

FRANKLIN ZONING BOARD of ADJUSTMENT
Minutes of Wednesday, February 9, 2011, at 7:00 p.m.
[Postponed from 2/2/11 due to snow]

Call to Order

Acting Chair Farmer called the meeting to order at 7:00 p.m.

□ Roll Call

Present: Charles Farmer, Donna Tully, Martin Russo, Kathlene Fleckenstein, and Donald Gagnon; Planning and Zoning Administrator, Richard Lewis.

Absent: Floyd Sargent

□ Approval of Minutes of the January 5, 2011 Zoning Board Meeting.

MOTION [Tully/Russo] to approve the minutes of 1/5/11. No changes made. Voted 5-0-0 to approve the minutes.

Alternative members Tully and Gagnon were seated in place of Member Sargent and the vacant open seat.

New Business

1. **Request for a Rehearing regarding Z11-01:** Francois P. Pellerin, Owner; Conrad WP Cascadden, Esquire, Applicant, and the denial of a Use Variance to allow a business, GTM Landscaping and Renovations, to operate at 9 Upland Drive, Tax Map/Lot # 100-060-00, which is zoned as a R-1, Low- Density Residential District.

The Board received a motion from Mr. Pellerin's attorney asking for a rehearing in order to allow certain activities to be conducted on the property. In considering the request Member Russo stated that he felt that the request did not present any new evidence or arguments that supported a rehearing. Member Tully concurred with that position. There was general agreement that the issues revolving around this variance request heard at the January 5th hearing were thoroughly discussed and all parties presented their case at that time.

Members Russo and Tully made this motion:

"I move that the Franklin Zoning Board of Adjustment deny the request for a rehearing of the matter of Francois Pellerin, 9 Upland Drive, case number Z11-01. In the opinion of the Board, the applicant has not presented any new evidence that was not available at the original hearing on January 5, 2011, and no procedural defects in the original decision that would warrant a rehearing have been identified. Further, the Board feels that all of the issues regarding this case were thoroughly discussed at the 1/5/11 hearing and the decision reached by the Board was supported by the facts and testimony as presented."

Motion approved on a vote of 5-0-0.

2. **Request for a Rehearing regarding Z11-02:** the height variance granted on 1/5/11 to RD Edmunds and Sons, in order to build a 360 TPH Asphalt Plant with associated structures, such as baghouses, hot elevators and silos that will be a maximum height of sixty-five (65') feet. The property is located on the northwest corner of NH Route 3 and Punch Brook Road, identified as Tax Map/Lot # 103-406-00, I-1 Zone (Industrial District)

Member Farmer recused himself from this discussion.

The Board received a request for a rehearing on the approved variance from an abutter and other affected parties. Planner Lewis stated that while he felt that the balloon test conducted as part of the variance application could have been carried out a bit more effectively he did not feel that the test played a significant part in the decision making process for the Board. Member Fleckenstein stated she felt that there was a thorough discussion on the visual issues at the 1/5/11 hearing. She noted that the project engineer presented visualizations of the height of the facility with photos showing a surveyors pole with a cone on top, and an abutter presented some representations depicting the height of the facility also. Member Gagnon stated that he too felt that the balloon test was not overly significant in the Board's consideration of the variance given the information presented by the engineer and the abutter on the height issues; all questions and answers relative to the height of the proposed facility were addressed. He also stated that the variance test for Due Justice applies to both the abutters and the applicant and given all of the issues, the language of the ordinance relative to setbacks for industrial uses and facilities, and the fact that this is an industrially zoned area lead to what he believes was a well reasoned decision. Member Fleckenstein added that the historical perspective provided by Rick Lepene, one of the speakers at the 1/5/11 hearing, was very interesting and helped frame the issues better for the Board.

Members Fleckenstein and Tully made this motion:

"I move that the Franklin Zoning Board of Adjustment deny the request for a rehearing of the matter of RD Edmunds & Sons, case number Z11-21. In the opinion of the Board, the abutters and interested parties have not presented any new evidence that was not available at the original hearing on January 5, 2011, and no procedural defects in the original decision that would warrant a rehearing have been identified. Further, the Board feels that all of the issues regarding this case were thoroughly discussed at the 1/5/11 hearing and the decision reached by the Board was supported by the facts and testimony as presented."

Motion approved by a vote of 4-0-0.

The Board then entered into a discussion on the administrative issue of the adoption of Rules of Procedure, a draft of which was provided to the Board in the mailing for this meeting. Planner Lewis indicated that we are required to have such rules by statute; if the Board members have any comments on the draft language they can send them to the office. It was agreed that the public hearing on these rules will be scheduled to coincide with the next meeting at which time there will be other public hearings on specific applications.

The election of officers will be held in the future when the open seats are filled.

The topic of conducting a workshop for the Board was discussed. It was agreed that having a more specific Franklin-oriented workshop would be most helpful, as opposed to very general ZBA overview. Planner Lewis will work with City Attorney Fitzgerald to organize the appropriate materials that will assist the Board in all phases of ZBA activities.

The question was asked whether members would like a full copy of the ZBA Handbook as prepared by OEP, a more focused condensed version, or an electronic version. Member Russo was okay with using the online electronic version, and all other members felt that a condensed version was okay. These materials will be prepared and distributed to the Board.

No other business or public comment was brought forward and there was no Planner's Update

Members Russo and Tully moved to adjourn the meeting at 7:45. All were in favor, meeting adjourned.