

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
REGULAR MEETING
Tuesday, December 1, 2020
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 Ritger, 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 and was posted on the bulletin board in the Phoenix House in accordance with the Open Public Meetings Act and furnished to all those who have requested individual notice and have paid the required fee. The meeting is being conducted electronically, with Notice as required, consistent with the Governor's Emergency Declarations and the guidance issued by the NJ Department of Community Affairs along with limited seating at the Garabrant Center.

ROLL CALL:

Mr. Ritger - Present Ms. Cass - Absent
Mr. Smith - Present Mr. Dick - Present
Mr. Egerter - Present
Mr. Sullivan - Present
Mr. Paone - Present

Alternate: Mr. Sprandel, Alternate I - Present
 Alternate II - Vacant

Also present: Mr. Germinario, Esq.
 Mr. Ferriero, Board Engineer
 Ms. Caldwell, Board Planner

MINUTES:

Chairman Ritger asked for comments on the minutes of the regular meeting of November 5, 2020. There being no corrections, Mr. Smith made a motion to approve the minutes as written and Mr. Egerter seconded.

ROLL CALL:

In Favor: Mr. Smith, Mr. Egerter, Mr. Sullivan, and Mr. Ritger
Opposed:
Abstain: Mr. Paone, Mr. Sprandel, and Mr. Dick

PUBLIC COMMENT:

Chairman Ritger 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.

HEARING:**BOA#07-20**

James & Donna Chambers
425 Cherry Lane
Block 2301 Lot 3.01

Present: Mr. & Mrs. Chambers- Applicant
Mr. Werther – Attorney
Mr. Glasson – Engineer
Ms. Christine Nazzaro- Cofone – Planner

Mr. Germinario advised Mr. Werther that there is a chance that this will be the last meeting of this Board and that a new Joint Land Use Board and in the unlikely event that the application is not completed at this meeting the application would have to start over with the new Board. Mr. Werther understood.

Mr. Werther asked Mr. Chambers to address the Board. Mr. Chambers was sworn in by Mr. Germinario. Mr. Chambers gave an overview of the purpose for the application.

Mr. Glasson and Ms. Cofone were sworn in by Mr. Germinario. Mr. Germinario asked Mr. Werther if he would like to qualify the two witnesses. Mr. Werther asked Ms. Cofone her qualifications and Ms. Cofone proceeded to do so. Mr. Germinario asked if any Board members had any questions about Ms. Cofone's qualifications. There being none. Mr. Werther asked Mr. Glasson his qualifications and he proceeded to do so. Mr. Germinario asked the Board about Mr. Glasson's qualifications. There being none both witnesses were qualified as experts in their fields.

Mr. Glasson summarized the plan sheet 2 of 4 which is the existing conditions plan. Mr. Glasson went on to summarize sheet 3 of 4. Soil testing for the septic was approved. The septic was approved by the Bernardsville Board of Health for the 2-bedroom design.

Mr. Smith asked about the driveway and the access for emergency vehicles. Mr. Chambers had email conversations with John Zaragoza, the Borough's Fire Official, where Mr. Chambers was told that if there is enough gravel to get off the road, he would be comfortable with that. Mr. Ferriero stated that it would be easy for any vehicle to get in there and his letter recommended that there not be a full permanent driveway. Mr. Ferriero suggested that prior to the issuance of permits or the signing of the plans, confirmation from Emergency Services that they are good with the plans. Chairman Ritger asked the Board members if there were any questions for this witness. Mr. Sprandel questioned the use of the existing driveway and Mr. Ferriero explained that it would be preferred that the driveway stay in its current state as to not promote a new owner using the structure for an additional dwelling.

Ms. Nazzaro-Cofone explained why it was necessary for the applicant to request the variances and explained that the site is suitable for the proposed use. Ms. Nazzaro-Cofone feels the burden outweighs the detriment. Chairman Ritger asked the Board members if there were any questions for this witness. Mr. Germinario asked if the granting of the variances would promote the general welfare to provide housing for a physically challenged person and Ms. Nazzaro-Cofone stated that it would. Mr. Sullivan asked about the existing fencing and the proposed silt fence. Mr. Glasson explained that the silt fence would only be there temporarily during construction.

Chairman Ritger asked Mr. Germinario to summarize the conditions for the approval. Mr. Germinario proceeded to describe the conditions of the termination of the use.

1. If the property were sold
2. If the Chambers daughter ceased to dwell in the living unit.

Mr. Germinario asked if the Chambers had any objections to those conditions and Mr. Chambers said that there were no objections. Mr. Germinario also asked the applicant if there were any objections to what Mr. Ferriero stated in his report dated October 1, 2020. Mr. Chambers questioned Mr. Ferriero on the all-weather path from the main dwelling. Mr. Ferriero stated that it would be a more permanent path from the main dwelling, but it was meant more as a suggestion and not a requirement. Mr. Chambers had no objections.

Mr. Chambers asked if there was a way to apply for permits sooner rather than later. Mr. Ferriero stated that the Board can authorize the Chambers to proceed at their own risk before the resolution is memorialized.

Chairman Ritger asked for a motion to approve this application with the conditions that will be outlined in the resolution and to make the action effective upon approval as opposed to memorialization.

Mr. Dick made a motion to approve the application with conditions and was seconded by Mr. Egerter.

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

In favor: Mr. Smith, Mr. Egerter, Mr. Sullivan, Mr. Paone, Mr. Dick, Mr. Sprandel, and Chairman Ritger
Opposed: None
Abstentions: None

The motion carried.

COMPLETENESS:

BOA#06-20

Medical Properties Partners, LLC
30 East Main St.
Block 602 Lot 1

Mr. Ferriero gave a summary of the completeness letter dated October 22, 2020. He stated that the waivers that were requested, in his opinion, should be granted and the Board deem the application complete for hearing. Chairman Ritger asked the Board if there were any questions. There being none, Chairman Ritger asked for a motion to deem the application complete.

Mr. Smith made a motion to deem the application complete and was seconded by Mr. Paone.

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

In favor: Mr. Smith, Mr. Egerter, Mr. Sullivan, Mr. Paone, Mr. Dick, Mr. Sprandel, and Chairman Ritger

Opposed: None
Abstentions: None

The motion carried.

HEARING:

BOA#06-20

Medical Properties Partners, LLC
30 East Main St.
Block 602 Lot 1

Present: Mr. Gellerstein – Applicant
Mr. Kurnos – Attorney
Ms. Gannon – Tenant

Mr. Germinario advised Mr. Kurnos that there is a considerable likelihood that this will be the last meeting of this Board and that a new Joint Land Use Board and in the unlikely event that the application is not completed at this meeting the application would have to start over with the new Board. Mr. Kurnos understood.

Mr. Kurnos introduced himself as council to the applicant and proceeded to give an overview of the application and explained the reasoning for the variances requested.

Ms. Gannon was sworn in by Mr. Germinario.

Mr. Kurnos questioned the witness. Ms. Gannon is the owner of North Point Staffing and occupies the space which is approximately 500 sq ft at 30 East Main St. Ms. Gannon does not have employees at this time and explained that she does professional staffing services. Ms. Gannon stated that there are no visitors on site and that her services are 100% internet based and her hours are 9am – 5pm. Ms. Gannon stated that she parks on site and has not has any issues finding parking.

Chairman Ritger asked the Board if there were any questions. Mr. Sprandel asked if there would be any additional employees. Ms. Gannon stated that she may have only one other employee at some point. Mr. Sprandel noticed that there is a sign that says permit only and asked if Ms. Gannon has a permit to park. Ms. Gannon stated that she parked in the employee parking area, not in the permit area but would be willing to get a permit if necessary. Mr. Germinario asked how many of the parking spaces are being used by the medical practice and how many would be available for the North Point Staffing. Ms. Gannon stated that she has one space available for her business. Mr. Ritger asked if there would be an intensification of parking requirements. Mr. Ferriero stated that the Board should consider the use and what would be permitted. The use that is being presented would be a low intensity use. Mr. Ritger asked how to construct the condition of use. Ms. Caldwell asked since this is a preexisting non-conforming use, how many employees were in the space prior. At this point Mr. Gellerstein was sworn in. Mr. Gellerstein stated that the prior occupants had one to two spaces and feels that the usage of the parking is being expanded. Mr. Ferriero suggested that the conditions should be a maximum of two employees and an office use that has limited visitors. Mr. Germinario agreed with Mr. Ferriero's suggestion. Mr. Gellerstein asked that if Ms. Gannon were to leave, would he have the ability to revert back to medical use. Mr. Germinario stated that the conditions for approval should be the office use would have a maximum of two

employees and would not have a regular need for visitors and if the space reverted back to the medical use, a limited number of visitors would be permitted for that to be possible.

Mr. Kurnos stated that the applicant is willing to agree with those conditions.

Chairman Ritger asked Mr. Germinario to repeat the conditions of approval that the Board would be voting on. Mr. Germinario stated that the conditions would be that as an office use which would have a maximum of two employees and not have a regular need for outside visitors to the office space unless the use would revert back to the medical use in which case a limited number of outside visitors would be permitted.

Mr. Germinario summarized the criteria for granting the approval of the application with conditions which were in Ms. Caldwell’s memo.

Chairman Ritger asked for a motion to approve the application with the conditions summarized by Mr. Germinario.

Mr. Paone made a motion to approve the application with conditions and was seconded by Mr. Egerter.

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

In favor: Mr. Smith, Mr. Egerter, Mr. Sullivan, Mr. Paone, Mr. Dick, Mr. Sprandel, and Chairman Ritger
Opposed: None
Abstentions: None

The motion carried.

OTHER DISCUSSION ITEMS:

Mr. Germinario explained that the Borough introduced an ordinance to combine the Planning Board and Board of Adjustment and make a Joint Land Use Board. Mr. Paone asked what the reasoning was behind combining Boards and Mr. Germinario explained that Borough felt that there would be a cost savings.

Mr. Smith asked about the Annual Report. Mr. Ritger asked if there are any suggestions for amendments that should be included in the Annual Report. Mr. Smith suggested amending setbacks and preexisting setbacks. Mr. Smith also asked to amend the impervious coverage ordinance to see if this can be added to the permit process if they meet all other requirements.

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ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Chairman Ritger, seconded by Mr. Egerter. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 9:30PM.

Respectfully submitted,
Lisa Smith
Lisa Smith
Land Use Coordinator