

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, May 17, 2022
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER/FLAG SALUTE

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 – Absent	Mr. Ritger – Present
Ms. Bushman – Present 7:45pm	Mr. Egerter – Absent
Councilman Andrew – Present	Mr. Kay- Alternate 1A- Absent
Mr. Paone – Present	Mr. Bradley – Alternate 2A - Absent
Mr. Smith – Absent	Ms. Garbacz – Alternate 3A - Present
Mr. Sprandel – Present	Mr. D’Urso– Alternate 4A - Present
Mr. Dick – Absent	Mr. Barker – Aternate1B – Absent
	Mr. Pace – Alternate 2B - Present

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

APPROVAL OF MINUTES

Motion by Mr. Pace, seconded by Mr. Ritger and unanimously carried by voice vote to adopt the Minutes of the April 19, 2022 Joint Land Use Board Regular Meeting, as presented.

ROLL CALL:

In Favor: Mr. Sprandel, Mr. Ritger, Ms. Garbacz, and Mr. Pace

Opposed:

Abstain: Councilman Andrew, Mr. Paone, and Mr. D’Urso

Motion Carried

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.

COMPLETENESS

JLUB #02-21

Racioppi
11 Sterling Ave
Block 704 Lot 7

Mr. Ferriero summarized his completeness letter dated September 27, 2021 for the application for a c variance approval for the construction of an inground pool and shed. Mr. Ferriero recommends that the application be deemed complete.

Motion by Mr. Paone, seconded by Mr. D'Urso and unanimously carried to deem the application complete.

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

In Favor: Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Ritger, Ms. Garbacz, Mr. D'Urso and Mr. Pace

Opposed:

Abstain:

The motion carried.

JLUB #06-22

Michael Peters
5 Demarest Dr.
Block 57 & 57.01

Mr. Ferriero summarized his completeness letter dated March 6, 2022 for the application for a subdivision which only modifies the lot line between two existing parcels. Mr. Ferriero recommends that the application be deemed complete.

Motion by Mr. Pace, seconded by Mr. Sprandel and unanimously carried to deem the application complete.

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

In Favor: Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Ritger, Ms. Garbacz, Mr. D'Urso and Mr. Pace

Opposed:

Abstain:

The motion carried.

JLUB #12-21

Paul Velez
7 Oak Forest Lane
Block 2401 Lot 31.04

Mr. Ferriero explained that this application is for a C variance for lot coverage. Mr. Ferriero stated that the lighting was removed from the application. Mr. Ferriero summarized his completeness letter dated January 31, 2022. Mr. Ferriero recommends that the application be deemed complete and if there is additional information needed, it can be brought up during the hearing. Mr. Ritger asked if there was any follow up on height of fence. Mr. Ferriero stated that this would be part of the application.

Motion by Mr. Paone, seconded by Ms. Garbacz and unanimously carried to deem the application complete.

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

In Favor: Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Ritger, Ms. Garbacz, Mr. D'Urso and Mr. Pace

Opposed:

Abstain:

The motion carried.

HEARINGS**JLUB #05-22**

James Molnar
32 Hilltop Rd.
Block 2001 Lot 3

Present: Mr. Molnar – Applicant

Mr. Molnar was sworn in.

Mr. Germinario stated that he has reviewed the public notices and they are in order and the Board has jurisdiction to hear this application.

Mr. Molnar explained that after the last meeting he had called his surveyor and found that their measurements were to the foundation and not the overhang which requires a variance. Mr. Molnar summarized his application for an addition. Mr. Sprandel asked if a whole wall would need to be moved to conform. Mr. Molnar explained that the addition would have to cut in an extra foot. Mr. Germinario asked if the other parts of the addition were approved by the Zoning Officer. Mr. Molnar stated that as far as he knew they were. Mr. Germinario stated that the only variance that was being requested was for the one corner of the house. Mr. Molnar agreed. Mr. Ferriero noted that there were comments in his report that could be conditions of approval. Mr. Ferriero stated that no separate approvals from NJDEP were necessary because there will be no additional disturbance. Mr. Ferriero stated that the conditions of approval would be the confirmation of the number of bedrooms that the Health Department will have to review. Mr. D'Urso asked about comment #4 on the technical review dated March 6, 2022. Mr. Ferriero explained that all of

the additions are in currently disturbed areas, it is allowed under a permit by rule and no further documentation is needed.

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

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

In Favor: Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Ritger, Ms. Garbacz, Mr. D'Urso and Mr. Pace

Opposed:

Abstain:

The motion carried.

JLUB #02-21

Racioppi
11 Sterling Ave
Block 704 Lot 7

Present: Mr. Racioppi– Applicant
Mr. Azzolini – Attorney
Mr. Clark – Engineer

Mr. Germinario stated that he has reviewed the public notices and they are in order and the Board has jurisdiction to hear this application.

Mr. Azzolini summarized the application for a variance to construct a shed and to install an inground pool and patio.

Mr. Racioppi was sworn in.

Mr. Racioppi explained that there was previously a shed on the property, but a branch hit the roof which caused damage. Mr. Racioppi stated that he didn't want to rebuild in the same location due to the trees and would like to build on the other side of the property where there are no trees. Mr. Racioppi explained that the reasoning for the pool installation was because the kids wanted it. Mr. Racioppi stated that during Covid they were unable to travel and if this were to happen again, the kids would have something to do.

Mr. Azzolini submitted pictures of the neighbors' properties into the record. Exhibit A-1 is a picture, from Google of 77 Dean Rd. of a shed that is on the property line. Exhibit A-2 is a package of 3 photos that two are from Google of 20 Gunther St. and one was taken two days before the hearing by Mr. Racioppi which shows a shed on the property line. Exhibit A-3 which is a packet of six photos of 46 Mountain Ave four of which were from Google and the other two were taken by Mr. Racioppi. Mr. Racioppi explained that these exhibits are similar to what he would like to build. Mr. Azzolini asked Mr. Racioppi if he was aware of the neighbors' concern with the stormwater management and the aesthetics regarding the placement of the shed. Mr. Racioppi stated that he was aware and is willing to install 10-14' arborvitaes down the whole side for instantaneous screening and whatever is necessary regarding the drainage. Mr. Germinario asked for more detail if this was going to be possible conditions of approval. Mr. Azzolini explained that on the revised copy of the plans showed the screening next to the shed and with respect to the stormwater, any increase will be testified to the Engineer, and he will make the representation on the record. Mr. Ferriero stated that 9 arborvitaes are shown on the plans, but the plans would have to be revised to reflect the height of 10-14' which Mr. Racioppi agreed to. Mr. Ferriero noted that the arborvitaes are in the gore area. Mr.

Racioppi stated that he already has plantings and a fence in the gore area. Mr. Germinario asked if there was any effort to determine if anyone has title to the gore area. Mr. Azzolini stated that they haven't, but the engineer has done research and Mr. Racioppi stated that the fence was there when the house was purchased and has maintained the area for almost 20 years. Mr. Germinario explained that a condition will be that the plantings can go in the gore area according to the plans but if someone comes forward and claims the area, the plantings will have to be moved onto Mr. Racioppi's property. Mr. Azzolini agreed. Mr. Paone asked what was planned use of the shed. Mr. Racioppi stated that it would be used for storage. Mr. Ritger asked if there will be anything other than lighting. Mr. Racioppi stated that there will only be interior and exterior lighting.

Mr. Sprandel asked why the building needs to be so tall and Mr. Racioppi stated that it was just for the aesthetics to match the house. Mr. Racioppi stated that if the height is an issue, he will lower it. Mr. D'Urso stated that the sheds that were given as exhibits were much smaller and lower than the one proposed. Mr. Azzolini explained that according to the Borough Ordinance, a shed could be built 20' high if it was within the setback and it is the setback that is creating the variance situation. Mr. Azzolini explained that the photos were to show location of the other sheds and how close they were to the property lines. Mr. D'Urso asked why the shed couldn't be moved closer to the pool so that it would not be in the setback. Mr. Ferriero stated that the shed would be compliant if it was moved 5.25'. Ms. Caldwell asked if there was a hardship the proposal. Mr. Azzolini stated that there wasn't, and this would be a C2 variance.

Mr. Clark was sworn in. Mr. Clark described his qualifications and background and was deemed an expert witness. Mr. Clark started off by explaining the gore on the northerly side of the property and what a gore is. Mr. Clark summarized the plans for the shed and the proposed height is 16' and the cupola is 3'. Mr. Ritger questioned if there will be plumbing in the shed and Mr. Clark stated that there was no plumbing proposed. Mr. Ritger asked why there are 2 PVC pipes coming out of the existing slab. Mr. Racioppi stated that they were for the conduit for the electric. Mr. Clark stated that to offset some of the coverage issues, the front walk will be replaced by a steppingstone walk to the front door and from the garage to the mudroom. Mr. Clark stated that the concrete pad that the AC unit was on has been removed. Mr. Clark summarized that application for the shed, pool and drywell behind the shed that is being proposed. Mr. Clark stated the back left corner of the house from the 2 roof leaders and the leaders from the shed will discharge into the drywell which will remedy the discharge that was a concern of the neighbors. Mr. Clark explained that there will be a passive drain along the edge to the 2 downhill sides of the pool area to pick up what runs off the pool surround which goes to the drywell. Mr. Paone asked the distance between the shed and the pool to the drain. Mr. Clark stated that it was approximately 20 feet. Mr. Clark stated that a row of 10-14' arborvitae is proposed along the fence on the north side of the property which will buffer the neighbor's view. Mr. Clark explained that the proposed stormwater management will not only manage the increase but a little extra with the house. Mr. Clark stated that Mr. Racioppi has expressed a willingness to increase the measures that would be appropriate.

Mr. Ritger asked how permits were issued for the house when it is non-conforming. Mr. Racioppi stated that the house was not modified. Mr. Azzolini asked Mr. Racioppi if the original shed was on the property when the original C of O was issued, and Mr. Racioppi stated that it was. Mr. D'Urso noted that the concrete pad was removed when the AC unit was moved but still needs to be counted in the coverage.

Mr. Azzolini asked, if necessary, could a few additional arborvitae be planted, and Mr. Clark agreed that additional arborvitae could be planted. Ms. Bushman asked for clarification that a drywell was being installed to offset the additional lot coverage so there will be no new net stormwater flowing freely. Mr. Clark stated that it was and there should be some improvement with the 8-foot diameter, 6-foot-high tank. Councilman Andrew asked if there was a fence proposed around the pool. Mr. Clark stated that there is already a fence around the property and there is no new fencing proposed. Mr. Paone asked if there is any hardscape proposed. Mr. Clark stated that there is a brick paver patio proposed that is on the plans which is calculated in the impervious coverage and listed as pool surround. Ms. Caldwell asked if there was a reason why the shed couldn't be placed closer to the pool. Mr. Clark stated that the main reason at this point is because some of the framework is there already. Ms. Caldwell asked if the amount of stormwater retention that is proposed is equivalent to the proposed increase. Mr. Clark stated that that is correct plus

additional stormwater management from the roof leaders from the back left corner house to address the concern of the neighbors. Ms. Caldwell stated that it was mentioned that the applicant was willing to increase the stormwater management and asked where the additional management would come from. Mr. Clark stated it would come from the house because the proposed already addresses the pool, shed and part of the house. Ms. Caldwell asked if the proposed drywell would be big enough and Mr. Clark stated that it would have to be sized based on how much of the roof will be captured. Mr. Paone asked if Mr. Clark was aware of any stormwater issue on the property. Mr. Clark stated that he had read an email from the neighbor that stated there was but had not seen anything. Mr. Paone asked if there was any stormwater mitigation on the property now and Mr. Clark stated that there was not. Mr. Paone asked if the proposed would be an improvement and Mr. Clark stated that it would be. Mr. Germinario asked how a portion of the foundation came to be. Mr. Racioppi stated that during Covid he started the project and thought that because there was already a shed previously there, he could put up another one. Mr. Ritger stated that the existing structure doesn't match the drawings because there is a 4x4 wood tie extending outside of the slab. Mr. Clark stated that he measured the only the slab and didn't include the wood tie. Mr. Racioppi stated that it was probably the form and will be removed.

Chairman Ritger opened the meeting to the public for questions regarding the application.

Mr. Smith of 14 Emery Ave. expressed concerns regarding the water coming from Mr. Racioppi's property. Mr. Clark explained that the water issue that exists will not get worse due to the proposed and would discuss with Mr. Racioppi to supplement the line of arborvitaes with another infiltration drain.

Ms. Frino of 14 Emery Ave. expressed concerns about the shed and the drainage issue.

Mr. Smith of 14 Emery expressed concern with the gore. Mr. Germinario stated that if the application is granted, there will be a condition that any plantings in the gore will be relocated if someone else establishes title. Mr. Smith asked if the proposed shed is the same size as what was started. Mr. Clark stated that it is the same size. Mr. Paone asked what the permissible height for a shed would be. Ms. Caldwell stated that it is 20 feet. Mr. Paone stated that the proposed is 16.5 feet plus the cupola would make the total 19.5 feet which is under the 20 feet allowed. Mr. Paone pointed out that if there were no application for a pool or shed, the water issue would still occur and that with this application there may be a way to improve that situation. Mr. Azzolini stated that Mr. Racioppi has indicated that he will do more than what is proposed on the plans.

Mr. Slutsky of 16 Emery Ave. expressed concerns about the stormwater and asked about the design of the drywell. Mr. Slutsky stated that he was concerned that if the drywell was designed for a 2-year storm and there is a 10-year storm, where will the water go. Mr. Clark stated that the drywell is designed to handle 3" of rainfall. Mr. Ferriero stated that the Mendham Borough stormwater ordinance is stricter than the DEP requires.

Mr. Jacobson of 9 Sterling Ave. explained that he has lived in his house for 30 years and prior to the Racioppi's building the new house there was no water in his yard and now there is ponding. Mr. Jacobsen asked if with the depth of the pool, would that cause damming of the water table. Mr. Clark explained that he would not expect that to happen with the water table.

Ms. Jacobson of 9 Sterling Ave. explained that since the new house went in, the runoff has been exacerbated due to the grading. Ms. Jacobsen asked if Mr. Clark noticed that the Racioppi's house sits higher than the surrounding houses. Mr. Clark stated that he surveyed the Racioppi's house, not the surrounding ones. Ms. Jacobson stated that in the calculations for the impervious coverage, the large fireplace was not included in the total and asked if when the revisions to the plans are done, will other items be added. Mr. Clark stated that the fireplace was added to the patio number on the plans. Ms. Jacobsen asked if an analysis of the water table will be done. Mr. Clark explained that a water table assessment will be done.

Mr. Widdiecomb of 13 Sterling Ave. asked Mr. Clark to explain the 7.3' strip of unclear title that is listed on the plans referred to as the gore. Mr. Clark stated that the gore is when the deeds to neither property

claim a piece of land. Mr. Widdiecomb asked where the current fence is in relation to the gore. Mr. Clark stated that 7.3' of the gore is on the Racioppi side of the fence. Mr. Ritger asked if there was a permit for the fence when it was replaced. Mr. Racioppi was unsure but stated that the current fence was in the same footprint as the previous one that was there when the property was bought.

Ms. Jacobson questioned whether the impervious coverage calculations took the gore into consideration. Mr. Clark stated that he did not use the gore in his calculations.

Mr. Ritger asked for clarification on the square footage of the portion of the plan marked brick paver patio. Mr. Clark stated that it is 863 sq ft. which includes the rectangle and the fireplace. Mr. Ritger asked the square footage of the pea gravel patio. Mr. Clark stated that he did not take that measurement, but it is pea gravel and not impervious. Mr. Ritger stated that the area is part of lot coverage and should be calculated. Mr. Racioppi stated that he will sod and put steppingstones in that area instead of the pea gravel.

Mr. Germinario asked if there were any other questions from the public. There being no further questions, the public comment session was closed.

Mr. Germinario opened the meeting to public testimony and explained that this is the time to put any facts into the record.

Ms. Frino was sworn in. Ms. Frino stated that she bought her house for 3 reasons. Mendham Borough houses retain their property value, school, and the character of the town. Ms. Frino explained that her house has a nice back yard that she doesn't like to use due to the construction of the fireplace and shed being constructed at the Racioppi property. Ms. Frino stated that the construction was started without permits and feels it was done as an act now and ask forgiveness later. Ms. Frino stated that the patio and fireplace were built without a permit. Mr. Ritger asked Mr. Racioppi if it was true that a permit was not issued. Mr. Racioppi stated that the patio was there, and he only extended it and there was no permit issued for the fireplace. Ms. Frino express concern with regards to the gore, the shed and the impervious coverage and asked the Board to consider the vision of the town.

Mr. Widdiecomb was sworn in. Mr. Widdiecomb explained that he owns a ranch home with a finish basement and is concerned about flooding. Mr. Widdiecomb feels that the property at 11 Sterling is already overdeveloped and further developing does not fit with the neighborhood. Mr. Widdiecomb was concerned that the patio and the grill were put in without permission and feels that the drainage items that were discussed will not be done. Mr. Widdiecomb feels the size and placement of the shed is inappropriate and an eye sore. Mr. Widdiecomb submitted a set of 6 photos taken approximately a month prior of the shed that were marked Exhibit W-1.

Mr. Jacobson was sworn in. Mr. Jacobson expressed concern regarding the calculation of impervious coverage and feels that the gore was included. Mr. Jacobson stated that he believes the previous shed was taken down because of the size of the house that was built and not because of a storm.

Mr. Germinario asked if there were any other testimony from the public. There being no further questions, the public testimony session was closed.

At 10:05 Mr. Ritger called a 5-minute recess. The Board reconvened at 10:10pm

Mr. Azzolini stated that after listening to the neighbor's testimony, Mr. Racioppi would like to offer the following concessions:

1. Move the shed 5' to the 15' setback on the left side of the property and still install the screening.
2. Reduce impervious coverage by 200-300 sq ft.
3. Turf the pea gravel patio

4. Install the additional recommended drainage in front of the arborvitae
5. Reduce the height of the shed by 1'

Councilman Andrew has concern with regards to the gore. Mr. Ritger stated that with the potential moving of the shed, the gore would no longer be an issue. Mr. Azzolini stated that the screenings would still be in the gore but would be moved if someone claimed title to the gore. Mr. Germinario explained that the setback variance has been eliminated by their proposal and the lot coverage and building coverage are the variances being decided on.

Mr. Pace asked what the height code was, and Mr. Ritger stated that it is 20' if it is inside the setback. Mr. Azzolini stated that the proposed shed would be 15' plus the cupola at 3' which totals 18'. Mr. Pace asked if the shed is being moved, could it be relocated to a better area on the property. Mr. Racioppi had concern with the trees. Mr. Ritger stated that as long as it's compliant and within the setback there's not much anyone can say. Mr. Azzolini explained that the side where the shed is has the gore which makes the shed setback 15' plus the 7' of the gore and would be 22' off Mr. Widdiecomb's property. Mr. D'Urso wanted to clarify that the overhang counts in the setback. Mr. Azzolini stated that the shed overhang would be at the 15' setback mark.

Mr. Ritger stated that the seat wall wasn't included in the impervious coverage. Mr. Sprandel would like to see new plans. Mr. Germinario stated that revised plans would be a condition of approval.

Mr. Paone asked how they came up with the number of 200-300sq ft of impervious coverage that they would remove. Mr. Azzolini explained that this was a ballpark number of items that can be removed. Mr. Paone asked from a lot coverage prospective, would Mr. Racioppi be willing to do the project without the shed. Mr. Racioppi stated he would rather eliminate the pool because the shed is needed.

Ms. Bushman asked if the cupola could be removed. Mr. Racioppi stated that he would remove the cupola. Ms. Bushman stated that with the cupola removed and the height reduced by 1' the shed is reduced by 4' total. Ms. Bushman questioned the engineer if one drywell would be used or two. Mr. Clark stated that it would likely be the one tank with additional stone added but will not know for sure until the numbers are run. Ms. Bushman wanted to clarify that the additional drainage would capture not only the additional impervious but also capture additional stormwater that may help abate the other issues expressed by the neighbors. Mr. Clark stated that that would be the goal. Ms. Bushman asked how the linear drainage that is to be installed will work. Mr. Clark stated that the water captured from that drain will go to the drywell which seeps slowly into the ground.

Mr. Ritger asked where the backwash from the pool will go. Mr. Ferriero stated that it against the DEP regulations to backwash into a drywell and would need to run across a grassy area to dilute the chlorine. Mr. Racioppi stated that he will backwash to the front of the property.

Mr. Ritger stated that he wasn't comfortable memorializing actions that were taken prior to approval. Mr. Germinario stated that any violations that occurred can and will be enforced by the Borough whether the application is approved or rejected. Mr. Germinario listed the conditions of approval.

1. Row of at least 9 arborvitae that will be 10-14' in height will be installed on the northwest corner of the property to screen the shed and effort would be made to supplement if possible.
2. Lot coverage calculations would be revised to include at least the AC units and seat wall and whatever else may be determined by the board engineer upon review.
3. Expansion of the drywell and the attempt to capture additional run off to the satisfaction of the board engineer.

4. There will be an additional linear infiltration drain in front of the row of arborvitaes in the rear of the property.
5. The structure will not be occupied or used as a pool house.
6. The present area of the pea gravel shall be sodded.
7. Shed will be moved to conform with the 15' setback which will be measured from the roof overhang.
8. Remove an additional 200 sq. ft of impervious coverage.
9. Reduce the height of the shed by one foot and remove the cupola.
10. Discharge of the pool backwash would be to the front yard grassed area.
11. Impervious coverage will be no greater than 24.5%.

Mr. Paone asked Ms. Caldwell to go over the criteria. Mr. Germinario stated that in the testimony, the applicant is basing this on the weighing of the benefit vs. the detriment which is a C2 variance. Ms. Caldwell stated that under the C2 you are looking at it as a better planning alternative and the benefits outweigh the detriments and a big part of that is a benefit to the public good. Ms. Caldwell stated that in her opinion the increase in the stormwater management and going above what was proposed can benefit the neighborhood and not just the applicant could be seen by the board as meeting that positive criteria.

Motion by Ms. Bushman made a motion to approve the application with conditions as outlined in the Resolution and was seconded by Mr. Paone.

ROLL CALL: The result of the roll call was 4 to 3 as follows:

In Favor: Ms. Bushman, Councilman Andrew, Mr. Paone, and Mr. Sprandel

Opposed: Mr. Ritger, Ms. Garbacz, and Mr. D'Urso

Abstain:

The motion carried.

JLUB #06-22

Michael Peters
5 Demarest Dr.
Block 57 & 57.01

Present: Mr. Simon – Attorney
Mr. Moschello – Engineer

Mr. Simon explained that a minor subdivision approval would be needed for the proposed lot line adjustment between the properties at 5 Demarest Dr. and 154 Talmage Rd. Mr. Simon stated that no additional lots are being created.

Mr. Moschello was sworn in. Mr. Moschello described his qualifications and background and was deemed an expert witness. Mr. Moschello entered exhibit A-1 titled minor subdivision exhibit, dated May 17, 2022 into the record which is a colored in version of the minor subdivision map that was previously submitted. Mr. Moschello proceeded to summarize the application for the lot line adjustment between 2 existing lots.

Mr. Simon asked Mr. Moschello if this application triggered any variances and Mr. Moschello stated that there are not. Ms. Garbacz asked the reasoning for the lot line adjustment.

Motion by Mr. Sprandel made a motion to approve the application with conditions as outlined in the Resolution and was seconded by Councilman Andrew. Mr. Simon explained that in Mr. Peters' moms last will and testament it provided that Mr. Peters could adjust the lot line up to 1 acre. Mr. Germinario stated that one condition would be #3 in Mr. Ferriero's report dated March 6, 2022 that states lot closure calculations and deeds should be submitted.

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

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

In Favor: Ms. Bushman, Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Ritger, Ms. Garbacz, and Mr. D'Urso

Opposed:

Abstain: Mr. Pace

The motion carried.

JLUB #12-21

Paul Velez
7 Oak Forest Lane
Block 2401 Lot 31.04

Chairman Ritger stated that the application is being carried at the applicants request to the July 19, 2022 meeting with no further notice required.

RESOLUTIONS

JLUB #16-21

Anna Hackman
2 Spring Meadow Lane
Block 1801 Lot 36.01

Mr. Germinario summarized the Hackman application and the conditions outlined in the resolution Ms. Bushman made a motion to memorialize the resolution and Mr. Pace seconded.

ROLL CALL:

In Favor: Ms. Bushman, Mr. Sprandel, Mr. Ritger, and Mr. Pace.

Opposed:

Abstain: Councilman Andrew, Mr. Paone, Ms. Garbacz, and Mr. D'Urso

The motion carried. The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD**RESOLUTION OF MEMORIALIZATION**

Decided: April 19, 2022
Memorialized: May 17, 2022

IN THE MATTER OF ANNA HACKMAN
"C" VARIANCE APPLICATION
BLOCK 1801, LOT 36.01
APPLICATION NO. JLUB #16-21

WHEREAS, Anna Hackman (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 3/28/22; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 4/19/22; 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 subject property is a 6.6 acre flag lot improved with a two-story frame dwelling and gravel driveway which accesses Spring Meadow Lane, a private road that connects to Heather Hill Way. The property is partially encompassed by existing 6-foot fencing, as well as neighboring fencing. The property is heavily wooded and contains a certified organic herb farm, which has sustained damage from deer.

2. The Applicant seeks to install an 8-foot fence to enclose the farm area within the property, in combination with existing fencing, with an access gate onto Spring Meadow Lane. The new fencing will be black aluminum lattice supported by black aluminum poles matching the existing fencing. A variance is required, since the maximum permitted fence height is 4 feet in the front yard and 6 feet in the side and rear yard.

3. The Applicant has submitted a mark-up of a property survey prepared by Yannacone, Villa & Aldrich, LLC, dated 4/29/05, showing the approximate location of the new fencing.

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

- Land Development Application, dated 10/1/21, prepared by Anna Hackman
- Checklist
- Project Description
- Certificate of Paid Taxes, dated 11/29/21
- Tax Map
- Certified Property Owners List

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 11/23/21 and 3/3/22

6. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

John Zaragoza, Fire Marshal, dated 2/1/22

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

- A-1 Photo of Existing Fencing
- A-2 Photo of Existing Fencing
- A-3 Gate Detail

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

Robert Gelber, spouse

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

After discussing the feasibility of connecting the new 8-foot fencing with existing neighboring fencing, the Applicant agreed to simply install her own new fencing around the garden area within the property. As recommended by the Board Engineer, the Applicant will stake out the vertices of the fencing and run string between them to establish the new fence perimeter, in conjunction with her surveyor and with input from the Board Engineer. The Borough Construction Department or Zoning Officer would then inspect and approve the fence line so designated. The Applicant expressed her intention to have the gate design approved by the Fire Marshal prior to installation.

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

By reason of the location and size of the subject property, and the organic farming enterprise conducted thereon, the strict application of Ordinance fence height requirements would result in peculiar and exceptional difficulties to, and impose exceptional and undue hardship upon the Applicant. Therefore, the grant of the Variance is warranted pursuant to N.J.S.A. 40:55D-70c(1) so as to relieve such difficulties and hardship.

The detriments associated with the deviation are considered minimal because the existing dense forest and vegetation will effectively screen the 8-foot fencing from neighboring properties, and the proposed fence line will not have the effect of channeling deer onto public roads and/or neighboring properties.

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(1).

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. Applicant shall, in conjunction with her surveyor and with input from the Board Engineer, stake out the corners/vertices of the new 8-foot fence line and connect the stakes with string/twine to demarcate the fence lines. The Borough Construction Department or the Zoning Officer shall then inspect and approve the marked fence line before fence installation.

2. The new 8-foot fencing shall be black welded aluminum lattice with approximate 2 x 4" openings and black aluminum poles, and it shall match existing fencing to which it is connected.

3. The gate design must be approved both as to structure and function by the Borough Fire Marshal prior to installation.

4. Along the Spring Meadow Lane, the new fence line shall be located between the trees along the street and the dwelling.

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 Joint Land Use Board memorializing the action taken by the Board at its meeting of 4/19/22.

Lisa Smith
Board Secretary

JLUB #03-22

Wolfmeyer
75 West Main Street
Block 201 Lot 25

Mr. Germinario summarized the Wolfmeyer application and the conditions outlined in the resolution. Ms. Bushman made a motion to memorialize the resolution and Mr. Pace seconded.

ROLL CALL:

In Favor: Ms. Bushman, Mr. Sprandel, Mr. Ritger, and Mr. Pace.

Opposed:

Abstain: Councilman Andrew, Mr. Paone, Ms. Garbacz, and Mr. D'Urso

The motion carried. The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD**RESOLUTION OF MEMORIALIZATION**

Decided: April 19, 2022
Memorialized: May 17, 2022

IN THE MATTER OF DAVID AND CATALINA WOLFMEYER
"C" VARIANCE APPLICATION
BLOCK 25, LOT 201
APPLICATION NO. JLUB #03-22

WHEREAS, David and Catalina Wolfmeyer (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 1/14/22; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 4/19/22; 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 21,723 square feet (0.499 acres) and is located in the 1-Acre Residential zoning district. The Property size and width (75.01 feet) are pre-existing non-conforming conditions. The Property currently contains a single-family dwelling, detached garage, driveway, walkway, patio and other related site improvements.

2. The Applicants are proposing to demolish the existing detached garage and replace it with a new detached garage in generally the same location. The Applicants are also proposing to enlarge the turn-around area of the driveway in front of the proposed garage. The Applicants are requesting a bulk variance from the Mendham Borough Zoning Ordinance to permit the west side yard setback to the proposed garage to be 3 feet, where 20 feet is required and the existing garage is setback 2.1 feet.

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

- Variance Plans, consisting of two sheets revised through 12/8/21, prepared by Robert J. Scialla, Architect

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

- Letters, dated 1/14/22, 4/6/22 and 4/13/22, with attachments, prepared by Nicole Magdziak, Esq.
- Land Development Application, dated 1/14/22, prepared by Nicole Magdziak, Esq.
- Site Inspection form, dated 1/14/22, prepared by Nicole Magdziak, Esq.
- Checklist
- Project Description
- Property Owners List
- Historic Preservation Commission approval letter, dated 10/20/21
- Zoning Officer's Denial Letter, dated 11/15/21
- Certificate of Paid Taxes, dated 12/10/21
- Property Survey, dated 9/7/17, prepared by Charles E. Saladin, Jr. PLS
- Tax Map

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 3/5/22

6. Borough officials and/or agencies have submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Scott Van Arsdale, Historic Preservation Commission,
dated 10/20/21

Neil Schetelick, Zoning Officer, dated 11/15/21

7. In the course of the public hearings, no exhibits were marked and are part of the hearing record.

8. 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:

Robert Scialla, Architect
David Wolfmeyer, Applicant
Catalina Wolfmeyer, Applicant

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

The Applicant testified to the need for a new two-car garage with an expanded turn-around area so that their cars would not need to back out onto West Main Street, which is a safety hazard. The property is in the Historic District, and the design of the new garage has been approved by the Borough Historic Preservation Commission. Architect Scialla testified that extreme

narrowness of the lot (75' wide x 1200' deep) constrains the location of the new garage if a usable backyard is to be preserved. Since the existing garage lies within the setback and the existing driveway is aligned with it, relocating the new garage out of the setback would require a significant realignment of the existing driveway, thereby increasing the lot coverage.

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

By reason of the extreme narrowness of the subject property, the strict application of Ordinance side yard setback would result in peculiar and exceptional difficulties to, and impose exceptional and undue hardship upon the Applicant. Therefore, the grant of the Variance is warranted pursuant to N.J.S.A. 40:55D-70c(1) so as to relieve such difficulties and hardship.

The 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 insofar as the new garage and expanded turn-around area will improve safety by eliminating the current backing out of vehicles onto West Main Street.

The detriments associated with the deviation are considered minimal because the new side yard setback will be approximately the same as the setback of the existing garage.

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(1) and 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. Revised drawings shall adjust the side yard setback of the new garage to account for the 18" garage roof overhang, so that the roof overhang shall be no more than 2.1 feet from the side property line.

2. Revised drawings shall adjust the lot and building coverages to account for the demolition of the existing garage.

3. Revised drawings shall include a garage floor plan with roof overlay.

4. The lot coverage calculations shall be clarified to show the total increase in impervious coverage. If the increase exceeds 1,000 square feet, stormwater management will be required.

5. Any downspouts shall be directed into the subject lot and not towards adjoining lot 24.

6. The approval signature block shall include lines for the Land Use Board Chairman, Secretary and Engineer

7. 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.

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

9. 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.

10. 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 4/19/22.

Lisa Smith
Board Secretary

DISCUSSION ITEMS

Mr. Ritger suggested that members should go visit the properties of the upcoming applications.

ADJOURNMENT

There being no additional business to come before the Board, motion was made by Councilman Andrew, seconded by Mr. Paone. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 11:10PM.

The next meeting of the Board will be held on Tuesday, June 21, 2022 at 7:30 PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator