

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, August 17, 2021
Garabrant Center, 4 Wilson Street, Mendham, NJ**

CALL TO ORDER/FLAG SALUTE

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

ROLL CALL

Mayor Glassner – Absent	Mr. Ritger – Present
Ms. Bushman – Present	Mr. Egerter – Present
Councilman Reilly – Absent	Mr. Kay- Alternate 1A- Present
Mr. Paone – Present	Mr. Bradley – Alternate 2A - Present
Mr. Smith – Present	Vacant – Alternate 3A
Mr. Sprandel – Present	Mr. Corona – Alternate 4A – Absent
Mr. Dick – Present	Mr. Sullivan – Aternate1B – Present
	Ms. D’Urso – Alternate 2B - Present

Also Present: Mr. Germinario, Board Attorney
Mr. Bolio, Board Engineer

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MINUTES

Chairman Ritger asked for comments on the minutes of the June 15, 2021, Regular Meeting. Mr. Ritger pointed out that on page 3 there was a misspelling and asked sone to be changed to done. Mr. Smith made a motion to approve the minutes as revised and Ms. D’Urso seconded.

Roll Call:

In Favor: Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Egerter, and Ms. D’Urso.

Opposed:

Abstain: Ms. Bushman, Mr. Kay, Mr. Bradley, and Mr. Sullivan.

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:a) **JLUB #10-21**

Daniel & Judith Miller
18 Brookfield Way
Block 1401 Lot 16

Present: Mr. Miller – Applicant
Ms. Miller - Applicant
Ms. Mueller - Engineer

Mr. Bolio summarized his completeness letter dated July 26, 2021. Mr. Bolio recommends that the application be waived for completeness and if there is additional in needed it can be brought up in testimony. Mr. Germinario reviewed the public notice and found it to be adequate.

Motion by Ms. D’Urso, seconded by Mr. Sprandel and unanimously carried to deem the application complete.

ROLL CALL: The result of the roll call was 11 to 0 as follows:

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

Opposed:

Abstain:

The motion carried.

HEARINGS:a) **JLUB #10-21**

Daniel & Judith Miller
18 Brookfield Way
Block 1401 Lot 16

Present: Mr. Miller – Applicant
Ms. Miller - Applicant
Ms. Mueller – Engineer

Ms. Miller and Ms. Mueller were sworn in. Ms. Mueller described her qualifications and background and was deemed an expert witness. Ms. Miller gave background of the property and time in Mendham Borough. Ms. Miller explained that they used to belong to the Mendham Pool which is not there anymore and with 3 grandchildren they put in a pool but would like to add a patio around the pool and a shed for pool supplies. Ms. Mueller summarized the application for a lot coverage variance. Ms. Mueller explained that the pool was compliant with zoning but the Miller’s needed the variance for the patio and shed. Mr. Sullivan asked about the tracking pad and Ms. Mueller stated that it is only there during construction. Mr. Kay asked if the blocks for the patio were considered impervious and Ms. Mueller stated that the patio blocks were calculated as impervious. Ms. D’Urso questioned whether the removal of the portion of driveway was still taking place. Ms. Mueller states that the portion of the driveway and a small walkway will be removed. Mr. Bradley questioned the position of the retaining wall and Ms. Mueller explained the location on the plan. Mr. Bradley stated that there was a water issue on Windymere and Ms. Miller stated

that there is another piece of property between. Mr. Sprandel asked about the discharge location. Ms. Mueller explained that the discharge is made on the property and does not go out to the street. Mr. Egerter asked if the project was within the 20' setback from the neighbor. Mr. Paone asked for clarification on the drainage as to whether the property has a pitch to the neighbors. Ms. Mueller stated that a partial topographic survey was completed and that the original project was located at a higher elevation. However, after reviewing the project, the drainage piping was pulled forward. The latest contour plan shows that drainage is directed towards the street. Ms. Mueller stated that everything is within the setbacks. Mr. Germinario asked if the plan shows existing or proposed additional landscaping. Ms. Miller stated that the drawings show existing plantings. Mr. Ritger suggested adding a walkway between the pool and the patio for safety reasons. Ms. Mueller stated that the homeowners would appreciate that and noted that if the Board is agreeable to amend the application that requested 9,852 sq. ft. and allow 9,952 sq. ft. which would yield 100 sq. ft. for a walkway. There were no objections from the Board. Mr. Germinario suggested that the applicant submit a revised plan to show the additional walkway. Mr. Ritger asked that the revised plan be a condition of approval. Ms. Mueller stated that stormwater retention will be upsized to accommodate the additional 100 sq. ft. of lot coverage which will be added the calculation. Mr. Bolio stated that they will need approval from the Morris County Soil Conservation District for the additional patio and features. Ms. Mueller stated that a revised plan will be sent but they already have approval for the pool plan. Ms. Mueller asked if they could submit to the Engineer for approval prior to the resolution and the homeowner will proceed at their own risk. Mr. Germinario suggested making the application effective upon tonight's approval. Mr. Ritger agreed.

Mr. Sprandel 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 11 to 0 as follows:

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Egerter, Mr. Kay, Mr. Bradley, Mr. Sullivan, and Ms. D'Urso

Opposed:

Abstain:

The motion carried.

RESOLUTION:

- a) **JLUB#06-21**
 Paula Raimondo
 23 Aberdeen Rd.
 Block 1202 Lot 13

Mr. Germinario summarized the Raimondo application and the conditions outlined in the resolution. Mr. Smith made a motion to memorialize the resolution and Mr. Dick seconded.

ROLL CALL: The result of the roll call was 11 to 0 as follows:

In Favor: Ms. Bushman, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Egerter, Mr. Kay, Mr. Bradley, Mr. Sullivan, and Ms. D'Urso

Opposed:

Abstain:

The motion carried.

Decided: June 15, 2021
Memorialized: August 17, 2021

IN THE MATTER OF PAULA RAIMONDO
"C" VARIANCE APPLICATION
BLOCK 1202, LOT 13
APPLICATION NO. JLUB #05-21

WHEREAS, Paula Raimondo (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 4/1/21; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 6/15/21; 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 3,332 sq. ft. located at 23 Aberdeen Road in the $\frac{1}{4}$ -Acre Residence Zone. The property is improved with a 2-story townhouse and an existing rear deck of approximately 55 sq. ft.

2. The improvements to the subject property for which the Variance relief is sought comprise an extension of the existing deck by an additional 333 sq. ft. and rebuild of the existing deck.

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

- Deck Plans and Specifications, dated 3/2/21, prepared by David Denson, Architect
- Site Plan, dated 3/3/21, prepared by William B. Byrnes, Architect

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

- Land Development Application and Checklist, dated 4/1/21, prepared by Paula Raimondo
- Certificate of Paid Taxes/Sewer fees, undated
- Zoning Officer's Denial Letter, dated 2/8/21
- Site Inspection Form, dated 4/1/21, prepared by Paula Raimondo
- 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 5/21/21

6. 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:

William Byrnes, Architect

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

The improvements proposed by the Applicant require C variances for lot coverage (44% existing, 53% proposed, 30% maximum required), and for easterly and westerly side yard setbacks (0 ft. and 5 ft. proposed, 10 ft. minimum required). Applicant testified that the existing deck is 40 years old and has become a safety hazard. Comparable decks exist on adjoining properties. Mr. Byrnes testified that a hardship exists on this property since the zero-lot line development was approved 40 years ago with no commensurate change in the zoning. Strict application of the $\frac{1}{4}$ -Acre Zone standards would virtually eliminate the width of the deck.

8. 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 size and narrowness of the subject property, the strict application of Ordinance Section 215-31.1 and 215-28 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 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. The Board's approval is subject to the approval of the Homeowner's Association.
2. The architectural plans shall be revised to locate the deck stairs on the Raimondo property.
3. Side yard and rear yard setbacks shall be shown on the revised variance plan.
4. Finished floor height, deck height and deck-to-grade height shall be shown on the revised architectural plan.
5. Lot coverage calculations shall be corrected to account for existing deck overhang.
6. Revised architectural plans shall provide no lights above the deck rail.
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 June 15, 2021.

Lisa Smith
Board Secretary

OTHER DISCUSSION ITEMS:

- a. HSA letter from Raimondo- Mr. Ritger asked the group if there are any questions. Mr. Smith asked if Council has discussed making changes to the zoning in the Commons. Mr. Ritger stated that this topic will be discussed along with the prevailing setbacks. Mr. Bradley asked who would ultimately decide on the setbacks. Mr. Germinario stated that the Joint Land Use Board has the powers of the Planning Board to make Master Plan recommendations toward such ordinances, but actual ordinance is approved by the Council. Mr. Ritger suggested tabling until Ms. Caldwell is available to attend the meeting.

b. Prevailing Setbacks- Mr. Ritger tabled this discussion until Ms. Caldwell is available for a meeting.

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Egerter seconded by Ms. D'Urso. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 8:35PM.

Respectfully submitted,

Lisa Smith

Lisa Smith
Land Use Coordinator