

**MINUTES OF THE  
MENDHAM BOROUGH PLANNING BOARD  
June 14, 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 Chair Kraft at 8:05 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. Notice of the time change was published in the Observer Tribune and Daily Record on February 18, 2010 and posted on the bulletin board in the Phoenix House.

**ATTENDANCE:**

Mayor Henry – Present  
Mr. Bradley – Present  
Councilman Carr – Absent  
Mr. Cascais – Present  
Mr. Gertler – Present

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

Alternates:

Ms. Gemberling, Alternate I - Present  
Mr. Cavanaugh, Alternate II – Present (8:30 p.m.)

Also Present:

Mr. Henry, Attorney  
Mr. Price, Zoning Officer  
Ms. Callahan, Secretary

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**MINUTES**

On motion made by Mr. Cascais, seconded by Ms. Gemberling and carried, the minutes of the regular meeting of May 10, 2010 were approved with an adjustment to reflect that Mr. Henry, Esq. had reported the Oaths of Office had been administered.

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**PUBLIC COMMENT**

Chair 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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**APPLICATIONS**

**#897 – Grant Homes, LLC – Site Plan Waiver: **Resolution**  
Block 1501, Lot 1, 1 East Main St.**

Present: Jay Grant, Applicant

Mr. Henry, Esq. had provided the Board with a draft copy of the resolution in their pre-meeting packages. After receiving Mr. Price's memo of May 24, 2010, Mr. Henry, Esq. recommended several changes to the resolution. As he clarified that there are two doors and six windows on Main Street, it would be necessary to refer to "signs above the doors" in finding #6. In "subpart c" dealing with the wall signs, it is necessary to address three wall/over door signs. In "subpart d" changes need to be made to reflect that there are more windows. He also recommended that the May 24, 2010 letter from the Zoning Officer to Ms. Callahan and its corresponding attachment clarifying the magnitude of the signage be referenced in the findings and in the conditions.

Mr. Gertler made a motion to approve the resolution with the recommended changes. Mrs. Kopcsik seconded.

ROLL CALL: The result of the roll call of eligible voters was 6 to 0 as follows:

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

The motion carried. The resolution was approved. Following is the revised resolution:

## RESOLUTION

### GRANTING SITE PLAN WAIVER FOR GRANT HOMES, LLC BLOCK 1501, LOT 1 APPLICATION NO. 897

WHEREAS, Grant Homes, LLC (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for Site Plan Waiver with respect to its proposed occupancy of a portion of a building located at 1 East Main Street and designated Block 1501, Lot 1 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, a hearing was conducted on May 10, 2010, during which hearing testimony was offered on behalf of Applicant, the Board reviewed the documents and materials filed by Applicant, as well as memoranda and materials from municipal officials and the Historic Preservation Commission, and members of the public and the Board’s professionals being given an opportunity to comment on the application; and

WHEREAS, the Board has considered Applicant’s submissions for the requested Site Plan Waiver, including testimony presented on behalf of Applicant, the materials and memos received from municipal officials and the Historic Preservation Commission, 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 proposes to be a tenant in a portion of property located at 1 East Main Street (Tax Map Block 1501, Lot 1) in the Borough of Mendham.

2. The Subject Property is owned by One Main Street, LLC, which has consented to the prosecution of this application.

3. Applicant proposes to occupy 1,625 square feet (two rooms) in the northwest corner of the building located on the Subject Property. Applicant will locate its office in the space, as well as a conference/meeting room and showroom for Applicant’s building business. In this connection, Applicant proposes to partner and collaborate with related companies, such as millwork, low voltage lighting, green building design, etc. The entities engaged in these related businesses will not have office space in the Subject Property, but will make materials and displays available in the space for use by Applicant and clients as a resource information center. Applicant also anticipates conducting seminars, sometimes with personnel from the collaborating entities, on construction-related subjects. Applicant anticipates hours of operation up to 6 days per week, from 8:00 AM to 10:00 PM.

4. The Subject Property is in the Historic Business District. Applicant’s proposed use is permitted in the zone. The physical location of the building on the site, as well as proximity of other buildings, results in there being virtually no on-site parking. Lack of building setbacks, excessive lot coverage, and other non-conformities relative to basic ordinance requirements have long existed. None of these criteria are being affected by Applicant’s proposal.

5. Applicant does propose to modify the Hilltop Road facade of the building to remove a pedestrian door presently located on the southerly end of that facade, and replace it with a window, trim, and soffit matching to the window at the northerly end of the Hilltop Road facade. Applicant further proposes to install a sign on the Hilltop Road wall centered between those two windows. In addition, Applicant proposes signage on the Main Street facade above the entrance door to the space Applicant will utilize. Finally, Applicant proposes window lettering as additional signage on the windows facing Main Street as well as the windows facing Hilltop Road.

6. Applicant reviewed with the Board its discussions with the Historic Preservation Commission and conclusions reached regarding the window and trim design, as well as signage on both facades. Certain criteria were agreed, including the following:

a. The signs above the entrance doors on the Main Street facade will each be no larger than 8 feet long by 20 inches high with lettering no larger than 16 inches high.

b. The sign area of the wall sign on the Hilltop Road facade will be not more than 6 feet long by 2 feet high. It will be framed in copper and trimmed consistent with the soffit and trim treatments of the windows at either end of the

Hilltop Road facade. Rope lighting will be enclosed under the canopy over the sign on the Hilltop Road side.

c. Text and signage content on the three wall/over-door signs will be applied to wood sign material which, in turn, will be attached to the building.

d. White vinyl lettering may be applied to the inside of the six windows which flank the entry doors on Main Street and to the two windows at either end of the Hilltop Road facade. In each case, such lettering will be limited to a single line of text in the transom area and a single line of text in the main window area, composed of lettering not more than 5¼ inches high.

The signage, as well as the basic construction details for the modification of the Hilltop Road facade shall be in accordance with the Mendham Historic Preservation Commission memorandum dated May 4, 2010 regarding the Subject Property, and the May 24, 2010 Zoning Officer's memorandum to Diana Callahan including attachments thereto.

7. Applicant agreed with the Board that the total of all signage, whether separate signs or window lettering, would not exceed 5% of the area of the respective facades (as signage measurement is defined in the Ordinance). Applicant further agreed that no other individual businesses would be named or identified in signage content on the building or in the windows, though the window lettering could be descriptive of building and construction resources related to collaborating entities. The entities themselves, however, would not be identified by company or business name in any of such signage.

8. Applicant indicated that it was anticipated that not more than 4 people would generally be occupying the Applicant's space. This number would, in all likelihood, be exceeded on occasions when other collaborating entities were involved in meetings in the conference/meeting room or conducting workshops or seminars. In this regard, Applicant was reminded of the Borough Fire Official's memorandum which indicates a maximum occupant load in the 1,625 square feet of 16 persons.

9. Given the significant discussion of signage and exterior appearance of the building, notwithstanding the sketches, photos and text of the Historic Preservation Commission memorandum, the Board felt it was important that a complete signage plan for each facade be included with the plans submitted to the Borough for signature by the Board.

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

11. Based upon all of the foregoing, the Board concluded that, with appropriate conditions, it could grant a waiver of any further formal site plan requirement in connection with this application.

BE IT FURTHER RESOLVED that, based upon the foregoing, the Planning Board of the Borough of Mendham does hereby grant and approve a waiver from further formal site plan review in connection with Applicant's proposed occupancy and use of 1,625 square feet in the northwest corner of the building located at 1 East Main Street (Block 1501, Lot 1), subject to the following conditions:

1. Applicant's replacement of the pedestrian door with the window unit along the southerly end of the Hilltop Road facade, as well as all signage on both the Main Street and Hilltop Road facades, as well as use and occupancy of the Subject Property by Applicant, shall be in accordance with the testimony adduced at the hearing on this matter, the findings and conclusions set forth in this Resolution, the determination of the Mendham Borough Historic Preservation Commission, and the conditions set forth in this resolution of approval.

2. The size and positioning of window lettering on East Main Street shall be consistent with the size and positioning depicted in the attachment to the Historic Preservation Commission May 4, 2010 memorandum relating to the Hilltop Road elevation and the attachment to the Zoning Officer's May 24, 2010 memorandum.

3. Applicant shall submit a complete final sign plan (showing both proposed signage on East Main Street and proposed signage on Hilltop Road, including window lettering), together with the floor plans of the space to be occupied by Applicant for review and signature by the Planning Board and the Borough Engineer.

4. Applicant shall obtain a sanitary sewer connection permit from the Borough of Mendham and shall comply with any conditions set forth in that permit.

5. Applicant shall secure any other approvals or permits which may be required from any board, body or agency, whether municipal, county, state or federal, with respect to the proposed alteration of the Hilltop Road facade, signage to be affixed to the building or lettered in the windows, occupancy and use of the premises, or otherwise.

6. All taxes and municipal charges relating to the Subject Property shall be paid through second quarter 2010. Applicant shall be responsible for all fees and escrows through and including the completion of the application process and the project.

7. Applicant shall comply with the requirements identified by the Borough Fire Official in his memorandum of April 11, 2010. As indicated therein, Applicant shall obtain a clear fire inspection within 90 days of commencing operations in the Subject Property.

8. Applicant shall be responsible for any required Affordable Housing contribution or fees.

9. Applicant shall not permit any outside display at the Subject Property.

BE IT FURTHER RESOLVED that this Resolution, adopted this 14<sup>th</sup> day of June, 2010, memorializes the action of the Board, set forth above, taken at its regular meeting on May 10, 2010.

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#### **ORDINANCE REFERRAL REVIEW**

**ORDINANCE #8-10:** AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 161 ENTITLED “RENTAL DWELLING UNITS, REGISTRATION, CERTIFICATION & OCCUPANCY LIMITATION OF”

The Planning Board was provided a copy of the ordinance that had been introduced by the Council with the Borough Clerk’s memo dated May 21, 2010.

Mr. Henry, Esq. advised the Board that the purpose of the review is to determine whether the ordinance is consistent with the Master Plan and to offer any other comments on the ordinance or its content. He had several recommendations on changes. While some were related to language changes such as the consistent use of “housing space”, there were some content changes that were important for implementation if the intent of the ordinance was to capture present as well as future rental units. He identified the following:

- While Section 161.3 requires that every party affected fill out a Borough registration form, Section 161.6 only requires the filing of the Landlord-Tenant Registration Form with the Borough Clerk within 15 days of the “inception of a tenancy or any change in the occupancy” of the housing space. It also does not specify that “re-filing” must take place should ownership of the building change.
- In terms of inspections, Section 161.11 references an annual inspection date, but there is no requirement for an annual inspection referenced in the ordinance.

Responding to Mr. Price’s question on which sections need to be changed, Mr. Henry, Esq. advised that 161.6 needs to be changed to require filing for existing rentals within a specified timeframe. There also needs to be clarification that if the ownership changes, re-filing must take place. There must be reference to require an annual inspection of rental housing spaces.

Responding to Mayor Henry on the next steps, Mr. Henry, Esq. advised that the Planning Board must respond to the Council, but they have the option of accepting or not accepting the comments. He expressed his opinion that the changes may require reintroduction of the ordinance.

Addressing Mr. Cascais’ question on what happens if an owner does not allow for an inspection, Mr. Henry, Esq. advised that a section needs to be added to require an inspection, but there is also reference to the general violation section that sets a fee.

Ms. Gemberling questioned whether the \$100 inspection fee was a one time charge or it would be charged every year. Mr. Kraft stated that the intent is that it should be charged every year. It required clarification. Board discussed the issue of the initial registration fee being the same as the re-inspection fee. They concluded that the initial registration fee should be \$100 with a re-inspection fee of \$50 thus providing a lower fee for re-inspection which should not be as involved or time consuming as the initial inspections. A fee for canceling an inspection appointment should also be considered.

Ms. Gemberling made a motion to authorize a letter to the Council indicating that the ordinance is consistent with the Master Plan, but adding the comments as outlined by the Board Attorney. Also, the Planning Board requests that the Council consider the lowering of the re-inspection fee, but the addition of a cancellation fee. The purpose of the ordinance as understood by the Planning Board of capturing the current and future rentals should be articulated.

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

In Favor: Henry, Bradley, Cascais, Gertler, Kopcsik, Gemberling, Cavanaugh, Kraft  
 Opposed: None  
 Abstentions: None

The motion carried. Ms. Callahan will prepare and send a letter to the Borough Council.

**OTHER BUSINESS**

Ms. Callahan reported that the public informational hearing for the Historic District Expansion Phase II would take place on Tuesday, June 15 at 7:30 p.m. at the Garabrant Center. Planning Board members are welcome to attend and all pertinent public notices have been made.

**TRC UPDATES (For information only)**

Mrs. Kopcsik summarized the TRC reviews.

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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 9:00 p.m. The next regularly scheduled meeting of the Planning Board will be held on **Monday, July 12, 2010 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,

Diana Callahan  
Recording Secretary









