

**FRANKLIN ZONING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
CITY COUNCIL CHAMBERS- CITY HALL  
Wednesday, July 13<sup>th</sup>, 2011 at 7:00 p.m.**

**MINUTES**

**Call to Order:** The meeting was called to order at 7:02 p.m.

- ❑ **Salute to the Flag**
- ❑ **Roll Call**

**Present:** Donna Tully, Don Gagnon, Kathlene Fleckenstein, Floyd Sargent, Marty Russo and Planning and Zoning Administrator Richard Lewis.  
**Absent:** Chuck Farmer.

**Acting Chair Tully seated Member Gagnon for absent voting member Charles Farmer.**

**It was indicated that the nominations would be moved to after the hearings.**

- ❑ **Approval of Minutes: June 1<sup>st</sup>, 2011 Zoning Board Meeting**

**MOTION:** Member Russo moved and Member Sargent seconded to approve the minutes of the June 1<sup>st</sup>, 2011 Zoning Board regular meeting. All were in favor and the motion passed.

**New Business**

- ❑ **Z11-07:** Brian Nawoj, Applicant, requests an Appeal of Administrative Decision, regarding the May 12, 2011 decision of Richard Lewis that the proposal of Donald and Eileen Oliver for the demolition of an existing structure and the construction of a replacement structure meets and satisfies the provisions of Sections 305-18.C.4 and 6 and shall be considered a natural expansion of the structure for property owned by Oliver Family Irrevocable Trust and located at 25 North Shore Lane, identified as Tax Map/Lot # 032-049-00, LP Zone (Lake Protection District).

Richard Lewis stated that we found out this morning that the legal ad published in the citizen was defective. The notice did not read that this was a meeting of the Zoning Board of Adjustment and due to this, the application needs to be continued to August for proper public notification in the paper.

**MOTION:** Member Sargent moved and Member Russo seconded to continue application Z11-07, Brian Nawoj applicant, requesting an Appeal of the May 12, 2011 Administrative Decision issued by Richard Lewis regarding the proposal of Donald and Eileen Oliver for the demolition and rebuilding of an existing structure, located at 25 North Shore Lane, identified as Tax Map/Lot # 032-049-00, to the August 3<sup>rd</sup>, 2011 Meeting of the Zoning Board of Adjustment to be held in City Council Chambers, City Hall, at 7:00 p.m. All were in favor and the motion passed.

- ❑ **Rehearing Request regarding Z11-06:** John J. Krauz and Cindy Ann Krauz, Owners/Applicants, request a variance to create three new lots that would not meet

the frontage requirements for the zone. The property is located at 32 New Hampton Road, identified as Tax Map/Lot # 114-014-00, RR Zone (Rural Residential District). Lot 1 would contain the existing house and would have 196.54' of frontage on New Hampton Road. Of the two new lots, lot 2 would have 50' of frontage on New Hampton Road, Lot 3 would not have any frontage on a City accepted and maintained roadway. The frontage requirement in the RR zone is 225'.

This application was denied at the June 1, 2011 meeting of the board. The board will be making a decision on whether a rehearing is warranted; however, if the board opts to rehear the application the rehearing will take place on August 3<sup>rd</sup>, 2011, at 7:00 p.m.

Member Tully stated that this is a decision made by the board without any public input.

Richard Lewis stated that he sent out an informational packet and memo to the board. He stated that as he pointed out the basic question the board needs to answer is if there is sufficient grounds to rehear the application or if the June 1<sup>st</sup> decision of the board stands. He stated that if the board votes not to rehear the application then Mr. Krauz can appeal to Superior Court or can submit a new application, revised, for the board to consider. If the board votes to rehear the application then the rehearing will take place on August 3, 2011.

Member Russo asked if a motion needs to be on the table for the board to discuss this rehearing and Richard Lewis stated one does not have to be.

Member Sargent stated he thinks the board should rehear the application, as he believes that the applicant will be coming before the board with some revisions to the original application. Angie Carey stated that the rehearing request is on the application that was submitted in June and voted on by the board, without any changes. Member Sargent asked if the applicant could make changes at this point and Richard Lewis stated they cannot. Member Russo asked if the board could review changes if the court voted that the board should rehear the matter. Mr. Lewis stated the court would only rescind the board's decision if they found that the board was at fault in their decision. Mr. Lewis stated that the court hears what is in the record and not new information.

Richard Lewis stated that the board would vote to rehear the application if they found that the board had made a mistake in their decision. Member Sargent asked if this was regarding just what was submitted last month and Richard Lewis stated that was correct. Member Sargent asked if the only option for the board to hear with an alternative plan was for the board to deny the application and for the applicant to submit a new application. Richard Lewis stated that if the board denied the application then the applicant could either petition the court or could refile a different application with a different approach from a different perspective.

**MOTION: Member Russo moved and Member Gagnon seconded that the Franklin Zoning Board of Adjustment vote to not rehear the variance application filed by John and Cindy Krauz and to sustain the denial issued on June 1, 2011, with that decision referenced as Z11-06. In the opinion of the Board, the request failed to raise any errors that would need to be corrected by the Board through a rehearing, and the request failed to put forward any new evidence or other materials that were not available to the applicant at the time of the original hearing. Further, the Board sees no other valid reasons to rehear the matter as the issues were thoroughly discussed at the original hearing on June 1, 2011. All were in favor and the motion passed.**

- **Nomination of:**
  - Chair
  - Vice Chair
  - Secretary

The board opted to do the nominations when all members of the board were present.

**Old Business:** None.

**Planner's Update:** None.

**Other Business:** None.

**Public Comment:** None.

**Adjournment**

**MOTION:** Member Sargent moved and Member Fleckenstein seconded to adjourn the July 13<sup>th</sup>, 2011 meeting of the Zoning Board of Adjustment, at 7:16 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey  
Planning and Zoning Administrator