

Franklin Borough Planning Board
Meeting Minutes for
October 21, 2013

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

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

ROLL CALL OF MEMBERS PRESENT: Mr. Christiano, Mayor Crowley, Mr. Kilduff,
Mr. Lermond, Mr. Zschack, Mr. Zydon,
Mr. Foulds

ABSENT: Mr. Nidelko, Mr. Cholminski

ALSO PRESENT: Mr. David Brady, Esq.

APPROVAL OF MINUTES:

Mr. Foulds made a motion to approve the **Franklin Borough Planning Board Meeting Minutes** for September 16, 2013. Seconded by Mr. Zschack.

Upon Roll Call Vote:

AYES: Christiano, Kilduff, Zschack, Zydon, Foulds, Lermond

NAYS: None ABSTENTIONS:

APPROVAL OF RESOLUTIONS:

APPLICATIONS FOR COMPLETENESS:

ADJOURNED CASES:

APPLICATIONS TO BE HEARD:

OTHER BUSINESS:

PAYMENT OF BILLS:

Mr. Foulds made a motion to approve the **Franklin Borough Planning Board Escrow Report** for October 21, 2013. Seconded by Mr. Zydon.

Upon Roll Call Vote:

AYES: Christiano, Kilduff, Zydon, Foulds, Lermond

NAYS: None ABSTENTIONS: Crowley, Zschack

DISCUSSION:

Mr. Lermond advised Discussion and Correspondence are relative to an ordinance for revision passed to the Board by Council. Mr. Brady provided MLUL guidance regarding contemplation of ordinance passage implementation. He said their

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function is to talk about it, how they think it fits to the Borough's zoning and planning then communicate to the Governing Body what they have and recommend.

Mr. Lermond put on record saying it's Ordinance #13-2013 replacing portions of §161-32 D (5) & (6) concerning mobile dwellings, trailer, recreational equipment and commercial vehicles in a residential zone.

Mr. Zschack requested to distribute a handout the Council received. Mr. Lermond accepted. Mr. Brady said if that's being done, Mr. Lermond you indicated §161-32D (6) is effective; I'm not sure it is. From what I'm reading, it's D (5) that is being replaced in its entirety and to be replaced with the language that's in Ordinance 13-2013. I think D (6) remains in place so it will be D (6) in terms of types of vehicles it addresses in terms of size, bulk and all for us to consider.

Mr. Zschack said his handout better explains and shows what the old ordinance was and what the proposed changes are. Mr. Lermond said there's two changes to (6) and guess all of (5) is to be replaced by "a" & "b". Mr. Brady agreed. Mr. Christiano asked the Chairman if the public can have a memo copy to comment on the issue. A quick discussion followed with copies of Mr. Zschack's handout distributed.

Mr. Kilduff queried Mr. Zschack's handout looking different than the introduced Ordinance and asked if everyone received Ordinance 13-2013. Mr. Brady said it only deals with Section 5; the one in their packet, Ordinance 13-2013 deals with D (5). A brief discussion followed.

Mr. Lermond said they should proceed to have Board discussion, open/close to the public then finalize their discussion. He asked what Mr. Brady would need from the Board. Mr. Brady said he'll eventually need a motion authorizing him to communicate to Borough Council the Planning Board's recommendation and further explained. Mr. Lermond commented we're looking to state we all have a motion and a vote. Mr. Brady agreed. Mr. Lermond said we're trying to get consensus not just comments.

Mr. Zydon asked what precipitated this discussion that's now a big issue. Mr. Zschack explained he was on a three person committee from the Council who addressed the issue arising out of residents concern over current mobile home and work vehicles on their property. The committee reviewed and made their recommendations to Council. Mr. Zydon asked what it was. Mayor Crowley explained how it was precipitated through it being before the Planning Board which will then go back to Council.

Mr. Kilduff said a tow truck was involved and is how the commercial end got involved. A tow truck driver received the violation and came before Council asking for help; thereby the changes to that portion of the ordinance.

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Mr. Zydon commented it's a disagreement between residents and expressed his expertise of heavy duty vehicles. He said on reviewing the ordinance and considering the Zoning Officer's memo, suggests changes. Mr. Zydon remarked on the photos from the Director's Memo and suggested increasing GVW to 19,500 which would simplify it. Mr. Zydon read a portion of 5b under commercials and questioned why a fire truck is at someone's house when it should be at the station.

Mr. Zydon acknowledged the Zoning Officer's prior policeman position calling a tow truck or wrecker, an emergency vehicle and questioning the on call status. Hence his 19,500GVW increase proposal thereby taking the tow truck out of the emergency exemption and be allowed in a residential zone. Mr. Lermond queried the 7K lb fitting there now. Mr. Zydon said a pick-up truck couldn't be legally parked in town and further described other vehicles and weights which led to his proposal. Mr. Brady said as long as they're commercial. Mr. Zydon said if the resident registered commercial; you could have a pick-up truck and reiterated the 19,500 increase covers everything. Get rid of the fire and wrecker exemption whereby the ZO won't wonder if it's on call.

Mr. Zydon questioned about fire trucks. At this time a relative discussion followed whereby it was believed to be talking about forest fire trucks. Other trucks and weight were further discussed. Mr. Zschack mentioned other local towns have 10K lbs in their ordinance and is why they chose 10K lbs. Mr. Kilduff concurred same while checking others ordinances. Mr. Zydon said no-one has made an issue of it. Mr. Kilduff said the question arising from his comment is this ordinance proposes to increase commercial vehicle permitted on the property from 7 to 10Klb keeping in line with another ordinance. Now you want to double the vehicle size you're going to allow parked in front of residential. Mr. Zydon agreed and said because of vehicle weight increase demand to a business type.

Mr. Lermond said GVW is gross vehicle weight plus its load. Mr. Zydon said gross vehicle weight rating is truck, equipment and load. Mr. Lermond agreed. Discussion of weight, truck types/registration, truck photos representation, storage and height were further discussed.

Mr. Foulds commented on RV being 25' off the road, 10' from a building or dwelling and asked why wouldn't tow trucks and others fall in that same requirement. He said the RV part is changing. Mr. Lermond asked where it says one vehicle over 10Klb was allowed. Mr. Kilduff said one vehicle 10K lbs GVW and any unlimited vehicle you can fit in the garage in addition to the 10K vehicle and any size vehicle meeting the emergency vehicle definition. Those wreckers and the sort would be permitted and could have a 10K lb vehicle parked on your property, have a tractor/trailer in the garage and can have a wrecker. Mr. Lermond said but it says no more than two axles. A brief discussion followed.

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Mr. Zydon said in reading the ZO considering a tow truck an emergency vehicle is why he proposed 19,500. There's no question if there are emergency vehicles and takes the guess work out of whether it's in emergency service or just parked.

Mr. Foulds said I think we're now saying we're going to restrict an emergency vehicle being parked technically legally out on the road and assume we're talking overnight or evening. You're going to have an unrestricted 28' tow truck in front of someone's house all the time. He's always on call, when not in business can always have this gigantic emergency vehicle. Mr. Lermond said I didn't understand this to mean other than in the yard. Mr. Zschack said he said on the property in a residential zone. A brief discussion followed.

Mr. Zydon said he remembers looking through the ordinance a while ago saying no commercial vehicle on the road over night over 7Klb. When he looked at this it doesn't say anything about it being on the road. Mr. Lermond said because it's a different ordinance. After a brief discussion, Mr. Lermond said they'll go by what the Council read because that's what was introduced.

Mr. Foulds said that's when it originally merged into RV discussion which already has to be at least 25' off the road; not within 10' of the house. He questioned the allowance of a 38' tow truck, almost 24/7 if on call, not held to that same requirement of not being at the edge of the road in the driveway whereby neighborhood children are playing. Mr. Zschack said he thinks it was put in at 20' in length.

Mr. Foulds continued discussing RV on the property, storage and of safety being more primary than aesthetics to having the truck there. Mayor Crowley commented on a tow truck being considered an emergency vehicle, being certain it's on call, and people may not want it in their neighborhood all the time.

Commentary regarding emergency vehicles driven home for on call response, a tow truck not being considered an emergency vehicle nor of an on call gas company truck and other on call types, town folk possibly not wanting trucks in their neighborhood as they get larger and aesthetics was had. It was said, though at times, police emergency tow response is necessary with quick operator access. Mayor Crowley said for access, the bottom line being the tow truck should have commercial space by the highway for access. Mr. Foulds said that would be the alternative. Mayor Crowley commented it's (the driver's) responsibility.

A discussion on emergency vehicle types, axle number and emergency vehicle vs. first responder was had.

Mayor Crowley reiterated what initiated this and asked why change an ordinance that seems to work. Mr. Zschack informed the committee didn't make the change due to a complaint, but because it made sense. Mr. Zschack questioned Mr. Zydon saying go to 19,500, get rid of "b" and that last sentence. Mr. Zydon agreed and

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said because now you have no question and can't discriminate whether it's a tow truck on call; he's under the weight limit and that's it; he's allowed in. Mr. Zschack questioned restriction possibility. Mr. Zydon commented, you shove it in his property; you put it in the municipal lot; but at least he can still have it in town.

Mr. Brady said, Mr. Zydon without going away from what you're talking about emergency vehicles, what else is 19,500-mason dump. Mr. Zydon responded. He said 10K is ancient history because industry needs heavier vehicles, GVW-wise; mason dumps, landscapers, and referenced his pictures.

Mr. Zydon commented on his proposal, of having a location to put it on, and the Mayor saying it should be in a lot whereby people will think you want it in a lot and the town will provide a location. Mr. Foulds questioned if by putting weight, they're changing the ordinance and are saying okay to commercial vehicles to a certain weight means you could be putting many more commercial vehicles.

Mayor Crowley said people may not want mason dumps in their driveways or neighborhood. Mr. Zydon commented on other towns' restrictions and this being a working class town. Mr. Zschack said, not hinder people from making a living. Mr. Foulds expressed his thoughts on commercial trucks in the driveway, buffers and makeshift parking

A discussion regarding deed restricting, front yard parking, safety, commercial vehicle parking, limits of certain town properties and neighbors' view were had.

Mr. Kilduff recalled a flatbed tow truck precipitated the discussion and asked Mr. Zydon for the typical flatbed tow truck length at 19,500. Mr. Zydon said a Jordan; it may be a standard 20'. A relative discussion followed.

Mr. Zydon said the biggest issue is not so much the nuisance; it's what precipitated it and is why he said 19,500. Remove wording and go from there. Mr. Foulds agreed and said with it, that same limited sized vehicle be off the road safely parked.

Mr. Lermond asked Mr. Zschack how the committee determined from 7 to 10. Mr. Zschack said because that seemed to meet local ordinances. Mr. Lermond queried it being Mr. Zschack's or the committee's vehicle knowledge. Mr. Zschack responded he nor the committee have that knowledge, but because of local ordinances.

Mr. Christiano commented 10K lb flatbed tow trucks are relatively new vehicles on the road. A brief discussion regarding 7K and 10K was had. Mr. Brady said what he thought Mr. Lermond is saying is, should we have any exemptions or just say 10K lbs; keep everything else the same, and you can't bring home your tow trucks or ambulances or anything else. Just have pick-up trucks and cars. It was said it's too

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restrictive. Mr. Brady said what I'm saying is that's the first question the Board has to consider. It was said that was too restrictive.

Mr. Zydon talked about school buses allowed to be brought home years ago as it alleviated the yard of excess equipment and was also easier for the driver to start the route. Mr. Lermond asked what happens today with school buses. It was said they're on a municipal lot. At this time a discussion regarding other trucks, its weight, their usage type and school buses was had.

Mr. Foulds said the question is how far you want to restrict with 10K no exemptions. Mr. Zschack said you got a 19,500 take out the last half of "b" on there for some type of distance restrictions. Mr. Brady said you want to put a bulk restriction and explained with an example. A brief discussion followed.

Mr. Kilduff said the next part of this when we turn over, we go to RV's. The next part of this is if you have a garage, there's no limit to what you can put in the garage. It was said he's got a safety hazard. Mr. Kilduff said you have a commercial vehicle in there. Mr. Lermond said I don't know why we have to bring a dwelling into this ordinance. If you have a garage, you could put whatever you want in your garage. A relative discussion followed along with idling and beeper alarm.

Mayor Crowley addressed his concern of large vehicle storage in a garage whereby someone may start a trucking business in their house, of repairing and storing.

Mr. Zschack said we're talking about parking in the garage not a business and there are restrictions in other ordinances. Mayor Crowley said whether you agree with it or not, they make a business. Mr. Zschack said other ordinances prevent that. Mr. Foulds said the question is do we even have to address that. Mr. Lermond said they've discussed it and will proceed with public input on this portion of the ordinance discussion.

Mr. Christiano made a motion to **Open to the Public to comment on Ordinance Discussion only**. Seconded by Mr. Zydon. All were in favor

David Morgan, 150 Main Street stepped forward. Mr. Brady advised they're only talking about commercial vehicles and will talk about RV's later. Mr. Morgan agreed.

Mr. Morgan addressed his concern with the 10Klb restriction affecting a vehicle capable of pulling a bigger RV. A brief discussion regarding commercial vs. passenger vehicle regarding Motor Vehicle was had. Mr. Brady advised, we're looking at the Ordinance commercial vehicle; truck, bus, van, sedan, livery vehicle, station wagon with advertising on the side or any other commercially used vehicles except passenger cars with no advertising. Mr. Lermond asked if it was in the definition section; Mr. Brady agreed and said whatever it's registered; commercial.

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It's not the important question of the ordinance it's the use of it in particular, advertising; again, the aesthetic visual impact of that vehicle. A discussion followed.

Sean Kidd, 3 Evans Street, commented on being a working class community and commercial vehicle restriction is ridiculous as people leave for work early in the morning such as emergency responders and tow truck drivers who pay their bills. Mr. Kidd said any restriction on any commercial vehicle should be looked at strongly, agrees 19,500 is a good limit, knows there's a height restriction from the previous ordinance for the accessory structures and, suggested a height limitation thereby eliminating bigger trucks fitting under the 19,500 limitation. As for tow trucks, pick-up trucks nowadays, 13, 14K is common place and shouldn't restrict people that pay taxes. Therein, Mr. Brady provided counsel.

Brenda Gunderman, 36 Nestor Street, wanted to remind the Board a school bus is over 28KLb and said 9-10 are in the parking lot. Ms. Gunderman said they're poor people who work for a living. She said she's a bus driver and talked about where she parks her bus and how long. Ms. Gunderman feels the 19,500 lb. restriction excludes school buses. Therein, Mr. Foulds said in (NJSA) 39:4-138 laws they're not going to over-ride the parking restrictions or non-restrictions. Mr. Lermond said this isn't parked. Mr. Foulds said this is where we said there was a difference on private property or in residential zone and Mr. Brady advised the language is "kept or stored." It's a little different than parking.

Pat Rowett, 36 Route 23, Franklin, wondered if they could possibly check with Dover Ordinances. She talked about her Aunt who lives in a strictly residential area of Dover and described the types of commercial vehicles in the neighborhood to which neither she, neighbors or Dover object to. She thought the Board may want to check how Dover's ordinance is worded to allow that amount of commercial vehicles in a dedicated housing development. Ms. Rowett questioned who designates what a state of disrepair is, and the requirement of a storage building.

Mr. Brady said what they would claim Ms. Rowett is, they have a pre-existing non-conforming use if they would continue, they would have to show legal when they started storing if they're in that it's been made illegal now and they've been using it; they have a right to continue. Ms. Rowett said basically, it would be grand-fathered in. Mr. Brady said it was legal when it first started. He noticed Ms. Rowett was talking about a situation in Dover, further elaborated and therein provided advice.

Sean Kidd said to clarify what Mayor Crowley brought up in running a business out of your home is an acceptable use policy in R1-4 as long as you don't accept clients during the day nor accept lot deliveries and shipments. He applauds someone starting a business in their house as long as they're meeting other restrictions for the accepted use. It was said, "he'd be variance". Mr. Kidd said no, as long as you don't have signs you're not accepting clients and don't have an excessive amount of deliveries; R1-4.

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It was asked if RV people will have a chance. Mr. Lermond advised RV will be done separately.

Mr. Foulds made a motion to **Close to the Public comment on ordinance on commercial vehicles**. Seconded by Mr. Kilduff. All were in favor.

Mr. Lermond said let's see what RV opens up. The Chairman was asked if prior to doing so, they should finalize any notes on the first section amongst themselves. Mr. Lermond said if somebody would like to finalize would be great. Mr. Foulds informed he had a mini proposal to present. Therein, the Board discussed possible verbiage.

Mayor Crowley commented to make it clear in cases you would have these vehicles in front of the house. Mr. Foulds said then they go to the 25' off the road language. A discussion regarding the roadway was had. Therein, Mr. Foulds said he was in agreement with the 19K as it seems to cover most issues being discussed and RV is the biggest vehicle on the road other than a semi or may be about the same. A brief height maximum discussion was had. Mr. Foulds said if you're starting at 25' you're going backwards. It has to be in yard and if you say we had those other parts where there were setbacks within 10'. Mr. Zschack said the reason was for fire that can also be added to this.

A discussion regarding setbacks, sidelines, restriction of certain vehicles and comments on having RV's visibility and being in compliance was had. Mr. Foulds said it's simplifying with the distance standard and/or distance as Mr. Zydon said, just restricting the biggest vehicle by weight and you're not going to get bigger than RV which is 60' long; some of those 12' high, and make it all the same.

Mr. Lermond said keeping that in mind, let's bring RV into this. Mr. Kilduff said if we could just go back to this, what I'm wrestling with here is earlier on you talked about not having these vehicles out and keep it just the front yard. If you take an R1, R2 Zone where the setback is 50', they have uniform setback of houses 50'; now you're going to have these commercial vehicles as long as they're back 25' so they're in front of all these houses. Is that what you want? Mr. Zschack said that's the proposal. A discussion on length, Woodlawn Drive homes and RV's was had.

Mr. Kilduff said in getting back to garage, that adds another commercial vehicle to the property and asked how many commercial vehicles to allow in a residential zone. A relative discussion followed. Therein, Mr. Zschack referred to iii and Mr. Brady said the way its written then, will be no limitation. It was further discussed. Mr. Brady said the 19,500 still apply. It was said so you put something more than that in the garage. Mr. Brady talked about a resident in Green who does displays.

Mr. Foulds said we're just talking about big vehicles and how big and where they can be and where they can be parked. Mr. Zschack said he likes that proposal. Mr.

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Foulds said hold that the way it is, jump into RV then come back and see if you could literally just tie it altogether to some extent as I think it's the same theory.

Mr. Brady said just going through real quick I think there's no problem with the owner release to regularly use as properly registered. Mr. Foulds said according to what vehicle type you have. It was said you don't have to worry because now we have the size limitation on whether it's a first responder vehicle or anything else; we just have weight. Mr. Foulds said you're going to re-write your end of this. It was said legally there is that if you're going to have commercial plates on it then you're going to have the letters on it if you're required. We're abiding by all Motor Vehicle Laws pertaining to the type of registration the vehicle has.

Mr. Lermond said so you're taking "b" completely out. Mr. Brady agreed. Mr. Lermond said you're not talking about the number of axles, length or height. A relative discussion followed.

Mr. Lermond brought up "c" and read a portion of it. A discussion followed. Mr. Lermond said which I think it's what's in "a" and "b". Mr. Foulds said so we're keeping the "c" in there. It was said it's got to be farming; it should be farm not commercial. A brief discussion followed.

RV Discussion

Mr. Foulds questioned if the shrubbery fencing portion was there, why it's taken out. He thought (on) the driveway, you don't need anything to hide it but if it's in the grass in the back then and want to leave that there, then have it; you're permanently stored in the backyard. Mr. Zschack said when talking about screening, it didn't talk about what type and was left for interpretation. He said does it really make a difference if you have a 6' fence around a 12' RV. A brief discussion followed. Mr. Kilduff said his understanding is it was tested in court and further elaborated. He said there's been a judicial interpretation; he's got a 6' fence that's adequately screened in accordance with the court.

Mr. Foulds said we have it 25' from the traveled way. Mr. Christiano said yes, but "c" also includes the setback; the side. Mr. Zschack said that was to not have a 12' high RV right next to the property line. Mr. Foulds said in other words, you can't fight the side of that house fire. Mr. Zschack said it was to try to keep it 10' from the building to allow fire and rescue to get around the building. Setbacks and accessory building discussion followed.

Mr. Zydon said the problem with these ordinances is the RV is permanently sitting there and can't use it if it's going to be stored there. Mr. Foulds said an RV may be used 4 weeks out of the year and now be stored for 48 weeks. Mr. Zydon said in the guy's yard. Mr. Foulds said, now we're going to say this is where you can put it. Mr. Zschack said the idea is not to utilize it. Mr. Foulds agreed.

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Mr. Zydon said when you come back with accessory structures, it sounds like because the person put it there to store it as was said, they're only using it a couple of times during the year. Well, it's considered a permanent building; it's got wheels on it, doesn't have a permanent building and can be moved around.

Mr. Lermond said but it's not going to be. Mr. Brady said I think you're saying the impact is similar to being a building. Mr. Foulds commented on it's a fire hazard, is a big structure and bigger than some mobile homes. Mr. Brady said from his perspective, put together what their comments are and; asked if all are satisfied with removal of the landscaping and fencing requirement. Some members agreed.

Mayor Crowley said they should remember there are trailers and small RV's not included. It was said that's all included in this, the same restriction. Mayor Crowley said in general the problem he sees is when people get trailers, go camping for a couple of years and never moves the next five years. It was said to do what they do with pre-existing conditions.

Mr. Foulds said they bought an \$82,000.000 mobile home but don't have a way to store it, do we give them six months to sell their trailer. Mr. Brady said they shouldn't have it there now to begin with under the current (ordinance). Mr. Zschack said we're considering making it less restrictive.

A discussion regarding screening, setbacks, and pre-existing non-conforming use, garages and principal structure were had. Therein, Mr. Kilduff explained parking under the old and new ordinance. Mr. Zydon explained his interpretation of parking in front of the house.

Mr. Zschack asked if the ordinance limits, or can he just park an RV onto his grass in front of his house. Mr. Zydon said 25' off the road minimum. Mr. Zschack queried driveway restriction. Mayor Crowley said it's very hard to define driveway. Mr. Kilduff said that's why he says no closer to the street than the principal structure. Mr. Zschack commented if they can change to allowing it in the front but limited to a driveway.

Mr. Foulds asked if he's saying the prolongation of the space from the arrow lines of the house and commented on double width driveways. Mayor Crowley said he thinks there would be a lot of cases where they will put it on the lawn in front of the principal structure if they have space and will sit there depending on usage. Mr. Foulds asked if commercial would be a problem. Mr. Brady said the commercial one doesn't say anywhere and everybody presumes they'll put it in the driveway but the fact is it's saying you can park it at your house. On residential situations you have a whole bunch of non-standard parking surfaces in residential settings.

Mayor Crowley said we have had problems with some people especially now that every kid in the house has a car and driveways have expanded and is very hard to

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regulate. Mr. Foulds said you have to define RV and any other non-passenger vehicle. A minimum of 25' or the front line of the house; whichever is greater.

Mr. Foulds commented on commercial and RV's being kept from the front line of the house rear-ward and further elaborated. Mr. Zydon said commercial vehicles and RV's are two different animals. Mr. Foulds said if RV needed to be defined, it would include travel trailers and trailers. Mr. Brady said it says mobile dwelling, trailer and recreational vehicles. Mr. Foulds said RV's and trailers are the same thing and don't want them on the front yard. You want them from the front line of the house backwards; do the same for commercial vehicles and there shouldn't be any differentiation. It was said it's not; it's a family RV. A brief discussion followed.

Mr. Brady read the definition of recreational and said it talks about trailers and motorized homes. Mr. Zydon said commercial is a separate issue, leave it as is and RV and commercial are totally different animals. Mr. Brady said commercial vehicle regulation talks about storage; it does say stored. It doesn't say anything in the commercial vehicle section like it does in the RV section about being stored. You want it properly registered on site; that does help. The RV in "d" and "e" says it be maintained in mobile condition and mobile dwellings must be cleaned and repaired and carry a current driver's license. Storage, driveway, fluid leakage, parking and restriction were discussed.

Mr. Zschack made a motion to **Open to the Public RV discussion**. Seconded by Mr. Christiano. All were in favor.

Mr. Lermond said the meeting is open to the public to discuss the RV topic of the proposed ordinance.

Brenda & George Gunderman, 36 Nestor Street. Mrs. Gunderman described her lot, neighbor's proximity, fence and landscape screening. She's had a camper since 1977, are ready to retire and found out there's an Ordinance against it after having spent money. They've worked hard, want to travel and be able to have a camper on their property which is registered and insured. Mr. Gunderman addressed his concerns of parking his trailer, meeting the requirements and the corner lot road issue affecting trailer parking. Therein, Mr. Lermond clarified their having two front yards which is how the Ordinance looks at it.

Mr. Gunderman said if we go with the gentleman that talked about being to the edge of the house, I'm not going to be 25' off the road but be fine at the edge of the house. Mr. Lermond said you're in line with the principal structure. Mr. Gunderman agreed and said even if they're backed up against Ms. Zedak's fence, there's no fire hazard because fire equipment goes around that way anyway.

Mr. Zydon commented there are small lots; they like to camp, have a little lot and a camper they want to keep. Mr. Foulds suggested a type of ramp when the driveway

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is adjacent to the house. Mr. Gunderman talked about a landscaping mishap while pulling his trailer and is glad they're taking that out.

David Morgan, 150 Main Street questioned if he's hearing what's being discussed is they're pulling 25' back as long as they're in front of the dwelling. Mr. Zschack said it's being discussed. Mr. Morgan said his trailer is set back 25'; 10' off; 6' from his property line; has a lot of backyard and questioned if he's understanding what's being discussed on being behind the edge of the house or in the (Gunderman's) case, the side of their house. Mr. Zydon said what he gets is if they don't have 25', it can be up against the house. Mr. Lermond said it wouldn't be beyond the edge. Mr. Morgan agreed. Mr. Zschack said that's not what was in the introduced Ordinance; it's what's being discussed.

Mr. Morgan reiterated his question. It was said that's part of it. Mr. Foulds said an Ordinance was presented to us; it's the first I've read and gave my opinion on an Ordinance sent for recommendation. Mr. Morgan asked for neighbor definition should a complaint be made by a none-neighbor then gave his terminology of neighbor. Mr. Foulds provided the meaning and said it's subjective. Mr. Morgan expressed his hypothetical opinion of living next to Mr. Foulds, having an RV parked in his driveway meeting the requirements and (Mr. Foulds) subjected to seeing it. Mr. Foulds responded he doesn't like that but if he's in compliance and everybody agrees, he has a right to do that. Mr. Morgan said exactly, it's his property.

Jim Marino, 4 Hilltop Lane commented the ordinance that was in place is a "get back at you Ordinance" and spoke of a 1975 incident with his neighbor which went to court whereby suitable screening was determined by a judge. He passed a 1975 picture depicting a fence and the trailer. Mr. Marino discussed his trailer, its storage and said he's had no complaints. Mr. Marino understands the need for ordinance clarification and commended the committee. He said he can meet the specifications and expressed RV's are not commercial vehicles but family pleasure vehicles and talked of their positives. Mr. Marino thought when he went to court in 1975, things were settled and commented, "Evidently, the judge's determination doesn't mean anything" and inquired if he's grandfathered as he may have to return to court if things change.

Sean Kidd, 3 Evans Street said some people have different visions of what an RV is; what the code actually represents, gave a list of them, and commented what the media displays of RV's. Mr. Kidd provided several street names having dual frontage. He said someone mentioned corner lot and how it's defined can go away with the accessory structure and use a little street address as the actual road frontage to maintain the 25'. He said planned communities have a public/private way and explained. Mr. Kidd commented on narrow lots, service roads, and of making the address on record the front roadway. He talked about his RV and plans and said he's non-compliant with the existing ordinance. The new one is forgiving and believes it's the way to go.

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Regarding accessory structure, Mr. Kidd is not going to park a shed in his driveway but would like to park his boat or RV whether it's in the front of his house or not. He said there are a lot of properties in town not only with dual frontage but driveways running alongside the property line. Whether it's 6' or not, those people should still be able to park their boats and RV's in their driveway.

Jim Marino, 4 Hilltop Lane said regarding the gentleman's question of "Who's my neighbor", no-one in his neighborhood ever complained about his RV. He had his attorney check into a matter the ZO issued someone a summons who then went about the neighborhood taking pictures of all RV's in Franklin, whereby the ZO had no choice but to summon them. It was said the day of his surgery she got the notice it has to be moved. Mr. Marino queried what's going on, is the ZO is being over-zealous with RV's; he's never had a problem in 40 years and questions that logic.

Dawn English, 72 Church Street addressed her concern regarding her pop-up in the driveway and of meeting the property line criteria. She talked about previously having a garage to store her pop-up, was town property that allowed its storage and later removed due to a nosy neighbor. Ms. English explained how the town maintained it and questioned her exemption. She further stated her property was grand-fathered, doesn't have the 25' and questioned moving to keep her pop-up.

Ms. English gave opinion that the Nestor Street complaint and of a neighborhood residing Councilwoman, should have been exempt from the committee. She further talked about RV's, storage and family pluses of having an RV. She pays taxes and asked what gives the (Board) the right to change law due to one person's complaint. Ms. English mentioned she's had her pop-up for 10 years, is an over 20-year resident and said it's too much government. She commented if a person has a problem to work it amongst themselves and not before the (Board). Ms. English is totally against this and will be petitioning as it's the people's town; the (Board) works for them and is sometimes forgotten.

Gary Henson, 30 Fowler Street said as the prior two people, his property borders Fowler St. and Catlin Rd. He described his steep driveway and house. He has parking behind his house and is on the roadway. Mr. Henson owns a Pontoon boat a commercial vehicle and works for Panetta & Sons. He explained his driveway in winter conditions and therefore parks his vehicles in the rear which doesn't give him 25' off the roadway. He further explained what he'd have to do to comply in his circumstance.

Mr. Christiano addressed the Chairman he'd like to clarify for some people present who may not understand. He explained the Ordinance doesn't get signed by the Planning Board; the Mayor and Town Council sent an Ordinance seeking advice on how it should finally look. The (Board) is taking advice from the public, they're not creating the Ordinance, and the final Ordinance will be decided by Town Council.

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(Mrs. Marino) said we're all aware; you're re-writing it though. Mr. Christiano said based on your input.

David Morgan, 150 Main Street said the Council is actually going to approve what you come up with. Mr. Christiano said they're going to consider it. Mr. Morgan asked Mayor Crowley if Council is going to re-write, by-pass or ignore the advice. Mayor Crowley said that's up to the Council; I can't tell you for sure. The Planning Board will make a recommendation through a letter to the Council. There will be a public meeting and Council will take their recommendation into consideration and decide on the final ordinance. I can't tell you they will accept everything, none; I don't know. Mr. Morgan said thank you; see you Wednesday.

Mr. Christiano said the reason things like this come to us is because we're more in tune with land use laws, know about zoning, setbacks, land use and the like. It doesn't matter what we recommend to Town Council; they are the final authority on what gets adopted. They could take everything we recommend, completely re-write it in one evening and approve it right there. Everything you're saying to us this evening, you're best to repeat in front of Town Council when it comes up for vote. It was said, "I think you're doing a good job." Mr. Lermond said we're trying.

Mr. Foulds said he wants to point out he volunteers one Monday per month, lives in Franklin, pays over \$8,000.00 a year in taxes and he, nor the others get paid for what they do. He'd rather be home instead of here at ten o'clock at night on Monday, but enjoys and feels he has input that also has value. He and the others are as them, a town member. It was said, "Stick with your game plan; you're alright."

Mr. Christiano made a motion to **Close to the Public RV discussion**. Seconded by Mr. Zydon. All were in favor.

Mr. Christiano said it may end up being re-written on per zone basis. It almost cannot be applied to any portion of the older section of town like Nestor Street, LaRue Street and the like. Even if you re-write the ordinance it's probably un-enforceable wherever these people live and can't be done.

Mr. Foulds said he brought up the word "grandfather", doesn't know how to define it and haven't gotten that far. There may be circumstances where driveways are only in front of the house and no other driveway. Certainly, you're not going to grandfather in, they can go and park an 80' mobile home where one doesn't fit now; but may have to consider that and is why he said grandfather where there's a structure or property that is not able to change. You can't do landscape, elevation, or land topography, there has to be some consideration for that.

Mr. Brady said make them from a grandfathering point of view for a little legal weight. Grand-father is usually used to describe situations where you have something pre-existing and non-conforming, and when there's a change in the

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ordinance it gets to continue but the essential elements of that is it was legal in the pre-existing so right now, something is going on that's legal, somebody's parking their RV in a certain spot that's legal under this ordinance; it becomes illegal under the next ordinance if they can show "I was doing it when it was legal and I get to continue"; then they get to continue. So when you use that word grandfather, that's what it usually implies to.

Mr. Brady said variance is needed to make it work and then a variance is needed unless as Mr. Christiano suggests, you go through and say okay, in a zone that has bigger requirements making it on five acres and 150' setback and various things there should be one criteria; and in a zone that is older more consolidated through the neighborhood, we should have different criteria is more I think what you're talking about.

Mr. Foulds said I understand some of these houses with dual street frontage and the rear are many and is an issue. He talked about a job he did on Fowler where there was nowhere to put anything legally in that sense that some of them have one or two car carports on the back strip cause it's still the property. He doesn't know if it's going to work or can do and figure other than like Mr. Christiano said, it's going to be more property-based than the blanket generalization.

Mr. Zschack and Mr. Brady concurred it could be the recommendation to the Council. Mr. Brady said you may have a situation where recommendation to Council is very specific on commercial vehicles-the 19,500 lbs. There's no hardship on that, but on recreational vehicles particularly what the testimony was and it's true, it's a use that's essentially with the residential use. It's not like commercial which is disparate; it's something people do with their families. Your recommendation to the Council could be "we find that the one-size doesn't fit all should be re-jigged on a zoning district by zoning district basis, or if not zoning district by zoning district geographic basis of some sort; consider land use characteristics, street characteristics and topographic characteristics in each property".

Mr. Foulds said I think we want a motion this gets sent back to Council for re-evaluation in light of testimony heard regarding non-conforming properties that cannot comply as written and specific setbacks and guidelines have to be more oriented toward what the setbacks are on these specific properties because they do vary. We have many different levels of setbacks through properties. Without saying, we're not going to take action on it now or recommend we take no action other than send it back to the Council for re-wording.

Mr. Brady said that's a perfectly fine recommendation to make. If he was to send a letter he would do it in a format that they heard testimony, have become aware there are distinct differences in the development patterns of different neighborhoods and different zone districts and think it should take those into consideration and should

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be re-written taking those into consideration. He asked if there is anything else beyond that that they want to tell the Council.

It was said, essentially, should they scrap it and start again. Mr. Christiano said no, just on recreational vehicles. Mr. Foulds said if this recreational part fits a certain property in town, may be fine but there's going to be small and smaller property sections. Mr. Brady said maybe on smaller properties, landscaping screening's appropriate. Mr. Foulds talked about a new definition for screening with suitable terminology by Mr. Brady.

It was asked if they should go further with discussion. Mr. Lermond said they should allow people to comment before making a motion. Mr. Zschack questioned if it's only on RV's or as discussed with commercial. Mr. Christiano said he thinks they should go ahead with the commercial as he thinks they're in agreement. Mr. Lermond queried can they pull it together the way they're modifying the ordinance. Mr. Foulds said commercial didn't have setback. The only thing would be whether we're going to add driveway approval. At this time a discussion followed.

Mr. Foulds said I think it's less of a concern with commercial than RV. Mr. Lermond said it's the time to incorporate it; simplify where you can. Mr. Christiano said if we want to do a zone if we want to apply a zone characteristic to this ordinance for commercial and recreational vehicles I don't see any harm in that and think it would make a more complete ordinance. Mr. Lermond agreed. Mr. Christiano said it alleviates a lot of issues from people living in the core of town.

Mr. Lermond asked if the committee talked/involved the planner. Mr. Zschack said with the current ordinance they discussed a couple items they felt to make changes to ease some restrictions. Mr. Lermond commented he's aware it's more Borough money to employ more professionals. Mr. Zschack said for the first stage we might just spend more time by the committee to look at it.

Mr. Lermond asked if a motion is had to send it back. Mr. Zydon asked what the motion is and what they're doing with commercial perks. It was said commercial was re-written a bit. Mr. Foulds said we take that as a suggestion but incorporate the re-review of property sizes for the RV.

Mr. Brady said I can say the Committee recommends that on the non-passenger commercial vehicles the 19,500 GVWR, the vehicle be 25' from the roadway or no closer to the road than the extension of the front façade, principal building, whichever is less; that it be legally registered and meeting all applicable laws for that registration; if it's in the garage it can be any size as long as its garaged and questioned unimproved driveway surface.

Mr. Foulds said something with that and the word is improved driveway surface that meets directly to the road. Mr. Brady asked how about connected to the driveway.

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Mr. Foulds said it has to be connected, so they can't just put a platform out in the middle of no-where. Mr. Brady said finally, however, that we believe the Town Council should look at all of the zones to which this is applicable, to see if there should be adjustments per zone. Mr. Foulds said distances would accommodate possible non-conforming property.

Mr. Brady said with regard to Recreational Vehicles we think it should go back and be re-examined again, looking at the land use characteristics of each zone because there was such disparities that there may have to be regulations addressing each particular zone. Mr. Foulds said the way we had it could be good for 20% of our properties. Mr. Lermond said the trouble is it may not only be zoned because we could have inside of zones. It was briefly discussed.

Mr. Brady said he can suggest to Council to look at each zone, the development land use characteristics of the zone, and that during the public portion of the meeting, unusual circumstances were noted such as dual lots, corner lots, topographically challenged lots; things of that nature.

Mr. Zydon commented on the RV issue being a complaint but didn't hear the other side of why it's become an issue. Mr. Brady advised you really don't want to get into the complaint itself Mr. Zydon, we're not the court, that's not our function and I think we can all imagine what it is-it has to do with something that sits there; it's in an unsightly location. Mr. Lermond said the point is it brought attention to other things.

Mr. Foulds queried if a motion is needed and proceeded to make a motion.

Mr. Foulds made the motion to **Send the Planning Board findings as Mr. Brady delineated in his verbal overview for the re-evaluation and assumes it's sent back to the Planning Board.** Seconded by Mr. Christiano.

Mr. Lermond asked if all were clear. It was said it's going back to Council for its signature. Mr. Lermond said it's going back to Council; that's our recommendation. Mr. Foulds said they could just take it as it was written.

Mr. Zschack asked a question to which Mr. Brady provided counsel.

Upon Roll Call Vote:

AYES: Christiano, Kilduff, Zydon, Foulds, Lermond

NAYS: None ABSTENTIONS: Crowley, Zschack

Mayor Crowley asked Mr. Chairman to comment since vote was taken. He thinks it was a very good recommendation back to Council. This whole thing over the years has been really regulated by non-regulation. In the background it was not enforced and only enforced in rare instances. Of all the problems in town, when he meets with the ZO, they never talk about recreational vehicles and very rarely about

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commercial vehicles. The (ZO) has a lot more other important areas to enforce than get tied up in this. Mayor Crowley explained the incident of how this law came about and of the ZO having to enforce the law respectively. He said nobody wanted it to come to this. Mayor Crowley said as far as changing the law, no matter what you change or do will never satisfy everybody and it's almost unenforceable to try to get one ordinance to take care of the whole town. It's almost unenforceable to try to break up; we don't have enough people to have a million other zones and everything else. He doesn't know where this is going to go but it's left a black hole no matter where it goes and doesn't think anybody's going to be happy.

Mr. Foulds asked if those who received ordinance violations summonses have been taken care of or can they be postponed till the Board realize what they're going to change and in turn, there's the Grandfather Clause again; but if people were in compliance that those summonses will be taken care of, in a sense of they now comply with the new law. Mayor Crowley said not really because they were given a summons according to the old law. In most cases, they were probably guilty. They could go to court and explain that to the judge.

Mayor Crowley said right now the ZO is not enforcing the law and Council gave a moratorium until the ordinance is changed. When you talked about grandfathering of people that have problems, they were going along with their let's say RV's, in an illegal fashion. Mr. Foulds said the violation exists. A discussion followed.

Mr. Foulds said it was okay they were violating this law for 27 years then decided to enforce it selectively which in the big picture is not the right way to enforce even though everybody had the same violation. The town selectively enforced at a certain point and time; just to be thought about. Mayor Crowley said just as if I'm speeding on the Parkway and the Trooper pulls me over and not everybody else. It was briefly discussed.

Mr. Foulds said you can violate a law not legally but justifiably to some degree; whether this is not justification is the town didn't enforce it. To me, they're saying it's okay we're not enforcing that law, but all of a sudden did. Like you said, they could also be found guilty and it's only an ordinance no fine or suspended sentence if they comply. A suspended sentence if they now comply with the new ordinance.

Mr. Kilduff said in many instances summonses were not issued; they were simple violations notices. All the people repeated this, so it was a summons. There were some summonses issued, but not blanket across the board. People confuse those two. Violation Notices is a lot different from a Summons.

Mr. Lermond said the only other item on the Agenda is discussion about Professional Evaluations to be returned by November 4, 2013. Mr. Kilduff requested two volunteers from the Board so a meeting could be had. Mr. Foulds and Mr.

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Christiano volunteered. Mr. Kilduff requested the forms be returned by November 4th to Ms. Nunez to schedule a meeting with the Zoning Board prior to their meeting.

CORRESPONDENCE:

OPEN PUBLIC SESSION:

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

Sean Kidd, 3 Evans Street asked questions about the memos listed in the Correspondence Section of the Agenda. Mr. Lermond responded and therein, Mr. Brady advised it could be subject to an OPRA request. Mr. Kidd queried it not being open for public discussion. Mr. Foulds said the Board recommended it be sent back for re-evaluation then back to the Board. Mr. Kidd said the public notice in the paper didn't mention this meeting; only the November Council meeting.

Mr. Kilduff agreed and said all Planning Board meetings are advertised at the beginning of the year, there's no special notice for this and is in review of part of what's on the Agenda. The Ordinance public hearing is noticed in the paper where action is taken by the Council and noticed for November 4th.

Mayor Crowley said it was also announced at the ordinance introduction Council Meeting that this meeting will be open to the public and are invited to make comments. Mr. Kidd said his definition of neighbor is anyone you would have to send a letter to for a Variance; thinks it's 150'. It was said 200'. Mayor Crowley said as far as complaints and everything like that, anybody who comes by and complains on Ordinance has a right to complain and doesn't have to be a member of Franklin.

Carol Truhan, 20 Nestor Street asked if they want to know the story behind it. She talked about her harassment issues with a neighbor, the court case which ensued, the protective measures she's had to enact along with fear for her life and of the affects to her person. Ms. Truhan said there's no reason for it; we're neighbors we have to live there; not him, all he says is, "I want you gone"!

George Gunderman, 36 Nestor Street commented there's your party that started it all; two people and it's my opinion the ZO doesn't know what he's doing. She called him to give the pictures and what have you; nine summonses. He should have told her right then and there, "Lady I can't do that." If you're going to enforce an ordinance, you have to enforce the whole town. He didn't do that so he clearly discriminates. This is where your whole nightmare comes from; he's incompetent.

Mr. Gunderman commented on the ZO not handling two people to make a decision of his job and tell the lady he can't do that because he'd have to do the whole town. Mr. Foulds said but it's in front of us now. Mr. Gunderman said he did not do that till

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his wife came up here and complain and believe she talked to this gentleman. It was said, Jim Kilduff. About two weeks later, people are getting notices but as of today, a lot of people never got any and recommends changing it.

A discussion was had by Mrs. Gunderman and Ms. Truhan. Therein, Mr. Lermond advised none of that can be part of this Board. Ms. Truhan said the ZO lady advised what she had to do and complied but is not good enough for the new ZO because the neighbor's complaining again. Mr. Gunderman said the Council voted 5 to 1 to have these changes; it was in the NJ Herald. Mayor Crowley said that doesn't make it true. Mr. Gunderman said his point is something has to be done, is glad they're working on the changes and thinks its key when they were talking about the zoning.

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

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 10:39PM on a motion by Mr. Kilduff. Seconded by Mr. Foulds. All were in favor.

Respectfully submitted,



Ruth Nunez
Secretary