

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
May 12, 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. Kraft, Chair, at 8:00PM 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

Mr. Bradley – Present
Mayor Henry – Present
Ms. Isaacson – Absent
Ms. Lichtenberger - Absent

Administrator Sandman – Present
Councilman Sharkey – Present
Mr. Cascais - Present
Mr. Kraft – Present

Alternates:

Mr. Sprandel, Alternate I – Present
Mr. Kay, Alternate II - Present

Also Present:

Mr. Henry, Attorney
Mr. Bolio, Engineer
Ms. Kaye, Secretary

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MINUTES

Mr. Bradley made a motion to approve the minutes of the regular meeting of April 14, 2014, which was seconded by Mr. Kay. On a voice vote, Mr. Bradley, Mayor Henry, Mr. Kay, Administrator Sandman, Mr. Cascais and Mr. Kraft were in favor. Councilman Sharkey and Mr. Sprandel abstained. The motion carried and the minutes were approved, as written.

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PUBLIC COMMENT

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

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Mr. Sprandel recused from the hearing before the Board.

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APPLICATIONS

PB #945 **Sprandel, David** – Minor Subdivision with Variances
18 North Linden Lane, Block 201, Lot 60

Present: David & Elizabeth Sprandel, Applicants
 Anthony Sposaro, Attorney for Applicant
 James Glasson, Engineer for Applicant

Mr. Sposaro summarized the application and requested waivers for checklist item nos. 31, 36 and 41. Mr. Bolio indicated that there were no objections to same and the application was deemed complete. Mr. Henry, Esq. advised that he had reviewed the public notices and confirmed they were sufficient to confer jurisdiction upon the Board.

Mr. Glasson was sworn and qualified. Mr. Glasson entered into the record sheet 2 of 6 of the submitted drawings and marked Exhibit A1. He described the existing conditions of the property and confirmed that all requirements in the 1-acre zone have been met except for the

front yard setback which conformed at the time the lot was created. Mr. Sposaro entered into the record as Exhibit A2 a copy of the final plat for the 1962 Deerfield subdivision. Mr. Glasson further reviewed the existing utilities and the surrounding lot sizes.

Referring to sheet 3 of 6 of the submitted drawings and marked Exhibit A3, Mr. Glasson explained that the applicant is proposing to create a 1.04 acre building lot 60.01 and that the proposed lot lines were established based on the location of the existing driveway and on the required setbacks for accessory structures. Applicant is requesting variance relief for lot frontage (42.19 ft where 120 ft is required) and lot width (99.81 ft where 150 ft is required).

He further stated that the DEP has issued a Letter of Interpretation dated December 9, 2013 that establishes a 150 foot buffer for the existing wetlands. The DEP further ascertained that a flood hazard permit is not required since there will be no disturbance of any area that has not already been cleared, thereby deeming it a permit-by-rule.

Referring to sheet 4 of 6 of the submitted drawings and marked Exhibit A4, Mr. Glasson reviewed the proposed location of the house and driveway on the new lot and confirmed that construction would require minimal grading. He also reviewed the location of the proposed utility connections and indicated that Borough Resolution #80-13, dated June 17, 2013, granted approval for a sewer connection.

Mr. Glasson and Mr. Sposaro listed the reports received in connection with the application and agreed to comply with all terms and conditions set forth in Paul Ferriero's technical memorandum dated May 7, 2014.

Mr. Glasson reiterated the variance relief requested and indicated that a hardship exists as Applicants would have to tear down the existing structure in order to comply with all zoning requirements. Mr. Sposaro stated that the proposed subdivision does not impair the intent of the zoning ordinance nor does it cause substantial harm to the public good. He added there will be no substantial grading required and no detriment to the environment.

In response to Mr. Henry, Esq.'s question regarding the location of the proposed new driveway and its proximity to the existing driveway, Mr. Glasson confirmed that there are no issues associated with the proposed placement of the driveway and added that it is customary to have smaller frontages on cul de sacs by nature of their design.

Mr. Kraft opened the floor to questions from the Board to Applicants' Engineer. There being none, Mr. Kraft opened the floor to questions from the public.

Nancy Doyme of 31 North Linden Lane questioned the propriety of granting additional variances for a property with an already non-conforming structure. Mr. Glasson responded that a hardship exists in that Applicants would have to remove their current home in order to have fully compliant lot lines.

Mr. Sprandel was sworn. In response to a question posed by Mr. Sposaro, Mr. Sprandel stated their intentions to build a ranch house on the proposed lot as fewer stairs would be safer for him and his wife. He confirmed that they intend to sell their existing home once construction is complete. Mr. Sprandel stated that the neighbors were notified of the application in September 2013.

Mr. Kraft opened the floor to questions from the Board to the Applicants. There being none, Mr. Kraft opened the floor to questions from the public. There being none, Mr. Kraft opened the floor for any other public questions/comments regarding the application.

Ms. Doyme expressed concern regarding the location of the driveway and the effect the subdivision will have on the value of surrounding properties. She questioned the size of the proposed lot and the adverse effects construction will have on the terrain.

Denise Mortenson of 11 North Linden Lane stated that the proposed subdivision will cause a change in the topography and negatively affect the brook and Patriot's Path behind the property. She further indicated that the variance relief sought is substantial and contrary to the intent of the ordinance. Ms. Mortenson also requested that the Board schedule a site inspection prior to voting on the application.

There being no additional comments, Mr. Kraft closed the public portion of the hearing.

Mr. Henry, Esq. clarified that the Board's role is not to approve construction but to approve the subdivision with variances to create a single building lot. He added that DEP documents would have to be submitted as part of the permit application process and the house would have to be built in accordance with the submitted plans and DEP regulations. There will also be a separate lot development plan and grading plan.

Mr. Cascais requested confirmation that the dry well will be sized in accordance with the size of the proposed single-family home. Mr. Glasson confirmed same and added that the size may be modified if final plans require it.

In response to Ms. Doyme's concern regarding the placement of the driveway, Mayor Henry suggested that Ms. Doyme look at the subdivision on Forest Drive in order to get an idea of

what the end result may look like. Mr. Glasson reiterated that the proposal will not cause any detriment to the environment. Similarly, Mr. Bolio confirmed that a conservation easement will help protect against tree removal within the wetland transition area located at the rear of the property.

Mr. Henry, Esq. summarized the application and clarified the following conditions of approval:

- A conservation easement and related modification of the northerly setback line will be obtained to cover the transition area
- Electric utilities will be installed underground
- All items in Paul Ferriero’s technical memo dated May 7, 2014 will be addressed
- Any proposed lot development and grading plans will be consistent with the plans submitted to the DEP
- Final plans will include frontage dimension
- Lot development plan will be filed prior to building permit application
- Dry well will be appropriately sized
- Tree removal will be compliant with the ordinance and replacement trees will be noted on plan and subject to approval by the Board Engineer
- All taxes, sewer fees, inspection fees, escrows, etc. are paid and current

Mayor Henry made a motion to approve the application as described, subject to conditions, for memorialization at the next meeting. The motion was seconded by Councilman Sharkey.

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

In favor: Bradley, Henry, Kay, Sandman, Sharkey, Cascais, Kraft
 Opposed: None
 Abstentions: None

The motion carried and application was approved. Mr. Henry, Esq. will prepare a resolution memorializing the action for the June 9, 2014 regular meeting of the Board. Ms. Kaye will make the appropriate public notification.

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Mr. Sprandel rejoined the Board on the dais.

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OTHER BUSINESS

Outdoor Dining Subcommittee

Mr. Cascais announced that the subcommittee met to discuss outdoor dining ordinances in surrounding towns and recommends that the Board considers making outdoor dining a conditional use. Mr. Henry, Esq. explained that the three (3) options for addressing outdoor dining are (1) continue the current process whereby applicants appear before the Board of Adjustment on a case by case basis; (2) revise the ordinance to make outdoor dining a permitted use; or (3) revise the ordinance so that outdoor dining is allowed as a conditional use.

Mr. Henry, Esq. further explained that option (3) would allow applicants to go before the Planning Board for approval should all the conditions set forth in the ordinance be met, e.g., lighting, space and furniture requirements. If not, applicant must file with the Board of Adjustment for a “d” or use variance. Mr. Kraft loosely polled the Board to get a sense of which option the subcommittee should focus on and there was consensus that option (3) was appropriate. It was also proposed that the subcommittee look at whether outdoor dining in the Historic District might have different parameters than the Main Street Corridor.

The subcommittee will reconvene in the coming weeks and present at the June 9, 2014 meeting.

Demolition in the Historic District

Mr. Henry, Esq. explained that the demolition issue has surfaced due to a permit application to demolish a non-contributing structure and rebuild at 4 Peacock Lane. He further indicated that the current ordinance requires approval for any improvement to any structure regardless of whether it is a contributing or non-contributing structure, a historic landmark, etc. It was pointed out that demolition of a non-contributing structure may be for the sale of an empty lot. Mr. Henry, Esq. added that the Historic Preservation Commission must approve new construction before a permit is issued regardless.

Mr. Kraft stated that the issue may return to the Planning Board if it is decided that the ordinance should be reviewed.

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TRC UPDATES (For Information Only)

Mr. Kraft reviewed the applications heard by the TRC. He indicated that both PetValu (PB #02-14) and Katanya (PB #03-14) were approved.

With no pending TRC applications, the next meeting scheduled for May 19, 2014 at 9AM is 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 Councilman Sharkey. On a voice vote, all were in favor.

Mr. Kraft adjourned the meeting at 9:40PM.

The next regular scheduled meeting of the Planning Board will be held on **Monday, June 9, 2014 at 8:00PM p.m.** at the Garabrant Center, 4 Wilson St., Mendham, NJ.

Respectfully submitted,

Margot G. Kaye

Margot G. Kaye, Secretary
Mendham Borough Planning Board