

Frenchtown Planning Board
Regular Meeting
March 23, 2016
7:30 P.M.

Chairman Randi 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:
Case	Dougherty
DenBleyker	
Dragt	
Eckel	
Musolino	
Myhre	
Scott	
Sullivan	
Suttle	
Weeks	

APPROVAL OF MINUTES

Regular Meeting – February 24, 2016

Gerry Case moved to accept the minutes of the February 24, 2016 Regular meeting as amended (As to page 2, 4th line of the last paragraph should read: overhaul their beverage program, as to page 4, 4th line of the second paragraph should similar quantity, as to page 5, first line, should read alcohol vapors sink and as to page 8, the 7th line of the third paragraph should remove the sentence it will be built. Jack Weeks seconded the motion. The minutes of the February 24, 2016 Regular meeting were approved by favorable roll call vote with Cathy Suttle and Sarah Scott abstaining.

Special Meeting – March 9, 2016

Brad Myhre moved to accept the minutes of the March 9, 2016 Special meeting. Gordon Dragt seconded the motion. The minutes of the March 9, 2016 Special meeting 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.

Memorializing Resolution #2016-09 - Variance and Site Plan Application – Block 59 lot 4, ArtYard, Inc., 62A Trenton Avenue

Mayor Myhre, Councilman William Sullivan and member Sarah Scott stepped down on this agenda item. On motion by Gordon Dragt, seconded by Jack Weeks and carried by unanimous favorable roll call vote, the Planning Board approved memorializing resolution #2016-09 as follows:

FRENCHTOWN BOROUGH PLANNING BOARD

RESOLUTION NO. 2016-09

ART YARD, INC.

BLOCK 59, LOT 4, 62A TRENTON AVENUE

USE VARIANCE AND PRELIMINARY SITE PLAN APPROVAL WITH “c”

VARIANCES

WHEREAS, Art Yard, Inc. is the applicant (the “Applicant”) and the Frenchtown Endeavor, LLC is the owner, of certain property located in the Borough of Frenchtown and designated on the Borough Tax Maps as Block 59, Lot 4 (the “Subject Property”); and

WHEREAS, on September 23, 2009, the Frenchtown Planning Board (the “Board”), adopted Resolution No. 2009-25 memorializing approval of a use variance and site plan approval for certain proposed development described in said Resolution with respect to the Subject Property (the “Two Buttons Approval”); and

WHEREAS, the development approved pursuant to Resolution No. 2009-25 was constructed and the property occupied and utilized in substantial conformance with said approval, and the owner has contracted to sell the property to the Applicant; and

WHEREAS, on January 25, 2016, the Applicant submitted an application for use variance approval, bulk variances and minor site plan approval, later changing the request from minor site plan to preliminary major site plan approval; and

WHEREAS, the documentation that was submitted by the Applicant in support of its application is on file with the Board, is part of the record in this matter and was supplemented by revised plans submitted on February 24, 2006, said plans consisting of seven plan sheets prepared by Michael Burns, A.I.A. with a project title “Artyard” and a revision dated February 18, 2016;

WHEREAS, the application was deemed complete on February 17, 2016, subject to waivers noted in the February 13, 2016 review letter of Board Engineer Robert J. Clerico; and

WHEREAS, a public hearing was commenced on February 24, 2016 and continued through a special meeting scheduled for March 9, 2016 at which time the public hearing was concluded and the Board voted on the application; and

WHEREAS, Board members Brad Myhre, a Class I member of the Planning Board and William Sullivan, a Class III member of the Planning Board, recused themselves as required pursuant to the Municipal Land Use Law on use variance applications and Board member Sarah Scott recused herself for a conflict due to proximity; and

WHEREAS, the Planning Board received and reviewed a February 24, 2016 Memorandum from Elizabeth C. McKenzie, AICP, PP., which report is part of the record in this matter and is attached hereto as Exhibit A; and

WHEREAS, the Applicant was represented during the public hearings by Richard Mongelli, Esquire of the Mongelli Law Group and testimony was offered during the hearings by the Applicant's Architect and Professional Planner, Michael Burns, R.A. and P.P., Courtney Haviland, R.A., an Architect with Mr. Burns' firm as well as a representative of the Applicant, Jill Kearney McDonnell, founder and Executive Director of Art Yard, Inc., which testimony is part of the record in this matter; and

WHEREAS, Board Engineering Consultant Robert J. Clerico and Board Planner Elizabeth C. McKenzie testified during the hearings and said testimony is considered part of the record in this matter; and

WHEREAS, the exhibits received into evidence by the Board during the hearing which are part of the record in this matter include:

- A-1. The Affidavit of Service and proof of publication provided by Richard Mongelli of the Mongelli Law Group dated February 10, 2016;
- A-2. A 30-page handout under cover sheet entitled Art Yard, Frenchtown Planning Board, February 24, 2016, reproducing power points shown to the Board during the hearings;

A-3. Memorandum from Michael Burns, Architects to Ms. Brenda Shepherd re parking calculations

WHEREAS, an opportunity was provided for public comments and public questioning of the Applicant's witnesses during the public portion of the hearing, and comments were offered by Skye Van Saun who commented in support of the application;

WHEREAS, the Board after giving consideration to the application, documents, testimony and exhibits referenced above and giving appropriate weight to same, makes the following factual findings and conclusions of law:

A. **Zoning, Prior Development and Proposed Development**

1. **Zoning.** The Subject Property is located in the R-5 Low Impact Industrial Zone, where a variety of low impact industrial uses such as machine or woodworking shops and electronic or mechanical assembly are permitted uses. As noted in Board Planner McKenzie's February 24, 2016 review letter as well as Board Resolution No. 2009-25, the Subject Property is one of two remaining properties in the R-5 zone and in accordance with the 2009 Master Plan Re-Examination Report, has been recommended for rezoning to R-4A or R-4B. Both the R-4A and R-4B zones permit a broad variety of retail and commercial uses.

2. **Prior Development.** As noted in Resolution 2009-25, the Subject Property was originally developed as the Aries Manufacturing Plant which manufactured electronic components and had an accessory retail space measuring approximately 2,500 square feet. The Board previously approved via Resolution No. 2009-25, the redevelopment and the reuse of the subject property for 11,500 square feet of warehouse building and associated retail sales in connection with the Two Buttons import business, along with the use of the remaining 4,500 square feet for various retail/commercial uses including additionally, a 1,900 square foot space utilized by the Lovin' Oven Restaurant.

3. **Proposed Development.** The portion of the existing building previously utilized by the Two Buttons import business is proposed to be used for a theater, black box backstage/performance area, gallery/museum and classrooms/studios. The restaurant use is proposed to continue in the same portion of the existing building.

At this time, the Applicant proposed no changes to the exterior of the building, with various changes to be submitted in conjunction with a future final site plan application. The Applicant did propose a change in the parking arrangement from the previously approved Two Buttons use. The site plan for the Two Buttons use showed the total of 77 parking spaces, deemed sufficient by the Board for that use including the restaurant use. The Applicant proposed a change in the layout of parking on the site so that a total of 36 “self-park” spaces would be provided in the location shown on the plans along with 84 valet parking spaces, for a total of 120 parking spaces.

The proposed floor plan on Sheet 6 of the revised site plans shows the new division of the building between the existing approximately 2,000 square foot restaurant, the proposed theater area of about 4,000 square feet, proposed backstage/black box area of about 935 square feet, a 910 sq. foot lobby, 450 sq. foot office/mezzanine, six classroom/studio/work/drawing areas comprising about 5,290 sq. feet, a proposed 700 square foot museum and proposed 900 square foot gallery along with a lobby, office and mezzanine area.

4. **Landscaping, Lighting, Signage and other Site Plan Details.** Although landscaping and lighting details were included in the revised plan set, the Applicant agreed to revise and supplement same, especially to include all landscaping required by the Two Buttons approval but missing from the site, street trees as identified by the Board, more lighting details and a signage plan and any other site improvement details deemed necessary by the Board in its review of the to-be-submitted future site plan application.

5. **Variances.**

a. The Board recognizes the following existing conditions which are non-conforming, but not proposed to be increased or exacerbated, and thus not requiring the grant of a new variance: insufficient existing front and side yard setbacks, the metal panel exterior of the building, and a gravel surface parking lot.

b. The previously approved restaurant is proposed to remain in the same space it has occupied pursuant to the 2009 prior approval. No variance is required for this use. The other proposed uses, including the theaters, art gallery, classrooms and studio spaces are not permitted in the R-5 zone and thus require a use or “d1” variance. Since these uses are

interrelated components of the Art Yard use, the Board concludes that one use variance for these interrelated uses is required.

c. Bulk variances pursuant to N.J.S.A. 40:55D-70c were requested by the Applicant to increase the impervious coverage on site from 70.88 percent in its current condition to 71.43 percent as a result of the proposed installation of a sidewalk along the frontage. Variances/site plan exceptions were requested from parking design standards as a result of the proposal to use valet parking.

B. Finding of Fact and Conclusions of Law on Requested Use Variance.

1. **Positive Criteria.** The Applicant requested a use variance in order to allow all but the existing restaurant area of the building to be utilized for a theater, black box, gallery/museum and classroom/studio uses. All of these proposed uses, which are inter-related components of the Art Yard use, are not currently permitted in the R-5 zone. With respect to the positive criteria required for the grant of a use variance, the Board finds that the proposed Art Yard use, and redevelopment of the Subject Property for this use, will advance the purposes of the Municipal Land Use Law set forth in N.J.S.A. 40:55D-2, specifically including:

a. encouraging municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals and general welfare;

d. ensuring that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;

e. promoting the establishment of appropriate population densities and concentrations which will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

g. providing sufficient space in appropriate locations for a variety of uses according to respective environmental requirements in order to meet the needs of all New Jersey citizens; and

i. promoting a desirable visual environment through creative development techniques and good civic design and arrangement.

As stated in Board Planner McKenzie's February 24, 2016 report, the existing building on the Subject Property was well suited to the Two Buttons warehouse and retail operation.

There is a fairly limited range of uses that would be able to make an advantageous use of the site in its current condition, and it appears that the proposed use is one of them. Additionally, this is probably the only site in Frenchtown on which a use of the type and scale proposed by the Applicant would be able to be accommodated. In this sense, it would appear that the proposed use is uniquely suited to the Subject Property.

Thus, the Board finds that the Subject Property is particularly suited for the proposed redevelopment for the Art Yard use because of the existing building and on-site parking, which parking lot is unusual for Frenchtown property, and because of the site's location as a gateway to the community with its unique pedestrian connections via the Delaware and Raritan towpath as well as Trenton Avenue.

2. **Negative Criteria.** With respect to the negative criteria which must be satisfied in connection with the grant of a use variance, the Board finds that with implementation of the proposed valet parking plan, and implementation of a lighting, landscaping and signage plan to be reviewed at the final site plan stage, that the first prong of the negative criteria, that is, that the variance can be granted without substantial detriment to the public good, has been satisfied. No detrimental impacts to the surrounding neighborhood were identified during the public hearing.

With respect to the second prong of the negative criteria, that is, proof that the variance can be granted without substantially impairing the intent and purpose of the zone plan and zoning ordinance, the Board agrees with the views and facts presented by the Applicant's Architect and Planner, Michael Burns. Mr. Burns discussed the fact that the 2009 Master Plan Re-Examination Report recommended that the site be rezoned to R-4A or R-4B, two zones in which extensive retail and service business uses are permitted. Although this rezoning has not been accomplished, the Master Plan recommendation continues to apply to the Subject Property. Additionally, the report of the 2012 Downtown Revitalization and Planning Committee recommended an Arts and Community Center similar to the Doylestown County Theater, but with more performing arts capability. The Art Yard proposal satisfies this recommendation. Additionally, the 2012 Downtown Revitalization and Planning Committee recommends new uses in the downtown area to appeal to a diverse group of people, including retail and entertainment uses, open both during the day and at night in order to establish a vibrant downtown district, provide a place for the showcase for public art and encourage both private

and public efforts to improve and coordinate the local streetscape. The Frenchtown Village Center plan adopted in 2006 also supports the proposed uses and redevelopment of the Subject Property, specifically the provision of a pedestrian oriented environment, a mixture of land uses and economic development opportunities, as well as the reuse of obsolete industrial buildings. The Board therefore concludes that the requested use variance may be granted without substantially impairing the intent and purpose of the Frenchtown zone plan and zoning ordinance.

C. **Conclusions of Law on “c” Variances.**

1. The Applicant requested a c(2) variance from Section 203 to allow the existing impervious coverage of 70.88 percent to be increased to 71.43 percent in order to allow the installation of a new concrete sidewalk section along Trenton Avenue. The Board agrees with the evaluation of Mr. Burns that this is a de minimus increase in impervious coverage, and would have no negative impact on the general welfare or the zone plan and zoning ordinance. The purposes of the Municipal Land Use Law would be advanced by this variance and the benefits would exceed the none-existent detriment because, given the recommendations of the 2012 Downtown Revitalization and Planning Committee Report, the sidewalk would assist in establishing a pedestrian connection to the downtown area and thus assist with the revitalization of the Frenchtown Village Center and the surrounding downtown area.

2. As noted in A-3 in evidence, the total parking requirements for all uses proposed on the site would be 154 parking spaces. The Applicant’s representatives testified that only large-scale pre-scheduled theater events likely to occur no more than five or six times per year, would generate the maximum parking demand. In order to assure that the parking to be provided on site would meet the demand of the proposed use, the Applicant agreed to close down all classroom, studio, museum and black box performance space uses during the time that a large scale, theater event is scheduled. Based upon that representation, the Board concludes that the maximum parking need would be 120 spaces. The Applicant proposed to satisfy this requirement with 36 self-park spaces and 84 valet service spaces. The layout and operation of the valet spaces was reviewed by an organization known as World Class Parking, the operator of valet parking services at the New Jersey State Aquarium, Citizens Bank Park, Hyatt Princeton and other major facilities. Additional details concerning valet parking will be provided pursuant to the conditions noted in this resolution as part of the final site plan. Provided that the conditions of this Resolution are conformed with, and additional details of the valet parking

arrangement are provided in conjunction with the final site plan application and approved by the Board at that time, the Board deems it appropriate to grant a “c” bulk variance from Section 306 and a site plan exception from Section 706 of the Frenchtown Land Use Ordinance for the parking arrangement shown on the site plans with revisions to February 18, 2016. The Board finds that the requested variance and site plan exception may be granted because the proposed parking arrangement would advance the purposes of the Municipal Land Use Law, specifically, promoting a desirable visual environment through creative development techniques and good civic design arrangement and no detrimental impact has been identified. The variance may be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board further finds with respect to the site plan exception from Section 706 that the literal enforcement would be impracticable and unnecessary due to the Applicant’s concession on limiting uses during scheduled large-scale theater events. These findings are contingent upon conformance with the proposed conditions of this approval and Board approval of further details provided in conjunction with the final site plan application.

NOW, THEREFORE, be it resolved by the Frenchtown Borough Planning Board, by motion duly made and seconded on March 9, 2016, that the preliminary site plan application with revisions as shown on the plans revised to February 18, 2016, along with any other modifications agreed to by the Applicant during the hearings and as otherwise required by this Resolution, is hereby approved, and all of the requested variances identified herein are granted, subject to compliance with the following conditions:

1. This use variance terminates the prior use variance granted by Resolution No. 2009-25, except with respect to the restaurant use in the area shown on the site plan. This use variance authorizes the following uses on the Subject Property: a restaurant, theater and black box backstage/performance area, gallery/museum and classrooms/studios. Any change from these permitted uses will require site plan approval by this Board.

2. The within approval and use of the property is conditioned upon and made subject to any and all laws, ordinances, requirements and/or regulations of any and all municipal, county, state and/or federal governments and their agencies or departments which may have jurisdiction over any aspect of the use of the property. To the extent that any other governmental agency requires a change in this plan granted preliminary site plan approval pursuant to this

Resolution, the Applicant shall identify such changes on each affected plan sheet, provide a narrative description of the change along with the governmental permit and, if required, request amended preliminary site plan approval or reflect the changes on the future final site plan application.

3. In the event that the steel panel finish of the building on the Subject Property is ever replaced, or the building itself is demolished or replaced, then the prohibition of metal panels contained in Ordinance Section 407.E.10 shall be applicable to the exterior of any new building.

4. Prior to the start of any site or building modifications on the Subject Property, the Applicant shall obtain final site plan approval from the Board, and in conjunction with the final site plan application, provide proof to the Board of adequate sewer capacity for the approved uses as well as any water and sewer service/connection permits or approvals which may be required.

5. The final site plan application shall provide adequate detail for review by the Board of proposed interior and exterior building modifications, including sound attenuation measures, as well as landscaping (including buffering and replacement of ginkgo trees), lighting, signage and other typical site plan details.

6. When the main theater is in full operation for a large scheduled event, ie., an event where all or virtually all theater seats are likely to be occupied, the Applicant shall not conduct activities in the classrooms and studio spaces, except as may be directly related to the theater event. A schedule of such large events shall be provided on a semi-annual basis to the Frenchtown Business and Professional Association, the Frenchtown Fire Department and the Frenchtown Police Department for enforcement purposes.

7. The Applicant shall provide at the time of submission of the final site plan application, sufficient details concerning the valet parking operation to allow confirmation by the Board that adequate parking will be provided for all proposed uses, subject to the conditions imposed herein. Additionally, the Applicant shall provide sufficient detail to assure the Board Engineer that the parking arrangement on site will allow safe maneuvering within aisles on the site and that emergency vehicles can access the building and maneuver within the site.

8. The Applicant may be required, as part of the final site plan approval, to provide any missing fencing or landscaping required pursuant to the Two Buttons approval.

9. The Applicant will show on the final site plans, installation at its own cost of a sidewalk on the adjacent property, known as Block 59, Lot 3, within the road right of way or within a private easement area if an easement can be worked out with this property owner.

10. The Applicant shall provide additional details concerning traffic and noise impacts, if any, at the time of submission of final site plan application.

11. The Applicant shall provide confirmation of the flood hazard elevation on the Subject Property at the time of submission of final site plan application.

12. The Applicant shall provide a review letter from the Fire Department at the time of submission of the final site plan application.

13. The Applicant shall replenish the Planning Board escrow account upon request as required by the executed escrow agreement.

D. Voting Record.

On March 9, 2016, a motion to grant the preliminary site plan, use variance and c variances received the following votes:

Those in favor: Weeks, Eckel, Musolino, DenBleyker, Dragt, Case and Suttle

Those opposed: None

Recused: Myhre, Sullivan and Scott

The above memorializing resolution was adopted on March 23, 2016, by the following Board members eligible to vote:

MEMBER	YES	NO
Eckel	X	
DenBleyker	X	

Weeks	X	
Musolino	X	
Dragt	X	
Case	X	
Suttle	X	

Attest:

Brenda S. Shepherd, Board Secretary

Mayor Myhre, Councilman William Sullivan and member Sarah Scott came back to the meeting.

Sign Application – Block 17 Lot 6, 11 Kingwood Avenue – Mike Tyksinski

Mike Tyksinski was sworn in by Attorney Goodell. Mike Tyksinski noted that he is expanding the hardware store into the old drug store space and wants to change the sign so it is centered between the two spaces. He has removed the Benjamin Moore sign and is adding the word outdoor to the current sign. The sign is 8 feet by 10 feet for a total of 80 square feet.

Cathy Suttle noted that the signable area is 275 square feet so the sign is 30% of the signable area which is within the limit. Mike Tyksinski stated that the sign will have a white background with French Blue lettering. The sign will be painted vinyl or metal and will look like wood. Cathy Suttle noted that the letters that are less than 3 inches can be bigger because it would still be less than 10 items of information. Mike Tyksinski agreed. There will be 9 items of information. There will be no lighting for the sign. The sign will be affixed to the building and will not swing. The plexiglass will be removed.

On motion by Gordon Dragt, seconded by Brad Myhre and carried by unanimous favorable roll call vote, the Planning Board approved the sign application for Block 17 Lot 6 and the following resolution:

RESOLUTION #2016-10

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

WHEREAS, Applicant Michael Tyksinski has applied to the Planning Board for permission to install an advertising sign on the premises located at Block 17 Lot 6;

AND WHEREAS, after considering all the evidence presented, the Planning/Zoning Board has made the following findings of fact at its Regular Meeting on March 23, 2016:

1. The wall sign will read in accordance with the sketch attached hereto.
2. The wall sign measures 8 feet high by 10 feet wide for a total of 80 square feet and will be affixed to the building so it does not swing.
3. The sign complies with the 40% of the signable area which is the rectangular area that is formed by the rectangle above the window over to the overhang measuring 275 square feet.
4. The wall sign will be made out of wood like material.
5. The sign colors will be French blue with a white background.
6. The signs contain a total of 9 items of information as defined in the Land Use Ordinance #564.
7. The sign will not be illuminated.

NOW THEREFORE, BE IT RESOLVED, that based upon the foregoing findings of fact and conclusions, the Planning/Zoning 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 March 23, 2016.

Votes on Adoption of Motion

_____ 9 _____	AYES
_____ 0 _____	NAYS
_____ 0 _____	ABSTAIN
_____ 0 _____	RECUSED

Brenda S. Shepherd, Secretary

Mike Tysinski noted that he is looking to hold an open house the 3rd weekend in April.

SITE PLAN AND VARIANCE APPLICATION – BLOCK 57 LOT 1, KERR & LOTT STREET – MADELINE CRETELLA (PUBLIC HEARING CONTINUATION)

Mayor Myhre and Councilman William Sullivan stepped down on this application.

Attorney Anthony Danzo, representing the applicant, stated that the Architects were working on the plans with professionals and would like to present a document marked as Exhibit A-27 which is an agreement between the owner of 79 Trenton Avenue known as Design Plan and the applicant to enter into a lease for 50 parking places. The map was marked as A-28.

Attorney Danzo noted that Architect Fey will continue testimony along with Carrie Haviland. Attorney Goodell noted that they are still under oath.

Architect Ralph Fey noted that he worked with the Board professionals to come back with changes that satisfy the items of discussions in that meeting. He noted that he will show the changes from the discussion on Exhibit A-19. He highlighted the changes in yellow. Marked as Exhibits A-21 - A-26 are pictures of the vertical planted walls. It will support what we cannot do in the buffer zone. Exhibit A-20 is the revision of the elevation with the vertical planting and other adjustments discussed. Exhibit A-18 was the preliminary test layout of the parking lot and we added a series of images from every angle on the site on Exhibit A-17(a)-(k).

Architect Ralph Fey noted that on Exhibit A-20 in green marker represents the planting and green wall and the parking spaces have been widened to 10 feet wide which allowed us to relocate and remove the trash area. If a truck needs to stay, it would be backed in behind the screen. The screen wall will be a combination of fence in wood in a darker finish and you will see on Exhibit A-21 a horizon fence, on A-22 is the cladding/mesh that will support the plant material and the plant material will face toward the residential neighborhood. That will run from the beginning of the parking on Kerr Street along the residential part and will conclude at the end of the events service parking. The fence can run as far as you feel it should. It seems to be a gentler transition to have the area in front of the events space with high greens and low greens. In the area in front of the events space, you will see plant material which will follow the buffer guidelines. You will also see the substantial block wall to mitigate the sound transfer to the residential neighborhood. It is a combination of block, sheet rock and separation. The next part in yellow is the ramp and entrances in the rear. On the previous plan, the ramp was in the parking area and we recessed the ramp into the building area so it is no longer in the parking area. We put the trash inside the building and it will be contained. We shifted the door to the loading area closer to the trash area and we have taken the two doors and combined it into one. We minimize the number of openings and pulled it all out of the parking area. Referring to Exhibit A-25 as to the separation between the events space and garden, Architect Fey noted that we show a wall that is partially retaining and partially fencing. It shows a gate but it does not need have a gate. We relocated the fire pit out of the center and created an amphitheater feel with long steps that you can sit on. We have connected a direct link from road back to hardscape and the engineer will show how the connection integrates with the road and integrates and connects the community to the commercial district and the walking path. It will identify the walking paths. The edge will be identified by the engineer. It is a definition to where cars are parked, where people walk and where the valet will be. He shows the parking spaces and he reducing the parking to 12 and 5 in the front totally 17 space. The space located closest to the ramp has been selected as the designated handicap space.

Referring to A-20, Architect Fey noted that we are indicating the addition of piers along the elevation of brick with horizontal metal and industrial windows with fins as the building turns to Kerry Street with a 20' wide door which will assist in turning to load and unload. From the start of the turn, you will see brick piers and landscaping vertical plantings. The fencing goes further to the truck parking than what it shows on the plans submitted to the Board. Engineer Clerico noted that Engineer Streker shows the wall extending further. Architect Fey noted that the engineer's plan is correct. Chairman Eckel asked if the wall is extended, it will block the site line from the glass wall to the front patios on Front Street? Architect Fey responded that you will not see it until you are past it. Chairman Eckel noted that one of her concerns is that you would have a view of the front porches of the residents down the road from the glass wall to the south of the event space. It is critical to work out that site line. Architect Chris Pickell noted that we would rather having landscaping there instead of a wall. Architect Fey noted that we could enclose it back toward the building. Chairman Eckel noted that this would be critical.

Engineer Clerico stated that the events space truck parking shows the handicap space with 18 parking space. Architect Fey noted that he will refer to the engineer on that.

Architect Fey noted that there is a chimney and we have in one of the photos, A-17(a) we have a pole. We were advised that the chimney is a place for the swifts. The chimney is in the area of the events space. It may be disruptive to the swifts during construction and we are looking for some guidance on that to create an appropriate habitat for the swifts. It could be on another corner. It could be a masonry design and be fitting to the industrial look. Landscape Architect Bosenburg stated that they have chimney swift design data. Chairman Eckel commented that going forward, you need to be cautious of changing it so it is not during the nesting season. They are summer nesting birds. Carrie Haviland noted that certain dimensions are more productive for nesting and it has to be a certain height. Landscape Architect Bosenburg noted that they have design data and can work with the applicant.

Carrie Haviland noted that during the meeting with the professionals, there were 4 items to be addressed. These are items that will also be addressed by the engineer. One is the post construction test will be administered in regard to sound so you will have confirmation. Responding to Chairman Eckel, Planner McKenzie noted that the Borough's noise ordinance would be in effect with decibel restrictions of 65 decibels day time and 50 decibels at night until 10 pm at the receptor. There is a residential receptor next door so it would be when you get to that receptor. She likes that they will test so if there are additional mechanism that have to be installed that they can do it. Attorney Goodell noted that there can be a condition of approval that no Certificate of Occupancy can be issued unless the structure passes a post construction noise test. Chairman Eckel noted that they previously testified that the hours of operation are until 10 pm.

Carrie Haviland noted that the last item is that a byproduct list was requested and that will be addressed by the engineer as well as the water usage amount. Responding to Architect Bosenberg, Engineer Streker stated that we are asking for a preliminary site plan and the details will come later. We will work out the details with the Board professionals after preliminary approval. Chairman Eckel stated that if the Board grants preliminary approval, the Board will need a lot more detail about the landscaping and the external ground treatment from the landscape architect. Planner McKenzie commented that she hopes it will be done in the interim so when the applicant comes for final site plan, it will already be done.

In reference to the window that faces the residents, Jack Weeks asked if a transom window could be used there so there is no possibility of privacy issues and light pollution. Chairman Eckel added that she has no problem with people being able to see up and down the river but Front Street is a quiet street with front porches. People will be able to look into that space. Planner McKenzie asked if the exposure toward the river could be left open and use a wall of transom windows on the south side? Architect Fey responded that he does not know the impact of that. We will do everything we can to follow the guideline from you to not see those porches. He is less than enthusiastic about fake glass. It does not feel like a good solution. We want to make it elegant but address the Board's concerns. He will leave the solution open and embrace the goal. Gordon Dragt added that the design should not negatively impact a unique quiet residential area of six houses. If that became the focus of the residents and projecting itself upon the residents, it would have an impact. Chairman Eckel noted the applicant is looking for a use variance and must provide proof that there are no negative impacts. If you drive through Frenchtown, most houses have front porches and people use their front porches. You may be able to slide the glass box north so that the people sitting on their porches cannot see it. Architect Fey responded that a

measure could be that if you are in the building, you cannot see the front porches and if you are on the front porches, you cannot see in the building. Chairman Eckel noted that evergreens or landscaping is an option there. Engineer Streker noted that it is a clear goal. Planner McKenzie noted that in addition to the issue of seeing in and out and the issue of noise, there is also a question of lights. You will need a solution that does not create a substantial detrimental impact to the neighborhood from the interior lights. No one should have to see that. Architect Fey noted that they will solve it in an elegant way.

Attorney Goodell noted that the applicant is coming back for final site plan but the Board would have already granted a use variance. The negative criteria would not be part of the final site plan. A specific condition would need to be part of a use variance approval or the issue needs to be addressed now. There can be no substantial detriment so the applicant must design it to minimize the effects of light, sound, vision, etc. Landscape Architect Bosenberg noted that he does not have enough information. The direction is great but we are talking about degrees of possibilities. A specific condition would need to be a part of the approval. Light transmission in the winter will be a problem. Planner McKenzie added that the condition has to be spelled out as an absolute standard. Attorney Goodell noted the criteria does say that there can be no substantial detriment to the public good and the condition can be that the applicant must design in order to minimize any negative effort on the Front Street houses in terms of light views in and out and noise. Planner McKenzie noted that the condition has to be an absolute standard. Architecture Fey recommended that it be a wall or other acceptable architectural separation feature and asked if that could be part of the condition. Landscape Architect Bosenberg noted that it must be acceptable to the Board and we can work that out. Attorney Goodell stated that the condition can be that the applicant must design in order to minimize any negative effort on the Front Street houses in terms of light views in and out and noise by use of a wall or other feature acceptable to the Board that accomplishes the same objective.

Sarah Scott noted that we received communication from the Environmental Commission recommending solar installations, rain gardens or green roofs. Architect Fey responded that he does not know that but some of those techniques have been applied to some of the applicant's other buildings. He does not know what the applicant's response would be. Engineer Streker noted that he can address the other issues.

Engineer Robert Streker was sworn in by Attorney Goodell. Engineer Streker noted that he is the project engineer from Bohler Engineering. He is a licensed engineer in New Jersey and New York. He is a 1997 graduate of Stevens Institute of Technology in Hoboken, New Jersey, where he received his Bachelor of Engineering Degree. He has been a qualified witness for 75 different boards in the State and noted that the design that was prepared was prepared under his direct supervision. The Board accepted Engineer Streker as a qualified witness.

Engineer Streker noted that we are seeking preliminary approval only. There are details in regard to the architecture that need to be worked out and there is permitting required from the DEP which we do not have at this time. We are waiting for variance and preliminary site plan approval. Engineer Streker noted he met with the Board professionals. He has an exhibit tonight that modifies the plan you have in front of you. Marked as Exhibit A-29 is a plan dated March 11, 2016, Alta Land Title survey, which is part of the original application.

Engineer Streker noted that the property is located in the southwest corner of Lot and Kerr Streets. The property is 1.67 acres located in the R4A district which is also the Village Center Rehabilitation area. To the north is a commercial properties and to the south and east is

residential and to the west is the footpath and parking lot. The property is known as Block 57 lot 1. Lot 1 and 1.01 used to be one lot and was subdivided in 2003 by the property owner. On Lot 1 is a warehouse building consisting of 15,651 square feet of space, a smaller residential building which fronts on Front Street and that consists of 1,787 square feet for a total 17,448 square feet. Kerr Street is on the east side of the property, a smaller street, and is utilized as alleyway to access driveways. There are no sidewalks there and it is infrequently utilized as a roadway. On A-29, there is a loading dock to the warehouse that fronts on Kerr Street. The southerly most portion of the building is proposed to be removed and that will be where our parking lot will be. Lott Street is a public street and there are sidewalks on the easterly side of Front Street as it comes down to Lott Street. There are sidewalks on the north that wraps around and heads to the post office. On our side of Lott Street, we have 5 parking spaces which have been discussed. The grey area was part of the lot and was dedicated as part of an earlier action. The 5 parking spots are part of the warehouse and are on the warehouse property although it looks like public parking. There is a flush curb which goes along Lott Street across the property frontage and the parking spaces are located along the building side of the flush curb. It is a massive concrete building with masonry block walls. We are proposing to redevelop the property using a portion of the existing building and modifying it slightly to a 15,956 square foot building. That is a net reduction of 1,492 square feet. We are proposing a distillery and events center. The reduction in the building actually brings the property into greater conformance to the zoning. We are improving rear and side yard setbacks associated with the removal of the loading dock and we are reducing the building size which brings us closer to conformance with the zoning requirements. The hours of operation have already been testified to by the applicant.

Engineer Streker noted that some of the improvements are noted on the site plan dated March 11th and submitted to the professionals. This site plan was marked as Exhibit A-30, prepared by Bohler Engineering, dated March 11, 2016. It is a color version of the copy the Board and professionals received in black and white. We talked about changing the materials of the parking stalls on Lott Street and will maintain the existing flush curb across the property. We are going to take out the blacktop between the building and the flush curb and replace it with concrete pavers. It will give us a different texture and look and will differentiate those parking spaces. We looked at the pedestrian connectivity which was lacking previously. As you see on Exhibit A-30, the sidewalk is visible on the east side of Front Street as you head toward the subject property. We are going to propose a new crosswalk right at the corner so you have visual as you come down Front or Lott Street. It is a safe means of crossing there. We are providing an ADA ramp on our side and will improve the sidewalks across the front of the building and produce connectivity to the garden and terrace area. Originally, we had no pedestrian connectivity. The ADA parking will be on Lott Street as well as parallel parking with a drop off area on the curb side. It will be in complete compliance with ADA requirements. The hatched out space in the back is not an ADA parking space. Engineer Streker also noted that we eliminated the trash enclosure which was between the events center and the adjacent residential building on Lot 1.01. This afforded the opportunity to more substantially plant that green area with a fence approved by the Board. What is on the plan now is a 6 foot tall board on board fence which follows the property line exactly. As a result of our meeting with the Board professionals, we will be utilizing a green fence. He noted that the applicant would be willing to accommodate whatever the Board determines is appropriate. The fence goes from the parking lot on Kerr Street along the property line to Front Street. Landscaping was added. We also addressed the event parking earlier.

Engineer Streker noted that there are two situations involved in this development. The typical use for the distillery and also the events center operation. The applicant has come up with a plan to address the parking for each operation. The amount of parking required is 154 parking space

that includes all the different spaces of use. The driver of that number is what we calculated as a restaurant use at 140 spaces. That is the events space and kitchen. From a practical perspective for the distillery operation, we only need 6 to 10 parking spaces to accommodate that use. Those parking spaces are provided as on Exhibit A-30 as 5 spaces in the front, 12 in the back and one additional parking space is where we identified the catering truck would park. Chairman Eckel noted that there was previous testimony that the capacity of the space was determined to be 168 people. She asked if those numbers were designed to include all the spaces being in use at the same time. She asked if the fire marshal is okay with that. Engineer Streker responded in the affirmative. He added that we have a significant parking variance and we are proposing during events to use valet service. We have a valet expert who will testify.

Exhibit A-18 is the valet parking exhibit for off site prepared by Bohler Engineering, dated March 22, 2016. As was identified earlier in correspondence you received, the plan is for 79 Trenton Avenue known as Design Plan located ½ mile south of the subject property and fronts on Trenton Avenue. We have an expansive parking area and the applicant was able to secure 50 parking spaces. In addition, we have the ability through valet parking to provide 23 parking spaces on site, the 5 cars on Lott Street and the valet parking in the back with the ability to park at a higher capacity. Chairman Eckel noted that the total number of spaces you are providing is 78 spaces. Engineer Streker responded that from a practical standpoint is that the parking calculation and how you calculate it for a restaurant use far exceeds what we are anticipating as occupancy for the events center. We are looking at an occupancy of 100 to 150 people for an event. We are looking at a parking requirement of 50, calculated as 1 parking space for every 3 people. Engineer Clerico noted that they put the parking calculation in the ordinance on the plan. For the assembly use is 6.1 spaces, the restaurant use is 1 per 3 seats or 1 per 50 whichever is greater and that is 1 per 3 seats for a requirement of 140 parking spaces although the engineer is testifying that 50 spaces would be adequate. For the purpose of the variance, the greater number is listed. The warehouse is at 8.3 spaces for a total of 154 parking spaces. Rocco Musolino noted that 154 parking spaces seems high. If you have 150 people in the building, it would be 1 parking spot per person. Planner McKenzie noted that they are looking at the uses simultaneously being in operation. The distillery may not be operating when the events center opens. The distillery closes at 5:00 pm and the events center opens at 5:00 pm. Engineer Streker stated that there may be moments where there is overlap. Chairman Eckel commented that weekend events may start before 5:00 pm. Responding to Planner McKenzie, Engineer Streker noted that it is a valet scheme with the intention of A-18 parking spaces are sufficient for 50 spaces. With a valet scheme, more parking than 50 could be there. Planner McKenzie asked if Design Plan will be closed during the valet parking? Engineer Streker noted that our events will be after Design Plan's hours of operation. They are not a retail business. Engineer Clerico noted that on your plan and as you testified previously, the free parking behind the building was designed as parking for workers at the event or for tastings. Referring to Exhibit A-30, Engineer Streker noted that the parking for the daily operations for the distilling and tastings will be satisfied. The parking isles in 20 feet so to make accommodations for that, we increased the width of the parking stalls to 10 feet for maneuvering purposes so people do not have to back out. We expect 8 to 12 people for tastings. There will be a valet layout for the rear of the building. Marked as Exhibit A-31 is the valet parking exhibit, dated February 15, 2016, prepared by Bohler Engineering. This shows that 23 vehicles can park in the rear of that building. The valet service can do that. Engineer Clerico asked if that allows for the events/service truck to access that area. We set aside a single space for the truck which is hatch marked on the plan. The caterer sets up and gets out before the event and employees will get their vehicles off the property as well. It may not be practical for the caterer to always get out so that is why we made accommodations for that. Engineer Clerico noted that if you are using the space for valet

parking, it would not be available for tastings. Engineer Streker stated that the use would not occur when events space is being used. Tasting is by appointment only. Planner McKenzie noted that it should be a condition of approval. You may have to leave a gap of 15 to 20 minutes between the closing of the distillery and when guests are arriving. You do not want valet parking happening when employees are leaving. Engineer Clerico noted that you may want to provide a sliding chart based on what uses are in operation because at some point you will be asking for relief from the parking standards as valet parking is now allowed. The deficiencies would be again the uses in operation. The requirement will be less than 154. Engineer Streker stated that we are not utilizing or relying on the on street parking, public parking or other businesses parking.

Chairman Eckel noted that previous testimony indicated that guests would be bussed in and all employees would be bussed in to save the onsite parking for guests. That seems to be contradictory. Engineer Streker noted that there will be different size events. The smaller events could be accommodated with valet parking on site. Other events require the off site parking so depending on the size of the event will determine which plan is implemented. During high volume events, employees and guests will be bussed in. The intent is to use the valet parking on site for VIP guests such as the bride, groom, etc. If we were to meet the standards of the ordinance, it would not make sense because the vast majority of the 154 spaces would not be used all year long.

Chairman Eckel asked if we have any information from the fire department. Secretary Shepherd responded in the negative. Chairman Eckel commented that previously the back parking area still had an area immediately adjacent to the building for fire vehicles. If you create a valet parking situation, the fire truck would not be able to access that area. The Fire Department tells us that they want to access the kitchen area particularly in residential dwellings. Fire trucks would not have access to the kitchen. Planner McKenzie added that we will need a sign off from the Fire Department that this proposal for valet parking would be acceptable. Engineer Streker requested that it be a condition of approval for final. If we have to, we could fit six more spaces on the other lot. Planner McKenzie commented that you are requesting a parking variance. Chairman Eckel stated that the valet expert will be addressing that later in the meeting.

Attorney Danzo noted that Design Plan offered more parking space if needed. That operation is closed by 5:00 pm. Attorney Goodell stated that a condition could be that the operation has to close prior so that the entire lot can be utilized. Planner McKenzie stated that the overlap has to be addressed. Architect Fey noted that there will be ten vehicles working in that facility. The valet service may be able to accommodate those ten spots. Design Plan will provide us with additional space if need be. Chairman Eckel noted that the Board would need an additional confirmation of that and the plan for that. Planner McKenzie stated that we would want to know what kind of traffic there would be there if they use the valet parking behind the building. Engineer Streker noted that the testimony is that we can provide 78 parking spaces whether they are on the remote lot or on site. Chairman Eckel stated that we are questioning whether that is doable if the Fire Department needs access. If you could get 60 or 70 spaces on the Design Plan lot, and show open access to 10 spaces on site, it may work. Attorney Goodell noted that a further condition would be that a letter from Design Plan indicating how many spots they could use for valet and how many spots the business uses.

Engineer Streker presented Exhibit A-32, sheet 13 of the plan set, is the delivery vehicle circulation to the site and out of the site from the loading zone. The vehicle can come down Front Street and turn onto Kerr Street. We are able to accommodate the swing. There will be 2

to 3 deliveries per week by a box truck. The box truck is 11 feet tall. We have a loading zone to accommodate the truck. It is manageable with the 20 foot wide door. John DenBleyker noted that the door is 9 feet door and with the loading ramp, you will have to work that out so that the truck can go in and out of the building.

Chairman Eckel expressed concern about the dry grain being heavy and the wet grain being heavier because none of the roads are in excellent condition to take all that traffic. The road functions as an alley. Attorney Goodell noted that a condition could be no tracter trailer trucks and the hours of delivery can be restricted. Chairman Eckel recommended that deliveries be between 8:00 am to 4:00 pm on weekdays and no more than 3 round trips per week. The applicant agreed.

John DenBleyker asked if the turning radius took into account the cars parked in back along Kerry Street. Engineer Streker noted that we took into account the edge of the pavement in the right of way. If people are parked in the cartway, there would need to be a maneuvering of the vehicles to get around them. The turning maneuvers by the trucks are much smaller but we used the standards. Engineer Clerico noted that it is an auto turning pivot and the plan shows that the truck enters from Front Street and turns into the building and leaves by backing out of the building and out Lott Street. The turning movements will be using the opposing lane. The street is in poor condition. One of our recommendations is that at least a section of Kerr Street be rebuilt to the loading area. We did not hear testimony on how the box truck will work with the pallets and barrels being delivered and stored, etc. There is a two foot differential between the ramp and the door which will have to be addressed. They rebuilt Lott Street prior and they would have to rebuild part of Kerr Street. Engineer Streker noted that we will modify the floor to accommodate the truck. The loading and unloading will be with a forklift operation inside the building. The pallets will be stored on the outside wall. The edge of the street is undefined. Chairman Eckel noted that you cannot negatively impact the neighbors who park on Kerr Street. Planner McKenzie recommended that the access way be defined. Engineer Clerico noted that they are indicating that the right of way if 27 foot wide. The actual right of way could encroach onto the gravel ways. The turns will be made within the pavement area and the pavement is within the right of way. As part of the final plan would be a plan of the street, defining the rights of ways and edge of the pavement and a proposal of the improvements that will be made to the streets. If they are extending the pavement, then you are getting how it will affect the other properties, drainage, etc. Attorney Goodell noted that there would be a condition of approval as set forth in Engineer Clerico's report.

Engineer Clerico noted that crosswalks would require Council approval. This would also be a condition of approval.

Engineer Streker noted that as to the landscaping, we are proposing is a more abundant landscaping with 350 plants focusing on the two open green space areas, the space between the residential building on lot 1.01 and the event center we talked about earlier with shade trees, evergreens, deciduous and evergreen shrubs. The evergreens will go in at 6 to 8 feet tall at planting and the shade trees at 2 1/2 inch calibers. There will be additional plantings along the garden area and along side of the low architectural wall with grasses, flowering plants, etc. We are in a flood plan so we are subject to DEP approval and they will require native species. The landscape plan is a step in the right direction. Landscape Architect Brian Bosenberg recommended that the landscape treatment should be a condition of approval to the satisfaction of the Board. This plan needs to be developed in concert with all the other materials. We are still missing a lot of the elements but it is a step in the right direction. The condition of approval

should also include materials of pavers, colors, etc. There is not enough information for me to agree that it is the right selection. Sarah Scott noted that it should not be a landscaper designing it but a landscape architect. Engineer Streker noted that we have a licensed landscape architect on staff that will prepare the plans and then we will coordinate with Landscape Architect Bosenberg. Landscape Architect Bosenberg stated that this should be a condition of approval. Planner McKenzie stated that she also thinks that an additional condition of the plan should be that it is coordinated with the Board's landscape architect, the architectural consultant and the applicant. Engineer Clerico noted that there is opening engineering issues on how the drainage works, etc. This should be a condition of approval. Planner McKenzie noted that we will not be able to verify everything until final. If they are providing raingardens, etc. that should also be worked in and how the water will be conveyed etc. It goes to water quality issues. Engineer Clerico noted that the applicant indicated that they are not subject to the stormwater regulations. Chairman Eckel commented that if the Board approves the preliminary site plan, she recommended that when the applicant comes back for final site plan, the landscaping be part of the submission, including paver materials and materials on the side of the building and how they works together, species of planting and if they are well suited and create the function needed in selection and placement. We will need detailed memos from Architect Pickell and Landscape Architect Bosenberg. Attorney Goodell noted that the condition for final site plan which includes a landscape plan which has been submitted and approved by the Landscape Architect, Architect Consultant and the Boards which addresses as a minimum fences, materials, colors, hardscape design and lighting. A conditional preliminary approval will not allow them to start construction. Engineer Clerico noted that the applicant will have to come back with a final site plan that meets all the conditions of the preliminary.

Gordon Dragt noted that one of the biggest issues is the sewer usage. Has the applicant seen and responded to Victor Gilardi's question about sewer usage? Engineer Streker noted that he has a conversation with him and the concern is about BOD levels. We will be able to accommodate the requirements. We will be providing a letter on how the waste is being handled. That is another condition of approval. As to water, we did a flow test but did not do sprinkler design. The water line may be undersized and we may have to do improvements. This could be a condition of approval as well as off site improvements to bring sufficient water to the site.

Attorney Danzo stated that we are asking for a use variance and a conditional preliminary site plan will let the applicant know if they can go forward. Attorney Goodell added that the Board will need to hear the positive and negative criteria.

Chairman Eckel noted the time as 9:45 pm and asked Attorney Danzo how many more witnesses he will be presented. Attorney Danzo noted that the valet parking witness can be delayed if we need to get additional documentation from Design Plan. Chairman Eckel stated that she would like to open the floor for public comments on the testimony given tonight and then hear from additional witnesses if time allows. Chairman Eckel opened the floor for public comments.

Gerry Becker of 27 Front Street noted that he has a letter from his neighbor Joan Cox who could not make it but he understands the Board has a copy of it. Attorney Goodell noted that the Board cannot consider the letter. There will be another opportunity for public comment. Gerry Becker noted that he is the second house in from this site and he spent ten years in the banquet business and parties do not end at 10:00 pm. There will be a lot of noise out there, cars going in and out and people milling around. We need to think about valet parking, motors starting, cars moving around, etc. There are residents with infants there and it will be noisy. Responding to Chairman Eckel, Gerry Becker believes that the trolleys would be an improvement since the pick

up will be in the front, on the other side of the building from the residential area as opposed to the valet parking.

John Matthieu, owner of the building at 34-40 Bridge Street, noted that he has been on the Planning Board in Kingwood since 1988. He asked if this board is sitting as the Board of Adjustment? Attorney Goodell responded in the affirmative. John Matthieu ask if the property in questions is pre-existing nonconforming and what zone is it in? Planner McKenzie noted that the property is in the R4A center commercial zone. It is a preexisting non-conforming building which has had preexisting non-conforming uses. It is an oversized building. An events space would be permitted but a distillery is not a permitted use. He wanted to get a sense of what uses could be there. Chairman Eckel noted that the distillery is a manufacturing use and not approved of in that zone. Retail and restaurants are allowed in that zone. Responding to John Matthieu, Attorney Goodell noted that the applicant's expert for the distillery was here at the last meeting. He asked about the granting of a variance and a conditional preliminary approval. Planner McKenzie noted that you missed a lot of testimony on the architectural. They need a variance for the sizes of the uses and its impact, and there is a lot of relevance to site plan issues. Attorney Goodell stated that the proofs required for a use variance are stiff. It has to be inherently beneficial and enhance the quality of the community. They have to show that there is a special reason that this commercial site is suited for its proposed uses. It is an old abandon building that abuts a residential zone and it has to show how it can be compatible and that it will not impair the zone, that it is not a detriment and is good for the neighborhood. John Matthieu noted that he watch the apprehension for the Riverhorse in Lambertville and it turned out to be fabulous for Lambertville. He thinks the Board should consider it but with the strict review as you have been doing. If this does not go through, the building could sit there.

Eric Ferido of Sixth Street, noted that he supports this application. The applicant did a great job. There is a potential to bring a lot to the community, will create jobs locally and the export of the product will put us on the map. It will turn the building into something useful and productive. He is all for it.

Mike Atheras, Captain from the Frenchtown Fire Department, responding to the question about the rear parking and block fire access, Mike Atheras stated that the front door is 99.9% of the time our access on commercial or residential dwellings. As long as it follows fire code. It has no effect on us. Chairman Eckel stated that we have always heard that the Fire Company had to have access to the kitchen side.

Having no other public comments, Chairman Eckel closed the public comment portion of meeting.

Chairman Eckel noted that it is 10:10 pm and the Board will hear one more witness this evening.

Planner Bailer was sworn in by Attorney Goodell. Gabriel Bailer noted that he is a licensed professional Planner. He received his masters from Hunter College in New York City and received his professional Planner license in 2009; He has testified before over 50 Boards throughout Bergen, Hunterdon and Hudson Counties.

Planner Bailer will tie everything together from all the previous testimony from the architect and engineer and how the use relates to the zoning and Master Plan and how the use relates to the surrounding uses and provide testimony for the requested variances. The variances needed are 3 "D" variances for the distillery use and two different variances for the distillery and events space.

The events space and distillery uses exceed the 2,500 feet for each use. The “C” bulk variance is for the side yard and rear yard setbacks. We also require waivers for the driveway aisles in the new parking lot in the rear and two way driveways. There are also landscaping waivers. Section 307 requires a buffer area of 10 feet which we will be unable to provide because of the size and we will require waivers for 707 (b) for tree plantings and 707 (c) buffer areas and screening, which we are unable to provide due to the insufficient area and for Section 707(d) shade and street trees as well as Section 303.3 land use development requirements. This property is in the R4A, central business rehabilitation area. The town identified this property as an area in need of rehabilitation. The D variances needed requires positive and negative criteria so that the distillery use can be granted for special reasons and the use will not be a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. Also, when considering the “D” variance you have to factor in the general purpose of zoning as with the Municipal Land Use Law.

Planner Bailer stated that in looking at the plan and the site, the proposed distillery use will be a redevelopment and rehabilitation and that meets the special criteria as the current building does not fit in the surrounding area and residential character. It is a massive building over 17,000 square feet. By redoing the building, it will fit more in the surrounding area, and it will blend in and create life to the building. It supports the goals in the R4A commercial zone. The goal of the district is established in recognition of the historic character of the residential and nonresidential uses that already exist in the Borough’s downtown area; to encourage a continued mix of uses which provides services and supplies to the immediate community while retaining the attractiveness of the downtown area to tourists; to retain and enhance the sense of place afforded by the Borough’s downtown area; and to promote pedestrian movement and activity within and around the downtown. Standards for development are specifically designed to promote the appropriate adaptive reuse of existing buildings wherever possible and, when necessary, the construction of only complementary new buildings compatible in scale and design with the character of the historic district. This use creates an opportunity to meet all these goals. The redevelopment of this site create access to pedestrians and will produce and create a destination, create economic development by creating jobs, and it will support local businesses because people may make a weekend of it and people will go to the local restaurants and have rehearsal dinners and stay in local hotels. It will support the businesses and it will improve the surrounding uses. It promotes the 2009 Master Plan Reexamination as it creates a new opportunity and new economic opportunity. The uses will be more compatible to the surrounding uses. You have this massive building which is visible from the towpath and people see the deterioration of the building. By redeveloping it, you create a destination that is visible within the town and next to Bridge Street. The use connects and compliments Frenchtown activity. This property was identified in the Village Center redevelopment plan. The town specifically looked at this property and saw the redevelopment potential. They saw this as an opportunity to meet the goals and one of the goals was to return a non-productive property to a productive property. You will make it a destination, you will have economic opportunity and you will have people enjoy what the building provides. It will strengthen the neighborhood because the distillery will be a connection. There will be events there such as art shows during the week and it will be a destination and connectivity to the surrounding areas. You are providing a new type of business and this business has been recently permitted throughout the distillery operation. It is similar to a microbrewery in the sense that people can come for tastings. These uses have been shown to be economically viable and it has been shown to be a great thing for the neighborhood. It supports that goal.

In terms of architectural, Planner Bailer stated that we utilized design standards and looked at the character and improved the façade. It creates character and connectivity to the surrounding area. The catering restaurant use is permitted and the town determined that those uses were appropriate in that area.

Planner Bailer also noted that in terms of the variances, we are reducing the existing non-conformity of the building of over 17,000 square feet by reducing the size to 15,956 square feet bringing it into more conformity. In terms of the rear and side yard setbacks, we are reducing the non-conformity. We have an agreement for off site parking of 50 spots. We can provide more parking spots if needed and we can provide valet and shuttle buses that can bring attendees of the event back and forth to the site. Parking is a major issue and we understand that. We looked and found an opportunity that fits in and makes this operation work in terms of the parking scenario. We knew it was an impact and we did our due diligence and found a good solution. The bulk variances have been deminimized and we reduced the non-conformity. We provided 28 parking space on the lot and 50 to 60 parking spaces off site. The 154 parking spaces is a large number based on square footage and we feel what we provided is appropriate for the uses and the valet and shuttle buses provides the necessary transportation needs. In terms of the uses, they are appropriate. We feel it will be a great addition to the town and it will not have a substantial detriment to the public good. We will work on providing any shielding or lighting to protect the residential uses and we will do everything to not impair their uses. There is no negative detriment and it supports the goals of the R4A zone and the Village Center Plan and does not impair the intent of the ordinance. In his professional opinion, the variances requested are justifiable and when you look at the surrounding area and you review the Master Plan and Zoning Ordinances, it relates to the goals of the zoning.

Responding to the Board, Planner McKenzie stated that the parking will be worked out at final site plan. Chairman Eckel stated that we have parking questions come up a lot. We have parking questions a lot on applications such as a the need is ten and there is only 8. This applicant is saying they need 154 but they only have 78 so they are providing half. She understands that if they have 168 attendees at the events space, they do not need 154 parking spaces. Planner McKenzie noted that the RSIS only regulates residential. Parking standards come from your ordinance for individual uses. They conservatively calculated the combined uses to operate all together which will not be the case. The Board will have to consider the issue that people do not tend to drive by themselves to events and will go as couples or families will come together. The standard for a restaurant is one parking space for three seats is appropriate.

Vice-Chairman John DenBleyker asked if they provided testimony on what they think they need for parking. Planner McKenzie stated that the Board did not get testimony on that and the Board will need more information on parking. It is something that needs further explanation because we do not have a good idea on how the valet will work. From a planning perspective, having valet parking when you are having events that will from time to time demand huge parking requirements works but other times the parking demand will not be required. You do not want to underestimate the parking that may be required once a week. She likes the idea of using valet parking but the Board needs more certainty about the valet parking and how a valet parker would design the lot so the Board has more of a comfort level on it. Sarah Scott noted that there is already a parking issue in town so if it is a beautiful Saturday evening and there is an event, and an attendee of that event says they do not want to park in the valet area and parks by the river and walks to the event center, it will be a disadvantage to other patrons for the restaurants, etc. There may need to be a guarantee that all attendees only park in the designated valet spots.

Planner McKenzie noted that the other thing that will be relevant is whether the valet parking will be free. Rocco Musolino stated that if it is free, they may use it. Planner McKenzie noted that because you are being asked to grant a variance on the parking and you have a right to get some assurance that this will work so that the available public parking for the day to day tourists is not impacted by the demand of this use. More discussion would be required similar to the discussion with the ArtYard application. You may feel you need the valet testimony. There is a lot of good things about this application but the parking is a legitimate issue. They have to satisfy the Board and they have not done that yet. We need it on the record. She is recommending to hold off on the approval and have the applicant come back to satisfy the Board on the parking. The nature of the events needs a sense of their marketing to understand the parking demands and if they fill up the area near the river, it will hurt the other businesses. Chairman Eckel noted that the Board did not get the testimony that we think we need. Attorney Danzo noted that the 150 people will not require 154 parking spaces. He noted that other businesses could cause a detriment so the Board would not allow new businesses. Chairman Eckel noted that when a doctor came to town, he had to prove he had sufficient parking. The Board has to see if it will create a detriment or negative impact. We would love to have the building used but we cannot have it be a detriment. It is incumbent on the applicant to prove it is not a negative impact. Planner Bailer noted that we will inform the guests where they have to park. Planner McKenzie responded that the Board needs to hear from the valet expert on how the valet system is made to work and how it is used so that it maximizes efficiency. There are too many operational questions. Her recommendation is that you get that testimony in the record. John DenBleyker added that we need to know if the buses or valet parking will work because if you have 10 or 20 cars on Front Street at the end of the night, will it work. We need to know what they think they need for parking. Planner McKenzie noted that the proposal is a substantial improvement but there is insufficient information about the parking. Cathy Suttle stated that she believes that there are a lot of positive things with this proposal for the town but we need to know how the operations will work and that you can control where people park and the types of events you will have. Sarah Scott noted that there is no sidewalk extension to the valet parking lot so we need to know wait times for shuttles, etc. If people do not want to wait for the shuttle, they will walk and that is dangerous. Chairman Eckel noted that testimony from a traffic engineer and how the traffic works, etc. so we can understand it better. The valet expert stated that he can testify on the issues. Sarah Scott asked if the Transbridge bus schedule will interfere with the valet service.

Chairman Eckel noted that we will have to carry this public hearing to the April 27th meeting as it is now 10:40 pm. The Board will hear final public comments at that meeting. We need all the testimony on the valet parking and traffic associated with the valet parking to make a decision on the use variance. Gordon Dragt commented that he understands the need for more testimony, but we do not have to keep layering it on. We talk about the subject and then talk more about it. We need to figure out how to move forward. Chairman Eckel noted that we have bylaws and have gone past the time in the bylaws for last several meeting and have had specials meetings. Decisions on variances especially use variances require a high level of proof. It is not appropriate to start testimony at 10:40 pm. If the Board wants to continue the testimony this evening, they can over rule her.

Attorney Goodell announced that the next hearing will be Wednesday, April 27, 2016 at 7:30 pm. Responding to Attorney Goodell, Attorney Danzo agreed to provide the Board will an extension if it is necessary. Planner McKenzie noted that she cannot attend the next meeting.

Mayor Myhre and Councilman William Sullivan returned to the meeting.

VOUCHERS

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

VOUCHER LIST 3/23/16

Archer & Greiner	Professional Services for General Representation through 2/29/16	\$ 700.00
Albert Cruz	Professional Services for Affordable Housing through 2/29/16	\$ 570.00

ESCROW ACCOUNT – BLOCK 59 LOT 4 – ArtYard, Inc.

Archer & Greiner	Professional Services for Sprocket Arts through 2/29/16	\$ 720.00
Elizabeth McKenzie	Professional Services for Sprocket Arts through 2/29/16	\$ 875.00

ESCROW ACCOUNT – BLOCK 57 LOT 1 – Cretella

Elizabeth McKenzie	Professional Services for Cretella through 2/29/16	\$ 743.75
Herbert, Van Ness, Cayci & Goodell	Professional Services for Cretella through 1/31/16	\$ 432.00
B.W. Bosenberg	Professional Services for Cretella through 2/29/16	\$ 1,377.50
Van Cleef Engineering	Professional Services for Cretella through 2/29/16	\$ 472.50

ESCROW ACCOUNT – BLOCK 34 LOT 1 – Michael Inspection

Van Cleef Engineering	Professional Services for Michael through 2/29/16	\$ 1,883.25
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ESCROW ACCOUNT – BLOCK 34 LOT 1 – Michael

Albert Cruz	Professional Services for Michael through 2/29/16	\$ 135.00
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On motion by Jack Weeks, seconded by Rocco Musolino, 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 commented that the Board came up with a policy on how far ahead we need escrow money posted before a meeting. We need to come up with a policy on how far ahead of the meeting we get reports from the professionals to help us and the applicants. We need to come up with a policy to deal with applicants who do not pay the escrow until they want to come back to the Board. We have an applicant who will not come back to us for a while and is deficient in the escrow and does not want to pay until he comes back. We need to look for Attorney Hirsch for guidance.

Mayor Myhre reported that the Freeholders will most likely be eliminating the passing zone on Everittstown Road and may be reducing the speed limit on Kingwood Avenue.

ADJOURNMENT

Gerry Case moved adjournment at 10:48 pm, and Jack Weeks seconded. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary