**MINUTES OF THE**

**REGULAR MEETING**

**MENDHAM BOROUGH PLANNING BOARD**

**October 9, 2018**

**Garabrant Center, 4 Wilson Street, Mendham, NJ**

**CALL TO ORDER**

The regular meeting of the Mendham Borough Planning Board was called to order by Chairman 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 the Daily Record and was posted on the municipal 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 the required fee.

**ATTENDANCE**

Mr. Bradley – Present

Mr. Cascais – Present

Mr. Kay – Present

Councilman Sharkey – Present

Chairman Kraft – Present

Administrator Bushman – Absent

Mayor Henry – Present

Ms. Lichtenberger – Present

Mr. Sprandel – Present

Alternates: Ms. Masse, Alternate I – Present

**Also Present:**

Ms. Jessica Caldwell, Borough Planner

Mr. Richard “Rusty” Schommer, Borough Conflict Engineer

Mr. Peter Henry, Planning Board Attorney

Mr. Harold Maltz, Traffic Engineer

Ms. Kimberly Coward, Acting Board Secretary

**MINUTES**

August 13, 2018 – Regular Meeting

Mr. Henry noted that there are a few minor typographic comments that he would pass on to the board secretary. Chairman Kraft noted that he had the same changes and that those would be made. On a motion by Mr. Bradley, seconded by Mr. Sharkey and a majority voice vote, the minutes were approved as written.

**PUBLIC COMMENT**

No members of the public stepped forward to comment at this time.

**APPLICATIONS**

**PB# 2-18 Aryan at Mendham, LLC**

25 East Main Street

Block 1501, Lot 11

Preliminary & Final Site Plan, bulk variance (parking) for Mixed Use development (Dunkin Donuts & 2 apartments)

Chairman Kraft explained that this is a formal meeting and explained the Planning Board process and meeting decorum.

Mr. Sposaro appeared and noted that the application has been re-noticed for all the variances that are being sought.

Attorney Henry noted that the announcement has been re-noticed because the September meeting was cancelled and there was no way to carry the next meeting.

Jay Delaney objector’s attorney was present.

David Fantina, Professional Engineer was sworn and accepted by the board. He noted that he would be explaining the parking on revised sheet 3 of site plan September 12, 2018. He reviewed for the board the revised plans. He explained to the board the banked spaces. There are 28 parking spaces proposed and 13 parking spaces are being banked. He noted that the banked spaces would not be constructed. He noted that a fire truck would be able to traverse the site. The 63% area is being proposed to be disturbed with the banked parking spaces and 48% will be disturbed without the banked parking spaces where 65% is allowed.

Mr. Sposaro questioned how the lighting plan relates to the previous plan that was submitted.

Mr. Fantina noted that the lights will have house size shields. There will be diming switch on the lighting. The adjustment could be making easily for each light.

Chairman Kraft asked about lighting controls.

Mr. Henry questioned what is being agreed to.

Mr. Fantina noted that it is there are independent dimmer controls on each light.

Attorney Sposaro questioned #7 in Mr. Schommer’s memo dated October 8, 2018.

Mr. Fantina noted that a waiver would be requested for that.

Mr. Sposaro questioned the reason for the waiver.

Mr. Fantina noted that the waiver would be due to the grade and the tightness of the property.

Mr. Sposaro noted that the applicant agreed with #8, 9, 10 and 11 agreed to those comments in Mr. Schommer’s memo.

Mr. Schommer questioned the lighting and if the independent controls and the diming would be able to change for checking the light spillage.

Mr. Fantina agreed to add the details to the plan.

Mr. Schommer questioned the freestanding sign.

Mr. Fantina noted that the architect will address the freestanding sign.

Mr. Schommer noted that #6 trees need to be located.

Mr. Fantina noted that the trees that remain could be located on the plan.

Mr. Schommer #7 questioned the side slopes along the edge.

Mr. Fantina noted that the maxi would be 2/1 slopes or a retaining wall would be added.

Mr. Sposaro noted he had no additional questions.

Chairman Kraft opened the meeting to the board. None heard.

Chairman Kraft opened the meeting to the public.

Leslie Payne resident appeared and decided to hold her comments for the end of the meeting.

Brian Riley resident questioned about the project would be doing order by photo.

Mr. Henry noted that at a previous meeting they testified that they would not be doing that.

Chairman Kraft closed the public portion of the meeting.

Brian Bosenberg, landscape architect was sworn and accepted by the board.

Mr. Sposaro questioned the landscape plan and if he had prepared it.

Mr. Bosenberg noted that he had prepared both landscape plans for the applicant. He marked and dated October 9, 2018 Exhibit A-8 plantings plan revised September 13, 2018 with the reduced the parking by banking parking spaces. There are shade trees added to the parking lot and extra screen around the dumpster area.

Mr. Sposaro questioned what has changed on the plans.

Mr. Bosenberg marked Exhibit A-9 and dated October 9, 2018 alterative plan with the revised date of September 13, 2018 plan and the existing woodland remains. There will be reduced parking area.

Mr. Sposaro questioned the review memo from Ms. Caldwell dated October 8, 2018.

Ms. Caldwell noted that the issues have been addressed.

Mr. Henry questioned the conditions in Ms. Caldwell’s memo comment regarding the both of the proposed apartments to be affordable units.

Mr. Sposaro noted that the planner would address in his testimony.

Mr. Sharkey questioned the spaces behind that building and that are needs to be cleaned up.

Mr. Bosenberg noted that there is some inherent public good to leaving some of the woods to be natural for the natural habitat for the animals. He noted that if the banked parking spaces need to be used that woods would be disturbed.

Mr. Sharkey questioned the cherry tree in the front of the site.

Mr. Bosenberg noted that applicant is willing to try and revitalize the tree and agreed to replant a like type if that one does not make it.

Chairman Kraft opened the meeting up to the board.

Mr. Delaney questioned if the board has a landscape architect on staff. He asked if the shade tree commission would review.

Chairman Kraft noted that Mr. Sharkey is on the shade tree commission.

Mr. Delaney questioned the banking spaces and the woodland area in the back.

Mr. Bosenberg noted that the woodland would be cleaned on the edges and let the woodland stay as it natural process.

Mr. Delaney questioned if the applicant would allow the shade tree commission to review every 2-5 years.

Mr. Sposaro noted that the applicant would be willing to follow the MLUL and post the bond as required for maintenance.

Mr. Schommer questioned the new landscape guarantee.

Mr. Bosenberg noted that there would be a two year guarantee for the plantings and the ongoing maintenance guarantee. He noted that the planting details show that the trees have all the wire baskets will be removed.

Mr. Schommer questioned if the two year guarantee is on the plantings.

Mr. Bosenberg noted that there is.

Mr. Delaney questioned the traditional plantings.

Mr. Bosenberg noted that the plantings are traditional plantings that would be local and ascetically pleasing and fitting to the area.

Chairman Kraft opened the meeting to the public.

Leslie Payne questioned if the environmental commission will review the plan.

Mr. Sposaro noted that they had generated a review plan on April 2, 2018.

Brian Riley questioned if there were any invasive plantings.

Mr. Bosenberg noted that there not an invasive planning count done on the rear woodland area as part of this project. There is not plan to remove any invasive plantings in the woodland that is not be disturbed.

Peggy Berg resident questioned the parking lot and snow removal.

Mr. Bosenberg showed on the plan the snow removal area on Exhibit A-8 and dated October 9, 2018.

Chairman Kraft closed that public portion of the meeting.

John McCormack, PE traffic engineer was sworn and would be filling in for Mr. Staiger for the evening. He was accepted by the board.

Mr. Sposaro questioned if the parking and the circulation is adequate on the site.

Mr. McCormack noted that this would plan would operate safety and appropriate. He addressed Mr. Maltz memo from October 2, 2018. He addressed the memo and agreed to #1. He agreed to #2, 3, 4, 5, 6 including the four parking spaces which should be better identified on the plan and added proposed to add pavement parking yellow lines. They agreed to a parking survey in a three or six months.

Mr. Maltz noted that there have been changes to the plan and now there are one third of the spaces are not for Dunkin Donuts. He noted that more parking should be provided in the first isle and he showed on the plan. It was where it says reserved for residents those should be changed to reduce the recirculation on Main Street if there are no spaces available.

Mr. McCormack agreed to the modifications.

Mr. Delaney asked for clarification.

There was a discussion about a possible one way circulation pattern.

Mr. Sposaro noted that the traffic pattern might be a concern.

Mr. McCormack noted that there might be an issue with the restriction of one way. He agreed that Mr. Maltz’s suggestion of moving the resident spaces to the backside of the isle would be helpful. He noted that at the peak times customers will recognize the parking situation and will go to the second isle.

Mr. Maltz noted that the one way circulation would not be favorable.

Mr. Schommer questioned if the rear most isle is one way.

Mr. Maltz noted that is correct. He suggested that the plans be revised.

Chairman Kraft questioned that the no right turn sign.

Mr. Maltz showed on the plan how the no right turn works on the plan.

Mr. McCormack noted that #7 regarding the no left turn the County would need to agree to the restriction of the no left turn.

Mr. Henry clarified the no left turn.

Mr. Maltz noted that the restriction of the no left turn, if a left is not allowed they would make turns in driveways and it was decided not to add the restriction.

Mr. McCormack agreed to the East Main Street and Orchard Street flashing pedestrian crossing LED sign.

Mr. Sposaro had no additional questions.

Mr. Delaney questioned the no left turn suggestion.

Mr. McCormack noted that the left turn is an enforcement issue.

Mr. Sprandel questioned if there should be banked parking should be constructed.

Mr. McCormack noted that the applicant would know right away that the parking is not enough. There would be signs that people are waiting and not enough spaces were available in the busy times.

Chairman Kraft questioned what would be the trigger to allow for a study or parking banking review.

Mr. Maltz suggestion 3 months or 6 months review or if it is observed that there is a peck demand that is not being met with the banked parking. If it is found that the parking is being filled up he suggested that if it is found that there is not enough spaces then all of the banked space should be construction.

Mr. Delaney questioned the no left turn sign be looked at in the traffic study for the banked parking spaces study.

Chairman Kraft opened to the board.

Mr. Bradley noted that not all eight members were not in agreement to add the no left turn condition.

Chairman Kraft opened the meeting up to the public.

Katie David resident asked about the traffic impact study and traffic crossing counts on the front sideway in front of the driveways.

Mr. McCormack noted that he was not at the prior meeting.

Mr. Sposaro reviewed Mr. Staiger previous memo.

Mr. Maltz read Mr. Staiger’s memo to the board which stated that there 26 pedestrians during the am peak hour between 8-9 am and there will be 35 pedestrians during the pm peak hour between 2:45-3:45pm hour passing the proposed driveway areas was identified in Mr. Staiger’s report. He noted that there was a condition agreed to add a LED crossing at Orchard Street and East Main Street.

Leslie Payne noted that she has questions for the board.

Chairman Kraft clarified the meeting rules and that this was time for questioning of the witness.

Peggy Berg resident asked about the traffic at the firehouse driveways.

Mr. McCormack noted that the traffic study addressed the driveways.

Chairman Kraft explained how to go forward.

Attorney Henry explained that if this was a use variance then a traffic study could be done on a non-permitted use variance request. This is a permitted use.

Mr. Bradley questioned if all the permitted uses could not be required to do a traffic study. This is a permitted use.

Ms. Berg asked about the traffic.

Attorney Henry noted that maybe the traffic may need to be reviewed but that is not required by this applicant since this is permitted use.

Chairman Kraft noted that the master plan would have to look at the traffic.

Mr. Delaney noted that the ordinances could be changed in the future not in the middle of the application. He suggested that she could go to the council to suggest they look at the traffic in the area.

Ms. Berg questioned the lines for turning radius and stop line near the fire house

Mr. McCormack noted that the traffic area does noted show a sign that reads do not block the area.

Ms. Berg noted she was in favor of the left turn restriction.

Mr. McCormack noted that a driver would have to have a courtesy gap to let them out. He felt that this would be traffic gaps and it would function.

Brian Reilly resident noted that he rents garage space and he noted that the gapping function would be filled by Dunkin Donuts visitors.

Mr. McCormack noted that the red light up stream creates the gap.

Ms. Dunn 131 Hardscrabble Road questioned the left turn restriction.

Mr. McCormack noted that the roadway is under the restriction of the county. He recommended no left turns.

Ms. Dunn questioned the turn restriction.

Mr. McCormack noted that he felt that the site would operate without the turn restriction.

Ms. Payne questioned if the left hand turn restriction would make the site unsafe.

Mr. McCormack noted that he felt that it could make it unsafe. It makes cars to make a turn somewhere to get where they want to go.

Chairman Kraft closed the public portion of the meeting.

Mr. Sposaro called Mr. Patel previous sworn.

Mr. Patel noted that he spoke to waste management regarding garbage pickup. He noted that he noted that pick up would only be during hours of operation. He noted that if there was an issue the waste management would be flexible.

Attorney Henry questioned the flexibility of the waste management by Mr. Patel’s request.

Mr. Patel noted that it would be based on his request.

Mr. Sposaro questioned the times.

Mr. Patel noted that the trash is collected between 5am and 10pm two to three times a week. The cardboard once a week collection would be 5am to 10pm. The collection times are very flexible along with frequency.

Attorney Henry noted that he thought 5am might not be the best time. He asked would that time be flexible based on the board’s request.

Mr. Patel noted he could request the collection be after 10am. He noted that they do usually come later in the day.

Attorney Henry questioned the other deliveries.

Mr. Patel noted that once a week supplies are delivered which takes about an hour and that the donuts come daily between 3-4am.

Mr. Sprandel asked what the trigger for the extra parking is.

Mr. Patel noted that if customers are not finding parking spaces he would want to construct the additional spaces.

Mr. Sposaro questioned if the parking lot would create an expense.

Mr. Patel noted that if towns want it they would be willing to provide the additional spaces.

Mr. Delaney questioned if he had every built a Dunkin Donuts with banked parking.

Mr. Patel noted that he had not.

Mr. Delaney questioned the hours of operation.

Mr. Patel noted that the box truck would be between 30-40 feet long for deliveries. The truck would have a lift gate for deliveries.

Chairman Kraft noted that the applicant does not need a traffic study to construct the additional parking he would need a proper permit but the board could do their own study and require the additional parking be constructed.

Attorney Henry noted that the parking could be done without a traffic study if the applicant needed it but the town could require the study.

Chairman Kraft closed the public portion of the meeting.

Elizabeth C. McKenzie Professional Planner was sworn and accepted by the board. She reviewed the plans and has been present or listened to the meeting on tape.

Mr. Sposaro questioned if she had reviewed the plan.

Ms. McKenzie marked Exhibit A-10 and dated October 9, 2018 aerial photo of 25 E. Main Street. She noted that there is an older vacant restaurant on the site currently is .97 acres. The site will be demolished to construct a Dunkin Donuts with two apartments on the second story. The site located in within the Mendham Historic District in HB zone. There is a C variance request for the parking with .41% building coverage.

The HPC has approved the design of the proposed building. There will be a Dunkin Donuts on the lower level and there is no drive thru proposed and it will never have a drive thru. There was a proposal to have both of the two apartments be low income units. She noted that if that were the case one unit would need to be very low income and one moderate income but that would be something that the applicant would need to weigh in on.

She addressed the banked parking would be more buffer area if that was not constructed. She noted that Exhibit A-8 would be what the board is approving would included all parking if the applicant needed to construct the all the parking. The 21.2 feet front yard setback is proposed where 20 feet is required. The driveway would require a waiver and a waiver for the size of the parking spaces to be 9’x18’. There will be no outdoor dining there will be some benches but there will be no service outside. She addressed the parking. There is a 3 spaces deviation to allow there to be only 52 or 53 parking spaces. She addressed the parking demands and noted that she had made some recommendations for the lower parking standards and keeping more opens spaces was what she would recommend. There was a waiver request for the grading along the property line.

There was a C-2 variance request based on granting the C-2 parking variance for new buildings HB zone. This plan is a better plan as proposed and the parking would not be constructed unless there was a need.

She looked noted that she had reviewed the master plan and the historic plan. The new building has been designed to fit into the historical area. She noted that there are 4 parking spaces for the rental units. There are 28 parking spaces being proposed and 13 parking spaces are being banked. She noted that the total of 41 spaces that are proposed will be adequate. She marked Exhibit A-11 and dated October 9, 2018 which showed a list of stores sizes, parking, seats and maximum peak hours.

She reviewed the sites listed on the exhibit for the benifits of the board and the public.

She noted that she felt that the employees tend to car pool. The planning objectives that are being advanced are the public good and more visible design. The application will be leaving open space and stopping urban sprawl. She felt that granting the variance benefits will outweigh the negatives of this application.

She noted that the applicant is willing to deed restrict one of the apartment as a affordable unit., 9’x18’ spaces, formal loading spaces not to be provided, parking space for box truck off hours, permission to grant 13 banked parking spaces, parking variance and waiver to bank parking spaces, continuation of one way circulation on site, parking spaces size 9’x18’, lack a loading space, banking parking spaces, depth benches to be on the porches not as outdoor dining. There will be not orders or deliveries taken from the benches outside. She noted that the applicant could agree to no outdoor sound. She noted that the board could request that there could be a restriction of trash receptacles to keep the site clean.

She noted that parking that is being provided is to just what is needed or the parking could be provided by the applicant if determined that the banked parking is needed

Ms. Nathalie Masse left the meeting at 10:00pm.

Mr. Delaney questioned if a new business would have an impact on the neighborhood.

Ms. McKenzie noted that this building has been designed to fit into the area.

Mr. Delaney questioned if the planning board or the HPC should restrict changes in the historic district.

Ms McKenzie noted that the reviewing the Historic district didn’t see how there could be a restriction against national chain.

Chairman Kraft noted that speculation should not be questioned.

Mr. Delany questioned the age of the current building.

Ms. McKenzie noted that the building could be over 100 years.

Attorney Henry noted that the record should reflect that that the building has additions over the years and the entire building is not totally over 100 years.

Ms. Caldwell questioned the larger size structure.

Ms. McKenzie noted that the size of the structure is within the scale of the zone. The plan proposes to have 41 parking spaces.

Ms. Caldwell questioned the parking for a larger building.

Ms. McKenzie noted that a larger building could not meet the parking calculations.

Ms. Caldwell questioned the parking and maxi peak house parking might be over the amount.

Ms. McKenzie noted that the Fanwood site had 19 seats and 17 parking spaces and 17 maximum peak hour uses. She noted that she didn’t think that the site would not function. The turnover will be okay with the residential units spaces will be helpful.

Ms. Caldwell questioned the difference between the market rate unit vs. affordable unit.

Ms. McKenzie that if there were an affordable unit and a market rate unit proposed. The decision of what kind of units are up to the applicant.

Ms. Caldwell questioned a low and a moderate unit.

Ms McKenzie noted there could be a low and a moderate income unit which would be a borough decision. That was not looked at for the borough’s housing plan.

Chairman Kraft opened the meeting in to the public.

Mr. Reilly questioned the value of the property.

Ms. McKenzie noted that she does not value property.

Ms. Payne questioned the sites and volume of the stores.

Mr. Patel addressed the peak hours at the Madison store and the Fanwood store would be much higher volume.

Chairman Kraft closed the public portion of the meeting.

Attorney Henry clarified how to proceed.

Mr. Delaney noted that he would like to bring another witness and a historic witness.

Chairman Kraft noted that the meeting to adjourn for the evening.

Mr. Sposaro noted that there needs to be some closure. He noted that Mr. Delaney has been provided all copies of the reports. He would like to a copy to his experts report prior to the meeting. He would like to be able to be prepared.

Mr. Delaney noted that there will be a historic preservation expert will be coming and will agree to provide a report. He will agree to provide the report at the next meeting

Mr. Sposaro noted that at the next meeting at November 13, 2018. He will have the report provided within 10 days prior to the meeting.

Mr. Delaney noted that he would do his best to move forward.

Mr. Sposaro wanted to move forward at the next meeting for a vote.

Attorney Henry noted that his client has been provided many accommodations that have been requested.

Mr. Sposaro agreed to extension until November 14, 2018.

Chairman Kraft noted that the application would continue on November 13, 2018 with no further notice to the public.

**ADJOURNMENT**

There being no additional business to come before the board, Chairman Kraft accepted a motion to adjourn the meeting at 10:27PM. The next regular meeting of the Planning Board will be held on Monday, November 13, 2018 at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

On a motion by Mr. Cascais, seconded by Mr. Kay and a majority voice vote, the meeting was adjourned.

Respectfully submitted,

Kimberly Coward

Acting Board Secretary