

**MINUTES OF THE  
MENDHAM BOROUGH BOARD OF ADJUSTMENT  
March 4, 2014**

**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, Board Chair, at 7:32PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

**OPENING STATEMENT**

Notice of this meeting was published in the *Observer Tribune* on January 23, 2014 and in the *Daily Record* on January 17, 2014 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.

**ROLL CALL**

Mr. Palestina - Present  
Mr. Peralta - Absent  
Mr. Ritger - Present  
Mr. Schumacher - Present

Mr. Smith - Present  
Mr. Peck - Present  
Mr. Seavey - Present

Alternates:

Mr. McCarthy, Alternate I - Present

Also Present:

Mr. Germinario, Attorney  
Mr. Hansen, Engineer  
Ms. Kaye, Secretary

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**MINUTES**

On motion made, seconded and carried, the minutes of the regular meeting of February 4, 2014 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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**HEARINGS**

**#01-14 - Holly Manor Healthcare - Minor Site Plan: Hearing**  
Block 502, Lot 1, 84 Cold Hill Road

Present: Josh VandenHengel, Esq., Attorney for Applicant  
Derek Jordan, Engineer for Applicant  
George Pavlonnis, All Jersey Mechanical & Construction, Contractor for Applicant  
Laura Sansone, Administrator for Holly Manor Healthcare, Applicant

Mr. Germinario stated that public notice was adequate in order to establish jurisdiction.

Mr. VandenHengel provided an overview of the conditions at Holly Manor that necessitated their appearing before the Board. Specifically, the current generator is capable of running only the life-safety systems and is not able to provide power for the entire building. The Applicant is seeking a d(2) variance for the expansion of a non-conforming use as well as relief for the following:

- Increase in lot coverage by 190 sf to 109,310 sf - 43,776 sf permitted
- Increase in building coverage by 120 sf to 45,074 sf - 17,510 sf permitted
- Front yard placement of unit (proposed location is not within the front yard setback of 108')

Derek Jordan was sworn. Mr. VandenHengel qualified the witness and Mr. Jordan was deemed qualified by the Board.

Exhibit A-1 was entered into the record.

Using an aerial photograph of the property from Google Earth (Exhibit A-1), Mr. Jordan explained that the subject property is a 10 ½ acre parcel surrounded by residential zones. He reiterated that the current generator is only strong enough to run the life safety equipment but not the heat and refrigeration. The proposed unit will have a 1,550 gallon diesel tank that is capable of running the entire facility for 48 hours. Mr. Jordan further stated that they are proposing installation in the front yard due to the close proximity of the main transformer and electrical panel and that a new transfer switch will be installed. He testified that the installation of a new generator in the existing location would require a considerable amount of conduit and wire in order to connect to the main electrical panel which would result in a significant financial hardship for the Applicant.

Mr. Jordan further testified that the Applicant proposes to install a 190 sf concrete pad with a 120 sf sound attenuated enclosure located more than 200' from Cold Hill Road. There are existing mature shrubs at the proposed location that will be supplemented with a row of arborvitae 5-6' high to screen the structure from visibility on Cold Hill Road.

Mr. Jordan also indicated that while running, the noise level of the unit will be 75 decibels when standing right outside the enclosure, which ensures that the level is within state regulations for noise when standing a reasonable distance away. He further confirmed that the unit will only be used during power outages.

A discussion followed regarding the existing generator and concrete pad. Applicant is proposing to remove the existing generator but not the concrete pad. There was consensus among the Board that removal of the concrete pad is not necessary if the Applicant will have use for it, e.g., trashcan storage.

Mr. VandenHengel stated that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance and accordingly, requested the Board grant said relief.

Mr. Seavey asked why the Applicant opted for a unit that uses diesel fuel rather than natural gas. George Pavlonnis was sworn and testified that a natural gas generator large enough to accommodate the building has not yet been manufactured.

Testing of the unit was discussed and the Board proposed that it be limited to 30 minutes once per week, Monday through Friday, during midday hours, which was agreed upon by the Applicant.

Applicant confirmed that the fuel storage tank will be above-ground and not subject to any DEP regulation. Mr. Jordan confirmed that the generator will sit on top of the concrete pad and the fuel tank on top of the generator. The fuel tank will have a secondary containment wall so that any leaks will be detected via an alarm system before going through the second wall. Applicant agreed at the Board's request to install a spill switch as well. It was suggested that the applicant build a curbing system around the perimeter of the concrete pad so that in the event of a leak, the fuel would not leak into the ground. Mr. Jordan pointed out that they would have to increase the size of the pad, and consequently, impervious coverage, as regulation requires a 3' working clearance surrounding the unit.

Upon Mr. Hansen's suggestion, it was agreed that the Applicant will look into 6-8' arbor vitae as well as other types of landscaping to give it a varied look. Applicant agreed to prepare a landscaping plan for the Board Engineer's review that will include a horseshoe berm and a variety of plantings on the north, south and west sides in order to shield the unit from visibility at all angles. If landscaping is not completed prior to the unit being installed, Mr. Hansen agreed that the work can be bonded.

The Board set forth the following conditions of approval:

- (1) Applicant will prepare a landscaping plan with a variety of species and heights for the Board Engineer's approval. The proposed landscape will screen the unit on all exposed sides.
- (2) A spill switch will be added to the diesel fuel tank.
- (3) Semi-annual service contract will include spill switch testing.
- (4) Applicant is required to remove the old generator, but not the pad if there is use for it.
- (5) Unit may be tested once per week, Monday through Friday, during midday hours.
- (6) Color of the unit will be an earth tone.
- (7) Technical details will be included on the plan.
- (8) The only lighting on the structure will be battery-operated backup lighting that illuminates the unit only in the event that the generator malfunctions and requires servicing.
- (9) Landscaping requirements will be separate from permitting so the work can begin. If the landscaping plan is not able to be implemented upon completion of installation, it can be bonded.

Mr. Germinario opined that a d(2) variance request requires that the applicant provide testimony regarding special reasons and positive criteria. He offered that safeguarding the Holly Manor residents against natural disasters satisfies the requirements set forth in the MLUL.

Mr. Seavey made a motion to approve the application subject to conditions, which was seconded by Mr. Palestina.

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

In favor: Palestina, Ritger, Schumacher, Smith, Peck, Seavey  
Opposed: None  
Abstentions: None

The motion carried and application was approved.

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**OTHER BUSINESS**

Mr. Schumacher requested information regarding snow and ice removal on the sidewalk leading up to the driveway at Holly Manor. He added that residents of the Commons utilize the sidewalk around the property and snow and icy conditions make it impassable. Mr. Schumacher asked that Ms. Sansone, Holly Manor Administrator, arrange for the sidewalks to be cleared.

Mr. Schumacher inquired whether an update was available regarding Piattino's commitment to pave over the potholes in its section of the Mendham Village parking lot. Mr. Smith responded that it appears they are working on it as he has seen sections of the lot closed off. Mr. Hansen added that until the weather is warmer and hot mix asphalt can be used, the fix will be temporary. Mr. Seavey asked that Ms. Kaye follow up with Ms. Sandman to contact Piattino's and request a status on lot paving.

Mr. Smith indicated that the Ingersoll garage appears to be too close to the house and street and not in the location set forth in the approved plans. Mr. Hansen agreed to conduct a site inspection to confirm the location and check for other foundation marks.

**ADJOURNMENT**

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

Chair Seavey adjourned the meeting at 8:22PM.

The next regular scheduled meeting of the Board will be held on **Tuesday, April 1, 2014 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham.

Respectfully submitted,

*Margot G. Kaye*

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Recording Secretary