

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
September 9, 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 – Absent	Mr. Kraft - Present
Mr. Bradley – Present	Mrs. Kopcsik – Absent
Mr. Cascais - Present	Mrs. Lichtenberger - Present
Mr. Gertler – Present	Ms. Sandman – Present ('til 8:40 p.m.)
	Councilman Sharkey - Present

Alternates:	Mr. Cavanaugh, Alternate I – Absent
	Ms. Isaccson, Alternate II – Present

Also Present:	Mr. Henry, Attorney
	Mr. Quamme, Engineer
	Mr. McGroarty, Planner
	Ms. Callahan, Secretary

MINUTES

On motion made by Mr. Cascais, second by Councilman Sharkey and carried, the minutes of the regular meeting of August 12, 2013, 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. There being none, the public comment session was closed.

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HEARING

#944 – Kings Supermarkets – Amended Preliminary & Final Site Plan: **Resolution
Block 801, Lot 20, Mendham Village Shopping Center (Main Street Corridor)**

Mr. Henry, Esq. had provided the Board with a draft copy of the resolution with their pre-meeting packages. At the meeting he advised the Board of some minor editorial changes and some content clarification requested by the applicant's attorney. The content changes are highlighted in bold in the resolution that follows.

Mr. Cascais made a motion to approve the resolution with the changes. Councilman Sharkey seconded.

ROLL CALL: The result of the roll call of eligible voters was 5 to 0 as follows:

In Favor:	Bradley, Cascais, Lichtenberger, Sharkey, Kraft
Opposed:	None
Abstentions:	None

The motion carried. Following is the approved resolution:

**MENDHAM BOROUGH PLANNING BOARD
RESOLUTION
AMENDMENT TO SITE PLAN APPROVAL
FOR KINGS SUPER MARKETS, INC.
84-88 EAST MAIN STREET
BLOCK 801, LOT 20**

WHEREAS, Kings Super Markets, Inc. (the "Applicant") has applied to the Planning Board of the Borough of Mendham (the "Board") for an Amendment to the existing Mendham Village Shopping Center Preliminary and Final Site Plan Approval to permit changes to the front entrance and related areas on the Kings Supermarket building, replacement of the façade sign on that building, replacement of the "Kings" panel on the monument sign, and the addition of an outdoor staircase along the northwesterly side wall of the supermarket building toward the rear of the building, on property located at 84-88 East Main Street, designated Block 801, Lot 20 on the Tax Map of the Borough of Mendham (the "Subject Property"); and

WHEREAS, Applicant seeks approval of the Amendment to the existing site plan for the Mendham Village Shopping Center only to the extent of the proposed exterior changes to the Kings Supermarket building and the Kings portion of the monument sign at the Shopping Center, there being no other proposed changes to the existing site plan, structures, or site elements; and

WHEREAS, a public hearing was held on August 12, 2013, during which hearing Applicant's representatives offered testimony, the Application materials submitted and exhibits offered at the hearing were reviewed by the Board, the Board heard argument in support of the approval from Applicant's attorney, and the Board's consultants and members of the public were given an opportunity to be heard; and

WHEREAS, the Board has considered the Application and supporting materials filed by Applicant, the testimony of Applicant's representatives, the exhibits introduced into evidence in the course of the hearing, the argument of Applicant's counsel, the reports received from various municipal officers and agencies, the comments of the Board's consultants, and there being no comments from members of the public;

NOW THEREFORE BE IT RESOLVED that based upon the foregoing, the Board makes the following findings of fact and conclusions of law:

1. Applicant is a tenant, occupying one of the separate buildings (the Kings Supermarket) at the Mendham Village Shopping Center located at 84-88 East Main Street, designated Block 801, Lot 20 on the Tax Map of the Borough of Mendham. The Subject Property is located in the East Business Zone and is within the Main Street Corridor.

2. The owner of the Subject Property, V-Fee Realty Investment, LLC, has consented to the filing and prosecution of this Application.

3. In connection with a renovation and reorganization of the interior of the Kings Supermarket, Applicant seeks to make a limited number of exterior changes. The front entrance and exit facility is to be relocated to the center of the building (the existing entrance/exit vestibule to be removed); cart storage is to be split so as to have locations on either side of the central entrance/exit; the façade sign on the building will be replaced with a sign bearing the new Kings logo; the Kings panel on the monument sign will be replaced with a sign bearing the new Kings logo; and an outdoor access staircase for use by employees will be added along the northwesterly side wall of the building toward the rear of the building. With the exception of the sign face changes and the proposed outdoor staircase, all of the proposed exterior work will be along the frontage of the building underneath the existing front canopy area.

4. No variances are required with respect to the proposed building/site alterations.

5. In connection with a description of the proposed interior work in the supermarket, Applicant's Director of Engineering, Maintenance and Construction testified that there would be no pizza oven installed and that there would be no café or seating area within the Kings Supermarket store. He further testified that Kings would be making the necessary repairs to the roof railing system on the Kings Supermarket building. He further indicated that Kings was discussing **with the owner** dealing with all of the roof railing systems on all of the buildings and, in any event, would be encouraging the landlord to complete these long-overdue repairs.

6. Applicant's attention was called to the fact that the Borough has limitations on days and hours of construction. Applicant acknowledged that and, further, acknowledged an understanding that it would have to obtain approval from the Borough Council for any construction proposed outside of the permitted days and/or hours.

7. Applicant's project architect described the proposed exterior changes to the building. Plans were submitted to the Board prepared by De Barbieri Architects, LLC dated June 17, 2013 and revised July 22, 2013, consisting of three sheets (ST101, A101, and A201, entitled "Alteration to Kings Supermarket", "Site Plan", "Floor Plan", and "Exterior Elevation", respectively). Colorized versions of these plan sheets were marked into evidence as Exhibits A-1, A-2, and A-3, respectively.

8. Applicant's project architect reviewed the specific changes outlined above to be made on the exterior, and discussed the proposal that the picnic table be retained since employees use it for breaks, agreed after discussion with the Board that there would be no outside display (consistent with Borough ordinances), and described the proposed railings for the new carts storage areas, confirming that they would be black or some other dark color and would not have any signs attached to them.

9. Applicant's sign consultant furnished comparative photo simulations of the proposed change in both the monument sign and the façade sign, along with a sample of the linen finish which will be applied to the background of the signs. This three page set was marked Exhibit A-4 (Signal Sign Co. Drawings SK-1 and SK-2 dated August 8, 2013, along with a one page example of the linen finish). He testified that the new signage would occupy the same space (dimensions) as the present signage, would be in the colors depicted in Exhibit A-4, and would have the same internal illumination and intensity as at present. He indicated that with the linen finish background, the signage and its lighting would be a little less stark than at present through the plain white finish. In each case, the signage will now bear the new logo of Kings Supermarkets.

10. The Main Street Corridor Committee reviewed the signage proposal for the change in Kings logo signage (monument and façade). Though commenting that it might be preferable to have carved wooden signage, especially on the monument sign, the Main Street Corridor Committee approved the proposed signage.

11. The Board reviewed the various municipal reports and comment memos with Applicant and was satisfied that Applicant had supplied information where that was sought, and would comply with the requirements outlined in those reports and comment memos.

12. There were no comments from members of the public.

13. Based upon all of the foregoing, the Board determined that this amendment to the site plan with respect to the Kings Supermarket building and signage on property known as 84-88 East Main Street (Tax Lot 20 in Block 801) was, with conditions, appropriate and should be granted and approved.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mendham that, based upon the foregoing, Applicant's proposed amendment to the Mendham Village Shopping Center site plan with regard to changes to the Kings Supermarket building and signage (all located at 84-88 East Main Street and designated Block 801, Lot 20 on the Mendham Borough Tax Map) to permit the relocation of the main entrance/exit to the supermarket, the relocation of cart storage areas, the change of façade sign, the change of the monument sign **panel**, and the addition of the outdoor access staircase along the northwesterly side wall toward the rear of the building, in accordance with the plans submitted to the Board, the exhibits marked at the hearing on August 12, 2013, and the testimony presented, be and hereby is approved and granted subject to the following conditions:

1. Applicant shall obtain all other permits and approvals which may be required from any board, body, office or agency, whether federal, state, county or municipal, relating to completion of this Application or the construction, installation or operation of the proposed improvements on the Subject Property.

2. All taxes and other municipal charges shall be paid and current through the third quarter 2013. Applicant shall also pay all application and escrow fees and any other fees required in connection with the completion of this Application or this project.

3. The renovations and reorganization of the interior of the Kings Supermarket shall not result in the inclusion of a pizza oven, nor the inclusion of a café or seating area within the store.

4. The damaged roof railing system on the Kings Supermarket building shall be properly repaired or replaced by **or at the direction of Applicant prior to the completion of the renovations to the interior of the Kings Supermarket.**

5. A pre-operational Health Department inspection shall be made once the renovations are completed.

6. There shall be no outside display of merchandise unless variance relief is obtained in this regard.

7. There shall be no signage placed on the cart storage railings.

8. Applicant shall comply with the Borough's work hours/days limitations unless it seeks and obtains approval from the Borough Council for any work desired outside of those hours/days.

9. Applicant shall obtain a sewer connection permit from the Borough Council and shall abide by any conditions of such permit.

Though not formally conditions of approval, Applicant agreed to encourage the landlord to make proper repairs to the remaining roof railing systems on the other buildings at the Shopping Center, and to complete the necessary paving repairs at the earliest feasible time. In addition, responding the comments from members of the Board, Applicant agreed to consider the suggestion that the picnic table desired for employee breaks be located somewhere other than along the front façade of the building.

Except as otherwise expressly provided in this approval Resolution, or required by necessary implication, the balance of the site plan for the Mendham Village Shopping Center remains as previously approved by this Board.

BE IT FURTHER RESOLVED that this Resolution, adopted this 9th day of September, 2013, memorializes the action of the Board, set forth above, taken at its regular meeting on August 12, 2013.

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MASTER PLAN CONSISTENCY REVIEW: Recommendation to Council

ORDINANCE #11-13: AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CERTAIN PORTIONS OF CHAPTER 214 ENTITLED “ZONING” TO ESTABLISH SMALL WIND SYSTEMS AS A PERMITTED ACCESSORY USE WITHIN THE 5-ACRE RESIDENCE ZONE OF THE BOROUGH AND TO PERMIT SOLAR PANELS AS A PERMITTED ACCESSORY USE IN ALL ZONE DISTRICTS

Board received a letter dated August 20, 2013 from Borough Clerk, Maureen Massey, requesting Planning Board review of the above referenced ordinance introduced by the Borough Council. Mr. Henry, Esq. advised the Board that they had previously recommended that an ordinance of this type be adopted by the Council. The Council has now introduced an ordinance, and it has now been referred back to the Planning Board for a review on consistency with the Master Plan. The Board can also make any additional comments. The action is a recommendation back to the Council within 45 days of the introduction.

Mr. McGroarty, Board Planner, advised the Planning Board that in terms of the small wind systems, they would be restricted to the 5-acre zone and permitted as an accessory use only on a conforming lot. Only one per lot would be allowed, and they would be prohibited in the front yard setback. These and some other elements are the same as those provided by the Planning Board initially. The Council did change the original maximum permitted height that was recommended from 120 ft. to 100 ft. Also, while the Planning Board had sent an ordinance for wind and an ordinance for solar to the Council, they have now been combined.

Addressing the solar systems, Mr. McGroarty stated that the Council changed the ordinance to not permit ground mounted systems. Only roof mounted panels will be permitted. The standards for the roof mounted will remain the same as originally proposed, and they will be restricted from being seen from the public right of way. They will not be permitted in the Historic District.

Mr. Henry, Esq. advised that the “front yard setback district” referenced in the Standards section for Small Wind Systems should be changed to “front yard setback area” to reflect the appropriate terminology. He verified with Mr. McGroarty that the cross references to other ordinances had been verified. He also noted that the ordinance referred to the “front yard setback” in the district regulations as opposed to the “front yard” as defined in the Zoning Ordinance where the front yard is anywhere in front of the principal building. Mr. McGroarty advised that the way the ordinance has been drafted and sent by the Council indicates that the small wind system could be located in the front yard, but not the front yard setback.

Board had no further comments. Councilman Sharkey made a motion to advise the Council that the ordinance is consistent with the Master Plan. The word “district” should be changed to “area” in the Small Wind Systems Standards. Mrs. Lichtenberger seconded.

ROLL CALL: The result of the roll call was 7 to 0 as follows:

In Favor: Cascais, Gertler, Lichtenberger, Sandman, Sharkey, Isaccson, Kraft
 Opposed: None
 Abstentions: None

The motion carried. Ms. Callahan will prepare and send a letter to the Council.

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Chairman Kraft recused himself from the following hearing as a resident within 200 ft. of the applicant. He left the meeting. Vice Chair Gertler assumed leadership of the Board.

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HEARING**#942 – Seven Hilltop Holdings, LLC & Five Hilltop Holdings, LLC – Prelim & Final Site Plan
Block 1902, Lots 20 & 21, 5 & 7 Hilltop Road (Historic District)**

Present: Antonio Camelari, Esq., Attorney for Applicant
Peter David Moog, Landscape Designer for Applicant
Richard F. Smith, Jr., Surveyor/Planner for Applicant
Justin Marcucci, Representative of Nickelfish

Exhibits: A-1: Survey & Site Plan dated 6/26/13 with shaded Key Map – Used at Meeting
A-2: Survey & Site Plan dated 6/26/13 included in package, but not used at meeting

Mr. Camelari, Esq. stated that Seven Hilltop Holdings, LLC and Five Hilltop Holdings, LLC are the owners of Lots 20 and 21, respectively, in Block 1904. He further stated that Nickelfish is tenant at both 5 Hilltop Road and 7 Hilltop Road. Nickelfish occupies and operates from both properties. The applicants are present for preliminary and final site plan approval to connect the two lots with a driveway, to put in new stone walkways and to do landscaping. They will also be creating a one-way in from the north driveway and a one-way out from the south driveway. They are not consolidating the lots, but will require cross-easements for access and other purposes.

Mr. Henry, Esq. advised that he reviewed the public notices and the Board had jurisdiction to proceed.

Mr. Richard Smith, Surveyor/Planner for the applicant, presented his credentials and was accepted as a witness by the Board. He testified that he completed the survey and site plan dated June 26, 2013 and the revisions of August 20, 2013. As two different plans with the same title and the same dates had been submitted, he clarified for the Board that the one of focus was the one with the shaded block that had been included in their packages. To avoid confusion, that plan was marked Exhibit A-1 and placed on the easel for viewing and discussion with the Board. The other plan was marked Exhibit A-2.

Utilizing Exhibit A-1, Mr. Smith testified that the survey portrays the existing conditions and the state of the zoning compliance. Neither lot complies exactly with the zoning, but both structures were built before the zoning regulations. He explained that the applicant is connecting the parking areas. While the buildings have a common use, there are now two ingresses and two egresses. It will be more efficient and safer to connect the two parking areas with a driveway and create one ingress and one egress. No new variances are required for any conditions created by the proposed site changes. Lot 20 is under coverage and Lot 21 is over coverage, but that is not changed with the proposal. His plan reflects the plans of the Landscape Architect. Responding to Mr. Camelari, Esq., Mr. Smith agreed that it was sound planning to have the separate single egress and ingress driveways particularly since the southern driveway is restricted by the building and could not be enlarged.

Mr. Camelari, Esq. clarified that there is a proposed bluestone patio on 5 Hilltop along with the driveway and walkway. They are not slate as stated on the plans, and the plans can be revised. Mr. Smith clarified for Mr. Henry, Esq. that no variances are required for any new conditions. While Lot 21 is over coverage at 72.6% versus the 65% permitted, it is not exceeding what exists. The back of the property is gravel and was counted as impervious coverage.

Mr. Henry, Esq. clarified that when referring to the Engineer's letter, Mr. Smith was referencing Mr. Ferriero's letter of September 5. Mr. Smith stated that he could comply with any comments at the direction of the applicant. The client (the Applicant) agreed to comply.

Mr. Peter Moog, Landscape Designer provided his qualifications to the Board and was accepted as a witness.

Addressing Mr. Cascais on his request for clarification of the areas that are to be converted from slate to bluestone, Mr. Moog stated that on the Exhibit A-1 plans, the shaded areas between 5 Hilltop and 7 Hilltop will be completed with a flush pavement bluestone with a compacted sub-base. The bluestone will be 3 inches thick and it is road-worthy. It will be set with a mixture of sand and portland that almost creates a mortar, but is malleable. It is built like a driveway with a 10-inch compact sub-base. The patio will have a 4 to 6-inch compacted base with bluestone. That does not need the setting compound. The bluestone walkway is replacing concrete pavers. Five (5) Hilltop already has bluestone treatment, and this will provide continuity with that period material. As the homes are over 100 years old, it will enhance the look and the features.

Responding to Councilman Sharkey on the treatment on either side of the walkway, Mr. Moog stated that close to the street they will use asphalt. The front area of the driveway would have new clean asphalt. From the western edge of the asphalt back is currently compacted aggregate. Responding to Councilman Sharkey on whether it provides drainage, Mr. Moog stated that today it does not as it is compacted aggregate. This is no different than asphalt. The rear of 5 Hilltop is just covered over with compacted aggregate and in engineering terms, they perk the same way. A drainage plan will be submitted with the approved plan. A drywell or seepage pit would be provided for 5 Hilltop. They would be decreasing the water flow even though the impervious coverage is not being increased. Drainage remediation already exists on 7 Hilltop.

Mr. Quamme, Board Engineer added that the construction would be classified as a minor development, but would still require the drainage plan.

Addressing Mr. Quamme on tree removal, Mr. Moog stated that where the driveway cuts through, there are three trees on the site plan. One tree is dead and will be removed. The other two would also be removed. There is one additional substantial tree important to the site that would be impacted, but they would put a curb around the tree for less impact. They can put those adjustments on the plan. Mr. Henry, Esq. advised that Mr. Ferriero stated at least one new shade tree should be provided. Mr. Moog agreed.

Responding to Mr. McGroarty on the nature of the bluestone as a walking surface in bad weather, and whether it would provide enough friction, Mr. Moog stated that it has a thermal finish, and it has some traction. While it is a smooth surface, the edges are leveled and pitched so that the water disperses. He continued that it is all in the preparation of the surface. It will be fine for walking. It is a large surface area and less water will stand. It is not slippery and has some traction. It is the same surface that has been used at 5 Hilltop. Mr. Bradley commented that it is usually used around pools.

Councilman Sharkey commented that the plants proposed are deer favorites, and they may want to use deer resistant plants. Mr. Moog stated that most of the proposed plants are already used on the site, and they have had good experience with them.

Mr. Henry, Esq. reviewed the comments in the Ferriero letter of September 5, 2013 and advised that the conditions would need to be met. Drainage would need to be provided. A new set of plans would need to be created. The applicant would also need to provide the easement between 5 and 7 Hilltop as discussed with the TRC. He would work that out with Mr. Camelari, Esq.

Mr. Henry, Esq. referenced an area where the lot line and the driveway crossed with the resident property adjacent. Mr. Camelari, Esq. advised that the easement had previously been obtained in favor of Lot 20 and is recorded in deed book 2815.

Mr. Henry, Esq. reviewed the discussions and the conditions that would be required. He stated that the applicant was asking the Board to approve the changes to the site as identified on the site and landscaping plans. There is recognition that the plan revisions in the Ferriero letter of September 5 must be made and they would become part of the revised plan. This includes an easement between the properties for the usage of Lots 20 and 21 for pedestrian and vehicular traffic, trash removal, and drainage. The TRC had also discussed that the owner needs to realize that if the properties are split in the future, there would be reverse engineering of the easement required. There would also be the Board's standard conditions associated with taxes, escrows, etc.

Councilman Sharkey made a motion to approve the application subject to the applicant providing the revised site and landscaping plans with the conditions expressed in the Ferriero Engineering report dated September 5, 2013, and other conditions discussed. Mr. Bradley seconded.

ROLL CALL: The result of the roll call was 6 to 0 as follows:

In Favor: Bradley, Cascais, Gertler, Lichtenberger, Sharkey, Isaccson
 Opposed: None
 Abstentions: None

The motion carried. The application was approved. Mr. Henry, Esq. will prepare a resolution memorializing the action for the October 15, 2013 regular meeting of the Board.

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TRC UPDATES (Information Only)

Mr. Bradley reviewed the approved and pending applications with the Board. As no new applications have been received, the TRC meeting of Monday, September 16 is cancelled.

ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Vice Chair Gertler adjourned the meeting at 9:15 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Tuesday, October 15, 2013 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

