

Frenchtown Planning Board  
Regular Meeting  
March 22, 2017  
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.

**OATH OF OFFICE – Jeanne Herb- Alternate II**

Chairman Eckel noted that Jeanne Herb was appointed to the Alternate II position on the Planning Board. Jeanne Herb was sworn in and accepted her oath of office.

**ROLL CALL**

Present:	Absent:
Case	Dougherty
DenBleyker	Musolino
Dragt	Sullivan
Eckel	Suttle
Herb	
Myhre	
Weeks	

**APPROVAL OF MINUTES**

**Regular Meeting – February 22, 2017**

Gerry Case moved to accept the minutes of the February 22, 2017 Regular meeting. Jack Weeks seconded the motion. The minutes of the February 22, 2017 Regular meeting were approved by favorable roll call vote with Brad Myhre and 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 public comment session. Having no comments, Chairman Eckel closed the public comment session.

**OVERVIEW OF SETTLEMENT WITH FAIR SHARE HOUSING CENTER RE: THIRD ROUND FAIR SHARE OBLIGATION – PLANNER ELIZABETH MCKENZIE**

Planner McKenzie noted that the Borough executed a settlement agreement. She has provided a copy of the executed settlement agreement and an outline of how we got to where we are and what is required to accomplish the settlement terms. The Affordable Housing subcommittee and Council felt it would be a good idea to stop spending money on litigation and settle with the Fair Share Housing Center. The Affordable Housing subcommittee got most of the bones of the plan together and Council tweaked it.

Planner McKenzie provided maps of the current land uses, environmental constraints, lands in the 300 foot stream buffer and locations of the affordable housing sites. There is new law in the legislation which could affect the viability of certain properties in the stream buffer zones.

Endangered species were not shown on the map. The Borough does not qualify for a vacant land adjustment. We do not want to use properties that are out of the sewer service area. The committee wanted to use sites that need development or redevelopment in the sewer service area. Planner McKenzie displayed a map that shows the affordable housing sites that are in the settlement agreement and reviewed each site as follows:

Sites 1 and 2 are the Shale Cliff and River Mills sites

Site 3 is the DeSapio senior apartments.

Site 4 is the Ceramics Plant site with the vacant lot across the street

Site 5 are the other properties in the tail of the overlay zoning. We are counting on 111 units being built with inclusionary affordable housing units.

Responding to the Board, Planner McKenzie noted that the proposed developer is talking about coming back to the Technical Review committee. We are rethinking an approach similar to the Fieldstone proposal. Chairman Eckel noted that there is one other developer in negotiations with the property owner. Planner McKenzie noted that we do not want to obstruct contract negotiations but we do know that a developer will give us the bulk of rental units for bonus credits. Our settlement number with the Fair Share Housing Center is 52 units. Council made a determination that rather than doing 3 rehabilitation units, the requirement will be fulfilled with new construction. If there are new administrative rules adopted or a change in legislation that would lower your affordable housing numbers, you can go back to court to have your numbers lowered and the additional units would be credited to the fourth round. The Borough may also eventually qualify for a vacant land adjustment or lands not in the sewer service area. The Borough decided on a settlement plan which gave the Borough a 30% discount from its original number. The affordable housing subcommittee from the Planning Board provided a lot of the input for the plan which we are grateful for and the Council had to do the settlement plan.

The properties in site 5 are already built in the flood zone. If those properties were vacant, you would have difficulty building in the flood zone. Because the buildings are already there, you can redevelop although you may not be able to use the first floor. The plan shows the possibility of 24 units which would yield 4 affordable housing units. Each site will have its own zoning. She will have to write zoning provisions for each site. The Borough has 150 days to do the zoning so we have until the end of the summer to get the zoning done. Attorney Hirsch feels it is important to adopt another amendment to the reexamination report for the Master Plan when doing the zoning so that the Borough does not have to do a super notification.

Responding to Gordon Dragt, Planner McKenzie noted that Shale Cliff is still interested in developing but is having DEP issues. If they do not develop, we will still be zoning it. If by the fourth round, this site is not developed, the site would be taken out of the plan.

Mayor Myhre noted that as to the Ceramics site, a phase 1 environmental study was done. If the site is contaminated, it would have to be cleaned up.

Responding to Jack Weeks as to property on Everittstown Road, Planner McKenzie noted that because the Borough is meeting its affordable housing numbers with the settlement plan, you do not need other sites to develop for the plan. We will make the zoning changes in accordance with the settlement plan. The properties on the one side of Everittstown Road do have steep slopes constraints. The Borough can consider lots on a case by case basis.

Site 6 is the Baptist church property. There is an error in the map. It shows lots 11 and 16. Lot 11 was conveyed to someone else. Lot 16 contains the church and daycare center with the

parking lot. We do not want the outside of the church building to change. If these buildings are developed for residential, it would yield 2 affordable housing units.

Site 7 is the site at the corner of Milford Road and Eighth Street. A proposed developer asked to come into the Technical Review Committee and wants to proposed 8 units in 4 duplex buildings. That would give us 2 affordable housing units. In the settlement agreement, it has 6 units with 1 affordable housing unit. You are not required to give a developer what he wants.

Site 8 is the existing garden apartment zone, Multi-family zone, which allows them to put in another small building. This also will expand the garden apartment multi family zone further down Trenton Avenue. If half of that develops, we would get 8 affordable housing units. This would happen more gradually as these are properties currently owned for other purposes. This is a solid area for development although it may have some wetland or drainage issues. Development will occur over time.

Site 9 is Block 48 lot 7 on Kingwood Avenue which is in the sewer service area. It has a high slope going into the property but once you get in there, there is enough room for a small townhouse development of up to 18 units with 2 of the units being for sale affordable housing townhouse units. It is currently vacant land.

Planner McKenzie noted that in this settlement plan, the prior round obligation of 2 units and the 3 rehab unit requirements plus the third round obligation were combined. We had been allowed to meet the prior round with the two senior units because of the formula. We reallocated it. It does not require any more units and you get rental bonuses. In our plan, we combined the prior round and third round obligations. We will have work to do with specific zoning provisions. The proposed developers of the church lot may come in prior to the new zoning. We will recast the overlay zoning as an "as of right" zoning and we do not know if we will do a redevelopment plan. She likes the idea of a redevelopment plan because it gives you architectural details, etc. You will have a period of 150 days from the public hearing on March 30<sup>th</sup> to adopt the Fair Share Plan and Housing Element, the reexamination report and the zoning ordinances for each site. She would like to have the Fair Share Plan and Housing Element introduced in May and adopted in June. Chairman Eckel recommended that the Affordable Housing subcommittee work on the zoning ordinances and then present them to the Board and then the Board could make changes. Planner McKenzie noted that after the Board adopts the reexamination report and Fair Share Plan, the ordinance would be introduced by Council and the ordinance comes back to the Planning Board for a consistency determination with the master plan. She would like this done by late August. The final hearing would be sometime in September. The zoning ordinances will describe the sites' suitability. If we find that one site might not work, we can come up with another unit and get an amendment to the plan. Chairman Eckel noted that the sites will be revisited in 2020. There may be changes at that point.

Planner McKenzie noted that the courts give the judgements of compliance and repose. There will be some mechanism for progress reports and making it available to the public. Initially, early settlement agreements in Middlesex County called for reports to the Court. As a Special Master for the court, she recommended that the reports not be done to the courts.

Planner McKenzie noted that the Borough has a tight time table. The committee will need to meet in April and May. We will do all the ordinance to Council at once but the Planning Board will do one at a time to allow the Board to review each one. The Ceramics plant currently has an overlay zone which the court will not accept. It has to be an "as of right" zoning.

Chairman Eckel asked if Board members who live close to a site would have to recuse themselves? Planner McKenzie recommended that Chairman Eckel ask Attorney Hirsch for guidance. Mayor Myhre noted that the Borough may get an affordable housing unit from another site. Upper Seventh Street may get redeveloped. Planner McKenzie noted that you may not get all the units in the settlement plan and if you get units from another site, you will have made up for units you do not get in the settlement plan. She added that the owner of the Upper Seventh Street would like to redevelop and would be interesting in giving the Borough 1 affordable housing unit if he can put in 6 additional units. He may not want to do the average income for an affordable unit. If you have 1 affordable housing unit, it will be a low income unit. Council is bound to enforce the income splits and break downs. She thinks it is a good idea to rezone that property. If not, the owner would need a variance. The settlement plan is a contract with the Fair Share Housing Center and the Court. Chairman Eckel stated that this property will not be included in the settlement plan. If the owner comes before the Board for a variance, we can negotiate an affordable housing unit. There is a mandatory set aside. We have a growth share obligation. Planner McKenzie stated that you can ask the owner what he prefers. It does not have to be rezoned. The Board can decide that. You could revisit it as you go along. Opportunities will pop up.

Responding to Jack Weeks as to the historic preservation, Planner McKenzie stated that if a property is privately owned, it is subject to the historic codes. We are writing the ordinances so that a developer will get more if they keep the current buildings. Jeanne Herb commented that with the economy turning around, we may want to strengthen our historic preservation provisions. Planner McKenzie added that if you keep the existing building, the floor area ratio can be higher and would be lower if you tear down the building. You can do it by floor area ratio or density. It is important to the Borough to keep the existing buildings. Also, parking deviations would be favorable if you keep the existing building and if you take the existing building down, you have to comply with parking requirements. After the work is done that needs to be done, the Borough can take a look at strengthening historic preservation. At one point, the Borough did not want to hamper property owners. Referring to a tree ordinance proposed by the Borough, Chairman Eckel noted that people cut down trees on their properties before Council considered the ordinance for adoption because they did not want Council to control their private trees. It had the opposite effect of what the Council wanted to do.

Planner McKenzie noted that the first step is to talk to Attorney Hirsch on how to structure the subcommittee such as north and south. Once we establish the subcommittees and appoint them, we can start meeting about the sites. She will do her work and will send the drafts by May and schedule a hearing for June to adopt the Fair Share Plan and reexamination report. She wants to work on the zoning ordinances in April and May and the Board could look at them in June and July. Chairman Eckel noted that sooner is better because we may have problems with quorum in July and August due to vacations. We will schedule a special meeting if we need be in order to comply with the 150 days.

Referring to another matter, Chairman Eckel asked if someone can rebuild a house on a preexisting nonconforming lot. Planner McKenzie responded that the lot may be grandfathered and if that is the case, someone could rebuild within the setbacks. If they are adding to the existing house, the setback cannot be violated.

**VOUCHERS**

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

**VOUCHER LIST 3/22/17**

Archer & Greiner	Professional Services for General Representation through 2/28/17	\$ 200.00
Acher & Greiner	Professional Services for General Representation through 2/28/17	\$ 80.00
Albert Cruz	Professional Services for Declaratory Judgement through 2/28/17	\$ 823.32
Albert Cruz	Professional Services for Declaratory Judgement through 1/31/17	\$ 2,055.00
Elizabeth McKenzie	Professional Services for Affordable Housing through 2/28/17	\$ 1,487.50

**ESCROW ACCOUNT – BLOCK 34 LOT 1 – Michael’s Tax Abatement**

Van Cleef Engineering	Professional Services for Michael through 02/28/17	\$ 660.88
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**ESCROW ACCOUNT – BLOCK 34 LOT 1 – Michael’s Escrow**

Albert Cruz	Professional Services for Michael through 10/31/16	\$ 285.00
Albert Cruz	Professional Services for Michael through 11/30/16	\$ 45.00
Albert Cruz	Professional Services for Michael through 12/31/16	\$ 75.00
Elizabeth McKenzie	Professional Services for Michael through 2/28/17	\$ 218.75

On motion by Gerry Case, seconded by Jack Weeks, 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 noted that the Borough was awarded a \$472,000.00 grant for safe routes to school. The sidewalks from Second Street to the school will be redone with ADA compliant intersections.

Mayor Myhre also reported that public works just got a new mason dump truck and the porch on the police department was fixed.

Responding to Jack Weeks as to downtown garbage receptacles, Mayor Myhre noted that the Borough does not have a Qualified Purchasing Agent (QPA). Without a QPA, the bid threshold is \$17,500.00 and with a QPA, the bid threshold is \$40,000.00. The cost of the receptacles is \$23,000.00 and the contractor is not a state contractor. We can use clean communities grant money for it. We are trying to get our CFO to be the Borough QPA for a fee. Jack Weeks commented that people were only shoveling a shovel width downtown and then putting the trash receptacles in the shoved path. People had to walk in the street.

Responding to Gordon Dragt in reference to Technical Review Committee reports, Chairman Eckel noted she will report on Technical Review Committee meetings during this section of the meeting. Mayor Myhre noted that the committee for Council on the fair share housing discussed with the owner of the Seventh Street property when he reached out about possible redevelopment. The Eighth Street property is not ready for discussion. In the last six months, there was discussion with the Chairman of the Planning Board, the President of the Council and the property owner as to whether the project was going to move forward. The prospective purchaser of the church asked about the possible development of the property. Chairman Eckel stated that it is her intent to report at the end of the meeting if we have a Technical Review Committee meeting. John DenBleyker noted that the church was discussed to make sure of the historic preservation of the buildings. The Technical Review Committee does not have a quorum of the Board and has no standing. A Technical Review Committee may give advice but is not speaking for the Board. Chairman Eckel noted that anything the Technical Review Committee reviews is not a formal review and no formal action is taken. She will provide these reports in this portion of the meeting if there is anything to report.

## **ADJOURNMENT**

Jeanne Herb moved adjournment at 9:16 PM, and Gerry Case seconded. The motion passed on favorable voice vote.

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Brenda S. Shepherd  
Planning Board Secretary