

**MINUTES OF A MEETING  
ZONING BOARD OF ADJUSTMENT OF  
THE BOROUGH OF MOUNTAIN LAKES  
February 1, 2024**

James Murphy 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 January 11, 2024 and by filing the same with the Borough Clerk and posting it on the Bulletin Board on January 8, 2024 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:32pm

**ROLL CALL:**

Present: Murphy, DeNooyer, Peters, Astrup, McCormick, Caputo, and Paddock

Absent: Vecchione and Leininger

Also, Present: Attorney, Michael Sullivan

**REVIEW OF MINUTES:** James Murphy made a motion to approve the minutes from the January 4<sup>th</sup> meeting. Annie Peters provided the second; the minutes were approved by voice vote by all eligible members present.

**RESOLUTION:** none

**PUBLIC HEARINGS:**

Carried Application:

Junmeng Chen and Selina Shi	Appl. #23-751
19 East Shore Road	Blk. 23, Lot 17
Improved Lot Coverage Side Setback	R-AA zone
Floor Area Ratio	

Kevin Hahn, the attorney for the applicant, said they were applying for improved lot coverage, side yard setback, and floor area ratio variances for a shed that was already installed on the property. Allen Hantman presented himself as the attorney for the neighbors Julie and Robert Pinke. He objected to the notice, stating the application should be amending the previous approval from 2011. Michael Sullivan did not agree with him, thought the Board should proceed, for the record Mr. Hantman preserved his right to object. K. Hahn added Mr. Hantman did not object to their notice when sent it to him for review. Tom Graham, a licensed engineer in the state of NJ, started with 19 East Shore Rd site plans dated 01/11/24. It is a single-family home in the R-AA zone. The property does not meet most of the bulk requirements for the zone. The undersized lot does not meet the required lot frontage or depth, front and rear yard setback, FAR, and ILC. The existing 124sqft shed does not meet the required side setback of 25ft.

Moving the original shed was a condition in the resolution for application #07-510. Micheal Sullivan said that resolution was never acted upon, so it expired. The homeowner made a second application, #11-606, to the Board. That resolution was used to obtain a building

permit for the home renovation. In that resolution the Board repeated the side setback for the shed could be 2.5ft from the property line.

Chairman Murphy opened the hearing for board questions. J. Murphy confirmed the size of the shed was 124sqft. K. McCormick asked if the shed was in a different spot. Yes, it was, and it was larger. J. Murphy asked where the shed was before. J. Chen answered in 2019 the shed was 2ft away from the water or 20ft closer to the lake. He was not sure of the size. The original shed was removed in summer of 2022. Why did they move the shed? Because it was in the way of the Sunset Lake dam project. K. Hahn explained the Chen's gave the Borough an easement across the back of their property for the dam. The Borough was willing to remove the shed, but they decided to move it themselves. When they did it fell apart. Did the Borough Manager ask you to move it to a particular spot. Yes, he said they should move it to the spot that was approved in the resolution. Selina Shi, said they did tell Mr. Stern it would fall apart, and he agreed they could put a new shed in the location stated in the resolution. K. McCormick asked if the photo was of the new shed.

J. Chen presented exhibit A-1, dated February 1, 2024. It consisted of 9 pages showing the various locations of the shed, the emails from the Borough Manger and their reasons for relief. They need to get a variance for the shed. The front of the existing shed faced his deck, so the Pinke's see the back of the red shed. They would not have replaced the shed if the town had not asked them to move it for the dam project. They could not use a ready-built shed due to the sloping of the property. They needed to build it on site. Due to covid the supply was limited so they bought the smallest one they could find. Why don't they store these supplies in the garage? The garage is underneath the house, and we would have to carry the lawn mower down the stairs to use it in the backyard. They understand they incorrectly chose to install a larger shed than permitted by resolution.

J. Murphy understood the town needed to build the embankment for the dam. Was there a previous easement on the property? No, there was no prior easement. The "Grant of Drainage" easement runs along the water edge. Exhibit A-2, the "Easement Map", by Ferrero Engineering, Inc., dated 1/20/20 and lasted updated on 3/17/23, showed the easement on the property in orange. Brett Paddock said the email from Mr. Stern said the shed size must be the same or smaller. Yes, the applicant knew that but didn't have the actual size, so they estimated. What was the color of the original shed? It was dark red/brown. Mr. Chen said they were willing to repaint the shed. Jake DeNooyer asked how they found out the shed needed a variance. The Zoning Officer called them.

No member of the public had questions for Mr. Graham.

Allen Hantman asked Tom Graham if he knew the improvements on the property were created by variance. He said he was aware of the resolution from 2007 but not the one from 2011. Did he see the site plan from the Washington Architectural Group. He did not recollect the plan by the architect. Are the size and location of his site plan as they exist today. Yes, they are. Are there any other applications to the Board. No there are not. A. Hantman asked Mr. Chen if he had done any investigation of the property when they bought it. No, they did not. Did they understand the resolution on the property. No, they did not. You made no other permits or variances for this shed. That was correct.

Kevin Hahn presented Alison Kopsco, a licensed Planner in the state of NJ, as the next witness for the applicant. She said they were seeking 3 variances for FAR, ILC and side setback. The prior Board approval was for a 2.5ft side setback for the shed now located 4.1ft from the property line. In 2011 the Board approved an ILC of 24.82% and they are now

requesting 36.2%. The FAR was 23.45% in 2011 and they are requesting an FAR of 25.48%. A. Kopsco presented exhibit A-3, 4 pages consisting of photos, a site plan and a table showing the average FAR, ILC and lot size of 23 homes in the neighborhood. The table was created using the tax records. The 23 properties are within 700 feet of 19 East Shore. The two lots on either side of their home are larger in size and their improvements are bigger.

This is a c-1 hardship application. The lot is undersized, and they do not meet the required lot frontage and depth. The request by the applicant does comply with the purpose of the MLUL. It complies with A.- *“the appropriate use or development of land... will promote the general welfare”*. The shed is now further from the sideline than it previously was. G. – *“To provide sufficient space in appropriate locations for residential use... to meet the needs of all citizens”* I. – *“To promote a desirable visual environment”*. The location reduces the extent of non-conformity. M. – *“To encourage ... the more efficient use of the land”*. They have moved the shed, which is permitted in the zone, away from the lake. These variances can be granted without any detriment to the public good. They conform to goals listed in the Borough’s 2013 Master Plan “Land Use Element”. They are requesting a D-4 variance for FAR. The proposal is consistent with other properties in the zone. The application is in keeping with the neighborhood and the shed does not block anyone’s view of the lake. It is set back and there is vegetation. It does meet the lake front setback and they improved the side yard setback. A. Kopsco felt the Board was within its right to grant the variances.

Allen Hantman asked Ms. Kopsco if she reviewed the resolution and plans. Yes, she did. He continued; in the 2011 resolution the patio was to be removed as a condition to grant the ILC variance. The reduction of the ILC was a benefit. The patio removal was never done. Now you are saying the larger ILC is acceptable. Should the Board forget that? Did the right to relocate the shed expire? J. Murphy said in the resolution for application #11-606 he didn’t see a notation to remove the shed. Exhibit O-1, the plan done by Washington Architectural group showed the patio to be removed. The patio was never eliminated. There were no questions for the Planner from the public.

Mr. Hantman called Juile Pinke to testify. She shared several photos of the shed and explained how this affected her property. Photo O-2 was the view of the shed out the living room door. Exhibit O-3 was a photo from second floor deck. Exhibit O-4 was a photo from second floor window showing the shed and house. All the photos were taken by Mr. Pinke on February 1st. O-5 was a view of shed from the backyard. The shed is not pleasant to look at and it is larger than the last one. J. Murphy confirmed the Pinke’s would like the shed removed. J. DeNooyer asked if painting the shed would help. No, it should be moved off the property line. M. Caputo asked if the old shed was there when they moved in. Yes, it was there in 2000. B. Paddock asked if the shed was painted and if there were evergreens planted would that be acceptable? No, it should be moved to the middle of their property closer to the deck. Mr. Chen explained they couldn’t do that because of the terrain. Annie Peters asked if the shed could be moved by the A/C units? J. Chen said the terrain was sloped there too. She then asked if they could build a new unit attached to the house. K. Hahn asked if the Pinke’s needed to be standing in the doorway to see the shed. No, they could see it from their couch. Do you have to stand at the second-floor window to see the shed. Yes.

There were no further questions from the public questions.

Mr. Hantman asked Robert Pinke for his comments. He said he understood it maybe a hardship to not to have this shed. Mr. Chen bought a house with a smaller shed. They can store things in their garage. This shed is now closer to our house than it was before. R. Pinke said they bought their house and found out they couldn't park on the driveway. They had to remove the back patio to get to use the existing driveway. The previous owner built on their property without approval. What was built required numerous ordinances and was on the dam. The dam repair has helped the Pinke with their situation.

The Board discussed other locations for the shed that were closer to Sunset Lake and the easement. A. Peter asked Mr. Chen if he would consider buying a new smaller shed that looked like the old one. She found the color and bulk of the shed offensive. Jake DeNooyer asked if there were photos of the side of Pinke's and Chen's home. There were not. Kevin Hahn suggested the Board members visit the site. Both parties agreed to allow the Board members to visit their site. Board members must visit separately.

The Chair opened the meeting to the public. Carol Jee, of 4 Sunset Road, said she has lived in this home for 17 years and never noticed the shed before. The new shed is very visible. The Board could visit her house to see the shed from her side of the lake.

J. Murphy made a motion to carry the application to May 2nd at 7:30pm at the municipal building without further notice. The applicant granted the Board an extension of time to act. K. Hahn said the applicant would agree to that. Brett Paddock said the Board needed to look at the ILC too. Mr. Hahn said his client was willing to reduce the coverage. Mark Caputo provided the second. The Board voted to carry the application by voice vote.

**Other Matters / Public Comment:**

Public Comment – No one wished to speak during the public comment period.

Annie Peters made a motion to adjourn the meeting and Brett Paddock provided the second. The meeting was adjourned at 11:02PM.

Respectfully submitted,

Cynthia Shaw