

**FRANKLIN PLANNING BOARD
PUBLIC HEARING MEETING
June 22nd, 2011**

Call to Order: 6:59 p.m.

- Pledge of Allegiance.
- Roll Call

Present: Brian Colburn, Brian Sullivan, Mayor Merrifield, Michael Freeman, Ted Starkweather, Anthony Giunta, Powell Glenn, Bob Sharon, Marty Russo, and Planning and Zoning Administrator, Richard Lewis.

Absent: David Veysey and Anthony Daniel.

Chair Colburn sat Member Sharon in place of absent voting member Anthony Daniel.

- Approval of Minutes: May 25th, 2011 Meeting

MOTION: Mayor Merrifield moved and Member Starkweather seconded to approve the minutes of the May 25th, 2011 meeting as submitted. All were in favor of approving the minutes as submitted.

New Business

- **P11-04:** Carl G. Overlock, Jr. and Susan M. Overlock, Owners/Applicants, request a Special Use Permit to expand a motor vehicle oriented business, being a car sales lot, to fifteen cars on property located at 389 North Main Street, Tax Map/Lot # 096-011-00, B-1 (Low- Density Business and Commercial District) and R-2 (High- Density Residential District) Zones.

MOTION: Member Sharon moved and Member Sullivan seconded that the Franklin Planning Board accept the Site Plan and Special Use Permit applications from Carl and Susan Overlock for a proposed motor vehicle sales yard at 389 North Main Street. All were in favor and the motion passed.

Carl "Skip" Overlock was present to speak. He stated that currently the driveway is approximately 18' wide and he would like to expand this by 18'. He stated the vehicles would be stacked at an angle to the tree. In the shaded area of the tree would be the customer parking. He stated that no mechanical work would be done on site and that this work is contracted off. He stated that he would like to get the business going and then his wife and he would move into the house on this lot.

Questions from the Board

Member Starkweather asked if the plan that is being submitted is the one that says Dick's plan or the one that says Skip's Plan. Mr. Overlock stated that Dick's plan is safer. He stated he had originally wanted to put the vehicles up against the other property line. He stated that the existing power line will be removed and the utilities will be put underground.

Member Starkweather asked about lighting. Mr. Overlock stated there is existing lighting on the garage and he will put a light on the front pole if it doesn't interfere with the neighbors.

Member Starkweather asked about whether a sign was being proposed. Mr. Overlock stated that it is and that it would be done to town specs.

Member Freeman asked about the hard top. Mr. Overlock stated the width would be 36' and would be double what is there now. Member Freeman asked about customer parking and it was indicated this would be in the shaded area and it also would be hard top.

Member Sharon asked if vehicles would be washed on the premises. Mr. Overlock stated just the outside of the vehicles and typically this is done at Kerner's Car Wash. He stated the underbody and engine would not be cleaned on site.

The Mayor asked if the storage area and the customer parking was in the right of way and Mr. Overlock stated that it was not.

Richard Lewis stated that when he went to the site, Mr. Overlock had mentioned as second entrance and inquired if this was still something Mr. Overlock was looking at doing. Mr. Overlock stated that there use to be a second entrance. Mr. Lewis stated the frontage was 60' and asked that if it would be just one driveway and Mr. Overlock stated yes, but he is looking at making the driveway double the width it is now. Mr. Lewis asked if he wanted the driveway double the width at the entrance area to the lot and Mr. Overlock stated that he would like to.

Member Sullivan asked how far off of the main road the vehicles would be and Mr. Overlock stated they would be 20' because they have to be based on the setback requirements.

Member Giunta asked if there was a sidewalk in front of this property and Mr. Overlock stated the sidewalk ends just before the lot.

Member Starkweather asked for some verification on the frontage because the plan states the frontage is 39 feet. Mr. Overlock stated that 18 of those 39 feet are already paved. Mr. Lewis stated that the plan only shows a portion of the lot, there is another area just south and the totals of the two dimensions are 60'. The measurements are per the 1978 plan by surveyor Warren Cate.

Member Sullivan asked if the applicant was requesting a waiver or a variance for the plan that was submitted. Mr. Lewis stated that as was mentioned, the Site Plan regulations contain provisions. He stated there is no provision which allows hand-sketches in the site plan regulations. As the requirements for submission are in the site plan regulations, the Planning Board could waive the need for a surveyed plan to be submitted and for topography and other requirements as set by the Site Plan Regulations. Mr. Lewis stated the decision to waive the requirements of needing a surveyed plan is a decision for the board to make. He stated that the applicant has explained the project better this evening. Mr. Lewis stated the board needs to consider if they are comfortable with the plan based on the applicant's description or if the Board has concerns on drainage due to the large area of hard top. He stated he is uncertain as to the impacts of the water flow.

Member Starkweather asked about the driveway being 39' and if twenty one (21) cars would fit in this area. Mr. Overlock stated that the property angles out from the frontage and gets bigger in the back. It was indicated that the existing right of way is 20.32' to the fence, and the driveway is being extended and the plan is showing 39.68 feet of frontage to a fence. Mr. Overlock stated that the vehicles will be parked at an angle. Member Starkweather asked where the drainage would go and Mr. Overlock stated nothing will change; the water will run into the grass and be absorbed. Member Starkweather asked if drainage would run onto the neighbors properties due to the extension of the hard top and Mr. Overlock stated it would not.

Member Starkweather asked if the garage out back was for detailing of the cars. Mr. Overlock stated that garage out back is being removed.

Member Sullivan stated that in the past the board has asked for surveyed plans. He stated that drainage and other issues need to be maintained, such as CDS. He stated that when Barbuto came before the board he was required to submit a surveyed plan. He stated they allowed one site plan applicant to not submit a plan and the plan was then

not recordable. He asked how the board would maintain that the site plan is being followed if a surveyed plan has not been submitted. He stated that the board needs to make sure that the site plan stays in conformance and without a surveyed plan this would be impossible. Mr. Overlock stated that he has had one car and approval for that car for ten years and there have been no problems.

Member Sullivan asked if the waiver was for the allowance of a non-surveyed plan. Mr. Lewis stated that based on the Site plan regulations a survey plan is needed showing boundary lines, buildings, parking, drainage, topography and grading, so the board can determine the effect on neighbors. Member Sullivan stated that this information is not on this plan.

Public Comment

Charles Farmer, an abutter, was present to speak against this application. Mr. Farmer stated the lot is in the B-1 zone and the R-2 Zone. He stated that the R-2 zone requires 100' of frontage and the B-1 zone requires 80' of frontage and the lot is less than these. He stated the Planning and Zoning Administrator says the lot is 60' and the plan shows the lot at 39'. He added that the property values of the surrounding properties would decrease due to a car dealership being located at the property. It will not be a safe entrance to the property using the existing right of way with the dealership at this location. He stated if he were to build on his lot then there would be no way to get to the property.

Brian Beaupre, an abutter, was present to speak. He stated his concern was the vehicles being lined up on the property line next to his property and this has been amended. He stated he owns 399 North Main Street, which is a four unit on the northern side of this property. He indicated his other concern is making sure that auto body work is never done on the property.

Charles Farmer asked to speak again. He stated that a few years ago, Barbuto asked for Site Plan approval for his lot and the board had requested a sidewalk be placed in front of his property and it was never done. He stated that it was a contingency of the approval. He indicated that if you attempt to pull out of Hutchinson Street you cannot see down the road as cars are parked all over the roadway. He stated that the board needs to get on the Barbuto's to put in the sidewalk. He stated that the board needs a surveyed plan for this property so that the steps are laid out and Overlock is held accountable.

Chair Colburn asked if the approval was a Special Use Permit and Mr. Lewis stated it is a combination Special Use permit and Site Plan approval. He stated that a motor vehicle oriented business in this zone is permitted with issuance of a Special Use permit and all new businesses need Site plan approval.

Chair Colburn indicated that the board needs to determine the waivers. He asked if the Special Use Permit should be granted to allow 15 cars, amended to 17 spaces, based on the plan that was submitted. Mr. Lewis stated that on the back of the Special Use Permit application is the criteria that the applicant needs to meet in order for the SUP to be approved.

Member Sullivan stated that without a plan that shows the details the board cannot answer the question as to whether the applicant meets the criteria of the SUP. The Mayor stated that he agrees with Brian Sullivan's point about not being able to make a determination without having the details on a plan. Mayor Merrifield stated that more information is needed before a judgment of true can be rendered.

Chair Colburn asked that the board not to look at the logistics of this application, but to look at the use in general and go through the criteria to see if the use is something the board would allow. There was a lengthy discussion by the board. It was indicated that over 50% of the criteria can only be answered with a more detailed plan. They indicated that at this time, without a plan with the required items on it, that the board could not make a determination on this project or the use in general.

Some questions were brought forward regarding the RSA's. There was mention of RSA requirements for this type of business and how the business should be labeled. It was indicated that Richard Lewis would review this further.

The board also indicated that the specific location of buildings, as indicated in the Site plan regulations, including size, location and design, and their appropriateness needs to be demonstrated, as well as whether property values would be diminished on the abutting properties, specifically those that utilize the right of way through this property.

There was discussion about this being an expansion use. It was indicated Mr. Overlock received approval from ZBA and PB to sell one vehicle so this is an expansion of that use to sell more vehicles on the property. Member Starkweather asked what the approval was and if it runs with the land. Mr. Lewis stated it was a special exception and generally speaking it runs with the land. He stated that the larger expansion of this use generates a Special Use Permit.

Member Giunta stated he is struggling with this as well. He stated that when a package comes in the purpose is to paint a picture for us and this is really a special use for the expansion of what is there now. He stated that selling one car is very different than selling 15. He stated the picture in his mind is not clear. He stated he needs to be comfortable with this being run correctly. He stated the board doesn't want a property like the Barbuto's that people are complaining about. For the abutters and for the board the picture is not clear. He stated he is not able to say whether a special use permit is justified because he is not comfortable with the picture. He stated the chairman is noble in not wanting the applicant to go through the extra expense if the use won't be granted; however, the information has to be present for the board to feel comfortable with granting the Special Use permit.

There was the point made that even with customer parking, people would park near the vehicle that they wanted to look at which means people will potentially park in the right of way and the right of way will be blocked and impeded. This could potentially affect the property values.

Member Giunta stated that the discussion keeps coming back to the plan when trying to answer the questions on the special use permit. So much depends on needing better plans. He is all for allowing people to do what they want to do with their properties. He stated that the initial feeling he gets is this has to be serious and you have to investment money unfortunately to run a serious business and make it a good well run business and the board is open to allow this if the people have proven it will be a well run business and won't affect the neighbors. Mr. Giunta stated he does not have this level of comfort right now.

The board indicated the following is a list of items that are necessary to have on the plan:

1. An engineered and stamped plan that clearly defines the areas where both sale vehicles and customer vehicles are parked. The proposed parking spaces should be shown as being striped once the pavement is installed.
2. A plan that shows the design and construction techniques [profiles of the parking area for example] for the paved parking areas.
3. An engineering review and analysis of the drainage for the site. This is important since this is a small lot that is largely grassy right now and paving the proposed parking areas will substantially alter the drainage characteristics of the lot. Drainage features, infiltration or another approach, are necessary.
4. Any proposed lighting should be shown.
5. Any proposed signage should be shown.
6. Any proposed improvements to the driveway entrance should be shown.
7. Any other improvements [curbing, sidewalks, handicap access features, etc.] should be shown.
8. Topography.
9. The board also indicated that the applicant needs to prove that the business will not decrease surrounding property values.

Member Freeman asked if they are actually planning on paving the lot. Mr. Lewis stated that the regulations indicate: "All parking and loading areas and access driveways thereto shall be paved with a dust-free surface, which is defined as an asphalt, concrete or comparable Municipal Services Department recommended surface, and have an on-lot storm water disposal system which is reviewed and recommended to the Planning Board by the Municipal Services Department."

MOTION: Member Giunta moved and Mayor Merrifield seconded to continue the Site Plan and Special Use Permit applications from Carl and Susan Overlock for a proposed motor vehicle sales yard at 389 North Main Street, Tax Map Lot # 096-011-00, identified as P11-04, to the July 27th, 2011 meeting at 7:00 p.m. in City Council Chambers. The applicant must submit a surveyed plan that shows all items previously discussed and listed in the list of 9 items. All in favor and the motion passed.

Mr. Overlock stated that the board needs to know what needs to be done, so they should hire someone to do the work and then he will pay them. The board indicated that they do not do this type of thing.

- Planning Board Rules of Procedure: Public Hearing- *The Board voted at the May 25th, 2011 meeting to forego the reading of the amendments.*

A complete copy of the proposed amendments is available in the Planning and Zoning Office, 2nd floor, Franklin City Hall. In summary, the changes are as follows:

- Describes how Alternate members are seated for a hearing and the conduct of Alternates;
- Removes references to timeframes that are established by state statute; and,
- Eliminates or reduces the language that already exists in Section 77, Planning Board, of the City Code.

Richard Lewis indicated that the changes have been reviewed by the City Attorney. He stated that action needs to be taken by the board at a Public Meeting. He asked if there was any further discussion by the board.

MOTION: Member Sullivan moved and Mayor Merrifield seconded that the Planning Board adopt the changes to Section 401, Rules of Procedure and section 77, Planning Board, of the City Code. All were in favor and the motion passed.

Old Business: None

Public Comment: None

Other Business

- Discussion with Bronwyn Asplund-Walsh on a possible Zoning Change for Bed and Breakfast in Lake Protection District.

The Mayor indicated that he would be stepping down, for the same reasons that he did at the last meeting.

Member Russo stated that as a direct abutter to the Asplund-Walsh property that he would be stepping down as well.

Mr. Lewis stated that he gave the board a memo this evening on what is being requested. He stated that Mrs. Asplund-Walsh will have some information for the board as well.

Bronwyn Asplund-Walsh was present to speak. She stated that she resides at the property located at 296 Webster Lake Road. She stated that the property was purchased in 1983 and gave some background on the property.

She stated she purchased the property from the Edmunds, and that Dr. Arthur and Ruth Edmunds purchased the property from the Aiken's. She stated that Jonas Aiken built the property in the 1700's and that he was a famous inventor; that his son Charles inherited the property in the late 1800's and turned the property into a tourist home; and, that only three families have owned the property.

She stated there are bowling alleys in the home, and the lanes date back to the 1800's. She then passed out some handouts, which included: A copy of a brochure regarding the Aiken Manor and Cottages; map of the property; Affidavit of Roger Bruce Johnson; page 102 of book The Ancestors of Rogers Bruce Johnson Volume II; copies from the book Then and Now, showing Aiken Manor; J.B. Aiken's Improvement in Rifle Cannon and Cartridge; the "Aiken" Ticket Punch; and J. B. Aiken's Family Knitting Machine.

She stated that the Edmunds had rented out rooms until 1983. When she purchased the property it was in the Conservation Zone and she was told with the proper permits she could run a bed and breakfast from the home. She gave some background on the permits that were issued for the property since she has purchased it. She stated that they had an in-law above the carriage house and were told by the previous Zoning Administrator that when the space about the ell was renovated, that could be used as the in-law and that the carriage house apartment could be rented out.

Bronwyn stated that she is finding it difficult to keep the home; however, she placed it on the market and due to the zoning and uses of the property she has found it hard to sell.

She stated the old game room is now her law office. The home was a guest house for many years.

She indicated that a bed and breakfast is the way to go. There are two bedrooms in the carriage house, 2 bedrooms in the ell, 3 bedrooms and 3 baths in the main house and 2 bedrooms in the guesthouse which has all its approvals to be used as a rental property. She stated the septic was upgraded to handle the use.

She stated she is looking for help from the board with either a rezoning or a change allowing Bed and Breakfasts in the Lake protection zone.

There were questions from the board on the zoning line and Richard Lewis stated it is behind the railroad bed which is located just beyond the property. He stated the entire property is in the LP Zone.

There was a lengthy discussion by the board.

Marty Russo, an abutter, spoke in favor of this change. He stated that he concurs with everything that Bronwyn has indicated. He indicated that his house used to be owned by the Aiken's and was used for their maintenance person and for a place to gather. He stated that the barn on his property use to have rooms in it. The only properties worth being Bed and Breakfasts are properties in the LP Zone, due to transportation, the lake and air quality. He stated that this is the most historic property in Franklin and to not allow Bronwyn to use the property would be a gross injustice.

Richard Lewis stated that the best option for the board would be to allow the Bed and Breakfast with a Special Use permit from the Planning Board to make sure that all aspects for life safety are covered and a

review is done to protect the City, the abutters and the lake. He stated the SUP process has a checklist and this is a judgment call of the board.

Richard Lewis stated that since 1991-1997 only one bed and breakfast was applied for, out of 38 total applications.

Richard stated that some concerns are the septic, that the LP zone was designed to protect the lake and single family residence, and that he doesn't want to see approval granted and then the bed and breakfast turned into 2-3 apartments.

The board was in favor of allowing the Bed and Breakfast by changing the Permitted Uses table so that under the LP Zone, a SUP would be required for a Bed and Breakfast. The board also indicated that some rules need to be set for a bed and breakfast and asked that Richard look into changes to the definition and other information that other communities have for Bed and Breakfasts. It was indicated that the State regulations also need to be reviewed to make sure that the City is in conformance with the State Regulations.

It was indicated that currently Bed and Breakfasts are allowed by SUP in the R-3 Zone. The R-3 zone includes View Street, where there are a lot of Victorians with carriage houses and barns that resemble the Asplund-Walsh property and there have been no applications submitted in this area for Bed and Breakfasts. It was indicated that when put in the use table as a SUP, it doesn't mean the board will get a lot of requests for it.

The board indicated that they would like the definition of Bed and Breakfast worked out, some possible regulations looked into and a public hearing to be scheduled for next month's meeting of the Planning Board.

Planner's Update

Richard Lewis stated that there have been some RSA changes. He added that the Bids for the downtown renovations will be accepted the following day at 2:01 p.m.

Adjournment

MOTION: Member Sullivan moved and Member Starkweather seconded to adjourn the June 22nd, 2011 Regular Meeting of the Franklin Planning Board at 8:57 p.m. All were in favor and the motion passed. The meeting was adjourned at 8:57 p.m.

Respectfully Submitted,

**Angela M. Carey,
Planning and Zoning Office
Assistant to the Administrator**