

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

**Regular Meeting [Virtual]
June 22, 2021**

**OFFICIAL MINUTES
Adopted 7/27/21**

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

ROLL CALL

Mike Disko, P.E.	Steve Matlin
John Tomaine, Chairman	Thomas Jakositz
Mayor Paul Mirabelli	Karen Dillon Alt. #1
Councilman Steven Matejek	Victor Kostin, Alt. #2
Ted Zawislak, Vice-Chairman	Vincent K. Loughlin, Esq., Board Attorney
Todd Garran	John T. Chadwick, PP, Board Planner
Thomas Parker	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. Kostin, the minutes for the Regular Meeting of May 25, 2021, were adopted based on the following roll call vote:

Roll Call:

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

RESOLUTIONS

RESOLUTION PB 21-R18

Case No. 21-10; SELA Realty, LLP & RENARS, LLC

1140 Rt. 22/1148 Rt. 22

Bk: 5.20 Lt: 34 & 35

Represented By: Stephen F. Hehl, Esq.

L-I Zone

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, Councilman Matejek, Mr. Zawislak, Mr. Matlin, Mr. Jakositz, Ms. Dillon, and Mr. Kostin

Nays:

Not Eligible: Mayor Mirabelli, Mr. Garran and Mr. Parker

Abstain:

Absent:

PLANNING BOARD

CASE NO.: 21-17; David Realty

1429 RT. 22 E

BK: 10.06 LT: 3.01

Represented By: Stephen F. Hehl, Esq.

O-B ZONE

Expiration Date: September 24, 2021

Stephen F. Hehl, Esq., entered his appearance on behalf of the applicants. Mr. Barbosa purchased the property in visible disarray. The second floor had limited use because of the low ceiling. The proposed use for the building is for a real estate office and other conforming tenants for the lower level. This was a permitted use. The applicant was before the board for a parking deficiency.

David Barbosa, the owner, was sworn in to give testimony. Mr. Barbosa testified that he looked at the building before it went into foreclosure and made an offer. He purchased the building from the credit union. The purpose of purchasing the building was to expand his real estate business into Mountainside with a presence on Route 22. Mr. Barbosa explained that the real estate market had changed drastically. Most real estate business is conducted online. He preferred brick and mortar. His agents go to the office occasionally. Mr. Barbosa employed 100 agents 3-4 of which would be on the premises at any given time. Mr. Barbosa testified that the

Borough of Mountainside
Planning Board
Regular Meeting
June 22, 2021

deliveries made to the office were generally from staples, mail, office supplies, or water delivery. He testified that the facility would house a trash enclosure with a private pick up area for the trash bins. He testified to keep the existing sign. He would clean it up and split the sign with the two tenants. He agreed to landscape the property. He proposed dormers on the second floor to expand the usable space on that floor. Mr. Barbosa testified that he would be installing a lift in the rear of the building to be ADA compliant. He stipulated to a condition of approval for the lighting plan being subject to the engineer's review.

The meeting was opened to the public. There were no comments from the public.

Gregory Ralph, having a business address of 1924 Rt. 22 E., Bound Brook, NJ, was sworn in to give testimony. He gave his qualifications as an architect and was accepted by the board as a witness. Mr. Ralph described the existing building as a two-story wood frame and brick structure. He testified the applicant did not propose any changes to the existing footprint. He also testified that the parking area would retain the existing ingress/egress. The applicant proposed restriping the parking lot and eliminating one space to be designated as an ADA compliant van accessible space near the proposed lift. The applicant proposed a total of 15 parking spaces. He testified the applicant would keep a portion of the basement as unused space. The height of the building would not increase. The applicant proposed to paint the brick and use natural texture on the dormers. Mr. Ralph testified the parking spaces were calculated based on 1 per every 250 sq. ft. of office space. All the parking is located in the rear of the building. The existing monument sign would remain. Mr. Ralph testified the existing fence was in good condition and would remain.

On question of Mr. Zawislak, Mr. Ralph testified the fence would remain to assist in maintaining a buffer between the parking lot and the neighbor.

On question of Mr. Matlin in regards to the space in the basement, the applicant stipulated that it would be reserved for expansion for an existing tenant or possibly a third tenant. If a third tenant should occupy the space, a new application would be submitted to the board.

The meeting was opened to the public. There were no comments from the public.

Mr. Joseph Staigar, having a business address of 245 Main Street, Chester, NJ, gave his credentials and was accepted by the board to give testimony. Mr. Staigar testified there would be six trips generated during peak hours of operation. The parking would suffice for the proposed use. The applicant was proposing 15 spaces because of ADA requirements. Mr. Staigar based his testimony on the ITE Parking Generation Manual. Based on the gross floor area, a total of 2.5 spaces per 1,000 sq. ft. would be required. On this calculation, the applicant meets the requirement. The application did not increase any deviations and did not trigger notice to the DOT.

On question of Mr. Disko concerning the existing ingress one way/two way, Mr. Staigar testified the recommendation would be for 1-way traffic flow which was presently not designated. The applicant would include permanent markings to enhance traffic flow problems.

Further to Mr. Disko's question on isle width and landscaping, Mr. Staigar testified the applicant could add a hedge along the fence and would consider additional landscaping along the fence.

The meeting was opened to the public. There were no comments from the public.

Mr. Hehl gave his summation.

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

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mayor Mirabelli,
Councilman Matejek, Mr. Zawislak, Mr. Garran, Mr.
Parker, Mr. Matlin, Mr. Jakositz

Nays:

Not Eligible:

Abstain:

Absent:

BOARD OF ADJUSTMENT

Case No. 21-13; Rolo

1272 Virginia Ave.

Bk: 16.10 Lt: 7

Represented By: Stephen F. Hehl, Esq.

R-2 Zone

Expiration Date: August 27, 2021.

Stephen F. Hehl, Esq., entered his appearance on behalf of the applicants. Only one variance was associated with the application. The application met all of the requirements except building footprint. The required building footprint was 15%. The applicant's existing footprint was 14.5%, and the applicants were proposing a building footprint of 17.13%. The applicants moved to Mountainside in 2015 and owned a large home. The applicants chose to downsize while remaining in Mountainside. Due to health issues, the applicants were seeking to add an addition to the first floor to make it a more livable space.

Borough of Mountainside
Planning Board
Regular Meeting
June 22, 2021

Mr. Paulo Dantas, having a business address of 427 Chestnut Street, St. #302, Union, NJ, gave his credentials and was accepted by the board as a witness. Mr. Dantas testified the project included a 1 story addition. The existing dwelling had square footage of 2,168 sq. ft. The home was located in the R-2 Zoning District. Mr. Dantas referred to Sheet A-1. He testified the deck would be used to access the backyard. The existing bilco doors would be removed and the door would be updated. The purpose of the addition was to increase the size of the master bedroom and closet. Improvements would also increase the size of the hallway bathroom and the existing kitchen. The applicant proposed no changes to the existing two bedrooms. The front elevation was to remain the same with the exception of the installation of a double door.

The meeting was opened to the public. There were no comments from the public.

Ms. Stephanie Rolo represented her parents in connection with the application. She testified her parents purchased a large home on Old Tote Road. It was double the size of the current home. Due to health issues, her parents wanted to downsize while remaining in Mountainside. She opined it was very difficult to find a single-story home in Mountainside. She opined the slight modifications to the home would meet the needs of her parents and their family. She further opined to build up would defeat the purpose of purchasing a single-story home.

The meeting was opened to the public. There were no comments from the public.

Mr. Hehl gave his summation.

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

Roll Call:

Ayes: Mr. Disko, Chairman Tomaine, Mr. Zawislak, Mr. Garran,
Mr. Parker, Mr. Matlin, Mr. Jakositz

Nays:

Not Eligible:

Abstain:

Absent:

Case No. 21-14; Las Medulas

1239 Rt. 22

Bk: 23.02 Lt: 1 & 4

Represented By: Stephen F. Hehl, Esq.

L-I Zone

Expiration Date: August 27, 2021.

Borough of Mountainside
Planning Board
Regular Meeting
June 22, 2021

Stephen F. Hehl, Esq., entered his appearance on behalf of the applicants. The location has been a restaurant for many years. During the pandemic outdoor dining was allowed. The applicants provided outdoor dining to their patrons, and would like to make it a permanent part of their business. The applicant is limited by parking and kitchen size to accommodate an increased capacity to their total seating count. The applicant would quarter off sections of the inside dining room when the outdoor dining was being used.

Mr. Cesar Padilla, having a business address of 109 Elsworth Terrace, Glen Rock, NJ gave his credentials and was accepted by the board as a witness. Mr. Padilla referred to Sheet A-1- Site Plan to testify the applicants were seeking to do a permanent aluminum and glass structure for the continued purpose of offering outdoor dining. Presently, the glass opened. The applicant proposed some lighting and electric. The structure size was 23' by 25'. The applicant would lose 2 spaces to create an exit drive. The structure was independent of the existing building.

Mr. Hehl clarified the present seating availability was 110 seats in the main dining room, 60 seats downstairs, and 17 seats at the bar. There were no changes proposed in the existing structure.

In response to Mr. Chadwick's comments concerning the number of seats outdoors, Mr. Padilla testified COVID requirements allowed for 20 seats practicing social distancing. Without the COVID requirement of social distancing, the outdoor area would be able to hold a total of 40 seats.

Chairman Tomaine expressed concern for the maneuverability between the seats. His observation was that one table was almost right against the emergency exit door. He opined the area was congested as arranged with 40 seats. The step at the side door was a potential safety hazard as it did not have a railing. He opined the side door presented a problematic means of egress in an emergency situation.

Mr. Padilla stated the applicant would comply with the building department.

The meeting was open to the public. There were no comments from the public.

Mr. Joe Staigar having a business address of 245 Main Street, Chester, NJ, gave his credentials as a traffic engineer and planner. He was accepted by the board as a witness. Mr. Staigar testified the property had access to Route 22 and had 79 existing parking spaces. He testified to enhance circulation with the inclusion of outdoor seating, the site would lose 2 parking spaces. The operator does use valet parking during peak hours. The current seating was 187 seats in the existing building. It was not the intent of the applicant to increase service. The outdoor dining allowed for more people to be separate while dining. Mr. Staigar suggested that when the outside area of 40 seats was being used for dining, an indoor area of 40 seats could be removed

from use; therefore, maintaining the 187 seat capacity. The addition of the outdoor structure would not affect traffic flow. He opined the loss of the two spaces was de minimis.

As a planner, Mr. Staigar testified the outdoor dining enhanced the safety, health, and welfare of the public. The proposed addition was suited for the site. He opined the benefits outweighed the detriments and the application meets the justification of the use variance.

On question of Mr. Matlin concerning seating, Mr. Staigar explained the seating mirrored the indoor layout with the addition of fresh air.

On question of Ms. Dillon, Mr. Padillo testified the glass surrounding the outdoor structure opened. The intent of the applicant was to have them open.

On question of Mr. Zawislak, Mr. Disko informed the board that Council did not authorize the structure during the time it was installed. The Council did allow for outdoor dining with guidance from the CDC, fire official, building official, and health department. The structure never received a proper inspection. If the application was approved, the applicant would have to go through plan review with the electrical, fire, and building departments.

On question of Mr. Disko concerning parking, Mr. Staigar responded the applicant needed to add one van accessible space and modify others. Potentially, the site would lose one or two spaces.

Moving through Mr. Disko's comments in his review, Mr. Staigar testified the applicant was not proposing any new lighting on the site except for ingress/egress lighting in the new structure.

On question of Mr. Garran concerning monitoring seating capacity, Mr. Disko concurred it was extremely difficult to monitor whether the seating was being sectioned off while the outdoor structure was in operation.

The meeting was opened to the public. There were no comments from the public.

Monica Castro and Jose Rodriguez were sworn in to give testimony. They were the principals of the business. Ms. Castro had been with the restaurant for four years. She gave the background of how the restaurant began using outdoor dining. She testified the kitchen on the premises was very small restricting the ability to serve an increased seating capacity. The structure built on the site was similar to other restaurants they owned. Ms. Castro stipulated to compliance with all building regulations and deed restrictions. Ms. Castro agreed with the suggestion made by Mr. Staigar concerning the total number of seats. She stated that when the outside area of 40 seats was being used for dining, an indoor area of 40 seats could be removed from use; therefore, maintaining the 187 seat capacity.

In response to the comments of year round use of the outdoor structure, Mr. Disko explained the outdoor seating was not allowed in the tents during the winter months because of snow loads. The fire official is tasked with inspection of the outdoor structures and must consider the heating, anchoring, and snow load. The fire official may not allow for year round use.

The board was concerned with overflow parking and how it would affect residential neighbors. The board also had concern with the permanent use of the structure. To which Mr. Chadwick suggested the way to control the year round use would be to limit the heating and cooling capacity. The board also had concern about the number of seats being added to the total seating capacity. The board had concerns with the safety issues of the side door exit.

The board took a short recess.

The application was carried to the next regular meeting on July 27, 2021 with possible re-notice if the board chose to return to in-person meetings.

EXECUTIVE SESSION

On motion by Chairman Tomaine, seconded by Mr. Garran, the Board entered Executive Session 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:

Abstain:

Absent:

The Board closed the executive session and returned to the regular meeting. Chairman Tomaine announced the Board had decided to resume in person meetings at the municipal building starting with the July 27, 2021, regular meeting. It was decided the meetings would commence at 7:30 pm. Ms. Snyder was directed to publish a revised annual notice to reflect same.

ADJOURNMENT

The Board unanimously voted to adjourn the meeting at 11:00 p.m.

Respectfully Submitted,



Theresa Snyder
Board Clerk

Borough of Mountainside
Planning Board
Regular Meeting
June 22, 2021