

**MINUTES OF A REGULAR MEETING  
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN  
LAKES  
June 2, 2016**

Chair Chris Richter called the meeting to order and announced: Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by adoption of the annual notice on January 07, 2016. Said resolution was mailed to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on January 11, 2016 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:31PM

**ROLL CALL:**

Present: Max, Richter, Bolo (7:35pm), Tolud, Murphy, McConnell, Vecchione and Sheikh (7:33PM)

Absent: DeNooyer

Also Present: Attorney Michael Sullivan

**REVIEW OF MINUTES:** Arthur Max made a motion to approve the minutes from the May 5, 2016 meeting. James McConnell provided the second; the minutes were approved by voice vote by all members.

**RESOLUTION:**

Megan and Stephen Shuhet Appl. #16-657  
James McConnell made a motion to adopt the resolution of approval; Chris Richter seconded the motion. The resolution was adopted by a vote of 6 to 0 with members Richter, Bolo, Max, Murphy, McConnell and Vecchione voting to approve.

Leonard and Helena Mazur Appl. #16-658  
James Murphy made a motion to adopt the resolution of approval; James McConnell seconded the motion. The resolution was adopted by a vote of 7 to 0 with members Richter, Bolo, Max, Murphy, McConnell, Tolud and Vecchione voting to approve.

Mehrdad Rafizadeh Appl. #16-659  
James McConnell made a motion to adopt the resolution of approval; John Tolud seconded the motion. The resolution was adopted by a vote of 7 to 0 with members Richter, Bolo, Max, Murphy, McConnell, Tolud and Vecchione voting to approve.

**PUBLIC HEARINGS:**

Carried Applications:

Leonard & Elizabeth LoBiondo	Appl. #16-660
Blk. 101, Lot 41 & 44,	105 Lake Dr.
Use, Side Yard Setback, Height/Stories	R-A zone

Marc Walker continued the LoBiondo application. At the last meeting there were discussions about the generator location. After meeting with the next door neighbor they

will no longer be putting the generator in the back or front of the house. They would now be locating it in the easterly side yard. Mr. LoBiondo has the same generator at his current home and had invited Mr. Smith to come and listen to it while it was running. He listened to it, found it to be acceptable and was at the hearing to tell the Board.

Mr. Walker stated last month the Board was in favor of the application but wanted to see how the driveway on lot 44 would be removed and reworked in order to place it totally on lot 41. A site plan, labeled the Conforming Driveway Plan dated May 10, 2016, was submitted showing how this would be accomplished. Mr. Ryden reviewed those plans and approved them. Chris Richter asked if the proposed addition to the original house had any impact on lot 44; specifically the lack of a building envelope on the empty lot. Marc Walker had reviewed the average front yard setback and determined it would be 40.3 ft. for lot 44 when a line was drawn from lot 46 to lot 41. Arthur Max commented by approving the plan the Board would be preventing a future Board from acting on the development of lot 44. Chris Richter responded the building envelope is insufficient so in the future any owner would have to come to the Board of Adjustment for a variance. Chairman Richter asked Michael Sullivan what the Board could do to make sure the third bay of the garage gets removed if lot 44 is developed in the future. Mr. Sullivan read the finding from the previous meeting which stated: #8 - *The testimony established that in the event Lot 44 is sold, the driveway can be relocated onto Lot 41 by removing one garage bay without creating any nonconformity from the Zoning Ordinance.* He said the Board could make reference to this in the deed. It was the only way to make sure any future purchaser knows of this condition.

Mr. LoBiondo repeated when designing the addition they had placed a header in over the windows in the back of the house to allow for a future garage bay. They would then remove the bay closest to Lake Drive and realign the driveway to accommodate the required 15% slope. Stephen Vecchione said only if they sold both lots at one time does not knowing a garage bay has to be removed becomes a problem. Chris Richter added the only option was to record the resolution as part of the deed which he thought excessive. Peter Bolo asked Mr. LoBiondo if he understood a building envelope variance was required on lot 44 for it to be developed; yes he understood that. James Murphy asked if the applicant would only need a variance for the width of the box. Mr. Walker answered they would need a variance for the whole box.

Chairman Richter opened the hearing to the public. Arvin Smith, of 99 Lake Drive, told the Board he was fine with Mr. LoBiondo moving the generator back to the easterly side of the home where it was originally proposed. No one else wished to speak concerning the application.

Michael Sullivan had drawn up the resolution in advance to reflect the discussion from last month's meeting. It was decided this resolution would be revised to remove the variance for a combined side yard setback of 50 ft., he would eliminate finding #6 referencing the generator on the westerly side of the property, finding #8 would remain and become #7 and condition #5 *In the event Lot 44 is sold independently of Lot 41 or developed all the existing improvements would be removed from Lot 44 and all driveway improvements in servicing Lot 41 would be required to be maintained at 15% maximum slope* would be added and condition #6 *requiring the plans to be revised to reflect the new location of the generator* would be added.

James Murphy made a motion to approve the application with three variances, to permit a driveway on a lot without a home, height on the non-street facing side of the existing home and the lack of pervious buffers on both lots as well as the conditions for the driveway removal and the compliance with the April 21, 2016 memo of Mr. Ryden. A second was provided by Stephen Vecchione. The application was approved by a vote of 6 to 1 with members Richter, Bolo, Murphy, McConnell, Tolud and Vecchione voting for and Max voting against.

New Applications:

Kevor and Karen TenHuisen  
Blk. 88, Lot 25  
Front

Appl. #16-661  
57 Powerville Road  
R-A zone

Marc Walker, a licensed Engineer in the state of New Jersey, Rick Nelson, a licensed Architect in the state of New Jersey, and homeowner Kevor TenHuisen, of 57 Powerville Road, were sworn in to present the application. Mr. TenHuisen presented exhibit A-1: 7 pages of photos taken by the homeowner in the last two weeks. The photos were of their garage, the house and school driveway, the location of paper road, the current walking path to the fields and the proposed new driveway location. He continued the property had a beautiful backyard that was surrounded by town property on three sides. The school is located across the street. The short comings of the bi-level were the small closets, an attic with walls only 3 ½ feet tall that houses the A/C units and a garage with a low ceiling. They wanted to add an attached two car garage and mud room on the north end of the property. In the future they wanted to rearrange the upstairs to increase the amount of closet space and remove one of the three bedrooms. Later the existing garage would be convert to a bedroom. The homeowner knew there was a paper road when they bought the property but did not know what that meant. They looked at other locations for the garage which include moving it back but they would lose windows in the house or a lot of the backyard. The current garage is so low they can't get a car in it. The main entrance of the high school is right across from their garage and driveway. By moving the drive to the north end of the property they would remove this safety issue. The garage setback is 25 ft. not the required 40 ft. so they need a front setback variance.

Richard Nelson said the Master Plan has changed several times since Hapgood designed the community and many of the original paper roads have been abandoned. It was his idea to put the garage on the side of the house. This moves the entrance to the driveway away from the high school. The mud room provided man access and stairs into the main house. We can't put a header in the existing garage because the ceiling would still be too low. Peter Bolo asked what the distance was to the other homes around him. Once the garage was built it would be 110 ft. from any other home. Chris Richter asked why this road would be developed in the future. Marc Walker do not think it would since the town already put the road on the other side of this property to access the backfields. Arthur Max asked why they didn't design the connecting mud room and garage at an angle so the setback might only be 30 ft. Richard Nelson answered they did design the garage at a right angle but it took up so much of the yard and increased the lot coverage. Mr. Max added he was not opposed to the application but thought they could be more creative. Khizar Sheikh asked when the TenHuisen's purchased the house where did they think their property line was. Rick Nelson said there were many surveys of the property which

made it confusing but this was the correct one. Peter Bolo liked the arts and craft design of the home and thought it worked even if this was on a paper road  
Chairman Richter opened the hearing to the public. Sam Horowitz, of 74 Kenilworth Road, had looked at the house when it was for sale. There was moisture in the basement and a high water table in the area. How will they handle the run off and control the wet lot. Marc Walker said the Borough Ordinances require there be no change in run off. The applicant can't do anything about the high water table but they can add a drywell to handle their small increase in run off. The Board decided to add a condition to the resolution requiring them to get approval from the Borough Engineer for storm water management.

Peter Bolo made a motion to approve the application with the condition a storm water management plan be submitted. A second was provided by James McConnell. The application was approved by a vote of 7 to 0 with members Richter, Bolo, Max, Murphy, McConnell, Sheikh and Vecchione voting in favor.

**Other Matters / Public Comment:**

Historic Preservation – Chris Richter attended the meeting of the Historic Preservation Incentives Committee. The group was back together to evaluate how the Ordinance had been working and to discuss amendments to the current regulations. Things discussed by the group were to allow the use of the incentives when subdividing a property and when a contributing dwelling had two street facing sides. Peter Bolo was concerned with extending the incentives for such things as landscaping and swimming pools. Chris Richter said he would allow an applicant to use the coverage as they saw fit. Dr. Bolo mentioned in those cases the homeowner was not modernizing the house. Arthur Max asked what the overall stated purpose of the Ordinance was. Mr. Richter said the Ordinance was designed to give incentives to keep and improve a historic house. Khizar Sheikh questioned if the Ordinance was only about the house or was it about the character of the lot as well. Peter Bolo answered the Ordinance was concerned with preserving the front façade of the house. He liked supporting the amendment to allow the use of incentives for a home with two front yards. Mr. Richter asked the Board to think about amending the Ordinance and be prepared to discuss it at the next meeting. If we did not meet next month he asked all members to submit their thoughts to him by email.

No one from the public was present to speak during the public portion of the meeting.

Stephen Vecchione made a motion to adjourn the meeting and Arthur Max provided the second. The meeting was adjourned at 8:55PM.

Respectfully submitted,

Cynthia Shaw, Secretary