

**MINUTES OF A REGULAR MEETING
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN
LAKES
October 3, 2019**

Vice Chair Stephen Vecchione 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 January 3, 2019. Said resolution was mailed to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on January 7, 2019 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:33PM

ROLL CALL:

Present: Murphy, Paddock, DeNooyer, Peters, Max (left at 8:35PM) and Vecchione

Absent: Richter, McCormick and Caputo

Also, Present: Attorney Michael Sullivan

REVIEW OF MINUTES: Jake DeNooyer made a motion to approve the minutes from the September 12, 2019 meeting. Ann Peters provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION:

Gillian Walker

Appl. #19-700

James Murphy made a motion to adopt the resolution of approval; Ann Peters seconded the motion. The resolution was adopted by a vote of 5 – 0 with members Vecchione, Murphy, Peters, Paddock and DeNooyer voting in favor.

Jennifer Spallone

Appl. #19-701

Brett Paddock made a motion to adopt the resolution of approval; Jake DeNooyer seconded the motion. The resolution was adopted by a vote of 5 – 0 with members Vecchione, Murphy, Peters, Paddock and DeNooyer voting in favor.

PUBLIC HEARINGS:

Lawrence and Tara Bischoff

Appl. #19-702

39 Woodland Ave

Blk. 128, Lot 17

Side Yard Setback (2), Average Front Setback

R – A zone

Alyse Hubbard, the applicant's attorney as well as Larry and Tara Bischoff, of 15 Dogwood Drive, Denville NJ would be presenting the application. They were looking for two side yard setback variances for an A/C unit, fence and shed as well as an average front yard setback variance to add a front dormer. On the southwesterly side they are proposing a side setback of 5ft for the shed, 2.5ft for the fence and 15.9ft for a second A/C unit where a setback of 25ft is required. A variance was granted in 2010 for the current A/C unit at 15.9ft. They are proposing a fence on the other side of the house installed at 2.5ft off the

property line. This would require an additional side yard setback variance. They are adding a dormer in the front of the house and do not meet the required 51.3ft average front yard setback. They are adding the dormer to create a second-floor office space. They are updating the front of the home to have two peaks; one is already there, and the office will create the second. They currently have a single zone for heating and air conditioning. The existing A/C unit is not sufficient, so they are adding an additional one. The existing unit was granted a variance and they would be looking for the same relief. The current shed will be removed and replaced with a new one that meets the rear setback requirement but not the side setback requirement. The proposed fence meets the rear 25ft setback requirement but not the side yard setback requirements of 25ft.

Exhibit A-1 was the site plan already submitted enlarged. They want to keep people walking along the train tracks from entering their property. There are slopes in the back and on the sides of the property. The proposed 8 x 12ft shed will be rolled off a flatbed truck to get it on the property. Exhibit A-2 was a bound book of 17 photos showing the rear yard, tree coverage and rock wall, the current shed location, the front of the house, the railroad tracks, the slope up from the tracks, the slope from the driveway to the back yard and the A/C unit. Michael Sullivan confirmed the new A/C unit would match the existing one. The front yard variance is for the dormer which will not encroach any further into the front setback than it does now.

J. Murphy asked what type of fence they planned to install. Mr. Bischoff answered a small mesh fence 4ft tall that would be more decorative in the front. A. Peters asked what their concern about the tracks was. They were trying to reduce the possibility of an intruder. Mr. Murphy asked if they planned to screen the fence. They will use shrubs on both sides of the fence for screening. A. Max asked why they couldn't put the shed in the building envelope. Mr. Bischoff said it was difficult to get it there due to the terrain. The shed would also block the view out the sun room. Steve Vecchione said he could approve the front yard setback variance and the variance for the A/C unit. He was struggling with the shed and fence. Ann Peters said she has lived in Mountain Lakes a long time. Kids have always cut through back yards to get places. She was not in favor of putting up fences. Having no fences is what makes the community what it is. Michael Sullivan added the Council has decided to make this issue important. They do not want to have fenced in yards. We have never granted variances for fences at this Board. The applicant said they wanted to have a fence because they were worried about security and young visitors to their home wondering onto the tracks. A. Peters asked if they considered using a natural fence material.

No one from the public wished to speak about the application.

The applicants presented exhibit A-3 eight photos of homes in town that had fences. Mr. Sullivan said those fences could be grandfathered or put up illegally. Alyse Hubbard said this was a C-2 variance; the benefits outweigh the detriments. The slopes make for an unsafe situation and the tracks are also a safety issue. The visual impact will be minimized by the using landscaping. The proposed plan provides adequate light and air. Arthur Max thought a change in material for the fence would be more ascetically pleasing. He thought they could also change the shed location. J. Murphy thought the fence in the back should be closer. He put in evergreens when he moved here and now, they are a wall of green. Jake DeNooyer asked if all the neighbors had the same slope issue? Mr. Bischoff answered the 8 homes to the west have the same slope. Mr. DeNooyer said he could not get comfortable

with granting a variance for the shed and the fence. Ann Peters said she lives on a hilly property and doesn't have a fence. We can't start granting fence variances.

Michael Sullivan suggested the application be bifurcated. Since there appeared to be no opposition to the front yard setback and setback for the A/C the Board should make them a separate issue. Ann Peters made a motion to approve a front yard setback variance of 50.4ft. for the new dormer and a side yard setback variance of 15.9ft for the A/C unit. A second was provided by J. Murphy. The Board voted to approve these two variances by a vote of 6 – 0 with members Murphy, Paddock, DeNooyer, Peters, Max and Vecchione voting in favor.

Steve Vecchione said he couldn't support the proposed fence in the setback, and they could have a shed built on site. He could support a fence on the left side of the home if it lined up with the house resulting a side setback of 20.1ft.; the Board is trying to continue the park like look of the town. Mrs. Hubbard asked for a brief recess to speak to her client before the Board voted.

Upon returning Mrs. Hubbard amend the application to remove the request for a side setback variance on northeasterly side. The new fence would conform to the 25ft setback on this side of the house. She then amended the application to request a 20ft side set back variance to line the fence up with the side of the house. Jake DeNooyer made a motion to approve a side setback variance of 20ft on the southwesterly side of the house. A second was supplied by James Murphy. The Board voted 4 -1 to approve the variance with members Murphy, Paddock, DeNooyer and Vecchione voting in favor and Peters voting against.

The shed setback request was at 5ft. and the applicant asked to amend the application to a 10ft side setback for the shed. Jim Murphy made a motion to approve the 10ft side setback for the shed but no second was provided. Jake DeNooyer made a motion to locate the shed inside the newly fenced area but there was no second. The Board discussed the shed located at 12ft off the property line. One side of the shed would be placed along the fence at 20ft. The entire shed would be in the setback creating a new side setback of 12ft. James Murphy made a motion for a 12ft southwesterly side setback for the shed. A second was provided by Stephen Vecchione. The Board voted 4 -1 to approve the variance with members Murphy, Paddock, Peters and Vecchione voting in favor and DeNooyer voting against.

Other Matters / Public Comment:

No one from the public wished to speak during public comment time.

James Murphy made a motion to adjourn the meeting and Jake DeNooyer provided the second. The meeting was adjourned at 8:24PM.

Respectfully submitted,

Cynthia Shaw