

**MINUTES OF A REGULAR MEETING
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN
LAKES
November 1, 2018**

Chair Chris Richter called the meeting to order and announced: Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by adoption of the annual notice on February 1, 2018. Said resolution was mailed to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on February 5, 2018 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:31PM

ROLL CALL:

Present: DeNooyer, Max, Caputo, Richter, Murphy and Peters

Absent: McCormick, Sheikh and Vecchione

Also Present: Attorney Michael Sullivan

REVIEW OF MINUTES: Mark Caputo made a motion to approve the minutes from the October 4, 2018 meeting. Arthur Max provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION: none

EXTENSION:

Mukherjee

Appl. #17-671

Soumitra Mukherjee and Sima Roychowdhury requested an 18 month extension on the expiration date of their variances. A condition of their resolution was to get a ruling from the DEP on the wetlands in their backyard. They received DEP approval on August 23, 2018. Their variances will expire on December 1, 2018 and they will not be done identifying a contractor and applying for permits before the deadline. They are requesting an additional 18 months which would result in a new expiration date of June 1, 2020. James Murphy made a motion to grant the 18 month extension and Anne Peters provided the second. The Board voted 6 – 0 to approve the extension with members DeNooyer, Max, Caputo, Richter, Murphy and Peters voting in favor.

OTHER MATTERS:

Mountain Lakes 46, LLC

App. #18-683

Chris Richter told the Board and public the Mountain Lakes 46, LLC application would not be heard. There wasn't sufficient funds in the applicants escrow account to cover reviews already done by the Borough's professionals. The Board has 120 days to act after an application has been deemed complete otherwise not acting would trigger an automatic approval. Since the 120 day deadline will occur before our next meeting the Board must act tonight. We will be dismissing the application without prejudice for lack of prosecution since the escrow account was not funded.

Dan Jordan, of 23 Laurelwood Drive, asked if a traffic study was part of the application. Mr. Richter explained the Board had not seen the application but if it was deemed necessary the Board would have requested one be done. He then asked about a zone change for the property in question. Chris Richter responded the Board only hears applications for variances; the Council would have to change the zoning. Mr. Joran asked about noticing. Mr. Richter answered if there was an actual application it would have be noticed. George Bere, of 6 Lakewood Drive, said did not get noticed. Chairman Richter answered no one would have been noticed in this situation. For any submission you would only be noticed if you were within 200 ft. of the property making the application.

Michael Sullivan read the conditions of the resolution he prepared for the Board to adopt. A motion was made by Chris Richter to dismiss the application without prejudice and a condition the escrow account still needed to be replenished. A second was provided by Jake DeNooyer. The Board voted 6 – 0 to dismiss the application without prejudice for lack of prosecution with members DeNooyer, Max, Caputo, Richter, Murphy and Peters voting in favor.

PUBLIC HEARINGS:

Carried Application:

Carl and Tracey McKay
17 Condit Road
Side

Appl. #18-691
Blk. 49, Lot 43
R-AA zone

Before the application began Ann Peters recused herself from hearing the application since she lives within 200ft of the applicant. Carl McKay, of 17 Condit Road, would be presenting his own application. They were here for two variances for a shed because there was a complaint from the neighbor that the shed they recently installed was too close to the property line. He shared exhibit A-1, a 6 page document containing photos of and bullets points about the property. The original shed sat in the back corner of the lot. It was falling apart so they took it down and added a new shed in the original location. Mr. McKay reminded the Board the previous property owner was going to take down the historic home. They bought the property and renovated the house as part of the renovation. They came to the Zoning Board for several variances.

The new shed is in the original location. They needed a side and rear setback variance. Chris Richter asked what differences there were between the two sheds. Carl McKay answered the original shed was smaller but is in approximately the same location. The Chairman asked if they got a permit; they did not. James Murphy asked if the new shed was it part of the original application; no it was not. Mr. Richter pointed out the new setback for the shed was 9.2ft. The original Dykstra Walker plan shows the shed 13ft of the property line and here it shows the shed 4ft closer to the line. James Murphy asked what the pad was made of; it is stone. Arthur Max said the applicant had not given any testimony why this was a hardship variance. Michael Sullivan explained this could be a C-1 and C-2 variance. Mr. Max asked if anyone explained to them if they moved the shed in 25ft from the property line they would not need a variance. Mr. McKay said they were not advised nor did they ask. Mr. Sullivan explained once you took the old shed down they must conform to the existing zoning rules specifically the 25ft setbacks. What is the unique physical characteristics of the property to make it a hardship? The Board wants make sure the privacy of the neighbors is protected. Chairman Richter asked if there were woods behind the shed to act as screening.

Carl McKay said there are large trees but it is not wooded. Chris Richter confirmed the neighbor, Mr. Lakhiani, made the complaint.

No one from the public wished to asked questions about the application.

Michael Sullivan confirmed the applicant had received a zone violation. Jake DeNooyer pointed out if they moved the shed out of the setback more people would see it from the road. Carl McKay added right now you only see the top of the shed from the road. James Murphy clarified the landscaping the applicant had added to the area around the shed.

The Chair asked if anyone from the public wished to comment on the application. Gary McLaughlin, of 11 Van Duyne, commented the shed was screened by landscaping along his property line. Ann Peters, of 131 Laurel Hill Road, recognized this as the old Dignes house. The home was in dire need of repair and they have done nothing but improve the property.

She supported the location of the shed.

Michael Sullivan asked if there were any plantings on the Lakhiani side of the shed. Carl McKay said there are two large trees. Tracey McKay, of 17 Condit Road, said they added three evergreens 3ft tall. Mr. Sullivan pointed out the shed was 9ft tall. How far down is the grading to the Lakhiani property? Chris Richter said they would see the shed out the second floor window of the Lakhiani home. Moving the shed in would bring it into view for the McLaughlin's and the people on the street. Mrs. McKay added they would have to remove the trellis to comply with the setbacks. Mr. Richter responded your job to prove to us why the shed should not be in the proper setbacks. Carl McKay said the topography of the property is rolling and not flat. This is one of the only flat areas on the lot. Moving it forward brings it more into the view of the street. Mr. Richter responded he could see the topo argument. Mark Caputo asked about the trellis. The McKay's added it to grow roses on. Jake DeNooyer asked what the neighbor was seeing that they objected to. The neighbor did not provide that information. Mr. DeNooyer asked would you be opposed to additional screening. Mrs. McKay said give it a few years and the evergreens they planted would be 10ft tall. Chris Richter said maybe you need to add heavier screening. Mark Caputo agreed this was a good point to add the additional screening. James Murphy said the corner location for the shed is logical and there are not a lot of options. They should add the proper screening. Tracey McKay said they could add three 6ft tall Leylandii (fast growing evergreen) behind the oaks to screen on south southeasterly side.

Jake DeNooyer made a motion to approve the application with the condition the applicant provide additional landscaping on the Lakhiani side. James Murphy provided the second.

The Board voted 5 to 0 to approve the application with members DeNooyer, Max, Caputo, Richter, Murphy and Peters voting in favor.

Public Comment:

Chairman Richter asked if there was anyone from the public who wished to speak during the public comment portion of the meeting. Rein Aasmaa, of 20 Lakewood Drive, arrived late and missed the Mountain Lakes, 46, LLC application. Chris Richter explained the dismissal without prejudice. Mr. Aasmaa said he thought he was attending a Council meeting tonight and would take his concerns about potential changes to the zone to them in the future.

Mark Caputo made a motion to adjourn the meeting and Arthur Max provided the second. The meeting was adjourned at 8:26 PM.

Respectfully submitted,

Cynthia Shaw