

**MINUTES OF THE  
MENDHAM BOROUGH PLANNING BOARD  
July 14, 2015**

**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* and in the *Daily Record* on January 15, 2015 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  
Mr. Bradley – Present  
Ms. Lichtenberger – Present  
Administrator Merkt – Present  
Mr. Sprandel – Present

Mr. Kraft - Present  
Mr. Cascais – Present  
Ms. Isaacson – Absent  
Councilman Andrews – Present

Alternates:

Mr. Kay, Alternate I – Absent  
Mr. McDevitt, Alternate II - Absent

Also Present:

Mr. Ferriero, Engineer  
Mr. Henry, Esquire  
Mr. McGroarty, Planner

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**MINUTES**

Mr. Henry, Esq. recommended that page three of the June 8, 2015 minutes, under the Master Plan section, be revised to reflect the correct name of Mr. McGroarty instead of Mr. Germanario. Also, TRC should replace HPC in the TRC Update section. Councilman Andrews made a motion to approve the minutes, as amended and Ms. Lichtenberger seconded. On a voice vote, all eligible voters were in favor and the minutes were approved, as amended.

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**PUBLIC COMMENT**

Mr. Kraft 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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**APPLICATIONS**

**PB #01-15 KL Realty Holdings LLC, 20 East Main Street, Block 601, Lot 9**  
Preliminary & Final Site Plan Approval with Variances: **Hearing**

The Applicant requested that the hearing be adjourned to the Board's August 10, 2015 meeting. Mayor Henry made a motion to adjourn and Ms. Lichtenberger seconded the motion.

ROLL CALL: The result of the roll call was 7 to 0 as follows:  
In favor: Andrews, Bradley, Henry, Lichtenberger, Merkt, Sprandel, Kraft  
Opposed: None  
Abstentions: Cascais

The KL Realty Holdings LLC application was adjourned to August 10, 2015 at 8:00pm, without further notice.

**RESOLUTIONS****PB #04-15 106 Mendham LLC, 106 East Main Street, Block 801, Lot 12  
Amended Site Plan**

Mr. Kraft asked if there were comments on the resolution memorializing the approval for an amended site plan of the above referenced property. Mr. Henry Esq. stated that "Township" needed to be replaced with "Borough" on page 5. A motion memorializing the amended site plan with the above condition was duly made and seconded.

ROLL CALL: The result of the roll call was 7 to 0 as follows:  
 In favor: Andrews, Bradley, Henry, Lichtenberger, Merkt, Sprandel, Kraft  
 Opposed: None  
 Abstentions: Cascais

The motion carried. Following is the resolution:

**MENDHAM BOROUGH PLANNING BOARD****RESOLUTION OF MEMORIALIZATION**

**Decided: June 8, 2015**

**Memorialized: July 14, 2015**

**IN THE MATTER OF 106 MENDHAM, LLC  
 AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL  
 BLOCK 801, LOT 12  
 APPLICATION NO. PB #03-14**

**WHEREAS**, 106 Mendham, LLC (hereinafter the "Applicant") applied to the Mendham Borough Planning Board (hereinafter the "Board") for amended preliminary and final site plan approval on 4/23/15; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 6/8/15; and

**WHEREAS**, it has been determined that the Applicant has complied with all procedural requirements, rules and regulations of the Board, and that all required provisions of procedural compliance have been filed with the Board; and

**WHEREAS**, the Board makes the following findings and conclusions based upon the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 1.31 acres located in the Limited Business Zone at the corner of East Main Street and Cold Hill Road. The property is improved with a commercial building, which includes a real estate office, a barber shop and a second floor affordable housing unit, as well as an unoccupied bank with drive-thru. The existing site improvements were approved pursuant to resolutions of the Planning Board dated 8/11/08, 10/14/08 and 8/9/10, and a resolution of the Board of Adjustment, granting a use variance for the barber shop, dated 8/3/10.

2. The development of the subject property proposed by the Applicant comprises further site improvements to accommodate occupancy of the bank space by Lakeland Bank. The new improvements include widening of the existing driveway, new signage, the construction of four new parking stalls adjacent to the existing access from Cold Hill Road, and two new angled spaces at the rear of the parking lot next to the drive-thru aisle. The total amount of parking on the site will be 39 spaces, which represents an increase in 6 parking stalls from what currently exists. New signage is proposed, which will include Lakeland Bank identification as the new tenant. Additional

improvements include new curbing along the new parking stalls, as well as along the entrance drive to the bank drive-thru. An ATM is also proposed at the bank drive-thru. The project will result in an increase of 1,476 square feet of impervious area. The analysis submitted by the Applicant's engineer indicates the existing stormwater management system has capacity to mitigate the runoff associated with the additional impervious area. The sewer connection application indicates there will be no increase in projected sewage flow since the vacant space was previously approved for a bank.

3. The proposed development of the subject property to which the Board's decision herein pertains is depicted and described in the following drawings and/or plans:

- Amended Preliminary and Final Site Plans, consisting of 4 sheets, prepared by Dynamic Engineering Consultants, PC, dated 4/1/08 and revised through 5/26/15

4. In support of the application, the Applicant submitted the following documents, which are part of the hearing record:

- As-Built Survey Plan prepared by Control Layouts, Inc., Highland Park, NJ, dated 11/9/09 and revised 3/15/10
- Stormwater Management Report Addendum prepared by Joseph G. Jaworski, PE, dated 5/15
- Letter from Environmental Technology Inc., dated 5/20/15
- Deed Restriction, recorded 8/27/09
- Application for Sanitary Sewer Connection, dated 5/18/15
- Tax Map Sheet 8

5. The Board's planning and engineering professionals and/or consultants submitted the following reports concerning their respective reviews of the application, which are part of the hearing record:

Paul Ferriero, PE, CME, dated 6/4/15

6. Borough officials and/or agencies submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Craig Bellamy, Fire Official, dated 4/25/15

7. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Colored rendering of Site Plan Sheet 3 of 4, revised 5/26/15
- A-2 Signage Plan
- A-3 Signage Plan
- B-1A, 1B and 1C - Photos of ponding areas taken by Dennis Moro, owner of Lot 11

8. In the course of the public hearing, the Applicant was represented by Anthony Sposoro, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Joseph Jaworski, PE, Applicant's engineer  
John Janis, President of Butler Sign Co.  
Robert Berlant, Applicant's principal owner

9. The development of the subject property as proposed by the Applicant involves continuation of existing non-conformities as to which variance relief was granted by the previous approvals referenced hereinabove, including a parking stall size 9 x 20', two free-standing signs and free-standing sign area.

The further site development now proposed does not increase or intensify the aforesaid non-conformities.

10. The development of the subject property as proposed by the Applicant requires variance relief with respect to the minimum front yard setback for the six new parking spaces, since a 7-foot setback is proposed, while a 20-foot setback is required.

11. Based on the hearing record, the Board finds that the variance sought by the Applicant with respect to the front yard setback of the six new parking stalls is justified in light of the bank's need for additional parking and the constraints imposed by the two front yards associated with the corner lot.

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

12. To address the concerns of neighboring property owner Dennis Moro (Lot 11) regarding recurrent ponding in the low area between the properties, the Applicant has agreed to install drywells at the northwest corner of the subject property, with overflow to the storm sewer system on East Main Street, the design of which will be subject to the review and approval of the Borough Engineer.

13. Although the Applicant met with the Borough's Historic Preservation Committee (HPC) on 5/18/15 and incorporated many of the HPC's recommendations in the current site plans, the current signage plans differ from those reviewed by the HPC in several details and diverge from certain particulars of the HPC recommendations. Therefore, as a condition of approval, the Applicant has agreed that they will meet again with the HPC and will submit revised plans based on the HPC's input at that meeting.

14. As suggested by the Fire Official, the Applicant has agreed to the requirement of a satisfactory fire inspection within 90 days of the commencement of bank operations on the site.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the amended preliminary and final site plan as depicted and described in the drawings and/or plans referenced hereinabove. In connection with this approval, the Board grants relief from land use provisions of the Borough ordinances in accordance with Section 11 above.

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the issuance of a certificate of occupancy for the bank:

1. Revised plans shall be submitted including one or more drywells, with overflow pipe(s) to the storm sewer system on East Main Street, at the northwest corner of the subject property adjoining Lot 11, sufficient to eliminate ponding of stormwater at that location. The drywell plans shall be reviewed and approved by the Borough Engineer, and the drywells shall be installed along with the other approved site improvements.

2. Revised plans shall be submitted including a signage plan with signage details as approved by the HPC, and site signage shall be installed accordingly.

3. Within 90 days of the commencement of business by the new bank tenant on the site, the site will satisfy a fire inspection.

4. Applicant shall complete the site improvements and alterations and shall operate the subject property in accordance with the testimony presented at the public

hearing, the findings and conclusions of this Board, as set forth above, and the conditions imposed in this Resolution.

5.Applicant shall comply with any terms and conditions imposed by the governing body of the Borough of Mendham in connection with its approval of Applicant’s sewer connection application.

6.All taxes and other municipal charges shall be paid and current through the second quarter 2015. Applicant shall also pay all application and escrow fees and any other fees required in connection with the completion of this application or this project.

7.Applicant shall obtain all other permits and approvals which may be required from any board, body or agency, whether federal, state, county or municipal, relating to the additional use or uses of the property or the alterations or changes to be made as a result of this approval.

8.All conditions of the previous approvals pertaining to the subject property and site plan shall remain in full force and effect except as modified by this approval.

**BE IT FURTHER RESOLVED** that this Resolution, adopted this \_\_\_\_\_ day of July, 2015, memorializes the action of the Board, set forth above, taken at its regular meeting on June 8, 2015.

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**PB #03-15 Castignetti, Albert & Nancy**, 8 Forest Road, Block 604, Lot 7  
Amended Subdivision

Mr. Kraft asked if there were comments on the resolution memorializing the approval for an amended subdivision of the above referenced property. Mr. Henry Esq. remarked that on page 8, under item #9, the third line down contained a grammatical error. A motion memorializing the amended site plan with the above condition was duly made and seconded.

ROLL CALL: The result of the roll call was 7 to 0 as follows:  
In favor: Andrews, Bradley, Henry, Lichtenberger, Merkt, Sprandel, Kraft  
Opposed: None  
Abstentions: Cascais

The motion carried. Following is the resolution:

**MENDHAM BOROUGH PLANNING BOARD**

**RESOLUTION**

**GRANTING AMENDED MINOR SUBDIVISION APPROVAL  
FOR ALBERT & NANCY CASTIGNETTI  
BLOCK 604, LOT 7.01**

WHEREAS, Albert & Nancy Castignetti (“Applicants”) have applied to the Planning Board of the Borough of Mendham (the “Board”) for amended minor subdivision approval with respect to property located at 8 Forest Drive and designated Block 604, Lot 7.01 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, a public hearing was commenced on May 11, 2015, and concluded on June 8, 2015, during which hearing testimony was

offered by Applicant, Albert Castignetti, and by Applicants' site engineer, the Board reviewed the documents and materials filed by Applicants, the Board reviewed reports from its professional consultants, and members of the public were given an opportunity to comment on the Application; and

WHEREAS, the Board has considered and deliberated upon the testimony and materials submitted by and on behalf of Applicants, the reports and recommendations of the Board's consultants and professional staff, and hearing 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. Applicants are the owners of the Subject Property, which property is located at 8 Forest Drive and is designated Block 604, Lot 7.01 on the Mendham Borough Tax Map. The Subject Property is located in the R-1 (1 Acre Residential Zone).
2. The Subject Property is a 2.8 acre residential lot created in 2011 by minor subdivision creating new Lot 7.01, leaving remainder Lot 7. The Subject Property is conforming to Zone District Regulations, except for frontage, which is a triangular area intersecting a paper right-of-way previously dedicated to the Borough where the title line of the Subject Property extends into the paper right-of-way down to its point of intersection with the presently-developed cartway for Forest Drive.
3. At the time Lot 7.01 was created, it was obvious that there were surface water problems and a high water table affecting the Subject Property. A special displaced rear yard setback area was created and subjected to a limited conservation easement. Subsequent to the approval of the minor subdivision and the creation of Lot 7.01, a dwelling was constructed on the Subject Property.
4. In connection with the 2011 approval, stormwater management was designed to employ surface flow controlled by swales, on-site storm drains piped to a front yard surface rain garden, and finally through piping

under the sidewalk to the storm sewer line in Forest Drive. This solution was proposed after soils work disclosed areas of high water tables and inadequate permeability. A berm was to be provided along the easterly side of the property to direct surface flow to the swale and inhibit flow onto adjoining properties.

5. In 2014, Applicants purchased the home which had been built on the Subject Property. Applicants were not aware of the continuing requirement for the above-ground stormwater basin.

6. After occupying the home, Applicants came to the conclusion that the above-ground basin system was not a desirable feature. There were often persistent periods of standing water and the entire front yard was often most unattractive.

7. Applicants seek to amend the prior minor subdivision approval to permit a change from the above-ground stormwater basin to a subsurface piping system for stormwater management. This will also permit re-landscaping the front yard with grass and other plantings, resulting in a significant aesthetic improvement.

8. Several of Applicants' neighbors testified that they supported the application, thought it beneficial to eliminate the problem of standing water, and looked forward to a much more attractive appearance on the property. The only concern, expressed by some, was that the new system continue to minimize surface flows onto adjoining properties.

9. Applicants submitted plans entitled "Amended Minor Subdivision Plan for Lot 7.01," prepared by Page Engineering Consultants, P.C. (2 sheets), dated March 2, 2015 and revised through March 23, 2015 (the "Plans").

10. Applicants' engineer described the proposed sub-surface system design and function. The berm and swales would remain as at present so as to prevent off-site surface flow from the easterly side of the Subject Property. Runoff from roof surfaces and the driveway would be collected into a closed system of underground solid pipes and carried, ultimately, by

pipng below the front sidewalk and from there into the storm sewer system in Forest Drive. This closed system would be unaffected by soil permeability or water table issues.

11. Applicants' engineer testified that the proposed system would achieve the same stormwater management results as the previously-approved above ground basin system, while mitigating the problem of standing water and allowing a much more pleasing visual appearance for the front yard.

12. Applicants' engineer and the Board reviewed the Borough Engineer's May 7, 2015 Comment letter. Applicants' engineer provided the requested testimony (Comments 1 & 9) and explanations, and agreed that Applicants would comply with comments 2,3,4 (by installation of a trench drain), 5, 6, 7, 10, 11, 12, 14 and 15, including making appropriate revisions to the Plans to the satisfaction of the Borough Engineer. The new operations and maintenance manual [#15] (and responsibility for ongoing compliance) shall be referenced in the revised drainage easement [#14] to be recorded after review and approval by the Borough Engineer and the Planning Board Attorney.

13. Addressing a technical issue raised by the Borough Engineer, it was agreed among Applicants, the Borough Engineer, and the Board that comment 8 of the Borough Engineer's May 7, 2015 letter would be satisfied by use of the proposed 2" orifice, and that Applicants would not have to comply with comment 13.

14. The Borough Engineer agreed that the proposed sub-surface system was an acceptable alternate method of achieving the stormwater management sought by the above-ground rain garden system.

15. Based upon all of the foregoing the Board determined that the previous minor subdivision approval could be amended as to Lot 7.01 to substitute a sub-surface stormwater management system as proposed by Applicants, provided appropriate conditions were imposed and observed.

BE IT FURTHER RESOLVED that, for the reasons set forth above, the Application of Albert and Nancy Castignetti for amended minor subdivision approval to permit a change from the previously-approved above-ground stormwater basin system to a sub-surface closed piping system, on the Subject Property, Lot 7.01, Block 604 (8 Forest Drive), as described in, and in accordance with, the findings and conclusions set forth above, be and hereby is approved and granted, subject to the following conditions:

1. Applicants shall obtain all other permits and approvals required from any Board, body or agency, whether municipal, county, state or federal, relating to the Subject Property or its development.
2. All taxes, fees, escrows and municipal charges shall be paid and current, and in sufficient amount for completion of the Application and activities required to satisfy the conditions of approval.
3. Installation and operation of the new stormwater management system shall be in accordance with the Plans presented (including plan revisions to satisfy approval conditions), testimony given at the public hearing, the findings and conclusions of the Board and the conditions of approval set forth herein.
4. Without limiting the generality of Condition No. 1, above, Applicants shall obtain a new certification from the Morris County Soil Conservation District for the proposed drainage system.
5. Applicants shall comply with the Borough Engineer's May 7, 2015 comment letter, as detailed in Finding No 12, above.
6. After completion of the installation of the new drainage system, "as-built" plans shall be prepared, certified by Applicants' Engineer, and submitted to the Borough Engineer.
7. Plan revisions shall be made to reflect the items described in the Borough Engineer's May 7, 2015 comment letter, each and all of which shall be made to the satisfaction of the Borough Engineer.

8. Applicants shall prepare in recordable form a Declaration of Amended Covenants, Restrictions and Limitations, to modify the recitals in the Subdivision Deed by which Lot 7.01 was created. Said Subdivision Deed, dated May 8, 2012, was recorded in the office of the Morris County Clerk on May 10, 2012, in Book 22039 at Page 1827. Reference shall be made in the Declaration to this amended minor subdivision approval, the resulting change in stormwater management system, the lot being subject to all of the conditions of approval as set forth in this Resolution of the Mendham Borough Planning Board adopted July 14, 2015, as well as the conditions of approval initially imposed in the 2011 minor subdivision approval to the extent they are not modified, expressly or by necessary implication, by this amended minor subdivision approval. The Declaration shall reference the May 8, 2012 Subdivision Deed with appropriate recording information and shall expressly re-state:

- (a) A reference to stormwater management regulations and limits of additional impervious coverage or soil disturbance which would trigger regulatory requirements;
- (b) The reduced building envelope – rear yard setback increased by easterly to westerly diagonal;
- (c) Tree protection provision (behind relocated rear setback line);
- (d) Maintenance covenant with respect to the new sub-surface drainage system;
- (e) Drainage and Maintenance easement to the Borough to have the right, but not the obligation to maintain the drainage system if the property owner fails to do so, and to assess the owner for costs of such actions;
- (f) Expressly state that the modification of the provision regarding covenants, restrictions and limitations, which modification results from this amended minor subdivision approval, is with the expressed authority of the Planning Board of the Borough of Mendham.

The Declaration shall provide for the signatures of the Chairman and Secretary of the Planning Board confirming approval of Amended Minor Subdivision Approval by Resolution adopted July 14, 2015.

The Declaration shall be prepared by Applicants and submitted to the Planning Board Attorney and the Borough Engineer for review and approval as to form and content. The Declaration shall contain sufficient chain of title references to facilitate subsequent searches, and shall reference the final revised Plans as approved by the Borough Engineer. After approval of the form and content of the Declaration, it shall be recorded by Applicants in the Office of the Morris County Clerk, and Applicants shall thereafter furnish copies of the document with recording information to the Mendham Borough Planning Board.

9. Applicants' engineer shall submit cost estimates to the Borough Engineer for the change of stormwater management/drainage systems, including the complete installation of the sub-surface piped system approved herein as well as restoration of all disturbed areas and required grades. Once the estimates are approved by the Borough Engineer, Applicants shall secure and deliver to the Borough a bond, letter of credit and/or cash, in form acceptable to the Borough Attorney, and in amount equal to 120% of the approved cost estimates, to assure performance of the work. Once this performance guarantee has been delivered, the prior performance guarantee (relating to the surface basin system) can be released. After completion of the project, Applicants shall provide a two (2)-year maintenance guarantee, in form acceptable to the Borough Attorney, and in amount equal to 15% of the previously-approved cost estimates.

10. Except to the extent that the conditions of approval set forth in this Board's Resolution granting minor subdivision approval and creating Lot 7.01 (adopted July 11, 2011) have been fully satisfied or have been modified by this amended minor subdivision approval either expressly or by necessary implication, the Subject Property continues to be subject to

the conditions of the 2011 minor subdivision approval as they pertain to Lot 7.01.

BE IT FURTHER RESOLVED that this Resolution, adopted this 14<sup>th</sup> day of July, 2015, memorializes the action of the Board, as set forth above, taken at its meeting of June 8, 2015.

ROLL CALL: The result of the roll call was 7 to 0 as follows:  
In favor: Andrews, Bradley, Henry, Lichtenberger, Merkt, Sprandel, Kraft  
Opposed: None  
Abstentions: Cascais

The motion carried and the resolution was approved.

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**OTHER BUSINESS**

**Master Plan Amendment**

Mr. McGroarty outlined the draft Amendment to the Land Use element of the Master Plan establishing a Religious Campus category at the Sisters of Christian Charity site. Mr. Sprandel made a motion to move the Amendment forward and hold a public hearing at the September 14, 2015 Planning Board meeting. Councilman Andrews seconded the motion.

ROLL CALL: The result of the roll call was 8 to 0 as follows:  
In favor: Andrews, Bradley, Henry, Lichtenberger, Merkt, Sprandel, Cascais, Kraft  
Opposed: None  
Abstentions: None

**Draft Ordinance: Outdoor Dining**

The Board discussed numerous items of content and language toward preparation of a revised draft.

Mr. Cascais agreed to prepare the Final Draft Ordinance for discussion at the next Planning Board meeting on August 10, 2015.

**PUBLIC COMMENT**

Mr. Charles Topping stated that he was against the outdoor dining ordinance and that it devalued the quality of Mendham Borough and its historical character.

**TRC UPDATE**

With no pending applications on the calendar, the TRC meeting scheduled for July 20, 2015 was cancelled.

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**ADJOURNMENT**

There being no additional business to come before the Board, Chair Kraft adjourned the meeting at 9:45pm. The next regular scheduled meeting of the Planning Board will be held on **Monday, August 10, 2015 at 8:00PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

*Carolyn Mazucco*

Carolyn Mazucco  
Board Secretary