

Abstentions: None

The motion carried and Ms. Kaye was appointed Board Secretary.

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RESOLUTIONS

#07-14 – Roxiticus Golf Club - Site Plan Waiver 179 Bliss Road, Block 2601, Lot 3

Mr. Kraft asked if there were comments on the resolution memorializing the Site Plan Waiver granted for the installation of a temporary backup generator.

Mayor Henry made a motion to adopt the resolution, as written, which was seconded by Mr. Cascais.

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

In favor: Andrews, Bradley, Henry, Lichtenberger, McDevitt, Merkt, Cascais, Kraft
Opposed: None
Abstentions: Sprandel

The motion carried. Ms. Kaye will make the appropriate public notification. Following is the resolution:

MENDHAM BOROUGH PLANNING BOARD

RESOLUTION

GRANTING SITE PLAN WAIVER APPROVAL FOR ROXITICUS GOLF CLUB, INC. BLOCK 2601, LOT 3 APPLICATION NUMBER PB #07-14

WHEREAS, Roxiticus Golf Club, Inc. ("Applicant") has applied to the Planning Board of the Borough of Mendham (the "Board") for a Site Plan Waiver with respect to the installation of a proposed emergency back-up generator on property located at 179 Bliss Road and designated Block 2601, Lot 3 on the Tax Map of the Borough of Mendham (the "Subject Property"); and

WHEREAS, a hearing was held by the Board on January 12, 2015 at its regular public meeting, at which time representatives of the Applicant testified as to the intent and purpose of the installation of the generator, the Board reviewed the documents and materials filed by the Applicant, and members of the public and the Board's professionals were given an opportunity to comment on the Application; and

WHEREAS, the Board has considered the Applicant's submissions for the requested Site Plan Waiver, including testimony presented on behalf of Applicant, and 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 the owner of the Subject Property located at 179 Bliss Road (Tax Map Block 2601, Lot 3) in the Borough of Mendham.

2. Applicant wishes to install an emergency back-up generator sufficient to power its clubhouse in the event of a power failure. The proposed generator would be positioned on a trailer bed within a courtyard area where a smaller back-up generator is presently located.
3. The present smaller generator is approximately 25 years old and of a capacity to maintain only refrigeration and basic safety lighting within the clubhouse. Applicant is considering a major renovation/expansion of the clubhouse and, while this matter is under further consideration, desires to have the greater emergency back-up capacity. This larger capacity would allow a function within the clubhouse to continue even in the face of a power failure, which could not presently be accomplished.
4. Applicant's witnesses testified that in the event a major renovation/expansion of the clubhouse is undertaken, it is anticipated that a permanent large-capacity emergency back-up generator would then be installed.
5. In connection with the pending Application, checklist waivers were sought by Applicant with respect to items 9, 11 and 27. In accordance with the recommendation of the Technical Review Committee and the Borough Engineer, the Board granted the requested checklist waivers and proceeded with the public hearing on the Application for a Site Plan Waiver.
6. The proposed courtyard location for the larger generator is virtually surrounded by masonry walls. The nearest residence to the Applicant's property is 1,000 feet or more from the courtyard location. It is anticipated that any noise resulting from the operation of the larger generator will mostly be contained by the courtyard structure itself and, to the extent this containment is not complete, that the distance to the nearest residence is such that, not only will the state noise standards be satisfied at the Applicant's property line, but that it is likely any noise will be attenuated to the point where there is no perception of that sound off site.
7. Applicant's witnesses testified that the new generator will be set up in such a manner as to automatically start in the event of a power failure affecting the clubhouse. The old generator, though being retained, will only come on line in the event that there is a simultaneous or subsequent failure of the new generator. This would allow at least the retention of the refrigeration and emergency lighting capability. The two generators would not be operating at the same time.
8. Applicant's witnesses further testified that the supplier of the generator recommended monthly testing. This would be accomplished with a 15-20 minute period of running the generator to assure that it will come on line when needed and will operate as desired. Applicant agreed that it would limit such operational tests to weekdays between the hours of 9 a.m. and 5 p.m.
9. Applicant's witnesses testified that there were no anticipated changes in lighting on the Subject Property resulting from the installation or use of the proposed larger generator. Further, Applicant's witnesses testified that the installation and/or use of the proposed larger generator would have no impacts on regular site operation, operation of the clubhouse, parking, traffic circulation, or deliveries. Further, there are no proposed structural changes to any of the buildings on the Subject Property and no changes regarding other site elements.

10. No variances are required or being requested by Applicant.
11. There were no comments from members of the public, there being none present at the Board's meeting.
12. The Board concluded that the proposed installation of the larger emergency back-up generator on the Subject Property, as detailed in Applicant's supporting materials and testimony offered at the public hearing, did not give rise to any further need for more detailed engineering or site plan submissions.

BE IT FURTHER RESOLVED that, based upon the foregoing, the Board concludes that Site Plan Waiver is appropriate in this instance and, with certain conditions, does hereby approve the waiver of any further site plan application or hearing. The approval is subject to the following conditions:

1. The installation and operation of the proposed emergency stand-by generator shall be in accordance with the Application, testimony adduced at the Board's public hearing, the findings and conclusions of the Board set forth in this Resolution, and the conditions of approval enumerated herein.
2. Applicant shall obtain any other permits, approvals or inspections which may be required from any board, body or agency, whether federal, state, county or municipal, relating to the proposed installation and operation of the emergency back-up generator.
3. All municipal taxes and charges shall be paid through first quarter, 2015, and all fees and escrows relating to the Application and the proposed installation shall be paid by Applicant.
4. Periodic testing of the emergency back-up generator shall be conducted only on weekdays and only between the hours of 9 a.m. and 5 p.m.
5. Applicant shall be responsible for any Affordable Housing contribution which may result from the proposed project being determined to have created additional non-residential space.

BE IT FURTHER RESOLVED that this Resolution, adopted this 9th day of February, 2015, memorializes the action of the Board, as set forth above, taken at its regular meeting on January 12, 2015.

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PUBLIC COMMENT

Mr. 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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DISCUSSION

Outdoor Dining Subcommittee – Mr. Cascais stated that the subcommittee met on January 15, 2015. He distributed a handout that addressed the comments/questions that were raised

during the September 8, 2014 Planning Board meeting. The following points were discussed at length:

- Outdoor dining as a conditional use, not an accessory use
- Different standards for Historic Business zone and East Business zone
- Hours of operation depend on the type and location of establishment
- Adequate space for pedestrian traffic
- Location, height, color, glare and illumination level of exterior lighting
- Dining capacity and parking considerations
- Outdoor dining standards for establishments that do not offer indoor dining
- Enforcement of approved table locations
- Noise and music considerations
- Height, color and clearance for barriers and umbrellas
- Outside food preparation and table service
- Disposable tableware
- Outdoor heating
- Upkeep and maintenance of dining areas
- Bring Your Own Bottle and liquor license considerations
- Site plan requirements

Mr. Cascais indicated that a meeting with Mr. McGroarty and Mr. Henry will be arranged to revise the draft ordinance in order to reflect input from the Board.

Board of Adjustment Annual Report – Mayor Henry reviewed the BOA memorandum and requested feedback regarding the items identified as possible focus areas for the Board. It was agreed that once outdoor dining has been addressed, home office standards may warrant a review as permitted home offices/occupations do not reflect modern technologies. The Board also requested clarification regarding the definition of “retaining wall or similar structure” as it relates to the current fence ordinance. The Board agreed that senior housing has already been discussed several times and that elements affected by generator installations may need a closer look.

Following is the Annual Report:

*Office of the
Board of Adjustment*

TO: Honorable Mayor and Council Members
 FROM: Mendham Borough Board of Adjustment
 DATE: January 13, 2015
 RE: Board of Adjustment Annual Report – 2014
 CC: R. Merkt, Administrator
 Borough of Mendham Planning Board

Pursuant to NJSA C:40-55D-70.1, the Board of Adjustment (“Board”) has reviewed its decisions on applications and provides the following for consideration by the Council in 2015:

1. **Outdoor Dining** – The Board favors outdoor dining under certain conditions, however, in order to evaluate whether it is suitable for a given location, public opinion must be sought as part of the decision-making process. The Board suggests that factors relating to noise, safety and parking be fully explored. A Planning Board sub-committee is currently comparing ordinances from surrounding municipalities as a benchmark for a draft Borough ordinance.

2. **Senior Suites** – Multi-generational housing needs often trigger an application for a senior accommodation suite. The current process requires the applicant to apply for a use variance for a two-family dwelling and then file a deed restriction forbidding same. Legal review has identified this process as contradictory and the Board proposes that senior suites be regarded as an accessory or conditional use subject to Board approval only if established conditions are not met. A condition of approval may include a deed restriction that prevents the unit from being rented (unless subject to article 40:55D-68.4 of the Municipal Land Use Law which permits senior citizens who own a single-family dwelling as a primary residence to lease a room or rooms to one (1) person). Section II-13 of the 2006 Master Plan also addresses the issue and states that “(t)hese living spaces must be connected to the main residence, use existing entrances, and be deed-restricted against open-market rental for other tenants.” It further provides “(s)uch uses must also be clearly subordinate, accessory, and incidental to the primary single-family residential use and character of the property.” Revision of current standards will offer residents flexibility to design the accommodation suite while adhering to the Master Plan.
3. **Fence Ordinance** – A retaining wall or similar structure falls under the fence ordinance despite not actually serving as such. The Board requests that the Council consider other parameters that would dictate allowable height, location, materials, etc. for this type of structure.
4. **Home Offices/Occupations** – Permitted home offices/occupations do not reflect advances in computer, electronic and digital technologies nor other factors such as telecommuting and lifestyle changes. Section II-10/12 of the Master Plan identifies deficiencies in the ordinance and sets forth guidelines for updating same. The Board recommends that the antiquated types of permitted occupations be expanded to properly align with current trends.
5. **Small Utility Pads** - Applications for residential generators and air conditioners can be costly and time-consuming. In cases of impervious coverage violations, the Board requests that the Council consider excluding generator/air conditioner coverage of 15-20 ft. or less from imperious coverage calculations. This could be allowed in cases where existing coverage is conforming. Any violations for the setbacks may require BOA approval. The Board also requests direction as it relates to the Governing Body’s position on generators at the Commons and other multifamily locations.

2014 APPLICATIONS

BOTTI, JOHN/Fluortek – Variance relief to remain in violation of the side yard setback requirements at Block 301, Lot 75, 45 West Main Street: **APPROVED with conditions**

HOLLY MANOR HEALTHCARE - Minor site plan approval to install an emergency generator at Block 502, Lot 1, 84 Cold Hill Road: **APPROVED with conditions**

DeANGELO, GEORGE - Variance relief for front yard setback, impervious coverage and expansion of a non-conforming use at Block 302, Lot 4, 59 West Main Street: **APPROVED with conditions**

SPADA, JOSEPH - Variance relief to allow accessory structures in the front yard and within the front yard setback, to permit solid fencing in the front yard and an appeal for a determination regarding accessory structures at Block 1801, Lot 35, 1 Thomas Road: **APPROVED with conditions**

DEWEY, RYAN & CHRISTA - Variance relief to allow 8' deer fencing where 4' and 6' are permitted at Block 2201. Lot 19.02, 95 Pleasant Valley Road: **APPROVED with conditions**

PRIOR, HAROLD - Variance relief for lot coverage and building coverage for a new single family dwelling at 12 Garabrant Street, Block 402, Lot 7: **APPROVED with conditions**

FERRARA, FRANK - Variance relief to allow construction of a senior suite at 13 Franklin Road, Block 1708, Lot 7: **to be heard in 2015**

SUMMARY OF CASES

In 2014 there were six (6) new applications received, plus one (1) carried over from 2013. Out of those seven (7) cases, six (6) were decided. One application will be heard in 2015 (Ferrara).

NEW APPLICATIONS ON CALENDAR	6
Applications Approved	6
Application Approved w/ conditions	6
Applications Withdrawn	0
Applications Denied	0
New Applications Pending for 2015	1

In terms of the types of variances, the "C" variances were associated with setbacks, impervious coverage and fencing. There was one (1) appeal of the Zoning Officer's determination (Spada). The one (1) use variance granted relief for the expansion of a non-conforming use (DeAngelo).

TOTAL APPLICATIONS COMPLETED	6
"C" Variances	6
"D" Variances	1

APPLICATION FEES

In 2014, the Board of Adjustment collected a total of \$29,522 distributed as follows:

TOTAL FEES COLLECTED	\$29,522
Application	6,300
Escrow	23,221
OPRA	1

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TRC UPDATE

Mr. Bradley summarized the **PB #01-15 – KL Realty** application.

ADJOURNMENT

There being no additional business to come before the Board, Mr. Cascais made a motion to adjourn which was seconded by Councilman Andrews. On a voice vote, all were in favor.

Chair Kraft adjourned the meeting at 9:26PM.

The next regular scheduled meeting of the Planning Board will be held on **Monday, March 9, 2015 at 8:00PM** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Margot G. Kaye

Margot G. Kaye
Board Secretary