

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

**Regular Meeting
December 15, 2022**

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.	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	John Chadwick IV, PP
Ted Zawislak	

MINUTES

On motion by Mr. Zawislak, seconded by Mr. Garran, the Regular Meeting Minutes, November 21, 2022, were adopted based on the following roll call vote:

Roll Call:

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

RESOLUTIONS

Resolution PB 22-R24
CASE NO.: 22-19; Gonzalez
1430 Fernwood Road
BK: 10.04 LT: 1
Represented By: Erica Edwards, Esq.
R-2 ZONE
Approved: 11/21/22

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

APPLICATIONS

Planning Board

CASE NO.: 21-18; Rodrigues
1066 Belair Court
BK: 7.03 LT: 6.01
Represented By: Alan A. Siegel, Esq.
R-2 ZONE
Expiration: 11/18/22

Alan Siegel, Esq. continued his appearance on behalf of the Applicant. The Applicant proposed to construct a two-story single-family home on a vacant lot. The Applicant was seeking site plan approval along with related bulk variance relief and a soil moving permit. There would be four (4) witnesses: Jose Rodrigues, Mike Ford, Chris Zender, and Alex Dougherty.

On question of Chairman Tomaine that the application was adjourned in October over an issue of F.A.R. overage, Mr. Ford responded that based on Mr. Disko's latest review #5987, no F.A.R. variance was required since the basement ceiling height met within the parameters of the definition of "basement."

Mr. Jose Rodrigues was sworn in to give testimony. He testified that he purchased the property 2 ½ years ago. It was and remains a vacant lot. He is in the construction business and would be the one to build the home. He did not intend to build the home for speculation.

On question of Mr. Zawislak, Mr. Rodrigues responded that he did not consider the zoning regulations on the vacant property prior to purchasing it.

The meeting was open to the public.

Philip Green, 1062 Belair Ct., asked would it not be logical to know the zoning before it was purchased, to which Mr. Rodrigues responded that since the lot was sold as part of a development, he thought it would conform.

Mike Ford, of Van Cleef Engineering, having a business address of 32 Brower Lane, Hillsborough, NJ, was sworn in to give testimony. He gave his qualifications. His licensees were current, and he was accepted by the board as an expert in the field of civil engineering. He entered into evidence the following exhibits: Exhibit A-1, Existing Conditions Colorized, dated 7/2/22; Exhibit A-2, Variance Plan, dated 6/21/22 latest revise date 12/1/22; and Exhibit A-3, Final Map Sunny Slope, Union City, NJ, 1/8/1981.

Using Exhibit A-1, Mr. Ford oriented the board to the location of the property. In its existing conditions, the Property was a vacant lot at the end of Belair Ct. The Property consisted of 15,000 sq. ft. located in the R-2 Zoning district surrounded by existing dwellings. There had been some disturbance on the Property. In June of 2022, the Applicant was in consultation with Borough staff to allow his neighbor on Summit Road to reconstruct a retaining wall which had been compromised during the IDA storm of 2021. Part of the application was cooperating with the neighbor to allow for proper drainage and discharge in pipes that flowed onto the Applicant's property into a municipal drainage system. This was done and permitted through Borough staff.

Using Exhibit A-2, Mr. Ford showed the proposed dwelling on the lot. It would be located at the end of Belair Court. There were slope constraints on the Property. When the lot was originally created in 1981 as part of the overall subdivision, it was designated as a 15,000 sq. ft. lot absent the adjustment for steep slopes. The steep slope analysis effectuates a lot area of 7,255 sq. ft. The steep slopes are an existing condition. In an effort to comply, the Applicant was proposing a front load garage to minimize the impervious coverage and fit in with the natural slope of the land. The first floor would meet the existing grade on the high side. The garage would be located within the basement level.

Mr. Ford testified that the Applicant would comply with the frontage, if they did not have the steep slope calculation. He opined that the house would be well suited for the lot. The lot presently drained freely and by placing a structure on the lot would allow for regrading and installing drainage improvements. The roof down spouts will tie into the municipal system. Also, the drywells in the rear of the property would collect the roof run-off to recharge. There would be a series of lawn inlets for run-off. The Property would be serviced by public water and sewer. The Applicant would seek relief for 28.9% foundation coverage, whereas, 15 % is allowed due to the size of the lot. He testified that their appearance before the Planning Board was within the correct jurisdiction, since the basement ceiling adjustment eliminated the F.A.R. requirement. The Applicant would provide engineering certification that the proposed project does not have an adverse effect on the existing retaining wall. The original plans were prepared in 2021, the dry well for roof run-off would be to allow water to recharge in the ground. The same dry well has a pipe to capture excess run-off. The Applicant stipulated to providing a ground water mounding analysis to show any issues or any potential impact to the neighbors.

Mr. Ford testified using Exhibit A-3 which depicted the original 1981 subdivision. All of the lots in the subdivision were 15,000 sq. ft. This was the only undeveloped lot in the subdivision. The entire subdivision had steep slopes on their Property. The proposed condition would improve the run-off. Although the total peak flow would increase due to the impervious coverage, the increase would be mitigated by the dry wells and directed to the municipal system.

In response to Board Members questions as to the sustainability of the dry well, Mr. Disko responded that the municipal system was not designed to handle a 100 year storm; therefore, the Applicant would install the dry well to capture some of the water. He opined that typically, the Borough has not experienced a mounding issue. If the mounding analysis showed a problem, they would have to find another location for the dry well or revise the plan. He said the slope pattern was fairly consistent with the other properties and the building on the lot was not unique to area. He said the last lot sold in 2003. The lawn inlets were added to the plan during the review process to protect water from running to the east property and as a protective measure from the downslope neighbor.

On question of Mr. Chadwick as to whether the calculation for impervious coverage included a rear patio or deck, Mr. Rodrigues responded that it did not.

The meeting was opened to the public.

The neighbor from 1061 Belair Ct. asked whether the engineering analysis would be done pre-construction or post construction and how many dry wells were proposed, to which Mr. Ford responded that the Applicant proposed two (2) dry wells and a maintenance manual would be provided for same.

Doris Aries of 1053 Belair Ct. was sworn in to give testimony. She testified that she moved into her home in 2002 and only two houses had been built since she moved in.

Alex Dougherty, P.P., having a business address of 101 Gibraltar Ave., was sworn in to give testimony. He gave his credentials and was accepted by the Board as an expert in the field of professional planning. Mr. Dougherty testified that he reviewed the Site Plan, Ordinance, Master Plan and visited the Site. He entered into evidence three (3) exhibits as follows: Exhibit A-4, Block and Lots of the area, Exhibit A-5, Photo and ariel satellite of the area, and Exhibit A-6, visual from a drone.

Using Exhibit A-4, Mr. Dougherty testified that the exhibit showed 1066 Belair was the only undeveloped lot on the street. Exhibit A-5 showed the undeveloped lot as it was being used to repair the retaining wall. The buildable area on the lot was reduced because of steep slopes. The F.A.R. variance relief was eliminated with the reduction in the basement ceiling height. The home was proposed within the building envelope. The Applicant was seeking variance relief under the c(1) and c(2) criteria of the MLUL. Mr. Dougherty opined that the structure was ordinary sized. The buildable footprint is strict. The engineer addressed the run-off. He opined that the project was visually pleasing and would add value to the area advancing the MLUL subsections (a), (c), (e), (g), (i), and (m). The Applicant proposed the shortest driveway in the subdivision. He opined the home would not create a substantial detriment to the zone plan, and the home was compatible with the neighboring area.

On question of Chairman Tomaine as to the necessity of the hardship variance, Mr. Dougherty responded that the difficulty was being assessed with the steep slope analysis which only affected this property in the subdivision. The Applicant would have the challenge of mitigating the run-off from the Property.

Upon question of Mr. Rob Simon as to whether the Applicant reached out to purchase additional property to increase the lot size, Mr. Seigel objected that his client was under no obligation to obtain additional property.

Mr. Simon stated that the Ordinance required a minimum lot size of 15,000 sq. ft., to which Mr. Loughlin responded that the minimum lot size was met.

Maria Barela, 1066 Ledgewood, asked if there would be blasting when the construction began, to which Mr. Rodrigues responded that there would be no blasting.

The Applicant stipulated that the plans submitted would be what the Applicant would construct.

Mr. Disko explained that there would be in excess of 5,000 sq. ft. of soil moving which would trigger the need for a soil moving permit to regulate the material being hazard free leaving the Site. Mr. Ford provided an analysis that no infill was necessary. Mr. Loughlin labeled Mr. Ford's letter as Exhibit A-7.

The Board took a short recess for the Applicant to decided whether to proceed without their professional architect.

Mr. Seigel informed the Board that the Applicant would proceed without the testimony of the architect. The Applicant submitted Exhibit A-8, Architectural Plans. Mr. Rodrigues as a professional contractor and builder of over 200 homes, explained Exhibit A-8. The front of the house would be board on board with rock, Hardie planks, and stucco. There would be fake slate or asphalt singles on the roof. He showed the house from various elevations, and stipulated that what was submitted is what would be built.

Mr. Simon confirmed with Mr. Rodrigues that vinyl siding would not be used in the construction of the home, and Mr. Simon wanted confirmation of the building height. Mr. Disko confirmed that the building height complied. The Applicant entered Exhibit A-9, SK-1, Building Height.

The meeting was opened to the public.

Ann Lesk, 424 Summit Road, experienced two landslides on the subject property in her 40 years of living there. She recommended the Applicant install additional retaining walls.

John Calderone, 446 Summit Road, had no objections to the application. He opined that the house fit in with the neighborhood.

The Board deliberated.

On motion by Mr. Garran, seconded by Mr. Zawislak, 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. Matlin, Mr. Jakositz, Ms. Dillon, and Mr. Gioioso
Nays:
Not Eligible:
Abstain:
Absent: Mayor Mirabelli, Councilman Matejek, and Mr. Kostin

CASE NO.: 22-22; De Vos
1445 & 1448 Forest Court
Represented By: Richard Schkolnick, Esq.
BK: 3.11 LT: 31.27 & 54
R-2 ZONE
Expiration: 12/18/22

Stephen Hehl, Esq. entered his appearance on behalf of the Applicant. The notice was sufficient and timely served giving the Board jurisdiction to act. He stated that the Applicant was before the Board seeking approval of a lot line adjustment to bring the driveway into conformity. It was impossible to relocate the driveway.

Michael Lanzafama, P.E., Milburn, NJ, was sworn in to give testimony. He was accepted by the Board as an expert in civil engineering. Mr. Lanzafama explained that the subdivision plat depicted the transfer of 895 sq. ft. to remove the encroachment of the existing driveway. He described the lot line adjustment as the natural boundary of the property. The transfer of land would not make Lot 54 non-compliant. The transfer of property was primarily coming from the front yard. There were no additional improvements proposed. The Applicant hoped to transfer the land by deed. Mr. Lanzafama opined that the lot line adjustment would encompass the entire driveway, and it was not practical to relocate the driveway.

On motion by Mr. Zawislak, seconded by Ms. Dillon, 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. Matlin, Mr. Jakositz, Ms. Dillon, and Mr. Gioioso
Nays:
Not Eligible:
Abstain:
Absent: Mayor Mirabelli, Councilman Matejek, and Mr. Kostin

CASE NO.: 22-21; Capra
1508 Fox Trail
BK: 3.12 LT: 30.04
R-2 ZONE
Expiration: 12/16/22

Brian Capra and Mr. Fletcher, P.E. were sworn in to give testimony. Mr. Capra testified that the Borough required a soil moving permit. There was an existing pond on the Site. Mr. Capra was in contact with NJDEP, but they did not characterize his property as wetlands; therefore, there was no need to mitigate a riparian zone. He was taking every appropriate measure to meet DEP requirements.

On question of Board Members, Mr. Capra responded that it appeared the pond was man-made and that he would be removing the existing house. He planned to rebuild the home within the same footprint, but would remove soil for a basement.

Mr. Fletcher testified that the existing driveway would be moved. Since the disturbance of soil is in excess of 5,000 sq. ft., the Applicant needed approval of the Somerset-Union Soil Conservation. The new home would be a two-story, single-family home. There were no variances being sought. The Applicant would not bring soil onto the property.

On motion by Mr. Zawislak, seconded by Mr. Matlin, 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. Matlin, Mr. Jakositz, Ms. Dillon, and Mr. Gioioso
Nays:	
Not Eligible:	
Abstain:	
Absent:	Mayor Mirabelli, Councilman Matejek, and Mr. Kostin

Board of Adjustment

CASE NO.: 21-04; Artis Seniors
1020-1024 & 1028 Springfield Ave.
Represented By: Stephen F. Hehl, Esq.
BK: 24.04 LTS: 10.01 & 10.04

Stephen Hehl, Esq. entered his appearance on behalf of the Applicant. Mr. Jay Hicks, 1651 Old Meadow Rd, Suite 1, VA represented Artis Seniors. Mr. Hicks reiterated to the Board the continued impacts of COVID on the commencement of the Artis Seniors project. He apologized to the Board and requested an extension of time to act. He explained some of the financial issues of financing that his company had been experiencing. The Applicant requested an extension until December 2023. Mr. Hicks stipulated to making some repairs to the exterior of the existing building. Mr. Hehl appealed to the Board that to go back before the Board for re-approval would only delay the project even further.

On motion by Chairman Tomaine, seconded by Mr. Zawislak, an extension until June 27, 2023 was approved based on the following roll call vote:

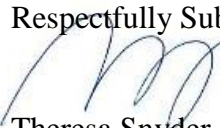
Roll Call:

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

ADJOURN

The Board unanimously voted to adjourn.

Respectfully Submitted,



Theresa Snyder
Board Clerk