

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

February 23, 2017

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 12, 2017: 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: 7:04PM

ROLL CALL:

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

Absent: Nachshen

Also Present: Attorney Peter Henry, Engineer, Bill Ryden, Planner, Paul Phillips, Environmental Engineer, Stephen Souza

PUBLIC COMMENT: none

REVIEW OF MINUTES: Richard Sheola made a motion to adopt the minutes, with corrections recommended by Peter Henry, of the January 12th meeting. David Shepherd provided the second; the minutes were approved by voice vote of all eligible voters. Richard Sheola made a motion to adopt the minutes of the January 26th meeting. Nancy DuTertre provided the second; the minutes were approved by voice vote of all eligible voters.

RESOLUTIONS:

Jeffery and Lynne Ansell

Appl. # 14-256-R

A motion was made by Richard Sheola to adopt the resolution of approval; Nancy Du Tertre provided the second. The resolution was adopted by a vote of 5 to 0 with members Shepherd, Sheola, DeVenezia, DuTertre and Mirsky voting in favor.

PUBLIC HEARING:

Barka Restaurant, LLC
60 Route 46
Sign, Front Setback

App. #16-264
Blk: 4, Lot 24
Zone B

Roy Kurnos, the Attorney for Barka Restaurant, would be presenting the application. The property is in the B zone located between a car wash and a gas station. The zone allows for 80% improved lot coverage and they only have an ILC of 60.7%; including the extended patio. The restaurant has 150 seats and 107 parking spaces. Mr. Kurnos reviewed the history of a restaurant since it's opening as the Black Bull in 1967. The last owner, Ocean Blue, received a variance for a free standing sign of 54 sq. ft., a wall sign and approval to build an outside patio and wall to accommodate outdoor dining. Mr. Kurnos admitted his client was somewhat confused. The building plans were sent to the Department of Community Affairs to be reviewed. The applicant thought the DCA

approval was for everything on the plans. The DCA approval did not include any type of zoning approval. They were seeking approval for a new 67.5 sq. ft. wall sign for the building and a front setback variance of 46.1 ft. for the patio when 54.5 ft. is required. The applicant was requesting 7 waivers for their application. Roy Kurnos listed them as a topographical survey, the location of existing and proposed drainage and waterlines, tree locations, an Environmental Impact Statement (EIS), location of utility lines, a surface water management plan and wetland delineations.

Arlene Mirsky questioned the missing page noted in the Shade Tree Commission report. Mr. Kurnos said he had requested the missing page from the preparer but did not have it yet. He continued his client will do whatever landscaping the Shade Tree Commission requested. John Horan asked if an EIS was required for this type of application. Peter Henry answered Mr. Ryden said in his review letter it was not needed.

Marc Walker, of Dykstra Walker, presenting the engineering for the project. The applicant updated the handicap parking area to include a barrier free stall. Doing so created the loss of one parking space. The front setback to the building is 50.1 ft. and the required average front yard setback is 54.5 ft. The new 33" high patio wall creates a front setback of 46.1 ft. The applicant has redone the front of the building and it looks phenomenal. The new and existing patio will now total 1139 sq. ft. The property was previously approved for 112.8 sq. ft. of signage, the existing freestanding sign is only 54 sq. ft. They would like to add a 67.5 sq. ft. sign above the window and awning. This is slightly larger than previously approved. Nancy DuTertre asked the applicant, by adding approximately 700 sq. ft. to the patio, how many seats would the patio area accommodate. Mr. Walker said there would be 40 seats. Roy Kurnos added the tables would be moved from the inside to the outside to make sure the number of seats remained the same. Nick DeVenezia confirmed the improvements to the property were already done. Martin Kane clarified there was some confusion that the patio and sign were already approved by the DCA.

No one from the public wished to ask questions of the applicant.

Arjanit Nick Gjdukha, owner of the restaurant, said the restaurant has 150 seats, plus 15 seats at the bar. They would not be increasing the total number of seats in the summer months. They plan to have valet parking if needed. The new sign would be lit. Mr. Kurnos confirmed they agreed to shut off the sign at 11pm during the week and 12pm on the weekends. They considered the weekend Friday and Saturday. Nick DeVenezia asked the wattage of bulbs along the patio wall. They were 40 watt bulbs. Nancy DuTertre confirmed they would bring the tables in and out each night. Mr. Gjdukha said they were not planning on seating any more people than they do now. This is to attract business in the summer. Arlene Mirsky clarified the two variances they were requesting. Peter Holmberg made a motion to approve the two new variances for a front setback of 46.1 ft. and a sign variance for an additional 67.5 sq. ft. sign, as well as three technical variances for existing conditions. The plan to do a table swap would become a condition of the resolution. As would the lighting hours and the use of 40 watt bulbs. There would be an expressed condition they would have valet parking as necessary as well as a condition that the Shade Tree Commission would review the missing landscape information before the signing of the site plan would be done. A second was provided by Nancy DuTertre. The Board voted to approve that application 9 – 0 with members Kane, Russo, DuTertre, Dagger, Holmberg, Sheola, Shepherd, DeVenezia and Horan voting to

approve.

Kings, Mountain Lakes, LLC
145 Route 46
Major Subdivision, Major Site Plan
Sign Variance

App. #16-261
Blk: 116, Lot: 3.01
Zones OL-2 & R-AH2

Chairman Kane announced the Board would pick up where they left off last month. Any member of the opposition or public wanting to ask questions of Mr. Walker could do so. Peter Henry asked Mr. Simon, the attorney who represented the Mountain Lakes Concerned Citizens, for a list of the people he represented. If Mr. Simon was their representative they should not speak unless called upon by Mr. Simon to give factual testimony.

It was decided the Board would allow Mr. Walker to continue his testimony before any questions were asked from the public. Mr. Walker presented Exhibit A-4, the Cross Walk Plan, dated 2/13/17. The plan provided an alternate crosswalk/vehicle turnaround area at Lakeland Court. The changes were made to answer some of the Boards concerns. Mr. Walker supported their decision to have no sidewalks by stating there were 34 miles of roads in Mountain Lakes and only 7.5 miles of sidewalks. The existing sidewalks provide access to public areas such as schools, shops, fields etc. If they added sidewalks it would be the 1st development in the Borough to do so. The Legacy development has no sidewalks nor does Spruce Edge.

Martin Kane asked if there were any other projects in town with this density. Peter Holmberg asked about the average road width of the development's streets verses other roads in town. Mr. Walker answered Morris Ave. was 24 ft. wide and others in the Borough ranged from 16 ft. to 20 ft. wide. Sherwood Drive was the widest street in the Borough. The roads in this development meet the Residential Site Improvement Standards (RSIS). Tom Dagger asked if the Borough Ordinance 208-9A. (b) [3] superseded the RSIS. Marc Walker said it did not. The RSIS did not require a cul-de-sac for a road less than 300 ft. in length. The applicant was willing to change the curbs to battered curbs. He continued, the newest project, located on Fox Hill Lane, consisted of 15 to 20 lots. The road width was 24 ft. and it had no sidewalks. Martin Kane was concerned with the intense use in this development and thought sidewalk should be required. Peter Wolfson added sidewalks would not be in keeping with the Borough. David Shepherd asked where they proposed people walk. Mr. Walker said they would walk in the street. Bethany Russo was concerned about children getting picked up by the school bus, they should be able to wait on a sidewalk. Nancy DuTertre added the Legacy development has two entrances and this one does not so the traffic patterns should not be compared. Nick DeVenezia asked why they had sidewalks by the affordable units. Mr. Walker said they were required to provide them. The market rate units would enter their home from the driveway. John Horan asked what the ILC was. Mr. Walker said they were allowed up to 45% and were currently at 40.8% Mr. Horan then asked if they would be over the ILC if they added sidewalks; no they would not. Stephen Souza asked Mr. Walker to clarify if a 10 ft. gravel path was included in the calculation for ILC; no it was not. He then asked about the access road. Mr. Walker answered that was not included in the calculation because it was not on the property.

Mr. Wolfson suggested Mark Gimigliano, an Environmental Engineer, continue the engineering presentation of the application since he had helped Mr. Walker prepare the site plans. Rob Simon, attorney for the Mountain Lakes Concerned Citizen Inc. (MLCC), protested they had not been able to ask questions of Mr. Walker. Peter Henry thought questions should be asked after each witness. Rob Simon introduced himself and listed his clients as the Board of Directors of the MLCC. The Directors were James Moody, Rainer Mimberg, Jeffrey Leman, George Jackson, Catherine Harvey and Jack Gentile. Peter Wolfson asked what the membership was. Mr. Simon did not know. Peter Henry added, you need to provide the membership list.

Rob Simon asked if these were the only plans done for the project. Marc Walker answered they did conceptual plans. He asked if the plans violated any of the affordable housing ordinances and why the affordable units were not worked into all the buildings. Peter Wolfson answered this was an inclusionary project and the units were included. Martin Kane questioned the cross examination. Peter Henry reminded Mr. Simon he needed to only question the witness on his testimony. This reminder was repeated several times during the evening. Mr. Simon said the OL-2 zone requires a planted buffer of 100 ft. Peter Wolfson corrected him; the zone was OL-2/R-1. Mr. Simon asked if the head wall on lot 3.01 was an accessory structure. Mr. Walker said they usually don't consider head walls an accessory structure. Mr. Simon questioned if the Borough could maintain the storm water structure if the Homeowners Association didn't. Mr. Walker did not know. He asked if a garbage truck could use the 8 ft. wide turn around on Lakeland Court. Mr. Walker answered it was only designed for a car so a garbage truck would have to back into the street. Mr. Simon asked if Mr. Walker considered any other locations for the access road; no they did not. Could they have another emergency access road? Marc Walker said no, the only other way to have an access road would be to cross the church property or cross the stream which would not be allowed by the DEP. Mr. Simon asked how many lineal feet of sidewalks the applicant was asking a waiver for. Mr. Walker said it was approximately 2300 liner feet. Rob Simon asked if there would be individual lots for each unit. Mr. Walker said it was not decided yet but most likely there would be individual lots with identified common areas in the development. Mr. Simon asked if they would have conservation easements for the flood hazard area and wetland buffer. Mr. Walker said that would be redundant.

Rob Simon questioned Mr. Walker about the preparation of the tree inventory and how the diameter of the trees were determined. Mr. Walker said he did not prepare the inventory someone from his office did. Mr. Simon asked the height of the retaining walls. Marc Walker said they were 6 ft. tall in some areas and went down to 2 ft. in others. They were various heights around the property some were made of boulders and some were made with modular blocks. The approval of the walls in the right of way must be done by the Council. The sign in the right of way also needed Council approval.

Martin Kane asked if anyone from the public wished to ask questions of Mr. Walker. Steve Arnold, of 4 Craven Road, asked why the access road was curved and going through the slope area. Mr. Walker answered he curved road and lengthened it to create less cuts in the area and less slope disturbance. Mr. Walker added if you make the access road wider you would lose the green space you have. Mr. Arnold added Craven Road was 30 ft. wide, which he thought too wide, he was in favor of a 24 ft. wide road. Marnie Vyff, Chair of the Shade Tree Commission and the vice-Chair of the Environment

Commission, lives at 10 Vale Drive. She would be representing the Shade Tree Commission. She confirmed Albie Road would be maintained by Homeowners Association. She pointed out a 60" oak tree off the corner of building #1. She felt they should move the building over a few feet and make the driveways shorter to save the tree. Mr. Walker answered moving the building a few feet would not save the tree because its root system was so big. Jim Hyson, of 2 Littlewood Court, asked the length of Lakeland Court; it was 298 or 299 ft. long. Was the applicant prevented from making it wider? Mr. Walker answered they were not prevented but are not required. Mr. Hyson asked for confirmation of the number of public parking spaces. Mr. Walker said there were 17 by the market rate units and three by the affordable units. Mr. Hyson explained overnight parking was not permitted in the winter by the Borough. He also asked why there was no emergency access for the development. Mr. Walker said they were not required to provide it. He was concerned about the use of a dumpster for the affordable units. He suggested the use of individual cans and the Borough's green bags. Mimi Kaplan, of 89 Lake Drive, asked the applicant to please consider the use of green bags and could they also consider having a can for recycling. Mr. Walker thought both of these requests could be accommodated. Tom Dagger asked how they plan to keep people in the market rate units from parking in the affordable spaces. Mr. Walker said they would use signage. Mr. Dagger asked why not put in the cul-de-sac? Mr. Walker answered it would require removing some of the units. Ron Schornstein, of 10 Craven Road, asked about the water and sewer service. Mr. Walker answered there was a sewer line at the end of Sherwood. They would connect to it and use gravity flow. There was a water main easement along the northerly side of the property. They tied into that line to do a fire flow test to confirm they had enough water for fire service. Water for the development would be provided by Mountain Lakes. Joe Wargo, of 10 Robinhood Drive, asked about the length of construction time. Mr. Walker said that was not known. The project would not be phased and they plan to build it all at once but it will also depend on sales. Mr. Wargo was also concerned about damage to the roads and mature trees. Nancy DuTertre asked if the DEP had been asked about a second access road. Mr. Walker answered the DEP would reference the RSIS and see that it was not required. It was decided it was too late to start a new witness so the application was carried to March 23rd without further notice. The meeting would be held at the high school and start at 7pm.

COMMITTEE REPORTS:

Other Business

Historic Preservation Ordinance – We will be discussing the amendments being made to the Historic Preservation Ordinance and their consistency to the Master Plan at our March meeting.

Martin Kane made a motion to adjourn the meeting at 10:37PM.

Respectfully submitted,

Cynthia Shaw, Secretary