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For Notice under Sunshine Law

**MOUNTAIN LAKES ZONING BOARD OF ADJUSTMENT
AGENDA
June 3, 2021**

NOTICE: Please take notice that the regular meeting of the Zoning Board of Adjustment of the Borough of Mountain Lakes will be held on June 3, 2021 at 7:30 p.m. **as a remote meeting only**. Formal action may be taken.

To Participate via computer please use the following link to join the webinar: <https://zoom.us/j/94321697504>

Or use iPhone one-tap: US: +13126266799,,94321697504# or +19292056099,,94321697504#

Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833

Webinar ID: 943 2169 7504

If calling into the meeting by telephone, the following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom meeting:

*6 - Toggle mute/unmute

*9 – Raise Hand (Once hand is raised, it cannot be lowered – if you change your mind and choose not to speak, when called upon, please let the host know that you have changed your mind and no longer wish to speak)

International numbers available: <https://zoom.us/u/acNqOSGPrm>

1. CALL TO ORDER & OPEN PUBLIC MEETING ADVERTISEMENT NOTICE

2. ROLL CALL

3. REVIEW OF MINUTES: May 6, 2021

4. MEMORIALIZING RESOLUTION:

Thomas and JoAnn George

Appl. #21-720

Chinh Ty Nguyen & Emily Nagler

Appl. #21-722

5. PUBLIC HEARINGS: none

6. OTHER MATTERS / PUBLIC COMMENTS

7. ADJOURNMENT



Cynthia Shaw, Administrative Officer

Dated: May 24, 2021

Distribution:

Board Chairman and Members

Board Attorney

Citizen & Daily Record

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Council Liaison

Applicants

Bulletin Board

Borough Clerk

**MINUTES OF A SPECIAL MEETING
ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF MOUNTAIN LAKES
May 6, 2021**

Chair James Murphy called the remote meeting to order and announced: Adequate notice of this remote meeting has been provided in accordance with the Open Public Meetings Act by publishing the remote meeting notice in The Citizen and The Morris County Daily Record on January 11, 2021 and by filing the same with the Borough Clerk and posting it on the Front Door on January 11, 2021 and was made available to all those requesting individual notice and paying the required fee.

Start: 7: 30 PM

ROLL CALL:

Present: Murphy, DeNooyer, Vecchione, Paddock, Peters, and McCormick

Absent: Caputo and Astrup

Also, Present: Attorney Michael Sullivan

REVIEW OF MINUTES: Brett Paddock made a motion to approve the minutes from the April 1st meeting. Jake DeNooyer provided the second; the minutes were approved by voice vote by all eligible members present.

RESOLUTION:

Ivar and Margherite Mise

Appl. #21-721

Ann Peters made a motion to adopt the resolution of approval and Brett Paddock provided the second. The Board voted 6 - 0 to adopt the resolution with members Murphy, DeNooyer, Vecchione, Paddock, Peters, and McCormick voting in favor.

PUBLIC HEARINGS:

Thomas and JoAnn George

Appl. #21-720

2 Point View Place

Blk. 100.02, Lot 90

Floor Area Ratio, Front (2)

R-A Zone

Michael Sullivan explained the FAR variance request needed 5 affirmative votes to be approved and we only had 6 members present. Mr. George decided to proceed with his application. Thomas George of 2 Point View Place presented the application. His property was irregular in shape, bound by the water on one side and had two front yards. No matter what they do on this corner lot they will need a variance. The size of the present one car garage is too small so they would like to add an additional garage bay. They need an FAR and two front setback variances. They will also widen the driveway to access the garage. The garage does not block the view of the lake, but they will be closer to Morris Ave.

M. Sullivan noted they previously had been granted a front yard setback variance on Point View Place to add a second story dormer. The FAR for the zone was 17% and they were requesting 17.1% for an additional 12sqft of garage space. They needed front yard

setback variances for 38' 6" to the new addition on Point View Place and 17' 2.5" on Morris Avenue. Ann Peters asked if the trees along Morris Ave would remain. Mr. George said right now they will keep the trees but one of the big trees was not healthy. They will be replanting some new oak trees after the construction was completed. No one from the public wished to ask questions or comment on the application. Stephen Vecchione confirmed the address was the back of the house and the front door was on the lake side. Jim Murphy noted the FAR was over by 12sq ft. Did Mr. George and his architect discuss getting that down to eliminate the variance. He did discuss it with his architect and could reduce the FAR if necessary. Jake DeNooyer commented you can always use storage space in the garage he was fine with the extra FAR. Ann Peters made a motion to approve the application as presented and Kelly McCormick provided the second. The Board voted 5 to 1 to approve the application with Murphy, Vecchione, McCormick, Peters and DeNooyer voting in favor and Paddock voting against.

Chinh Ty Nguyen & Emily Nagler
7 Vail Drive
Floor Area Ratio
Average Front Yard Setback

Appl. #21-722
Blk. 127.01, Lot 17
R-A Zone

Ty Nguyen and Emily Nagler were sworn in and said Thomas Baio, a licensed architect in the state of NJ, would present their application. Ty Nguyen said this was his family home and it needed a lot of work to update it and increase the living space. Emily Nagler explained they wanted a larger addition but cut it back to keep the home the same size as those in the neighborhood. They wished to add a front porch to allow them to interact with the neighbors. They are removing several features like the shed, walkway, and car port to reduce coverage.

Mr. Baio, said the house was in the R-2 zone, the expansion would be in the back keeping it behind the house ridge line. They want to move the master bedroom over the existing kitchen and family room. They will remove the shed and carport from the westerly side. The allowable average front setback was 42.6ft and they were asking for a front setback of 36.8ft. M. Sullivan asked if the applicant wanted to proceed since the Board had only 6 members and they needed 5 affirmative votes. The applicant wanted to proceed. S. Vecchione asked if the shed was included in the original FAR calculation. Yes, it was. Why did they need an 8ft wide front porch? Emily Nagler answered the width was based on the other porches in the neighborhood. They wanted it 12ft wide but moved it back to 8ft, so it did not stick out any further than the existing front steps. What was the height of the porch? Mr. Baio responded it was 11.5ft high with an 8ft ceiling. The porch roof was a shed roof that sits up against the house. Kelly McCormick asked what the width of the existing back deck was. It was 13.9ft wide, the same width as the old deck. The rear addition goes back an additional 7ft into the backyard, so the deck is also bumping out 7ft. Brett Paddock said the rear yard setback should be 37.2ft. Page 2 and the plans do not list the side and rear setbacks correctly. Ann Peters asked if the existing 1st floor bedroom would still be a bedroom? They will turn it into an office.

Chairman Murphy opened the meeting to the public. Katie DeSantis, of 12 Center Drive, said they did the same renovation and were in support of the application. Adam Achenbach, of 120 Midvale Rd shares their rear property line. He asked what their

landscaping plan was. Will the existing buffer remain? Emily Nagler said they will be re-landscaping, but they will not be removing the rear buffer. Would they be removing the 1 tree between the properties that leans? They would like to take it down. Chris Palazzi, of 9 Vale Drive, was the neighbor to the right, they liked their plans and were glad they were keeping the integrity of the neighborhood. Kim Hurley, of 20 Maple Way, supported the renovation project and the front porch.

Brett Paddock asked if the application was approved a condition be added requiring the applicant correct page 2 of the application and revise the plans so they both agree. He questioned the need for an additional side setback variance for steps to the left of the deck. The Board discussed steps in the side setback and determined this variance was also needed. Jake DeNooyer made the motion to add an additional variance for a combined side yard setback of 21.4ft for the deck steps where 25ft was required. This would be added to their variance request for FAR and Average Front Yard Setback. A second was provided by Brett Paddock. The Board voted 6 to 0 to approve the application with members Murphy, Vecchione, McCormick, Paddock, Peters and DeNooyer voting in favor.

Other Matters / Public Comment:

Chairman Murphy opened the meeting to the public. Chris Ritcher, of 5 Cove Place, reminded the Board to share the plans on the screen so the public could see them.

Stephen Vecchione made a motion to adjourn the meeting and Kelly McCormick provided the second. The meeting was adjourned at 9:07 PM.

Respectfully submitted,

Cynthia Shaw

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
ZONING BOARD OF ADJUSTMENT**

Application No. 21-720
Thomas A. and JoAnn C. George
2 Point View Place
Block 100.02, Lot 90

WHEREAS, Thomas A. and JoAnn C. George, as owners, did make application to the Zoning Board of Adjustment of the Borough of Mountain Lakes to construct a one-story single car garage addition to the existing residence at the above-captioned property located in the R-A Zone; and

WHEREAS, the applicants sought relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(4) to permit floor area ratio of 17.1% where a maximum of 17% is allowed pursuant to Mountain Lakes Code Section 245-19/Schedule I.
2. Variances pursuant to N.J.S.A. 40:55D-70c to permit front yard setbacks measured to the new construction of 38 feet 6 inches from Point View Place and 17 feet 2 ½ inches from Morris Avenue where a minimum of 40 feet is required pursuant to Mountain Lakes Code Section 245-19/Schedule I.

WHEREAS, the applicants submitted a site plan, floor plans and elevations Sheets S-01 dated January 28, 2021 revised through March 17, 2021 and Sheets A-01 dated January 28, 2021 revised through February 17, 2021; and

WHEREAS, this matter came on to be heard at a regular meeting of the Zoning Board of Adjustment held on May 6, 2021, at which time it was established that notice was properly

published and that property owners within 200 feet of the property had been served with such notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings of fact and conclusions of law:

1. The subject property is a corner lot with frontage on Point View Place and Morris Avenue and contains lot area of 15,900 square feet. The property is improved with a single-family dwelling, undersized attached two car garage and related site improvements.

2. The application seeks approval to construct a one-story single car garage addition and to widen the existing driveway with Belgian block curbing. The proposed garage addition has a height of 14 feet.

3. The property contains preexisting nonconforming front yard setbacks of 25.87 feet from Point View Place and 28.59 feet from Morris Avenue where a minimum of 40 feet is required. The property is irregularly shaped, subject to two front yard setbacks, Mountain Lake to the rear and which combined with the location of structures lawfully existing on the property, the strict application of the front yard setback requirements results in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the applicants.

4. Approval of this application represents an appropriate modernization of the home and advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a); provides adequate light, air and open space (-2c); promotes establishment of appropriate population densities and concentrations that contribute to the well-being of persons (-2e); provides sufficient space in an appropriate location for residential use (-2g) and promotes a desirable visual environment (-2i).

5. The proposed floor area ratio exceeds the maximum allowed by 12 square feet which is de minimis. The proposal is not inconsistent with the intent and purpose of the zone plan and zoning ordinance which seeks to reasonably control the size and mass of structures in relation to lot size and prevent overbuilding. The Board determined the subject property accommodates problems typically associated with a larger floor area than permitted by ordinance consistent with *Randolph Town Center v. Randolph*, 324 N.J. Super. 412 (App. Div. 1999).

6. Based upon the Board's particular knowledge of local conditions, approval of this application will not block any view of Mountain Lake, results in little or no adverse impact on area properties and results in a home consistent with the size and scale of homes in the area.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants proved the requisite special reasons for the granting of this application and proved by a preponderance of the evidence that the proposed relief could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance; and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the positive criteria and proved peculiar and exceptional practical difficulties and exceptional and undue hardship pursuant to requirements of N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the negative criteria in that approval of the application will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Borough of Mountain Lakes that the within application of Thomas A. and JoAnn C. George for floor area ratio and front yard setback variances, as outlined herein, is hereby approved subject to the following conditions:

1. This approval is limited to compliance with the plans submitted to the Board which are attached hereto and shall not be construed to permit any renovations not shown on the approved plans.
2. The applicants shall be bound by all representations made on their behalf at the public hearing.
3. Compliance with the Tree Management Plan set forth in Sections 102-35 and 102-36 of the Code of the Borough of Mountain Lakes.
4. An as-built survey shall be submitted to the Construction Office for confirmation of compliance with zoning and engineering requirements.

Offered by:

Seconded by:

Vote:

Date:

**RESOLUTION
BOROUGH OF MOUNTAIN LAKES
ZONING BOARD OF ADJUSTMENT**

Application No. 21-722
Chinh Ty Nguyen and Emily Nagler
7 Vale Drive
Block 129.01, Lot 17

WHEREAS, Chinh Ty Nguyen and Emily Nagler, did make application to the Zoning Board of Adjustment of the Borough of Mountain Lakes to construct various additions and renovations to the existing home at the above-captioned property located in the R-2 Zone; and

WHEREAS, the applicants sought relief as follows:

1. A variance pursuant to N.J.S.A. 40:55D-70d(4) to permit a floor area ratio of 22.1% where a maximum of 20% is allowed pursuant to Mountain Lakes Code Section 245-19/Schedule I.
2. A variance pursuant to N.J.S.A. 40:55D-70c to permit a front yard setback of 36.8 feet where a minimum of 42.6 feet is required pursuant to the average front yard setback requirement contained in Mountain Lakes Code Section 245-20B.
3. A variance pursuant to N.J.S.A. 40:55D-70c to permit an aggregate side yard setback of 21.4 feet where a minimum of 25 feet is required pursuant to Mountain Lakes Code Section 245-19/Schedule I.

WHEREAS, the applicants submitted a site survey, floor plans and elevations prepared by Thomas Baio Architect P.C. AIA Sheets C-1, A-1 through A-7 dated March 9, 2021 as well as a survey prepared by Lakeland Surveying consisting of one sheet dated March 31, 2021; and

WHEREAS, this matter came on to be heard at a regular meeting of the Zoning Board of Adjustment held on May 6, 2021, at which time it was established that notice was properly published and that property owners within 200 feet of the property had been served with such notice; and

WHEREAS, the Board carefully reviewed the testimony presented and established the following findings of fact and conclusions of law:

1. The subject property is located on the northeasterly side of Vale Drive and contains lot area of 11,200 square feet. The property is improved with a single-family dwelling with attached carport, deck and shed.

2. The applicants propose to remove the carport and shed, partially remove walkway and construct a new two-story addition, new front porch addition and rear deck. With the exception of the front porch, the majority of the construction is to the rear.

3. The property contains a preexisting nonconforming front yard setback of 40.5 feet measured to the house where a minimum of 42.6 feet is required. The proposed open porch will be setback 36.8 feet which is located slightly behind the existing entrance steps which are excluded from the front yard setback calculation. The porch will be 24 inches above ground with a height of 8 feet to the ceiling with a neutral dark gray roof. Based upon the location of the home lawfully existing on the property, the strict application of the front yard setback requirement results in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the applicants.

4. The applicants presented sufficient testimony to support the grant of a variance to permit an aggregate side yard setback of 21.4 feet where a minimum 25 feet is required. The deviation is related solely to a set of short steps to the deck on the southeasterly side of the

property. The proposed location of the steps is appropriate and represents a minor intrusion into the setback while still providing adequate light, air and open space.

5. Approval of this application represents an appropriate modernization of the home and advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a); provides adequate light, air and open space (-2c); promotes establishment of appropriate population densities and concentrations that contribute to the well-being of persons (-2e); provides sufficient space in an appropriate location for residential use (-2g) and promotes a desirable visual environment (-2i).

6. The proposal is not inconsistent with the intent and purpose of the zone plan and zoning ordinance which seeks to reasonably control the size and mass of structures in relation to lot size and prevent overbuilding. The Board determined the subject property accommodates problems typically associated with a larger floor area than permitted by ordinance consistent with *Randolph Town Center v. Randolph*, 324 N.J. Super. 412 (App. Div. 1999).

7. Based upon the Board's particular knowledge of local conditions, approval of this application will not block any view of Mountain Lake, results in little or no adverse impact on area properties and results in a home consistent with the size and scale of homes in the area.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants proved the requisite special reasons for the granting of this application and proved by a preponderance of the evidence that the proposed relief could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance; and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the positive criteria and proved peculiar and exceptional practical difficulties and exceptional and undue hardship pursuant to requirements of N.J.S.A. 40:55D-70c(1); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment pursuant to the requirements of N.J.S.A. 40:55D-70c(2); and

WHEREAS, the Board, based on the aforementioned findings, concluded that the applicants met the negative criteria in that approval of the application will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Borough of Mountain Lakes that the within application of Chinh Ty Nguyen and Emily Nagler for floor area ratio, front yard and aggregate side yard setback variances, as outlined herein, is hereby approved subject to the following conditions:

1. This approval is limited to compliance with the plans submitted to the Board which are attached hereto and shall not be construed to permit any renovations not shown on the approved plans.

2. The plans and section 3 of the application form shall be revised to correct the information to provide the proposed front yard setback is 36.8 feet, the existing and proposed northwesterly side yard setbacks are 3.5 feet and 11.2 feet respectively and the proposed southeasterly side yard setback is 10.2 feet.

3. The applicants shall be bound by all representations made on their behalf at the public hearing.

4. Compliance with the Tree Management Plan set forth in Sections 102-35 and 102-36 of the Code of the Borough of Mountain Lakes.

5. An as-built survey shall be submitted to the Construction Office for confirmation of compliance with zoning and engineering requirements.

Offered by:

Seconded by:

Vote:

Date: