

**TOWNSHIP OF MENDHAM
BOARD OF ADJUSTMENT
MINUTES
APRIL 14, 2022
REGULAR MEETING**

CALL TO ORDER

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

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, Ms. Grant, Mr. Kapner, Mr. Lordi, Mr. Peruyero, Mr. Strafaci,
Mr. Zairi, Chairman Roghanchi

ABSENT: Mr. Witczak

OTHERS PRESENT: Mr. Clifford Gibbons, Designated Board Attorney

SALUTE TO THE FLAG: Led by Ms. Foley

DESIGNATION OF VOTING MEMBERS WAS DETERMINED

MINUTES – February 10, 2022 Regular Meeting & February 22, 2022 Special Meeting

Chairman Roghanchi entertained a motion to approve the minutes of the February 10, 2022 Regular Meeting and the February 22, 2022 Special Meeting. A motion was made, and it was seconded. All agreed.

RESOLUTION

CASE 5-21

APPLICANT: ROBERT & LAUREL CULBERSTON

10 JANE TERRACE

BLOCK 110, LOT 15

D-4 VARIANCE

Chairman Roghanchi entertained a motion to approve the Resolution for Case 5-21.

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

Ms. Susan Rubright, attorney for George & Bernadette Koenig and Kimberly and Eric Hart, asked that her letter dated April 11, 2022 be considered by the Board before the Interpretation resolution is adopted. A letter submitted by Mr. Sposaro dated April 14, 2022 stated that he did

not anticipate any modifications to the draft resolution that was previously circulated. Chairman Roghanchi stated that the letter will be addressed in the General Correspondence portion of the meeting and that the Board will entertain any comments at that time regarding the resolution that is before the Board for adoption. He stated that the Board will not re-litigate the hearing on February 22, 2022. Ms. Rubright asked Mr. Gibbons whether a motion can be made to re-open the case for reconsideration after the resolution is adopted, and Mr. Gibbons responded that the MLUL is not clear on this but that this could possibly be done.

RESOLUTION

CASE 4-21

INTERPRETATION

APPLICANT: GEORGE & BERNADETTE KOENIG &
KIMBERLY & ERIC HART

AYES: Mr. Lordi, Mr. Peruyero, Mr. Zairi, Chairman Roghanchi

NEW BUSINESS

CASE 1-33

APPLICANT: SAM & DANIELLA REED

16 BROWING COURT

BLOCK 142, LOT 8

D-4 (FAR) VARIANCE

Mr. Gibbons swore in Mr. Dan Encin of Mendham Design, Ms. Daniella Reed and Mr. Samuel Reed, the applicants.

Ms. Reed explained to the Board that the proposed addition exceeds the allowable FAR, which is why a variance is required and went on to say that because of their expanding family there is a need for more space in their house, especially with extended family visiting regularly. Currently, the space is very restrictive for their needs and that the goal is to add another family room and mud room. She went on to say that she and her husband built the house originally and that they love the street and the house itself and would like to remain there.

Mr. Dan Encin of Mendham Design and the architect for the applicant offered a brief voir dire for the Board and persons present and stated that he is a licensed, registered architect in the State of New Jersey since 2007 and owner of Mendham Design Architects.

Mr. Encin stated that the property in question is at the end of Browning Court and that the back yard faces out to Route 24. It falls within the R-1 zone and that all of the other properties surrounding this property are either in the R-1 or R-3 zones.

Mr. Lordi excused himself from the meeting at 7:22 pm.

Mr. Encin continued to say that the property is 1.1 acres with the properties to the left-hand side being similar in size and the properties on the right-hand side being larger and in the R-3 zone. Across the street on Browning Court, the properties are in the R-1 zone with similar widths but that they are significantly deeper and therefore have more lot area.

Mr. Encin began with the review letter from French & Parrello Associates dated February 12, 2022 and addressed each Checklist Item that was in the report:

Item 1 – Mr. Encin stated that the current structure is a pre-existing single-family residence and is well within all of the building envelope and setbacks. It is a relatively boxy, rectangular-shaped house and that there is a pool situated behind the house. There is a large driveway and parking area on the right-hand side of the house, and it is in this area where the garage addition is being proposed.

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 house does not have a well but has city water and has a septic system, which is located (and noted on the site plan) in front of the house. The proposed addition is, therefore, no where near the required setbacks or distances from either a septic field or a septic tank. Mr. Encin stated that the proposed project is mostly garage and outdoor covered space with some attic storage above the garage and whereby there would be no bedroom space or any kind of use that would intensify the use of the septic system. There would be no increase in bedroom count.

Item 4 – Mr. Encin stated that the proposed project would create less than 1,600 square feet of soil disturbance and would not require a Lot Grading Permit since it is under the 3,500 square-foot threshold.

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 intended use of the attic storage space will not change and is not intended to be a living space. Mr. Gibbons recommended that this should be a condition of approval.

Item 7 – Mr. Encin stated that he will address in his testimony 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 stated that what is being proposed is a single-story garage structure with a patio area in the rear with open columns and a covered roof. He went on to say that the house was constructed with the existing three-car garage and that currently within the house there is no mudroom space and that the existing family room space is quite small. As the family has grown larger with extended family always visiting, there became a need for additional family room space along with a mudroom space. The existing 3-car garage space will be utilized to create the additional living area and mud room with the proposed garage structure to replace what is being used from within the house. The family room space is two thirds of the existing garage with a hallway space that allows access to a newly created pantry as part of the kitchen along with a mudroom space, which has a bathroom in it and also allows access through to an outside hall that leads to the rear covered patio and pool area. There is a staircase that leads to the attic storage above.

Mr. Encin continued to say that the property sits on 1.106 acres and that the allowable FAR is 4,480 square feet. The proposed amount of FAR is 4,978 square feet, which is 498 square feet in excess of the allowable floor area for this specific acreage of property. The existing garage is included in this square footage for FAR. Mr. Encin also stated that the building height, setbacks and all of the other zoning requirements have been specifically designed to conform to what is being proposed so that there would be no other variances requested. He went on to say that the goal is to limit the overall visual mass of the house, which is the intent of the FAR and keeping it in character with the surrounding homes. He explained that the houses across the

street that have deeper properties would on an average be allowed to have an FAR of 5,500 square feet and that this proposal is specifically being designed to fall below this number. Even though on the subject property the FAR is in excess of what is allowed, almost all of the neighboring properties would be conforming with regards to FAR. This proposal, therefore, is still consistent with the mass and character of the neighborhood.

Mr. Encin discussed the positive criteria and referred to the MLUL and Master Plan of Mendham Township. In terms of the general welfare being protected and promoted, the proposed addition to add garage space to free up living space in the house is very consistent with the majority of other homes along the street. Mr. Encin introduced additional exhibits, which was marked as Exhibit A1, A2, and A3 dated April 14, 2022 and stated that the exhibits indicate some of the other houses on Browning Court within a very close distance of the Reed house on both sides of the street. The photographs provide examples of the strategy and idea that was used in terms of designing the addition for the house. As indicated, there are multiple houses along the street that have a three-car garage, which projects out from the side of the house and is a lower structure with either two or three garage doors facing the street. These houses tend to be more horizontal and longer, unlike the Reed house, which is a bit boxier and more vertical and abruptly ends. As part of the strategy, Mr. Encin went on to say that even though the proposed FAR goes beyond what is allowed, the character of the house currently does not necessarily exemplify the intent of the Master Plan in terms of rural and historic character of traditional homes. The proposed addition would be creating something that is more in character with the other homes and surrounding neighborhood.

Mr. Encin stated that the existing house is all brick across the front of the house and discussed the choice of materials that would be used for the addition, which would have some brick at the bottom and siding that would be tied together to lend the appearance of being the same house. The proposed addition would be a three-car garage to replace exactly what is currently there; however, it is broken down in such a way that it is a two-car garage with a secondary element that is setback to create an additional bay (making it a 3-car garage). The goal is to minimize the overall mass appearance of the structure. Mr. Cadmus inquired as to the idea of having the garage facing the side instead of front facing the street, and Mr. Encin responded that with the way the grade is off to the side, there would be added impervious coverage needed while there is very little impervious increase with the garage facing the front. Mr. Encin went on to discuss further the visual appearance of the house and that the patio area does not increase the FAR.

Mr. Encin discussed the negative criteria and stated that nothing about what is being proposed impairs the intent of the zoning ordinance. The intent was sensitive to designing something as small as possible and have the least amount of visual mass as possible but still provide the necessary square footage for parking. Mr. Encin explained that the chimney is part of an external, outdoor fireplace and not part of the internal house.

Mr. Gibbons asked Mr. Encin if there were any other ways that the project advances the purposes of zoning. Mr. Encin responded that not so much zoning but that one of the goals the Master Plan tries to advance are homes that can be used by multiple-age groups over a longer period of time so that there is not a great number of turnovers. It furthers the intent for families to stay in a community longer and that by creating something such as this addition, whereby the house becomes consistent with the other homes along the street and useable for a young family, it furthers this goal. It allows for the family to stay in their house and in the community.

Chairman Roghanchi asked Ms. Chavan, the Planner, for any further comments pertaining to her report dated April 4, 2022. Ms. Chavan reiterated that the Board consider not allowing the storage space over the new garage to be converted into living space. Mr. Gibbons concurred with this comment and confirmed that this could be a condition of approval at the Board's discretion.

Mr. Gibbons suggested that should the Board be inclined to approve the application that it be made subject to the comments and recommendations set forth in the reports of the engineer and planner.

Mr. Zairi inquired as to the distance of the neighboring house to the east, and Mr. Encin responded that the neighboring house is approximately 70 feet away.

Chairman Roghanchi opened the meeting to the public for any questions with regards to the application.

Mr. George Koenig of 13 North Gate Road approached the microphone. He stated that he supports the proposed project.

Chairman Roghanchi closed the meeting to the public.

Ms. Foley stated that the applicant has satisfied the requirement to notice the neighbors listed on the 200-foot list.

Chairman Roghanchi made a motion to grant variance relief for Samuel and Daniella Reed at 16 Browning Court with the conditions and condition of approval set forth on the record during the testimony and to direct Mr. Gibbons to prepare a resolution for approval by the Board. A motion was made by Mr. Kapner, and it was seconded by Mr. Zairi.

Upon roll call:

AYES: Mr. Cadmus, Ms. Grant, Mr. Kapner, Mr. Peruyero, Mr. Zairi, Mr. Strafacci, Chairman Roghanchi

Chairman Roghanchi stated that there is a pending application, Case 2-22, for Matt and Jen Gilmore, 2 Trimmingham Court for a bulk variance for an inground pool and that this will be heard at the May 12, 2022 meeting.

READING AND GENERAL CORRESPONDENCE

Response Letter from Brach/Eichler (Susan Rubright) re Interpretation Resolution

Chairman Roghanchi stated that the Letter from Susan Rubright will not be read into the record but that it is available for members of the public who wish to request a copy of it.

Chairman Roghanchi opened the meeting to the public and stated first that the Board did its best in a respectful way to address the Interpretation request at the prior Special Meeting on February 22, 2022. He went on to say that the resolution is quite detailed, limited in scope and does not contain language with regards to concerts, parties, tasting room etc. It is specifically related to whether a product is allowed to be grown on a property in Mendham Township and be sold. He asked that the public maintain a respectful public comment period.

Ms. Bernadette Koenig of 13 North Gate Road approached the microphone and expressed her dissent with regards to the Interpretation resolution that Mr. Sposaro prepared. She questioned whether it reflected what was approved by the Board members and that the Board did not discuss the concerns raised in a letter from her attorney, Ms. Rubright, dated April 11, 2022.

Ms. Kim Hart of 17 North Gate Road approached the microphone. She inquired whether the Board had an opportunity before this evening to receive Ms. Rubright's letter dated April 11, 2022 and that she is baffled and troubled by the fact that there was no discussion regarding the

content of the letter before the resolution was adopted. She felt that in her opinion the Interpretation hearing was not an unbiased hearing.

Mr. Peter Banos of 47 Ironia Road expressed his dissent on the Board's decision regarding the Interpretation request. He felt that the Board did not consider whether the tasting room is permitted under the Township's zoning laws and opined that the Board did not fairly represent the public. Mr. Banos continued to say that the Board showed no respect by not addressing Ms. Rubright's letter before the resolution was adopted. Mr. Gibbons stated that Ms. Rubright could have commented at this portion of the meeting but decided to leave the meeting earlier. Mr. Banos raised other concerns and issues he had – stormwater concerns, wetland issues, traffic, noise and safety issues etc. Chairman Roghanchi responded that the Board cannot opine on matters that are not before the Board and that the only matter before the Board was an interpretation of the ordinance relative to a permitted use.

Mr. George Koenig of 13 North Gate Road approached the microphone and opined that the process was flawed from his perspective since he felt that Mr. Sposaro, the Board's attorney, should have recused himself from the Interpretation hearing. He opined that it is a major issue for the town going forward to have the largest commercial business ever in the Township. He thanked the Board for their volunteer work.

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

The meeting was duly adjourned at 8:13 pm.

Respectfully submitted,

Beth Foley
Board Secretary