

**MINUTES OF THE  
MENDHAM BOROUGH PLANNING BOARD  
MAY 9, 2016**

**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 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, Arrived at 7:46pm  
Mr. Bradley – Present  
Ms. Lichtenberger – Present  
Administrator Merkt – Present

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

Alternates: Mr. Kay, Alternate I – Present

Also Present: Mr. Quamme, Engineer  
Mr. Henry, Esquire

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**MINUTES**

Mr. Kay made a motion to approve the minutes of the regular meeting of April 11, 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 # 15-15 Sisters of Christian Charity** 350 Bernardsville Rd, Block 2301, Lot 13  
Preliminary and Final Site Plan with Variances

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

Mr. Henry mentioned that there was a typographical error on page 15, removing the word "to" in condition number 28, 5<sup>th</sup> line from the bottom. He also addressed Mr. Newmark's letter to the Planning Board dated May 5, 2016. Mr. Newmark, the attorney for the abutting property at 10 Cromwell Lane, requested that Note 17, requiring the Applicant to replace any of the required Landscape Buffer if destroyed, be added to the Draft Resolution. Mr. Henry suggested additional language be added at the end of condition #5. The same language would be sited as Note 14 on Landscape Plan L-300.

Mr. Henry also addressed a request from the Applicant's counsel to start site work on the property without the Treatment Works Approval from NJDEP, as it is expected to take a long time. The Applicant agreed to post a site restoration bond in the event that the project doesn't proceed as approved. They also agreed that building would not commence until approval is granted. Mr. Henry suggested language addressing their request as part of the Developers Agreement and the Resolution.

After a brief discussion, Ms. Lichtenberger made a motion to approve the modified Draft Resolution, and Mr. Kay seconded.

ROLL CALL: The result of the roll call was 6 to 0 as follows:  
In favor: Bradley, Kay, Lichtenberger, Merkt, Sprandel, Kraft  
Opposed: None  
Abstentions: None

The motion carried. Following is the Resolution.

**MENDHAM BOROUGH PLANNING BOARD**

**RESOLUTION**

**GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL  
WITH VARIANCE RELIEF AND DESIGN STANDARD EXCEPTIONS  
FOR SISTERS OF CHRISTIAN CHARITY  
BLOCK 2301, LOT 13  
APPLICATION NUMBER #15-15**

WHEREAS, The Society of the Sisters of Christian Charity of New Jersey ("Applicant") has applied to the Planning Board of the Borough of Mendham (the "Board") for Preliminary and Final Site Plan approval with variance relief and design standard exceptions with respect to the construction of a new Motherhouse

on the property located at 350 Bernardsville Road and designated Block 2301, Lot 13 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, the Application was found to be “complete” at a Board meeting on January 16, 2016, and then a public hearing was commenced on February 8, 2016, continued on March 14, 2016, and concluded on April 11, 2016, during which public hearing representatives of the Applicant testified as to the intent, design, purpose and proposed execution of the project; the Board reviewed the documents and materials filed by Applicant, Exhibits were presented by Applicant’s witnesses and neighbors’ witnesses, arguments were advanced by counsel, and members of the public and the Board’s professionals were given an opportunity to comment on the Application; and

WHEREAS, the Board has considered the Applicant’s submissions for the requested Site Plan approval, variance relief and design standard exceptions, including testimony and Exhibits presented on behalf of the Applicant, the comments of members of the public and testimony and Exhibits presented on behalf of certain neighboring property owners, and the comments of the Board’s consultants;

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 350 Bernardsville Road (Tax Map Block 2301, Lot 13) in the Borough of Mendham.
2. Applicant proposes the construction of a new Motherhouse on the Subject Property, which construction would be accompanied by modifications to the

existing on-site driveway network, parking facilities, landscaping, lighting, and other ancillary equipment, structures and facilities.

3. The Subject Property is located in the 5-Acre Residence and Religious Campus Zone District. It comprises a tract of approximately 112 acres, presently improved with the existing Motherhouse for the North American Eastern Province of the Sisters of Christian Charity (the residential hub of the Order), the Villa Pauline (principally a retreat facility) and several accessory structures providing for equipment, storage, garage facilities and a limited number of residential occupancies (which include a three bedroom cottage and four apartment units). The Sisters of Christian Charity have occupied the Subject Property for almost 90 years. The proposed construction of a new Motherhouse reflects the Order's need to consolidate its membership at one location and, in that connection, the need for a more modern and functional facility.
4. In the course of the hearing, various plans and revisions were presented to the Board. The latest revisions of the following plans and plan sets were submitted:
  - A. "Preliminary and Final Site Plans for Sisters of Christian Charity, Block 2301, Lot 13, Borough of Mendham, Morris County, New Jersey" (17 sheets), prepared by Omland Engineering Associates, Inc., dated October 22, 2015 and revised through March 16, 2016 (sheets C-04, -05, -12 and -13 being originally dated March 22, 2016), hereinafter the "Engineering Plans".
  - B. Architectural plans (13 sheets) prepared by Perkins Eastman, as follows:
    - Sheet L-201 "Material Plan", dated Nov. 13, 2015, revised 3/16/16
    - Sheet L-300 "Overall Planting Plan", dated Nov. 13, 2015, revised 3/16/16

Sheet L-301 “Planting Enlargements”, dated Nov. 13, 2015

Sheet L-501 “Site Furnishings”, Nov. 13, 2015, revised 3/16/16

Sheet L-502 “Paving Details”, Nov. 13, 2015

Sheet L-503 “Planting Details”, Nov. 13, 2015

Sheet Z-100 “Lower Level Floor Plan”, dated Dec. 4, 2015, revised 3/16/16

Sheet Z-101 “First Floor Plan”, dated Dec. 4, 2015, revised 12/30/15

Sheet Z-102 “Second Floor Plan”, dated Dec. 4, 2015, revised 12/30/15

Sheet Z-103 “Roof Plan”, dated Dec. 4, 2015, revised 3/16/16

Sheet Z-200 “Overall Building Elevations”, dated Aug. 7, 2015, revised 3/16/16

Sheet Z-201 “Enlarged Exterior Elevations”, dated Aug. 7, 2015

Sheet Z-300 “Site Sections”, dated Dec. 4, 2015, revised 3/16/16

together, hereinafter the “Architectural Plans”.

5. The proposed construction and development of the new Motherhouse and related facilities is consistent with and compliant with the Borough’s Zoning Ordinance provision for a Religious Campus as a permitted use on a tract of at least 80 acres, located in the 5-Acre Residential and Religious Campus Zone District and having continuous road frontage of at least 1,000 feet. The proposed new Motherhouse satisfies the applicable district regulations with regard to setbacks, building heights, building coverage, impervious coverage, and residential density.
6. In connection with the proposed construction of the new Motherhouse, Applicant acknowledged it would have to provide for new water supply and new sewage disposal system. This would entail commitments from the supplier of the public

water service, as well as permits and a new Treatment Works Approval from NJDEP. Applicant advised that it was working out the necessary arrangements with the private supplier of water servicing the area where the Subject Property is located and was engaged in processing the necessary changes to the Waste Water Management Plan, the design and approval of a new sewage disposal system, the processing of required NJDEP permits, and the issuance of a new Treatment Works Approval. Completion of these processes to the satisfaction of the Borough of Mendham would be conditions of approval of the proposed construction and development of the Subject Property.

7. In addition to the Preliminary and Final Major Site Plan Approval sought by Applicant, certain variances would have to be granted to reflect a requirement of the Morris County Planning Board regarding road widening easements and/or title dedications along both Bernardsville Road, Hilltop Road, and at the intersection with Pleasant Valley Road. The result of the grants and/or dedications to the county would reduce the already-non-conforming setbacks of accessory buildings along the frontage of Hilltop Road and a pump house on the frontage of Bernardsville Road. Similarly, the buildings and structures would continue to be non-conforming as to their locations within designated "front yard" areas. Neither the buildings nor structures are being relocated, but the effective setback is being decreased by approximately 8.25 feet. In addition, certain design standard exceptions are requested. Applicant proposes 9 foot by 18 foot parking stall sizes (relative to the 10 foot by 20 foot standard size required) and certain driveway widths in the on-site network below those normally required by the

design standards applicable to Site Plan approval. Applicant also requests that the Board determine the appropriately required number of parking spaces for the new facility (there being no applicable standard for this use in the Ordinance), and determine that the proposed number of parking spaces is adequate. Finally, the Applicant requests that the Board find that the proposed tree removal, under the circumstances of this property and this project, does not constitute an “excessive” removal and, therefore, does not trigger the Tree Replacement Ordinance.

Alternatively, should the Board determine that the proposed tree removal is “excessive”, Applicant requests a waiver of the Tree Replacement requirements regarding the absolute number of trees to be planted and the minimum caliper standard.

8. Applicant’s site engineer testified with respect to the proposed layout of the new building and its ancillary facilities. The Board accepts his uncontested testimony that the various accessory buildings and structures on the Subject Property (including the building known as the “Hermitage”, the “cottage”, and the related garages and barns, including their residential apartments) are all within the Ordinance-required 400 foot front yard setback relative to Hilltop Road.

Similarly, the pump house located along the frontage on Bernardsville Road is within the required 400 foot front yard setback area. All of these buildings and structures are presently within designated “front yards” of the Subject Property and will continue to be in their respective “front yards” under the proposed new site development plan. Their dimensional setbacks from the respective roads will be reduced by approximately 8.25 feet as a result of the dedication required by

Morris County for future road-widening purposes. Further, Applicant's site engineer testified that although the two water courses on the Subject Property were both designated "Category 1" waterways, thus creating 300 foot deep Riparian Zones, they were unaffected by any of the proposed development or construction on the Subject Property. He testified that there were no activities impacting the Riparian Zones and that all activities are outside all regulated areas.

9. A "T-1" NJPDES Permit is presently in place with respect to the Subject Property. It permits the existing flow on the site from the Motherhouse, Villa Pauline and other structures. An amended NJPDES Permit is being sought and processed. It is anticipated to be issued with a sewage disposal gallonage maximum of not more than 16,000 gallons per day (exclusive of accessory residence and service structures) in the near future. This must be consistent with the already amended Waste Water Management Plan and a new Treatment Works Approval to be obtained.
10. The proposed new Motherhouse would serve, as has the existing Motherhouse, as the residential hub of the Order, but would be a larger and modernized facility to house the consolidated population from the Pennsylvania facility (being phased out) and the Mendham facilities. The structure is designed to provide for 120 residents' rooms, two visitor rooms, a chapel, multi-purpose room, parking garage, common sitting and eating areas, food preparation, administrative offices, and other incidental ancillary functions, all as shown on the Floor Plans and Architectural Plans presented to the Board.



11. In connection with the proposed new Motherhouse, Applicant proposes to provide 74 new 9 foot by 18 parking spaces (61 surface spaces and 13 within a garage area in the building), which includes four handicap accessible spaces (two surface spaces and two in the enclosed garage). Additional parking, already in place on the Subject Property, will continue to be available for use as necessary. The proposed space dimensions are consistent with New Jersey's Residential Site Improvement Standards. Though RSIS does not literally apply to this proposed development, the Motherhouse is essentially a "residential" facility. In addition, 9 foot by 18 foot spaces are consistent with those in the existing parking lot on the Subject Property which were installed approximately 15 years ago and have proved adequate for use on this site. Since there is no parking standard set forth in the Borough's Ordinances for this specific use, the applicable Ordinance provides that the Board shall make a determination regarding sufficiency of parking relative to the nature of the use involved.
12. The Board heard testimony concerning the number of vehicles which are routinely used by Applicant's personnel, the uses and events on the Subject Property which generate vehicular movements and activity onto the site, within the site, and departing the site, as well as historic actual use and anticipated use subsequent to completion of the new Motherhouse and the resulting cessation of active use of the existing Motherhouse. As a result of this testimony, together with the traffic report submitted by Applicant's engineers, the Board concluded that the proposed new parking spaces, together with the existing parking spaces which would remain on the Subject Property, constituted an adequate number of

parking spaces. Furthermore, the Board concluded that 9 foot by 18 foot spaces were adequately sized for the nature of the use which would be anticipated going forward following the conclusion of the construction and development of the Subject Property.

- 13.** Aside from the variances relating to existing accessory buildings and structures, and the two design standard exceptions relating to parking stall size and driveway widths, the proposed new Motherhouse and related development comply with all zone district regulations and all design standards for site planning set forth in the respective Ordinances of the Borough of Mendham. The proposed new Motherhouse, in addition to satisfying the required rear/side setback minimums, would be located at a distance of at least 700 feet from the nearest residential structures on properties abutting the Subject Property.
- 14.** The Board explored with Applicant's witnesses the question of applicability of the Borough's Tree Removal Ordinance. Applicant's witnesses estimated that the Subject Property presently has in excess of 1,000 trees and that there are as many as 235 trees of 8 inch diameter or greater in the area where the new Motherhouse would be constructed. Applicant proposes to establish a limit of disturbance, within which 98 trees would be removed. This is less than 10% of the trees on the site at the present time. In connection with the construction or subsequent to its completion, Applicant proposes to plant 197 trees, approximately 25% of which will be at a height of 20 to 25 feet at the time of planting. Applicant's witnesses urged the Board to determine that under the circumstances of this project and the affected property, as well as the expanse of remaining trees on the site, that the

removal of 98 trees would not constitute an “excessive number of trees”, such that the Tree Removal and Replacement Ordinance would be triggered. Applicant’s witnesses also pointed out that their landscape plan provided for the planting of almost as many trees as would be required for replacement, even if the Ordinance were to be applied.

15. As the hearing was continued, Applicant’s site engineer advised the Board that the Waste Water Management Plan had now been amended to include all areas where buildings will be occupied, though excluding from the Subject Property any steep slope areas or other environmentally sensitive areas. Applicant is presently prosecuting an application with the NJDEP for a new NJPDES permit. Only the new Motherhouse and the Villa Pauline will be connected to the new disposal field (with pre-treatment) under the new Treatment Works Approval, which will be sought after the new NJPDES draft permit issues. Applicant’s site engineer indicated that all of the materials submitted to NJDEP with respect to these permits and the treatment works approval process have been furnished to the Borough Engineer and as any further materials are submitted, they will be furnished at the same time to the Borough Engineer.
16. Applicant’s site engineer also testified that the Applicant will be submitting revised materials to the Morris County Planning Board to satisfy that Board’s requirements. All materials submitted to the Morris County Planning Board will be simultaneously furnished to the Borough Engineer.
17. Applicant’s witnesses advise that their present plan for the future use of the existing Motherhouse is not at all defined. They are hopeful that at some point in

the future they will be able to make a use which will allow them to preserve and conserve the building itself, but for the foreseeable future, they intend to put it to no active use. The cellular antennas in the cupola and the telecommunications equipment cabinets in the building will remain and continue to function. Beyond this, it is possible that portions of the building will be used for storage. However, there will be no active occupancy of the existing Motherhouse unless and until a future Application is made and approval obtained. The building will continue to be maintained and is not being abandoned at this time.

18. Applicant's Site Engineer agreed with the Board that the Applicant would comply with all comments in the Borough Engineer's review letter of January 29, 2016. Prior to the continued hearing on April 11, 2016, revised Plans were submitted which addressed many of the Borough Engineer's January 29 comments. The Borough Engineer issued an updated review letter dated April 11, 2016 which reflected the modified scope of his comments as a result of the Plan revisions made by Applicant.
19. Applicant's architect described the concept, purpose, and design of the proposed new Motherhouse. This would serve as the new residential hub of the Order. It would be a more "livable" building than the existing Motherhouse with reduced corridor lengths, shorter walking distances between functional areas and a physical layout which would facilitate access to the chapel and other principal communal features. He went on to describe the earth tone matte (non-reflective) finish of the building's exterior siding. He also indicated that the residents' rooms would not have ceiling fixtures and that each room would have a window

equipped with blinds or shades. Indoor garage parking at grade would be provided for approximately half the Order's on-site vehicle fleet, and all compactors, trash, recycling and similar containers would be inside the building. These various design features would not only benefit those residing in or using the building, but would reduce the impacts of occupancy and use of the building on its immediate surroundings and its neighboring properties.

20. At the March 14 continued hearing, Applicant's architect displayed a Sight Line Exhibit in response to a request made by the Board at the February hearing. The Exhibit indicated there was not a visibility issue regarding roof top mechanical units from off-site locations. Limited visibility of certain roof top units would exist internally on the site.
21. The Board was also informed, and the fact demonstrated by an Exhibit graphically depicting the location of points used around the proposed building location to determine "average height", as that term is used in the district standards. Based on the average grade determined by those points, the defined building height is approximately 36.5 feet, with no specific height point exceeding 40 feet (let alone approaching or exceeding the 45 foot permitted maximum).
22. On the subject of signs, Applicant's architect testified that, except for possible on-site directional signs, no new signs were being proposed at this time. Applicant acknowledged that any future signage which might be proposed would have to be submitted for required site plan approvals and permitting.

23. Applicant's architect addressed building mounted lighting. There will be no up lighting of the building facades; but individual down-facing light fixtures will be located at each exit door (typically at a height of approximately 6.5 feet) in accordance with applicable code requirements.
24. Applicant's architect also explained that the construction of the new Motherhouse would involve environmentally positive materials and systems. Although Applicant does not anticipate seeking or obtaining actual LEED certification, the design, materials, systems and construction will follow the LEED guidelines.
25. Operations and activities in the new Motherhouse, based on the testimony of Applicant's representatives, will include an on-going training program for those seeking to become Sisters (the Sisters hope to be training ten candidates at a time). In addition, the leadership for the North American Eastern Province will be residents of the Motherhouse and will have their offices located in the Motherhouse. From this location, they will manage not only the activities on the Subject Property, but also activities at other locations and off-site ministries. In addition, they will manage the operation of the Order's college (now physically located in Denville, New Jersey), the activities of those Sisters who work as teachers and administrators in schools, as well as those who work with parishes and dioceses. Finally, the senior Sisters, presently residing in Danville, Pennsylvania, will relocate to the Motherhouse in Mendham. The Order's Retreat Ministry, presently operated from the existing Motherhouse, will be relocated to the Villa Pauline. There will be four (or perhaps as many as six) Sisters residing at the Villa Pauline. It is anticipated that two of the Sisters will oversee and

administer the Retreat Ministry, involving day programs during the week and weekend programs with an average of 9 to 12 persons for any of the day programs and an average of 24 persons for any of the 32 weekend programs per year.

Generally, the numbers of people involved in the Retreat Ministry will be fewer than the potential of 44 retreat guest beds in the Villa Pauline. Even if the number rises to that maximum, however, and even if the retreat guests were to be counted for purposes of the maximum density calculation, these individuals together with the Sisters living in the Villa Pauline, the ten on-site staff members, the maximum of 120 residents in the Motherhouse, and the two Motherhouse guest rooms being occupied, would still be fewer than the potential maximum density of 195 persons (calculated based on the 112 acres being devoted presently to the Religious Campus use). Because there is no specific plan going forward with regard to use of the existing Motherhouse, it will be shuttered and simply maintained. Apart from the telecommunications equipment inside the building, it may be used for storage purposes.

26. Applicant's landscape architect reviewed the Landscape Plan and the Overall Planting Plan with respect to tree removal, as well as new trees and shrubs and landscape material to be planted/installed on the Subject Property in connection with the proposed new Motherhouse and development. His Exhibits also depicted the two retaining walls proposed to be installed in the area where the new sewage disposal field will be located. The two walls, each approximately four feet high, are now proposed to be faced with a stone veneer. This will be more attractive than the originally-proposed textured concrete blocks, and will be more in

keeping with the stone wall surrounding the Subject Property along Hilltop Road (including in the vicinity where the retaining walls will be located). Based on the Landscape and Planting Plans, there will be 160 new trees planted around the proposed new building and 37 additional trees planted within the courtyards between the residential wings of that building. This will result in a total of 197 new trees being planted, 46 of which are depicted to be evergreens 20 to 25 feet in height at planting.

27. The Landscape and Planting Plans, including the Planting Notes set forth on the Overall Planting Plan, brought the Board to a discussion of the need for appropriate screening and buffer plantings, as well as issues relating to Borough enforcement of conditions of approval relating to such plantings. To a significant extent, the Planting Notes reflected specific provisions of a private agreement between the Applicant and neighboring property owners. Some of the neighboring property owners offered expert testimony opining on the impact of the proposed project, the potential effect on the neighbors' property value, the need for extensive buffer plantings and screening to eliminate those impacts, and the reflection of those concerns in the private agreement.

28. A lengthy discussion took place between and among the Board members, their consultants, the neighbors' counsel, and others to flesh out the extent to which the Board thought that plantings and other screening devices could be appropriately required as Site Plan elements and conditions of approval, sufficient to reasonably mitigate any negative impacts on surrounding properties, while imposing conditions which could be rationally and reasonably evaluated and enforced by



the various responsible Borough officials. The result of the Board's discussion and exploration of this subject was a conclusion that the plantings depicted on the Landscape Plan and the Planting Plan should be installed, as well as the solid fence depicted along the border of the proposed new parking to shield the neighboring properties from vehicular movements and headlight glare created by vehicles maneuvering in the parking lot at night. Two (2) additional trees should be planted to better screen the 8-foot post light at the rear corner of the building. The Board concluded, however, that a number of the Planting Notes should be revised, reflecting the Board's determination that the depicted plantings appeared to constitute reasonable and sufficient mitigation of any negative visual impact of the proposed development, but deleting the specific language of Planting Notes number 13 -17, inclusive (on the March 16, 2016 revision of the Overall Planting Plan, sheet L-300 of the Architectural Plans), and replacing those notes with language reflecting the Board's determination.

29. Applicant's landscape architect also described for the Board and the Board accepts as appropriate for this site development that the only building mounted lights will be those at the doorways (required safety lighting per applicable codes), that there will be pole mounted lights, as depicted, at the new parking lot (16 feet in height), along the circular drive (12 feet in height), and at the rear of the building area along that portion of the Subject Property which would serve as an emergency egress route (8 feet in height). All fixtures are to be LED lights of a shoebox type (as to 16 foot lights) and as depicted in the fixture detail provided for the 12 foot and 8 foot height lights. The emergency access route lights along

the rear of the building area will be tied into the facility's emergency lighting system, in order that they come on only when needed for emergency egress. The parking lot lights and front drive lights will generally be on in the evening (not later than 11:00 p.m.), though they may be specifically turned on at any time during the night when late night or early morning traffic (arrivals or departures) is anticipated. Finally, the low bollard lights depicted along the walkways will be on motion sensors and the uplighting of small trees and shrubs will be on timers to be extinguished no later than 11:00 p.m.

30. After discussion between and among the Applicant's site engineer, the Borough engineer, Applicant's counsel and Board members, water supply issues were clarified as follows: (a) the new public water supply into the site will, at least initially, serve the proposed new Motherhouse and the Villa Pauline, and (b) the existing well which presently serves the present Motherhouse will continue to supply water to that building.
31. Applicant's planner gave uncontested testimony in support of the variances, design standard exceptions, and related site plan element issues. He pointed out that the only variances required were those for existing structures in their present locations on the Subject Property. Each of the accessory structures involved is located in a designated front yard along Hilltop Road or Bernardsville Road. The technical variance relief required, aside from "front yard" location, involves the increased front setback non-conformities (relative to the 400 foot Ordinance requirement) resulting from the requirement of the Morris County Planning Board that Applicant grant road widening easements along the length of both the Hilltop

Road and Bernardsville Road frontages, inclusive of the corner intersection with Pleasant Valley Road. Morris County has agreed that, at least initially, it will accept an easement for possible future road widening, but that some or all of the road widening dedications may have to convert to fee title grants. The non-conforming setbacks resulting from the relocation of the edge of the defined county road right of way are as follows:

- (a) The Hermitage at 15 feet from Hilltop Road;
- (b) The garage/barn behind the Hermitage at 70 feet from Hilltop Road and 290 feet from the Pleasant Valley Road intersection;
- (c) The garage to the east of the garage/barn (including its residential unit) at 245 feet from Hilltop Road;
- (d) Cottage at 110 feet from Hilltop Road;
- (e) Garage next to cottage at 123 feet from Hilltop Road;
- (f) Pump house at 386 feet from Bernardsville Road.

32. Applicant's planner continued that the described variance relief could be granted under either "c(1)" due to the exceptional and ordinary situation (the county taking) and the fact that the structures are not being built or relocated – they are all existing structures at existing locations. He also opined that they could be justified as "c(2)" variances based on the public benefits from the dedication of the potential road-widening area which facilitates the possibility of conforming road width at a future date. He also opined that the purposes of zoning and planning set forth in the Municipal Land Use Law were being advanced in connection with the promotion of public health, safety and the general welfare, the provision for potential county right-of-way widening, and the provision of a

variety of both public and private uses. In his opinion, under the “c(2)” analysis these planning benefits substantially outweigh the potential detriments, there being little impact on adjoining neighbors, no deprivation of light, air or open space, no adverse impact to the Master Plan or Zone Plan of the Borough, and result in development for a permitted use consistent with the Borough’s Master Plan. These latter conclusions were also offered as proof that the negative criteria for variance relief are being satisfied in this instance.

33. The design standard exceptions relating to parking space dimensions were also supported by Applicant’s planner in his uncontroverted testimony. He pointed out that the proposed 9 foot by 18 foot spaces are a basic state wide standard under the Residential Site Improvement Standards for residential uses. Though this proposed development is not technically governed by RSIS, it is essentially a residential building and, therefore, will generate the same sorts of traffic that one could say are deemed adequately served by 9 foot by 18 foot spaces. Further, Applicant’s experience with 9 foot by 18 foot spaces on site is that they have worked perfectly well. The ability to be able to develop with less paved area will minimize site disturbance, minimize lot coverage, and provide adequate parking and circulation area for the relatively limited vehicular use and circulation anticipated with this use. Though it would clearly be possible to put 10 foot by 20 foot spaces in a parking area on this Subject Property, the benefits of reduced pavement are desirable and support the granting of design waivers. Similarly, he argued that the same rationale applies to the granting of the design standard exception for driveway widths, citing the testimony offered that the existing

driveway network has been functioning for years and is entirely adequate for the level of traffic associated with this site and its present uses.

34. Though Applicant's planner also testified concerning the justification for a design standard exception as to possible Tree Replacement Ordinance requirements, the Board's determination that the proposed tree removal did not constitute an "excessive" removal rendered that waiver issue moot.
35. Apart from the earlier-mentioned discussions involving neighbors, their representatives and expert witnesses, and their counsel regarding buffers and visual screening matters, other public comments were principally questions which seemed to be satisfactorily answered, or comments supportive of the Application.
36. Applicant agreed, with regard to the buffer plantings and visual screening, that subsequent to installation in accordance with the Landscape Planting Plan, an evaluation (with prior notice to the abutting owners) would be made by the Borough Engineer of the efficacy relative to the northerly properties adjoining the Subject Property. This evaluation will be conducted both in daylight (as to the structure itself), and after dark, as to the impact of various types of illumination in the new Motherhouse and/or serving its ancillary facilities. Applicant will plant additional trees and/or provide other forms of visual screening satisfactory to the Borough Engineer if it is determined by the Borough Engineer that potential impacts have not been reasonably mitigated, taking into account short term normal growth rates for plant material previously existing or installed on the Subject Property for this purpose.

37. Based upon all of the foregoing, the Board concluded that Applicant had satisfied the requirements relating to design and layout of the proposed Site Plan and, thus, that the Site Plan approval sought, together with setback and front yard location variances for existing structures, as well as design standard exceptions for parking stall dimensions and driveway widths as shown on the Engineering Plans and/or the Architectural Plans and as described above, could, with appropriate conditions, be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mendham that, based upon the foregoing, the Application of the Society of the Sisters of Charity of New Jersey for preliminary and final major site plan approval, together with variances to permit the existing accessory structures to remain as located in the “front yard” areas along Hilltop Road and Bernardsville Road, and at non-conforming front yard setbacks as detailed in Finding No. 31, above, and to permit design standard exceptions for 9 foot by 18 foot parking stalls in the proposed new parking lot and retention of the existing driveway network, notwithstanding certain portions fail to meet the minimum width requirements set forth in the Borough’s design standards, on property located at 350 Bernardsville Road and designated Block 2301, Lot 13 on the Tax Map of the Borough of Mendham, all as depicted on the Engineering Plans and/or Architectural Plans referenced above (as these Plans are to be revised to conform

to the conditions of approval), be and hereby are approved and granted, subject to the following:

1. Applicant shall comply with all applicable regulations and obtain all licenses, permits, and other approvals which may be required for the project which is the subject matter of this Application, whether from any municipal, county, state or federal board, body or agency having jurisdiction over the Subject Property or the project.

2. Any and all taxes and other municipal charges shall be paid and current through the second quarter 2016. 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.

3. Construction and operations of the new Motherhouse and its related facilities, as well as operations of other buildings and facilities on the Subject Property, shall be in accordance with the testimony adduced at the public hearing on this Application, the findings and conclusions of the Board as set forth in this Resolution, and the conditions of approval set forth herein.

4. Applicant shall be responsible for any required Affordable Housing obligations or Affordable Housing fees or payments resulting from the construction approved herein. The Borough Attorney shall determine the applicable requirements, if any, to satisfy this condition.

5. Plan revisions to the satisfaction of the Borough Engineer shall be made in accordance with the April 11, 2016 comment letter from the Borough Engineer, as well as revisions to graphic depictions, text and Plan Notes relating

to Landscape and Planting Plans, including deletion of “Planting Notes” 13 to 17, inclusive, from the Overall Planting Plan (Sheet L-300), and parallel revisions shall be made to any graphics or language on other Plan documents. Those plantings identified and designated as “buffer plantings” (on the “Overall Planting Plan” – Sheet L-300) and installed to provide screening between the proposed Motherhouse and Cromwell Lane shall be subject to a continuing obligation of Applicant and its successors in interest to maintain the buffer plantings shown on the Plan and to replace dead or damaged trees as necessary in accordance with the planting schedule on the plans. A new Note 14 shall be added to the Planting Notes on Sheet L-300 stating this obligation.

6. With regard to the buffer plantings and visual screening, subsequent to installation in accordance with the Landscape Planting Plan, an evaluation (with prior notice to the abutting owners) will be made by the Borough Engineer as to the efficacy relative to the northerly properties adjoining the Subject Property. This evaluation will be conducted both in daylight (as to the structure itself), and after dark, as to the impact of various types of illumination in the new Motherhouse and/or serving its ancillary facilities. Applicant will plant additional trees and/or provide other forms of visual screening satisfactory to the Borough Engineer if it is determined by the Borough Engineer that potential impacts have not been reasonably mitigated, taking into account short term normal growth rates for plant material previously existing or installed on the Subject Property for this purpose.



7. Applicant shall comply with the Borough Planner's comments (1/29/16 memo) to the satisfaction of the Borough Planner.
8. Applicant shall comply with the Borough Engineer's comments (4/11/16 letter) to the satisfaction of the Borough Engineer, including but not limited to referenced conditions described therein.
9. Applicant shall comply with the Fire Official's comments (1/4/16 report) to the satisfaction of the Borough's Fire Official.
10. Applicant shall comply with the requirements of the Morris County Planning Board (1/19/16 letter, and as modified by 3/8/16 e-mail exchange) to the satisfaction of the Morris County Planning Board.
11. To the extent not modified expressly or by necessary implication, by this approval, the conditions of previously-granted approvals relating to this Property remain in full force and effect.
12. Applicant shall obtain completion and approvals/grants of amendments of the Waste Water Management Plan and a new NJPDES permit for maximum of 16,000 gallons per day total site volume (exclusive of accessory residence and service structures), and a new Treatment Works Approval.
13. Deliveries to the property are to be generally limited to Monday through Friday, 8:00 a.m. through 5:00 p.m.
14. Applicant shall comply with all NJDEP and Borough Ordinance requirements for Major Project Storm Water Management, including the provision of an Operations and Maintenance Manual. Compliance with the Storm Water Management Operations and Maintenance Manual shall be noted in a

property deed or otherwise made a matter of record in the Office of the Morris County Clerk.

15. Applicant shall deliver to the Borough Engineer all applications, requests and materials submitted to NJDEP, Morris County, or any other county, regional or state agency or body at the time of any such submission.

16. As to the new Motherhouse:

- (a) the individual bedrooms will not have ceiling light fixtures, and all bedroom windows will have blinds or shades;
- (b) there shall be no external up-lighting on the building;
- (c) all trash, recycling, compactors and containers will be inside the building; and
- (d) the building façade siding materials shall be matte finish (non-reflective) earth tone colors.

17. Given that traffic and parking analyses assumed no active use of the Malinckrodt Convent, once occupancy of the new Motherhouse begins, the existing Malinckrodt Convent will not be used for any active use without further application and approval by the Planning Board or other appropriate Approving Authority. [It is understood that the building may be used for certain storage purposes, will be maintained, and is not being abandoned at this time].

18. Other than on-site directional signs, no new signs shall be installed without approvals and/or permits, as required.

19. The new public water supply into the site will, at least initially, serve the proposed new Motherhouse and the Villa Pauline, and the existing well which presently serves the present Motherhouse will continue to supply water to

that building. Nothing in this approval shall preclude the running of public water to any structure currently being served by an on-site well.

20. Lighting shall be as described in Finding nos. 23 and 29.

21. For purposes of defining a condition of approval imposed by this Board, construction on the Subject Property, work on the improvements, and the use and operations of all facilities on the Subject Property shall be in accordance with the plans and materials furnished to the Board and receiving Board approval, the testimony presented at the hearing (not inclusive of those private agreement elements which have not been incorporated by the Board as conditions of approval), the findings and conclusions set forth in the Board's Resolution, and the conditions of approval set forth therein.

22. A recitation shall be placed on the Overall Planting Plan stating that: "A private written agreement has been entered into between the Applicant and certain neighbors on abutting property to the north (at the end of the Cromwell Lane cul-de-sac), the terms of which, notwithstanding any expression or suggestion to the contrary in the Planning Board's Resolution, will not be subject to enforcement by the Borough of Mendham beyond those coincident conditions of approval expressly set forth by the Board in this May 9, 2016 "Memorializing Resolution."

23. Prior to any site work being commenced, the site plans must be signed by the Board, all required inspection fees and bonds must be posted, and a pre-construction meeting shall be held in accordance with the requirements of the Borough Engineer

24. Conditions numbers 1, 2 (to current), 4 (if applicable), 5, 7, 8, 9, 10, 12, 14 (the Manual), 20 (as to Plans), and 22 shall be satisfied prior to the signing of the Site Plan documents by the Board and the Borough Engineer.

25. Subject to concurrence and agreement by the governing body (the Borough Council), and subject to such additional conditions as may be imposed by the governing body, and only once the Applicant's application to the NJDEP for a Treatment Works Approval consistent with the sewage disposal system proposed for this project has been deemed "complete" by the NJDEP, the actual receipt of the said Treatment Works Approval from the NJDEP shall be excepted from the requirements of Conditions Nos. 1 and 12 relative to satisfaction prior to the signing of the Site Plan documents by the Board and the Borough Engineer (as listed in Condition No. 24), but only to permit the Applicant to proceed with site work (no building) and in compliance with a developer's agreement which provides, among other things, the following:

1. They post a site restoration bond to provide for the unlikely event that the project doesn't otherwise proceed as approved.
2. Applicant acknowledges in writing that they are proceeding in this fashion at their sole risk.
3. Applicant can do only site work (no building) once the TWA is deemed complete by the DEP (and all other approvals are in place).
4. If Applicant wants to start the building, there needs to be a conference call between their engineer, the DEP and the Borough Engineer to check on the status of the application review – no earlier than 4 weeks from the start of site work. If the DEP indicates to the satisfaction of the Borough Engineer that there is sufficient progress in the review and they do not see any impediments, Applicant may go back to the governing body to get a release on the footings and foundations only.

In the event the said Treatment Works Approval is not obtained by Applicant from the NJDEP, the Subject Property shall be restored to the extent practicable.

BE IT FURTHER RESOLVED that this Resolution adopted this 9<sup>th</sup> day of May, 2016, memorializes the action of the Board as set forth above, taken at its regular meeting on April 11, 2016.

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**ADJOURNMENT**

There being no additional business to come before the Board, Chair Kraft adjourned the meeting at 10:44pm. The next regular scheduled meeting of the Planning Board will be held on **Monday, June 13, 2016 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

*Carolyn Mazucco*

Carolyn Mazucco  
Board Secretary