

**MINUTES OF THE
MENDHAM BOROUGH PLANNING BOARD
August 9, 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 8:00 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 – Absent
Mr. Cascais – Present
Mr. Gertler – Absent

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

Alternates:

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

Also Present:

Mr. Henry, Attorney
Ms. Callahan, Secretary

#####

MINUTES

On motion made by Mayor Henry, seconded by Mr. Cascais and carried, the minutes of the regular meeting of July 12, 2010 were approved with clarification in the 106 East Main St. hearing of the size of the shed and removal of the sentence related to the slip ramp.

#####

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.

#####

APPLICATIONS

#902 – 106 Mendham, LLC – Site Plan Amendment: Resolution
Block 801, Lot 12, 106 East Main Street

Mr. Henry, Esq. advised the Board that there had been some discussion on the size of the shed based on differing information on the plans and from the hearing. It was determined the shed is 8 ft. x 10 ft. and that is reflected in the proposed resolution. There is also a question on the size of the sign based on testimony and information presented to the HPC. With concurrence from the Board, the resolution will indicate a sign size of less than 48 sq. ft.

Following is the resolution that was presented to the Board:

RESOLUTION
AMENDED SITE PLAN APPROVAL WITH VARIANCES
FOR 106 MENDHAM, LLC
106 EAST MAIN STREET AND 2 COLD HILL ROAD
BLOCK 801, LOT 12

WHEREAS, 106 Mendham, LLC (“Applicant”) has applied to the Planning Board of the Borough of Mendham (the “Board”) for an amendment to its final site plan approval, together with variances, as necessary, to permit the installation of a shed, the installation of a barber pole sign, the installation of increased free-standing signage, and expanded variance relief with regard to on-site parking, all on property located at 106 East Main Street and 2 Cold Hill Road, designated Block 801, Lot 12 on the Tax Map of the Borough of Mendham (the “Subject Property”); and

WHEREAS, the Board previously granted preliminary and final site plan approval with variances for commercial development of the Subject Property, and thereafter amending the preliminary and final site plan approval to add an apartment (an affordable housing residential unit) to the second floor of the proposed building, which initial approval was granted July 14, 2008 and memorialized in a Resolution adopted August 11, 2008, and which amending approval was granted and embodied in a Resolution on October 14, 2008; and

WHEREAS, following a discussion of checklist waivers and a determination of “completeness” with respect to this Application, a public hearing was held on July 12, 2010, during which hearing Applicant’s representatives and consultants offered testimony, the application materials submitted and exhibits offered at the hearing were reviewed by the Board, the Board heard argument in support of the approvals from Applicant’s attorney, and the Board’s consultants and members of the public were given an opportunity to be heard; and

WHEREAS, the Board has considered the Application and supporting materials filed by Applicant, the testimony of Applicant’s representatives and consultants, the exhibits introduced into evidence in the course of the hearing, the argument of Applicant’s counsel, the reports received from various municipal officers and agencies, the comments of the Board’s consultants, and there being no comments from members of the public;

NOW THEREFORE BE IT RESOLVED that based on the foregoing, the Board makes the following findings of fact and conclusions of law:

1. Applicant is the owner of the Subject Property located at the corner of East Main Street and Cold Hill Road (Tax Map Block 801, Lot 12) in the Borough of Mendham. The Subject Property, located in the Limited Business Zone, resulted from the merger of former Lots 12, 12.01 and 13, pursuant to the approvals granted in 2008. The proposed commercial building, including the residential affordable housing unit on its second floor, has been constructed and is now occupied in part.
2. The residential apartment unit is occupied. The intended real estate office (at 5,000 square feet) has ultimately been occupied only to the extent of 3,864 square feet. The portion of the building designed for a bank has not yet been occupied.
3. A barber shop was proposed for the northeast corner of the commercial building, filling the 1,136 square feet which the real estate office did not lease. Applicant obtained a use variance for the barber shop in the building on the Subject Property, reflecting that such a use is not one of the listed permitted uses in the Limited Business Zone.
4. In addition, Applicant has negotiated a lease with a bank for the remaining 3,250 square feet of the commercial building. During lease discussions, however, the bank indicated that it would require more identification signage than the present freestanding sign at the southeast corner of the property would permit. Applicant’s successfully obtaining the additional signage area became a condition of the lease arrangement.
5. As a result of the current circumstances surrounding occupancy and proposed occupancy of the building on the Subject Property, Applicant seeks approvals and relief as follows:
 - (a) Amendment of the approved site plan to permit the installation of an 8 foot by 10 foot storage shed in the northwesterly corner of the Subject Property;
 - (b) A barber pole sign (internally lit and functioning in a number of ways not consistent with a number of ordinance prohibitions regarding signage);
 - (c) Enlargement of the existing freestanding sign, or alternatively an additional freestanding sign along the slip ramp frontage between Cold Hill Road and East Main Street; and
 - (d) Additional variance relief with regard to on-site parking (33 spaces being provided, relative to 36 spaces being required).
6. Applicant has submitted plans entitled “Amended Preliminary and Final Site Plan for 106 Mendham, LLC Proposed Commercial Development” (3 sheets), prepared by Dynamic Engineering Consultants, P.C., dated May 5, 2010, revised May 18, 2010 (hereinafter the “Plans”). In addition, Applicant submitted a drawing entitled “Revised Floor Plan” (1 sheet) prepared by

Janet Lynn Ford Architect, L.L.C. for the barber shop corner of the building (hereinafter "Floor Plan").

7. Applicant proposes to install the shed in an area off the paved parking area in the northwesterly corner of the Subject Property. The shed will provide storage for signs and equipment used by the real estate broker (office tenant). The shed has a footprint of approximately 8 feet by 10 feet and is proposed in conformity with ordinance requirements. Only approval of the amendment of the site plan is required with respect to the shed, no variance or design waiver relief is necessitated.

8. Applicant had its proposed plans reviewed by the Historic Preservation Commission. The HPC recommended that of the styles which were available to Applicant, the "Garden Shed A", with 2 windows, was preferred by the HPC. Applicant proposes to install this preferred style of shed.

9. In addition to adding reference to "Men of Mendham" (the trade name for the barber shop which will occupy the northeast corner of the building), the barber and the Applicant wish to install a lighted barber pole on the corner pillar of the building. Review of this proposed addition by the HPC resulted in a recommendation that the barber pole be located on the east face of the pillar, rather than the north face. This will result in the barber pole facing Cold Hill Road.

10. Applicant proposes to install a model 77 rotating barber pole, internally lit and supporting a lighted globe on the top of the pole casing. As the Borough Planner pointed out in his July 6, 2010 memorandum, the proposed barber pole is 32 inches high, 9 inches wide, projects 11 inches from the surface to which it is attached, and contains a rotating lighted pole within a 20 inch high glass case. These features and characteristics result in nonconformity to numerous restrictions in the ordinance regarding signs. Particularly, the barber pole would violate six subsections of Section 215-8F, since it is a moving sign, it is made up in part of reflective material, it is lighted with other than white color, its light may shine on adjacent properties, it contains a light source within the sign, and it projects 11 inches (relative to the permitted maximum projection of 8 inches) from the wall (the side of the column).

11. Applicant, while appreciating the long list of nonconformities, suggests that none of them cause any of the ills actually sought to be prevented by the ordinance provisions. The violations, while technically accurate in description, result from the proposed barber pole being nothing more than a classic traditional sign for a barber shop. Given the architectural design of the building, it is urged that a sign of this sort lends to the traditional and classic character of the building, and that the incidental technical violations listed by the planner will have no actual negative impacts, given the size of the sign, the nature of the nonconformities, and the fact that the sign will be approximately 50 feet from the nearest edge of Cold Hill Road.

12. Applicant recounted the issues relating to ID signage for the proposed bank. In discussions with a number of potential tenants, it became clear to Applicant that a tenant for this type of space would need to have adequate, visible, legible signage along the southeasterly corner of the property, such that it would be readily readable by drivers on East Main Street. To divide up the existing 24 square foot sign was not going to produce adequate signage area for a bank tenant. This became obvious when the present proposed tenant -- though agreeable to leasing the space -- conditioned that lease on obtaining additional freestanding signage at the southwest corner of the property.

13. Applicant initially proposed an approximately 48 square foot sign to replace the 24 square foot sign. After review of the proposed signage, the HPC recommended leaving the existing 24 square foot sign to serve the real estate office and barber shop and installing a second 24 square foot sign on the opposite side of the front side walk leading to the bank entrance. The principal concern expressed by the HPC was that a 48 square foot sign at that location might "dwarf" the "Welcome To Mendham" sign located in the island between East Main Street and the East Main Street slip ramp.

14. In reviewing the two approaches to enlarged freestanding signage, the Board concluded that it would prefer a larger single sign to the addition of another (third) separate freestanding sign on the Subject Property. At 48 square feet, the sign can be utilized by all three of the commercial occupants of the building. Applicant proposes to devote half of the sign face to the real estate office and barber shop (equivalent to the signage area they would have if they were the only two uses on the 24 square foot sign), and half of the space to the bank. The Board concluded that given the separation from the "Welcome To Mendham" sign and the relative positioning of those signs, the 48 square foot commercial sign on the Subject Property would not overshadow the sign in the East Main Street island.

15. Finally, Applicant sought an additional parking variance. At the time of the prior approvals, including that for the residential unit, a parking variance for 33 spaces, where 34 spaces were required, was granted. Based on parking standards appropriate for barber shops (differing from office space), the net change in required parking on site increases to 36 spaces. As a result, Applicant needs variance relief relative to an additional 2 space shortfall.

16. The Board explored at length the impact of the barber shop on parking needs on the site. Applicant's testimony concerning other mixed use commercial buildings with which the Applicant's principals have had ownership and/or management experience, as well as testimony from the principal of the enterprise which will occupy the barber shop, explored relative peak hours

for the various uses in the building, the proposed hours of operation for the barber shop, the peak hours of operation for the barber shop, the turn over time of parking for the various uses, and the impact of all of these variables on parking for the resident of the apartment on the second floor of the building. It was ultimately concluded that the most critical item to be assured was parking for the resident. After some discussion of formally designating and marking a reserved parking space for the resident tenant, the Board concluded that it would not require a designation and marking of such a space at this time. It was agreed with Applicant, however, that after the building is fully occupied and operating, the Borough Engineer's office will endeavor to determine whether the resident tenant is experience any parking difficulties and, if so, whether there is need for the designation of a specific space as reserved, marking and signage of same, or other steps. These will be discussed by the Borough Engineer with Applicant with a view toward a mutually satisfactory resolution. In the absence of such a resolution, the matter will be returned to this Board as to modification of a condition of site plan approval to require action to assure parking availability for the resident.

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

18. Based upon all of the foregoing, the Board determined that this further amendment of the site plan and minor expansion of the existing parking variance relief, as well as the variances required for the enlargement of the freestanding sign at the southeast corner of the Subject Property and the installation of the barber pole as proposed by Applicant, were not inconsistent with the design elements which have produced a visually attractive, safe and efficient operating site for the proposed uses, as well as a desirable gateway development at the easterly boundary of the Borough.

19. The Board also concluded, under all of these circumstances, that with appropriate conditions, the requested variance relief 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.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mendham that, based upon all of the foregoing, the amendment of Applicant's final site plan approval regarding the installation of a 8 foot by 10 foot shed in the northwesterly corner of the property, together with additional variance relief for on-site parking (33 spaces being provided, where 36 spaces are required), the enlargement of the freestanding sign at the southeasterly corner of the Subject Property to a total of no more than 48 square feet, and for the installation of the proposed internally lighted barber pole on the easterly face of the corner column of the commercial building, as shown on the Plans submitted by the Applicant submitted to the Board, be and hereby are approved and granted, subject to the following conditions:

1. Plan revisions shall be made to reflect the testimony and exhibits presented, the findings and conclusions of this Board, and comments number 2 and 5 in the Borough Engineer's comment letter of July 8, 2010.
2. Though not involving an additional sign, rather an enlargement of the present freestanding sign at the southeast corner of the Subject Property, the final location and orientation of the larger sign shall be approved in the field by the Borough Engineer, in order to eliminate any impacts on site lines involving the East Main Street slip ramp or the exit drive from the Subject Property.
3. Except as expressly modified by the terms of this approval and this Resolution, or modified by necessary implication (e.g., portions or all of findings 18, 19 and 20 in the August 11, 2008 Resolution; condition number 16 set forth in the August 11, 2008 Resolution; condition 16 set forth in the October 14, 2008 Resolution) all of the terms and conditions of this Board's August 11, 2008 and October 14, 2008 Resolutions remain in full force and effect and continue to apply to this Applicant's amended approval.
4. Applicant shall complete the site improvements and alterations and shall operate the Subject Property in accordance with the testimony presented at the public hearing, the findings and conclusions of this Board, as set forth above, and the conditions imposed in this Resolution.
5. Applicant shall comply with any terms and conditions imposed by the governing body of the Borough of Mendham in connection with its approval of Applicant's sewer connection application.
6. All taxes and other municipal charges shall be paid and current through the third quarter 2010. Applicant shall also pay all application and escrow fees and any other fees required in connection with the completion of this application or this project.
7. Applicant shall obtain all other permits and approvals which may be required from any board, body or agency, whether federal, state, county or municipal, relating to the additional use or uses of the property or the alterations or changes to be made as a result of this approval.
8. Applicant shall comply with the recommendation of the Historic Preservation Commission regarding the style and design of the shed to be installed.
9. Applicant shall submit catalog cuts to the Borough Engineer with respect to the proposed barber pole. To the extent selection are possible, internal lighting and the lighted globe shall be of sufficiently low wattage to prevent or minimize any glare.
10. Barber pole lighting shall be extinguished no later than 1 hour after the barber shop business closes each day.

11. After the building has been fully occupied and in operation, the Borough Engineer's office shall take whatever steps it deems appropriate to determine whether there is a need for designated tenant/resident parking with signage and/or other markings, or other steps taken to assure that at least one parking space will be available for the tenant/resident at all times. In the event such action appears necessary in the opinion of the Borough Engineer, an effort shall be made with Applicant to design and implement such measures. In the absence of agreement in this regard, the issue shall be returned to this Board for determination regarding modification of conditions of approval.

12. Conditions number 1, 6 (to current) and 9 shall be satisfied prior to the signing of the amended site plan or commencement of any further work on site relating to the installation of the shed, the installation of the barber pole, or the installation of the enlarged freestanding sign.

BE IT FURTHER RESOLVED that this Resolution, adopted this 9th day of August, 2010, memorializes the action of the Board, set forth above, taken at its regular meeting on July 12, 2010.

Board was in agreement to leave the sign size as less than 48 sq. ft.

Mr. Cascais made a motion to approve the resolution. Mayor Henry seconded.

ROLL CALL: The result of the roll call of eligible voters was 4 to 0 as follows:

In Favor:	Henry, Cascais, Sandman, Kraft
Opposed:	None
Abstention:	None

The motion carried. The resolution was approved.

OTHER BUSINESS

Historic District Proposed Expansion: Chair Kraft advised the Board that the subcommittee had met earlier in the evening to review the next steps in the project. It was determined that they would like to keep the boundaries as proposed and will move forward with that intent. There will be additional meetings with residents that have expressed concern in September. An amendment to the Master Plan will need to be prepared. Any Board members who would like to participate on a subcommittee should let him know.

TRC UPDATES (For information only)

Mrs. Kopcsik summarized the TRC reviews.

#####

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 regularly scheduled meeting of the Planning Board will be held on **Monday, September 13, 2010 at 8:00 p.m.** at the Garabrant Center, 4 Wilson St., Mendham.

Respectfully submitted,



Diana Callahan

Recording Secretary