

**MINUTES OF A REGULAR MEETING
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN
LAKES
December 6, 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: 7:33PM

ROLL CALL:

Present: Max, Richter, Murphy, Vecchione, DeNooyer, Peters, Sheikh and Bolo

Absent: McConnell

Also Present: Attorney Michael Sullivan

REVIEW OF MINUTES: James Murphy made a motion to approve the minutes from the November 3, 2016 meeting. Arthur Max provided the second; the minutes were approved by voice vote by all eligible members.

RESOLUTION:

Douglas Brown & Helen Liu

Appl. #16-666

James Murphy made motion to adopt the resolution of approval; Jake DeNooyer seconded the motion. The resolution was passed by a vote of 6 to 0 with members: Richter, Bolo, Max, Murphy, Sheikh and Vecchione voting to approve.

Mehrdad Rafizadeh

Appl. #16-667

James Murphy suggested a minor change to the resolution. Peter Bolo made motion to adopt the resolution of approval with the correction; Stephen Vecchione seconded the motion. The resolution was passed by a vote of 6 to 0 with members: Richter, Bolo, Max, Murphy, Sheikh and Vecchione voting to approve.

PUBLIC HEARINGS:

Carried Application:

Celal Andican

26 Dartmouth Road,

FAR, Average Front Setback, 2 Side Setback

Appl. # 16-664

Blk. 84, Lot 6

R-A zone

Going forward Steven Schepis, a licensed Attorney in the state of New Jersey, would be handling the presentation of the Andican application. Mia Petrou, a NJ licensed Planner and Paul Anderson, a licensed NJ Engineer were sworn in. Steven Schepis explained the subject property contained a one story house with the flat roof. The applicant proposed adding a second story right on top of the existing home. The current house has a partial basement that

will be converted to a garage. They will be removing the driveway that goes around the back of the house.

Paul Anderson, the Engineer, presented exhibit A-1 a color rendering of the site plan already submitted. He used the Lakeland survey as the bases for the site plan. They have reduced the ILC from 37.5% to 31.1% by removing the existing driveway and putting a new driveway in the front yard. This removes traffic from the rear of the house and provides additional green space. The application requires two side yard setback variances and an average front yard setback variance of 58.01 ft. Mr. Schepis asked Mr. Anderson to comment on a submitted aerial photo taken from the Morris County Planning Board website. The Engineer said the property had plenty of vegetation to provide screening for the neighbors. The turnaround in the driveway provided for safer egress and would not reduce the ILC by that much if removed.

Arthur Max asked what the distance was from the new driveway to the side property line. Paul Anderson said it was 13.5ft. Mr. Max questioned the need to change the dimension of the side setback variance requested on the driveway side of the property. Peter Bolo asked the distance of the neighbor's homes to the property line. Mr. Anderson said the home to the west was 18.5 to 19ft. away and the home to the east was 28.5ft away. Chris Richter asked about the height of the retaining walls for the turn around. It was 6ft high on the east side of the property and 3.8ft on the west side. Mr. Richter pointed out the building code may require a fence on top of the retaining wall on the 6ft side and Mountain Lakes did not allow fences in the front yard. Mr. Richter suggested the right side be graded down to 1ft. Steven Schepis said the applicant would grade out the property so they would not need a variance for a fence. Jake DeNooyer said the ILC calculation should be corrected to state the garage was detached not attached.

Mr. Richter asked if there were questions from the public for the witness. Tucker Glavin, of 65 Bellvale Road, asked what will happen to the unused garage. Paul Anderson did not know what it would be used for. Stephen Schepis said they would be using it for storage only and would be willing to make that a condition of the resolution. Chris Richter explained the garage area would count for ILC but would not count for FAR. Anthony DeConciliis, of 30 Dartmouth Road, confirmed the 2nd floor addition would not respect the 25 ft. setback. Christopher McAuliffe, of 24 Dartmouth Road, asked if changing the driveway affected the FAR. Mr. Anderson said no but it did reduce the ILC causing a reduction in the nonconformity. Mr. McAuliffe asked if the addition of the second story affect the light into the houses next door. Paul Anderson said he could not speak to the effect of light on the neighboring homes.

Mia Petrou, the Planner for the applicant, presented exhibit A-2 an aerial photo of the 2,337 sq. ft. home constructed in 1956. She felt the lot was slightly irregular in its shape. The blue line on the exhibit encircled the homes she considered when doing her analysis of the neighborhood. Exhibit A-3 consisted of 6 photos. Photo A was the subject home, B and C were the homes on Blk. 84, Lots 8 and 4 to the right and left of 26 Dartmouth, D and E were Blk. 83 lots 28 and 30 across the street and photo E was Blk. 84, Lot 33 found to the rear of the subject property. According to the tax record the predominate style of homes in the neighborhood were colonial and were 2 to 2.5 stories. The home at 26 Dartmouth is the only one story home in the 30 home neighborhood she analyzed.

Khizar Sheikh asked what the lot size and FAR was for some of the properties in the aerial photo. He selected lots that appeared to be about the same size as the subject property. Mia

Petrou provided the information but said her FAR calculations were not exact due to variables in calculating FAR such as vaulted space. She only used the information found on the property cards located in the Tax Assessor's office. She created exhibit A-4 with all the information she collected. Exhibit A-4 listed the 30 properties in the neighborhood their lot size, home square footage and the potential FAR. Many of the Board members asked Ms. Petrou for the acreage and the FAR for specific lots. She concluded, per the tax records, 18 out of 30 lots did not conform and all the homes were over 4000 sq. ft. The proposed house plan for 26 Dartmouth was consistent with the neighborhood. Khizar Sheikh asked, of the 18 non-conforming lots, what the median and average FAR was. Ms. Petrou answered the median was 20% and the average was 21.25%. When the total neighborhood was considered the average home was 3,300 sq. ft. and the FAR was about 18.5 to 19%. This property would support a 2600 sq. ft. if you conformed to a FAR of 17%.

Miss Petrou pointed out the features of the new house design. There were dormered windows, a stucco exterior and stone along the foundation similar to other homes in the neighborhood. The home had a second floor but not a third floor of living space like other houses in the area. The dormers are in the second floor of the proposed home which makes the mass of this structure lower.

Mr. Schepis asked Miss Petrou if the design provided adequate light, air and open space. Mia Petrou answered the variance for side setback and average front setback were C-1 variances because they were expanded over the current footprint which is an existing condition. By removing the old driveway in the rear they were creating additional open space which offset the side setback variances. She thought you would create an odd situation inside the home if you set the second story to comply with the required setback. You can't go out with the footprint of the home because you would increase the ILC. There is less impact if you build up. Steven Schepis confirmed with her the MLUL recognized working with an existing structure a hardship. The current home was completely out of character with the neighborhood and the new design was more in keeping with it. This also qualifies as a C-2 variance; the benefits outweigh the detriments. The addition is proportionate, there is a desirable visual development pattern, they are removing 1000 sq. ft. of driveway thus minimizing the ILC and are reducing the activity in the side and rear yard. Mr. Schepis asked Mia Petrou about the FAR d-4 variance. In answering Miss Petrou referenced the Randolph Town Center case which established the following criteria; can the site accommodate the development. She thought it did. You just needed to look at the homes around the neighborhood; their square footage is larger than what the applicant is requesting. The current home has a flat roof and no dormers that can be expanded. This is a single family home that will remain single family with not too many bedrooms. Miss Petrou said FAR was created when old homes were being torn down and replaced with oversized homes. This plan was not a McMansion. The proposed home is a 2 story home in a neighborhood made up of 2.5 story homes. This project continues the development pattern. There is no significant negative impact to the community. There are no other 1 story homes with a flat roof. It is being finished with stone and stucco similar to other homes in the neighborhood.

Khizar Sheikh asked Miss Petrou if the Board should consider the median or average FAR in their analysis of the application. She answered, it was hard to see the differences from the tax record cards. Peter Bolo asked why the applicant didn't build a house like the home in photo E on exhibit A-3. She thought you could. He asked what about a home with less

bathrooms and bedrooms. She was not qualified to answer that question. Chris Richter said to the applicant you could have designed a home with a second floor that was 40% of the 1st. That 900+ sq. ft. on second floor would drop out of the FAR calculation. He continued there was a house expansion previously designed for this lot that was very attractive but had a smaller second floor. He was fine with all the c variances requested but the FAR needed to be less. In fact the FAR for this house was exactly the same as they submitted the last meeting. A previous Zoning Board approved an FAR of 22.5% to add a second story to this house. At that time the Board agreed a second floor was needed. He felt there were a lot of roof options out there for them to explore to get the FAR down. Arthur Max said there were so many different houses in the area that the average FAR becomes meaning less. Is there another way to design the second floor to get the FAR down? Stephen Vecchione added you can get to a higher FAR if you make the 2nd floor 40% of the 1st floor. Jake DeNooyer felt the high FAR was a tough sell.

Chairman Richter opened the meeting to the public for questions of the Planner. Renee Waas, of 69 Bellvale Road, was concerned with the size of the proposed home. Atienne DeConciliis, of 30 Dartmouth, felt the same way. Chris McAuliffe, of 24 Dartmouth Road, thought the proposed plan was a detriment to the neighborhood and the town ordinances. Tucker Glavin, of 65 Bellvale Road, thought the lots being mentioned were not similar to the one with the proposed development so why use then for comparisons.

Steven Schepis request 5 minutes to discuss the application with his client. Jake DeNooyer made a motion to adjourn the meeting for 5 minutes; Peter Bolo provided the second. The adjournment was approved by voice vote of all members eligible.

Attorney Steven Schepis returned stating they appreciate the input from the Board. Mr. Andican would like to go back to his architect to review the house plans and carry this application to the next meeting. Chris Richter made a motion to carry the application to January 5, 2017 with no further notice and Jake DeNooyer provided the second. The carry was approved by voice vote of all eligible members. The applicant agreed to grant the Board an extension of time to January 31, 2017.

Other Matters / Public Comment:

Substitute Planner – The Board Administrator explained the Zoning Board would be hearing an application from Verizon in January. The Board's Planner, Paul Phillips, has a conflict and cannot review the application for the Borough. The Board needs to appoint a substitute for this application. A motion was made by Peter Bolo to appoint Charles McGroarty, of Banisch Associates, from December 6, 2016 to December 31, 2017 to act as the Board's Planner in conflict situation. Chris Richter provided the second. The appointment was approved by voice vote of all eligible members.

Board Resignation - Chris Richter publicly announced the resignation of Peter Bolo who was a 14 year member of the Zoning Board of Adjustment. He thanked him for his dedication and service. Mr. Bolo told everyone how much he enjoyed serving and had learned a lot from everyone. He felt he was leaving Board in good hands.

Public Comment - Mr. Richter asked if anyone from the public wished to speak.

Rob Waas, of 69 Bellvale Road, asked how often an applicant could come back to the Board with revised plans. Chris Richter said there was no time limit.

Stephen Vecchione made a motion to adjourn the meeting and Arthur Max provided the second. The meeting was adjourned at 9:42PM.

Respectfully submitted,

Cynthia Shaw, Secretary