

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
April 13, 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 – Absent
Mr. Bradley – Present
Councilman Carr – Absent
Mr. Cascais – Present
Mr. Gertler – Present

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

Alternates:

Ms. Gemberling, Alternate I - Present
Mr. Cavanaugh, Alternate II – Absent

Also Present:

Mr. Henry, Attorney
Mr. Bolio, Engineer

ADMINISTRATIVE NOTE:

As Ms. Callahan, Board Secretary, was absent from the meeting, Ms. Sandman acted in the role. Ms. Callahan completed the minutes from the recording subsequent to the meeting.

APPROVAL OF MINUTES:

Ms. Sandman introduced changes provided in the Build-Out discussion. In addition to a minor editorial comment, clarification to the discussion on lot sizes was changed to read: "Mr. Henry, Esq. provided an example explaining that today given a 100 acre plot in a 5-acre zone, a subdivision of 20 lots might (ignoring roadways and design inefficiencies) might be feasible. Under the new regulations, if a variance is required, an applicant might only be able to prove in 8 lots on the same number of acres."

On motion made by Mr. Gertler and seconded by Mrs. Kopcsik and carried, the minutes of the March 9, 2009 meeting were approved with the amendments.

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.

APPLICATIONS

#867 – Dante's Restaurant – Site Plan Waiver
Block 801, Lot 16, 100 East Main St. (Main Street Corridor)

Present: Lisa Durso, Applicant
Brian Mulligan, Esq., Attorney for the Applicant

Mr. Mulligan presented the application as a site plan waiver requesting approval to locate a total of 70 seats in Dantes Restaurant. Fifty (50) seats would be located in the main dining room and twenty (20) seats in the rear portion referred to as the "take-out" area. The rear seating area would be used for pizza and other take-out type foods. Sewer approval was obtained from the

Borough Council for 72 seats, but given parking issues, they are requesting 70 seats. There are 35 parking spaces on site as depicted on the survey. The parking complies with the Borough ordinances with 34 for the business operation including employee parking and one space for the upstairs apartment. In accordance with Mr. Ferriero's letter dated April 3, 2009, the business will be open for lunch and dinner, not for breakfast.

Mr. Bolio concurred with the seating cited, and that the Borough Council had approved the sewer. A traffic analysis had been completed for 95 seats and is still consistent with the proposal for 70 seats. In terms of the parking, 35 spaces are required and 35 are shown on the survey submitted. He recommended that a signature block be added to the floor plan should the Board approve the application.

Mr. Henry, Esq. referred to the Planning Board application that referenced the hours of operation for Friday and Saturday as 11:00 a.m. to 10:00 p.m., and compared it to the sewer approval with stated hours of operation as 11:00 a.m. to 9:30 p.m. The application should conform to the sewer approval. Ms. Durso stated that the last seating comes in at 9:00 p.m. Mr. Henry, Esq. advised that the understanding from the sewer approval is that the operation closes at 9:30 p.m. which would not be feasible with a last seating coming in at 9:00 p.m.

Mr. Mulligan, Esq. stated that they would need to obtain clarification from the Borough Council as it would not be possible for every patron to leave the premises by 9:30 p.m. Mr. Henry, Esq. advised that it promptly be addressed with the Governing Body. Mr. Kraft recommended that the resolution of the Planning Board reference consistency with the approval of the Borough Council as opposed to the exact hours.

In terms of the seating, Mr. Henry, Esq. advised that while the Borough Council has approved 72 seats, the Planning Board will be limiting it to 70 seats based on the limitation of the parking requirements. He pointed out that the application has 34 parking spaces under the parking requirements and it should be 35. He also referenced the memo from the Health Department indicating that the grease interceptor capacity should be evaluated.

Responding to Mr. Henry's questions on the parking agreement with the neighboring business, Ms. Durso stated that neither Ford nor the gas station have a problem with employees using their parking during prime hours which are off hours for those businesses.

Addressing Ms. Gemberling's question on how the sewer is monitored, Mr. Henry, Esq. advised that the Planning Board does not monitor the usage. The Borough Council does.

Mr. Henry, Esq. summarized the application:

- Waiver of site plan to be permitted up to 70 seats: 50 main dining room/20 in private party/take-out dining area
- Sewer approval has been provided; conditions subject to that approval
- Adequate parking exists: 35 spaces required.
- Floor plan requires signature lines
- Operations: lunch and dinner 7 days a week
- Hours of operation in accordance with Sewer approval by Borough Council
- Maximum employees: 12
- No lighting or signage changes
- Board of Health condition to be met
- Taxes and Municipal charges to be paid
- Fees and escrows to be paid.

Mr. Gertler made a motion to approve the site plan waiver with the conditions described. Mr. Bradley seconded.

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

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Gemberling, Kraft
 Opposed: None
 Abstentions: None

The motion carried. Mr. Henry, Esq. will prepare a resolution memorializing the action for the May 11, 2009 regular meeting of the Board.

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DISCUSSION

Build Out: Ms. Sandman reported that Module I was submitted to the Highlands Council. We are awaiting feedback. They are behind schedule. In terms of Module II, there was a training session on March 30 and April 3. Before Module II can commence, the Module I results are required. Responding to Mr. Henry, Esq. on whether the timelines have been revised, she explained that after we receive the feedback, we have 15 days to review the information. If the Borough disagrees with the information, we again have an opportunity to discuss with the Highlands. If we agree, Module II begins.

Highlands Initial Assessment Update: Ms. Sandman stated that we had obtained 15K for the initial assessment grant and the final report was submitted on February 25. We still have not received funding. Mr. Kraft recommended that we get the schedule delay in writing for the new Module work given their delays. Mr. Henry, Esq. advised that a letter could be sent to the Highlands reiterating the delay and requesting that the COAH deadlines be worked out between COAH and the Highlands. Ms. Sandman agreed to send a letter to the Highlands.

Wastewater Management County Meeting: Mr. Kraft reported that he, Paul Ferriero and Neil Henry had attended the County Wastewater Management Meeting. While it was interesting, they learned nothing. The only noteworthy comment was made by Christine Marion who stated that she had met with Larry Bauers of the DEP and advised him that the County would not be submitting their report until they worked out issues with the Highlands. The DEP did not appear to be upset.

Mr. Kraft continued that the County did provide a lot of analysis, but their deadlines have been moved out several months.

Ordinance Team Feedback: Mrs. Kopschik stated that a meeting is being set up with the Zoning Officer from Chester for the week of April 20th. Ms. Sandman confirmed, based on a note from Ms. Callahan, that the logistics are being worked.

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TRC UPDATES

Mrs. Kopschik provided an update on the TRC applications.

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ADJOURNMENT

On motion made, seconded and carried, the meeting was adjourned by Chair Kraft. On note of an omission on business dealing with the TRC, the motion for adjournment was reversed.

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TRC DISCUSSION

Mr. Henry, Esq. explained that documentation had been included in the Board packages on the current delegated approval authority to the TRC. Given experience with applications, the TRC is recommending that the office to office, retail to retail use be broadened. They are requesting authority to approve changes to a permitted use in the zone. There have also been cases where the applicant is not a tenant, but the owner. It makes no sense to make the distinction. They are requesting delegation to approve those applications as well.

In terms of Board notification, the Board receives reports monthly, and there is always the opportunity for a Board member to request a hearing if they know the property and feel it appropriate. If the TRC has a deadlocked vote, it would also come to the Board. In addition, if the TRC denies an application, the applicant could request to come to the full Board.

Responding to Mr. Gertler on why United Methodist Church would have needed to come to the full Board, Mr. Henry, Esq. advised that the shed would have required a variance. They were also the owner, not a tenant and that would have required coming to the Board even if they did not need the variance. Mr. Gertler noted that it would have cost them more to come to the Board than the cost of the shed.

Mr. Bradley noted that the applications were also being reviewed to simplify them. Mr. Henry, Esq. advised that the new draft applications remove information that the TRC would still need for its decision. That effort and the new rules are distinct activities, but both relate to streamlining the process.

Mr. Gertler made a motion to accept the recommendation of the TRC as outlined in Mr. Henry's memo of January 2, 2009. The recommendation will be codified by the Board Attorney. Mr. Cascais seconded.

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

In Favor: Bradley, Cascais, Gertler, Kopcsik, Lichtenberger, Sandman, Gemberling, Kraft
Opposed: None
Abstentions: None

ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:25 p.m. The next regular meeting of the Mendham Borough Planning Board will be held on Monday, May 11, 2009 at 7:30 p.m. at the Garabant Center, 4 Wilson St.

Respectfully submitted,

Diana Callahan
Recording Secretary

