

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, April 16, 2024- 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 – Absent	Mr. Egerter – Present
Ms. Bushman – Absent	Ms. Garbacz – Present
Councilman Sullivan – Absent	Mr. Molnar –Present
Mr. Smith – Present	Ms. Traut – Alternate 1 -Present
Mr. Sprandel – Present	Mr. Kay- Alternate 2- Present
Mr. D’Urso– Present	Mr. Barker – Alternate 3 - Absent
	Mr. Pace – Alternate 4 – Absent

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

APPROVAL OF MINUTES

Adoption of the minutes of the March 19, 2024 were tabled until the next Joint Land Use Board Regular Meeting.

PUBLIC COMMENT

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

There being none, the public session was closed.

RESOLUTION

18-23 West Main 21, LLC
21 West Main St.
Block 301 Lot 40

Mr. Germinario summarized the West Main 21, LLC application, and the conditions outlined in the resolution. Mr. Smith made a motion to memorialize the resolution and Mr. Molnar seconded.

Roll Call:

In Favor: Mr. Smith, Mr. Sprandel, Mr. D’Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, and Ms. Traut.

Opposed:

Abstain: Mr. Kay

Motion Carried

The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD**RESOLUTION OF MEMORIALIZATION****Decided: March 19, 2024****Memorialized: April 16, 2024**

**IN THE MATTER OF WEST MAIN 21, LLC
PRELIMINARY AND FINAL MINOR SITE PLAN WITH "D" AND "C"
VARIANCES APPLICATION
BLOCK 301, LOT 40
APPLICATION NO. JLUB #18-23**

WHEREAS, West Main 21, LLC (hereinafter the "Applicant") applied to the Borough of Mendham Joint Land Use Board (hereinafter the "Board") for the grant of Preliminary and Final Minor Site Plan with "D" and "C" variances and design waivers by application dated 11/7/23; and

WHEREAS, the application was deemed complete by the Board, and public hearings were held on 2/20/24 and 3/19/24; 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 is situated in the Historic Business Zone and consists of approximately 14,636 square feet (0.336 acres). The Property is currently improved with a three-story structure that originally served as the Borough's fire house. The Building today contains office space on the first two floors and two apartments on the third floor. The Building's basement is currently used for storage and for HVAC equipment. The building is served by a parking lot in the rear that contains fourteen spaces. A dumpster is also situated in the rear of the building. The parking lot is presently lit with one high pressure sodium light. An enclosed staircase is situated along the rear wall of the building.

2. The Applicant is seeking preliminary and final site plan approval to convert the interior of the building such that the first floor will contain two commercial units, the second and third floors will contain four two bedroom units, and the lower level will contain two one bedroom units. The proposed interior renovations will result in six residential units, (four two bedroom units and two one bedroom units). The two proposed basement residential units will be designated as moderate income affordable units. The Applicant is proposing to demolish and replace and enlarge the existing enclosed staircase at the rear of the building. The proposed renovations, with the exception of an enlarged enclosed staircase area, will not increase the building's footprint. Additionally, the Applicant is proposing to re-stripe the existing parking area to provide 15 parking spaces, including some tandem spaces. The Applicant proposed to relocate the dumpster in the rear of the building and provide a new enclosure. The Applicant is not increasing the extent of the paved parking area and is proposing additional lighting fixtures in the parking area along with the removal of the existing light. The Applicant is seeking the following variances in connection with the site plan application:

- (1) A variance pursuant to N.J.S.A. 40:55D-70d(5) to permit an increase in the permitted residential density. The municipal ordinance permits a density of two residential units on the Property. The Applicant is seeking six residential units.
- (2) A variance pursuant to N.J.S.A. 40:55-c to permit the site to be served by 15 parking spaces where 21 parking spaces are required.
- (3) A design waiver to permit three of the proposed parking spaces to be tandem spaces.
- (4) A design waiver to permit noncompliant parking stall dimensions.
- (5) A design waiver from the requirement of vehicle protective barriers for the parking area lighting fixtures.

3. The Applicant has submitted the following documents that depict and/or describe the proposed site plan improvements:

- Architectural Plans, consisting of four sheets, dated 8/10/23, prepared by William P. Byrne, Architect

- *Site Plans, consisting of four sheets revised through 3/1/24, prepared by Ryan L. Smith, PE, PLS*

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

- *Land Development Application with project proposal description, dated 11/7/23, prepared by Thomas J. Malman, Esq.*
- *Site Inspection Form*
- *Checklist with Addendum*
- *Shared Parking Analysis, dated 11/3/23, revised 3/6/24, prepared by Eric L. Keller, PE*
- *Planning Board Resolutions, dated 2/13/84 and 5/5/77*
- *Zoning Officer's Denial Letter, dated 9/15/23*
- *Historic Preservation Commission approval, dated 9/5/23*
- *Property deed*
- *Certified list of property owners*
- *Certificate of Paid Taxes, dated 7/11/23*
- *Ownership Disclosure Statement, dated 7/10/23*
- *Application Cover Letter of Thomas J. Malman, Esq., dated 11/7/23*
- *Addendum to Checklist Cover Letter of Ryan Smith, PE, dated 10/10/23*
- *Revised Plans Cover Letter of Ryan Smith, PE, dated 3/4/24*

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:

Jessica Caldwell, PP, dated 2/12/24, revised 3/11/24
Paul Ferriero, PE, dated 12/28/23, 2/13/24
and 3/12/24

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

John Zaragoza, Fire Marshal, dated 12/6/23

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

- A-1 *Aerial Property Photos (2)*
- A-2 *Historic Building Photos (2)*
- A-3 *Current Building Photos (4)*
- A-4 *Architectural Drawings (previously submitted, unrevised)*
- A-5 *Interior Apartment Renderings*
- A-6 *Existing Conditions (Site Plan Sheet 2, colorized)*
- A-7 *Proposed Conditions (Site Plan Sheet 3, colorized)*
- A-8 *Proposed Lighting Plan*
- A-9 *Revised Shared Parking Analysis*

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

William Byrne, Architect
Eric Keller, Engineer
Ryan Smith, Engineer
John McDonough, Planner
James Weichert, Jr., Principal

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

Architect William Byrne testified that the existing exterior stairway in the rear of the building will be replaced with a new structure with a shingle color will match that of the building. The building will be sprinklered throughout. A minimum basement ceiling height of 7.5 feet will be provided. Engineer Ryan Smith testified 15 parking stalls will be provided, including a handicapped accessible stall and 4 EV-ready stalls. "Residents Only" 6 stalls will be tandem: 2 and 13, 3 and 14, and 4 and 15. A design waiver from Ordinance §195-47A(5) is required since vehicle protective barriers are not proposed for the proposed light fixture. As suggested by the Board Engineer, the light fixture depicted behind parking stall #12 will be relocated between stalls #11 and #10. Engineer Eric Keller testified that the 6 tandem parking stalls were removed from the revised Shared Parking Analysis. Although the calculated shortfall of 6 parking stalls can be made up by on-street parking, Mr. Keller

opined that on-site parking will be sufficient at all times for all uses on the site. James Weichert, Jr., testified that, as currently operated, the real estate office is not regularly used for client meetings and sales associates don't regularly use the office either. He agreed to restrict the two first-floor commercial units so as to prohibit medical/dental offices, restaurants and coffee shops. He further agreed to designate both basement apartment units as moderate-income affordable units. Planner John McDonough addressed the positive and negative criteria with respect to the "d(5)" density variance, and opined that the site could accommodate the additional residential units. The agreed-upon commercial use restrictions will minimize adverse impacts. Regarding the "C" variance and design waivers for parking, he referred to Engineer Keller's shared parking analysis, and he opined that it was well suited for the proposed mixed use of the site.

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

Based on the Applicant's testimony, the Board finds that the proposed site plan will safely accommodate six residential units and the on-site parking demand associated therewith, and that the mixed-use design advances the purposes of the MLUL, particularly with respect to affordable housing and restoration of this historic building. The adaptive re-use of this property is consistent with the zone plan for the Historic Business District and is not tantamount to re-zoning. The use restrictions on the two commercial units will serve to mitigate any adverse impacts associated with the development.

Therefore, the grant of the "d(5)" and "c" variances, is warranted pursuant to N.J.S.A. 40:55D-70c(2), because the benefits of the deviation will substantially outweigh the detriments. The grant of the design waivers is consistent with N.J.S.A. 40:55D-51(b), insofar as they are reasonable and within the general purpose and intent of the Ordinance.

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 "D" variance, one "C" variance and design waivers in connection with this application.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the application and grant the variances and design waivers requested by the Applicant, as described hereinabove.

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 two basement apartments will be designated as moderate income affordable housing units.

2. The light fixture currently proposed to be located behind parking stall #12 will be relocated between stalls #10 and #11.

3. The following uses shall be prohibited in the two commercial units: medical/dental offices, restaurants and coffee shops.

4. The six tandem parking spots will be assigned to designated residential tenants.

5. A sign describing the historic significance of the building shall be designed and installed in coordination with the Borough Administrator.

6. Applicant shall comply with the requirements of the Borough Fire Marshal, as set forth in his Plan Review Report, dated 12/6/23.

7. Applicant has received partial approval for the sewer gallonage required for the project. The Board's approval is subject to the allocation of the additional gallonage by the Mayor and Council.

8. A lighting plan has been submitted which includes the removal of the existing high pressure sodium area light that creates excessive glare. The proposed light fixtures shall be specified with a color temperature not to exceed 3500K.

9. 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.

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

11. *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.*

12. *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 3/19/24.

Lisa Smith

COMPLETENESS

03-24 David & Lori Ryan
2 Knollwood Dr.
Blk 706 Lot 3

Mr. Ferriero summarized the completeness review letter dated March 27, 2024, where it was noted that there were waivers requested in the application. Mr. Ferriero stated that subject to the waivers, the application can be deemed complete.

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

Roll Call:

In Favor: Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, and Mr. Kay.

Opposed:

Abstain:

Motion Carried

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

HEARING

03-24 David & Lori Ryan
2 Knollwood Dr.
Blk 706 Lot 3
Present: Mr. Encin – Architect
Mr. & Mrs. Ryan – Applicant

Mr. Ryan and Mr. Encin were sworn in.

Mr. Ryan gave an overview of the application to spruce up their home and give it some curb appeal.

Mr. Encin explained that the property is in the ½ acre zone and described the proposed application to widen the stoop and a portico over the stoop which would include adding 2 small dormers and a larger peak over the existing house. Mr. Encin noted that there is no increase in the bulk footprint and explained that anything that

needs to be done to the house would require a variance for existing non-conforming due to the existing setback requirements. Mr. Encin noted that there is no usable space at the top of the portico.

Mr. Encin stated that the benefit to approval would be curb appeal and improve the streetscape with no detriment. Mr. Encin explained that most of the homes on the street are existing non-conforming and this project is not projecting anything forward. Mr. Encin explained that the existing front yard set back is 34.4' and the proposed is 30.4' and the 4' is for the portico roof and columns coming out on the depth of the stoop.

Mr. Sprandel asked when the house was built, and Mr. Ryan stated it was built in 1964. Mr. Sprandel asked when the ordinance changed. Mr. Encin wasn't sure. Mr. Egerter thought there was an ordinance to change the requirement. Mr. D'Urso stated the ordinance that was passed does not include ½ acre zones. Mr. Egerter stated that every house on the street is non-conforming. Mr. Germinario explained that the Board could grant relief based on a C1 hardship because of setback bisecting the house and there is no alternative and a C2 because of the improvement of the streetscape therefore there is no detriment. Mr. Molnar asked if there will be storage on the portico and Mr. Encin stated there is no usable space. Mr. Kay asked if there will be lighting. Mr. Encin stated there will be on the ceiling of the portico.

Chairman D'Urso opened the meeting to the public for questions and comments. There being none, Chairman D'Urso closed public comment.

Mr. Ferriero stated that in his March 27, 2024, letter he noted the reason for the variance and the second suggests that the variance be granted at 30' incase the measurement are a little bit over but the project needs to be built in accordance with the plan. Mr. Ferriero noted that an As Built survey be submitted once completed to confirm the setbacks.

Mr. Germinario stated that those two items will be conditions of approval.

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

Roll Call:

In Favor: Mr. Smith, Mr. Sprandel, Mr. D'Urso, Mr. Egerter, Ms. Garbacz, Mr. Molnar, Ms. Traut, and Mr. Kay.

Opposed:

Abstain:

Motion Carried

DISCUSSION

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 D'Urso adjourned the meeting at 8:00PM.

Respectfully submitted,

Lisa J. Smith

Lisa Smith

Land Use Coordinator