

**MINUTES OF A REGULAR MEETING
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN
LAKES
November 12, 2015**

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 12, 2015. Said resolution was mailed to The Citizen and The Morris County Daily Record and by filing the same with the Borough Clerk on January 12, 2015 and was made available to all those requesting individual notice and paying the required fee.

Start: 7:33PM

ROLL CALL:

Present: Max, Murphy, McConnell, Richter Tolud, Sheikh and Vecchione

Absent: Bolo

Also Present: Attorney Michael Sullivan

REVIEW OF MINUTES: Arthur Max made a motion to approve the minutes from the September 3rd meeting. Chris Richter provided the second; the minutes were approved by voice vote by all members.

RESOLUTION:

Carl and Tracey McKay	Appl. #15-648
Blk. 49, Lot 43	17 Condit Road
Height (2) Front setback	R-AA zone

James Murphy made motion to adopt the resolution of approval; Stephen Vecchione seconded the motion. The resolution was passed by a vote of 4 to 0 with members: Richter, Max, Murphy and Vecchione voting to approve.

Huy Lam & Jenny Yeung	Appl. #15-650
Blk. 61, Lot 11	15 Cobb Road
Side setback	R-A zone

Arthur Max made motion to adopt the resolution of approval; James Murphy seconded the motion. The resolution was passed by a vote of 4 to 0 with members: Richter, Max, Murphy and Vecchione voting to approve.

John Harwood & Elizabeth Miles	Appl. #15-651
Blk. 77, Lot 16	130 Kenilworth Road
Improved Lot Coverage	R-A zone

Stephen Vecchione made motion to adopt the resolution of approval; James Murphy seconded the motion. The resolution was passed by a vote of 4 to 0 with members: Richter, Max, Murphy and Vecchione voting to approve.

PUBLIC HEARINGS:

New Applications:

Jesse and Fredrika McDonald
Blk. 92, Lot 16.02
Modify a condition of the Resolution

Appl. #15-653
165 Morris Avenue
R-A zone

Due to improper noticing the applicant requested their application be carried to January 7, 2016. James McConnell made a motion to carry the application; John Tolud seconded the motion. The decision to carry the application was passed by a vote of 7 to 0 with members: Richter, Max, Murphy, McConnell, Tolud, Sheikh and Vecchione voting to approve.

Jeffery and Lynne Ansell
Blk. 100, Lot 23
Subdivision, Use, Side setback
FAR, ILC, Building Envelope

Appl. #15-648
260 Boulevard
R-A zone

Doug Henshaw, a licensed Attorney in the state of New Jersey, would be representing Jeffery and Lynne Ansell. Mr. Henshaw introduced Marc Walker a licensed Engineer in the state of New Jersey. Mr. Walker explained the property. It is currently 58,000 sq. ft. and the R-A zone requires only 15,000 sq. ft. for a conforming lot. He described the property and noted the island on the subdivision plan was a peninsula in the deed description and on the tax map. Mr. Walker submitted exhibit A-1, an aerial view of the existing properties on Lake Drive. The exhibit showed the development pattern along the lake. The Ansell property has 200 ft. of frontage while the balance of the properties have 100 ft. of frontage. Exhibit A-2 was a colorized rendering of the subdivision plan dated November 10, 2015. It proposed splitting the property in half creating lot 23 which would contain 24,605 sq. ft. and lot 23.01 which would contain the remaining 33,395 sq. ft. Morris County approved the curb cut on the Boulevard for the new lot. The homeowner pulled the road opening permit before the Boulevard was repaved since the County would have placed a moratorium on opening a newly paved road.

Mr. Walker continued, variances are required for the existing house. They need one for FAR since they are at 18.1% where 17% is required. The propose ILC for the existing lot is 27.3% where 25% is required. They plan to remove walkways and driveway to reduce the coverage. They also need a variance for the required 50 ft. x 85 ft. building envelope. While they have more than enough square footage on the lot the lake front exception line goes through the building box making it smaller. Lot 23 building box is 3668 sq. ft., the building box for lot 23.01 has 3802 sq. ft. and both boxes are required to have 4450 sq. ft. The purpose of the ordinance is to make sure you have adequate area for a driveway, yard and house. The proposed dwelling size for the new lot will be like the rest of the lots on the road. Doug Henshaw asked Mr. Walker if the purpose of the lake front exception was to protect the view of the lake for the neighbors; yes it was.

Mr. Walker pointed out the wood arbor covered by wisteria was an accessory structure that is 11 ft. from the property line and 25 ft. is required; they would need a side setback variance to keep the arbor on the existing lot. He also added there was a preexisting non-conformity side setback for the existing house of 16.9 ft. on the opposite side of the property. The street facing height of the existing house is .76 ft. over the required 35 foot limit and the height of non-street fronting sides are 3.5 stories and 41.12 ft. over the allowed 3 stories and 38 ft. Marc Walker added he had reviewed Bill Ryden's September 16th letter and the applicant agreed to conditions 4, 5, 7, 8, 9, 10, and 11. Previously the property had been granted a

variance for a fence in front of the house. The fence was determined to be in the right of way so they have agreed to remove the fence per the County's request. Mr. Henshaw stated the applicant will take down the existing carriage house before the deeds are perfected. This would remove the need for a use variance on newly created lot when the property was subdivided. Mr. Sullivan confirmed the phasing zoning requirements listed on sheet 1 of 4 were now eliminated.

Board member Arthur Max asked if the area of the island was removed from the calculations what would the FAR for the existing house be; Mr. Walker said it would be 21.5%. Mr. Henshaw added the island does not show anywhere as a separate tax lot. When the original lot creation was done it is shown as part of the property and the municipality has consistently include the island in any lot area calculations. Mr. Henshaw asked Marc Walker to explain the building box. He answered by definition the new lot has everything it needs but the building box. The lakefront exception runs through the box creating a smaller area to build the new house. The box is a function of zoning if you had a perfect 100 x 150 foot flat lot. The lot also has an average front setback of 55 ft. rather than standard 40 ft. Michael Sullivan stated ordinance 245-20C requires a minimum building envelope so the applicant is correctly asking for a variance.

Chris Richter asked if the applicant could relocate the bridge so they would eliminate the need for an easement on proposed lot 23.01. The applicant was willing relocate the bridge. Chris Richter confirmed the house was a contributing dwelling. He then asked if the applicant could reduce coverage to comply. Mr. Walker answered he has done other subdivisions on the Boulevard and the Board required a driveway turn around so the homeowner could depart forward. Mr. Richter felt they could get to 25% ILC if they reduced the width of the driveway and walkways. Stephen Vecchione asked what the distance the northerly and southerly houses were to the property line. Mr. Walker answered the house to the north was 31 ft. and the house to the south was 13 ft. by variance.

Chris Richter asked if anyone from the public had any questions for Mr. Walker. John Dusinger, Attorney for the neighbors Michael and Karen Verzaleno, asked if there were maps that show the island as a peninsula. Mr. Walker responded there were and based on observation the actual distance from the shore to island is about 7 ft. and the water is about 1 to 2 foot deep. Mr. Dusinger asked if they could extend the subdivision line over the water. Mr. Walker did not think you can go over the water since it was public land. John Dusinger confirmed they were going to move the bridge. He continued did Mr. Walker know of any reason they would not be allowed to reattach the bridge; he did not. Mr. Dusinger confirmed the applicant had made a FAR and ILC variance request. He continued what area would have to be taken from new lot 23.01 to eliminate the variances; Mr. Walker do not know. Mr. Dusinger said why not take additional land from the new lot 23.01. Mr. Walker said the directive from the Planning Board was to provide a straight subdivision line. If you move the line further into the new lot you would get rid of the FAR and ILC variances but you would need one for frontage and lot width. Mr. Dusinger said an application withdrawn from Board of Adjustment in 2012 and the recent Planning Board application both had variance requests for steep slopes why not this one. Mr. Walker said they had applied for a minor soil moving permit to remove soil and eliminated the slopes.

Next Mr. Henshaw introduced Michael Tobia, a licensed Planning Consultant in the state of NJ. He started with exhibit A-3, a photo of the house, pointing out the features of the house and arbor. All the photos to be presented were taken by Mr. Tobia on October 23, 2015. He

then showed exhibit A-4 a photo showing proposed 23.01 lot and the converted garage which has no original elements. Next he presented exhibit A-5 a photo of the converted garage and the property line. The line has a lot of vegetation so the new construction would not be seen by the Verzalenos. Exhibit A-6 was a photo from the lake where you could see the Verzaleno home and vegetation on the property line; in this photo you cannot see the Ansell's house. Lastly exhibit A-7 was a photo from the water showing the rhythm of the lake front with houses every 100 ft. Mr. Tobia pointed out where the new home would go.

Michael Tobia address the FAR variance for the remaining lot. The existing home creates the variance once Mr. Walker's subdivision line is drawn. There are no additions or alterations planned for the home but the house is 264 sq. ft. over the allowable FAR. They can eliminate the ILC by taking out the driveway pad along the Boulevard. This would get them down to a 25% lot coverage for both lots. The use is permitted in the R-A zone, the height of the dwelling and the setbacks have been established for centuries so this subdivision would not create a new impact to the neighbors. The properties are 60% greater than the minimum lot size required. The home is on the contribution dwelling list and if they were adding on to it they could have an FAR of 21%. This house could be knocked down and a 15,000 sq. ft. McMansion could be built. The new lot honors the lake views of Mr. Verzalano and meets all the required setbacks, FAR, and lot coverage. Michael Tobia said they needed a bulk variance for the arbor. It is a wall less and roof less structure so it would be mass free if it were not for the vegetation. Chris Richter said in the Planning Board application the applicant agreed to remove the arbor. Mr. Tobia said they would do it again or remove part of it to comply. The house on the existing lot fits in the smaller building box so he felt it also could be done on the newly created lot. The new lot is 33,000 sq. ft. where 15,000 sq. ft. is required in the zone. The north side of existing home has a side setback of 16.9 ft. which is a legal non-conforming situation. The height variances on this lot are slight and were also granted to Mr. Verzaleno when he applied to the Board of Adjustment.

Mr. Tobia said the development met the purpose of the act. He said they had met the following criteria: (a) the appropriate use of development, (c) adequate light, air and open space, (e) promote the establishment of appropriate population densities and preservation of the environment, (g) to provide sufficient space for residential uses, (i) desirable visual environment through creative development and good civic design and (m) efficient use of land. The negative of the development was not substantial. All the variances were small or minor. It was better to have two smaller houses rather than one big one. Stephen Vecchione asked what was the largest size home that could be built on lot 23.01; it would be 5677 sq. ft. Arthur Max asked should we include the island in our calculations. Michael Sullivan said Mr. Ryden thought it should be included. Mr. Max said he was concerned about the foot bridge but now that it has been moved and easement removed he was fine with it.

Michael Tobia asked the Board to look at exhibit A-7. In the exhibit the island was in the center of the photo yet you can't see it is an island. From the water it give a sense of more lawn and open space. Arthur Max said the southern property line has vegetation that only went 2/3 of the way back and that should be noted. Mr. Vecchione had walked the property and felt the photo was misleading the vegetation was not as dense as begin suggested. Mr. Tobia said the applicant was willing to add more evergreens. Arthur Max asked what the staging of the project would if the subdivision and variances were granted. They have 190 days to perfect the subdivision (record the deeds). The garage, the patio and part of the driveway would be removed before that. James Murphy felt the vegetation currently thins out

as you go down to the lake. Adding vegetation should not be allowed because that would interrupt the view of the lake. Chris Richter asked what triggered the use of the Contributing Dwelling Ordinance. The Board Administrator confirmed you must be doing an addition to the home to qualify.

Mr. Richter asked if anyone from the public had any question for Mr. Tobia. John Dusinger, asked what the square footage of the new lot would have to be added to the existing lot to eliminate the variances for FAR and ILC. Michael Tobia said they would need to reallocate 1550 sq. ft. To do so they would have to put a jog in the line to capture the extra footage and the island. Mr. Dusinger confirmed Mr. Tobia thought the large home's massing was off set by the large lot. He asked does the lawn offset the mass of the building; yes it did. He then confirmed half of the lawn in exhibit would become part of the new lot. Chris Richter asked when the applicant did the FAR calculations did they included all three stories but not the basement. Mr. Richter asked Mr. Walker when they did grading to eliminate the some of the slopes did they tweak the grades around the footprint of the house. Mr. Walker said they did two minor soil moving permits. One brought the basement out of the FAR calculation and the other eliminated the slopes in the building box. They added an 8 ft. retaining wall off the house on the northerly side and raised the grade. Stephen Vecchione confirmed the retaining wall along the proposed property line would be removed to obtain access to the garage.

No one else from the public was present to ask questions of Mr. Tobia. John Dusinger said he had only 2 days to prepare for tonight's meeting so he asked to have the application carried so they could present our opposition at the next meeting. Mr. Henshaw said noticing was done on October 19th. Michael Sullivan felt due to the hour the Board should carry the application to allow the objectors to present their case. He asked the applicant to revise his plans to relocate footbridge, remove the phasing, take out note 16 and adjust the ILC calculations. The Board determined the need to carry the application to January due to Board attendance issues. Mr. Henshaw granted the Board an extension of time to act on the application.

A motion was made by Chris Richter to carry the application to January 7th with not further notice and Stephen Vecchione provided the second. The decision to carry the application was passed by a voice vote of 7 to 0.

Other Matters / Public Comment:

No one from the public was present during the public comment period.

There will only be 4 members present and possible 5 at the December 5th meeting. She will contact the other applicants and see if they would like to proceed.

James McConnell made a motion to adjourn the meeting and Arthur Max provided the second. The meeting was adjourned at 9:54 PM.

Respectfully submitted,

Cynthia Shaw, Secretary