

**MINUTES OF THE
REORGANIZATION AND REGULAR MEETING
MENDHAM BOROUGH PLANNING BOARD
JANUARY 9, 2017**

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 7:30PM 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 14, 2016 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. Kraft - Present
Mr. Bradley – Present	Mr. Cascais – Present
Ms. Lichtenberger – Absent	Councilman Sharkey – Present
Administrator Merkt – Present	Mr. Sprandel – Absent

Alternates:	Mr. Kay, Alternate I – Present
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Also Present:	Mr. Henry, Esquire Mr. McGroarty, Planner
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**2017 REORGANIZATION
Slate of Officers/Technical Review Committee**

Election of Chair: A nomination was made for Mr. Kraft as Chair by Mayor Henry. There being no additional nominations, on motion made and seconded by Mr. Bradley, 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:	Bradley, Cascais, Henry, Kay, Kraft, Merkt, Sharkey
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 Mayor Henry. There being no additional nominations, on motion made and seconded by Mr. Bradley, 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: Bradley, Cascais, Henry, Kay, Kraft, Merkt, Sharkey
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 by Mr. Bradley. On motion made and seconded by Mr. Kay, Ms. Mazzucco was appointed Board Secretary on voice vote.

Technical Review Committee (TRC): Mr. Bradley was appointed as Chair of the Technical Review Committee by Chairman Kraft. 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.

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RESOLUTIONS

Planning Board Meeting Dates: In the meeting packet, Board Members received a copy of a resolution listing proposed meeting dates for 2017.

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 13, 2017
Monday, March 13
Monday, April 10
Monday, May 8
Monday, June 12
Monday, July 10
Monday, August 7
Monday, September 11
Tuesday, October 10
Monday, November 13
Monday, December 11
Monday, January 8, 2018

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 2017.

**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 16, 2017
- Tuesday, February 21**
- Monday, March 20
- Monday, April 17
- Monday, May 15
- Monday, June 19
- Monday, July 17
- Monday, August 14
- Monday, September 18
- Monday, October 16
- Monday, November 20
- Monday, December 18

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 2017.

**BOROUGH OF MENDHAM
PLANNING BOARD**

OFFICIAL NEWSPAPERS

BE IT RESOLVED by the Planning Board of the Borough of Mendham, Morris County, New Jersey as follows:

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 2017 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 2017 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 2017: and escrows as required for 2017; 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 2017 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 2017, 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 2017; 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 2017 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 2017, 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 2017; and escrows as required for 2017; 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.

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MINUTES

Mayor Henry made a motion to approve the minutes of the regular meeting of November 14, 2016 and Mr. Bradley seconded. On a voice vote the minutes were approved.

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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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RESOLUTIONS

PB # 9-16 Wells Fargo Bank, N.A. 86 East Main St
BL 801, Lot 20 SPW – Lighting Replacement

Mr. Kraft asked for comments on the draft resolution, and Mr. Henry mentioned that the date of memorialization needed to be changed to January 9, 2017. Mr. Bradley made a motion to approve the draft resolution and Mayor Henry 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: Sharkey and Cascais

The motion carried. Following is the resolution.

MENDHAM BOROUGH PLANNING BOARD

RESOLUTION

**GRANTING SITE PLAN WAIVER TO
WELLS FARGO BANK, N.A.
APPLICATION PB#9-16**

Planning Board
86 EAST MAIN STREET, BLOCK 801, LOT 20

WHEREAS, Wells Fargo Bank, N.A. (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for site plan waiver with respect to lighting changes on property located at 86 East Main Street and designated Block 801, Lot 20 on the Mendham Borough Tax Map (the “Subject Property”); and

WHEREAS, a public hearing was held by the Board on November 14, 2016, at which time the Board reviewed the Application materials filed, heard testimony from an engineering witness on behalf of Applicant, heard legal argument from counsel for the Applicant, reviewed reports from and heard recommendations from their consultants, and gave the public an opportunity to be heard; and

WHEREAS, the Board, having heard and considered all of the foregoing, 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 lessee on the Subject Property (the Mendham Village Shopping Center) located at 86 East Main Street and designated Block 801, Lot 20 on the Mendham Borough Tax Map. The Subject Property fronts on East Main Street and is located in the East Business Zone District and within the Main Street Corridor. Applicant occupies the bank building located in the southwesterly front corner of the Subject Property.
2. Applicant proposes to replace the existing mounted exterior lighting fixtures with new LED lighting fixtures and lamps in order to comply with the new safety and security lighting requirements of N.J.S.A. 17:16 K-10 relating to exterior ATMs.

3. Applicant presented lighting plans prepared by Dynamic Engineering (3 sheets) dated May 31, 2016 and revised November 1, 2016. These included an overall “Lighting Plan” and 2 sheets of “Lighting Details” (hereinafter together the “Lighting Plans”).
4. The Board first considered and granted waivers from checklist requirements for “completeness” with respect to checklist items 9, 10, 15, 27, and 41. Though granting the “completeness” waiver as to item 10 relating to a copy of the Morris County Planning Board Application, it was noted that Applicant would have to obtain an approval or an exemption or waiver from the Morris County Planning Board and deliver a letter from the Morris County Planning Board reflecting its action. In the event the Morris County Planning Board takes action subject to any required conditions, Applicant will have to satisfy those conditions.
5. Applicant indicated on the Plans and through testimony that the existing Wells Fargo Bank and drive through had an outside ATM at the southeasterly corner of the bank facility. The proposal related to upgrading the canopy and wall lighting along the drive thru lane and ATM facility, replacing 13 canopy lights and one wall fixture with 10 LED canopy lights and one wall fixture.
6. Consistent with the discussion held by Applicant with the Board’s Technical Review Committee, the selection of fixtures for the canopy was changed to flush mounted fixtures with flat lenses. This will minimize any potential glare from the canopy lighting since there will be no part of the lamp or lens extending below the surface of the canopy itself.
7. Applicant’s engineer indicated that, aside from the exchange of canopy and wall fixtures, there were no proposed changes in lighting on the bank facility and there would not be any changes of pole lighting on the shopping center property.

8. Applicant's engineer confirmed that the design and nature of the proposed lighting, as well as the physical location of the bank facility on the Shopping Center property, assured that the light levels from the proposed LED installation, though satisfying the State's requirements for ATM safety and security, would not exceed the light levels permitted at the property line under the Borough's ordinance standards.

9. Applicant's engineer opined that there would be no effect on neighboring properties from the proposed change of lighting, because of the location of the lighting on the building, the design and installation of the proposed lighting fixtures, and the distances from the lighting installations to the property lines, and this notwithstanding the requirement for the lighting to be on from dusk until dawn in accordance with the State statute relating to ATM security and safety.

10. Site plan approval or a site plan waiver is required in connection with the proposed change of lighting fixtures on the Applicant's banking facility. However, it appeared that there were no variances or design waivers required.

11. Based upon all of the foregoing, the Board concluded that, with appropriate conditions, a waiver of the requirement for any further formal site plan application could be granted.

BE IT FURTHER RESOLVED that, the Application of Wells Fargo Bank, N.A. for a site plan waiver with respect to the replacement of canopy and wall fixtures with new LED lamps and fixtures, as depicted in the Lighting Plans, on property located at 86 East Main Street and designated Block 801, Lot 20, be and hereby is approved and granted, subject to the following:

1. Applicant shall obtain all other approvals and permits required from any municipal, county, state or federal board, body or agency having jurisdiction over the Subject Property and/or the project.
2. All taxes, municipal charges, escrows and fees shall be paid and current.
3. Site work, construction/installation, and operation shall be in accordance with the Application materials submitted to the Board, as well as the testimony adduced at the hearing, the Board's findings and conclusions, and the conditions of approval set forth in this Resolution.
4. Following installation of the new LED lighting fixtures, a post-installation night light inspection shall be conducted by the Borough Engineer to confirm compliance with the requirements of this approval.

BE IT FURTHER RESOLVED that this Resolution, adopted this 9th day of January, 2017, memorializes the action taken by the Board as set forth above, at its regular meeting on November 14, 2016.

OTHER DISCUSSION ITEMS

Chairman Kraft mentioned that next week's TRC meeting was cancelled. Mayor Henry asked about a Planning Board liaison to the Environmental Commission and Mr. Cascais agreed to continue in that position. Mayor Henry also mentioned that there are two vacancies on the Board, and asked Board members to consider making recommendations. Discussion continued about the possibility of a Dunkin Donuts application at the old Mariques location at 25 East Main Street.

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ADJOURNMENT

There being no additional business to come before the Board, Chairman Kraft adjourned the meeting at 7:50pm. The next regular scheduled meeting of the Planning Board will be held on **Monday, February 13, 2017 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

Carolyn Mazucco

Carolyn Mazucco
Board Secretary