

**FRANKLIN ZONING BOARD  
REGULAR MEETING AND PUBLIC HEARING**

**Wednesday, April 3, 2019 at 7:00 p.m.; City Council Chambers**  
**Minutes**

**Call to Order**

☐ **Salute to the Flag**

☐ **Roll Call: Present—Chairman Glen Feener, Vice-Chair Debbie Davis, Kathlene Fleckenstein, David Testerman, Cecile Cormier, Robert Hubble and Planning Director Richard Lewis**  
**Absent: Jeffrey Dickinson. Member Cormier is seated for Member Dickinson.**

☐ **Approval of Minutes of the March 6, 2018 Public Meetings of the Board.** Members Testerman/Fleckenstein motioned/seconded approval of minutes as written. **By a vote of 3-0-2 to motion passed.** Abstentions by Testerman & Cormier-not present March 6th.

**Old Business: Request for a Continuation of Z18-09:** Brian Nawoj, owner is seeking a variance from 305.14, Lot and Yard, to replace an existing nonconforming residence with a new residence that does not meet the shoreline [17 ft. vs. 50 ft.] or property line setbacks [19.1', 11.5', & 14.1' versus 50']. The property is located at 19 North Shore Lane [Map/Lot 032-048-00, Map Sheet H4] in the LP [Lake Protection] zoning district. Members Cormier/Davis motioned/seconded a continuance until May 1, 2019. **Motion passed by a vote of 5-0-0.**

Planner Lewis mentioned that this hearing has been continued several times so abutters will be notified by regular mail this time.

**New Business:**

**Z19-02:** Brian Nawoj, owner/applicant is seeking a variance from Zoning section 305-14 Lot/Yard to construct a 36 ft. by 10 ft. deck that will not meet the setbacks [15 ft. versus 50 ft. required]. The house being constructed is at 15 Smiling Hill Road, Map/Lot 074-012-00, Map Sheet J6, in the LP [Lake Protection] zoning district.

Mr. Nawoj reminded the board that a variance was granted to build the house. However, a decision to increase the size of the garage resulted in an oversight error that put the proposed deck outside the approved setbacks. He would like to get a variance to allow for the deck which would complete the building of the house and allow for rear access from the main floor. He added that due to the shift in the siting of the house, they now have 40 feet to the road versus the 30 feet approved by the previous variance.

No one from the public spoke either for or against the proposal. Member Cormier asked the distance from the rear lot line to the lake and Mr. Nawoj answered that it was about 324 feet. Members Fleckenstein/Cormier motioned/seconded approval of the variance with the draft conditions. **By a vote of 5-0-0 the motion passed.**

**Z19-03:** 15 Tannery Street, LLC, owner and T.F. Bernier, Inc., applicant are proposing a commercial building to be located on Cross Mill Road, Map/Lot 148-015-00, Map Sheet N10. The property is Zoned both B-1 [low density business] and RS (single family residential), and a Variance from Zoning Section 305-13, Permitted Use Table, is needed to allow some commercial activity [parking and a drainage system] in the residential zone.

Mr. Bernier, along with property owner Garth Dubois, were present to speak for the application. Due to the zoning district boundaries the commercial lot is divided between the B-1 and the RS zones. The majority of the proposed commercial use will be within the B-1 zone; however, a portion of the driveway and parking and the stormwater management system's retention basin will fall within the residential section. The proposed retention basin capacity will exceed the regulations for a 25-year storm. Eighty-nine percent of the development is within the commercial district. The 4800 square foot building will include two professional office spaces with their own parking area in the front of the building. The remainder of the building is for the Gap Mountain Drilling business. That portion of the building and parking will be fenced off with access through a gate off Cross Mill Road. Mr. Bernier addressed the criteria for the variance. He said that it would be difficult to develop the commercial potential of the property if they were restricted to using only that section that fell within the B-1 district. Buildings and parking lots tend to be square, but zoning lines aren't, making it difficult to contain all commercial development within the B-1 district. There will be a substantial buffer of trees on the residential section. They will only be removing the old pines that could fall in a storm. He mentioned that CVS requested and received a similar variance for the same type of zoning division.

Vice Chair Davis asked about the second lot and Mr. Bernier responded that it would remain strictly residential. Member Cormier asked for more details on the commercial building and Mr. Bernier stated that the design would include two professional office spaces with a mezzanine above in the front of the building. The rear portion would have 15-foot garage doors to allow for the height of the commercial vehicles.

Vice Chair Davis then asked about the traffic associated with the development. Mr. Bernier stated that traffic shouldn't be a problem, there is a fixed number of rigs and they are often dispatched between sites without coming back daily to the Cross Mill building. The drill workers generally leave early in the morning and return in the evening. There will be some people coming and going between the two professional offices, but not a large number and probably no later than 7 or 8-o'clock.

Member Fleckenstein asked about any drainage issues that might impact the cellar of the nearby residence. Mr. Bernier answered that the grade goes south and that they dug a test pit and found no discharge from there. The idea of a retention pond is to recharge the ground water. Member Testerman asked why a well is shown at the back corner of the building. Mr. Bernier said that although they would be tying into the city sewer system (which is on the south side of Central Street), but it would be expensive to tie into the water which is across the road and would entail a big road cut.

Planner Lewis informed the board that the Planning Board met last Wednesday to review the conceptual plan on this project and that Mr. Bernier and Mr. Dubois will be returning to the Planning Board at the end of the month for subdivision and site plan approval.

A motion to approve the variance with the associated conditions was made by Member Fleckenstein and seconded by Member Cormier. **The motion passed by a vote of 5-0-0.**

**Planner's Update:** Planner Lewis informed the board that he had spent a significant amount of time of late working on grant applications, but is hoping to dedicate more time to reviewing the zoning ordinances, making corrections and generally making them easier to understand.

**Other Business:**

Member Testerman asked if something couldn't be done about properties that have become junk yards, specifically the property on Prospect Street. He asked if there wasn't some sort of ordinance that would make it painful for a property owner to ignore requests for cleanup. Mr. Testerman mentioned that he once lived in a city that rolled the cost of the city cleaning up a site into the property owner's tax bill after the owner ignored several notices from the city. He asked if Franklin couldn't have something of that sort. Member Cormier asked if the junk included unregistered cars and couldn't the State get involved. Planner Lewis said that Franklin has a property maintenance code. In this situation the code officers met with the property owner over the winter. Although the city has everything it needs in the zoning, it is the issue of enforcement that is really hard, especially if it gets to superior court. The whole thing becomes very time consuming and expensive. He mentioned that even when fines are levied, they are held in abeyance.

Vice Chair Davis asked if fencing in the property would serve as an alternative. Chairman Feener added that in Salem, they charge the property owner \$20,000 for the city to do the cleanup. Planner Lewis stated that you would still need to take them to court. Member Testerman asked about a change in the RSAs and volunteered to put it in a bill. Planner Lewis said that the burden is placed on the shoulders of the community, but that he is willing to talk to other communities and see if something could be worded that might be passed. Member Cormier asked if the municipal association couldn't help and Mr. Lewis said that they echo the same comments. There needs to be a level of change in the regulations. Chairman Feener added that the ordinance was put in place 16 years ago to handle this, but unfortunately it means having to go to court if the property owner refuses to comply. Planner Lewis again informed the board that the Code Officers had been out to the property and issued a letter to the owner. Due to the winter conditions, clean up couldn't be performed then.

**Public Comment:** None

**Adjournment:** Members Cormier/Fleckenstein made a motion to adjourn. By a vote of 5-0-0 the meeting closed at 7:40 pm.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, May 1, 2019, at 7:00 p.m.; the deadline date for submission of applications for this meeting is Wednesday, April 10, 2019.

Minutes recorded by Cheryl Y. Fisher, Administrative Assistant Planning and Zoning.