

**BOROUGH OF MOUNTAINSIDE**

Planning Board Meeting

**MINUTES**

May 26, 2020

**CALL TO ORDER**

The virtual meeting was called to order at 6:43 p.m. Chairman Tomaine read the Open Public Meetings statement in accordance with the law. The Board Secretary provided directions for participation and confirmed with the Technical Coordinator that the meeting was being recorded.

**ROLL CALL & FLAG SALUTE**

**Present**

Mr. Disko  
Mr. Tomaine  
Mr. Zawislak  
Mr. Garran  
Mr. Parker  
Mr. Matlin  
Mr. Jakositz  
Ms. Dillon  
Mr. Kostin

**Also Present**

Vince Loughlin, Board Attorney  
John Chadwick, Board Planner  
Matthew DeAnna, Technical Coordinator

**Absent**

Mayor Mirabelli  
Councilman Dierkes

Mr. Loughlin advised that Mayor Mirabelli and Councilman Dierkes were not attending in the absence of any Planning Board applications.

**RESOLUTIONS**

**Couper**

**Block 3.02, Lot 21 (260 Apple Tree Lane)**

**Motion** by Mr. Jakositz, **seconded** by Mr. Parker and unanimously carried to approve the resolution, as presented.

***Roll Call:***

*Aye: Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Parker, Mr. Matlin, Mr. Jakositz,*

*Ms. Dillon, Mr. Kostin*

*Nay:*

*Abstain:*

**Basile**

**Block 22.01, Lot 8.05 (7 Little Court)**

**Motion** by Mr. Zawislak, **seconded** by Mr. Jakositz and unanimously carried to approve the resolution, as presented.

***Roll Call:***

*Aye: Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Parker, Mr. Matlin, Mr. Jakositz,*

*Ms. Dillon, Mr. Kostin*

*Nay:*

*Abstain:*

**Drive Auto Works**

**Block 23, Lot 20 (1167 Route 22)**

**Attorney Steven Hehl** entered his appearance on behalf of the applicant and provided an update on both the instant matter and the pending application. Mr. Hehl asked that the request for reconsideration as well as the other application be withdrawn. The Board obliged his request to table the resolution to June 3.

**MINUTES**

The Minutes of February 25 were tabled. Mr. Zawislak offered to provide a copy of same for re-distribution.

**PLANNING BOARD**

**Alpine at Mountainside, LLC**

**Block 3, Lot 18.03 (1496 Route 22)**

An announcement was made that the application had been withdrawn. The Board Secretary confirmed receipt of the withdrawal request from the applicant's attorney, Donna Jennings.

**BOARD OF ADJUSTMENT**

**APPLICATION**

**Thomas & Brittany Moore**

**Block 22.02, Lot 40 (1121 Wychwood Rd.)**

Chairman Tomaine provided an overview of the relief being requested. Reference was made to the applicant's May 14 letter request regarding an extension of the original approval granted in May, 2019. Mr. Moore was sworn in and confirmed that his property was in both Mountainside and Westfield. He confirmed that he had received relief in Westfield. The conditions of the Westfield approval as they related to the present request were discussed. Chairman Tomaine polled the Board for questions. There were none.

**Motion** by Mr. Zawislak, **seconded** by Mr. Garran and unanimously carried to grant a one year extension of the approval subject to the same conditions/requirements of the original approval.

***Roll Call:***

***Aye:*** ***Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Parker, Mr. Matlin, Mr. Jakositz,***

***Ms. Dillon, Mr. Kostin***

***Nay:***

***Abstain:***

Prior to undertaking the applications involving Floor Area Ratio, Chairman Tomaine spoke about the purpose of FAR in controlling intensity of development and the status of FAR in relation to other dimensional requirements. He spoke at length to the standards of proof required for the granting of a D4 variance, providing examples of both positive and negative criteria.

**APPLICATION**

**Mark & Susan Doherty**

**Block 22.03, Lot 3 (1140 Wychwood Rd)**

**Attorney Steven Hehl** entered his appearance on behalf of the applicant and provided a witness list.

At the behest of Mr. Zawislak, Mr. Disko confirmed that FAR only includes living space.

Mr. Hehl spoke to the uniqueness of the property, citing the fact that the majority of it lies in Westfield where the Doherty's had already received approval under Westfield's FAR standard. Mr. Hehl advised that the house is on an undersized lot which impacts both setbacks and FAR. Calling it a modest addition on an odd shaped lot, he offered that there was minimal impact to the neighbors as the property abuts the golf course. He offered that many pre-existing nonconforming conditions would not be impacted.

Mr. Tomaine clarified that there were 3 new variances and 5 existing variances in addition to the FAR variance. Mr. Hehl advised that the Architect would identify the variances.

**Architect Robert Algarin** (225 Lenox Ave., Westfield) was sworn and qualified. Mr. Algarin explained that most of his initial comments would relate to "Exhibit 6" which he identified as the Site Plan/Marked up Survey. He spoke to the dimensional irregularities, existing nonconforming side yard setbacks and municipal boundary line running through the living room.

Mr. Algarin provided testimony on the impact to the neighborhood, citing the distance to the house across the street, the location [backs to Echo Lake County Club] and the fact that the area of construction would take place away from the house to the east.

*The following exhibits were marked into testimony and discussed:*

**Exhibit A-1** (Site Plan/Marked up Survey) was referred to by Mr. Algarin as "Exhibit 6" and also referred to as "Slide 1" in testimony.

**Exhibit A-2** was identified as an aerial photograph provided by Mark Doherty.

**Exhibit A-3** was identified as the existing 1st floor plan (photo taken by Mr. Algarin).

**Exhibit A-4** was identified as a photograph of interior attic (2nd floor) taken by Mr. Algarin.

**Exhibit A-5** was identified as an interior photo of the existing attic taken by Mr. Algarin.

**Exhibit A-6** (an architectural rendering) was identified as a proposed floor plan. Mr. Algarin identified the shaded area on the 1st floor as the proposed footprint addition to the house. He pointed out the addition of the porch and second floor balcony to the existing master bedroom and related that the shaded area is representative of the habitable area increase.

**Exhibit A-7** was identified as an interior picture of sunroom. Mr. Algarin identified the golf course.

Referring to Exhibit A1 and referring to it as deminimus, Mr. Algarin provided testimony regarding the existing nonconformity in the front yard. He provided testimony as to the side yards and substandard lot width, suggesting that the lot coverage and FAR were the result of the substandard lot size.

Mr. Algarin provided dimensional testimony with respect to scenarios for a conforming lot. He testified that the actual FAR variance is only for 388 square feet with the home being 2,682 square feet. He pointed out that the house is only 22' high where 35' is allowed and asserted that the site itself creates the difficulties. He testified that the house would be unchanged from the front.

**Exhibit A-8** (also referred to in testimony as "Slide 3") was identified as exterior elevations, marked into testimony and discussed. Mr. Algarin reiterated that the majority of the work is in the rear of the home which is Westfield. Calling the house modest, he asserted that the proposal would not be overdevelopment of the lot which is located in what he referred to as an "open and unusual" area.

The second floor space was discussed in response to a question from Chairman Tomaine. Mr. Algarin confirmed that construction was limited to the ground floor, rear. Referring to the second floor plan, Mr. Algarin confirmed that the shaded area was the only addition to the second floor. He clarified where the area of construction would be on the north side elevation (referred to as "Slide 3").

Mr. Algarin confirmed that no FAR variance was required for the proposal in Westfield and elaborated on how the home would be in keeping with the neighborhood in terms of size.

Chairman Tomaine polled the Board for questions and opened the floor to questions of the witness.

Resident **Randy Wojcik** began to ask a question but was redirected to the public comment portion of the meeting as his question was not of the witness.

The Board Secretary provided an overview of virtual participation protocol for members of the public.

**Mark and Susan Doherty** were sworn in. Mark Doherty provided background on the purchase of the home and on the relevance/importance of the addition. He offered that the proposal would benefit the property and the neighborhood and testified that the neighbors most directly affected by it would be set back. He spoke about the unique conditions that distinguish the property and touched on the negative criteria for the bulk variances.

Referencing "Slide 1" (photograph of the front of the house shown on screen), Mr. Doherty pointed out the mature screening as it relates to impact on the neighbors.

*The following exhibits were marked into testimony and discussed:*

**Exhibit A9** (referred to "Slide 11") was identified as a picture (aerial photo) taken through the interactive map on the Borough website using the SDL Portal.

**Exhibit A-10** (referred to as "Slide 10") was identified as an unaltered aerial picture taken by Mr. Doherty in February, 2020. Mr. Doherty pointed out the rear property line (in yellow) and golf course boundary line (white circles). Mr. Doherty spoke again to the unique conditions on the lot and about maintenance of a buffer area belonging to the golf course. He testified that this buffer area would prevent the addition from being an intensification of the use, adding that contributed to the uniqueness of the property.

**Exhibit A-11** (referred to as "Slide 12") was identified as a screenshot from SDL (interactive map) showing the portion of the property that lies in Westfield (outlined in blue) highlighting the depth of the setback and amount of space in the rear yard given the transitional buffer area. Mr. Doherty offered that the mature screening and transitional buffer area were unique to the property and could serve as justification for looking favorably upon the application.

Referring to Exhibit A1, Mr. Hehl spoke about removal of some impervious coverage in Mountainside. Mr. Doherty expounded on this, identifying an area used for storage of garbage.

Chairman Tomaine opened the floor to questions of the public. Mr. Deanna confirmed there were none. Mr. DeAnna obliged a request from Mr. Zawislak to see Exhibit 11 again. At the behest of Mr. Zawislak, Mr. Doherty identified the back of the property and confirmed that the addition is within the envelope he identified.

**Planner Nicholas Graviano** (101 Crawford's Corner Rd., Holmdel) was sworn and qualified. Mr. Graviano offered planning testimony in support of the FAR variance. Speaking to both the positive and negative criteria, he testified that the proposal was in keeping with the development pattern in the neighborhood and that the relief could be granted without substantial detriment to the zone plan. He likened it to a conditional use as it related to the positive criteria.

Mr. Graviano provided further testimony in support of the bulk variances which he indicated could be granted under the c1 criteria given the existing conditions on the site. He testified that the variances for maximum building footprint and lot coverage could be contemplated under the c1 or c2 criteria since there would be no substantial detriment in granting relief and given the irregular shape of the lot. He further testified that the application would advance the purposes of Section (g) of the MLUL and that the positive and negative criteria for both the D4 and bulk variances had both been met.

Mr. Graviano confirmed that he provided the testimony requested by Mr. Chadwick in paragraph 2 of his review memo. He provided information on the existing lot coverage in response to a question from Mr. Garran and confirmed that at 35.54%, there is an existing non conformity.

With respect to the positive criteria (special reasons), Chairman Tomaine asked Mr. Graviano what evidence supports the proposed non conformity with respect to the FAR and what facts exist to show how the proposed nonconformity might be reconciled. Mr. Graviano offered that the bedroom count would be the same and that the house is in keeping with established patterns the neighborhood. He asserted that the architectural testimony justified the bump out and that the site could accommodate any problems. He added that there would be no impairment to the zone plan.

Chairman Tomaine asserted that FAR is about volume and intensity. He offered that those matters are highlighted when describing an undersized lot and asserted that he had not heard what facts exist to offset this. He polled the Board for questions.

Ms. Zawislak asked whether Mr. Graviano checked the sizes of the neighboring houses. Mr. Graviano testified that he had and that they were larger lots. He held that exceptional circumstances affect the subject property such as shape and locational circumstances; not just size.

Mr. Zawislak asked whether "4% is really 25%" and whether the property owned by the golf course had relevance. Mr. Graviano offered that it establishes a land use condition in the neighborhood. Someone lamented that they agreed with Mr. Zawislak that it does not add square footage to the property.

Seeing no further questions of the witness, Mr. Hehl indicated that he was ready to conclude his case. As such, Chairman Tomaine opened the floor to questions at 8:18.

**Randy Wojcik** of 1120 Wychwood Road spoke in support of the application. He opined that the proposal would improve the quality of the neighborhood. Calling it a modest request, he added that the property had been neglected.

**Pamela Vanecek** (1160 Wychwood Road) indicated that she agreed with Mr. Wojcik. Pointing out the location of her house, she offered that the proposal would be a "great improvement to neighborhood" and that the size would be in keeping with the neighboring homes.

Mr. Deanna confirmed that there were no further comments at the behest of Chairman Tomaine. Mr. Hehl proffered his closing statement and the Board deliberated.

**Motion** by Mr. Garran, **seconded** by Mr. Matlin and unanimously carried to grant the relief with prospective conditions, as enumerated by the Board Attorney.

**Roll Call:**

**Aye:** *Mr. Disko, Mr. Garran, Mr. Parker, Mr. Matlin, Mr. Jakositz*

**Nay:** *Mr. Tomaine, Mr. Zawislak*

**Abstain:**

#### **APPLICATION**

**Michael & Elena Patricco**

**Block 15.09, Lot 13 (248 Evergreen Court)**

Michael and Elena Patricco were sworn in at 8:35. They introduced their Architect, Dave Andriola. Mr. Patricco provided an overview of the application and explained that the proposed addition was proposed anticipation of starting a family. Mrs. Patricco declined to comment. Mr. & Mrs. Patricco confirmed that they authorized Mr. Andriola to make their presentation.

**Architect David Andriola** (713 Kearny Ave, Kearny) was sworn and qualified. He referred to a breakdown of zoning data on "slide 1" and testified that the proposal did not include any increase to the footprint on the undersized lot. He spoke to the reason why the FAR variance was necessary.

"Slide 1" was marked into testimony as **Exhibit A-1**. When asked whether he would have further exhibits or explain the proposed coverages, Mr. Andriola offered that there were slides showing existing and proposed floor plans, elevations, and a general area view showing the cul-de-sac and adjacent/surrounding properties.

A discrepancy in the FAR calculation was raised by Mr. Loughlin. Mr. Andriola acknowledged Mr. Disko's January 28 review letter and an extensive discussion regarding FAR calculations ensued. Mr. Disko ultimately suggested that the discrepancy could be worked out in testimony.

Reminding everyone about the extent of testimony for justification of a FAR variance in the prior case, Mr. Chadwick asked Mr. Andriola if he would be testifying as a licensed Professional Planner. Mr. Andriola offered that he would be testifying as an Architect only. Mr. Chadwick suggested that the Board consider discussing this with the applicant as architecture would be discussed without getting to the issues that brought the case in the first place.

Chairman Tomaine encouraged the Board Attorney to address this with the Architect. Mr. Andriola acknowledged that he listened to the prior hearing. Mr. Loughlin explained that FAR variances require a higher level of proofs in order to satisfy the requirements of the MLUL. He explained that they had the right to proceed with or without an Attorney or Planner and clarified that Mr. Chadwick had been

trying to express concern about the architect not providing planning testimony which was needed to establish the suitability of the proposal under the positive and negative criteria. He offered that there appeared to be a problem in presenting the correct testimony needed in consideration of the application. He asked whether the applicant wished to ask for an adjournment for the purposes of considering the option of retaining a Planner or Lawyer experienced in Land Use.

Mr. Patricco asked Mr. Loughlin for an explanation of "the issue." He offered his perspective in looking at existing floor height/floor ratio from that of his profession (Appraiser) and stated that he was guessing the Board was considering that the finished basement was part of the gross living area. Mr. Loughlin declined to address him, offering that it would be inappropriate to dialogue with him as the Board Attorney. He clarified that the Board was just asking whether he was prepared to proceed with the understanding that there was a burden that he was required to sustain/acknowledge. Mr. Loughlin asked whether the applicant understood the application he had to present and asked if he wished to move forward. Mr. Patricco indicated that they could/would proceed.

Mr. Andriola asked whether there was a section of the Zoning Ordinance that specifically mentioned needing a Planner if relief from FAR was being requested. Mr. Loughlin offered that he was not permitted to give legal advice and prompted him to proceed if he was so inclined.

Mr. Andriola reiterated how FAR was triggered because of the definition making it a basement rather than a cellar. He explained that there was no plan to expand the footprint in any way and offered that the project would conform to "the neighborhood aesthetics." He added that they were appearing to "request relief based on the hardships with such." Mr. Loughlin reminded Mr. Andriola that he should address the Board rather than him directly.

Mr. Andriola explained that they were asking for relief based on FAR and reiterated that they were asking to add a level to the existing building without increasing the footprint. He spoke once again as to how/why FAR was triggered. He testified that the addition would be built directly above the garage which he testified was "about 6.74' off the property line where 10' is required." He added that, as such, the proposal would not exacerbate the encroachment since they would be maintaining the footprint, required ground projections, building coverage, lot coverage and building height.

Referring to "Slide 2," Mr. Andriola described it as the existing basement with an unfinished mechanical room area that was not included in the calculations and marked it into testimony as **Exhibit A-2**. He described other first floor features as well as the area above the garage.

*The following exhibits were marked into testimony and discussed:*

**Exhibit A3** was described as part of the finished attic space. Mr. Andriola pointed out the uninhabitable open attic/storage space which would be raised in order to be used as a full 2nd floor.

**Exhibit A4** was described as the existing rear elevation showing access on the bottom to the existing basement space and rear door to the garage as well as existing first floor area.

**Exhibit A5** was described as an elevation of the front of the house showing the existing 2 car garage, screened porch and unusable attic space.

**Exhibit A6** was described as a general aerial view from Google Earth with a red circle around the property which Mr. Andriola testified, he drew himself. He spoke about the topography.

**Exhibit A7** (entitled "A100") was described as a Construction Floor Plan.

**Exhibit A8** (entitled "A101") was described as the proposed second floor plan with master suite and balcony.

**Exhibit A9** (entitled "A200") was described as the proposed new front elevation/entry.

**Exhibit A10** (entitled "A201") was described as rear elevations showing the entry doors, balcony and new master bedroom suite.

**Exhibit A11** (entitled "D100") was described as a plot plan/general demo plans with the same zoning bulk requirement charts as Exhibit A-1.

Chairman Tomaine polled the Board for questions. As to the FAR discrepancy mentioned early on in the hearing, Mr. Disko clarified that utility rooms are excluded from FAR and as such, stated he would defer to the 29.1% calculation.

A discussion ensued about an eave that Mr. Parker suggested appeared to cantilever over the existing garage according to his view of A10. Mr. Andriola explained this to what appeared to be Mr. Parker's satisfaction.

Remarks from Mr. Zawislak prompted a discussion about whether the existing non-conforming condition in the side yard setback was being exacerbated. Mr. Disko advised that lot coverage shown on the plan was conforming; however, a site visit revealed a fire pit which was not shown, thereby invalidating that calculation. Although Mr. Patricco testified that it was not a permanent structure, Mr. Disko asserted that it would constitute coverage leaving only 2.6% available. Mr. Patricco provided the dimensions [10x26].

Mr. Andriola responded to a question from Mr. Garran about the existing vs. proposed square footage and whether the size of the house was being doubled. Mr. Garran then asked him to provide testimony on the intensity of the use. Mr. Andriola testified that the second floor would allow for a master bedroom suite with two additional bedrooms. He testified that above the garage would primarily be office space but would be designed as a potential bedroom which would allow the first floor rooms to be more of an expansion of living space.

Use of the basement was discussed in response to a question from Mr. Zawislak. Mr. Patricco confirmed that the basement is finished. He asked whether the Town considers basements to be part of the gross living area of the home. Mr. Disko clarified that Mountainside Zoning does not use the term 'gross living area' and explained how the basement is classified from a zoning perspective with respect to the FAR calculation. He offered that the addition is actually a third story where only 2.5 stories are permitted and affirmed that the area in basement excluding the utility room counts as floor area under the definition of FAR. He added that there is a discrepancy between floor area and gross living area.

Calling it a very small measurement with a large impact," Mr. Andriola asserted that it meets the definition by only 4." Mr. Disko asserted that this was pointed out very early on in the review process and explained the standard for measurement. Mr. Patricco suggested that as such, 4" of topsoil or removal of 4" of topsoil around the house could make up the difference. Mr. Andriola acknowledged that it was pointed out in the review process but offered that he thought it was worth consideration to ask for relief because the number was so small.

Chairman Tomaine polled the Board for questions. Mr. Disko advised that coverage on the fire pit and patio amounted to about 2.1% bringing lot coverage up to 29.5% which he confirmed was conforming. He advised that a zoning permit was necessary.

Mr. DeAnna confirmed that there were no questions from the public at 9:20. Mr. Andriola confirmed that his presentation was concluded.

The Board deliberated. Mr. Disko offered that Mr. Chadwick's advice regarding planning testimony was wise and that there had been none provided. Mr. Zawislak reminded the Board that Mr. Chadwick suggested they discuss concerns he expressed about the basement being converted into a rental in his review. Mr. Disko reminded the Board that Mr. Chadwick also pointed out the number of bedrooms. The bedroom count was discussed. Mr. Chadwick provided details on how he arrived at his calculation. Mr. Patricco attempted to provide clarification but Mr. Loughlin explained that he was not permitted to address the Board during Board discussions. Seeing no further comment from the Board, Chairman Tomaine solicited a motion for approval.

**Motion** by Mr. Zawislak, **seconded** by Mr. Garran and unanimously carried to approve the application, as presented.

**Roll Call:**

**Aye:**                 **Mr. Parker**

**Nay:**                 **Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Matlin, Mr. Jakositz**

**Abstain:**

Mr. Disko predicated his vote on there being no planning testimony. Chairman Tomaine offered that the proofs had not been met. Mr. Zawislak offered additional comments on the basement. Mr. Garran suggested that this was a case of want versus need. Mr. Matlin offered that it would be an intensification of the use and commented on the side yard variance. Mr. Jakositz concurred with Chairman Tomaine.

The application was denied.

The Board entered into recess at 9:28. The meeting resumed at 9:42.

**APPLICATION**

**William & Karen Dillon**

**Block 16.14, Lot 12 (344 Edgewood Court)**

Karen Dillon recused at 9:28 but remained in the meeting.

**Attorney Steven Hehl** entered his appearance on behalf of the applicant and provided an overview of the relief being requested as well as a witness list.

**Architect Arthur Henn** (20 E. Sumner Ave., Roselle Park) was sworn and qualified. Mr. Henn asked to zoom in on the plot plan (entitled "Variance 1") which was marked as **Exhibit A1**. He provided testimony as to the location, lot configuration, existing conditions and proposed improvements. Mr. Henn offered that the proposed design took the driveway that comes around back of property to a rear facing garage into account. Describing it as an odd shaped lot at the end of a cul-de-sac, he pointed out the narrow front yard and advised that grade went up towards front of house.

**Exhibit A2** entitled "Variance 1-2" was identified as floor plans, marked into testimony and discussed. He referred to the FAR coverage as de minimus at 37 square feet and explained that the front porch was being added in order to be consistent with other homes in the neighborhood. He spoke to the reasoning behind the need for expansion of the patio.

A plan showing front elevations was discussed and marked into testimony as **Exhibit A3**. Building materials were discussed in response to questions from Mr. Tomaine regarding same. Mr. Henn confirmed that the front yard setback would remain unchanged. Referencing the green shaded area on Exhibit A-1, Mr. Henn discussed an increase in lot coverage connected to the extension of the patio.

Mr. Henn advised that the homeowner would be willing to submit a stormwater management plan in order to address the increase in impervious coverage which he related arose from the patio area and extension of the front porch. He confirmed the amount of lot coverage.

**Exhibit A4** was identified as side elevations, marked into testimony and discussed. He pointed out the 150 square foot "quasi 3 season room" which he related counted towards coverage.

**Exhibit A5** was identified as 12 photographs recently taken by the homeowner. Mr. Henn testified that he believed they were accurate based on a site visit and provided a description of each one.

The Chairman polled the Board for questions and opened the floor to questions of the public. Mr. Deanna confirmed that there were none.

**William Dillon** was sworn in. He provided testimony about the configuration of the lot as well as the proposed addition and the area to the rear of the property beyond the paved area. He spoke about a mature tree line and fencing that serves to divide the properties.

Chairman Tomaine polled the Board for questions. Mr. Dillon provided testimony as to size of the patio/bump out in response to a question from Mr. Disko. Mr. Disko asked whether there was any way to reduce the lot coverage in order to make it more palatable. Mr. Henn offered that he may be able to reconfigure the space. Mr. Disko asked whether [alternatively], there was any way to add vegetation at the base of the wall. Referencing the picture with 2 vehicles, ways to reduce the coverage were discussed. Mr. Henn indicated that they would need new blacktop at some point. Mr. Dillon testified that there was very little wiggle room for backing up. Vegetation around the bump out was discussed as were mitigation techniques for making it more pervious such as pervious pavers. Mr. Dillon indicated that he was open to suggestions regarding other types of pervious materials.

Mr. Zawislak asked whether the engineer could work out the impervious coverage issue with Mr. Disko. Mr. Loughlin advised that if it affects the extent of the variance, he could not. Mr. Hehl added that it would be lessening the variance. Mr. Loughlin advised that a lower number could not be assumed. Further discussion about pervious pavers resumed. Mr. Disko explained that it is difficult to monitor for functionality on residential properties but would go towards the mitigation requirement. Mr. Loughlin stressed the relevance of having the actual numbers.

Chairman Tomaine opened the floor to questions of the witness at 10:28. There were none.

**Planner Brandi Bartolomeo** (530 Brian Dean Drive, Glen Gardner) was sworn and qualified. Ms. Bartolomeo provided Planning Testimony in support of the variances.

Referencing Exhibit A1, Ms. Bartolomeo spoke about the pre-existing lot size and confirmed that the applicant was seeking variances for FAR as well as 2 new variances and 4 reaffirmations for existing non-conforming bulk requirements. She provided testimony on the FAR calculations and referred to the 37 square feet of additional floor area as a de minimus increase that will have no increased visual impacts. She added that the renovation would be kept in the setbacks and the height would be lower than permitted.

Referencing Site Photo 1 which showed the front of the home in relation to the neighbor on the left, Ms. Bartolomeo testified that the renovation would not make the home larger than other homes in the neighborhood and that the lot is suited for the use due to the irregular shape. She discussed screening and the impact that a garage in the front yard would have on the neighborhood.

Ms. Bartolomeo testified that the maximum impervious coverage is non-conforming and that post renovation, it would continue to be due mainly to driveway placement. She offered that the positives outweighed the negatives for reasons of both safety and aesthetics. Ms. Bartolomeo testified that the existing lot area, irregular size and placement of the existing home impact the variances. She explained that the patio space as a permitted accessory structure is consistent with other properties.

Citing Coventry Square Inc. v. Westwood Zoning Board of Adjustment, Ms. Bartolomeo asserted that the FAR variance could be granted without substantial detriment to the public good or impairment of the zone plan. With respect to the special reasons that exist to support approval of the FAR Variance in promoting the purposes of the MLUL, Ms. Bartolomeo cited sections A, C, D, E and I. In speaking to sections A, C, D and E, she testified that the site was well suited for the development, that there would be no impact to the neighbors and that it would be aesthetically pleasing/ in keeping with the neighborhood. Speaking to section (I) in particular, she testified that it also satisfies the negative criteria as there would be no detriment to the public good.

Chairman Tomaine polled the Board and opened the floor to questions of the witness. There were none.

Mr. Hehl provided a closing statement and confirmed that the applicant would have no objection to working with Mr. Disko on a stormwater management plan in order to address any increase in impervious coverage.

The Board entered into deliberations. Mr. Zawislak thanked the Planner and the homeowner for the effort they put forth in preparation of the plans. Mr. Garran asked to confirm if there was any public comment.

A Motion to reopen the meeting for public comment was made by Chairman Tomaine and unanimously carried.

The following neighbors spoke in support of the application:

**Neil and Ashley Pirone (337 Edgewood Court)** offered that the improvements were consistent with renovations in the neighborhood.

**Christine Pfeiffer (338 Central Ave.)** concurred.

**Sarah Wistreich** of 360 Hedgerow identified herself as the neighbor directly behind the subject property and related that she welcomed the changes.

**Barry Motz** (345 Central Ave.) welcomed the "expansion" and offered that the proposal would improve aesthetics and be a positive upgrade.

**Motion** by Mr. Zawislak, **seconded** by Mr. Jakositz and unanimously carried to grant the relief, as requested with a condition regarding implementation of a stormwater management plan, if needed.

**Roll Call:**

**Aye:** Mr. Disko, Mr. Tomaine, Mr. Zawislak, Mr. Garran, Mr. Parker, Mr. Matlin,  
Mr. Jakositz

**Abstain:**

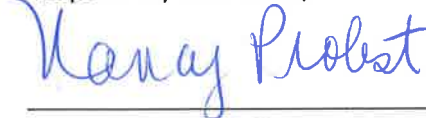
Mr. Tomaine opined that the site could accommodate the proposal and agreed that the variances could be granted without substantial detriment to the neighborhood or zone plan. Mr. Zawislak's affirmative vote was predicated on the condition that Mr. Disko look into water retention.

An announcement to carry the Tyburski application to June 23 without further Notice was made. Chairman Tomaine thanked the Board professionals and staff, including Mr. DeAnna and Ms. Probst.

**ADJOURNMENT**

The Chairman adjourned the meeting at 11:08.

Respectfully submitted,



Nancy Probst, Interim Board Secretary

**APPROVED 7/28/20**