

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, December 19, 2023 - 7:30PM
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	Mr. Egerter – Present
Ms. Bushman – Present	Ms. Garbacz – Absent
Councilman Andrew – Absent	Mr. Molnar – Alternate 1 - Absent
Mr. Ritger – Present	Mr. Kay- Alternate 2- Present
Mr. Smith – Present	Mr. Barker – Alternate 3 - Present
Mr. Sprandel – Present	Mr. Pace – Alternate 4 – Absent
Mr. D’Urso– Present	

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

APPROVAL OF MINUTES

Motion by Mr. Smith, seconded by Mr. D’Urso and unanimously carried by voice vote to adopt the minutes of the November 17, 2023 Joint Land Use Board Regular Meeting, as written.

Roll Call:

In Favor: Mayor Glassner, Mr. Ritger, Mr. Smith, Mr. D’Urso, Mr. Egerter, and Mr. Kay.

Opposed:

Abstain: Ms. Bushman, Mr. Sprandel, and Mr. Barker.

Motion Carried

PUBLIC COMMENT

Chairman Ritger opened the meeting to the public for questions and comments on items not included on the agenda or any pending applications.

Frank Lupo, 17 Dean Rd., asked if the public would have an opportunity to comment on the Lighting Ordinance discussion. Mr. Ritger explained that the Joint Land Use Board recommends ordinance changes to the Mayor and Council and opportunity to discuss would be at the Council meeting. Mr. Germinario explained that the Council will have a first reading of an ordinance and then a public hearing will be scheduled and that would be when comments can be made. Mr. Lupo asked for an update on the V-Fee litigation. Mr. Germinario explained that there was a decision made where count 2 was dismissed and count 1 was kept in the litigation.

There being no further comments, the public session was closed.

RESOLUTION

05-23 William Pyznar
8 Bliss Rd
Block 2501 Lot 5.04

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

Roll Call:

In Favor: Mayor Glassner, Mr. Ritger, Mr. Smith, Mr. D'Urso, Mr. Egerter, and Mr. Kay.

Opposed:

Abstain: Ms. Bushman, Mr. Sprandel, and Mr. Barker.

Motion Carried

The resolution follows.

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

Decided: November 21, 2023

Memorialized: December 19, 2023

IN THE MATTER OF WILLIAM PYZNAR**"C" VARIANCE APPLICATION**

BLOCK 2501, LOT 5.04

APPLICATION NO. JLUB #05-23

WHEREAS, William Pyznar (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 6/13/23; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/21/23; 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 6.655 acres located at 8 Bliss Road in the 5-Acre Residential Zone. The property has improvements including a 1½ story brick dwelling, macadam driveway, brick patios, in-ground pool, metal fencing and walls.

2. The improvements to the subject property for which the Variance relief is sought comprise a 6-foot high entry gate within the 75-foot front yard setback, extending across the driveway at a distance of 100 feet from the westerly property line and Bliss Road. Since Ordinance §215-29B(2) limits the height of fencing to 4 feet in the front yard, a "C" variance is required for the proposed entry gate.

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

- Survey, dated 4/4/22, prepared by Daniel Parker, PLS, marked up to show fence location
- Site Plan, consisting of one sheet, prepared by William J. Pyznar, PE, dated 11/6/23

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

- Land Development Application, dated 6/13/23, prepared by William J. Pyznar

- *Site Inspection Form*
- *Zoning Officer Denial of Application, dated 4/28/23*
- *Gate detail, Photo exhibits*
- *Checklist*
- *Property Owners List*
- *Certificate of Paid Taxes and Utility Fees, dated 6/6/23*

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 7/12/23

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

Zoning Officer Permit Review, dated 4/28/23

7. *In the course of the public hearings, no exhibits were marked as part of the hearing records.*

8. *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.*

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

Mr. Pyznar testified that the originally proposed 8-foot deer fencing had been withdrawn from this application. The 6-foot high security gate requires relief from Ordinance §215-29B(2), which limits front yard fencing to 4-foot height. Mr. Pyznar stated that the gate is needed for security purposes and would be set back 100 feet from the road for safety reasons.

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

The Variance relief is warranted pursuant to N.J.S.A. 40:55D-70c(2), because the security and aesthetic benefits of the proposed improvements outweigh any negligible detriments.

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.

11. *In summary, the Board hereby grants a total of one (1) "C" variances in connection with this application.*

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 gate shall not exceed 6 feet 6 inches in height, as depicted on the detail drawing submitted with the application.*

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 11/21/23.

Lisa Smith
Board Secretary

12-23 McTighe-Vega
2 Oak Forest Ln
Block 2401 Lot 31

Mr. Germinario summarized the McTighe-Vega application, and the conditions outlined in the resolution. Mr. Germinario noted that on page 9 Dorne needed to be spelled correctly. Mr. D'Urso made a motion to memorialize the resolution and Mr. Egerter seconded.

Roll Call:

In Favor: Mayor Glassner, Mr. Ritger, Mr. Smith, Mr. D'Urso, Mr. Egerter, and Mr. Kay.

Opposed:

Abstain: Ms. Bushman, Mr. Sprandel, and Mr. Barker.

Motion Carried

The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: November 21, 2023

Memorialized: December 19, 2023

**IN THE MATTER OF MCTIGHE & VEGA
"C" VARIANCE APPLICATION
BLOCK 2401, LOT 31
APPLICATION NO. JLUB #12-23**

WHEREAS, McTighe & Vega (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 9/26/23; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 11/21/23; 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 27.909 acres located at 2 Oak Forest Lane (a private lane off Hardscrabble Road), improved with a 2-story brick dwelling, brick cottage, carriage house, garage, patio, in-ground pool and driveway.

2. The improvements to the subject property for which the Variance relief is sought comprise two solid entry piers of height 8 feet 4.5 inches to be installed within the front yard at the driveway entrance. Since Ordinance §215-29B(2) limits the height of such fencing to 4 feet and prohibits solid fencing, a "C" variance is required.

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

- Proposed Site Plan, consisting of two (2) sheets revised 5/1/23, prepared by Celia DeHuff, LLA
- Grading Plan, consisting of four (4) sheets, dated 12/9/22, prepared by Ryan L. Smith, 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 9/26/23, prepared by Thomas J. Benedetti
- Site Inspection Form
- Zoning Officer Denial of Application, dated 9/23/23
- Checklist
- Survey, dated 2/24/09, prepared by Christopher J. Aldrich, PLS
- Zoning Plan, consisting four (4) sheets, dated 12/9/22, prepared by Ryan L. Smith, PE

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 10/30/23, 11/17/23

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

Zoning Officer Denial, dated 9/13/23

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

A-1 Photo of trees in vicinity of proposed pillars

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

Michael McTighe, Applicant
Peter Dorne, AIA, Architect and Construction Manager

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

Peter Dorne, Applicant's architect, testified that the proposed entry features are part of an overall renovation of this dwelling. The two entry pillars, each having a total height of 8 feet 4.5 inches, require a "C" variance from Ordinance §215-29B(2), insofar as they are located in the front yard, are solid, and exceed the permitted 4-foot height. The entry pillars are surrounded on either side by 1-foot wing walls, which are located within the private road so to be beyond the drip-line of native trees, as shown in Exhibit A-1. The Board Engineer stated that the location of the wing walls would not present a traffic hazard. The Borough Fire Inspector did not object to these entry features.

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

The Variance is justified pursuant to N.J.S.A. 40:55D-70c(2) because the proposed entry features contribute to the overall renovation of the dwelling and its aesthetic qualities. Such entry features are typical of other homes in the area and contribute to the character of that area. There are no significant detriments associated with the granting of this relief.

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.

11. In summary, the Board hereby grants a total of one (1) "C" variance in connection with this application.

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 11/21/23.

Lisa Smith
Board Secretary

COMPLETENESS

17-23 Deborah Ingersoll
500 Bernardsville Rd.
Block 2401 Lot 36

Mr. Ferriero summarized the completeness review letter dated November 27, 2023 where it was noted that there were a number of waivers requested in the application. Mr. Ferriero stated that subject to the waivers, the application can be deemed complete.

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

Roll Call:

In Favor: Mayor Glassner, Ms. Bushman, Mr. Ritger, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Mr. Kay, and Mr. Barker.

Opposed:

Abstain:

Motion Carried

HEARING

17-23 Deborah Ingersoll
500 Bernardsville Rd.
Block 2401 Lot 36

Present: Mr. Wolfson, Applicant's Attorney
Mr. Ingersoll, Applicant
Mr. Aldrich, PLS, surveyor

Mr. Wolfson explained the application is seeking approval for 2 variances, 1 for the 8' deer fence and 1 for entrance gates and pillars at each of the 2 driveway entrances.

Mr. Germinario reviewed the public notice and found it to be adequate to proceed.

Mr. Ingersoll was sworn in.

Mr. Ingersoll stated that he and his wife purchased the property a year ago and have done many improvements. Mr. Ingersoll explained that they were looking to plant an orchard and would need an 8' deer fence to keep the deer out. Mr. Ingersoll noted that they propose to use 5" round pressure treated posts with welded wire mesh fence with black rubber coating on it to keep the fencing discreet. Mr. Ingersoll explained that there are 4 pillars and gates existing that are older and do not function on the property and the proposed squaring the new ones off to the street and placing them 50' off the curb line so that larger trucks, i.e. fire trucks would be able to get in easier. Mr. Ingersoll noted that the pillars will be 7' in height and have lighting that will only light up the plaque of the address that would be on the pillar and there is no light on the top. Mr. Ingersoll explained that a 6' fence will slow the deer from getting in but will not keep the deer out of the orchard, which is why an 8' fence is being proposed. Mr. Ingersoll noted that he has seen other 8' fencing and pillars consistent with what is being proposed in the Borough. Mr. Ingersoll mentioned that he met with a member of the Horseshoe Bend Association, which is a private road, and went over what the plans were, and she seemed positive about the improvements.

Mr. Egerter asked if the gates were manual or automatic. Mr. Ingersoll stated that they would be automatic. Mr. Kay asked if the 8' fence would surround the entire property and Mr. Ingersoll explained that the blue line is 8' and the yellow line is 4' on the plans with colored rendering of fence size that was marked exhibit A-1 dated 12-19-23. Mr. Ritger asked if the Fire Department commented on the application. Mr. Smith stated that a Knox box was recommended in the email dated November 20, 2023 from the fire marshal. Mr. Ingersoll stated that he has no issue in installing a Knox box. Mr. Kay asked if 8' was high enough and Mr. Ingersoll stated that it would be. Mr. Sprandel noted that when driving down Horseshoe Bend, he noticed the cleanup and grounding of stumps in the front and likes the design of the 4' fence in the front. Mr. D'Urso asked if alternatives were looked into like lower fences, 3' apart. Mr. Ingersoll explained that he looked into alternatives but feels more confident on the 8' keeping the deer away from the large investment of fruit trees that will be planted. Mr. D'Urso asked why not just fence in the area of the orchard. Mr. Ingersoll stated that they will be planting other items like blueberry and raspberry bushes in the other areas. Mr. Sprandel noted that there is an existing fence on the south side of the property and Mr. Ingersoll stated that he will speak to his neighbor and the existing fence will be removed. Mayor Glassner asked where the deer will go if you barricade your yard. Mr. Ingersoll stated that there is an existing fence and the deer do get in from time to time but is unsure where the deer will go. Mayor Glassner noted that the deer will probably go to the neighbor's yard. Mr. Ingersoll stated that the neighbor also has a fence. Mr. Ritger explained that this is the issue the Board faces, wear everyone puts up a fence and the deer will only have the street to run on. Mayor Glassner stated that it creates a public hazard. Mr. Ingersoll explained that the deer can still get into the front yard and the fence is set back off the street.

Chairman Ritger opened the meeting to the public for questions and comments. There being none, Mr. Ritger closed public comment.

Mr. Aldrich was sworn in.

Mr. Aldrich explained the plans that were submitted and gave a step-by-step description of where existing fence and proposed fencing will be located and removed.

Mr. Ritger asked the reasoning for putting the 8' fencing where it is proposed in the front yard. Mr. Ingersoll explained that the positioning is due to the garden area that will be extended. Mr. Ingersoll stated that all the existing fence on his property will be removed and replaced as noted on the plans.

Mr. Egerter asked if the 4' split rail will be placed on the Horseshoe Bend Rd. side of the property. Mr. Ingersoll stated that it will be 4' post and board fencing. Mr. Germinario noted that the application says split rail so post and board would be a condition. Mr. Smith asked if the property will be farm assessed because of the orchard. Mr. Ingersoll stated that the property is already farm assessed. Mayor Glassner asked what the acreage of the fenced area is. Mr. Ingersoll stated that it would be approximately 5 acres.

Chairman Ritger opened the meeting to the public for questions and comments. There being none, Mr. Ritger closed public comment.

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

Roll Call:

In Favor: Ms. Bushman, Mr. Ritger, Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Mr. Kay, and Mr. Barker.

Opposed: Mayor Glassner

Abstain:

Motion Carried

DISCUSSION

a. Review Draft Lighting Ordinance

- Ms. Kopsco summarized the draft ordinance. After discussion, the Board was in favor of forwarding the draft lighting ordinance to the Mayor and Council for their consideration.

b. Annual Report

- The Board reviewed the Annual Report and made changes. The report will be voted on at the reorganization meeting to send to the Mayor and Council for consideration.

c. Ortiz Extension

- Motion made by Mr. Sprandel and seconded by Mr. Smith to grant a 6-month extension to the approval. On a voice vote, all were in favor.

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Smith, and seconded by Mr. Sprandel. On a voice vote, all were in favor. Chairman Ritger adjourned the meeting at 8:50PM.

The next scheduled reorganization/regular meeting of the Joint Land Use Board is Tuesday, January 16, 2024 at 7:30PM in the Garabrant Center, 4 Wilson St. , Mendham, NJ.

Respectfully submitted,

Lisa J. Smith

Lisa Smith
Land Use Coordinator