

**MINUTES OF THE  
MENDHAM BOROUGH PLANNING BOARD  
February 13, 2012  
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 12, 2012 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.

**OATHS OF OFFICE**

Mr. Henry, Esq. administered the Oath of Office to Susan Lichtenberger

**ATTENDANCE:**

Mr. Bradley – Present	Mrs. Lichtenberger - Present
Mr. Cascais – Present	Ms. Sandman, Administrator - Absent
Mr. Gertler – Absent	Councilman Sharkey - Absent
Mayor Henry – Present	
Mrs. Kopcsik - Present	
Mr. Kraft - Present	

Alternates:	Mr. Cavanaugh, Alternate I – Absent
	Vacant, Alternate II

Also Present:	Mr. Henry, Attorney
	Mr. Ferriero, Engineer
	Ms. Callahan, Secretary

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**MINUTES**

On motion made by Mr. Cascais, seconded by Mr. Bradley and carried, the minutes of the regular meeting of January 9, 2012 were approved as written.

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**PUBLIC COMMENT**

Chair opened the meeting to questions and comments on items not included in the agenda.

Mr. Robert Diffin, President of the Mendham Borough Business Association addressed the Board. First, he stated that the Business Association is in need of storage. They would like to place a shed at the Public Works Facility and locate it next to the shed that belongs to the Pastime Club. Mayor Henry recommended that he first speak with Ellen Sandman, Administrator and then, if necessary, the Council.

Secondly, he reviewed the history associated with the trees that used to hold the banners across Main St. in front of St. Marks Church. The Business Association had thought that they might be able to place banners in the Township, but there was a problem with the Holly Trail. He has spoken with JCP&L and two poles can be placed where the original trees were located. The cost is 5K for the two. The Business Association would pay for one, and the Business Association, the Pastime Club and the Rotarians would use the poles. Also the schools and fairs could use it.

Mayor Henry explained that the Borough Council is currently working on a sign ordinance and wants to include all types of signage. They are also discussing the possibility of an electronic

message board. The committee working on the signage is getting close to presenting the work to a joint meeting of the Council and the Planning Board. Even though the Mayor and the rest of the sign Committee had met with him earlier in the process, Mr. Diffin again requested that the Business Association have input and participation in the meeting.

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## APPLICATIONS

**#910 - Krostek and Veale** – Minor Subdivision and C Variance  
**Extension of Time to Perfect Subdivision: Resolution**  
 Block 604, Lot 7, 7 Halstead Road

Mr. Henry, Esq. provided the following resolution to Board with their pre-meeting packages:

**MENDHAM BOROUGH PLANNING BOARD  
 RESOLUTION  
 GRANTING EXTENSION OF TIME TO PERFECT SUBDIVISION  
 FOR RICHARD & VIRGINIA KROSTEK  
 AND JAMES & KAREN VEALE  
 BLOCK 604, LOT 7  
 APPLICATION NO. 910**

WHEREAS, Richard & Virginia Krostek and James & Karen Veale (“Applicants”) were granted minor subdivision approval with respect to property located at 7 Halstead Road and designated Block 604, Lot 7 on the Tax Map of the Borough of Mendham (the “Subject Property”), which approval was memorialized in a Resolution adopted by the Planning Board of the Borough of Mendham (the “Board”) on July 11, 2011; and

WHEREAS, Applicants and counsel have encountered delays in their efforts to complete the necessary documentation to perfect the minor subdivision approval by way of recording minor subdivision deeds within the time provided by the Municipal Land Use Law; and

WHEREAS, Applicants, through counsel, prior to the expiration of the initial statutory period, have requested a six month extension of time within which to perfect the subdivision; and

WHEREAS, the Board discussed the request and its circumstances at its regular public meeting on January 9, 2012, received no comments from members of the public with respect thereto, concluded that an initial three month extension should be granted at this time, and concluded that there were no factual or legal reasons to deny the Applicants’ request;

NOW THEREFORE BE IT RESOLVED that, based upon the foregoing, an extension of time for Applicants to perfect the minor subdivision, for a period of three months from the date of this Resolution, extending the date by which the actions required by the Municipal Land Use Law are to be completed through and including May 14, 2012, be and hereby is granted and approved.

BE IT FURTHER RESOLVED that this Resolution, adopted this 13th day of February, 2012, memorializes the action of the Board, as set forth above, taken at its meeting of January 9, 2012

Mr. Cascais made a motion to approve the resolution. Mayor Henry seconded.

ROLL CALL: The result of the roll call of the eligible voters was 4 to 0 as follows:

In Favor: Henry, Bradley, Cascais, Kraft  
 Opposed: None  
 Abstentions: None

The motion carried. The resolution was approved.

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## DISCUSSION

**Solar Panel/Wind Turbine Ordinances:** Responding to Chair Kraft on how the discussion was requested, Ms. Callahan stated that the Board had raised the question last year, and since then we have had several inquiries through Zoning. They have included a tower wind turbine, and ground and roof mounted solar.

Addressing Mr. Cascais on how the roof mounted solar requests would be considered today, Mr. Henry, Esq. advised that for a residence, if someone did not exceed the height limitations in the ordinance, and it met the setbacks, a building permit could be obtained. Mr. Ferriero added that if they were in the Historic District, a review would be required.

In terms of a ground mounted residential solar panel, Mr. Ferriero stated that it would be an accessory structure and would need to be located within the setback. Mr. Henry, Esq. clarified that would be the case if the ordinance is interpreted to deem the structure as an accessory structure. They are, however, not listed as accessory structures in the ordinance. They traditionally have not commonly been used, but are coming to be. Many towns today do treat them as accessory structures. He clarified that if panels were installed on commercial property, they would be subject to site plan approval.

Responding to Mrs. Lichtenberger on whether power on a residential unit would be sold to a grid, Mr. Henry, Esq. advised that there may be some as more could be generated than needed at one time. It could come back to the home at a later time, or go to the grid for another use, depending on the installation and the arrangement with the utility. In further discussion on residential units, Mr. Cascais expressed concern that people could clear cut trees to provide space for structures. Chair Kraft noted that one can buy a vertical wind unit for residential installation.

Mr. Ferriero recommended that the Borough Planner provide a review of the State laws affecting wind and solar and advise the Board of what they can and cannot do. We need to know what has been taken out of our hands. Mr. Henry, Esq. added that the alternate energy sources are now considered inherently beneficial uses.

Chair Kraft raised the issue of the solar panels that are being placed on telephone poles in various towns, and questioned whether they are permitted without town approval. Mr. Henry, Esq. advised that one must look at the easements granted to the utilities and municipal franchises to make that determination. Easements usually talk about distribution and most of the panels are used as generators of power. It is possible that utility companies might have to request that the easement language be changed. Mr. Ferriero commented that the panels generate minimal power and are used mostly by PSE&G. Chair Kraft requested that the Board be proactive and understand what can be done.

It was agreed that Mr. Henry, Esq. would further explore the solar panels on telephone pole issue, and the Board Secretary would contact Mr. McGroarty and ask him to advise the Board of the State regulations and what the Board would and would not be able to control.

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#### **OTHER BUSINESS**

Ms. Callahan reported that the Council had authorized the HPC to send the National Register Nomination to the State.

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#### **TRC UPDATES (For information only)**

Mrs. Kopcsik reviewed the applications that would be on the Tuesday, February 21 meeting of the Technical Review Committee.

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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 8:55 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, March 20, 2012 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan  
Recording Secretary







