

**BOARD OF HEALTH – TOWNSHIP OF MENDHAM
MEETING MINUTES
May 25, 2021 – 7:30 P.M.**

CALL TO ORDER: *Wendy Parrinello, Board Secretary*

STATEMENT OF ADEQUATE NOTICE

Adequate Notice of this meeting of the Board of Health of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Observer Tribune and Daily Record on February 8, 2021. Notice was posted on the bulletin board in the Township offices and notice was filed with the Township Clerk.

SALUTE TO THE FLAG: *Led by Benjamin Weber*

THOSE IN ATTENDANCE:

Mr. Weber
Mr. West
Mr. Atkins, Alternate 1
Ms. Daniela Caporrino, Alternate 2

APPROVAL OF APRIL 27, 2021 MINUTES

Mr. Weber makes a motion to accept the minutes with the technical points given. Ms. Caporrino seconds the motion.

ROLL CALL: YES – Mr. Weber, Mr. West, Mr. Atkins, Ms. Caporrino

BUSINESS

BLOCK 131.01 LOT 1.08

APPLICANT: Pitney Farm Development, LLC

APPLICATION: New Septic Construction – 2 Samuel Farm Drive – Engineering & Land Planning Associates

- Mr. Weber asks if there is representation for the Pitney Farm Development application. Ms. Parrinello states that there is not representation for Pitney Farm Development.
- Mr. Weber explains that this is a new home in the Pitney Farm Development.
- Mr. Weber asks Mr. West if there isn't any representation for an application, can we move forward? Mr. West and Mr. Mills confirm that the Board can proceed with the application.
- Mr. Weber reads through Mr. Korshalla's memo and states that Mr. Korshalla gives recommendation for approval.

- Mr. Weber reviews Ms. Freer’s memo. Ms. Freer makes comment that a reserve area needs to be shown.
- Mr. West states that there’s plenty of space to demonstrate a reserve area.
- Mr. Weber suggests that the Board defer and table the application until a reserve area can be shown. Mr. West agrees that a reserve area should be required on the plans.
- Mr. Atkins states that if the reserve area can be reoriented then the plans will show as compliant.
- Mr. Weber proposes that a conditional approval is given to this application.
 - a. Reference needs to be given to Mendham Township – not Hunterdon County.
 - b. Revise plan to show a full reserve area that will meet the technical requirements.
- Mr. Weber states that if the conditions are met and they satisfy Ms. Freer and Mr. Korshalla, then this application can be approved.
- Mr. Weber make a motion to accept the plans as approved upon the above conditions. Mr. West seconds the motion.

ROLL CALL VOTE – YES

Mr. Weber
 Mr. West
 Mr. Atkins
 Ms. Caporrino

BLOCK 131.01 LOT 1.07

APPLICANT: Pitney Farm Development, LLC

APPLICATION: New Septic Construction – 4 Samuel Farm Drive – Engineering & Land Planning Associates

- Mr. Weber explains that this is a new home in the Pitney Farm Development.
- Mr. Weber reads through Mr. Korshalla’s memo and states that Mr. Korshalla gives recommendation for approval.
- Mr. Weber reads through Ms. Freer’s memo and states that the noted corrections need to be addressed with the applicant.
- Mr. Weber asks the Board for questions.
- Mr. Weber proposes that the Board approve the application upon correction of the home number – from number 2 to number 4 and the County reference to Mendham Township – not Hunterdon, on the application. Mr. West seconds the motion.

ROLL CALL VOTE – YES

Mr. Weber
Mr. West
Mr. Atkins
Ms. Caporrino

BLOCK 143 LOT 18

APPLICANT: Carmine Fornaro

APPLICATION: Alteration/Expansion – 10 Yardley Road – Stewart Surveying & Engineering, LLC

- Mr. Fornaro is the owner at 10 Yardley Road. Mr. Fornaro explains that his application is for the expansion of the septic, so as to accommodate the possibility of future construction from 3 bedrooms to 5 bedrooms.
- Mr. Weber explains that the plans submitted are consistent with the Townships current requirements. Mr. Weber cautions that while approval may be granted today, the rules in the future may have changed, and that the applicant would have to come back to the Board with architecture plans to receive the necessary approvals. If the rules remain the same, the septic plans are suitable for a 5 bedroom septic system.
- Mr. Weber addresses Mr. Korshalla's memo and notes that local ordinance does not permit the bed size reduction from 1.61 sq. ft. per gallon to 1.33 sq. ft. per gallon.
- Mr. Fornaro explains that the sizing criteria will be modified – increasing the bed size and the reserve area – that this can be accomplished and will not affect removing any additional trees for the actual disposal area, but will for the reserve area, if necessary. The new bed size will be 21x62 and the reserve area will be 24x54.
- Mr. Weber would like soil samples shown in the reserve area that would be compliant. Mr. West and Mr. Fornaro point out that soil samples are shown in the reserve area on the plans.
- Mr. Weber addresses Ms. Freer's memo.
- Mr. Weber states that plans should show the increased sizing of the bed and the reserve and that Mr. Fornaro will clear that with Ms. Freer and Mr. Korshalla. Additionally, show silt fencing, proposed piping and grading. Either show more grading or demonstrate that spot grading is sufficient. Have the engineer add notes that any trees within 10 feet of the proposed bed must be removed. These are the conditions of approval.
- Mr. West gives a motion to approve the application given the conditions. Ms. Caporrino seconds the motion.

ROLL CALL VOTE – YES

Mr. Weber
Mr. West
Mr. Atkins

Ms. Caporrino

BLOCK 142 LOT 34

APPLICANT: Vince Carrabba – Cavalry Construction Management, Inc.

APPLICATION: Alteration Expansion – 5 Thackery Lane – Parker Engineering & Surveying P.C.

- Mr. Steve Parker of Parker Engineering explains that his firm has prepared the application for an alteration and expansion to the existing home. The goal is to expand the home from three to five bedrooms.
- Mr. Weber presents Mr. Korshalla’s comments and asks Mr. Parker about the cross section not matching the laterals. Mr. Parker states that the 4th lateral will be added in the cross section view.
- Mr. Weber states that the architectural plans do not reflect a 5th bedroom and that there will need to be consistency among septic and architectural plans. Mr. Parker will confer with the homeowner and the architect regarding the number of bedrooms to be noted and illustrated on the plans.
- Mr. Mills asks Ms. Freer if the septic plans comply with a 5-bedroom home. Ms. Freer states, yes, they do.
- Mr. Weber would like to approve the septic plans subject to action on the following technical comments:
 - a. Tanks to be moved so that they meet the 10 ft. requirement from the existing water line.
 - b. Clarity on what architectural plans are to be a part of this application. Additionally, architectural plans will need to be referenced on the septic plans.
 - c. Cross section around the gap line will be changed.

Mr. West moves to accept the plans with the noted technical comments. Ms. Caporrino seconds the motion.

ROLL CALL VOTE – YES

Mr. Weber

Mr. West

Mr. Atkins

Ms. Caporrino

BLOCK 132 LOT 8

APPLICANT: STAR TRADING GROUP – Ramez Samuel

APPLICATION: Alteration/Expansion/Change in Use – 27 Brockden Drive – Parker Engineering and Surveying, P.C.

**Permit Approval: Freshwater Wetlands General Permit No. GP24

- Mr. Lee Levitt is in attendance, via Zoom, on behalf of the applicant, Ramez Samuel – 27 Brockden Drive. Mr. Levitt is in attendance with Steve Parker, Engineer and Jose Cabala, Architect. Mr. Levitt asks that Mr. Parker walk the Board through what has occurred since the last meeting.
- Mr. Parker explains that the application for 27 Brockden Drive was before the Board in January 2021. The dwelling was an existing one-story home and a second story was added, increasing the number of bedrooms from 3 to 5 – permits were issued from Mendham Township prior to construction beginning.
- Mr. Parker goes on to explain that the building work was already completed prior to Parker Engineering being engaged to perform testing and redesign of the septic system. During that time, it was discovered that wetlands are on the property. A wetlands consultant was retained, who went to the site, delineated the wetland boundary and it was found that greater than 99 percent of the property is covered by wetlands and wetlands transition areas.
- Mr. Parker states that the last time the Board met, the firm (Parker Engineering) was requesting a waiver from providing a reserve area because the Department of Environmental Protection regulations state that one cannot put a reserve area in a wetlands transition area for an expansion. Mr. Parker suggested that his firm would file an application with the DEP for approval of the septic system as well as the reserve area. The DEP approved the permit. A copy of the plan that was submitted to the DEP is being provided to the Board this evening (May 25, 2021).
- With regards to the new septic system, Mr. Parker explains that there is an existing septic system in front of the home and that the new septic system will be built in the same location – it's going to be smaller than the existing system is because an advanced treatment system that includes pressure dosing will be put in place. In accordance with the state health code, the size of the disposal field will be smaller than the existing field. The reserve area was tested - there are two test pits in the backyard – these are labeled on the plans and they were submitted to the DEP. The DEP has approved both the construction of the septic system and the placement of the reserve area in the back yard. The design does include an expansion to the size of the septic tank and the disposal field because there is an existing ejector pump in the basement. When there's an ejector pump in the basement, it's required that the septic tank and the disposal field be increased by 50 percent. There is a waiver that is being requested. The septic system is proposed to be 10 ft. away from the front property line. Mendham Township's requirement is 25 ft. from the property line.
- The owner will file with Morris County and with Mendham Township, a deed restriction and maintenance agreement for this type of septic system.
- The architectural plans submitted show 5 bedrooms and show two additional rooms, labeled 'office' with closets and access to bathrooms. Mr.

Korshalla would like the Board to make the determination that these are considered bedrooms or if they are only going to be used as offices.

- Mr. Weber asks about the permit and the determination that the system was granted DEP approval because there was an existing malfunctioning system. Mr. Parker states that there was an inspection of the system and it was determined that the system needed to be replaced; the application was an alteration for a malfunctioning system as well as an expansion.
- Mr. West's understanding is that the expansion was performed without prior approval from the Board of Health. Given the wetlands on this property, the Board would not have approved an expansion. In the summary of conditions (on the permit), it states that the permit is granted for an existing dwelling. Mr. West would like to know how the State was asked for approval. Was the state aware that this was a three-bedroom home that was being expanded to a five-bedroom home?
- Mr. Levitt explains that when the applicant originally expanded the home, he did file the proper permits and it was unbeknownst to him that a septic expansion permit was necessary at the time. Once it was determined that an expansion of the septic was required and approval of the Board of Health was necessary, the applicant retained Mr. Parkers engineering firm and an environmental engineer. General Permit #24 was approved by the DEP. The new septic design decreases the size of the septic system and enables it to fit into the septic location that was already in place. The requirements of the DEP and Township ordinances have been met.
- Mr. Weber asks who was responsible for determining what permits were required?
- Mr. Levitt acknowledges that it is the applicant's responsibility; that this was a mistake of fact that happened. The applicant, in good faith, took the appropriate steps in hiring the engineer and environmental engineer. In obtaining the zoning and building approvals, the applicant thought that this would have been addressed and it wasn't. The applicant is trying to act in as good faith as possible and is taking all steps in order to address this matter.
- Mr. West asks that the Board deny this application.
- Mr. Levitt states that the structure is in compliance with all the Township ordinances except for the application for a 10 ft. waiver that's being requested.
- Mr. Weber states that in the last hearing of the Board of Health meeting, the Board made it clear that the State should be advised that the Mendham Township Board of Health rejects this application. Mr. Weber asks if that message was communicated to the State. The permit states that the application was for a malfunctioning septic system.
- Mr. Parker states that he has the paperwork and that it was clear in the application that this property included an expansion from three to five bedrooms.
- Mr. West asks if the message from the Board of Health was passed along - that the Board was not in favor of this application.

- Mr. Parker states that he did not include that information. He continues that if the Township offices would have withheld the issuance of the building permit, that the applicant would have known that it would be necessary to go to the Board of Health first.
- Mr. Parker believes that this is a unique situation that somehow slipped through the cracks within the departments. The applicant is not familiar with septic systems.
- Mr. Weber asks if this applicant has no knowledge of construction projects. Mr. Levitt responds that in prior construction projects completed by the applicant and that Mr. Levitt has been involved in, with the applicant, there haven't been any septic systems.
- Mr. West would like to know how the applicant was given the permits to build before coming to the Board of Health. Mr. Levitt states that it was a mutual mistake on all parties' parts. The applicant was attempting to comply with every aspect of every ordinance of the municipality of Mendham Township.
- Mr. Weber does not agree that the Board of Health made any mistakes in this process. The mistakes are not on the Board of Health.
- Mr. Levitt states that the applicant relied on the building and zoning permits that were issued and that the third step wasn't taken prior to building (obtaining BOH approval).
- Mr. West does not understand why building permits were issued to the applicant and without interviewing the person who issued the permits; it's hard to comprehend. Mr. Levitt states that he doesn't understand how the building permit was issued without this Boards approval, particularly because many of the homes in Mendham Township are on septic system.
- Mr. West states the questions are not being answered and that he would motion the Board to deny this application.
- Mr. Levitt explains that the applicant went through the proper approvals and it was discovered when the owner went for a certificate of occupancy that the septic system was an issue.
- Mr. Mills states that the application could be tabled and either he or Ms. Parrinello could request a letter of explanation from the construction official.
- Mr. Atkins adds that additional documentation that was submitted to the State with the reasons for the approval is submitted to the Board.
- Mr. Weber would like a better understanding of what was submitted to the State and if it turns out that the State had no idea of what really happened, then perhaps, the same 'mutual mistake' was made in the permitting application.
- Mr. Mills explains that an OPRA request could be submitted to the State for the copy of the wetlands application. Mr. Parker states that a copy of the wetlands application was sent to the Township Clerk and that it should be in the Township files already.
- Mr. Weber is in favor of leaning towards Mr. West's position. It's irresponsible of the Board to sign off on the application. If Mr. Parker

believes there is something that can be included to improve this record and would like the application to be tabled by the Board, Mr. Weber would consider that request.

- Mr. Parker states that he would request that a vote be withheld with the hope that further information could be provided to the Board. The concerns of the Board have been heard and Mr. Parker would like the ability to address those before a vote.
- Mr. West states that before he withdraws his motion, he would like to know what Mr. Parker is prepared to present. Mr. Parker states that he would like to supply the building permit and a copy of the wetlands application.
- Mr. West will withdrawal his motion with comment: How can the Board approve a septic expansion application just because the construction was already completed? Mr. West is skeptical of this project, but will withdrawal his motion.
- Mr. Mills explains that title transfer in Mendham Township requires the Certificate of Continued Use of a septic system. Ms. Parrinello will see if the document has been obtained.
- Mr. Atkins asks Mr. Levitt if there was an engineer prior to Mr. Parker. Mr. Levitt is not certain.
- Mr. Weber states that this application is tabled. Mr. Weber would like to be clear that the Board is struggling with the fact pattern and with the impact that granting an approval will have on the Boards ability to continue to enforce the ordinances as they're written. The Board does not accept that the Board of Health or the Township at large has responsibility for the mistake that the homeowner made.

HEALTH OFFICER'S MONTHLY REPORT

Reviewed by Ms. Freer. Full reports available in the Board of Health Office

April 2021

- The Health Officer continues to advocate for the department of health assistance relative to Covid-19.
- The Assistant Health Officer performed communicable disease control activities, guidance to RHS staff and assisted with administration and supervision of COVID-19 in local and public activities.
- The total number of communicable disease investigation for Mendham Township is 32.
- The Public Health Nurse continues to monitor the Communicable Disease Reporting and Surveillance System (CDRSS), CommCare, which is the contact tracing system for COVID-19 and the Welligent Leadtrax screening system.
- Mr. Weber asks what the status is of the in-home vaccination program. Ms. Freer states that most in-home residents have been vaccinated or were scheduled to go to the vaccination site.

- Mr. Weber asks if there are any questions from the Board.
- Mr. West asks if there are statistics on Lymes disease. Ms. Freer states that she will get the numbers for Mendham Township.
- Mr. Atkins asks of the risk ranking on the retail food inspections. Ms. Freer explains what the risk rankings entail.
- Mr. Weber makes a motion to accept the Health Officer's monthly report as submitted. Mr. Atkins seconds the motion.

ROLL CALL VOTE – YES

Mr. Weber

Mr. West

Mr. Atkins

Ms. Caporrino

General Correspondence

- Mr. Weber asks if there is anyone on Zoom that would like to comment, that they may raise their hand now.
- There are no Zoom callers available.
- Mr. Mills states that he received some feedback regarding failure to open the Zoom call to the public and that while this Board hasn't required public feedback, it may be something that the Board accommodates.
- Mr. Weber asks Mr. Mills what it means to go into executive session. Mr. Mills explains that the Board closes its doors to the public and that anyone on Zoom or physically present would be asked to leave. Executive sessions are not recorded, but rather notes are taken.
- Mr. Weber makes a motion to go into executive session. Mr. West seconds the motion.

Meeting Adjourned: 9:05 pm