

**FRANKLIN PLANNING BOARD
PUBLIC HEARING MEETING
July 27th, 2011**

Call to Order:

- Pledge of Allegiance.
- Roll Call

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

No Alternates were seated.

- Approval of Minutes: June 22nd, 2011 Meeting

MOTION: Member Starkweather moved and Member Giunta seconded to approve the minutes of the June 22nd, 2011 meeting as submitted. All were in favor of approving the minutes as submitted.

Old 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.

Richard Lewis stated that the memo gave the board options. He stated that if the board is going to deny the application, that the wording "without prejudice" should be added after deny.

MOTION: Member Starkweather moved and Member Giunta seconded that the Franklin Planning Board deny without prejudice the application, referenced as P11-04, regarding the application from Carl and Susan Overlock for a Special Use Permit to allow the establishment of a used motor vehicle business at 389 North Main Street (Tax Map/Lot # 096-011-00). The application is denied due to the failure by the applicant to provide the Board with an adequate plan that describes the project and would allow the Board the necessary information to evaluate the project. All were in favor and the motion passed.

New Business

- P11-05:** Todd M. Workman [Owner of Lots identified as Tax Map/Lot # 014-401-00 (Vacant Land on Lake Shore Drive) and 015-403-00 (160 Lake Shore Drive)]; Michael C. Workman [owner of lot identified as 032-401-00, 230 Lake Shore Drive; and, James Mahoney [Owner of lot identified as 032-006-00, 234 Lake Shore Drive] requests a Boundary Line Adjustment. Lot 032-401-00 would go from 7.00 acres to 2.73 acres; lot 032-006-00 would go from 1.50 acres to 1.67 acres; lot 014-401-00 would go from 240.44 acres to 246.08 acres; and lot 015-403-00 would go from 4.05 acres to 2.51 acres, in the LP Zone (Lake Protection District).

MOTION: Member Starkweather moved and Member Russo seconded to accept the application, referenced as P11-05, of Todd Workman, Michael Workman and James Mahoney for a proposed subdivision and boundary line adjustment for properties located on Lake Shore Drive. All were in favor and the motion passed.

Deb Hinds was present to speak from the Workman's and Mr. Mahoney. She stated that the boundary line adjustment is for three lots, one is the old Strolling Woods, where .17 acres is being added to Mr. Mahoney's property. She stated Mr. Mahoney's house had a pine tree fall on it and the transfer of land makes it so that the side lot setbacks are met for the replacement home. She stated that 4.1 acres is being removed from Michael Workman's property and being added to the back land (Conservation Land). She stated 1.55 acres is also being taken from Todd Workman's lot and transferred to the back land. She stated that also, at this same time, Mr. Todd Workman is giving her a legal easement for the parking area that her property uses, which is across the street from her property and on Mr. Todd Workman's property. In turn, a cross easement on the boat house that was constructed over the line is being conveyed back.

Member Starkweather asked if this was just housekeeping items to legalize things that are already in place and Ms. Hinds stated that it was.

Richard Lewis then informed the board that Mr. Workman is working under a grant issued by DES, being a 519 (Water Quality) grant and an ARMS (Aquatic Resource Mitigation) grant for wetlands restoration, a community septic, and to help with erosion and runoff, to upgrade the water quality of the lake. He stated that the RFP is going out to contract a design engineering firm. Chair Sullivan stated that the work is not costing the city anything. He stated that the second grant is the match for the City.

Public Comment

Neil Twomey was present to speak. He stated that he supports the changes that Mr. Workman has made and just had a question of why the 1.55 acres is being transferred from the old Hunter's Property to the back lot. Mr. Lewis stated that this is the property that the future septic would be on and that this would give them more options. Mr. Twomey stated that Mr. Workman has done a lot of work to improve the area and that these are positive changes and he sees no problems with what Mr. Workman wants to do.

No further public comment.

Board Discussion

MOTION: Member Starkweather moved and Member Giunta seconded that the Franklin Planning Board approve the subdivision/boundary line adjustment, referenced as P11-05, of Todd and Michael Workman and James Mahoney to adjust the boundary lines of four (4) separate lots, all of which contain the required lot area and frontage, with the findings and conditions as discussed by the board. All were in favor and the motion passed.

- Public Hearing on proposed amendments to the Franklin Zoning Ordinance.

Chair Sullivan indicated that at the June 22nd meeting of the board, the board opted to hold a public hearing on changes to Bed and Breakfast's in the LP zone and to add flexibility for new businesses in the Industrial Park. Mr. Lewis stated that the board can either hold the public hearing this evening, or if there is anything that they have questions on it can be put off for approval in the future. He stated he has also submitted some housecleaning items, as well as the items that Brian Sullivan mentioned, to clean up the ordinance and delete redundancies.

Chair Sullivan indicated that Richard also sent an email out to the board on the 25th regarding item #11, being veterinary clinics and the removal of these items from the R-1 and B-2 Zones. He stated that Chuck Bodien had received an inquiry about Avalon moving downtown, so this should be discussed further by the board. Mr. Lewis stated that based on the timing of the meeting, these changes will not be before the City Council until their September meeting. It was decided to move forward with a discussion on the proposed amendments.

1. **Bed and Breakfast:** The purpose of the amendment is to allow Bed and Breakfasts in the Lake Protection district as a Special Use Permit activity.

There was a lengthy discussion by the board. Richard Lewis stated that the reason for the adding of the new section is because there are no requirements specified in the zoning. It was indicated that DES would approve the septic system. There was a question about having a restaurant and it was indicated that based on the definition and the new ordinance, it would only be breakfast to those that are staying in the Bed and Breakfast and wouldn't be a restaurant. It was asked if the code requirements would be those of a residential or commercial and Richard Lewis stated that this is governed by the IBC, and Chuck would make that determination based on the regulations. There was question about using outbuildings. The consensus of the board was to keep the wording as is to not allow outbuildings, because then it becomes more like an Inn then a bed and breakfast. It was indicated that secondary buildings that are already being used as rental homes can continue to be and this is the best use for them. It was indicated if any more wording is added that it would be too complicated. It was indicated that if a person wanted to put in a bed and breakfast and didn't meet the requirements then they would have to apply for a variance from the Zoning Board.

Member Freeman stated there are two images of a bed and breakfast, there is the commercial which is more like an inn and the traditional where a person with a large home's children grow up and they want to rent out a few rooms.

Deb Hinds indicated that her issues are: Beach rights, as the area needs to be roped off and rules need to be set, with a sign that there is no lifeguard on duty and to swim at your own risk, due to the potential problems; that under shoreland only 30% of a lot can have coverage area and this should be set for these types of uses; DES regulations indicated that if an accessory structure is used for residential purposes that the grandfathering of the land is lost; will the guests have to leave site for dinner and lunch; and stated that a minimum lot size should be placed on the use.

There was a lengthy discussion on the lot size and a new regulation, listed above as letter M was added. It was asked how the swimming or access to the water would be enforced. It was indicated the water rights can be addressed on a case by case basis when the board receives an application. It was indicated that signage regarding no life guard on duty and to swim at your own risk is a good idea in these circumstances.

The consensus of the board was to forward the Bed and Breakfast changes onto the City Council, with a positive recommendation from the Planning Board, with the addition of the following:

- m. For any property within the Lake Protection Zoning District the Board reserves the right to consider water quality issues such as setback to the shoreland, lot size, soil conditions, and other similar land use characteristics when weighing the merits of a SUP application.

2. **Inside Storage Warehouse type activities:** The purpose of the amendment is to eliminate duplication between similarly defined uses and provide greater flexibility for warehouse and distribution facilities

Chair Sullivan indicated again that the changes to the Industrial Zone is to give more flexibility.

Mr. Jim Aberg, FBIDC, stated that he supports this amendment. He stated that it is important to recognize businesses such as FW Webb, which is located in the Laconia Business Park, and accommodate this type of operation.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

3. **Bulk Fuel Sale and Storage:** The purpose is to eliminate this as a use permitted in the B-2 zoning district due to the fact that it is not an appropriate use and activity in the central downtown business zone.

The recommendation was to remove this from the B-2 Zone. Richard Lewis explained that this type of business is like CN Brown. He read the definition to the board and explained that it does not include gas stations. He stated this is regarding above ground bulk storage of fuels.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

- 4. **Motor Vehicle Oriented Business:** The purpose of the amendment is to allow motor vehicle businesses in the I-1 industrial zone as a Special Use Permit activity with appropriate conditions and also place a condition to such uses in the B-1 zoning district.

Richard Lewis explained that this change was brought forward by Jim Aberg, to allow this use by means of a Special Use permit being granted by the Planning Board, in the I-1 Zoning District.

Mr. Aberg stated that this gives flexibility again to the zone. He stated that they cannot anticipate every new business that will want to go into the park, and the one that triggered these changes was a one man operation. Mr. Lewis stated that he spoke with the gentleman who wanted to run this type of business and it was going to be more an on-line business, but that when he purchased vehicles from auctions he would bring them here for detailing and cleaning of the vehicle.

Member Freeman asked if this would be allowing a car lot and Mr. Lewis stated that it would not.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

- 5. **Outside Storage and Supply Yard:** The purpose of this amendment is to allow outside storage and supply yards in the I-1 district with appropriate conditions. Further the amendment eliminates these uses from the B-2 and/or Conservation zoning districts since it is not appropriate for the downtown business area or the outlying conservation zone since this is a commercial activity, and allows this use in the B-1 district with appropriate conditions

Richard Lewis stated that this is self-explanatory. He stated that any businesses that are already operating in the B-2 Zone would be grandfathered. He explained that the reason for the building is to add value to the land; as if it is a vacant lot without a building the property would have only a land value and would not have building values. He stated this land is prime commercial property and needs to increase the tax revenue. The consensus of the board was to continue to allow these uses in the B-2 Zone by SUP.

District ----->	RR	RS	R-1	R-2	R-3	B-1	B-2	I-1	I-2	C	LP
<u>Outside Storage</u>						SUP	SUP	P	P	SUP	
<u>Supply Yard</u>						SUP	SUP	SUP		-	

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

- 6. **Restaurant/Eating/drinking establishments:** The purpose of this amendment is to eliminate this use from the Residential-1 and Conservation zoning districts since the use is not appropriate for these non-commercial zones Richard Lewis explained that this was the removal of restaurants in the R-1 and C zones and allowing restaurants, with the issuance of an SUP by the Planning board, in the I-1 Zone.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

At this time, due to a member of the public being present regarding the Veterinary Clinic, #11, was moved up.

11. Veterinary Clinic: This proposed amendment eliminates this as a permitted use in the R-1 residential zone and the B-2 zoning district since this commercial use is not appropriate for these two districts; the two districts where this remains as an allowed use are both appropriate given with commercial orientation [the B-1 zone] of the large lot size required and the rural nature of the district [the “C” Conservation district].

District ----->	RR	RS	R-1	R-2	R-3	B-1	B-2	I-1	I-2	C	LP
Veterinary Clinic			SUP			P	P SUP			SUP	

At this time, Member Glenn recused himself as he uses Avalon as his veterinarian.

Richard Lewis stated that the recommended change to remove this as an allowed use in the B-1 zone was due to the area of the B-2 zone (downtown area) is urbanized and doesn’t have a lot of green space typically needed for this type of activity.

Chair Sullivan asked for input from the public. Kristi Gaff, Veterinarian from Avalon, was present to speak. She stated they have outgrown their current space and are looking at relocating and the area that they found is in the B-2 Zone. She stated that in big cities there are veterinarian clinics that utilize indoor runs and she would like the board to consider this as an option.

Member Freeman recommended that the board leave this use in the R-1 Zone and the B-2 Zone by SUP and let the board review each case on a case by case basis, which would allow the board to set conditions that are applicable for the different applications. He added that the difference would be a large animal veterinarian (which caters to horses, cows and other large animals) then a small animal veterinarian. Member Starkweather stated that typically a practice that caters to large animals usually goes on site to care from the large animals.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

7. **Gravel Pit:** The purpose of this amendment is to eliminate this sue from the Residential-1 district since this use is not appropriate for this residentially oriented district.

Richard Lewis stated that the recommended change was the removal of the Gravel pit being allowed in the R-1 zone with the issuance of a Special Exception from the Zoning Board and not allow the use in the R-1 Zone. He stated the reason is due to the amount of large truck traffic not being appropriate for a residential zone.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

8. **Manufacturing/Heavy Industry/Light Industry:** The purpose of this amendment is to modify the Use Table so that the uses are better suited to the individual districts and to modify the definitions to more clearly define that outside storage can be associated with these industrial activities.

Richard Lewis indicated that the changes are based on a lot of overlap and clarification of the definitions. He stated that in the future he wants to review dissolving the I-2 Zone completely. He stated that the definition of manufacturing would be removed and replaced with a new definition for Light Industry and an actual definition for Heavy Industry.

The consensus of the board was to allow Light industry in the B-1 Zone by issuance of a SUP by the Planning Board.

District ----->	RR	RS	R-1	R-2	R-3	B-1	B-2	I-1	I-2	C	LP
Manufacturing/Heavy Industry								P	SUP		
Light Industry						SUP	SUP	SUP	P		

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

9. **Research Laboratory:** The purpose of this amendment is to add this use to be allowed in the I-1 zoning district.

There was discussion by the board regarding the allowance of this use in the B-1 Zone by SUP issuance from the Planning Board.

District ----->	RR	RS	R-1	R-2	R-3	B-1	B-2	I-1	I-2	C	LP
Research Laboratory						SUP		P			

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

10. **Plant Nursery/Greenhouse:** The purpose of this amendment is to eliminate this use from the R-1 residential zone since this commercial activity is not appropriate in this zone which has a minimum lot size of only 20,000 sq ft and thus is not an appropriate use. Further the amendment makes this a Special Use Permit activity in the Conservation zone, making it consistent with the Rural Residential district.

Richard Lewis explained that the changes recommended for the Greenhouses and Plant Nurseries was to not allow it in the R-1 Zone, but to allow it in the Conservation Zone. He stated these changes make more sense.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

12. **Nightclub:** This proposed amendment eliminates this as an allowed use in the Industrial and Conservation zoning districts since the use is not compatible with these three districts. This use category will also be move from the “Recreation” section of the Use table to the “Commercial” section.

Richard Lewis stated the recommended changes are that this use not be allowed in the I-1, I-2 or Conservation Zones as it is inappropriate.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

13. **Commercial Recreation:** This proposed amendment will eliminate this use from the R-3 residential zoning district since it is not compatible with multi-family uses common in the R-3 district.

Richard Lewis stated that the R-3 Zone is the most highly developed zone. He is looking to remove this as an allowed use in the R-3 zone, as it is not an appropriate use in the zone.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

14. Golf Course: This proposed amendment eliminates this use from the residentially oriented R-1 zoning district since it is not compatible with this zone, especially given its overall location in the City. Further, the amendment makes this a Special use Permit activity in the Conservation district which is consistent with the Rural residential district.

Richard Lewis stated that his recommendation is not allow this use in the R-1 zone; however, to allow it in the Conservation Zone. He stated the R-1 zone lots are small and the Conservation Zone lots are larger and that this makes sense.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

15. Hospital, Clinic or Nursing Home: This proposed amendment deletes “Nursing Home” from this use category due to the fact that nursing homes are addressed elsewhere in the Use Table.

Richard Lewis stated that Nursing homes already have their own use line in the use table and that he recommends removing the “or nursing home” from after Hospital, Clinic. He stated that this is a housekeeping issue, based on duplication.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

16. Private Club/Private School: These proposed amendments eliminate these two uses from the R-1 and R-2 zoning district since these uses are not compatible with these residential areas.

Richard Lewis stated this is an inappropriate use for the residential zones.

The consensus of the board was to send a positive recommendation to the City Council regarding this amendment to the ordinance.

MOTION: Member Giunta moved and Member Russo seconded that the Franklin Planning Board approve the revisions to the Franklin Zoning Ordinance as discussed and amended, and vote to forward these revisions, with an affirmative recommendation, to the Franklin City Council for their vote. All were in favor and the motion passed.

- Amendment to the Section 402-3.I of the Site Plan Regulation regarding the acceptance of plans for a hearing.

Richard Lewis stated that these changes allow for greater flexibility of the board with respect to accepting plans for Site Plan Review.

MOTION: The Franklin Planning Board moved to approve the proposed revisions to the Site Plan Regulations that deal with the process of accepting of plans for a formal public hearing, and shows their approval by signing the certification page indicating that they Certify and approve the changes. All members that were present signed the certification sheet.

Public Comment: None.

Other Business

Member Sharon brought up the Flag on the Cellular Flag pole on South Main Street and that the flag is not proportional to the pole. Richard Lewis stated that he has spent a lot of time reviewing this and has spoken with the owner and the City Attorney. He stated he will put a package together for the board for their next meeting.

Chair Sullivan stated that he thought the flag was suppose to be proportional. Richard Lewis stated there is a lot of gray area with this case.

Planner's Update

Richard Lewis asked the board, beings they have gotten through the zoning changes, if there are no applications in August how they would want to proceed. The consensus of the board was that if no new applications are submitted, that they would recommend not having a meeting.

Member Giunta asked about the open mic, talent, and other entertainment venues taking place at 20 Canal Street. He stated that prior to approval the board had received the email regarding drug use and other things happening at their previous site in Manchester. He stated he has heard some disturbing reports about strange activities taking place on the site and he wants to put an end to it.

Richard Lewis stated that, without going into details, the city has been having ongoing discussions on this matter. He stated there has been some disagreement between the owner and the city and the issues are being reviewed. The Police Chief has deemed that it is necessary to have a one officer police detail at each event.

Member Giunta stated that the board has shown that they are lenient; whoever, they now need to show that if you go against what the board has decided that the board will put their foot down and put a rescind the approval. He stated that originally Paul Morrissette vouched for this business; however, if you asked him now he would not.

Chair Sullivan indicated he would like to authorize Richard Lewis to send a letter re-affirming the board's decision to the applicant. Richard stated that the board gave the Police Chief the authority to have a police detail. This has been explained to the applicant.

Adjournment

MOTION: Member Sharon moved and Member Starkweather seconded to adjourn the July 27th, 2011 Regular Meeting of the Franklin Planning Board at 9:18 p.m. All were in favor and the motion passed. The meeting was adjourned at 9:18 p.m.

Respectfully Submitted,

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