

**BOROUGH OF MOUNTAINSIDE
PLANNING BOARD
JOH TOMAINE, CHAIRMAN**

**Regular Meeting
March 28, 2023**

The regular meeting was called to order at 7:30pm. Board members and members of the public saluted the American flag.

Notice of this meeting was given pursuant to the Open Public Meetings Act N.J.S.A. 10:4-6 et. Seq. Notice was posted on the Borough website, at Borough Hall, and was given to the Courier News, The Star Ledger, The Westfield Leader, and The Local Source.

ROLL CALL

Mike Disko, PE	Thomas Jakositz
John Tomaine, Chairman	Karen Dillon
Steve Matlin, Vice-Chairman (absent)	Victor Kostin, Alt. #1
Mayor Mirabelli (absent)	Mark Gioioso, Alt. #2 (absent)
Councilman Matejek (absent)	Vincent K. Loughlin, Esq.
Ted Zawislak	John T. Chadwick, IV, PP (absent)
Todd Garran	Joanna Roberts, Board Clerk

Mr. Loughlin announces the mayor and the councilman are not permitted during the land use applications.

OATHS OF OFFICE

Mr. Loughlin administered the oath of office for Victor Kosin.

RESOLUTION PB 23-R11

The Chairman appoints the new board clerk, Joanna Roberts

MINUTES

The February 28, 2023 meeting minutes were motioned for approval by Mr. Zawislak and seconded by Mr. Garran.

Roll Call:

Ayes:	Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz, Ms. Dillon,
Nays:	
Not Eligible:	Mr. Kostin
Abstain:	
Absent:	Mr. Matlin, Mayor Mirabelli, Councilman Matejek, Mr. Gioioso

RESOLUTIONS

CASE NO.: 22-23; Grzyb
259 Central Avenue
Block 15, Lot 52
R-2 Zone
Approved: 02-28-23

Planning Board Meeting Minutes

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Motioned by Mr. Zawislak and seconded by Mr. Garran.

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz,
Ms. Dillon,

Nays:

Not Eligible: Mr. Kostin

Abstain:

Absent: Mr. Matlin, Mayor Mirabelli, Councilman Matejek, Mr. Gioioso

CASE NO.: 22-24; Cobo

268-270 Summit Road

Block 7.04, Lots 27 & 28

Represented by Stephen F. Hehl, Esq.

R-2 Zone

Approved: 02-28-23

Motioned by Mr. Zawislak and seconded by Mr. Garran.

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz,
Ms. Dillon,

Nays:

Not Eligible: Mr. Kostin

Abstain:

Absent: Mr. Matlin, Mr. Gioioso

CASE NO.: 22-25; Gartshein

1577 Grouse Lane

Block 3.15, Lot 34

R-2 Zone

Approved: 02-28-23

Motioned by Mr. Garran and seconded by Mr. Zawislak.

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz,
Ms. Dillon,

Nays:

Not Eligible: Mr. Kostin

Abstain:

Absent: Mr. Matlin, Mr. Gioioso

BOARD OF ADJUSTMENT

CASE NO.: 22-17; Garofano

277 Timberline Road

Block 16.08, Lot 1

R-2 Zone

Expiration: 03-31-23

Ms. Garofano is sworn in by Mr. Loughlin and Ms. Garofano confirms her address. Mr. Loughlin explains the application and Mr. Disko passes out two photos of the corner lot. Mr. Disko explains that this corner lot has two front yards and two side yards. Generators are not permitted in a front or side yard.

The board asks questions regarding the front yard, the side yard and the driveway side. The generator can only be placed on either the driveway or the patio side. The size of the generator is discussed. Ms. Garofano discusses landscaping that could be planted blocking the generator.

The meeting is open to the public for questions and comments. There are none.

Motioned by Mr. Zawislak and seconded by Ms. Dillon.

Roll Call:

Ayes: Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz, Ms. Dillon,

Nays:

Not Eligible:

Abstain:

Absent: Mr. Matlin, Mr. Gioioso

CASE NO.: 22-26: Schmidt

1185 Ridge Drive

Block 5.02, Lot 17

R-2 Zone

Expiration: 04-05-23

Mr. Schmidt is representing his case and is sworn in by Mr. Loughlin. Mr. Schmidt discusses the air conditioning unit for the top floor of their split-level home. The unit is sitting on the only feasible wall where the preexisting air conditioners are. That side of the house is 10 ½ feet from the property line. The new system is seven inches from the property line. This unit has been there for two- and one-half years and he failed to get a permit for this unit. Both units are in violation of the set back. Chairman Tomaine questions the units displayed on the survey. Mr. Schmidt initials the location of the units on the survey for the record. (A1) and (A2) is a smaller portion of the survey that has been enlarged to show the location. (A3) is the updated survey from February 16, 2023.

The board asks why the unit cannot be located in the back of the house and Mr. Schmidt explains it is a split system where the cooling unit sits on a wall and the condensing unit is outside. The noise level is questioned and Mr. Schmidt feels it is very quiet and only makes about 20% of the sound of

the old unit. Mr. Schmidt shows A2 to the board to show where the placement will be and why it is being placed there.

The original zone was replaced with two zones and are about twelve years old. These were not permitted at the time. The zone was changed and it may have been acceptable at the time of installation since the FAR was changed in 2014 after Mr. Schmidt made the changes.

The meeting is open to the public for questions.

Gary Bobko of 1181 Ridge Drive – Mr. Bobko asks if the original survey had any air conditioner units on the survey. Mr. Bobko asks if that means the air conditioning units were not installed prior to purchasing the house. Mr. Schmidt says that they were installed prior he does not know why they were not on the survey.

Mr. Schmidt addresses Mr. Bobko about the original survey and admits that it is feasible that the air conditioner was not on the side of the house. He does not believe the original survey shows the original air conditioner. Mr. Schmidt does not recall where the original air conditioning unit was in the back or the side of the house. There are two that are on the side of the house that replaced the original unit. There is a third unit there now that is being questioned as it is too close to the property line.

Mr. Loughlin explains that Mr. Schmidt is here because he is in violation.

Moving onto the next issue is the firewood and the setback issue. Mr. Schmidt explains that he heats his house with wood and he stacks the wood on the side of the property because of the sloped nature of the property. There is an overhang to keep the wood dry and this has been there for about eight years. It is located behind the shed.

The board asks how many cords of wood are there. Mr. Schmidt explains about six cords and they burn about three cords a year. The Board asks how the wood is acquired. Mr. Schmidt says just in his travels he picks it up. It is asked what is in the shed and there are various landscaping items, snow blower and other various type of equipment that you would find in a shed. He indicates there is no wood in the shed. Mr. Schmidt explains that the wood has tarps over the wood being supported by the structure that covers the wood. The structure is supported by concrete footings. The structure stands about seven to eight feet tall. Mr. Schmidt is asked if he treats the fire wood and he indicates other than having a pest control service that sprays the property. Part of the structure is attached to the shed and also posts in the concrete footing. He is asked if he rotates the wood first in first out and he does. He stacks it on a bed of gravel to prevent rotting and moisture. He has not noticed any animals living in the wood pile and there has never been any evidence. His property was inspected for rodents by Westfield Regional Board of Health and they did not find evidence of rodents. This was initiated by neighbors. Mr. Schmidt does not feel there is anywhere else he can move the wood pile to on the property. Mr. Schmidt shows exhibit A3 survey to show where the wood pile is located.

The board questions the survey since Mr. Schmidt has altered the survey to show the wood pile and the shed but Mr. Disko explains that the lot coverage was the issue and the survey shows that this is not an issue.

The meeting is open to the public for questions.

There are none.

The Chairman points out that it is the municipalities responsibility to promote the health, safety and general welfare of the community. General welfare refers to the municipalities and of what the community should look like. General welfare should be viewed broadly and there are many aspects of what is in the scope of general welfare. The municipality should be concerned about how a property looks and preventing overcrowding of the land. The Chairman would like Mr. Schmidt know what his obligation is in providing a benefit to the borough that outweighs any detriment.

The Board asks Mr. Schmidt what system he uses for heating the house with the wood. They have a wood burning stove that has a built-in fan that blows the air that is located in the living room and the heat does get upstairs. The primary heating is baseboard heat.

The meeting is open to the public for comments.

Mr. Bobko has pictures that he took himself of three photographs taken October or November of 2022. He has not modified or altered them in any way. They will be marked B1 (Bobko 1). Mr. Bobko explains that this issue was brought to his attention in July 2022 when he was repaving his driveway. Mr. Bobko explains the timeline of Mr. Schmidt's move into the neighborhood and the various improvements made to his home. Mr. Bobko indicates he has never received any notice for any of the improvements to the Schmidt home other than for the current application. Mr. Bobko describes the shed, the structure that houses the fire wood and the three air conditioning units. Mr. Bobko would like the board to take action on all the previous violations. He would like the three air conditioning units relocated and the sheds demolished.

Patrick Thomas of 1189 Ridge Drive – is sworn in by Mr. Loughlin and also has four images and a copy of the application. Mr. Thomas took the photos back in the Fall of 2022. He distributes (T1) Thomas exhibit 1. Mr. Thomas' home butts up to the Schmidt's property. Mr. Thomas indicates that the drawing of the wood shelter on the Schmidt's survey is not to scale. Rainwater is pitched off of the roof of the shelter onto the Thomas' property along with fire wood falling onto their property as well. Photos show the footings are now exposed and no longer underground. Mr. Thomas would like the variance to be denied and the shelter and shed be removed.

The Board confirms that the structure was built on the property line with concrete footings. Mr. Schmidt cannot confirm that the structure is on the property.

Mr. Schmidt makes a closing summary and shares with the board that it seems to the best of his knowledge that it is apparent the others have air conditioners on the side of their houses. He has gained permits for work on his house. He indicates that he failed to get a permit for the third air conditioner. He feels it would be a great hardship to have to move all three air conditioning units. He indicates that wood piles are allowed to be stacked on the property line and assures that the structure is sturdy. He has offered to put up a fence.

The meeting is closed to the public.

There are two separate variances and two separate decisions that need to be made. The chairman goes over everything.

Shed and Structure

Motioned by Mr. Zawislak and seconded by Mr. Tomaine.

Roll Call:

Ayes: Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz, Ms. Dillon,

Nays:

Not Eligible:

Abstain:

Absent: Mr. Matlin, Mr. Gioioso

Air Conditioning Units

Motioned by Mr. Zawislak and seconded by Mr. Tomaine.

Roll Call:

Ayes: Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Jakositz, Ms. Dillon,

Nays:

Not Eligible:

Abstain:

Absent: Mr. Matlin, Mr. Gioioso

ADJOURN

Mr. Disko makes a motion to adjourn and Ms. Dillon seconds the motion. All ayes.

/jr