

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
SPECIAL MEETING
April 14, 2010
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER

The special meeting of the Board of Adjustment was called to order by Vice 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 March 18, 2010 in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House.

ATTENDANCE

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

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

Also Present:

Mr. MacDonald, Attorney
Mr. Hansen, Engineer

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PUBLIC COMMENT

Vice 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

Thomas, Edward M. & Tamara G. – Use Variance: **Completeness/Hearing**
Block 1801, Lot 38, 298 Thomas Road

Present: William Bergman, Esq.
Edward Thomas, Applicant
Craig Villa, Project Engineer

Mr. MacDonald, Esq. reviewed the public notices and advised that the Board has jurisdiction.

Mr. Bergman, Esq. explained that the 16 acre lot had been created by the Board of Adjustment in 2008 in connection with the conveyance of land to Mendham Borough and Schiff for conservation. At that time a use variance was granted to permit two principal residences on the lot. The applicant is now requesting permission to renovate and expand the main dwelling. In land use terms, it is an expansion of a non-conforming use.

Mr. Villa presented his credentials to the board and was accepted as an expert witness. He described the property from a civil engineering perspective utilizing the plans and the boundary survey submitted to the Board with the application. He testified that the property is Block 1801, Lot 38 and is located at the end of Thomas Road. The only reason that the application is before the board is that the applicant needs to expand and renovate and go outside of the existing footprint. All other non-conformities such as lot width and frontage were approved by the Board in the previous application. All other bulk requirements are within the zoning regulations.

Continuing, Mr. Villa described the property as 16.25 acres with two dwelling units. He indicated that the plans need to be adjusted to reflect the accurate acreage. Most of the development is on the eastern end, and there is a pond and cabin located on the western end. When one enters the property, they pass the rental unit and then come to the principal home. In terms of the renovation, the applicant proposes an addition to the western end, a patio to the south, an addition to the north and renovation and enclosure to the recreation room. A roof will be removed from the ice house and a shed will be built on top. The roof on the garage will be removed and a storage area built above. The structures are not being removed as it is a riparian area, and it is not regulated as long as the structures are not removed.

Mr. Villa quantified the disturbance as 11,300 sq. ft. There will be an impervious coverage increase of 1838 sq. ft which qualifies the improvement as minor stormwater development. Allowable impervious coverage is 10% with the existing at 3.67% and the proposed at 3.93%. The allowable footprint is 4% with the existing at .98% and the proposed at 1.2%. The building height will be well below the 45 ft. maximum at 41.9 ft. They used the height measurements including the TV antenna. The ice shed and the garage height are also below the requirements.

In terms of the location in a Riparian Zone, Mr. Villa explained that the project qualifies for Permit by Rule. It is not a major stormwater project, and they are proposing drywells. They are not disturbing trees. They have received a letter from an environmental technology company indicating that the improvements are within the scope of the rules. They have Board of Health approval for the septic. They do not have any problem adhering to the requests in the Ferriero Engineering letter dated February 22, 2010. No Morris County approval is required. The application completely complies with the Borough's zoning and construction requirements.

Responding to Mr. MacDonald, Esq. for clarification on access from the driveway, Mr. Villa stated that it abuts the Thomas Road Right of Way. There are cross easement allowing other properties to share the loop with the cul de sac.

Mr. Hansen reviewed the Ferriero report dated February 22, 2010. The septic approval has been received from the Health Department. A condition of approval should require a grading and soil erosion plan. The plans show drywells in accordance with the stormwater ordinance. The project is the lowest level of DEP regulations and they can be addressed by Permit by Rule by sending in a letter. That should be a condition. A foundation location survey and required changes to the plan should be made a condition.

Mr. Thomas testified that he bought the property from his father in December 2009. The property was originally purchased by his grandfather in the 1920's. His children will be the fifth generation to live in the home. There have been no prior renovations with the exception of a porch in the 1980's. The home is designed for a past era when there were servants. There is a utilitarian kitchen, and it does not have a family room. The kitchen has very low ceilings. It does not have a master bathroom. The ice house will be used for bikes and other storage so that they can use the two car garage. There are currently 5 bedrooms and there will not be an increase. There will be a new master bedroom, but it is within the existing room count.

Responding to Mr. Bergman, Esq. on the Fire Official's report and the recommendation that the home be sprinklered, Mr. Thomas stated that he had a conversation with Mr. Bellamy. Mr. Bellamy explained to him that when he conducts a review, he is concerned with the safety of the firemen and any hazards to other property. He also indicated that there might be an issue getting insurance. They talked about a water source.

Mr. Thomas stated that he believes that the risk is minimal, and that he will not have a problem with insurance. He investigated and found out that to sprinkler the existing home would require disturbing the portion of the home that they were not renovating and it would require extensive work in the walls and ceilings. It is also very costly. Mr. Bellamy also suggested a tank to hold water. It is a recommendation, not a code requirement.

Responding to Mr. Peck on the current water source, Mr. Thomas stated that there is a pond and pool. To stabilize it for fire trucks the pond would need a gravel area and a turnaround area. There is a fire hydrant 2400 ft. away at the end of Hilltop Road. Mr. Peck noted that he may have a problem with insurance.

Addressing Mr. Seavey's question on whether the new building codes would require sprinkling, Mr. Hansen advised that they are for multifamily homes.

Mr. Villa testified on the application from a zoning and land use perspective as a professional planner. He described the property as unique. It is located in the 5 acre zone, but is 16 plus acres at the end of Thomas Road adjacent to 107 acres preserved for open space. The home needs to be

upgraded. There is no detriment to the public good and the zone plan. The fire prevention has been reviewed. Both structures will remain on the property.

In deliberations, Board noted the large size of the lot and did not have a problem. The improvements help the home and do not intensify the use. The tables need to be changed on the plans based on the Ferriero technical review. While they would like to see a collaborative effort with the fire official, as it is not a code requirement, but a recommendation, they will not require the sprinkling.

Mr. Palestina made a motion that the application be approved with the conditions that the dwellings remain single family homes and that the conditions in the Ferriero letter be followed. Mr. Ritger seconded.

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

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

The motion carried. Mr. MacDonald, Esq. will prepare a resolution memorializing the action for the May 4 meeting of the Board.

ADJOURNMENT

There being no additional business to come before the Board, on motion duly made, seconded and carried, Vice Chair Seavey adjourned the meeting at 8:37 p.m. The next regular meeting of the Board of Adjustment will be held on Tuesday, May 4, 2010 at 7:30 p.m. at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Diana Callahan
Recording Secretary