

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
November 14, 2011
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER

The regular meeting of the Mendham Borough Planning Board was called to order by Chair Kraft at 8:00 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

CHAIR'S OPENING STATEMENT

Notice of this meeting was published in the Observer Tribune and the Daily Record on January 13, 2011 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
Mr. Cascais – Present
Mr. Gertler – Absent

Mr. Kraft - Present
Mrs. Kopcsik – Present
Mrs. Lichtenberger - Absent
Ms. Sandman – Absent
Councilman Sharkey – Present

Alternates:

Alternate I - Vacant
Mr. Cavanaugh, Alternate II – Present

Also Present:

Mr. Henry, Attorney
Mr. Bolio, Engineer

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MINUTES

On motion made by Mr. Bradley and seconded by Mr. Kraft, the minutes of the October 11, 2011 regular meeting of the Planning Board were approved as written.

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PUBLIC COMMENT

Chair Kraft opened the meeting to public comment on anything not on the agenda. There being none, the public comment session was closed.

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APPLICATIONS

#916 – Cerulean Enterprises, LLC – Site Plan Waiver
Block 801, Lot 20, Mendham Village Shopping Center

Present: Jack Yao, Co-owner
Eugene Huang, Esq., Attorney for the Applicant

Mr. Huang, Esq. summarized the application for the Board indicating that the applicant was requesting a Site Plan Waiver for a small 15 sq. ft. canopy to address wind issues at the restaurant. The Borough ordinance permits Site Plan Waivers for inconsequential items.

Mr. Yao, one of the owners of Cerulean Enterprises, LLC, testified that the restaurant is located at the northwest end of the Shopping Center. It is the last space on the left when facing the site. They have been operating one and a half years. This area of the Shopping Center has very heavy winds and even though there is a double door, the wind enters the restaurant and it is cold. There are two

double doors that swing both ways, but the physical location is very difficult. They have had plants blow down from the wind.

In terms of trying to fix the wind problem, Mr. Yao continued that they have tried electric heaters in the space, portable folding screens and plants, but that has not worked. They have had customer complaints. The double doors close slowly by design, and one is designed to open and close before the other, but it takes too much time for one to close before the other is open.

Mr. Yao explained that they did install the canopy last year and were not aware that they could not. They received a notice from the Zoning Officer and were told that they needed to come to the Planning Board. They would like to keep the structure up temporarily during the year from November through March. The size is 3.9 sq. ft. x 3.9 sq. ft for 14.9 sq. ft. As there space is 2,560 sq. ft., this represents a .5% increase in space. When it was up last winter, it did help the wind issue, and they received compliments from the restaurant patrons.

Addressing the outside maneuverability, Mr. Yao explained that the sidewalk in front is 8 ft. wide, 4 ft. of sidewalk and an additional 4 ft. of walkway. He referred to Attachment A included with the application. The canopy is 3.9 ft. They have not received any complaints dealing with maneuverability.

Continuing with accessibility to the interior space, Mr. Yao stated that there are three doors to the restaurant: the front, double doors on the side that are 6 ft. in width, and a back door that is used by employees. When wheel chair accessibility is required, the customer is referred to the side doors where there is also a curb cut. There is one handicap parking space in the front and one on the side. For emergency EMS access, the side double doors are used. There have been two instances one recently and one last December for which the doors were used. The stretcher was brought into the restaurant and there were no access issues. The ambulance also parked in front of the double doors where the fire lane is located.

Addressing the size of the sign on the door versus the canopy, Mr. Yao stated that the sign on the door is 6 x 22 inches and on the canopy, the sign is 10 x 33 inches. There are no other changes to the site or the use.

Addressing the report from the Fire Official and the weight of the door, Mr. Yao stated that the door can be adjusted to 30 lbs. or less. They can also have a fire resistant coating put on the canopy and obtain a certificate. In terms of whether it could be made larger, Mr. Yao stated that they kept it smaller to not obstruct the walkway. It is the same size as the door, 39 inches.

Responding to Mr. Cavanaugh on whether the total number of doors were sufficient for the volume of people, Mr. Yao stated that he did not really know, but he thought that with the side door, it would be acceptable. Mr. Henry, Esq. advised that the Planning Board did not need to assure the Fire Official's comments were satisfied, but that the applicant would need to satisfy both the Fire Official and the Construction Official in accordance with a Planning Board condition. The Board needed to concentrate on whether the structure is suitable from a site planning perspective and whether they would grant a Site Plan Waiver or require a Site Plan.

Messrs. Cavanaugh and Cascais confirmed that the structure would be a removable seasonal structure in use from November through March. Addressing Mr. Cavanaugh's question on what would happen if others in the Shopping Center wanted canopies, Mr. Henry, Esq. advised that if this corner is susceptible to the wind and the temporary structure provides adequate distance and other locations do not, it may be a different situation. If someone had a case exactly the same it could be an issue, but each application stands on its own. No precedent would be set. The Board would need to deal with the next one if it came up.

In deliberations the Board was favorable toward the application as a precedent was not set and the approvals of the Fire, Code Official or other officials were required. The structure would be temporary, removable and seasonal. There are several doors and a fire lane outside the double doors. Addressing whether there could be a sunset provision in the site plan waiver in case a problem was encountered, Mr. Henry, Esq. advised "no", but offered that they could make a condition requiring a site plan review should the Board Engineer identify a problem. After discussion it was noted that they could then file a site plan waiver again at that time.

Mr. Cavanaugh made a motion to approve the application with conditions requiring Fire, Code Official and other official approvals, and a stipulation that if the Board Engineer determines there is a problem, the applicant would need to return to the Board for a site plan which could be a site plan waiver if the Board waived the Site Plan requirement. Mrs. Kopcsik seconded.

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

In Favor: Henry, Bradley, Cascais, Kopcsik, Sharkey, Cavanaugh, Kraft
Opposed: None
Absentions: None

The motion carried. The application was approved. Mr. Henry, Esq. will prepare a resolution for the December 12 regular meeting of the Board.

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OTHER BUSINESS

Historic District Expansion: Mayor Henry advised the Board that the Council had passed the Historic District Expansion Ordinance for Phase 2 on Monday, November 7. He thanked everyone for their help with the project. There were a few members of the public that came to the meeting to voice concerns, but many issues had been addressed before the public ordinance hearing.

State Plan: Ms. Callahan advised the Board that the new State Draft Plan was available on the State Website. If they referred to her previous email, she had forwarded the link. At the request of the Board, she will resend the email with the link. The Plan is currently open for public comment. She recommended that the Board consider a presentation/discussion with the Borough Planner. Chair Kraft requested that she make arrangements.

TRC UPDATES (For information only)

Mrs. Kopcsik provided an update on the application to appear before the TRC at its November 21 meeting.

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ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:50 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, December 12, 2011 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

