

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

January 30, 2020

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 24, 2019: 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: 7:38PM

**ROLL CALL:**

Members Present: Kane, Barnett, Menard, Horan, Holliday, Coppola, Berei, Russo and Leininger

Members Absent: Stern

Also Present: Attorney, Peter Henry, Engineer, Bill Ryden

**REORGANIZATION:**

*Election of Chair* – Bethany Russo nominated Martin Kane Chair of the Planning Board; David Shepherd provided the second. Martin Kane was elected by voice vote of all eligible voters.

*Election of Vice Chair* – Kelly Holliday nominated Bethany Russo vice Chair of the Planning Board; Tom Menard provided the second. Bethany Russo was elected by voice vote of all eligible voters.

*Appointment of the Attorney* – Nick Coppola made a motion to appoint Peter Henry of McElroy, Deutsch, Mulvaney and Carpenter the Planning Board Attorney; Bethany Russo provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of the Planner* – John Horan made a motion to appoint Paul Phillips, of Phillips, Preiss, Grygiel, Leheny, Hughes LLC, the Planning Board Planner and David Shepherd provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of Board Engineer* – Bethany Russo made a motion to appoint Bill Ryden of Anderson and Denzler Assoc., Inc. the Planning Board Engineer and David Shepherd provided the second. The motion was approved by a 9 to 0 roll call vote.

*Appointment of Secretary/Administrator* – Tom Menard made a motion to appoint Cynthia Shaw the Planning Board Secretary and Kelly Holliday provided the second. The motion was approved by a 9 to 0 roll call vote.

*Designation of Official Newspapers* – Bethany Russo made a motion to designate The Citizen and The Daily Record the official newspapers for the Board, John Horan provided the second. The motion was approved by a 9 to 0 roll call vote.

*Determination of Meeting Dates* – Jeff Berei made a motion to accept the proposed meeting dates for the Planning Board, Bethany Russo provided the second. A voice vote of all eligible members approved the following dates.

*February 27, 2020*

*March 26, 2020*

*April 23, 2020*

*May 28, 2020*

*June 25, 2020*

*August 20, 2020*

*September 24, 2020*

*October 22, 2020*

*November 19, 2020*

*December 17, 2020*

July 23, 2020

January 28, 2021

*Re-adoption of By-Laws* – Nick Coppola made a motion to adopt the By-Laws of the Planning Board and John Horan provided the second. A voice vote approved the adoption of the by-laws. All members with new or different terms swore and signed their oath of office.

**PUBLIC COMMENT:** none

**REVIEW OF MINUTES:** Martin Kane made a motion to adopt the minutes of the December 19<sup>th</sup> meeting. Bethany Russo provided the second; the minutes were approved by voice vote of all eligible voters.

**RESOLUTIONS:** none

**PUBLIC HEARING:**

Carried Application:

Robert Klingenburg	Appl. #19-269
123 Lake Drive	Blk: 101, Lot 48.01
Modify Building Envelope	R-A Zone
Modify previous conditions of approval pertaining to house to be constructed	

Robert Klingenburg	Appl. #19-270
117 Lake Drive	Blk: 101, Lot 48.02
Modify Building Envelope	R-A Zone
Modify previous conditions of approval pertaining to house to be constructed	

Larry Calli, a licensed attorney in the state of NJ, would be presenting the application. Mr. Calli said the property was in the R-A zone. Back in 2009 the property was subdivided creating 2 lots. A condition of approval was to build a house “substantially similar” the house plans submitted at the hearing. The owner has had difficulty marketing the property using the 10-year-old plans. People are looking for back decks and the original plans did not have decks. Mr. Klingenburg received a conservative ruling from the Zoning Officer, Jeff Montemarano. In his view the houses to be built must remain exactly as the plans attached to the deed and could not change in anyway.

Marc Walker, a licensed engineer in the state of New Jersey, had reviewed the site plans submitted with the 2009 application and found what he believed to be several errors. One error was how the lake front exception line was drawn. Marc Walker asked the Board to look at the “Building Envelope Modification Plan” already submitted. The original engineer measured the line from the back of the house on the right and left. Dykstra Walker has always measured the lake front exception line from the decks and elevated patios. He presented exhibit A-1 consisting of 10 sample projects they have done in town. Mr. Ryden asked if the projects had Zoning Board approval? Some of the approved plot plans were submitted for building permits and others were plans submitted as part of a variance application; all were ultimately approved by the Zoning Official.

Martin Kane remembered the previous subdivision hearing. The Board met several times and there was a lot of testimony on the property and maintaining the site lines. Peter Henry did not think the Board approval, or the resolution said these were exactly the homes that needed to be built. You just had to work within the building envelope. He asked Mr. Calli what they were trying to achieve. Larry Calli answered the Zoning Officer told us we had to build these houses exactly as they were approved. Ultimately, they were asking to alter the building envelope. Martin Kane said if you looked at item #16 of the original resolution dated July 23, 2009 it appears the applicants are being held to the look and shape of the building envelope. Peter Henry said the recorded deed includes the front elevation of the home. In 2009 the Board did not focus on the actual floor plan and you were not forced to build the actual house. You could use the building envelope any way you wanted. He felt the Board was not concerned with the layout of the house. Martin Kane added we were not trying to force a look. Peter Henry thought the Board should modify the condition to clarify what was meant. Tom Menard suggested front loading garages be required in the revised condition.

Marc Walker explained how he calculated a lake front exception line and how Suburban Consulting measured the lakefront exception line to the back of the houses. For reference Bill Ryden presented exhibit B-1, the original site plan, Minor Subdivision Block 101 Lot 48 dated 6/24/09 prepared by Suburban Consulting. Marc Walker presented exhibit A-2 a photo of the 7ft wall surrounding the pool on lot 52 and exhibit A-3 was a photo of the foundation wall from the back-right corner to the house on lot 52 located to the west of the Klingenburg properties. Mr. Ryden asked what the change in elevation was on lot 52 to the top of the pool. Marc Walker said it was 12 to 13ft. Mr. Ryden said we strike the lake front exception lines to the houses at the Planning Board not at the patio or the pool. Mr. Walker responded we have used the deck many times to determine the lake front exception line. The Planning Board previously approved measurements to the deck on an application across the lake.

Rick Nelson, a licensed architect in the state of NJ, said he did the original house plans. These concept plans were not to scale. He explained his experiences with potential buyers of this property. The Zoning Officer said we couldn't change anything and would not allow a deck to be added to the houses. He would not allow any changes to the elevations. Recently he looked at the original survey and noticed they didn't match up with any of the surveys Marc Walker did of near-by properties. He felt the suggestions about the front-loaded garages were a good idea. They were not planning to make the houses any bigger, but they would like to add decks.

Bill Ryden said the amount of FAR was limited by the building envelope. If you expand the building box, you can increase the size of the house. Larry Calli said the applicant should be able to build what they want in the box or get variances. Peter Henry responded you don't understand the history of how these lots were created. The plan was in exchange for granting the subdivision, there was a deed restriction and you couldn't get a variance in the future.

Martin Kane opened the hearing to the public for questions. Collen Whitmore, of 116 Lake Drive, asked if the applicant was asking to remove the condition requiring them to demolish the house before receiving a permit. The applicant was not. She asked if an environmental run off analysis was needed when they made the building envelope bigger. Marc Walker saw no reason to do a runoff analysis. Mr. Ryden added that would get reviewed before they got a building permit. Janice Gewirtz, of 125 Lake Drive, explained her backyard, pool and wall. The wall was

not contiguous. Frank Luzzi, of 115 Lake Drive, experienced obstacles when he developed his lot because it was difficult to build on. George Gewirtz, of 125 Lake Drive, pointed out the proposed building envelope would be 20ft larger. Colleen Whitmore added the changes being proposed do not align with what was previously approved.

Martin Kane told the applicant the Board did not intend to restrict the house design but would support maintaining the building envelope as previously approved. Mr. Calli asked for a recess to confer with their client.

Upon returning Larry Calli conceded to measure the lake front setback line to the pool was aggressive. However, measuring to the deck might work. Marc Walker presented exhibit A-4, Building Envelope Exhibit, dated 1/30/20. It was like exhibit A-1. It showed the Lake Front Exception line measured to the deck. This makes the envelope 6.7ft. deeper. On Lot 48.02 the building envelope is reduced by .7ft. The new front yard setback is at 42.7ft. or 1ft closer to the road. On Lot 48.01 the building box moves 5ft back. Martin Kane was very reluctant to allow the house to go back into the lot. Larry Calli suggested the house setback stay where it was but the 5ft could be restricted to the deck only.

Frank Luzzi, of 115 Lake Dr., repeated his home had a smaller family room to accommodate a deck. George Gewirtz, of 125 Lake Dr., worried the deck would block his view of the lake. Colleen Whitmore, of 116 Lake Dr., was trying to understand the building envelope dimensions. Mr. Walker explained the width was less than approved. Lot 48.01 going from 50.1ft to 49.7ft and lot 48.02 going from 51.4ft to 49.7ft. As for the depth, lot 48.02 went from 50.6ft to 49.9ft and lot 48.01 went from 46.1 to 52.8ft. A deck was proposed for lot 48.01 but not for 48.02. Martin Kane commented the house design must conform to all the bulk standards, except the number of stories and the driveways would remain as previously proposed. The Board discussed as part of finding #16 in the original resolution the owner's ability to maintain control of the design. Mr. Kane asked if the Board had any additional comments on the building envelope. Kelly Holliday said she could support the deck to the new line. Marc Walker suggested a building envelope for the proposed homes measured from the house to house and a second lakefront setback line for the decks. He presented exhibit A-5 showing the new decks no closer to the lake than the decks of the neighbors and the decks would only be on the 1<sup>st</sup> floor or lower. John Horan wanted to know what the neighbors thought about this. Martin Kane understood this approach recognizes the survey was done incorrectly.

Colleen Whitmore, 116 Lake Dr., asked if the houses would be in line with her neighbors. Yes, they would. Kelly Holliday thought this to be the intent of the Borough Ordinances. Nick Coppola was ok with the proposal if the deck was on the 1<sup>st</sup> floor. John Horan said he thought they had to give some deference to the Board members who heard the application originally. He thought prior findings should be left alone. Bethany Russo agreed with Mr. Horan, she was torn. David Shepherd said the Board was trying to keep the intent of the Ordinance, but he would like to get a confirmation that the new survey was accurate. Tom Menard could support the proposal. Jeff Berei said he agreed with John Horan and couldn't support the application. Meghan Leininger thought the revised survey clarified things and she understood the history. We have been measuring the lakefront setback line to decks so she could support the proposal.

Tom Menard made a motion to lift the architectural design restrictions from the original resolution and add front-loading garages as a condition. They must meet all the Borough bulk

standard except stories. Bethany Russo supplied the second. The Board voted 9 – 0 to amend the original resolution with members Kane, Barnett, Menard, Horan, Holliday, Coppola, Berei, Russo and Leininger voting in favor.

Kelly Holliday made a motion to allow for two lake front exception lines, one for the houses and one for the decks, with the lines drawn from the neighbor's houses and deck respectively. The decks could only be located on the 1<sup>st</sup> floor. The site plan should be redrawn to show the new setback lines. A second was provided by David Shepherd. The Board voted 6 – 3 to amend the original resolution with members Kane, Barnett, Menard, Holliday, Coppola and Leininger voting in favor and Russo, Horan and Berei voting against.

**COMMITTEE REPORTS:**

**Other Matters** – The board had no other business this evening.

Martin Kane adjourned the meeting at 10:17PM.

Respectfully submitted,

Cynthia Shaw, Secretary