

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, September 20, 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 at 8:03pm
Ms. Bushman – Present
Councilman Andrew – Absent
Mr. Paone – Present
Mr. Smith – Present
Mr. Sprandel – Present
Mr. Ritger – Present
Mr. Egerter – Present

Mr. Molnar – Alternate 1A - Present
Mr. Kay- Alternate 2A- Present
Mr. Bradley – Alternate 3A - Present
Ms. Garbacz – Alternate 4A - Present
Mr. D’Urso– Alternate 1B - Present
Mr. Barker – Aternate2B – Present
Mr. Pace – Alternate 3B - Present

Also Present: Mr. Ferriero – Board Engineer
Mr. Germinario – Board Attorney

APPROVAL OF MINUTES

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

ROLL CALL:

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, Mr. Ritger, Mr. Kay, Mr. Bradley, and Mr. D’Urso

Opposed:

Abstain: Mr. Sprandel, Mr. Egerter, Mr. Molnar, Ms. Garbacz, Mr. Barker, and Mr. Pace

Motion Carried

RESOLUTIONS

**JLUB #12-21 Paul Velez
7 Oak Forest Lane
Block 2401 Lot 31.04**

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

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, and Mr. Ritger

Opposed:

Abstain: Mr. Sprandel, Mr. Egerter, Mr. Molnar, Mr. Kay, and Mr. Bradley

Motion carried. The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: July 19, 2022

Memorialized: September 20, 2022

**IN THE MATTER OF PAUL VELEZ
"C" VARIANCE APPLICATION
BLOCK 2401, LOT 31.04
APPLICATION NO. JLUB #12-21**

WHEREAS, Paul Velez (hereinafter the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for the grant of a variance pursuant to N.J.S.A. 40:55D-70c (hereinafter the "Variance") by application dated 8/19/21; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 7/19/21; and

WHEREAS, the Board has determined that the Applicant has complied with all land use procedural requirements of Chapter 124 of the Ordinance of the Borough of Mendham, and has complied with the procedural requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., including without limitation, public notice pursuant to N.J.S.A. 40:55D-12; and

WHEREAS, the Board makes the following findings and conclusions, based on the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 5.096 acres located at 7 Oak Forest Lane in the 5-Acre Residential Zone. The property is developed with a two-story frame dwelling, a detached garage, in-ground swimming pool and associated accessory structures.

2. The improvements to the subject property for which the Variance relief is sought comprise a 49' x 79.5' (3,896 sq. ft.) sports court, surrounded by a fence not to exceed 63" in height. The existing batting cage will be removed. The improvements will increase the lot coverage from existing 11.9% (26,415 sq. ft.) to an estimated 13.19% (29,279 sq. ft.), where the permitted maximum is 10% (22,198 sq. ft.). To mitigate the additional lot coverage, an additional dry well will be installed to accept the runoff from the roof leaders of the detached garage.

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

- Building Permit Plan w/Variations, dated 4/19/21, prepared by Mathew R. Wilder, PE, revised 11/21/21, 2/4/22; subject to further revision in accordance with the conditions of this Resolution
- Boundary and Partial Topographic Survey, dated 4/5/21, prepared by David J. Vonsteenburgh PLS
- Soil Erosion and Sediment Control Plan, dated 11/19/21, prepared by Mathew R. Wilder, PE

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

- Land Development Application, dated 8/6/21, prepared by Paul Velez
- Checklist
- Certificate of Paid Taxes/Sewer fees completed
- Site Inspection Form, dated 8/8/21, prepared by Paul Velez
- Certified Property Owners List
- Tax map
- Zoning Officer's Denial Letter, partially complete and unsigned
- Cover Letter, dated 1/2/22, prepared by Bridget Braaten, of Morgan Engineering
- Freshwater Wetlands Assessment, dated 11/16/21, prepared by Peter Ritchings, from

Environmental Management Group

- Correspondence from Willard Bergman, Jr., Esq., dated 4/22/22, 5/12/22, 5/18/22 and 5/25/22

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, CME, dated 1/31/22
Jessica Caldwell, PP, AICP, dated 5/11/22

6. In the course of the public hearings, the Applicant was represented by Willard Bergman, Jr., Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Paul Velez, Applicant

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

Applicant Paul Velez testified that the subject property already exceeded the allowable 10% lot coverage when he purchased it in 2015. He subsequently added a batting cage and 238 sq. ft. green house, the latter with Borough approvals. The proposed sports court will be for the personal use of the Velez family only, and will include no new lighting or loudspeakers. The court will accommodate basketball and tennis.

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

The Board finds that the proposed trench drain surrounding the sports court will adequately offset the increased impervious coverage, and that the new dry well for garage runoff will provide a public benefit by reducing runoff below current conditions and promoting groundwater recharge. The proposed sports court is consistent with the neighborhood character and will have no adverse impacts.

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

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the application and grant the Variance requested by the Applicant, as described hereinabove, pursuant to N.J.S.A. 40:55D-70c(2).

This approval is subject to the following conditions, which shall, unless otherwise stated, be satisfied prior to the issuance of a zoning permit for the improvements requiring Variance relief.

1. Applicant shall submit a revised plan depicting: (a) the elimination of all lighting associated with the sports court, (b) reduction of the fence height to not more than 63", (c) reduction of the court area to 49' x 79.5' or 3,896 sq. ft., (d) removal of the batting cage (1,032 sq. ft.), and (e) a dry well connected to the downspouts of the detached garage and sized to capture the stormwater runoff therefrom. The revised plan must be approved by the Board Engineer.

2. Applicant shall submit revised lot coverage calculations demonstrating a coverage of not more than 13.2%.

3. The sports court shall be for the exclusive use of Applicant, his family, and their personal invitees.

4. No additional lighting or loudspeakers will be installed in connection with the sports court.

5. The stormwater calculations shall be corrected to store 3" of runoff from the impervious surface.

6. 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.

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

8. 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.

9. 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 7/19/22.

JLUB #10-22 Colin & Diane Rutt
7 New St.
Block 1903 Lot 14

Mr. Germinario summarized the Rutt application, and the conditions outlined in the resolution. Mr. Smith made a motion to memorialize the resolution and Ms. Bushman seconded.

ROLL CALL:

In Favor: Ms. Bushman and Mr. Smith

Opposed:

Abstain: Mayor Glassner, Mr. Paone, Mr. Sprandel, Mr. Ritger, Mr. Egerter, Mr. Molnar, and Mr. Kay.

Motion carried. The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: July 19, 2022

Memorialized: September 20, 2022

IN THE MATTER OF COLIN AND DIANE RUTT
"C" VARIANCE APPLICATION
BLOCK 1903, LOT 14
APPLICATION NO. JLUB #10-22

WHEREAS, Colin and Diane Rutt (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 4/14/22; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 7/19/22; 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 0.38 acres located at 7 New Street in the ¼ Acre Residential Zone. The property is improved with a 2-story frame dwelling, a 1½ story detached garage and associated accessory improvements. A Board of Adjustment Resolution, dated 11/8/06 approved dwelling additions comprising additional 1,000 sf of building lot coverage.

2. The improvements to the subject property for which the Variance relief is sought comprise a pool, coping, patio and spa in the rear yard. Lot coverage will be increased from 2,545 sf (33.7%) to 6,778 sf (41.9%), where the ordinance maximum is 3,796 sf (23.5%).

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

- Pool Plan, consisting of one sheet, dated 1/6/22, prepared by Thomas W. Skrable, PE
- Topographic Survey, dated 5/20/22, prepared by James J. Heiser, 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 4/14/22, prepared by Samantha Alfonso, Esq.
- Site Inspection form, dated 4/15/22, prepared by Samantha Alfonso, Esq.
- Checklist
- Property Owners List
- Sewer Connection Application, dated 4/15/22, prepared by Samantha Alfonso, Esq.
- Zoning Officer's Denial, dated 2/7/22
- Certificate of Paid Taxes, dated 4/7/22
- Historic Preservation Commission email, dated 3/22/22
- Topographic Survey, dated 12/13/21, prepared by James J. Heiser, 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, 5/18/22, 6/20/22

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

Thomas Skrable, PE, PP, CME, Applicant's
Engineer/Planner

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

Thomas Skrable testified that the proposed stormwater improvements would compensate for 342 sq. ft. of impervious coverage beyond that being proposed. He stated that the new pool is not visible from the street and is of a relatively modest size. The historical dwelling and detached garage have large footprints which constrain the property.

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

The Board finds that the expanded stormwater facilities provide a public benefit which more than offsets the minimal effects of the proposed improvements.

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 construction entrance may be relocated to the south side of the dwelling. If so, the wheel cleaning blanket will be relocated correspondingly.

2. The plan must be approved by the Morris County Soil Conservation District.

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.

6. 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 7/19/22.

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 #16-22

Mr. & Mrs. Young
2 Bockoven Rd.
Block 303 Lot 1

Mr. Ferriero summarized his completeness letter dated September 7, 2022 for the application where only a minor number of waivers were requested for completeness. Mr. Ferriero recommends that subject to the board granting the waivers the application be deemed complete.

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

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

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Ritger, Mr. Egerter, Mr. Molnar, Mr. Kay, and Mr. Bradley

Opposed:

Abstain:

The motion carried.

HEARINGS**JLUB #16-22**

Mr. & Mrs. Young
2 Bockoven Rd.
Block 303 Lot 1

Present: Mr. & Mrs. Young – Applicants
Mr. Encin- Architect

Mr. Young, Mrs. Young, and Mr. Encin were 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. Young summarized the reasoning for the proposed garage and master suite above it.

Mr. Encin gave an overview of the existing and proposed conditions. Mr. Encin explained that the proposed net gain of impervious coverage would be 171 sq ft. once the portion of pavement and driveway is removed. Mr. Encin stated that there are 2 variances being proposed. One is for impervious coverage and the other is for building coverage. Mr. Germinario pointed out that on the plan, it looks like the paver walkway is going to cross the driveway. Mr. Encin stated that the that would be coming out and becoming part of the driveway and is accounted for in the impervious coverage calculations. Mr. Paone asked the purpose of the area paved to the left of the addition. Mr. Encin stated that it was left for potential use of bicycles or basketball. Mr. Molnar asked where the leaders and gutters currently discharge to. Mr. Young stated that the leaders and gutter drain to the street. Mr. Molnar suggested that the new gutters and leaders discharge the same way. Mr. Ferriero stated that his letter stated that if the application was approved, a grading permit should be a condition. Mr. Ferriero asked how long the front porch has been there. Mr. Young stated that the porch was there prior to their purchasing the house. Mr. Ferriero suggested that since the porch is in the setback, that the Board consider a variance for that as well. Mr. Encin stated that the proposed benefit would be the decrease of the impervious seen by the neighbors, is consistent with the surrounding properties, adds character and is an improvement to the streetscape. Mr. Ritger asked if there was basement space from the front entry to the right. Mr. Encin stated that there is a crawl space, and the basement starts where the grade drops. Mr. Kay asked if the maple tree and the existing steps that come out to the driveway will be coming out. Mr. Encin stated that that is correct. Mayor Glassner stated that the proposed would improve the streetscape.

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

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

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Ritger, Mr. Egerter, Mr. Molnar, Mr. Kay, and Mr. Bradley

Opposed:

Abstain:

The motion carried.

DISCUSSION ITEMS

Mr. Bradley asked if there is anything being done with the Black Horse and Mayor Glassner stated that she hasn't heard anything. Mr. Bradley and Mr. Ritger stated that it looked unsafe. Mayor Glassner explained that the zoning officer has left, and the Borough is looking into restructuring to make things more efficient and easier for residents and builders.

Mr. Ritger explained the applicants must first go to zoning with projects and if they are denied, the applicant would come to the JLUB depending on the denial.

Mr. Ritger stated that in some cases the applicant would be heard by the Historic Preservation Commission (HPC) and if the HPC saw nothing historically or esthetically inconsistent with the application an approval was given, and the applicant proceeded with the project when they would actually need to be heard by the JLUB. Mr. Ritger explained that going forward, the applicant would need to go to zoning for a denial prior to being heard by either the HPC or JLUB. Mr. Ferriero stated that a flow chart will be created for the applicant so that they understand the process.

Ms. Garbacz explained that there is a new rule that any 2 family homes now need to be tested for lead paint and that is not time of sale driven.

ADJOURNMENT

There being no additional business to come before the Board, motion was made by Mr. Smith, seconded by Mr. Paone. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 8:35PM.

The next meeting of the Board will be held on Tuesday, October 18, 2022 at 7:30 PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator