

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

January 24, 2019

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 25, 2018: 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: 7:34PM

**ROLL CALL:**

Members Present: Kane, Nachshen, Stern, Barnett, Menard, Horan, Mirsky, Holliday and Coppola

Members Absent: Berei, Russo

Also Present: Attorney, Peter Henry, Engineer, Bill Ryden, Planner, Elizabeth Leheny and Traffic Engineer, Gary Dean

**REORGANIZATION:**

*Election of Chair* – Mitchell Stern nominated Martin Kane Chair of the Planning Board; Lauren Barnett provided the second. Martin Kane was elected by voice vote of all eligible voters.

*Election of Vice Chair* – Arlene Mirsky nominated Corey Nachshen vice Chair of the Planning Board; Mitchell Stern provided the second. Corey Nachshen was elected by voice vote of all eligible voters.

*Appointment of the Attorney* – Corey Nachshen made a motion to appoint Peter Henry of McElroy, Deutsch, Mulvaney and Carpenter the Planning Board Attorney; Mitchell Stern provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of the Planner* – Lauren Barnett made a motion to appoint Paul Phillips, of Phillips, Preiss, Grygiel, Leheny, Hughes LLC, the Planning Board Planner and Arlene Mirsky provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of Board Engineer* – Mitchell Stern made a motion to appoint Bill Ryden of Anderson and Denzler Assoc., Inc. the Planning Board Engineer and Nicholas Coppola provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of Secretary* – Arlene Mirsky made a motion to appoint Cynthia Shaw the Planning Board Secretary and John Horan provided the second. The motion was approved by a 9 to 0 roll call vote.

*Designation of Official Newspapers* – Lauren Barnett made a motion to designate The Citizen and The Daily Record the official newspapers for the Board, Arlene Mirsky provided the second. The motion was approved by a 9 to 0 roll call vote.

*Determination of Meeting Dates* – Corey Nachshen made a motion to accept the proposed meeting dates for the Planning Board, Arlene Mirsky provided the second. A voice vote of all eligible members approved the following dates:

*February 28, 2019*

*August 22, 2019*

*March 28, 2019*

*September 26, 2019*

*April 25, 2019*  
*May 23, 2019*  
*June 27, 2019*  
*July 25, 2019*

*October 24, 2019*  
*November 21, 2019*  
*December 19, 2019*  
*January 23, 2020*

*Re-adoption of By-Laws* – Lauren Barnett made a motion to adopt the By-Laws of the Planning Board with one minor change and Arlene Mirsky provided the second. A voice vote approved the adoption of the by-laws.

All members up for reappointment signed their sworn oaths to the Board.

**PUBLIC COMMENT:** Jim Hyson, of 2 Littlewood Court, wished to present the Board with a letter from the Pine Edge Association about the upcoming Sunrise hearing. They wished the Board to have their letter before reviewing the Sunrise application currently on next month’s agenda. Both Mr. Henry and Mr. Kane explained the Association was not able to submit comments on a proposed application.

**REVIEW OF MINUTES:** Mitchell Stern made a motion to adopt the minutes of the December 20<sup>th</sup> meeting. Corey Nachshen provided the second; the minutes were approved by voice vote of all eligible voters.

**RESOLUTIONS:**

AHS Hospital Corp.

Appl. #18-267

Mitchell Stern made a motion to adopt the resolution of approval for the AHS Hospital Corp. A second was provided by Corey Nachshen. The Board voted 6 to 0 to memorialize the resolution of approval with members Kane, Nachshen, Barnett, Stern, Horan and Coppola voting in favor.

**PUBLIC HEARING:**

New Land Mountain Lakes, LLC  
100 Route 46  
Major Site Plan  
Parking, Lot Coverage, Sign  
Side & Rear Setback

Appl. #18-266  
Blk. 4, Lot 17.02  
Zone B

Robert Correale, the attorney for New Land Mountain Lakes, reminded the Board New Land had obtained their waivers, provided testimony from a Light Bridge executive and presented the architectural plans at the December 20<sup>th</sup> meeting.

F. Mitchel Ardman, a licensed Engineer in the state of NJ, had done the site plans for the development. Mr. Ardman started with exhibit A-1 a colorized site plan, sheet 3, dated 10/16/18. The site was entirely paved, they added a sidewalk in the front of buildings A and C, added handicap parking spaces and removed the pavement that covered the back property line. Since last month New Land had revised sheet 3, the “Dimensional Plans”, now dated 1/14/19, to show the widening of the stalls in front of building C and the moving of the handicap spaces. They had proposed a new entrance sign last month but will now keep current sign so they no longer have to do a new DOT permit. Kelly Holliday asked if the plan changes reduced the number of

parking spaces; they did not. Arlene Mirsky asked the applicant to confirm they added the additional bollards requested on this plan. Peter Henry asked about the ADA compliant handicap spaces. The Borough Traffic Engineer responded they are not all 8ft wide van spaces. Four have an 8' wide van space and 2 have a 5' wide van space. Mr. Dean thought this acceptable. Sheet 5 the "Lighting Plan", dated 1/14/19 was presented. The plans showed the lighting on the sides of the buildings and the foot candles for each fixture. All the lights were LED and cover 57 to 80% of the site. They added a pole on the south side of the property to cover the balance of the lot not already lit. W. Ryden thought the intensity levels of the lights planned excessive. The Borough wants fixtures of 1ft candle on the buildings and 3ft candles in the traffic areas. He thought the lighting heavy on the front of the buildings on Route 46 and should be reduced. He asked if there was a requirement for additional lighting for the children. He requested they reduce the brightness so it did not disturb the neighbors in Parsippany. Martin Kane thought the Board could add a condition to the resolution for the applicant to work out lighting with Mr. Ryden. Peter Henry questioned the lack of lighting between buildings A & C. Mr. Ardman responded there were wall packs on the buildings for the playground area; he will add those fixtures to the site plan. Arlene Mirsky asked if they were still having lit signage. The engineer said yes but they do not throw off enough light to provide any type of safety. Mr. Ardman continued, on the south corner of the site there was some concern about drainage and possible wetlands. They checked with the DEP to see if the site was identified as having wetlands and it was not listed. They visited the site and found it was a limited drainage area that keeps water away from the railroad tracks. They have identified it as a state open water so it does not need a transition or buffer area. William Ryden pointed out in the Villa (now the Mansion) application for the property to the south of them they testified the area was delineated as wetlands. Bill suggested a LOI from the DEP or a review by the Borough Environmental Engineer would be appropriate. Mitchel Ardman felt it could fall under "Permit by Rule". They did not want to take the time to do an LOI. They were removing the pavement up to the ditch. Robert Correale asked if this ruling would affect the use of the site. M. Ardman said it would not, they don't have the soils or vegetation to be classify the area as wetlands. Bill Ryden said he did not like the fact that the Villa identified this as wetlands; he wanted our Environmental Engineer to look at it. Corey Nachshen asked if they could move the dumpster away from the area in question; he was concerned this would reduce the parking space. He also asked if there was an LOI from the Villa Application.

Mr. Ardman looked at Ordinance 102-32: "Wellhead Protection Area". This property is located on the mapping areas between the two year and five year tier. Exhibit A-6 was our tax map imposed over the well head protection map. Since this was a childcare center and there were no hazardous items stored here there would be no impact on the Borough's wellheads.

Mr. Correale reviewed the open engineering items in Bill Ryden's letter. Mr. Ryden felt comment #12: the effects of the 1ft retaining wall on the railroad property still needs to be addressed. The applicant was pulling back pavement on railroad property and would be adding a wall. The Borough can't sanction work on NJ Transit property. Peter Henry was still concerned with the sign in the right of way. The Board discussed their right to deliberate the sign in the DOT right of way. It was decided it was not their purview.

Mr. Correale went on to the Borough's Traffic Engineer report. They will adjust the demolition plan to reflect the right number of parking spaces. Mr. Ryden was fine with them using wheel stops. Corey Nachshen asked why they were using a mix of bollards and wheel stops. Tom Menard asked if they were using 4" bollards. They have 6" planned. Kelly Holliday did not like the ascetics of bollards. J. A. Mihalik said they were using weighed bollards which are required in front of the playground. They were also using them in front of Building C because the parking was closer. If they do bollards all the way down it will become unsightly; they preferred the mix. The applicant was willing to add the stop signs requested. Arlene Mirsky asked about the bulk variance they were requesting for signage. You have so many signs and they are over the allowed 40 sq. ft. J. Mihalik said the new total sign area would be 168 sq. ft. without the monument sign. W. Ryden asked what the illumination of each sign was. That information will be provided for the remaining 5 signs. Mr. Dean's report questioned the truck circulation on the site. Mr. Ardman said the Fire Marshall was fine with the truck circulation. Gary Dean responded he was looking for information on delivery trucks. Mr. Dean was also the concerned about the parking in front of the buildings A & B. How could the Board approve parking spacing in 25ft right-of-way? What about the ability of people to pull in and out of those spaces; K-turns would be required. It was suggested those spaces be assigned to Light Bridge.

Mr. Correale went onto the Planner Paul Phillips' report. For comment #8 M. Ardman clarified there would be no curbing on the southeasterly corner of the property. Responding to comment #11 the refuse area needed to be screened so they will add slats to the chain link fence rather than landscape. Comment #12 referenced the reduction in ILC and landscaping. The reduction in ILC was due to the removal of the pavement along the back property line and they are not adding any new landscaping.

Mr. Correale said M. Ardman had covered the issues pointed out in the Fire Marshall's letter. Arlene Mirsky asked the applicant to confirm sprinklers were being added on the second floor of building A. They will set them up to provide future sprinklers on the second floor but they will not be installed. They can be added if the tenant on the second floor changed.

The Board took a break. Upon returning they heard the testimony of the New Land's Traffic Engineer Joe Staigar, Mr. Staigar said they had evaluated the existing site and found 10 to 12 cars were there daily. Historically the buildings have been used for medical and general professional offices. 9,000 sq. ft. of rental space will be used for the daycare. When he created the trip generation data he focused on the daycare usage. He used data published by "Institute of Transportation Engineers" (ITE) to determine the trip generation of each use at the site. If you went from all general office use to daycare use you created 95 additional trips. If you went from medical offices to daycare you added 70 trips. If you did a combination of both medical and general office use then added daycare you created 84 additional trips. J. Staigar said they did not hit the 100 additional trip threshold. They do not have a significant change in trip generation and do not require a new permit from the DOT. They have an existing permit for the entrance and they will request a Letter of No New Interest (LONI) from DOT. Corey Nachshen asked if they had an actual permit. He answered they have an inferred permit due to the age of the original development.

J. Staigar went on to point out this was not a nursery school with a set starting time. Parents will drop-off at different times based on their schedule. Arlene Mirsky asked the applicant to confirm

they were proposing 53 trips in AM and 47 in the PM. By the letter of the law this use does not require additional parking. Peter Henry explained the original law was crafted based on the assumption that a childcare center were part of an office building. But our Ordinance does require parking space for daycare centers that are not part of an existing business. M. Kane asked for comments and questions from our professionals. Gary Dean said Mr. Staigar's DOT statements were correct. No one knows how this site was originally developed. He asked if it had been approved for only general office use in the 70's and not a combination of medical and office what would be the new trip generation be now. J. Staigar responded they would be at 101 trips. G. Dean did not think they needed a permit for that one trip.

Nick Coppola was concerned people would exit and try to cross over three lanes to make the left onto the Boulevard. For daycare parking they need 1 space for every 200 sq. ft. or 46 spaces for the childcare center. They need 110 spaces for the entire site and they only have 85 spaces per our Ordinances. From a practical standpoint they only need 30 parking spaces. The calculations per the ITE data are 37 for general and 30 for daycare; totaling 67 spaces. For medical use they need 42 spaces and 30 for daycare for a total of 72. The numbers are for daytime peak hours when the office and medical use are higher. Sometimes people will work at the site and use the childcare facility. Mr. Staigar concluded he thought there was sufficient parking for the use.

Martin Kane said you told us you have 22 employees so that leaves only 8 spaces for the parents. Mr. Staigar reminded everyone all the staff doesn't come in at the same time. Gary Dean said having 30 parking spaces for a childcare facility was enough. The wildcard was the average rate. This works for offices with appointments but there is an urgent care without appointments. The school needs to let the parents know about the excess parking arrangement with the Mansion. Borough Planner Elizabeth Leheny pointed out Mr. Staigar misspoke when he said they need 46 spaces for the center they actually need 68 when the employee space requirement is added. A. Mirsky said our Ordinance require 135 spaces for this site. Mr. Staigar said that was why they had the extra spaces, accessible by a driveway, at the "Mansion". There is a driveway which will provide the access. The employees should be directed to park on the Mansion site. They will add "15 Minute Limit" parking signage for drop-off spaces. Corey Nachshen said the agreement only allows parking until 6pm and the center is open until 7pm. He was concerned with people using the Mansion as their cut through exit if traffic backed up. Additional responses to Gary Dean's report were in the new letter dated January 18<sup>th</sup> from J. Staigar. The Route 46 driveway is a right in and right out configuration. Could the applicant provide signage to make sure people go in and out of the property the right way? J. Staigar said they would add directional arrows to control the flow of traffic. Peter Henry asked about the Mansion using their site for parking at 7PM. G. Dean responded they can only use 50 spaces and the offices should be gone by 7PM.

Joseph Staigar then testified as a NJ licensed Planner for the applicant. They require several variances. A day care center is considered an "inherently beneficial use" and is a permitted use in the zone. A setback of 20ft is required in the rear and on the sides. This has not been met because the existing buildings create the previous non-conforming conditions. The ILC is 92.1%, they are proposing a reduction to 90.1% where 80% is allowed. The required playground setbacks have not been met and need variances. Mr. Kane was concerned about a playground so close to the active railroad. Mr. Staigar thought it better to have the playground where it was planned verses being closer to Route 46. Elizabeth Leheny asked what kind of buffering was planned between

the train and playground. It would be a fence. Mitchell Stern asked what was behind the playground located between the buildings. They were reinforcing the existing retaining wall with a guide rail. They also need variances for the proposed signs. The front of Building A will have a new illuminated 40 sq. ft. "Lightbridge" sign and a new 40 sq. ft. canopy sign for the three other tenants. Building B has an existing 40 sq. ft. sign and a new 40 sq. ft. canopy sign for the other three tenants. Building C will have a lit "Lightbridge" sign on the northerly side and signage on the front doors. Martin Kane told the applicant they needed to scale back the numbers and size of the signs. Tom Menard asked the applicant to confirm the signs would not be lit at night. Mitchell Stern said he was comfortable with one 40 sq. ft. sign per building. Most of the variances requested are pre-existing conditions. They are reducing the ILC and creating the required setbacks for the playgrounds. To protect the children the playgrounds are set away from the main traffic area. The parking layout follows the current parking pattern. They need a parking setback variance of 4ft when 5ft is required. This was created when they added the sidewalks for the safety of the children. The parking isles proposed are 20ft rather than the required 24ft. They have some 10ft wide parking spaces in the high traffic areas rather than 9ft wide to help getting small children out of vehicles. The 20ft isles are in the low turnover areas. The benefits of this proposed development out-weigh the detriments. Gary Dean added the parking plan was not perfect but he thought it's was the best they could do. If they make the isles 24ft wide then they would have to make the playground setbacks at the property line. Martin Kane said the Board appreciated the owner desire to improve the site. There are a few answers the Board needed next month. The open items were the wetlands, the lighting, signage and the angled parking spots in the right-of-way. The Board asked Mr. Henry to prepare a potential resolution. The other open item was the sprinklers. J. Mihalik responded they plan to either provide fire stops between the two floors or do sprinklers in the entire building. They were getting bids for both right now and would try to have an answer as to which way they will go for the February meeting. No one from the public wished to ask questions about the application. Due to the late hour the application was carried to February 28<sup>th</sup>.

**COMMITTEE REPORTS:** none

**Other Matters**

Martin Kane said we needed to replace Nancy DuTertre on the Affordable Housing Committee. New member Kelly Holliday will take her seat.

Martin Kane adjourned the meeting at 10:57PM.

Respectfully submitted,

Cynthia Shaw, Secretary