

**MINUTES OF THE
MENDHAM BOROUGH BOARD OF ADJUSTMENT
REGULAR MEETING
Tuesday, July 14, 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 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* in accordance with the Open Public Meetings Act and was posted on the bulletin board of the Phoenix House. 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

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

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

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

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MINUTES

Chairman Seavey asked for comments on the minutes of the regular meeting of June 2, 2020. Mr. Ritger pointed out a grammatical error, Chairman Seavey made a motion to approve the minutes as revised and Mr. Dick seconded.

ROLL CALL

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

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.

BOA#03-19

Six Main St. Mendham, LLC

6 East Main St.

Block 601, Lot 3

(Preliminary & Final Site Plan with (c) and (d) variances)

Present: Jay Grant, Owner

Mark Blount, Attorney

John Hansen, Engineer

Phil Abramson, Planner

Matthew Seckler, Traffic Consultant

William Byrne, Architect

Mr. Blount summarized the application as previously heard and what has happened since the last meeting. Mr. Blount stated that a consent resolution was granted from the Council for the overnight parking.

Mr. Germinario reviewed the new notice and found them to be adequate.

Mr. Byrne, previously sworn in and qualified, explained that the previous application and went on the describe the changes. These changes have been submitted and approved by the Historic Preservation Commission.

Mr. Byrne stated that the 2-bedroom apartment will be moved to the first level and they are removing the back second floor addition portion of the original application. Mr. Blount asked about the comment in Ms. Caldwell's report regarding the square footage of the sign and what was proposed. Mr. Byrne stated that the intent was not to change the existing sign and awnings. Mr. Byrne explained Exhibit A4 (Sheet 10) which shows the sign and awnings size and location.

Mr. Hansen, previously sworn in and qualified, gave a summary of the changes that have been made to the site plan. Mr. Hansen stated the changes to the parking calculations have been revised to 39 spaces. There was modification to ADA access, expanded patio and make it ADA Compliant, retaining wall added to front patio, landscaping changes, lighting design based on the recommendations of the Board and Engineer. Mr. Hansen described the location change of the Municipal Parking sign into the County right of way. Mr. Hansen stated that the Applicant will comply with all the recommendations on the Engineer's report.

Chairman Seavey asked about the impervious lot coverage of the patio. Mr. Hansen stated that a variance is required.

Mr. Hansen summarized the lighting and landscape plan. Chairman Seavey asked about the landscaping in the front near the patio. Mr. Hansen stated that a row of boxwoods will be planted in the front area. Chairman Seavey asked for a more detailed plant list. The new plans will show the changes to the landscape plans and the gate.

Chairman Seavey went through the approval letter from the HPC to make sure the plans comply.

Mr. Seckler was sworn in and qualified.

Mr. Seckler described exhibit A5 (Stonefield Traffic and Parking Report) which showed the new plan reduces the parking by 22 spaces. Mr. Ferriero stated that the Borough Council agreed to allow 10 residential parking passes.

Mr. Abramson, previously sworn in and qualified, described exhibit A6 (site photos and map). Mr. Abramson went on the summarize the necessary "C" Variances needed for this application.

Mr. Seavey reviewed the approval letter from the Historic Preservation Commission.

PUBLIC COMMENT

Chairman Seavey opened the meeting to the public for questions and comments on the Six Main St. Mendham, LLC application. There being none, the public session was closed.

Chairman Seavey asked the Board members if there were any questions for the applicant. Mr. Ritger suggested that the gate be left open or to remove the gate. Mr. Smith asked if the HPC required a gate and Mr. Grant stated that the HPC did not request it.

Mr. Germinario agreed with Mr. Abrahamson’s testimony regarding the deintensification of the revised plan and revisiting the previous approval was not necessary.

Chairman Seavey made a motion to approve the application with conditions and was seconded by Mr. Palestina.

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

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

The motion carried.

RESOLUTION:

BOA#02-20
Mahoney (Pool)
20 Coventry Rd
Block 1402 Lot 8
(Variance)

Mr. Germinario summarized the Mahoney application and the conditions outlined in the resolution.

Chairman Seavey made a motion to memorialize the resolution and Mr. Smith seconded.

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

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

BOROUGH OF MENDHAM BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION

*Decided: June 2, 2020
Memorialized: July 14, 2020*

**IN THE MATTER OF MARGARET & TIMOTHY MAHONEY
"C" VARIANCE APPLICATION
BLOCK 1402, LOT 8**

WHEREAS, Margaret and Timothy Mahoney (hereinafter the "Applicant") applied to the Borough of Mendham Board of Adjustment (hereinafter the "Board") for the grant of a variance pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variance") by application dated 3/27/20; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 6/2/20; 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 approximately 0.8 acres located in the 1-Acre Residential zoning district. The property size is a pre-existing non-conforming condition. The property currently contains a two-story single-family dwelling, driveway, walkway, deck, and other related site improvements.

2. The improvements to the subject property for which the Variance relief is sought comprise a pool, patio surrounding the pool, fence to enclose the yard and pool area, and addition to the existing deck. The Applicants are also proposing to install a drywell and lawn inlet to accommodate and address the increase in impervious coverage on the property. The proposed drywell is designed in accordance with the Borough minor development standards for stormwater control. These drainage improvements will prevent drainage impacts on the neighboring properties due to the increased impervious coverage. The Applicants are requesting a bulk variance from the Mendham Borough Zoning Ordinance to permit the impervious coverage to be 23.39%, where existing lot coverage is 19.5% and a maximum impervious coverage of 20% is permitted.

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

- Lot Grading Plan, consisting of three sheets, dated 3/18/20, prepared by Robert H. Jordan, PLS and James G. Glasson, PE

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

- Board of Adjustment Application and Checklist, dated 3/27/20, prepared by Nicole Magdziak, Esq.
- Zoning Officer's Denial Letter, dated 2/26/20
- Site Inspection Form, dated 3/27/20
- Tax Certification, dated 3/26/20
- Affidavit of Service, dated 5/27/20

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:

Paul Ferriero, PE, CME, dated 5/27/20

6. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Aerial photo of the area from Google
- A-2 Site photo looking from deck to rear property
- A-3 Site photo looking from proposed pool to 22 Coventry Road
- A-4 Site photo looking from proposed pool to 18 Coventry Road
- A-5 Site photo of existing back of house and deck

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

Margaret and Timothy Mahoney
Jim Glassen, PE, Applicants' engineer

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

The Applicants identified Exhibits A1-A5 photos of views from the proposed development area toward neighboring properties, which demonstrate that the proposed pool, patio and deck are well screened by existing trees and fencing. The existing fencing will be extended to completely surround the pool, patio and deck area. Mr. Glassen testified that the proposed improvements will add net 61 sf to the existing deck, and add 771 sf of pool patio area and 578 sf of pool area. With reductions in rear walkway areas, the net increase on impervious coverage will be 1335 sf, resulting in a coverage of 23.39% and requiring a variance with respect to the ordinance maximum of 20%. There will be no increase in stormwater runoff to neighboring properties, since additional runoff will be handled by the proposed inlet and drywell.

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

The following purposes of the Municipal Land Use Law and the Borough of Mendham Land Use Ordinance would be advanced by granting the Variance so as to allow the requested deviation from Ordinance Section 215-31.1H: Purposes (g) and (i) of the MLUL, providing for sufficient recreational space and promoting a desirable visual environment through good civic design.

The detriments associated with the deviation are considered minimal because the existing vegetative screening and existing/proposed fencing will visually screen the improvements from neighboring properties, and the proposed drywell will eliminate any increased runoff.

Therefore, the grant of the Variance is warranted pursuant to N.J.S.A. 40:55D-70c(2), because the benefits of the deviation will substantially outweigh the detriments.

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.

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(2).

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. Pool drainage will be directed across lawn areas toward the front of the property and into storm sewers in the street.

2. The survey shows an existing sanitary sewer easement along the eastern sideline of the property. This shall be staked out prior to construction in the vicinity of the work.

3. An approval or waiver shall be provided from the Morris County Soil Conservation District.

4. Applicant must obtain a lot grading permit from the Borough.

5. 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.

6. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

7. 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.

8. 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 Board of Adjustment memorializing the action taken by the Board at its meeting of 6/2/20.

Lisa Smith
Board Secretary

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ADJOURNMENT

There being no additional business to come before the Board, **Motion** was made by Chairman Seavey, seconded by Mr. Palestina. On a voice vote, all were in favor. Chairman Seavey adjourned the meeting at 8:45PM.

The next meeting of the Board will be held on **Tuesday, August 4, 2020 at 7:30PM** at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Lisa Smith

Lisa Smith
Land Use Coordinator