

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, September 19, 2023 - 7:30PM
Garabrant Center, 4 Wilson Street, Mendham, NJ.**

CALL TO ORDER/FLAG SALUTE

The regular meeting of the Mendham Borough Joint Land Use Board was called to order at 7:30 p.m. and the open public meeting statement was read into the record.

ROLL CALL

Mayor Glassner – Absent	Mr. Egerter – Present
Ms. Bushman – Present	Ms. Garbacz – Present
Councilman Andrew – Present	Mr. Molnar – Alternate 1 - Present
Mr. Ritger – Present	Mr. Kay- Alternate 2- Present
Mr. Smith – Present	Mr. Barker – Alternate 3 - Absent
Mr. Sprandel – Present	Mr. Pace – Alternate 4 – Present
Mr. D’Urso– Present	

Also Present: Ms. King – Board Engineer
Mr. Germinario – Board Attorney

APPROVAL OF MINUTES

Mr. Smith noted that on page 5 the word incomplete should be changed to complete.
Motion by Mr. Smith, seconded by Mr. Molnar and unanimously carried by voice vote to adopt the minutes of the August 15, 2023 Joint Land Use Board Regular Meeting, as revised.

Roll Call:

In Favor: Mr. Ritger, Mr. Smith, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Mr. Kay, and Mr. Pace.

Opposed:

Abstain: Ms. Bushman, Councilman Andrew, Mr. Sprandel, and Mr. D’Urso

Motion Carried

PUBLIC COMMENT

Chairman Ritger opened the meeting to the public for questions and comments on items not included on the agenda or any pending applications.

Mr. Lupo, 17 Dean Rd. suggested that the Borough look into their lighting ordinance. Mr. Lupo stated that the current ordinance should be updated to include all luminaries must be full cut-off, lighting must comply with BUG standards and light trespass and glare are prohibited.

After discussion, the Board asked that the Planner review the ordinance and make recommendations.

There being no further comments, the public session was closed.

RESOLUTION

10 Hilltop Rd
Block 1501 Lot 37

Mr. Germinario summarized the Mendham Library application, and the conditions outlined in the resolution. Mr. Molnar made a motion to memorialize the resolution and Mr. Egerter seconded.

Roll Call:

In Favor: Mr. Ritger, Mr. Smith, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Mr. Kay, and Mr. Pace

Opposed:

Abstain: Ms. Bushman, Councilman Andrew, Mr. Sprandel, and Mr. D'Urso

Motion Carried. The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: August 15, 2023

Memorialized: September 19, 2023

**IN THE MATTER OF MENDHAM FREE PUBLIC LIBRARY
MINOR SITE PLAN and "D(3)" and "C" VARIANCE APPLICATION
BLOCK 1501, LOT 37
APPLICATION NO. JLUB #17-22**

WHEREAS, Mendham Free Public Library (hereinafter the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for the grant of variances pursuant to N.J.S.A. 40:55D-70c and 70d(3) (hereinafter the "Variances") by application dated 7/13/23; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 8/15/23; 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 0.424 acres (18,469.44 s.f.), fronting on Hilltop Road, and developed with an existing single-story 2,302 s.f. brick library building, an accessory shed, off-street parking, and associated improvements. The property is located in the ¼-Acre Residence Zone, where it is a conditional use.

2. The Applicant seeks to construct an outdoor patio and learning center, seating, a utility shed, and associated landscaping and lighting. The above-referenced property is located within the ¼-Acre Residence Zone. The library is a conditional use in the ¼-Acre Residence Zone and the proposal does not meet all of the conditions of the conditional use. Variances pursuant to N.J.S.A. 40:55D-70d(3) are required as well as bulk variances.

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

- Drywell Plan, dated 3/10/23, prepared by Paul D. Fox, PE
- Lot Improvement Plans, consisting of five sheets, revised 4/18/23, prepared by AMK Harrington, Landscape Architecture, Long Valley, NJ

4. In support of the application, the Applicant has submitted the following documents, which are part of the hearing record:

- Cover letter, dated 4/25/23, prepared by Anthony J. Sposaro, Esq.
- Property deed
- Response letter to Morris County Planning Board, dated 4/24/23
- Survey, revised 4/14/23, prepared by Christopher J. Aldrich, PLS
- Application and attachments

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:

Jessica Caldwell, PP, AICP, dated 6/13/23
Paul Ferriero, PE, CME, dated 8/2/23

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

John Zaragoza, Fire Marshal, dated 8/18/23
Historic Preservation Commission, dated 7/19/23

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

A-1 Colored Rendering of Sheet 2 Layout Plan, revised 4/18/23
A-2 Shed Perspective View and Details

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

Patricia Munley - President of Library Board
Ann Harrington - Landscape Architect
Paul Fox, PE - Engineer

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

Applicant's witnesses described the proposed improvements, which will provide outdoor areas for library activities. An existing shed will be removed and replaced with a larger 8 x 10' shed adjoining the building's north façade. On the southern side of the building, a patio with adjoining seating-wall will be installed. Low voltage lighting for the outdoor areas will be turned off at 10 p.m. The increase in impervious coverage associated with new patio and connecting walkways will be handled by the proposed drywell according to the submitted Drywell Plan. The proposed drywell will also accept existing roof runoff from the library building.

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

- Conditional Use Variances pursuant to N.J.S.A. 40:55D-70d(3) and Ordinance §215-13H(3) are required for minimum lot area (5 acres required, 0.424 acre existing), minimum lot width (400 ft. required, 100 ft. existing, minimum principal building setbacks for front yard (75 ft. required, 39.25 ft. existing) and side yard (31.75 and 28.16 ft. existing, 40 ft. required), maximum lot coverage (51.71% proposed, 20 required), and accessory building minimum setbacks for front yard (54.75 ft. proposed, 75 ft. required) and side yard (18.75 ft. proposed, 40 ft. requirement).
- Bulk Variances pursuant to N.J.S.A. 40:55D-70c and Ordinance Chapter 215, Attachment 2, are also required for the non-conforming accessory building setbacks set forth hereinabove.

With respect to the "d(3)" components of the foregoing Variance Relief, the Board finds, based on the hearing record, that the site will remain suitable for the private library use, and in fact become more suitable for that use, as a result of the proposed improvements, and that there will be no significant adverse impacts of these improvements.

With respect to the "c" components of the foregoing Variance Relief, the Board finds that by reason of the size and shape of the subject property, the strict application of Ordinance Section 215-13H(3) 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 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.

11. In summary, the Board hereby grants a total of one "D(3)" variance and three "C" variances in connection with this application.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the application and grant the Variance requested by the Applicant, as described hereinabove, pursuant to N.J.S.A. 40:55D-70c(1) and 40:55D-70d(3).

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. Height of the existing fence shall not be increased.*
- 2. All site lighting to be extinguished by 10 p.m.*
- 3. Plans shall be updated to identify setbacks.*
- 4. A gutter shall be added to the side of the shed facing the walkway.*
- 5. The drywell detail needs to be modified to show the filter fabric on the top and sides only.*
- 6. A lot grading permit application will need to be made to the Borough.*
- 7. The total area of disturbance shall be quantified on the 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.*

The undersigned does hereby certify that the foregoing is a true copy of the Resolution adopted by the Borough of Mendham Joint Land Use Board memorializing the action taken by the Board at its meeting of 8/15/23.

*Lisa Smith
Board Secretary*

Mrs. Garbacz recused herself.

COMPLETENESS

15-22 Dominik Garbacz
3 Quimby Ln
Block 1901 Lot 45

Present: Mr. & Mrs. Garbacz – Applicant

Mr. Ritger informed the public that during the completeness portion of the meeting there is no public comment.

Mr. Ferriero summarized the completeness review letter dated August 9, 2023 where it was noted that there were a number of items missing from the application. Mr. Ferriero stated that he recommends waiving the submission requirements and deem the application complete.

Motion by Mr. Smith, seconded by Mr. Sprandel and unanimously carried to deem the application complete.

Roll Call:

In Favor: Ms. Bushman, Councilman Andrew, Mr. Ritger, Mr. Smith, Mr. Sprandel, Mr. D’Urso, Mr. Egerter, Mr. Molnar, Mr. Kay, and Mr. Pace.

Opposed:

Abstain:

The motion carried.

HEARING

15-22 Dominik Garbacz
3 Quimby Ln
Block 1901 Lot 45

Present: Mr. & Mrs. Garbacz – Applicant.

Mr. Germinario reviewed the public notice and found it to be adequate to proceed.

Mr. & Mrs. Garbacz were sworn.

Mr. Garbacz summarized the application for extending the existing deck. Mr. Germinario asked if there was a need for this extension. Ms. Garbacz stated that the deck was in disrepair when they bought the house. Mr. Garbacz explained that it was made the deck more functional so that when you come out the back door you can walk right out to the deck whereas now you have to walk down steps and then up steps to the deck. Mr. Ritger asked if they were redoing the existing deck. Mr. Garbacz explained that they would be renovating the existing deck floor and railings, but the framing was fine. Mr. Germinario stated that the coverage being increased from 4332 existing to 4645. Mr. Ferriero explained that this is one of the variances being requested. Mr. Garbacz distributed revised plans that were marked Exhibit A-1. Mr. Ferriero explained that he had sent out a technical review and the comment was to update lot coverage to include items that were missing, and signature lines be added. Mr. Ferriero stated that there was less than 1000 sq ft, so no stormwater improvements are required. Mr. Ferriero suggested that the plans that were distributed be collected, and the signature lines be drawn on them.

Mr. Germinario noted that there are two variances required. One is for the small increase in building coverage which is due to the building of the deck. Mr. Garbacz confirmed that was the case. Mr. Germinario asked if the variance needed for setback which is already non-conforming was due to the building of the deck and Mr. Garbacz agreed. Mr. Germinario stated that the applicant is seeking a C1 hardship due to existing constraints, shape, and configuration of the lot. Mrs. and Mr. Garbacz agreed.

Mr. Germinario stated this addition doesn’t have any potential adverse impact because it is not visible from Quimby Lane and does not appear to be of a magnitude in size that would effect the esthetics of the view. Mr. and Mrs. Garbacz agreed that there aren’t any close sightlines to this deck from neighboring properties.

Mr. Ritger asked if there were any public comments or questions. There being none, public comment was closed.

Mr. Ferriero suggested adding a condition that the applicant can proceed at own risk and not have to wait for the memorialization of the resolution.

Mr. Councilman Andrew made a motion to approve the application with conditions as outlined in the Resolution and that it becomes effective upon adoption rather than the memorialization provided that the applicants take the risk of proceeding without the memorialization and was seconded by Mr. Egerter.

Roll Call:

In Favor: Ms. Bushman, Councilman Andrew, Mr. Ritger, Mr. Smith, Mr. Sprandel, Mr. D’Urso, Mr. Egerter, Mr. Molnar, Mr. Kay, and Mr. Pace.

Opposed:

Abstain:

The motion carried.

DISCUSSION

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Councilman Andrew, seconded by Mr. Sprandel. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 8:10PM.

The next scheduled regular meeting of the Joint Land Use Board is Tuesday, October 17, 2023 at 7:30PM in the Garabrant Center, 4 Wilson St. , Mendham, NJ.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator