

**MINUTES OF A MEETING  
ZONING BOARD OF ADJUSTMENT OF  
THE BOROUGH OF MOUNTAIN LAKES  
March 3, 2022**

James Murphy called the remote meeting to order and announced: Adequate notice of this remote meeting has been provided in accordance with the Open Public Meetings Act by publishing the remote meeting notice in The Citizen and The Morris County Daily Record on January 12, 2022 and by filing the same with the Borough Clerk and posting it on the Front Door on January 10, 2022 and was made available to all those requesting individual notice and paying the required fee.

Start: 7: 31PM

**ROLL CALL:**

Present: Murphy, DeNooyer, Astrup, Peters, McCormick, Caputo Vecchione, Paddock and Leininger

Also, Present: Attorney, Michael Sullivan, Engineer Bill Ryden, Planner, Paul Phillips and Environmental Engineer, Jack Szczepanski

**REVIEW OF MINUTES:** Kelly McCormick made a motion to approve the minutes from the February 3<sup>rd</sup> meeting. Jake DeNooyer provided the second; the minutes were approved by voice vote by all eligible members present.

**RESOLUTION:**

Alexander Lu

Appl. #21-727

James Murphy made a motion to adopt the resolution of approval and Ryan Astrup provided the second. The Board voted 5 – 0 to adopt the resolution with members Murphy, DeNooyer, Astrup, Peters, and McCormick voting in favor

Brandon & Katherine D’Orlando

Appl. #21-733

Ryan Astrup made a motion to adopt the resolution of approval and Meghan Leininger provided the second. The Board voted 6 – 0 to adopt the resolution with members Murphy, DeNooyer, Astrup, Peters, McCormick, and Leininger voting in favor.

**PUBLIC HEARINGS:**

Application:

Nouvelle, LLC

Appl. #21-726

367 Bloomfield Ave (Rt 46W)

Blk. 9, Lot 3

Use, Front Yard Setback

R-1 zone

Matthew Capizzi, the attorney for the applicant, Nouvelle, LLC, explained Block 9 lot 3 was currently an empty lot. The original house was taken down a long time ago, but a small outbuilding remains. They hope to build apartments for 4 disabled veterans and their families. The entire building project will be funded by the National Housing Trust Fund (NHTF). They need a use variance because the structure will have 4 dwellings units and our Ordinances only permit one on a residential lot. They also need a C-1 variance for the trash area located in the front yard. The use is inherently beneficial. The plans submitted call for

four two-bedroom units. Current market demand shows there are more requests for one-bedroom units. They are considering a mix of 2 one bedroom and 2 two bedrooms units. Ken Dykstra, of Dykstra Walker, would serve as the applicant's Engineer and Planner. He is licensed in the state of NJ to do both. Mr. Dykstra referenced exhibit A-1 a colorized site plan over an arial image of the property dated 3/3/22. The lot on Route 46W is 50,885sqft where 10,000sqft. is required. The back of the lot has a small wetland area which continues into a borough lot. The proposed building is 72' x 36' and 2 stories tall with a small attic. The parking is in front of the building located north of the Fox Hill Road intersection. There are 12 spaces including one handicap space where only 8 spaces are required. A 10' x 14' 6ft high landscaped screened trash enclosure is in the front yard. The building sidewalk connects to the Fox Hill intersection. There will be a minimal amount of lot disturbance. Stormwater Management requirements state they must use permeable paver parking spaces so there will be no increase in the runoff rates but rather less. The drainage pattern after development will be the same. The existing detached garage will be removed. The tree removal plan is included on the Soil Erosion Plan. They propose a landscape buffer along both property lines. Five 15ft tall light poles are planned, three across the front of the building and two adjacent to the parking lot. The light spillage will not exceed what is there now because the fixtures will point down and there will be landscape buffers. There will be low level lighting for the sidewalk. There are 4 extra parking spaces since they have no on street parking. There are two conservation easements proposed cross the back of the property. They will run the utilities out to Rainbow Tr. between the two easements. The gas and water line are located on Rainbow, the sewer line is located on Rt 46.

Mr. Dykstra reviewed the bulk requirements. The required frontage is 100ft and they have 207ft. The required lot depth is 100ft and they have 302ft. They have a required average front yard setback of 30ft, and they are at 35.5ft with the building set at 91ft. A side setback of 10ft is required and they have 39ft on the right side and 40ft on the left side. There is a combined side yard setback of 79ft where 30ft is required. The required rear setback is 15ft and they have 141ft to the building. The allowable building height is 35ft and 2 ½ stories. The front of the building is 31.5ft and 2 stories, the non-street facing side is 31.7ft. They are allowed an FAR of 20% and they are using 11%. The permitted ILC is 25% and they are proposing 23%. In their landscape plan the following species are proposed, 5 maple trees, 2 dogwoods, 6ft tall blue spruce and white pine evergreens. They plan to have a landscape screen around the trash area so it will not be visible by the neighbors to the left. The trash area is 40ft back from the right of way. Locating it behind the building would be a problem. If they did it would be closer to the neighbors, make it difficult for the contractor to pick up and require more impervious coverage.

Mr. Murphy asked Bill Ryden if he had any questions for the applicant's engineer. Mr. Ryden requested they provide information on the lighting foot candles in the parking area. He also wanted them to provide the location of the sidewalk lighting. Mr. Ryden referenced his review letter dated December 23, 2021. He asked that item 9 (LOI), 10 (recycling plan), 11 (NJDOT driveway access) and 12 (unit addresses) be a condition of approval. He needed detailed information on the mailboxes as noted in item 13 and confirmed the units would be rental apartments. The Borough will need to accept the easements (item 15), soil moving calculations (item 17) must be provided and road opening permits must be obtained (item 18). They will need to provide Mr. Ryden with the water connection details (item 20) and the sewer calculations (item 21). They will need to follow the RSI standards and the fire

hydrant location must be determined. Matthew Capizzi said they were willing to have all those items as conditions of approval.

Paul Phillips, the Borough Planner, felt items 2 and 3 in his letter dated February 17, 2022, were covered in Mr. Dykstra's testimony. Items 4 & 5 referenced veterans housing. Mr. Phillips said rental housing for disabled vets would be supportive housing, so they do not have to meet the Uniform Housing Affordability Control (UHAC). Item #6 (emergency generators) and #8 (lighting) should be addresses by the applicant.

Jack Szczepanski, the Borough Environmental Engineer, noted the property originally had a house on it, was there an underground oil tank? The applicant did an underground scan for tanks and found none. They have not done any soil testing for contaminates. Mr.

Szczepanski asked the applicant provide items required in the Borough Ordinances not found in their EIR report. Those items were listed in 1a -f. of his review letter February 17, 2022. As for Stormwater Management, he was particularly concerned about the lack of soil testing done in the detention basin and under the permeable pavers. They also need Operation and Maintenance Manuals for the Stormwater Management Plan. All items listed in his letter could be conditions of approval.

James Murphy asked would he expect a phase one environmental done on this site? J.

Szczepanski answered we would prefer that be done but it is not required. Kelly McCormick asked if the site was fenced, she was concerned about dumping on the empty lot. Matthew Capizzi responded a phase one would only show spills. Mr. Sullivan asked if the National Housing Trust Fund require a phase 1? Mr. Capizzi answered they do not. Mr. Szczepanski responded he would want the possible soil contamination data to be shared. Mrs.

McCormick asked when the Geotec borings were done? They were done in June of 2021.

Don't they need to be done January – April? Mr. Szczepanski confirmed that was the window. Are the wetlands on the property connected to anything? Ken Dykstra answered yes, they are connected to the Great Bay. Mrs. McCormick asked if a vernal habitat survey was done as part of the wetland delineation? The applicant did not do a survey. They are waiting approval of the wetland delineation from the DEP. She said if they find the habitat supported certain animals the buffer will go to 150ft. Mr. Szczepanski said the wetland delineation would not provide the answer, but a Natural Heritage Report would. Matthew Capizzi responded more than 50% of the lot would remain untouched, the new construction is close to highway and the lot has already been disturbed. In addition, the area around the lot is fully developed and sits along Route 46. He couldn't commit to all the requests from the Borough Environmental Engineer. Chairmen Murphy asked which points of the report were an issue for the applicant.

James Murphy asked if other Board members have any questions concerning the testimony.

Kelly McCormick asked why there was only one handicap space? Matthew Capizzi answered the disabilities can vary and are not always physical. Mark Caputo asked if there was an assurance the building would always be used for disabled vets. Mr. Sullivan said the resolution would be written to limit the use. Matthew Capizzi said the NHTF requires a deed restriction for 30 years. Mr. Caputo commented he has some reservations about the continued use. The state does not always consult a municipality when changing something like this to a group home. He also asked why the parking was not in the back of the building. The applicant wanted to move the building away from the highway to reduce the potential coverage. Mr. Murphy asked what size of the boxwoods along Rt 46 were. They would be 2 1/2ft tall and planted across the parking area. Meghan Leininger asked why the

driveway was a combined exit and entry. Ken Dykstra replied, a curbed center island is the standard DOT exit for this type of project. Stephen Vecchione asked how far off the road the boxwoods were? They are setback 20ft. Mark Caputo questioned the notification of the neighbors. The Board Administrator said all the notice requirements have been met. Mrs. Leininger asked about the makeup of the tenants. Will there be children playing? Is there fencing to keep them out of the detention basin? Could they move the garbage to the left so it's less visible? Mark Caputo noted the trash area was closer to the neighbors than the residents. Could they be required to have curb side pickup like the rest of the town. Matthew Capizzi said the two bedrooms units could have children. Ken Dykstra said the basin behind the building was at the most 3ft deep and would be dry most of the time. They have no plans to fence it. M. Sullivan asked who would be responsible for the inspections and maintenance of the basin. The parties will be identified in the O & M manual. Would they be willing to add an Electric Charging Station? This building is exempt because it's less than 5 units. They were willing to add the infrastructure for one space so it could be added later. Ryan Astrup asked if the five 15ft light poles could be changed to something less commercial looking. They could use a decorative fixture that would give off 1ft candle from an LED bulb. Could you use more fixtures that were not as tall? Ken Dykstra answered they could go to 12ft tall and 6 units. Jake DeNooyer asked about the Shade Tree Letter dated 11/15/21. The shade tree locations were provided by the applicant and a Tree Management Plan will need to be submitted. Meghan Leininger asked if they would consider adding a sidewalk along Rt 46. Matthew Capizzi said they will need to investigate adding a sidewalk along Rt 46.

The chair asked if there were any questions from the public. Mimi Kaplan, of 89 Lake Drive, asked if the applicant could have 10 rather than 12 parking spaces. Ken Dykstra repeated there was no on street parking and the paved area is 23ft from the side property line and the turnaround area is 15ft where 10ft is required. The Chair closed the public comment period.

Brittany Klimm, a licensed architect in the state of NJ, presented the building plans. She presented exhibit A-2, dated 3/3/22. Sheet 2.0 showed the bedroom number modifications previously mentioned. She also had exhibit A-3 dated 3/1/22 showing the building material samples and the front elevation of the building. Lastly, she presented exhibit A-4 a front elevation of a similar building they are constructing at 511 Ringwood Ave, in Wanaque, NJ. The building is designed to look like a single-family 2 story residence. The siding will be vinyl, with a brick or stone veneer and an asphalt shingle roof. There will be a ramp in front and stairs with a covered overhang. Each unit is 977sq ft. and the building is sprinklered. The units on the 1<sup>st</sup> floor are handicap adaptable. All the units have a washer and dryer. The attic has pull downstairs for the mechanicals. Below ground the building is ½ basement and ½ crawl space. There will be some storage for tenants and the utilities. The mailboxes will be located on the front of the building and packages will be left at the front door.

Mr. Murphy asked if there were any questions from the Board. Mark Caputo asked if these were the only properties built like this. Matthew Capizzi answered they have numerous similar properties thorough out the state. J. Murphy preferred the stone veneer and craftsmen style post option more like homes in Mt. Lakes. Ann Peters agreed with Mr. Murphy. M. Leininger preferred stucco siding like Hapgood homes. Would there be a handrail for the ramp and an elevator? Brittany Klimm answered they will have a handrail but have found an elevator unnecessary in this size building. Paul Phillips was satisfied they

have shown the building materials and the attic space he requested. He confirmed the stone veneer base was on all sides of the building and the shutters were only in the front.

No one from the public wished to ask questions of this witness.

Matthew Capizzi did a recap of those items the Board wished the applicant would consider.

They were to move trash refuse closer to the building, adjust the landscaping, reduce the parking spaces, and change the proposed lighting. He felt they could work those items out with the Board professionals. If not, they could change the plans and come back next month to continue the testimony. Mr. Caputo did not like the parking he felt it too commercial.

Jake DeNooyer said moving the parking to the back would create more coverage and there was no on street parking. If the parking was in the back, there would be no backyard. Mr.

Caputo did not want less parking but maybe to have it reconfigured. Luciano Bruni

responded the building and parking location were determined by the site constraints (wetland, the topography, buffers, detention basin). Steve Vecchione thought the project had validity and he was fine with the additional parking. J. Murphy agreed. He was fine with the location of dumpster. He was concerned with the time of the trash pickup and the height of the lighting and the Environmental Engineers' comments. Mr. Caputo thought the residents could do cans in the enclosure and participate in the town's garbage collection program.

Annie Peter asked about animals getting in the enclosure. Bill Ryden recommended a common dumpster; all our affordable housing units have dumpsters.

At 10:24pm the Board took a 5-minute break returning at 10:30pm.

Mr. Capizzi spoke to the applicant during the break. They were willing to make Mr.

Szczepanski letter a condition of the approval with two exceptions. Item 1.6, to provide a Preliminary Environmental Assessment, J. Szczepanski was willing to make that

concession, and item 3.1 to do additional soil borings under the permeable pavement and in the basin at 536.75. Mr. Szczepanski could not agree to their request. Mr. Capizzi requested the condition be added to the resolution allowing for flexibility in the bedroom makeup in order to respond to the funding and market demand.

Ken Dykstra, as the Planner, stated the building was 100% affordable housing for the disabled. This use is an inherently beneficial use and serves the public good and promotes the general welfare. The detriment would be the 4-unit building not allowed in the R-1 zone.

They have constructed the building to look like a single-family home and still be a residential use. Route 46 is not the best place for a single-family home. A better use would

be a commercial one. They have extra large setbacks which help to outweigh any negatives. They plan on lowering the lighting and moving the trash enclosure. Even though the

building is large they still have amply light and air. The lot is 5x the area of a single-family lot and the units help with your affordable housing requirement. An affordable unit is being

provided without the usual 4 to 5 market rate units. The trash enclosure is 40ft from right of way. Moving it back would require move coverage and make it difficult to get to. Ryan

Astrup was still concerned about the lighting looking commercial. Bill Ryden explained they must use poles otherwise they can't cover the parking lot. He thought one more fixture

at a lower height and more decorative fixtures should work.

James Murphy asked if anyone from the public wished to ask questions or make a comment on the application. No one from the public wished to speak.

Before deliberations began Mr. Sullivan listed the possible conditions he had complied. It

included the following: They were applying for a Use variance for 4 dwelling units and a front yard setback variance for the trash enclosure. They would like the flexibility to build 4

two-bedroom units or 2 two-bedroom units and 2 one-bedroom units. They need to provide a Street Tree Management Plan for approval. The Conservation Easement must be adopted by the Borough Council and reviewed by town engineer and board attorney. They have agreed to make items 9 -13 and 15 -21 of Bill Ryden's, December 23, 2021, letter conditions of approval. They agree to make item 6 and 11 of Paul Phillip's, February 17, 2022, letter conditions of approval. They agree to have all items in Jack Szczepanski's, February 17, 2022, letter except for item 1.6 and 3.1 a condition of approval. Item 3.1 would require two additional borings, one under the pavers and one in the basin at the elevation of 536.75. They will create a 30-year deed restriction stating the property will be for veteran's housing. They will work with the Borough professionals to enhance the landscaping. They will provide a make ready parking space for an EV charging station. They will change the lighting poles to decorative fixtures and reduce the height of poles to 12ft which may require one more pole. They will work with the Borough officials to try to relocate the trash receptacles closer to the building. James Murphy liked the use of the site and supported the application with the list of conditions recited by Mr. Sullivan. Jake DeNooyer felt good about the use but did not think they need to do the borings. Mark Caputo thought this a noble cause but was aware of other municipalities having problems with projects like this turning into for profit group homes licensed by the DCA. Stephen Vecchione asked what the cost of the borings would be? Ken Dykstra said it could run \$2500 per hole. Kelly McCormick said the applicant should be required to post maintenance bonds for the landscaping. The evergreens should be maintained in perpetuity.

Jake DeNooyer made a motion to approve the application with list of conditions recited except for the borings requested in item 3.1 of Mr. Szczepanski letter. Steve Vecchione asked what purpose the borings served. Kelly McCormick answered the extra boring would just support the findings in their Stormwater Management Report. Jack Szczepanski felt there was missing data for these areas of the site. Steve Vecchione provided the second. The Board voted 6 -1 to approve the application with the listed conditions and not doing the extra borings. Members Murphy, DeNooyer, Peters, McCormick, Vecchione, and Paddock voted in favor and Caputo voting against.

**Other Matters / Public Comment:**

2021 Annual Report – The Administrator will try to have this for the Board next month.

Public Comment – No one wished to speak during the public comment period.

Stephen Vecchione made a motion to adjourn the meeting and Annie Peters provided the second. The meeting was adjourned at 11:13PM.

Respectfully submitted,

Cynthia Shaw