

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

August 27, 2015

Chair Jim Bailey read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 29, 2015: Adequate notice of this meeting was given to the Citizen and the Daily Record, filed with the Borough Clerk, posted on the Bulletin Board in the Borough Hall on February 02, 2015 and made available to all those requesting individual notice and paying the required fee.

Meeting start: 7:33PM

**ROLL CALL:**

Members Present: Bailey, Kane, Horan, Dagger, McWilliams, Holmberg (7:34PM),  
Russo, Nachshen and DuTertre

Absent: Sheola, DeVenezia

Also Present: Attorney Peter Henry, Engineer Bill Ryden

**PUBLIC COMMENT:** none

**REVIEW OF MINUTES:**

Martin Kane made a motion to adopt the minutes of the June 25<sup>th</sup> meeting. Doug McWilliams provided the second; the minutes were approved by voice vote of all eligible voters.

**RESOLUTIONS:** none

**PUBLIC HEARING:**

New Application:

Menard Construction Company, Inc.

35 Pollard Road

Minor Subdivision, Steep Slopes

Appl. #15-260

Blk. 104, Lot 65

Zone R-A

John Wyciskala was the Attorney for Menard Construction, the contract purchaser for 35 Pollard Road. The property is a double lot and the applicant was here requesting a minor subdivision to create two lots. The subdivision is compliant with the exception of the need for a steep slope variance on each lot.

Marc Walker, a licensed Engineer in the state of New Jersey presented the application. Mr. Walker said the lot currently has over 200 feet of frontage and one split level home on the property. They propose subdividing the property into lot 65.01 and 65.02. Lot 65.01 will have 17, 005 sq. ft. and lot 65.02 will have 17,797 sq. ft., the Borough requires 15,000 sq. ft. for a lot in the zone. Every lot that is created has to have a building box of 50 ft. x 85 ft. and the box cannot contain steep slopes, wetlands or easements. On these properties there are small pockets of slopes that exceed 15%.

A minor soil moving permit would eliminate the slopes. They have applied and received the permit but the applicant did not act on the permit due to the small amount of soil to be moved. We came to the Board for variance approval so we can do the soil moving at the time of construction. There is a maximum change in grade of 2.2 ft. and the balance is less than a half of foot. The total amount of soil being moved is 77 cubic yards. When

looking at lots with steep slopes you want them to have a usable yard. Other concerns are storm water management and soil erosion. This development would be considered a minor storm water management project and handled with the Borough Engineer at the time of permitting. The houses fit well on the lots with flat driveways and large turn around areas. The proposed houses create no increase in run off on the lots and both have usable yards. Mr. Walker continued, the variances could be granted without detriment to the public good. They plan to build newer Hapgood looking homes.

Jim Bailey noted the slopes would be under the new houses. Mr. Walker agreed stating the minor soil moving permit would eliminate that. The lot on the right has a manmade slope that was created when the original house was built. The new driveway on lot 65.01 will be in the same location as the current driveway but they will improve it so your car would no longer bottom out when you drive into the driveway. Tom Dagger confirmed there would be no more than a 3 ft. change in grade on the lots. Jim Bailey asked about the notice for the hearing. John Wyciskala said the notice was done properly. Peter Holmberg asked if the stone wall on the property would be preserved; most of it will be preserved. Mr. Holmberg felt the development would fit in with the community. Peter Henry asked the applicant if they were willing to accept the conditions in Bill Ryden's letter dated July 9, 2015. Mr. Wyciskala said the applicant did not have a problem with the conditions of letter. He then asked if the average front setback would be in any way effected by which house they build first; no it would not. He confirmed the house would be removed before the signing of the deeds.

Jim Bailey asked if there were any questions from the public for Marc Walker. Tom Ryan, of 43 Pollard Road lived next door to the proposed development. He asked Mr. Walker to explain the retaining wall on lot 65.01. Mr. Walker said they were trying to save two trees so they were installing a 30 ft. long 2ft high retaining wall to protect them. They will be saving 19 trees and removing 25. Tom Ryan said Pollard Road was a hill. His house was uphill from the new lots and the neighbor on lot 69 would be how much below the new house to be built on proposed lot 65.02; Marc Walker said it would be about 6 ft. below.

Mr. Bailey asked for comments from the public. Tom Ryan, 43 Pollard Road, said it has become common in town to remove one house and replace it with two. When the house was built in 1954 a decision was made to build one house due to the contours of the property. He felt this should be considered when the Board made their decision about granting the variances. This development is going to have an impact on the properties on the street. The removal of 25 trees are a lot and he is concerned the house on lot 65.02 will tower over the existing house on lot 69. He thought the only benefit was financial and the variances do not benefit the community.

Doug McWilliams asked the size of the houses to be built; they will be about 2900 sq. ft. Marc Walker said the Borough had a development pattern of 100 ft. wide lots. The protective retaining wall could be eliminated. Tom Dagger asked if they could remove less trees. Mr. Walker thought there were a few trees at the back of lot 65.01 that could remain. Peter Holmberg asked if they considered doing one large house; no they did not. Mr. Walker said with a new home there is always new landscaping planted and the perimeter trees were being saved. Jim Bailey confirmed they would be submitting a tree management plan. Doug McWilliams asked if the lot coverage was going to be maxed out. Marc Walker did not believe so.

Tom Ryan said he did not think this project advanced the zoning ordinances of the Borough and the MLUL. Corey Nachshen asked Mr. Ryan if he understood if the Board

did not grant the variances the applicant could act on the soil moving permit and then come back for subdivision approval. By doing it this way there was a possibility of saving more of the trees since they would be removing them based on the houses selected for construction. John Wyciskala said the applicant did not want to proceed that way thinking it more appropriate to come before the Board and ask for the variances. Marc Walker felt the development plan met criteria *c. to provide adequate light air and open space* and *e. to promote the establishment of appropriate population densities and concentrations* and there was not any detriment to the public good. It meets the development plan of the Borough and the Master Plan to have smaller lots and a community atmosphere.

Martin Kane said the Board looked seriously at requests for variances. He thought it was more of a detriment if they acted on the soil moving permit then came in for the subdivision. Tom Dagger felt the law was clear, they meet the requirements for development and granting of the variances was really temporary. He don't think the Board could reject the application. He asked that they try to save as many trees as possible. John Horan, who represents the Environmental Committee on the Planning Board, said with this approach they will save trees in the long run and felt he could support the application.

Peter Holmberg made a motion to approve the application as presented and John Horan provided the second. Peter Henry added the resolution would include the standard conditions such as escrows and taxes being paid, and the need to meet any affordable housing requirements, the conditions listed in Bill Ryden's letter, plus the removal and disposal of house before the maps would be signed by the Board. The Board voted to approve the application 9 – 0 with members Bailey, Kane, Horan, Dagger, McWilliams, Holmberg, Russo, Nachshen and DuTertre voting in favor.

#### COMMITTEE REPORTS – none

#### OTHER MATTERS –

Ordinance 08-15 – Jim Bailey had reviewed the proposed ordinance. He pointed out various corrections the Board Administrator will pass on to the Council. Martin Kane made a motion that the ordinance was consistent with the Master Plan and Doug McWilliams provided the second. The Board voted 9 to 0 with members Bailey, Kane, Horan, Dagger, McWilliams, Holmberg, Russo, Nachshen and DuTertre voting in favor.

Master Plan – Jim Bailey told the Board he has been before the Council several times asking them to keep the Planning Board up to date on the Borough's affordable housing position. The current housing element in the Master Plan is not adequate and needs revising which is difficult since the number of affordable housing units Mountain Lakes needs to have has not been determined. He had the Board Administrator email everyone three documents a summary of the history of the COAH situation, a copy of our current Housing and Fair Share Element, and the draft Highland Housing Chapter from 2010 never adopted. Chairmen Bailey thought this would prepare the Board for the discussions on the element that will be forth coming.

Jim Bailey adjourned the meeting at 9:19PM.

Respectfully submitted,

Cynthia Shaw, Secretary