

**MINUTES OF THE  
MENDHAM BOROUGH JOINT LAND USE BOARD  
REGULAR MEETING  
Tuesday, July 19, 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 – Present  
Ms. Bushman – Present  
Councilman Andrew – Present  
Mr. Paone – Present  
Mr. Smith – Present  
Mr. Sprandel – Absent  
Mr. Dick – Present

Mr. Ritger – Present  
Mr. Egerter – Absent  
Mr. Kay- Alternate 1A- Present  
Mr. Bradley – Alternate 2A - Present  
Ms. Garbacz – Alternate 3A - Absent  
Mr. D’Urso– Alternate 4A - Present  
Mr. Barker – Alternate 1B – Absent  
Mr. Pace – Alternate 2B - Absent

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

**APPOINTMENTS/OATHS OF OFFICE**

Mr. D’Urso was appointed as the Planning Board Liaison to Environmental Commission.

**APPROVAL OF MINUTES**

Motion by Mr. Paone, seconded by Mr. D’Urso and unanimously carried by voice vote to adopt the Minutes of the May 17, 2022 Joint Land Use Board Regular Meeting, as presented.

**ROLL CALL:**

**In Favor:** Ms. Bushman, Councilman Andrew, Mr. Paone, Mr. Ritger, and Mr. D’Urso

**Opposed:**

**Abstain:** Mr. Smith, and Mr. Dick, Mr. Kay, and Mr. Bradley

**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 #10-22**

Colin & Diane Rutt  
7 New St.  
Block 1903 Lot 4

Mr. Ferriero summarized his completeness letter dated June 20, 2022 for the application where only a minor number of waivers were requested. Mr. Ferriero recommends that subject to the board granting the waivers the application be deemed complete.

Mr. D'Urso recused himself

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

**ROLL CALL:** The result of the roll call was 9 to 0 as follows:

**In Favor:** Mayor Glassner, Ms. Bushman, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Dick, Mr. Ritger, Mr. Kay, and Mr. Bradley.

**Opposed:**

**Abstain:** Mr. D'Urso

The motion carried.

**HEARINGS****JLUB #12-21**

**Paul Velez**  
7 Oak Forest Lane  
Block 2401 Lot 31.04

**Present:** Mr. Velez – Applicant  
Mr. Bergman - Attorney

Mr. Velez was sworn in.

Mr. Bergman gave an overview of the existing conditions and proposed sport court. Mr. Bergman explained that the lighting was removed from the application, the height of the fence on the 3 sides were reduced to 63", the batting cage will be removed, and the size of the sport court will be reduced by approximately 40 sq.ft.

Mr. Bergman asked Mr. Velez about items that were on the property that impacted the impervious coverage. Mr. Velez testified that he received approval for the greenhouse that is on the property and that the batting cage will be removed. Mr. Velez stated that he has discussed this application with his neighbors and has adjusted his application to address the neighbors' concerns. Mr. Velez explained that the sport court is a court that has basketball, volleyball, tennis, and pickle ball. Mr. Velez stated that the court will be used for only the family.

Mr. Germinario asked Mr. Bergman to explain the basis for the variance. Mr. Bergman stated that this application is for a hardship since the owners can't use the property for what it was purchased for, which is the enjoyment for the family. Ms. Caldwell asked if there was any other consideration made in the reduction of impervious coverage other than the batting cage. Mr. Velez stated that other than the greenhouse, which was only put in a couple of years prior, there is a pool, garage, and patio. Mr. Velez explained that impervious coverage was new to him, and that Astroturf was considered impervious coverage was new to him and his contractors. Mr. Dick asked if the overage on coverage was 3.1%. Mr. Velez stated that the new net would be 3.19% over the 10% allowed. Mr. Bergman stated that existing today the property is 11.9% and the additional would be 1.29%. Mr. Ritger asked what the proposed total square footage would be. Mr. Bergman stated that it is 29283 sq. ft. proposed. Mr. Germinario stated that there was a discrepancy from the proposed amount in the letter dated May 25, 2022 and if the application is approved, new calculations would have to be submitted and verified by the Board engineer. Mr. D'Urso questioned the location of the wetlands in relation to the sport court. Mr. Ferriero explained that the wetlands area that was identified was based on the DEP generalized map. Mr. Ferriero stated that the applicant had a wetlands consultant look at the location and completed an analysis that concluded that there are no wetlands would not be impacted. Mayor Glassner questioned if the stormwater runoff was adequately being addressed. Mr. Ferriero stated that the analysis was done on the new impervious and what has not been dealt with is the mitigation. Mr. Ferriero explained that as opposed to taking down a structure, is there a way to deal with the additional impervious by capturing that in the stormwater management. Mr. Ferriero suggested leaders from the garage be directed into a drywell which would compensate for some of the excess coverage. Mr. Ritger stated that the court is surrounded by a drywell with a grate and a channel running all the way around. Mr. Ritger questioned whether 20 years from now, would the drywell be fully functional to accommodate what rain falls on the court. Mr. Ferriero stated that it meets the standard. Mr. Ritger asked how it would fail and Mr. Ferriero explained it could be clogged with sediment. Mr. Bradley stated that that area is 5 acre lots and wouldn't have the same drainage issues as the more developed areas of town. Mr. Paone explained that the proposed drywell will handle the court and asked if there could be additional drainage to make up for the existing overages. Mr. Velez stated that there have been no runoff problems and in fact there is a drainage system for the pool and patio which was installed prior to purchasing the home. Ms. Caldwell stated that the basis of this variance could be a C2, which means the benefits outweigh the detriments, if the Board finds that the proposed drainage provides enough of a benefit to the public. Mr. Germinario asked if Mr. Ferriero suggestion for an additional dry well to mitigate would constitute the C2. Mr. Ferriero explained that it would mitigate the additional runoff. Mr. Ferriero explained that the proposed drywell only handles the runoff from the court and does not address the preexisting overage. Mr. Velez agreed to connect the downspouts from the detached garage to a new drywell.

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

Mr. Badenhause stated that he would like the following items memorialized.

1. The Court will be used for personal use only
2. No speaker system be installed
3. No lighting
4. Change to the fence height
5. Batting cages removed

Mr. Badenhause was sworn in. Mr. Badenhause testified that he owns the property behind the Velez's. Mr. Badenhause stated that there is not water issues on his property and is completely dry.

Mr. Berman stated that Mr. Velez has no objections to Mr. Badenhause's requests.

Chairman Ritger asked if there was any further public comment. Seeing and hearing none, public comment was closed.

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

**ROLL CALL:** The result of the roll call was 10 to 0 as follows:

**In Favor:** Mayor Glassner, Ms. Bushman, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Dick, Mr. Ritger, Mr. Kay, Mr. Bradley, and Mr. D'Urso.

**Opposed:**

**Abstain:**

The motion carried.

**JLUB #10-22**

Colin & Diane Rutt  
7 New St.  
Block 1903 Lot 4

**Present:** Mr. & Mrs. Rutt– Applicants

Ms. Alfonso – Attorney

Mr. Skrable – Engineer

Mr. D'Urso recused himself.

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

Ms. Alfonso summarized the application for a lot coverage variance to install an inground pool, spa, and small patio area and part of the relief was granted by resolution memorialized on November 8, 2006 .

Mr. Ritger asked for clarification on the percentages of lot coverage.

Mr. Skrable was sworn in. Mr. Skrable described his qualifications and background and was deemed an expert witness.

Mr. Skrable explained the percentage of existing lot coverage is 33.7% and proposed lot coverage would be 41.9%.

Ms. Alfonso stated that the proposed drywell will handle approximately 100 sq ft more than what is required. Mr. Germinario asked how much of the proposed was granted in the previous application. Ms. Alfonso stated over 1000 sq ft. and there are existing drywells that were associated with the previous approval. Mr. Skrable stated that the drainage is designed as a perimeter drain around the pool patio with a perforated pipe in the stone which drain to cultec units. Mr. Skrable summarized the calculations listed on the plan.

Mr. Ferriero wanted to clarify that the additional 88 cu ft. of storage in the drywell is the equivalent of storing 352 sq ft of additional impervious coverage.

Mr. Ritger stated that an equipment and generator pad are also being proposed which is approximately an additional 50 sq ft. Mr. Skrable broke down the 1678 sq ft of proposed impervious coverage to include the equipment and generator pad, the pool and spa, the deck and coping. Mr. Skrable explained the existing and proposed landscaping.

Mr. Skrable explained the reasoning for the C2 variance which is the property is narrow and sloped. Mr. Skrable stated that they looked at things that could be removed and there are none other than the patio that

is being removed. Mr. Germinario stated that this wasn't a hardship, but the testimony was the stormwater improvements will be capturing more than what is being added. Mr. Skrable confirmed. Mr. Skrable stated that the public benefit is the additional drainage over and above what is necessary for the application and the additional landscaping.

Mr. Ferriero questioned how they plan to do the construction with the small opening to get to the back of the property. Mr. Skrable suggested the access for the construction to be on the side of the garage.

Mr. Rutt was sworn in. Mr. Rutt consulted with the pool contractor regarding access, and they are an excavator that will fit in the area initially proposed. Mr. Ferriero stated that plan approval from Morris County Soil Conservation is needed and what ever access is going to be used is going to have to be on that plan.

Mr. Ritger pointed out that the increase to the lot coverage is substantial. Mr. Paone asked what the public benefit would be, and Mr. Germinario explained that the proposed is capturing more stormwater than the additional improvements will generate. Ms. Caldwell stated that there are no negative visual impacts due to the screening and the proposed is in the back yard. Mayor Glassner asked if there were any reactions from the neighbors. Mr. Rutt stated he spoke with the neighbors and received no objections. Mr. Rutt stated that there would be no lighting or speakers.

Mr. Bradley stated that when the area was developed there was run off issues. Mr. Smith stated that there is a high-water table.

Mr. Germinario asked if the surrounding neighbors have these items and Mr. Rutt stated that the neighbor directly to the rear of the property has a pool.

Mr. Smith stated that even though the coverage is high there is minimal visual impact.

Ms. Alfonso stated that this house is in the Historic District and the commission looked at the application and did not want to review this application. Mayor Glassner asked for the reasoning and Ms. Alfonso stated that the proposed was not visible from the street and the aesthetics of the home were not being changed.

Chairman Ritger opened the meeting to the public for questions or comments. There being none, the public session was closed.

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

**ROLL CALL:** The result of the roll call was 4 to 2 as follows:

**In Favor:** Ms. Bushman, Councilman Andrew, Mr. Smith, and Mr. Dick.

**Opposed:** Mr. Paone, Mr. Ritger

**Abstain:** Mayor Glassner

The motion carried.

## **RESOLUTIONS**

### **JLUB #05-22**

James Molnar  
32 Hilltop Rd.  
Block 2001 Lot 3

Mr. Germinario summarized the Molnar application and the conditions outlined in the resolution Mr. Paone made a motion to memorialize the resolution and Mr. D'Urso seconded.

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

**Opposed:**

**Abstain:** Mayor Glassner, Mr. Smith, Mr. Dick, Mr. Kay, and Mr. Bradley

**The motion carried. The resolution follows.**

**BOROUGH OF MENDHAM JOINT LAND USE BOARD**

**RESOLUTION OF MEMORIALIZATION**

**Decided: May 17, 2022**

**Memorialized: July 19, 2022**

**IN THE MATTER OF JAMES and ANNE MOLNAR**

**"C" VARIANCE APPLICATION**

**BLOCK 2001, LOT 3**

**APPLICATION NO. JLUB #05-22**

**WHEREAS**, James and Anne Molnar (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 1/27/22; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 5/17/22; 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 4.7 acres located in the 1-Acre Residential Zone, improved with a single story brick ranch dwelling with attached 2-cr garage and driveway.

2. The improvements to the subject property for which the Variance relief is sought comprise conforming additions to the dwelling and a garage addition having a roof overhang extending 2 feet into the northerly side yard setback, for which a variance is required. The existing garage setback from the roof overhang is 21 feet, while the proposed setback will be 23 feet, where minimum 25 feet is required.

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 eight sheets, dated 12/2/21, prepared by Robert E. Coleman, Architect

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

- Land Development Application, dated 1/27/22, prepared by James Molnar
- Site Inspection form, dated 1/24/22, prepared by James Molnar
- Checklist
- Property Owners List
- Sewer Connection Application, dated 1/24/22, prepared by James Molnar
- Site Photos
- Zoning Officer's Denial Letter, unsigned
- Certificate of Paid Taxes, dated 1/24/22
- Property Survey, dated 3/29/21, prepared by Andrew A. Schmidt, 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, dated 3/5/22

6. In the course of the public hearings, the Applicant represented himself, and the Applicant presented his own testimony, which testimony is part of the hearing record.

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

Applicant James Molnar testified that the existing garage roof overhang is setback 21 feet from the northerly side lot line; while the proposed garage addition roof overhang will be setback 23 feet, where minimum 25 foot side yard setback is required by Ordinance §215-28 and Schedule II.

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

Since the proposed garage addition would result in the side yard setback becoming more conforming, 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 215-28. There are no detriments resulting from this Variance.

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. The existing dwelling is served by an onsite septic system. The number of existing and proposed bedrooms shall be provided. Any increase in bedrooms may result in the need for a septic system alteration, as shall be determined by the Borough Health Department.

2. 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.

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

4. 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.

5. 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 5/17/22.

**JLUB #02-21**

Racioppi  
11 Sterling Ave  
Block 704 Lot 7

Mr. Germinario summarized the Racioppi application, and the conditions outlined in the resolution. Mr. Paone made a motion to memorialize the resolution and Councilman Andrew seconded.

**ROLL CALL:**

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

**Opposed:**

**Abstain:** Mayor Glassner, Mr. Smith, Mr. Dick, Mr. Ritger, Mr. Kay, Mr. Bradley, and Mr. D'Urso

**The motion carried. The resolution follows.**

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

*Decided: May 17, 2022*

*Memorialized: July 19, 2022*

**IN THE MATTER OF TODD and LISA RACIOPPi**  
**"C" VARIANCE APPLICATION**  
**BLOCK 704, LOT 7**  
**APPLICATION NO. JLUB #02-21**

*WHEREAS, Todd and Lisa Racioppi (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 3/7/22; and*

*WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 5/17/22; 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 located on Block 704, Lot 7 in the ½-Acre Residential Zone, where the existing use on the site is permitted. The property is developed with a two-story single-family dwelling, a brick paver patio, pea gravel patio, and an outdoor fireplace on 0.72 acres. No fencing is proposed around the proposed swimming pool, however, there is an existing vinyl fence that encloses the entire rear yard. According to Section 195-48B, buffers, including fences, landscaping, berms and mounds, shall be used to minimize any adverse impacts or nuisances from the site to adjacent areas. The Applicant is proposing a landscaped screen between the shed and the side property line consisting of Green Giant Arborvitae evergreens. There are existing evergreen trees along the rear property line.*

*2. The improvements to the subject property for which the Variance relief is sought comprise a 16' by 32' in-ground pool and 21'2" by 11'-4" shed in the rear yard of the subject property. While the application as originally filed involved a side yard setback variance for the*



shed, during the course of the hearing, the Applicant stipulated that the shed would be reduced in height and relocated to a conforming location outside the side yard setback. The remaining variances are for lot coverage (19.1% existing, 24.5% proposed, 20% maximum allowed) and building coverage (9% existing, 9.8% proposed, 8.9% maximum allowed).

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

- Architectural Plan, revised through 10/16/20, prepared by Douglass Asral, AIA
- Variance Plan, revised through 7/6/21, prepared by Andrew B. Clarke, PLS, PE
- Topographic Survey, revised through 7/6/21, prepared by Andrew B. Clarke, PLS, 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 8/19/21, prepared by Todd Racioppi
- Checklist
- Certificate of Paid Taxes/Sewer fees, undated
- Zoning Officer's Denial Letter, dated 11/2/20
- Property Owner's Consent, dated 8/19/21, prepared by Todd Racioppi
- Application Addendum
- Cover Letter, dated 7/6/21, prepared by Andrew B. Clarke, PLS, PE
- Draft of Notice
- Tax Map
- Site Inspection Form, dated 8/19/21, prepared by Todd Racioppi
- 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, dated 3/18/21 and 9/27/21  
Jessica Caldwell, PP, dated 5/11/22

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 Marshall, dated 3/12/21

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

A-1 Google photo of nearby shed  
A-2 3 Google and Applicant photos of nearby shed  
A-3 6 Google and Applicant photos of nearby shed  
W-1 6 photos taken by owner of Lot 8 showing his view of Applicant's partially constructed shed

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

Todd Racioppi, Applicant  
Andrew Clarke, PE, PLS

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

Applicant Todd Racioppi testified that he bought the subject property 6 years ago, at which time there was an existing shed on the south side of the property beneath large trees on the neighboring lot. When a subsequent storm brought large limbs down upon that shed damaging it, he had it demolished and undertook the construction of another shed without permits, for which shed a stop work order was issued. The partially constructed shed is 9.75 ft. from the northerly lot line and encroaches on the 15 ft. side yard setback. The shed height is 16 ft. with a 3 ft. cupola.

Applicant's engineer Andrew Clarke, PE, PLS, testified regarding the Variance Plan (revised through 7/6/21). He pointed out a 7.3 ft. gore between the subject property and Lot 8 to the north, which he opined would mitigate the visual impact of the shed's side yard setback encroachment. He stated that the shed would have electricity, but no plumbing and would have no occupancy. Regarding impervious coverage increase, he opined that it would be partly offset by removal of some front walkway pavers and that it would be mitigated by an inlet to which

pool/surround and shed runoff would be directed. Per the revised plan of 7/6/21, a new row of Green Giant arborvitae will be planted, at height of 10-14 feet, along the northerly side property line to screen the shed.

In response to Board comments and questions, the Applicant agreed to relocate the shed outside the required 15 ft. side yard setback and to reduce the overall height by 4 ft., comprising a 1 ft. reduction in the height of the shed itself and elimination of the 3 ft. cupola. The Applicant also agreed to additional mitigating measures, which are incorporated in the conditions of this Resolution.

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

With the plan revisions agreed to by the Applicant, the Board finds that the remaining deviations for lot coverage and building coverage will be offset by the proposed improvements to drainage and stormwater control, which will benefit the general welfare in accordance with the purposes of the Municipal Land Use Law.

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. The partially constructed shed shall be demolished and relocated between the pool and the northerly property line a minimum of 15 ft. from the lot line, as measured from the roof overhang. The foundation of the demolished shed shall be completely removed and restored to lawn.

2. The replacement shed shall have a height not to exceed 15 ft. and no cupola.

3. The shed shall not be equipped with plumbing and shall neither serve as a pool house nor be occupied.

4. A linear infiltration drain shall be provided in front of the existing row of Green Giant Arborvitae along the rear property line, the design of which shall be approved by the Board Engineer.

5. The existing row of Green Giant Arborvitae along the rear property line shall be supplemented to the extent feasible.

6. Per the revised plan of 7/6/21, a new row of Green Giant Arborvitae will be planted, with a minimum planting height of 10 feet, along the northerly side property line to screen the shed.

7. The drywell shall be upsized to capture additional runoff from the dwelling's roof leaders, as required by the Board Engineer.

8. Lot coverage shall be revised, to the satisfaction of the Board Engineer, to include, without limitation, AC units and seat wall.

9. Pea gravel areas shall be sodded.

10. An additional 200 sf. Of impervious coverage shall be removed, provided that the revised lot coverage shall not exceed 24.5%.

11. All pool backwash shall be discharged to the front yard grassed area.

12. The drywell detail needs to be modified to show the filter fabric on the top and sides only. There shall be no fabric on the bottom of the excavation.

13. The minimum slope for the collection pipes shall be added to the plans.

12. 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.

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

14. 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.

15. 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 5/17/22.

#### **JLUB #06-22**

Michael Peters  
5 Demarest Dr.  
Block 57 & 57.01

Mr. Germinario summarized the Peters application and the conditions outlined in the resolution Mr. D'Urso made a motion to memorialize the resolution and Councilman Andrew seconded.

#### **ROLL CALL:**

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

#### **Opposed:**

**Abstain:** Mayor Glassner, Mr. Smith, Mr. Dick, Mr. Kay, and Mr. Bradley

**The motion carried. The resolution follows.**

#### **BOROUGH OF MENDHAM JOINT LAND USE BOARD**

#### **RESOLUTION OF MEMORIALIZATION**

**Decided: May 17, 2022**  
**Memorialized: July 19, 2022**

**IN THE MATTER OF MICHAEL PETERS**  
**MINOR SUBDIVISION APPLICATION**  
**BLOCK 2001, LOTS 57 and 57.01**  
**APPLICATION NO. JLUB #06-22**

**WHEREAS**, Michael Peters (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 2/9/22; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 5/17/22; 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 two adjoining lots: Lot 57, fronting on Talmage Road, consisting of 135,087 sf, and Lot 57.01, fronting on Demarest Drive, consisting of 43,559 sf. Both lots are improved with 1½ story frame dwellings. Lot 57 has existing non-conformities for front yard setbacks from the dwelling and the detached garage.

2. The Applicant seeks minor subdivision approval to relocate the common lot line between Lots 57 and 57.01 approximately 160 feet to the south, thereby transferring 0.89 acres from Lot 57 to Lot 57.01. No variances are required in connection with this lot line adjustment, and the existing front yard setback non-conformities on Lot 57 are not affected. New Lot 57 will contain 93,302 sf and new Lot 57.01 will have 82,344 sf.

3. The Applicant has submitted the following documents that depict and/or describe the proposed lot line adjustment:

- Minor Subdivision Plan, dated 10/25/21, prepared by Kurt T. Hanie, PLS

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

- Land Development Application, dated 12/27/22, prepared by Michael Peters
- Site Inspection form, dated 12/27/21, prepared by Michael Peters
- Checklist
- Property Owners List
- Certificate of Paid Taxes, dated 2/7/22

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, dated 3/6/22

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 Marshall, dated 1/15/22

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

A-1 Minor Subdivision Exhibit, dated 5/17/22

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

Robert Moschello, PE

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

Mr. Moschello testified that the proposed lot line adjustment will relocate the common lot line between Lots 57 and 57.01 approximately 160 feet to the south, thereby transferring 0.89 acres from Lot 57 to Lot 57.01. No variances are required in connection with this lot line adjustment, and the existing front setback non-conformities on Lot 57 are not affected. New Lot 57 will contain 93,302 sf and new Lot 57.01 will have 82,344 sf.

10. Based on the hearing record, the Board has made the following findings and conclusions relative to the Applicant's minor subdivision:

Since no new variances will be created by this lot line adjustment, it is legally entitled to an approval.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the minor site plan application.

*This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to filing of the minor subdivision deeds:*

*1. Lot closure calculations and deeds shall be submitted for review and approval by the Board Engineer prior to filing minor subdivision deeds.*

*2. Minor subdivision deeds shall be reviewed and approved by the Board's Attorney and Engineer prior to filing. Deeds shall include the following recital: "Pursuant to N.J.S.A. 40:55D-47, the minor subdivision referred to in the within Deed was approved by the Mendham Borough Joint Land Use Board on 5/17/22 and memorialized by Resolution on 6/21/22.*

*3. 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.*

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

*5. 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.*

*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 5/17/22.*

## **DISCUSSION ITEMS**

Mayor Glassner explained that this discussion is due to the cost incurred by the applicant and the amount of paper being wasted. After discussion the Board decided that the original seven copies will be full size and the plans submitted for the hearing will be five full size plans and fifteen 11x17 plans along with a PDF copy emailed to the Board secretary.

## **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 9:25PM.

The next meeting of the Board will be held on Tuesday, August 16, 2022 at 7:30 PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

*Lisa J. Smith*

Lisa Smith  
Land Use Coordinator