

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
March 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.

OATHS OF OFFICE

Mr. Henry, Esq. administered the Oaths of Office to Mayor Henry prior to the meeting.

ATTENDANCE:

Mayor Henry – Present
Mr. Bradley – Present
Mr. Cascais – Present
Mr. Gertler – Present

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

Alternates:

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

Also Present:

Mr. Henry, Attorney
Mr. Ferriero, Engineer
Ms. Callahan, Secretary

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MINUTES

On motion made by Mr. Bradley, seconded by Mrs. Kopcsik and carried, the minutes of the regular meeting of January 10, 2011 were approved as written. The regular meeting of Monday, February 14, 2011 had been cancelled.

Mr. Henry, Esq. advised that the appointment of Ms. Callahan as Secretary, Recording Secretary and Administrative Officer should have been conducted as a roll call vote instead of a single ballot.

Mr. Cascais made a motion to appoint Ms. Callahan as Secretary, Recording Secretary and Administrative Officer. Mayor Henry seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Henry, Bradley, Cascais, Gertler, Kopcsik, Sandman, Sharkey, Gemberling, Kraft
Opposed: None
Abstentions: None

The motion carried.

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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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HEARING OF CASES

#910 – Krostek and Veale – Minor Subdivision and C Variance
Block 604, Lot 7, 7 Halstead Rd.

Present: Alan Hantman, Esq., Attorney for the Applicant
Daren Phil, Engineer for the Applicant
Richard Krostek, Applicant

Exhibits: A-1: Proposed house specifications
A-2: Same as A-1

Mr. Henry, Esq. reviewed the public notices prior to the meeting and advised that they were in order.

Completeness Review: Mr. Hantman, Esq. stated that the lot in the application is irregularly shaped. It could be developed without a variance into three lots, but given the environmental considerations and concerns for the neighborhood, they are requesting a two lot subdivision. The existing home located on Halstead is being separated and a new lot is being created. One variance is required for lot frontage.

Mr. Hantman, Esq. addressed the waivers that they requested. Morris County approval had not been received at the time of filing, but they now have received a letter. They have provided the deed of description for the entire tract, but are requesting a waiver as they will not be providing an amended deed until approval. In terms of the location of the building, they have now identified the specifications and location and can now provide testimony. They have filed for a Letter of Interpretation from the DEP, but it is still pending. They filed in August 2010 and do not expect an answer until mid-April.

Mr. Ferriero advised that the TRC had reviewed the waivers requested and recommended that they be granted. The LOI can be made a condition of approval. Mr. Henry, Esq. advised that if the LOI is approved, it must be consistent with the application. Mr. Hantman, Esq. responded that the wetlands are located a distance from the building location, and the LOI will verify their location.

Responding to Mr. Henry, Esq. on the status of the taxes, Ms. Callahan advised that the tax database was checked and the taxes are paid current.

Mr. Cascais made a motion to deem the application complete. Mayor Henry seconded.

ROLL CALL: The result of the roll call was 9 to 0 as follows:

In Favor: Henry, Bradley, Cascais, Gertler, Kopcsik, Sandman, Sharkey, Gemberling, Kraft
Opposed: None
Abstentions: None

The application was deemed complete.

Hearing: Mr. Daren Phil, Engineer for the Applicant, presented his credentials and was accepted as an expert witness by the Board.

Mr. Phil described the property, Block 604, Lot 7, as approximately 6.9 acres located in the 1 acre single family zone. Utilizing the plans provided to the Board, he testified that the property contains an existing single family dwelling located on one leg with frontage of 256 ft. on Halstead. The property continues behind property on Dean, Halstead and Forest. It is wooded.

Describing the property further, Mr. Phil explained that when Forest Drive was created a 50 ft. wide access to the property was made part of the filed subdivision plan. This was probably in anticipation of the extension of the roadway. They are not razing the dwelling on the Halstead side, but are creating access from the Forest Drive side for the subdivided lot. The existing Forest Drive frontage is not sufficient so a variance is required. They could create a cul-de-sac and two lots on Forest, but that would mean more disturbance and there are environmental issues. After the TRC meeting, they adjusted the application to request one dwelling on one lot with a variance. The home would be located on the lot as if it were part of the original subdivision. The lot would be 2.8 acres and the remainder lot fronting Halstead is 4.08 acres.

Continuing with a description of the conditions of the property, he stated that there are wetlands. In addition, a riparian buffer of 300 ft. is required. The wetlands and riparian buffer are located on the

lot proposed for the existing home. The house will be sited as part of the neighborhood. It would be more obstructive if it were placed toward the rear yards of the neighbors. He pointed out the soil erosion and sediment control plan.

Addressing Mr. Hantman, Esq. on the variance required, Mr. Phil stated that required frontage is 150 ft. There is a stipulation that it could be reduced to 120 ft. on a curve. The proposed lot is at 85 ft. The creation of the lot with the reduced frontage is a better zoning alternative as there is less impact to the environment and the neighbors.

Responding to Mr. Kraft's request for clarification on the lot line and the frontage, Mr. Phil explained that it is measured at the set back line. The road to the corner is 55 ft. There are 55 ft. from where all the property lines, theirs, right of way and neighbor, come together to the corner. There is then an additional 30 ft. It is clear that when the Forest Drive subdivision was approved, the property was not being land locked and a subdivision was being anticipated.

Mr. Henry, Esq. raised the issue of whether Governing Body approval is required to use the right of way instead of just crossing it. This is a unique situation.

Mrs. Gemberling questioned consistency of the deeds. Mr. Phil advised that he used the survey and reviewed the filed map. Responding to Mr. Cavanaugh's questions, Mr. Phil advised that there are no fences or walls, and that he was not aware of any discussed land swap with Lot 13. A lot line adjustment could potentially be requested later. Addressing the Mayor's question, he pointed out the location of the wetlands, transition area and the riparian buffer for the Board. Mrs. Kopcsik added that the land is very wet, and she is glad that they are only proposing one home. Mr. Phil advised that they would be doing a soil survey to determine if the soil is holding water. They would be creating swales, and when the driveway is installed, it will help protect the downhill property.

Chair Kraft suggested that the Board visit the site before the next meeting to further their understanding of the description of the property.

Responding to Mayor Henry on whether the development would create more water than exists, Mr. Phil stated that they would reduce the runoff and pick up driveway runoff through improvements. The water would flow from the driveway to the gutter line instead of crossing Lot 13. In terms of stormwater management, they would be installing a seepage pit system, and they will abide by the ordinances. The plan will be modified based on Mr. Ferriero's comments. Mr. Henry, Esq. advised that the changes should be made prior to any approval.

Mr. Ferriero advised that if the soils do not have permeability, the Board would not have to see the final plans as relates to the home as it might vary slightly, but they would need to see a feasible plan as relates to the drywell and tree information. There could be dense material overlaying the more permeable soil. The final plan would be submitted for construction.

Addressing questions related to the home to be constructed, Mr. Hantman, Esq. entered Exhibits A-1 and A-2, showing the house specifications. After discussion, he noted that A-1 and A-2 were copies of the same specifications. Mr. Krostek explained that the house would not be exactly the same as shown, but would have the same width and depth. It is 80 ft. x 22 ft. The height is 32 ft. The garage configuration may need to change. It is 3700 sq. ft. Mr. Hantman, Esq. estimated the height at 32 ft. The height would be about the same as other homes. Mr. Krostek stated that the third floor is attic space. There is a basement. The other homes in the area are two-story. The ground elevation would be the same as the other homes.

Mr. Gertler received an answer on the average size of the Forest Drive homes as 2800 to 3500 sq. ft.

Responding to Councilman Sharkey on the drainage effect on Lot 13, Mr. Phil testified that they would limit the disturbance, and a swale would be created from the backyard. It would not go into the woods, but be located from the area of disturbance forward. It will block runoff and help from the side as it will be brought around the house and out to the street. The runoff to Lot 13 would be reduced somewhat with the driveway and by adding a swale between them and 13 at the edge of the trees. The nearest inlet is in front of Lot 13.

Responding to Mr. Gertler's concern on the wetness of the area, Mr. Ferriero advised that the applicant would need to comply with the ordinance as relates to stormwater management. It is a major development according to Borough Ordinance with more than 1,000 sq. ft of impervious coverage or more than 2500 sq. ft. of disturbance. The ordinance requires a stormwater management plan and sets the standards for the development. Seepage pits will be required for the new development. A note on the deed and the plans needs to be made. Trees can be removed by a

resident after the CO is issued, but the stormwater regulations are still in effect. Removing the stumps would affect the disturbance. The baseline is the site as it exists today.

Mr. Henry, Esq. advised the Board that they could consider a tighter control on the clearing of trees. Mr. Ferriero advised that the location of the trees to be removed should be identified in the area of disturbance along with the corners of the building for the Board site visit. He also noted that a determination would need to be made as to whether replacement trees were needed in accordance with the ordinance. Mr. Hantman, Esq. stated that now 14 to 16 trees would be coming down. Mr. Phil added that if they were to create a cul-de-sac, triple the number would be involved.

Responding to Mr. Gertler's question on the driveway lighting, Mr. Hantman, Esq. stated that it is a private driveway, and there is no lighting.

Mr. Ferriero advised the Board that the sewer application had been approved for one lot with a variance. Mr. Henry, Esq. referenced the sewer approval that had a condition for the retrofitting of fixtures. His assumption is that new fixtures would need to be put in the new home as opposed to retrofitting the fixtures in the home on Halstead Road. Mr. Ferriero advised that the retrofitting refers to an existing commercial structure. Mayor Henry did not believe that there were any conditions associated with the existing home.

Responding to Councilman Sharkey on whether there is a high water table and whether the drainage would be adequate below the top layer of soil, Mr. Phil advised that they needed to verify the situation. There are varying options to manage the runoff depending on where the water is accumulating. Mr. Ferriero added that if the water is more toward the top, then shallower, rather than deeper drywells could be used.

Chair Kraft opened the meeting to questions of the witness by the public.

Mr. John Sagarese, 12 Dean Road, stated that he is a retired engineer and has lived on Dean Road for 34 years. A 36 inch pipe drains 40 acres to an 18 inch pipe near his property. There is knee deep water when it rains. There is a very high water table and it is wet. Instead of drywells, a percolation test is needed. Chair requested he redirect a question to the witness. He advised Mr. Sagarese that he could make comments on the application at a later time. Mr. Sagarese did not believe that the Board had appreciation for the water problem on the property. Mrs. Kopsik stated that she did as she had lived there.

Mr. Bruce Derrick, 12 Forest Drive, questioned whether the home would have sump-pumps and where the outflow would go. Mr. Phil advised that after the soil logs were taken, that could be determined. Mr. Derrick expressed his concern that when the water is removed from the basement, it needs to be collected and directed.

Ms. Patricia James, 18 Dean Road questioned how the construction would impact her home on Dean Road as there is already a high water table. Mr. Phil responded that the water shed areas for the construction are on Lot 13 along Forest Drive. Chair noted that Ms. James property backs up to the proposed lot. Mr. Phil stated that they are placing the home in the front and are dealing with one corner of the property. Ms. James home is already located in the transition area. They are proposing construction in a higher and dryer area. Ms. James was adamant that water comes from the Forest Drive area, and was not satisfied with the answer.

Mr. Kuepferle, 17 Halstead Road stated that the water table is 24-26 ft. This is from 30 years of experience dealing with his well. The lowest it has ever been during a drought is 27 ft. He questioned whether drywells could be used. Mr. Phil stated that would need to be verified.

Ms. Pauline Derrick stated that there are solid pools of water. They have suffered for 30 years with water. An extra strong stormwater system is required to protect the neighborhood. She requested the Board consider a conservation easement so that more trees are not removed. Mr. Phil stated that there would be extra capacity to help better the situation. Lot 13 is below them and they can assist, but Lot 25 is above and they would not affect that lot.

Mr. Frank Lupo, 17 Dean Road questioned Mr. Phil on whether he had walked the property and viewed the existing swales. He did not realize that swales hold several feet of water and thought it unusual that the town would put MASH in the middle of the swale as the water comes down Route 24 into that location. Mr. Phil responded that he had walked the property and saw the drainage area and the open channel from the storm drain. The work is being isolated into the corner of the lot. Mr. Lupo also questioned how the roots of the trees would be preserved and expressed that the area should be expanded so in the future they do not need any more tree removal. Mr. Phil stated that they would need to remove trees in the immediate area and near the basement, but they would need to use a big enough area so that they would be providing adequate stormwater management. The

next owner would not need to do more tree removal and would have an adequate backyard. Mr. Lupo also questioned whether the clay would be removed so that the new owners could plant grass as the water just sits now. Mr. Phil advised that permeability testing would be done. They will go down about 10 ft. and determine a design permeability rate. In response to Mr. Lupo on whether a planner had been consulted and whether the land could be sold to Green Acres, Mr. Phil stated that Green Acres usually looks to connect large parcels.

Mr. Dick Payton, 5 Forest Drive, questioned the elevation of the home and whether it would be built up on the lot. Mr. Phil advised that it would not. The driveway slope is 3%. Chair confirmed that it would be built at the ground level.

Mr. Paul Brubaker, 3 Halstead Rd. stated that the area is very wet. He questioned surface water management and whether there would be any backup. Mr. Phil advised that it would not. The runoff from the property will be reduced to the stormwater drain. Mr. Brubaker explained that he has removed trees and the soil has sunk. One explanation could be there is a mysterious underground river causing a sink hole. He questioned whether a test would be run to determine whether a stream exists. Mr. Phil explained that they would do the soil test and then determine to what level they would excavate. They would need to determine how much water exists.

There being no additional questions, Chair Kraft closed the public session.

Chair announced that a site visit would be held on April 11 at 7:00 p.m. with the regular meeting of the Board and the hearing continuing at 8:00 p.m. Mr. Henry, Esq. advised that no action or decisions would be made at the site visit. The Board will meet on Forest Drive. It was summarized that the applicant would stake the location, the outside perimeter of the swale, the area of disturbance and the driveway entrance. The Board Secretary requested any additional information to be provided to the Board to be submitted a minimum of 10 days before the hearing.

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TRC UPDATES (For information only)

Mrs. Kopcsik reviewed the TRC schedule for March 21, 2011.

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OTHER BUSINESS

Mr. Henry, Esq. cautioned the Board on the use of email, and the requirements associated with the Open Public Meetings Act.

Mr. Ferriero and Mr. Henry, Esq. responded to questions to further the Boards' understanding of the principals of stormwater management in evaluating applications.

Mr. Henry, Esq. advised that in terms of water remediation, the Board needs to listen to the Engineer and other licensed professionals and determine whether the solution is appropriate. Issues post application would need to be proven by any affected landowners. Board noted that there is now guidance provided based on the Borough's Stormwater Management regulations.

Mr. Ferriero addressed technical questions. In terms of the impact of the fall line and how water disperses, it depends on the contour of the land. Water from a drywell as ground water would usually follow the same path as the surface water. Soil permeability tests help determine how many and how deep drywells need to be. If a change is made in a home in the area of disturbance it is not as impactful as if the area of disturbance is changed.

Addressing a question on whether the Board has authority to request conservation easements, Mr. Henry, Esq. advised that with property with difficulties, the Board can impose conditions that limit future owners from not clear cutting or not removing trees.

ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 10:15 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, April 11, 2011 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham. Prior to the meeting, at 7:00 p.m., the Board will hold a site visit in conjunction with the Krostek and Veale application.

Respectfully submitted,

Diana Callahan
Recording Secretary

