

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
June 13, 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 – Absent
Mr. Cascais – Present
Mr. Gertler – Absent

Mr. Kraft - Present
Mrs. Kopcsik – Present
Mrs. Lichtenberger - Present
Ms. Sandman – Present (Krostek/Veale)
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 Mayor Henry, seconded by Mr. Cascais and carried, the minutes of the regular meeting of May 9, 2011 were approved as written.

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PUBLIC COMMENT

Chair Kraft 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

#914 – Daytop – Site Plan Waiver
Block 1801, Lot 5 & 5.01

Present: James Weber, Esq. – Attorney for Applicant
Lisa Gieranamo – Engineer for Applicant
Eriach Fox – Representative of the Applicant

Mr. Weber, Esq. explained that Daytop currently has two existing signs located on Main Street. One sign faces west on Main and the other faces east. They would like to illuminate both signs with 35 watt bulbs in ground mounted lights pointed upward. Plans have been provided to the Board.

Ms. Gieranamo, Engineer, testified that the two existing signs are catty-cornered on the west and east side of the driveway. They are planning one light per sign, each light 35 watts and shielded. They would be on from dusk to 11 p.m. and 5 a.m. to dawn.

Responding to Mayor Henry on whether the strength of the light was appropriate, Mr. Ferriero advised that they are the right size for the sign. They will hit the sign, and there will not be any spillage. He has seen most sign lights at 100 watts.

Mr. Fox spoke to the timing of the lights. He stated that people coming around the curve miss the location of Daytop and end up making the circle between both ball fields. Responding to Mr. Cavanaugh on whether there would be traffic at 5 a.m. requiring the lights, Mr. Fox stated that there might be some deliveries of medical supplies or some clients or patients. He stated that their primary concern is the evening. Addressing Ms. Gemberling on whether there could be a manual override should they know people are coming, Mr. Fox responded that it would be inconvenient. There would be more of a chance that they would be left off or on. Mr. Ferriero added that they are planning on keeping the wiring at the road to limit the disturbance. The override would not be feasible. After the discussion, the Board determined that the morning hours would not be a problem.

Chair opened the meeting to questions and comments by the public. There being none, the public session was closed.

Mr. Henry, Esq. summarized the application as a site plan waiver for 2 lights, one for each of the existing signs with 35 watt bulbs. The timing would be limited to dusk to 11:00 p.m. and 5:00 a.m. to dawn. There will be a post installation engineering inspection.

Mr. Cascais made a motion to approve the application. Mrs. Kopcsik seconded.

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

In Favor: Henry, Cascais, Kopcsik, Lichtenberger, Sharkey, Gemberling, Cavanaugh, Kraft
 Opposed: None
 Abstentions: None

The motion carried. Mr. Henry, Esq. will prepare a resolution memorializing the action for the Monday, July 11, 2011 regular meeting of the Board.

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#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
 Keith Holling, Architect for the Applicant
 Richard Krostek, Applicant

Exhibits: O-1 Lot 13 side lawn winter 2010
 O-2 Lot 13 backyard
 O-3 Woods adjacent to rear Lot 13
 O-4 Close-up looking back into woods from Lot 13
 O-5 Backyard of Lot 13
 O-6 Looking across Forest from Lot 13
 O-7 Lot 13 Sideyard
 O-8 Looking at the Derrick property from Lot 13

Mr. Hantman, Esq. stated that this is the second time that the applicant has been before the Board. The Board had made a request that the property be staked, and that there be a site visit. The inspection of the property was conducted at 7:00 p.m. The applicant has submitted amended plans and architectural drawings showing the actual home to be built.

Mr. Phil, Engineer for the Applicant, explained the changes that were made in Revision A dated May 27, 2011:

- Sheet 3 shows the configuration of the revised grading plan, footprint of the dwelling that conforms to the architectural plans and the location of the driveway. The rear of the property of the subdivision aligns with the property next door. It is the tract property line

that exists as is not changing. The proposed line divides the “L” shaped piece into a square and then a rectangle. The rectangle fronts on Halstead Road. The environmental features, wetlands and transition area, are shown on the map.

- Sheet 4: Tree Removal Plan. There will be limited clearing. There are 31 trees to be removed. The forest canopy is the limit of disturbance. They will open up the rear and the front yards. Trees to be removed are 36 inches to 14 inches. There is hardly any ground cover and the soil is highly erosive. Opening it up to light will help the grass to grow.
- Sheet 5: Detailed Grading Plan. The plan is to put in a berm approximately 2 ft. high along the property line. The water is coming across the property and is being caught so that it will not flow to Lot 13. There will be a swale between the house and the berm that will bring the water to the front yard. The front yard will have a flat depression where water can build and then it will head to the front street. The existing drain on the east side of Lot 13 will be brought to the 50 ft. access opening and extended onto the property. All the water from the rear of the home will be brought into the underground pipe, run under the sidewalk and into the infrastructure. There will be another drain on the west side near the driveway. There is a significant amount of water from the rear of the properties uphill. Instead of having the water cross the driveway, the water will be collected and run into the drain.
- Sheet 6: Profile of the Grade of Road. The front yard will be lowered a little to collect water. It will be cut in to match the driveway.
- Sheet 7: Landscape Plan. Along the berm is an evergreen buffer on the side of the house to the east. There are also evergreens to the west along the driveway. A rain garden is a functional unique feature with special shrubs and grasses.
- Sheet 8: Construction details such as storm drains
- Sheet 9: Storm water storm drains associated with stormwater. They are using low flow river rock and cobble to plant the embankments. They have presented quantitative data.
- Sheet 10: Updated the sheet that will need to go to the Soil Conservation District.

Mr. Hantman, Esq. stated that one variance for road frontage is required. They require that instead of creating a cul-du-sac. This created minimum disturbance and less black top. Mr. Phil agreed and testified that it requires less infrastructure and is a better zoning alternative than the cul-du-sac. If they had requested the cul-du-sac, there would have been the creation of two lots.

Responding to Board questions on further subdivision of the larger rectangular lot, Mr. Hantman, Esq. stated that given the wetlands, it would be practically impossible to further subdivide the large lot. Mr. Henry, Esq. added that there are not only wetlands, but a transition area and a riparian buffer. Mr. Phil visually showed the locations and the limitations on the plans.

Board was concerned about future clear cutting on a sensitive piece of property and the possibility of taking down one home and building two in the future. They discussed several options with the applicant including a conservation easement and reducing the building envelop with a diagonal line across the rear. Mr. Henry, Esq. advised that a conservation easement could be placed on the rectangular lot along the wetlands transition area and the buffer line. The building envelope could be reduced by creating a rear yard setback diagonally along the rear. In combination with the conservation easement to the rear the concern of clear cutting could be reduced.

Mr. Hantman, Esq. was concerned about being too restrictive and prohibiting the addition of something like a pool in the future. He recommended moving the line further to the rear. Mr. Phil noted that someone might want to further improve the property. Board discussed how the improvement might change the rate of the flow of the water and questioned whether the silt from the rear would end up in the front. Mr. Phil stated that the back lawn is a huge filter. Mr. Ferriero recommended using a restriction on the size of tree that could not be cut. Mr. Henry, Esq. advised that there should be consideration for having the building envelop restrict structures versus the improvement of the landscaping.

Addressing Board questions on the calculations of the water flow and control, Mr. Phil explained the calculations based on the 100 year storm. A net detention volume was determined based on peak. Storage requirements in the front yard are then calculated. Board pointed out a discrepancy in the water analysis dealing with the peak flow number. Mr. Phil believed that the wrong line was highlighted, but he will verify and review with Paul Ferriero.

Chair expressed concern about Mr. Phil's comment that more work would need to be done to control the flow at the rear of the property. Mr. Phil clarified with “may” need to be done depending on who moves into the home. He summarized that they are reducing the runoff and eliminating the impact to the neighbors. The quality of water will be cleaner. Infrastructure will be brought up Forest Drive and water in the gutter will be eliminated. An owner might not clear cut, but remove some of the understory and improve lawn cover to the rear of the home. The system is

adequate for the home as it has been designed for the subdivision. Chair requested a compromise position.

Explaining the timeframe for installation of improvements, Mr. Phil stated that the storm drain would go in first, followed by the berm. Then the construction of the home would begin.

Discussion took place on the position of the rain garden in the front as opposed to the rear, and why the berm could not be extended to help people on other lots. Mr. Phil explained that the gardens are always in the front. Children play in the back and since they are expensive to put in, they should be seen. That also supports the maintenance naturally as people will see it. In terms of extending the swale, they are not doing any improvements in the rear. They are capturing the extent of all their improvements. To handle all that water from various properties, the town would need to improve the infrastructure.

Commenting on the viability of the stone along the driveway in the long term, Mr. Ferriero advised that the purpose is to create an area for water to concentrate and move down and away from the driveway. There should be a restriction in the deed for the maintenance of the stormwater system as it is so important to the subdivision. If the stone area filled in over time, the homeowner would have water running across their driveway. Board noted that there might be disturbance in the rear, and there could be water that might go toward Dean Road. Mr. Ferriero also advised the Board that in the future if the area of disturbance is greater than 2500 sq. ft., a permit is needed. In addition, if they go above 39,000 sq. ft, there are additional more strict requirements. They are close to that now. He recommended that any sump-pump drain to the rain garden.

After the discussions, Board and applicant agreed that trees 8 inches or greater could not be removed from behind the building envelop. There would be a rear building envelop drawn at 40 ft. from each corner. There would be no structures behind that. There would be a deed requirement for the maintenance of the system.

Conditions of Mr. Ferriero's June 9, 2011 letter were discussed.

Mr. Ferriero stated that in accordance with the ordinance, there should be a conservation easement around the wetlands and the transition areas. Markers that look like fence corners are required. He continued that in this case the conservation easement runs across the improved back yard on Halstead Road. From a DEP regulatory perspective they can continue to use their lawn. His recommendation was to run the conservation easement parallel to Halstead Rd. about half way back in the lot. That is along the wooded clearing on that lot. The markers would be located on each corner.

Board questioned the number of trees that would be replaced. Mr. Ferriero advised 12, 11 evergreens and one ornamental. Board noted that should be enough to shield the neighbors. In terms of the plants in the rain garden, they were concerned that deer proof plants be used. Mr. Ferriero advised that the planting are not required to control the flow, but to keep the ground stable. There needs to be a balance of wet tolerant and deer resistant plants.

Chair opened the meeting to questions by the public.

Mr. Barry Sutherland, professional engineer and planner representing Mr. and Mrs. George, 8 Forest Drive, questioned whether Mr. Phil was aware that there is a drain line that runs along the property to the storm drain, and that there is another one on the adjacent property that runs along a utility line and ties into the drain as well. Mr. Phil stated that they had talked with the neighbor on Lot 25, and when they bring in the new storm drain, they will tie it in the existing drain. In discussion on whether it would be possible to put in another drain to help Mr. George's property, Mr. Phil re-explained the current plan. Responding to what happens to the water as the basement is de-watered, Mr. Phil stated that there is no change in the water level. It may decrease. There will be gravity drains in the basement. Water will not increase on other properties.

Addressing Mr. George's question on whether bonds would be required, Mr. Ferriero stated that bonds would be required for the improvements in the street. The CO will not be issued until the improvements are completed on the lot. There will be a two year guarantee on the plantings in the basin. There will be a restriction in the deed requiring the maintenance of the rain garden into perpetuity. As it is not a public improvement, a maintenance bond is problematic. If the home is ready to be CO'd in November, then they would consider using bonding. In terms of guarantees, Mr. Ferriero stated that the design has been reviewed by the Board. If there is a problem, the issue lies with Mr. Phil's design. Mr. Henry, Esq. advised that has to be proven.

Patricia James, 18 Dean Road, stated that the plans sound great, but over the years there has been more and more water. She questioned whether she will get more water. She questioned what

guarantees they have. Mr. Phil noted the location of her lot and advised that nothing should affect her based on the planned house. The removal of the trees does not affect her home. Responding to her question on whether they plan fencing, Mr. Phil responded they do not plan to at this time.

Mr. George, 6 Forest Drive, entered a series of pictures that were taken in September through December 2010 that showed water accumulation on and around his property. He questioned his recourse should the drainage proposed not work. Mr. Henry, Esq. explained that what the engineer is proposing is to create no increase in runoff from the property based on an engineering analysis. The Board cannot deal with more water in the future. If he has an increased problem in the future, he would have to show who caused it and how. Mr. Phil explained that the berm should help better the situation.

Ms. Pauline Derrick, 12 Forest Drive, appreciated how the Board worked through the issues. She requested that the applicant consider helping Mr. George. She personally sees how much water Mr. George gets on his property.

Mrs. Kopcsik stated that she would like to see more replacement trees around the property. Some of the firs proposed may get eaten by deer. Mr. Ferriero advised that the evergreens would be Norway Spruce that are deer resistant. He suggested that they establish the requirement for 3 to 5 more to fill the gaps along the property line if the gaps are determined after construction. They will not be able to tell until the clearing is done and the grading complete.

Mr. Keith Holling, Architect, presented his credentials and was accepted as an expert witness by the Board. He testified that the home would two story, and under 4,000 sq. ft with a full basement. In accordance with SD-1 it would have four bedrooms, 5 baths, a 3 car garage, deck and wraparound porch. The style, as shown in SD-2 is stone, clapboard, and shingles. There are columns. The height of the bulding is 32.3 ft and is in compliance with the ordinance. No variance is needed for the structure.

Chair opened the meeting to the public on Mr. Holling's testimony. There being no questions, the public session was closed. Chair opened the meeting to the public for general comments related to the application.

Ms. Inger Williams, 14 Dean Road, stated that the issues were covered well and she was pleased.

Mr. Hantman, Esq. had no further comments.

Mr. Cavanaugh made a motion to approve the minor subdivision and grant the frontage variance with the conditions to be enumerated. Mr. Cascais seconded.

Mr. Henry, Esq. summarized the conditions:

- All other improvements and permits
- Compliance with affordable housing requirements
- Confirm proper lot designation w/tax assessor
- Deeds will need approval by Board Attorney and Engineer
- Conditions in Ferriero letter of June 9, 2011 shall be met
- Conditions of the Borough Sewer Connection approval shall be met
- Conservation Easement should be crafted as relates to the lot fronting Halstead
- Reduced Building Envelop 40 ft. from each of the corner of the square lot
- Area of disturbance should be identified
- Limitation on removal of trees behind the setback line
- Building Envelop, area of disturbance and limitation of tree removal to be part of deed
- Possible Addition of 3-5 trees on northeasterly sideline after grading

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

In Favor: Henry, Cascais, Kopcsik, Lichtenberger, Sandman, Sharkey, Gemberling,
Cavanaugh, Kraft
Opposed: None
Abstentions: None

The motion carried. Mr. Henry, Esq. will prepare a resolution memorializing the action for the Monday, July 11, 2011 regular meeting of the Board.

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DISCUSSION

Loop Trail: Mr. Humbert had prepared draft language for the inclusion of the Loop Trail in the Master Plan. It was provided to the Board with their packages. Based on discussions Mr. Henry, Esq. added language to incorporate the Loop Trail Plan in the Master Plan and replace Exhibit 5. Ms. Gemberling had previously requested a change to include consideration of additional property in the future. Wording agreed to was that “all non-vehicular connections that may be identified or become available in the future be considered”. Board will hold a public hearing on the amendment to the master plan in October.

Historic District Expansion: Mr. Humbert had prepared draft language for the inclusion of the expansion of the Historic District in the Master Plan. It was provided to the Board with their packages. Mr. Henry, Esq. recommended changes to the language to remove some of the history of Phase II and just add the Phase II properties. Board will hold a public hearing on the amendment to the Master Plan in September.

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TRC UPDATES (For information only)

Mrs. Kopschik reported that there are no new applications. The meeting of Monday, June 20, 2011 is cancelled.

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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 10:55 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, July 11, 2011 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

