

OPEN SESSION

Chairperson Steve Misiura called the meeting to order at 7:31 p.m. and read the Open Public Meetings Act statement which stated that adequate notice and posting of the meeting had taken place in accordance with the requirements of P.L. 1975, Chapter 231.

The flag salute.

Roll Call

	PRESENT	ABSENT	LATE ARRIVAL
<i>Mayor Kirson</i>	✓		
<i>Ms. Laudenberger</i>	✓		
<i>Ms. McGinty</i>	✓		
<i>Mr. Misiura</i>	✓		
<i>Mr. Montferrat</i>	✓		
<i>Mr. Moraitis</i>	✓		
<i>Mr. Pratt</i>	✓		
<i>Mr. Searing</i>	✓		
<i>Mr. Olsen</i>		✓	
<i>Mr. Byrne</i>	✓		

Also in attendance: Susan Jackson, Planning Board Secretary; Gary Rosensweig, Planning Board Attorney; Carmela Roberts, Borough Engineer; Tamara L. Lee, Borough Planner

APPROVAL OF AGENDA

Mr. Montferrat made a motion to approve the agenda with the addition of Americana Diner Memo as a Discussion item. Mr. Searing seconded. The agenda was approved with a 9-0 vote.

APPROVAL OF MINUTES: June 13, 2011

Mr. Montferrat made a motion to accept the June 13, 2011 minutes as presented. Ms. Laudenberger seconded.

Roll Call: Ms. Laudenberger; Mr. Montferrat; Mr. Moraitis; Mr. Pratt; Mr. Searing; Mr. Misiura and Mr. Byrne voted yes, Mayor Kirson and Ms. McGinty abstained. Minutes for the May 9, 2011 meeting was approved with a 7-0 vote, 2 abstentions

PUBLIC COMMENT

Mr. Misiura opened the floor to any public comment unrelated to anything on the agenda. As no one came forward from the public, Mr. Misiura closed Public Comment time.

APPLICATION 2011-03 – USE VARIANCE – BLOCK 28 LOT 3 – 132 FRANKLIN ST – MR. MANUEL MENDIETA

Mayor Kirson and Councilmember McGinty recused themselves from the hearing.

Leonard Coates, Esq. from Turp, Coates, Essl and Driggers, representing Mr. & Mr. Manuel Mendieta of 132 Franklin Street, Hightstown, NJ. Mr. Coates asked to present the application without a professional planner as he doesn't believe that the testimony to be given will be affected by having one. This property has had many applications in the past and since all the zoning variances have been hashed out and approved in the past the Mendieta's are hoping that they would not have to hire a planner. The use that is being applied for is a less intensive use than in the past and will have a far less intrusive impact on the community. Mr. Coates has Manuel and Blanca Mendieta; Marianne and Erica Paladino and Mr. George Serrano present tonight as witnesses and as an interpreter if the need is necessary. Mr. Rosensweig swore in all witnesses.

Mr. and Mrs. Mendieta use half of the first floor and half of the second floor for their living space. They have a tenant in the second floor apartment and Marianne and Erica Paladino will be utilizing the vacant half of the first floor for a Yoga Studio.

Mr. Coates gave a brief history of the property and all the different applications that have come before the Planning Board. All bulk and use variances associated with the property have been addressed in the past and would not change with the Yoga Studio; it actually would be a less intensive use than before when there was an antique shop there. In 2006, a vehicle circulation was put in to accommodate 128 Franklin Street when the Beauty Salon was granted approval. The two properties use the same apron with a cross-over onto 132 Franklin Street and right hand turns are only permitted when leaving the properties. The sign is posted stating this. There are 6 spaces for parking on site and the municipal parking lot is nearby as well as on-street parking that can be utilized if there is a need for more parking. Based on the surrounding commercial uses and the daily activity of these uses, the service use that is being requesting is suitable and not as intensive to the surrounding area.

Marianne Paladino, Bennett Place, gave her testimony that she and her daughter are co-owners of the studio and they went into the house to figure out the capacity for their classes. They would be using the front porch area, a smaller room and the hall way area on the first floor for the studio. They are able to fit up to 8 mats but do not expect more than 5 clients per class. They are looking to have up to 4 classes during the day, Monday through Friday, with the first class starting around 7:00 AM with a final class ending by 9:00 PM. Each class session runs for about 1.15 hr. They would also have classes on the weekend but not as many as during the week. They are working on the details to determine the exact times of each session. The Paladinos would be parking their car in Memorial Parking Lot to allow their clients to utilize the parking by the house but most of the time would be riding their bikes to the location as they live in Hightstown. They would also make sure that their clients know that they can only make right turns out onto Franklin Street when exiting the property. They don't need anything else to start their business but may in the future put in a small sauna that doesn't require any additional electric and will put in a phone to receive calls from clients.

Blanca Mendieta resides at 132 Franklin St. They use ½ the first floor and some of the rooms on the 2nd floor. They bought the house in 2007. They were aware that the property has had businesses in the past and believed that they would be able to continue having some kind of business in the house. She stated that the Paladinos are the first to sign a lease documents. The lease is for one year with the option to extend it to three years. There is the option to opt out at the end of each year if the Paladinos want out of the location. She talked about the improvements that they have made to the property, putting in a new sidewalk leading up to the front doorway and paving the area behind the house. Presently they use the

garage/boat house on the back of the property for storage only, although they have cleaned it out some. They have no intention of ever renting it out.

Mr. Coates has no other witnesses to come forward and based on the facts that he has presented, he asks the Planning Board members to make a decision without having to get a professional planner.

Mr. Misiura asked if the Borough Professionals have any questions. Mr. Rosensweig swore in Ms. Roberts and Ms. Lee. Ms. Lee just wanted to have the applicant clarify that 128 and 132 Franklin St. do not share the same parking spaces. They both use the same driveway apron but each property has its own parking spaces.

With no other comments from the Professionals, Mr. Misiura asked the Board if there were any questions. Mr. Pratt entered some pictures that were taken of 132 Franklin St. as exhibit A. He has a few concerns starting with the site plan that was given with the application was from 2007 and he would like a more current site plan. There are also taxis parking on the property and by ordinance they are not allowed to park the taxis on the property. The lease with Marianne Paladino states that there will be no other parking permitted in the 6 spaces other than the clients of the Yoga Studio. Mr. Pratt wants to know why Mr. Mendieta paved the side yard and behind the house without the proper approval. Ms. Roberts said that a new site plan may not be necessary because the ordinance is specific that 4 or more spots require a site plan and no one is sure how many spaces are there currently. She is willing to go over and look at the driveway and determine the impervious coverage and water runoff as per the Borough's ordinance and make a determination on whether they must remove the pavement or get the proper approvals from the Borough. It needs to be addressed by the Planning Board. Mr. Pratt also stated the Mr. Schmeling has told the owners of 128 Franklin Street that the fence between the two properties must come down and is working with the owners presently on the issue. The barn on the back of the property is a disaster.

Mr. Moraitis has approached the issues of the taxi parking on the premises and the living arrangements of the house. He wants clarification on whether there are two legal apartments or just one and if there are two legal apartments, where are the COs for both apartments. Past resolutions only talk about one apartment and now they are saying that there are two.

With no other comments from the Board, Mr. Misiura opened the floor for public comment. As no one came, Mr. Misiura closed public comment.

Mr. Montferrat made a motion to approve Application 2011-03 – Use Variance – Block 28 Lot 3 – 132 Franklin St with conditions. Mr. Pratt seconded.

Conditions of an approval are:

- The driveway/parking area in the back of the house needs to be addressed. An updated and accurate site plan needs to be done showing the water runoff. The owners will either have to remove the paving or get the appropriate approvals from the Borough.
- The barn/boat house in the back must be made safe by fixing it up and making sure that it is in good repair. They need to have George Chin let them know what they need to repair and make sure that it is up to code and standard. They also must clean up the trash around the barn. The recommendation is for the ARC help give ideas and come to the Planning Board with their recommendations.

- The Planning Board wants a property restriction on the deed stating that no fences are allowed on the back of the property. The owner would be allowed to plant trees along the property line but no fences.
- The taxis are not allowed to be parked on the property.
- All proper Certificates of Occupancy must be submitted for the two apartments and the Yoga Studio.
- All signs and banners must conform to the sign ordinance.
- There is a maximum of 8 (eight) students allowed during each session.

Roll Call: Ms. Laudenberg; Mr. Montferrat; Mr. Moraitis; Mr. Pratt; Mr. Searing; Mr. Misiura and Mr. Byrne voted yes. Mr. Olsen was absent. Mayor Kirson and Ms. McGinty abstained. Application 2011-03 – Use Variance – Block 28 Lot 3 – 132 Franklin St – Mr. Manuel Mendieta was approved with a 7-0 vote.

DISCUSSION:

MASTER PLAN RE-EXAMINATION REPORT

Mr. Moraitis asked Ms. Lee to define the difference between a full Master Plan and a Re-examination Report. She explained that the difference is a full Master Plan is redoing every element of the current Master and a Re-examination report looks at the Master Plan and any future projection for the Borough, writing up a report and then have the ability to either upgrade the element or do an amendment to the element based on the report.

Mr. Moraitis then asked the Planning Board members whether they thought that a special meeting be planned as there just isn't time to talk about the Master Plan Re-examination at the meetings. It was determined to look at the Borough calendar and find some dates in September for a special meeting. Let everyone know what dates are available and see what date is best for everyone.

AMERICANA DINER – MEMO FROM BOROUGH COUNCIL

There was a discussion about whether the Borough Council should move forward with a long-term lease agreement with Americana Diner. Ms. Lee said that she had some issues with the landscape/lighting issues but that this was something the Board will discuss when the application comes before the Board for a hearing. Mr. Searing has some concern with the odor from the AWWTP and the compost pile for Public Works. Mr. Rosensweig said that the questions that really need to be asked are whether there is a potential for future land development and that an appraisal needs to be done by the Borough to get a fair market value of the land before entering into any agreement. Ms. Roberts said that under the current DEP Laws, the land that they want for an agreement is unsuitable for any type of development.

Mr. Misiura asked for a memo to be written to the Borough Council stating that the Planning Board has no objections to a long term lease agreement with the Americana Diner with some recommendations from Board Professionals. The recommendations include: any agreement should be based on a fair market appraisal of the lands to be leased, to be prepared and submitted by the Applicant; any agreement should be conditioned upon Planning Board approval of land use and receipt of all other approvals for any site development; it is the applicant's responsibility to comply with all environmental laws and regulations; and

the applicant must assure the Borough that no adverse affects will occur affecting the Borough's WWTP, Compost, or Recycling facilities.

COMMITTEE AND PROFESSIONAL REPORTS

Mr. Misiura - has nothing to report on the Route 33 Corridor

Mr. Searing - gave an update on the Zoning subcommittee. They have one zoning ordinance finished and are working on the second one. When they finish both they will present them to the Planning Board for their discussion and approval.

HPC meeting was cancelled in July and there is nothing to report. The August meeting may be cancelled also.

Mr. Pratt - HPC is only requesting that they get applications for any property located in the Historical section of town or a historical property only. The Planning Board will be sending all applications to the HPC and it will be up to HPC to supply a comment or not.

Mr. Moraitis – would like George Chin and Bill Schmeling to address the taxi issue at 132 Franklin St.

Mr. Rosensweig – Governor Christy abolished COAH which will be no more in 60 days and it will be reorganized into something else in the future.

Ms. Laudenberger motioned to adjourn the meeting at 10:00 PM. Mr. Byrne seconded. All approved.

Respectfully submitted,

Susan D. Jackson,
Planning Board Secretary
Hightstown Borough