

FREEHOLD BOROUGH PLANNING BOARD
MINUTES OF APRIL 22, 2015

MONTHLY MEETING

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, April 22nd at 7:00 p.m. in the Council Room of the Municipal Building.

Ms. Sims stated that this meeting was provided in accordance with the Open Public Meeting Act, by providing a copy of the agenda to the official newspaper and posting same on the official bulletin board of the Municipal Building.

ROLL CALL

PRESENT	MR. GARRY JACKSON
PRESENT	COUNCILMAN GEORGE SCHNURR
PRESENT	MR. ADAM REICH
PRESENT	MS. DANIELLE SIMS
ABSENT	MS. MARJORIE GOETZ
ABSENT	MR. ROBERT OAKES
PRESENT	MR. WILLIAM BARRICELLI
ABSENT	MR. KEVIN LEWIS
PRESENT	MS. ANNETTE JORDAN
PRESENT	MS. JAMIE BENNETT
PRESENT	MR. CORNELIUS BEGLEY

Mr. John P. Miller, Esq., filled in as Freehold Borough Planning Board attorney for Mr. Ronald D. Cucchiaro.

Ms. Sims read Item No. 3 on the Agenda as follows:

Approval of Minutes from the meeting of March 11, 2015.

Mr. Reich made a motion to approve the minutes, Mr. Barricelli seconded.

Roll Call:

Yes	6	Sims, Reich, Barricelli, Jackson, Bennett, Begley
No	0	
Abstain	0	

Disqualified 1 Schnurr
Absent 4 Geotz, Jordan, Oakes, Lewis

Ms. Sims read Item No. 4 on the Agenda as follows:

Resolution Approving Zoning Interpretation.
Application Number PB-ZI-15-001.
Applicant - Eunice Moya - Alex Barber Shop.
Owner - Peter Goranites.
Location - 26 West Main Street, Block 71, Lot 5.
Request - Interpretation of Land Use Ordinance.

Mr. Barricelli made a motion to approve the Resolution Approving Zoning Interpretation, Mr. Reich seconded.

Roll Call:

Yes 6 Sims, Reich, Barricelli, Jackson, Bennett,
Begley
No 0
Abstain 0
Disqualified 1 Schnurr
Absent 4 Geotz, Jordan, Oakes, Lewis

Ms. Sims read Item No. 5 on the Agenda as follows:

Resolution of Denial of Use Variance Relief.
Application Number PB-UV-14-009.
Applicant - Robert Cusic.
Location - 30 Institute Street, Block 84, Lot 87.
Request - Use Variance Relief to construct a proposed two story, two family dwelling.

Mr. Reich made a motion to approve the Resolution of Denial, Mr. Jackson seconded.

Roll Call:

Yes 5 Sims, Reich, Barricelli, Jackson, Begley
No 0
Abstain 0
Disqualified 2 Schnurr, Bennett
Absent 4 Geotz, Jordan, Oakes, Lewis

Ms. Sims read Item No. 6 on the Agenda as follows:

Application Number PB-SP-15-002.
Applicant - Caballero Realty Associates, LLC.

Owners - Michael J. Caballero and John P. Caballero.
Location - 71 Bannard Street, Block 70, Lot 7.
Request - Minor Site Plan Approval to provide a 1,230 square foot addition to one of the existing buildings at the west end of the site.

Mr. Miller, Esq., noted he reviewed the affidavit of publication and notice of service and found it to be in conformity with MLUL in the State of NJ & local ordinances.

Mr. Miller, Esq., marked the following exhibits as follows:

- A-1 Photo of property, Westerly side of building showing storage building taken by Geller Sive & Company, dated 2/4/15.
- A-2 Photo of property, Easterly side of building, taken by Geller Sive & Company, dated 2/4/15.
- A-3 Photo of property, Easterly side view facing Bannard Street, taken by Geller Sive & Company, dated 2/4/15.
- A-4 Site Plan prepared by Geller Sive & Company, dated 2/26/15.
- A-5 Survey prepared by Seneca Survey Co., Inc. dated 8/19/14.
- A-6 Architectural Plan prepared by Richard Villano PA, dated 1/30/15.
- A-7 Planning Board Application dated 3/5/15.
- A-8 Proof of Notice.

- B-1 Completeness Review prepared by William Wentzien, PE, Abbington Associates dated 3/30/15.
- B-2 Engineering Review prepared by William Wentzien, PE, Abbington Associates dated 3/3/15.

Mr. Miller Esq. swore in the following witnesses:

Michael J. Caballero, applicant/owner.
Michael Geller, Engineer and Planner, Geller Sive & Company.

Mr. Greg Pesciotta, Esq., represented the applicant.

Mr. Caballero described his business. We are a plumbing and heating company that has been around a little over 50 years. We recently purchased the Duckett & Laird property. The property has three buildings on it. One building is an office, which is the larger brick building, to the left of that building there is a very small brick building that we are going to use as an employee lounge. The warehouse is to the far left of the property, we are going to increase the size of it to hold our supplies. Our hours of operation are 8:30 AM - 5:30 PM. There will be no retail sales. Deliveries will be going to the warehouse. We have 17 employees,

and 9 parking spaces. Some of the employees take their trucks home. There is one sign on the building.

Mr. Caballero described the community around the property. To the right of the property is Builder's General; to left is an Auto body; across the street are residential homes.

Mr. Caballero stated his property is completely fenced. Deliveries are made once every couple of days and they use box trucks. There are no deliveries made by tractor trailers. We are not proposing any new landscaping; we cleaned up what was on the property already.

Ms. Sims stated after visiting the site she noticed that the gravel was recently redone and possibly expanded. She asked if there was an expansion of the gravel area.

Mr. Caballero stated there was no expansion, but it was very overgrown in the back so we took out the old stone and replaced it with new fresh stone.

Mr. Pesciotta, Esq., asked Mr. Geller to describe the engineering of the property.

Mr. Geller described the site as Block 10, Lot 7, it's known as 71 Bannard Street it is in the MCM Zone (Modified Commercial Manufacturing Zone) and the site has 42,940 square feet. The site contains three buildings and there are two access drives off of Bannard Street.

Mr. Geller responded to Ms. Sims question about the gravel. When the survey was taken the existing stone areas were overgrown with vegetation, only since Mr. Caballero has cleaned up the site, the existing vegetation was removed, so the percentage of gravel is probably a little bit larger than what we indicated.

Mr. Geller stated the applicant is requesting minor site plan approval for the 1,230 square foot addition to the storage building. There are no new variances created for this addition. The four variances sited are all existing conditions. The minimum front yard setback is 50 feet, the site provides 11.7 feet; the minimum side yard setback for the accessory building is 20 feet, existing western most building provides 3.6 feet; the minimum rear yard setback for the accessory building is 40 feet, existing shed provides 31 feet; the maximum permitted lot coverage is 30% and the site contains 39.1%.

Mr. Pesciotta, Esq., stated this is essentially a conforming use and conforms to the zoning.

Mr. Geller stated described the MCM Zone. There are 6 parking spaces technically required; there are 9 paved parking spaces. There are 5 office employees and 12 employees in the field. There are 2 dumpsters for garbage, 1 for trash and 1 for cardboard which will be picked up by a private hauler. There are no changes to the grading, drainage or utilities. The landscape has been recently mulched and there will be no changes to it. The only lighted proposed are 2 wall mounted LED lights.

Ms. Sims stated when she visited the site she noticed a trailer.

Mr. Geller stated the trailer is holding storage containers.

Ms. Sims asked if there would be an increase in employees.

Mr. Caballero replied no.

Ms. Sims asked for questions or comments from the public.

There were none.

Ms. Sims asked for questions or comments from the board.

Ms. Bennett stated she wished there was more space between the residential and commercial properties, but the site is attractive from the street and she was happy to see they've made a vast improvement to what was there before. She is in favor of this.

Mr. Barricelli stated he was very impressed when he visited the site and he is very satisfied and in favor of this application.

Councilman Schnurr stated the site is being freshened up and it looks a lot better than most of the other businesses on that street. As far as the variances, they are all pre-existing conditions and he is in favor of this application.

Mr. Begley agreed with the board, he appreciates that the applicant invested more into the business. He is also in favor of this application.

Mr. Jackson agreed and he will vote in favor.

Mr. Reich questioned the possible fuel tanks and asked if there were any environmental concerns.

Mr. Pesciotta, Esq., stated he can answer that because he represented the applicant when he purchased the property and they did a full Phase I and Phase II environmental. There was a previous underground oil tank, which was removed and everything was done with permits and approvals from the town.

Mr. Reich stated he was in favor of the application. He was glad to hear that the site was being cleaned up.

Ms. Sims stated she had no problems with the existing variances on the site, they are all pre-existing and there is nothing that can be one about that. She thinks if they need the extra space to make their business work within the site, then she is all for it. The site looks great.

Ms. Bennett made a motion to approve the application, Mr. Barricelli seconded.

Roll Call:

Yes	7	Sims, Reich, Barricelli, Jackson, Begley, Schnurr, Bennett
No	0	
Abstain	0	
Disqualified	0	
Absent	4	Geotz, Jordan, Oakes, Lewis

Ms. Sims read Item No. 7 on the Agenda as follows:

Application Number PB-SD-13-006.
Applicant - Delray Holdings, LLC.
Location - Orchard Street, Block 85, Lot 14.
Request - Resolution Compliance #2 - Preliminary Major Subdivision.

Mr. Miller, Esq., marked the following exhibits:

- A-1 Colored rendering of a Construction Plan prepared by Nelson Engineering Associates, Inc., latest revision dated 3/10/15.
- A-2 Front Elevation Plan prepared by Thomas J. Brennan Architects.
- A-3 Preliminary and Final Major Subdivision Plans, prepared by Nelson Engineering Associates, Inc., dated 4/2/14.

- B-1 Final Approval-Major Subdivision report, prepared by Williams Wentzien, PE, Abbington Engineering, LLC, dated 4/8/15.

Mr. Sonnenblick, Esq., represented the applicant. He stated they are here tonight for final approval. This is a culmination of many years and we are looking forward to doing this. We've been granted preliminary approval, there were conditions, they've been met.

Mr. Miller, Esq., swore in the following witness:

Mr. John Buletza, PE, Nelson Engineering Associates, Inc.

Mr. Buletza stated the property is located at Block 85, Lot 14 and contains approximately 5.7 acres 223,000 square feet. It is located on the eastern side of Orchard Street. The applicant is proposing to construct 8 duplexes on 16 individual lots. Each duplex will have 2 units and each unit will be on each own lot. As a result of the environmental conditions on the property several NJDEP permits were required. Among them was Line Verification for Freshwater Wetlands. The applicant was required to obtain a Transition Area Averaging Plan in order to average some of the buffers. The applicant also received another approval from the NJDEP for Flood Hazard Area, which had determined that even though there were extensive fresh water wetlands and buffers on the property there is no flood hazard area on the property. In addition the FEMA map shows that there are no flood zones on the property.

Mr. Sonnenblick, Esq., asked Mr. Buletza to describe the homeowners association that was agreed to.

Mr. Buletza stated the homeowners association will be responsible for the ownership and maintenance of the storm water management facilities on the project. We've met all the conditions of preliminary approval and they were submitted to Mr. Wentzien. According to the report, the vast majority of engineering items have been met.

Mr. Sonnenblick, Esq., stated we did do soil borings and we are proposing basements.

Mr. Buletza stated we are still waiting on the tax collector to verify the lot and block numbers. We did do soil borings at the center of each one of the proposed duplexes. None of them went to groundwater.

Mr. Wentzien stated the homeowners association must include all the common elements on the site, particularly those on the open lot. It will also include all storm drainage facilities and all underground recharge chambers.

Ms. Sims asked for public comments are questions.

There were none.

Mr. Begley stated he was not familiar with this application.

Mr. Sonnenblick, Esq., gave a brief summary of the application. There was an approval for a 30 unit age-restricted high rise building which was a permitted use and based upon discussions with the governing body and the planning board, instead of the 30 units, to make it more compatible with the area; we suggested a duplex that matches the residential area and everyone agreed. So now we are building 8 duplex homes with 16 units with no age restriction.

Ms. Sims asked for questions or comments from the public.

There were none.

Ms. Sims asked for comments from the board.

Mr. Begley stated it looks like everything is in order, and he will vote in favor.

Mr. Jackson agreed, if all conditions were met.

Ms. Bennett stated it looks like all the conditions were addressed and would vote in favor.

Mr. Barricelli stated this is a very long time coming and he likes the plan and will vote yes.

Councilman Schnurr agreed it is a very long time coming. His only concern was the basements and it was addressed.

Mr. Wentzien stated that groundwater and drainage are very important to him but the criteria that he follows is the same one that Mr. Buletza follows, which are the Best Management Practices, which has a minimum of a 2 foot separation from the seasonal high and the basement elevation.

Mr. Reich stated he is happy the homeowners association is taking on a bit more responsibility on the common areas, especially the lot lines being moved so that the retaining wall and fences are now on the homeowners association, not the homeowner. All of the drainage requirements are also the homeowners association's responsibility. He is in favor of approving this.

Ms. Sims agreed, this has been a long time coming and she is in favor of granting final approval.

Mr. Miller, Esq., stated there were two conditions that he wanted to make a note of. The first is the homeowners association and that agreement is still pending and must be submitted and approved by the board attorney, as well as the Borough. The second is for the report on the soil borings for the basements.

Mr. Reich made a motion to approve the final major subdivision, Mr. Barricelli seconded.

Roll Call:

Yes	7	Sims, Reich, Barricelli, Jackson, Begley, Schnurr, Bennett
No	0	
Abstain	0	
Disqualified	0	
Absent	4	Geotz, Jordan, Oakes, Lewis

Ms. Sims read Item No. 8 on the Agenda as follows:

Application Number PB-ZI-15-003.
Applicant - Metro Realty Associates.
Location - 54 West Main Street, Block 72, Lot 6.01.
Request - Map or Ordinance Interpretation of Special
Question to provide a proposed "Craft Distilling Business."

Mr. Miller, Esq., marked the following exhibits:

- A-1 Planning Board Application dated 3/30/15.
- A-2 Zoning Determination by Henry Stryker, III, dated 2/12/15.
- A-3 Series of 3 photos of the site.
- A-4 New Jersey Statute PL 2013, Chapter 92 referencing Craft Distillery Licenses.

- B-1 Application Review prepared by William Wentzien, PE, Abbington Engineering, LLC, dated 4/13/15.

Mr. Bill Mehr, Esq., represented the owner and the applicant. He introduced Steven Loures, the tenant who will be operating the facility. Whenever there is a tenant moving into the building, they must go for a zoning permit and he requested the zoning permit which effectively indicated the operation of a distillery on the premises to produce alcoholic beverages. He did not indicate the retail portion of it that is permitted by the statute. The denial was based purely on what was there. The Freehold Borough ordinance

says, "the principle uses and buildings permitted states the sale of retail goods, such as but necessarily limited to the following types, (and it goes on to list quite a few types)." The point of the matter is a craft distillery wasn't even a business until August, 2013, when the State of New Jersey adopted modifications to the statute that involves limited breweries and craft breweries. They added a section for a craft distillery and set forth the criteria for it. Your ordinance couldn't list this if it wanted to because it hasn't been modified.

Mr. Miller, Esq., swore in the following witnesses:

Steven Loures, tenant and owner of the craft distillery.
Larry Metz, owner, Metro Realty Associates.
Henry A. Stryker, III, Freehold Borough Zoning Officer.

Mr. Loures stated when you think of a distillery you think of a factory setting, but the craft distillery movement all over the Country is really a hand crafted, boutique, artesian type of operation. It is not a factory, it is a one still super premium beverage. Currently there are about 600 craft distilleries across the Country. We visited the first two in New Jersey, which started last year. They are very small, they do local tours, they sell their products right out of the building. They also sell the products to typical retailers and restaurants. There is no odor, no exhaust and the most you might smell is a little bit of the ferment and that's one of the reasons why we thought this site might work because in the past there was a wine school there. Across the Country this is becoming more of a "Main Street, USA" type of business. Where people are visiting, this usually sparks an interest and it gives kind of a new flair to the downtown. This follows in the footsteps of microbrew.

Mr. Mehr, Esq., asked Mr. Loures to explain the retail function.

Mr. Loures stated typically there are tours during the week. There is a tour schedule and if you come in for a tour you could either buy the product on premises, for on premises consumption or for off premises consumption. The law states we can sell wholesale, retail and on premises, with sampling.

Ms. Sims asked if this would require a liquor license.

Mr. Mehr, Esq., responded no, you are registered with the State and there are fees that have to be paid. But as long as you follow what the State law says there is no typical ABC license. They can only buy five liters per person, per day.

Mr. Miller, Esq., stated he was provided the statute and he interjected because he doesn't agree that a license is not required. In the law that was submitted, NJSA 33:1-10 subsection 3d, clearly states the following:

"The holder of this license shall be entitled, subject to rules and regulations to manufacture not more than 20,000 gallons of distilled alcoholic beverages, to rectify, blend, treat and mix distilled alcoholic beverages, to sell and distribute this product to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute within this State to any persons pursuant to laws of the places of such sale and distribution and to maintain a warehouse."

Mr. Miller, Esq., stated this clearly states that they must have a license for this operation. The second sentence of the statute addresses the retail portion:

"The holder of this license shall be entitled to sell this product at retail to consumers on the licensed premises of the distillery for consumption on the premises, but only in connection with a tour of the distillery and for consumption off the premises in a quantity of not more than five liters per person."

Mr. Reich stated he cannot come in off the street and sample products without going through the tour.

Mr. Loures agreed.

Mr. Mehr, Esq., stated when he said no license he meant he was referring to the typical ABC license.

Mr. Loures explained the operation. There will be three employees, the hours of operation are around 9:00 AM - 5:00 PM. One of the reasons we like Freehold is because both him and his business partner are from Freehold. We also hit it off with Mr. Metz, the relationship with the landlord is very important. The building is just off the beaten path of Main Street. We understand what you've done to keep Main Street, Freehold the way it is. We think this is a perfect niche for Freehold.

Councilman Schnurr asked what the difference was between a distillery versus a craft distillery business and what determines that.

Mr. Loures stated the statute is very specific. Before we open we will be inspected by the State and Federal government. This is a heavily regulated operation.

Ms. Sims asked about the tours.

Mr. Loures stated the tours will be 15 people or less. Sometimes people can call and request a custom tour. We will go through the history of distilling, the fermentation process and how you achieve the end process.

Ms. Sims asked how you would compare it to some of things listed in our ordinance.

Mr. Mehr, Esq., stated the ordinance states "baked goods store". A baked goods store takes raw materials, makes breads, etc., sells them at retail from the store and also sells it wholesale to restaurants. It has a certain amount of storage on site, which is permitted.

Mr. Loures stated there seems to be a question about manufacturing. There seems to be a mystic about distilling. It is basically evaporation. You have fermentation, yeast and sugar, it sits there for a few days and there's alcohol. You put it into a still, which is electrically heated and the alcohol evaporates at 173 degrees. Most people think it is this huge process.

Mr. Barricelli stated that you are maintaining that you are not involved in the manufacturing process.

Mr. Loures stated manufacturing is a broad term. The process of distilling is very basic. There's no fire, nothing is being heated up with flame, there's no smoke, no exhaust, there is some ferment.

Mr. Barricelli stated so you are saying that the manufacturing part of the ordinance doesn't apply to your business.

Mr. Loures stated he is not an expert in the ordinances.

Mr. Mehr, Esq., stated whether you call it manufacturing or not, it is no different than what a bakery does, they also manufacture in the broadest term. This is similar but there is a retail component. Without the retail component, if he was simply making this over there, bottling it and selling it wholesale, he would agree that probably it wouldn't qualify. But, this has a retail component which is built right into the law.

Mr. Jackson asked how much of the finished product would you be shipping out to other retail locations and how would you do it.

Mr. Loures stated we will self distribute. There won't be a large truck loading at the site. We will have a small Ford van, lettered up with our branding. There won't be a lot of traffic with trucking, especially with this low volume of product.

Ms. Sims asked if there would be a fee for the tours.

Mr. Loures stated we can charge a fee, but we won't be.

Mr. Jackson stated he is stuck on this "manufacturing" term. He asked what kind of raw products would be brought in and how they would get delivered.

Mr. Loures stated we will have a small amount of glass bottles, that aren't really stored there. The raw products will be molasses that comes in a drum and we also plan on using New Jersey corn, hopefully Monmouth County corn. We won't be accepting deliveries very often because the low volume that a craft distillery makes, a pallet of corn and molasses will probably last a month and half.

Mr. Mehr, Esq., asked Mr. Metz to explain his association with the building.

Mr. Metz stated he grew up in Freehold on Broadway. My parents lived there for over 50 years. My father started a business in the 1940's on Throckmorton Street, when he finished school he took it over for 20 years before he sold it to Clayton Concrete. At that time, he started investing in real estate and we as a family, own a number of properties in the Borough and the Township. We've been doing this for about 30-40 years. He is very proud of their reputation as a landlord. This particularly building we bought from the Borough in 1987, it was the maintenance garage. There have been some issues in renting the building over the years because it is a kind of a tricky place. It has no street frontage either on Main Street or McLean Street. It is behind the houses on McLean Street and behind the buildings on Main Street. The first tenant we had in there was a motorcycle shop, Rick's Custom Motorcycle and Repair Shop, when he moved out my father, who was an antique bicycle collector, opened the Metz Bicycle Museum and he was there for approximately 15 years until he passed away. We have Crossfit who moved into this space. Before Crossfit, there was the Grape Beginnings Wine School, which is a similar use to what we are asking for here. The wine school produced wine, they bottled it, they gave tours and lectures, had tastings. The difference is they didn't sell retail. The wine school was there for 12 years and they moved down the shore to a bigger place.

Mr. Metz stated this is partially his fault because normally when he has a tenant moving in he goes in and talks to Mr. Stryker and explains what the use is and what we are proposing. In this particular case he filled out the zoning application and Mr. Stryker was off that day and he left the application. The way the application is worded it says craft distilling business in accordance with New Jersey and Federal law. It doesn't really capture the "spirit" of what we are talking about tonight; it didn't mention the retail portion.

Mr. Stryker stated when the application came before him it did say craft distilling business in accordance with the New Jersey and Federal law. In his eyes he considered it manufacturing. When there is a "gray" area in the zoning ordinance, he always sends it to the planning board to let them make the decision. He tells the applicants if they want to go for an interpretation of his decision it is up to them. He made his decision and he sent it to the board. What Mr. Metz and Mr. Loures said he does not disagree with them. He thinks the analogy about the bakery is a great analogy. When Grape Beginnings was there they used to dump their grapes down the recharge basin. He asked what this applicant would do with their waste.

Mr. Loures stated there really isn't a lot of waste, most of it is natural compost and it won't be going down the drain. It is a natural waste and we would have a dumpster.

Mr. Stryker asked if there would be outside storage on the property.

Mr. Loures replied no.

Ms. Sims asked Mr. Stryker after hearing the testimony tonight are you still thinking in the same path that it would not be included in this area of the ordinance.

Mr. Stryker stated it still is a "gray" area but he is right about the retail portion of it and the manufacturing. When you manufacture you go from point A to point B. But like what was said tonight, if you are a bakery and you make bread, you start out with flour and dough. It is possible, maybe something should be added to the ordinance that defines what craft distilleries are. He doesn't see a problem with this being at this location. He thinks this won't hurt Freehold and it will be a nice thing here.

Councilman Schnurr stated he agrees with his decision to deny this because what it does is it takes it and brings it up here and lets us have an at length discussion about it.

Ms. Bennett asked if the application was for a bakery would he approved it.

Mr. Stryker stated yes it would have been approved because our ordinance specifically states bakeries.

Ms. Sims asked for questions or comments from the public.

There were none.

Ms. Sims asked for questions or comments from the board.

Mr. Begley stated he has been on tours of similar places and he thinks they are great attractions and he thinks this would be a great fit and a nice addition. He understands why it was denied but based on the discussion tonight, he would be in favor.

Ms. Sims stated you would consider this more of a service and retail use as opposed to manufacturing.

Mr. Begley replied yes.

Mr. Jackson stated it does meet the definition of manufacturing, however, it is not in the traditional sense, the final product is consumable and not a widget that will be put on pallets and shipped out. He stated he would be in favor of interpreting that this is not manufacturing. Maybe the governing body can take a look at this ordinance and consider some changes to include non-traditional manufacturing.

Councilman Schnurr stated maybe not so that this conversation can happen again. He would rather have this at length conversation about a "gray" area rather than put it in an ordinance.

Ms. Bennett stated her concern and hesitation. It sounds very cool and she would love this but we are interpreting the definition that would expand this to be a permitted use up on Main Street. While she does see why this site is particularly suited to this use, her hesitation is that we are not just making a decision about this site, but about the B-2 zone in general.

Mr. Reich stated because we are making a decision about this site and because Councilman Schnurr stated it's not going to change the ordinance, if this comes up again in the zone, Mr. Stryker has every right to deny it and bring it back to us.

Mr. Mehr, Esq., stated this is an application for this applicant and for this site.

Mr. Miller, Esq., explained if the board has before it a hearing on the denial of the zoning application and the board determines that this use is manufacturing then the board is saying that manufacturing is permitted in the zone. Mr. Miller, Esq., stated he thinks this is manufacturing.

Mr. Reich stated we are not saying that manufacturing is allowed in the B-2 Zone, what we are saying is this type of business is not manufacturing, which is why he feels this only pertains to the application.

Ms. Sims said or somebody else that wants to have a craft distillery in the B-2 Zone.

Mr. Reich stated we are categorizing this type of business as a non-manufacturing business which would then coincide with the first two permitted uses listed in the ordinances.

Mr. Miller, Esq., stated the board is not incorrect, but they are opening the door for more manufacturing in the B-2 Zone. The statute clearly states that craft distillery is manufacturing and a manufacturing use would require a use variance.

Mr. Barricelli stated he was in total agreement with Mr. Stryker this is a "gray" area. When he looked up distillery the definition stated producing but when the attorney talks about the statute and it states manufacturing. But when you look at the building and the site and when he looks at what use is this building going to be for Freehold and to him the advantages outweigh the concern and he feels he would be prone to vote in favor of this.

Councilman Schnurr stated we are opening a Pandora's box. If this applicant is denied, this applicant would have to come back for a use variance. He is very torn and would like to see the other comments from the board before he makes his decision. He does not have a problem with the distillery in general.

Mr. Reich thanked Mr. Stryker for bringing this to the board. He is a big fan of craft distilleries and it is a unique business and he is in favor of it. This is more of a crafty, boutique type of business.

Ms. Sims is in agreement with most of the board. This is a more of a production, and is not the technical definition of manufacturing.

She feels this is a process, service, retail and distribution type of business and she would be in favor of it.

Mr. Miller, Esq., strongly advised the board to vote no because the statute clearly states craft distillery is manufacturing and the board is bound by their ordinance and the ordinance clearly states no manufacturing in the B-2 Zone. He feels the applicant should come back and apply for a use variance.

Ms. Sims asked if the applicant would be willing to come back and apply for a use variance.

Mr. Metz stated no.

Mr. Barricelli stated this is a very easy question; we have to listen to our attorney. We swear to uphold the laws, follow the rules of Freehold, New Jersey. If our attorney is advising us that we can't do what we want to do, as much as we want to do it, we have to listen to his advice.

Mr. Reich stated if we listen to our board attorney than we have to deny the interpretation. What does that do if we kick it to the Land Use Committee?

Councilman Schnurr stated that would take at least two meetings for the Land Use Committee to make a recommendation to change the ordinance.

Mr. Loures stated he came to Freehold because your downtown is perfect for this.

Ms. Sims stated that we all agree we would like to see this here and we all want to say yes but she doesn't think we have the right to say yes.

Mr. Mehr, Esq., stated that because your attorney is doing an interpretation in the broadest terms and giving you his absolute.

Ms. Sims stated she interprets this use not so much as manufacturing, but more as a service and retail establishment.

Mr. Mehr, Esq., stated it is just a word.

Mr. Barricelli stated words matter.

Mr. Jackson agreed with Mr. Barricelli.

Councilman Schnurr stated he is going to vote for the application and we will clean this up ordinance wise after the application.

Ms. Sims stated that she was having a real tough time making her decision on this.

Councilman Schnurr made a motion to approve the zoning interpretation, Mr. Reich seconded.

Roll Call:

Yes	5	Sims, Reich, Begley, Schnurr, Bennett
No	2	Jackson, Barricelli
Abstain	0	
Disqualified	0	
Absent	4	Geotz, Jordan, Oakes, Lewis

Ms. Sims stated there is an addition to the agenda.

Application Number PB-SP-13-016.

Applicant - Norkash, LLC - TRE Restaurant.

Location - 614 Park Avenue, Block 108, Lot 7.

Request - Changing the architectural design of signage.

Ms. Sims asked if notice was required.

Mr. Miller, Esq., stated he reviewed the information submitted and it didn't require notice.

Ms. Bennett and Mr. Begley both stepped down from the dais because they were not on the planning board when this was heard initially.

Mr. Bill Mehr, Esq., stated he is representing the applicant. Back when we came before we received site plan approval for signage. One of the signs that were approved was for the front elevation. It showed the word "Tre" which is the name of the restaurant at 5 feet 6 inches in height and 10 feet across. It was at an angle and they are now proposing to change the type of lettering and font. It will also not be written on an angle. The size of the sign will remain the same. In that zone the size of the sign is limited to 1½ feet high and cannot exceed 16 feet.

Mr. Mehr, Esq., stated there are two parts to this, the board could rule that there is a small change to the sign but it is the same size and in the same location and it is ok. Or the board could say I'm not sure if we want to do that, the board is allowed because this is a waiver rather than a variance. The reason for the size of this sign is because if you look at the front of the building it

is a little over 20 feet out from the building and a sign which is smaller would not be visible. He stated there were two signs on the sides of the building and the applicant is abandoning them.

Mr. Wentzien stated that the waiver needs to be more redefined. The applicant is changing the waiver to one sign and instead of the sign being on an angle and changing the font and the word Tre will be written horizontal on the sign.

Mr. Mehr, Esq., stated the purposed this evening is because the proposed signage on the pylon sign is 60 square feet as opposed to the approved original sign which was 72 feet. The large portion was approved but the digital message board couldn't be approved by Henry Stryker because a running script is not permissible.

Mr. Mehr, Esq., confirmed it would not be a running script.

Ms. Sims asked for questions or comments from the public.

There was none.

Ms. Sims asked for questions or comments from the board.

There was none.

Mr. Reich made a motion to approve the amendment to the original waiver, Mr. Barricelli seconded.

Roll Call:

Yes	5	Sims, Reich, Jackson, Schnurr, Barricelli
No	0	
Abstain	0	
Disqualified	2	Begley, Bennett
Absent	4	Geotz, Jordan, Oakes, Lewis

Mr. Reich read the meeting notes of the February 23, 2015 Historic Preservation Meeting as follows:

- Reorganization Meeting, Chairperson, Barbara Wagner; Vice Chairperson, Greg Clark; Secretary, Muriel Smith; Meeting Schedule was approved.
- Jayesh Patel (Exitto Supermarket) 25 Broad Street, (Change wording on sign).
- Manjou Kapur (I Medicware) 64 East Main Street, (Exterior renovations).
- Two River Community Bank (Bottalico Realty) 32 East Main Street, (Install new sign).

- NJ Community Bank (Bennett Street School/Old Police Station), (Demolish structure).
- Steven Metz, 12 Elm Street, (Review porch railing).
- Rajkamal Shai (Shloka Restaurant) 24 South Street, (Replace awning sign).
- Katrina Byrd (Toussaint Capital Partners) 13 Broadway, (Install new sign).

Ms. Sims made a motion to close the meeting with All in Favor and Ms. Geotz, Ms. Jordan, Mr. Oakes and Mr. Lewis absent.

There being no further business, the meeting was adjourned at 10:10 PM.

Respectfully submitted,

Antoinette Jones