

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
February 10, 2014**

Garabrant Center, 4 Wilson Street, Mendham, NJ

CALL TO ORDER

The regular meeting of the Mendham Borough Planning Board was called to order by Mr. Bradley, at 8:04PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

OPENING STATEMENT

Notice of this meeting was published in the *Observer Tribune* on January 23, 2014 and the *Daily Record* on January 16, 2014 and was posted on the bulletin board in the Phoenix House in accordance with the Open Public Meetings Act, and furnished to all those who have requested individual notice and have paid the required fee.

ATTENDANCE

Mayor Henry – Present
Councilman Sharkey – Present
Administrator Sandman – Absent
Mr. Bradley – Present
Ms. Isaacson – Present

Ms. Kopcsik - Absent
Ms. Lichtenberger - Present
Mr. Cascais - Present
Mr. Kraft – Absent

Alternates:

Mr. Sprandel, Alternate I – Present

Also Present:

Mr. Henry, Attorney
Ms. Kaye, Secretary

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MINUTES

On motion made by Mr. Cascais, seconded by Ms. Lichtenberger and carried, the minutes of the reorganization and regular meeting of January 13, 2014 were approved, as written.

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PUBLIC COMMENT

Mr. Bradley opened the meeting to questions and comments on items not included in the agenda. There being none, the public comment session was closed.

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HEARINGS

#941 – Mt. Hermon Hills – Minor Subdivision: **Resolution**
Block 1801, Lots 35 & 36.03, Hilltop Road & Thomas Road

Mr. Bradley asked if there were comments on the resolution memorializing the approval for an extension of time to perfect the subdivision.

Mr. Cascais made a motion to adopt the resolution, as written, which was seconded by Councilman Sharkey.

ROLL CALL: The result of the roll call was 7 to 0 as follows:

In favor: Henry, Sharkey, Isaacson, Lichtenberger, Sprandel, Cascais, Bradley
Opposed: None
Abstentions: None

The motion carried. Ms. Kaye will make the appropriate public notification. Following is the resolution:

**MENDHAM BOROUGH PLANNING BOARD
RESOLUTION
GRANTING EXTENSION OF TIME TO PERFECT MINOR SUBDIVISION
FOR MT. HERMON HILLS COMPANY, LLC
BLOCK 1801, LOTS 35 & 36.03
APPLICATION NO. 941**

WHEREAS, Mt. Hermon Hills Company, LLC ("Applicant") was granted minor subdivision approval with respect to property located at Hilltop & Thomas Roads and designated Block 1801, Lots 35 & 36.03 on the Tax Map of the Borough of Mendham (the "Subject Property"), which approval was memorialized in a Resolution adopted by the Planning Board of the Borough of Mendham (the "Board") on July 8, 2013; and

WHEREAS, Applicant and its counsel have encountered delays in their efforts to complete those matters required for compliance with conditions of approval and documentation to perfect the minor subdivision approval by way of recording minor subdivision deeds within the time provided by the Municipal Land Use Law, including an extended delay in receipt of a Letter of Interpretation ("LOI") from NJDEP, which LOI is necessary to confirm or establish the specifics of lot boundaries and constrained areas; and

WHEREAS, Applicant is required by N.J.S.A. 40:55D-47d to perfect its minor subdivision approval within 190 days from the date of the Resolution, which period in this case will extend to January 16, 2014; and

WHEREAS, Applicant, through its counsel, has requested an extension of time through and including May 1, 2014 within which to perfect the subdivision so as to avoid the expiration of the approval, the extension request being filed prior to the January 16, 2014 termination of the statutory time for the perfection by recording of deeds; and

WHEREAS, the Board discussed the request and its circumstances at its regular public meeting on January 13, 2014, received no comments from members of the public with respect thereto, and concluded that there were no factual or legal reasons to deny the Applicant's request;

NOW THEREFORE BE IT RESOLVED that the Board hereby grants an extension of time to Applicant through and including May 1, 2014, for purposes of perfecting the previously approved minor subdivision.

BE IT FURTHER RESOLVED that no conditions set forth in the Memorializing Resolution dated July 8, 2013 are modified by this extension approval, and shall continue to be conditions of approval of the Applicant's minor subdivision.

BE IT FURTHER RESOLVED that this Resolution, adopted this 10th day of February, 2014, memorializes the action of the Board, as set forth above, taken on January 13, 2014.

#951 – One West Main Street, LLC – Minor Site Plan: **Resolution
Block 301, Lots 1, One West Main Street (Historic District)**

Mr. Bradley asked if there were comments on the resolution memorializing the approval for the installation of a generator at the Black Horse Inn. Mr. Henry, Esq. identified a minor typographical error on page 3, paragraph 8, which was corrected.

Councilman Sharkey made a motion to adopt the resolution, as amended, which was seconded by Mr. Sprandel.

ROLL CALL: The result of the roll call was 7 to 0 as follows:

In favor: Henry, Sharkey, Isaacson, Lichtenberger, Sprandel, Cascais, Bradley
Opposed: None
Abstentions: None

The motion carried. Ms. Kaye will make the appropriate public notification. Following is the revised resolution:

**MENDHAM BOROUGH PLANNING BOARD
RESOLUTION
MINOR SITE PLAN APPROVAL
FOR ONE WEST MAIN STREET MENDHAM LLC
1 WEST MAIN STREET
BLOCK 301, LOT 1**

WHEREAS, One West Main Street Mendham LLC (the "Applicant") has applied to the Planning Board of the Borough of Mendham (the "Board") for minor site plan approval to permit the installation of a standby emergency generator at the rear of one of the existing restaurant buildings located on property at 1 West Main Street, designated Block 301, Lot 1 on the Tax Map of the Borough of Mendham (the "Subject Property"); and

WHEREAS, a public hearing was held on January 13, 2014, during which hearing Applicant's site engineer/planner offered testimony, the Application materials submitted and exhibits offered at the hearing were reviewed by the Board, the Board heard argument in support of the approval from Applicant's attorney, and the Board's consultants and members of the public were given an opportunity to be heard; and

WHEREAS, the Board has considered the Application and supporting materials filed by Applicant, the testimony of Applicant's site engineer/planner, the exhibits introduced into evidence in the course of the hearing, the reports received from municipal officers and Board consultants, the comments of the Board's consultants, and there being no comments from members of the public;

NOW THEREFORE BE IT RESOLVED that based upon the foregoing, the Board makes the following findings of fact and conclusions of law:

1. Applicant is the owner of the Subject Property, located at 1 West Main Street and designated Block 301, Lot 1 on the Tax Map of the Borough of Mendham. The Subject Property is located in the Historic Business District
2. There are two restaurant buildings on the Subject Property, which property is commonly referred to as the Black Horse Inn property. Applicant proposes to install a standby emergency generator behind the building occupied by The Pub, at the edge of the parking lot abutting the rear wall of that building.
3. The Board first discussed the checklist waivers requested by Applicant, heard the TRC and Borough Engineer's recommendations that they be granted, granted the waivers, and deemed the Application complete.
4. Applicant's site engineer/planner described the physical dimensions of the proposed standby emergency generator (10 feet long by 3 feet wide by 4-½ feet high) and stated that the generator would be located not closer than 24 feet from the westerly property line of the Subject Property. It would be installed close to the existing sidewalk along the rear of The Pub building, which location would be consistent with setback requirements in the Historic Business District.
5. The Board explored the question of noise which might be produced in the testing or running of the standby emergency generator. Applicant's site engineer/planner testified that in the exercise mode (periodic testing of the generator) sound levels at the nearest property line would be not higher than 64 dBA (65 dBA being the maximum permitted by state statute governing sound levels in such instances). Applicant's site engineer/planner indicated that when operating loads were involved (during power outages), the sound level produced would be 74 dBA, but that there is no state maximum governing actual emergency use of such a generator.
6. Applicant's site engineer/planner testified that the proper exercise (testing) schedule would involve a 20 minute running cycle once per week. He further testified that the Applicant understood such testing could only be conducted on weekdays (Monday through Friday) between the hours of 9 AM and 5 PM.
7. In response to a Board inquiry, Applicant's site engineer/planner testified that his understanding of the size and capacity of the proposed generator reflected Applicant's desire to be able to sustain limited operations in both of the restaurant buildings. Some equipment and circuits would not be powered by the generator, but both restaurants would be able to be open to the public, have functioning HVAC, and be able to prepare and serve food.
8. The Board and the Applicant reviewed and discussed the January 8, 2014 comment letter from the Borough Engineer. It was noted that, although the proposed location of the generator would have a slight impact on the depth of adjacent parking stalls, there would be

- sufficient backup area behind those stalls to avoid any negative impact on the functionality of the stalls. In addition, Applicant agreed to comply with comments number 3 and 4 (the day and hour limitations on testing of the generator and compliance with all applicable NJDEP noise standards, respectively).
9. Although there are numerous preexisting non-conforming conditions on the property relating to the multiple non-conforming restaurant buildings, bulk standards, and parking capacity, none of these is exacerbated by the proposed generator installation, nor are any additional variances required in this regard.
 10. There were no comments from members of the public.
 11. Based upon all of the foregoing, the Board determined that Applicant's minor site plan Application for the installation of a standby emergency generator on property located at 1 West Main Street (Tax Lot 1 in Block 301) was, with conditions, appropriate and should be granted and approved.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mendham that, based upon the foregoing, Applicant's proposal to install a standby emergency generator at the rear of The Pub building on property located at 1 West Main Street and designated Block 301, Lot 1 on the Mendham Borough Tax Map, as shown on the plans and supporting materials submitted to the Board, be and hereby is approved and granted subject to the following conditions:

1. Applicant shall obtain all other permits and approvals which may be required from any board, body, office or agency, whether federal, state, county or municipal, relating to completion of this Application or the construction, installation or operation of the proposed improvements on the Subject Property.
2. All taxes and municipal charges shall be paid and current through the first quarter 2014. Applicant shall also pay all Application and escrow fees and any other fees required in connection with the completion of the Application or this project.
3. Any testing or exercising of the standby emergency generator (other than use in a power outage situation) shall be conducted only on weekdays (Monday through Friday) between the hours of 9 AM and 5 PM.
4. Operation of the standby emergency generator shall be in compliance with all applicable NJDEP noise standards.
5. In connection with the installation of the generator and after its installation, the Borough Engineer shall undertake an inspection to determine that the location satisfies the setback required from the closest property line. In addition, the Borough Engineer shall conduct a post-installation measurement to assure compliance with NJDEP noise standards. Applicant shall complete the installation of the standby emergency generator and shall operate same in accordance with the testimony presented at the public hearing, the findings and conclusions of this Board, as set forth in this Resolution, and the conditions of approval detailed herein.
6. Applicant shall be responsible for compliance with any applicable affordable housing requirements resulting from the approval of this minor site plan application and the installation of the proposed standby emergency generator.
7. Except as otherwise expressly provided in this approval Resolution, or required by necessary implication, the balance of the site plan for the Subject Property shall remain as previously approved by this Board.

BE IT FURTHER RESOLVED that this Resolution, adopted this 10th day of February, 2014, memorializes the action of the Board, as set forth above, taken at its regular meeting on January 13, 2014.

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OTHER BUSINESS

2014 Projects/Goals & Objectives

Mr. Bradley opened the floor for discussion. Mayor Henry inquired about a list of Board initiatives that was previously developed. Ms. Kaye indicated that a thorough search of minutes, files and electronic documents yielded discussions of various topics but that no formal list had been located.

Ms. Kaye noted that a proposed tree ordinance was among the discussion items. Councilman Sharkey indicated that while it was ultimately decided that a tree ordinance was not

necessary, the Board had considered the development of a community outreach and education component. He further suggested initiatives such as a photography contest involving local trees as well as the possibility of partnering with other organization such as the Scouts and the Environmental Commission to launch other such efforts that coincide with Arbor Day, Earth Day and other holidays that raise awareness.

Mr. Cascais indicated that he did recall Board discussions regarding multi-generational housing, home businesses and home offices. Ms. Kaye agreed to develop a list of possible projects for the Board's consideration in 2014.

Mr. Cascais asked if the two items on the BOA Annual Report should be addressed by the Board. Mayor Henry recommended that the item regarding generator installation at the Commons be left as-is with the tenants bringing individual applications before the Board.

Mayor Henry further stated that outdoor dining is a recurring issue that may warrant attention. There was question as to whether the Borough Council should review the issue first but Mayor Henry advised the Board to move forward and examine the factors surrounding outdoor dining. A lengthy discussion uncovered factors requiring consideration such as barrier-free space, vehicular traffic patterns, safety and pedestrian traffic. A number of possible locations that may be able to accommodate outdoor dining were identified.

It was agreed that a review of outdoor dining ordinances from surrounding municipalities may help guide the reformulation of a Borough ordinance, if deemed appropriate. Ms. Kaye agreed to distribute copies of the current Borough ordinance along with those of neighboring communities for discussion at the next meeting.

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TRC UPDATES (For Information Only)

Mr. Cascais reviewed the approved application from Mendham Laundromat. A discussion ensued regarding the presence of a possible NJDEP issue resulting from runoff from the Laundromat draining into the parking lot. It was noted that the landlord of Mendham Village was asked to pave the area but opted not to as it was not required.

With no pending applications, the TRC meeting scheduled for February 18, 2014 was canceled.

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ADJOURNMENT

There being no additional business to come before the Board, Mr. Cascais made a motion to adjourn which was seconded by Mr. Sprandel. On a voice vote, all were in favor.

Mr. Bradley adjourned the meeting at 8:31PM.

The next regular scheduled meeting of the Planning Board will be held on **Monday, March 10, 2014 at 8:00PM p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Margot G. Kaye

Margot G. Kaye
Recording Secretary