

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

June 26, 2014

Chair Jim Bailey read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 30, 2014: Adequate notice of this meeting was given to the Citizen and the Daily Record, filed with the Borough Clerk, posted on the Bulletin Board in the Borough Hall on February 03, 2014 and made available to all those requesting individual notice and paying the required fee.

Meeting start: 7:36 pm

ROLL CALL:

Members Present: Bailey, Kane, Dagger, Lester, DeVenezia, Horan, Russo and Happer

Absent: DuTertre, Nachshen and Tovo

Also Present: Attorney Peter Henry, Engineer Bill Ryden

REVIEW OF MINUTES: Dan Happer made a motion to adopt the minutes of the May 22nd meeting. John Lester provided the second; the minutes were approved by voice vote of all eligible voters.

RESOLUTIONS: none

PUBLIC HEARING:

Carried from May 22, 2014:

Jeffery and Lynne Ansell	260 Boulevard
Blk: 100, Lot: 23	App. #14-256
Minor Subdivision	R-A Zone
2 Side Setbacks, 2 Height, 2 Building Envelope, Steep Slopes, 2 Lot Width, 2.5 ft pervious buffer	

John Rittie, Attorney for the Ansell, continued the presentation started at last months meeting. The applicant was now requesting two additional variances and was presenting the revised plan already submitted. Their new variance requests pertained to the taking down of the garage. If they were to leave the garage up until the new lot was sold they would need additional variances, one for a side yard setback and the other for the required 2 ½ ft of pervious buffer. Doing so would provide them with two options, the ability to take the accessory structure down now or at some future date. They proposed as long as the property remained in single ownership the accessory structure would remain. The applicant was fine with the Board requiring a deed restriction to support this. Peter Henry said leaving the cottage/accessory structure after the subdivision without a main structure would not be allowed. Jason Rittie said the applicant could add a stove to the building and make it a principle structure. Peter Henry added if garage without the stove was left in place someone could build a new home and use the garage. John Lester asked by adding the stove was the applicant creating a new contributing dwelling? Tom Dagger, chair of the Historic Preservation Committee, said they would not because the garage was not on the original list of contributing dwellings.

Marc Walker took over the presentation. Exhibit A-12 was a "Conceptual Development Exhibit", dated 6/26/14, showing the old and new proposed lot line. They would be

removing the fence along the Boulevard and removing the retaining wall at the new property line. They extended the property line toward the lake another 36.65 ft. and are still providing access to the island for remainder lot 23. Remainder lot 23 is now smaller consisting of 27,900 sq ft rather than 29,790 a reduction of 1890 sq ft. The FAR is now 16.4% under the allowed 17% and the ILC is now 18.6% under the allowed 25%. They removed the paver walkways in arbor area and replaced them with mulch. The newly created lot was 28,210 sq. ft. and is now 30,100 sq ft. Exhibit A-13, the "Lot Layout Exhibit" dated 6/26/14, showed the new property line running over the existing driveway and walkway. If the garage/cottage were to remain they would need two additional variances but if the Planning Board did not support the concept they would remove it and the two new variances would not be needed. The trigger of the garage and driveway removal would occur prior to the time the property was taken out of common ownership or prior to the issuance of a building permit.

Exhibit A-14 was an "Aerial View of the Existing Conditions" dated 6/26/14. All the lots along the Boulevard from the beach to the school are 100 ft wide. If lot 23 were subdivided the lot development pattern will be maintained. This graphic shows the existing lot at 200 ft in width. Bill Ryden asked Mr. Walker for the revised ILC for the new plan. He said remainder lot 23 has an ILC of 18.6% and the new lot 23 was 18.4%. Mr. Ryden pointed out the applicant needed to change the ILC numbers on sheet two of the plans to correlate with exhibit A-12. Mr. Ryden continued Exhibit A-13 shows the applicant would need a variance on both lots for the 2 ½ ft buffer, Mr. Walker agreed. Mr. Walker thought the changes they made to the subdivision made the project better and more consistent with the lots to the north. Jim Bailey asked why they did not extend the lot line to the lake. Mr. Walker said lot 23.01 would become very large and the remaining lot much smaller. Doing so would create a Use and FAR variance moving the application to the Board of Adjustment. Tom Dagger asked the applicant if they considered using the contributing dwelling ordinance. Jason Rittie said they did not because they were not altering the house.

Chairmen Bailey asked if anyone wished to ask questions of Mr. Walker. John Veteri, a new Attorney representing the Verzeleno's, wished to do so. Their Engineer was not present tonight and wished to reserve the right to have their Engineer ask questions of Mr. Walker at next months hearing. They did not bring their Planner tonight because they thought Mr. Tobia was not available this evening. After some discussion Jason Rittie agreed the applicant would present their case tonight. The opposition would present their case at the Board's next meeting with the applicant's professional answering the questions of the opposition.

John Veteri started his questioning by pointing out the May 29, 1914 deed placed restrictions on the accessory structure. He went on to reference Exhibit A-13 asking Marc Walker to explain access to the site now and how the new parking design would be better when the hedges were cleared. Mr. Veteri continued, so are you saying the parking will be worse since the parking is so exceptional now? Peter Henry interrupted the questioning stating the Planner, Michael Tobia, previously presented how this issue could be a C-1 or C-2 variance as well as the planning benefit to the community. Jason Rittie added the opposition was asking questions of the last hearing. Peter Henry said this area of questioning was fuzzy since changes were made to the original plans. Mr. Veteri asked if this application was creating a non-conforming side yard variance and the loss of the large side yard. Marc Walker pointed out Mr. Verzeleno's property had a much smaller side yard. Mr. Veteri asked if someone put a lot of thought into the property layout; yes

they did. Mr Walker continued the property was 4x the required lot size. Is it better to remain one lot maybe but the subdivision was following the development pattern. Mr. Veteri inquired was the new lot line proposed worse than what was presented before. Marc Walker thought it was better since the required lot width cannot be less than 90 % of the frontage and the rear setback line is the lake edge line. You would only measure lot width from side line to side line not to the lake or rear line. If you were to extend the proposed line all the way to the water you would create an issue with the ILC & FAR. Michael Tobia, the applicants Planner, explained the current interior of the cottage. Nothing Mr. Walker said tonight would change any of his proofs presented last month. By putting a stove in the cottage the applicant would meet the definition of a single family dwelling since the structure already has a microwave and a refrigerator. The applicant was suggesting the accessory structure stay while they sell the lot. Exhibit A-13 shows a setback of 22.3 ft, an existing condition, to the accessory structure. The property already has a plant line to create privacy. It is difficult to pick up the cottage and move it 2.7 ft to comply with the side setback. They need 2.5 ft of pervious coverage to help with drainage issues. Keeping the cottage allows for no site disturbance until someone comes in and builds the house. John Lester said there could be a lot of time between now and when the property was sold. Peter Henry reminded the Board they could put a deed restriction on the property to address the issue.

Bethany Russo asked who would be responsible for the demolition of the cottage; the applicant would be. John Lester asked if there was a CO for the present structure. No one knew but permits were pulled for the renovation work. Exhibit A-15, dated June 13th, was a photo of property viewed from the lake. It showed the heavy vegetation on the island and the main property. It also showed the rhythm of the neighborhood and the noticeable gap where the new home would fit in. Exhibit A-16, dated June 22nd, shows the arbor covered with vegetation. The applicant would be willing to take the arbor down if the Board required it. Mr. Tobia continued sidelines were developed to keep structures away from the property line not vegetation. Tom Dagger asked if the island was covered with wild vegetation, no it was not. There is a wooden footbridge covered with grass that connected the island to the property. Martin Kane asked why not draw a straight line to create the subdivision and change the footbridge location. Mr. Tobia said that could create other problems such as an increase in FAR. We did look at squaring off the new lot but then it would not have access to the lake. He continued the purpose of lot width is to make sure you have enough width for the building envelope.

Chairmen Bailey opened the hearing to the public. John Veteri asked Mr. Tobia if he thought the circular driveway a lovely feature in Exhibit A-13. He answered yes it was but when it came down it would be replaced by a lovely home. Mr. Veteri said Mr. Tobia referred to the lot situation as a historic mistake at the last meeting. Mr. Tobia did not remember saying that but would say it's a historic anomaly. If it was meant to be only one lot the home would have been in the center of the property. John Veteri asked how the new homeowner would recreate on the proposed property; the same way anyone else, including the Verzalenos, does on their property. John Veteri asked from a planning prospective did the planner feel this subdivision benefited the community. Yes there are two smaller lots creating a new home for the community and bring the parcel into far greater zoning compliance. Building single family homes in a residential zone is a benefit as is the dogleg on the remainder lot to provide access to the lake. John Veteri asked if the island was included in the lot and part of the lot area, yes it was. Mr. Tobia said if you extend the line to the water edge we would have to take down arbor and take down part

of the building to remove the FAR variance. C-1 states if the characteristics of the parcel creates a hardship or practical difficulty the law allows for variances to be granted. We have made lot line adjustments so the new lot and old lot get access to the lake and the old has access to the peninsula.

The application was carried to the July 24th meeting and requires no further notice.

Other Business

Ordinance 04-14

Amending Chapter 102 of the “Revised General Ordinances”
Establishing a Well Head Protection Area and regulating the use of land within the area

Tom Dagger asked if the Borough had a well head protection ordinance before. Mayor Happer said in the past the Borough has had a ground water management plan for the prime aquifer.

Jim Bailey reminded the Board it was their obligation to determine if the ordinance was consistent with the current Master Plan. He asked the Board if they had any comments for Council; they did not. Attorney Peter Henry found many typos and consistency issues but no substantive changes. He added the ordinance is trying to protect all of the water in Mountain Lakes.

John Lester made a motion determining the ordinance consistent with the Master Plan. All the clerical corrections should be passed along to Council. Bethany Russo provided the second. A voice vote of all eligible members voted in favor of the consistency determination.

Committee reports – none

Public Comments – none

Chairmen Bailey made a motion to adjourn the meeting at 9:14 pm.

Respectfully submitted,

Cynthia Shaw, Secretary