

**MINUTES OF THE  
MENDHAM BOROUGH BOARD OF ADJUSTMENT  
October 2, 2012  
Garabrant Center, 4 Wilson St., Mendham, NJ**

**CALL TO ORDER**

The regular meeting of the Board of Adjustment was called to order by Chair Seavey at 7:30 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

**CHAIR'S ADEQUATE NOTICE STATEMENT**

Notice of this meeting was published in the Observer Tribune and the Daily Record on January 12, 2012 in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House.

**ROLL CALL**

Mr. Palestina – Absent  
Mr. Peck – Present  
Mr. Peralta – Present  
Mr. Schumacher – Present  
Mr. Seavey – Present

Mr. Smith – Present  
Mr. Ritger, - Present  
Mr. McCarthy, Alt - Present  
Mr. Germinario, Alt II – Absent

Also Present:

Mr. Germinario, Esq., Attorney  
Mr. Hansen, Engineer

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**APPROVAL OF MINUTES**

Mr. Smith made a motion to approve the minutes of the September 5, 2012 regular meeting of the Board. Mr. Peck seconded. All members being in favor, the minutes were approved.

Mr. Schumacher made a motion to approve the minutes of the September 12, 2012 special meeting of the Board. Mr. Ritger seconded. All members being in favor, the minutes were approved.

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**PUBLIC COMMENT**

Chair Seavey opened the meeting to public comment or questions on items that were not on the agenda. There being none, the public comment session was closed.

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**Bartzak, Linda** – Hardship Variance  
Block 201, Lot 29, 6 Deerfield Rd.

Present: Linda Bartzak, Applicant  
William Byrne, Architect for the Applicant

Mr. Germinario, Esq. had reviewed the public notices and advised that the Board had jurisdiction to proceed.

Utilizing the plans submitted to the Board, Mr. Byrne testified that the application consists of an addition of a covered front porch and a third garage bay. The house is currently a split level. The plan is to relocate the existing front door and add to the home. A covered porch will be added to

the front by the living room. The porch will have a gazebo, and will continue to the rear. This will take some of the split level look away from the home, moving it toward a more traditional style.

Mr. Bryne continued that a third garage bay will be added toward the front, and it will project 10 ft. The garage is a one story element and the roof line will tie in with the rest of the home and contain a cupola. The garage could be placed in the rear, but they would need to remove the mudroom, and that location would also not add to the aesthetics of the home. The doors of the garage will be changed to carriage doors.

In terms of the unique situation with the property, Mr. Bryne explained that when the home was built, it was forced closer to the street given a sewer easement in the rear. The proposed front yard setback is 60.2 feet, and there will not be an impact on the street line as it will blend into the setbacks of the homes to the right and left. The home to the right has a setback of 70 ft., and the home to the left, a setback of 50 ft. Open porches help to enhance the streetscape. The scale and height of the garage is diminimous. The lot is constrained by physical characteristics.

Responding to Mr. Ritger's questions, Mrs. Bartzak stated that they are not planning on taking down the large tree located in the front of the home. Only a large branch will be removed. The window in the front will not be closed off for the garage, as the roof line will drop low enough.

Clarifying the setbacks for Mr. Peralta, Mr. Bryne state the existing setback as 70.2, the proposed is 60.2 ft. The neighbors to the left are 49/50 ft. and to the right 69/70 ft.

Addressing Mr. Peck on the driver for the addition of the porch Mrs. Bartzak stated that there are homes with porches in the neighborhood and on Main Street that are very pleasing. They wanted to add a porch to their home. In terms of the garage, they need storage in addition to a place for their car.

Mr. Seavey commented that the openness of porch is important as well as the lower scale of the garage in consideration of the application. He requested that, if approved, a condition requiring that they would remain be added. The applicant agreed.

In deliberations, Board members expressed their opinions that the improvements were well planned, and that they would be positive to the neighborhood. There would be balance to the home. They understood the lot configuration, and were satisfied.

Mr. Ritger made a motion to approve the application as submitted with the conditions that the porch not be enclosed or increased in size, and that the height of the garage remain as presented. Mr. Peralta seconded.

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

In Favor:	Peralta, Riger, Schumacher, Smith, McCarthy, Peck, Seavey
Opposed:	None
Abstentions:	None

The motion carried. Mr. Germinario, Esq. will prepare a resolution for the Wednesday, November 7 regular meeting of the Board.

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**Duffy, Kevin & Hillary** – Hardship Variance  
Block 1901, Lot 6, 4 Prospect St. (Historic District)

Mr. Germinario, Esq. presented the following resolution to the Board:

**BOROUGH OF MENDHAM BOARD OF ADJUSTMENT  
RESOLUTION OF MEMORIALIZATION**

**Decided: September 5, 2012  
Memorialized: October 2, 2012**

**IN THE MATTER OF KEVIN AND HILLARY DUFFY  
“C” VARIANCE APPLICATION  
BLOCK 1901, LOT 6**

**WHEREAS**, Kevin and Hillary Duffy (hereinafter the "Applicant") applied to the Borough of Mendham Board of Adjustment (hereinafter the "Board") for the grant of a variance pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variance") by application dated 6/22/12; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 9/5/12; 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 0.9 acres located in the ¼-Acre Residence Zone. The property is currently developed with a 1 ½-story residence with an in-law apartment and an accessory shed in the front yard.

2. The improvements to the subject property for which the Variance relief is sought comprise removal of the existing garage, construction of a larger 2-car garage with attic/playroom above, a new mudroom and new covered walkway to the mudroom entry. The shed will be moved to another location in the front yard within the sideyard setback.

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

- Architectural plans by Nick Bensley, AIA, dated 6/21/12, consisting of 2 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 6/22/12
- Application Checklist (undated)
- Certification of Status of Municipal Tax and Sewer Fees, dated 6/20/12
- Zoning Officer's Review, dated 6/20/12
- Site Inspection Authorization, dated 6/22/12
- Survey prepared by Robert D. Poole, dated 3/19/01 (signed 7/3/12)

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 7/19/12

6. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Historic Preservation Commission, dated 7/9/12

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

A-1 Entire 1<sup>st</sup> Floor Plan

A-2 Memo of Rosalie Laverman, dated 1/31/01

0-1 through 6 Photographs by Jeff LaRosa

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

Nick Bensley, Applicant's architect

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

The in-law apartment accommodates Hillary Duffy's mother and is permitted pursuant to Ordinance §215-15B, since the subject lot is greater than ½ acre in size. The proposed addition will result in exceedence of the building coverage limitation (§215-31.1I) by 914 sq. ft. (4,294 sq. ft. proposed, 3,380 sq. ft. permitted), which represents a net increase of 254 sq. ft. over the existing building footprint. Bulk variances are also required for relocation of the accessory shed in the front yard (§215-31.1E and G(1)) and within the side yard setback (§215, Schedule II).

The proposed improvements will result in aesthetic improvement to the façade, will address a dysfunctional entry problem, and will reduce the need to park cars in the driveway.

The hardship justifying the requested variance relief for building coverage relates to the size of the lot and the configuration of the existing dwelling. Under the ordinance, oversized lots are allowed proportionately less building coverage than smaller lots. Also, the 1½ story dwelling has 80% of its area on the ground floor, thus increasing its footprint. The 1,100 sq. ft. in-law apartment on the first floor exacerbates the difficulty of complying with the building coverage limitation.

With respect to the relocation of the shed, the absence of available space in the rear yard makes it necessary to locate it in the front yard. The least visible location in the front yard is along the westerly property line, where vegetative screening is available.

After the neighbor Jeff LaRosa (owner of Block 1901, Lot 7) testified and objected to the originally proposed shed location directly across from this garage, the Applicant agreed to relocate the shed such that its front (street-facing) side aligns with the southeast corner of Lot 7.

10. Based on the hearing record, the Board has made the following findings and conclusions relative to the Variance relief sought by the Applicant:

By reason of the size and shape of the subject property, as well as the configuration of the existing dwelling, the strict application of Ordinance Sections 215-31.1(I), (E), (G) and Schedule II would result in peculiar and exceptional difficulties to, and impose exceptional and undue hardship upon the Applicant. Therefore, the grant of the Variance is warranted pursuant to N.J.S.A. 40:55D-70c(1) so as to relieve such difficulties and hardship.

The detriments associated with the deviation are considered minimal because the dwellings is set back far from Prospect Street and the area of the relocated shed is screened by fencing and vegetation.

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. 40:55D-70c(1).

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. The plans shall be revised to depict the relocated shed with its front façade (facing Prospect Street) aligned with the southeast property corner of Lot 7.

2. The revised plan shall specify that the stockade fence in the front yard shall not exceed a height of four (4) feet.

3. The existing and proposed utility locations shall be added to the plans.

4. A foundation location survey shall be provided to the building department prior to the issuance of a framing permit for the addition. The shed location shall be staked by a licensed surveyor to insure it is positioned in the location shown on the plan.

5. Review of the project by the Historic Preservation Commission is required.

6. Prior to the issuance of a certificate of occupancy, all site improvements must be completed as shown on the plan and shown on an as-built drawing prepared by a licensed land surveyor.

7. Prior to issuance of a certificate of occupancy, all proposed improvements shall be installed per the approved plan.

8. 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.

9. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

10. 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.

11. 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.

Mr. Smith made a motion to approve the resolution. Mr. Peralta seconded.

The roll call of eligible voters was 3 to 0 as follows:

In Favor:	Peralta, Ritger, Smith
Opposed:	None
Abstentions:	None

The motion carried. The resolution was approved.

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**Zenjon Enterprises, LLC** – Amended Preliminary and Amended Final Major Site Plan  
Block 1501, Lot 11, 25 East Main St. (Historic District)

Mr. Germinario, Esq. presented the resolution that had been provided to the Board in their pre-meeting packages.

Board expressed that their requirement is for the applicant to provide a unit or provide a payment in lieu and the language should appropriately reflect that requirement. They were also concerned about how the amount of the payment would be determined. After some discussion, it was decided that the Board Planner, who has been delegated the responsibility for the determination, has extensive experience with COAH and would appropriately support the Board's requirement.

Mr. Schumacher made a motion to approve the resolution with the clarification of the language associated with the affordable housing unit requirement. Mr. Peck seconded.

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

In Favor: Ritger, Schumacher, Smith, Peck, Seavey  
Opposed: None  
Abstentions: None

The motion carried. Following is the revised resolution:

**BOROUGH OF MENDHAM BOARD OF ADJUSTMENT  
RESOLUTION OF MEMORIALIZATION**

**Decided: September 12, 2012  
Memorialized: October 2, 2012**

**IN THE MATTER OF ZENJON ENTERPRISES, LLC  
AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL WITH  
VARIANCES  
BLOCK 1501, LOT 11**

**WHEREAS**, Zenjon Enterprises, LLC (hereinafter the "Applicant") applied to the Borough of Mendham Board of Adjustment (hereinafter the "Board") for the grant of amended preliminary and final site plan approval and variances pursuant to N.J.S.A. 40:55D-70c and d (hereinafter the "Variances") by application dated 5/1/12; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 7/10/12 and 9/12/12; 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 .97 acres located in the Historic Business District at 25 East Main Street. The site is improved with an existing historic cottage that has a non-conforming front yard setback (9.64 ft. vs. 20 ft. required). The property is served by public water and sewer. By Resolution dated 9/7/11, the Applicant was granted Preliminary and Final Major Site Plan Approval with Variances and Design Exceptions for a project comprising the demolition and reconstruction of the existing building, including replication of the historic cottage architectural design, and construction of a new two-story office building toward the rear of the property. As approved, the front "Building A" contains 3,750 sq. ft. of office space, with a maximum of two business entities (Phase I), and the rear building ("Building B") contains 5,400 sq. ft. of office space, with a maximum of two business entities (Phase II). Office uses were limited to general and professional offices, excluding insurance, dental and medical offices. A "d" variance was granted for more than one principal structure on a lot, and three "c" variances were granted for two business entities per building, for the non-conforming front yard of the reconstructed cottage, and for number of parking spaces in conjunction with Phase I construction. Design waivers were granted for access aisle width (21-22 ft. vs. 24 ft. required), parking stall size (9 x 18 ft. vs. 10 x 20 ft. required), proximity of the access drive less than 20 ft. from adjoining driveway, lack of designated loading area, and continued use of shoebox type pole-mounted lighting fixtures during Phase I.

2. The Applicant is now before the Board seeking to amend the previous approval to modify Phase II of the project. Proposed Building B will be enlarged from two stories to two-and-a-half (i.e., with attic), with greater length and height. Proposed uses for

Building B include two medical/dental offices on the first floor, three residential apartments of the second floor, and two apartments in the attic. Elevator access is provided to the second floor and attic apartments. A “d(3)” variance is required for multi-family residential use on a lot area less than 4 acres and a “d(5)” variance is required for residential density in excess of two units. A “c(2)” variance is sought for parking spaces (45 proposed vs. 51 required). The amended plan would also require continuance of the “c” variances and design waivers granted in connection with the original site plan approval.

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

- *Amended Preliminary & Final Site Plan Lot 11 in Block 1501* prepared by David E. Fantina, P.E., dated October 15, 2010 with revisions through March 1, 2012 and consisting of ten sheets
- Building elevations and floor plans prepared by Lawrence D. Appel, R.A. of Appel Design Group, dated October 7, 2010 with revisions through March 1, 2012 and consisting of 6 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
- Application Checklist (undated)
- Site Inspection Authorization, dated April 1, 2012
- Historic Preservation Commission application and rider, dated April 1, 2012
- Historic Preservation Commission checklist
- Certification of Status of Municipal Tax and Sewer Fees, dated May 1, 2012
- Correspondence from the Borough Zoning Officer, dated April 16, 2010
- Application Transmittal letter from Robert Simon, dated May 1, 2012
- Stormwater Management Report, prepared by David Fantina, PE, Bernardsville, NJ, dated October, 2010
- Morris County Planning Board Site Plan Report, dated July 6, 2012
- Proof of Service/Publication with transmittal letter of Robert Simon, dated June 29, 2012

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, Board Engineer, dated 5/23/12  
 Chuck McGroarty, PP, Board Planner, dated 7/2/12

6. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Historic Preservation Commission, dated 5/28/12  
 Fire Official, dated 6/9/12

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

- A-1 Approved Site Plan Sheet 3 of 10, revised 9/24/11
- A-2 Approved Architectural Sheet 1B.1, revised 6/7/11
- A-3 Trash “Toters” Exhibit (2 sheets)
- A-4 Photos (ground level and aerial) of Subject Property (Sheets P-1, P-2, P-3 and P-5)

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

- David Fantina, PE, engineering expert
- Laurance Appel, architect
- Elizabeth Dolan, PE, traffic expert
- Peter Steck, PP, planning expert

9. In response to issues raised in Mr. Hansen’s report, Mr. Fantina testified that no decks or patios are proposed in connection with the residential apartments, and that designated parking spaces for the residents would not be provided. He agreed to provide a revised lighting plan for the parking lot identifying lights to remain on from dusk to dawn for the residents. Location of mailboxes will be identified on revised plans, with preference for interior mailboxes if approved by the Postmaster.

Architect Laurance Appel testified regarding the modifications to Building B. He stated that the mixed use of residential with office use had been favorably viewed by the Historic Preservation Commission (HPC). Of the five residential units, three will be two-bedroom and two one-bedroom. Building-mounted lights will remain on from dusk to dawn.

“Toter” type trash receptacles as shown in Exhibit A-3 will be used within the trash enclosure. Façade area of Building B was increased by approximately 419 sq. ft. from the previously approved plan. He agreed that medical waste would not be stored outdoors. If approval for interior mailboxes cannot be obtained, revised plans will locate mailbox pods toward the rear of the site. Mr. Appel testified that the architectural design adhered to the design guidelines for non-historic buildings in the Historic District as set forth in Ordinance §215-19E. Shutters shown on the plans will be installed with hinges and brackets.

Elizabeth Dolan testified that the proposed uses on the site were low traffic generators, and that no significant traffic impact is anticipated. She opined that the 45 parking spaces proposed will be adequate in view of shared parking due to the mixed uses with different peak parking demand. She stated that the proposed site plan changes did not affect the rationales for the design waivers granted in the original approval. In response to a question from Mr. McGroarty, she stated that parking requirements had been calculated based on the presence of up to two physicians on the premises at any given time.

Peter Steck addressed the planning justification for the variance relief associated with the application. He stated that the relevant question with respect to the “d(3)” and “d(5)” variances is whether the site can accommodate the proposed multi-family use and increased density without adverse impacts. Mr. Steck noted that the visual impact of Building B is diminished by its 200-foot setback from Main Street and by its residential-style architecture. Mixed uses in Building B provide the benefit of shared parking.

Proposed multi-family residential use and density in Building B will provide the economic “engine” to enable historic reconstruction of Building A. Regarding the negative criteria, he referred to the large size of the lot, the HPC’s satisfaction with the design of both buildings, and the absence of adjacent residential properties. He referred to the planning benefits of providing housing in a “downtown” commercial area.

After Board discussing, the Applicant agreed to convert one of the one-bedroom units to a moderate-income affordable unit, but requested flexibility to age-restrict the unit and/or to provide a payment-in-lieu to develop a moderate-income affordable unit off-site. Mr. McGroarty stated that he would need to review the Borough affordable housing plan to determine if an age-restricted unit or a payment-in-lieu would be credited toward the Borough’s Mt. Laurel obligation.

10. Chapter 215 of the Borough Code limits the number of residential units in the Historic Business Zone to two (2) families per lot (§215 *Attachment 1, Schedule 1, Schedule Limited Height and Area of Improvements*). Applicant seeks approval for five separate residential units on Lot 11 thus exceeding the permitted limit by three units.

Applicant will require a “d(3)” variance to deviate from a specification or standard pertaining solely to a conditional use, which in the present case is the requirement to provide a minimum lot area of four acres for a multifamily use. The property in question consists of 0.97 acres. Residential use is permitted in the Historic Business Zone in accordance with §215-17 “Uses permitted,” subsection ‘A’ which reads: “*Any use permitted within any residential zone.*” This application however, proposes five residential apartments and therefore must be classified as a “multifamily dwelling.”

The ¼-Acre Residence Zone allows for multifamily dwellings (townhouses, senior citizen complexes and apartment complexes) but as a conditional use having a minimum lot area of four acres and specific bulk standards. It is this conditional use standard that is at issue here.

11. Based on the hearing record, the Board has made the following findings and conclusions relative to the Variance and Design Waiver relief sought by the Applicant:

The Board finds that the subject property can accommodate the proposed multi-family use, despite not having the requisite lot area of four acres, because the residential component is in the rear of the property, set back 200 feet and shielded from public view by the front building. The Board recognizes the public benefits associated with mixed residential and business uses in the Historic Business District and the optimal use of shared parking between such uses. The Board also recognizes the public benefit associated with the reconstruction of the historic cottage in a manner which retains the historic integrity of the dwelling.

With respect to the exceedence of maximum density of residential units, the Board finds that this is appropriate in this instance to provide an economic basis for the historic renovation of Building A and for the moderate income affordable unit that will assist the Borough in meeting its Mt. Laurel obligations.

With respect to the variance for parking spaces, the Board agrees with the Applicant’s traffic expert that the mixed use of the property will result in shared parking such that 45 spaces will adequately serve both uses. By enabling this mixed use development, the benefits of granting the parking variance outweigh the detriments, which are negligible.

The Board further finds that the foregoing variances 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.

With respect to the “c” variances and design waivers granted in the original Preliminary and Final Major Site Plan approval, the Board finds that the modifications proposed in this amended application do not alter the justification for granting that relief.

**NOW, THEREFORE, BE IT RESOLVED,** that the Board does hereby approve the application and grant the requested variance relief.

This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to the Board’s signature of the site plan drawings.

1. Revised plans shall identify one of the one-bedroom residential apartments to be designated as a moderate-income affordable unit. If approved by the Board’s Planner as feasible and eligible for credit toward the Borough’s Mt. Laurel obligations, the affordable unit may be age-restricted, or the Applicant may provide a payment-in-lieu in an amount to be determined by the Board’s Planner to build an equivalent affordable unit off-site.

2. Revised plans shall note that outdoor storage of medical waste is prohibited on the site.

3. Revised plans shall extend the porch roofs of Building B, and if such extension results in a non-conformity with respect to building coverage, the Board approves that variance, not to exceed 70% coverage, based on the significant aesthetic improvement associated with this modification.

4. Revised plans shall provide for a fire suppression sprinkler system in Building B.

5. Consistent with the basis of the approved parking capacity, no more than two physicians shall be practicing in Building B at any time.

6. A revised lighting plan satisfactory to the Board Engineer shall be submitted identifying lights to remain illuminated from dusk to dawn.

7. As required by Condition 19 of the Resolution of 9/7/11, revised plans shall comply with the Borough’s tree removal and replacement requirements (Chapter 202).

8. As required by Condition 22 of the Resolution of 9/7/11, shutters on both buildings shall be installed on hinges and brackets.

9. As required by Condition 7 of the Resolution of 9/7/11, the same materials and finishes shall be used for both buildings and shall be as shown on the Architectural Plans and as discussed with the Historic Preservation Commission and the Board.

10. The location of mailboxes shall be identified on the plans. Applicant will exert reasonable efforts to obtain approval to locate mailboxes inside the buildings.

11. Revised plans shall note that parking for residential tenants is limited to passenger cars only and that parking of commercial vehicles, boats, trailers, recreational vehicles, disabled vehicles, or motorcycles is prohibited, as is any storage in parking areas.

12. Morris County Soil Conservation District and Morris County Planning Board approval is required.

13. Governing Body approval is required for the project sewer flow.

14. Except to the extent expressly modified herein, all approvals and conditions of the approval memorialized in the Resolution of 9/7/11 shall remain in full force and effect and are deemed to be repeated herein.

15. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. A separate escrow account will be established by the Applicant from which engineering inspection fees will be paid, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

16. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

17. 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.

18. 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.

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## **OTHER BUSINESS**

Mr. Ritger advised the Board that in speaking with General Code, he determined that there is the ability to download the Borough Code to Ipads or laptops. This provides the ability to search ordinances from other towns. If any member is interested they should contact him. Responding to Ms. Callahan on whether there would be any additional cost, Mr. Ritger stated that there would not.

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**ADJOURNMENT**

There being no additional business to come before the Board, on motion duly made, seconded and carried, Chair Seavey adjourned the meeting at 8:10 p.m. The next regular meeting of the Board of Adjustment will be held on Wednesday, November 7, 2012, at 7:30 p.m. at the Garabrant Center, 4 Wilson St.

Respectfully submitted,

Diana Callahan  
Recording Secretary