

**MINUTES OF THE  
MENDHAM BOROUGH JOINT LAND USE BOARD  
REORGANIZATION/REGULAR MEETING  
Monday, January 19, 2021  
Garabrant Center, 4 Wilson Street, Mendham, NJ**

**CALL TO ORDER/FLAG SALUTE**

The Reorganization/ 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.

**\*\*\*REORGANIZATION\*\*\***

**APPOINTMENTS/OATHS OF OFFICE**

The Mr. Germinario, Board Attorney, administered Oaths of Office to the following Board members:

- Christine Glassner (Mayor) (Class I) – Term expires 12/31/2022
- Steve Andrew (Councilman) (Class III) – Term expires 12/31/2022
- Robert Ritger– Class IV Member - Term expires 12/31/2023
- Marrie Rose Garbacz – Alternate 4a Member - Term expires 12/31/2023
- Neil Sullivan – Alternate 2b Member - Term expires 12/31/2023
- Richard Pace – Alternate 3b Member - Term expires 12/31/2022

**ROLL CALL**

Mayor Glassner – Present

Ms. Bushman – Absent

Councilman Andrew – Present

Mr. Paone – Present

Mr. Smith – Present

Mr. Sprandel – Present

Mr. Dick – Present

Mr. Ritger – Present

Mr. Egarter – Absent

Mr. Kay- Alternate 1A- Absent

Mr. Bradley – Alternate 2A - Present

Ms. Garbacz – Alternate 3A - Present

Mr. Corona – Alternate 4A – Absent

Mr. Sullivan – Alternate 1B – Present

Mr. Pace – Alternate 2B - Present

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

**ELECTION OF OFFICERS**

**CHAIR**

Motion by Mr. Sprandel, seconded by Mayor Glassner to nominate Mr. Ritger as Chair. There being no further nominations, a single ballot was cast, and Mr. Ritger was designated Chairman.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

**VICE CHAIR**

Mr. Sprandel nominated Mr. Bradley for vice chair. Mr. Dick nominated Mr. Smith for vice chair. There being no further nominations, roll call was taken, and Mr. Smith received 8 votes and Mr. Bradley received

2 votes. There was one abstention. With that a single ballot was cast, and Mr. Smith was designated Vice Chair.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

**SECRETARY**

The Board unanimously carried by voice vote to appoint Lisa Smith as Board Secretary.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

**APPOINTMENT OF THE JOINT LAND USE BOARD LIASON TO THE ENVIRONMENTAL COMMISSION**

Tabled until the February 15, 2022 meeting.

**RESOLUTIONS**

**MEETING DATES**

Motion by Mr. Paone, seconded by Mr. Dick and unanimously carried by voice vote to adopt a resolution (as outlined herein) setting forth the meeting dates for 2022 and the first meeting of 2023.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

*BOROUGH OF MENDHAM  
JOINT LAND USE BOARD  
MORRIS COUNTY, NEW JERSEY*

***RESOLUTION SETTING THE ANNUAL MEETING SCHEDULE  
FOR THE JOINT LAND USE BOARD OF THE BOROUGH OF MENDHAM CALENDAR YEAR 2022***

*WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., requires every public body to designate and publish its Annual Meeting Schedule and provide adequate notice of all meetings.*

*BE IT RESOLVED that that at its Regular and Reorganization Meeting held on January 18, 2022, the Joint Land Use Board of the Borough of Mendham established regularly scheduled meetings for the year 2022 as follows:*

- Tuesday, January 18, 2022 (Previously Advertised)*
- Tuesday, February 15*
- Tuesday, March 15*
- Tuesday, April 19*
- Tuesday, May 17*
- Tuesday, June 21*
- Tuesday, July 19*
- Tuesday, August 16*
- Tuesday, September 20*
- Tuesday, October 18*
- Tuesday, November 15*
- Tuesday, December 20*
- Tuesday, January 17, 2023 (Regular and Reorganization)*

*The regular and reorganization meeting for 2023 will be held on January 17, 2023.*

*BE IT FURTHER RESOLVED that the meetings will be held at 7:30PM at the Garabrant Center, 4 Wilson St, Mendham, NJ.*

*BE IT FURTHER RESOLVED During a declared state of emergency when meetings of Joint Land Use Board are held remotely, the public may attend remotely by Zoom. Instructions on how to attend a meeting via Zoom will be posted on the meetings schedule webpage on the Borough’s website in advance of the meeting and in accordance with the Open Public Meetings Act.*

*BE IT FURTHER RESOLVED, in accordance with N.J.S.A. 10:4-12, notice is hereby given that an executive (closed) session may be convened at any scheduled meeting of the Joint Land Use Board of the Borough of Mendham by a duly adopted resolution; and*

*BE IT FURTHER RESOLVED that notice of any additions to the above schedule or change in the time, date or place of any scheduled meeting will be posted and maintained in the Phoenix House, 2 West Main St., Mendham, NJ for purposes of public inspection, and will be filed in the Office of the Borough Clerk in accordance with the Open Public Meetings Act and delivered to the official newspapers in advance as required by law.*

*Lisa Smith  
Land Use Coordinator*

*Dated: \_\_\_\_\_*

\_\_\_\_\_  
*Chair, Joint Land Use Board*

\_\_\_\_\_  
*Land Use Coordinator*

**OFFICIAL NEWSPAPERS**

Motion by Mr. Dick, seconded by Councilman Andrew and unanimously carried by voice vote to adopt a resolution (as outlined herein) recognizing the Star Ledger and The Daily Record as the official newspapers of the Board for 2022.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

*BE IT RESOLVED* by the Joint Land Use Board of the Borough of Mendham, Morris County, New Jersey as follows:

*WHEREAS*, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and hereinafter designated as the "Open Public Meetings Act" aforesaid, the Open Space Advisory Committee of the Borough of Mendham hereby makes the following designations:

1. The Star Ledger and the Daily Record are hereby designated as the two newspapers to receive notice of meetings required by any and all sections of the Open Public Meetings Act, it appearing that said newspapers are most likely to inform the local public of such meetings. Notices required by the New Jersey Municipal Land Use Law or the Borough's Land Use Regulations may be placed, as required by law, in either of the designated newspapers.
2. Notice of this meeting of the Joint Land Use Board of the Borough of Mendham shall be posted and maintained in the Phoenix House, 2 West Main Street, Mendham, NJ for purposes of public inspection, and will be filed in the Office of the Borough Clerk in accordance with the Open Public Meetings Act
3. The sum of \$12.00 per year is hereby fixed as the amount to paid by any person requesting individual notice of meetings as provided in Section 13 of the Open Public Meetings Act.

Dated: January 18, 2022

\_\_\_\_\_  
Chairman, Joint Land Use Board

ATTEST:

\_\_\_\_\_  
Land Use Coordinator

**BOARD ENGINEER**

Motion by Mr. Dick, seconded by Mr. Smith and unanimously carried by voice vote to adopt a resolution (as outlined herein) authorizing entry into an agreement with Paul Ferriero, PE, PP of Ferriero Engineering for professional engineering services.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

**BOROUGH OF MENDHAM  
JOINT LAND USE BOARD  
MORRIS COUNTY, NEW JERSEY  
RESOLUTION (BOARD ENGINEER)**

**RESOLUTION OF THE JOINT LAND USE BOARD OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO PAUL W. FERRIERO, PE & PP OF THE FIRM FERRIERO ENGINEERING INCORPORATED FOR BOARD ENGINEER SERVICES**

*WHEREAS*, the Joint Land Use Board of the Borough of Mendham has a need to acquire professional Board Engineer services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and

*WHEREAS*, the Borough Administrator has determined and certified in writing that the value of the services will exceed \$17,500; and

*WHEREAS*, the anticipated term of this contract is one (1) year; and

**WHEREAS**, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has submitted a proposal indicating that he will provide Board Engineer services in an amount projected to not exceed \$7000 (this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds); and

**WHEREAS**, Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has completed and submitted a Business Entity Disclosure Certification which certifies that Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated has not made any reportable contributions to a political or candidate committee in the Borough of Mendham in the previous one year, and that the contract will prohibit Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Joint Land Use Board of the Borough of Mendham desires to award the contract to Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.

**NOW, THEREFORE, BE IT RESOLVED** by the Joint Land Use Board of the Borough of Mendham as follows:

1. The Joint Land Use Board of the Borough of Mendham hereby authorizes execution of a professional services agreement with Paul W. Ferriero, PE & PP of the firm Ferriero Engineering Incorporated. to serve as Board Engineer for the year 2022, in an amount projected not to exceed \$7,000 ( this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds).
2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.
3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.
4. That a notice of this action shall be published once in the official newspapers of the Joint Land Use Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).
5. This Resolution shall take effect as provided herein.
6. A Notice of this action shall be published once in the official newspaper as required by law.

I, Lisa J. Smith, Land Use Coordinator of the Borough of Mendham, do hereby certify that the foregoing Resolution was duly adopted at the Reorganization Meeting of the Joint Land Use Board of the Borough of Mendham, held this 18th day of January 2022.

\_\_\_\_\_  
Lisa J. Smith, Land Use Coordinator

ATTEST:

\_\_\_\_\_  
Lisa J. Smith  
Land Use Coordinator

\_\_\_\_\_  
Chairman

## **BOARD ATTORNEY**

Chairman Ritger asked for a motion to appoint a Joint Land Use Board Attorney. Motion by Mr. Paone, seconded by Mr. Dick to nominate Mr. Germinario, Esq. as Joint Land Use Board Attorney. There being no further nominations, a single ballot was cast, and Mr. Germinario, Esq. was designated as Joint Land Use Board Attorney.

## **Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

**BOROUGH OF MENDHAM  
JOINT LAND USE BOARD  
MORRIS COUNTY, NEW JERSEY  
RESOLUTION (BOARD ATTORNEY)**

**RESOLUTION OF THE JOINT LAND USE BOARD OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO THOMAS J. GERMINARIO, ESQ. FOR BOARD ATTORNEY SERVICES**

*WHEREAS, the Joint Land Use Board of the Borough of Mendham has a need to acquire professional Board Attorney services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A- 20.5; and*

*WHEREAS, the Borough Administrator has determined and certified in writing that the value of the services will exceed \$17,500; and*

*WHEREAS, the anticipated term of this contract is one (1) year; and*

*WHEREAS, Thomas J. Germinario, ESQ. has submitted a proposal indicating that he will provide Board Attorney services in an amount projected not to exceed \$20,000 (this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds); and*

*WHEREAS, Thomas J. Germinario, ESQ has completed and submitted a Business Entity Disclosure Certification which certifies that Thomas J. Germinario, ESQ. has not made any reportable contributions to a political or candidate committee in the Borough of Mendham in the previous one year, and that the contract will prohibit Thomas J. Germinario, ESQ. from making any reportable contributions through the term of the contract; and*

*WHEREAS, the Joint Land Use Board of the Borough of Mendham desires to award the contract to Thomas J. Germinario, ESQ.; and*

*WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.*

**NOW, THEREFORE, BE IT RESOLVED** by the Joint Land Use Board of the Borough of Mendham as follows:

1. *The Joint Land Use Board of the Borough of Mendham hereby authorizes execution of a professional services agreement with Thomas J. Germinario, ESQ to serve as Board Attorney for the year 2022 in an amount projected not to exceed \$20,000 (this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds).*
2. *This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.*
3. *The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.*
4. *That a notice of this action shall be published once in the official newspapers of the Joint Land Use Board of the Borough of Mendham, as required by N.J.S.A. 40A:11-5(1)(a).*
5. *This Resolution shall take effect as provided herein.*
6. *A Notice of this action shall be published once in the official newspaper as required by law.*

*I, Lisa J. Smith, Land Use Coordinator, do hereby certify that the foregoing Resolution was duly adopted at the Reorganization Meeting of the Joint Land Use Board of the Borough of Mendham, held this 18th day of January 2022.*

\_\_\_\_\_  
*Lisa J. Smith, Land Use Coordinator*

ATTEST: \_\_\_\_\_  
*Lisa J. Smith  
Land Use Coordinator*

\_\_\_\_\_  
*Chairman, Joint Land Use Board*

**BOARD PLANNER**

Motion by Mr. Bradley, seconded by Mr. Smith and unanimously carried by voice vote to adopt a resolution (as outlined herein) authorizing entry into an agreement with Jessica Caldwell, PP, AICP of J. Caldwell & Associates, LLC professional planning services.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:**

**Motion Carried**

*BOROUGH OF MENDHAM  
JOINT LAND USE BOARD  
MORRIS COUNTY, NEW JERSEY  
RESOLUTION (BOARD PLANNER)*

*RESOLUTION OF THE JOINT LAND USE BOARD OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING TO J. CALDWELL & ASSOCIATES, LLC FOR BOARD PLANNER SERVICES*

*WHEREAS, the Joint Land Use Board of the Borough of Mendham has a need to acquire professional Board Planner services without competitive bidding pursuant to the provisions of N.J.S.A. 19:44A-20.5; and*

*WHEREAS, the Borough Administrator has determined and certified in writing that the value of the services will exceed \$17,500; and*

*WHEREAS, the anticipated term of this contract is one (1) year; and*

*WHEREAS, J. Caldwell & Associates, LLC has submitted a proposal indicating that J. Caldwell & Associates, LLC will provide Board Planner services in an amount projected to not exceed \$8,000 (this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds); and*

*WHEREAS, J. Caldwell & Associates, LLC, has completed and submitted a Business Entity Disclosure Certification which certifies that J. Caldwell & Associates, LLC has not made any reportable contributions to a political or candidate committee in the Borough of Mendham in the previous one year, and that the contract will prohibit J. Caldwell & Associates, LLC from making any reportable contributions through the term of the contract; and*

*WHEREAS, the Joint Land Use Board of the Borough of Mendham desire to award the contract to J. Caldwell & Associates, LLC; and*

*WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.*

*NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board of the Borough of Mendham:*

- 1. The Joint Land Use Board of the Borough of Mendham hereby authorizes execution of a professional services agreement with J. Caldwell & Associates, LLC. to serve as Board Planner for the year 2022, in an amount projected not to exceed \$8,000 (this amount does not include payments made against escrow accounts which are not paid out of taxpayer funds).*
- 2. This contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because said services are exempt from the provisions of the bidding statutes in that they are services rendered or performed by a person authorized by law to practice a recognized profession and are services which require knowledge of an advanced type in a field of learning acquired by a prolonged course of specialized instruction as distinguished from general academic instruction or apprenticeship and training.*
- 3. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution.*





**\*\*\*REGULAR MEETING\*\*\*****APPROVAL OF MINUTES**

Motion by Mr. Dick, seconded by Mr. Paone and unanimously carried by voice vote to adopt the Minutes of the December 21, 2021 Joint Land Use Board Regular Meeting, as presented.

**Roll Call:**

**In Favor:** Mayor Glassner, Mr. Paone, Mr. Smith, Mr. Dick, Mr. Ritger, Mr. Bradley, and Mr. Sullivan

**Opposed:**

**Abstain:** Councilman Andrew, Mr. Sprandel, Ms. Garbacz, and Mr. Pace.

**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 #17-21  
Norman Clausen  
54 West Main St  
Block 1801 Lot 15.02

Present: Mr. Clausen - Applicant

Mr. Ferriero summarized his completeness letter dated November 29, 2021. Mr. Ferriero 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 Mr. Smith, seconded by Mr. Sprandel and unanimously carried to deem the application complete.

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:****Abstain:**

**The motion carried.**

**HEARINGS****JLUB # 17-21**

Norman Clausen  
54 West Main St  
Block 1801 Lot 15.02

Present: Mr. Clausen – Applicant  
Mr. Dornfeld – Solar Contractor

Mr. Clausen and Mr. Dornfeld were sworn in. Mr. Germinario asked Mr. Dornfeld if he was there as an expert in solar installation. Mr. Dornfeld confirmed that he is contracted by the Clausen's and has 12 years experience in solar installation. Mr. Germinario asked if Mr. Dornfeld has any certifications and Mr. Dornfeld stated that he is a certified PV installation professional which is the industry leading accreditation. Mr. Germinario asked the Board if there were any questions regarding Mr. Dornfeld's qualifications. Mr. Ritger asked what company Mr. Dornfeld represents. Mr. Dornfeld stated that he works for Green Power Energy.

Mr. Clausen summarized the application for the solar panels that have already been installed on his house. Mr. Clausen explained both Mendham Borough and Mendham Township have the address of 54 West Main St. Also, the Zoning office for the Township and Borough have the same address except for the last 2 digits of the zip code. Mr. Clausen stated that when speaking to the contractor, the contractor stated that he was going to the Township for permits and Mr. Clausen explained that the house is in the Borough and asked for the contractor to double check that the applications for the permits were going to the correct place in the Borough. The contractor confirmed that the permits were going to the correct place. Mr. Clausen said that the application was brought to the Township where it was approved. Mr. Clausen stated that once the contractor received the permits, they proceeded to install \$40,000 worth of solar panels on the roof of his house. Mr. Clausen explained that he researched solar ordinances in the surrounding towns where his project would have been approved and found that Mendham Borough has different take on solar than other towns. Mr. Clausen stated that his hardship would be the time and money spent on this application and that he is not receiving approximately \$300 for every month that they are not getting solar because the solar installation is sitting dormant for months. Mr. Clausen explained the environmental benefits to having solar and that unfortunately the ordinance in the Borough makes it difficult. Mr. Clausen stated that if the variance is not approved, the solar panels will have to be removed and the roof will need to be replaced. Mr. Clausen noted that the house is set back from the main street and can't be seen from the street. Mr. Clausen explained that the solar panels are on the side and the back of the house and are not visible to the surrounding properties due to the distance and tree lines. Mr. Clausen explained that from a safety standpoint the installation was done to UCC code and would have been approved in any of the surrounding towns. Mr. Germinario explained that the Borough ordinance requirement is 4' off set from the perimeter of the roof. Mr. Germinario asked if the current installation is 18" off set from the perimeter that was stated in the application was correct. Mr. Dornfeld stated that this was correct, and that the Borough's ordinance reads like it is for a commercial building. Mr. Dornfeld explained that the installation was done to the code of the Township where they received the permits, and it wasn't until the inspector did not show up for the final inspection that he realized the property was in the Borough and not the Township. Mr. Dornfeld stated that it was at that time that they went for permits in the Borough and received a denial letter. Mr. Clausen explained that the house is sizable and if they were to follow the Borough code, they would be allowed 5 panels whereas there are 37 panels allowed by the Township code. Mr. Germinario explained that the Board is not there to judge the ordinance and that ordinances are a Council decision. Mr. Germinario went on to explain that the hardships that the applicant has referred to, do not fall into the categories of hardships that can be considered for variance purposes. Mr. Germinario stated that the ordinance primarily directed toward the aesthetics and that the roof is not cluttered with panels and secondarily the safety aspect that the

owner has addressed in terms of the access to the roof by emergency personnel that would be addressed by the UCC code which enables this type of installation. Mr. Germinario suggested directing the Board's attention be directed to the visibility because there would be a case to be made that if the visual impact is negligible, as the applicant is contending, then the benefits, such as environmental, could outweigh the detriments and allow for a C2 variance. Mayor Glassner asked if the property is in the Historic District. Mr. Germinario stated that he looked at the zoning map and it is not in the Historic District. Mr. Sprandel commented that when going out to the property and looking from multiple areas, the panels are not visible except for one place in the parking lot at Botti fields where you can see 1 or 2 panels. Mr. Dick asked if the comment of the Borough's ordinance only allows for 5 panels and the Township's ordinance allows for 37 is correct. Mr. Ferriero stated that the Borough ordinance has a greater set back from the edges and the configuration and the way the panels would lay out you would apparently only be able to get 5 on the roof. Mr. Ferriero gave background as to where the solar ordinance came from. Mr. Ferriero stated that when solar panels were fairly new the Borough decided to look at what would be appropriate and at that time the 4-foot buffer was chosen primarily for visibility from the street. Based on the fact that the panels face away from the street the issues that the ordinance was written around don't apply to this application. Mr. Ferriero states that the benefits such as energy efficiency would outweigh the detriments which are the panels closer to the edge of the roof. Mr. Dick asked if a fire official has been out to look at it. Mr. Germinario stated that the applicant complies with the UCC code which would address the safety aspect. Mr. Ritger asked if the panels were the same size because on the plans page A103 they seem to be different sizes. Mr. Dornfeld stated that the panels are the same size and may have been scaled slightly differently on the drawings but on the as built plan that was submitted, they are the same. Ms. Smith stated that the application was sent to the fire official, and Mr. Zaragoza, Fire Official, sent an email dated 11/17/2021, stating that only request was that all labeling pursuant to the National Electrical Code and the International Fire Code are installed in or on the structure as required. Mr. Dornfeld stated that on sheet E603 has the labeling required. Mr. Ritger explained that if this application were to be approved, it would be setting a precedent for future applications. Mr. Germinario stated that that is why he explained that this project is not visible from Main St or adjoining houses. If this project was visible, it would be hard to approve this variance because the Board would be repealing the ordinance and that is not allowed. Mr. Germinario stated that this application distinguishes itself based on the visibility. Mayor Glassner asked Mr. Germinario to confirm that if this application was approved, it would not set precedent. Mr. Germinario stated that it would not set a precedent for another installation where there is a visibility problem because the way he read the ordinance and Mr. Ferriero agrees is that the ordinance is aimed at the visibility, esthetics, and the appearance. If there is no visibility issue, then the Board can say that there is very little if any adverse impact and there are benefits to solar installation. Mayor Glassner wanted to establish that the Board does not really know how many panels that the roof would hold with the existing ordinance in Mendham Borough. Mr. Dornfeld stated that he can supply the information but knows that the project would not be economically viable. Mr. Dick questioned at what point did the applicant become aware that the permits were granted from another town. Mr. Clausen stated that when the fire and town inspector didn't show up and called to let the applicant know the project was not in their town. Mr. Dick asked how long this process had taken. Mr. Dornfeld stated that the process of going solar takes 2-3 months to get the approvals. Mr. Paone asked if the original plans were designed based on the Township's ordinance. Mr. Dornfeld explained that they are designed based on the UCC code because most towns do not require zoning for solar and if there is an issue it comes back at permit application process. Mr. Dick asked if the Township issued a permit and Mr. Dornfeld confirmed that a permit was issued. Mayor Glassner noted that in the application the Clausen's repeatedly stated that the company was told to check which town you are in. Mr. Clausen stated that he can't fault Green Power or Mendham Township. Mayor Glassner stated that when reading the Clausen's letter, it seems the Clausen's are faulting the Borough and Mr. Ritger agreed. Mr. Clausen explained that he faults no one and feels that it was unfortunate that many years ago 2 streets that were named and numbered the same, with the only difference being 2 digits of a zip code and the onus is on him. Green Power submitted the permit applications with the correct address and the correct zip code, and the Township didn't catch that the property was in the Borough. Mayor Glassner stated that she will be speaking to the Mayor of Mendham

Township regarding this because it becomes costly for the applicant and puts the Board in a difficult position. Mr. Germinario explained that the rationale, if this application is approved, is not due to the confusion and not done intentionally but focuses on what the purpose of this ordinance is and is the deviation from the compliance with it creating the adverse effect that the ordinance was intended to preclude. Mr. Dick expressed concern regarding approving this application based on the information given and if the variance is granted that it wouldn't open up Pandora's box. Mr. Dick asked to see the permits from the Township. Mr. Dornfeld showed the Board the permits granted by Mendham Township which does not have the Borough's block and lot on it but has the address of 54 West Main St. Mr. Dick noted that the Township must not have checked the block and lot. Ms. Garbacz stated that the Township must not have looked at the lot and block on the permit application.

Mr. Ferriero stated that the Board can't look at the application as a hardship because it is a self-inflicted hardship and what the Board needs to look at it under the C2 criteria and as if the work has not been done. Mr. Paone stated that since the ordinance was intended from a visibility standpoint and given the way the house is situated there is no visibility, he does not have an issue with the application. Mr. Ritger stated that he did not have an issue with the number of panels. Mr. Ferriero explained that the ordinance is not about the number of panels, it is about what is seen from the edge. Mr. Smith stated that the Board should take each application on its own merits.

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

**Roll Call:**

**In Favor:** Mayor Glassner, Councilman Andrew, Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:**

**Abstain:** Mr. Dick

**The motion carried.**

**JLUB #09-21**

Matthew & Samantha Tuohy  
7 Whispering Ivy Path  
Block 1901 Lot 20.01

Chairman Ritger stated that the application is being carried at the applicants request to the February 15, 2022 meeting with no further notice required.

**RESOLUTIONS**

**JLUB #18-21**

Mendham Methodist Church  
10 East Main St  
Block 601 Lot 5

Mr. Germinario summarized the Mendham Methodist Church application and the conditions outlined in the resolution. Mr. Smith made a motion to memorialize the resolution and Mr. Bradley seconded.

**In favor:** Mr. Paone, Mr. Smith, Mr. Dick, Mr. Ritger, Mr. Bradley, and Mr. Sullivan

**Opposed:** None

**Abstentions:** None

**The motion carried. The resolution follows.****BOROUGH OF MENDHAM JOINT LAND USE BOARD****RESOLUTION OF MEMORIALIZATION**Decided: **January 18, 2022**Memorialized: **February 15, 2022**

**IN THE MATTER OF NORMAN CLAUSEN  
"C" VARIANCE APPLICATION  
BLOCK 1801, LOT 15.02  
APPLICATION NO. JLUB #17-21**

**WHEREAS**, Norman Clausen (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 10/28/21; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 1/18/22; 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 2.858 acres located in the 1-Acre Residence Zone. The property fronts on a private road extending southerly from West Main Street and is improved with a 2½ story frame dwelling.

2. "C" Variance relief is required in connection with an array of roof-mounted solar panels which have been installed based on a permit mistakenly issued by the Township of Mendham. Approval of the installation was denied by the Borough Zoning Officer because the panels are offset 18 inches from the pitched roof perimeter, while Ordinance §215-31.1G(4) (b) requires a minimum 4 foot offset.

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

- Solar System Installation Plans, prepared by Green Power Energy, consisting of 18 sheets, dated 6/24/21

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

- Land Development Application, dated 10/28/21, prepared by Norman Clausen
- Checklist
- Project Description
- Zoning Officer's Denial Letter, dated 7/19/21
- Certificate of Paid Taxes, dated 10/18/21
- Site Inspection Form, dated 10/13/21
- Property Survey, dated 10/3/20, prepared by Jeffrey S. Gunn, PLS
- Solar Installation Plans, dated 6/24/21

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 11/29/21

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

Eric Dornfeld, solar professional

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

Due to a confusion between Applicant's street address and an identical street address in Mendham Township, Applicant's solar contractor mistakenly submitted the building permit application to the Township, which approved it based on their standards, which permit the solar panels to extend within 18 inches of the roof perimeter, which is also the standard of the NJ Uniform Construction Code (NJUCC). Applicant testified that the solar panels are not visible to the public nor to any neighboring residences, and that removal of the panels would cause costly damage to the roof of the dwelling.

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 rationale for the Borough's Ordinance requiring a greater solar panel offset from the roof perimeter is primarily aesthetic, in terms of the appearance of the solar installation to the public and neighboring residences. Applicant's unchallenged testimony indicates that the solar installation is not visible from any vantage point outside of his own property. Moreover, since the installation does comply with the NJUCC, the public purpose of allowing sufficient access to the roof by fire and emergency personnel is served. The Board also recognizes the public benefits of solar installations, which advance the purposes of the MLUL.

Therefore, since the detriments associated with the deviation are minimal, 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. 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.

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

3. 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.

4. 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 1/18/21.

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Lisa Smith  
Board Secretary

**DISCUSSION ITEMS****ANNUAL REPORT**

Chairman Ritger asked the Board to review the Annual Report and make any suggestions prior to submitting it to the Mayor and Council. There being no changes, Mr. Paone made a motion to approve the 2021 Annual Report as written and Mr. Dick seconded.

**Roll Call:**

**In Favor:** Mr. Paone, Mr. Smith, Mr. Sprandel, Mr. Dick, Mr. Ritger, Mr. Bradley, Ms. Garbacz, Mr. Sullivan, and Mr. Pace.

**Opposed:****Abstain:****Motion Carried**

The Board discussed adding a revision to the solar ordinance to the Annual Report.

**ADJOURNMENT**

There being no additional business to come before the Board, Motion was made by Mayor Glassner, seconded by Mr. Smith. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 9:55PM.

The next meeting of the Board will be held on Tuesday, February 16, 2021 at 7:30 PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

*Lisa J. Smith*

Lisa Smith  
Land Use Coordinator