

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

September 27, 2018

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 25, 2018: 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: 7:32 PM

**ROLL CALL:**

Members Present: Kane, Stern, Barnett, Russo, Nachshen, Horan, Shepherd, Coppola and Berei

Absent: Mirsky and DuTertre

Also Present: Attorney, Peter Henry

Also Absent - Engineer, Bill Ryden

**PUBLIC** – No one from the public wished to speak during the open public session.

**REVIEW OF MINUTES:** Lauren Barnett made a motion to adopt the minutes of the June 28, 2018 meeting. David Shepherd provided the second; the minutes were approved by voice vote of all eligible voters.

**RESOLUTIONS:**

Pulte Homes of NJ, Limited Partnership

Appl. # 18-265

Before voting on the resolution Chairman Kane recognized Jim Hyson of 2 Littlewood Court. Mr. Hyson made the Board aware of a directional sign, installed by Pulte Homes, at the corner of Intervale Road and Sherwood. It was confirmed that the sign was not part of the resolution the Board was voting on.

Mitchell Stern made a motion to adopt the resolution of approval and Bethany Russo provided the second. The resolution was adopted by a vote of 4 to 0 with members Kane, Barnett, Stern and Russo voting in favor.

**PUBLIC HEARING:** none

**COMMITTEE REPORTS:** none

**Other Matters**

*Ordinance 6-18 – An Ordinance Amending Chapter 40 (Land Use Administration) and Chapter 245 (Zoning) of the Revised General Ordinances of the Borough of Mountain Lakes, and Establishing Standards for Assisted Living Residences in the Borough*

Chairmen Martin Kane explained the Board needed to determine if the introduced Ordinance was consistent with the Borough's Master Plan. The Board Administrator mentioned a memo from our Planner on the Ordinance. Since it arrived late copies were provided for members to review. Martin Kane summarized the memo listing the points in the Master Plan that made it consistent and a suggested rewording of the Ordinance pertaining to height. The Planning Board decided to accept the new height definition proposed by the Planner and Council.

Lauren Barnett mention the Council had been reviewing the Ordinances for the past few months and had heard from several of the neighbors. Two major issues were a concern; the buffer along the rear property line with Pine Edge and the height of any proposed structure. They increased the buffer to 125ft which included the existing driveway. Currently the transition between zones requires a 100ft buffer. The other concern was a building height in excess of 50ft. The new definition states the height will be 50ft including the decorative elements used to hide mechanical equipment. Martin Kane pointed out a three stories building fit the topography of the property. The Council had identified an assisted living facility was a proper use for the site and such a use was supported by our Master Plan. David Shepherd said there still were a lot of other issues with the site. Martin Kane explained those concerns would all be part of the site plan review. Peter Henry added such items like the affordable housing beds having a 30 year deed restriction would become part of the site plan resolution.

Mr. Kane opened the meeting for public comment on the proposed Ordinance and it's consistency with the Master Plan. Jim Hyson, of 2 Littlewood Court, felt assisted living was a good use of the site; since it provided a ratable and had no impact on the schools. He did find it inconsistent with the Master Plan. In the Housing Elements on pg. 27 paragraph 2 it states *these beds will be credited as age restricted rental units* yet the Ordinance states the beds will not be age restricted. Under the Land Use Objectives we state we want to *encourage, protect and continue the unique character of the neighborhoods ... of Mountain Lakes*. He felt this proposal was not in keeping with the character of the town. The height of the proposed building being in excess of 35ft was not consistent with our definitions for residential and non-residential height within the Borough's Ordinances. The Ordinance's requirement that the architecture be residential shouldn't apply but rather the architecture should fit in with the existing commercial buildings in the zone. The Housing Element states the facility should be 120 beds as does the Ordinance. He questioned if this was really a firm number of beds. Martin Kane responded the Board was looking at a proposed Zoning Ordinance and couldn't tie this discussion to a certain plan. We don't want the development plan to set the Ordinance. Sunrise Assisted Living could leave tomorrow and the Board could get a site plan submission from someone else.

Alex Yanovski, of 10 Littlewood Court, asked if he could discuss the garbage issues. Mr. Kane explained the right time would when the site plan was reviewed. He commented the proposed facility doesn't match others in the district. The proposed building looks like an apartment building. Linda Hyson, of 2 Littlewood Court, said it appears we are making this Ordinance to accommodate the developer. She was concerned about the height. She went to the developer's own website and found they had 4 other locations with 2 story buildings. Why couldn't they do that here in Mt. Lakes? When our affordable housing plan is accepted by the state it is unlikely we will get credit for the 12 Medicaid bed plan. Are we just building this facility to get our 5 bed obligation for the state?

Mr. Kane closed the public portion of the meeting. He was surprised people would prefer a commercial building. Bethany Russo disagreed, she felt the 125ft buffer provided a separation, plus she personally hated fake architecture. The whole road is commercial and there is a distinct line down the highway between residential and commercial. She didn't like the oversized house look. David Shepherd drove up and down Rt. 46 and doesn't like what he sees yet he doesn't know what he wants the highway to look like. Lauren Barnett reminded everyone two years ago the Planning Board Master Plan put this type of development in this zone. We want this type of use to be in this location. She did not think people would want to drop their mom off at a commercial building. David Shepherd asked if this type of facility was classified as residential or commercial. Peter Henry answered they are residential by nature.

Martin Kane identified the section of the Ordinance that called out the look of the building as residential. John Horan asked, if we changed it to commercial, how the Board would change the Ordinance language. Martin Kane suggested the Board delete it and leave the building style up to the developer. Jeff Berei asked, are we trying to break down the volume of the building by calling it residential thereby softening the impact. Are we ok with a 50ft building that looks residential rather than a 50ft commercial building. Martin Kane answered he attended the Council meetings where the discussions were all about a compact building that was high rather than wide to avoid the steep slopes. Peter Henry pointed out the memo from the Planner states the desire was to achieve less disturbance on the property.

Martin Kane concluded this Ordinance creates a new zone. There are points in the Master Plan where it is and is not consistent. The Board talks a lot about improving the Rt. 46 corridor and providing affordable housing in the Master Plan and this Ordinance does both. Peter Henry commented this parcel is specifically listed for this purpose. John Horan agreed we have a desire to improve the Rt. 46 corridor. He did not see the benefit of handcuffing the developer to the residential appearance. Bethany Russo also agreed stating let them show us the plan and the Board can decide. We should eliminate Section 4: J. Assisted Living Facility v. Site Design Conditions #2. The Board agreed this condition was unnecessary and the Master Plan does not give any preference to either a commercial or residential appearance. Nick Coppola thought a 50ft tall building for this zone was high and was concerned how it affected the neighbors. Was it possible for the Board to see the site plan? Peter Henry explained at this point the Board could only comment on what was in the Ordinance.

David Shepherd said even though the building was 3 stories the nearest residence was over 100yds away from building edge to building edge and the slope would make it appear lower. Peter Henry said the Mater Plan does not discuss height and that is not our issue tonight. Martin Kane supported the 50ft building height. Mitchell Stern agreed he thought it a better plan than a lower wider building. Jeff Berei confirmed the original zone height was 35ft. David Shepherd agreed with Marty and Mitchell. Lauren Barnett did not have anything else to add. Corey Nachshen responded we are a Planning Board and we will control this at the time of application. The Ordinance should be as generic as possible. When he drives by the property he doesn't see this lot from Rt. 46 since it is on Bloomfield Ave. It should be easy to hide the building from the road and the ratable will be good. John Horan asked where else we allowed taller buildings; there are 2 lots on the west bound side of Rt.46. If we remove the height at 50ft the applicant could get a variance. Peter Henry reminded everyone if removed from the Ordinance the height in excess

of 35ft would require a D variance and be heard by the Zoning Board of Adjustment. Bethany Russo said she would not lose sleep over the 50ft obviously it has been zoned for an office building for a long time and that has not worked out. But it is the developer's job to fit his project into our zone plan. It is not my goal to make it viable for the developer it is to make it viable for the community. Peter Henry said it is the Council's responsibility to meet the affordable housing obligation and create ratables. Mr. Coppola had nothing else to add. Martin Kane did not view age restriction as an issue. That condition of the Ordinance did not have to match the Master Plan. Peter Henry pointed out most of the residents will be elderly however you don't want to eliminate a bed for someone who might be disabled.

Martin Kane made a motion to determine the Ordinance was consistent with the Master Plan and recommend the removal of Section 4: J. v. #2 from the Ordinance. It is unnecessary and the Master Plan does not give any preference to either a commercial or residential appearance. A second was provided by Corey Nachshen. The Board voted 9 to 0 to pass the motion with members Kane, Stern, Barnett, Russo, Nachshen, Horan, Shepherd, Coppola and Berei voting to approve.

Martin Kane adjourned the meeting at 8:48PM.

Respectfully submitted,

Cynthia Shaw, Secretary