

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
September 14, 2015**

Garabrant Center, 4 Wilson Street, Mendham, NJ

CALL TO ORDER

The regular meeting of the Mendham Borough Planning Board was called to order by Mr. Cascais, Vice Chair, at 8:00PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

OPENING STATEMENT

Notice of this meeting was published in the *Observer Tribune* and in the *Daily Record* on January 15, 2015 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 – Present
Ms. Lichtenberger – Present
Administrator Merkt – Absent
Mr. Sprandel – Present

Mr. Kraft - Absent
Mr. Cascais – Present
Ms. Isaacson – Absent
Councilman Andrews – Present

Alternates:

Mr. Kay, Alternate I – Present
Mr. McDevitt, Alternate II - Present

Also Present:

Mr. Ferriero, Engineer
Mr. Henry, Esquire
Mr. McGroarty, Planner

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MINUTES

Councilman Andrews made a motion to approve minutes of the regular meeting of August 10, 2015, as amended with three word replacements on page 2, which was seconded by Mr. Bradley. On a voice vote all eligible voters were in favor and the minutes were approved with revisions.

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PUBLIC COMMENT

Mr. Cascais 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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MASTER PLAN AMENDMENT

Peter Henry explained that tonight's public hearing was the first opportunity for the public to discuss the proposed new land use category of a Religious Campus with Planning Board members. He mentioned that the Master Plan Amendment is the underlying foundation for which a new Zoning Ordinance may or may not be drafted by Borough Council at some later time. A detailed explanation was provided by Mr. McGroarty about the proposed Religious Campus which is exclusive to the 112 acre Sisters of Christian Charity location. It would leave the existing R-5 residential district intact and add another religious campus zone of minimum tract size of 80 acres to maintain a rural atmosphere.

Many members of the public commented on the basis of the decision to create the new Religious Campus zone with a minimum tract area of eighty (80) acres and not the full 112 acres. Other questions were raised about preserving the character of neighboring properties, traffic and safety issues, and also the decision behind making a new zone instead of a use variance.

Conversations continued amongst the Board about the minimum 80 acre tract size and that further discussion on the tract size is needed. Mr. Henry read the Resolution to amend the Land Use Element by adoption of the draft dated August 18, 2015. Mr. Sprandel made a motion to adopt the August 18, 2015 draft as an amendment to the Land Use Element of the Borough's Master Plan, and Councilman Andrews seconded.

ROLL CALL: The result of the roll call was 8 to 0 as follows:
In favor: Andrews, Bradley, Henry, Kay, Lichtenberger, McDevitt, Sprandel, Cascais
Opposed: None
Abstentions: None

The motion carried.

**RESOLUTION OF THE PLANNING BOARD
OF THE BOROUGH OF MENDHAM**

WHEREAS, the Planning Board of the Borough of Mendham (the "Board"), following a public hearing as required by law, adopted a Master Plan in accordance with the provisions of N.J.S.A. 40:55D-1, et seq., on October 10, 2006, including a Land Use Plan element as described therein, which Master Plan, entitled "Master Plan 2006", has been amended from time to time; and

WHEREAS, an additional amendment to the Land Use Plan element has been developed and proposed for adoption by way of

modification of the Borough's Master Plan 2006, providing for the creation of a Religious Campus permitted use; and

WHEREAS, a public hearing was held by the Board, pursuant to Notice as required by N.J.S.A. 40:55D-13, on September 14, 2015, at which time the proposed amendment to the Master Plan 2006 (namely, the amendment to the Land Use Plan element) was reviewed and discussed, and members of the public were given an opportunity to be heard with respect to the proposal; and

WHEREAS, the Board, after review of the proposal and hearing all comments and deliberating upon the same, determined that the proposed amendment to the Land Use Plan element as embodied in the August 18, 2015 Draft, as that Draft was amended in the course of the hearing to make non-substantive editorial corrections, accurately sets forth the desired policy guide for the Borough with respect to provision for creation of a Religious Campus use;

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Mendham, this 14th day of September, 2015, that the August 18, 2015 Draft of the amendment to the Land Use Plan element, as that Draft was amended at the hearing to make non-substantive, editorial corrections (being the form attached hereto), be and hereby is approved and adopted as an amendment to the Land Use Plan element of Borough's Master Plan 2006;

BE IT FURTHER RESOLVED that this determination be reported to the governing body of the Borough of Mendham, and that Notice and other requirements of the Municipal Land Use Law regarding Master Plan amendments be completed.

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RESOLUTIONS

PB #01-15 KL Realty Holdings LLC, 20 East Main Street, Block 601, Lot 9
 Preliminary & Final Site Plan Approval with Variances: **Hearing**

Mr. Cascais asked if there were comments on the draft resolution memorializing the approval for preliminary and final site plan with variances for the above referenced property. There were none. A motion to adopt the memorializing Resolution was made by Councilman Andrews and seconded by Mr. Bradley.

ROLL CALL: The result of the roll call was 6 to 0 as follows:
 In favor: Andrews, Bradley, Henry, Kay, McDevitt, Cascais
 Opposed: None
 Abstentions: Lichtenberger and Sprandel

The motion carried. Following is the resolution:

MENDHAM BOROUGH PLANNING BOARD

RESOLUTION

**GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL
 WITH VARIANCES
 FOR KL REALTY HOLDINGS, LLC
 BLOCK 601, LOT 9
 APPLICATION NO. PB#01-15**

WHEREAS, KL Realty Holdings, LLC (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for preliminary and final site plan approval with variances to permit renovation and site improvements on property located at 20 East Main

Street and designated Block 601, Lot 9 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, a hearing was held by the Board on August 10, 2015, at its regular public meeting, at which time representatives of the Applicant testified as to the intent and purpose of the renovation, site changes and use of the Subject Property, 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 approval and variances, including testimony presented on behalf of Applicant, the application and supporting materials, exhibits reviewed at the hearing, and 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 owners of the Subject Property located at 20 East Main Street (Tax Map Block 601, Lot 9) in the Borough of Mendham.
2. Applicant wishes to renovate the entire interior of the existing building on the Subject Property (removing the residential portion and converting the entirety of the space to commercial use, as office and

related space for Applicant's real estate business). Applicant also intends to reconfigure the parking lot, provide new signage and lighting, and install new landscaping.

3. Applicant's proposed renovation of the site will result in the entire building being devoted to a permitted office use, the repair and preservation of a historic building (built in 1850), and a significant visual and aesthetic upgrade of the Subject Property.

4. There are a number of existing non-conforming conditions affecting the Subject Property, as follows:

- (a) Lot area at 0.28 acres (relative to ½ acre required minimum);
- (b) Lot width of 64 feet (relative to 100 foot required minimum);
- (c) Front yard setback of 11.5 feet (relative to 20 foot required minimum); and
- (d) Lot coverage at 67.6% (relative to a 65% maximum permitted).

Lot area, lot width, and front yard setback will remain as at present, requiring variance relief reflecting the existing conditions (unchanged, and therefore, not exacerbated). Lot coverage, after completion of the proposed site work, will be reduced to 60.3% and, therefore, will be under the permitted 65% maximum.

5. In addition to the variances identified above for the continuation of the existing non-conforming conditions, Applicant requires preliminary and final site plan approval for the proposed renovation and site improvements on the Subject Property.

6. Applicant submitted site plans prepared by Murphy & Hollows Associates LLC (4 sheets), the first sheet dated December 1, 2014 and sheets 2, 3 and 4 dated December 4, 2014, all of the foregoing being revised through July 27, 2015 (hereinafter the “Plans”).
7. Applicant also submitted architectural plans, entitled “Schematic Plans and Elevations” (1 sheet) prepared by Architecture Plus, PC, dated February 13, 2015 and revised July 28, 2015 (hereinafter the “Architectural Plans”).
8. Applicant and the Board discussed the content of the Borough Engineer’s July 31, 2015 letter regarding review of the Application, the Plans, and the Architectural Plans. Applicant agreed it could comply with the comments of the Borough Engineer, including providing the additional lighting information requested for the Borough Engineer’s review and approval, revising the Plans to set forth a requirement for a two year guarantee on plant material under the landscaping notes (and providing that guarantee after the plant material has been installed on the Subject Property), and revising the Plans to show sign lighting and information regarding the proposed lighting, such that the Borough Engineer can review the proposal and be satisfied with the nature and type of lighting, the lighting intensity, and the manner of the proposed installation.

9. Further specific Plan revisions were discussed and agreed by Applicant with respect to reconciling curb detail information shown on the Plans, showing a trash enclosure detail, and a pad enclosure detail.

10. The Board inquired into the status of the Applicant's sewer permit application. Applicant informed the Board that an application had been filed and is pending. Applicant understands that it must be endorsed by the Borough Engineer and presented to the Borough Council for review and issuance of a sewer permit. Applicant further understands that the sewer permit may have conditions imposed upon it and understands that it will be bound by those conditions. It is anticipated that the sewer permit will be issued without any anticipated problems, since the sewer demand will be reduced as a result of the removal of the residential unit in the building on the Subject Property.

11. Applicant and the Board discussed Applicant's application to the Morris County Planning Board and the County Planning Board's determination. Essentially, the County Planning Board requires a dedication from Applicant of a 33 foot half-width for the Main Street right of way. Applicant indicated that it would comply with the County requirement, as detailed in the July 7, 2015 letter from the Morris County Planning Board.

12. In addition to the Plan revision for sign lighting, and the installation of all lighting on the Subject Property in accordance with plans, specifications and data furnished to the Borough Engineer and

satisfactory to him, a post-installation review of the site lighting shall be conducted to determine proper installation and satisfactory operation and performance of the lighting, as proposed and approved. Finally, in discussion with Applicant's representatives, the Board was informed that all site lighting (including the sign lighting) would be on a timer which would limit the hours of lighting from dusk until 9:00 p.m.

13. Applicant's principal, Jeffrey Fellers, testified that there would be relatively little demand for parking on the Subject Property, since the modern activity of a real estate office does not involve most of the sales persons being present in the office most of the time. During a large portion of the work week, there will be one manager and one full time receptionist in the building. There may be as many as eight sales people who nominally work from this location, but those people will be in and out in the course of the day. Applicant uses other locations when it needs to accommodate more people. He testified that on a typical day a maximum of six to eight cars might be parked in the parking lot. This compares to the provision in the new proposed Site Plan for 11 parking spaces, a number which exceeds the nine spaces required by ordinance for this building.

14. There was uncontroverted and credible testimony from Applicant's professional engineer and professional planner that the proposed use was a suitable use for the Subject Property; that the non-conforming conditions are not being increased or adversely changed;

that nothing about the proposed building renovation, site upgrades or proposed use of the Subject Property would be detrimental to the property or to the neighborhood. He pointed out that there will be less coverage on the site and increased green areas following completion of the renovation and site alterations. In addition, the entire building would now be devoted to the permitted commercial use and, as a result, the sewer flow would be reduced. He concluded that the proposed Site Plan was appropriate for the proposed use and its location, conforming to the requirements of the ordinance for Site Plan approval, and that the technical variances required for continuation of the existing non-conforming conditions could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance.

15. Applicant also confirmed to the Board that it would satisfy the conditions of approval set forth in the November 18, 2014 memorandum from the Historic Preservation Commission including submitting a copy of the final revised plans to the Historic Preservation Commission for its review to confirm compliance with its conditions.

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

17. Based upon all of the foregoing, the Board concluded that the proofs were adequate to establish Applicant's right to preliminary and final Site Plan approval for the building renovation and site alterations set forth in the Plans, and that the "c" variance relief for the continuation

of the existing non-conforming conditions (lot area of 0.28 acres, lot width of 64 feet and front yard setback of 11.5 feet) could be granted, upon appropriate conditions, without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance.

BE IT FURTHER RESOLVED that, for the reasons set forth above, the Application of KL Realty Holdings, LLC, for preliminary and final Site Plan approval, together with “c” variance relief for lot area of 0.28 acres, lot width of 64 feet, and front yard setback of 11.5 feet, as shown on the Plans identified above (as those plans are to be revised in accordance with the conditions of this approval), with building renovations in accordance with the Architectural Plans identified above, on property located at 20 East Main Street and designated Block 601, Lot 9 on the Mendham Borough Tax Map, be and hereby are granted and approved, subject to the following:

1. Applicant shall comply with all applicable regulations and obtain all required licenses, permits, and other approvals which may be required for the project which is the subject matter of this Application, whether from any municipal, county, state or federal board, body or agency having jurisdiction over the Subject Property or the project.
2. All open taxes, as well as municipal charges, application and escrow fees, and funding of sufficient escrow to cover unbilled work to the completion of this Application and project shall be paid by

Applicant. In addition to the plant material guarantee referenced in Finding #8, above, Applicant shall comply with and furnish any cost estimates and/or performance guarantees which the Borough Engineer determines are required for this project.

3. Applicant shall be responsible for any Affordable Housing contribution which may be required as a result of the creation of additional non-residential space on the Subject Property.

4. Applicant shall comply with the comments of the Borough Engineer set forth in his July 31, 2015 review letter. In addition, plan revisions shall be made to the satisfaction of the Borough Engineer relating to site lighting, sign lighting, curb detail, trash enclosure detail, and pad enclosure detail.

5. Applicant shall satisfy the conditions of the Historic Preservation Commission as set forth in the HPC November 18, 2014 memorandum and submit its final revised Plans and Architectural Plans to the Historic Preservation Commission for review of compliance.

6. Applicant shall satisfy the requirements of the Morris County Planning Board, as set forth in its July 7, 2015 review report. It shall take the necessary steps to conclude its obligations for the dedication of a 33 foot half-width right of way along its property frontage, as described in that review report.

7. Applicant shall obtain a sewer permit from the governing body of the Borough of Mendham and shall comply with any conditions set forth in that permit.

8. Applicant shall submit the requested legible site lighting information, such that the Borough Engineer can review same and be satisfied with the data. In addition, the appropriate information relating to sign lighting shall be added to the Plans and, following review and approval by the Borough Engineer, the lighting shall be installed in accordance with the approved plan. The Borough Engineer shall thereafter make a post-installation inspection of all site lighting and sign lighting to determine that it is in accordance with the approved plans and is satisfactorily installed and operational.

9. As indicated in the findings and conclusions of the Board, all site and sign lighting shall be controlled by one or more timers, permitting the lights to be operational only during the period between dusk and 9:00 p.m.

10. Applicant shall arrange for a satisfactory fire inspection within 90 days of commencement of operations at the Subject Property.

11. Site work, construction, and operations on the Subject Property shall be in accordance with the Application materials submitted, testimony adduced at the public hearing, the findings and conclusions of the Board, and the conditions of approval set forth in this Resolution.

12. Applicant shall submit “as built” plans, certified by Applicant’s engineer, following completion of construction and site work on the Subject Property.

13. Any review and/or approval of any other agency which results in a change to the Plans approved by this Board must be resubmitted to this Board for approval of the amendments, revisions or changes.

14. Applicant shall comply with Conditions # 1, 2 (as current and applicable), 3 (if applicable), 4,5,6,8, and 13 (if applicable) prior to the Board signing the Site Plan.

BE IT FURTHER RESOLVED that this Resolution, adopted this 14th day of September, 2015, memorializes the action of the Board, as set forth above, taken at its regular meeting of August 10, 2015.

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OTHER BUSINESS

Draft Ordinance: Outdoor Dining

Mayor Henry mentioned that the discussion on outdoor dining at the last Borough Council meeting drew a lot of supporters from the community despite a resident’s letter to the editor of the Observer Tribune in which opposition to outdoor dining was expressed.

TRC UPDATE

Mr. Ferreiro mentioned the three upcoming applications to be heard at the upcoming TRC meeting on September 21, 2015 at 9am at the Phoenix House.

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ADJOURNMENT

There being no additional business to come before the Board, Chair Kraft adjourned the meeting at 9:27pm. The next regular scheduled meeting of the Planning Board will be held on **Tuesday, October 13, 2015 at 8:00PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

Carolyn Mazucco

Carolyn Mazucco
Board Secretary