the truck traffic. Mr. Vandervalk stated that he would not want to limit the truck traffic into the neighboring streets.

Mr. Vandervalk the trucks will take the left off of Taylor Rd.

Mr. Lemmon stated he would wait to hear from the Traffic expert.

Mr. Lemmon asked what a TCC meting was that has been mentioned tonight.

Mr. Christiano explained to Mr. Lemmon what a TCC Meeting is.

Mr. Lemmon asked if there were minutes he can read.

Mr. Christiano stated it is an informal meeting to help the applicant have a better transition into submitting an application. Mr. Christiano stated to help makes meetings like this move along smoother.

Mr. Lemmon thanked the board and stated he would keep the rest of his questions for the next meeting.

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Mr. Christiano stated not seeing anyone else coming up he will close the meeting to the public at this time.

Mr. Knutelsky advised the applicant and the board that the borough has just adopted the tree removal and replace ordinance. Something that we will have to comply with.

The applicant might want to come to the next meeting prepared to explain what their plans for removal and replace tree plan will be.

Mr. Berkendorf stated that the would be prepared at the next meeting.

**OPEN PUBLIC SESSION:**

There was no one who came forward.

**ADJOURNMENT:**

**Mr. Affinto** made a motion to adjourn the meeting. **Mr. Estes** seconded it.

**All were in favor.** Meeting adjourned at 10:42