

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

May 25, 2017

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 12, 2017: Adequate notice of this meeting was given to the Citizen and the Daily Record, posted with the Borough Clerk and on the Bulletin Board and made available to all those requesting individual notice and paying the required fee.

Start: 7:05PM

ROLL CALL:

Members Present: Kane, Nachshen, Holmberg, Dagger, Shepherd, Russo and Sheola

Absent: DeVenezia, Mirsky, Horan and DuTertre

Also Present: Attorney Peter Henry, Engineer Bill Ryden, Environmental Engineer Stephen Sousa and Kate Keller Planner

PUBLIC COMMENT: Ellen Emr, property owner of 19 Sherwood Rd was concerned with the conditions at the hearing held in the high school last month. She was especially troubled by the existing microphone system and hearing participants not using them properly. She was also concerned with the quality of the meeting recordings and the ability to listen to them.

REVIEW OF MINUTES: Tom Dagger made a motion to approve the minutes of the April 27th meeting and Peter Holmberg provided the second. The minutes were approved by a voice vote of all eligible members.

RESOLUTIONS: none

PUBLIC HEARING:

Carried Application:

Kings, Mountain Lakes, LLC
145 Route 46
Major Subdivision, Major Site Plan
Sign Variance

App. #16-261
Blk. 116, Lot: 3.01
Zones OL-2 & R-AH2

Peter Wolfson said the applicant would start by calling back their Engineer, Marc Walker. Dykstra Walker made an additional submission, exhibit A-11, a colorized version of a sidewalk and fencing plan dated 5/10/17 and already submitted. They were adding sidewalks on the entry road and along both sides of Albie Dr. and Lakeland Ct. They also added crosswalks in front of the guest parking. Sheet 2, already submitted, showed the safety fencing/barrier needed by code if there is a drop of 30" or more. A guard rail on Albie Dr. would be installed to handle the drop off on the entry road. Buildings 2, 3 and 8 will have fencing behind them. David Shepherd asked if they meet all the ILC requirements with these additions. Marc Walker answered yes they did and they also met the stormwater management requirements. The sidewalks would be cement and the color of the fencing would be black. Bethany Russo asked what the jogs in the sidewalk were for; they go around the storm drains. She asked what material would be

used to build the retaining walls. Marc Walker responded the ones along the back of the buildings would be a rubble stone. Corey Nachshen asked how they would attach the fencing. It will be placing in a cement footing.

Martin Kane opened the meeting to the public for questioning of the witness. Jim Hyson, of 2 Littlewood Ct., confirmed the entry road was still 24 ft. wide. Penny Leman, of 32 Sherwood Dr., asked why the proposed fence and retaining wall were needed. Mr. Walker answered because there is a 30" drop. Rob Simon, the attorney for the Concerned Citizens of Mountain Lakes, asked why the sidewalk stopped at every driveway and did the design meet the RSIS standards. Marc Walker replied I think we have met them but will have to confirm. Mr. Simon continued, Why not put the sidewalk through the driveways. Are they then on the owner's property? M. Walker said he did not think so. The common areas had not been determined yet but would be before they filed with the county. Mr. Simon questioned the maintenance of the sidewalks. Marc Walker said one of the beauties of being part of a townhome community is that the association with handle all the snow removal. Peter Wolfson interjected, we understand that Mr. Simon is interested in making the sidewalk a continuous circuit and we will consider that when drafting the association documents. Rob Simon asked how they would reach the stormwater management system for maintenance. They would walk down to it to do the small repairs. If there was a need for large machinery they would create a ramp down the retaining walls. Peter Holmberg asked if they could gain access from the office park. Yes they could but it would be highly unlikely. They could bring equipment down between buildings 2 and 3 over plywood. Mr. Simon inquired where the right of way was on this parcel. Mr. Walker replied it was not needed because this was a site plan. Mr. Simon disagreed, it was also a subdivision which is subject to RSIS. Mr. Walker said Albie Dr. and Lakeland Ct. are going to be consider private driveways. They have one lot and the association will maintain everything. They have a subdivision to create the lot and have a site plan to create the project. Rob Simon read from the RSIS relating to the requirements for the right of way for every type of roadway possible. Marc Walker responded the public right of way ended at the property line. Tom Dagger confirmed sidewalks were required by the RSIS but what about the waiver? Peter Wolfson said they no longer needed the waiver requested because they were providing the sidewalks. Mr. Dagger thought you would be less likely to park in the driveway over the sidewalk if it were a continuous loop. Peter Holmberg added this happens in all parts of town now. Penny Leman, of 32 Sherwood Dr., still did not understand the difference between the proposed guide rail vs a safety fence. Marc Walker explained the difference. Mrs. Leman asked him to explain the stone pathway along the entrance road. Mr. Walker responded it was the access path for the filtration basin. She requested they add a gate at the top of the path to control access. Stephen Souza asked for a revised stormwater report that included the sidewalks.

Mark Gimigliano, the applicant's Environmental Engineer, was back to answer some follow up questions the Board posed. He had provided a letter, dated May 12, 2017, stating they had spent a total of 43 hours on the property over the course of their work. They had done the mounding analysis requested by Dr. Souza. After Dr. Souza's review of the analysis he had questioned the actual storm event they were modeling. The analysis represented more than the amount of water that would result in a 100 year storm. Since the last hearing they were also in receipt of the Shade Tree Commission's letter of

May 17, 2017. They were willing to provide a new landscape plan revised to eliminate the invasive species. In their letter they also requested the applicant identify trees over 8" in diameter in the conservation easement found along Sherwood Dr. and that they be protected during construction. They were willing to provide snow and tree protection along the right of way and would post a bond for three years for tree replacements.

Chairman Kane opened the meeting to the public. Rob Simon noted there had been soil testing done by three different companies for this development. He confirmed the reports from Johnston Soils and Frank H. Lear Associates had been reviewed by Mark Gimigliano. Mr. Simon asked Mr. Gimigliano if he had reviewed the Spruce Edge conservation easement and he had not. Rob Simon requested the applicant, for all the areas of the site that were not being disturbed, consider making those areas a conservation easement. Peter Wolfson responded he would ask his clients. Mr. Simon stated the number of trees over 8" located by the applicant in the area of disturbance were approximately 480 and about 75 of that number would be saved. Did they identify tree under 8"; no they did not. Trees will be removed within the area of disturbance and some trees will be saved in areas they do not excavate. It was the applicants hope to save the 75 trees but there is no guarantee. They will protect the root systems to the best of their ability. Mr. Simon asked what the plan was to replace the trees if they couldn't be saved. If lost the trees in the Spruce Edge conservation easement will be replaced using the three year bond. On the actual site, any 16" tree that was lost in the area of disturbance will be replaced but not with a tree 16" in diameter. Mark Gimigliano added some of the trees in that area, due to the size, cannot be protected during construction and they have the right to take those trees down because they are in the area of disturbance. Tom Dagger clarified if there was a 24" tree and they can only protect 12" they will try to do so. In addition to the 75 trees in the area of disturbance there are other trees on the site that will be saved. Mr. Simon asked what about the trees along the Spruce Edge property. They are not disturbing the area within 20 to 30 ft. of their property.

Rob Simon inquired how Mr. Gimigliano determine the direction of the groundwater flows. Mark Gimigliano responded they looked at the current topography maps of the area. Groundwater was found 24 ft. under the site and no groundwater was found in the test pits. Did Mr. Gimigliano know the groundwater elevation at Spruce Edge and the Business Park; no they did not. Johnson Soils graded the soils "well graded sandy soils with no silt and clay". The Morris County Soil Survey maps show the soils as "Rockaway sandy loam soils". Mr. Simon continued the Lear Associates report agreed with the Johnson report but both reports did not agree with the Morris County soil survey. Mr. Gimigliano confirmed the holes tested by both firms were not the same site holes but were in the same general vicinity.

Peter Holmberg challenged the need to have this line of questioning on the soils. Rob Simon responded he wanted to challenge the stormwater management plan. Dr. Souza responded the county survey gives you a general idea what the typical type of soils would be in the area. Then you do additional tests on the property to confirm the actual soils on the site. Martin Kane added we have asked our professional Environmental Engineer to review their work which he has found acceptable so please sum up what you are asking of the witness or move on to the next topic. Corey Nachshen, an Environmental Engineer, concurred we are looking at the site specific data verses the county records. I do not understand where you are going with this. Rob Simon responded he intended to challenge

the adequacy of the stormwater management plan and was trying to make a record. He requested he be allowed to cross examine this witness later. Mr. Nachshen answered we do not see your point and what kind of record you want to make. Mr. Kane agreed, we think it is better to hear from your expert on the subject as to what might be wrong with the result of the applicant's stormwater management plan. Peter Henry did not think it was a good idea to cross examine the witness later. Peter Wolfson agreed and thought the cross examination should happen now in a more focused manor.

Mr. Simon changed the direction of his questioning. In the EIS the applicant states the seasonal high water table can be at varying depths. How many soil test pits were done and their depth? They did 10 to 12 holes about 10 ft. deep. M. Gimigliano confirmed the seasonal high water table could be 17 ft. and he did not know the depth of the water table on the neighboring property. Martin Kane asked since these tests were done during the draught would they see a higher water table if they were done now. Mark Gimigliano answered since groundwater was found down 24 ft. there would be no way it would reach the basement level of these properties. Mr. Simon confirmed only 5.8 acres were being disturbed and the mounding evaluation was only done on this site. He asked why so much water was being recharged. Mark Gimigliano explained for many years there have been problems with the recharge of groundwater in New Jersey so standards have been developed to control this. Since the site has great soils here they are recharging more water than required. Rob Simon asked if they had evaluated the effect of the failed system on the Mt. Lakes Business Park. Mr. Gimigliano responded that was why they designed the system with oversized basins. They followed the failure analysis procedure as per the soil erosion standards. Stormwater will be absorbed when it hits the basins but they designed the system as if no water was absorbed into the system. The basins would fill with water and then drain. If it fails completely the system will still work as designed. Mr. Simon asked about the flood hazard permit and its mentioning of the Indiana bat. Mark Gimigliano replied a permit was granted with a restriction on clearing between April 1st and November 15th to protect the potential roosting of the Indiana bat. Mr. Simon also inquired if the applicant had hired anyone to monitor the site to see if it was being used by the Bart owl; they had not.

Sandy Batty, of 15 Lockley Ct., asked a follow up question for the Shade Tree Commission. In their May 17th letter they requested the applicant will do an inventory of the trees over 8" in Spruce Edge conservation area. M. Gimigliano replied they don't need to do an inventory of trees that will be there when they are done working but they would fence off those trees during construction.

Joseph Staigar, the Traffic Engineer for the applicant was sworn in. He reviewed the highlights of his original report and the revisions found in his June 24, 2016 letter. They had done an analysis of the existing conditions to determine any traffic impact the additional development might have. They did their study in May of 2016 and found the existing traffic pattern during peak hours was 7 – 9AM and 4 – 6:30PM at the corner of Intervale Rd and Sherwood Dr. There are 115 units now and there is only one way in and one way out. We determined the usage by those units and did an analysis to determine the 40 new units would generate an additional 29 trips in morning and 20 trips in the evening. Since traffic patterns do not remain stagnate they looked at the NJDOT historical growth rates to analysis the intersection of Sherwood Dr. and Interval Rd. in the future. The intersection currently has an A-B rating and with the additional units they will

still have an A-B rating. Thus the site will not create any great impact.

Next Mr. Staigar discussed the parking issues. He felt there was more than sufficient parking. They are required to have 94 spaces and they have 149 spaces. Even though each unit has 4 space the RSIS counts them as 3.5 spaces. The roadway widths are to the RSIS standards. A minimum of 20 ft. is required for two way traffic and they have 24 ft. The June 13, 2016 and September 16, 2016 letters from Gary Dean of Dolan & Dean asked Mr. Staigar to address certain site plans questions. Mr. Dean was concerned with the site distances of the two mailbox pads and the use of two different types of parking space configurations for on street parking. They did an evaluation of other locations for the parking and determined if they made any changes it would result in additional ILC. He did not see any safety concerns with a mix of parallel and head on parking plus the RSIS does not disallow this type of configuration. The site triangles are in conformance with RSIS at the primary intersection of Lakeland and Albie Drive. The curvature of the road will slow people down. But they decided to change the intersection to a two way stop. Lastly Mr. Dean suggested narrowing the parkway width to 24 ft. but Mr. Staigar said this was not possible. They need to provide parking for guests so they needed a 28 ft. wide road. Sidewalks have now been incorporated.

Mr. Kane asked Gary Dean, the Board's Traffic Engineer, if he had any additional questions for the witness. Mr. Dean said he had reviewed Mr. Staigar's findings and found them to be based on 10 year old data. He asked the applicant for updated projections on the potential traffic impact. That was done and as the Board has heard the traffic impact would be deminimis on the area. Mr. Dean wished to question Mr. Staigar about the on street parking. He ask him to explain the aisle width needed to back out of the pocket parking space. Mr. Staigar answered the minimum width is 24 ft. What is the required width of the parking lane for the on street spaces; it was 21 ft. Mr. Staigar added the width of the driveways in the development were 26 ft. If you have an 18 ft. long car parked 2 to 3 ft. from the garage door you would still have 5 to 6 ft. of driveway. So to back out you have 21 ft. of space in the road plus 5 ft. in the driveway. Martin Kane questioned, you have the footage but does that meet RSIS? Gary Dean responded he didn't disagree with the practical analysis but he was not sure if it was legal. He requested they plan for pocket parking rather than parallel parking. Joseph Staigar said they could reduce the width of the road to 24 ft. and do pocket parking. The ILC should remain about the same.

Gary Dean continued, earlier they had discussed the sidewalks running through the driveways. He asked what Mr. Staigar thought about using a driveway apron. The driveway becomes part of the walkway which is a typical design. Bethany Russo repeated parallel parking requires a 28 ft. road for Albie Dr. so why is Lakeland Ct. 28 ft. wide. Marc Walker responded the roads in Legacy are 24 ft. wide and are very tight. We made the roadways 28 ft. to create a more open feeling. Gary Dean asked Mr. Staigar if stop signs were traffic calming tools. He replied it was the safest means to cause the driver to slow down even if they don't stop completely. Peter Holmberg was worried the stop signs would not be used. Did they consider adding speed bumps? Road typically are not designed with them they are usually added later if there is a traffic issue. Mr. Holmberg was still concerned about Lakeland Ct. only being 298 ft. long. If it was 300 ft. long the RSIS would require a cul de sac. Mr. Dean answered this is more than the required road width and it was developed with fire safety standards in mind. You want access to get in

but there should be plenty of personnel there to help them back out. It is hard to require something the RSIS does not require.

David Shepherd asked about adding a third stop sign at the end of Albie and Lakeland. Joe Staigar liked that idea. Peter Wolfson added they could also add as a condition of the resolution that no plantings be added at that corners to control the site lines. Gary Dean thought they should narrow the road rather than add a third stop sign or speed bumps. Mr. Staigar did not think there was a propensity for speeding in the development. Mark Walker thought the parking and road width acceptable. The only place to do the guest pocket parking would be at the end of Albie Dr. which was far away from the townhomes. They will not get used. Gary Dean had an additional comment. There is requirement in RSIS, 521-4.5E, which states how sidewalks cannot be behind parking spaces. He suggested the applicants review their design to meet this criteria.

Chairman Kane opened the meeting to the public. Linda Hyson, of 2 Littlewood Court, asked if the attorney's would be putting something in the final documents to make sure the roads remained private and were never turned over to the town like they did in Spruce Edge. She asked if the traffic analysis took into account the construction trucks and where they would be parking. Mr. Staigar answered the parking will happen on the property and would all be worked out with the town officials. Trucks will be coming in and out at different times so they will not see a high volume of traffic at any one time. Mrs. Hyson was also concerned there was no secondary emergency access. Sandy Batty, of 15 Lockley Court, said this was a private road so how could the town require speed bumps. It could be made a condition of the resolution. A fire occurred on Lockley Ct. and several trucks plus the cars of the volunteers were at the scene. Rich Sheola explained the policies of the current volunteer fire department and their arrival at the scene. Jim Hyson, of 2 Littlewood Ct., said the town does not allow overnight parking on the street during the winter. The contractor they hire to plow will not want the cars on the private road. Will buses and moving trucks fit? Mr. Staigar responded they would fit. He concluded by asking if there was a legal reason they couldn't add a cul de sac at the end of a street; no there was not.

Corey Nachshen asked about the sidewalks behind the parking spaces. Is this a design flaw that needs to be corrected? Mr. Dean responded the applicant would need to apply for relief from the requirement with the DCA or they could narrow the road and move the parking spaces.

Due to the time the application was carried by Martin Kane to June 6th with no further notice.

COMMITTEE REPORTS:

Other Business - none

Martin Kane made a motion to adjourn the meeting at 10:55PM.

Respectfully submitted,

Cynthia Shaw, Secretary