

Franklin Borough Planning Board

Meeting Minutes for

July 17, 2023

The meeting was called to order at 7:30 PM by the Vice 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:

Mr. Wes Suckey, Chairman (Absent)
Mr. John Christiano, Vice Chairman (Present)
Mr. John Sowden, Mayor (Present)
Mr. Concetto Formica, Council liaison (Present)
Mr. Floy Estes (Present)
Mr. Jim Williams (Present)
Mr. Jim Nidelko (Present)
Mr. John Friend (Present)
Mr. Michael Raperto, (Present)
Ms. Sharon Schultz, Alternate #1(Present)

ALSO, PRESENT:
Michael Brown, Planning Board Attorney

APPROVAL OF MINUTES:

Franklin Planning Board Minutes for May 15, 2023 Meeting.

Mr. Friend made a motion to approve the meeting minutes from May 15, 2023

Seconded by **Mr. Nidelko**

Upon Roll Call Vote:

AYES: Christiano, Friend, Estes, Nidelko, Raperto, Suckey, Williams, Schultz

NAYS: None ABSTENTIONS: Sowden, Formica

Approved.

PAYMENT OF BILLS:

Mr. Williams made a motion to approve the escrow report for July 17, 2023

Seconded by **Mr. Raperto**

Upon Roll Call Vote:

AYES: Christiano, Friend, Estes, Nidelko, Raperto, Suckey, Williams, Schultz

NAYS: None ABSTENTIONS: Sowden, Formica

Approved.

DISCUSSION:

Mr. Christiano stated that there were two items on for discussion one being Braen Aggregate, LLC Annual Municipal Review Report 2023.

Mr. Christiano stated that it is required that Braen gives an annual report of the quarry.

Mr. Brown interjected and stated that he would just like to state that Mr. Williams has asked me to explain to the board why he is recusing his self from this portion of the meeting due to a conflict-of-interest regarding himself and the Quarry.

Mr. Brown advised Mr. Williams to recuse himself from the meeting room.

Franklin Borough Planning Board

Meeting Minutes for

July 17, 2023

Mr. Christiano stated that he would like to have the board discuss the second item on the agenda first to have Mr. Williams input.

Mr. Christiano stated then after that we will go back to the Braen discussion.

Mr. Christiano stated if the board received the memo from the municipal clerk regarding **Ordinance 07-2023**.

Mr. Christiano asked if anyone had any questions in regards to the ordinance.

Mr. Christiano explained the reason for the zone change.

Mr. Christiano stated unless there is anything that the board wants changed or has suggestions on things to change within the ordinance, Mr. Christiano would like to see this pass and go back to the council so the zone can be changed and potential property owners can get their projects underway.

Ms. Shultz just wanted to confirm that these changes are specifically to those listed in the ordinance not all of Main Street.

Mr. Formica stated yes.

Mr. Williams gave a brief history of what he remembers the building being as a child up to when it was the Grapevine Bar. However, it has been since vacant for 20 plus years.

Mr. Raperto stated that this also includes the building across the street as well, correct?

Mr. Formica stated yes.

Ms. Schultz asked if it also included the building on the corner of Main and Rutherford.

Mr. Formica stated no.

Mr. Christiano stated not hearing any other questions or comments he would entertain a motion to accept the memo as written and send a memo to the council stating that the planning board accepts the ordinance as written.

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

Upon Roll Call Vote:

AYES: Christiano, Friend, Estes, Formica, Sowden, Nidelko, Raperto, Suckey, Williams, Schultz

NAYS: None ABSTENTIONS:

Approved.

Mr. Williams left the meeting at 7:47

Mr. Christiano stated that he would like to go back to the Braen discussion.

Mr. Christiano asked if the board members received the report from French & Parrello.

Mr. Christiano stated that it will be hard to have a lot of the questions raised from this report answered because we do not have our engineer here with us tonight.

Mr. Christiano asked if everyone received the email from Mr. Knutelsky.

Mrs. Babcock stated that the email came in late however, she made copies to give to the board members.

Mr. Christiano proceeded to read the email to the board members.

Mr. Christiano stated that not having our professionals present this evening, particularly Mr. Knutelsky it makes it hard to have questions we as a board may have answered tonight.

Mr. Friend stated that yes, there are a lot of questions we all have but to discuss and ask without having the ones who can give us the answer seems silly.

Mr. Christiano stated that it states in the report from Braen that they are working with the neighboring properties to work on the ongoing issues of drainage and run off that seem to keep occurring.

Mr. Christiano stated that there is a property owner who is dealing with these issues present tonight.

Mr. Christiano stated that he would like open this portion of the meeting up to the public for anyone who would like to add comment in regards to this agenda item only.

Mr. and Mrs. Sherwood came up to the microphone to testify on behalf of what they are experiencing being a neighbor to Braen.

Franklin Borough Planning Board
Meeting Minutes for
July 17, 2023

Mr. & Mrs. Sherwood came forward.

Ian and Theresa Sherwood – 189 -193 Corkhill Road.

Mr. Brown stated that he would swear both Mr & Mrs. Sherwood in under oath.

Mr. Brown stated that Mr. and Mrs. Sherwood could now give their testimony.

Mr. Ian Sherwood stated that they live adjacent to the Braen Quarry. However, they do live directly across the street from what they call the “Franklin Mountain” which is the tailings and overburden that they are degrading.

Mr. Christiano stated that the report from French and Perriello indicates that the quarry has been working with property owners in regards to issues that they have been causing to the neighboring properties.

Mr. Christiano asked Mr. Sherwood if anyone has approached him or Mrs. Sherwood in regards to the growing mountain across from their property.

Mr. Sherwood stated No, no one has contacted them.

Mr. Sherwood stated that he has everything documented and wrote an explanation of what has occurred during the time he started documenting.

Mr. Sherwood read a loud his time line and what he has experienced thus far living across the street from Braen.

Mr. Sherwood touched on drainage issues and basins being clogged causing even more water issues to come across their property causing flooding issues.

Mr. Sherwood stated that this past Sunday the water flooded their venue barn. That they needed to cancel venue tours because of just how bad it was flooded.

Mr. Sherwood stated that this would have been devastating if there was a wedding scheduled.

Not only to the bride and groom but to my wife and I as business owners. We would have been out of a lot of money and as we all know word gets around. I’m sure that if people started telling friends and family that our venue floods, we would lose a lot of potential clients if not our whole venue business.

Mr. Sherwood stated that he believes that the “mountain” is not 150 feet from proper setback requirements.

Mr. Sherwood stated that he believes that the Slopes are more than a 45-degree angle as well.

Mr. Sherwood stated that these are just two of the major issues that he is seeing just from being a neighbor.

Mr. Sherwood touched on the drainage and basin issues that he has discussed with Braen representatives and Mr. Scott Braen himself.

Mr. Sherwood stated that he just receives promises that are never fulfilled time after time.

Mr. Sherwood stated that have also been dealing with the lime build up and sludge that runs off from their property on to ours. 4- 5inch sludge that we have to pay to have it removed.

Mr. Sherwood stated that its just not fair. He and his wife have been nothing but patient and dealing with this pesky neighbor but time is up. There needs to be consequences to their actions and what their property procedures are doing to our property.

Mr. Sherwood stated that there were plans to run drainage under the ground between the road and the railroad tracks. I saw plans that were drawn up for this to be done. It still has not been done and when I ask when it will be done, they tell me that it is not going to be done now because they do not feel it is their responsibility.

Mr. Raperto asked if Braen has a water management plan.

Mr. Raperto stated that there has to be a plan and what does it state as far as what their course of action is in the instance of hard rain fall and an abundance of run off.

Mr. Raperto the whole idea of a storm water management plan is to protect neighboring properties from your property being a problem to another property.

Mr. Raperto stated that there has to be a plan. If there is not one, they need to get one ASAP.

Franklin Borough Planning Board
Meeting Minutes for
July 17, 2023

Mr. Nidelko stated that there is no mention in the report about a water management plan.

Mr. Friend said they have to have one. There is no way they can not have a plan.

Mr. Sherwood stated that plan or no plan what is happening to them is unfair and is much more than a neighborly dispute which the town attorney told Mr. Sherwood a year ago.

Mr. Sherwood stated that he could lose his wedding venue business over this.

Mr. Friend stated that we could discuss this all evening in with all due respect we will not get anywhere if we do not have the right professionals here to answer these questions.

Mr. Christiano stated that the best solution to this is coming back next month with all parties involved. A rep from Braen, our engineer and the town engineer who conducted the quarry report and ask them these questions to help Mr. Sherwood with these on-going issues.

The board agreed.

Mr. Brown stated that a month might be short notice. 60 days may be a better time line to get everyone on board to do their research and come together to discuss this together.

The board was in agreement.

Mr. Sherwood and Mrs. Sherwood thanked the board and left the meeting.

Mr. Christiano stated that he would close the meeting to the public at this time.

Mr. Christiano stated that he would be moving on with the agenda.

OLD BUSINESS:

Mr. Christiano stated that he had two items that he wanted to address.

The first one being that the Planning Board has sent them proposals, plans. Ordinance suggestions and we have not received anything back from council.

Mr. Christiano stated that one in particular is very important to the borough.

The fair housing plans. It has been a long time and nothing has been reported back to the planning board. Not having this plan could be catastrophic to the borough as far as finding themselves in another builder's remedy lawsuit.

Mr. Christiano stated that we have got to get this thing settled.

Mr. Sowden explained to Mr. Christiano that there are a lot of moving parts happening in Trenton right now. They are constantly changing ideas and procedures. Ms. Caldwell is the one who has the pulse on what is going on and receiving these updates from Trenton.

Mr. Sowden stated that next time he meets with Mrs. Caldwell he will make it a point to get an update on such procedures and updates from Trenton in regards to the fair share housing development.

Mr. Sowden stated as far as the solar ordinance that was not well received.

Mr. Formica stated that ordinance is off the table and will not be happening.

Mr. Formica stated as far as the Housing Plan the first steps have been taken and we will see what happens in the next year or so because in 2025 there will be many more changes to the plan.

Mr. Sowden agreed with Mr. Formica and restated that he would meet with Jessica and send out an email giving Mr. Christiano a better update on where this issue stands at the present moment.

Mr. Christiano asked when he could expect that email.

Mr. Sowden stated that he had no idea.

Mr. Christiano went on to tell the board of a recent TCC meeting where the applicants were not bashful as far as asking what condition the borough's fair housing plan is in.

Mr. Christiano stated that tells him they are already stacking bullets in their pockets if things don't go their way.

Franklin Borough Planning Board
Meeting Minutes for
July 17, 2023

Mr. Sowden stated that he has also done some research and has noticed there has not been any Builder Remedy lawsuits in NJ because all of the legal issues.

Mr. Brown stated what Mr. Sowden is saying is correct.

Mr. Sowden stated that he trusts the professionals and the board should do the same.

Mr. Sowden stated I will give you an update as soon as I get one but I can not give you an exact time line when you will receive that email.

Mr. Christiano asked if there was anything else for old business.

Not hearing anything Mr. Christiano moved on to new Business.

NEW BUSINESS:

Nothing was addressed.

OPEN PUBLIC SESSION:

Mr. Christiano opened the meeting to the public.

Not seeing anyone come forward. Mr. Christiano closed the meeting to the public.

ADJOURNMENT:

Mr. Friend made a motion to adjourn.

Seconded by **Mr. Nidelko**

All were in Favor.

The meeting adjourned at 8:33P.M