

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
December 2, 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. Peck, Vice Chair, at 7:34PM 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 - Present
Mr. Ritger - Present
Mr. Schumacher - Absent

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

Alternates:

Mr. McCarthy, Alternate I - Present

Also Present:

Ms. Kaye, Secretary

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MINUTES

Mr. Smith made a motion to approve the minutes of the regular meeting of November 6, 2014, which was seconded by Mr. Ritger. On a voice vote, all eligible voters were in favor and the minutes were approved, as written.

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PUBLIC COMMENT

Mr. Peck 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

#05-14 **Prior, Harold** - 12 Garabrant Street, Block 402, Lot 7
Variance relief for building coverage and lot coverage for a new single-family home: **Resolution**

Mr. Peck requested comments on the following draft resolution memorializing the Board's decision to grant variance relief for building coverage and lot coverage for a new single-family home:

**BOROUGH OF MENDHAM BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
Decided: November 6, 2014
Memorialized: December 2, 2014**

**IN THE MATTER OF HAROLD PRIOR
"C" VARIANCE APPLICATION
BLOCK 402, LOT 7**

WHEREAS, Harold Prior (hereinafter the "Applicant") applied to the Borough of Mendham Board of Adjustment (hereinafter the "Board") for the grant of variances pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variances") by application dated 9/18/14; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/6/14; 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 approximately 0.43 acres and is located in the ½ Acre Residence Zone. It is currently developed with two (2) single family residences and a frame shed. The dwellings are served by public utilities.

2. The improvements to the subject property for which the Variance relief is sought comprises proposal to raze all existing structures on the property and construct one single family dwelling. A new driveway location is proposed and the existing utility connections will be utilized. The Applicant is requesting relief from the maximum lot coverage and maximum building coverage standards in the zone.

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

- Site Plan, prepared by James Mastronardy, PE, PP, Kenilworth, NJ, dated 7/21/14, consisting of three (3) sheets
- Architectural Floor Plans and Elevations, prepared by Robert Bryant, PE, RA, Piscataway, NJ, dated 8/1/14, consisting of three (3) 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 and attachments, dated 9/18/14
- Application Checklist (undated)

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, CME, dated 10/10/14

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 10/13/14

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

- A-1 Existing Conditions Photo
- A-2 Rendering of Proposed New Home

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

Harold Prior, Applicant
James Mastronardy, PE, Applicant's engineer

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

The existing homes are old and too small for Applicant's family. The new home will conform to current codes and will enhance the appearance of the property. While impervious coverage requires a variance, there will be a decrease from the existing conditions from 5,659 sf to 4,247 sf. The ordinance maximum for impervious coverage will be exceeded by only 210 sf (4037 sf vs. 4247 sf proposed), and for building coverage by 798 sf (2114 sf vs. 2912 sf proposed). Since open porches constitute 687 sf of the building coverage, the net coverage exceedance without the porches is only 111 sf. Under the Applicant's proposal, there will be a reduction in stormwater runoff from the property, since two seepage pits will be installed to receive rooftop runoff.

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 Variances are justified because the demolition of the two existing non-conforming dwellings and their replacement by a single new dwelling will make the property more conforming and enhance the appearance of the property.

The detriments associated with the deviation are considered minimal because the impervious coverage and runoff will be reduced as compared to the existing condition, and the exceedances of the ordinance standards are minimal.

Therefore, the grant of the Variance is warranted pursuant to N.J.S.A. 40:55D-70c(2), because the benefits of the deviation will substantially outweigh the detriments.

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 Variances requested by the Applicant, as described hereinabove, pursuant to N.J.S.A. 50:55D-70c(2).

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. All structures except the shed will be removed prior to the start of construction of the new home. The shed shall be demolished within nine months of this Resolution.
2. Open porches depicted on the Architectural Plans shall remain open and shall not be enclosed in the future without further review by this Board.
3. The Applicant's engineer shall approximate the amount of fill that is anticipated to be generated from the project. If it is desired to remain on site to reduce trucking costs, it shall be shown on the plan with proposed grades.
4. A copy of the survey noted on sheet 1 shall be provided.
5. Prior to construction, the soil test as noted on sheet 1 of the plans shall be witnessed by the Board Engineer. Applicant shall provide notice to the Board Engineer 48 hours prior to the time of the testing.
6. Prior to the issuance of a framing permit, a foundation location survey shall be performed by a licensed engineer and submitted to the building department.
7. All improvements shall be installed and shown on a final survey prepared by a NJ licensed surveyor prior to the issuance of a Certificate of Occupancy for the new dwelling.
8. Prior to the issuance of any permits, the Applicant shall submit a resolution compliance package. The package shall include revised plans and documents, and a transmittal letter that explains how and where each condition of the resolution has been addressed.
9. 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.
10. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.
11. 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.
12. 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 11/6/14.

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

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

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

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 7:37PM.

The next meeting of the Board will be held on **January 13, 2015 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Margot G. Kaye

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Board Secretary