

**Frenchtown Planning Board
Regular Meeting
August 26, 2015**

Chairman Eckel called the Regular Meeting to Order at 7:30 P.M. and stated that all the requirements of the “Open Public Meeting Law” have been met. The meeting has been advertised, the Agenda has been posted in the Borough Hall and copies distributed to the designated newspapers.

ROLL CALL

Present:	Absent:	Dougherty
Case		DenBleyker
Cooper		
Dragt		
Eckel		
Musolino		
Scott		
Sullivan		
Suttle		
Weeks		

Chairman Eckel noted that Attorney Vicky Britton is representing the Planning Board this evening. Attorney Steven Goodell could not attend the meeting this evening. Attorney Hirsch has a conflict with the applicant for the Site Plan Application.

APPROVAL OF MINUTES

Regular Meeting – July 22, 2015

Warren Cooper moved to accept the minutes of the July 22, 2015 Regular meeting. Gerry Case seconded the motion. The minutes of the July 22, 2015 Regular meeting were approved by favorable roll call vote with Rocco Musolino abstaining.

PUBLIC COMMENTS

Chairman Eckel announced that before we start the public comment section, comments are welcomed on matters not listed on the agenda. Comments related to agenda items should be held until that specific item comes up on the agenda. Chairman Eckel opened the public comment session.

Jim Meade of 611 Harrison Street commented that he was hoping to get the meeting minutes for the Planning Board uploaded on the website. If it is a problem of time, he volunteered to do that for the Board. Chairman Eckel thanked Mr. Meade.

Having no other public comments, Chairman Eckel closed the public comments session.

Sign Application - Block 55 Lot 1, 10 Bridge Street, Suite 4 – Outsider Art Gallery

The applicant was not present. Chairman Eckel commented that this application has been on the agenda for many months.

Site Plan and Variance Application – Block 57 Lot 1, Kerr & Lott Street – Madeline Cretella (Completion Review)

Anthony Danzo, Attorney for the applicant, noted that he is here with the applicant's engineer and planner. It has been properly advertised and he would like to move forward with the completeness review of this application. He noted that he has Engineer Clerico's and Planner McKenzie's reports. Chairman Eckel asked Attorney Britton to confirm that this application has been properly noticed. Attorney Britton confirmed that the application was properly noticed.

Chairman Eckel noted that based on the application before us as well as the memos from Engineer Clerico and Planner McKenzie, she believes the applicant will be asking for "D" variances. Attorney Danzo noted that the applicant will be asking for bifurcation of the application applying for use variances. We are allowed to do that and that Engineer Clerico mentions that in his report. Chairman Eckel noted that if you are seeking a "D" variance, the Mayor and Council member must step down. Attorney Danzo noted that the applicant is requesting a use variance. Mayor Cooper and Councilman William Sullivan stepped down on this application.

Attorney Danzo noted that the applicant is requesting a use variance and would like to be deemed complete. The engineer and planner are here this evening if there are any questions.

Chairman Eckel noted that Engineer Clerico will reference his memo on the completion review. Attorney Britton noted that the notices appear to be adequate.

Engineer Cleric noted that the letter he wrote dated August 20th was based on the application filed for site plan and it also cited a variance. The checklist that was filed was only for a site plan so he only reviewed the checklist for a site plan. If he understood what Attorney Danzo said early, the applicant is requesting to withdraw the site plan aspect of the application and file a bifurcated process. Attorney Danzo confirmed that is what they are requesting. Engineer Clerico noted that it is a different process. That would be a use variance process. Under the Municipal Land Use Law, the applicant has the option of making the request on a use variance for a bifurcated process where they would just seek the use variance aspect of the application and try to justify the proposal. If the Board were to grant a use variance under those circumstances, it would be subject to the applicant coming back for a site plan approval. They would not move forward with a site plan unless they had a use variance. The use variance would not be validated until or unless they get site plan approval. What we have before the Board tonight is a checklist list he reviewed for a site plan. If the applicant wants to withdraw the site plan aspect of the application before the Board, there would have to be some mechanism for doing that. One of the missing components of this submission is the fact that they need a use variance but did not file a checklist for a use variance. There is a separate application for use variance and a checklist for a variance application. Chairman Eckel noted that we do not have a checklist for a variance application. Attorney Danzo requested to keep the site plan application in place and proceed with a variance application. Engineer Clerico noted that the only action the Board can take this evening is to review the site plan application to determine if it is complete or not complete. The Board has a time limit for review of the application before them. He will review his report to determine what waivers are being requested, what was provided and what conforms and what does not conform. If you intended to bifurcate, the Board does not have a variance application before them. Attorney Britton noted that if you bifurcate, you do the use variance first. Then the site plan application would be submitted second. The problem is that the variance application checklist was not submitted. Attorney Danzo noted that they would like to proceed with the site plan application without bifurcating. Engineer Clerico stated that the only thing the Board can do tonight is determine if the site plan application is complete. If the Board deems the application is not complete, then the site plan application would terminate at that point. It would be deemed

incomplete right out of the gate because there is not checklist for a use variance. Chairman Eckel stated that the Board can give the applicant input as to how the application is incomplete. There are several items where Engineer Clerico makes recommendations. Engineer Clerico noted that the only action the Board can take tonight is the determination of completeness on the site plan application.

Referring to his letter dated August 20, 2015, Engineer Clerico stated that the letter provides the history of the site, prior actions and resolutions on the site, why the site looks like it does and why the applicant is doing some of the things they are doing. Brenda Shepherd was kind enough to give him some of the resolutions and ordinances that were adopted. If you read the resolutions and ordinances, you get a thorough background as to where we are today.

As to the completeness review at the bottom of page 2 of his report, Engineer Clerico noted that the applicant did not file a use variance, checklist D. There are three components of this application. There is a preliminary site plan review, a use variance application for consideration and a final site plan application. There is a separate checklist for a final site plan as well. He does not know if the applicant is seeking final site plan as part of the preliminary site plan. Engineer Eric Rupnarain of Goldenbaum Baill Engineering Inc., engineer for the applicant, stated that they will be seeking final site plan at the same time. Engineer Clerico noted that the checklist D for the variance application and checklist D for the final site plan are missing.

As to the administrative issues, checklist numbers 1, 2, 3, 5, 16 & 20, Engineer Clerico stated that he will defer to Brenda Shepherd on most of these items. He added that he did not see written authorization from the property owner. Attorney Danzo responded the he will deliver another one. Brenda Shepherd noted that she does not have the tax certification, item 50. The escrow and escrow agreement was submitted. Engineer Clerico noted that these items appear to be incomplete and need to be provided.

Engineer Clerico noted that since there are a lot of items required, he attempted to group them. As to Item B, title survey and title documents, Engineer Clerico noted that there are a number of checklist items that were satisfied through submission of deeds, title information and surveys. He suggested that the applicant would need to submit an updated survey of the property that would reflect the prior road dedication, sewer easement dedication, etc. that was all suppose to have taken place as part of the minor submission process. The applicant must provide copies of the deeds, title search and have the survey reflect the prior minor subdivision application which also called for the setting of monuments along the streets rights of ways. An updated survey addressing those criteria should address items 4, 21, 35, 38, 47, 48 & 49. Without that documentation those items are incomplete.

As to Item C, Checklist items 23, 36 & 44, Engineer Clerico noted that the applicant is requesting waivers from showing documentation extending 200 feet beyond the property line including natural features and structures. He recommended that the waiver requests for items 23 and 36 be denied. It would be important to see the relationship and proximity of the features in those residential zones in relation to the existing building and proposed use. 200 feet would take you to Trenton Avenue and Hawk Street. As to item 44, the location of utilities, Engineer Clerico stated that a partial waiver could be granted. The plan must document the location of all utilities along Lott and Kerr Streets frontage. Documentation beyond the applicant's frontage can be waived by the Board. He recommended a partial waiver of item 44.

As to Item D, checklist items 25 & 26, Engineer Clerico noted that the applicant is requesting waivers from providing any documentation relating to wetlands. It is not likely that there are not wetlands on the site since it is a developed site but the DEP property and the river is adjoining this site. He recommended that the Board could grant a temporary waiver for the purpose of completion. If the Board does approve the application, a condition of the approval is that the applicant go to the DEP for a footprint of disturbance LOI. It is a simple process and will confirm that they went through the process and DEP will determine if what they are doing affects wetlands. It will be a condition of any Board approval. The applicant will have to go to DEP anyway for various flood plain permits. He recommended temporary waivers be granted for Items 25 & 26.

As to Item E, Flood Hazard Area and DEP approval, Engineer Clerico noted that this item deals with checklist items 27, 28, 29 & 30 and the FEMA and DEP designations. This entire property is in the flood hazard area of the Delaware River and Nishisakawick Creek as defined by the DEP and FEMA. The current plan provides some information but it refers to an outdated FEMA map. They need to provide information from the current FEMA map which is dated May 2012. They also need to present the information in a NAVD 1988 data system. It has to be presented in the same system as the FEMA mapping. One of the obligations the Board will have in reviewing the site plan is determining if the applicant is in compliance with the local flood damage prevention ordinance which is the mechanism that the Borough is charged with in reviewing in order for the Borough to have flood insurance. As to the DEP aspect, any action the Board would take on this application would be subject to the applicant getting a DEP permit so that what you are being asked to approve conforms to the DEP criteria.

As to Item F, checklist item 31, Engineer Clerico noted that the applicant is requesting a waiver from providing water levels elevations on lakes or ponds on the tract or within 200 feet. He is not sure why the applicant is requesting a waiver since there are no lakes or ponds on the property. The item should be listed as not applicable. He asked the applicant why a waiver is being sought? The applicant stated that this item would not be applicable.

As to Item G, checklist items 32, 33 & 34, Engineer Clerico noted that the site plan does not show the existing site contours, the proposed site grading or include a Soil Erosion and Sediment Control plan. They did not seek waivers so these items are incomplete.

As to Item H, landscape and lighting plans, checklist items 39 & 40, Engineer Clerico noted that the submitted plans did not contain any existing or proposed landscaping or lighting information. They did not seek waivers so these items are incomplete. Responding to Gordon Dragt in reference to a 10 foot buffer area between non-residential and residential, Engineer Clerico noted that the Board is just looking at data as to whether it was required to be provided and was not or whether they are seeking waivers which they did not. We are not judging the merits of the application. These items are incomplete.

As to Item I, Parking and vehicular access, checklist items 41 & 42, Engineer Clerico noted that the information was not provided for the parking requirements for the various uses or how much parking they have on this site for that purpose. Engineer Clerico also noted that Planner McKenzie pointed out that there is a conflict on the documentation submitted between the engineer's and architect's plan in reference parking and loading. Parking is going to be an issue here and more than likely there will be some sort of parking variance associated with this application. The applicant has to define what their obligation is, how they are addressing the parking requirements and what relief, if any, they are seeking. These items are deficient.

As to Item J, checklist item 43, Engineer Clerico stated that the applicant needs to document the total site disturbance and total additional impervious coverage. If they are not disturbing more than a ¼ acre of the site or not adding more than a thousand square feet of impervious coverage, they would not be subject to the Borough Stormwater Management Ordinance. If they do not exceed those parameters, the applicant would not be subject to this item. They need to document the disturbance and impervious coverage.

As to Item K, checklist item 45, Engineer Clerico noted that the applicant is asking for a waiver from providing any documentation relating to existing or proposed utility connections. On the site plan aspect, it is important to know where the water and sewer connections are and if they are adequate for the intended change in use and whether the buildings would require sprinklers and whether the water pressure is adequate in that part of town for that purpose. That would be information you need to evaluate the site plan aspect of the application. He does not think a waiver would be appropriate for this particular use.

As to Item L, check list item 46, Engineer Clerico noted that the applicant has not shown the required cross sections or profiles of the existing adjoining streets. He suggested that at least the existing spot elevations at 25 feet intervals along the centerline and curb lines of the existing streets. They are making connections from the streets into the building and having grade information along the streets especially along Kerr Street will be required. The Borough does have some information along Lott Street but information on both streets would be appropriate. It does not have to be cross sections but at least spot elevations. This item is incomplete.

As to Item M, Environmental Impact Statement, checklist item 52, Engineer Clerico noted that the applicant is requesting a waiver from providing a EIS. He will defer that to the Board whether they want to grant that as a waiver or not. There is a lot of documentation that the applicant must provide and an EIS might be a nice format for the applicant to provide that information in although there are other ways it can be provided. He deferred this request to the Board.

As to Item N, checklist item 53, Engineer Clerico noted that the applicant noted on the checklist that they provided a Corporate Disclosure Statement but the applicant is an individual. He needs clarification on that. That item would really be not applicable.

As to the summation in his report, Engineer Clerico noted that there is no checklist D submitted for the variance and no checklist C for the final site plan. The Board could consider a partial waiver for checklist item 44, grant temporary waivers for checklist items 25 & 26, determine if the Board will grant a waiver of the EIS (checklist item 52), deny the requests for waivers of checklist items 23, 36 & 45 and deem the application incomplete for any denied waivers along with the noted deficiencies under checklist items 1, 3, 4, 16, 21, 27, 28, 29, 30, 32, 33, 34, 35, 38, 39, 40, 41, 42, 43, 46, 47, 48 & 49 previously discussed.

Sarah Scott noted that as to checklist Item 36, for structures and historic features, the property is located in Frenchtown's historic district. She thinks it is important to us to have the applicant consider. Responding to Attorney Danzo, Engineer Clerico noted that the checklist item requires location of all historic features such as family burial grounds, buildings more than 50 years old, buildings included on a National or State Register of Historic Sites, both within the tract and within 200 feet of its boundary. That is the requirement for completeness purposes. Sarah Scott noted that this building is included in the Frenchtown historic district survey and identified in the nomination because it is over 50 years old. Chairman Eckel asked if a certification of sewer

capacity is required? Engineer Clerico noted that the limitation is what the checklist requires. There is an item for utilities. At this point, we are determining whether the applicant has provided the information required in the checklist. Once you have a complete application, the applicant will present its case and reviews will be done by the professionals. You will have discussion on those reports and hold a public hearing and then the public will comment and the Board will make its comments and ask questions.

Attorney Danzo asked what would be required if we go with the bifurcation of the site plan. Engineer Clerico responded that if the Board acts tonight to deem the application incomplete, the clock stops. If you come back with an amended application, the Board will review completeness of that aspect. Under that process, you would provide the information under Checklist D. One of the dilemma of that process is when they present the use aspect, questions arise as to how the use relates to the site and site issues come up. It is difficult. The applicant would have to have enough site plan information to answer general questions such as parking questions. An accurate survey would need to be submitted. Attorney Danzo asked if there is an application for checklist C and D and if so, he would like a copy of them. Brenda Shepherd provided the applicant with the applications and checklists. Attorney Danzo asked if the EIS would be required. Engineer Clerico noted that it is one of the checklist items that you requested a waiver for and the Board will make a determination tonight. Responding to Sarah Scott, Engineer Clerico noted that some ordinances have standards for the Environmental Impact Statement. If there are standards, the applicant needs to follow those standards. If the Board requires it, it would be a mechanism to talk about flood plain constraints and how they comply, the parking requirements and how they comply or if there are industrial standards associated with the distillery and how they comply with that. The applicant must provide a report. The report would indicate that this is what we are doing and this is why it is a good thing or this is the impact. Chairman Eckel noted that she would think that since the property is close to the Delaware River and canal property, it would be a useful item in their deliberations. After reviewing the ordinance, Engineer Clerico noted that there are standards in the ordinance for the EIS. He also noted that there are items in checklists C and D that are repetitive from the site plan checklist.

On motion by Chairman Eckel, seconded by Gordon Dragt and carried unanimous favorable roll call vote, the Planning Board deemed the Site Plan Application for Block 57 Lot 1 incomplete granting a partial waiver for Item 44, temporary waivers for items 25 & 26, denying waivers for checklist items 23, 36 & 45, deeming items 1, 3, 4, 16, 21, 27, 28, 29, 30, 32, 33, 34, 35, 38, 39, 40, 41, 42, 43, 46, 47, 48 & 49 incomplete and requiring that an Environmental Impact Statement, checklist number 52 be required, all based on the recommendations of Engineer Clerico's report dated August 20, 2015.

Responding to Attorney Danzo, Chairman Eckel noted that the application would return to us with a completed application or notify us that the applicant will bifurcate and come back with a variance application. A review for completeness will be required. These items must be submitted two week prior to a meeting. The next meeting is September 23, 2015.

Attorney Britton noted that the applicant will need to re-notice.

Mayor Cooper and Councilman William Sullivan returned to the meeting.

VOUCHERS

Brenda Shepherd, Board Secretary, presented the following vouchers for approval:

VOUCHER LIST 8/26/15

Elizabeth McKenzie	Professional Services for Affordable Housing through 6/30/15	\$ 62.12
Archer & Greiner	Professional Services for General Representation through 7/31/15	\$ 836.00
Albert Cruz	Professional Services for Affordable Housing through 6/30/15	\$ 3,185.24
Albert Cruz	Professional Services for Affordable Housing through 7/31/15	\$ 1,476.38

ESCROW ACCOUNT – BLOCK 3 LOT 1 – Frenchtown 7

Elizabeth McKenzie	Professional Services for Frenchtown 7 through 7/29/15	\$1,006.25
Archer & Greiner	Professional Services for Frenchtown 7 through 7/31/15	\$ 160.00

ESCROW ACCOUNT – BLOCK 34 LOT 1 – Michael

Albert Cruz	Professional Services for Michael through 7/31/15	\$ 79.00
Albert Cruz	Professional Services for Michael through 7/31/15	\$ 525.00

On motion by Warren Cooper, seconded by William Sullivan, and carried by unanimous favorable roll call vote, the Planning Board approved payment of the above bills list.

CORRESPONDENCE, COUNCIL REPRESENTATIVE REPORT AND OTHER RELATED ITEMS

Chairman Eckel noted that she read through the correspondence from the Highland Council in reference to the Highland Municipal Plan Conformance grant program and as far as she can judge, the Borough is not in the highlands by a few feet. Mayor Cooper confirmed that the Borough of Frenchtown is not in the highlands.

Mayor Cooper reported that the Council met in executive session last night to consider a request from George Michael in reference to a PILOT (Payment in Lieu of Taxes) program proposal. Council discussed the request and took no action. A PILOT program is typically something that

a developer will request at the outset of the development process. In exchange for some development of an undesirable part of the municipality, the municipality would grant some consideration to the amount of taxes in exchange for the development. Rocco Musolino noted that it is an incentive to build. He asked if there will be another meeting and what is the next step? Mayor Cooper stated that if there is further discussion, action has to be taken in the public session.

Chairman Eckel reported that the Technical Review Committee is trying to get together next week about the Ceramics plant. There has been some work done on drafting the redevelopment plan that Planner McKenzie has been working on. We have also included several members of the school board on the Technical Review Committee both as input from the community and being across from the school to further guide the process and the applicant so they might end up with project that would get public support. We should be able to report some sort of progress at the September meeting.

Chairman Eckel noted that Attorney Albert Cruz is going to court for the Declaratory Judgement for the Affordable Housing. Mayor Cooper stated that we have been asked to sign an agreement similar to what Clinton Township has done which will confirm our application for extension to December. We will be submitting that this week. Chairman Eckel noted that the expert on affordable housing that numerous municipalities hired including Frenchtown suffered a stroke two days before the report was due. Mayor Cooper noted that the expert is back and we are on some type of schedule. We were not affected. Chairman Eckel noted that one of the municipalities had decided to become part of the Highlands which will affect their housing obligation and will affect the rest of us.

Cathy Suttle noted that she sent out to all the planning board members the update on the sign ordinance review. We are trying to make revisions to the ordinance that we identified were issues. She has the assignment to work on the application and to make it more user friendly. Jack Weeks is looking at other town ordinance. Jack Weeks noted that he found Clinton and Flemington's ordinances. He added that Flemington's ordinances were similar to ours as far as the restrictions of types of signs. The ordinance has a business improvement district and they have allowed a blade sign which sticks out perpendicular to the building that swings in an effort to try to stimulate business. Chairman Eckel noted that she will ask Planner McKenzie to give us other municipalities' ordinances. William Sullivan asked if the Committee was going to prepare a boiler plate resolution so then when a member makes a motion, he or she can just fill in the blanks? Chairman Eckel responded in the affirmative. Cathy Suttle added it to her list.

Chairman Eckel stated that she will check with Attorney Hirsch about the posting of our minutes. She believes that they have to be approved before they are posted. She will then contact Jim Meade since he has volunteered to assist us in posting the minutes. Mayor Cooper noted that you can post the minutes in draft form prior to approval but they are subject to change. William Sullivan noted that he spoke to the Borough Attorney who recommended that executive session minutes be approved and held until they can become public because by the time the case becomes public, sometimes there are not enough people left on the Board or Council to approve them. Chairman Eckel noted that she will contact Attorney Hirsch for her guidance.

ADJOURNMENT

Gerry Case moved adjournment at 8:44 PM, and William Sullivan seconded. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary