

**MINUTES OF A REGULAR MEETING  
ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MOUNTAIN  
LAKES  
January 7, 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 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, Richter, Bolo, Tolud, Sheikh and Vecchione

Absent: Murphy and McConnell

Also Present: Attorney Michael Sullivan

**REORGANIZATION:**

*Election of Chair* – Stephen Vecchione made a motion to appoint Chris Richter Chair of the Zoning Board of Adjustment and Peter Bolo provided the second. The motion was approved by a voice vote of all members present.

*Election of Vice Chair*– Chris Richter made a motion to appoint Peter Bolo Vice Chair of the Zoning Board of Adjustment and Arthur Max provided the second. The motion was approved by voice vote of all members present.

*Appointment of the Board Attorney, Michael Sullivan,*

*Appointment of Secretary, Cynthia Shaw,*

*Appointment of Board Engineer, Bill Ryden,*

*Appointment of Board Planner, Paul Phillips,*

*Re-adoption of the By-Laws,*

*Designation of Official Newspapers, The Citizen and The Daily Record, and*

*Determination of the regular Meeting Dates as follows:*

*February 4, 2016*

*August 4, 2016*

*March 3, 2016*

*September 1, 2016*

*April 7, 2016*

*October 6, 2016*

*May 5, 2016*

*November 3, 2016*

*June 2, 2016*

*December 1, 2016*

*July 7, 2016*

*January 5, 2017*

John Tolud made a motion to adopt the resolution determining the Attorney, Board Secretary, Engineer, Planner, By-Laws, newspaper designations and meeting dates for the Zoning Board of Adjustment for the 2016 calendar year. A second was provided by Arthur Max. The resolutions were approved by a voice vote of all members present.

**REVIEW OF MINUTES:** John Tolud made a motion to approve the minutes from the November 12, 2015 meeting. Arthur Max provided the second; the minutes were approved by voice vote by all members present.

**RESOLUTION:** none

**PUBLIC HEARINGS:**

Carried Application:

|                                      |                |
|--------------------------------------|----------------|
| Jesse and Fredrika McDonald          | Appl. #15-653  |
| Blk. 92, Lot 16.02                   | 165 Morris Ave |
| Modify a condition of the Resolution | R-A zone       |

The McDonald's did not re-notice for this meeting and requested their application be carried to the February 4<sup>th</sup> meeting. Chris Richter made a motion to carry the newspaper notice but the applicant must do the notice to the individuals on the 200 ft. list. A second was provided by John Tolud. The motion was approved by a voice vote of all members present.

|                                |               |
|--------------------------------|---------------|
| Jeffery and Lynne Ansell       | Appl. #15-648 |
| Blk. 100, Lot 23               | 260 Boulevard |
| Subdivision, Use, Side setback | R-A zone      |
| FAR, ILC, Building Envelope    |               |

The applicant requested their application be carried to the February 4<sup>th</sup> with no further notice. Arthur Max made a motion to carry the application without notice and a second was provided by Chris Richter. The motion was approved by a voice vote of all members present.

New Application:

|                                 |                  |
|---------------------------------|------------------|
| Leanne Cronin and Marc Meyer    | Appl. #15-654    |
| Blk. 96, Lot 20                 | 16 Hillcrest Rd. |
| Height and Front Yard Exception | R- A zone        |

The applicant miss understood the noticing process and noticed the neighbors within 200 ft. for tonight meeting in error. The newspaper notice has not been done. Chris Richter made a motion to carry the application to February 4<sup>th</sup> and a second was provided by John Tolud with no further notice by the applicant. The Board Administrator will put the notice in the newspaper. The motion was approved by a voice vote of all members present.

New Application:

|                        |               |
|------------------------|---------------|
| Amy and Michael Schadt | Appl. #15-655 |
| Blk. 102, Lot 38.02    | 63 Ball Road  |
| Rear Setback           | R-A zone      |

Amy and Michael Schadt, of 63 Ball Road, wished to put a new deck on their house. They needed to amend the application submitted and are asking for a side setback variance not a rear setback variance as noticed. When doing the notice they were not

aware the orientation of the house on the corner lot made their back yard a side yard. The previous owner had been before the Board for a renovation of the home and the addition of a new deck. Both were approved by the Board in August of 2011 but the deck was never built and the resolution has expired.

Frank Davies, of Finishing Touch Landscaping, would be building the new deck. The deck would be 10 ft. by 24 ft. and will measure 13 ft. from the property line. Exhibit A-1 was a sketch of the proposed deck. The new deck would be 10 ft. wider than the existing deck.

Stephen Vecchione asked what the level of the deck was; it will be the same level as it is now. Peter Bolo confirmed the new deck would have a railing. Michael Sullivan added the design was different but it was consistent with the previous approval for a side setback variance.

No one from the public was present for the application. Peter Bolo made a motion to approve the application as presented and a second was provided by John Tolud. The Board voted 6 to 0 to approve the application with members Max, Richter, Bolo, Tolud, Sheikh and Vecchione in favor.

New Application:

Boardwalk Builders, LLC  
Blk. 100.02, Lot 84  
Front Setback, Building Envelope

Appl. #15-652  
6 Cove Place  
R-A zone

Chairman Richter recused himself from hearing the application since he lives within 200 feet of the applicant. Rosemary Stone-Dougherty, a licensed Attorney in the state of NJ and Marc Walker a licensed Engineer in the state of NJ would be representing Boardwalk Builders. Ms. Stone-Dougherty explained the property at 6 Cove Place previously had a home on it. That home was torn down and they were here to request variances for front yard setback and the building box in order to build a new house.

Marc Walker stated the lot consisted of 21,885 sq. ft. and has the required lot width and depth for the zone. He presented exhibit A-1 an aerial photo of the property. Mr. Walker had the footprint of the previous house shown as a white dotted line on the photo. He said the lake had a 50 ft. riparian buffer in addition to a wetland buffer on the property. The location of the property creates a need for 2 lakefront exceptions which are depicted by the yellow dotted lines on the photo exhibit. He pointed out the average front yard setback was drawn by using the house on lot 83 and lot 95 resulting in the need to have a 110.9 ft. front setback. Any home to be built on the property would require the front setback variance. Arthur Max asked what point of each home was used to create the front yard setback. On lot 83 they used the front of garage and they used the side of house on lot 95. They have set the new house back 40.3 ft. The homes on the street are setback as follows: 49.3' for lot 95, 41' for lot 80 and 35' for lot 79. Exhibit A-2 was a reduced version of the aerial view. The diagram shows the outlines of the original 3150 sq. ft. home and the new 3144 sq. ft. new home. The footprint of the old home was larger than the building envelope and had a 42 ft. front setback. With the current plan there is a slight increase in the ILC of 568 sq. ft. They have applied for a wetland permit. They will be disturbing less than a ¼ acre on less than a one acre parcel. Since the area was previously disturbed they can apply under the permit by rule. We do have a need for a second variance for building envelope. When you apply the average front yard setback of 110.9 ft. there is no building box.

Marc Walker said the applicant was willing to comply with items 6 - obtain DEP permits, 8 – get a minor soil moving permit, 9 – soil erosion control certificate and 10- do the Borough tree management plan listed in Bill Ryden's letter dated October 15, 2015. Mr. Walker said the house plans had been redrawn to remove the need for a FAR variance.

Vice Chair Peter Bolo asked if there were any questions from the public for Mr. Walker. Matt Krantz was the Attorney for David Winters of 11 Point View Place. On behalf of Mr. Winters he asked if the rear yard setback could be moved back so the house was closer to Cove Place. Mr. Walker answered moving the house would increase the front yard setback variance and require two addition variances for side setback. If they shift the house to the west they would have a problem with the driveway in addition to the increased number of variances.

Ms. Stone-Dougherty introduced John Saracco a licensed Architect in the state of NJ. Mr. Saracco reference the house plans, dated November 10, 2015, pointing out the new house was oriented toward the lake. He explained the plans had a 1<sup>st</sup> floor master and 2 bedrooms on the second floor. There was an open wood roof top deck on the third floor with a 360 view of the area. Bill Ryden's review letter of October 15<sup>th</sup> stated the second floor needed to be included in the FAR calculation and it wasn't. Once included the FAR would exceed 17% and a variance would be required. Subsequently Mr. Saracco revised the plans to reduce the FAR. Ms. Stone-Dougherty asked Mr. Saracco to explain how he prepared the FAR calculation. He said the square footage of the 1<sup>st</sup> floor minus the garage was 2644 sq. ft. The second floor was 1045 sq. ft. which is less than 40% of the floor below so it is not counted toward the FAR calculation. As a result the FAR is now 12.1% Peter Bolo asked if the house was a mix of contemporary arts and crafts. The Architect said it was in that spirit. Arthur Max asked what the highest elevation was for the home. The ridge of the open deck was 34.8 ft. He asked if there was the possibility of ever enclosing the roof top deck; no the 2<sup>nd</sup> floor roof members below could not handle the weight of windows etc.

The Vice Chair opened the hearing to the public. Chris Richter, of 5 Cove Place, stated the house appears to have a third floor that is framed on the ceiling trusses from the second floor. Mr. Saracco said yes, the east elevation shows the roof deck sits on the ceiling of the second floor. Mr. Richter asked Mr. Saracco why he didn't considered the third floor stair tower an attic elevation. The definition of an attic is: *a space, under a sloping roof, in which the possible floor area with headroom of 5 ft. or more occupies less than 40% of the total floor area of the story directly below.* Peter Bolo stated the space would be an attic so the second floor should be included in the calculation and the third would drop out. Mr. Saracco recalculated the FAR including the second floor. The new FAR was 16.86%. Mr. Saracco agreed to do a new FAR calculation for the record.

Doctor Bolo asked if the public wished to comment on the application. Chris Richter said he was in favor of a house being built on the property and thought the arguments presented were sound. He would like the resolution to include a condition requiring a new FAR calculation of 16.68% be prepared.

Matthew Krantz the Attorney from David Winters presented the Board with a copy of exhibit O-1 a letter dated January 7, 2016 along with 4 attachments. Rosemary Stone-Dougherty objected to the letter being submitted. Mr. Sullivan confirmed Mr. Krantz is not a PPE and could not comment on any issues pertaining to the wetland and buffer areas. If the application was approved the resolution can contain a condition that the DEP must approve the permit before the house can be built. Mr. Krantz then read a portion of the letter

concerning the building envelope. His client thought the application should be denied. He was concerned about the patio in the wetlands transition area. Mr. Krantz did not think the applicant met e-i and m of the purpose of the Municipal Land Use Law. He thought they should move the house forward on the lot increasing the rear setback even though that would require other variances. Lastly Mr. Winters wanted them to plant a rear landscape buffer. Khizar Sheikh was also concerned with the patio in the wetlands transition area and understood the applicant will have to get permission from the DEP for the patio. The front setback rules eliminate the building envelope so what did Mr. Krantz propose be built there. Matthew Krantz said they could modify the plan to remove the patio from the transition area. He felt the applicant did not prove the negative criteria. Stephen Vecchione asked where Mr. Winter would want the house. Mr. Krantz answered we would like the house moved back and he was concerned with the view. Chris Richter thought they should not move the house since it conformed to the setbacks in its current location and since Mr. Winter's house was 45° in the opposite direction. The new house was not blocking his view of the lake. Ms. Stone-Dougherty wished to have Mr. Walker address Mr. Krantz's statements. Marc Walker added the house to the right was so far removed from the development pattern it creates a hardship. The pattern for this house matches 4 out of the 5 houses on the road. This lot has no impact in the zone area and the original house was located over the lake front exception and now it's not. The building box ordinance talks about the ability to create a home with a usable lot area and they have done that. If evergreens were added they would impact the view of the lake for other houses on the lake. There are no detriment to the Master or Zoning Plan of the town. Matthew Krantz for said Mr. Winters thought the minimum building box was also to protect the wetlands transition area. Marc Walker clarified the building envelope should not have wetlands or transition area in the box. Arthur Max asked the Architect, when designing the house if they considered eliminating the third deck. Mr. Saracco said the deck was always an important feature of the house since the property has limited views of the lake. Stephen Vecchione thought the design works considering the irregular shape of the lot. He disagreed with Mr. Krantz, moving the house would create more of a detriment to the community and the DEP will determine if the patio can stay in the transition area. Khizar Sheikh thought if we complied with the ordinance on building envelopes we would not have a house on the lot at all and we should not eliminate the lot from the town. I am concerned about the wetland transition area and think the patio could be reduced. Moving the house in any direction will be an environmental issue. John Tolud thought the old house in the building envelope was awkward and this is design was much better. Arthur Max said with this kind of lot we need to establish reasonable setbacks. I wish the house was smaller because I am concerned with bulk. Peter Bolo thought there was a hardship due to the lack of building envelope and the front setback. The DEP will make their ruling on the patio and so be it. He thought the plan was reasonable with the 40 ft. setback reflecting the homes on the street. Stephen Vecchione made a motion to approve the application with the following conditions. Items 6, 8, 9 and 10 of Bill Ryden's letter, a revised FAR calculation be submitted and obtain all required approvals needed for the project. A second was provided by Khizar Sheikh and the Board voted 5 to 0 with members Max, Bolo, Tolud, Sheikh and Vecchione voting in favor of the application.

**Other Matters / Public Comment:**

2015 Annual Report – A motion to accept the report as written was made by John Tolud and a second was provided by Arthur Max. The motion was carried by a voice vote of all members present.

No one was present from the public.

John Tolud made a motion to adjourn the meeting and Peter Bolo provided the second. The meeting was adjourned at 9:34PM.

Respectfully submitted,

Cynthia Shaw, Secretary