

**MINUTES OF A REGULAR MEETING OF THE PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES**

January 12, 2017

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 28, 2016: Adequate notice of this meeting was given to the Citizen and the Daily Record, posted with the Borough Clerk and on the Bulletin Board and made available to all those requesting individual notice and paying the required fee.

Start: 7:34PM

ROLL CALL:

Members Present: Kane, Russo, DuTertre, Dagger, Nachshen, Sheola, Shepherd, DeVenezia and Mirsky

Absent: Holmberg and Horan

Also Present: Attorney, Peter Henry, Engineer, Bill Ryden

REORGANIZATION:

Election of Chair – Richard Sheola nominated Martin Kane Chair of the Planning Board; Bethany Russo provided the second. Martin Kane was elected by voice vote of all eligible voters.

Election of Vice Chair – Richard Sheola nominated Corey Nachshen Vice-Chair of the Planning Board; Nancy DuTertre provided the second. Corey Nachshen was elected by voice vote of all eligible voters.

Appointment of the Attorney – Corey Nachshen made a motion to appoint Peter Henry of McElroy, Deutsch, Mulvaney and Carpenter the Planning Board Attorney; Richard Sheola provided the second. The motion was approved by a 9 to 0 roll call vote.

Appointment of the Planner – Due to inadequate paperwork the Board decided to wait until next month to appoint Paul Phillips of Phillips, Preiss, Grygiel, LLC, the Planning Board Planner.

Appointment of Board Engineer – Corey Nachshen made a motion to appoint Bill Ryden of Anderson and Denzler Assoc., Inc. the Planning Board Engineer and Richard Sheola provided the second. The motion was approved by a 9 to 0 roll call vote.

Appointment of Secretary – Nancy DuTertre made a motion to appoint Cynthia Shaw the Planning Board Secretary and Arlene Mirsky provided the second. The motion was approved by a 9 to 0 roll call vote.

Designation of Official Newspapers – Richard Sheola made a motion to designate The Citizen and The Daily Record the official newspapers for the Board, Tom Dagger provided the second. The motion was approved by a 9 to 0 roll call vote.

Determination of Meeting Dates – Richard Sheola made a motion to accept the proposed meeting dates for the Planning Board, Nancy DuTertre provided the second. A voice vote of all eligible members approved the following dates.

February 23, 2017

March 23, 2017

April 27, 2017

May 25, 2017

June 22, 2017

July 27, 2017

August 24, 2017

September 28, 2017

October 26, 2017

November 16, 2017

December 14, 2017

January 25, 2018

Re-adoption of By-Laws – Nancy DuTertre made a motion to adopt the By-Laws of the Planning Board and Corey Nachshen provided the second. A voice vote approved the adoption of the by-laws.

REVIEW OF MINUTES: Richard Sheola made a motion to adopt the minutes of the December 15th meeting. Corey Nachshen provided the second; the minutes were approved by voice vote of all eligible voters.

RESOLUTIONS: none

PUBLIC HEARING: none

WHISPERING WOODS HEARING:

Jeffery and Lynne Ansell	Appl. # 14-256-R
260 Boulevard	Blk. 100, Lot 23
Major Subdivision, Side Setback (2),	R-A Zone
Building Env. (2), Height (2), Maintaining Lot Width	

Martin Kane recused himself from hearing the application since he had worked with Mr. Henshaw before. Before the hearing began Peter Henry explained how a Whispering Woods hearings came to be. The Whispering Woods case was appealed and the judge who handled the appeal encouraged the former applicant and the Board to work out a settlement. The settlement negotiation happened in a non-public forum but was followed by a public hearing so the Board could hear any additional information which the public might offer.

Doug Henshaw introduced himself to the Board as the Attorney for the Ansell's and explained the history of the subdivision. After the Planning Board's denial the applicant went to the Zoning Board and were denied by one vote. The applicant sued both Boards. During the settlement discussions Mr. Henshaw made a settlement offer. Peter Henry presented the offer to the Board who subsequently proposed changes to that offer. Further discussions led to an agreement based on the settlement. The applicant was here for a public hearing the settlement plan previously accepted by the Board. The changes they made to the original settlement offer were as follows. They moved the building envelope 5 ft. to center the new house on the lot and to assure extra separation from the neighboring property. The side setback on the south side of the property would be 30 ft. There will be a deed restriction stating there can be no change to the side setback line in the future.

Mr. Henshaw reintroduced Marc Walker, the Engineer for the project. Mr. Walker stated the lot was 58,000 sq. ft. and a lot in the R-A zone is only required to be 15,000 sq. ft. Exhibit A-1, the "Lot Layout Exhibit" dated January 10, 2017 was presented. He noted the plan showed the proposed house 30 ft. from the southerly property line and 23 ft. from the northerly line. They made a jog in the subdivision lot line to meet the FAR requirements for the remaining lot. The line provides access to the foot bridge for the remaining lot 23. There will be 26,160 sq. ft. remaining on the existing lot with a 100 ft. of frontage. The new lot will have 31,840 sq. ft. and 100 ft. of frontage. To perfect the lot the applicant will remove the driveway and the garage. They have county approval for the subdivision but must remove the fence in the right a way. Exhibit A-2, "Building Height Exhibit", dated January 10, 2017 was presented. The new house would be 35 ft. tall, the Verzaleno house to the south is 36.9 ft. tall and the Ansell home is 35.8 ft. tall. The width of the new house is 47 ft. the Ansell home is 56 ft. and the Verzaleno home is 64.9 ft. wide. The exhibit also showed the side setbacks and how they create 50 ft. view corridors

between houses. Nick DeVenezia commented the Board asked for the house to be move to the northerly side of the property to keep the cadence of the street. A nice side effect was the homes wound up 50 ft. apart. Marc Walker presented exhibit A-3, "Aerial Exhibit – Existing Conditions" dated 11/10/15, originally exhibit A-1 at the previous hearing, showed the lot development pattern. He then listed the requested variances needed: 1) a lot width variance for proposed lot 23.01 since the lot width is 86.38 ft. behind the building envelope where 90 ft. is required, 2) a building envelope variance for both properties since the back of each box is chopped off due to the lake front exception. A building envelope must be free of steep slopes, easements and wetland buffers. The property can support a home, a yard and a driveway, 3) the arbor side setback is 11 ft. rather than the need 25 ft., 4) a side setback at 23 ft. for new lot, 5) the existing lot needs a side setback variance of 16.9 ft. and 6) height variances on the street front side of the house and the average height of the three remaining sides of the existing home. Doug Henshaw added a variance was needed for the bridge to the island since it was 1.5 ft. from the property lot line rather than the required 25 ft. In addition the bridge would need approval from Borough Manager. Richard Sheola asked about moving the bridge. Mr. Henshaw said it would create a lot of lake disturbance but they did need to meet the chapter 137 requirements for lake encroachment. The island is maintained so a bridge is needed. Mr. Sheola was concerned with closeness of the bridge since it was only 1.5ft from the lot line. He felt it could create issues with the neighbors. The applicant agreed to create an easement, approximately 10 ft. square, for bridge access after the subdivision was perfected.

Tom Dagger asked what the neighbor thought of the new design. Doug Henshaw explained he sent the settlement to the attorney for the opposition for review ahead of time. He was told the attorney for Mr. Verzaleno would not be coming tonight and he had no idea of their plans. The chair Mr. Kane opened the hearing to the public but no one wished to speak.

The second witness Michael Tobia, a licensed Planner, was reintroduced to the Board. He presented exhibit A-4 a photo, previously submitted as exhibit A-7 dated November 12, 2015, which was a view of the lots from the lake. This exhibit showed the rhythm of the homes on that side of the lake. The subdivision would maintain the 100 ft. wide lots. Exhibit A-5, a photo that was also exhibit A-5 in the last hearing, was a view of the carriage house and lot line. The Verzaleno home is 13.6 ft. from the property line and the new home will be 30 ft. from the line. The photo shows lots of mature vegetation along the line that will be maintained. Mr. Tobia continued, this property was one of the deepest lots on the lake and it is 2 x the size required in the R-A zone. There is lot of open space on the property and the house predates zoning. The side setback and height variances are preexisting non-conforming. Exhibit A-6, formally exhibit A-3 at the November 12, 2015 hearing, was a photo of the rear of the Ansell's house. State statute says variances should be provided if complying is practically difficult. The variances for the existing home would be difficult to eliminate. As per the Borough's Master Plan this subdivision creates a new single family lot and honors the development pattern. Exhibit A-7 was an 11 x 17 color photo of rear of the Ansell house and the arbor taken in the winter. They need a setback variance for the arbor and would have to chop off part of it to meet the 25 ft. setback. Since it has only a few posts there is minimal massing; it is mostly vegetation. The bridge also requires a variance. If you were to move the bridge and make it comply with the 25 ft. setback the bridge gets longer since the water area gets wider as you move further away from its current location. Mr. Tobia continued, the normal indication of over development is not present with this application so there is no substantial detriment to the neighborhood or zoning ordinances. Tom Dagger asked if the buffer on south end would get maintained forever. Per their discussion with

the judge it must be maintained for 2 years post construction. Mr. Dagger confirmed the only deed restriction was a 30 ft. side setback on the Verzaleno side.

No one from the public wished to comment on the application.

A motion was made by Corey Nachshen to approve the major subdivision with variances for 2 building envelopes, a lot width less than 90 ft. for the new lot, a 30 ft. side setback on the south side of the new lot, a side setback of 11 ft. for the arbor and 1.5 ft. for the bridge on the old lot, a side setback of 23 ft. on the northerly side of the new lot plus variances for the height of the existing house and existing side yard setback of 16.9 ft. A condition for the removal of guest house, a deed restriction on lot 23.01 for the 30 ft. setback, the existing driveway on the new lot would be removed, they would maintain a buffer along the southerly property line for 3 growing seasons or 2 years post construction, the fence will be removed along the Boulevard, the retaining wall will be removed from the side yard setback area, the site plan will be revised to show a side yard setback on lot 23.01 and the easement location for access to the bridge, the lot numbers shall be confirmed, the sewer easement rededicated on the two new lots and the approval of the foot bridge shall be obtained from the Borough Manager. A second was provided by Richard Sheola. The Board voted 6 – 2 to approve the application with members DuTertre, Nachshen, Sheola, Shepherd, DeVenezia and Mirsky voting in favor and Russo and Dagger voting against.

COMMITTEE REPORTS:

Sign Ordinance – Martin Kane said he will be meeting with the town professionals on January 16th to discuss the proposed draft of the Sign Ordinance. The Committee will then meet on Tuesday, January 17th at 7pm at the Borough Hall.

Other Matters

Martin Kane made mention of an advanced training course available to Board members.

No one from the public wished to speak.

Peter Henry explained that issue of jurisdiction for the Kings, Mountain Lakes, LLC application would be discussed at the January 26th Board meeting. Mr. Henry gave each Board member a packet which contained the arguments from the objectors, applicant and himself concerning jurisdiction.

Martin Kane made a motion to adjourn the meeting at 9:38PM.

Respectfully submitted,

Cynthia Shaw, Secretary