

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
February 7, 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 7:35 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 – Present
Mr. Peck – Present
Mr. Peralta – Present
Mr. Schumacher – Present
Mr. Seavey - Present

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

Also Present:

Mr. Germinario, Esq., Attorney

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APPROVAL OF MINUTES

Mr. Ritger requested an explanation of the numerical columns listed in the Board of Adjustment Annual Report. After discussion, Mr. Smith made a motion to approve the minutes of the January 3, 2012 regular and reorganization meeting of the Board. Mr. Peck 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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HEARING OF CASES

deNeufville, Peter – Extension to previously approved variance
Block 1801, Lot 37, Thomas Road

Present: Peter deNeufville, Applicant

Mr. Germinario, Esq. presented the background stating that the applicant was granted a D2 variance for the expansion of a guest house on December 7, 2010. The action was memorialized on January 4, 2011. The applicant was now requesting an extension which he believed could be granted if the applicant showed good cause. In this case, approvals from the Morris County Soil Conservation District and the Health Department are pending.

Mr. deNeufville stated that he had received a letter from the Board Engineer in December 2011 indicating that approval from the Bernards Health Department was required as part of the conditions to obtain a building permit. They filed with the Health Department last month. The Morris County Soil Conservation District has provided their approval. He is not sure of the status of the septic at this time.

Mr. Seavey stated that in the past that as long as nothing significant has changed in conjunction with the zoning or the neighbors, the Board has granted extensions. Unless the Board had any objections, he would be supportive.

Responding to Mr. Germinario, Mr. deNeufville advised the Board that he is requesting one year. They applied for the building permit in July.

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

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

**Approved: February 7, 2012
Memorialized: February 7, 2012**

**IN THE MATTER OF PETER de NEUFVILLE
EXTENSION OF VARIANCE APPROVAL
BLOCK 1801, LOT 37**

WHEREAS, Peter de Neufville (hereinafter known as the “Applicant”) obtained approval from the Mendham Borough Zoning Board of Adjustment (hereinafter known as the “Board”) by Resolution dated January 4, 2011, for a variance pursuant to N.J.S.A. 40:55D-70d(2), to enlarge a non-conforming accessory building (the “Variance”); and

WHEREAS, pursuant to Condition 3 of the Resolution and Ordinance §124-22, the Variance expired as of January 3, 2012; and

WHEREAS, the Applicant has requested from the Board an extension the Variance for an additional period of one year; and

WHEREAS, a public hearing was held on February 7, 2012, no notice being required; and

WHEREAS, the Board has determined that the requested extension of the Variance is justified based on the Applicant’s need to obtain approvals from the Bernards Township Health Department and the Morris County Soil Conservation District.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby grant the requested extension of the Applicant’s Variance approval for an additional period of one year.

Mr. Peralta made a motion to approve the extension of one year and the resolution. Mr. Ritger seconded.

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

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

The motion carried. The extension and the resolution were approved.

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EXECUTIVE SESSION

Matter of Litigation – T-Mobile Northeast LLC and Verizon Wireless vs. Borough of Mendham Board of Adjustment

Mr. Seavey presented the following resolution to the Board:

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

BE IT RESOLVED by the Board of Adjustment of the Borough of Mendham, in the County of Morris and State of New Jersey (hereinafter referred to as the “Board”) as follows:

WHEREAS, it is necessary for the Board to discuss matters relating to T-Mobile Northeast LLC, et al., vs. Borough of Mendham Zoning Board of Adjustment, docket no. MRS-L-2719-10PW (hereinafter referred to as the “Litigation”), which matters are permitted to be discussed in closed session in the absence of the public pursuant to Section 7.b. of the Open Public Meetings Act (Chapter 231 of the Public Laws of the State of New Jersey for 1975); and

WHEREAS, the Board has determined that it is necessary in the public interest that the matters in fact be discussed in closed session, and has determined that the results of the

discussion can be disclosed to the public when all issues involved in the Litigation have been resolved.

NOW, THEREFORE IT IS RESOLVED that the public be excluded from the ensuing portion of this meeting, during which only the aforesaid matters will be discussed.

Mr. Seavey made a motion to enter Executive Session at 8:00 p.m. Mr. Peck seconded. All members being in favor, the Board entered Executive Session.

Mr. Peralta recused from the Executive Session and left the meeting.

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The Board returned from executive session at 8:15 p.m.

OTHER BUSINESS

Mr. Seavey raised the issue of potential solar and wind installations, and requested that Borough begin to look at ordinance language to provide guidance. The Board discussed the ordinance process which would include the Planning Board and Borough Council.

Mr. Germinario, Esq. advised that he has examples of ordinances from other towns and would be willing to contact the Borough Attorney. Ms. Callahan advised that the Planning Board Chair has agreed to a discussion item on the February agenda dealing with potential wind and solar ordinances. The Planning Board will be advised of the Board of Adjustment's request.

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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 8:25 p.m. The next regular meeting of the Board of Adjustment will be held on Tuesday, March 6, 2012 at 7:30 p.m. at the Garabrant Center, 4 Wilson St.

Respectfully submitted,

Diana Callahan
Recording Secretary