

**MINUTES OF A SPECIAL MEETING  
ZONING BOARD OF ADJUSTMENT OF  
THE BOROUGH OF MOUNTAIN LAKES  
March 5, 2020**

Chair Chris Richter called the meeting to order and announced: Adequate notice of this special meeting has been provided in accordance with the Open Public Meetings Act by emailing the special meeting notice to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on February 10, 2020 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:32PM

**ROLL CALL:**

Present: Max, Richter, Murphy, Peters, DeNooyer, Paddock and McCormick  
Absent: Vecchione and Caputo  
Also, Present: Attorney Michael Sullivan

**REVIEW OF MINUTES:** Jake DeNooyer made a motion to approve the minutes from the February 6<sup>th</sup> meeting. Brett Paddock provided the second; the minutes were approved by voice vote by all eligible members present.

**RESOLUTION:**

John Maione

Appl. #20-705

A motion was made by Ann Peters to adopt the resolution of approval and a second was provided by Arthur Max. The resolution was passed by a vote of 4 – 0 with members Richter, Max, Peters and McCormick voting in favor.

**EXTENSION OF TIME:**

Cynthia and Stephen Shaw

Appl. #18-687

Stephen and Cynthia Shaw asked the Board to extend their resolution of approval for an additional year to finish their outdoor project. A motion was made by James Murphy to grant an extension of time of one year. Jake DeNooyer provided the second and the motion was moved by voice vote of all members present.

**PUBLIC HEARINGS:**

New Application:

Scott and Vicki Allison

Appl. #20-707

24 Raynold Road

Blk 113, Lot 7

Side, Improved Lot Coverage

R-A Zone

Scott and Vicki Allison, of 24 Raynold Road, presented their own application. They wanted to expand their kitchen and open it into the dining room. The house was built in the fifties when the side setback was 20ft; currently 25ft is required. This is a preexisting non-conforming condition. They also need an ILC variance. The required lot coverage allowed is 25% and they are currently at 25.41%. They plan to remove 39sqft of blacktop

from their driveway, but their coverage is still over. Chris Richter asked if there was any other place, they could remove coverage to get the percentage down. Scott Allison did not think so. Mr. Richter asked about removing the back walkway. The Construction Department suggested the deck off the new kitchen addition be brought into the setback compliance. Chris Richter was ok with the deck aligning with the existing house as was the rest of the Board.

The Chair asked if anyone from the public wished to ask questions or make comments. Bob Messick, of 20 Raynold Road, who lives to the left of the Allison's was in support of the application.

Jake DeNooyer made a motion to approve the application as presented. A second was provided by Ann Peters. The Board voted 7 to 0 to approve the application with members Max, Richter, Murphy, Peters, DeNooyer, Paddock and McCormick voting in favor.

Lina Shihabuddin	Appl. #20-706
34 West Shore Road	Blk 31, Lot 80.02
Far, Lake front Exception, Side	R-AA Zone

This was the continuation of the 34 West Shore Road application started on February 6<sup>th</sup>. Nick Salerno, the architect, Lina Shihabuddin, the homeowner and Ron Zemel, the builder, were sworn in at the last meeting.

Lina Shihabuddin said they had made some changes to the original presentation. They were now taking down the old garage rather than renovating it and adding a second story. They were moving the pool to the side of the house instead of putting it in the back. Chris Richter confirmed they were not including the pool in the ILC calculations. If needed the applicant would make a separate variance application for the pool when they were ready to build it. The outdoor kitchen was included in the 17% ILC where 20% was allowed. Sheet 2 of 3, dated 2/19/20, already submitted became exhibit A-5, because a red line was drawn over the lake front exception line. Since they were demolishing the garage, they no longer need a side setback variance.

Chris Richter asked if there were any modifications to the house. Ron Zemel said they have added a basement, but it does not need to be counted in the FAR since it was not exposed. The FAR was reduced to 16.7% and 13% was allowed. They still need a lakefront exception variance because the line fell in front of the house. Exhibit A-6 consisted of 5 photos. One of the Shihabuddin house and four of the neighbors' homes viewed from the applicant's backyard. The photos also showed the screening along the property line. They are moving the house back toward the road 10 to 12ft improving the lakefront exception line. The original lakefront setback was 74ft to the house and the new lakefront setback would now be 82ft to the house. James Murphy asked what the ILC was for outdoor kitchen? The applicant said it was 350sqft. Mr. Murphy pointed out it was really 430sqft. He then asked what the lakefront setback was to the deck. It was 74ft to the edge of the deck.

The Board found numerous errors on the site plan. Mr. Richter suggested they focus on the house. If the applicant removed the bathroom in the pool house, they would remove 48sqft making the FAR 16.6%. Nick Salerno said the house was mostly unseen in the front because the property drops down from the road. Exhibit A-7 was a survey that included the property's topography. The West Shore Road elevation was between 110 to 114 and the finished 1<sup>st</sup> floor of the house was at 106. The property was in a hole. You would see the second floor from the road. Mr. Richter confirmed the house would be 5ft below street

grade. Ron Zemel said from the lake side this house will appear smaller than other homes on the lake. We will only be two stories while the other homes are 3 stories. Mr. Richter asked for planning arguments to support their application. Nick Salerno said the house is setback 130ft from the road and will match the character of the other houses on the street. Ann Peters commented they had removed all the foliage on the property so the neighbors will see their house. Mr. Zemel said they took trees down that were diseased or hung over the house under the direction of the construction department.

Mr. Zemel said they were asking for an 8000sqft house (without the volume space in the center section). Mr. Richter replied that was hard for the Board to approve. Mr. Zemel added they were approximately 105ft from each of their neighbors to the right and left (house to house). James Murphy asked the applicant to explain their FAR calculations. Ron Zemel responded the current house was a split level which makes it difficult to represent on the FAR calculation sheet. He walked the Board through the FAR calculation sheet to explain how each level was represented on the form. Jake DeNooyer questioned the footprint of the old and new dwelling. He asked, by squaring off the house how much of the new dwelling would block the neighbors view of the lake. Mr. Salerno said they are extending the house an additional 6ft into their view.

Chris Richter commented by right you are entitled to have a 7200sqft house on your lot. Ms. Shihbuddin was asking for a 9200sqft house. He was having trouble approving a house of that size. The applicant had not taken advantage of our Zoning Ordinances. They needed to shrink the footprint to get closer to the 13%. Had they looked at a 13% FAR house? Lina Shihbuddin wanted a square house. Ron Zemel said the volume space hurts their FAR calculation.

Chris Richter said the applicant had not met the burden of proof for planning and zoning. The Board could approve the lake front setback variance and remove the FAR variance request. By doing this they would leave tonight with the lake front setback line determined and they could redesign a house that met the FAR. They need to maintain the angle of the existing setback line. The pre-existing orientation of the house would need to stay the same. The deck would be located at 74ft and house at would be at 82ft.

The Chair asked for Board comments on his suggestion. Brett Paddock thought the idea a fair compromise and Ann Peters agreed. Jim Murphy wanted the site plans updated. The applicant spoke with her professionals and decided to withdraw the request for a FAR variance.

Chris Richter made a motion to approve the Lake Front Exception line at 82ft to house and 74ft to deck as a minimum. The structure would maintain the north/south orientation of the existing structure. Mrs. McCormick added the applicant was required to obtain all the necessary DEP approvals. A second was provided by Brett Paddock. The Board voted 6 to 1 to approve the motion with members Richter, Murphy, Peters, DeNooyer, Paddock and McCormick voting in favor and Max voting against.

**Other Matters / Public Comment:**

No one from the public was present for public comment.

James Murphy made a motion to adjourn the meeting and Brett Paddock provided the second. The meeting was adjourned at 9:22PM.

Respectfully submitted,

Cynthia Shaw