

Frenchtown Planning Board
Regular Meeting
September 22, 2021
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	Ferree
Dragt	Reino
DenBleyker	
Dougherty	
Eckel	
Herb	
Myhre	
Tomko	

APPROVAL OF MINUTES

Regular Meeting – August 25, 2021

Gordon Dragt moved to accept the minutes of the August 25, 2021 Regular meeting as amended (page 14, last paragraph under correspondence, should read: Responding to the Board about the website and Rivernet Computers, Kandy Ferree instead of Chairman Eckel) and John Dougherty seconded the motion. The minutes of the August 25, 2021 Regular meeting as amended were approved by favorable roll call vote with Jeanne Herb abstaining.

PUBLIC COMMENTS

Chairman Randi 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 floor for public comments. Chairman Eckel stated that if you wish to make a comment, raise your hand and she will call on you. Having no comments, Chairman Eckel closed the public comment session.

SITE PLAN APPLICATION– BLOCK 56 LOT 3, 48 BRIDGE STREET – 48 BRIDGE STREET, LLC. (COMPLETENESS REVIEW AND POSSIBLE PUBLIC HEARING)

Gordon Dragt stepped down on this application due to proximity.

Chairman Eckel noted that the Board will review the application to determine completeness. She asked Board Engineer Clerico to provide a review of completeness.

Board Engineer Robert Clerico stated that he grouped the items into progress categories. The items the Board does not need at all are listed as permanent waivers. He concluded that anything that is needed and not submitted is incomplete.

Item 1 of his letter, communications and will serve letters, relating to Checklist items F & Q should be deemed incomplete unless the proof of payment of taxes and sewer were submitted. Attorney DeSapio noted that a letter was submitted providing proof of payment of taxes through the third quarter. There are no sewer fees on this property at this time. The Item was deemed complete.

As to items I, J and K of the checklist, the Board could grant temporary waivers for the will serve letters from the utility companies.

As to Item 2 of the review letter, title documentation, relative to Checklist items L, N & 32, easements, protective covenants and metes and bounds of the right of ways and/or dedications have not been submitted and are deemed incomplete. Title documents would provide that information. The Board could hear testimony on this tonight. Attorney Hirsch recommended that Engineer Clerico let the Board know if these items are something that the Board needs.

Engineer Clerico stated that the utility documents are not needed tonight and a temporary waiver can be granted. A permanent waiver could be granted given the nature of the application and the rebuilding on an existing documentation. The Board does not need that at all. As to the easements, etc. the Board would not want to grant a waiver for this. It could be critical. The Board may conclude that they do not need it now but it should be a condition of approval or a temporary waiver. Temporary waivers are items the Board would need at some point. The Board will need to know from a title stand point what the covenants, easement and dedications would be. This will also determine the net lot area. The Board must determine if it needs it before the public hearing starts.

As to Item 3 of the letter, filing with the Hunterdon County Health Department, Checklist Item P3, should be given a temporary waiver and not a permanent waiver as requested. Grease trap and exhaust fans information is needed. Discussion would be needed in the hearing.

As to Item 4 of the letter, Environmental Documents, referring to Checklist items R, T, U, W, X 25, 26 & 33, are either not applicable or should be considered waivers given the size and location of the proposed improvements.

As to Item 5 of the letter, EIS, referring to Checklist Item V, the requested waiver should be granted as it is not applicable.

As to Item 6 of the letter, topographic documentation, referring to Checklist items 4j, 10c, 10d and 33 should be deemed incomplete. The steps may conflict with the sidewalk. Elevations are needed as the property is low in the back.

As to Item 6 b of the letter, referring to Checklist items 11a, 11b and 11c, the requested permanent waivers should be granted as these items are not applicable and a permanent waiver can be granted.

As to Item 7 of the letter, property boundary survey, referring to checklist items 13, 15, 16, 32 & 42, should be deemed incomplete as the net lot area is required to be provided along with the defined location of the existing Right of ways along Bridge Street and Trenton Avenue and location of the sidewalks and any easements, etc. in order to establish the zoning parameters. It is not represented correctly on the plan.

As to Item 8 of the letter, utility and drainage connections, referring to Checklist items 19, 20, 21, 22, 23 & 24, temporary waivers could be granted. The plan should eventually show where the roof leaders are on the building and how they connect, etc.

As to Item 9 of the letter, Landscape, Lighting and Signage, referring to items 27a, 27b, 27c, 36 & 37, the applicant is requesting permanent waivers. They could be temporary waivers. Attorney Hirsch noted that if there is no lighting, landscaping or signage on the plan, the applicant will not be able to put them on the property and the application would have to be amended later. Most restaurants have lighting and it is part of the building codes. The Board would need some type of testimony and a marked up exhibit. Chairman Eckel noted that the zoning officer reviewed the signage.

As to Item 10 of the letter, Solid Waste Storage, , referring to Checklist Item 40 should be deemed incomplete. The plan does not show the dumpster location on the plan.

As to Item 11 of the letter, Site Plan details, referring to checklist items 18, 30, 39a-39g & 46(as built) could be granted temporary waivers. Other site improvements will be detailed and will need to be incorporated on the plan.

Engineer Clerico noted that he has grouped the items into Group A, items to grant temporary waivers, Group B, items to consider granting permanent or temporary waivers, Group C, items to grant permanent waivers on, and Group D, items that are incomplete. .

Chairman Eckel stated that the Board could grant permanent waivers for landscaping, items 27a, b and c as there was never landscaping there and there is no room for landscaping and as to 27C, street trees, this will be covered by the TAP grant. Permanent waivers can also be granted for 36, 27a, 27b, and 27c. Item 37 is only one left to discuss. John Dougherty asked if planters could be considered landscaping. Chairman Eckel responded in the affirmative but planters have not been part of the Planning Board approvals, only the stuff planted in the ground.

Attorney Guy DeSapio, of 1100 Harrison Street, is present this evening on behalf of the applicant Rosella Caloiero who is the managing member of the LLC. The project contractor and the architect are also present this evening along with Rosella.

Mr. DeSapio noted that he would like to address Engineer Clerico's letter. As to the survey information, we can provide a title insurance policy that will show that there are no covenants, easements and restrictions. He spoke with Mr. Newton, the surveyor, and he has an updated survey. He has identified a gore area to the east of the property. We wanted confirmation that the gore area did not affect this lot. He can identify the net area after the right of way is eliminated. Do you need a new map or just confirmation in writing? Engineer Clerico stated that an amendment to the map adding the area and a note of the change should be submitted. Attorney DeSapio stated that he will get an amended map and have a note referring to note #6 put on the map.

Mr. DeSapio also asked for a temporary waiver of subparagraph A on page 4. The only thing left is 37b which we will provide a detail of that for the next meeting and as to item c, he asked that the Board grant a permanent waiver on that.

As to the balance of item b, sewer charges being paid, there is not any sewer charges for this lot at this time. He will write a letter to that effect.

As to item L, restrictions, covenants, etc., we will provide copies of the Deed.

As to 10c, topographic survey, Michael Margulies can show the first floor elevation and where the steps are. Chairman Eckel asked how those stairs will fit with the right of way and sidewalk and how there will be access to the garbage area. That is where we need clarification. Engineer Clerico recommended that the elevation be provided around the perimeter and put on his plan. Mr. DeSapio stated that they will have that for the October meeting.

As to item 13, (7) these are all related to the survey, easement information, etc. The sidewalk is outside of the right of way. It is the existing sidewalk on the site plan. It would normally be designed as an easement to the public but it does not fall within the right of way of the road. Engineer Clerico noted that it needs to be shown somehow. A metes and bounds on the survey should be done. Chairman Eckel recommended that the applicant work with the Engineer and Attorney. Attorney Hirsch noted that it is a legal matter and now is the time to tidy it up. A metes and bounds description is needed and the ability to record a simple easement. If you get it to her before the meeting, she will review it. It is normally a condition of approval. Mr. DeSapio noted that he will work with Attorney Hirsch on this matter.

As to item 40, the storage location, Mr. DeSapio noted that they will do that for the next meeting.

As to item 42, land dedicated for public use, Mr. DeSapio noted that they will work on that.

Mr. DeSapio commented that they have addressed everything and asked what the deadline is to submit the remaining items to make this application complete. Chairman Eckel stated that the items need to be submitted 10 days prior to the October meeting of October 27, 2021. Chairman Eckel added that the Board could grant the temporary waivers under Group A. Responding to John Dougherty as to Item 10c, contours related to topo elevations, Engineer Clerico noted that the Board will accept the architect putting floor elevations and adjoining ground elevations around the building with the steps on the plan. The net lot area will be

calculated by the surveyor. This was discussed in combination with Item 7 and items 13, 15 and 16 were grouped together and will be addressed. Similarly, Item 32, public right of ways defined, will be a sidewalk easement for the public. There are no other easements.

Chairman Eckel noted that this application will not be going into public hearing this evening as the public notice was not done in time. Attorney Hirsch stated that the Board can move on the completeness issue and everything critical for the application can be provided 10 days prior to the next meeting.

Attorney DeSaio requested to go through the Planner's letter that bear on completeness issues and how we modify the drawing. Planner Green noted that she will answer any questions the applicant or applicant's attorney has.

As to page 2 of Planner Green's memo, dated 9/16/21, at the bottom of the page in reference to a variance requiring a 20 foot rear yard setback, Mr. DeSapio noted that the building came to the property line. It appears to be a non-conforming condition. As to item 4 on page 3, do we need to address those in the variance application. Attorney Hirsch noted that she has to interrupt because when we start dealing with the merits of an application, we get into a public hearing. She recommended that Mr. DeSapio have a conversation with Planner Green. It is not appropriate to ask what is non-conforming. Hypothetically, with non-conforming items, the Board does not require discussion in a public hearing and acknowledges them in a resolution.

Attorney DeSapio, referring to the bottom of page 4, the 4.5 feet vs. 20 feet setback, do we need a planner to discuss the reasons for those conditions. Attorney Hirsch recommended that Mr. DeSapio talk to her on this after the meeting.

Attorney DeSapio, referring to page 4, item 3, development fee ordinance issue, he would like to get clarification on the fees required. He believes they are exempt from the 1.5% fee. How do we address that at the meeting? Attorney Hirsch stated that all you will need is to take a legal position.

As to item 11, Mr. DeSapio noted that this will be addressed at the next meeting. He will have a conversation off line to rectify the confusion. Items 14, 15 & 17 will also be addressed at the next meeting. Access easements notes will be provided.

Having no other comments, Chairman Eckel asked the Board for a completeness determination.

On motion by Brad Myhre, seconded by John Dougherty and carried by unanimous favorable roll call vote, the Planning Board deemed the Site Plan application for Block 56 Lot 3 complete with temporary waivers as listed in Group A and B except item 37 will be conditional waiver and conditional waivers granted for items listed in Group D in Engineer Clerico's review letter dated September 15, 2021 and to be provided 10 days prior to the meeting.

Attorney DeSapio thanked the Board professionals for the clarification and noted that there will be an adequate presentation at the next meeting.

Attorney Hirsch recommended that when the applicant notices for the public hearing that the applicant make sure to notice that the use is a restaurant. The applicant published the notice late so the public hearing could not proceed tonight.

Gordon Dragt returned to meeting.

APPROVAL OF VOUCHERS

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

VOUCHER LIST 9/22/21

GENERAL REPRESENTATION

Archer & Greiner, PC.	General Representation through 4/30/21	\$300.00
Colliers Engineering	General representation through 9/16/21	\$452.50

ESCROW ACCOUNT – BLOCK 28 LOT 1 – Knight and Brown

Van Cleef Engineering	Professional Services for 3 Fourth Street Through 7/1/21 – 7/31/21	\$886.50
Colliers Engineering	Professional Services for 3 Fourth Street Through 8/19/21	\$300.00
Colliers Engineering	Professional Services for 3 Fourth Street	\$650.00

ESCROW ACCOUNT – BLOCK 3 LOT 1 , Country Classics – Site Inspection

Collier Engineering	Professional services for Country Classics through 8/12/21	\$2,262.500
Collier Engineering	Professional services for Country Classics through 7/13/21	\$5,316.25

On motion by Jeanne Herb, seconded by Brad Myhre 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 on Tropical Storm Ida. There was damage to the stream bank and the Borough is working on an application with NRCS for funding for stream bank restoration for their consideration. We sent a letter of interest to NRCS. The split is 75% and 25%. It is reimbursable. The Borough utilized this program some years ago. He complimented the fire department and stated that during the height of the flash flooding and the high water, they used the army truck to rescue many people stuck in the flash floods. They found the gentleman who was swept away. The DPW used an emergency permit waiver to removed debris at the culvert. Everyone is working hard. The Borough was spared the brunt of the damage. Lambertville was

hit particularly hard. They had a lot of devastation and damage. He thanked everyone for all their efforts.

Mayor Myhre also reported that the Borough will have trick or treat and the Halloween Parade this year.

Chairman Eckel commented that the flood response was extraordinary and she felt lucky that the Borough was spared the worst.

Jeanne Herb noted that she attended the Environmental Commission meeting and she has a few questions from them. Do homeowners have to pay sewer connection fees? Mayor Myhre responded in the affirmative.

Where are we at with ordinances on invasive species? Mayor Myhre responded that there is nothing yet on the books. He added that he heard from Joel, the environmental commission chairman. If the environmental commission wants to lead it, he is open to it. They can bring an ordinance to the Planning Board and recommend it to Council.

Is the Borough in compliance with the most recent regulation for stormwater ordinance. Mayor Myhre responded in the affirmative.

Is there an updated tree ordinance? Mayor Myhre noted that he would have to check but the Borough has an existing Shade Tree Ordinance. The Shade Tree Commission has had its challenges. We have new members. The former Chairman Robert Have who did the training and did a great job for the Borough had to leave the position. The Shade Tree Commission is currently dealing with maintenance of existing trees. It is tough to get volunteers but we are working on it. As to the dead ash trees on Everittstown Road, they are scheduled to come down.

Are the holiday lights on all night? Mayor Myhre noted that the Borough pays the bills. He does not believe that the lights are on a timer. The lights are done by volunteers and they donate a lot of labor. They have been in touch with JCP&L and they do run all night. Chairman Eckel noted that in the long term, the TAP grant will include improvements to the street lights. Those lights may be removed with dark sky lights. Mayor Myhre noted that we will come up with a long term solution that will make the downtown look more charming. The lights will stay until the TAP grant work is done.

Chairman Eckel stated that she did not work on the priorities list this month.

As to the Site Plan application on the agenda this evening, Chairman Eckel stated that the public notice had to go out 10 days before the meeting and it went out 9 days before the meeting. The Board did not have jurisdiction on that. Sometimes, Boards have leeway on certain flawed notices, but time is not one of them. The Board's hands are tied. This application is for a minor site plan. We have no definition of minor site plan. We need to add it to the ordinance.

Chairman Eckel stated that the codification is proceeding. They have sent an additional invoice for the addition work which will be paid through the codification line item.

Chairman Eckel stated that she would like to take a hard look at the sign ordinance and change the way sculptures are mentioned in the ordinance. She will continue to report on that.

Responding to Chairman Eckel as to the Cannabis Committee, John Dougherty noted that we had a meeting in early August and have broken up the committee into two parts. Kandy Ferree is leading one group and he is leading the other. We will need to pick up where we left off. John Dougherty noted that he feels like he does not know where to start. He asked if it is okay to speak with Planner Green and determine what we need to come up with. Chairman Eckel stated that we need to have a meeting with Planner Green and look at draft ordinances.

Chairman Eckel noted that we are still down one Alternate on the Board. If anyone has a recommendation, please let her know.

Chairman Eckel reported that in the Planner correspondence the Board received, there is now an amendment to the MLUL changing requirements of the Master Plan and considering climate change and establishing a zone plan. This is new. There is another model statewide ordinance specific to the land elements.

Planner Green noted that model ordinance have been established to adopt regulations regarding preferences for electric vehicle parking and making it an allowed use. She would be happy to circulate the link. Mayor Myhre stated that the Borough will be applying for a grant for electric vehicle charging stations in the Borough. Kathee's would be one of the sites. There are different levels of charging. The Borough does not qualify for the better chargers. Cigo would be another lot as well as the park and ride. Jeanne Herb stated that she would be happy to provide input on that and she will send a grant application for that. Tesla cars can charge anywhere but other vehicles cannot be charged at Tesla.

ADJOURNMENT

Jeanne Herb moved adjournment at 8:51 pm and John Dougherty seconded. The motion passed on favorable voice vote.

Brenda S. Shepherd
Planning Board Secretary