

**MINUTES OF A SPECIAL MEETING
ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF MOUNTAIN LAKES
December 3, 2020**

Chair Chris Richter called the remote meeting to order and announced: Adequate notice of this remote meeting has been provided in accordance with the Open Public Meetings Act by publishing the remote meeting notice in The Citizen and The Morris County Daily Record on November 25, 2020 and by filing the same with the Borough Clerk and posting it on the Front Door on November 23, 2020 and was made available to all those requesting individual notice and paying the required fee.

Start: 7: 31PM

ROLL CALL:

Present: Richter, Murphy, DeNooyer, Vecchione (7:36PM), Paddock, Peters, Caputo, and McCormick

Absent: Max

Also, Present: Attorney Michael Sullivan, Engineer Bill Ryden

REVIEW OF MINUTES: Mark Caputo made a motion to approve the minutes from the November 5th meeting. Jake DeNooyer provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION: none

PUBLIC HEARINGS:

44 Midvale Road, LLC	Appl. #20-718
44 Midvale Rd (9 Baldwin)	Blk. 106, Lot 6
Use, Front Setback, Side Setback	A Zone
2 Principle Structures, Less than the required Parking	

Due to improper notice the applicant requested their application be carried to the January 7th meeting. James Murphy made a motion to carry the individual notice to the property owners within 200ft to January 7th. The applicant must place a notice in a town approved newspaper for the January 7th hearing. A second was provided by Mark Caputo. The carry was approved by voice vote of all members present.

Ringo Supply Co.	Appl. #20-708
380 Route 46E	Blk. 2, Lot 1
Front Setback, Side Setback (3)	B Zone
Pervious Buffer, Use	

Attorney Joseph O'Neill said the Ringo Supply, based on Board comments, had submitted revised plans. Peter Korzen, the engineer, presented the changes made to the site plan. Their changes included moving the fuel tanks to the side of the one-story garage, placing the fuel tanks on a concrete pad and adding a 6" monolithic curb around

the perimeter of the fueling tanks. By moving the tanks off the property line on the east side the side setback variance changes to one on the west side. They will regrade the area and add a retaining wall so the sea containers would be out of the 20ft side setback. They relocated the dumpster and the water tanks at the rear of the property will be removed. At the easement access on Route 46 they will add a "Do Not Enter" sign. The landscaping was changed from a single row of 21 arborvitae to a staggered row of 35 arborvitae. They reduced the parking request from 6 vehicles to 4 and have placed the parking parallel to the boundary line.

The Chair asked the Board if they had any questions or comments on the plan changes. J. Murphy asked if the 3 outdoor stockpiles were always there? Yes, and they were approved by Denville. Bill Ryden said more needed to be done to comply with the Wellhead Protection Ordinance. They need to add a designated fueling area and regrade that area to deflect fuel from entering the ground water if there was a spill. He felt there should be a condition requiring Ringo Supply to prepare a more detailed operations plan. They needed to create a designated area to park the trucks when fueling. Chris Richter agreed they should add a 15 x 30ft fueling area. Bill Ryden said the area where a truck parks for fueling needed to be solid. He asked how they got into the sea containers. James O'Neill responded they would be entered from the side. James Murphy said he looked at google maps and noted there was heavy tree coverage along the property line now. What would happen to the existing trees. The mature trees on the plan will remain. The trees he is seeing are most likely on the Zeris site. Mr. Murphy asked the size of the trees they planned to plant. They will put in 6 to 7ft trees. Jake DeNooyer added, what if they die? Kelly McCormick said the Board could require a 2-year guarantee or make it a condition of the resolution they replace what dies. Chris Richter said the trees proposed planted 10ft on center would not provide a screening. Would they consider a broader species such as Leyland Cypress or anything that would fill in better? Mark Caputo questioned the need for the wellhead protection since there was not a well on the property. Mr. Richter said the well was located by the dry cleaner. Chairmen Richter said these types of activities on a property tend to creep and grow. He would like to stop the use of the property south of the silt fence line. The applicant agreed to not expand the site activity beyond the silt fence line. That line will be added on sheet 3 of 5 limiting any storage beyond that point. Jake DeNooyer asked about the 3 cars rotting away on the site. James O'Neill responded they plan to clean up the entire site. If it's not on the plans now it will not be there. Mr. DeNooyer asked if they could repaint the buildings another color. The applicant said they could.

Chairman Richter asked for questions and comments from the public. Janet Horst, of 82 Pocono Road, asked if the concrete under the tanks was permeable. Bill Ryden answered no but there should be procedure to clean up any spill. She suggested the evergreens planted should be a variety of specimens.

Erik DeLine, a licensed Planner in the state of NJ presented exhibit A-1, consisting of three sheets, an aerial view of the existing property, 4 photos of the property and 4 photos of the adjoining properties. This property is in two towns. The property existed as a supply yard. They were seeking a D-1 use variance in the B Zone to allow a contracting yard, have storage containers on site and dispense diesel fuel. Under the Municipal Land Use Law they have met planning criteria G – *to provide sufficient space in an appropriate location for ... commercial and industrial uses* and criteria D – *to ensure that*

the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities. Most of their property is in the Township of Denville. Approval of the use variance would be a continuation of the same use on one continuous piece of land consisting of several parcels. The buildings are on both lots in both towns so it would be hard to have different uses. The property backs up to the railroad. Due to the nature of the supply business, it makes sense to have it adjacent to Rt 46. The granting of the variances results in no detriment to the public good or the zone plan. Its history shows the property already existed as Lee Supply so it will not impair the zone plan.

Page 2 of exhibit A-1 shows 4 photos of the site. Mr. DeLine said the buildings are supply buildings and the lot was very deep. The municipal line goes through building in photo number one. The garage is mostly in Mt Lakes. One photo showed the view of the access to Rt 46 and one photo showed the access from Hornbeck Road. The applicant has moved the bulk variances to the municipal property line rather than the property line on the east side. They have properly buffered the Zeris Inn side. The dumpster is set back quite a distance from Rt 46 but requires a variance for setback. The parcel is isolated. In his opinion the Board could grant the variances requested.

Chris Richter does not believe in applying the C-1 or C-2 criteria to the D variance. He thought from a planning perspective moving the variances to the boundary line instead of the property line was better. He was uncomfortable with the dumpster location. He requested the engineer revise the drawings to reflect the front line as a sideline since this was an easement. Mr. O'Neill said he and Mr. Sullivan already had a discussion on the same issue and concurred with Mr. Richter. Could they move the dumpster 6ft forward to eliminate the sideline setback variance?

There were no Board questions for the Planner. No one from the public wished to ask a question.

Peter Korzen said they could push back the dumpster to 20ft from the sideline eliminating the side setback at the property line. They will now have a setback of 8.6ft to the municipal line. The chair and applicants engineer reviewed the variances. They eliminated the front yard setback in Mt. Lakes. They will have 3 setbacks to the municipal line, one for the dumpster, one for the storage containers and one for the fuel tanks. Jake DeNooyer asked about the view from the proposed hotel. Bill Ryden responded since the proposed hotel is three-story, they will not be able to block the view of the site.

There were no comments from the public.

James O'Neill concluded the site was a mess. The plan is to clean it up and organize the site if the variances are approved.

Michael Sullivan reviewed the relief requested. This was a preliminary & final site plan. They were looking for a D-1 use variance for a contractor yard, storage containers and fuel storage plus three C variances. One on the westerly municipal line of 8.6ft for dumpster and 2.3ft for fuel tanks. Lastly a variance for a 0ft side setback for the storage bins where a 2.5ft pervious setback is required. They need to change plans to switch a front setback to side setback, move the dumpster and include a limit of disturbance south of property at the silt fence line. They need to plant Leland Cyprus trees and if they were to die, they must be replaced within 30 days. They will comply with the Wellhead

Protection Ordinance and follow best practices and provide fueling area for their vehicles.

A motion was made by James Murphy to approve the use variances and three bulk variances for the site subject to all the conditions specified by Michael Sullivan. A second was provided by Chris Richter. The Board voted 7 – 0 to approve the application, with the plan changes required, with members Richter, Vecchione, Caputo, Murphy, Peters, DeNooyer and Paddock voting in favor.

Other Matters / Public Comment:

Janet Horst, of 82 Pocono Road, thanked the Board for their service. She wished Chris Richter, a Board member for 17 years, good luck on Council.

James Murphy made a motion to adjourn the meeting and Kelly McCormick provided the second. The meeting was adjourned at 8:51PM.

Respectfully submitted,

Cynthia Shaw