

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, November 16, 2021
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER/FLAG SALUTE

The regular meeting of the Joint Land Use Board was called to order at 7:30PM and the open public meeting statement was read into the record at the Garabrant Center, 4 Wilson St., Mendham, NJ.

ROLL CALL

Mayor Glassner – Absent
Ms. Bushman – Absent
Councilman Reilly – Absent
Mr. Paone – Absent
Mr. Smith – Present
Mr. Sprandel – Present
Mr. Dick – Present

Mr. Ritger – Present
Mr. Egerter – Present
Mr. Kay- Alternate 1A- Present
Mr. Bradley – Alternate 2A - Absent
Vacant – Alternate 3A
Mr. Corona – Alternate 4A – Absent
Mr. Sullivan – Alternate 1B – Present
Ms. D'Urso – Alternate 2B - Absent

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MINUTES

Chairman Ritger asked for comments on the minutes of the October 19, 2021, Regular Meeting. There being no corrections, Mr. Kay made a motion to approve the minutes as written and Mr. Dick seconded.

Roll Call:

In Favor: Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Egerter, Mr. Kay, and Mr. Sullivan.

Opposed:

Abstain:

Motion Carried

PUBLIC COMMENT

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

Mr. Lippmann, 180 Mendham Rd., explained that he has received 3 tickets from the zoning officer for not registering his house at 29 Ironia Road as a rental. Mr. Lippmann explained to the zoning officer that the home was coming out of the rental pool and was being sold. Mr. Lippmann stated that he informed the Council that it was going to be a sober living house. Mr. Lippmann stated that the house is a single-family residence and is in a single-family zone. Mr. Lippmann stated that the zoning officer wanted paperwork filled out saying that he was taking the home out of the rental pool and Mr. Lippman stated that he told the zoning officer it wasn't necessary. After the zoning officer gave him a summons, he completed the paperwork. Mr. Lippmann stated that the sober living house is licensed by the State of New Jersey and inspected by the State of New Jersey. Mr. Lippmann noted that the State has suggested that the Borough stop doing investigations and was told that if anything had to be done, he was to go to DCA in Trenton. Mr.

Lippmann made note that his tenant was attending the meeting and explained that the tenant moved from the rear house, an apartment in the barn, to the main house approximately 2 years ago. Mr. Lippmann stated that the zoning officer felt that the property consists of 2 living quarters, and that it is not a single family but a multifamily residence. Mr. Lippmann wanted to make the Board aware of what was going on. Mr. Lippmann stated that the Borough is taking him to court. Mr. Lippmann stated that he has dropped off the rules and regulations at the office of Mr. Semrau the Borough Attorney and has not received a response. Mr. Ritger explained that the Board cannot respond or comment, but there is a process where the Board receives notice if there is an application to come before them. Mr. Lippmann asked if there were any questions for him from the Board and if they would like to know what a sober living house is. Mr. Sprandel asked him to explain what a sober living house is and Mr. Lippmann proceeded to explain. Mr. Lippmann stated that there have been hundreds of lawsuits to remove these sober living homes and every time the towns have lost. Mr. Egerter stated that he knows Mr. Lippmann and shares the desire to help people with drug and alcohol addiction. Mr. Egerter asked if this was a police or zoning matter and why are he was this evening. Mr. Lippmann stated that this is a zoning matter and that he assumes that the zoning officer will be submitting something regarding this, and the Board will have to make a decision whether this is allowed or not allowed. Mr. Egerter asked if this was brought to the Council and Mr. Lippmann stated that he spoke with Council members before anything had started.

Mr. McDowell, 29 Ironia Rd., explained that the State issued license is called an F Class which basically sidesteps the opposition that a town would put on a sober living facility, so they are licensed by the State. Mr. McDowell stated that every permit, issue, and repair issues goes through the State. Mr. McDowell stated that they were licensed on August 16th. The zoning officer was aware of this but has been in the house nonetheless. According to the DCA the zoning officer is not allowed in the house. Mr. Egerter asked if Mr. McDowell was a resident or counsellor and Mr. McDowell stated he is partners with Mr. Lippmann and has run other houses. Mr. McDowell feels that there is opposition and all he wants to do is help people. Mr. McDowell stated that his business takes direction from DCA and gets inspected by DCA.

Mr. Maltino, 9 Ironia Rd., stated that he is a neighbor and wanted to come and learn what was going on regarding 29 Ironia Rd. Mr. Ritger explained that the agenda is posted online and if 29 Ironia Rd. comes before the Board it will be on the agenda.

Mr. Moore, 29 Ironia Rd., stated that it is his understanding that this is a single-family dwelling, zoned for single family only and Mr. Lippmann intends to change the use to a rooming house. As such it they will get paid, and it will be a for profit business making money on people that have problems with drugs and alcohol. Mr. Moore stated that he feels the neighbors with children would be appalled if this business was to move in next to them. Mr. Dick asked if Mr. Moore was a resident and Mr. Moore stated that he is the tenant of 29 Ironia Rd. Mr. Moore stated that he feels the state is overreaching by taking over the planning and zoning functions.

Mr. McDowell, 29 Ironia Rd., stated that there is nothing to stop because it is licensed by the State.

Ms. Beck, 16 Coventry Lane, stated that she was looking at the Council agenda to see if there were any sidewalk ordinances on. Mr. Ritger stated that in the past there was an ordinance that required homeowners to clear the snow off of their sidewalks within 24 hours of a snow fall but that ordinance does not exist anymore. Ms. Beck stated that she had checked before buying her property and there wasn't a snow ordinance otherwise, she wouldn't have bought the house. Mr. Ritger inquired if she was asking if there was any movement to put that back in place and noted that there is none of which he is aware of. Ms. Beck stated that while looking to see if there were any sidewalk ordinances on the agenda, she noticed that the minutes from the October 25th meeting that mentioned the Sisters of Charity are talking about developing their property with 94 luxury market rate apartments. Ms. Beck stated that this would be a huge change in zoning and wants to know what the JLUB roll would be. Mr. Ritger stated that the JLUB is both the Planning Board and Board of Adjustment, and the Boards roll would be to interpret whether a proposed plan for construction is in line with the ordinances and if it isn't, would entertain any requested variances. Ms. Beck

asked if the JLUB has any input to the Council prior to their decision whether or not to go forward with this. Mr. Ritger stated that the Board's input to the council is related to any ordinance that needs to be changed or added which gets proposed in the end of the year summary. Ms. Beck wanted to know if the discussions would be public or in executive session. Mr. Ritger stated that if the JLUB receives a case for that property it would be public.

There being no more comments from the public, the public session was closed.

HEARINGS:

- a) **JLUB #09-21**
Matthew & Samantha Tuohy
7 Whispering Ivy Path
Block 1901 Lot 20.01

Chairman Ritger stated that the application is being carried at the applicants request to the December 21, 2021 meeting with no further notice required.

RESOLUTION:

- a) **JLUB #11-21**
Lauren Gross & Cameron Chapin
6 Hampton Rd.
Block 1903 Lot 4

Chairman Ritger summarized the Chapin application and the conditions outlined in the resolution. Mr. Dick made a motion to memorialize the resolution and Mr. Kay seconded.

ROLL CALL: The result of the roll call was 5 to 0 as follows:

In Favor: Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Egerter, and Mr. Kay.

Opposed:

Abstain:

The motion carried.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: October 19, 2021

Memorialized: November 16, 2021

**IN THE MATTER OF LAUREN GROSS AND CAMERON CHAPIN
"C" VARIANCE APPLICATION
BLOCK 1903, LOT 4
APPLICATION NO. JLUB #11-21**

WHEREAS, Lauren Gross and Cameron Chapin (hereinafter the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for the grant of a variance pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variance") by application dated 8/9/21; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 10/19/21; 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 17,424 sq. ft. (0.401 AC) improved with a two-story frame dwelling. The dwelling has existing separate front and side wood porches.

2. The improvements to the subject property for which the Variance relief is sought comprise removal of the two existing porches and installation of a new wrap-around porch. Variances are required for front yard setback (25.8' existing, 25.5 proposed, 30' required) and lot coverage (5,778 sq. ft. existing, 5,916 sq. ft. proposed, 3,920 sq. ft. required).

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

- Variance Plan, dated 6/24/21, prepared by Catherine A. Mueller, PE

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

- Land Development Application, dated 7/6/21, prepared by Cameron E. Chapin
- Checklist
- Certificate of Paid Taxes/Sewer fees, dated 6/7/21
- Photographs
- Historic Preservation Commission Approval, dated 5/19/21
- Site Inspection Form, dated 6/28/21, prepared by Cameron E. Chapin
- Certified Property Owners List
- Tax Map
- Survey, dated 3/22/21, prepared by Marc J. Cifone, PLS

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, dated 9/13/21

6. In the course of the public hearings, the Applicant represented themselves, and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Dan Encin, Architect

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

Dan Encin testified that the two existing porches are mismatched in terms of both elevations and materials. The substitution of a new wrap-around porch will significantly enhance the streetscape appearance of the dwelling as well as the functionality of the porch in terms of linking the front and side entrances of the dwelling. He noted that the proposed improvements have been approved by the Borough's Historic Preservation Committee.

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

The improved appearance and functionality of the proposed wrap-around porch advance the purposes of the Municipal Land Use Law and the Borough Law Use Ordinance. The deviations from Ordinance standards are minimal and will not result in significant adverse impacts.

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. 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.

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

3. 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.

4. 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 10/19/21.

Lisa Smith
Board Secretary

ADJOURNMENT

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

Respectfully submitted,

Lisa Smith

Lisa Smith
Land Use Coordinator