

**MINUTES OF A MEETING
ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF MOUNTAIN LAKES
June 6, 2024**

James Murphy called the regular meeting to order and announced: Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by publishing the meeting notice in The Citizen and The Morris County Daily Record on January 11, 2024 and by filing the same with the Borough Clerk and posting it on the Bulletin Board on January 8, 2024 and was made available to all those requesting individual notice and paying the required fee.

Start: 7: 31 pm

ROLL CALL:

Present: Murphy, DeNooyer, Astrup, Vecchione, Caputo, Paddock, Mc Cormick and Peters

Absent: Leininger

Also, Present: Attorney, Michael Sullivan

REVIEW OF MINUTES: Stephen Vecchione made a motion to approve the minutes from the May 2nd meeting. Brett Paddock provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION: none

PUBLIC HEARINGS:

Carried Application:

Junmeng Chen and Selina Shi	Appl. #23-751
19 East Shore Road	Blk. 23, Lot 17
Improved Lot Coverage Side Setback	R-AA zone
Floor Area Ratio	

Kevin Hahn, the attorney for applicant, continued the application. The Board expressed interest in seeing a different location for the shed and as a result, they revised their plans. Kevin Robine, the substitute engineer for the applicant, presented the new plan dated April 1, 2024. They relocated the shed closer to the existing dwelling. They could not move the shed further south due to the location of the home's windows and hose bib. The house is located 27.7ft from the property line. The new side yard setback for the shed is 15.2ft and 25ft is required. They agree to add and maintain additional landscaping. A new walkway has been included in the ILC of 35.9% where 20% is allowed. The FAR is 25.48% where 13% is allowed.

With the rebuilding of the dam the property will gain land area. Using Exhibit A-4 the colorized Ferriero Easement Map, dated 3/17/23, the land area will increase an additional 3578ft. The 10.3ft rear setback will increase to 23.6ft. The FAR will go from 25.48% to 19.9%. The ILC will go from 35.9% down to 28.4%. The land is not dedicated yet but will be soon.

S. Vecchione questioned the new location choice. Mr. Chen said they wanted to move the shed away from the property next door. Why did they not move it by the A/C unit and generator. It would create the same issue on the other side of the house. Plus, that side has their patio and recreation area. Mr. Vecchione thought the other location would require less of a variance. Kelly McCormick asked the size of the old shed. Kevin Robine thought it was ½ the size of the new shed. Selina Shi felt the shed would be more visible on the other side. The applicants agreed to paint the shed a neutral color. Selina Shi said the old shed was supposedly 54sqft and this one is 102sqft. They estimated the original shed size to be 8.5 x 9ft. Jake DeNooyer noted in the email correspondence with Manager Stern the shed had to be the same size or smaller. Annie Peters asked why the applicant didn't end this and replace the new shed with something smaller. Mr. Chen asked if they bought something smaller, painted it an acceptable color, and added screening could they put it in the original location. Kelly McCormick thought they could look at a winter arial to confirm the size of the old shed.

The chair opened the meeting for public questions. Alan Hantman represented the Pinke family. He asked if the plan shows the current conditions. Yes, it shows the property before the additional land from the dam. A. Hantman thought with the additional land they could install the shed in the backyard.

Alison Kopsco, the applicant's Planner, noted there were several existing non-conforming conditions on the site. Even with the additional dam land the lot at 17,118sqft will still be undersized. The FAR and ILC will be reduced but the variances will not be eliminated. By moving the shed away from the side property line the proposed setback also improved. The setback to the lake will be 43.6ft. S. Vecchione asked what the original shed setback was. It was .08ft from the property line. A. Kopsco said the shed color would be dark brown, they will plant evergreen between the shed and lake and the shed and the side yard. J. Murphy thought the five 6ft tall blue spruces planted along the side yard should be taller. Ms. Kopsco finished by stating the positive criteria was the new land decreases the intensity of the site development and they would be more conforming. They no longer need a rear setback variance. If they were in the R-A zone their ILC could go from 20 to 25%. This application advanced the purpose of the Land Use Law. She cited purpose A. - *to enhance public health, safety, morals and general welfare*, B. - *to provide adequate light, air and open space*, I- *to promote a desirable visual environment...*, and M - *to encourage coordination of various public and private procedures and activities shaping land development*.

The chair opened the hearing to the public. A. Hantman asked if they consider the variance granted in the 2012 resolution. They were given an ILC variance to build an addition to the home; in exchange they were to remove the slate patio. Mr. Vecchione wanted to limit the discussion to what was happening now. Mr. Murphy clarified in 2012 they were granted an ILC variance of 24.8%, the property currently has an ILC of 36.2%, and they are proposing a new ILC of 28.6% with the additional land.

The chair opened the hearing to the public for comment. Robert Pinke, of 71 East Shore Road, was happier with the new location but didn't like the size & height. He would like it installed on the other side of the property. Julie Pinke, 71 East Shore Road, said they needed a construction permit for a shed. The applicant needs a zoning permit for a shed this size not a construction permit.

Jim Murphy commented that the property does not meet any of the criteria for the R-AA zone. The new dam will give everyone on the south side of Sunset Dam more property. He felt the homeowners made several concessions to accommodate the neighbors with the new location and the additional screening. J. DeNooyer thought the new location with screening and painting was acceptable. M. Caputo did not understand why they rushed to purchase a new shed. He thought the trees should be 8ft tall. B. Paddock liked the plans and commitments as revised. A. Peters asked if they considered how the shed location affected their access to the garage. S. Vecchione said they have come a long way but thought the shed should be small and on the other side of the house or kept in the current location. K. McCormick could not support a shed of this size. R. Astrup thought if this were a new application the Board would not entertain it.

The applicant presented a new proposal. They would replace the current shed with one that was 80sqft, not to exceed 10ft in height, painted a neutral color. The shed would remain in its current location and have five 8ft evergreens for screening on the side. On the north side they would plant six 24" to 30" wintergreen. The current patio would stay where it is. Jim Murphy made a motion to approve the new proposal. A second was provided by Annie Peters. The Board voted 7 – 0 to approve the new proposal with members Murphy, DeNooyer, Vecchione, Caputo, Paddock, Mc Cormick and Peters voting in favor.

New Application:

264 Morris Ave., LLC	Appl. #23-752
264 Morris Avenue	Blk. 105, Lot 6
Use, Drive Aisle Width	R-A zone & A zone
Parking Stall Size,	
Improved Lot Coverage	

Justin Calta was the attorney for applicant 264 Morris Ave, LLC. They were looking to add additional parking spaces plus change the permitted use. The property is in two zones, A & R-A. The mixed-use building is in the A zone. The new parking spaces are proposed in R-A zone. There are two prior resolutions that limit them to 5 on-site parking spaces, use by a manufacturer representative, a lab in the basement, an apartment on the second floor and using the existing garage for office space. They need drive aisle width, driving stall width and ILC variances. They need a use variance for the parking spaces in the R-A zone since the building is in the A zone.

Juliet Siegel is a resident and dentist by trade. Her office is 15 miles away. She wants to downsize her practice and eventually move into this building. She is looking to change the use from manufactures representative to a dental/doctor office. She purchased the property 2 years ago. The apartment upstairs is rented. She uses the space in the basement for manufacturing dental appliances. She tried to rent the space on the 1st floor, but the parking and use are limited.

The hearing was opened to the public. Jaroslav Mesicek, of 275 Morris Ave, asked what type of machinery they had. They are printing on a 3D printer and have an air compressor. How many employees were there? They have 1 employee there 2/3 times per week. J. Murphy noted they are adding two additional staff. S. Vecchione confirmed they wanted to have a professional office on the main floor. J. Murphy asked the Board

Administrator if this split zone lot would become 1 zone with the proposed Ordinance changes. Yes, it will. Annie Peter agreed this location needed more parking. Kevin Robine, the applicant's engineer, said the .3-acre property was on the corner of Morris Ave. & Midvale Rd. The A zone portion is 7,415sqft and the R-A is 5,657sqft. They will access the new parking lot from Morris Ave. Of the 5 new spaces 1 will be ADA complaint. They need 9 parking spaces and will provide 10. The current driveway will be for employee and tenant parking. The new lot will be for visitors. There is an ADA ramp included in the plan. The site distance is 150 feet to the intersection which is adequate. They will be using night sky lights in the parking area. The lights will shut off one hour after their appointments are over. It can be timer operated. On the site plan they have landscaping shrubs and a row of evergreen trees. They are removing two trees for the improvements. They need a use variance for the parking area in the R-A zone and a drive aisle width of 20ft in one area where 24ft is required. They are asking for a variance for a 9ft parking space width where 10ft is required. They are proposing an ILC of 32.4% where only 25% is allowed in the R-A zone. They are proposing an ILC of 58.8% in the A zone where 70% is allowed. In Mr. Ryden's May 23, 2024, letter item #6 he asked us to mention we will be importing 150cy of soil to the site. This is a minor stormwater project. They will be adding 2 drywells for the parking lot. In Mr. Phillip's letter dated May 30, 2024, item #6 he asked for the location of the generator. It will be 2ft to the east of its current location. They are adding one 12ft light fixture in the new parking lot and one 10ft pole in the old lot plus one light along the front walkway. There is no increase in stormwater runoff.

Chairman Murphy asked Mr. Ryden if he had any questions. He noted the final requested aisle width would be 20ft for only 2 spaces. How will they handle their trash? They will use individual trash receptacles for the office and tenant waste. All medical waste will be picked up separately. Since this is a commercial building, the garbage may need to be handled differently. How will they handle deliveries? All deliveries will be made by UPS and Amazon. The parking lot can handle a sprinter van. Will the new driveway accommodate all potential allowable uses? It will only handle professional office space. The generator will be relocated to accommodate the new driveway. Paul Phillips made reference to item #3 of his letter. How does someone get out of the old driveway if it's full. The apartment space is separate, and the staff will need to coordinate. Item #4 asked about screening. The car headlights will be facing the site so they will not affect the neighbors. Plus, the evergreens will be staggered so they can grow together to create a screen. They cannot do this in this narrow area. Item #5 was about the lighting. Mr. Phillips said a shut-off time needed to be set. The lights will go off by 7:30pm. S. Vecchione questioned the side setback to the new parking area. The neighbor's driveway is on their property and was included in the coverage calculation. They will need a curb cut approval from the DPW. All signage will comply with current ordinances. Jim Murphy reviewed the definition of a professional office. Mr. Phillips clarified if a doctor's office was not defined separately in the ordinances, it would then rise to the level of a professional office. S. Vecchione asked what the basement parking requirement was. It would be 1 spot since the basement was 230sqft. The chair opened the hearing to the public for questions. Ron Frank, of 270 Morris Ave, was concerned with drainage and retail use.

The applicant's Planner, Dave Bailer, repeated 4 variances were required. They need a use variance for the parking lot in a residential zone. This is a D variance. He noted the court case *AMG Associates vs Tp. Of Springfield*. Hardship is created when you have split zone. They have provided parking for a professional office. They are not expanding the building. They have added one handicapped parking space. They met the required parking. They will add additional screening in the parking area. There was no stormwater management before, and they are adding it. A parking lot is ancillary to the building. The Boroughs Master Plan encourages the redevelopment of the business zone. If this property was not split zoned this project would have been granted by right. The other three variances are C variances. This is a C-1 hardship due to the split zone and C-2 benefits outweigh the negatives. If the lot was completely in the business zone, they would not need a variance for lot coverage. The aisle width is only partially compliant to make sure they meet the 10ft buffer width to a residential zone. This application advanced the purpose of the Land Use Law. He cited purpose A. - *to enhance public health, safety, morals and general welfare*, and G.-*To provide sufficient space in appropriate locations for a variety of ... commercial and industrial uses and open space...* There is no substantial detriment to the zoning plan. No one from the public wished to ask questions of this witness.

Mr. Phillips added you cannot use the residential side as is. The Borough is joining the split lots this year, a recommendation in the 2023 Reexamination report. Kelly McCormick liked the staggered plantings. Could they do more in the wider areas. They were willing to submit a landscape plan for Mr. Ryden to review.

James Murphy made a motion to approve the application with the following conditions: the landscape plan be revised, the plans be reviewed by Mr. Ryden for Soil Moving and Soil Erosion, the exterior lights be turned off at 7:30pm., the use be changed back to a professional office and the garbage disposal be handled as per the municipal Ordinances. A second was provided by S. Vecchione. The Board voted 7 – 0 to approve the application with the conditions listed. The following members voted in favor: Murphy, DeNooyer, Vecchione, Caputo, Paddock, Mc Cormick and Peters.

Other Matters / Public Comment:

Public Comment – Robert Pinke questioned the location and size of the trees approved as part of the Chen application.

Stephen Vecchione made a motion to adjourn the meeting and Brett Paddock provided the second. The meeting was adjourned at 11:17PM.

Respectfully submitted,

Cynthia Shaw