

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
REGULAR MEETING
March 7, 2017**

Garabrant Center, 4 Wilson Street, Mendham, NJ

CALL TO ORDER

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

OPENING STATEMENT

Notice of this meeting was published in the *Observer Tribune* and in the *Daily Record* on January 12, 2017 in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House.

ROLL CALL

Mr. Palestina - Present Mr. Peck - Present
Mr. Peralta - Absent Mr. Ritger - Present
Mr. Seavey - Present Mr. Smith - Present
Mr. Sisson - Absent

Alternates: Mr. Reilly, Alternate I – Present

Also Present: Mr. Germinario, Board Attorney
Mr. John Hansen, Board Engineer
Mr. Chuck McGroarty, Board Planner

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MINUTES

Mr. Seavey asked for comments on the minutes of the regular meeting of February 7, 2017. Mr. Smith commented that there was a typo on p.4, in section 9, which stated "5-foot front yard setback", which Mr. Germanario corrected to "50-foot front yard setback." On a voice vote, the minutes were approved as revised.

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PUBLIC COMMENT

Mr. 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.

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APPLICATIONS

BOA #8-16

**Meadow Spring Farm, LLC and Escada, LLC
11 Horseshoe Bend Road and 480 Bernardsville Road
Block 2301 Lot 5 and 10
"C" and "D" Variance**

Present: Peter Wolfson, Attorney
Greg Yannacone, Engineer
Bradley Newman, Landscape Architect
Steve Lydon, Planner

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Mr. Wolfson explained that the applicant is seeking a C and D variance. The applicant wants to shift the lot line between the two subject properties, resulting in 2.85 acres being transferred from Lot 5 (11 Horseshoe Bend Rd) to Lot 10 (480 Bernardsville Road), which also corresponds to a more natural and desirable property division, Horseshoe Bend Lane. He mentioned that the property line change is a paper shift only, and that nothing else changes. However, because there is a second residence, (a "cottage") that was built in 1920 situated on Lot 5, a D variance is requested, as it will transfer to Lot 10 with the lot line adjustment. The cottage is a preexisting nonconforming use as a second residence on Lot 5. He explained that the applicant needs a C variance due to the height of some of the fencing and the gate structures.

Mr. Hansen confirmed that there was a corporate ownership disclosure statement received by the Board. Mr. Germanario clarified that Mr. Previdi is the owner of both Meadow Spring Farm LLC and Escada LLC, lot 5 and 10 respectively. With no questions regarding completeness, Mr. Seavey made a motion of completeness, and Mr. Peck seconded.

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

In favor: Palestina, Peck, Reilly, Ritger, Smith, Seavey
Opposed: None
Abstain: None

The application was considered complete.

Mr. Yannacone was sworn and qualified. He submitted exhibit A-1, a highlighted rendering of sheets 4 and 5 from the plans. He explained the subdivision and how the lot line shift would more or less equalize the two lots. He also mentioned the applicant would comply with the County of Morris right-of-way dedication from Bernardsville Road.

Questions were raised about why shift the lot line, and Mr. Yannacone explained that Escada, LLC was limited on lot coverage, and wanted to place walkways on their property and expand their driveway, among some other things like adding a pool patio. With no questions from the public, Mr. Bradley Newman, was sworn and qualified. He submitted exhibit A-2, a colored rendering of the proposed landscaping, deer fence and pool fence. The deer fence proposed is an 8'chain link fence and needs a variance due to its height. He submitted exhibit A-3, a colored version of the fencing on the property, exhibit A-4, fencing details and exhibit A-5 the gate entrance and fencing along Bernardsville Road. He mentioned the piers along Bernardsville Road would be 26' apart and the fencing in between would not be solid, with the piers 7'7" high, and that they are striving to match their neighbors fencing pattern. He submitted exhibit A-6, revised fencing along Horseshoe Bend Rd, exhibit A-7, the front gate entrance structure, 12'high piers and set back 100', and exhibit A-8, the Horseshoe Bend Road entrance, which is grass. Lastly, he submitted exhibit A-9, a Master Lot Development plan. With no public comment, Mr. Steve Lydon, was sworn and qualified. He stated that the adjustment of the lot line is consistent and compatible with the Master Plan of the Borough. The fact that the cottage shifts to the other lot does not create an adverse effect. The number of lots and dwellings stay the same, nor is there any increase in traffic or population density. He also contended that it is a five-acre zone, and the property was close to 15 acres of land, or two times over the zone requirement. He also mentioned that 8' foot deer fencing is necessary due to the hardship of the deer population, and that what they are proposing promotes a desirable visual environment and is consistent with the neighborhood.

Mr. McGroarty advised the Board that relocating the cottage would mean granting a D1 variance for two dwellings on Lot 10, to accommodate the applicant's need to avoid a bulk variance for

impervious coverage. He also reiterated the Borough's ordinance that states one dwelling per lot. Mr. Wolfson mentioned that the application as presented provides Lot 10 with 6,000 more square feet of impervious coverage.

Mr. John Ancetti, a neighbor residing on Horseshoe Bend Lane, was sworn and said he was in favor of the proposed new subdivision. He mentioned that the cottage had always been used as the caretaker residence. Mr. Germanario pointed out that it currently is rented by another party, and cannot be viewed as an accessory structure. Mr. Yannacone confirmed for the Board that the cottage cannot be enlarged (without Board approval), that there would be no tennis court lighting, and that Lot 5 complies with impervious coverage although it is losing approximately 2.85 acres.

After Board discussion, and no further comments from the Public, the Board decided to discuss and vote on the two variances separately. Regarding the bulk variance requested for the fence, the Board felt that the setback and the size of the decorative fence on Bernardsville Road was appropriate for the area. The 8' deer fence was also approved, subject to approval by the neighborhood association. The fence plans along Horseshoe Bend Road will be revised on the plans.

The Board discussed the proposed subdivision, and the applicant agreed that there would be no expansion to the cottage and could only be rebuilt to its present size. Ms. Candace Davis, an engineer for Yannacone, Villa & Aldrich LLC, was sworn and qualified, and explained the lot coverage calculations on the plans.

Mr. Seavey made a motion to approve the variance for the fencing with the conditions mentioned, and Mr. Smith seconded.

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

In favor: Palestina, Peck, Reilly, Ritger, Smith, Seavey
Opposed: None
Abstain: None

The motion carried.

Mr. Seavey made a motion to approve the D1 variance for a second residential dwelling on Lot 10 per the conditions mentioned, and Mr. Palestina seconded.

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

In favor: Palestina, Peck, Reilly, Ritger, Smith, Seavey
Opposed: None
Abstain: None

The motion carried.

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BOA #2-17

Matann Simglo, LLC
7 West Main Street
Block 301 Lot 35
Site Plan Waiver

Present: Mr. Anthony Sposaro, Attorney for Applicant
Matann Simglo, LLC, Applicant

Mr. Hansen said that the application does not substantiate a D variance as initially interpreted, and conforms with zoning requirements. Mr. Seavey made a motion for completeness, and Mr. Ritger seconded.

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

In favor: Palestina, Peck, Reilly, Ritger, Smith, Seavey
Opposed: None
Abstain: None

The application was considered complete.

Mr. Sposaro gave a brief history of the property. He mentioned that although no variance is being requested from the Board, a precedent set in 2006 requires the application be heard by the Board of Adjustment for the site plan waiver. Ms. Anna Passalacqua, a principal of Matann Simglo, LLC, explained that they would be making pizza and sandwiches for delivery and takeout with seating only for 8 inside the establishment. There would be 4 employees at most and hours are expected to be 11am to 9pm weekdays extending to 10 or 10:30pm on weekends.

Mr. Sposaro submitted: i) Exhibit A-1, a picture of the sign approved by the HPC, ii) Exhibit A-2, a picture of the location of the sign in the front of the building, iii) Exhibit A-3, square footage calculations by architect Dan Encin, and iv) Exhibit A-4, the 2006 waiver from Morris county Planning Board for la Famiglia.

Mr. Seavey asked for any questions from the public, and a question was directed about the applicant requiring a use variance because of the pizza oven. Mr. Germanario explained that it's a conforming use although they are expanding on what existed before. Another question was asked about the noise generated from the vents and Mr. Sposaro submitted Exhibits A-5 and A-6, which showed that the sound generated complied with the Borough Ordinance.

Lastly, Mr. Hansen mentioned that the striping for the parking area was faded and the concrete apron on the exit drive was in disrepair. The applicant said they would attend to both matters.

Mr. Seavey made a motion to approve the application with contingencies, and Mr. Palestina seconded.

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

In favor: Palestina, Peck, Reilly, Ritger, Smith, Seavey
Opposed: None
Abstain: None

The motion carried.

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ADJOURNMENT

There being no additional business to come before the Board, Mr. Seavey made a motion to adjourn the meeting at 11pm. On a voice vote, all were in favor. Mr. Seavey adjourned the meeting at 8PM.

The next meeting of the Board will be held on **Tuesday, April 4, 2017 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Carolyn Mazzucco

Carolyn Mazzucco
Board Secretary