

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

**ORDINANCE NO. 05-01**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS AND STATE OF NEW JERSEY, TO AMEND CHAPTER 215, ZONING OF THE CODE OF THE BOROUGH OF MENDHAM, TO PROVIDE FOR AN HISTORIC DISTRICT OVERLAY ZONE**

**BE IT ORDAINED** by the Council of the Borough of Mendham, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Article II, Zoning Districts, §215-2, Classes of zones, is hereby amended and supplemented to add the Historic District Overlay Zone:

**SECTION 2.** Chapter 215, Zoning, of the Code of the Borough of Mendham, County of Morris, State of New Jersey, is hereby amended and supplemented by the addition of Article XV to read as follows:

**"ARTICLE XV  
HISTORIC DISTRICT OVERLAY ZONE**

**§ 215-47. Purpose and objectives**

The purpose of these provisions is to establish procedures and regulations within the Zoning Ordinance applicable to development of properties located in historic districts established in the Borough of Mendham and to individual historic landmarks and historic sites identified on the Historic Preservation Plan Element of the Master Plan. Among the objectives of the provisions are the following:

- A. To identify and establish historic landmarks and an historic district within the Borough.
- B. To conserve, protect, enhance and perpetuate such landmarks and such improvements within the historic district which represent or reflect elements of Mendham Borough's cultural, social, economic, political or architectural history.
- C. To stabilize and improve property values in the historic district.
- D. To foster civic pride in the historic and architectural accomplishments of the past.
- E. To promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the Borough.
- F. To encourage owners of historic landmarks and owners of property within historic districts in their efforts to preserve the historic character of such properties.

**§ 215-48. Establishment of Overlay Zone**

The boundaries of the Historic District Overlay Zone are hereby established as shown on a map entitled "Mendham Historic District" dated 1983 and prepared by J .W. Foster, which map was revised June, 2000 by Ferrero Engineering, Inc., and is hereby adopted by reference.

**§ 215-49. Applicability of regulations.**

These regulations shall apply to all building permit applications and to all applications for development, including subdivisions, site plans, and variances involving properties situated in the historic district or involving individual historic landmarks of historic sites. More specifically, these regulations shall apply to any of the following:

- A. Subdivisions of land located in the historic district or of land on which is located an historic landmark or historic site.
- B. Demolition of an historic landmark or of any improvement within any historic district.
- C. Relocation of any historic landmark or of any improvement within any historic district.
- D. Change in the exterior appearance of any existing landmark or of any improvement within the historic district by addition, alteration or replacement.
- E. Any new construction of a principal or accessory structure.
- F. This ordinance shall not be applicable to ordinary maintenance on structures and shall not include review of any color or colors for a structure to be painted or maintenance work which does not require a building permit.

**§ 215-50. Procedure**

- A. Any application for development which is subject to these regulations shall be referred to the Historic Preservation Review Commission by the Planning Board, Board of Adjustment or the Administrative Officer, as the case may be.
- B. Within forty-five (45) days of receipt of an application, the Historic Preservation Review Commission shall review the application and may issue a written report to the applicable Board recommending approval, approval with conditions or denial of the application, based upon the standards hereinafter set forth.
- C. The Planning Board or Board of Adjustment shall review the report of the Commission and shall make a final determination as to the disposition of the application, namely, to approve, approve with conditions or deny the application. If

referral of the application to the Historic Preservation Review Commission emanated from the Administrative Officer, the Board shall report its decision to the Administrative Officer.

- D. Failure of the Historic Preservation Commission to report to the Planning Board or failure of the Planning Board to report to the Administrative Officer within forty-five (45) days of this referral shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit.

**§ 215-51. Standards of Consideration**

In considering whether an application should be granted, the Historic Preservation Commission and the reviewing Board shall consider whether, if the approval is denied, the applicant may still make any reasonable use of property as such use is permitted in the zoning regulations. No application shall be denied solely based on this ordinance unless the reviewing Board specifically finds that the property may, after such denial, reasonably be used for a use permitted in the zoning regulations.

- A. Subdivisions. Review of subdivision applications shall be consistent with the provision of Chapter 195. In addition, the Commission and Board shall consider the impact that the grant of the subdivision would have in terms of the overall objectives of these provisions and the design standards and criteria set forth above.
- B. Demolition. In regard to an application to demolish an historic building or any improvement within an historic district, the following shall be considered in relation to the building or improvement:
- (1) historic, architectural and social significance.
  - (2) potential for use for those purposes currently permitted by zoning regulations.
  - (3) importance to the Borough and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
  - (4) the extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty.

5) the extent to which its retention would promote the general welfare by maintaining and increasing real estate values, generating local business, creating new jobs, attracting visitors, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American and Borough history, culture and heritage, stimulating interest and study in architecture and design, or making the Borough a more attractive and desirable place in which to live.

(6) the probable impact of its removal upon the ambience of the historic district.

C. Relocations out of the Borough. In regard to an application to move an historic building to a location outside the Borough, the following matters shall be considered:

(1) the historic loss to the site of the original location and the district as a whole.

(2) the reasons for not retaining the landmark or structure at its present site.

(3) the proximity of the proposed new location to the municipality, including the accessibility to the residents of the Borough and other citizens.

(4) the probability of significant damage to the landmark or structure itself.

(5) the applicable matters listed in paragraph B above.

D. Relocations within the Borough. In regard to an application to move an historic landmark or any structure to a new location within the Borough, the following matters shall be considered in addition to the matters listed in Subsection C above.

(1) the compatibility, nature and character of the current and of the proposed surroundings as they relate to the intent and purposes of this section.

(2) the visual compatibility factors as set forth in paragraph H below.

E. Visual compatibility considered for additions or removals. With regard to an application to move a landmark or structure or to construct a new structure or to add or alter an existing structure within an historic district, the visual compatibility of the proposed structure with the structures and surroundings to which it would be visually related within that district shall be considered in terms of the visual compatibility factors as set forth in paragraph H.

F. Consideration on other actions. In regard to an application for other approval of any proposed action set forth in Section 215-49 hereof, the following matters shall be considered;

- (1) If an historic landmark or a structure in an historic district is involved:
  - (a) The Impact of the proposed change on its historic and architectural character.
  - (b) Its importance to the Borough and extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.
- (2) The use of any structure involved.
- (3) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within an historic district from a public street.
- (4) If the application deals with a structure within an historic district, the impact the proposed change would have on the character and the ambience of the historic district and the structure's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth in paragraph H below.

G. Additional matters considered. In regard to all applications, additional pertinent matters may be considered but in no instance shall interior arrangement be considered.

H. Visual compatibility factors. In assessing the effect of any proposed change under application for any historic landmark, or building or structure located within the historic district, the following visual compatibility factors shall be used to analyze the effect the change applied for would have on the landmark, building or structure and on those structures to which the landmark is visually related.

- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
- (2) Proportion of building's front façade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.

- (3) Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and the places to which they are visually related.
- (4) Rhythm of solids to voids on fronting of public places. The relationship of solids to voids in such facades of a building shall be visually compatible with the buildings and places to which they are visually related.
- (5) Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which is visually related.
- (6) Rhythm of entrance and/or porch projections. The relationship of the entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
- (7) Relationship of materials and texture. The relationship of materials of the facade and roof of a building shall be visually compatible with the predominant materials used on the existing building or similar buildings that are in the Historic District Overlay Zone. Nothing herein shall prevent the use of alternative materials that are different from those on an existing building including the right to use asphalt shingles to replace a roof which had different materials, provided that the texture of the asphalt roofing or alternative materials is compatible with the existing building or similar buildings in the Historic District Overlay Zone.
- (8) Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
- (9) Walls and fences. Appurtenances of a building such as walls, open type fencing and evergreen landscape masses shall form visible compatibility of the building with the building and places to which it is visually related.
- (10) Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
- (11) Directional expression of front facade. A building shall be visually compatible with buildings and places to which it is visually related in its

directional character, whether this be vertical character, horizontal character or nondirectional character.

(12) Siding. The siding of a building shall be visually compatible with the buildings and places to which it is visually related. Alternative siding, such as vinyl or aluminum siding, shall be permitted as an exception to the requirements herein, provided that the alternative siding, wherever possible, is consistent with the original exterior siding of the building being replaced or exterior siding of similar buildings in the Historic District Overlay Zone, in appearance, dimensions, contour, configuration and design.

- I. Secretary of Interior's Standards and Guidelines for Rehabilitation of Historic Buildings. In addition to the visual compatibility factors listed above, the Historic Preservation Commission shall also give consideration to the latest edition of the Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic Buildings."

**SECTION 3.** Ordinances, resolutions, and regulations or parts of ordinances, resolutions, and regulations inconsistent herewith, are hereby repealed to the extent of such inconsistency.

**SECTION 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a Court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

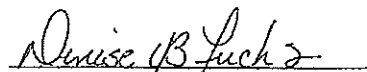
**SECTION 5.** This Ordinance shall take effect upon passage and publication according to law.

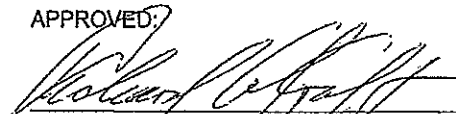
INTRODUCED: March 13, 2001

ADOPTED: May 7, 2001

ATTEST:

APPROVED:

  
Denise VB Fuchs, Clerk

  
Richard G. Kraft, Mayor