

**MINUTES OF THE  
MENDHAM BOROUGH PLANNING BOARD  
August 10, 2009  
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 7:30 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 on January 15, 2009 and the Daily Record on January 16, 2009 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  
Councilman Carr – Absent  
Mr. Cascais – Absent  
Mr. Gertler – Present

Mr. Kraft - Present  
Mrs. Kopcsik - Present  
Mrs. Lichtenberger - Present  
Ms. Sandman - Absent

Alternates:

Ms. Gemberling, Alternate I - Absent  
Mr. Cavanaugh, Alternate II–Present (8:00 p.m.)

Also Present:

Mr. Henry, Attorney  
Mr. Humbert, Planner

**APPROVAL OF MINUTES:**

Board requested that the location of the fence in the Borough of Mendham discussion be changed to “perpendicular to the street”, not “parallel” and the Build-Out status discussion “not” be held until after the Mayor’s Ad Hoc Committee Meeting. Mayor Henry made a motion to approve the minutes with the amendments. Mrs. Kopcsik seconded. All members being in favor, the minutes were approved. Mr. Gertler abstained.

**PUBLIC COMMENT**

Chair Kraft opened the meeting to any public comment or questions on matters that were not on the agenda. There being none, the public comment session was closed.

**DISCUSSION**

**Master Plan Amendment – Historic District Expansion: Phase I:** Mr. Humbert presented the Master Plan Amendment to the Board explaining that the Planning Board discussed the Phase I expansion in March and sent a recommendation to the Borough Council. The amendment is to align Mendham’s Historic District with the existing National Registry Listing. The properties are identified by Block and Lot. Phase II of the Historic district Overlay Zone will be done at a later date and will be as shown on the 2006 Master Plan Map. The map attached to the amendment will supersede the 2006 map and be labeled “Revised September 2009” if approved at the September meeting. Language in the amendment will refer to Exhibit 6, Revised September 2009.

Mr. Henry, Esq. advised that this is an amendment to the Master Plan, and the Governing Body would need to pass the ordinance in order to create the expansion. Addressing whether or not the individual homeowners would be notified, Mayor Henry stated that would occur with the ordinance work. Mr. Henry, Esq. recommended that the Council include that the Historic District is being aligned with the existing National Registry Listing. Ms. Callahan advised that the notifications for the Master Plan Amendment would be to the newspaper, County, and clerks of Mendham Township and Bernardsville.

Ms. Callahan reported that, in conjunction with Phase II, a representative from the State joined Mr. Berland, the Historic Consultant, for a review of the eastern end of town. Mr. Henry, Esq. reminded the Board that this was in conjunction with the Board request to include as many properties as possible in the Historic District.

#####

**Wastewater Management Update:** Chair Kraft reported that he, Paul Ferriero and Geoff Price had met with the County in reference to the Wastewater Management Plan. The County provided maps and reports that outlined the County view of the sewer service area and non-sewered area. The County would like the information reviewed as quickly as possible. This will move the Borough forward with a Wastewater Management Plan that is required by the DEP.

Ms. Callahan advised that a meeting with the build-out team was set up for Monday, April 17. The team will be provided with background information to review before the meeting.

#####

**Signage:** Mr. Gertler reported that there have been some recent sign enforcements, and he is concerned about the consistency of the enforcement. The Body Secret received a letter of violation for a surf board sign and some small signs in the window. The dry cleaners has many signs and has not been cited. What constitutes a sign comes into question. He was concerned that the businesses east of Hilltop, unlike the shopping center, do not have a steady stream of people coming into a central area. He questioned whether our ordinance was limiting some of the potential of businesses to attract customers.

Mr. Henry, Esq. advised that placing signs on Main Street would maximize the negative impact of signage.

Mr. Kraft referenced the temporary sign ordinance that was discussed by the Planning Board. The surf board sign was a temporary sign. The tenant needed a permit. He was concerned about trying to monitor signage on the inside of the windows. Regulation and enforcement will be difficult.

Mr. Henry, Esq. advised that most towns regulate signage inside that can be seen from the street. The wording may vary, but there is that intent.

Mr. Kraft recommended that the Borough consider a "Going Out of Business" ordinance.

Ms. Callahan questioned the difference of placing signs inside versus outside of a window if the Board's intent is to minimize the visual impact of signage. Mr. Kraft recommended limiting the signage by square footage permitted. Mr. Gertler stated that temporary signs are permitted with permits, but questioned why the signs did not need to be approved by the Historic Commission. Mr. Henry, Esq. advised it was related to turnaround time.

Mrs. Lichtenberger was supportive of the temporary sign ordinance as providing each business with an opportunity to have a sign on Main Street. Mr. Kraft expressed that Main Street has not done well from a business perspective, and the Board needs should not over restrict signage.

Board discussed some of the smaller signage such as lottery tickets sold, American Express taken and hours open for business. Mr. Henry, Esq. stated that he has not seen other towns address that. Mrs. Kopcsik questioned whether the Board would need to distinguish between the outside or inside. Square footage could be considered. Mrs. Lichtenberger expressed her opinion that given merchandise, artwork and different types of signage, the definitions would be difficult.

Mr. Kraft recommended that the first step should be for the Mayor to speak with the Zoning Officer and bring the issue of the consistency of the enforcement to his attention. He also requested that we look into what other towns have done, and have another discussion when the full Board is present. The Zoning Officer should get out of his car and walk around to really notice any violations as they cannot be observed just by driving by. The Board would be interested in any comments that the Zoning Officer would provide through the Mayor.

Mayor Henry stated that the temporary sign ordinance allows only one sign per lot. Business owners in the shopping center are bringing this issue to the attention of the Council.

Responding to Mr. Gertler on whether the building owners know about the ordinance, and who is responsible, Mr. Henry, Esq. advised that the tenant is the one with the business and needs to adhere to the ordinance.

Discussion will be continued at a future date.

#### **OTHER BUSINESS**

**Multigenerational Housing:** Mr. Gertler reported that the team had one meeting and reviewed some ordinances from other towns as well as the Borough Board of Adjustment cases for the Senior Accommodation Suites. They were drawing a distinction between multigenerational and multirelational housing. One of the questions was how does the Borough enforce the ordinance after the homeowner who built the unit moves. On the issue of a family moving into a unit, there is registration required for proof for admission to the schools.

In addition they discussed issues associated with (1) different standards for different zones, (2) separate sewer connections, (3) attached versus detached units, and (4) potential conversions of carriage houses and pool houses. After their discussions they are still considering whether there should be an ordinance or just a series of guidelines for the BOA.

Mr. Kraft noted that the potential occupancy limitation ordinance could provide one mechanism for enforcement. Mr. Henry, Esq. advised that specific requirements would need to be set forth in an ordinance. The Board of Adjustment is an independent entity.

Addressing Mr. Kraft on his concern about the enforcement and “sunsetting” of the potential unit as necessary to avoid converting a single family zone to a multifamily zone, Mr. Gertler stated that the team did speak briefly about it, and to attend the schools, a lease would be required. It would be neighborhood enforced. Mr. Kraft noted that if we are uncomfortable about the future, then the best place for the requests is the Board of Adjustment.

Mr. Henry, Esq. advised that there is case law to be considered. It has determined that if a property can support two living units, it can support two units regardless of who is living in it. There is some recognition of special needs housing. At the BOA, conditions based on the property could be set. Language might be considered for the Master Plan along the lines of meeting special housing needs. He continued that deed restrictions could also be challenged. Mr. Humbert noted that any D1 variance must be reconciled with the Master Plan. Any ordinance may create a “Field of Dreams” situation.

#####

#### **TRC UPDATES**

Mrs. Kopcsik provided an update on the TRC applications. As there are no new applications pending, the TRC meeting of Monday, August 17 is cancelled.

#####

#### **ADJOURNMENT**

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:40 p.m. The next regular meeting of the Mendham Borough Planning Board will be held on Monday, September 14, 2009 at 7:30 p.m. at the Garabrant Center, 4 Wilson St. At that time, the public hearing for the Master Plan Amendment – Historic District Expansion: Phase I will be held.

Respectfully submitted,

Diana Callahan  
Recording Secretary





