

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

Regular Meeting [Virtual]

February 23, 2021

OFFICIAL MINUTES

Adopted 3/23/21

Chairman John Tomaine called the regular meeting to order at 7:00 pm. Board Members Present were Mr. Michael Disko, PE, Board Engineer, Mr. Ted Zawislak, Mr. Todd Garran, Mr. Thomas Parker, Mr. Steve Matlin, Mr. Thomas Jakositz, Ms. Karen Dillon and Mr. Victor Kostin. Also present were Vincent K. Loughlin, Esq., Board Attorney, John T. Chadwick, PP, Board Planner, Theresa Snyder, Board Clerk and Matthew DeAnna, Technical Coordinator.

Chairman Tomaine read the statement indicating the meeting was being conducted according to the Sunshine Law, the Municipal Land Use Law requirements, 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 Reorganizational & Regular Meeting of January 26, 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:

Abstain:

Absent: Mayor Mirabelli and Councilman Matejek

Board of Adjustment

CASE NO.: BA 20-26; MOREA

260 OLD TOTE ROAD

BK: 16.11 LT: 78

Represented By: Stephen F. Hehl, Esq.

R-2 ZONE

Mr. Stephen F. Hehl, Esq. entered his appearance on behalf of the applicants. In his opening statement, he reminded the board that the applicants were heard at the December meeting. Since that meeting, the applicants revised their plans. Concurring with his clients, he contended that the new normal was for residents to install pools in their backyards. Further to that the applicants planned to move the shed further from the property line, reduced their lot coverage, and install a water collection system to assist in runoff. He had three witnesses.

Mr. James Watson, EKA Associates, having a business address of 328 Park Ave., Scotch Plains, NJ, was still under oath. He said the site plan dated 8/25/20 was revised. The revision date was 1/5/21. He revised the drainage calculation. He testified that the side walk and back patio will be removed. There would install a 25 ft. by 17 ft. patio along with a 14 ft. pool. The pool is proposed at 392 sq. ft. He further testified that the yard has a mature buffer. The shed would be moved to 14 ft. from the property line.

On question of Mr. Zawislak, Mr. Watson testified there is an existing fence. A portion of the yard was not fenced at the time of testimony, but will be with the installation of the pool.

Mr. Watson testified that the property was located in the R-2 Zone. The lot was deficient by 20% which made things difficult. The detention is designed to manage 1,318 sq. ft. of runoff which would more that make up for the extra coverage. He opined that the application fit the criteria for a c(2) variance and met the requirements for safety and general welfare given the current covid restrictions. The application met all of the setback requirements. The only item that was not compliant was the lot coverage. The negatives to the lot coverage are mitigated through the stormwater management. The pool itself did not promote runoff. There was no substantial deterrent to the zoning.

On question of Mr. Garran, Mr. Watson testified that the applicant exceeded the lot coverage by 2%. They had made improvements to the as built. One improvement was that the driveway was repaved. The changes were made after the CO was issued.

Mr. Disko explained to the board that the side walkway, the patio in the back, and the shed increased the lot coverage. He confirmed that the proposed drainage was acceptable to mitigate water runoff.

Mr. Thomas and Mrs. Gia Morea were sworn in to give testimony. Mr. Morea testified that their family had fallen in love with Mountainside ten years ago. He stated that they have been active members in the community.

Mrs. Morea testified that they were trying to build their forever home. She also expressed concerns for her children's health condition which initiated this project.

Mr. Morea testified that they loved their neighbors and felt very welcomed in the neighborhood. He testified that the property had a fence which covered the entire property. They had

overdesigned the drainage system. They would be moving the shed. They would be removing the back patio. He stipulated to all terms and conditions.

On question of Mr. Garran, Mrs. Morea testified that they would consider joining the public pool, but have reservations about doing so due to the ongoing health conditions of her children.

Mr. Chadwick added that the fence may or may not have to comply with pool standards.

Mr. Daniel Newcome spoke as a neighbor to the northside of the Morea's property. He spoke in support of the installation of the pool.

Mr. Hehl summarized the application and thanked the board for allowing the applicant to provide revisions to the original application.

Mr. Zawislak would support the application as the owners have reduced their impervious coverage.

Chairman Tomaine suggested that the applicants moved toward greater compliance. He did not recognize a substantial detriment in granting the application.

Mr. Loughlin cited the following conditions to approval:

Remove the patio in the back and sidewalk from the side of the house

Relocate the shed

Any required plans for fence

Drainage is subject to the Borough engineer's approval

Obtain any and all other approvals

Lot Coverage would be 34%

On motion by Mr. Zawislak, seconded by Mr. Parker, 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, Mr. Jakositz, Ms. Dillon and
Mr. Kostin

Nays:

Not Eligible:

Abstain:

Absent:

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.

Mr. Stephen Hehl entered his appearance on behalf of the applicant. The applicant requested an extension of time. He contended that these types of facilities have been hard hit during COVID. Whereas most applicants get approvals and sit on it, his applicant was proactive in getting other approvals to be granted. Mr. Hehl's office prepared a supplement which included items such as DEP approval and a deed of consolidation. He stated that the applicant was seeking an extension through the end of this year. The extension ensures the protections that the board granted. He requested that the extension be retroactive for 1 year from the date the resolution was adopted.

Mr. Chadwick added that the project should move forward as it added significantly to the affordable housing numbers.

On question of Chairman Tomaine, Mr. Hehl stated that one of the last items to finalize was the developer's agreement with Mr. Post.

On motion by Mr. Disko, seconded by Mr. Zawislak, the extension was approved 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:

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

Mr. Calta, Esq. entered his appearance on behalf of the applicant. He represented that the Loughs were seeking variance for lot coverage of 34.6% whereas 30% is allowed and a 4.2 ft. setback whereas 10 ft. is required. He would have two witnesses.

Mrs. Claire Lough was sworn in to give testimony. She testified that she was the homeowner. Their family lived in the house for over 5 years. It was always a dream of hers to have a pool. The footprint of the home takes up much of the lot coverage. They designed a pool that does not impede on the property lines. The rear of the property abuts The Bridle Path walkway. They have a fence that fully enclosed the yard. She opined that the addition of the pool would allow them to stay in the home for many years.

Mr. Jeff Egarian, having a business address of 271 Rt. 46, Fairfield, NJ was sworn in to give testimony. He provided his credentials for the board; his license was in good standing; and he was accepted as an expert witness. He testified that the single-family home was located in the R-2 Zone. The rear of the property is relatively flat. The pool would be 16 ft. by 32 ft. or 512 sq. ft. They would be removing the existing rear walkway and patio. The applicant would install a stormwater system which would protect the surrounding areas from any runoff. He opined that the grading disturbance was minimal. He testified that there would be no negative impact to the zoning plan. The proposed location of the pool heater and pump was ideal.

On question of Chairman Tomaine, Mr. Calta stated that the variances the applicant was seeking was for lot coverage and the rear yard setback of 4.2 ft. whereas 10 ft. is required.

Mr. Disko added that there were no residences in the back of the property and it was not a through lot.

On question of Mr. Matlin about lot coverage, Mr. Disko said that the building is setback far from the property line. The property has a long driveway to compensate for the large setback. If the home was at a normal setback, there would be no need for a lot coverage variance.

On question of Mr. Jakositz, Mrs. Lough stipulated to a condition of putting in more growth along the existing 6 ft. high fence. She also testified that the fence was 30 ft. from the walkway.

On question of Ms. Dillon, Mrs. Lough testified that there was a gate with a lock.

Mr. Calta gave his summation.

On motion by Mr. Zawislak, seconded by Mr. Jakositz, 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, Mr. Jakositz, Ms. Dillon and
Mr. Kostin

Nays:

Not Eligible:

Abstain:

Absent:

CASE NO.: 21-02; GUSMER
1165 GLOBE AVENUE
BK: 23 LT: 23
Represented By: Richard Schkolnick
L-I ZONE

Mr. Schkolnick, Esq. entered his appearance on behalf of the applicant. He contended that there were no deterrents to the application, and that the applicant's desire to install a generator would help business.

Ken Haines, having a business address of 1165 Globe Ave. was sworn in to give testimony. He testified that their company manufactures food, beverages, and elements for covid tests. His testimony was that there have been more and more power outages. He opined that the generator would be a typical household size generator. They chose the location for the placement of it because of the windows on the front of the building and the parking lot. He stipulated to the condition of planting shrubs around the generator.

On question of Chairman Tomaine, Mr. Haines testified that the generator would not power the entire building. It will be used to power the computer room. The electrician will test it periodically. They would run a test 1 day a week. It shuts off automatically.

Mr. Chadwick suggested that testing be done during non-working hours for the neighbors.

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, Mr. Jakositz, Ms. Dillon and
Mr. Kostin

Nays:

Not Eligible:

Abstain:

Absent:

Mr. Disko informed the Board that the Borough Council had adopted an Ordinance eliminating the need for residents in most situations to require board appearance for the installation of roof-top solar panels.

ADJOURN

The Board unanimously voted to adjourn the meeting at 8:50 p.m.

Respectfully Submitted,



Theresa Snyder
Board Clerk