

*Case file*

Post-It® Fax Note	7871	Date	11/26	# of pages	4
To	<i>Candice</i>	From	<i>Linda Bucco</i>		
Cd./Dept.		Co.			
Phone #		Phone #			
Fax #	<i>908-877-8591</i>	Fax #			

**BOARD OF ADJUSTMENT**  
**TOWNSHIP OF MENDHAM**  
**MORRIS COUNTY, NEW JERSEY**  
**CASE NO.: 8-00**  
**PREMISES: BLOCK 127, LOT 119**  
**3 OLD ORCHARD TERRACE**  
**APPLICANT: TIMOTHY HARVEY**  
**DECEMBER 14, 2000**

---

**RESOLUTION OF FINDINGS AND DETERMINATION**

**WHEREAS**, Timothy Harvey has applied to the Board of Adjustment of the Township of Mendham for a variance to construct a dwelling on certain premises located at 3 Old Orchard Terrace; and

**WHEREAS**, the proposed construction would be contrary to the provision of Article 21, Section 2.2 of the Zoning Ordinance of the Township of Mendham in that the subject premises is 1.68 acres in size, whereas 3 acres are required and further that the premises are deficient in lot depth; and

**WHEREAS**, the Board of Adjustment did hold a public hearing on the said application on November 9, 2000 upon notice to all parties required by statute to be served with notice at which time the applicant and all parties in interest were given an opportunity to be heard; and

**WHEREAS**, the Board of Adjustment after hearing all of the evidence presented by the applicant and those members of the public wishing to be heard thereon has made the following findings of fact:

- A. The owner of the property is R. Timothy Harvey.
- B. The premises are known as Block 127, Lot 119, located at 3 Old Orchard Terrace, Mendham Township, New Jersey and is located in the R-3 Zone.
- C. The property is 1.68 acres and contains an existing one and one half story frame dwelling in poor condition.
- D. The applicant proposes to construct a new dwelling in a different location on the lot and to remove the existing structure.
- E. The proposed new dwelling will conform with all setback and yard requirements.
- F. The property is an isolated undersized lot and there exists no significant prospect of acquiring additional property to render the premises in conformity with the Zoning Ordinance.
- G. The Board had previously considered a similar application and granted the same by way resolution dated February 9, 1989.

**WHEREAS**, the Board of Adjustment has determined that the variance associated with this application can be granted pursuant to N.J.S.A. 40:55D-70C1 upon a finding of hardship with respect to the property and N.J.S.A. 40:55D-70C2 based upon a finding that the benefits from a deviation from the Zoning Ordinance substantially outweigh any detriment for the following reasons:

1. The proposed lot is an existing undersized lot presently containing a residence in poor condition.
2. The granting of the application will result in the demolition of the existing structure and replacement of that structure with a new home which will conform with all of the setback requirements.

**WHEREAS**, the Board of Adjustment has determined that the applicant has demonstrated that the relief can be granted without substantial detriment to the public good and has further demonstrated that a grant of the variance as requested would not

substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mendham for the following reason:

1. The property is 1.68 acres in size, containing an existing single family structure.
2. The proposal involves a use permitted by the Ordinance and it appears that two properties immediately adjoining the subject premises are undersized to a greater degree than the applicant's property.
3. The construction of the new home will be located such that the immediate distances from the closest dwellings will be increased while preserving adequate separation from other adjoining and nearby properties.

**NOW THEREFORE BE IT HEREBY RESOLVED**, by the Board of Adjustment of the Township of Mendham as follows:


1. For the reasons herein set forth the Board of Adjustment does hereby grant the variance identified above and requested by the applicant in accordance with the application as filed and in accordance with the one page plan which was previously submitted to the Board of Health as part of a subsurface disposal system application.
2. The approval herein granted is subject to the following conditions:
  - a. All construction shall be in accordance with Municipal Building Codes.
  - b. All buffer/transition areas from the wetlands shall be protected.
  - c. The applicant shall, as soon as legally permissible, but not later than March 31, 2001 demolish and remove the existing dilapidated structure from the premises.
  - d. The applicant shall secure any and all other required approvals, including lot development permits and the like.

e. In accordance with Ordinance 15-12 of the Township of Mendham, the within variance shall expire within one year from the date of entry of the determination of this Board unless construction shall have commenced.

f. This resolution is in memorialization of the actions taken by the Board of Adjustment of the Township of Mendham at its regular meeting on November 9, 2000.

**CERTIFICATION**

I, Linda Brusco, hereby certify that the foregoing is a true copy of a resolution of the Board of Adjustment adopted at a meeting held on December 14, 2000.

  
\_\_\_\_\_  
Linda Brusco