

**MINUTES OF THE TOWNSHIP OF MENDHAM PLANNING BOARD
REGULAR MEETING HELD JULY 20, 2022
VIA ZOOM**

The remote meeting via zoom was called to order by Chairman Giordano at 7:09 p.m. who asked for a roll call. Upon roll call:

ROLL CALL

PRESENT: Mr. Orlins, Ms. Neibart, Mr. D'Emidio, Ms. DeMeo, Mr. Perri, Mr. Mayer,
Chairman Giordano
ABSENT: Mr. Johnson, Mr. Maglione
Others present: Mr. Andrew M. Brewer, Mr. Dennis Keenan

SALUTE TO THE FLAG

ADEQUATE NOTICE of this meeting of the Mendham Township Planning Board was given as follows: Notice was sent to the Daily Record and the Observer Tribune on January 7, 2022 and Notice was filed with the Township Clerk on January 7, 2022.

This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision with decorum and civility appropriate to a quasi-judicial hearing being maintained at all times.

MINUTES

The Board tabled the September 15, 2021 Regular Meeting, September 29, 2021 Special Meeting and January 6, 2022 Reorganization Meeting minutes until the next meeting on August 17, 2022. Ms. Foley will send the minutes out to the Board again before that time.

RESOLUTION – PB 22-03

APPLICATION – PB- 22-01

Nickolas and Tiffany Mitilenes
2 Lone Spruce Trail
Block 117, Lot 13
Lot Line Adjustment – Minor Subdivision

Mr. Brewer swore in Ms. Janet DeMeo and Mr. Carl Perri as Class IV members for the year 2022.

Chairman Giordano recused himself from the meeting at 7:15 pm because of his business connection through Verizon with the applicant's attorney, Mr. Robert McBriar. Mr. Brewer confirmed that this would be a conflict of interest and advised that Chairman Giordano recuse himself.

Vice Chairman D'Emidio resumed the meeting and asked Mr. McBriar to present the application to the Board.

Mr. McBriar, attorney for the applicant, stated that he is an attorney for the law firm, Schenck, Price, Smith & King, LLP and explained that Mr. James E. Polles, the original attorney for the applicant left the firm and that he would now be representing Mr. Mitilenes for a minor subdivision lot line adjustment at 2 Lone Spruce Trail, Mendham Township. Mr. McBriar went on to say that he acknowledges receipt of Mr. Keenan's completeness reviews 1 & 2 - dated June 27, 2022 and July 18, 2022, respectively. Vice Chairman D'Emidio confirmed that the application was deemed complete, and Mr. McBriar also stated that as requested at the TRC meeting, an application was submitted to the Morris County Planning Board. He went on to say that consent from the adjoining neighbor has also been included with the application.

Mr. McBriar stated that the application involves Block 117, Lots 11 and 13 with addresses of 2 and 4 Lone Spruce Trail and that the applicant is proposing that approximately 1.049 acres from Lot 11 be added to Lot 13. This would allow the applicant to maintain a retaining wall and landscaping, which is more immediate to his vicinity. Both lots would continue to be used as single-family dwellings and that there are no new lots being created. Both lots will continue to be two times the minimum lot size in the R-3 zone, and there is no variance relief being requested.

Mr. McBriar went on to say that accompanying the application was a proposed minor subdivision and lot line adjustment plan prepared by John Simmons, surveyor for the applicant, and dated 4/22/2022, revised 7/3/2022.

Mr. Brewer swore in Mr. John Simmons as an expert witness for the applicant. As a voir dire, Mr. Simmons stated that he has a BA from University of North Carolina and has been a surveyor for 35 years. He has been licensed since 1997 and that his license is current in the State of New Jersey. Mr. Simmons has not testified before other Boards in the State of New Jersey and that this is his first time providing testimony before this Board. Mr. Simmons was accepted by the Board as an expert witness for the applicant.

Mr. McBriar shared his screen for the Board members in order for them to visually appreciate the plan. The plan was marked as Exhibit A-1, dated July 20, 2022. Mr. Simmons indicated a retainer wall that hugs the existing property line with a one-hundred-foot-wide landscape grass area that is off of the applicant's property and on Lot 11. Mr. Mitilenes was concerned that he would have to maintain this grass area even though it is not his property and therefore proposed that he buy this portion of the property from the adjacent neighbor on Lot 11 (4 Lone Spruce Trail). Mr. Simmons went on to say that Lot 13 (2 Lone Spruce Trail - Mitilenes) is not that wide and rather steep on the other side of his property so this would benefit Lot 13 in terms of useable land and front lawn. He confirmed that the use as a single-family residence will not change with no development proposed.

Mr. McBriar noted for the Board that Lot 11 is 7.373 acres as it currently exists and as a consequence of the requested subdivision lot line adjustment, Lot 11 would then be reduced to 6.234 acres, which is still above the 3-acre minimum. He went on to say that Lot 13 will be increased from the existing 8.952 acres to approximately 10 acres even. Mr. Simmons added that most of the lots are wooded and opined that the additional landscaping will be a nice addition. The owner of Lot 13 is currently maintaining the landscaped area.

Mr. Brewer swore in Mr. Nicholas Mitilenes, the applicant. Vice Chairman D'Emidio asked the Board members whether they had any questions for Mr. Mitilenes or Mr. Simmons. Ms. DeMeo inquired about the applicant obtaining a title search of both properties, which was discussed at the TRC meeting, in order to determine if there are any easements that would be involved in the proposed lot line adjustment. Mr. McBriar responded that if it becomes a requirement that it will be done as a condition of approval. Mr. Simmons stated that his research for Lot 13 went back

to 1990 and that the easements along Lone Spruce Trail and whatever easement restrictions were marked on the filed map are shown on the plan; however, there are not that many and mostly along the roadway. Ms. DeMeo stated that she is also referring to the neighboring property, Lot 11, and opined that a title search should also be obtained for this property in order to determine if there are any easements on this lot as well since a portion of it will potentially become the property of Mr. Mitilenes.

Vice Chairman D'Emidio pointed out an old pathway on the far west side of the property and inquired as to whether there are any deed restrictions with regards to this pathway, whereby it should be maintained and opened to the public as a hiking trail etc. Mr. Mitilenes responded that he was not aware of this old pathway until Ms. DeMeo visited the property and pointed it out. He went on to say that it does not look like it has been maintained in many years and that he has never seen anyone utilize it. He suspects it has not been utilized for quite some time. Mr. Simmons confirmed that this is not mentioned in the current deed. There was further discussion as to obtaining information with regards to any easements on the neighboring Lot 11, and Mr. Mitilenes stated that he provided the standard title search for his property, Lot 13, to his attorney. Mr. Keenan clarified that Ms. DeMeo is looking for Mr. Simmons to indicate that this plan was prepared with the benefit of a title search on Lot 13. Mr. Simmons verified then that there should be a note on the survey indicating which title commitment search has been reviewed and that all subject easements are shown on the map. Mr. Keenan confirmed that if any easements obtained in the search do not impact the application, then the application request can move forward; however, if there is an impact, then the application must come back to the Board for a possible modification. Mr. Mitilenes stated that Mr. Smith of Lot 11 is not in possession of his title, and it was determined that obtaining the title search for Lot 11 would be a condition of approval should the application be approved.

Vice Chairman D'Emidio inquired as to whether there are any plans to subdivide any one of these two lots. Mr. Mitilenes responded that there are no plans to subdivide the lots and that the purpose of the lot line adjustment is to maintain the landscape area along with considering the addition of some safety features since it is a fairly steep drop from the stone wall. He stated that it is really just a maintenance issue.

Mr. McBriar stated that Andrew and Miriam Smith purchased their property at 11 Lone Spruce Trail in 2018 so there should be no issue in obtaining the title information.

Vice Chairman D'Emidio made a motion to open the meeting to the public, and it was seconded. All agreed.

Ms. Foley stated that she saw no one from the public present at the meeting.

Vice Chairman D'Emidio made a motion to close the meeting to the public, and it was seconded. All agreed.

Ms. Neibart made a motion to approve the minor subdivision lot line adjustment for Block 127, Lot 11 & 13, and it was seconded by Mr. Mayer with the condition that a title search will be obtained for Lot 11 and indicating as such on the survey with any title commitments and easements that exist. It was also confirmed that any revised plans would be submitted to the Board members before the next meeting.

Upon roll call:

YAY: Mr. Orlins, Ms. Neibart, Mr. D'Emidio, Ms. DeMeo, Mr. Perri, Mr. Mayer,

NAY: None

Vice Chairman D'Emidio made a motion to adjourn the meeting. A motion was made, and it was seconded. All agreed.

The meeting adjourned at 8:04 pm.

Respectively Submitted,

Beth Foley
Planning Board Secretary