

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
September 12, 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
Mr. Bradley – Present
Ms. Lichtenberger – Present
Administrator Merkt – Present

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

Alternates: Mr. Kay, Alternate I – Present

Also Present:
Mr. Henry, Esquire
Mr. McGroarty, Planner (Arrived 7:45pm)

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MINUTES

Mayor Henry made a motion to approve the amended minutes of the regular meeting of August 8, 2016 and Mr. Kay 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 # 3-16 44 Prentice Lane, LLC 44 Prentice Lane, Block 2101, Lot 1.03
Minor Subdivision with Variance

Mr. Kraft asked for comments on the draft resolution, and Mr. Henry made a suggestion to amend the language on page 5, paragraph 1, and page 7, numbers 13 and 16. Ms. Lichtenberger made a motion to approve the application, and Mr. Sprandel seconded.

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

The motion carried. The memorialized resolution follows.

MENDHAM BOROUGH PLANNING BOARD

RESOLUTION

**GRANTING MINOR SUBDIVISION APPROVAL
WITH VARIANCE RELIEF
FOR 44 PRENTICE LANE, LLC
BLOCK 2101, LOT 1.03
APPLICATION NUMBER PB#3-16**

WHEREAS, 44 Prentice Lane, LLC (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for Minor Subdivision approval with variance relief with respect to property located at 44 Prentice Lane and designated Block 2101, Lot 1.03 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, a hearing was held by the Board on August 8, 2016 at its regular public meeting, at which time Applicant’s site engineer/planner testified as to the intent and purpose of the subdivision, the Board reviewed the documents and materials filed by Applicant, 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 Subdivision approval and variance relief, including testimony and Exhibits presented on

behalf of the Applicant, and 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 the owner of the Subject Property located at 44 Prentice Lane (Tax Map Block 2101, Lot 1.03) in the Borough of Mendham.
2. Applicant wishes to subdivide the Subject Property into two lots, one being an undeveloped frontage lot (Proposed Lot 1.11), and the remainder being a flag lot to the rear (Remainder Lot 1.03), presently developed with a single family dwelling, driveways and walkways, and accessory structures and amenities.
3. Applicant sought several waivers from checklist requirements for purposes of "completeness" with respect to items 29, 30, 36, 51, 52, and 53. The Board granted the completeness waivers and proceeded with the public hearing on the merits of the Application.
4. The Subject Property is located in the 5-Acre Residential Zoning District. It is presently developed with a single family residence set back over 700 feet from the front property line along Prentice Lane, together with driveways, walkways, accessory structures and amenities. Applicant wishes to subdivide the property in such a way as to create a new frontage lot of conforming lot area, leaving a flag lot to the rear as the remainder. Both the proposed new frontage lot and the remainder flag lot to the rear will be fully conforming except for a variance requested to permit the first approximately 200 feet of the existing southerly driveway to remain and be utilized as the access drive for the new frontage lot (a variance being required due to its existing location within the 40 foot side yard setback along

the southerly side of the proposed lot). The balance of an existing long “U” shaped driveway is proposed to be removed, except for that portion constituting the northerly driveway entrance which would be extended entirely within the flagstaff portion of the rear lot to be utilized for access to the existing dwelling on that Remainder. These features and the proposed driveway modifications are depicted on the Minor Subdivision Plan dated June 10, 2016, revised July 28, 2016, prepared by Gladstone Design, Inc., and submitted as sheet 3 of 5 in the Plan set referenced below.

5. Applicant submitted a Plan set for the proposed subdivision of the Subject Property prepared by Gladstone Design, Inc., dated June 10, 2016 and revised July 28, 2016 (5 sheets). These were reviewed by the Board in the course of the public hearing and are hereinafter referred to as the “Plans”.

6. With the proposed modification of the driveways on the Subject Property, the northerly drive would serve only the rear remainder lot and the southerly drive would serve only the proposed frontage lot. In response to an issue which had been raised by the Borough’s Fire Official, regarding adequate clearance for emergency vehicles, Applicant agreed that both driveways would be cleared of brush and overhanging trees, cut or removed sufficiently and maintained to a clear width of at least 15 feet and a height clear of obstructions of at least 15 feet from the driveway surface.

7. Applicant’s engineer/planner testified that the development patterns in the vicinity of the Subject Property were predominantly 1-acre lots in the proximate 1-Acre zone and 5-acre lots in the 5-Acre zone where the Subject Property is located. Most lots are comprised of fields and wooded areas, along with landscaped areas. The subdivision would create two lots, each of which would be in keeping with this development pattern. Except for the

technical requirement for variance relief for the continued use of the existing southerly driveway segment, both lots would be conforming to the bulk requirements in the zone district.

8. Applicant's engineer/planner testified that, in addition to the fact that the southerly driveway is already in place, and that only a portion would be retained for purposes of access to the frontage lot, that the approach reflected in the proposed modification and use of driveways would result in a reduction in impervious surface, less impact on the Subject Property and its environs, and a maintenance of the existing streetscape.

9. Applicant's engineer/planner testified that, although the proposed subdivision and development plan would avoid the need for any cross easements for access, an easement would be created across the proposed frontage lot for the gas line serving the remainder rear lot. In addition, Applicant proposes to install a new water line on the flagstaff for the rear lot, eliminating the need for an easement for water service to the remainder flag lot.

10. Applicant submitted a revised letter from Environmental Technologies, Inc. regarding wetlands on the property and its surrounding area. The conclusion of Applicant's environmental scientist was that there were no wetlands on the Subject Property, nor was the Subject Property affected by any transition areas related to off-site wetlands. [Exhibit A-3]

11. Applicant also submitted [Exhibit A-4] a letter dated June 21, 2016 from the Health Department confirming that soils testing had been successfully accomplished showing that individual septic disposal could be accomplished on site.

12. The Board reviewed the Borough Engineer's August 3, 2016 comment letter with Applicant's engineer/planner, who agreed that Applicant could and would comply with the Borough Engineer's comments and recommendations.

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

14. Based upon the foregoing, the Board concluded that, under the circumstances of this case, variance relief for the continued use of the initial portion of the southerly driveway, notwithstanding its existing location within the side yard setback area of the proposed frontage lot, could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

15. As a result of all of the foregoing, the Board concluded that minor subdivision approval, as detailed above, as well as the necessary variance relief for the planned modification and use of on-site driveways, could, with appropriate conditions, be granted to Applicant.

BE IT FURTHER RESOLVED that for the reasons set forth above, the Application of 44 Prentice Lane, LLC for minor subdivision approval, together with a variance for the continued use of the initial approximately 200 feet of the southerly driveway, as well as a curved extension into the permitted area on proposed Lot 1.11 to serve the dwelling to be constructed thereon, all as depicted in the Plans referenced above, with regard to property located at 44 Prentice Lane and designated Block 2101, Lot 1.03 on the Tax Map of the Borough of Mendham, be and hereby are approved and granted, subject to the following:

1. Applicant shall comply with all applicable regulations and obtain all required 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. All open taxes, as well as municipal charges, application and escrow fees, and funding of sufficient escrow to cover unbilled work to the completion of this Application and project shall be paid by Applicant.

3. All site work and construction are to 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 comply with Affordable Housing requirements, if any, resulting from the approvals granted herein.

5. Applicant shall confirm with the Borough's Tax Assessor the correct Lot numbers for the Lots created by this subdivision.

6. Plan Revisions, Plan Notes, and other document revisions detailed in the August 3, 2016 comment letter from the Borough Engineer, shall be made by Applicant.

7. Applicant shall comply with all of the comments and recommendations set forth in the August 3, 2016 letter from the Borough Engineer with regard to this Application.

8. Any work which Applicant may propose to do within the public right-of-way shall be coordinated with the Borough Engineer as to cost estimates, bonding, other performance assurances, and the content of a Developer's Agreement, if required by the Borough.

9. Both driveways (northerly and southerly, serving the rear flag lot and the new frontage lot, respectively) shall be cleared, and clearance shall be maintained, for emergency vehicle access to a clear width of at least 15 feet and a clear height of at least 15 feet.

10. Applicant shall prepare a Subdivision Deed reflecting the approved minor subdivision. It shall contain appropriate Deed recitals with respect to the transfer of title into Applicant, meets and bounds descriptions of the two lots being created (referencing the last revised

Plans, after their approval by the Borough Engineer), and shall provide a recital regarding the dates of approval and of this memorializing Resolution and that the Subject Property is subject to conditions as set forth in this Resolution. After review and approval of the form and content of the Subdivision Deed by the Planning Board Attorney and the Borough Engineer, and conclusion of the required compliance items, the Subdivision Deed shall be endorsed by the Planning Board and Applicant shall thereafter record the Deed in the office of the Morris County Clerk and furnish a copy of the recorded document (with its recording information) to the Planning Board. The Subdivision Deed shall be recorded and copies delivered as required by the Municipal Land Use Law to perfect the minor subdivision.

11. A final lot grading/development plan with its landscape plan and with final stormwater design shall be submitted to the Borough Engineer and approved prior to construction permits being issued.

12. Soil testing must be completed to the satisfaction of the Borough Engineer in areas of the proposed bio-retention system and the proposed drywells.

13. Prior to the issuance of any Construction Permit, stability calculations satisfactory to the Borough Engineer must be provided with respect to the discharge point of the proposed bio-retention system.

14. Applicant shall comply with applicable Storm Water Management requirements, including the submission to the Borough Engineer of a satisfactory Operations and Maintenance Manual, which Manual and ongoing maintenance obligations shall be referenced in the Subdivision Deed.

15. Applicant shall relocate water and/or other utility lines to the flag staff of the proposed remainder rear lot, or impose easements across the frontage lot, as necessary, for the provision of such utilities and services to the rear lot.

16. Conditions numbers 1, 2 (to current), 5, 6, 7 (as applicable), 10 (as to documents), 12 and 14 (as to the reference required in the Subdivision Deed) shall be satisfied prior to the endorsement of the Subdivision Deed by the Planning Board.

BE IT FURTHER RESOLVED that this Resolution, adopted this 12th day of September, 2016, memorializes the action of the Board as set forth above, taken at its regular meeting on August 8, 2016.

OTHER ITEMS – MASTER PLAN REEXAMINATION

Mr. McGroarty delivered an overview of the draft Master Plan Reexamination Report. The Board consensus was to hold a public hearing at the next regularly scheduled Planning Board meeting on Tuesday, October 11, 2016.

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ADJOURNMENT

There being no additional business to come before the Board, Mayor Henry made a motion to adjourn the meeting and Mr. Bradley seconded. On a voice vote the meeting adjourned at 8:43pm. The next regular scheduled meeting of the Planning Board and the public hearing on the Master Plan Reexamination Report will be held on **Tuesday, October 11, 2016 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

Carolyn Mazucco

Carolyn Mazucco
Board Secretary