

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
February 8, 2010
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. Kraft at 7:40 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 14, 2010 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.

OATHS OF OFFICE

Mr. Henry, Esq. administered the Oaths of Office to Martin Gertler.

ATTENDANCE:

Mayor Henry – Absent	Mr. Kraft - Present
Mr. Bradley – Present	Mrs. Kopcsik - Absent
Councilman Carr – Present til 8:25 p.m.	Mrs. Lichtenberger - Absent
Mr. Cascais – Present	Ms. Sandman – Absent
Mr. Gertler – Present	

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

Also Present:	Mr. Henry, Attorney
	Mr. Ferriero, Engineer
	Ms. Callahan, Secretary

2010 REORGANIZATION

Election of Vice Chair: Mr. Cascais nominated Mr. Gertler as Vice Chair. Mr. Bradley seconded. A single ballot was cast for Vice Chair. Mr. Gertler was elected Vice Chair.

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APPROVAL OF MINUTES

On motion by Mr. Cascais, seconded by Ms. Gemberling and carried, the minutes of the regular and reorganization meeting of January 11, 2010 were approved with several editorial changes. Mr. Gertler abstained.

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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.

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DISCUSSION

Occupancy Limitation: Board had received a draft copy of the Occupancy Limitation Ordinance with their pre-meeting packages.

Ms. Gemberling questioned whether the concerns about the multigenerational housing are addressed in the ordinance. Chair Kraft responded that the focus of the ordinance is for rentals and multigenerational housing are not usually rentals. The committee looked at the ordinance with the

intent to try to avoid stacking. The ordinance addresses the amount of space per person, the various rooms required and access.

Mr. Ferriero recommended trying the ordinance to see how it functions before trying to put in too much detail.

Responding to Ms. Gemberling on whether the State statute had been investigated, Mr. Kraft explained that Mr. Price, Zoning Officer, had given the reference to the Borough Attorney for investigation. Mr. Henry, Esq. advised that rentals that have not yet been registered could be surfaced through the process. Mr. Kraft continued that there will be a mailing to everyone in town as well as the non-resident owners to advise them of the new ordinance and what is required. There will also be publication through the Mayor's newsletter.

Mr. Kraft reported that the initial cut indicates there may be about 250 rentals. Mr. Price reviewed non-residential ownership. He then did additional research on duplexes and multi-families. It is difficult to identify some of the rentals as an owner may live in the unit, but have a PO Box at which they receive mail.

Responding to Ms. Gemberling on why the ages of persons 18 years or older are exempted, Mr. Henry, Esq. advised that they do not need to disclose their ages. If children are under 18 the ages are required. Names of everyone are required.

Mr. Henry, Esq. advised that the proposed landlord registration certificate does not satisfy the State statute. It needs more information if it is to meet that statute. If the Borough would like another form, they should also notify the owner that there is a State form. Mr. Henry, Esq. also indicated that the ordinance needs clarification as relates to definitions and wording. He questioned whether the source of the objective criteria was known so that they could be justified. Mr. Kraft requested that Mr. Henry, Esq. speak with Messrs. Price and Humbert on his concerns.

Addressing Mr. Cavanaugh's question on why only the fuel oil provider was requested on the form, Mr. Henry, Esq. advised that they are private companies where as the other providers are utilities. Being able to track the fuel oil supplier is critical in case there is a lack of heat emergency.

Mr. Gertler questioned whether there was a requirement for a bedroom to have a door. As there must be accessibility from a bedroom to a water closet, what is the enforcement. Mr. Ferriero advised that one of the criteria for a bedroom when reviewing plans is whether there is a door. Mr. Kraft stated that there are requirements on where one can sleep given tandem rooms. Clarifying how it would impact a bedroom suite that might contain a bedroom, office and bathroom, Mr. Henry, Esq. advised that how the rooms are used is important. One could not go through another bedroom to get to the bathroom.

Mr. Gertler inquired as to why there was no reference to the maximum occupancy of a one or two bedroom apartment. The ordinance references square footage. Mr. Henry, Esq. advised that stacking refers to putting too many people in too little space, not just too many people. A room the size of the Garabrant Center could hold more people. Mr. Kraft added that it prohibits the illegal partitioning of rooms. The ordinance provides the right to inspection.

Ms. Gemberling requested that when the ordinance returns to the Planning Board, there be identification of the source of the criteria.

Morris County Wastewater Management Plan: Mr. Ferriero had provided a copy of the County Wastewater Management Plan and the corresponding ordinances for the Board with their pre-meeting packages. Generally the Mendham Borough section is good. There are some comments that he needs to get back to the County.

Mr. Ferriero advised that it is important to note that the County considers the Highlands Act optional for the Planning Area. The DEP has stated that the Wastewater Management Plan must be consistent with the Highlands Regional Master Plan whether the town has opted in or not. However, Morris County used the Statewide nitrate dilution model, not the hybrid model for the towns that have not opted in. They differ in nitrate dilution targets. The basic principal is that the more nitrate dilution there is, the more recharge there is, and the densities are greater.

Mr. Ferriero also stated that capacity of the Mendham Borough Sewer Plant still needs to be reconciled with the County numbers. According to the County there are 100,000 gallons available and he disagrees. The number for reporting purposes may be different than the operational number. The plant is concerned about peak flow and the average annual flow will be much lower than the average monthly flow. Mr. Kraft added that the sewer ordinance was put in place as a result of the peak flow. Some of the work with the infiltration may change the numbers and allow the peak flow

numbers to go down. Mr. Ferriero cautioned that the mains could be fixed and the laterals could still cause a problem.

The plan will take some time to review, and they are trying to pull together the information to provide to the County. Responding to Chair Kraft on whether any action on the ordinances is required, Mr. Ferriero advised the only one that needed to get done was the one related to fertilizer. It has been completed. He needs to forward the other ordinances that we have to the County so they know what we have. We have a year for review.

Mr. Ferriero advised that the next item we need to do is a Septic Management Plan. Addressing Mr. Kraft on where septics could be used in the Borough, Mr. Ferriero stated that there are two ordinances. One will state that if there is a septic in the sewered service area, it needs to be connected. The other is the Septic Management Plan for septics outside of the sewered service area.

Responding to Mr. Gertler on his request for clarification on whether there is an inconsistency with the fact that septics could be used on an interim basis in the sewered service area and the Borough's Sewer Connection Ordinance, Mr. Ferriero stated that it would not occur. If the property can be developed without any variances, the connection can be made. Referencing the previous list that had been developed, Mr. Ferriero stated that it is not valid as the ordinance overrules. The list was developed to determine how many potential connections there might be. It was backup for the ordinance. Mr. Kraft advised that at the time the list was developed, it was done to protect property and avoid the confiscation issue. He thought the list was part of the ordinance. There have been some properties approved for connection that were not on the list. Connection can also be made for the best interest of the Borough. Mr. Ferriero cited a Cold Hill Road subdivision as an example where connection resulted in better planning.

Addressing Mr. Henry, Esq. on whether the delay in the reviews at the state level has any implications for Highlands options or COAH reporting, Mr. Ferriero stated that there are no deadlines. Mr. Kraft stated that we have made our application to COAH and there are no deadlines for Highlands.

Responding to Ms. Gemberling on whether there are implications to the riparian buffers based on what is transpiring in Trenton, Mr. Ferriero advised that the ordinances are based on the Flood Hazard Rules that have been in place for two years. We need to wait to see what will happen in Trenton. Changing rules takes a minimum of 6 months. Mr. Henry, Esq. recommended referencing DEP regulations in the Borough ordinances and if they change their rules, the town is covered.

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TRC UPDATES (For information only)

Mr. Bradley summarized the TRC reviews.

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OTHER BUSINESS

Chair questioned whether the Board wanted to move the meeting to 8:00 p.m. It seemed to be difficult to begin on time at 7:30 p.m. and agendas are lighter.

After a brief discussion, Mr. Gertler made a motion to move the meeting time to 8:00 p.m. Mr. Cavanaugh seconded. All members being in favor, the motion carried. Future meetings will begin at 8:00 p.m. Ms. Callahan will make the formal public notices.

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PUBLIC COMMENT (CONTINUED)

Chair reopened the public comment to allow a resident from Franklin Road to offer comment on the Occupancy Limitation Ordinance. The resident reported that soon after they moved into their home, they noticed that there are several people living and coming and going in a home near them. He has already spoken with the Mayor and the Administrator.

Mr. Kraft referenced the issue of a tenancy versus a non-tenancy relationship with the landlord. The property in question is being portrayed not to be a tenancy relationship and will take more than an ordinance. The ordinance will set the framework, but it is not an easy situation.

Mr. Henry, Esq. advised that one cannot enforce without proof. Mr. Kraft explained that the ordinance would deal with the amount of space required for each person, access to sanitary facilities, ingress and egress relative to fire access and safety. That is all we can enforce.

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ADJOURNMENT

There being no additional business to come before the Board, on motion made, seconded and carried, Chair Kraft adjourned the meeting at 8:50 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, March 8, 2010 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan
Recording Secretary

