

**MINUTES OF THE
MENDHAM BOROUGH JOINT LAND USE BOARD
REGULAR MEETING
Tuesday, May 21, 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 – Absent
Councilman Sullivan – Present	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 – Present

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

APPROVAL OF MINUTES

Motion by Mr. Smith, seconded by Mr. Egerter and unanimously carried by voice vote to adopt the minutes of the **March 19, 2024**, Joint Land Use Board Regular Meeting, as written.

Roll Call:

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

Opposed:

Abstain: Councilman Sullivan and Mr. Kay.

Motion Carried

Motion by Mr. Egerter, seconded by Mr. Molnar and unanimously carried by voice vote to adopt the minutes of the **April 16, 2024**, Joint Land Use Board Regular Meeting, as written.

Roll Call:

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

Opposed:

Abstain: Councilman Sullivan and Mr. Pace.

Motion Carried

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

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

Mr. Germinario summarized the David & Lori Ryan, 2 Knollwood Dr. application, and the conditions outlined in the resolution. Mr. Smith made a motion to memorialize the resolution and Mr. Kay seconded.

Roll Call:

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

Opposed:

Abstain: Councilman Sullivan and Mr. Pace.

Motion Carried

The resolution follows.

BOROUGH OF MENDHAM JOINT LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

Decided: April 17, 2024

Memorialized: May 21, 2024

IN THE MATTER OF DAVID & LORI RYAN
"C" VARIANCE APPLICATION
BLOCK 706, LOT 3
APPLICATION NO. JLUB #03-24

WHEREAS, David & Lori Ryan (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 10/26/23; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 4/17/24; 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 consists of $\frac{1}{2}$ acre located at 2 Knollwood Drive in the $\frac{1}{2}$ Acre Residential Zone. The property contains a 2-story residential dwelling and associated improvements.

2. The improvements to the subject property for which the Variance relief is sought comprise construction of a roof gable, dormers and front portico. Variance relief is required from Ordinance §215-28 for front yard setback, proposed at 30.4 feet whereas a minimum of 50 feet is required.

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

- Architectural Plans, consisting of three sheets prepared by Daniel Encin, Architect, dated 10/20/23

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

- Land Development Application, dated 10/26/23, prepared by David Ryan
- Zoning Officer Denial of Application, dated 9/22/23
- Checklist
- Site Inspection Form, dated 10/25/23, prepared by David Ryan
- Photos

- Certificate of Paid Taxes, dated 10/5/23
- 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, CME, dated 3/27/24

6. In the course of the public hearings, no exhibits were marked.

7. In the course of the public hearings, the Applicant David Ryan represented himself, and the Applicant presented his own testimony and the testimony of the following witness, which testimony is part of the hearing record:

Dan Encin, Architect

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

The front yard setback currently extends into the footprint of the existing dwelling, for which the existing setback is 34.4 feet. The proposed improvements will enhance the appearance of the house and will have no negative impacts.

9. 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 existing configuration of the subject property, the strict application of Ordinance Section §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 following purposes of the Municipal Land Use Law and the Borough of Mendham Land Use Ordinance would be advanced by granting the Variance so as to allow the requested deviation from Ordinance Section 215-28:

- Promotion of a desirable visual environment

The detriments associated with the deviation are considered minimal because the additional 4 feet of encroachment into the setback will have virtually no visual impact.

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 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(1) and 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 variance be granted for a front setback of 30', subject to the stoop/portico being constructed to the dimensions on the plan.

2. An as-built survey shall be submitted upon completion of the project.

3. All application, escrow and inspection fees shall be paid in full and current at the time of issuance of zoning permits and construction permits. Engineering inspection fees will be paid out of the Applicant's escrow account, and the Applicant will replenish said account to the extent required to pay for said inspection fees.

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

5. This approval is subject to the payment in full of all taxes and assessments due and owing to the Borough of Mendham and/or any agency thereof.

6. Pursuant to Ordinance Section 124-22, the Variance relief granted herein shall expire within one year of the memorialization of this Resolution unless the construction or alteration of the improvements requiring Variance relief has actually been commenced during that time period, provided that the running of the one-year time period shall be tolled during the pending of any appeal of the Board's decision to the Borough Council or to a court of competent jurisdiction.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution adopted by the Borough of Mendham Joint Land Use Board memorializing the action taken by the Board at its meeting of 4/17/24.

Lisa Smith
Board Secretary

COMPLETENESS

06-24 Ortiz
53 East Main Street
Blk 1501 Lot 24

Mr. Ferriero explained that the application was seen before and effectively everything that was seen before has been resubmitted except for this plan has the correct numbers. Mr. Ferriero stated that all the waivers that were previously granted are appropriate and recommends deeming the application complete. Mr. D'Urso asked if this application was to true up the numbers and Mr. Ferriero stated it was. Mr. Germinario asked if it was just the lot coverage numbers and Mr. Ferriero stated that it was. Mr. Germinario explained that in the resolution of February of 2023 all relief was granted and the lot coverage but the lot coverage that was granted was miscalculated. Mr. Germinario explained that the Board did not need to go through the entire application, only the lot coverage amounts, and the previous resolution will remain in effect, conditions still apply and the relief still applies. Mr. Germinario stated that the Board will only need to update the lot coverage.

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

Roll Call:

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

Opposed:

Abstain:

Motion Carried

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

HEARING

06-24 Ortiz
53 East Main Street
Blk 1501 Lot 24
Present: Mr. Mills – Attorney
Mr. & Mrs. Ortiz – Applicant

Mr. Mills explained that there was a 2.2% error in the lot coverage calculations in the previous application. Mr. Mills noted that dry well calculations were submitted and that there were no changes to the application other than the corrected numbers for lot coverage. Mr. Mills asked that the Board incorporate the additional coverage in the Resolution dated February 23, 2023.

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

Mr. Germinario stated that the only condition of this approval is that the conditions of the previous approval of February 20, 2023 remain in effect.

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

Roll Call:

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

Opposed:

Abstain:

Motion Carried

Mr. Mills requested if the applicant could obtain permits prior to the adoption of the resolution at their own risk. Mr. Ferreiro had no issue with that, and the Board stated it was ok.

DISCUSSION

Mr. Germinario explained the contents of Resolution 080-2024 V-Fee and Fair Share Housing that was passed by the Mayor and Council and that this resolution gives the attorney authority to enter into a consent order on these terms.

Chairman D'Urso opened the meeting to the public.

Mr. Van Den Hende, 11 Coventry Rd., asked if this resolution resolves the town of legal fee obligations to V-Fee for breach of contract. Mr. Germinario stated he believes if the case was disposed of on the basis of the draft consent order it would obviate any ruling.

Mr. Ritger, 14 Gunter St., when V-Fee and the borough agreed on the settlement were anyone on the Joint Land Use Board involved Mr. Ferriero explained that the Land Use Board could not be involved because the settlement agreement is litigation between an intervener and the governing body. Mr. Ritger commented on the way the agreement was made with the cell tower already existing. Mr. D'Urso stated that the comments that Mr. Ritger was making were not meant for the Joint Land Use Board and that it should be discussed at a Council meeting since it was a Council discussion. Mr. Ritger stated that the resolution was introduced and adopted without any public input or knowledge and his opinion is it is starting to smell.

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

ADJOURNMENT

There being no additional business to come before the Board, Motion was made by Mr. Smith, and seconded by Mr. Egerter. 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