

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
JANUARY 11, 2016**

Garabrant Center, 4 Wilson Street, Mendham, NJ

CALL TO ORDER

The regular and reorganization meeting of the Mendham Borough Planning Board was called to order by Mr. Kraft 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 – Absent
Administrator Merkt – Present

Mr. Kraft - Present
Mr. Cascais – Absent
Councilman Badal – Present
Mr. Sprandel – Absent

Alternates:

Mr. Kay, Alternate I – Present

Also Present:

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

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2016 REORGANIZATION

Slate of Officers/Technical Review Committee

Election of Chair: A nomination was made for Mr. Kraft as Chair by Mr. Cascais. There being no additional nominations, on motion made and seconded, a single ballot was cast for Mr. Kraft as Chair.

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

In favor: Badal, Bradley, Henry, Kay, Merkt, Cascais, Kraft
Opposed: None
Abstentions: None

The motion carried and Mr. Kraft was elected Chair.

Election of Vice-Chair: A nomination was made for Mr. Cascais as Vice Chair by Mr. Bradley. There being no additional nominations, on motion made and seconded, a single ballot was cast for Mr. Cascais as Vice Chair.

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

In favor: Badal, Bradley, Henry, Kay, Merkt, Cascais, Kraft
Opposed: None
Abstentions: none

The motion carried and Mr. Cascais was elected Vice Chair.

Appointment of Secretary: A nomination was made for Ms. Mazzucco as Board Secretary. On motion made, seconded and passed on voice vote, Ms. Mazzucco was appointed Board Secretary.

Technical Review Committee (TRC): A nomination was made for Mr. Bradley as Chair of the Technical Review Committee. Mr. Cascais, Ms. Lichtenberger and Mr. Sprandel agreed to serve as regular members. Administrator Merkt will serve as first alternate and Mr. Kraft as second alternate.

RESOLUTIONS

Planning Board Meeting Dates: In the meeting packet, Board Members received a copy of a resolution listing proposed meeting dates for 2016. Mr. Cascais motioned to change the start time from 8pm to 7:30pm, which Mr. Kay seconded, and on a voice vote the motion passed.

**BOROUGH OF MENDHAM
PLANNING BOARD**

RESOLUTION

BE IT RESOLVED that the Planning Board of the Borough of Mendham will meet to discuss or act upon public business at 7:30pm prevailing time on each of the dates set forth below, at the Garabrant Center, 4 Wilson Street, Mendham, NJ:

- Monday, February 8, 2016
- Monday, March 14
- Monday, April 11
- Monday, May 9
- Monday, June 13
- Monday, July 11
- Monday, August 8
- Monday, September 12
- Tuesday, October 11**
- Monday, November 14
- Monday, December 12
- Monday, January 9, 2017

BE IT FURTHER RESOLVED that notice of any additions to the above schedule or change in the time, date or place of any scheduled meeting will be

posted on the bulletin board in the Phoenix House and delivered to the official newspapers in advance as required by law.

With respect to matters presented to this Board by applicants, the public shall be heard during the hearing on the application in accordance with the procedure as established by the Municipal Land Use Law.

TRC Meeting Dates: In the meeting packet, Board Members received a copy of a resolution listing proposed meeting dates for 2016.

**BOROUGH OF MENDHAM
PLANNING BOARD**

RESOLUTION

BE IT RESOLVED that the Technical Review Committee of Planning Board of the Borough of Mendham will meet to discuss or act upon public business at 9:00AM prevailing time on each of the dates set forth below, at the Phoenix House, 2 West Main Street, Mendham, NJ:

- Monday, January 18, 2016
- Tuesday**, February 16
- Monday, March 21
- Monday, April 18
- Monday, May 16
- Monday, June 20
- Monday, July 18
- Monday, August 15
- Monday, September 19
- Monday, October 17
- Monday, November 21
- Monday, December 19

BE IT FURTHER RESOLVED that notice of any additions to the above schedule or change in the time, date or place of any scheduled meeting will be posted on the bulletin board in the Phoenix House and delivered to the official newspapers in advance as required by law.

With respect to matters presented to this Board by applicants, the public shall be heard during the hearing on the application in accordance with the procedure as established by the Municipal Land Use Law.

Official Newspapers: In the meeting packet, Board Members received a copy of a resolution listing proposed meeting dates for 2016.

**BOROUGH OF MENDHAM
PLANNING BOARD**

OFFICIAL NEWSPAPERS

NOTICE IS HEREBY GIVEN that at its January 11, 2016 reorganization meeting the Planning Board of the Borough of Mendham approved the following resolution:

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975 known as and hereinafter designated as the "Open Public Meetings Act" aforesaid, the Planning Board of the Borough of Mendham hereby makes the following designations:

1. The *Observer Tribune* and the *Daily Record* having been designated by the Governing Body as the two official newspapers to receive notice of meetings required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings. Notices required by the New Jersey Municipal Land Use Law or the Borough's Land Use Regulations may be placed, as required by law, in either of the designated newspapers.

2. The location for posting of notices of meetings shall be the bulletin board in the Phoenix House, 2 West Main Street, Mendham, NJ, where notices of this kind are normally posted.

3. The sum of \$12.00 per year is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 13 of the Open Public Meetings Act.

Appointment of Board Attorney: The following resolution, distributed in the meeting packet, was introduced:

**BOROUGH OF MENDHAM
PLANNING BOARD**

RESOLUTION

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Board Attorney services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Peter E. Henry, Esq., of the firm McElroy, Deutsch, Mulvaney & Carpenter, LLP, has submitted a proposal indicating that he may provide legal services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Peter E. Henry, Esq., of the firm McElroy, Deutsch, Mulvaney & Carpenter, LLP, has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Peter E. Henry, Esq. of the firm McElroy, Deutsch, Mulvaney & Carpenter, LLP; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Peter E. Henry, Esq. of the firm McElroy, Deutsch, Mulvaney & Carpenter, LLP, to serve as Board Attorney for the year 2015 at a total annual cost not to exceed [\$15,000],

such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2016: and escrows as required for 2016; and

2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

5. This Resolution shall take effect as provided herein.

Appointment of Planner: The following resolution, distributed in the meeting packet, was introduced:

**BOROUGH OF MENDHAM
PLANNING BOARD**

RESOLUTION

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Planning Consultant services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Banisch Associates, Inc has submitted a proposal indicating that they may provide planning services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Banisch Associates, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any

reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Banish Associates, Inc.; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Charles T. McGroarty, PP/AICP of the firm Banisch Associates, Inc. to serve as Planning Consultant for 2016, at a total cost not to exceed [\$10,000] such sums may be duly appropriated for the purposes in the duly adopted municipal budget for 2016; and escrows as required, and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

6. This Resolution shall take effect as provided herein.

Appointment of Consulting Engineer: The following resolution, distributed in the meeting packet, was introduced:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

PLANNING BOARD

RESOLUTION

WHEREAS, the Planning Board of the Borough of Mendham has a need to acquire professional Consulting Engineer services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has submitted a proposal indicating that they may provide engineering services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Paul W. Ferriero has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Planning Board of the Borough of Mendham wishes to retain Paul W. Ferriero; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mendham as follows:

1. That the Planning Board of the Borough of Mendham retain Paul W. Ferriero PE & PP of the firm Ferriero Engineering Incorporated to serve as Consulting Engineer for 2016, at a total annual cost not to exceed [\$5,000] such sum as duly appropriated for the purposes in the duly adopted municipal budget for 2016; and escrows as required for 2016; and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Planning Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

7. This Resolution shall take effect as provided herein.

MINUTES

There were two modifications suggested. Mr. Cascais, not Mr. Kraft, chaired the November 9, 2015 meeting. Mr. Henry recommended adding “with conditions as outline by Council” on the motions to approve both the Kings and Roxiticus Golf Club, Inc. applications.

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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 – Completeness review

PB # 15-15 Sisters of Christian Charity 350 Bernardsville Rd, Block 2301, Lot 13
Preliminary and Final Site Plan

Present: Mr. Ed Buzak, Esq., Attorney for Applicant

The Planning Board recommended that we receive any and all information that is being sent Morris County Planning Board and the DEP. Mr. Quamme expressed that there are no open items and the application is complete with waivers.

RESOLUTIONS

PB # 10-15 Kings Supermarket 84-88 East Main Street, Block 801, Lot 20
Amended Site Plan Reivew

Mayor Henry made a motion to approve the draft resolution and Mr. Kay seconded the motion.

ROLL CALL: The result of the roll call was 5 to 0 as follows:
In favor: Bradley, Henry, Kay, Merkt, Kraft
Opposed: None
Abstentions: Badal and Cascais

The motion carried. Following is the resolution.

MENDHAM BOROUGH PLANNING BOARD

RESOLUTION

**AMENDMENT TO SITE PLAN APPROVAL
FOR KINGS SUPERMARKETS, INC.
84-88 EAST MAIN STREET
BLOCK 801, LOT 20**

WHEREAS, Kings Supermarkets, Inc. (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for an amendment to the existing Mendham Village Shopping Center site plan and to the amendment previously granted to Applicant all in order to permit the replacement of the vestibule entrance to the Kings Supermarket on property located at 84-88 East Main Street, designated Block 801, Lot 20 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, Applicant previously received approval for an amendment to the Village Shopping Center Site Plan to permit changes to the front entrance and related areas on the Kings Supermarket building, replacement of the façade sign on the building, replacement of the “Kings” panel on the monument sign, and the addition of an outdoor staircase along the northwesterly side wall of the supermarket building, all as described in a memorializing resolution adopted by this Board on September 9, 2013, memorializing the action of the Board taken at its regular meeting on August 12, 2013; and

WHEREAS, certain portions of the approved project (namely, the replacement of the façade sign on the supermarket building and the replacement of the “Kings” panel on the monument sign) have been completed, Applicant has decided not to proceed with the balance of the changes approved in 2013. Rather, Applicant now seeks to amend that approval to permit the replacement of the existing vestibule entrance with a new vestibule structure at the same location; and

WHEREAS a public hearing was held on December 14, 2015, during which hearing Applicant’s architect testified, 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 architect, the argument of Applicant’s counsel, the report received from the Borough Engineer, 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 a tenant, occupying one of the separate buildings (the Kings Supermarket) at the Mendham Village Shopping Center located at 84-88 East Main Street, designated Block 801, Lot 20 on the Tax Map of the Borough of Mendham. The Subject Property is located in the East Business Zone and is within the Main Street corridor.
2. The owner of the Subject Property, V-Fee Realty Investment, LLC, has consented to the filing and prosecution of this Application.
3. The Board reviewed the checklist waivers for completeness requested by Applicant. Due to the nature of the Application, and its lack of involvement of any portion of the Shopping Center other than the vestibule area on the supermarket building, and such waivers being recommended by the Borough Engineer and the Technical Review Committee, waivers for completeness were granted with respect to checklist items 11, 12, 16, 26, 29, 30, 31, 34, 37, 43, 46, 47, 48, 52, 54 and 55.
4. Applicant now seeks to amend the site plan approval previously obtained, such that it can replace the existing entry vestibule, rather than engage in the redesign of the entire front façade and entrance area of the supermarket building. Applicant proposes to replace the existing approximately 10 foot by approximately 12 foot vestibule at the same location and at the same footprint size. The structural design of the vestibule is to be changed, with glass running up to the building

fascia, rather than curving over the top of the vestibule in the present “greenhouse” style.

5. Applicant submitted a Site Plan and a Front Elevations and Details & Section (2 sheets) prepared by DeBarbieri Architects, dated July 21, 2015, entitled “Kings Food Market Vestibule Modification” (hereinafter the “Plans”).

6. Applicant’s architect testified that, in addition to the present vestibule being outdated, the glass was fogging and unattractive after years in place.

7. Applicant’s architect also testified that the present vestibule structure is not energy efficient, since the “greenhouse” portion is single pane glass. Although the existing stone façade bulkhead of the vestibule structure will be retained at the base, the height of the glazed portion will extend to the fascia of the existing building and be comprised of insulated glass. This will significantly improve the energy efficiency of the vestibule structure. In addition, it will produce an aesthetic improvement, more complimentary to the general façade of the supermarket building and an improved visual appearance for the Shopping Center. Finally, Applicant’s architect testified that the proposed vestibule structure will be sprinklered for purposes of fire safety.

8. The Board noted that the proposed replacement of the existing vestibule structure had been submitted to, and approved by, the Morris County Planning Board.

9. No variances, design standard exceptions, or other relief from compliance with the Borough’s Ordinances are required in connection with this Application.

10. There were no comments from members of the public.

11. Based upon all of the foregoing, the Board determined that this amendment to the Site Plan with respect to the Kings Supermarket building on property known as 84-88 East Main Street (Tax Lot 20, Block 801) 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 proposed amendment to the Mendham Village Shopping Center site plan with regard to replacement of the existing vestibule entrance at the Kings Supermarket building, in accordance with the Plans submitted to the Board, and the testimony presented at the hearing on December 14, 2015, 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 for the construction, installation or operation of the proposed improvements on the Subject Property.
2. All taxes and other municipal charges shall be paid and current through the fourth quarter 2015. Applicant shall also pay all application and escrow fees and any other fees required in connection with completion of this Application or this project.
3. The conditions of this Applicant's prior approval (August 12, 2013, memorialized September 9, 2013), as well as conditions previously imposed on the general site plan approval for the Mendham Village Shopping Center, except as modified herein or fully satisfied, shall continue in full force and effect.

BE IT FURTHER RESOLVED that this Resolution, adopted this 11th day of January, 2016, memorializes the action of the Board, as set forth above, taken at its regular meeting of December 14, 2015.

OTHER DISCUSSION ITEMS

Fair Share Housing Plans

Mr. McGroarty discussed the revised April 4, 2016 deadline to submit an affordable housing plan to the State. Mr. McGroarty presented the current challenge of meeting the deadline as COAH (Council On Affordable Housing) is no longer viable. Mendham Borough has joined a consortium with 200 other municipalities using the e-Consult calculation Mendham Borough's units dedicated to affordable housing.

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ADJOURNMENT

There being no additional business to come before the Board, Chair Kraft adjourned the meeting at 8:52pm. The next regular scheduled meeting of the Planning Board will be held on **Monday, February 8, 2016 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

Carolyn Mazucco

Carolyn Mazucco
Board Secretary