

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
January 12, 2016**

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 7:30PM 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. Palestina - Present	Mr. Peck - Absent
Mr. Peralta - Present	Mr. Ritger - Present
Mr. Seavey - Present	Mr. Smith - Present
Mr. Sisson - Present	

Alternates:	Mr. Reilly, Alternate I - Absent
	Ms. Glassner, Alternate II - Present

Also Present:	Mr. Germinario, Board Attorney
	Mr. Hansen, Board Engineer
	Mr. McGroarty, Board Planner

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2016 REORGANIZATION

Election of Chair: A nomination was made for Mr. Seavey as Chair by Mr. Peralta. There being no additional nominations, on motion made by Mr. Peralta and seconded by Mr. Sisson, a single ballot was cast for Mr. Seavey as Chair.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Smith, Sisson
Opposed:	None
Abstentions:	None

The motion carried and Mr. Seavey was elected Chair.

Election of Vice-Chair: A nomination was made for Mr. Peck as Vice Chair by Mr. Seavey. There being no additional nominations, on motion made and seconded by Mr. Peralta, a single ballot was cast for Mr. Peck as Vice Chair.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Smith, Sisson
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Opposed: None
Abstentions: none

The motion carried and Mr. Peck was elected Vice Chair.

Appointment of Secretary: A nomination was made for Ms. Mazzucco as Board Secretary. On motion made, seconded and passed on voice vote, Ms. Mazzucco was appointed Board Secretary.

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RESOLUTIONS

Board of Adjustment Meeting Dates: Mr. Seavey presented the following resolution that was included in the meeting packet:

**BOROUGH OF MENDHAM
BOARD OF ADJUSTMENT**

RESOLUTION

BE IT RESOLVED that the Board of Adjustment of the Borough of Mendham will meet to discuss or act upon public business at 7:30 p.m. prevailing time on each of the dates set forth below, at the Garabrant Center, 4 Wilson Street, Mendham, NJ:

- Tuesday, February 2, 2016
- Tuesday, March 1
- Tuesday, April 5
- Tuesday, May 3
- Thursday, June 9**
- Thursday, July 7**
- Tuesday, August 2
- Thursday, September 8**
- Tuesday, October 4
- Tuesday, November 1
- Tuesday, December 6
- Thursday, January 5, 2017**

BE IT FURTHER RESOLVED that notice of any additions to the above schedule or change in the time, date or place of any scheduled meeting will be posted on the bulletin board in the Phoenix House and delivered to the official newspapers in advance as required by law.

With respect to matters presented to this Board by applicants, the public shall be heard during the hearing on the application in accordance with the procedure as established by the Municipal Land Use Law.

Mr. Seavey made a motion to approve the resolution, as written, which was seconded by Mr. Sisson.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried. Ms. Mazzucco will make the appropriate public notification.

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Official Newspapers: Mr. Seavey presented the following resolution that was included in the meeting packet:

**BOROUGH OF MENDHAM
BOARD OF ADJUSTMENT**

RESOLUTION

BE IT RESOLVED by the Board of Adjustment of the Borough of Mendham, Morris County, New Jersey as follows:

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and hereinafter designated as the "Open Public Meetings Act" aforesaid, the Board of Adjustment of the Borough of Mendham hereby makes the following designations:

1. The *Observer Tribune* and the *Daily Record* having been designated by the Governing Body as the two official newspapers to receive notice of meetings required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings. Notices required by the New Jersey Municipal Land Use Law or the Borough's Land Use Regulations may be placed, as required by law, in either of the designated newspapers.

- 2. The location for posting of notices of meetings shall be the bulletin board in the Phoenix House, 2 West Main Street, Mendham, NJ, where notices of this kind are normally posted.
- 3. The sum of \$12.00 per year is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 13 of the Open Public Meetings Act.

Mr. Seavey made a motion to approve the resolution, as written, which was seconded by Mr. Peralta.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried. Ms. Mazzucco will make the appropriate public notification.

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Appointment of Board Consulting Engineer: Mr. Seavey presented the following resolution that was included in the meeting packet:

**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

BOARD OF ADJUSTMENT

RESOLUTION

WHEREAS, the Board of Adjustment of the Borough of Mendham has a need to acquire professional Consulting Engineer services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has submitted a proposal indicating that they may provide engineering services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Paul W. Ferriero has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Board of Adjustment of the Borough of Mendham wishes to retain Paul W. Ferriero; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Mendham as follows:

1. That the Board of Adjustment of the Borough of Mendham retain Paul W. Ferriero PE & PP of the firm Ferriero Engineering Incorporated to serve as Consulting Engineer for 2016, at a total annual cost not to exceed [\$1,000] such sum as duly appropriated for the purposes in the duly adopted municipal budget for 2016; and escrows as required for 2016; and
2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
4. That a notice of this action shall be published once in the official newspapers of the Board of Adjustment of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
5. This Resolution shall take effect as provided herein.

Mr. Seavey made a motion to approve the resolution, as written, which was seconded by Mr. Smith.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried. Ms. Mazzucco will make the appropriate public notification.

####

Appointment of Board Attorney: Mr. Seavey presented the following resolution that was included in the meeting packet:

**BOROUGH OF MENDHAM
BOARD OF ADJUSTMENT**

RESOLUTION

WHEREAS, the Board of Adjustment of the Borough of Mendham has a need to acquire professional Board Attorney services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Thomas J. Germinario, JD, PE has submitted a proposal indicating that he may provide legal services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Thomas J. Germinario, Esq. has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit him from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Board of Adjustment of the Borough of Mendham wishes to retain Thomas J. Germinario, Esq.; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Mendham as follows:

1. That the Board of Adjustment of the Borough of Mendham retain Thomas J. Germinario, Esq. to serve as Board Attorney for the year 2016 at a total annual cost not to exceed [\$6,000], such sum as may be duly appropriated for the purposes in the duly adopted municipal budget for 2016: and escrows as required for 2016; and

2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.

3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.

4. That a notice of this action shall be published once in the official newspapers of the Board of Adjustment of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).

6. This Resolution shall take effect as provided herein.

Mr. Seavey made a motion to approve the resolution, as written, which was seconded by Mr. Smith.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried. Ms. Mazzucco will make the appropriate public notification.

####

Appointment of Board Planner: Mr. Seavey presented the following resolution that was included in the meeting packet:

**BOROUGH OF MENDHAM
BOARD OF ADJUSTMENT**

RESOLUTION

WHEREAS, the Board of Adjustment of the Borough of Mendham has a need to acquire professional Planning Consultant services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and

WHEREAS, the business administrator has determined and certified in writing that the value of the services will exceed \$17,500 (including escrows); and

WHEREAS, Banisch Associates, Inc has submitted a proposal indicating that they may provide planning services for 2016 in an amount projected to exceed \$17,500 (including escrows); and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Banisch Associates, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political or candidate committee of the Borough Council in the Borough of Mendham in the previous one (1) year, and that the contract will prohibit them from making any reportable contributions through the term of the contract; and

WHEREAS, this resolution is subject to the Chief Financial Officer certifying to the availability of funds; and

WHEREAS, the Board of Adjustment of the Borough of Mendham wishes to retain Banish Associates, Inc.; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Mendham as follows:

- 1. That the Board of Adjustment of the Borough of Mendham retain Charles T. McGroarty, PP/AICP of the firm Banisch Associates, Inc. to serve as Planning Consultant for 2016, at a total cost not to exceed required escrows for 2016; and
- 2. This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
- 3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
- 4. That a notice of this action shall be published once in the official newspapers of the Board of Adjustment of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
- 7. This Resolution shall take effect as provided herein.

Mr. Seavey made a motion to approve the resolution, as written, which was seconded by Mr. Smith.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried. Ms. Mazzucco will make the appropriate public notification.

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MINUTES

Mr. Seavey made a motion to approve the minutes of the regular meeting of October 6, 2015, which was seconded by Mr. Smith. 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 # 09-15 15 Wet Main LLC, 15 West Main St, Block 301, Lot 39
Preliminary and Final Major Sit Plan

Present: Mr. Tom Malman, Attorney
Mr. Calandra, Real Estate Developer
Mr. Villa, Engineer
Mr. Cusano, Architect
Mr. Mazzucco, Landscape Architect

Mr. Hansen presented the checklist items and Mr. Seavey motioned to accept the waivers of the Completeness Review which was seconded by Mr. Sisson.

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

In favor:	Glassner, Palestina, Peralta, Ritger, Seavey, Sisson, Smith,
Opposed:	None
Abstain:	None

The motion carried.

Mr. Malman explained that D-3 variances would be needed. He introduced Mr. Calandra, a fact witness, who discussed the current layout of the building, with three businesses on the first floor and two apartments on the second floor. The third floor is vacant and will remain vacant.

Mr. Villa was sworn and qualified. He introduced exhibit A-1, an aerial of the proposed project. He said the 3 existing stores and two apartments on the second floor will not change, but the two vacant buildings in the rear of the property will be removed and replaced with three townhouses. He also submitted exhibit A-2, a rendering of the site plan with landscaping. The driveway on the west side of the property will be 24 feet wide allowing for larger vehicle K-turns. He mentioned that the townhouses are in the riparian zone and will be allowed by the DEP because it's already been developed. There is a 15' sanitary easement at the back of the property and the sewer will be relocated. The borough council approved the additional 600 gallons per day for the townhouses. Small infiltration basins will be built around the townhouses for water runoff, and drywells will be installed. The townhouse construction will actually reduce the impervious coverage from 91.5% to 66.8%. He also mentioned that they are required to provide 34 parking stalls per Borough Ordinance, and are suggesting a total of 31.

In response to a question asked by Mr. Hansen, Mr. Villa said the applicant will comply with all Borough and County requirements on this project. He also mentioned that there are no plans for a dumpster to remove waste, and the tenants would use normal garbage can collection. It was also explained that the loading and unloading needed by the retail establishments would occur in the rear of the building. Parking spots would be designated for the retail establishments

versus the residential townhouses, and the Board felt specifications needed to include no oversized vehicle parking like RV's and boats.

A resident asked about the drainage and water usage by the townhouses and it was explained that the sewer permit had been granted by the council, and drainage in the area would improve with the installation of the basins.

Mr. Cusano was sworn and qualified. He discussed their goal of enhancing the historic nature of the property as the building is over 100 years old, and improving the streetscape. He submitted exhibits A-3 through A-5, which depicted the buildings current condition and a rendering of the proposed improvements to the front façade. The porch on the west side, second floor, would be enclosed as well. He submitted exhibits A-6 through A-9, which detailed the new townhouses, including a model of the townhouses, and discussed the challenge of the dramatic slope on the property from front to back.

The board asked questions about the placement of generators/ air conditioners and mechanical. Mr. Smith raised concerns about a restrictions placed on deck size.

Mr. Mazzucco was sworn and qualified. He discussed the plans to beautify the property with trees and shrubs and ornamental grass. His design was to filter the view of the townhouses from the streetscape. An evergreen screen would be implemented in the rear of the property on three sides. Mr. McGroarty expressed concern about the maintenance of the landscaping and Mr. Mazzucco explained that the landscaping would be guaranteed by the contractor for two years. Mr. Seavey suggested a plaque since the building is historical. Mr. Mazzucco also mentioned that there would be no floodlights, and pole lights would be on all night, and side lights would be expected to go off around 9 to 10pm.

Mr. Hansen said two waivers would be needed: 1)195-57.5a for the incandescent lights on the townhouses and 2)195-57.5g for the lighting on the front side property lines which is not supposed to exceed .1 foot candles.

With no public comment, the applicant agreed to return to next month's meeting to continue their hearing.

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ADJOURNMENT

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

Mr. Seavey adjourned the meeting at 10:27PM.

The next meeting of the Board will be held on **Tuesday, February 2, 2016 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Carolyn Mazzucco

Carolyn Mazzucco
Board Secretary