

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

September 14, 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: 7:01PM

ROLL CALL:

Members Present: Kane, Dagger, Shepherd, DeVenezia, DuTertre, Mirsky, Horan, Russo and Sheola

Absent: Holmberg and Nachshen

Also Present: Attorney Peter Henry, Engineer Bill Ryden, Engineer Stephen Souza and Planner Paul Phillips

PUBLIC COMMENT: none

REVIEW OF MINUTES: Nick DeVenezia made a motion to approve the minutes of the July 27, 2017 meeting and Arlene Mirsky 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 continued the preliminary and final major subdivision and site plan application. Last meeting they presented the settlement exhibits for the Concerned Citizens of Mountain Lakes (CCML). Since the Board reviewed them favorably new plans were submitted on August 31st incorporating those changes. Mr. Wolfson then listed the changes made to the plans based on feedback from the Board, its professionals and the exhibits from the settlement. The Board asked their Attorney to prepare a draft resolution. The plans do not reflect all those changes mentioned in the draft resolution. All items not reflected will be handled as compliance items. In closing Mr. Wolfson reiterated the project was a 40 unit residential housing project with 6 affordable apartments. Their only variance was for a temporary sign during construction and they need a de minimis waiver for the lack of a sidewalk on one side of Albie Drive. The state statute allows the Board to grant the waiver. They requested the Board grant it and approve the application.

Chairmen Kane asked if the Board had any final questions or comments for the applicant;

there were none. He then asked if there were any questions or comments from the town professionals. Stephen Souza said he was satisfied, the major environmental issues were complied with. There were some minor things that needed addressing which would be handled directly with Mark Gimigliano. Paul Phillips responded he had submitted a report stating the plans submitted by the applicant were consistent with what was represented at the last meeting. He had asked if the changes made affected the steep slopes on the site. The changes actually resulted in less slope disturbance to the areas over 15%. William Ryden said he had no unresolved issues. The small open items could be handled through the resolution.

Fire Chief, Steve Castellucci, mentioned the August 15, 2017 letter from the Fire Marshall. While the applicant met all the requirements set forth under the Uniform Fire and Construction Codes he still had one request; that sprinklers be installed in all the units. The fire department's purpose is to save lives in a fire. After 37 years in the fire prevention business he knows buildings that have sprinklers reduce and eliminate fatalities. He asked that the applicant consider installing them. Peter Wolfson responded he had discussed it with his client at great length but they are unable to accommodate the request for sprinklers. Steve Castellucci asked, the affordable units have sprinklers correct? Martin Kane confirmed it was the building that determined the use of sprinklers not that they were affordable units. Arlene Mirsky asked if they could offer them on a unit by unit bases. Peter Wolfson answered the product would not lend itself to that. Nancy DuTertre asked Chief Castellucci if the terrain of the land and the length of Lakeland Ct. hurt in a fire situation. He answered the road was not the issue. The buildings on the property are not accessible from all sides. We understand it is not the code but we want people to look at it thoughtfully and consider the option to have the sprinklers. Suppression is the best way to handle this situation not the road configuration. After hearing from the professionals Martin Kane suggest the Board go through the "Draft Resolution" page by page for comments. Richard Sheola made a motion to approve the marked up version of the draft resolution dated September 11, 2017. A second was provided by Nancy DuTertre. The following changes were made to the testimony portion of the resolution.

On page 3, item, 5 Rich Sheola asked the Raspberries and Nuckel case be cited and on page 4, item 14, "RSIS" be spelled out. In item #14 Nick DeVenezia asked "*and depicted these on a "Sidewalk and Fencing Plan"* (2 sheets) prepared by Dykstra Walker Group dated 5/10/17" be removed because the reference was confusing. After reviewing item 15 David Shepherd questioned if all the DEP permits had been approved and received. Peter Henry said that was a condition in the resolution. On page 7, item 19, mentioned the discussion the Board had concerning the size of the affordable units. The word "*done*" was changed to "*built*". Nick DeVenezia thought these units should be the same size as the market rate units. Peter Henry responded they complied with the affordable housing regulations. Tom Dagger added, at the proposed size we are helping 6 families have an affordable unit rather than 2. On the same page, item 20 the, word "*building*" was added in the last sentence. On page 8, item 23, Tom Dagger confirmed Stephen Souza was comfortable with how it was written. David Shepherd asked who would monitor the mounding analysis during construction. It would be Bill Ryden. Stephen Souza added after construction it would be the responsibility of the Homeowners Association (HOA). On page 10, item 29, the first part of the first sentence "*Though an essentially workable*

road layout and parking plan for a relatively low speed and low volume development was initially proposed by the Applicant” was removed since Tom Dagger didn’t think the Board made that determination. On page 11, item 30, Martin Kane was not comfortable with the last statement but the Board decided to keep it as written. Tom Dagger was not happy with item 31 (f), on page 12, pertaining to the terms of the access easement. Peter Henry explained the Board did not determine the terms of the agreement; that was up to the Borough Council. This particular wording had been asked for by the Council’s Attorney. The objectors Council had an opportunity to review it and the Planning Board was in favor of the concept. Item 31 (f) stayed as written.

Under the conditions of the resolution the following changes were made starting with page 19, item 20. Tom Dagger asked “*private roads and infra-structure*” be changed to “*ownership and maintenance of private roads and infrastructure (including utilities)*”. On page 20, Tom Dagger asked if the conditions listed in item 22 applied to all the easements. Mr. Henry said he would separate the types of easements for clarity. Item 24 on page 21 referred to the Landscape Plan. Nick DeVenezia asked if the Board would see it. Mr. Henry said no, when it was ready it would be sent to the Shade Tree Commission for review. Item 27 on the same page referred to the addition of “No Parking” signs. The Board asked the locations of the signs be approved by the Borough Engineer and Police Department. On page 22 item 31 the word “*survey*” was changed to “*investigation*”. Lastly Peter Henry explained item 34 was broken down into item 34 and 35 to distinguish the different times each of the conditions needed to be completed by.

Tom Dagger asked if the applicant had discussed the creation of a conservation easement with the King of Kings Church. Peter Wolfson replied they did discuss it with their Engineer and they felt the area was naturally constrained. Mark Gimigliano responded anything within 15ft is already restricted since they must have DEP approval to do anything within that area; it could never be filled in. Stephen Souza added the area is constrained by the DEP restrictions, steep slopes and the clearing of large trees. It would be extremely difficult to do anything. It would be unlikely you could construct a building in that area; maybe a pipe could be added but only with DEP approval. Nancy DuTertre asked if they could add something in HOA documents to require timely snow removal. Peter Wolfson answered no, it was the HOA’s responsibility.

The Chairman opened the meeting to the public. Sandy Batty, of 15 Lockley Court, pointed out block 116, lot 4. It was an undersized lot on Route 46 that could be used for future development. She thought the Board should add a condition to the resolution requiring the applicant to take the conservation easement to the church for consideration. She concluded they had ruled it out and never took it to the church. She believed an access easement should not have to be agreeable to the Borough and Applicant it should be only what the Borough wanted it to be. Tonight was the 1st time she was seeing the resolution. Mr. Henry and the Administrator said it had been available since August 31st and forwarded to the attorney for the MLCC. Marnie Vyff, of 10 Vale Drive, thanked the Board for including the condition to have the Shade Tree Commission review the landscape plan. Not all the trees on the site are identified so she is concerned that the rest of the plans are incomplete.

Before the Board voted John Horan acknowledged everyone who had attended all the meetings, he wanted to thank the professionals and everyone else involved for the great job they had done. David Shephard asked about the public comments made on the

easement. Peter Henry thought the resolution should stay as written. Peter Wolfson added the easements had already been drafted and were with the Borough Council for review. The resolution under consideration was the version marked up based on this evenings comments. The Board voted 7 to 0 to approve the resolution as modified with members Kane, Shepherd, Sheola, Horan, DeVenezia, Dagger, Russo, DuTertre and Mirsky voting in favor.

COMMITTEE REPORTS:

Other Business

The Board decided to cancel the meeting scheduled for September 28th. There next meeting will be October 26th.

Martin Kane made a motion to adjourn the meeting at 9:02PM.

Respectfully submitted,

Cynthia Shaw, Secretary