

**BOUND BROOK PLANNING BOARD
RE-ORGANIZATIONAL MEETING
JANUARY 7, 1999**

The meeting of the Planning Board was called to order by Mr. Strain at 7:30 p.m. in the municipal Chambers, 230 Hamilton Street, Bound Brook, NJ.

ROLL CALL

The following members were present: Mayor Gilly, T. Ruschetta, F. Ryan, A. Gaglia, L. Strain, P. Pournaras, E. Custy, R. Tuck, K. Krauser, M. Anderson, R. Rosenbloom and J. Thompson. Also present were B. Malone, Recording Secretary; D. D'Amico, P.E., Planner; and M. Rodgers, Esq., Planning Board attorney.

OATH OF OFFICE

Oath was administered to newly appointed and reappointed members by Michael Rodgers, board attorney.

SALUTE TO THE FLAG

MINUTES

Minutes of the November 12, 1998 meeting were approved with a motion by Mr. Custy, seconded by Mr. Gaglia, and carried unanimously.

COMPLIANCE STATEMENT

This meeting is being held in compliance with the "Open Public Meetings Law." The requirements of the Law have been met. The Annual Meeting Notice has been posted in the Municipal Building, filed with the Municipal Clerk and forwarded to the Bound Brook Chronicle in January, 1998.

AGENDA

Mr. Strain announced the following items on the agenda:

#27-98	303 Main Street	Site Plan Waiver
#28-98	423 E. Main Street	Site Plan Waiver
	Change in R-3 Zone	Discussion

RE-ORGANIZATION OF THE BOARD

Motion presented by Mr. Gaglia, seconded by Mr. Custy, to nominate **Lyle Strain as Chairman** and to waive the two-year limitation in the by-laws. (Mr. Rodgers explained that the board has the power to waive the by-laws at will.) Motion carried, unanimous.

Motion presented by Ms. Pournaras, seconded by Mr. Custy, to nominate **Anthony Gaglia as Vice Chairman**. Motion carried, unanimous.

Motion presented by Mr. Gaglia, seconded by Ms. Pournaras, to nominate **Keith Krauser as Secretary**. Motion carried, unanimous.

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 2

Motion presented by Mr. Krauser, seconded by Ms. Pournaras, to nominate **Michael Rodgers, Esq. As Board Attorney**. Motion carried, unanimous.

Motion presented by Mr. Gaglia, seconded by Mr. Custy, to nominate **John Cilo, Jr. as Board Engineer**. Motion carried, unanimous.

Motion presented by Mr. Krauser, seconded by Mr. Gaglia, to nominate **Scarlett Doyle as Board Planner**. Motion carried, unanimous.

Motion presented by Mr. Krauser, seconded by Mr. Gaglia, to nominate **Barbara Malone as Board Secretary**. Motion carried, unanimous.

Recording
Motion presented by Mr. Custy, seconded by Mr. Gaglia, to name **The Star-Ledger, The Courier-News and the Bound Brook Chronicle** as official newspapers. Motion carried, unanimous.

Motion presented by Mr. Gaglia, seconded by Mr. Krauser, to adopt the current by-laws of this board.

1999 MEETING DATES

Motion presented by Mr. Krauser, seconded by Mr. Gaglia, to adopt the following meeting dates for 1999:

January	7, 28	July	8, 22
February	11, 25	August	12, 26
March	11, 25	September	9, 23
April	8, 22	October	14, 28
May	13, 27	November	11
June	10, 24	December	9, 23

January 13, 2000 — Reorganization

Motion carried, unanimous.

OPEN TO PUBLIC (NON-AGENDA ITEMS)

Mr. Kurt Slater of 701 Cedarcrest Drive, representing the borough council, was present in the audience along with two other council members. Mr. Slater expressed the opinion that he would like to see Mr. Gupko, even though he is no longer a member of the planning board, be required to attend the meetings to keep abreast of their progress. Mr. Rodgers pointed out that the board does not have the power to require Mr. Gupko's presence at meetings, but the council could enforce such a request from the board. Mr. Strain suggested adding this discussion item to tonight's agenda under "new business."

Mr. Joel Shapiro, 618 Betsy Ross Place, a council member, explained the reasoning behind the requested change in R-3 zone. He felt the reasoning was that every lot but one in that

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 3

zone was a non-conforming lot. Mr. Strain asked to postpone this discussion for "new business" also.

#27-98, 303 Main Street (Voorhees Building) Natural Foods Store

Mr. Gaglia reported for the committee that the building is in fine shape; it is well kept and painted. The rear could use some sprucing up, however. He also felt, as a food establishment, that it should have its own dumpster. There is one for the residents and one for another food establishment in the building. There are a couple of hanging wires that should be eliminated when a sign is erected.

In response to a question from Mr. Anderson, Mr. Strain explained that the planning board's responsibility encompasses the exterior of a building. Mr. Ruscetta expressed the opinion that more help is needed for inspections. He pointed out that there are already two dumpsters on this property that are in violation; they should be closed and 15 feet from the building.

Mr. Thompson suggested requiring the owner and/or applicant to attend the meeting to provide answers to any questions the board may have. Mr. Strain said they are *encouraged* to attend, but if they choose not to the board has the option of approving the request or denying it, based on the information that is available. The owner has authorized the application and is required to fulfill any conditions the board decides upon.

Ms. Pournaras pointed out that every business is required to provide the name of their garbage hauler, but many do not comply. In fact, some food establishments store garbage in their basements. Mr. Strain explained that this is not a requirement of the planning board, and they have no enforcement authority.

Mr. Tuck asked if this information could be requested on the site plan waiver application; then it becomes an enforcement issue. Mr. Ryan also thought this change in the application form might be a good idea. Mr. Strain stated further that you could require the dumpster to be enclosed. Mr. Anderson pointed out that the requirement is spelled out somewhere in the ordinance. Mr. Ruscetta suggested that the approval recommendations stipulate that the dumpster be covered and picked up weekly.

Mr. Gaglia made a motion, seconded by Mr. Custy, that the site plan waiver be approved with the following recommendations: That an on-site dumpster be provided with a metal cover and once-a-week pickup, that exposed wiring be repaired or replaced, and that the rear area be cleaned up. Motion carried, unanimous.

#28-98, 423 East Main Street, Martial Arts School

Mr. Gaglia reported for the committee that this property used to be a chiropractor's office at one time. An application was filed for a video store and at that time violations were pointed out. On the third reinspection, they still exist.

The doorway into the ground floor has a car parked directly in front of it. This is directly below the entrance to the second floor, which is by a steel staircase with a post removed

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 4

to accommodate the parking space. The sidewalk in front has a 2-inch (at least) difference between the outer and inner course of cement; Mr. Krauser feels the sidewalk needs to be replaced.

Mr. Gaglia also reported there is no dumpster in the back and there is garbage all over the rear yard. The downtown area is zoned for retail and offices; a school is not a permitted use. Mr. Anderson suggested that a martial arts school would have both positive and negative effects on the area — ten or fifteen sets of parents would be sitting around for twenty minutes waiting for their children, but they would likely have no place to park. It would force people to come downtown if they could park.

(Mr. Strain explained that when a site plan waiver is denied, the applicant can come back for a variance or a full site plan.)

Ms. Pournaras asked where a site plan waiver application is obtained, and was told that the zoning officer/construction code official decided whether a site plan or a site plan waiver is required. The board may sometimes disagree.

Mr. Gaglia made a motion, seconded by Mr. Krauser, to deny the site plan waiver. Motion carried, unanimous.

Following a discussion on how a motion should be worded to deny an application, the following was decided:

Mrs. Pournaras made a motion, seconded by Mr. Anderson, to **approve** the site plan waiver. Motion **denied**, unanimous.

NEW BUSINESS

Mr. Strain explained that there is a zone north of Union Avenue, west of Mountain Avenue (across from the Presbyterian cemetery), in which an applicant requested a subdivision of his property a couple of years ago. He contended the zone was mistakenly changed back in the 80's. He feels his lot is large enough to be two lots that would be in compliance with other lots in the neighborhood. The application was denied by the board. He then filed a suit which was never settled. Since there is no documentation available on which to base a decision, Mr. Strain suggested that the board table this item until more research is done and members can receive documentation.

Mr. Custy asked who will do the research; Mr. Strain will ask Mrs. Doyle to provide some information. Ms. Pournaras asked why, when surrounding communities are trying to preserve open space, Bound Brook would be going in the opposite direction. The township has the right to change their requirements as to lot size.

Mr. Tuck advised the board that the county is trying to designate Bound Brook and South Bound Brook as a "regional center," which would encourage a higher concentration of people in these towns in order to conserve open space in adjoining communities. Mr. Rodgers asked if the Bound Brook borough council has been notified; it seems they have.

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 5

He suggested they get involved and try to influence the outcome.

Mr. Krauser made a motion, seconded by Mr. Custy, to table this discussion and obtain information from Mrs. Doyle. Mr. Rodgers has the 1996 resolution if anyone wants a copy. Motion carried, unanimous.

Mr. Krauser feels the board would benefit from the attendance of the zoning officer/construction code official at planning board meetings. Mr. Custy pointed out that the issues discussed tonight, though relatively simple, would have been served by having the code official present. Mr. Gaglia felt the landlords' and/or applicants' presence would also be beneficial.

Mr. Anderson wondered if this could be made part of Mr. Gupko's job description, but no one knows where to find a job description. Mr. Ryan pointed out that Mr. Gupko has tenure. Mr. Thompson asked if he could be subpoenaed, and Mr. Rodgers said he could. Mr. Strain said that one of the problems with Mr. Gupko being a member of the board is that there are certain decisions they have to vote on that are not appropriate for him to vote on. Mr. Ruscetta suggested these things might be straightened out before the meeting.

There was a discussion of how a site plan waiver request is processed. Mr. Strain was asked if it is the zoning official's responsibility to tell the applicant if something is not allowable. He should be schooled enough in zoning to read the ordinance and decide whether or not it meets the zone requirements, but he can come to the planning board for a decision. The zoning officer should accept responsibility for knowing these answers. The officer should know, for example, that a service business does not belong in a retail zone. But the planning board will make those decisions if they have to.

Mr. Anderson asked if these requests should come to the planning board before they go to the board but was informed that an application is necessary before coming to the board. As a member of the board, Mr. Gupko would be voting on his own decisions and defending his actions.

Mr. Rodgers asked the board, under the statutes, where the process should begin. An applicant does not have the right to come directly to the planning board. They can theoretically skip the building inspector, but in real life it doesn't happen that way; they go to him for an application. A danger exists to the town when someone has a terrible plan and obtains a building permit. Once they are in, you have lost the right to kick them out; this has happened in the past. There is an amendment in the works that will make any change of occupancy require a site plan or a site plan waiver. Ms. Pourmaras cautioned that the board does not want to put a burden on a new business.

Mr. Strain encouraged everyone to spend some time getting familiar with the zoning ordinances so as not to make a rash decision.

Mr. Gaglia made a motion, seconded by Mr. Krauser, that the council require Mr. Gupko's attendance as zoning officer/construction code official at planning board meetings and notify

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 6

the borough council of this decision. Motion carried, unanimous.

(FIVE MINUTE BREAK)

NEXT MEETING

Mr. Strain will try to get committee assignments together; let him know if you want to be on a particular committee.

Board members should be aware there will be a discussion at the next meeting on #6-98, 374 Talmage Avenue Subdivision (two family house, wants to create another lot to construct a building). If you need a copy before the meeting, contact Mr. Strain.

Mr. Gupko's recommendations will be discussed regarding proposed ordinance changes about site plans and requirements for a site plan, also facade changes.

Sign ordinance needs to be adopted. Changes were recommended by a previous committee.

PLANNING BOARD ACTIVITIES AND DUTIES

Mr. Rodgers spent some time explaining a handout he provided for members regarding powers of the planning board:

- A. Hear appeals from actions of the building inspector. If the building inspector grants something that does not comply, it can be appealed by a citizen within 20 days.
- B. Interpretations of the zoning ordinances. This board has the power to interpret the ordinances. The building inspector can also interpret; it can work for you or against you.
- C. Bulk variance — wide enough lot? Enough parking? The board should not grant it unless there are reasons to justify it (unique shape). A hardship must relate to the property. An overall benefit to the town outweighs the detriment.
- D. Use variance (i.e. gas station in a residential zone or a two-family in a single family zone). You have to show special reasons, such as (1) the town will benefit; more good than harm will come from this use, or (2) there will be no overall detriment to this use. When you have a general benefit, you have to show why it has to be here and not where permitted. This **requires** approval of five members, and only seven are allowed to vote on it.
- E. Non-conforming use determinations. It is permitted to remain if it was in existence before the ordinance was adopted. The building inspector can take their word for it. The board cannot deny a particular business because there are already too many of that type.
- F. Site Plan approval. A site plan deals with the exterior of a building, and the planning board can impose reasonable conditions.
- G. Site Plan Waiver. If it is denied, it is not appealable. It is a *gift*, not something the applicant is entitled to. The board can also impose conditions.

Bound Brook Planning Board
Re-Organizational Meeting January 7, 1999 page 7

The Planning Board can recommend zoning changes to the borough council; the council cannot make changes without this recommendation. One of the problems, however, is enforcement. Once the conditions are imposed, the code enforcement official has to enforce the conditions. This is where you need a liaison with the council. It is also a good argument for the building inspector to attend meetings.

The true purpose of the planning board, with respect to variances and site plans, is to act as an "escape valve" to give some flexibility from the literal interpretation. It should always be used in conjunction with what is good for the town. In fact, it must be proven to you that the particular action will not be detrimental to the town.

Motion presented by Mr. Krauser, seconded by Ms. Pournaras, to adjourn the meeting at 10:00 p.m. Motion carried, unanimous.

Respectfully submitted,

Barbara A. Malone
Recording Secretary

NEXT MEETING — JANUARY 28, 1999