

**MINUTES OF THE  
MENDHAM BOROUGH BOARD OF ADJUSTMENT  
REGULAR MEETING  
April 2, 2019**

**Garabrant Center, 4 Wilson Street, Mendham, NJ**

**CALL TO ORDER/FLAG SALUTE**

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

**OPENING STATEMENT**

Notice of this meeting was published in the *Star Ledger* and the *Daily Record* on in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House.

**ROLL CALL**

Chairman Seavey – Present	Mr. Dick – Present
Mr. Palestina - Present	Mr. Smith - Present
Ms. Cass – Absent	Mr. Sisson – Absent
Mr. Ritger – Present	

Alternate:                   Mr. Egerter, Alternate I- Present  
                                  Mr. Felber, Alternate II - Absent

Also present were Mr. Germinario, Esq. and Paul Ferriero, Borough Engineer

#####

**MINUTES**

Chairman Seavey asked for comments on the minutes of the regular meeting of March 5, 2019. There being no corrections, Mr. Ritger made a motion to approve the minutes as written and Chairman Seavey seconded.

**ROLL CALL**

In Favor: Chairman Seavey, Mr. Palestina, Mr. Smith, Mr. Ritger, Mr. Dick, and Mr. Egerter  
Opposed:  
Abstain:

**PUBLIC COMMENT**

Chairman Seavey 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.

**APPLICATIONS**

**BOA#04-18 Richard & Joyce Grogan**  
16 Maple Ave.  
Block 406, Lot 13  
Bulk Variance- Setback

Present: Richard & Joyce Grogan - Owner of 16 Maple Ave

Mr. Smith recused himself because he is a neighbor.

Attorney Germinario reviewed the public notice and it is sufficient to provide jurisdiction over the application.

Chairman Seavey asked if a completeness needed to be done and Mr. Ferriero noted a letter that he had sent in August and there were a number of items that were not provided however they can be waived and the application can be deemed complete with the information that has been provided.

Mr. Ritger was looking for the table of bulk dimensions. Attorney Germinario and Mr. Ferriero pointed out that there is a notation on the left bottom corner but it's not complete and Mr. Ferriero's report did ask that it be add lot width and building height, which aren't on there.  
If it is approved will require plan amended to include those.

Mr. Ritger also noted that the prevailing front yard setback was not noted anywhere. Mr. Germinario stated that it was in the original application form but it was only a general statement and that they can do so in testimony.

**Motion** by Chairman Seavey, **seconded** by Mr. Palestina and unanimously carried to deem the application complete.

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

In Favor: Chairman Seavey, Mr. Palestina, Mr. Ritger, Mr. Dick, and Mr. Egerter

Opposed:

Abstain:

Applicants, Richard & Joyce Grogan were sworn in by Attorney Germinario.

Chair Seavey asked that the applicants to explain what they would like to do.

Mr. Grogan explained that when they bought the house it was overrun and in ill repair. In the history of the home the setbacks changed. Previously they received approval for back and side of the house which has been completed. Now they would like to balance the front of the house with the rest of the house.

Attorney Germinario asked when and if the approval was in front of the Board and Mr. Grogan stated that it was just a permit and was done approximately in 2016. There were no setback issues with the previous addition.

Chairman Seavey stated that regarding the front yard setbacks, to further push into the setback beyond where it is takes considerable waivers from the Board. However, when looking at the setbacks in the neighborhood it makes it easier to decide. Chairman Seavey asked if the architect consider other options not to exacerbate the side yard setbacks.

Mr. Grogan explained that where the setbacks are now run through the center of the house. He said that they looked at other options but to even out the house, this was the best way to balance the house.

Paul Ferriero asked if the addition can be done somewhere else. Is it possible to put the living room to the side of the house? Mr. Grogan stated that there were easements and that to balance the house it would have to be in the front.

Mr. Ritger stated there wouldn't be an impact regarding the encroachment on the front yard setback from a neighborhood or visual stand point.

Mr. Dick felt that it wouldn't be an eye sore or too close to the road and that based on the drawings it is beautiful what the architect did.

Mr. Egerter asked if it was extra 12' was being asked for. Mr. Ferriero said that an as built survey will be required and he suggested a variance up to 39'. That would still permit the 12' for the addition and for the living room 44.5' in case there is a measurement issue so they don't have to come back.

Attorney Germinario stated that there were some things that were in Mr. Ferriero's report that need to be conditions of approval.

Chairman Seavey made a motion to approve the application and seconded by Mr. Palestina with the following amendments:

1. Proposed covered porch will not be enclosed.
2. Minimum lot width and building height requirements and the existing lot width and existing/proposed building height should be added to the site plan.
3. The plan will have to be revised to show the riparian buffer. There is a report from Environmental Technologies that recognizes there is a buffer issue and that it can be done by permit by rule. The statement by ETI in the file will satisfy that condition.
4. The narrow tolerances would need to be changed and the limits be set to the nearest half foot which would be 44.5' and 39'. Hold the house dimensions should be 12' on the porch and 8.3' on the living room addition.

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

In Favor: Chairman Seavey, Mr. Palestina, Mr. Ritger, Mr. Dick, and Mr. Egerter

Opposed:

Abstain:

The motion carried and application approved.

**BOA # 07-18 Wayne & Lynn Dubin**

51 Hardscrabble Road  
Block 2401, Lot 18  
(Deer Fence)

Present: Wayne & Lynn Dubin- Owners of 51 Hardscrabble Rd.

Mr. Byrne- Architect

Dr. DeVito- Director of Science, NJ Conservation Foundation

**Motion** by Chairman Seavey, **seconded** by Mr. Ritger and unanimously carried to deem the application complete.

ROLL CALL: The result of the roll call was 6 to 0 as follows:

In Favor: Chairman Seavey, Mr. Palestina, Mr. Ritger, Mr. Dick, Mr. Smith and Mr. Egerter

Opposed:

Abstain:

Attorney Germinario reviewed the public notice and it were sufficient.

Wayne & Lynn Dubin, Mr. Byrne and Dr. DeVito were sworn in by Attorney Germinario.

Mr. Dubin explained that the deer have ruined the woods and there is no regeneration of native plants. They would like put up a fence to restore native vegetation in their woods, eliminate evasive plants and have the native one's regenerate.

Mr. Byrne gave a presentation on the fence being proposed. The black fence will be concealed within the tree line on Hardscrabble Rd. as seen on exhibit marked A1.

Chairman Seavey asked for clarification as to 25' from the edge of the street on Hardscrabble and the other one is a measurement to the center line of Hardscrabble. Mr. Ritger asked if the measurements were accurate so that the applicant wouldn't have to come back. Relief requested would be no closer than 30'.

Mr. Dubin explained there are 2 different types of fencing. The fencing that is yellow and green on the exhibit A2 would be 8' pool code deer mesh. The area marked in blue is 6' decorative black picket fence.

Chairman Seavey asked if the blue line is compliant based on Section B Item 3. Mr. Ferriero said that based on the code it is not in the required rear or side yard setback so it does comply.

Mr. Byrne stated the purpose of the fence is to protect the woodlands. The variances that are being requested are for tree and forest protection and furthers the intent of the Master Plan. As per the Master Plan, *Wildlife and Vegetation- Woodlands play an important part in the Borough's overall environmental quality, help to define the character of the community, and should be conserved through effective tree protection ordinances...Wildlife management practices should continue to be employed to control deer population which threatens the health of the Borough residents and woodlands.*

Chairman Seavey had concern with the fencing funneling the deer down the road to the property that doesn't have a fence. He explained that he believes that the Board has never passed an 8' fence, but if Mr. Dubin is protecting the forest and also deem the forest protected it helps to make sense.

Dr. DeVito gave a presentation regarding the fact that the Dubin's property has never been disturbed by agriculture. Which means that it is easier to restore.

Chairman Seavey made a motion to approve the application with the following conditions which was seconded by Mr. Ritger.

1. This is a forest restoration project and the fence would be constructed and maintained during that process and that if the process was forged the fence would be brought back to compliant.
2. Fencing not closer than 70' from the center on Hardscrabble Rd.
3. Plan revised to 8' pool code deer mesh fence, except for an area next to the house that will be black decorative fencing.
4. Fix the signature block on plans

**ROLL CALL** The result of the roll call was 6 to 0 as follows:

In Favor: Chairman Seavey, Mr. Palestina, Mr. Ritger, Mr. Dick, Mr. Smith and Mr. Egerter

Opposed:

Abstain:

The motion carried and application approved.

**RESOLUTION**

*BOROUGH OF MENDHAM BOARD OF ADJUSTMENT*

*RESOLUTION APPROVING 2018 ANNUAL REPORT*

*Decided: April 2, 2019*

*Memorialized: April 2, 2019*

*WHEREAS, the Municipal Land Use Law NJSA 40:55D-70.1 requires that the Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any, and that the Board of Adjustment shall send copies of the report and resolution to the governing body and planning board; and*

*WHEREAS, Borough of Mendham Board of Adjustment has prepared an Annual Report for 2018 in accordance with the Municipal Land Use Law NJSA 40:55D-70.1.*

*NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby adopt the Annual Report for 2018, a copy of which is attached hereto, and has instructed the Board Secretary to forward copies of the Annual Report and this Resolution to the governing body and the Planning Board.*

*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 April 2, 2019.*

**Motion** was made by Chairman Seavey, **seconded** by Mr. Palestina to approve the 2018 Annual Report Resolution. On a voice vote the motion carried.

**NEW BUSINESS**

- Financial Statements need to be completed
- June Meeting being moved from June 4<sup>th</sup> to June 11<sup>th</sup>

####

**ADJOURNMENT**

There being no additional business to come before the Board, **Motion** was made by Chairman Seavey, **seconded** by Mr. Palestina to adjourn the meeting. On a voice vote, all were in favor. Chairman Seavey adjourned the meeting at 9:40PM.

The next meeting of the Board will be held on **Tuesday, May 7, 2019 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

*Lisa Smith*

Lisa Smith  
Land Use Coordinator