

**TOWNSHIP OF MENDHAM
BOARD OF ADJUSTMENT MEETING MINUTES
MAY 11, 2023
REGULAR MEETING**

CALL TO ORDER

Ms. Parrinello calls the meeting to order at 7:02 pm

STATEMENT OF ADEQUATE NOTICE

Adequate Notice of the meeting of the Board of Adjustment of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Daily Record and the Observer Tribune, notice was posted on the bulletin board in Township Hall, and notice was filed with the Township Clerk on January 18, 2023.

ROLL CALL

Present: Mr. Cadmus, Ms. Grant (arrived at 7:05 pm), Mr. Kapner, Mr. Lordi, Mr. Murphy, Chairman Roghanchi, Mr. Strafaci, Mr. Bell, Mr. Wisotsky
Others Present: Mr. Anthony Sposaro, Board Attorney; Mr. Denis Kennan, Board Engineer

SALUTE TO THE FLAG: Led by Chairman Roghanchi

DESIGNATION OF VOTING MEMBERS WAS DETERMINED

MINUTES: April 13, 2023 Regular Meeting

Chairman Roghanchi made a motion to accept the April 13, 2023 Meeting Minutes as presented. A motion was made, and it was seconded. All agreed.

NEW BUSINESS

Case: 4-23

Applicant: Sachindatta Dhamane

5 Hope Farm Road, Block 145 Lot 2.01

Bulk Variance

Mr. Cadmus recuses himself from the meeting.

Mr. Sposaro swore in Mr. Patrick Cerillo, Esq. and Mr. Antoine Hajjar, licensed planner and professional engineer.

Mr. Hajjar explains that the layout of lot 2.01 is unique and makes it difficult to add any accessory structure. The home is not parallel to the lot lines and challenges the setbacks of the yard, in general. Mr. Hajjar continues that the side-yard houses the septic tank and the septic

field and that the best location for the pool is the backyard, where it's more private and esthetically desirable.

Mr. Hajjar states that the existing patio will remain and that the coverage including the pool and the hardscaping will be approximately 2448 sq. ft. Two variances are being sought – one for rear-yard setbacks and one for side-yard setbacks.

Mr. Roghanchi asks if the pool will be fenced and screened. Mr. Hajjar states, yes, the fence will be board on board and six-feet high.

Mr. Kapner asks if there are alternative locations on the property for the proposed pool. Mr. Hajjar states that there's a septic system in the side yard and moving an entire septic system is not ideal. The other option is the northwesterly area of the dwelling – a variance would still be required, however, and a swimming pool that is nearly in the front yard is not what the applicant is seeking to do.

The Board discusses the complexities of the setbacks of this home.

Mr. Sposaro asks if the hardscaping around the pool is considered a structure. Mr. Hajjar states, yes. Mr. Sposaro asks how long the slate walkway has been there and what type of condition the slate pavers are in. Mr. Hajjar explains that the pavers have been there for quite some time and that they're worn and somewhat out of shape.

Mr. Sposaro asks if relocating the paved walkway has been considered; in an effort to get the pool closer to the home and further away from the front and side yard setbacks. Mr. Cancilla explains that they have considered moving the pool more towards the home, to the west, however, that location ends up closer to a neighboring lot. Because the way the home is situated, it makes any other location for the pool difficult to take into consideration. Mr. Cancilla states, if the Board feels that there would be more of an impact in relocating the pool, the pool can be moved to the west – 10 ft. closer to the home, however, two variances would still be necessary.

Mr. Sposaro swears in Mr. Sachindatta Dhamane, applicant.

Mr. Sposaro asks the applicant if he knows the age of the septic system. Mr. Dhamane states, no. Mr. Sposaro asks if any thought has been given to relocating the septic tank so that distance by the code can be maintained and without violation of the rear yard setbacks. Mr. Cancilla states that it could be done, however, it would be at a great financial burden.

Mr. Cancilla shares photos, taken by the applicant, Mr. Dhamane, with the Board. The photographs are labeled A-1 through A-8 and illustrate the rear property line, the hardscaped walkway, tree buffers and the general layout of the lot. Board members continue to inquire as to whether moving the location of the pool may be a thought. Mr. Cancilla states that, yes, the

pool can be moved, however, moving the pool, does not change the need for two variances. Really, the proposed location is the ideal location for the pool.

Mr. Wisotsky asks the applicant what type of trees line the backyard and what their conditions are in the winter. Mr. Dhamane states that the trees are a combination of evergreen and maple and that in the winter months the trees thin out due to leaf dropping.

The Board, along with Mr. Hajjar, discuss various options for moving the slate walkway and also for alternative layouts and sizing options for the proposed pool.

Mr. Keenan notes that the set-back should be considered to the pool equipment. Mr. Hajjar states that the engineer will update that on the design plan. Mr. Keenan confirms that if the application is approved, it's necessary to maintain the land disturbance of 3350 sq. ft. Disturbance that exceeds 3500 sq. ft. during construction, will put the project in violation, and a land disturbance permit will be required.

Mr. Roghanchi opens the meeting to the public for questions only.

Ms. Tracey Moreen, asks the applicant, if when the home was purchased, was it understood that a pool would be difficult to install on this property. Mr. Dhamane states that he did not feel this would be a problem, as the neighboring properties have pools.

Ms. Jiyun Kim asks the applicant how many mature trees are on the 5 Hope Farm Road property. Mr. Dhamne responds that he is not sure how many mature trees are on his property, but to ensure privacy, a board-on-board privacy fence will be installed. Additionally, privacy shrubbery will be planted.

Ms. Grant asks if any additional trees will need to come down to allow for the construction of the pool. Mr. Hajjar responds, no.

Mr. Hajjar explains that to create a visually desirable design, the pool is best situated in the backyard, with a solid six-foot fence along with appropriate shrubbery and trees where there are gaps. The pool is a permitted accessory use and having the structure in the front or side yard is not visually pleasing, as it can be seen from the road.

Mr. Sposaro swears in Judith Deiss-Shrem, 3 Olmsted Lane and Jiyun Kim, 5 Olmsted Lane.

Ms. Deiss-Shrem and Ms. Kim share various pictures of neighboring backyards, which depict the trees that line the property in their seasonal states, and the views from 3 and 5 Olmsted Lane to 5 Hope Farm Lane. Ms. Kim expresses concern about the large trees that line her property. She is concerned that construction of a pool could result in destabilizing the trees, making them vulnerable to damage or falling down. Mr. Keenan states that the closest tree is 34ft. and that construction of a pool on this lot will not compromise the trees that line Ms. Kim's property – there's enough distance from the pool to the trees.

Ms. Deiss-Shrem discusses in further detail, the photographs with the Board. Additionally, Ms. Deiss-Shrem states that the applicant took down many trees upon moving in and that the natural buffer has been removed. Ms. Deiss-Shrem is concerned with the noise from the pool and the visual esthetics of the layout.

Mr. Lordi and Ms. Grant discuss the visuals of the proposed pool, from the neighboring properties to the applicant's property.

Ms. Deiss-Shrem reads from a formal statement that she and her husband have prepared, which highlights the concerns that they have with construction of a pool at 5 Hope Farm Lane.

Ms. Kim reads from a statement that she has prepared, which speaks to her concerns of a proposed pool installation at 5 Hope Farm Lane.

Ms. Deiss-Shrem reads a statement that has been provided by Christine Nedelka and her husband, at 4 Hope Farm Road, which also illustrates her concerns for the pool project at 5 Hope Farm Lane.

Mr. Roghanchi explains that the goal of the Board of Adjustment is to help residence navigate the complex and detailed land use ordinance in ways that allow them to enjoy and invest in their properties. There are setbacks for a reason and the job of the Board is to consider requests from relief of setbacks when it's reasonable. The Board works with the applicant so that a project may esthetically fit in with a neighborhood, and works to satisfy not only the applicant (with a hardship), but also neighbors with concerns.

Mr. Roghanchi states that the building itself is in violation of Township setbacks. It's reasonable to request that steps be taken to screen the proposed pool with fencing and additional landscaping.

Mr. Roghanchi asks the Board if they have any questions or comments.

Mr. Wisotsky and Mr. Kapner suggest moving the location of the pool so that it's more inline with setbacks. Mr. Cancilla replies that the pool could be relocated to the front yard, but visually this is not ideal and it would still require a variance. With the proposed location, the applicant has agreed to privacy fencing with additional landscaping, so as to make this project as appealing as possible to the Hope Farm/Olmsted neighborhood.

Mr. Sposaro states that there is a hardship because of the shape of the lot and where the house is located on the property. This is a unique application and should be looked at with the current zoning requirments and what is being proposed.

Mr. Lordi asks about the water runoff and whether the drainage of the pool would discharge towards any of the neighboring properties. Mr. Keenan explains that based on grades illustrated on the design plans, the discharge would drain towards the applicant's property and not towards neighboring properties. Mr. Keenan is not concerned about water as a toxic substance for any of the adjacent properties.

Ms. Grant asks if there is a need for any type of additional swale or water runoff control to ensure that discharge from the pool stays on the applicant's property. Mr. Keenan states that the graded plan illustrates graded swales on the side of the home, a wall, and a new swale that will tie into the existing swale – these measures ensure that any water runoff will drain to the applicant's property.

Mr. Kapner would like to further consider the option of the front yard as location for the proposed pool – while this may not be an ideal location, it fits better within the setback criteria and it satisfies the neighbors. Mr. Keenan states that Mendham Township ordinance says, no accessory structure should be located closer to the road than the principal building. Mr. Keenan continues, if the pool were to be located on the side, it could be compliant because it would be further from the street line than the principal building.

Mr. Strafaci would like to confirm with Mr. Keenan that with the location of the pool, as proposed, it poses no problems with water-related concerns. Mr. Keenan states, that is correct. Mr. Strafaci continues that the applicant is willing to satisfy any privacy concerns and to go the extra mile with various sizes of trees and shrubbery in addition to the 6ft. board on board fence. An alternate location for the pool could result in tremendous additional costs to the applicant.

Ms. Grant states the neighbors' concerns are valid, but that a pool in the front yard is not necessarily what the applicant is seeking nor is it ideal, in general. Ms. Grant continues that the applicant is willing to replace a lot of the trees that were removed along the applicant's property line, plant various forms of shrubbery and install a six-foot solid privacy fence, so as to appeal to the esthetics of the neighborhood.

Mr. Murphy acknowledges that the Board is struggling with this application, but ultimately a pool in the front yard is hard to consider. In addition, asking the applicant to move a septic system so that a side yard pool can be considered, is exceptionally costly and still requires a variance.

Mr. Roghanchi moves to grant relief subject to the following conditions:

1. Installation of a 6ft. board-on-board privacy fence.
2. Appropriate privacy landscape screening installed, supported by a professional landscape plan, and approved by Mr. Keenan, Township Engineer.

3. Applicant must obtain all the necessary building permits and inspections required by the Building Department.

Mr. Lordi seconded the motion.

Upon Roll Call:

AYES: Ms. Grant, Mr. Lordi, Mr. Murphy, Chairman Roghanchi, Mr. Strafaci

NAYES: Mr. Kapner, Mr. Wisotsky

Motion carried.

GENERAL CORRESPONDENCE

Ms. Deiss-Shrem expresses her disappointment in this process of the meeting, and ultimately, the decision of the Board of Adjustment. Ms. Deiss-Shrem states that setbacks are in place for a reason and that they are what give that bucolic feel to Mendham Township. Additionally, Ms. Deiss-Shrem notes that the applicant has professionals and they (the objectors) have attended as residents without counsel. Mr. Roghanchi acknowledges Ms. Deiss-Shrem's thoughts and states that anyone (the applicant and/or objector) is welcome to hire professionals as representation and to present testimony on behalf of an applicant and/or objector.

The meeting was duly adjourned at 8:55 pm.