

**MINUTES OF THE  
MENDHAM BOROUGH JOINT LAND USE BOARD  
REGULAR MEETING  
TUESDAY OCTOBER 15, 2024  
GRACE LUTHERAN CHURCH, 65 E MAIN ST, MENDHAM, NJ**

**CALL TO ORDER/FLAG SALUTE**

**Mr. D’Urso noted that Mendham TV was filming the meeting.**

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 – Present	Mr. Egerter – Present
Ms. Bushman – Absent	Ms. Garbacz – Present
Councilman Sullivan – Present @7:05pm	Mr. Molnar –Present
Mr. Smith – Present	Ms. Traut – Alternate 1 -Present
Mr. Sprandel – Present	Mr. Kay- Alternate 2- Present
Mr. D’Urso– Present	VACANT – Alternate 3
	Mr. Pace – Alternate 4 – Present

Also Present: Mr. Ferriero – Board Engineer  
Mr. Germinario –Board Attorney  
Ms. Kopsco – Board Planner

**APPROVAL OF MINUTES**

Motion by Mr. Smith, seconded by Mr. Molnar and unanimously carried by voice vote to adopt the minutes of the August 20, 2024, Joint Land Use Board Regular Meeting, as written.

**Roll Call:**

**In Favor:** Mayor Glassner, Mr. Smith, Mr. Sprandel, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay and Mr. Pace.

**Opposed:**

**Abstain:** Mr. D’Urso.

**Motion Carried**

Motion by Mr. Egerter, seconded by Mr. Smith and unanimously carried by voice vote to adopt the minutes of the August 21, 2024, Joint Land Use Board Special Meeting, as written.

**Roll Call:**

**In Favor:** Mayor Glassner, Mr. Smith, Mr. Sprandel, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay and Mr. Pace.

**Opposed:**

**Abstain:** Mr. D’Urso.

**Motion Carried**

**PUBLIC COMMENT**

Chairman D'Urso opened the meeting to the public for questions and comments on items not included on the agenda or any pending applications. There being none, the public session was closed.

## COMPLETENESS

**19-24 Ben and Amy Heller**  
**105 Dean Rd**  
**Blk 702 Lot 12**

Mr. Ferriero summarized the completeness review letter dated September 25, 2024 where it was noted that there were waivers requested in the application. Mr. Ferriero stated that subject to the waivers the application can be deemed complete. Mr. Germinario reviewed the public notice and found it to be adequate to proceed.

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

### Roll Call:

**In Favor:** Mayor Glassner, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay and Mr. Pace.

### Opposed:

### Abstain:

### Motion Carried

**15-24 Banasiak & Nettune**  
**5 Cold Hill South, Unit 12C**  
**Blk 2701 Lot 5 QC012C**

Mr. Ferriero summarized the completeness review letter dated September 24, 2024 where it was noted that there were waivers requested in the application. Mr. Ferriero stated that subject to the waivers the application can be deemed complete.

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

### Roll Call:

**In Favor:** Mayor Glassner, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay and Mr. Pace.

### Opposed:

### Abstain:

### Motion Carried

## HEARING

**07-24 Thomas Veman-BEING CARRIED TO THE NOVEMBER 12, 2024 MEETING**  
**465 Cherry Lane**  
**Blk 2401 Lot 28**

**23-22 V-Fee Mendham Apartments- BEING CARRIED TO THE NOVEMBER 12, 2024 MEETING**  
**84-86-88 East Main Street**  
**Blk 801 Lot 20**

**19-24 Ben and Amy Heller**  
**105 Dean Rd**  
**Blk 702 Lot 12**  
**Present: Mr. Heller - Applicant**  
**Mr. Encin - Architect**

Mr. Heller was sworn in. Mr. Germinario reviewed the public notice and found it to be adequate to proceed.

Mr. Heller explained that he was seeking relief from a preexisting nonconforming front yard setback in order to put a second floor on their existing ranch. Mr. Heller noted that there are 2 pre-existing nonconforming items. Mr. Heller explained that the first is the lot area which they are in the ½ acre zone, and they only have .4 acres so that is a pre-existing condition and the front yard is currently setback 30.9 feet. Mr. Germinario asked if the 30.9 feet is to the porch. Mr. Heller stated that that was correct. Mr. Germinario asked if a portico was being proposed. Mr. Heller stated that a portico was being proposed and is consistent with neighboring properties. Mr. Germinario asked that in addition to the addition to the home a deck is being proposed. Mr. Heller explained that the existing deck has an odd configuration and is proposing squaring it off to make it more usable. Mr. Germinario asked if there were setback issues involved with the deck. Mr. Heller stated that there were not. Mr. Molnar asked if the surrounding properties were 2 stories. Mr. Heller stated that most are 2 stories. Mr. D'Urso asked what the 3<sup>rd</sup> level will be used for. Mr. Heller stated that he hopes to use it for office and storage space. Mr. D'Urso noted that it looks like a story and a half that is being proposed. Mr. Heller stated that it was incorrect but will have the architect talk about the calculations. Mr. Ferriero noted that 2 ½ stories are permitted. Mr. Ferriero stated that the proposed complies with the height and stories. Mr. Germinario asked if the area was going to be used as living space and Mr. Heller said he was not. Ms. Garbacz asked if there will be adequate room for construction since the property is close to the school. Mr. Heller noted that the equipment will be on his property. Mr. Pace asked if the setback issue was the portico. Mr. Heller explained that the whole house is pre-existing nonconforming. Mr. Pace asked if the addition would make it worse. Mr. Heller stated it wouldn't. Mr. Ferriero explained that it creates the need for a variance because it increases the nonconforming condition.

Mr. Encin was sworn in and qualified as a professional.

Mr. Encin described the existing conditions of the subject property and noted that the lot is undersized. Mr. Encin explained that the existing face of the front stoop is 30.9 feet off of the front yard and the existing face of the house is located at 34.8 feet off the street. Mr. Encin stated that they are seeking relief for the portico and entry vestibule that is being built on the existing front stoop which will not extend the nonconformity any further. Mr. Encin also stated that the proposed second story to the house is located in line with the face of the house which is currently at 34.8. Mr. Encin explained that this proposed second story extends the nonconformity upward but does not intensify. Mr. Germinario asked if the variance for the 30.9ft is sufficient. Mr. Encin explained that there is no need because it is an existing stoop.

Mr. Encin explained the proposed second floor plan that was submitted on sheet A3 which shows moving bedrooms upstairs, adding 2 bedrooms, a hall bathroom and laundry room. Mr. Encin explained the first-floor plan with the existing stoop with the entry vestibule with portico piece which is shown on sheet A2. Mr. Encin added that the rear right corner of the plan shows the existing deck with the clipped corner and squaring the corner off that is proposed to make it more usable. Mr. Encin noted that the attic space is to be used as storage and office space. Mr. Germinario asked if the existing dwelling has an attic. Mr. Encin stated that it has a shallow attic. Mr. Germinario asked if the existing is considered a 1 ½ story dwelling and Mr. Encin stated that it was. Mr. Sprandel asked how the attic stairwell is accessed. Mr. Encin stated that it is the same staircase currently going to the second floor that would go to the attic space. Mr. Sullivan asked if the attic was going to have windows and Mr. Encin stated that it would. Mr. Encin went on to summarize sheets A5. Mr. Smith asked for

clarification on the opening on the rear elevation. Mr. Encin explained that there was a cutout for storage off the back wall that was done by the previous owners. Ms. Traut asked if any work was being proposed on the deck off the existing bedroom that were shown in the submitted photos but were not shown on the plans. Mr. Encin stated, that portion of the house exists and there is no work proposed to that area. Mr. Encin noted that all other zoning requirements have been met other than the front yard. Mr. Encin noted that there are 2 story homes next to the subject property and on the street and the proposed is consistent with the streetscape. Mr. Encin explained that the benefit of creating something is more in keeping with the living standard and being consistent with the streetscape would outweigh any detriment. Mr. Germinario asked if there was a hardship with the current conditions considering the setback goes through the existing home. Mr. Encin stated that the existing home is nonconforming, and the setback goes through the house, so any work at all would require a setback. Mr. Encin noted that the proposed is working with the existing structure. Mr. Smith asked if the home was built before the current setback regulations. Mr. Encin stated that it was.

Chairman D'Urso opened the meeting to the public for questions and comments.

Mr. Daley, 9 Hoffman Rd. Mr. Daley asked if any of the proposed changes to the runoff. Mr. Ferriero stated that there is a minor increase in impervious coverage, which is the corner of the deck which is well below the standards for requiring anything and the applicant is below the maximum lot coverage.

Mr. McGreal, 11 Hoffman Rd. Mr. McGreal expressed concerns about the water in his backyard from a previous building being constructed. Mr. D'Urso noted that as Mr. Ferriero previously stated, the only increase to impervious is the corner of the deck. Mr. Ferriero noted that the increase is 22sq ft. Mr. Encin stated that proposing a second story was to not increase the impervious coverage.

There being no further questions, Chairman D'Urso closed public comment.

Mr. Ferriero suggested that if the application was approved by the Board that it be noted that the applicant can apply for the permits upon approval of the variance and can begin before the appeal process at his own risk.

Mr. Molnar made a motion to approve the application with conditions as outlined in the Resolution and was seconded by Mr. Smith

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, Mr. Kay and Mr. Pace

**Opposed:**

**Abstain:**

**Motion Carried**

**15-24 Banasiak & Nettune  
5 Cold Hill South, Unit 12C  
Blk 2701 Lot 5 QC012C**

**Present: Mr. Paparo – Attorney  
Dr. Banasiak – Applicant  
Mr. Gallerano, PE, PP – Engineer/Planner**

Mr. D'Urso asked for clarification on what revision was made to the application. Mr. Paparo noted there was a typo on the plan and the engineer will identify it.

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

Mr. Paparo asked if any Board member or family member of the Board were patients of the applicant.

Mr. Kay recused himself.

Mr. Paparo explained that the application is to seek a modification to a prior site plan approval condition that dated back to 1983 when the original project was approved which limited the square footage allowed for medical offices to 8640 sq ft. Mr. Paparo noted that for Mr. Banasiak to occupy one of the offices would increase the square footage to above that threshold. Mr. Paparo stated that they are seeking a modification to allow one of the vacant units to be occupied as a medical office. Mr. Paparo noted that in the prior approval spoke to where in the development medical could be located which was all medical would be located along Cold Hill Rd. Mr. Paparo stated that they couldn't find any reasoning in the resolution for location condition and with regards to the square footage restriction could only speculate that it may have been due to parking. Mr. Paparo stated that they were requesting a modification of the condition from 41 years ago to allow Mr. Banasiak to move from his current location to Jockey Hollow. Mr. Paparo noted that the applicant was not seeking any variances, there is no proposed construction. Mr. Paparo stated that there would be interior renovations for his dental practice.

Dr. Banasiak was sworn in.

Dr. Banasiak stated that he has been an orthodontist in Mendham for 20 years. Dr. Banasiak explained that the ability to own the space and more state of the office is the reasoning to move to Jockey Hollow. Dr. Banasiak noted that he has two locations and that he is in Mendham on Mondays and Wednesdays from 8am- 5pm with no weekend hours. Fridays are non-clinical days where no patients are seen but the staff is there to catch up on paperwork. Dr. Banasiak stated that he is the only orthodontist on staff along with 6-7 staff members. Dr. Banasiak stated that the clients are by appointment and there may be an emergency occasionally.

Mr. Paparo asked Mr. Banasiak what the error was on sheet A3. Mr. Banasiak stated that all clinical care will take place on the first floor and there is a basement where an office and some lab area. Mr. Paparo noted that the architect labeled consultation in the basement and Mr. Banasiak has no intention of having patients in the basement and would like to put it on the record. Mr. Banasiak stated that he has been to the location on many occasions and has friends that are dentists and has never noticed any parking issues. Mr. D'Urso asked how many parking spaces there are at the current location. Mr. Banasiak stated that there were 6. Mr. D'Urso asked if there would be 6 in the new location that the business would have access to. Mr. Banasiak stated that there would be access to at least 6. Mr. Germinario noted that the Planners' report stated that according to the square footage of the office space it meets the ordinance requirements. Ms. Traut asked if there are only appointments on Mondays and Wednesdays. Mr. Banasiak stated that it was correct.

Mr. Gallerano was sworn in and qualified as an expert.

Mr. Gallerano explained that on the original plan omitted the parking notes so a revised plan dated August 29, 2024 were submitted. Mr. Gallerano noted that the complex consists of 29 office condos and the main access is from Cold Hill S. Mr. Gallerano stated that 23 units are utilized as general offices and 6 are medical offices. Mr. Gallerano stated that the parking is throughout the complex and all of the units have access. Mr. Gallerano noted that there is no expansion or modification to the exterior of the unit or changes to the site amenities. Mr. Gallerano explained that the applicant is asking that the condition be amended to allow unit 5.12 to be used for medical purposes which would increase the medical use to 9800 square feet. Mr. Gallerano stated that unit 5.12 does not front on Cold Hill Rd so they are seeking to amend that condition as well. Mr. Gallerano noted that parking may have been the reason for the square footage conditions, but he is unsure as to why the frontage to Cold Hill was made a condition. Mr. Gallerano stated that there are currently 196 parking spaces and under the current conditions 185 are required by the ordinance. Mr. Gallerano stated that by adding the medical unit it would increase the demand to 195. Mr. Gallerano went out several times of day on different days of the week and found that the parking lot currently is being utilized at a 25% capacity and feels that the additional medical use will have no negative impact on the complex.

Mr. Egerter asked how many patients can be seen at one time. Mr. Banasiak noted that there are 6 operational and 1 consultation chair. Mr. Sprandel asked how many cars would typically be there at one time. Mr. Banasiak

stated that there are 6 spaces at his current location. Mr. Molnar asked if the spaces in the complex are designated. Mr. Banasiak stated they were not. Mr. Germinario pointed out that in the Planners report the 1983 conditions that were in the resolution were to be recorded in the master deed for the condo association. Mr. Paparo agreed. Mr. Germinario asked if the association agreed to this modification. Mr. Paparo stated that they were and if the Board was favorable of the application, the Master Deed would be amended to reflect the action of the Board. Mr. Germinario stated that if the Board was to approve the application there would be a condition of approval to work with the condo association to affect that amendment to the Master Deed.

Chairman D'Urso opened the meeting to the public for questions and comments. There being none, Chairman D'Urso closed public comment.

Mr. Sprandel made a motion to approve the application with conditions as outlined in the Resolution and was seconded by Mr. Egerter.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Sullivan, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, and Mr. Pace

**Opposed:**

**Abstain:**

**Motion Carried**

**ADJOURNMENT**

There being no additional business to come before the Board, Motion was made by Mr. Smith, and seconded by Mr. Sprandel. On a voice vote, all were in favor. Mr. D'Urso adjourned the meeting at 8:15PM.

Respectfully submitted,

*Lisa J. Smith*

Lisa Smith  
Land Use Coordinator