

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

June 22, 2021

Chair Martin Kane read the Open Public Remote Meeting Notice published in the Citizen on June 2, 2021 and Daily Record on May 26, 2021: Adequate notice of this meeting was posted with the Borough Clerk on June 10, 2021 and on the Front Door on June 10, 2021 and made available to all those requesting individual notice and paying the required fee.

Start: 7: 32 PM

ROLL CALL:

Members Present: Kane, Holliday, Coppola, Shepherd, Stern, Berei, Menard, Russo, Lane, Horan and Leininger

Also, Present: Attorney, Glenn Kienz, Engineer, Bill Ryden, Environmental Engineer, Peter Black, Traffic Engineer, Joseph Fishinger, Planner, David Novak

REVIEW OF MINUTES: Mitchell Stern made a motion to approve the minutes of the May 20, 2021, Board meeting and Nick Coppola provided the second. The minutes were approved by all eligible members present.

Audrey Lane made a motion to approve the minutes of the June 10, 2021, Board meeting and Bethany Russo provided the second. The minutes were approved by all eligible members present.

RESOLUTIONS: none

PUBLIC COMMENT: Ellen Foppes, of 29 Rainbow Trail, told the Planning Board the FHA would not grant a loan to a homeowner located near a gas station.

PUBLIC HEARING:

Highview Commercial, LLC	Appl. # 20-273
372 Route 46E	Blk. 2, Lots 2, 5. 5.01
Major Site Plan & Minor Subdivision	Zone B
Setbacks: Front (2), Rear & Side, Pervious Buffer (2), Front Landscape Area (2), Parking Stalls,	
Signs: Area (2), Number, Height (2), Proximity to the Lot Line & Illumination, Accessory Structure Height, Improved Lot Coverage	

The Planning Board had heard testimony from the applicant, the opposition, and comments from the public. It was now time to discuss the merits of the application. Chairman Kane suggested the Board go through the final reports from their professionals before beginning deliberations.

Marty Kane started with item #21, related to stormwater facilities, of Mr. Ryden's 6/7/21 report and item #1 of Peter Black's 6/9/21 report covering the FlexStormInlet Filters and Hydo International First Defense Capacity Water Quality Inlet Units. Mr. Black said the MTD (Managed Treatment Devices) offered will minimally help improve the water quality. The runoff would not be increased and would provide some benefit. The filters added to the proposed drains would need to be changed out and maintained. A maintenance report must be provided to the town. Mr. Kane added rain gardens should be a condition of the approval. He asked Mr. Black why the perk tests on the site might not work. He answered if there was not enough water run off the water would sit there and not infiltrate creating a pond. Could the hotel roof runoff be directed into a basin? Mr. Black did not think a pipe should catch the roof run off from the hotel. In the future it could fail and cause some other substance from the gas station into the system. Mr. Ryden said the final design should determine if the roof water could be safely infiltrated into the system. Nick Coppola asked if Mr. Black or Bill Ryden thought the Centrifugal Separator would work. Peter Black thought the system would be somewhat effective as a first line of defense for everyday oils and fuel leaks. It was not helpful in a true fuel spill. Bill Ryden thought they should develop a specific spill plan for this site to be approved by himself and Mr. Black. Mr. Ryden thought the planned stormwater measures would make the site better. Peter Black agreed this was a good plan and he did not see a degradation of the site. Tom Menard said he request information on the 2-, 10- and 100-year storm calculations. We want to improve things on the site not keep them the same. John Veteri answered there was a response to this issue in their letter dated April 5th. Mr. Black said additional underground detention would be needed to meet the new stormwater regulations. This was not required or proposed. Mr. Menard wanted this to be a condition of approval. David Shepard asked if the property had to meet the new stormwater regulations what percentage reduction would they need. Peter Black answered you would have to do a detailed analysis, which can be done three different ways, to determine that. Mr. Kane asked if the site does not have a stormwater problem now what would the improvement be. Peter Black explained the quantity is not increasing. The MTD devices enhance quality of the runoff not the quantity. The applicant is providing some quality and quantity enhancements. Maintenance is important and the plan is important. The stormwater coordinator (DPW Director) would monitor this. Bill Ryden said the new rules require the following: a 2-year storm must result in a 50% reduction, a 10-year storm a 25% reduction and a 100-year storm a 20% reduction. There was a reduction of 8% proposed. Kelly Holliday asked if they thought they could reduce the volume of water if they captured the roof run off from the hotel. Peter said yes. Jeff Berei asked for suggestions to enhance the water quality. Mr. Black said what they were proposing was the latest technology available. He continued we cannot control the pollution happening on the highway. The applicant would not want a spill to occur. It is in their best interest to do everything they can to prevent that. They would handle any kind of clean up that might occur.

The Board moved on to the report from Burgis Associates dated June 9, 2021. Glenn Kienz said this application requires a conditional use approval, a minor subdivision approval and a site plan approval with 16 variances. Steve Lydon said the applicant meets all the condition of the conditional use requirements as listed in the Borough Ordinance. The site design took its lead from the Ordinances other than the signage. The Board needs to decide if the applicant has met

all the statutory requirements. Our review letter pointed out some of the things that might fall through the cracks. Mr. Kane asked about solar panels. Steve Lydon said there was testimony about solar panels. He reminded the Board the Wawa roof would not work due to its orientation. John Horan said he thought the Board should talk about the numerous variances and the positive and negative criteria. Mr. Lydon responded you need to look at the overall development when looking at the criteria, then you can look at the individual variances. Kelly Holliday said the Board should look at the design options. Tom Menard thought they should go with a stucco and stone exterior to be in keeping with Mountain Lakes. Jeff Berei thought the buildings should be unified with materials being similar on both buildings. Bill Ryden agreed and thought the Board should confirm they found the gabled canopy roof acceptable and that they found one sign used for both building adequate. Tom Menard said he thought these changes were acceptable and the rest of the Board agreed.

Martin Kane asked Joseph Fishinger if the proposed change in use of the site would make the traffic worse. Mr. Fishinger did not think it would be worse. In his opinion, with the modification made to the site they meet the state requirements. They did an analysis that was conservative. His only suggestion was they be required to pave of the entire width of Fox Hill Road where they disturbed it. Mrs. Holliday asked the current condition of the road. It was in tough shape.

Bethany Russo said even with the road improvements the use would still impact those using the road daily. Mitchell Stern added during construction the road will take a beating and should be repaved. The Board agreed this should be a condition of approval. John Horan was concerned about the pressure placed on Fox Hill Road from this use. The applicant had tried to improve the situation, but he did not think Fox Hill was ever meant to be more than a driveway.

Mr. Kane started the deliberations. He was concerned with the overuse of the site in particular the number of pumps. He suggested a condition of any approval should reduce the pumps to 6 and stations to 12. Kelly Holliday agreed, she did not think the reasons given for 16 stations acceptable. Bethany Russo also thought 16 stations were too many. The reduction in the number of pumps should reduce the size of the canopy and the lights. Jeff Berei added this was a gateway to the communities of Rainbow Lakes and Lake Arrowhead and that needed to be considered. David Shepard stopped at several Wawa's during a road trip and found none of them had more than 6 pumps. Nick Coppola took a trip to Florida and checked out fuel stations along the way. He agreed it should be only 6 pumps. John Horan went to a Wawa's weekly, and that station did not have 16 stations.

Bethany Russo stated she found the new highway signage proposed, one sign for both sites, acceptable. Jeff Berei thought the hotel signage appropriate however the Wawa still had 5 times more signs than allowed. He would like that number to be reduced. Bethany Russo wanted laundry done off-site as was done at the other hotel the Board previously approved. Mr. Ryden confirmed the usage proposed was evaluated based on the water the town has available, including the usage at Sunrise. Nick Coppola felt it was our responsibility to protect this resource. He cited the moratorium imposed on the Borough when they exceeded their capacity. The laundry needed on site should be outsourced. Meghan Leininger suggested the hotel roof runoff, which is gray water, be used for laundry. Mrs. Russo thought we needed to be consistent and not allow it this time. John Horan said we should accept the water availability Bill Ryden gave us in the DEP document. But he was concerned that the water usage projected may not be

accurate. David Shepherd said when the project was presented to Council the now applicant said the water for the pool would come from another site. He would like to see that expanded by doing the laundry off site. Jeff Berei said the optics may not be good when we send the laundry out of town. Kelly Holliday agreed with Mr. Berei. She asked if we could set a limit on the water usage? Mitchell Stern said it would be difficult. Glenn Kienz added they could put in low flow plumbing fixtures, and we could encourage water conservation systems be used. Mrs. Leininger said we should not send the laundry out of town and should recapture water on site. Bill Ryden stated any system recapturing rainwater would be beyond approvals from the Borough, it would be subject to health codes, impractical and cost prohibitive. It would put the Hotel in their own water business. Tom Menard suggested we use stormwater for irrigation. The Board was split on the issue of laundry off-site. It was decided there should be a resolution condition stating a "water usage agreement" be put in the Developer's Agreement to reduce the use of water on the site. Such agreement should be reviewed by the Borough Engineer. The recommendation in the resolution would be for a reduction in water usage related to irrigation, laundry, and the pool. B. Ryden reminded the Board the usage calculations for the hotel were based on a worst-case scenario. They assume there are 4 people in a room 24/7.

Martin Kane asked Glenn Kienz to review the variances requested by the applicant. Mr. Kienz read off the 16 variances listed in the May 5th letter from Dynamic Engineering and explained in their memo dated May 6th. Bill Ryden thought a variance should be added for the proposed setbacks for the charging stations.

John Horan thought the application presentation was done very well, the testimony was good, and none of the variances individually were much. He found a total of 16 variances to be excessive. Tom Menard agreed with what J.Horan said. His big concern was water quality and stormwater management. Meghan Leininger was glad to see the accommodations made to the Board requests. She thought there needed to be a better generator plan. She mentioned the NJDEP site remediation program and listed those sites in the area that were on the list. She said the Board needed to consider this in their deliberations. David Shepherd's concern has always been stormwater issues. The applicant had addressed some of that but could have done more. Tom Menard asked if the Board could recommend a quantifiable number (percentage) that they could reach for stormwater management. Mr. Kienz responded the Board has thoroughly vetted the application. Much of what he was looking for was handled by the DEP. The Board had the input of their professionals. He was not sure any additional testimony would help. These are permitted conditional uses, so you must approve this application, but you do not have to approve the variances. Mr. Kane said the applicant has been very cooperative. We have gone from 16 to 12 fueling stations. We are requesting a water usage agreement be put in the Developer Agreement. We must look at this holistically. They are using the latest technology for water quality. We have looked at this for months and he did not think additional testimony would help. Kelly Holliday made a motion to approve the application including reducing the number of pumps to 6 with 12 fueling stations and those conditions listed in our professional review letters. A second was provided by Mitchell Stern. The Board voted 8 to 1 to approve the application with Board members Kane, Holliday, Coppola, Stern, Berei, Menard, Russo and Lane voting in favor and Horan voting against.

Other Matters –

Committee Reports – none

The Boards next meeting will be held on Thursday July 22nd at 7:30PM.
Martin Kane made a motion to close the meeting at 10:25PM.

Respectfully submitted,

Cynthia Shaw, Secretary

BOROUGH OF MOUNTAIN LAKES PLANNING BOARD

RESOLUTION

Application No. 20-273
372 Route 46 East
Block 2, Lots 2, 5 and 5.01
Business District (B) Zone

WHEREAS, Highview Commercial, LLC (“Applicant”) has applied to the Planning Board of the Borough of Mountain Lakes (the “Board”) for conditional use and major site plan approval, minor subdivision approval, with variance requests for front, rear, side and pervious buffer setbacks, front landscape area, parking stalls and signage on property located at 372 Route 46 East and designated Block 2, Lots 2, 5 and 5.01 on the Tax Map of the Borough of Mountain Lakes (the “Subject Property”); and

WHEREAS, the Board determined it had adequate and appropriate jurisdiction as required under not only the Municipal Land Use Law but specific directives of the New Jersey Department of Community Affairs Bureau of Local Government Services allowing for virtual meetings to be held with all participants appearing through virtual meetings; and,

WHEREAS, a virtual public hearing was commenced on December 17, 2020, and continued on January 26, 2021, February 18, 2021, March 18, 2021, April 15, 2021, May 20, 2021 and concluded on June 22, 2021, during which hearings the Board heard testimony from witnesses on behalf of Applicant, reviewed the materials submitted and the exhibits presented in the course of the hearing, heard argument from Applicant’s attorney, comments from the Board’s consultants, and gave members of the public an opportunity to be heard; and

WHEREAS, the Board has considered the Applicant's submissions as well as testimony, reports, exhibits, and other evidence presented by the Applicant's witnesses, the arguments of Applicant's counsel, the comments from the Board's consultants, and comments from members of the public.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Mountain Lakes that based upon the forgoing, the following findings of fact and conclusions of law are made:

1. Applicant is the Buyer of the Subject Property, located at 372 Route 46 East, designated as Block 2, Lots 2, 5 and 5.01 on the Tax Map of the Borough of Mountain Lakes. The Subject Property is located in the B Zone.

2. The Subject Property is a parcel of approximately 4.34 acres, currently developed with a 19,400 square foot banquet hall and a 1½ story single family dwelling. The remaining property consists of a paved parking lot.

3. At the December 17, 2020 hearing, the Board granted one check list "completeness" waiver, though deciding to require Applicant to furnish some of the information during the hearing. Prior to the continuation of the hearing, Applicant provided sufficient information, materials and revised plans to satisfy the Borough Engineer that the Application could be deemed "complete" and the hearing proceed.

4. John Veteri, attorney for the Applicant stated that the Application was for the property known as the Zeris site. Applicant proposes to subdivide the Subject Property, build a Wawa on one lot and a Hilton Hotel on the remainder.

5. Matthew Sharo, P.E. was qualified as an expert witness and sworn to provide testimony related to the Application.

6. Mr. Sharo testified in favor of Applicant's request for a waiver from Wetlands Delineation as the Subject Property contains no wetlands. Peter Black, environmental engineer for Mountain Lakes agreed with this conclusion. The Board voted to grant the waiver.

7. Mr. Sharo further testified that the Subject Property is subject to an easement providing driveway access to the adjacent Ringo Supply Company. He stated the easement will remain.

8. Applicant introduced A-1, a colorized Site Plan rendering dated October 29, 2020 showing a three story, 112 room Hilton hotel on the west side (the "Hilton") and a Wawa convenience store/food market, with a canopy over fueling dispensers on the east side (the "Wawa"), into evidence.

9. Mr. Sharo testified that the Subject Property will be subdivided into two parcels with the Hilton on lot and the Wawa on the other. He stated there will be cross access and maintenance easements between the two properties.

10. Mr. Sharo testified that the Applicant proposed a new driveway in the middle of the site providing access to both parcels. He stated that currently the site can be accessed from both Route 46 and Fox Hill Road, but the Applicant stipulated to removing the ability to make a left turn from one of the Fox Hill Road exits in accordance with the request of the Borough Traffic Engineer.

11. Mr. Sharo further testified that the drive aisles meet Borough requirements.

12. Mr. Sharo next stated that there are forty-eight (48) parking spaces for the Wawa and one hundred twelve (112) parking spaces for the Hilton. The Hilton parking spaces do not meet the required width and require a variance. The Wawa parking spaces meet all applicable Borough requirements. He stated the Applicant proposes sidewalks along both Route 46 and Fox

Hill Road.

13. Mr. Sharo testified that the lighting for both the Wawa and the Hilton will be consistent, yet independently controlled.

14. Mr. Sharo pointed out that both the Hilton and Wawa have landscaping plans with low shrubs and ornamental trees. He stated that impervious coverage will be reduced, and Borough and state requirements related to stormwater management are satisfied.

15. Mr. Sharo stated hoods will be added to the stormwater inlets at the fueling station at the Wawa, and are installed over the pipe which prevents contaminants from entering the water system. The basins will be cleaned periodically.

16. As regards signage issues, Hilton proposed two (2) signs totaling 101 square feet. The Wawa will post an identification sign five (5) feet off the Subject Property line along Route 46. The Wawa identification sign near Fox Hill Road will be twenty (20) feet from the Subject Property as per Borough code. The Wawa proposed to have a total of seven (7) signs totaling 378 square feet.

17. Applicant moved A-2, sign details dated October 29, 2020 into evidence.

18. Mr. Sharo testified regarding the Wawa floor plan. He stated the tower element of the building is thirty-three (33) feet high. The right side of the building faces the Hilton and the left side faces Fox Hill Road. The Wawa loading zone is on the west of the building. Four (4) types of deliveries are made: fresh produce and groceries (4-5 times per week), dairy (3 times per week), vendors (6 times per week) and fresh baked goods (7 times per week).

19. Wawa anticipates 10-12 employees per shift and three (3) shifts per day.

20. Mr. Sharo testified the Applicant is proposing to place an outdoor ice chest on the south side of the building. He stated there will be no public access to said ice chest.

21. Mr. Sharo next noted the Wawa will have a self-closing trash enclosure containing a compactor, recycling dumpster and a shed to hold supplies. He stated trash pickup will be three (3) times per week and cardboard pickup two (2) times per week.

22. The canopy originally proposed for the Wawa would have covered sixteen (16) fuel pumps and four (4) kiosks. Wawa will sell four (4) types of fuel with the fuel tanks located north of the canopy. There are two (2) 22,000-gallon fuel tanks and one (1) 20,000 gallon fuel tank for storage. He stated there are two (2) air stalls for car tires. He further stated that the EIS and Wellhead Protection plans were approved by the Borough Engineer.

23. The Board and its professionals asked questions of Mr. Sharo.

24. Mr. Ryden asked Mr. Sharo to provide testimony on the subdivision plan. Mr. Sharo testified the subdivision met ordinance requirements and the Applicant would comply with items 2-3 from Section B of Mr. Ryden's letter dated July 21, 2020.

25. David Novak, substitute Board Planner, asked whether the Applicant intended to install any electric vehicle charging stations. Mr. Sharo testified that the Applicant did not. Mr. Ryden further asked about generators. Mr. Sharo testified that Wawa does use a generator.

26. Mr. Novak then asked whether the Applicant would be willing to remove three (3) parking spaces at the Wawa to improve impervious coverage. Mr. Sharo testified that the parking was based upon the experience at other Wawa locations and that in considering the parking of the entire Subject Property the Applicant meets the standards. Mr. Sharo testified regarding any sharing of spaces between the Wawa and the Hilton.

27. Mr. Novak asked about the need for nineteen (19) signs on the Wawa portion of the Subject Property. Mr. Sharo testified it was a function of visibility.

28. Peter Black, P.E., the Board's environmental engineer, asked about whether soil

erosion permit had been obtained from the county. Mr. Sharo testified that no such permit was necessary for the Subject Property.

29. Mr. Ryden asked whether the project will be completed in phases. Mr. Sharo testified that this subject has not been discussed. Mr. Ryden expressed concerned with safety during construction and asked for certain stipulations regarding construction including trucking schedule and a trucking map related to the movement of soil.

30. The Board proceeded to ask several questions which were answered by Mr. Sharo. In response to these questions, Mr. Sharo testified Fox Hill Road would be widened and additional testimony would be presented on this. Mr. Sharo also testified regarding the safety measures taken for fuel supplies and what the procedure is if a tank spills or is overfilled. Mr. Sharo again testified regarding the stormwater management plan and the lack of a need for one on the Subject Property. Mr. Sharo testified that a ten (10) foot easement was proposed to accommodate widening Fox Hill Road. Mr. Sharo testified regarding the lighting of the Wawa sign, and the ability of patrons to walk between the Hilton and the Wawa.

31. The meeting was opened to members of the public. The public expressed concerned with the lighting from the signs, the safety of the fuel storage, the potential disruption of any wetlands on the Subject Property, the impervious coverage, pedestrian safety on the Subject Property, traffic patterns, sewage issues, vermin control and the overall issue with the amount of variances requested.

32. The Application was carried to the January 26, 2021 meeting.

33. At the continued hearing on January 26, 2021, the Applicant modified its application and presented a Site Plan Rendering dated January 26, 2021 introduced into evidence as Exhibit A-3. The amended site plan added sidewalks on the west end of the Subject Property

for pedestrian traffic. The sidewalk also created a link with the Hilton and relocated the sidewalk between the Wawa and the Hilton. The requested “No Left Turn” signage was added on the northern exit to Fox Hill Road. The evergreen shrubs on the Subject Property were replaced by evergreen trees and the Applicant added electric car charging stations to eight (8) parking spaces in the rear of the Subject Property.

34. Mr. Sharo continued his testimony and presented the Fox Hill Road Illuminated Monument Sign dated February 1, 2021 introduced as Exhibit A-4. The Applicant reduced the size of the sign to 7’ 10” high and 10’ 2” wide and stated that this is half the size previously proposed and smaller than the existing sign.

35. Mr. Sharo testified regarding a vernal pool created by standing water that can support some animal life. He noted this can be filled in, however, since there are no endangered species a 200-foot buffer is not required.

36. The Board then asked several additional questions of Mr. Sharo about backup generators and whether there was a separate alarm for fuel tanks. Mr. Sharo testified there is a separate alarm and battery backup, additionally tests are performed three (3) times a year on the fuel tank. Mr. Sharo stated there was a spill plan that could be shared with the Board if requested.

37. The Board indicated that if the Applicant plans to install electric vehicle charging stations, that they update their application to reflect this on the plans.

38. The Board asked about the easement for the widened road. Mr. Ryden explained that dedicating the area would affect the setbacks and it was of no difference to the Borough for an easement rather than a dedication. Applicant expressed a willingness to add trees to the easement area if desired. Mr. Sharo stated he would speak to the Applicant regarding dry wells for roof runoff.

39. The meeting was then opened to the public. The public questioned a wide array of topics including the change to the size of the sign, the vernal pool, water runoff, fueling stations, the sidewalk changes, the addition of the “no left turn” onto Fox Hill Road, the impact of the Application on Lake Arrowhead and Rainbow Lake, and whether the Applicant would be willing to purchase the empty lot across the highway. Mr. Sharo addressed many of these concerns raised by the public and concluded his testimony.

40. Nick Verderese, licensed traffic engineer, was sworn in to testify for the Applicant regarding traffic.

41. Mr. Verderese began his testimony by referencing A-3. He stated his firm did a traffic study for the Subject Property last revised August 30, 2019 and the study was submitted to both the Board and NJDOT. Mr. Verderese discussed his findings that peak hours were 7:45 AM and 4:45 PM during the week and 11:30 AM on Saturday. He testified they were charged with determining how much traffic the Application would produce and did not credit the traffic related to the current use of the Subject Property.

42. Mr. Verderese further testified that the Applicant has obtained draft permits from NJDOT, and the only open requirements are Site Plan Approval and approval of the street intersection plan. Applicant plans to widen the shoulder from seven (7) feet to twelve (12) feet and will install a new traffic signal along with other related repairs including a new lane on Fox Hill Road. Mr. Verderese testified that truck traffic was accounted for in the plans.

43. Mr. Verderese testified that Applicant expects 60% of traffic to enter from Route 46 west, 25-30% from the east and 15% from the south. Wawa will generate, according to the study he performed for the Applicant, 80%+ of the traffic on the Subject Property. He testified that during early morning peak there will be approximately forty (40) cars per hour. He discussed the

lighting and signage related to traffic and expressed his expert opinion that the traffic plan was consistent with all NJDOT standards.

44. The Board then questions Mr. Verderese on a variety of matters. The Board asked for clarification on the signal adjustments and timing adjustments. The Board asked whether the Applicant would consider changing the north side entrance to entrance only while leaving two-way traffic at the south entrance. The Board asked whether new signage would go on the poles and whether Applicant could confirm the signals would function properly. The Board asked whether the Applicant would be paving all of Fox Hill Road to which the Applicant noted it would only be paving the disturbed area.

45. The Application was carried to the February 18, 2021 meeting.

46. At the continued hearing on February 18, 2021, the Applicant recalled Mr. Sharo to answer questions raised by the public at the previous hearing. Mr. Sharo testified that the Applicant has no plans to change its request to install eight (8) fuel pumps with each having two (2) fueling positions. He reaffirmed the environmental standards have been met and noted Wawa's inspection policy to prevent spills.

47. Mr. Sharo then presented Exhibit A-5 dated February 17, 2021 showing new elevations of the Wawa. He noted the major change was that building would now be brick. He presented Exhibit A-6 which was the canopy elevation and trash enclosure renderings.

48. Mr. Verderese was recalled to testify regarding changes Applicant made to the traffic study. He testified that the Applicant will be modifying the north entrance to be ingress only.

49. The Board asked several questions of both Mr. Sharo and Mr. Verderese. The Board again questioned why Wawa wanted sixteen (16) fuel pumps and Mr. Verderese explained

the rationale behind it. The Board asked questions related to the stormwater plan and water usage on the Subject Property. The Board stated the Applicant would need a water works permit from DEP. Mr. Sharo testified he disagreed with this conclusion. The Applicant noted it would place either the previously proposed finish or brick as the façade depending on the choice and preference of the Board. Mr. Vederese explained the rationale for 16 fueling stations.

50. The meeting was then opened to the public. The public asked questions regarding the traffic pattern for the northern driveway, issues related to traffic on the Subject Property, the number of gas pumps for the Wawa, potential environmental issues, and real estate abatements.

51. The Application was carried to the March 18, 2021 meeting.

52. At the continued hearing on March 18, 2021, Applicant noted that its “Potable Water Report” had been sent to the Board. Applicant noted it received a letter from the Denville Engineer requesting an additional water quality unit and will consider the request. Applicant noted it would present testimony at this meeting testimony related to the Hilton.

53. Mr. Thomas Dever, architect for the Hilton, was sworn to testify and his credentials were accepted by the Board.

54. Mr. Dever testified to an overview of the Hilton plans. He stated there will be 112 rooms in a three (3) story building containing a lobby/gathering area, business center, small area for coffee, a buffet area, an indoor pool, an exercise room, laundry, and offices all on the first floor. There will be two (2) outdoor patios located in both the front and back. The façade will be stone. The top two (2) floors of the Hilton will be guest rooms and the entire 65,516 square foot building will be pet friendly. Mr. Dever stated there will be an outdoor dog walk, but its location has not been chosen.

55. Mr. Dever testified that the Hilton will contain a 15' X 30' indoor saltwater pool

filled by a truck. He stated laundry will be done on site and they expect fifteen (15) to twenty (20) loads a day or approximately one hundred twenty (120) loads per week.

56. Mr. Dever further testified the Hilton will have a dry goods market for the guests and the Applicant plans to obtain a liquor license to serve guests.

57. Mr. Dever testified there are a mix of room types. Each guest room will have a kitchenette with dishwasher and microwave, but no oven or cook top.

58. Mr. Dever testified there is a glass beacon in the center of the building that is 39' 11 7/8" tall, a 5.33 square foot sign at the entrance to indicate the hotel driveway and a sign on the third floor that is 95.66 square feet. He stated that the Applicant is requesting a variance for 100.99 square feet of signage for the Hilton where only forty (40) square feet is allowed. The signs cover 3.5% of the building façade and face Route 46.

59. Mr. Dever testified that there will be two (2) electric car charging stations which will accommodate all brands except Tesla. The Applicant intends to use white TPO roofing and LED lighting.

60. Mr. Dever testified that the Hilton will have two (2) elevators.

61. The Board then questioned Mr. Dever regarding his testimony. The Board noted that a variance would be needed for the wall sign to be mounted at a height of thirty-one (31) feet. Concerns were expressed regarding the water calculations for the Hilton and the Wawa, and it was noted the Applicant would need final approval from the DEP on the matter. The Board additionally asked questions about stormwater management, the chemicals for the Hilton pool, the lighting of the signage, and the inclusion of a generator on the Subject Property,

62. The meeting was opened to the public who asked questions regarding a variety of topics, including potential sound proofing of Hilton guest rooms; water usage; deliveries; whether

solar energy may be utilized; garbage and recycling; landscaping and potential variances.

63. The Application was carried to the April 15, 2021 meeting.

64. At the April 15, 2021 meeting, John DeLaney, Esq. entered an appearance as an objector attorney representing Ms. Ellison.

65. The Applicant presented Ms. Christine Nazzaro Cofone, licensed planner, to present testimony in this matter. The Board accepted her credentials and she was sworn in.

66. Ms. Cofone testified that the Hilton and Wawa were permitted as conditional uses in the B-Zone. She further testified the Applicant needs ten (10) variances for the Wawa including five (5) for the physical site and others for the internal lot line. She stated a 2.5 feet pervious buffer was required along the rear and side setback lines. She testified Applicant need a front yard setback for the required ten (10) feet landscaping buffer along the right of way and there is a small section at 0 feet. She stated that underground fuel tanks and the air pumps do not meet the fifty (50) feet front yard setback, the trash enclosure was at 11.1 feet along an irregular rear property line and did not meet the required twenty (20) feet setback.

67. Ms. Cofone further testified the canopy was twenty-five (25) feet tall whereas only twenty (20) feet was permitted, and a variance would be required.

68. Ms. Cofone testified that impervious lot coverage cannot exceed 80%, however, the Wawa was over at 83.2%, but when the two sites are combined as the Applicant submitted the coverage is 76.4%, in that instance no variance would be required.

69. Ms. Cofone testified regarding the sign variances sought that included: number of signs, and height of signs, and exceeding the total area of signage. She also testified regarding a variance related to setback of the Route 46 sign and the multicolored bulbs needed for gas pricing.

70. Ms. Cofone further testified regarding variances on the Hilton portion of the

Subject Property which requires eight (8) variances. She addressed all variances related to parking, setbacks, parking stall size, and signage.

71. Ms. Cofone testified that all the variances requested for the Wawa and the Hilton are bulk variances evaluated under either the C-1 or C-2 criteria. Regarding the C-1 criteria, she testified to several unique conditions of the Subject Property as to which the variances would qualify. She testified that the Applicant has a forty (40) foot setback from the front property line due to the right of way for Route 46. She stated the internal lot line causes a lot of the variances needed, an already occurring condition of the Subject Property. Additionally, the 2013 Master Plan encourages redevelopment of the Route 46 corridor and suggests providing a more coordinated and flexible approach to development to make the area more visually attractive. Ms. Cofone stated the cross-access easements would be a benefit and consistent with the Master Plan. She further testified as to why the C-2 criteria was met and provided the positive and negative criteria for meeting the variances. Ms. Cofone provided support for the positive criteria and cited some of the goals of Municipal Land Use Law furthered by the Application. Ms. Cofone testified it was her opinion that the Application thrives on pass by traffic. Additionally, she stated, the Master Plan encourages both the redevelopment of the Route 46 corridor and greater flexibility in the design standards. The cross-access easements support the efficient use of the land as cited under the law.

72. Ms. Cofone testified that in her expert opinion there was no substantial detriment to the zoning plan or public good if the Board were to grant the requested variance relief. She stated her reasons for this including the applicability of current zoning ordinances and the Master Plan.

73. The Board then asked questions and made comments regarding the testimony of Ms. Cofone. The questions focused on: signage, air pumps, charging stations, generators, lighting,

the number of variances requested, the environmental impact of the gas station and the hours of operations of the Wawa.

74. Applicant at this time reminded the Board of the Well Head Protection Report and the Environmental Impact Statement.

75. The meeting was opened to the public.

76. The public asked questions and made comments to whether the Application could be made fully conforming, environmental issues, parking, signage, air pumps, landscaping, lighting, impervious coverage, variances, the charging stations, and fencing.

77. An objector, Ms. Ellison, additionally put forward a licensed Planner, Michael Pessolano, to testify regarding the Application. He testified given the number of variances it was improper to apply the C-1 standard in his opinion. He further testified that it was his expert opinion given the totality of the circumstances the Board should deny the Application.

78. The Board asked several questions of Mr. Pessolano and the public was also invited to question Mr. Pessolano.

79. The Application was carried to the May 20, 2021 Board meeting.

80. At the May 20, 2021 hearing, following conclusion of all direct testimony by the Applicant, the meeting was opened to the public for sworn testimony by attendees. Approximately 35 people appeared at the Zoom hearing and testified. Testimony focused primarily on general environmental issues and impacts the site might have on the lakes in the surrounding area, the Master Plan for the Borough, the impact this highway commercial development would have upon neighborhood aesthetics, hours of operation, the belief that the Wawa facility was larger than necessary on the site, and the impact the development would have upon neighborhood aesthetics.

81. The following reports were issued by Board professionals and are made part of this

Resolution as Appendixes A, B, C and D.

- a) Engineer’s Report: July 21, 2020 and June 7, 2021.
- b) Planner’s Report: August 19, 2020, September 18, 2020, October 16, 2020 and June 9, 2021.
- c) Environmental Consultant’s Report: September 3, 2020, October 27, 2020 and June 9, 2021.
- d) Traffic Expert: July 8, 2020, October 16, 2020, November 12, 2020 and May 26, 2020.

The following 17 variances were specifically requested by the Applicant as part of the hearing. As noted in testimony, a number of them were ultimately modified so that the following were the actual variances sought by the time of the conclusion of the hearing.

Variance List (Hotel)	
1.	<i>§245 Attachment #2: Parking must be set back 10 feet from the front property line.</i>
-	Variance – Parking setback 6.6 feet from the front property line.
2.	<i>§245 Attachment #2: Parking must be set back 5 feet from the side property line.</i>
-	Variance – Parking setback 2.5 feet from the side property line.
3.	<i>§245-20.h: The first 2.5 feet from the rear and side property lines shall consist of pervious natural landscape.</i>
-	Variance – 0 feet proposed at side property line cross access driveways.
4.	<i>§245 Attachment #1: Front yards in the B Zone must provide a landscaped area of not less than 10 feet depth along the right-of-way, except for driveways.</i>
-	Variance – 2.5’ proposed.
5.	<i>§245-15.l.4: Parking stalls are to be a minimum of 10’x18’ in size.</i>
-	Variance – 9 foot wide stalls proposed.
6.	<i>§245-17.D.2.c.1: No sign of any kind shall exceed 18 feet in height above finished grade.</i>
-	Variance – Top of building mounted sign 35.75 feet above finished grade.

Variance List (Wawa)	
1.	<i>§245-20.h: The first 2.5 feet from the rear and side property lines shall consist of pervious natural landscape.</i>
-	Variance – 0 feet proposed at side property line cross access driveways.
2.	<i>§245 Attachment #1: Front yards in the B Zone must provide a landscaped area of not less than 10 feet depth along the right-of-way, except for driveways.</i>
-	Variance – 0 feet proposed.
3.	<i>§245-15.k.5: Accessory structures shall meet the setback requirements of all principal structures.</i>

- Variance – The proposed underground fuel tanks and air pumps encroach within the 50 foot front yard setback and the trash compound encroaches within the 20 foot rear yard setback.
4. §245 Attachment #1: Accessory structures in the B zone shall be no taller than 20 feet in height. - Variance – The proposed Gasoline canopy is just over 20 feet tall.
5. §245-17.D.2.a.2: The number of identification and business signs permitted within the B zone is limited to a combination of two of the following: one wall sign, one freestanding sign and one projecting sign. - Variance – 5 total signs proposed.
6. §245-17.D.2.c.1: Two signs, aggregating not more than 40 square feet in area shall be permitted in the B zone. - Variance – 206.01SF in total signage area proposed.
7. §245-17.D.2.c.1: No sign of any kind shall exceed 18 feet in height above finished grade. - Variance – Route 46 Freestanding sign is proposed to be 18 feet tall, wall signs are proposed to be 21 feet tall.
8. §245-17.D.1.g: No sign shall be any closer than 10 feet from the front lot line or to any residence lot line. - Variance – 5 feet proposed for the Route 46 Freestanding sign.
9. §245-17.D.2.a.5: Signs shall only be illuminated by white lighting. - Variance – Freestanding signs are to be illuminated by multicolored bulbs.
10. §245 Attachment #1: The maximum allowable improved area in the B zone is 80%. - Variance – 83.2% improved lot area proposed.
11. §245-15.k.5: Accessory setback side and rear of 20feet . - Variance for electric car charging stations, eight (8) locations less than required 20 feet.

82. The Board hereby makes the following conclusions of law based upon the foregoing findings of fact. The application pending before the Board is a request for conditional use approval along with preliminary and final major site plan approval, minor subdivision approval and numerous variances as the table located above and specifically contained in paragraph 81 indicates.

83. In reviewing the application, plans and testimony, the Board concludes the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Borough Ordinances to a sufficient degree so as to enable the Board to grant conditional use approval for the proposed activities along with preliminary and final site plan approval and minor subdivision approval. In arriving at this conclusion, the Board states that the Applicant throughout the hearing process continuously cooperated with the Board and its professionals in response to

suggestions which were made.

84. In reviewing the conditional use request along with site plan and subdivision, the Board concludes that the design of the site clearly took its direction from the Ordinances to render properties that could stand on their own as being developed. This design standard resulted in the need for numerous variances which are enumerated above and discussed below and result from the fact that the two (2) lots are being created and that, therefore, side yard and front yard requirements cannot be met on the lots individually therein requiring numerous variances. Further, in reviewing the site plan the Board concludes that the traffic reports as offered by the Applicant and reviewed by the Board's professionals met the standards and were generally, even when addressing parking, considered conservative analysis.

85. That having been said, however, the Board also noted in its deliberations and ultimate conclusions that the site was being somewhat overbuilt and that limiting the WAWA to six (6) pumps with 12 filling locations was more appropriate than the eight (8) pumps with 16 filling locations original approval. The Board concludes there was no real need for this intensity level and that by eliminating four (4) pumps, the canopy can be reduced and overall impact of the site on surrounding properties lessened. The Board also concludes the site will function appropriately provided the Applicant adheres to the specific recommendations, conditions and conclusions being reached in this Resolution. The Board also concludes that the signs and lighting now being offered on the site are adequate and better comply with development in this area.

86. Next, in addressing the variance relief, the Board determines that the relief being sought was pursuant to N.J.S.A. 40:55D-70c (1) and (2). The variances for developments such as this should be evaluated holistically since it is the entire site, which is being designed and, therefore, the Board first determines this is a particular and specific piece of property that is a

corner lot on Route 46 which is a heavily traveled state highway. The Applicant proposed a subdivision to allow the separation of the two (2) uses being created to be served by a common drive. The Board finds this to be an indication of appropriate and sound planning.

87. The Board also notes that this application satisfies a number of purposes contained in N.J.S.A. 40:55D-2 and concludes that the following specifically apply: c) to provide adequate light, air and open space; d) to ensure the development of individual municipalities does not conflict with the development and general welfare of adjoining municipalities; g) providing sufficient space in appropriate locations for a variety of uses; and n) promoting utilization of renewable energy resources. The Board finds these all represent beneficial activities wherein the benefits of the deviation substantially outweigh any detriments.

88. The Board concludes that the above constitute an adequate and rational basis to determine the affirmative criteria is satisfied.

89. The Board also concludes that the proposed development will not negatively impact the public good nor the zone plan or zone scheme of the area. Numerous statements were made by members of the public during the hearings; however, the Board determines that adequate and appropriate safeguards have been taken by the Applicant on its own and as a result of advice from the Board's professionals and Board members to ensure the public good will not be negatively impacted by redevelopment of this site.

90. Further, the Board notes that the proposed development plan is consistent with the Ordinance enacted by the governing body and that, therefore, while site plan variances are sought, these did not run afoul of the zone plan and zone scheme.

91. Based upon all of the foregoing, the Board determined that, with appropriate conditions, conditional use approval, major site plan approval, minor subdivision approval, and

variances for front, rear, side and pervious buffer setbacks, front landscape area, parking stalls and signage can be granted and that the variances and design waivers sought may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance.

BE IT FURTHER RESOLVED by the Planning Board of the Borough of Mountain Lakes that the Application of Highview Commercial LLC for conditional use approval, major site plan approval, minor subdivision approval as depicted on the Site Plans submitted to the Board at the January 26, 2021 meeting and as amended together with variances and waivers all with respect to property located at 372 Route 46 East and designated Block 2, Lots 2, 5 and 5.01 on the Tax Map of the Borough of Mountain Lakes, be and hereby are approved and granted as detailed in this Resolution, subject to the following conditions:

General Conditions

1. Applicant shall obtain all other necessary permits and approvals with respect to the project which may be required from any Board, body or agency, whether municipal, county, state or federal.
2. Development shall take place in accordance with the plans submitted and approved and updated to comply with the conditions of this Resolution.
3. All taxes and municipal charges, fees and escrows shall be paid by Applicant and shall be kept current. Applicant shall also provide any necessary inspection fee or other fees in connection with construction of the project.
4. The Applicant shall provide an updated set of architectural drawings including the latest sign details, building finishes, product boards and the like for inclusion and reference with the final approved sign site plans said materials to be kept on file in the Borough. Further, no

substitution of materials without the expressed written approval of the Borough Engineer shall be made.

5. The Applicant shall establish a phasing plan for completion of all site improvements subject to review and approval of the Borough Engineer.

6. Final site plan drawings incorporating all required and agreed to changes shall be submitted for complete and review and approval by the Borough Engineer.

7. The Applicant shall provide signage to prohibit cut thru traffic to Fox Hill Road subject to review and approval of the Borough Engineer.

8. All three (3) structures shall have white colored roofs.

9. Any plantings that can take place on the Route 46 median shall be subject to approval, if allowed, by the NJDOT and final review and approval by the Borough Engineer.

10. All existing water services shall be decommissioned in accordance with Water Department requirements.

11. Any metering requirements for the building shall be determined by the Water Department.

12. Construction and completion of the project, as well as operation of the site, shall be consistent with the representations made before this Board by the Applicant during the course of the public hearings and the same are incorporated herein and in accordance with the findings and conclusions and are representations upon which this Board has relied in granting the approval set forth in this Resolution and the conditions of approval set forth herein.

13. Work hours for site improvements and exterior building improvements shall be limited from 8:00 a.m. to 8:00 p.m., Monday through Saturday. No work shall take place on Sundays and shall be in accordance with Mountain Lakes Ordinances. The Applicant shall

maintain personnel on site to whom incidents of noise disturbance shall be reported and said personnel shall be authorized to take measures to minimize said disturbances.

14. Violations of any of these construction mitigation measures shall result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Borough Engineer.

15. The Applicant shall provide a soil movement plan including schedule of operations, trucking plan, clean fill certification subject to review and approval of the Borough Engineer.

16. The Applicant shall establish protocols for on-site processing of hazardous materials subject to the review and approval of the Borough Engineer.

17. The Applicant shall provide a plan to the Borough Engineer depicting how construction of the buildings within the confines of the site shall take place, accommodating: soil stockpile, building materials, construction trailer(s), and contractors employee parking, and the like.

18. Applicant shall revise the plans to show electric charging stations and associated equipment subject to review and approval of the Borough Engineer.

19. The Applicant shall provide an updated landscaping plan showing additional trees and shrubs along Fox Hill Road as discussed at the hearing along the southerly boundary of the site subject to final review and approval of the Borough Engineer.

20. The landscape plan shall be subject to a two (2) year landscaper's guarantee which shall insure the replacement of any diseased or dead landscaping material within two (2) years of the date of planting.

21. The Applicant shall provide additional stormwater facilities including infiltrations, swales, MTD's, drywells, details for a potential rain garden with 6-inch PVC underdrain (subject

to subsurface testing results) which shall be subject to review and approval of the Borough Engineer and subject to final complete testing review.

22. The Applicant shall provide annual stormwater maintenance report which shall be subject to review and approval of the Borough's stormwater coordinator.

23. The Applicant shall submit a detailed maintenance plan for the site's stormwater system which shall be subject to the review and approval of the Borough Engineer and/or stormwater coordinator.

24. The Applicant shall provide, if deemed necessary by the Borough Engineer, 2-, 10- and 100-year storm calculations to demonstrate conditions on site are improved over the existing conditions.

25. The free-standing sign on Route 46 shall be a combined sign for both the hotel and the WAWA subject to the review and approval of the Borough Engineer.

26. The entire width of Fox Hill Road shall be paved, for the limits of the proposed modifications.

27. As-Built drawings of the completed site showing all site features including building footprints, curbing, drainage system with inverts, sidewalks, etc., shall be provided prior to issuance of the Certificate of Occupancy.

28. The Applicant shall incorporate the ADS FlexStorm Inlet Filters and Hydro International First Defense High Capacity Water Quality Inlet Units into the project as shown on the drainage exhibit subject to review and approval of the Borough Engineer.

29. All site improvements, excluding landscaping if between November 1 and March 30th, shall be installed prior to the issuance of any certificate of occupancy.

30. Applicant shall provide a recycling plan pursuant to Ordinance 295-7 subject to the

final review and approval of the Borough Engineer.

31. Demolition materials shall be reutilized to the greatest extent practical with all recycling slips forwarded to the Borough's Recycling Coordinator.

32. At a minimum building materials shall be uniformly consistent between the gas station, hotel, signage and canopy.

33. No garbage pickup shall take place after 9:00 p.m.

34. Nothing shall be permitted to be attached to either the exterior of the buildings or in any windows, other than what is specifically approved by this Resolution.

Subdivision Conditions

35. Applicant shall provide a 10-foot-wide Roadway Easement dedication along Fox Hill Road subject to review and approval of the Borough Engineer and Borough Attorney.

36. Applicant shall provide Deeds for review by the Borough Engineer and Board Attorney with lot numbers to be inserted which are approved by the Tax Assessor. All monuments for the outbound tract limits shall be set subject to the review and approval of the Borough Engineer.

37. The Subdivision Deeds shall provide for appropriate Cross-Easements and Joint Access Agreements for access between the two (2) lots subject to review and approval of the Borough Engineer and Borough Attorney.

WAWA Conditions

38. The Applicant shall install not less than two (2) electric charging stations but not more than eight (8) universal electric charging stations on the WAWA site which may include charging stations for TESLA vehicles subject to final review and approval of the Borough Engineer.

39. The canopy roof shall be changed to be a gable roof with a maximum height of 20.67 feet.

40. Fueling stations on-site shall be reduced from eight (8) pumps and 16 stations to six (6) pumps and 12 stations with a similar reduction in canopy size, impervious coverage if possible, and other requirements and the movement of the fueling area further away from Fox Hill Road and Route 46 subject to final review and approval of the Borough Engineer.

41. The Applicant shall submit a fuel spill response protocol and procedures, submit copies of ongoing inspections on a six (6) month basis to the Borough and subject to final review and approval of the Borough Engineer.

42. The “Potential Perforated HDPE Pipe Roof Infiltration Basin” (subject to subsurface testing results) for the WAWA roof shall be subject to further evaluation by the Borough Engineer based upon complete testing results.

Hilton Conditions

43. Two (2) additional electric vehicle charging stations and associated signage shall be installed on the hotel lot subject to review and approval of the Borough Engineer.

44. Applicant shall provide details for the hotel emergency generator including size, location, fuel type, power rating and sound attenuation measures.

45. Applicant shall establish specific sign illumination levels and dimming controls to dim at 11:00 p.m. including hotel beacon and shall be subject to final review and approval of the Borough Engineer. Further, the Applicant shall take all steps deemed necessary and appropriate by the Borough Engineer following a field measurement of lighting levels after a final Certificate of Occupancy has been issued.

46. Where feasible drainage from the roof of the hotel shall be integrated into the overall stormwater system as deemed appropriate by the Borough Engineer.

Additional Conditions

47. Applicant shall grant Title 39 jurisdiction, if requested, to the municipality.

48. Applicant shall enter into a Developer's Agreement for the construction of all public improvements with the municipality which shall be subject to final review and approval by the Borough Engineer, Borough Attorney and Governing Body.

49. Prior to the issuance of any construction permit or the start of any site work, the applicant shall file with the Borough Engineer an affidavit verifying that the applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and shall supply a copy of any approvals received.

50. Prior to construction, including site work activity, a preconstruction meeting shall be required, and include the Borough's representatives, the Applicant and its engineers and contractors. Prior to said meeting, the Applicant shall have posted inspections fees in the amount of five (5) percent of the estimated cost of all public improvements, as prepared by the Developer's Engineer and approved by the Borough Engineer and in accordance with N.J.S.A. 40: 55D-53.4.

51. All non-disturbed areas on site shall be demarcated by snow/silt fence during construction and the snow/silt fence shall be installed on site prior to any construction activity including site work. A violation of the non-disturbed areas shall result in a stop-work order for that area affected by the violation, as determined by the Borough Engineer; and said stop-work order shall remain in full force and effect until the violation is corrected and any damage created by the violation is restored to the original state.

52. The Board strongly recommends to the governing body as part of a Developer's

Agreement that laundry for the hotel facility be taken and cleaned off-site and that all possible appropriate and practical water conservation plumbing, and usage be installed along with investigation as to whether a grey water system is possible.

53. A DEP Water Works permit must be obtained by the Applicant.

54. The Developer shall furnish a Performance Guarantee in favor of the Borough of Mountain Lakes in an amount equal to 120% of the cost of the installation of public improvements including streets, grading, pavement, gutters, curbs, sidewalks, street trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers, drainage structures, erosion control and sedimentation control devices, and other on-site improvements deemed necessary by the Borough Engineer. The cost estimate shall be determined and approved by the Borough Engineer based on an estimate provided by the Applicant which shall include a quantity take-off of the items. The Performance Guarantee shall be posted prior to commencement of construction.

55. The Developer shall post a Maintenance Bond in an amount equal to fifteen (15) percent of the estimated cost of improvements for a period of two (2) years upon acceptance by the Borough of Mountain Lakes of any public improvements.

56. The Developer shall complete the installation of all public improvements no later than that stipulated in the Developer's Agreement with the Governing Body. The time for completion of the public improvements may be extended by the mayor and governing body by resolution for just cause shown by the Developer.

57. Morris County Planning Board approval to be obtained by the Applicant.

58. The Applicant will need to obtain soil erosion control certification from the Borough and a 5G3 RFA permit from Morris County SCD prior to the commencement of any site disturbance.

59. NJDEP Treatment Works Approval (TWA) for Sewer Connection.
60. Applicant shall obtain any and all NJDOT approvals and utility opening permits and provide copies of same to the Borough.
61. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within fifteen (15) days of said request by the Board's Secretary.
62. Certificate that taxes are paid to date of approval.
63. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.
64. Applicant shall provide a complete Solid Waste and Recycling Plan ("SWRP") for the site indicating how Solid Waste and Recycling will be managed on site and properly disposed of, subject to review and approval of the Borough Engineer and Borough Recycling Coordinator. All of this material shall be kept indoors and put out for disposal in accordance with the SWRP.
65. Applicant shall comply with any applicable Affordable Housing requirements related to the construction of the additional non-residential square footage.
66. Applicant shall comply with the following conditions with respect to the application and Subject Property:
- a) Applicant will comply with the requests of the Board professionals including not limited to, stating how the project will be staged, the site demolition plan including the removal of asbestos, a safety plan for the Subject Property and a schedule of soil movement.
 - b) Applicant will conduct at its cost a subsurface soil condition investigation.
67. A recordable document shall be prepared by Applicant and submitted for approval

by the Board Attorney and the Borough Engineer which incorporates this Resolution by reference. Following approval, Applicant shall record the documentation in the Office of the Morris County Clerk and shall, thereafter, provide a copy of the recorded document, bearing all recording information, to the Board Administrator.

68. Applicant will comply with an additional requirements imposed by the Board professionals which may result from revised signage.

69. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Mountain Lakes, County of Morris, State of New Jersey, or any other jurisdiction.

BE IT FURTHER RESOLVED that this Resolution adopted this 22nd day of June 2021, memorializes the action taken by the Board, as set forth above, at its meeting on May 20, 2021.

The Vote: _____

In Favor: _____

CERTIFICATION

I hereby certify that this is a true copy of a Resolution duly adopted by the Planning Board of the Borough of Mountain Lakes at a public meeting duly held on _____.

Cynthia Shaw, Administrator
Borough of Mountain Lakes
Planning Board

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
PLANNING BOARD**

SCHEDULED MEETINGS FOR THE YEAR 2021 AND THE FIRST MEETING 2022

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 second half of the calendar year 2021 and the first meeting 2022 and formal action may be taken on public business at 7:30 p.m. on each of the dates set forth below, at the Media Center in the Mountain Lakes High School, 96 Powerville Road, Mountain Lakes, New Jersey:

September 23, 2021
October 28, 2021
November 18, 2021
December 16, 2021
January 27, 2022

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.

Offered by:

Seconded by:

Vote: - 0

Date: July 22, 2021