

**BOROUGH OF MENDHAM**  
MORRIS COUNTY, NEW JERSEY

**ORDINANCE #09-2020**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY,  
AMENDING CHAPTER 215, ZONING, OF THE BOROUGH CODE TO ESTABLISH AN EAST BUSINESS  
AFFORDABLE HOUSING ZONE TO INCLUDE IN ADDITION TO THE EXISTING RETAIL USES A LIMITED  
PORTION OF THE ZONE TO PERMIT RESIDENTIAL USE**

**WHEREAS**, the Borough of Mendham entered into settlement agreements with Fair Share Housing Center (“FSHC”) and V-Fee Realty Investments, LLC (“V-Fee Realty”) to settle its affordable housing declaratory judgment action entitled In the Matter of the Application of the Borough of Mendham, Docket No. MRS-L-1637-15 (the “Mendham DJ Action”), which settlement agreements were approved by the Court by Order on Fairness and Preliminary Hearing issued on February 3, 2020, by the Honorable Michael C. Gaus, J.S.C.; and

**WHEREAS**, as a condition of approval, the Borough is required to create a realistic opportunity for the construction of low- and moderate-income housing on land that is available for development to meet its fair share obligation under the New Jersey Fair Housing Act and the constitutional obligation to provide affordable housing; and

**WHEREAS**, to help meet this obligation, and in accordance with the court-approved settlement agreements, the Borough wishes to establish an East Business Affordable Housing Zone (EB-AH Zone) to provide for retail sales and services to accommodate the general public, and to provide a location that creates a realistic opportunity for the construction of low-and moderate-income housing in the Borough of Mendham on land that is available for development.

**THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Mendham, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Chapter 215, Zoning, of the Borough Code is hereby amended and supplemented to create new Article X1X, East Business Zone – Affordable Housing (EB-AH ZONE) to read as follow:

**Article X1X East Business Zone – Affordable Housing (EB-AH ZONE)**

**§ 215-71 Purpose**

The purpose of the East Business Affordable Housing Zone is to provide for retail sales and services to accommodate the general public and to provide a location that creates a realistic opportunity for the construction of low-and moderate-income housing in the Borough of Mendham on land that is available for development, thereby addressing the Borough’s fair share housing obligation under the New Jersey Fair Housing Act and constitutional obligations to provide affordable housing. The EB-AH Zone also promotes compatible land uses of attractive buildings, to ensure the compatibility of the development within the zone with adjacent residential areas and to improve and provide for the efficient and safe flow of traffic.

**§ 215-72 Location**

The Zone Boundary applies to Block 801, Lot 20 (as it exists at the time of ordinance), also known as the “Tract.” The municipal zone map is hereby amended to reflect the same.

**§ 215-73 Uses permitted**

Within the East Business Affordable Housing Zone, no building or land may be used in whole or in part for any use other than the following specified uses:

- A. Any use permitted in any residential zone.
- B. Any use permitted in the Historic Business Zone.
- C. In addition to the above, the following retail and service uses:
  - (1) Automotive sales and services.
  - (2) Automotive gasoline station.

- (3) Automotive service station.
  - (4) Automotive sales lot.
  - (5) Laundry (retail only).
  - (6) Dry-cleaning establishments (retail only).
  - (7) Clinic, Medical or Dental.
  - (8) Building supplies (retail only).
  - (9) Garden supplies (retail only).
  - (10) Planned Commercial Development
  - (11) Health Clubs and Recreational Facilities
- D. Dwelling, Multi-family. For the provision of inclusionary affordable housing, including market rate and affordable housing up to a maximum of 75 units.
- E. Accessory uses and structures customarily incidental to permitted uses, including required off-street parking, structured parking and solar panel systems subject to the standards set forth in § 215-31.1, subsections E to G. The storage of all goods and materials shall be in the rear of any structure and shall be screened from view by a solid fence or wall enclosure. All repairs shall be done within the principal structure. Accessory uses and structures in the EB-AH zone shall include, but shall not be limited to, the following:
- (1) Residential amenities such as fitness centers, lounges, and tenant storage.
  - (2) Residential accessory uses such as leasing and management offices, maintenance buildings, and model units.
  - (3) Fences and walls.

**§ 215-74 Development standards**

The following development standards shall be applicable to all permitted uses and development in the East Business Affordable Housing District:

- A. The area, height and setback requirements as set forth the East Business Zone in Schedule I, Schedule Limiting Height and Area of Improvements, and Schedule II, Minimum Building Setbacks shall apply to the EB-AH zone, except as indicated below:
- B. The area, height and setback requirements for Multifamily Dwellings within the EB-AH district are listed below:
- (1) Minimum lot size 3.0 acres, which may be subdivided from the Tract provided that appropriate access and maintenance agreements are applied to all shared components of the development including access and parking;
  - (2) Maximum number of units is 75;
  - (3) Unit Mix and Affordability Requirements
    - i. Twenty percent (20%) of the total number of units actually constructed shall be affordable to low-and moderate-income households, with the balance being market-rate units. Inclusionary residential housing shall comply with the requirements set forth in the Borough’s affordable housing ordinance.;
    - ii. No more than fifty percent (50%) of the market-rate units shall be two-bedroom units and no more than fifty percent (50%) of the remaining market-rate units shall be one-bedroom units or studio units. The applicant may, in its discretion, include up to two three-bedroom market-rate units.
    - iii. The affordable units shall be family rental units and shall not be age restricted.
    - iv. The affordable units shall consist of moderate-income, low-income, and very low-income units in accordance with UHAC (N.J.A.C. 5:80-26.1 et seq.).
    - v. The affordable units shall provide a preference for qualifying veterans in accordance with the requirements of the N.J.S.A. 52:27D-311(j).
  - (4) Minimum lot, bulk and setback requirement:
    - i. Minimum lot width: 200 feet
    - ii. Minimum front yard: 700 feet, to property line at the Main Street ROW (NJ-124)
    - iii. Minimum side yard: 50 feet (as measured from the nearest point of any building to any property line. Parking areas shall be located no closer

- than 3FT from any parcel boundary shared with properties in the EB District and shall be located no closer than 10FT from any parcel boundary shared with properties in other districts)
- iv. Minimum rear yard: 50 feet
  - v. Minimum recreational area: 5,000 square feet
  - vi. Maximum Building Height: (4) stories over parking / 60 feet, with the following exceptions:
    - a. Height shall be measured to the top of building (i.e. the highest point of a flat roof, the deck line of mansard roofs, or the mean height between eaves and ridge for gable, hip, and gambrel roofs) from the average elevation of the proposed finished grade at each corner of the building next to the foundation.
    - b. Rooftop amenities and rooftop features (including mechanical equipment and machinery) shall not be considered a story and such appurtenances shall not be considered part of overall building height.
  - vii. Maximum impervious coverage shall not exceed 80% for the Tract. if Tract is subdivided, the impervious may be calculated based upon the lot area of the entire Tract.
- C. The requirements of § 215-27, Impact on adjoining residential zones, shall apply. In addition, any proposed development shall maintain a thirty-foot buffer from where the East Business Affordable Housing Zone abuts any residential zone, but existing improvements, roadways, or structures located within said buffer shall be exempted from this requirement.
- D. Where there is more than one use or business enterprise in any building, the following requirements shall be met:
- (1) There shall be a minimum floor area of 700 square feet per use or business enterprise.
  - (2) Each use or business enterprise shall have its own separate entrance/exit.
- E. Automotive sales and service uses, automotive gasoline stations and automotive service stations shall, in addition to the above development standards, be subject to the standards and regulations set forth in § 215-11.
- F. Off-Street Parking Standards in the EB-AH District:
- (1) The following parking ratios shall be applicable in the EB-AH district:
    - a. Retail and commercial uses shall be 3.5 for each 1,000 square feet of floor area.
    - b. Recreational and Fitness Centers shall be 1 space per 1,500 square feet of floor area.
    - c. Residential dwellings shall use Residential Improvement Site Standards.
    - d. Parking may be reduced in mixed uses based on a submission of a shared parking analysis per the Urban Land Institute (ULI) standards if approved by the Planning Board.
  - (2) Parking Area Design Standards
    - a. Notwithstanding any provisions to the contrary contained herein, parking stalls within the EB-AH District located more than 750FT from the front yard property line (Main Street right-of-way) may measure nine (9) feet in width and twenty (20) feet in depth.

**SECTION 2.** Chapter 215, Zoning, Article I, Terminology, Section 215-1, Word usage and definitions, Paragraph B, Definitions, of the Borough Code is hereby amended to add the following definition:

**HEALTH CLUBS AND RECREATIONAL FACILITIES**

Facilities primarily devoted to the preservation, maintenance, encouragement or basic development of physical fitness or physical well-being through physical exercise; or establishments/facilities devoted to the development of a particular physical skill, or activity or enjoyment of one specific sport including, but not limited to, aerobic centers, children's gyms or play spaces; martial arts schools; dance schools; gymnastics schools; weight control centers; metabolic or nutrition centers or single-sport facilities (e.g. swim clubs, tennis clubs or racquetball clubs)

**SECTION 3.** This Ordinance may be renumbered for the purpose of codification.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5.** All ordinances of the Borough of Mendham that are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 6.** This ordinance shall take effect in accordance with law.

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Introduced: July 15, 2020  
Public Hearing: August 11, 2020

**CERTIFICATION**

I HEREBY CERTIFY the foregoing to be a true copy of an Ordinance introduced by the Mayor and Council of the Borough of Mendham at a regular meeting held on July 15, 2020.

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Robin R. Kline, MAS, RMC, CMR  
Municipal Clerk

**NOTICE OF PENDING ORDINANCE**

**PLEASE TAKE NOTICE** that the foregoing ordinance was adopted on first consideration by the Borough Council of the Borough of Mendham, County of Morris, State of New Jersey at a meeting held on July 15, 2020 and the same was then ordered to be published according to law with a public hearing and a vote scheduled for August 11, 2020 beginning at 8:00 p.m. at the Garabrant Center, 2 Wilson Street, Mendham, N.J. at which time all interested persons will be heard. Copies of the ordinance can be obtained, without cost, by any member of the general public at the Municipal Clerk’s office between the hours of 9:00 a.m. to 4:30 p.m.

Robin R. Kline, MAS, RMC, CMR  
Municipal Clerk