

**MINUTES OF THE  
MENDHAM BOROUGH BOARD OF ADJUSTMENT  
February 3, 2015**

**Garabrant Center, 4 Wilson Street, Mendham, NJ**

**CALL TO ORDER**

The regular meeting of the Mendham Borough Board of Adjustment was called to order by Mr. Seavey, Chair, at 7:31PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

**OPENING STATEMENT**

Notice of this meeting was published in the *Observer Tribune* and in the *Daily Record* on January 22, 2015 in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House.

**ROLL CALL**

Mr. McCarthy – Present	Mr. Smith - Present
Mr. Palestina – Present	Mr. Peck – Present
Mr. Peralta – Present	Mr. Seavey - Present
Mr. Ritger - Present	

Alternates:	Ms. Callahan, Alternate I – Absent
	Mr. Sisson, Alternate II - Absent

Also Present:	Ms. Kaye, Secretary
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**MINUTES**

Mr. Seavey made a motion to approve the minutes of the reorganization and special meeting of January 13, 2015, which was seconded by Mr. Peck. On a voice vote, all eligible voters were in favor and the minutes were approved, as written.

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**PUBLIC COMMENT**

Mr. Seavey opened the meeting to the public for questions and comments on items not included on the agenda. There being none, the public session was closed.

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**APPLICATIONS**

**BOA #06-14 Ferrara, Thomas, 13 Franklin Road, Block 1708, Lot 7** – Use variance to allow the construction of a senior accommodation suite: **Resolution**

Mr. Seavey requested comments on the following draft resolution memorializing the Board's decision to grant variance relief for construction of a senior accommodation suite:

**BOROUGH OF MENDHAM BOARD OF ADJUSTMENT  
RESOLUTION OF MEMORIALIZATION  
Decided: January 13, 2015  
Memorialized: February 3, 2015**

**IN THE MATTER OF THOMAS FERRARA  
"D" VARIANCE APPLICATION  
BLOCK 1708, LOT 7**

**WHEREAS**, Thomas Ferrara (hereinafter the "Applicant") applied to the Borough of Mendham Board of Adjustment (hereinafter the "Board") for the grant of a variance pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variance") by application dated 10/28/14; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 1/13/15; and

**WHEREAS**, the Board has determined that the Applicant has complied with all land use procedural requirements of Chapter 124 of the Ordinance of the Borough of Mendham, and has complied with the procedural requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., including without limitation, public notice pursuant to N.J.S.A. 40:55D-12; and

**WHEREAS**, the Board makes the following findings and conclusions, based on the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 1.19 acres located in the R-1 zone and developed with a 2-story, single family home served by public utilities. The R-1 zone permits single family use and does not provide for senior living quarters as an accessory or conditional use.

2. The improvements to the subject property for which the Variance relief is sought comprises "addition and alteration to an existing single family residence to allow an extended senior living quarters." The existing first floor will be expanded with an extension to the rear of the garage and mud room/laundry room to create an entry hall, walk-in closet and hobby room. The second floor which currently contains four bedrooms and two baths will be expanded to create living space above the garage and the new ground floor space to create living space encompassing 881 square feet containing a bedroom, home office, living/dining and kitchen area and full bath.

3. The Applicant has submitted the following documents that depict and/or describe the improvements for which the Variance relief is required:

- Building elevations and floor plan entitled "Ferrara Residence Addition and Alterations 13 Franklin Road Mendham Boro, NJ," prepared by John Heyrich, R.A. of Heyrich Architects dated 9/22/14 and consisting of two sheets

4. In support of the application, the Applicant has submitted the following documents, which are part of the hearing record:

- Board of Adjustment application form, dated 10/28/14, with checklist and attachments
- Zoning Permit Denial, prepared by Patricia Fischer, dated 9/25/14
- E-mail from Craig Bellamy, dated 11/27/14
- Resolution of approval from the Borough Council for Sanitary Sewer flow, dated 12/15/14

5. The Board's planning and engineering professionals and/or consultants have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

John Hansen, PE, dated 12/17/14  
Chuck McGroarty, PP, dated 12/30/14

6. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Craig Bellamy, Fire Official, dated 11/27/14

7. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

A-1 4 colored photos of the existing dwelling

8. In the course of the public hearings, the Applicant was represented by Larry Fox, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Thomas Ferrara, Applicant/Owner  
Paul Ferrara, Applicant's son  
John Heyrich, Architect

9. The documentary evidence and the testimony of the Applicant and/or Applicant's witnesses adduced the following facts:

Applicant has resided in the subject dwelling for 44 years. At age 71, he now has health issues and would like his son and family to occupy

the main part of the house to provide help and emergency assistance if needed. Applicant will have unimpeded access to the entire house and will share meals with his son's family. A single entrance and new entry hall will access both the expanded main dwelling and the new senior living quarters. The property will be deed restricted against two-family uses. The expanded dwelling will continue to comply with all applicable bulk zoning standards, and will remain visually compatible with the neighborhood.

On the subject of "multi-generational family housing," the Borough's 2006 Master Plan provides:

Mendham Borough, as stated in this Master Plan, views itself as a multi-generational community oriented to the various family and household life-cycles...

The Master Plan also suggests other means of advancing this concept through accessory in-house accommodations for family members and needed domestic help. These living spaces must be connected to the main residence, use existing entrances, and be deed-restricted against open-market rental for other tenants. Such uses must also be clearly subordinate, accessory, and incidental to the primary single-family residential use and character of the property. [Land Use, page II-13]

10. Based on the hearing record, the Board has made the following findings and conclusions relative to the Variance relief sought by the Applicant:

The Board finds that the proposed development requires a use variance pursuant to N.J.S.A. 40:55D-70d(1), since the 1-Acre Residence Zone (§215-13) does not provide for the proposed use either as a permitted use, accessory use or conditional use. However, the Board finds that the proposed use satisfies the positive criteria for a d-1 variance, insofar as it promotes the purposes of zoning, and specifically promotes the general welfare by providing multi-generational housing consistent with the Borough's Master Plan. Moreover, the Board finds that the variance is consistent with the intent and purpose of the Master Plan and Zoning Ordinances because the proposed senior living quarters are connected to the main dwelling through a common entrance, and the expanded dwelling will be deed-restricted against two-family use by rental of the senior living quarters to tenants. The Board further finds that the proposed use is clearly subordinate, accessory and incidental to the primary single-family residential use and character of the property.

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the application and grant the Variance requested by the Applicant, as described hereinabove, pursuant to N.J.S.A. 40:55D-70d(1).

This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to the issuance of a zoning permit for the improvements requiring Variance relief.

1. The Applicant shall refile the deed of the subject property with a deed restriction prohibiting the use of the property as a two-family dwelling and the rental of any portion of the dwelling to a tenant. The form of the deed restriction shall be revised and approved by the Board Attorney.

2. Free access from the senior living quarters to the rest of the house through the first-floor entry hall shall not be impeded, and Applicant shall consider providing a pass-through access on the second floor from the senior living quarters to the rest of the house.

3. The number of bedrooms in the dwelling shall not exceed five without further approval from this Board.

4. Applicant shall submit a record plan including all deficient checklist items identified in the Board Engineer's report of 11/17/14.

5. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. Engineering inspection fees will be paid out of the Applicant's escrow account, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

6. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

7. This approval is subject to the payment in full of all taxes and assessments due and owing to the Borough of Mendham and/or any agency thereof.

8. Pursuant to Ordinance Section 124-22, the Variance relief granted herein shall expire within one year of the memorialization of this Resolution unless the construction or alteration of the improvements requiring Variance relief has actually been commenced during that time period, provided that the running of the one-year time period shall be tolled during the pending of any appeal of the Board's decision to the Borough Council or to a court of competent jurisdiction.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution adopted by the Borough of Mendham Board of Adjustment memorializing the action taken by the Board at its meeting of 1/13/15.

Mr. Ritger made a motion to approve the resolution which was seconded by Mr. Peck.

ROLL CALL: The result of the roll call was 7 to 0 as follows:

In favor:	McCarthy, Palestina, Peralta, Ritger, Smith, Peck, Seavey
Opposed:	None
Abstain:	None

The motion carried and the resolution was approved, as written.

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**ADJOURNMENT**

There being no additional business to come before the Board, Mr. Palestina made a motion to adjourn which was seconded by Mr. Ritger. On a voice vote, all were in favor.

Mr. Peck adjourned the meeting at 7:33PM.

The next meeting of the Board will be held on **March 3, 2015 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

*Margot G. Kaye*

Margot G. Kaye  
Board Secretary