

Frenchtown Planning Board  
Regular Meeting  
July 22, 2020  
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 on the website and copies distributed to the designated newspapers with the teleconferencing information to join the meeting.

**ROLL CALL**

Present:	Absent:
Cooke (arrived at 7:45 pm)	Sullivan
DenBleyker	Reino
Dougherty	
Dragt	
Eckel	
Herb	
Myhre (Arrived at 7:40 pm)	
Tomko	

**APPROVAL OF MINUTES**

**Regular Meeting – June 24, 2020**

Gordon Dragt moved to accept the minutes of the June 24, 2020 regular meeting, Paul Tomko seconded the motion. The minutes of the June 24, 2020 regular meeting were approved by unanimous favorable roll call vote.

**PUBLIC COMMENTS**

Chairman Eckel opened the floor for public comments. Hearing no comments, she closed the public comment session.

**Memorializing Resolution #2020-14 - River Mills at Frenchtown, Lot 1, Block 34, Lot 1, Block 35, Lot 1, Block 36, Lot 2, Block 38 and Lot 52 Block 14, Conditional Extension to April 27, 2020 of deadlines for compliance with conditions of amended Preliminary and Final Site Plan Resolution #2019-10 and Minor Subdivision Resolution No. 2019-13**

Jean Herb and Paul Tomko stepped down on this item due to proximity.

On motion by John DenBleyker, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board approved Resolution #2020-14 as follows:

**FRENCHTOWN BOROUGH PLANNING BOARD RESOLUTION NO. 2020-14**  
**RIVER MILLS AT FRENCHTOWN**  
**LOT 1, BLOCK 34, LOT 1, BLOCK 35, LOT 1, BLOCK 36, LOT 2, BLOCK 38**  
**AND LOT 52, BLOCK 14**  
**CONDITIONAL EXTENSION TO JULY 24, 2020 OF DEADLINES FOR**  
**COMPLIANCE WITH CONDITIONS OF AMENDED PRELIMINARY AND FINAL**  
**SITE PLAN RESOLUTION No. 2019-10 AND**  
**MINOR SUBDIVISION RESOLUTION No. 2019-13**

WHEREAS, the Jersey Building Group, LLC, now known as River Mills at Frenchtown, LLC (the “Applicant”) received various approvals and extensions of those approvals as discussed in detail in the draft Frenchtown Borough Planning Board Resolution No. 2020-\_\_\_\_, said Resolution attached hereto as Exhibit A; and

WHEREAS, the Applicant requested and the Board granted an extension from April 27, 2020 to June 24, 2020 for full compliance with conditions required by the amended preliminary and final site plan approval and the minor subdivision approval, however the resolution memorializing this action was not on the June 24, 2020 Board meeting agenda and thus was not adopted, and the Board now wishes to correct this oversight; and

WHEREAS, The Applicant requested during the public portion of the June 24, 2020 Board Meeting, a further extension of the time for compliance with all conditions as set forth in Resolutions No. 2019-10 and 2019-13, said extension approved by the Board for thirty (30) days from June 24, 2020 through to July 24, 2020, provided that the Applicant conforms with all conditions set forth in the Board’s draft Resolution No. 2020-13, attached hereto as Exhibit A.

**VOTING RECORD**

On June 24, 2020, a Motion to grant a thirty (30) day extension, to July 24, 2020, of the requirements for conformance with all conditions of amended preliminary and final site plan and minor subdivision received the following vote:

Vote:		
Those in favor:		Eckel, DenBlyker, Dougherty, Dragt, Myhre, Cooke, Reino
Those opposed:		None
Recused		Herb, Tomko

The above memorializing Resolution was adopted on July 24, 2020 by the following Board Members eligible to vote:

MEMBER	YES	NO
Cooke		
Eckel		
DenBlyker		
Dougherty		
Dragt		
Myhre		

Attest:
Brenda S. Shepherd, Board Secretary

Chairman Eckel noted that the deadline to comply with the conditions for River Mills is July 24, 2020. She has signed the final plans. The only issue is the escrow. Attorney Hirsch was in contact with the applicant and the deficiency will be paid tomorrow.

Jeanne Herb and Paul Tomko returned to the meeting.

**Memorializing Resolution #2020-15 – Granting Variance – Block 59 Lot 6, 66 Trenton Avenue – Donald Hannis**

On motion by Gordon Dragt, seconded by Paul Tomko and carried by unanimous favorable roll call vote, the Planning Board approved Resolution #2020-15 as follows:

**FRENCHTOWN BOROUGH PLANNING BOARD**

**RESOLUTION NO. 2020-15**

**DONALD HANNIS – 66 TRENTON AVENUE**

**BLOCK 59, LOT 6**

**RESOLUTION GRANTING VARIANCES**

WHEREAS, Donald Hannis is the Applicant (the “Applicant”) and the owner of Block 59, Lot 6, located at 66 Trenton Avenue, Frenchtown Borough (the “Subject Property”); and

WHEREAS, on May 6, 2020 the Applicant submitted an application for variances in connection with renovations to the existing single family dwelling on the Subject Property.

WHEREAS, the plans and documents that were submitted by the Applicant in support of this application are identified in Exhibit A, the May 20, 2020 Planning Report of the Borough Planner, in addition to certain documentation submitted with the June 5, 2020 cover letter of the Applicant's attorney, C. Gregory Watts, Esq.; and;

WHEREAS, the application was deemed complete at the May 27, 2020 virtual meeting of the Planning Board; and

WHEREAS, the public hearing was commenced after appropriate public notice had been provided, at the May 27, 2020 virtual meeting of the Board, with the public hearing continued through June 24, 2020 at which time the Board voted to approve the application subject to conditions stated in the record; and

WHEREAS, the Planning Board received and reviewed the following review letters from its consultants: May 20, 2020 Planning Report from Board Planner, Darlene A. Green, P.P., A.I.C.P. (attached hereto as Exhibit A); May 22, 2020 review letter from Robert C. Clerico, P.E., Board Engineer (attached hereto as Exhibit B);

WHEREAS, the Applicant was represented during the public hearings by C. Gregory Watts, Esq. of the law firm of Watts, Tice and Skowronek, and testimony was offered during the hearing by the following: the Applicant, Donald Hannis; the Applicant's Professional Engineer, John Hansen, P.E. from the firm of E & LP; the Applicant's Architectural Consultant, Alexander T. Polaski, R.A., and the Board also received testimony from Ken Rogers, the Construction Code Official for Frenchtown Borough; and

WHEREAS, the Board Planner, Darlene Green, P.P., A.I.C.P. and the Board Engineer, Robert C. Clerico, P.E., all testified under oath during the hearings, and all of the above-referenced testimony is considered part of the record in this matter; and

WHEREAS, public comments were offered during the public hearing by Council Member and resident, Kandee Ferree, Jessikah Goodale and Lynne Hutchins; and

WHEREAS, the following Exhibits were received into evidence by the Board during the hearing:

- A-1. Photograph of home at time of purchase by Applicant;
- A-2. Pulaski Architecture plan showing part of building removed plus above ground pool which was removed;
- A-3. Photograph of back of building showing elevated great room;
- A-4. Photograph of home after substantial renovation;
- A-5. Floodplain Exhibit prepared by John Hansen, P.E.;
- A-6. May 26, 2020 letter from Ken Rogers;
- A-7. Photograph by Applicant's Architect showing interior of family room;
- A-8. Drawing of house showing flood elevations, prepared by John Hansen, P.E.;
- A-9. Original of flood elevation plan by John Hansen, P.E.

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. Restoration History. In December of 2019, the Applicant's construction permits were temporarily suspended, requiring all work to be stopped pending a review by the Zoning Officer and Floodplain Administrator to the Borough. The Applicant was permitted to continue construction as needed to close up the structure and protect it from the elements but not to continue additional construction. On January 30, 2020, the Applicant submitted an Application for a Development permit for Construction in a Flood Hazard Area, which permit was denied on February 21, 2020 due to the fact that the top of the bottom floor, the basement, is located below the base flood elevation. Thereafter, on May 6, 2020, the within application was submitted to the Planning Board.
2. Requested Variances. The following variances were requested by the Applicant in the application documentation and during the course of testimony at the public hearing:
  - a. Section 410B.3. Variance for development in a flood hazard area. The Ordinance does not permit structures to be altered without full compliance with the terms of this Section. The Application does not comply with Section 410C.1 or 410D. 2a as detailed below.

- b. Section 410C.1. Variance for development permit. The Ordinance requires a development permit to be obtained PRIOR to construction within any flood hazard area. The Applicant did not obtain a development permit before conducting the demolition and alterations to the existing dwelling. The development permit was submitted in January of 2020. According to the documentation submitted, work began in 2019.
- c. Section 410D.2a. Variance for floor elevation. The Ordinance requires the elevation of the lowest floor of a substantially improved residential structure, including the basement, to be at least one foot above the base flood elevation. The Elevation Certificate indicates the Base flood Elevation is 122.8. Therefore, this Section of the Ordinance requires the lowest floor to be elevated to at least 123.8. Additionally, the heat exchange unit and ductwork are located in the basement. The Elevation Certificate indicates that the top of the bottom floor (including basement, crawlspace) is 117.75 feet. This is 6.05 feet below the required elevation.
- d. Section 23.3.3. Variance from compliance with Chapter 23. The Ordinance requires the alteration of any structure comply with this Chapter.
- e. Section 23-4.1. Variance for development permit. The Ordinance requires a development permit to be obtained before construction begins in any Special Flood Hazard Area. The Applicant did not obtain a development permit prior to the construction of the single-family dwelling demolition and alterations.
- f. Section 23-5.2a 1. Variance for lowest floor elevation. The Ordinance requires the substantial improvement of any residential structure to have the lowest floor, including the basement and attendant utilities and sanitary facilities, elevated to or above the Base Flood Elevation. The Base Flood Elevation of the AE Special

Floor Hazard Area is 122.8 feet. The lowest floor of the structure is the basement at 117.75 feet.

- g. Section 23-5.2a.2. The Ordinance requires that within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two (2) feet if no depth number is specified), and require adequate drainage paths around structures on slopes to guide floodwaters around and away from the proposed structures.

3. Board's Findings on Criteria for Variances from Chapter 23 of Borough Code, Flood Damage Prevention.

- a. As noted in paragraph 2 above, a number of variances were required from the Borough Code Chapter 23, Flood Damage Prevention as well as parallel requirements contained within the Land Development Ordinance, as identified in this Resolution and in the Planning Report attached hereto as Exhibit A. The Board heard extensive testimony both from the Applicant and the Applicant's Engineer, John Hansen, P.E., concerning compliance with the variance criteria set forth in Flood Damage Prevention Section 23-4.4a.4. The details of that testimony will be summarized here, and the Board acknowledges its reliance upon such testimony.
- b. The Applicant has proven compliance with the most important variance criteria, specifically including the requirements that: there is no danger of materials being swept onto other lands or of injury to others; that the variances would not result in danger to life and property due to flooding or erosion damage; and the

compatibility of the exiting home, as renovated, with existing and anticipated development.

- c. The only variance standards and provisions for flood hazard reduction contained in Section 23-5 which could not be met are the result of the necessary location of the heat exchange unit and ductwork in the basement. The Board therefore is granting a variance from the sections previously noted which may result in the contents of the building, specifically the heat exchange unit and ductwork being susceptible to flood damage (Section 23-4.4a.4(c) and a variance is also granted from Section 23-5.1(c)4, which section requires for substantial improvements, that electrical, heating, ventilation, plumbing and air conditioning equipment be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. The Board finds that due to the unique circumstances herein, including the fact that only a limited part of the existing building, i.e., the basement, is effected by the flood plain and the proposed substantial renovations which will result in a benefit to the neighborhood and the Frenchtown community in general, qualified the renovation as “substantial improvement” triggering the permit requirement under the Flood Damage Prevention Ordinance as well as the fact that the Applicant and his wife intend to occupy the building after completion, and that the Applicant would incur a substantial hardship in attempting to relocate the heat exchange unit and ductwork, that the requested variances may be granted.

NOW, THEREFORE, be it resolved by the Frenchtown Borough Planning Board by Motion duly made and seconded on June 24, 2020, that all of the variances identified in this Resolution are hereby approved subject to compliance with the following conditions:

- (i) The two oil tanks located in the basement shall be pumped and removed from the basement area;
- (ii) The hot water heater currently located in the basement shall be removed from that location and a new water heater and manifold distribution for heat shall be installed on the first floor.
- (iii) The electrical service panel, when installed, shall be located on the first floor of the home.
- (iv) Existing windows in the basement shall be replaced with new windows with a better insulation value.
- (v) This approval allows the Applicant to keep the existing HVAC unit serving the first floor in its present location approximately 34” below the joist underside with primary ductwork line approximately 10” below the joist underside and the Board is not requiring any fill-in of the basement with materials.
- (vi) 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 the approved variance plan, 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 approval thereafter.
- (vii) The Applicant shall replenish the Planning Board escrow account within fifteen (15) days of the emailing of a written request to the Applicant’s representative, pursuant to the requirements of the executed Escrow Agreement.

**VOTING RECORD**

On June 24, 2020, a Motion to grant variances received the following votes:

Those in favor: Cooke, Denbleyker, Dougherty, Dragt, Eckel, Herb, Myhre, Tomko and Reino.

Those opposed: None.

The above memorializing Resolution was adopted on July 22, 2020 by the following

Board members eligible to vote:

1. MEMBER	YES	NO
Cooke		
Denbleyker		
Dougherty		
Dragt		
Eckel		
Herb		
Myhre		
Tomko		

Attest:

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Brenda S. Shepherd, Board Administrator

**Zoning Interpretation –, Block 10 Lot 4.01, 711 Harrison Street, Leigh Street Clinton Properties, LLC**

Chairman Eckel noted that the public hearing on this application cannot move forward as the application was not properly noticed. Attorney Hirsch noted that the notices were sent regular mail and needed to be sent certified mail. Attorney Hirsch also noted that she informed the applicant that he had to notice by certified mail but he did not do that.

John DenBleyker will have to recuse himself from this application due to proximity.

John Dougherty commented that there is no engineer report on this application. Attorney Hirsch stated that an engineering report is not necessary for a zoning interpretation. She added that Planner Green's report did not raise any issues that require engineering. If a variance application is needed, an engineering report will be required.

Attorney Hirsch noted that the applicant was asking her questions on what he could do with the property. She cannot provide advice and recommended that the applicant hire an attorney for advice. Jeanne Herb asked if the applicant can file a new plan. Attorney Hirsch noted that the applicant can do that and may not tell the Board. The current use is a non-conforming use. Any application can get complicated and that is why she recommended that the applicant hire an attorney.

**APPROVAL OF VOUCHERS**

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

**VOUCHER LIST 7/22/20**

Archer & Greiner	Professional Services for General Representation through 5/31/20	\$ 440.00
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**ESCROW ACCOUNT – BLOCK 3 LOT 1 & 2 AND BLOCK 10 LOT 1 – Country Classics - Site plan**

Maser Consulting	Professional Services for Country Classics through 6/14/20	\$ 900.00
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Maser Consulting	Professional Services for Country Classics Through 5/10/2020	\$750.00
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**ESCROW ACCOUNT – BLOCK 34 LOT 1 – River Mills at Frenchtown - Subdivision**

Archer & Greiner	Professional Services for River Mills through 5/31/20	\$ 40.00
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Archer & Greiner	Professional Services for River Mills through 6/30/20	\$ 600.00
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**ESCROW ACCOUNT – BLOCK 59 LOT 6 – Hannis – Variance Application**

Archer & Greiner	Professional Services for Hannis Through 6/30/2020	\$1,220.00
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VanCleaf Engineering	Professional Services for Hannis Through 5/31/2020	\$2,220.000
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On motion by John Dougherty, seconded by Jeanne Herb 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**

Mayor Myhre reported that the Borough has seen large increases in visitors to the town. We are not alone. Municipalities along the Delaware River have seen the increases due to Counties shutting down parks. The river is the alternative. This increases the trash volume and need for additional trash receptacles as well as portajons. In addition, the Borough will have police coverage on the weekends. The Borough is short staffed in the Police Department as we have not hired another officer. The Borough will be in touch with the NJDEP to ask for help. We will have a joint call to talk about strategies. According to Public Safety Director Gantner, most everyone that comes to town is cooperative. There were issues with face coverings and the need to have vehicles moved. John DenBleyker thanked the Mayor for the good job dealing with the additional infrastructure needs.

Mayor Myhre also reported the following:

1. The Borough is moving forward on the Federal grant for the Downtown Streetscape project. The grant includes a design assistance program. We will be using NV5 for the design assistance. They are an approved State vendor.
2. The Safe Routes to school project will not happen until 2021. The Borough will do the catch basins on Second Street and paving of Second Street and Harrison Street prior to that.
3. The Milford Road project should be completed at the beginning of August.
4. We have a vendor to codify the Land Use Ordinance and the cost is under the bid threshold.

Chairman Eckel noted that she is putting together a committee for the Master Plan review.

Gordon Dragt commented that he noticed that there is an increase in business in the downtown and the businesses are doing well on the weekends.

Mayor Myhre noted that Country Classics is holding a meeting on July 27<sup>th</sup> via ZOoM. It is required based upon the notification requirements they received. They will be addressing house keeping items. They will send out the details. In August, the corner building will be demolished.

Maggie Cooke commented that if the call to NJDEP is limited to just elected officials, she asked that the discussion include the need for bilingual signage, This is an important issue

### **ADJOURNMENT**

Jeanne Herb moved adjournment at 8:00 pm and John Dougherty seconded. The motion passed on favorable voice vote.

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Brenda S. Shepherd  
Planning Board Secretary