

**Frenchtown Planning Board
Regular Meeting
June 24, 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:	Cooper
Case		Suttle
DenBleyker		
Dougherty		
Dragt		
Eckel		
Musolino		
Scott		
Sullivan		
Weeks		

APPROVAL OF MINUTES

Regular Meeting – May 27, 2015

Gerry Case moved to accept the minutes of the May 27, 2015 Regular meeting as amended. Gordon Dragt seconded the motion. The minutes of the May 27, 2015 Regular meeting as amended (Correct the spelling of Montessori if applicable, correct typo on page 2, argue, correct typo on page 8, midst, and add all the time on page 13, 4th paragraph, 7th line from the bottom. As to Page 13, under Correspondence, second paragraph, last line should read: He will contact the zoning officer. As to Page 14, second to last paragraph, end of line 8 should read: Trusses do not, and as to Page 14, last paragraph, line one should read: Jack Weeks noted that the property on Twelfth Street came on the market again.) were approved by unanimous favorable roll call vote.

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

Sign Application – Block 52 Lot 3, 12 Race Street – Olive with a Twist

Gordon Dragt recused himself from this application. Applicant Chris Robinson noted that he is moving his store to 12 Race Street and requesting permission for an advertising sign. The location is bigger and he is adding new products. He is moving the existing sign from 8 Race Street. The building is the same distance as the other building, 20 feet 4 inches, and the sign will be below the window sill as shutters will be put on the windows. Responding to Chairman Eckel, John DenBleyker noted that he believes the distance between the roof and the bottom of the window is 38 inches. Chairman Eckel stated that the signable area is 76 square feet and the sign is 8.7 square feet which is 11.4% of the signable area. Responding to Chairman Eckel, Mr.

Robinson noted that the sign is made of wood and is painted in Spanish Red with gold lettering. Mr. Robinson also confirmed that the sign will be affixed to the building and there will be no illumination. Chairman Eckel noted that there are 4 items of information because the words “with a” are less than 3 inches. A motion was made by John DenBleyker and seconded by William Sullivan to approve the sign application for Block 52 Lot 3. John Dougherty recommended that the motion be amended to say that it is approved using the picture given to the Board this evening showing the sign is below the window and sitting on the roof line. John DenBlyker amended the motion to approve the sign application for Block 52 Lot 3 using the sign submitted this evening, showing the sign is below the window and sitting on the roof line, along with the resolution. William Sullivan second the amended motion and the Board approved the motion by unanimous favorable roll call vote and the following resolution:

RESOLUTION #2015-23A

**FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION
GRANTING APPROVAL FOR INSTALLATION OF A SIGN**

WHEREAS, Applicant Christopher Robinson of Olive with a Twist has applied to the Planning Board for permission to install an advertising sign on the premises located at Block 52 Lot 3;

AND WHEREAS, after considering all the evidence presented, the Planning Board has made the following findings of fact at its Regular Meeting on June 24, 2015:

1. The wall sign will read in accordance with the sketch attached hereto.
2. The wall sign will measure 20” high by 52” wide and is 11.4% of the signable area of 76 square feet.
3. The wall sign will be made of wood and the color of sign will be a Spanish Red with gold lettering.
4. The wall signs contain 4 items of information as defined in the Land Use Ordinance #564.
5. The wall signs will be not be illuminated.

NOW THEREFORE, BE IT RESOLVED, that based upon the foregoing findings of fact and conclusions, the Planning Board of the Borough of Frenchtown does hereby grant to the above named applicant, permission to install an advertising sign on the above referenced premises.

I certify that the foregoing resolution was approved on June 24, 2015.

Votes on Adoption of Motion

____ 9 ____ AYES
____ 0 ____ NAYS
____ 0 ____ ABSTAIN
____ 0 ____ RECUSED

Brenda S. Shepherd, Secretary

Gordon Dragt returned to the meeting.

Sign Application – Block 41 Lot 5.01, 29 Race Street, Suite 1C – Freedom Art & Music

Jonas Koep, one third owner of Freedom Art & Music, noted that he is here to request permission for an advertising sign. The wall sign is made of wood and looks identical to the ground sign with the same width and height but cut into two pieces to fit in the doorway. The wall sign measures 48 inches by 30 inches and is hung above the doorway on the two hooks that the owner had his sign hanging from. The door is eight foot and the soffit is higher. The sign does not hang above the soffit. Responding to Chairman Eckel, Mr. Koep noted that the sign does not swing and hangs slightly under 8 foot. Chairman Eckel noted that the Borough occasionally gets heavy winds. The sign must be at least 8 feet from the ground so when the applicant moves the sign up, she requested that the bottom be affixed. The applicant agreed. Mr. Koep noted that there is no illumination and the sign is made of wood with red wording painted on the wood with white and black trimmed on the outside. Chairman Eckel asked what the signable area is. The signable area is the rectangular area with no architecture features. Mr. Koep noted that he will have to measure it. He can go now and come right back. Chairman Eckel noted that we can continue this sign application to later in the meeting.

As to the request for a ground sign, Chairman Eckel noted that the ground sign is a problem. Ground signs have to be affixed. Movable signs are only allowed for businesses that serve food. The Board is looking at that part of the ordinance and looking at directional signs as well, working with the Business Association. Jack Weeks commented that the applicant could talk to the landlord about a ground sign. There are four rentable spaces so you might be able to do a sign on the building. Mr. Koep stated that he thought of the sign as a sculpture and not as a sandwich board sign. When he built it, it was and is similar to what he does in his shop. Chairman Eckel noted that for multi-use buildings, you can have a directory sign on the corner of the building that lists the occupants but directory listings cannot exceed 3 inches in height. She added that you can do something to say you are open such as a flag or a sign in the window. Chairman Eckel stated that the Board will continue the application to later in the evening. Jack Weeks stated that if you do anything outside, you have to have an outdoor display permit and this can also let people know you are open.

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

Chairman Eckel noted that the applicant has not appeared for the sign application again. We will notify the zoning officer.

Variance Application – Block 55 Lot 1, 10 Bridge Street – Richard Cahill (Big River Tattoo) – Completion Review and possible public hearing

Chairman Eckel noted that the Governing Body members must recuse themselves due to the “D” variance. The Mayor is absent. William Sullivan recused himself. Jack Weeks recused himself due to proximity.

Attorney Michael DeSapio stated that he is here on behalf of the applicant this evening. They are here to seek a use variance. This property was the subject of a use variance in 2009. The applicant owns an art gallery with body art in the gallery space. Mr. Cahill’s business is

successful and there is a demand for an additional artist and he would like to change the hours of operation and add an artist. Those are the two conditions for which we are requesting change.

Chairman Eckel stated that the Board must determine if the application is complete prior to a public hearing on the application. Attorney DeSapio submitted a copy of the Appendix to the 2009 Report.

On motion by John DenBleyker, seconded by Gordon Dragt and carried by unanimous favorable roll call vote, the Planning Board deemed the variance application for Block 55 lot 1 complete granting partial waiver on Checklist Items 9 & 11, granting waivers on items 14, 15, 18, 20, 21, 22, 23, 24, 30, 31, 32 and 33 for completeness and granting a waiver of a site plan. As to item 32, the applicant will need to provide adequate testimony.

Chairman Eckel noted that the application was deemed complete and the public hearing can begin. First, the Board must determine that the public hearing was properly noticed. Attorney Hirsch noted that the Affidavit and Notice was in order. The applicant's attorney had difficulty getting the Affidavit of Publication from the newspaper. She has a screen shot of the advertisement and that is sufficient/equivalent. Attorney DeSapio noted that it was published in the Express Times on June 12, 2015.

Attorney Hirsch noted that the Appendix was marked as Exhibit A-1 and the Notice was marked as Exhibit A-2. Attorney Hirsch also noted that the Board has a report from the Board Planner Elizabeth McKenzie, dated May 27, 2015 and it was marked as Exhibit A-3.

Applicant Rich Cahill was sworn in by Board Attorney Hirsch. Rich Cahill testified that he is the owner and operator of his studio at 10 Bridge Street. It is a gallery and private studio where tattooing is done by appointment only. The appointments are booked by email. There is a 2 to 3 month waiting list. A sketch of the gallery and studio was submitted with a letter to the Board. The sketch was marked as Exhibit A-4.

Responding to Attorney DeSapio as to the physical layout of the gallery, Rich Cahill noted that there is a gallery of art paintings that people can look at from his collection and other people's art work. The gallery will stay the same except some antique tattoo flash for its artistic value will be framed. The antique tattoo flash is rare and will not be for sale and will be added to the tattoo part of the gallery. His friends' art work can be purchased. The work space for the body art will be limited to the 250 square feet as before and will be dedicated to body art. Attorney DeSapio noted that in the 2009 resolution of approval, the body art studio cannot occupy more than the 250 square feet. There is no request for change. The back area has been and will continue to be used for body art as it was used in the past. Rich Cahill noted that there is a tattoo chair and an artist stool. This is the area where body art occurs. He personally designs the tattoos. He will not have anything hanging. Chairman Eckel stated that in 2009, you testified that you would have 6 to 10 clients. Rich Cahill stated that if the changes are approved, he would have 20 to 25 clients per week if another artist comes in. Also responding to Chairman Eckel, Rich Cahill noted that a typical session with a client lasts 2 to 3 hours. Attorney Hirsch asked about personal design for the second tattoo chair. Rich Cahill noted that everything is made to order. The second artist would design his/her own work. He is requesting to change the hours of operation to Monday through Sunday, Noon to 9 pm. The demand has increased and he needs to increase the hours because he has to work around other people's work schedules. He has evening appointments because his clients work during the day. He envisions clients for larger work. These are more extensive types of art pieces. There will be no more than 25 clients during the

week split between the two stations. He may have 20 different people per week. He must allow time for healing so it is one visit per week. There would be multiple visits for one person. The majority of his clients come from one to two hours away. Responding to John Dougherty as the current hours of operations, Rich Cahill stated that the present hours are Monday through Friday, Noon to 4:00 pm and 6:00 – 9:00 pm, getting rid of the dinner break. It is more convenient for his clients. Responding to Chairman Eckel, Rich Cahill stated that there would be no other form of body art nor piercings. John Dougherty asked if Mr. Cahill anticipated an increase in parking. Rich Cahill noted that there is always parking on that side of town. Two clients for two chairs is not a lot of people per hour. The parking required is below the original use of a hair salon.

Responding to Attorney DeSapio as to water usage as discussed in the completion review, Rich Cahill noted that there would be no more water usage than a hair salon. They use distilled water and not tap water and they are able to use 50% disposable tubes and they do not need to be cleaned. The use is way under the intended use of a hair salon. Chairman Eckel asked how the skin is cleaned before a tattoo is done? Rich Cahill responded that he shaves the arm and then cleans it with alcohol rub. Rich Cahill stated that there were previously 4 hair salon stations and hair washing. Attorney DeSapio stated that this unit could go back to that use as allowed in the zoning ordinance. He asked Mr. Cahill what the intensity of the use would be at any one given time. Rich Cahill noted that the maximum use is two at one time. Maximum now is one station and there may be one other person looking at pictures in the gallery.

Chairman Eckel noted that the applicant provided a sketch last month where it had the gallery area turning into a waiting room. Rich Cahill noted that he put that on there. If there is someone that comes in and they brought a friend, they would wait in the tattoo shop. With the added tattoo chair, if someone brings a friend they would wait in the shop. Chairman Eckel commented that some of the testimony in 2009 addressed that this would not be a tattoo parlor. You testified that the differences between a tattoo parlor and a body art shop was that a tattoo parlor would have more than one customer at a time and that you would not have a waiting room and you would not have flash on the walls. Now, you will have multiple artists with flash and a waiting room. Rich Cahill responded that it depends on who is doing it. Frenchtown is my home and not the shore. He added that he operates differently. Any art work in the gallery is not intended to promote body art work. He is designing the work. The art work is hung for artistic and nostalgic reasons and they are not menu items. With a second artist, he would not be able to fit another chair in there. There is a privacy divider and you cannot see into the work space. The Health Department allows a privacy curtain. Referring to his sketch, he noted that the dash line is a mirror between the two stations and the “S” shape is a step to go up. You can see the additional station as a private studio. The Health Department requires that you have a privacy curtain and they check that. The stations are also inspected by the State Health Department. He added that there are no menus on the wall or prefabricated designs. The other artist also custom designs all the tattoos. The sessions are still by appointment only. No one can walk in and have something tattooed. John DenBleyker noted that it is still primarily an art gallery with a limited body art area of 250 square feet. He asked if Rich Cahill will always be one of the body artists? Rich Cahill responded that he would always be one of the body artists but will not always be in the space all day every day. It would be the same two artists on perhaps different shifts. He is using what he has done in the past five years for another artist to mirror what he is doing. Mr. Cahill noted that he just bought a house on Sixth Street and he is planted here now. Chairman Eckel noted that you are requesting to expand to two stations. How many other tattoo artist may you employ in a given month? Rich Cahill responded that he may have a guest artist. He has one coming from Italy. He is requesting 7 days a week to accommodate his clients’ schedules. He may work through the weekend or may take off on a given weekend. Responding to Sarah

Scott, Attorney Hirsch noted that the current use is now a permitted use as a result of an approval in 2009. The applicant is asking for changes, one for a second chair and the other for hours of operation. The gallery was a permitted retail use in that area. Chairman Eckel noted that the art gallery is an allowed use under retail uses. Some items in the gallery must be for sale. Rich Cahill noted that he will sell art work, jewelry and T-shirts. There is a retail area and a receptionist taking money for the sale of art, etc. John Dougherty asked that the applicant identify what is on the sketch such as countertops, cabinets, etc. Attorney DeSapio noted that the applicant will label it now and submit it. Attorney Hirsch added that they have identified everything from Planner McKenzie's memo.

Having no other questions from the Board, Chairman Eckel opened the floor to the public on this application. Having no comments from the public on this application, Chairman Eckel closed the floor for public comments on the public hearing.

Chairman Eckel reiterated some of the conditions of the previous approval. The changes being requested are to add an additional artist station. The second artist will only be doing custom design work. The second change is the hours of operation. All the conditions on the original artist will also be conditions on any new artists. A variance goes with the location. If we grant the variance and Mr. Cahill leaves, we want to make sure that if another individual moves into the space, that same space has the same restrictions. Gordon Dragt noted that we are not approving the artist. Chairman Eckel noted that the Board did not hear from anyone that was noticed on the variance application. She added that we did not hear from anyone last time either.

On motion by John DenBleyker, seconded by Rocco Musolino and carried by unanimous favorable roll call vote, the Planning Board approved the variance application for Block 55 Lot 1 subject to the following conditions:

- 1) All sessions are by appointment only with no walk-ins.
- 2) The body art work space is limited to 250 square feet as set forth in Exhibit A-4 and the gallery is the remaining area.
- 3) There will be no tattoo menus and all body art work is custom designed only by the two artists.
- 4) No more than 25 clients per week
- 5) The hours of operation will be Monday through Sunday, Noon to 9:00 pm.
- 6) There will be no piercings or other forms of body art.
- 7) No further increase beyond 2 artist workstations will be allowed.
- 8) Compliance with all requirements of the NJ Department of Health standards and inspections.

Council member William Sullivan and Planning Board member Jack Weeks returned to the meeting.

Sign Application – Block 41 Lot 5.01, 29 Race Street, Suite 1C – Freedom Art & Music - Continued

Applicant Jonas Koep returned to the meeting with the information required by the Board. Mr. Koep noted that the wall sign will measure 2.5 feet by 4 feet for a total of 10 square feet and the signable area is 7.5 feet by 6 feet for a total of 45 square feet. He will move the sign up and secure it to the building. Chairman Eckel noted that the sign is within the 40% signable area. The sign will not be illuminated. There is no decorative trim and the sign contains 6 items of information. On motion by Randi Eckel, seconded by John Dougherty and carried by unanimous

favorable roll call vote, the Planning Board approved the sign application for Block 41 Lot 5.01 and the following resolution:

RESOLUTION #2015-29

**FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION
GRANTING APPROVAL FOR INSTALLATION OF A SIGN**

WHEREAS, Applicant Jonas Koep from Freedom Art & Music has applied to the Planning Board for permission to install an advertising sign on the premises located at Block 41 Lot 5.01;

AND WHEREAS, after considering all the evidence presented, the Planning Board has made the following findings of fact at its Regular Meeting on June 24, 2015:

1. The wall sign will read in accordance with the sketch attached hereto.
2. The wall sign will measure 2.5 feet high by 4 feet wide and the signable area of 7.5 feet high by 6 feet wide. The sign complies with the 40% signable area requirements.
3. The wall sign will be made of wood and the wording is painted on the wood in red with black and white on the outside.
4. The wall sign will be move up so it does not hang below the door trim and will be affixed to the building so it does not swing.
5. The wall signs contain 6 items of information as defined in the Land Use Ordinance #564.
6. The wall signs will be not be illuminated.
7. The ground sign was not approved. The building has multiple uses and would be eligible for a directory sign.

NOW THEREFORE, BE IT RESOLVED, that based upon the foregoing findings of fact and conclusions, the Planning Board of the Borough of Frenchtown does hereby grant to the above named applicant, permission to install an advertising sign on the above referenced premises.

I certify that the foregoing resolution was approved on June 24, 2015.

Votes on Adoption of Motion

____ 9 ____ AYES
____ 0 ____ NAYS
____ 0 ____ ABSTAIN
____ 0 ____ RECUSED

Brenda S. Shepherd, Secretary

Responding to Mr. Koep as to displaying items outdoors for Bastille Day, Attorney Hirsch noted that since the applicant is here this evening, if he can describe the outdoor display, the Board can approve it but the resolution of approval would be subject to a formal application and fee being submitted and the notice being provided. If he provides those items prior to Bastille Day, he would be covered. Chairman Eckel reviewed the conditions of the outdoor display permit, and the applicant agreed to all the conditions. On motion by Jack Weeks, seconded by John DenBleyker and carried by unanimous favorable roll call vote, the Planning Board approved the outdoor display permit as follows subject to the applicant providing the application form, fee and notices as required by the ordinance:

RESOLUTION 2015-30

**FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION
GRANTING CONDITIONAL USE APPROVAL FOR
OUTDOOR DISPLAY IN THE R-4 ZONE**

WHEREAS Jonas Koep of Freedom Art & Music has applied to the Frenchtown Planning Board for a conditional use permit to allow an outdoor display at property owned by Jay and Dee Properties, LLC. and located at Block 41 Lot 5.01 in Frenchtown; and

AND WHEREAS, this Board considered the application and testimony of the applicant at its regular meeting of June 24, 2015; and

NOW THEREFORE, the Board makes the following finds of fact:

1. The subject property is located where outdoor displays of merchandise and decorations are permitted as a conditional use, subject to specific standards.
2. The conditional use requirements that the outdoor display be limited to merchandise of the same type and character sold inside the store was met here, with the applicant proposing to sell food and items sold in the store in the outdoor display.
3. The conditional use standard that at least 4.5 feet of sidewalk width, as measured from the curb, will be left unobstructed will be met in all cases when the outdoor display is present.
4. The conditional use standard that outdoor display material be brought inside at the close of each business day will be met except that the seating and tables will be allowed to remain outdoors.
5. The conditional use standard that outdoor display material shall not exceed six (6) feet in height nor obstruct sight lines in any intersection, will be met.

NOW THEREFORE, BE IT RESOLVED, that based upon the foregoing findings of fact and conclusions regarding compliance with conditional use standards, the Planning/Zoning Board of the Borough of Frenchtown does hereby grant conditional use approval to the applicant for an outdoor display.

I certify that a vote on this application was taken on June 24, 2015 and the foregoing resolution was approved on June 24, 2015.

VOTES ON ADOPTION OF MOTION
TO APPROVE APPLICATION

AYES - 9
NAYES - 0
ABSTAIN - 0

ATTEST:

Brenda S. Shepherd, Secretary

Sarah Scott left the meeting at 9:30 pm.

VOUCHERS

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

VOUCHER LIST 6/24/15

Elizabeth McKenzie	Professional Services for Affordable Housing through 4/30/15	\$ 1,925.00
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Archer & Greiner	Professional Services for General	\$ 348.75
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ESCROW ACCOUNT – BLOCK 3 LOT 1 – Redevelopment Study

Pickell Architecture	Professional Services for Redevelopment through 6/15/15	\$ 362.50
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Elizabeth McKenzie	Professional Services for Redevelopment through 6/2/15	\$ 1,268.75
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ESCROW ACCOUNT – BLOCK 55 LOT 1 – Cahill Escrow

Van Cleef Engineering	Professional Services for Cahill through 5/31/15	\$ 641.25
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Elizabeth C. McKenzie	Professional Services for Cahill through 6/2/15	\$ 175.00
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ESCROW ACCOUNT – BLOCK 45 LOT 2 – Jackmark Properties

Maser Consulting	Professional Services for Jackmark through 3/23/15	\$ 272.85
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Maser Consulting	Professional Services for Jackmark through 11/9/14	\$ 130.00
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Maser Consulting

Professional Services for Jackmark
through 5/10/15

\$ 67.50

On motion by John DenBleyker, 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 reported that the Sign Subcommittee is meeting on July 9th. She noted that the Supreme Court of the United States just ruled on a case involving a church objecting to the town's sign ordinance and the court voided that sign ordinance saying that the sign ordinance for the town was not legal. Chairman Eckel asked Attorney Hirsch to glance at that case. Attorney Hirsch noted that there were similar cases over the years. She will have one of the firm's summer associates do an update for this area. Chairman Eckel noted that since we are looking at the sign ordinance and may be able to address something if we need to.

ADJOURNMENT

Gerry Case moved adjournment at 9:35 PM, and John DenBleyker seconded. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary