

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
February 11, 2013
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 17, 2013 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 – Present

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

Alternates:

Mr. Cavanaugh, Alternate I – Present
Ms. Isaccson, Alternate II - Present

Also Present:

Mr. Henry, Attorney
Ms. Callahan, Secretary

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MINUTES

On motion made by Mr. Bradley, seconded by Mr. Cascais and carried, the minutes of the regular and reorganization meeting of January 14, 2013 were approved as written. Mayor Henry abstained.

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PUBLIC COMMENT

Chair 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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MASTER PLAN CONSISTENCY REVIEW

Ordinance #1-13: Ordinance of the Borough of Mendham, County of Morris, State of New Jersey Amending the Borough Code, Chapter 215 "Zoning", Section 215-29, "Supplementary Height and Bulk Limitations"

Chair Kraft introduced the ordinance amendment indicating that the change was related to allowing an 8 ft. fence for the purpose of screening electrical substations. The Board's role was to determine whether or not the change is consistent with the Master Plan. The Board Planner indicated that a fence at the electrical substation is consistent with the Master Plan as relates to the improvement to the substation discussed.

Mayor Henry provided some history stating that in 2006/2007 the Borough began discussions with JCP&L dealing with the cleanup of the site. They removed all of the brush around the substation, and then planted some trees. The Borough also discussed with them a fence. After lengthy discussion JCP&L has agreed to provide at their cost an 8 ft. high fence. The fence will be located along the existing fence on the north side and around the corner to the east. With the slope of the land, the fence appears more like 6 ft. It will be a blended green screen fence affixed to the chain link fence.

Addressing the Chair's question as to why an ordinance change is proposed instead of a variance, Mayor Henry advised that after all of the discussions and time invested, it could have been a setback to have the fence go to the Board of Adjustment. Chair expressed a concern that a variance would have provided more control over the appearance. Mayor Henry stated that a review is required with the Main Street Corridor Committee.

Members of the Planning Board agreed that it was not an issue as the Borough only has one substation.

Mr. Gertler made a motion to authorize the Board Secretary to send a letter to the Council stating that the amendment to the ordinance is consistent with the Master Plan. Mr. Cascais seconded.

ROLL CALL: The result of the roll call was 8 to 0 as follows:

In Favor: Henry, Bradley, Cascais, Gertler, Kopcsik, Cavanaugh, Isaccson, Kraft
Opposed: None
Abstentions: None

The motion carried. The Board Secretary will forward a letter to the Council.

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DISCUSSION

Technical Review Committee: Mr. Henry, Esq. explained to the Board that given some of the recent applications, the language in the delegation of approval for the TRC left some gray areas particularly as relates to signage including awnings and lighting. The delegation identifies what the TRC cannot entertain, and refers other site plan issues to the Board.

Mr. Henry, Esq. provided an example of the Mendham Spa building and the space that had been vacated by Ms. Fabrizi. The owner of the Spa wanted to expand his business to that space and rename a portion of it. He wanted to use three awnings: (1) one to replace the existing awning in the front, (2) one to replace an awning in the rear and (3) add a new third awning sign in the front of the building. The delegation states that there should not be changes to the exterior including lighting changes and sign location changes. The question is "does adding a sign, in this case an awning, constitute a sign location change which triggers a full Board review for a site element. After some discussion at the TRC meeting, the TRC determined that it is the type of item that should be dealt with by the TRC, and the applicant should not have to go through the cost of a site plan. The applicant would still need HPC approval. The TRC approved the application, but decided to discuss the issue with the full Board.

Another example is 7 Hilltop. Nichelfish currently located at 5 Hilltop is purchasing the building at 7 Hilltop and expanding their business. It was a vanilla change of owner and occupancy, but there was one issue dealing with a sign location change. The existing sign at 7 Hilltop is large with two posts, and Nichelfish wants to put up their own sign which would be smaller with one post. They also want to use a different type of lighting. The location is not changing, but the sign is changing and the way it is lit is changing. The TRC again determined they would approve the application as the change is in conformity with the zoning and the location of the sign is not changing. The applicant would still need to go to the HPC.

Mr. Henry, Esq. concluded that the question to the Planning Board is whether anything comparable would need to come to the Board for a site plan or a waiver of site plan and/or whether the language in the TRC delegation should be clarified.

Chair Kraft stated that previously all applications for site plan waivers, needed to come to the full Board. The delegation change was made to simplify the process and save the applicant time and money in appropriate cases. The business community is happy with it. There are no negatives. The issue is whether the Planning Board is comfortable with the delegation and the approach.

Mr. Cavanaugh questioned whether it was an issue of redefining the scope or whether aberrations needed to be addressed. Mr. Henry, Esq. clarified that the current language is not clear enough, and if the Board wants to restrict the TRC, then both examples should have come to the Planning Board. On the other hand, language could read that if the sign is conforming with the ordinance and requires HPC approval, that the TRC could approve it. A sign is a site element, and the only time it might need come to the Board is if it is located in a place where it is an obstruction to sight or of danger to a pedestrian.

Mr. Gertler stated that the TRC was acting in the spirit of the Board's desire. The TRC is composed of four members of the Planning Board, and they are the long standing members. If that changes in the future, we might revisit it, but now they are doing what the Planning Board intended. It is in the interest of the applicant. He was in favor of modifying the delegation language.

Chair Kraft stated that the language could refer to the need for approval by the Zoning Officer and the HPC. Mr. Henry, Esq. added that those are conditions of the approval. Mr. Bradley noted that the changes would need to be conforming. Mr. Henry, Esq. stated that lighting is also an issue, but a lighting change on a sign is different than lighting change on a building. Board briefly discussed the difference in glare between down lighting and ground lighting and determined that in questionable cases approval would be required by the Board's engineer.

Mr. Gertler reiterated that the intent has always been to be more business friendly, and the Borough has not had any negative impact as a result. Mr. Henry, Esq. added that there is also always a safety value that permits the TRC to send an application to the Planning Board should there be any concern. Chair Kraft noted that some towns do not have any process at all, and we have tried to make the process simpler.

Responding to Mr. Cavanaugh on whether anyone knew of any history which would say it would not be a good idea, Mr. Gertler stated that he recalled one case where change in business for a nail salon where water issues need to be addressed and the application was referred to the full Board. Mrs. Kopcsik added that business owners who have been through the process several times are grateful that it has been simplified.

Chair Kraft requested that additional information be provided on the agenda to help provide better insight to the nature of the applications before the TRC. Ms. Callahan will add a descriptor on the monthly agenda. If the PB meeting is cancelled, the description will be sent out email to members.

OTHER BUSINESS

National Register: Ms. Callahan reported that there will be a public meeting held by the State Department of Historic Preservation at the Garabrant Center on Thursday, February 21 at 7:30 p.m. At that time the State will make a presentation and address any resident questions. The Borough's application will be on the agenda for the State Historic Preservation Review Board on March 12.

Tree Management Presentation: Chair referenced the program that he been notified of in an email. The Environmental Commission has set up a program with Tri-County tree. They are coming to give a presentation. Chair requested that the secretary forward the notice to the Planning Board.

Mayor Henry gave an overview of how to sign up for the automatic email notices through the website. If the power is out, we are also exploring working with the County Everbridge system for phone notifications.

ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:45 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, March 11, 2013 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

