

Note: We are not submitting this for publication or for billing to the Borough.

For Notice Under Sunshine Law

**MOUNTAIN LAKES PLANNING BOARD
AGENDA
January 27, 2022**

NOTICE: Please take notice the Meeting of the Planning Board of the Borough of Mountain Lakes will be held on January 27, 2022 at 7:30 p.m. **as a remote meeting.** Formal action may be taken. The public will be able to participate in the special meeting via computer or telephone.

To Participate via computer please use the following link: <https://zoom.us/j/185478511>
or iPhone one-tap: US: +19292056099,,185478511# or +13126266799,,185478511# Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 929 205 6099 or +1 312 626 6799 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782 Webinar ID: 185 478 511

If calling into the meeting by telephone, the following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom meeting:

*6 - Toggle mute/unmute

*9 – Raise Hand (Once hand is raised, it cannot be lowered – if you change your mind and choose not to speak, when called upon, please let the host know that you have changed your mind and no longer wish to speak)

International numbers available: <https://zoom.us/j/185478511>

1. CALL TO ORDER
2. STATEMENT OF CHAIRMAN
3. ROLL CALL
4. REORGANIZATION
 - Election of Chair and Vice Chair
 - Appointment of Attorney, Planner, Engineer and Administrative Officer/Secretary
 - Designation of Official Newspapers, Meeting Dates
 - Re-adoption of By- Laws
5. REVIEW OF MINUTES: November 18, 2021
6. MEMORIALIZING RESOLUTION: none
7. PUBLIC COMMENT
8. PUBILC HEARINGS: none
9. COMMITTEE REPORTS
10. OTHER MATTERS
11. ADJOURNMENT



Cynthia Shaw, Administrative Officer

Dated: January 13, 2022

Distribution:

Board Chairman and Members
Board Attorney

Borough Engineer
Borough Clerk

Bulletin Board
Citizen & Daily Record

Town Web Site
Applicant

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

APPOINTING AND RETAINING BOARD ATTORNEY

WHEREAS, the Municipal Land Use Law, provides that the Board may employ legal counsel, experts and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an attorney to provide legal services including, but not limited to advice and consultation, attendance at meetings, preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the attorney may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because legal services are rendered by persons authorized by law to practice their recognized profession, whose practice is registered by law and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of competitive bid; and

WHERE AS, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint Steven Tombalakian, Esq., of Weiner Law Group, LLP as Board Attorney to serve from January 1, 2022 to December 31, 2022 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the officers of the Planning Board are hereby authorized and directed to sign an Agreement in connection with such services, which agreement shall be on file with the Borough Clerk; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

APPOINTING AND RETAINING THE BOROUGH PLANNER

WHEREAS, the Municipal Land Use Law, provides that the Board may employ a Planner as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain a planner to provide professional services including, but not limited to advice and consultation, attendance at meetings when requested, Master Plan review and preparation of documents and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the planner may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because planning services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

WHEREAS, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint Paul Phillips of Phillips Preiss Grygiel, Leheny, Hughes, LLC as Board Planner to serve from January 1, 2022 to December 31, 2022 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

APPOINTING AND RETAINING BOARD ENGINEER

WHEREAS, the Municipal Land Use Law, provides that the Board may engage the services of an Engineering Firm as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain an engineer to provide professional services including, but not limited to advice and consultation, attendance at meetings, plan review and representation of the Board in suits and other proceedings and other services as may be required from time to time; and

WHEREAS, the appointment of the engineer may be made without public bidding as an exception to the bidding requirements of the Local Public Contracts Law, as provided in N.J.S.A. 40A:11-5(1)(a)(i) as a professional service because engineering services are rendered by persons authorized by law to practice their recognized profession, whose practice is regulated by law, and because such services are of a qualitative nature which will not reasonably permit the drawing of specifications or the receipt of such competitive bids; and

WHEREAS, the award of this contract is compliant with the provisions of N.J.S.A. 19:44A-20.5;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint William Ryden, of Anderson and Denzler Associates, Inc., as Board Engineer to serve from January 1, 2022 to December 31, 2022 or until a successor is appointed; and

BE IT FURTHER RESOLVED that the Secretary of the Board is hereby directed to cause to be printed once, in an official newspaper of the municipality, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and the contract are on file and available for public inspection in the office of the Borough Clerk.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

**APPOINTING AND RETAINING ADMINISTRATIVE OFFICER/
BOARD SECRETARY**

WHEREAS, the Municipal Land Use Law, provides that the Board may employ legal counsel, experts, and staff as it may deem necessary, not exceeding, the amount appropriated by the governing body for its use; and

WHEREAS, the Board has determined it has the need to retain the current Administrative Officer/Board Secretary, Cynthia Shaw, for the calendar year 2022.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that it does hereby appoint Cynthia Shaw as Administrative Officer/Board Secretary to serve from January 1, 2022 to December 31, 2022.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

SCHEDULED MEETINGS FOR THE YEAR 2022 AND THE FIRST MEETING 2023

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and herein designated as the “Open Public Meetings Act”, requires notification of meetings of public bodies, as therein defined, in the manner therein set forth;

NOW, THEREFORE, BE IT RESOLVED, that the schedule of regular meeting dates, being as hereby declared to be the official list of dates of regular meetings to be held by the Planning Board for the calendar year 2021 and the first meeting of 2023 and formal action may be taken on public business at 7:30 p.m. on each of the dates set forth below, held as a remote meeting via Zoom. To participate via computer, use the following link:

<https://zoom.us/j/185478511> or iPhone one-tap : US: +19292056099,,185478511# or +13126266799,,185478511# Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 929 205 6099 or +1 312 626 6799 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782 Webinar ID: 185 478 511

February 24, 2022
March 24, 2022
April 28, 2022
May 26, 2022
June 23, 2022
July 28, 2022

August 25, 2022
September 22, 2022
October 27, 2022
November 17, 2022
December 15, 2022
January 26, 2023

BE IT FURTHER RESOLVED that the Board Secretary is hereby directed to post said schedule on the official bulletin board of the Borough Hall; transmit same to the official newspapers of the Borough and file same with the Borough Clerk;

BE IT FURTHER RESOLVED that any additions or changes to the schedule shall be posted, mailed and filed by the Board Secretary as required by law.

BE IT FURTHER RESOLVED that during remote meetings members of the public will be given an opportunity to make comments by audio or by audio and video during the public comment periods noted on the agenda and during public hearings on applications.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known as and herein designated as the “Open Public Meetings Act”, N.J.S.A. 10:4-6, et seq., requires notification of meetings of public bodies, as therein defined, in the manner therein set forth, and

WHEREAS, N.J.S.A. 10:4-8 requires public bodies to designate which newspapers shall serve as “Official Newspapers” in their jurisdiction,

NOW, THEREFORE, BE IT RESOLVED, for the purpose of compliance with the aforesaid “Open Public Meetings Act” and N.J.S.A. 10: 4-8, that the Planning Board of the Borough of Mountain Lakes hereby makes the following designations for the calendar year 2022:

1. The Morris County Daily Record, and/or The Citizen, as the newspapers to receive notices of meetings as required by any and all sections of the “Open Public Meetings Act”, and N.J.S.A. 10:4-8, as those newspapers are most likely to inform the local public of such meetings.
2. The location for posting of notice of meetings shall be on the bulletin board of the Borough Hall, 420 Boulevard, Mountain Lakes, New Jersey.
3. The sum of \$25.00 is hereby fixed as the amount to be paid by any person requesting individual notice of meetings as provided in Section 14 of the “Open Public Meetings Act” (N.J.S.A. 10:4-19).

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

ADOPTION OF BY-LAWS

WHEREAS, the Municipal Land Use Law, specifically, N.J.S.A. 40:55D-8, provides that every municipal agency shall adopt and may amend reasonable rules and regulations which are not inconsistent with law, for the administration of its functions, powers and duties and in accordance with N.J.S.A. 40:55D-10b every municipal agency shall make rules governing hearings;

WHEREAS, the Board determined that the By-Laws attached hereto are reasonable and consistent with law and should be adopted as the rules and regulations for the year and shall continue in effect until and unless otherwise replaced or amended;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Mountain Lakes as follows:

1. The By-Laws as attached hereto are hereby adopted and shall govern the administration of the Board's functions, power, and duties for the year 2022 and shall continue in effect until and unless otherwise replaced or amended.
2. Copies of the By-Laws shall be maintained in the office of the Administrative Officer and Board Secretary and shall be available to any person who requests same upon payment of a reasonable fee for such copy.

Offered by:

Seconded by:

Vote:

Date: January 27, 2022

File Copy

**BY-LAWS OF THE
PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES, NEW**

**PART I
ADMINISTRATION**

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- 1:1-4. Vice-Chairperson.
- 1:1-5. Secretary.
- 1:1-6. Committees
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- 1:2-5. Record of Proceedings.
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- 2:1-4. Amended Applications.

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- 2:2-1. Hearing Date.
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- 2:3-1. Notice; Upon Whom Served.
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2:6-2. Documents and Exhibits.

2:6-3. Judicial Notice.

2:6-4. Burden of Proof.

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2:8-4. Conditions.

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2:9-1. Disqualification of Members of the Board

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Rule 3:2. Meaning of Certain Terms

3:2-1. Person; Interested Person.

3:2-2. Gender.

Rule 3:3. Application of Certain Laws

3:3-1. Laws Applicable.

Rule 3:4. Amendments

3:4-1. Amendments.

Rule 3:5. Effective Date
3:5-1. Effective Date.

PART I
ADMINISTRATION

Rule 1:1. Organization, Officers, General Provisions

1:1-1. Title of the Board. The Title of the Board shall be: "The Planning Board" of the Borough of Mountain Lakes, New Jersey.

1:1-2. Annual Meeting; Officers. The annual meeting of the Board shall be held on the fourth Thursday of January of each year or at such other time as designated by the Board, at which time the Board shall elect, from its Class IV members, a Chairperson and a Vice-Chairperson. The Board shall also appoint a Secretary, a Board Attorney, a Board Engineer, and a Board Planner all of whom shall serve for one year and until their successors have been appointed. The Board may appoint such other officers or assistants and employ such experts or staff as it may deem necessary.

1:1-3. Chairperson. The Chairperson, subject to these rules, shall decide all points of order and matters of procedure governing the meetings, unless otherwise directed by a majority of the Board in session at the time. He shall have, subject to these rules and the governing statutes, all the powers and perform all the duties normally appertaining to this office. He or his designee shall swear all witnesses giving testimony before the Board.

1:1-4. Vice-Chairperson. The Vice-Chairperson shall preside at all Board meetings and hearings in the absence of the Chairperson.

1:1-5. Secretary. (a) Subject to these rules, and under the direction of the Chairperson, the Secretary shall conduct all official correspondence, compile the required records, maintain and keep in order the necessary files and indices, and generally perform the secretarial work of the Board. He shall notify the Municipal Clerk of all meetings of the Board and shall provide the Clerk with a list of the matters scheduled for hearing at each meeting. The Secretary shall give all notices of meetings required to be given by the Open Public Meetings Law, the Municipal Land Use Law or any other applicable law or ordinance.

(b) The Secretary shall attend all meetings of the Board, and shall have the care and custody of all records, documents, maps, plans and papers of the Board, for the care and custody of which no other provision is made by statute. When the "yeas" and "nays" are taken, he shall call the roll of the members and the Chairperson shall be called last.

(c) He shall make records of, and keep on file, the minutes of the proceedings at each meeting or hearing held by the Board and shall enter therein with the other

proceedings, such resolutions and orders as are adopted and a copy of the minutes of the meeting. He shall issue notices of meetings and shall perform such other duties as usually appertain to his office.

(d) He shall publish the notice and serve copies of the Board's resolution as provided in Rule 2:8-5.

1:1-6. Committees.

(a) No more than four Planning Board members may be assigned to a committee and no committee meeting may be held with more than four Planning Board members present, unless public notice of the meeting has been made in accordance with the Sunshine Law. It has been the custom, however, to have new members meet and become acquainted with the workings of the Subdivision and Site Plan Committee, as long as the Sunshine Law can be observed.

(b) Non-Planning Board members may serve on any committee if it is appropriate.

(c) Standing Committees are:

1. Subdivision and Site Plan Review
2. Master Plan

(d) Ad hoc committees may also be appointed and Planning Board members may serve on joint committees with other boards.

1:1-7 Training. Members and Alternate Members as required by law must take land use law and planning courses approved to satisfy the statutory training requirements and to comply with the requirements of the Municipal Land Use Law in that regard. The Planning Board Chairperson will meet with new members to acquaint them with local board procedures. Each new member will also be given a packet of basic planning board materials.

Rule 1:2. Meetings.

1:2-1. Regular Meetings. The regular meetings of the Board shall be held at the Municipal Building, 400 Boulevard, Mountain Lakes, New Jersey, at 7:30 P.M. on the 4th Thursday of each month or at such other time as designated by the Board. The Secretary shall annually furnish a copy of the regular meeting dates for the year to the news media designated by the municipal governing body in accordance with the Open Public Meetings Law, N.J.S. 10:4-6 et seq.

1:2-2. Special Meetings. Special meetings may be provided for at the call of the Chairperson or at the request of any two Board members. Such meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.

1:2-3. Meetings Open to Public. All meetings shall be open to the public, except such executive sessions as authorized by N.J.S. 40:55D-9b and N.J.S. 10:4-6 et seq.

1:2-4. Order of Business. The order of business at all meetings shall be as follows:

- (a) Call to order and open public meeting advertisement notice
- (b) Roll Call
- (c) Review of minutes
- (d) Memorializing resolutions
- (e) Public comments (limited to five minutes per speaker)
- (f) Public hearings
- (g) Other Matters
- (h) Adjournment

1:2-5. Record of Proceedings. The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical and/or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party at such party's expense.

1:2-6. No New Business. It is the custom, and applicants shall be so notified, that no new business is started after 10:30 PM so that applicants can get the best thinking of the board. Meetings end no later than 11:00 PM if possible.

Rule 1:3. Quorum and Voting

1:3-1. Quorum. A Quorum shall be five members. No meeting of the Board may be held without a quorum being present.

1:3-2. Motions. All motions shall require a second; a motion which does not obtain a second shall be deemed to be rejected.

1:3-3. Voting. All votes shall be taken by roll call, the vote and name of the person casting the vote shall be recorded in the minutes, unless a voice vote is desired and legally adequate.

1:3-4. Absent Members. When any hearing before the Board shall carry over one or more meetings, a member of the board who was absent or was not a member for one or more meetings, shall be eligible to vote on the matter upon which hearing is conducted, notwithstanding their absence provided that said Board member certifies, in writing, to the Board, that they have listened to a recording or read a transcript of the entire hearing for which they were absent.

1:3-5. Exceptions to Voting. There are two cases where the Planning Board customarily does not require a vote:

- (a) The chairperson, after determining that there are no more additions or corrections, may declare that the minutes are accepted as written or as amended.
- (b) He or she also, after ascertaining there is no further business, may declare the meeting adjourned.

Rule 1:4. Alternate Members

1:4-1. Designation. Alternate members of the Board appointed by the Governing Body shall be designated by the appointing authority as "Alternate No. 1", "Alternate No. 2", etc. as appropriate, and each alternate shall retain said designation during the term for which he was appointed.

1:4-2. Participation in discussions; voting. Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member, nor shall any vote be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.

**PART II
RULES OF PRACTICE**

Rule 2:1. Commencement of Action; Service and Filing of Papers

(a) **Applications to Planning Board.** An application for a subdivision or site plan review or for any other relief shall be commenced by the filing of an application with the Secretary of the Board together with (1) the fee required by ordinance and (2) all materials and documents required by the checklist established by ordinance.

(b) **Other Requirements.**

1. A complete copy of the application and any maps or documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Planning Board.

2. The application form shall be filled out completely and, where necessary, supplemented by additional information in order to make it clear to the Board what relief is being sought. No application shall be considered complete until all applicable requirements of R. 2:1(a) have been complied with or waived by the Board.

(c) **Fees.** Fees as established by ordinance shall be paid simultaneously with the filing of an application.

1. An applicant shall, in connection with an application to the Planning Board, pay, in addition to the fees hereinabove specified, deposits as necessary to cover special expenses incurred by the Board for the rendering of services by its planning consultant, engineer, attorney and other experts in accordance with the law. The applicant is responsible for replenishing the escrow funds as needed.

2. Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made, in accordance with the provisions of N.J.S. 40:55D-65(h) and local ordinance.

2:1-2. Certification of Completeness. After a review of any comments from the Site Plan Review Committee, the Board Engineer or other authorized designee of the Board shall examine each application to ascertain that all checklist items required by municipal ordinance are shown or furnished in the application or accompanying documents, or that otherwise a waiver has been requested. If all checklist items are provided and no waivers requested, the application shall be deemed complete and the applicant shall be so notified in writing by the Board Engineer. If any checklist item(s) is/are not provided and no waiver is requested, the applicant shall be advised that the application is incomplete and advised of the missing item(s). If waivers are requested as to any items, but all other items are furnished, the Applicant shall be advised that the application is incomplete, subject to the Board's granting the requested waiver(s), and the Board shall, at its next ensuing regular or special meeting, decide whether to grant or deny the waiver or waivers requested and applicant shall be notified promptly. If an application is neither found to be complete nor found to be incomplete and applicant notified of the deficiencies within 45 days from the date of filing, the application shall be deemed to be complete as of the 45th day following the date of its submission.

2:1-3. Application Number. The Secretary shall assign to each new action an application number, which number shall thereafter appear on all subsequent papers filed in the case.

2:1-4. Amended Applications. An applicant may, prior to the commencement of a hearing, amend his application without leave of the Board and in all such cases new notice shall be given in accordance with Rule 2:3 as in the case of an original application. After commencement of hearing, an application may be amended only with leave of the Board. If the amendment after commencement of hearing is for the purpose of reducing the nature or extent of the variance sought, no new notice will be required. Otherwise, the Board may require new notice to be given in accordance with Rule 2:3.

Rule 2:2. Hearing Date

2:2-1. Hearing Date. As soon as any complete application, or application deemed complete by virtue of requested waivers, is filed in accordance with the foregoing rules, the case shall be placed on the calendar. The applicant shall be notified of the date and time set for the hearing thereon.

2:2-2. Adjournment. The time for hearing may be adjourned from the time fixed therefor, for good cause, upon the motion of the applicant or other person interested in the action, or on the Board's own motion, provided, however, that where such adjournment would extend the statutory period within which the Board is required to act, the consent of the applicant shall be evidenced in writing or shall be made on the record.

Rule 2:3. Notice; Upon Whom Served; Time

2:3-1. Notice; Upon Whom Served. Notice of hearing shall be published and shall be given to all persons and officials entitled thereto by the requirements of N.J.S. 40:55D-12.

2:3-2. List of Owners Supplied by Clerk. Where the Clerk of the municipality (or other authorized official) has furnished applicant with a list of the property owners entitled to notice pursuant to the provisions of N.J.S. 40:55D-12(c), a copy of the official certification and list shall be annexed to applicant's proof of service.

2:3-3. Proof of Service. The service and publication of notices as hereinabove provided is a jurisdictional requirement, and proof of the service and publication of all required notices in accordance with these rules shall be made by affidavit of the person or persons who actually served or mailed said notices as required by law, and proving publication of the notice.

Rule 2:4. Applications.

2:4-1. Form. Every application shall be filed on the appropriate form provided to the applicant by the Board Secretary.

2:4-2. Affidavit of Ownership. If the applicant is not the owner of the premises affected by the application, an affidavit or consent executed by the owner of the affected premises shall be filed with the Board consenting to the filing of the application.

2:4-3. Applications by Corporation or Partnership, Disclosure of Stockholders or Ownership Interests. A corporation, partnership or any legally recognized entity other than an individual applicant or applicants applying for relief from this Board, which involves subdivision of a parcel of land into six (6) or more lots, or a variance to construct a multiple dwelling of twenty-five (25) or more family units, or for approval of a site plan to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least ten (10) percent of the stock of any class or at least ten (10) percent of the interest in the partnership as the case may be, in accordance with the requirements of N.J.S. 40:55D-48.1.

Rule 2:5. Hearings

2:5-1. Appearances. At the hearing upon the application, the applicant, or any other party, shall appear in person, or may be represented by an Attorney-at-Law of New Jersey. Every corporation or other applicant which is a legal entity

shall be represented by an Attorney-at-Law of New Jersey in accordance with the rules of the Supreme Court of New Jersey.

2:5-2. Oath. At the hearing, the applicant and all witnesses shall be sworn by the Chairperson or his designee before giving testimony.

2:5-3. Order of Presentation. (a) The hearing is called to order by the Chairperson.

(b) The applicant shall then present, by his testimony and the testimony of his witnesses, or by such documentary evidence or exhibits as he may submit, proof of all facts upon which he relies to establish his right to the relief sought in the application.

(c) Following each witness, the Board and then any other persons interested in the action shall have the right to cross-examine that witness.

(d) At the conclusion of the applicant's case any other persons interested in the action shall then be heard and may present any relevant testimony or evidence.

(e) Rebuttal testimony or evidence shall then be admitted in such order as the Chairperson shall designate.

(f) All witnesses may be cross-examined by any member of the Board, the Board Attorney, the Board Engineer, the Board Planner, or any interested person.

2:5-4. Examination by Board; Testimony. The applicant and every other person appearing and presenting testimony at any hearing may be examined by any member of the Board and the Board Attorney for the purpose of eliciting any relevant information which may assist the Board in deciding the application. Any member of the Board, unless disqualified from participation in the matter, may testify as to any relevant matter of which he has personal or official knowledge for the purpose of amplifying the record, including facts ascertained from a viewing of the premises in question and the general area.

2:5-5. Closing of Hearing; Continuances. (a) When the applicant and all other interested persons have had an opportunity to be heard, the Chairperson may declare the hearing to be closed. Thereafter, no further evidence will be received in the action unless the matter is reopened in accordance with these rules.

(b) The applicant or any other interested person, prior to the closing of the hearing, may move the Board for a continuance of the hearing for the purpose of presenting further relevant evidence, which the Board, acting in its sound discretion, may either grant or deny.

(c) In cases where the Board feels that testimony or other evidence should be received in the public interest from any municipal, county, or state official or from any other persons to assist in rendering a just decision, the Board may, on its own motion, continue the hearing to another day certain for such purposes.

Rule 2:6. Evidence

2:6-1. Competent Evidence. Technical rules of evidence are not enforced before the Board. The applicant's right to the relief sought shall be based upon the

consideration of any facts or matters which are in the record, unless they be such as to which the Board is entitled to take judicial notice. The Board may exclude irrelevant, immaterial or redundant testimony.

2:6-2. Documents and Exhibits. When any papers, documents or exhibits are admitted into evidence during a hearing, they shall be marked by the Secretary or Attorney and shall be retained by the Board until the termination of the matter including any appeals.

2:6-3. Judicial Notice. The Board may take judicial notice of the provisions of any ordinance of the municipality, any public statute of the State of New Jersey and any officially reported judicial decision.

2:6-4. Burden of Proof. It is the applicant's responsibility to supply competent and credible evidence that it is entitled to the relief sought.

Rule 2:7. Dismissal of Actions

2:7-1. Voluntary. Any applicant may at any time before the commencement of the hearing voluntarily withdraw his application in which case the action shall be dismissed without prejudice. After commencement of the hearing a voluntary dismissal may be taken only with the approval of the Board.

2:7-2. Nonappearance. If, at the time set for the hearing or continued hearing on any application, neither the applicant nor any one in his behalf appears, and no adjournment has been previously requested, the action may be dismissed without prejudice.

2:7-3. Infraction of Rules. For failure to comply with the provisions of any rule, the Board may dismiss the application.

2:7-4. Reports. (a) The Board may, at any time, request a written report on any particular matter from any officer, board, or agency in connection with a pending case provided, however, that a copy of any such report shall be made available to the applicant and available for inspection by interested parties.

(b) The Board may arrange to take the testimony of any expert witness employed by it.

2:7-5. Transfer of Actions. Whenever an application is filed with the Planning Board, which pursuant to the provisions of the Municipal Land Use Law should have been filed with the Zoning Board of Adjustment the matter may be administratively transferred to the Zoning Board of Adjustment prior to any public hearing, or if determined in the course of the hearing, the Planning Board may, by motion or resolution, cause said application to be transferred to the Zoning Board of Adjustment to be placed on the calendar of said Board.

Rule 2:8. Decision; Resolution of Board

2:8-1. Time. The Planning Board shall render a decision within the time provided by the MLUL, including the provision for the applicant to consent in writing or on the record to an extension of time. Every decision shall be made by proper motion duly made and seconded, with the votes of all members recorded on a roll-call vote.

2:8-2. Form. The action of the Board shall be memorialized in the form of a written resolution containing findings and conclusions which shall be adopted within forty-five (45) days of the decision. Whenever a resolution of memorialization is adopted in accordance with the provisions of N.J.S. 40:55D-10, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filing and publications required by statute.

2:8-3. Relief Granted. Where an applicant has demonstrated his right to relief, the Board may grant such relief as it may deem appropriate and in keeping with the intent and purpose of the zone plan and zoning ordinance, even though the relief granted may be different in kind or degree from that asked for in the appeal or application.

2:8-4. Conditions. The resolution of the Board approving any applications may subject such grant to such conditions as the Board may impose.

2:8-5. Publishing Notice; Service of Copy of Resolution. (a) A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Planning Board for a reasonable charge. The applicant may also arrange for such publication. Notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

(b) A copy of the Board's resolution shall be mailed by the Board within 10 days of the date of adoption to the applicant or, if represented, then to his attorney without separate charge. A copy of the resolution shall also be mailed to all persons who request it and who have paid the prescribed fee. A copy of the resolution shall also be filed in the office of the administrative officer, who shall make a copy of such filed resolution available for public inspection during his office hours and a copy available to any interested party upon payment of a fee calculated in the same manner as those established for copies of the other public documents in the Borough.

Rule 2:9. Disqualification of Members of the Board.

2:9-1. Disqualification of Member. (a) Any member of the Planning Board shall disqualify himself from sitting on the hearing of any matter in which he has a disqualifying interest, such as, but not limited to, the following situations:

(1) Where he owns property located within 200 feet of the property affected by the action.

(2) Where the applicant is related within the third degree of consanguinity to the member by blood or is the husband or wife of any person so related.

(3) Where the applicant or his attorney is the employer, employee, or partner of the member, or is a corporation in which the member is a shareholder with a material interest or has other financial interest.

(4) Where he has any other personal or pecuniary interest in the proceeding.

(b) When a member fails to disqualify himself, any interested party may move the Board for an order or determination that such member is disqualified to act and the Board may thereupon hold a hearing on the matter and take whatever action it may deem appropriate.

Rule 2:10. False Testimony

2:10-1. Perjury. Any person who shall willfully give false testimony under oath in the course of any hearing held before this Board shall, in accordance with the provisions of the County and Municipal Investigations Law (N.J.S. 2A:67A-1 et seq.), be guilty of perjury. The Board shall submit a transcript of testimony it believes may be perjurious to the County Prosecutor for investigation.

PART III MISCELLANEOUS PROVISIONS

Rule 3:1. Relaxation of Rules

3:1-1. Where Rules may be Relaxed. For good cause shown, or where the strict application of any rule would work surprise or injustice, the Board may relax the requirement of such rule, except where the provisions of the rule are also statutory requirements.

Rule 3:2. Meaning of Certain Terms

3:2-1. Person; Interested Person. Whenever in these rules reference is made to "any interested person," "any persons interested in the action" or the like, such term refers to any "interested party" as defined in N.J.S. 40:55D-4.

3:2-2. Gender. The use of the masculine gender in these Rules shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

Rule 3:3. Application of Certain Laws

3:3-1. Laws Applicable. The provisions of the land use regulations of the Borough of Mountain Lakes, and the Municipal Land Use Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers

3:3-1. Laws Applicable. The provisions of the land use regulations of the Borough of Mountain Lakes, and the Municipal Land Use Law shall be applicable to proceedings before this Board and the Board may exercise all of the powers conferred by said act. These rules are adopted pursuant to the provisions of N.J.S. 40:55D-8, and subject generally to the provisions of Chapter 55D of Title 40 of the Revised Statutes of New Jersey.

Rule 3:4. Amendments

3:4-1. Amendments. Amendments to these rules may be made by the Board at any regular meeting, provided notice of such amendment has been given in writing to each member of the Board at least three days prior to such meeting.

Rule 3:5. Effective Date

3:5-1. Effective Date. These rules take effect upon adoption and supersede any prior rules of the Board.

Adopted: January 26, 2021

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

November 18, 2021

Chair Martin Kane read the Open Public Remote Meeting Notice published in the Citizen on September 23, 2021 and Daily Record on September 18, 2021: Adequate notice of this meeting was posted with the Borough Clerk and on the Bulletin Board on October 18, 2021 and made available to all those requesting individual notice and paying the required fee.

Start: 7: 32PM

ROLL CALL:

Members Present: Kane, Coppola, Stern, Berei, Horan, and Leininger

Members Absent: Russo, Lane, Menard, and Holliday

Also, Present: Attorney, Peter Henry Also, Absent: Engineer, Bill Ryden

REVIEW OF MINUTES: Nick Coppola made a motion to approve the minutes of the October 28th Board meeting and John Horan provided the second. The minutes were approved by all eligible members present.

John Horan made a motion to approve the Executive Minutes of October 28th and the second was provided by Meghan Leininger. The minutes were approved by all eligible members present.

RESOLUTIONS:

Sunrise Development, Inc.

Appl. #21-276

Mitchell Stern made a motion to adopt the resolution of approval for the Sunrise Development application. A second was provided by John Horan. The Board voted 6 to 0 to adopt the resolution with members Kane, Coppola, Stern, Berei, Horan, and Leininger voting in favor.

PUBLIC COMMENT: none

PUBLIC HEARING: none

Other Matters –

Committee Reports – Meghan Leininger said the Affordable Housing committee met but she was unable to attend.

Attorney Subcommittee – The Board has received 6 proposals for the Board Attorney position. The Sub-committee will be meeting on December 2nd and hope to report their recommendation to the Board on December 16th.

Martin Kane made a motion to close the meeting at 7:45 PM.

Respectfully submitted,

Cynthia Shaw, Secretary

DRAFT