

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

Regular Meeting [Virtual]

March 23, 2021

OFFICIAL MINUTES

Adopted April 27, 2021

Chairman Tomaine called the regular meeting to order at 7:00 pm.

BOARD MEMBERS PRESENT

John Tomaine, Chairman
Ted Zawislak, Vice Chairman
Mike Disko, PE
Mayor Paul Mirabelli
Councilman Steven Matejek
Todd Garran
Thomas Parker

Steve Matlin
Karen Dillon Alt. #1
Victor Kostin, Alt. #2
Vincent K. Loughlin, Esq., Board Attorney
John T. Chadwick, PP, Board Planner
Joe Fishinger, PTOE, Board Traffic Engineer
Theresa Snyder, Board Clerk

Chairman Tomaine read the statement indicating the meeting was being conducted according to the Sunshine Law, the Municipal Land Use Law requirements, in compliance with the CDC and the DCA for emergency meeting protocol, and the recording of the Minutes as required by law. He then led the flag salute to the American flag and board members identified themselves for the record.

MINUTES

On motion by Mr. Zawislak, seconded by Mr. Matlin, the minutes for the Regular Meeting of February 23, 2021, were adopted based on the following roll call vote:

Roll Call:

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

RESOLUTION PB 21-R8
CASE NO.: BA 20-26; MOREA
260 OLD TOTE ROAD
BK: 16.11 LT: 78
Represented By: Stephen F. Hehl, Esq.
R-2 ZONE
Approved 2/23/21

On motion by Mr. Zawislak, seconded by Mr. Kostin, the resolution was memorialized based on the following roll call vote:

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Ms. Dillon and Mr. Kostin
Nays:
Not Eligible:
Abstain:
Absent: Mr. Jakositz

RESOLUTION PB 21-R9
CASE NO.: 21-04; ARTIS SENIORS
1020-1024 & 1028 SPRINGFIELD AVE.
BK: 24.04 LTS: 10.01 & 10.04
Represented By: Stephen F. Hehl, Esq.
Approved 2/23/21

On motion by Mr. Zawislak, seconded by Mr. Parker, the resolution was memorialized based on the following roll call vote:

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Ms. Dillon and Mr. Kostin
Nays:
Not Eligible:
Abstain:
Absent: Mr. Jakositz

RESOLUTION PB 21-R10
CASE NO.: 21-01; LOUGH
289 BRIDLE PATH
BK: 15.06 LT: 8
Represented By: Justin R. Calta, Esq.
R-2 ZONE
Approved 2/23/21

On motion by Mr. Zawislak, seconded by Mr. Parker, the resolution was memorialized based on the following roll call vote:

Roll Call:
Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Ms. Dillon and Mr. Kostin
Nays:
Not Eligible:
Abstain:
Absent: Mr. Jakositz

RESOLUTION PB 21-R11
CASE NO.: 21-02; GUSMER
1165 GLOBE AVENUE
BK: 23 LT: 23
Represented By: Richard Schkolnick
L-I ZONE
Approved 2/23/21

On motion by Mr. Zawislak, seconded by Mr. Garran, the application was approved with conditions based on the following roll call vote:

Roll Call:
Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Ms. Dillon and Mr. Kostin
Nays:
Not Eligible:
Abstain:
Absent: Mr. Jakositz

Planning Board

CASE NO.: 21-06; POMBAL BUILDERS

350 SUMMIT ROAD

BK: 7.07 LT: 26

R-2 ZONE

Expiration Date: 3/28/21

Mr. Al Andril, Esq. entered his appearance on behalf of the applicants. He represented that the applicants proposed a (3) lot subdivision to include (3) conforming lots with single-family homes. The applicant was the contingent purchaser. He represented that the applicant would move toward title upon approval of the application.

Mr. Thomas Quinn, PE, having a business address of EKA Associates, 328 Park Ave., Scotch Plains, NJ 07076, was sworn in to give testimony. He gave his credentials and was accepted by the board as a witness.

Mr. Quinn presented 11 sheet plans for the property designated as Block 7.07 Lot 26 on the Borough tax maps. The property consisted of approximately 1.5 acres and was located in the R-2 Zone. Mr. Quinn referred to Sheet 11 of 11, a survey of the property, which depicted frontage on Summit Road. The existing conditions included a single-family dwelling. On the center of the property was a man-made concrete pool. Approximately 50 trees were existing on the property. The topography of the property included small, steep slopes changing in elevation from the northwest to the southeast. The property maintained roughly a 20 ft. change in elevation.

Mr. Quinn presented sheet 2 of 11, the subdivision plans, which gave the dimensions of each lot and depicted a cul-de-sac which would provide access to the proposed homes. Mr. Quinn moved on to Sheet 3 of 11, building envelopes. He opined that the roadway was RSIS compliant. The road was shifted to the westerly side in order to maintain an 8 ft. right of way. Moving the road allowed the lots to be situated to maximize the 24% F.A.R. for each lot. Sheet 4 of 11 indicated that the plan was sufficient to provide for all utilities such as the water main, telephone, sanitary sewer, and a stormwater system under the road.

Mr. Quinn moved onto Sheet 5 of 11 depicting the grading plan. Sheet 5 showed equal lines of elevation. He opined that the placement of the roadway on the low side of the parcel mitigated the need for inlets and presented a more ideal situation for the installation of a stormwater management system. He further opined that the bulk of the existing runoff moves from west to east and drains to the center of lot 25. If developed, Mr. Quinn testified that 95% of the subdivision runoff would be collected by the underground detention system in the road. The plans also depicted the installation of a swale to intercept offsite runoff to drain into the system.

On question of Ms. Dillon, Mr. Quinn testified that the patio was included in the impervious coverage calculation.

Mr. Quinn continued his testimony describing a proposed retaining wall that would run adjacent to lot 25. The retaining wall would host an evergreen buffer. The cul-de-sac would be completed with the installation of 3 street lights.

Chairman Tomaine asked the applicant to address the 14 observations in Mr. Disko's memo and the 4 observations contained in Mr. Chadwick's memo.

Mr. Quinn began addressing the observations from Mr. Disko's memo by referring to Sheet 11 of 11 from the set of plans. Mr. Quinn referenced the concrete lined pool on the property as a shallow pool about 18" deep with a 20' diameter. He testified that once the pool was removed, the water would be intercepted by the underground detention system and filter to the road. Addressing comment #9 from Mr. Disko's memo, Mr. Quinn testified that no inlets were determined by DEP. Using Sheet 5 of 11, Mr. Quinn showed the connection point across Summit Road. The plans called for raising the road slightly in order to get discharge out to Summit Road and give space underneath the road for the installation of the detention system.

On question of Chairman Tomaine, Mr. Quinn testified that the roof leaders and driveway runoff would filter toward the system.

On question of Mr. Zawislak, Mr. Quinn testified that there would be curbing to keep water from running into the neighboring driveways.

Mr. Quinn indicated that a filtration system would be installed upstream to treat the water. He testified that the filtration system would need to be serviced.

Mayor Mirabelli commented that the Borough would not be in favor of maintaining the drainage system. To which, Mr. Quinn suggested an escrow be maintained in order for the Borough to maintain the system. Mr. Quinn stipulated that if the Borough was against establishing an escrow for road and drainage maintenance, a homeowner's associate could be formed. Mayor Mirabelli confirmed that the Borough would not maintain the drainage system.

Mr. Loughlin raised the concerns that the swale would require maintenance and a possible easement.

Mr. Disko suggested that the maintenance of the swale be incorporated into the homeowner's association requirements.

On comments of Mr. Loughlin, Mr. Disko replied that the fire official would look at the plans and determine if a fire hydrant was necessary. In addition to the hydrant, Mr. Disko also addressed that any spill light from the street lights would not disturb the adjacent properties. Mr. Disko also raised the issue that most street lights have a monthly/yearly cost to the Borough.

Mayor Mirabelli suggested the lights be placed on the houses eliminating the impact on lot 25. On question of Mr. Chadwick, Mr. Quinn testified that he would have to complete a topo of all surrounding lots in order to determine the combined runoff of these properties. Mr. Quinn opined that it was not the applicant's responsibility to accept offsite runoff.

Mr. Chadwick commented that the swale must be enough in Mr. Quinn's mind. He suggested there was a lot of grading for something Mr. Quinn did not know about.

On question of Mr. Chadwick, Mr. Quinn could not calculate the amount of materials that would be brought to the site.

Chairman Tomaine raised a concern for who would have the responsibility of maintaining the swale and the road.

Mr. Garran raised the concern as to who would have responsibility of maintaining the buffer between Lot 25.

On question of Mr. Zawislak about moving the road to the left, Mr. Chadwick responded that the homeowner had a natural buffer where the proposed road would be located. The road would remove that buffer.

To which, Mr. Quinn responded that RSIS requires the right of way of the bulb of a cul-de-sac be 8 ft. He further commented that they were very reluctant to move the road.

In response to comments by Mr. Garran about runoff onto Summit Road, Mr. Disko explained that RSIS required 8 ft. ROW on the stem of a cul-de-sac for drainage and overland flow. The runoff in total would be reduced by the major development process. There would be less runoff everywhere compared to the existing conditions. Mr. Disko suggested piping the runoff from the swale to the system to reduce the impact on adjacent properties.

On question of Mr. Zawislak, Mr. Quinn testified that there was a 14 ft. wide buffer between Lot 25 and the proposed plantings. Further to Mr. Zawislak's questions, Mr. Quinn confirmed that the bulb of the cul-de-sac would be near the backyard area of Lot 25.

On question of Mr. Garran, Mr. Quinn responded that there was no other way to configure the properties. In planning, Mr. Quinn had to balance the lot coverage with the 15,000 sq. ft. requirement. Mr. Quinn testified that they prepared about 6 drafts before presenting the current plan. The applicant was determined to present 3 fully conforming lots.

Chairman Tomaine raised a concern over the number of trees that would be removed from the lot and the severity of that action. He asked if there was an alternative to the removal of 52 trees.

Mr. Quinn responded that there was not an alternative to the removal of the trees as it would be necessary to remove the trees with the installation of the drainage system. Mr. Quinn did not foresee an impact of drainage due to the removal of the trees. Although he suggested residents could plant trees, he could not guarantee if they would. Mr. Quinn then referred to Sheet 3 of 11, the landscaping plan, which depicted the lack of plantings for the utility companies and in an effort to maintain sight triangles.

Mr. Zawislak suggested planting trees to the back of the lots.

Mr. Quinn could not confirm if they would be planted.

Mayor Mirabelli suggested putting the placement of trees on the plans as a requirement for development to which Mr. Quinn stipulated to the condition as such.

Mr. Andril contended that the primary concern for the board was the maintenance of the swale which could be handled through a homeowner's association.

Mr. Quinn agreed with Mr. Andril and further added that there were three methods of maintaining the swale and road. Mr. Quinn gave the following three methods: an escrow submitted to the Borough for maintenance fees, a homeowner's association, or developing it as a private road with the maintenance of it being the responsibility of the homeowner's association.

On question of Mr. Chadwick, Mr. Loughlin commented that he was not aware of how an escrow with the Borough would be handled or determined. The other two options would be the establishment of a homeowner's association or deeming the road as a private road to be maintained with a homeowner's association.

Mr. Andril informed the board that he did not discuss with his client the possibility of a private road. He suggested that the application be tabled to the next meeting date at which time the maintenance issues could be addressed along with the applicant's decision of the maintenance of the road.

Chairman Tomaine said that the remainder of Mr. Disko and Mr. Chadwick's memos would be addressed at a later time.

On question of Mr. Loughlin, Mr. Andril stipulated to an extension of time in which the board would have jurisdiction to act.

Prior to concluding this portion of the hearing, Mr. Joe Fishinger, PE, was sworn in to give testimony. Mr. Fishinger, as the Board's traffic engineer, shared his report. On item #3, Mr. Quinn stipulated to change the site triangles. Item #4, Mr. Fishinger requested that the plantings on the southside would respect the site triangles. In Item #5, Mr. Fishinger raised the concern about accommodating visitor parking which should not be in the driveways.

Mr. Quinn testified that the road is consistent with RSIS and could accommodate parking. He opined that there was enough space to park on the street without blocking driveways. Mr. Quinn testified that the number of trips generated would be 3 cars per hour. The County did not see this as a problem. Mr. Fishinger agreed with Mr. Quinn's calculation of 3 cars per hour.

Chairman Tomaine informed the public that they could ask questions of Mr. Quinn at the next meeting.

The application was carried without further notice to the May 25th regular meeting.

The Mayor and Councilman Matejek left the meeting as they were not eligible to hear Board of Adjustment cases.

Board of Adjustment

CASE NO.: 21-05; WARD

337 CHERRY HILL ROAD

BK: 5.12 LT: 7

Represented By: Stephen F. Hehl, Esq.

R-2 ZONE

Mr. Hehl, Esq. entered his appearance on behalf of the applicant. Mr. Hehl described the property as being located at 337 Cherry Hill Road. The home was constructed in the late 1950's. He described the Ward family as people who loved where they lived. The Wards were seeking approval for the installation of a modest size pool which would include the appropriate fencing and pool equipment. Mr. Hehl contended that although the pool could collect water, it was considered impervious coverage. As part of the proposal, the Wards would install an underground drywell system. The Wards planned to eliminate a portion of the driveway in an effort to reduce impervious coverage. The installation of the pool, patio, and the equipment would bring the coverage to 32.5% whereas 30% is allowed.

Chester DiLorenza, having a business address of 82 Walnut Hill Lane, Freehold, NJ, was sworn in to give testimony. He was accepted as an expert. He began to describe the project. The pool would be approximately 511 sq. ft. The applicant was planning to use pavers on sand. Mr. DiLorenza testified that although Mountainside did not give credit for this, it was a better way to handle runoff. Around the pool would be a patio. One side of the patio would be used for a table and chairs. Mr. DiLorenza showed the Board renderings prepared by Seasonal World depicting the completely enclosed pool equipment area, the patio and the pool. Mr. DiLorenza testified that the applicant was seeking a flexible c(2) variance. Further to that, Mr. DiLorenza testified that the benefits would substantially outweigh the deterrents, and there would be no impact on the neighbor with runoff.

For the record, Mr. DiLorenza confirmed that the simulated plans prepared by Seasonal World depicted an accurate view of what the project would look like after constructed.

Borough of Mountainside
Planning Board
Regular Meeting
March 23, 2021

Mr. Eric and Mrs. Danielle Ward were sworn in to give testimony. Mr. Ward testified that they moved from New York about 10 years ago because they wanted a small town feel, and they liked the school system. One of their original thoughts was to install a pool. Mr. Ward testified that the application was a modest proposal. He confirmed that the pictures accurately depicted the project. He further testified that the area of the driveway being removed would be replaced with additional landscaping. Mr. Ward stipulated to the condition that the drainage system would be subject to the approval of the Borough engineer. The Ward's testimony was that they joined the community pool every year, but having their own pool, provided privacy.

Kevin and Susie Grady, 1151 Wyoming Drive, offered their support of the project.

On question of Mr. Garran, Mr. Ward testified that only 3 of the 6 trees on the property would be removed.

Jason and Liliana Habedank, 333 Cherry Hill Road, also gave their support of the project.

Mr. Hehl gave his summation.

On motion by Mr. Zawislak, seconded by Chairman Tomaine, the application was approved with conditions based on the following roll call vote:

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Ms. Dillon and
Mr. Kostin

Nays:

Not Eligible:

Abstain:

Absent: Mr. Jakositz

CASE NO.: 21-07; KING

313 INDIAN TRAIL

BK: 15.13 LT: 2

Represented By: Stephen F. Hehl, Esq.

R-2 ZONE

Mr. Hehl, Esq. entered his appearance on behalf of the applicant. Mr. Hehl described the lot as being a smaller lot. The existing home was built in the 1950's. He contended that the applicants took steps to reduce the coverage amounts. The applicants reduced the patio from 873 sq. ft. to 675 sq. ft. The applicants planned to do extensive landscaping. Mr. Hehl expected to hear testimony from Mr. Anthony Marucci, Mr. Kevin O'Brien, and the Kings.

Mr. Loughlin made mention of the revised plans submitted by Mr. Koodray that afternoon.

Mr. Anthony Marucci, having a business address of 116 Whippany Road, Whippany, NJ, was sworn in to give testimony. He gave his credentials and was accepted by the board as a witness.

Borough of Mountainside
Planning Board
Regular Meeting
March 23, 2021

Mr. Marucci testified that the subject property was a developed property with a single-family home. The rear of the property was fenced. In order to reduce the coverage, the applicants agreed to remove the existing patio and shed. Mr. Marucci opined that the only variance required was for lot coverage. He testified that the pool itself would be 523 sq. ft. The patio would be 675 sq. ft., and the pool equipment would be 40 sq. ft. He further opined that in order to mitigate stormwater, a dry well would be installed in the rear left corner of the property. No trees would be removed.

Mr. Hehl informed the board that the pool would be 37' by 16'.

On question of Mr. Disko, Mr. Marucci testified that the pergola would be an open structure with grass underneath.

Mr David and Mrs. Esther King were sworn in to give testimony. Mrs. King testified that she grew up in the area. They are a family with 2 young children. Mrs. King further described their relationship with the children's grandparents as one that was very close. Mrs. King found that as a healthcare worker, last year was extremely limiting in how much time she was able to spend with her family. Part of the reason for the pool would be to have the flexibility to enjoy it with her family during the times she is not working. Mrs. King stipulated to maintaining a 6 ft. privacy fence and doing additional landscaping.

Mr. King referred to Exhibit A-1, 3/23/21, which he described the reduction of the porch to be limited to the width of the doorway. Mr. King further testified that the original concrete flooring proposed under the pergola would be removed, and the ground under the pergola would remain grass.

Mr. Disko calculated that the coverage amount would reduce to 34.8% without the pergola floor as concrete.

On question of the board, Mr. King testified that after researching in ground pools, he and his wife decided to purchase and install a fiberglass pool. Mr. King testified that this option limited their choices as far as size. The next size down from their proposed pool would be a 14' by 32' pool.

On question of Mr. Matlin, Mr. King testified that the pool equipment would be covered from the neighbors and it would be situated 10 ft. from the property line.

Kevin O'Brien of Shamrock Enterprises, Madison House, Ste B 866, Madison Ave., Rahway, NJ, was sworn in to give testimony. He gave his credentials and was accepted by the board as a witness.

Mr. O'Brien testified that the lot coverage was being reduced to 34.8% because the pergola was not being counted. He testified that the patio and porch would be removed. Mr. O'Brien opined

that the improvements would not be seen from the street, nor would there be any change to the existing neighbors. He opined that the application did not present any deterrents to the zoning ordinance. He testified that the application met the goals of the master plan, and met the requirements of MLUL. Mr. O'Brien testified that the applicants were seeking a c variance.

The neighbors on Indian Trail spoke in favor of the application.

Mr. Hehl gave his summation.

On motion by Mr. Matlin, seconded by Mr. Zawislak, the application was approved with conditions based on the following roll call vote:

Roll Call:

Ayes:	Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran, Mr. Parker, Mr. Matlin, Ms. Dillon and Mr. Kostin
Nays:	
Not Eligible:	
Abstain:	
Absent:	Mr. Jakositz

ADJOURN

The Board unanimously voted to adjourn the meeting at 10:38 p.m.

Respectfully Submitted,



Theresa Snyder
Board Clerk