

**TOWNSHIP OF MENDHAM  
BOARD OF ADJUSTMENT  
MINUTES  
February 10, 2022  
REGULAR MEETING**

**CALL TO ORDER**

Ms. Foley called the meeting to order at 7:00 pm via zoom.

**ADEQUATE NOTICE**

“ADEQUATE NOTICE of this 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 14, 2021.”

**ROLL CALL**

PRESENT Mr. Cadmus, Mr. Lordi, Mr. Peruyero, Mr. Strafacci, Mr. Witczak, Mr. Zairi,  
Chairman Roghanchi

ABSENT: Ms. Grant, Mr. Kapner

OTHERS PRESENT: Mr. Clifford Gibbons, Designated Board Attorney

**SALUTE TO THE FLAG:** Led by Ms. Foley

**DESIGNATION OF VOTING MEMBERS WAS DETERMINED**

**MINUTES** – January 13, 2022 Reorganization & Regular Meeting

Chairman Roghanchi entertained a motion to approved the minutes of the January 13, 2022 Reorganization & Regular Meeting. A motion was made, and it was seconded. All agreed.

**NEW BUSINESS**

CASE 5-21

APPLICANT: ROBERT & LAUREL CULBERTSON

10 JANE TERRACE

BLOCK 110, LOT 15

USE VARIANCE

Mr. Gibbons swore in Mr. Dan Encin of Mendham Design and Mr. Robert Culbertson, the applicant.

Mr. Culbertson explained to the Board the reason for the variance request, which was primarily because of their expanding family with grandchildren and the need for more space for their family visits. He asked their architect, Mr. Dan Encin of Mendham Design, for a proposal to expand the existing Great Room with a play room above the Great Room. Mr. Encin explained,

however, that the proposed plan exceeded the Floor Area Ratio allowed in Mendham Township and that a use variance would be required.

Mr. Encin began with the review letter from French & Parrello Associates dated January 31, 2022 and addressed each Checklist Item that was in the report:

Item 1 – Mr. Encin stated that he will provide testimony when he illustrates the plans to the Board as to the location and configuration of the property, including testimony for the existing structures on the property.

Item 2 - Mr. Encin stated that there is no proposed removal of trees as part of this application.

Item 3 – Mr. Encin stated that the Culbertsons provided him with a plan indicating the location of the existing well and septic. He went on to say that he added this to the previously submitted plans as an update to identify these features. Mr. Gibbons added that this PDF update will be admitted into evidence and will be marked as Exhibit A-1 dated February 10, 2022. Mr. Encin stated that he will also send a copy of the PDF to Ms. Foley for the file and for the record.

Item 4 – Mr. Encin clarified that the area of disturbance is approximately 400 square feet, which would not require a Lot Grading Permit.

Item 5 – Mr. Encin stated that there are no steep slopes located on the property and that the area is generally flat.

Item 6 – Mr. Encin stated that the first-floor proposed addition is an expansion of the existing Great Room and that it is purely to gain additional space for a larger dining area. The smaller upper portion on the second floor is a proposed play room (labeled on the plans as “New Room”). These are the uses of these spaces and that the proposed project for the house does not increase the bedroom count and therefore has no impact on the septic or sanitary sewer flow.

Item 7 – Mr. Encin stated that he will address in his testimony the increase of 180 square feet of floor area over the permitted FAR coverage and why the Maximum Floor Area coverage standard cannot be met.

Item 8 – Mr. Encin stated that any approval will be subject to all of the necessary permits required.

Mr. Encin continued with his testimony and shared his screen of the plans that were submitted to the Board as well as Exhibit A-1. Exhibit A-1 now contains the update for the septic and well location. Mr. Encin clarified that what he is presenting is revised from what was filed with the Board in order to include the septic and well. Mr. Clifford clarified that the PDF revision was marked as Exhibit A-1 and that the remaining plans are A-2 through A-5. Mr. Encin began with Exhibit A-1 showing the septic and well location that was added.

Mr. Encin described the features and location of the property and that it includes a unique half-way cul-de-sac, which is at the front end of property and not part of the Culbertson's property. It is not consistent with the rectangular shape of the other properties surrounding the Culbertson's property and that this entire section is removed from the total lot area of what can be considered in the calculations for the project. Mr. Encin indicated on the exhibit the pre-existing single-story dwelling and great room along with the existing well, which is 20 feet off the front of the house. Also, in the back area are the existing septic tank and two existing septic pits. He went on to say that there is an existing wood-framed deck that is located behind the existing great room and indicated a shaded area, which is the proposed section of the one-story addition and the

footprint of the proposed addition on the second floor. Mr. Encin stated that the closest point of the addition to the street is 72.3 feet and that the side yard setback on the right-hand side is 55.9 feet. This is still well within the required 30-foot minimum for side yard setback, the required 60-foot minimum for front yard setback and the 50-foot minimum for rear yard setback. Mr. Encin stated that the building height of the existing structure to the tallest point of the peak is 27.1 feet and that this remains the existing highest point with the proposed addition being lower than the existing house. This is all lower than the 35-foot maximum allowable height.

Mr. Encin continued to say that the proposed addition extends to the side of the house and discussed the interior space of the proposed great room, which would allow for a long dining table. The depth of what is being proposed is the same as the depth of the current house with the same gable roof that is currently on the house. The proposed second floor (play room) is a smaller footprint than what is down below. This allows for an open staircase that connects to the existing second floor as well as coming up to an upper landing, which then leads to the proposed play room space above. Mr. Encin discussed the elevations of the house with the 2<sup>nd</sup> story addition piece having matching windows and a matching roof line balancing out the house consistent with what currently exists.

Chairman Roghanchi inquired about the cul-de-sac at their property line and how it impacts the allowed FAR. Mr. Encin responded that the cul-de-sac piece, which is cut out of their property would add back an additional 3,849 square feet of lot area. This would give them a lot that is 55,922 square feet and would have allowed an additional 4,776 square feet, which would reduce the variance request to a 36 square-foot increase above the total allowable FAR.

Mr. Cadmus inquired whether the septic field is the original from when the house was built and also whether there would be a secondary location in the event it would need to be moved at some point in the future in light of the location of the proposed addition. Mr. Culbertson responded that it is the original system and still very viable; however, as an alternate location, it would be pushed back towards Route 24, which backs to the house. Also, the existing well would preclude putting it on the right side of the house since a 100-foot distance is required from the well location and as a result, it would have to go in the back towards the rear.

Mr. Encin confirmed that only one FAR variance is being sought and stated that this is a D-type variance, which qualifies as a use variance as opposed to a C-type variance. He went on to say that part of the review of this is addressing the positive criteria and negative criteria under the Municipal Land Use Law as well as the Township's Master Plan, and he explained that the application satisfies both these criteria. Mr. Encin added that the addition being proposed at the first floor does not require variance approval and that the amount of square footage being added at the first level conforms with the total floor area for the lot. The floor area variance relief being sought is to allow the second-floor piece to be a bit larger, which overall creates a more attractive house that is beneficial to the street and the surrounding homes and properties.

Mr. Witczak inquired as to whether there are any concerns with regards to stormwater runoff affecting any of the neighboring properties as a result of the proposed added square footage to the house. Mr. Encin responded that there is no stormwater runoff affecting any other properties and that there is very minimal added impervious coverage, which is proposed to be 350 square feet. He explained that Mendham Township's Lot Grading Permit requirement for impervious coverage is any added impervious coverage over 1,000 square feet, which would then necessitate a grading plan and installation of a dry well. This application is well under the threshold. Mr. Keenan confirmed this and that the comments in his report have been addressed.

Mr. Gibbons recommended that compliance with the Planner's and Engineer's report would be a condition of approval.

Mr. Cancilla, the Mendham Township Planner, stated that his only comment relates to the positive criteria and whether the site will accommodate the problems associated with an FAR that exceeds what is permitted by the ordinance. Mr. Encin responded that the site is well suited to accommodate any issues that would arise and explained that one of the key components of FAR is to limit the overall bulk appearance of the house so it is not overbearing for the property or for the surrounding neighborhood. In this case, based on the width of the property, the side yard setback requirement is in conformance with no danger of encroaching on the neighboring property on the right-hand side. He went on to say that the width of the property is ideally suited in such a way where it can accommodate the slightly larger floor area without giving the perception around it of something that is overbearing and bulky with any kind of negative impact on the surrounding neighborhood.

Mr. Strafaci clarified that the applicant, who is a Township resident, is requesting the approval of 180 additional square feet in order to accommodate their growing family.

Chairman Roghanchi made a motion to grant variance relief for Robert & Laurel Culbertson at 10 Jane Terrace and directed Mr. Gibbons to draft a resolution for approval by the Board. The motion was seconded by Mr. Zairi.

Upon roll call:

AYES: Mr. Cadmus, Mr. Lordi, Mr. Peruyero, Mr. Strafaci, Mr. Witczak, Mr. Zairi, Chairman Roghanchi

#### **READING AND GENERAL CORRESPONDENCE**

None

Chairman Roghanchi entertained a motion to adjourn. A motion was made, and it was seconded. All agreed.

The meeting was duly adjourned at 7:48 pm.

Respectfully submitted,

Beth Foley  
Board Secretary