

**MINUTES OF A REGULAR MEETING
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN
LAKES
May 5, 2016**

Chair Chris Richter called the meeting to order and announced: Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by adoption of the annual notice on January 07, 2016. Said resolution was mailed to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on January 11, 2016 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:31PM

ROLL CALL:

Present: Max, Richter, Bolo, Tolud, Murphy, McConnell, Vecchione and DeNooyer

Absent: Sheikh

Also Present: Attorney Michael Sullivan

REVIEW OF MINUTES: Peter Bolo made a motion to approve the minutes from the April 7, 2016 meeting. Arthur Max provided the second; the minutes were approved by voice vote by all members.

RESOLUTION:

Jesse and Fredrika McDonald Appl. #15-653
James Murphy made a motion to adopt the resolution of approval; Stephen Vecchione seconded the motion. The resolution was passed by a vote of 6 to 0 with members Richter, Bolo, Max, Murphy, McConnell and Vecchione voting to approve.

Jeffery and Lynne Ansell Appl. #15-648
Peter Bolo made a motion to adopt the resolution of denial; Stephen Vecchione seconded the motion. The resolution was passed by a vote of 2 to 0 with members Bolo and Vecchione voting to approve.

PUBLIC HEARINGS:

Carried Applications:

Megan and Stephen Shuhet	Appl. #16-657
Blk. 86.01, Lot 28	6 Wilcox Drive
FAR	R-A zone

Marjorie Roller continued the Shuhet application. They had revised the original plan to remove the exterior staircase. The staircase was now inside the house reducing the FAR by 1%. There would be no site disturbance other than the removal of the shed. The proposed plan was straight forward. The family room was 16' x 22' and the new addition above that space would also be 16' x 22'. The existing chimney will be extended. Chris Richter had reviewed old resolution for the property. He asked about the ILC discrepancy Ms. Roller said the applicant thought that was the result of adding the shed. They will remove it along with some of the walkway. Mr. Richter asked why the applicant couldn't

maintain the current 24.75% ILC. Ms. Roller said the applicant was willing to remove the coverage from the driveway to maintain the ILC.

Chairman Richter asked if there was anyone from the public who wished to comment on the application. Alex Proudlove, of 10 Wilcox Dr., was the applicant's next door neighbor and in support of the plan. Karin Von Ah, of 7 Wilcox Dr., was also in support of the application. Beverley Van Duyne, of 11 Wilcox Dr., supported the application and felt you wouldn't be able to see the addition from the street.

Collectively the Board summarized the major points of the application. They were building above the footprint below, it was not visible from the street, there was plenty of screening and the lot backs up to school property. Chris Richter said an office was not a good reason to approve an increase in FAR but the plan submitted worked so he was not against it. Stephen Vecchione, James Murphy and James McConnell supported the application. Peter Bolo said the Shuhet's had maxed the property and should not be allowed to add on in the future. John Tould said there was a lot of vocal community support. Jake DeNooyer said home offices were common today.

Peter Bolo made a motion to accept the application with a FAR of 23.81%, an ILC of 24.83% and the removal of the shed. The second was provided by James McConnell. The application was approved 7 to 0 with members Max, Richter, Bolo, Murphy, McConnell, Vecchione and DeNooyer voting in favor.

New Applications:

Leonard and Helena Mazur	Appl. #16-658
Blk. 25.01, Lot 1	32 Arden Road
Rear Setback	R-AA zone

Dean Donatelli was the Attorney for Leonard and Helena Mazur. The applicant wanted to replace their existing deck. A rear setback of 25ft. must be maintained and the deck was 20.2 ft. from the property line. The Zoning Officer said there is no record of a rear setback variance being granted so he denied their permit. Since the deck is in disrepair they plan to replace the surface with composite decking material. They plan to reuse the existing footings, undercarriage and stairs. Mr. Donatelli thought this was a C-1 variance due to the irregular shape of the lot. The house and deck were built in the 80's. The deck existed when his client bought the house.

Leonard Mazur said he has lived in the home since 1988 and bought it from the original owner. The house has sliders in the back and the property dropped off 4 ft. when you exited out them. They plan to rebuild the exact deck. Helena Mazur added it would look like a balcony if they had to comply with the Ordinance.

Chris Richter questioned if the rear setback was changed over time and it had not.

Arthur Max said it would have helped to have a plan of the first floor and the dimension of the deck. Chris Richter said the deck was 10 ft. wide. He then asked if there was any vegetation in the back of the house. Leonard Mazur said yes and it was swampy. Arthur Max asked if the applicant had looked into other design options; no they had not.

No one from the public was present.

Chris Richter said there would be no impact on neighbor who was 79.6 ft. away. Jake DeNooyer and John Tolud could support the deck. Peter Bolo thought it was reasonable.

Stephen Vecchione made a motion to accept the application as presented. The second was provided by John Tolud. The application was approved 7 to 0 with members Max, Richter, Bolo, Murphy, McConnell, Vecchione and Tolud voting in favor.

Mehrdad Rafizadeh
Blk. 94, Lot 37
FAR, ILC, Side/Combined Side Setback

Appl. #16-659
41 Howell Rd
R-A zone

Richard Nelson, a licensed Architect in the state of New Jersey, presented the application. Mr. Rafizadeh lived at 41 Howell Road and wished to renovate and modernize his home, remove the aluminum siding and make the house more historically accurate. They wanted to add a new laundry room, a new master bathroom, a new bath on the second floor, a new roof over the front entry and install a new circular drive. Richard Nelson said they had been approved to use the Contributing Dwelling incentives by the Zoning Officer. As a result they do not need a variance for FAR and ILC but still needed variances for a side yard setback of 2.5 ft. where 20 ft. is required and a combined side yard setback of 50 ft.

Chris Richter felt the Board needed to determine if this project qualified for the Contributing Dwelling incentives. Rick Nelson said the Zoning Officer had ruled this project qualified. He continued the spirit of the Ordinance does not say you can't add something in the front of the house. Mr. Richter still felt the Zoning Board needed to rule whether this was going under the HPC or not. Mr. Nelson read the following from the check list "*the proportion between width and height of the proposed alterations will be compatible with any street-facing façade of the existing original structure. §40-49B (1) (b)*". It was decided the Zoning Officer had the final say in determining if the applicant could use the incentives.

Mr. Nelson presented exhibit A-1, two enlarged color renderings of the house included in the application. He was confident the home was originally stucco. He has added to the design all the typical crown molding found on the exterior of a Hapgood. The concrete porch has been causing water to collect by the wood framing of the house and a corner of the home is now decayed and settled. The variance needed for the combined side yard setback of 50 ft. is a hardship created by the existing house. The preexisting nonconforming side yard setback is intensifying because of the second story addition. Mr. Rafizadeh said the water infiltration has destroyed the house and he would like to repair the water damage and bring back the historic home.

No one from the public was present to comment on the application.

Stephen Vecchione said he liked the plan and that the homeowner wanted to bring back the house. James Murphy and James McConnell agreed. Peter Bolo thought it was a great renovation. Arthur Max was concerned about the size of the U shaped driveway. He said it looks great but it was large. He was concerned about run off. Rick Nelson answered the applicant was fine with any storm water management the town felt necessary. Mr. Max requested a condition be added to the resolution to have the Engineer review the plans for run off. John Tolud thought the plans looked spectacular and made a motion to approve the application as presented along with a condition that the drainage be reviewed by the Engineer. A second was provided by James McConnell. The application was approved 7 to 0 with members Max, Richter, Bolo, Murphy, McConnell, Vecchione and Tolud voting in favor.

The Board took a break at 8:30 PM and reconvened at 8:38PM.

Leonard & Elizabeth LoBiondo
Blk. 101, Lot 41 & 44,
Use, Side Yard Setback, Height/Stories

Appl. #16-660
105 Lake Dr
R-A zone

Marc Walker, a licensed Engineer in the state of NJ, Richard Nelson, a licensed Architect in the state of NJ, and homeowner Leonard LoBiondo, of 78 Lake Drive, were sworn in. The LoBiondo's have been in town for 20 years. They wanted to retire in Mountain Lakes but wanted a home with a master bedroom and bath on the 1st floor and usable garages. They purchased the two lots on Lake Drive but have no plans to sell the empty lot.

Exhibit A-1 was the colorized site plan, dated 5/5/16, already submitted. The home is an historic Belhall with an original circular driveway. They wanted to add to the left of the home to balance out the design. Exhibit A-2 was 3 enlarged computer generated elevations of the home with the proposed addition already submitted. The existing basement has a stone and beamed ceiling they want to preserve. The addition was designed to connect the existing home to the new garages. Exhibit A-3 was a photo of the front of the existing home taken in January of 2016. Chris Richter asked if any changes would be made to the 2nd and 3rd floors. Only interior renovations are being done on the 2nd and 3rd floors.

Marc Walker walked everyone through exhibit A-1 the colorized site plan. Lot 44 is a vacant lot with 28,170 sq. ft. and lot 41, with the house on it, is 43,880 sq. ft.; 15,000 sq. ft. is required in the zone for a lot. The homeowner wants to keep the original landscape. The driveway pad in front of the new garages will not be seen from the road. On exhibit A-4 the holly tree to the left of the house will now be saved in order to provide screening for the new driveway. Mr. Walker said the applicant met the rear setback. The Historic Preservation benefits allow for a combined side yard setback of 50 ft. which they meet. However on one side the existing house is only 19 ft. from the property line when 20ft. is required. The other side of the lot will have a 31.5 ft. setback so they need a side set back variance for the existing house. The Front setback in the zone is 40 ft. and the existing home is setback 39.7 ft. The new addition will meet the 40 ft. requirement. The building height in the front is 32.5 ft. where 35 feet is required. The height of the new addition is 32.7 ft. The non-street facing sides of the home have an average height of 37 ft. where 38 ft. is required. The new addition will change the average grade to 38.37 ft. so they are requesting a variance for height on the non-street facing sides. They have dropped the grade of the garages to make them match up with the basement causing the height variance. They could have meet the height requirements by putting the garages on the 1st floor but that does not meet the needs of the homeowner and would block the views for the neighbors. They need two variances for the required 2.5 ft. pervious buffer for the new driveway and the existing driveway. Both the circular driveway and new driveway cross over the lot line. The last variance they need is for use. They are adding a driveway to lot 44 which is an accessory structure. An accessory structure needs to accompany a principle structure and there is no principle structure on lot 44.

Michael Sullivan confirmed the property owner did not want to combine the lots and make the variances goes away. Marc Walker said he had done a worksheet to confirm in the future the driveway could be moved back to lot 41 so lot 44 could still be sold on its

own. He passed around exhibit A-5 which showed what the driveway grades would be on lot 41 for the garages and the driveway at 15% grade. The third garage would have to be removed when the new driveway was installed. Arthur Max questioned Mr. LoBiondo, you said you are not going to sell the empty lot. He answered, I purchased it as two buildable lots. I want to keep them as buildable and if my heirs want to sell the second lot they will have to remove the driveways. Chris Richter said the Board has never seen this type of request. Lenny LoBiondo said if we put the two lots together we lose the value of lot 44. If we can't keep this as two lots then we would have to consider taking down the home and building a new larger home to make it make sense economically. Chairman Richter said the Board has to make sure the lot stands on its own after this work was done. Michael Sullivan asked Mr. Walker to explain the plan on exhibit A-5. Mr. Walker said exhibit A-5 does not work as presented but if we remove a bay of the garage it works. If the lot was sold the driveways would have to be removed. The current house has to be gutted and this plans allows them to save the house. Chris Richter said the applicant needs to show the Board the lot would still work after the renovation. We need to see a site plan showing the future driveway since there is an eight foot drop from the road. Can this lot still stand alone?

Peter Bolo questioned if this Board needed to go through the proofs that it property is sub dividable. Michael Sullivan said the concern is for a subsequent owner. Dr. Bolo asked if this application was approved they would not have to go to the Planning Board for a subdivision. Chris Richter said only if the lots are joined. The test for the Board is does the second lot still functional if we allow the use variance. Right now it looks like they would need a building envelope variance for the required 50' x 85' envelope. Rick Nelson interjected the new owner could change the garages into a billiard room and use the existing garage. Marc Walker added if this is the only issue concerning the Zoning Board he could show the plan to the Borough Engineer proving the proposal would not create any non-conformities. Peter Bolo liked the redevelopment of the property. Stephen Vecchione said he would want to make sure this property would still be sub dividable. Jim McConnell confirmed the parcels are two separate lots now. Michael Sullivan said that only becomes a problem if we ask then to consolidate the lots. Mr. Richter said you can't build on the vacant lot without a variance for the building envelope. Rick Nelson pointed out the FAR percentage was only 10.9% for lot 41. Chris Richter confirmed all the ILC for lot 41 was under 25% and the new garage doors were 31 ft. off the side yard setback.

Chairman Richter asked if there were any additional questions from the Board. Jake DeNooyer asked when lot 44 was sold what would trigger someone to look at this. Marc Walker answered the Board would see this again because they would need a building box variance and they would have to remove the driveway. Michael Sullivan repeated the issue is when you are left with lot 41 does it work as a single lot. Lenny LoBiondo said if I put the driveways in the rear of the house I would destroy more of the backyard. Rick Nelson said this house and it property has always been one of the grandest lots in the community. Anyone who could afford this would want to preserve it.

The Chairman asked if anyone from the public wanted to ask questions or comment on the application. Doug Brown, of 104 Lake Drive, had looking at the grading and the loss of trees planned. He requested they replace the trees to reduce the visual impact for him. Mr. LoBiondo said he would be redoing the landscaping. Colleen Whitmore, of 116 Lake

Drive, appreciated what the applicant was doing and liked having the garage underneath. The double lake lots are always a concern; she was glad to see the lots preserved. She asked about the side yard setback for the 2.5 ft. buffer and about the language in the notice that read “any other variances the Board may deem necessary”. Chris Richter asked about the side yard setback for the A/C units. The location was chosen to meet the combine side yard setbacks requirements. The Board confirmed the use of the Historic Preservation incentives. Rick Nelson said they were matching the historic details of the home. On the check list for eligibility they conformed with *the alterations to all street facing façades will be compatible with the existing or original structure, the proportions of the height and width were compatible with any street facing façade of the existing or original structure, and the proportions and relationships between doors and windows in street facing facades will be compatible with the existing or original structure.* The new side addition is setback 12” from the garage on the right side not the main house. Iris Smith, of 99 Lake Drive, asked about the generator on her side of the property. Could they relocate it to the back of the house? Marc Walker said if they did they would need a variance for the lakefront exception. They could put it on the lake side of the garage. Jake DeNooyer said putting it there would interfere with the proposal to relocate the driveway to maintain lot 44.

Chris Richter polled the Board and determined they needed additional application material to support the design to maintain the two lots. Marc Walker asked if it could be a condition of the resolution to have the plan review by the town Engineer. The Board said no but voted to prepare the resolution with the standard conditions, referenced Mr. Ryden’s letter and moving the location of generator from the side yard to the rear yard. This would require a variance for lakefront exception in addition on to all the other variances previously requested. A motion was made by James Murphy to carry the application to June 2nd. James McConnell provided the second. The Board voted 7 to 0 to carry the application with members Max, Richter, Bolo, Tolud, Murphy, McConnell and Vecchione voting in favor.

Other Matters / Public Comment:

The Zoning Board Administrator told everyone the Historic Preservation Committee was considering amending the incentive Ordinance. The Board began discussing the changes they would like to make to it. It was decided to put the Historic Preservation Ordinance on the agenda for next month.

No one was present from the public.

John Tolud made a motion to adjourn the meeting and Arthur Max provided the second. The meeting was adjourned at 10:20PM.

Respectfully submitted,

Cynthia Shaw, Secretary