

**DRAFT FOR REVIEW****Town of Franklin**TOWN OF FRANKLIN  
TOWN CLERK

2016 NOV -8 PM 1:56

RECEIVED

**Planning Board****October 17, 2016****Meeting Minutes**

Chairman Anthony Padula called the above-captioned meeting to order this date at 7:00 PM. Members in attendance: Joseph Halligan, John Carroll, William David, Gregory Rondeau, Alternate Rick Power. Members absent: None. Also present: Michael Maglio, Town Engineer; Bryan Taberner, Director, Planning and Community Development; Amy Love, Planner.

**7:00 PM Commencement/General Business**

Chairman Padula announced the meeting would be video and audio recorded for the public's information. He congratulated Amy Love for taking the planning position.

**A. Form H: 485 East Central Street – Franklin Retirement**

Mr. Patrick Doherty of Midpoint Engineering & Consulting, Inc., on behalf of Hawthorne Retirement LLC, addressed the Planning Board. He stated the project has been complete for over one year; there was a lapse in submitting the final Form H. All paperwork has been submitted and the as-builts are in.

Mr. Maglio stated that from BETA's last inspection report there were two outstanding items and both have been addressed; everything has been completed.

***Motion to Release the Form H for 485 East Central Street, Franklin Retirement. Carroll. Second: Rondeau. Vote: 4-0-1 (4-Yes; 0-No; 1-Abstain).*** (Mr. Halligan abstained.)

**B. Form H: 176 Grove Street**

Mr. Maglio stated that from BETA's last inspection report in July there were a few outstanding items which have been addressed; everything is all set for the Form H.

Ms. Love stated that from a review of the letters from BETA and Mr. Maglio, it appears that everything has been met.

Chairman Padula questioned BETA's concern in their July letter regarding elimination of the curb on 16 parking spaces.

Mr. Maglio stated there was a change in curb to install vertical granite. As this was an upgrade, he did not think it was an issue. At the part where the curb was eliminated there is a slope that runs up from the pavement; everything is sloped into the pavement. There was no need for the curb at that location.

Mr. Carroll stated he drove by the site today and there were five trucks parked off the asphalt. One of them is leaking oil that is going right into the ground. One truck is parked in the woods with no plates on it. He stated he thinks this needs to be addressed. Although the trash was not as bad this time, the trash must be policed better; there is a river on the left-hand side.

**DRAFT FOR REVIEW**

Mr. Karlis Skulte of EBI Consulting, civil engineer for the applicant, stated he understood. He noted that the property management company was changed because of the trash issue and they have been more diligent with the maintenance and upkeep of the trash. He stated big boulders were installed around the edges, but trucks are still finding a way to get around and go off the pavement. He said he would bring it to their attention.

Mr. Maglio stated that during a site visit this summer there were trucks parked in the back; he told them that trucks should not be parking there. When he visited the site recently the trucks were moved and someone was walking around picking up trash.

Chairman Padula stated he is not going to take a motion and sign the Form H until this is remedied. This problem has been ongoing since the beginning. The applicant must provide some kind of curb or granite to stop the trucks from backing up onto the property.

Mr. Skulte stated he does not know how he is going to prevent the trucks from driving into the woods.

Chairman Padula stated he may have to put guardrails or concrete to stop them.

***Chairman Padula stated he was going to take the 7:10 PM public hearing before the 7:05 PM public hearing.***

7:10 PM

**PUBLIC HEARING – Initial**

**Rural Business Zoning District**

Chapter 185 of the Code of the Town of Franklin is hereby proposing to add the following text to the Zoning Bylaws:

1. Zoning Bylaw Amendment 16-768: Districts Enumerated. Creation of Rural Business Zoning District
2. Zoning Bylaw Amendment 16-769: Definitions. Country Store
3. Zoning Bylaw Amendment 16-770: Rural Business Zone Use Regulations
4. Zoning Bylaw Amendment 16-771: Rural Business Zone Dimensional Regulations
5. Zoning Bylaw Amendment 16-772: Rural Business Zone Sign Regulations
6. Zoning Bylaw Amendment 16-773: Zoning Map Changes from Rural Residential I to Rural Business an Area on Washington Street

***Documents presented to the Planning Board:***

1. Memorandum dated September 28, 2016 from Jeffrey Nutting, Town Administrator
2. to the Planning Board
3. Zoning Bylaw Amendment 16-768: Districts Enumerated. Creation of Rural Business Zoning District
4. Zoning Bylaw Amendment 16-769: Definitions. Country Store
5. Zoning Bylaw Amendment 16-770: Rural Business Zone Use Regulations
6. Zoning Bylaw Amendment 16-771: Rural Business Zone Dimensional Regulations
7. Zoning Bylaw Amendment 16-772: Rural Business Zone Sign Regulations
8. Zoning Bylaw Amendment 16-773: Zoning Map Changes from Rural Residential I to Rural Business an Area on Washington Street
9. Email dated October 17, 2016 from Dale Kurtz to Amy Love
10. Email dated October 6, 2016 from Bruce Barker of Chao Hadidi Stark & Barker LLP to Bryan Taberner
11. Franklin Planning Board Public Hearing Notice with Received by Town Clerk date October 5, 2016



**DRAFT FOR REVIEW**

Mr. Taberner provided a summary of the six proposed bylaw amendments needed to create a new Rural Business Zoning District where a Country Store would be allowed within a primarily residential area. He noted that the amendment documents were developed in consideration of the substantial public input received during a meeting in August 2016. As many of the public comments as possible were addressed.

Chairman Padula questioned beer and wine being allowed in *Zoning Bylaw Amendment 16-769: Definitions. Country Store.*

Mr. Taberner stated beer and wine would be allowed if the town had a beer and wine license available and it was applied for. Currently, there are no licenses available.

Mr. Robert Pantano, 10 Prospect Street, addressed issues that he and other members of the neighborhood have. He does not think that any of the points that were discussed at the August meeting, chaired by Mr. Nutting, got anywhere. In his opinion, it was universally opposed for several reasons. He sees this as selective dispensation of spot zoning to take care of one family, not the community, not the abutters. The legality of this could be questioned. He mentioned that Mr. Nutting had indicated the meeting was fact-finding for something that was going to get rolled out throughout the town; it was talked about as districts enumerated, but it is only one district. He said there has been lip-service paid by the town as only a few words regarding the definition have been changed, but that does not change any of the concerns of the abutters. The opportunity to keep Franklin sliced into little boroughs has long past. What is being done is said to be laid across the town, but there are no other zones included; there is only one zone, one family's parcel of property. There will probably not ever be another zone as the country store is the only concept of this zone. He noted the nebulous definition of professional office use. He has no problem with these people operating their business. But, what he said at the meeting, which does not seem to have gotten through, is that there seems to be a willingness for the owners of the nursery to play by a certain set of rules, which are not necessarily the town's rules. He has heard heavy equipment in the area and noticed an excavator and loam processing machine. He wondered if this is part of the permit for them to do that. He did not hear it on any of Mr. Taberner's uses. The town should look at this issue comprehensively, possibly with zoning improvements or redesigning the zoning plan. This is concerning to abutters regarding their property values. The beer and wine allowance throws a whole new dimension into it. He does not agree with the center of town signage either; it is an extremely high traffic area and people will see it in the dark. He said the town should make it fair; do it comprehensively in a rezoning map for the whole town.

Mr. Joel D'Errico, 72 Deer View Way, stated there have been many neighborhood stores in various areas in Franklin over the years. People can stop in and buy what they need. He thinks a neighborhood store is good for the neighborhood and is in favor of it. He would not restrict lottery sales either. Also, loam must be screened at certain times of the year as that is the business they are in.

Mr. Bruce Barker, 12 Dom Lea Circle, stated he lives in the neighborhood behind the nursery. He is concerned that whatever is done, the look and feel of the neighborhood that he lives in must be preserved. Currently, from the Dom Lea neighborhood, none of the Hillside buildings or facilities can be seen. There is a significant buffer of land between them. His property and others could be greatly affected by the commercialization of the part of the parcel that his home looks onto. He expressed concern about whether the zoning change would affect traffic. It is difficult to exit Spring Street and enter Washington Street in the morning. Add commercial traffic to the mix in and out of Spring Street and it could become problematic. He sees nothing in the proposed zoning that would prohibit commercial traffic from the country store onto Spring Street. He expressed concern about traffic congestion overall and asked what will happen on Washington Street when a larger volume of cars starts pulling in and out of the country store during rush hours. He is not opposed to a neighborhood store, but wants his concerns addressed.



**DRAFT FOR REVIEW**

Ms. Judith Stewart, 4 Dom Lea Circle, owns three acres of land that abut Hillside Nurseries, so they are the closest abutters. They bought into this neighborhood in Franklin 20 years ago because of the rural setting. There is currently a defunct house with a broken window at the corner of Spring Street; it does not do justice to the neighborhood. Across the street, the Depotos have a stored boat and mounds of dirt with nothing done to it. There are piles of sheet metal and accumulated debris behind their business. There has been much equipment activity that sounds like they are clearing the land already. She stated it is very difficult to get out of Prospect Street and Grove Street. She stated that whatever the name is, the use of this space is being changed from agricultural rural and residential setting. She expressed concern regarding traffic and noise impacts on the neighborhood. This will become a grab and go for foodstuff and beer and wine. It is a wrong decision and she highly votes against it.

Mr. Chris Depoto, Hillside Nurseries, 823 Washington Street, addressed some of the concerns people were worried about. He stated they are clearing the lot and making it better than the condition it was in based on a complaint by a neighbor on Prospect Street. The boat is for sale; a neighbor asked if he could put it on the land to sell. He stated they are screening loam as they are a landscape company/garden center; it is a seasonal thing. They are trying to find other avenues of revenue to make ends meet. They are looking to diversify the shop due to the increased number of grocery stores that have taken some of their business. His mindset is if Stop & Shop can sell plants, why can't they sell food? The country store would sell foods, bread and milk, and be in a country setting to blend into the neighborhood. He said the neighbors are the ones that have the say and can set the stipulations on how it will look. He stated that Mr. Taberner made up this zone because it has more teeth than a previous zone of neighborhood commercial which has less restrictions. This has been on the Master Plan since 2003 and has not been utilized. Regarding spot zoning, he has been told by the higher-ups in the town that they are the first, but will not be the only parcel they are looking at. Neighborhood commercial morphed into the rural business.

Ms. Carol Ipacs, 417 East Central Street, stated no one was ever stopped from coming into town. Where is there a nursery that has not diversified? She said it sounds like people don't want it in their backyard. She said she did not always want things on East Central Street to be begin with and they turned out good. She is sure a business neighbor would work with the residents.

Mr. John Lombardi, 757 Washington Street, voiced his support. He believes that machinery can start at 7:00 AM in Franklin. He grew up in a neighborhood with multiple neighborhood stores and it was great.

Ms. Helen Mullen, 4 Prospect Street, has lived in town for 50 years. She identified herself as being the person that called the town to complain about Mr. Depoto's property. She said she went to the Depotos two times and got no satisfaction, so she had to go to the Building Commissioner. Her property abuts the Depoto's property. She stated concern that there were outside landscaping companies dumping their leaves on the property. She could not even sit outside because when it decomposes it is like a cow farm. Then the concrete came. The property could not be kept up and she had to go to the Building Commissioner; what is going to happen when a bigger building comes in. She hopes if it comes to fruition that the leaf dumping and concrete do not continue.

Mr. Brunelli has lived in Franklin for 74 years. He said it is the only place in Franklin where a person cannot get a cup of coffee; a person must go to the other side of Rt. 495. He does not have a problem with it; it is progress.

Mr. Halligan stated that currently it is only an idea, not law. It is here for discussion and the Planning Board will forward ideas to the Town Council. Regarding spot zoning, they are the first people to come forward within this bylaw. He noted that a Zone VII came in a few years ago at Cook's Farm and they were the only ones. The Depotos happen to be the first people to come in under this idea. He thinks there will be other people around town that will want to enjoy this same bylaw. Regarding traffic, he stated that this is far from a convenient store. It is more like a farm stand/landscaping place with a few items like



**DRAFT FOR REVIEW**

milk. He stated he does not think someone from Lincoln Street will drive over there to buy one gallon of milk. He does not think it will change the current traffic count. He stated this is a public meeting; if there are so many people that are objecting, they should be here. But, there are only a handful of people here at tonight's meeting. As a Planning Board member, he must look at what is good for the whole community. As for the people that are here, most have said that if it is done correctly, they will not mind. He stated that this is probably the best thing that could happen for the neighbors. Once it passes, the Depoto's would have to come with a site plan to the Planning Board and all the neighbors could come back to express concerns about the property. Restrictions can be put on the site plan which could include cleaning up the site and the house next door. The Planning Board has no power right now.

Mr. Carroll asked for clarification on the seating.

Mr. Taberner noted he was working with the town to develop bylaws that may work for the community. This is a bylaw that can be put in any district in town. The first five bylaws create this zone. It does not put it on the map. The sixth bylaw puts it on the map in one location. In the future if someone else comes forward, it can also be put on the map. Regarding seating, many country store type places have a small seating area where a person can sit and have a cup of coffee. The town did not want to allow the whole area to be seats so there was a limit on both inside and outside. If an owner were to want more than 20 seats, they could ask for a special permit from the Planning Board. Allowed is 10 percent of the floor space open to the public, so it cannot be turned into a restaurant. He noted beer and wine is in there, but it would be dependent on the Town Council providing a license for it to be sold. Currently, there are no licenses available. If one comes up, an application can be applied for through Town Council.

Mr. Jeff Nutting, Town Administrator, said that the Franklin alcoholic bylaws require that any establishment have a minimum of 40 seats and a full menu. So, this would be alcohol to go, not on premises service. He noted it is an odd shaped lot. But, the way the zoning is written, 200 ft. frontage is required. So, could not build this in the back part of the lot; it would have to be on Washington Street to meet frontage requirements. A site plan may call for continuation of fencing along Spring Street. He thinks there are controls in place in the current bylaw as far as location of the store. It would probably be an expansion of the existing space.

Mr. Rondeau stated this may be a great store for kids to go to. The idea is to make it a spot that is convenient for the neighbors and neighborhood. It will help the people so they will not have to make numerous trips to a large store. It will take traffic off the main roads. He thinks it will be beneficial.

Mr. Taberner stated it is 3,500 sq. ft. for a primary structure. The store is over 3,200 sq. ft. already. They could make some changes to the structure if it were to become a country store. A few hundred square feet could be added.

Chairman Padula stated his concerns were the square footage which Mr. Taberner addressed and the beer and wine which Mr. Nutting addressed. He noted the loam can be screened at any time after 7:00 AM. He stated cleaning up the concrete would be good as it was never the intent for a nursery to have it. They do have the right to use heavy machinery and clean up their property. The country store must come before the Planning Board with a site plan if this does pass. Drainage, traffic, and screening for the neighbors is all looked at during the site plan process. He noted people can attend the next Town Council meeting to express their concerns again.

Mr. Depoto stated the concrete was removed.

Mr. Nutting clarified that a non-Town Council neighborhood meeting was held about one month ago to get initial feedback. The Town Council then put it on their agenda to refer it to the Planning Board. If the Planning Board makes a recommendation, it will then be on the Town Council's agenda for Wednesday.

**DRAFT FOR REVIEW**

***Motion to Recommend Rural Business Zoning District to the Town Council. Halligan. Second: Carroll. Vote: 5-0-0 (5-Yes; 0-No).***

7:05 PM      **PUBLIC HEARING** – *Initial*  
***Best Development Practices Guidebook***

*Documents presented to the Planning Board:*

1. *Franklin Planning Board Public Hearing Notice with Received by Town Clerk date September 27, 2016*

Mr. Taberner stated the Conservation Agent provided a definition from Mass. DEP's regulations on what low-impact development (LID) is. It states the Conservation Commission needs to consider environmentally sensitive site design that incorporates low-impact development techniques. They do not necessarily have to implement it if it is not right for a specific site. This is the same for the Planning Board. The Planning Board is not forced by regulations to consider it, but it is the hope that the low-impact development concepts are going to be looked at to see if they are appropriate. He stated version one of the Best Development Practices Guidebook was published in 2001. Developers are supposed to be utilizing this document. It is not up-to-date. He noted the low-impact development terminology is already in state regulations and in several places in the town code. LID is a somewhat generic term. He read the state definition of LID techniques. He said he developed the section of LID for version two of the Best Development Practices Guidebook. It does not change any current regulation. They tried to make a document that conformed to current federal and local stormwater policy and up-to-date land planning policy.

Chairman Padula stated the document should state that LID will be considered. He does not want people to interpret that LID is the guideline and must be used.

Mr. Maglio stated LID must be applied to each project on a case-by-case basis. The Planning Board has the final decision of what should be used when the plan is approved.

Mr. Halligan expressed that the Planning Board should still have the authority to not do LID if it is not right for the project.

Mr. Taberner stated he received a letter from the Conservation Commission indicating they feel the book is ready for adoption with a few typo changes. They hope the Planning Board supports the document.

Mr. Halligan asked why the Conservation Commission is heading this as there are some projects in which they have no jurisdiction.

Mr. Taberner stated Conservation, Engineering, and Planning work together. He noted both Conservation Commission and Planning Board have equal weight in adopting this.

Mr. Rondeau asked if this would allow a non-buildable lot to be buildable.

Mr. Maglio stated it would still have to go through all the other criteria.

Mr. Taberner stated he does not think the document changes anything; it is a replacement of version one. Regarding LID, it is not that it must be done, the Planning board must decide if it is right for the project.

***Motion to Accept the Best Development Practices Guidebook. Halligan. Second: David. Vote: 5-0-0 (5-Yes; 0-No).***



**DRAFT FOR REVIEW****General Business (continued)****C. Form G and Bond Acceptance: Open Space Development Old Grove Street**

Mr. Maglio stated the Od Grove Street Open Space Subdivision was approved about 10-15 years ago; it consists of four ANR lots with open space dedicated to the town in the rear with a 10-ft. access way coming off Old Grove Street into the open space. The developer is wrapping up construction on some of the houses and looking to have a bond set. There is no infrastructure to be put in place other than creating a walking path from Old Grove Street to the open space. In the decision, there was a requirement of installing sloped granite edging. There is some in front of the houses now and it needs to extend in front of the last house. Instead of installing the remaining sloped granite, the developer has offered to overlay the entire street in front of those four houses to make it better looking. They will pave it curb to curb. It is of more expense for the developer, but better for the town in the long run.

Chairman Padula asked what the developer was trading off. Isn't it supposed to be overlaid anyway?

Mr. Maglio stated about 100 ft. of granite edging would need to go in front of the last house to be built. He said he does think there is a need for it. He thinks the overlay would provide more benefit. The developer was not required to do the overlay; there is nothing in the bylaws to require it.

Chairman Padula stated he would prefer if the developer did what he was supposed to and put the sloped granite and the grass strip back in, loam, seed, and two concrete pours.

Mr. Maglio stated the overlay estimate was about \$12,000; the granite curbing estimate was about \$3,000.

Mr. Halligan asked from which decision the town would benefit more.

Mr. Nutting stated the trade-off would be that one house would not get curb in front of it, but the whole street in front of the four houses would get paved.

The applicant stated that they would be paving from the first trench to the last trench; from approximately lot three to lot five.

Chairman Padula requested cape cod berm for the section that will have no curb when they pave.

The applicant said on the approved plan there are boulders at the entrance to the walking path. It will stay in its natural state. Some site work and the open rail fence still needs to be done per the permit requirement. He stated that as a developer things must look good and the overlay will look better. Whatever the Planning Board decides they are ok with.

***Motion to Accept the offer of paving versus the granite. Halligan. Second: Carroll. Vote: 5-0-0 (5-Yes; 0-No).***

***Motion to Release the Covenant and establish a bond for \$18,000. Carroll. Second: David. Vote: 5-0-0 (5-Yes; 0-No).***

***Motion for a five-minute recess. Halligan. Second: David. Vote: 5-0-0 (5-Yes; 0-No).***

**D. Endorsement: Ben Franklin Charter School – Site Plan**

Mr. Taberner stated the applicant for the Ben Franklin Charter School submitted mylars for endorsement for the site plan. The changes that were required on the plan have been done; endorsement is recommended.

**DRAFT FOR REVIEW**

***Motion to Endorse Site Plan for Ben Franklin Charter School. Halligan. Second: Rondeau. Vote: 5-0-0 (5-Yes; 0-No).***

**E. Discussion: 278, 280, 300 West Central Street with Joel D'Errico**

***Mr. Halligan recused himself.***

Mr. Joel D'Errico, Mr. Bruce Wilson, Principal of Guerriere and Halnon, Inc., and Attorney Mark Lanza, addressed the Planning Board. Mr. D'Errico provided background information on the site. He is the owner of 280 West Central Street and by contract of 278 and 300 West Central Street. At present, the area is zoned as General Residential V. It is approximately 50-53 percent impervious. A traffic study was performed by Mr. Ronald Muller in January based on the information Mr. D'Errico provided him about the plans of unit count and bedrooms. Mr. D'Errico delivered the study to Worcester Mass. DOT in July with the site plan and the units. He has received by email concurrence that they would probably approve the access entrance only to 300 West Central Street subject to final site plan and drainage. The 30 units are all 2 bedrooms, 2 ½ bath, 2 car garage. At present, the three parcels bring about \$10,000 yearly to the Town of Franklin in property taxes. Based on present assessments this site will yield \$150,000 yearly in property taxes to the town. It will also yield approximately six children into the school system.

Mr. Wilson stated that at the southerly end of the property there would be an entrance/exit access. Using the turning templates, and with the roadway at 22 ft., a fire truck would fit. He provided an overview of proposed drainage and infiltration.

Mr. Lanza noted the General Residential V zoning. He stated they are at the meeting looking for feedback and guidance from the Planning Board, especially for special permits. He reviewed the impervious area and indicated they may be looking for a special permit for that also.

Chairman Padula stated he had no comment. Planning Board members had no comment.

***Mr. Halligan re-entered the meeting.***


**F. Meeting Minutes Approval – September 21, 2016 and September 26, 2016**

***Motion to Approve the September 21, 2016 meeting minutes. Carroll. Second: Rondeau. Vote: 5-0-0 (5-Yes; 0-No).***

***Motion to Approve the September 26, 2016 meeting minutes. Carroll. Second: Halligan. Vote: 5-0-0 (5-Yes; 0-No).***

***Motion to Adjourn. Carroll. Second: David. Vote: 5-0-0 (5-Yes; 0-No). Meeting adjourned at 8:49 PM.***

Respectfully submitted,

  
Judith Lizardi  
Recording Secretary