

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

**Regular Meeting**  
November 21, 2022

OFFICIAL MINUTES  
Adopted 12/8/22

Chairman Tomaine called the regular meeting to order at 7:30 pm. He then led the flag salute to the American flag and board members identified themselves for the record.

Notice of the meeting was given pursuant to the Open Public Meetings Act N.J.S.A. 10:4-6 et. seq. Notice was posted on the Borough website, at Borough Hall, and was given to *The Courier News*, *The Star Ledger*, *The Westfield Leader*, and *The Local Source*.

ROLL CALL

Mike Disko, P.E. (absent)	Thomas Jakositz
John Tomaine, Chairman	Karen Dillon
Steve Matlin, Vice-Chairman	Victor Kostin, Alt. #1 (absent)
Mayor Mirabelli (absent)	Mark Gioioso, Alt. #2
Councilman Matejek (absent)	Vincent K. Loughlin, Esq.,
Todd Garran	
Ted Zawislak	

MINUTES

On motion by Mr. Zawislak, seconded by Mr. Jakositz, the Regular Meeting Minutes, October 25, 2022, were adopted based on the following roll call vote:

Roll Call:

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

APPLICATIONS

CASE NO.: 22-19; Gonzalez  
1430 Fernwood Road  
BK: 10.04 LT: 1  
Represented By: Erica Edwards, Esq.  
R-2 ZONE  
Expiration: 2/1/23

Erica Edwards, Esq. entered her appearance on behalf of the Applicant. The notice was sufficient and timely served giving the Board jurisdiction to act. Ms. Edwards stated that the Applicant noticed for two (2) variances for the installation of a 6 ft., solid fence in the front yard. The Property was a corner lot with two (2) front yards. The Applicant was the owner of four (4) dogs one of which was very large and could jump a four foot fence. The Applicants desired to have their large dog spend time outside safely which triggered the need for a high fence. The three (3) witnesses were sworn in to give testimony.

Antoine Hajjar, P.E., P.P., P.L.S., having a business address of 30 Chestnut Road, Chatham, NJ, gave his credentials. His licenses were in good standing, and he was accepted as an expert in the field of engineering. Mr. Hajjar testified that the Property fronted on New Providence Road and Fernwood Road. The Property was improved with a two-story dwelling, driveway, walkway, and a storm sewer easement in the back of the property. He testified that the original plan was to install a 6 ft., solid fence. The fence would run along the westerly side of the dwelling to the westerly property line and all the way down to the storm sewer easement which presently had a chain link fence. The fence will be installed 6 in. from the property line. In order to comply with the Ordinance, the Applicant chose to install a black iron fence instead of a solid, vinyl fence. He entered into evidence Exhibit A-1, two pages of styles of fencing which depicted the contemporary style fence that the Applicant was proposing to install. A portion of the fence would be in the front yard.

On question of Mr. Zawislak concerning whether the fence would go past the sides of the house, Mr. Hajjar responded no.

Mr. Hajjar continued his testimony stating that the Property had two frontages and the house was at an angle which triggered the c(1) hardship variance making it difficult to install a fence in the back yard. He opined that the installation of the fence should not create a hardship or substantially impair the zone plan. He testified that the application advanced the public welfare by allowing the large dog to have free time outside.

On Board member's questions, Mr. Hajjar testified that the fence would be away from the property line and contain approximately four (4) paneled sections. The proposed fence was substantially similar to the fence across the street.

Ms. Gonzalez expressed a concern that if a five foot fence was installed, her dog might jump it, and she did not believe an electric fence would work because the dog would not care to if it were shocked.

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

Ms. Edwards gave her summation.

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

Roll Call:

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

CASE NO.: 22-20; Djabirov  
232 Pembroke Road  
BK: 3.23 LT: 40  
R-2 ZONE  
Expiration: 2/1/23

The Applicants and owners of the Property were sworn in with their contractor, John Parkin, to give testimony. The notice was sufficient and timely served, giving the Board jurisdiction to act.

The Applicant was seeking three variances. 1) ground projections of 5.6%, whereas, 3.75% is required, 2) lot coverage of 38.9%, whereas, 30% is required, and 3) deck in the side yard. Mr. Djabirov testified that they purchased the property. It is a corner lot, and the shape of the property does not allow for a normal backyard. In an effort to improve the side yard and provide an outdoor space, they were proposing to install a deck low to the ground about 200 sq. ft. in size which would be attached to the house.

Mr. John Parkin, the Applicant's contractor, was hired to install a 24 ft. by 9 ft. deck which would be 22 in. from the ground. It would be made of Brazillan wood. He entered into evidence Exhibit A-1, Five (5) pictures of the property from various angles. The testimony was that the existing steps would be removed and replaced.

The Board members raised a concern as to whether the existing lot coverage on the property was previously approved. In order to make their determination on the application, the Board requested the application be carried to another meeting in order to find out if they would be granting lot coverage for everything on the property or if some of the lot coverage was previously existing and approved. The application was carried without further notice to January 24, 2023.

ADJOURN

The Board unanimously voted to adjourn.

Respectfully Submitted,



Theresa Snyder  
Board Clerk