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For Notice under Sunshine Law

**MOUNTAIN LAKES ZONING BOARD OF ADJUSTMENT
AGENDA
October 6, 2022**

NOTICE: Please take notice that the meeting of the Zoning Board of Adjustment of the Borough of Mountain Lakes will be held on October 6, 2022 at 7:30 p.m. **as a remote meeting only.** Formal action may be taken.

To Participate via computer please use the following link to join the webinar: <https://zoom.us/j/94321697504>

Or use iPhone one-tap: US: +13126266799,,94321697504# or +19292056099,,94321697504#

Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 943 2169 7504

If calling into the meeting by telephone, the following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom meeting:

*6 - Toggle mute/unmute

*9 – Raise Hand (Once hand is raised, it cannot be lowered – if you change your mind and choose not to speak, when called upon, please let the host know that you have changed your mind and no longer wish to speak)

International numbers available: <https://zoom.us/u/acNqOSGPrm>

1. CALL TO ORDER & OPEN PUBLIC MEETING ADVERTISEMENT NOTICE

2. ROLL CALL

3. REVIEW OF MINUTES: September 1, 2022

4. MEMORIALIZING RESOLUTION:

Suzanne & Justin Chan

Appl# 22-742

5. PUBLIC HEARINGS: none

6. OTHER MATTERS / PUBLIC COMMENTS

Review of Current Ordinances

7. ADJOURNMENT



Cynthia Shaw, Administrative Officer

Dated: September 29, 2022

Distribution:

Board Chairman and Members

Board Attorney

Citizen & Daily Record

Web Site

Council Liaison

Applicants

Bulletin Board

Borough Clerk

**MINUTES OF A MEETING
ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF MOUNTAIN LAKES
September 1, 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: 30PM

ROLL CALL:

Present: Murphy, DeNooyer (7:33pm), Astrup, Peters, McCormick, Vecchione, Paddock and Leininger

Absent: Caputo

Also, Present: Attorney, Michael Sullivan,

REVIEW OF MINUTES: James Murphy made a motion to approve the minutes from the August 4th meeting. Stephen Vecchione provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION:

Jeanne Manubay & Matthew Taibbi Appl# 22-740

Stephen Vecchione made a motion to adopt the resolution of approval and Annie Peters provided the second. The Board voted 6 – 0 to adopt the resolution with members Murphy, DeNooyer, Peters, McCormick, Vecchione, and Paddock voting in favor.

Michael Booth Appl# 21-732

Brett Paddock made a motion to adopt the resolution of approval and Stephen Vecchione provided the second. The Board voted 5 – 0 to adopt the resolution with members Murphy, DeNooyer, McCormick, Vecchione, and Paddock voting in favor.

Dan Amato & Jennifer Bulger Appl# 22-741

Michael Sullivan said the Board accepted the elimination of the stone walls around the trees to reduce lot coverage. That reduction should have been 28.81% not 27.51% as stated by the architect. Stephen Vecchione made a motion to adopt the resolution of approval and Brett Paddock provided the second. The Board voted 6 – 0 to adopt the resolution with members Murphy, DeNooyer, Peters, McCormick, Vecchione, and Paddock voting in favor.

PUBLIC HEARINGS:

New Application:

Suzanne & Justin Chan
3 Lake Drive
Front Yard Setback

Appl# 22-742
Blk. 80, Lot 32
R-A Zone

Alex Gotthelf, a licensed NJ architect, presented the application. He reminded the Board the applicant was here 1 year ago and received a front yard setback variance. Originally the renovations included an addition out the side of the house and the enclosure of part of the front porch. The applicant decided to change the addition to the back of the house and eliminated the front porch addition. They didn't need a variance for the rear addition, so they started construction. Later they decided to add the expansion of the front entrance onto the front porch which required a variance. The new foyer would be 125sqft. In the prior approval they were granted a front yard setback of 44.10ft. This time they are requesting 47.2ft where 64.6ft is required. The impact on the front of the house is minimal since it is on the existing porch.

Chairman Murphy asked why the front setback variance request wasn't for 36.5ft to the front porch. M. Sullivan said measuring to the new construction. M. Leininger ask why the architect had the small recess for the front edition. A. Gotthelf said the Preservation Ordinance requires a 1ft setback from the existing front of the home to be eligible. S. Vecchione asked isn't this really happening inside the existing home. M. Leininger thought it would be more historical accurate if it were flush. A. Gotthelf answered the HPC's philosophy is to distinguish the new construction from the old.

S. Vecchione thought the existing generator was too close to the house. They needed 5ft clearance from the windows. He thought there should be a condition in the resolution allowing them to move the A/C unit and generator to comply with the installation requirements. M. Sullivan said the units shouldn't be moved further into the front setback.

B. Paddock added the generator also needs to clear the overhang. They should move it southeast, no closed to the front property line and covered with shrubbery.

No one from the public wished to comment or ask questions about the application.

Brett Paddock made a motion to approve the application as presented with a condition that the generator/AC unit be moved to the southeast if needed and all other standard conditions. A second was granted by Jake DeNooyer. The Board voted 7 -0 with members Murphy, DeNooyer, Astrup, Peters, McCormick, Vecchione and Paddock voting in favor.

Other Matters / Public Comment:

Public Comment – Chris Richter, the Board liaison, asked when hearings would be held in person. Jim Murphy responded the Board was considering staying this way until the Borough Hall was complete.

He then asked about the Chan application filed under the HP Ordinance. Mr. Richter said the applicant should not have touched the front of the house doing so made them ineligible. Ryan Astrup, a member of the committee, said he would bring his thought back to the HPC. Megan Leininger asked how the Board updated the Ordinances. Mr. Sullivan explained we can include such suggestions in our annual report.

The EDC will be meeting in September.

S. Vecchione made a motion to adjourn the meeting and A. Peters provided the second. The meeting was adjourned at 8:22PM.

Respectfully submitted,

Cynthia Shaw

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
ZONING BOARD OF ADJUSTMENT**

Application No. 22-742
Suzanne and Justin Chan
3 Lake Drive
Block 80, Lot 32

WHEREAS, Suzanne and Justin Chan, as owners, did make application to the Zoning Board of Adjustment of the Borough of Mountain Lakes to reconstruct the front entry at the above-captioned property located in the R-A Zone; and

WHEREAS, the applicants requested a variance pursuant to N.J.S.A. 40:55D-70c to permit a front yard setback of 47 feet 2 inches to the new construction where 36 feet 5 inches is existing and a minimum of 64 feet 6 inches is required pursuant to Section 245-20B; and

WHEREAS, the applicants submitted a site plan, floor plans and elevations prepared by Alexander D. Gotthelf, AIA, Sheets A1 through A3 dated August 8, 2022 and a lot grading plan prepared by Peter K. Korzen, P.E. and L.S. of Korzen Engineering, LLC consisting of one sheet dated August 15, 2022; and

WHEREAS, this matter came on to be heard at a meeting of the Zoning Board of Adjustment held on September 1, 2022, at which time it was established that the property owners within 200 feet of the property in question had properly been served notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings of fact and conclusions of law:

1. The applicants propose to add approximately 125 square feet within the existing front porch on the front of the house to provide an interior entry vestibule.

2. The front yard setback requirement in the R-A Zone is 40 feet, however, pursuant to the front yard exception contained in Section 245-20B, the front yard setback shall be the average of adjacent buildings as outlined therein except in no event shall the setback be less than the required front yard setback for the appropriate zone as specified in Section 245-19/Schedule I. The front yard setback of 11 Lake Drive is 69 feet 6 inches and the front yard setback of 15 Lake Drive is 59 feet 6 inches which yields a front yard setback requirement of 64 feet 6 inches.

3. The existing home contains a preexisting nonconforming front yard setback of 36 feet 5 inches. The front yard setback measured to the proposed reconfigured front entry way is 47 feet 2 inches. The Board determined that based upon the location of the home lawfully existing on the property, the strict application of the front yard setback requirement results in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the applicants.

4. Approval of this application advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a); provides adequate light, air and open space (-2c) and provides sufficient space in an appropriate location for the proposed addition (-2g).

5. Based upon the Board's particular knowledge of local conditions, approval of this application is consistent with the character of the neighborhood and will not adversely impact area properties.

6. Approval of this application is not inconsistent with the intent and purpose of the zone plan and zoning ordinance which seeks to preserve the residential character of the neighborhood.

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the positive criteria and proved peculiar and exceptional practical difficulties and exceptional and undue hardship pursuant to requirements of N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the negative criteria in that approval of the application will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Borough of Mountain Lakes that the within application of Suzanne and Justin Chan for a front yard setback variance, as outlined herein, is hereby approved subject to the following conditions:

1. This approval is limited to compliance with the plans submitted to the Board which are attached hereto and shall not be construed to permit any renovations not shown on the approved plans.
2. If required to meet applicable regulations, the existing emergency generator and air conditioning unit may be moved to the southeast as long as they are not closer to the front property line and shall be adequately screened by landscaping.
3. The applicants shall be bound by all representations made on their behalf at the public hearing.

4. An as-built survey shall be submitted to the Construction Office for confirmation of compliance with zoning and engineering requirements, if required by the Construction Official.

5. Compliance with the Tree Management Plan set forth in Section 102-35 and 102-36 of the Code of the Borough of Mountain Lakes

Offered by:

Seconded by:

Vote:

Date:

POTENTIAL ORDINANCES FOR UPDATING

Chapter 40 Land Use Administration

Article 1 - General Provisions

40-3 – Definitions

1. **Improved Lot Coverage** – add “walls” and clarify the exclusion of decks
2. **Stone Walls** – Add definition, including materials
3. **Cathedral Ceilings** – Add definition. In practice: Rooms where walls are over 5ft tall count in the FAR. Walls that are 12 – 13.9ft count as 1.5x, 14 -15.9 count as 2x, Ceilings at 6ft + count as 2.5x
4. **FAR** – Sheds & Greenhouses are included in FAR if there is a footing. They can be used to offset the 500sqft of garage space exclusion
5. **Setback Line** – add retaining walls to the exclusion of setbacks
6. Add definitions from new Ordinances such as HPC & facilities permitted in the B Zone.

Chapter 245 Zoning

Article IV – Use Regulations

1. **245-7 Residential Zones B. Permitted Accessory Uses** – air-conditioning units added in 1998 as an accessory use (replacement – Zoning Board reviews for setback)
2. **245-15 Supplementary Use Regulations**
 - a. **D.** – Storage (including roll off or shipping containers) How does the Borough regulate PODS etc.
 - b. **K.** Accessory uses – Accessory Structure in the setback (A/C units)
 - c. **M.** – Recreational Vehicles – (4) & (5) Installation of Boat racks? Planning Board Approval?
 - d. **P.** – Fences – (2) [1] [a] & [b]– use of the word “fieldstone”
 - e. **V.** Emergency Generators – (4) remove the words “in front yard” and replace with “in front of house”
3. **245-19 Schedule of Bulk Requirement** – Schedule I
 - a. Add zone’s R-AH1, R-AH2, R-AH#
 - b. Historic Preservation Bulk incentives
4. **245-20 Supplementary Bulk Regulations**
 - a. **A.** - Lakefront Exception – Measure to the house or deck? Clarify
 - b. **G.** – (5) Projections extend over setback lines – stairs other than front steps, chimney’s