

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
REGULAR AND REORGANIZATIONAL MEETING
January 5, 2017**

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 28, 2016 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 – Present
Mr. Peralta – Present	Mr. Ritger – Present
Mr. Seavey – Present	Mr. Smith - Present
Mr. Sisson - Present	

Alternates: Mr. Reilly, Alternate I – Present

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

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2017 REORGANIZATION

Election of Chair: A nomination was made for Mr. Seavey as Chair by Mr. Smith. There being no additional nominations, on motion made by Mr. Smith and seconded by Mr. Peck, 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:	Palestina, Peck, Peralta, Reilly, Ritger, Smith, Sisson
Opposed:	None
Abstentions:	Seavey

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. Smith, 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: Palestina, Peralta, Reilly, Ritger, Smith, Seavey, Sisson

Opposed: None

Abstentions: Peck

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

Appointment of Secretary: A nomination was made for Ms. Mazzucco as Board Secretary by Mr. Seavey. Mr. Ritger seconded and Ms. Mazzucco was appointed Board Secretary.

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

In favor: Palestina, Peck, Peralta, Reilly, Ritger, Smith, Seavey, Sisson

Opposed: None

Abstentions: None

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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 7, 2017
- Tuesday, March 7
- Tuesday, April 4
- Tuesday, May 2
- Thursday, June 8**
- Tuesday, July 11
- Tuesday, August 1
- Thursday, September 7**
- Tuesday, October 3
- Thursday, November 9**
- Tuesday, December 5
- Tuesday, January 2, 2018

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 8 to 0 as follows:

In favor:	Palestina, Peck, Peralta, Reilly, Ritger, Smith, Seavey, Sisson
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. Peck.

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

In favor:	Palestina, Peck, Peralta, Reilly, Ritger, Smith, Seavey, Sisson
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 2017 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 2017, 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 2017; and escrows as required for 2017; 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. Peck.

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

In favor:	Palestina, Peck, Peralta, Reilly, Ritger, Smith, Seavey, Sisson
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 2017 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 2017 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 2017: and escrows as required for 2017; 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. Sisson.

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

In favor:	Palestina, Peck, Peralta, Reilly, Ritger, Smith, Seavey, Sisson
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 2017 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 2017, at a total cost not to exceed required escrows for 2017; 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. Peck made a motion to approve the resolution, as written, which was seconded by Mr. Seavey.

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

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

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

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Annual Report: Mr. Seavey made a motion to approve the annual report as written and the motion was seconded by Mr. Peralta.

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

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

The motion carried.

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MINUTES

Mr. Seavey asked for comments on the minutes of the regular meeting of December 6, 2016, and it was noted that the minutes incorrectly referenced the Phoenix House as the meeting location in the header and first paragraph, as well as referencing January 5, 2017 as a Tuesday, instead of a Thursday. Mr. Seavey made a motion to approve the revised minutes and Mr. Peck seconded.

ROLL CALL: The result of the roll call was 5 to 0 as follows:

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

The motion carried.

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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 #6-16

Ms. Keri Higgins
6 Hillcrest Ave
Block 602 Lot 16
"C" Variance – Garage to house attachment

Present: Mr. and Mrs. Higgins, Applicant
Mr. Douglas Ascal, Architect

Mr. Hansen explained that there were two incomplete checklist items and recommended the Board waive these items for completeness purposes; #11, survey prepared by a licensed surveyor and #24, approval signature lines. Mr. Seavey made a motion to approve completeness of the applications with the waivers recommended, and Mr. Sisson seconded.

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

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

The motion carried.

The Higgins explained that they revised the site plan (S-1) and re-noticed requesting a variance for a 50-ft principal building front yard setback from Hillcrest Place, as they want to attach the house to the garage with a one-story mudroom addition. Discussion continued about calculations for lot and building coverage on the property, and a side shed on the rear northern property line that did not meet the 15 foot setback requirement. This shed needed to be removed or relocated. It was discovered that there were inaccuracies on the lot coverage calculations, including the amount of gravel on the property, and that plans would need to be resubmitted. Mr. Seavey clarified with the applicant that there wouldn't be a second floor added above the proposed mudroom. Mr. Germanario explained that the applicant needed a c(1) variance due to hardship.

Mr. Seavey made a motion to approve the application with conditions, and Mr. Palestina seconded.

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

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

The motion carried.

BOA #5-16

Mr. and Mrs. La Rosa
6 Prospect Street
 Block 1901 Lot 7
 "C" Variance – Two Small Side Addition

Present: Mr. Jeffrey LaRosa, Applicant
 Mr. Dan Encin, Architect

Mr. Seavey recused himself from hearing the application. Mr. Hansen mentioned that there were 10 checklist items that could be waived for completeness as outlined in his report. Mr. Peck made a motion to waive the items for completeness and Mr. Smith seconded the motion.

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

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

The motion carried.

Mr. Encin was sworn and qualified. Mr. LaRosa explained that they are requesting two small additions - enlarging the mudroom on the east side and expanding a powder room into a master bathroom on the west side. Mr. Encin explained that this home is a contributing home in the Historic District, and that the additions were designed with regard to the home's historic integrity. He also mentioned that because of the pre-existing non-conformity for lot coverage, they kept the additions small for a total increase of 260 square feet, changing lot coverage from 31% to 32%. He also designed the additions not to affect the streetscape of the property.

Mr. McGroarty mentioned that the easement line on the property should not be used as a setback line, and a new site plan should be submitted reflecting such. Also, the lot coverage calculations needed to be corrected to reflect the connection between the existing patio and driveway.

After a small discussion between the Board members, Mr. Reilly made a motion to approve the application with conditions and Mr. Sisson seconded.

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

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

The motion carried.

BOA #7-16

**Ricardo and Ramona Gomez
7 Linden Lane**

Block 1801 Lot 10

"C" Variance – Lot Coverage, Existing Non-Conformity

Present: Ms. Ramona Gomez, Applicant
Mr. Anthony Sposaro, Attorney
Mr. Hollows, Engineer

Mr. Hansen recommended waivers on six checklist items. Mr. Seavey made a motion to approve completeness of the applications with the waivers recommended, and Mr. Peck seconded.

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

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

The motion carried.

Mr. Hollows was sworn and qualified. He submitted exhibit A-1, a color rendering of sheet 2. He explained that there were two small proposed additions, one to modify the front entranceway (352 square foot increase) and a small bump out to the kitchen (270 square foot increase). They would remove the front porch which is 160 square feet and remove the mother-daughter suite, which would revert the non-conforming use to conforming. The applicant agreed to refile the deed if there is a stipulation within the deed that mentions mother-daughter suite.

Mrs. Gomez submitted exhibit A-2, a copy of the realtor's brochure depicting the in-law suite when they made their home purchase. She mentioned that the additions will improve the convenience of the home for her as she has some physical handicaps.

Mr. Seavey made a motion to approve the application with conditions, and Mr. Peck seconded.

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

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

The motion carried.

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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 9:40PM.

The next meeting of the Board will be held on **Tuesday, February 7, 2017 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Carolyn Mazucco

Carolyn Mazucco
Board Secretary