

**BOROUGH OF MOUNTAINSIDE**

Planning Board Meeting

**MINUTES**

November 25, 2019

**FLAG SALUTE**

**CALL TO ORDER**

Chairman Tomaine called the meeting to order at 7:31p.m. in the Borough of Mountainside Municipal Building. He read the open public meetings statement in accordance with the law and announced that there would be no new testimony after 11PM.

**ROLL CALL**

**Present**

Mr. Disko  
Mr. Tomaine  
Mr. Garran  
Mr. Younghans  
Mr. Parker  
Mr. Matlin  
Mr. Jakositz

**Also Present**

V. Loughlin, Board Attorney

**Absent**

Mayor Mirabelli  
Councilman Dierkes  
Mr. Zawislak

**BOARD OF ADJUSTMENT**

**APPLICATION: Costa**

**Block 16.09, Lot 10 (1266 Knollwood Rd)**

*Applicant proposed to replace current concrete walkway with a larger paver walkway in side yard. Application for 2 Variances. Walkway in side yard expansion of 4 feet where 10 feet is required. Front yard coverage 38.3% is proposed where 30% is required.*

Attorney Loughlin swore in Jennifer Costa and Ricardo Costa, the homeowners.

Chairman Tomaine stated his understanding of the application is the applicant built a new home and is looking to replace an existing walkway. Ricardo Costa explained the previous home was demolished and the old walkway was a 2 foot concrete walkway, which they are looking to replace and extend to the rear of the home. Chairman Tomaine summarized that the issue is the proposed walkway which encroaches in the side yard setback. Sideyard setback is 10' and new walkway would be 4'. Front yard lot coverage is the other variance needed for 38.3% where 30% is required.

Ricardo Costa advised there are 2 existing variances – one for lot coverage and the other to accommodate a larger garage. Previous home had a 1 car garage and this new home has a 2 car

garage so driveway is larger to accommodate. Mike Disko confirmed the lot is a 75.6 foot lot which is an existing variance.

The homeowner advised that he knew he was dealing with a non-conforming lot already so they wanted to stay within the setback criteria for the house itself but was not advised by his architect initially that changing the side yard walkway would need a variance. The proposed side walkway would be all pavers with no vegetation or dirt and abuts to the retaining wall.

**Public Comments:**

Attorney Loughlin swore in Mr. Eric Dickert of 1256 Knollwood Rd. Mr Dickert explained his house is 2 houses away to the East from the applicant and expressed his concern with water run-off and grade with the new variances. He feels the new home is a big structure for the lot size, does not fit in with the style of the neighborhood and the foundation was supposed to stay with the original plan but that plan changed. He didn't understand about the retaining wall because he watched the retaining wall construction more recently and believes wall was not pre-existing with the old house. His yard has recently gotten more water in the past year than it had previously.

Ricardo Costa responded that they did demolished and removed the entire pre-existing house including the foundation and installed a new foundation and house. Upon this submission for driveway and walkway, he was directed to expand two retaining pits an additional 3 feet each and that was done and were inspected and passed.

Mr Tomaine asked Mr Disko for comments/observations on drainage. Mr Disko advised that he inspected 1 seepage pit in back and 1 in front and they were acceptable. Drainage was discussed at length. Mr Younghans questioned that in-theory the new seepage pits constructed with this house can then be determined to have better storm retention than the old pre-existing home. Mr Disko responded that the roof drains go into the underground stone seepage pits so it is fair to say that they are a benefit because all of the run-off would have gone elsewhere and now it goes to the pits.

Attorney Loughlin inquired if there were any issue or violation with the 2018 resolution? Mike Disko advised there was not because the pre-existing house was non-conforming in that the setback in the sideyard was insufficient. He further advised that the applicant got variances, did his construction and at that time there was a change in that they could not keep the foundation wall that was the offending one. At that time it was reviewed and the applicant was directed back to the planning board as that wall was now new and not a pre-existing wall. The applicant then went back and made it a conforming house, so the structure conforms with coverage and set backs. It's the site elements that have prompted a variance, the walkway was never reflected in original plans. It is not over on full lot coverage at 29.9%, where 30% is required and the front yard is over because of the driveway.

Applicant is asked if driveway could be smaller than the proposed width of 26' and Costa comments that they are trying to make it look as good as possible and a seamless transition from the yard to the street. Mr Costa stated the retaining wall next to proposed walkway/driveway is a permitted wall.

Lauren Dickert at 1256 Knollwood Rd was sworn in by Attorney Loughlin. Lauren is also 2 houses down from the applicant and came to voice her objection, she stated that this construction has been an on-going annoyance. She advised that variances were already granted that she thinks were too

gracious, the lot size is already 74 feet instead of 100 and encroaching upon the neighbors even more than already is unfair. She feels the house does not fit with the current neighborhood and is too big for the lot.

Mr Garran stated the house is not too big for the lot and it is not over the floor area ratios. He advised that there are ordinances in place that protect lot coverage and they are not over on total lot coverage but rather they are over front lot coverage because of the driveway in the front. Mr Disko summarized that the focus should be on the conforming existing foundation, they made non-conforming old house to conforming new house.

Mr Tomaine recapped and spoke about certain conditions of approval such as shrubbery. Mr Costa stated that behind the retaining wall to the property line is about 2 feet to install shrubbery.

Motion for board to close and vote on variance made by Mr Garran, seconded by Mr Matlin. All ayes. Motion by Mr Garran and seconded by Mr Matlin to approve the application. Subject to conditions as outlined by the Board Attorney.

**ROLL CALL VOTE:**

**AYE:**

Mr. Garran

Mr. Matlin

Mr. Parker

Mr. Jakositz

MOTION carried 4:3

**NAYS:**

Mr. Disko

Chairman Tomaine

Mr. Younghans

**Abstentions:**

None

**MINUTES**

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A **Motion** to approve the Minutes of October 22, 2019 was made by Mr Matlin and **seconded** by Mr Younghans.

Roll Call:

**Aye:** Mr Disko, Chairman Tomaine, Mr. Garran, Mr Parker, Mr Jakositz

**Nay:**

**Abstain:**

**PUBLIC COMMENT**

**ADJOURNMENT**

The meeting was adjourned at 8:16PM.

Respectfully submitted,

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Nicole Halleran, Board Secretary

*APPROVED* \_\_\_\_\_