

PLANNING BOARD
February 14, 2013

The Mountainside Planning Board met on Thursday, February 14, 2013, at the Mountainside Municipal Building, 1385 Route 22, Mountainside, NJ 07092.

In compliance with Chapter 231 OPEN PUBLIC MEETINGS ACT in the State of New Jersey, adequate notice had been given to all members of the Planning Board and the newspaper that had been designated to receive notice, The Local Source.

PRESENT: Mayor Mirabelli, Councilman Mortimer, Messrs. Disko, Garran, Matlin, Parker, Tomaine, Wyvratt, Youngmans, Zawislak, Attorney Loughlin and Secretary Rees.

ABSENT: Mr. Amalfe

MEMORIALIZATIONS:

Paredes Enterprises LLC, 2 High Point Drive, Block 7.A, Lot 1.A. – Applicant proposed a minor subdivision to subdivide one existing lot into two conforming lot to be used for single-family dwellings. A motion was made and seconded to approve the resolution. All were in favor.

DISCUSSION:

Mr. John Chadwick, the Borough's planner made a presentation to the board and members of the audience for the purpose of reporting on the Master Plan review and revisions, including the affordable housing plan, FAR (floor area ratio) standards, and addition of uses to the Limited Industrial Zone.

Mr. Chadwick proceeded to inform the board of the upcoming changes to the Master Plan and Land Use Ordinance. A steering committee had been meeting for approximately one year to make amendments to the Master Plan and Land Use Ordinance.

Reports and charts were submitted to the members for their review.

Several changes that were presented were:

- Expansion of the uses in the Limited Industrial Zone to allow for various kinds of services uses that are now prohibited, including commercial recreation, etc.
- FAR (floor area ratio): It would be created in all residential zones in the Borough. FAR is the ratio of the square footage of the building divided by the square footage of the lot. FAR would include all habitable space only. The building footprint would remain the same. The height of residential homes would be back up to 35 feet. The FAR ratio would be considered instead of the height of the home. This concept would allow for expansion of existing homes but not allow for very large homes on small lots.
- Affordable Housing: There is a draft plan that has been submitted to a court appointed master in the litigation. The plan now includes four tracts of land plus an overlay zone. The Borough is in the process of appearing before the court. The Borough does not, as yet, know whether the report would be acceptable to the court master.

The Ponds, which are located on the westbound lane of Route 22. It would be approximately 30 units. It is just short of five acres. There are no wetlands on the property.

A parcel of land behind Brighton Gardens which may have approximately 20 units. It is approximately eight acres.

A parcel of land on Springfield Avenue that used to have a swimming pool club on it. It is approximately four and one-half acres.

The Barnes Tract which is located behind the 7-11 store on Mountain Avenue. It would be a mixed use of townhouses and commercial use. It is just over five acres.

The overlay area would be located near Echo Lake Park for residential use. It would provide an opportunity for affordable housing.

The above presentation was for the board to consider all the recommendations. Future meetings would be held to revise the Master Plan in connection with the above-referenced revisions on affordable housing, expansion of the Limited Industrial Zone and FAR. Meetings on the Master Plan would be scheduled after Mr. Chadwick receives a letter from the special master. The Planning Board would hold the hearings and make recommendation to the Mayor and Council. The Council would hold hearings on proposed ordinances.

NEW BUSINESS:

C.F.G.R., 151 Wild Hedge Lane, Block 11, Lot 1 – Applicant proposed a final major subdivision to construct a single-family dwelling on each lot. A variance is required for lots not fronting a public street.

Mr. Daniel Bernstein, Esq., represented the applicant.

Preliminary subdivision approval was adopted in 2007.

Attorney Loughlin duly swore in Mr. Edward Dec of Kenilworth, NJ as the engineer and planner for the final subdivision.

Attorney Loughlin inquired if the applicant had the Wild Hedge Lane Association letter, and Settlement Agreement letter and Mr. Disko's report. Attorney Bernstein stated that they had all three reports.

The plan that was submitted to the board was revised in order to conform to Dr. Disko's (Sr.) and also from the neighbors' engineer from 2007.

Exhibit B-1: Mr. Dec reviewed Mr. Disko's (Jr.) report of 2013:

- The size of the underground detention system has not been done due to the fact that it would directly be related to the size of the proposed houses.
- Driveway: Curbing would be done if the board made it a condition.
- Approval from the DEP for the sanitary sewer extension sewer permit. It had not yet been submitted due to the time-frame that must be met for when the applicant would be breaking ground for the new homes.
- Height of the proposed homes: The current ordinance is 30 feet, however, at the time of preliminary subdivision approval the height of a residential home was 35 feet. They would prefer to be allowed the homes to be 35 feet high.
- The applicant is aware that a sediment control permit is required prior to the issuance of building permits.

- Footprint of the proposed homes was submitted to the board based on lot coverage and the ordinance.
- The Borough Engineer must approve all building and drainage plans prior to the issuance of any building permits.

Mr. Tomaine opened up the floor to the audience for questions. There were none.

Attorney Loughlin duly swore in Mr. Ralph Rapuano of Westfield, NJ as the owner and developer of the property and proposed new homes.

Upon questioning from Mr. Tomaine, Mr. Rapuano stated that each home would not exceed 6,000 square feet.

Attorney Loughlin advised Attorney Bernstein that he called Attorney Butler who was involved in the preliminary subdivision applications. Attorney Butler stated that he had never received the deed to convey Mr. Rapuano's interest to the Association. Mr. Rapuano stated that to his knowledge, he had signed the deed and had sent it to Mr. Butler.

Attorney Loughlin advised the board regarding proposed access to the subdivision and the Settlement Agreement. Mr. Rapuano stated that, according to the settlement, he had access to Wild Hedge Lane from Hillside Avenue. Any damages that would occur would be repaired. He would comply with the agreement.

Exhibit B-2: Mayor Mirabelli reviewed the October 3, 2011 letter with Mr. Rapuano.

Mr. Rapuano agreed to numbers 1, 2, 3, 5, 6 and 7. Regarding No. 4, Mr. Rapuano stated that he would do his best to comply and he would discuss No. 4 with the Association.

The board discussed the Preliminary Resolution.

Performance Bond and Maintenance Bond for the reconditioning of Mountainview Drive for sewer work. This would be addressed in the future. It is currently an open-ended issue. It would be submitted to the Borough Engineer for his approval. Attorney Loughlin stated that there are two different bonds. Mr. Disko advised the board as to what sewer work would be required.

Attorney Loughlin indicated that there were open conditions from the preliminary resolution that have not yet been addressed.

Garage doors: Mr. Dec showed Mr. Disko where the garage doors would be located. They would be located on the extreme side of each property.

Mr. Younghans referred to the Settlement Agreement regarding commencement of the construction of the new home within ninety days of the final subdivision resolution. Mr. Rapuano stated that it would be very difficult to comply and he would bring it to the Association and discuss it with them.

Mr. Disko advised that the the applicant would still be required to submit plot plans and to go to the building department. It would be difficult for the Borough enforce.

Attorney Loughlin advised the board that certain conditions remain outstanding from the 2007 preliminary resolution. He informed the board that the conditions should have been met before the applicant came in for final subdivision approval. The applicant must ensure to the Borough that there is proper access on Wild Hedge Lane and the connection of utility service for the future residents of the two lots. Attorney Loughlin advised the board on all the other conditions that were still outstanding.

Mr. Zawislak inquired about the third piece of property that Mr. Rapuano owns. It is not part of the subdivision but it is part of the easement.

Mr. Tomaine opened to the floor to the audience for questions. There were none.

Mr. Tomaine opened up the floor to the audience for comments.

AUDIENCE PARTICIPATION:

Attorney Loughlin duly swore in Mr. James Dunn of 11 Mountainview Drive made reference to the Settlement Agreement (Exhibit B-3). Mr. Dunn stated that the timing for building the homes was negotiable but the building the two homes were not negotiable.

Mr. Dunn stated that the transfer of the deed to the Association has not been done. Mr. Rapuano stated that he did sign the deed and returned to Attorney Butler. According to Mr. Dunn, Mr. Rapuano has to turn over his third of the lane to the Association. Mr. Rapuano insisted that he did sign the deed and returned it to Attorney Butler. However, Attorney Butler informed Attorney Loughlin that he never received the deed back from Mr. Rapuano. Attorney Loughlin indicated that if Mr. Rapuano had a copy of the deed that he should present it to the board at this meeting. Attorney Loughlin informed Rapuano that he submit the papers from Mr. Schmidt and give them to Attorney Bernstein.

Attorney Loughlin stated that access and utility service to the subdivision still had not yet been resolved. Mr. Dunn agreed with Attorney Loughlin.

Mr. Tomaine noted that there were sixteen conditions in the preliminary resolution.

Mr. Matlin stated that Mr. Rapuano should address all the conditions and what conditions he is willing to agree to and what conditions he wants the board to consider.
Exhibit B-4 – Preliminary subdivision resolution

At this time, the board took a break at 9:10 p.m.

The board resumed the meeting at 9:20 p.m.

Mr. Tomaine opened up the floor to the audience for comments.

AUDIENCE PARTICIPATION:

Attorney Loughlin duly swore in Mr. Bart Barre of 135 Wild Hedge Lane. Mr. Barre informed the board that Mr. Rapuano was reminded many times that the portion of the lane that he owns needed to be deeded to the association and it had not been done, to date. Mr. Barre requested that final subdivision not be approved until all the conditions had been met and Mr. Rapuano would not be able to build the houses until the conditions were met.

End participation.

The board reviewed the preliminary subdivision conditions with Attorney Bernstein. It was discussed as to what conditions have or have not been met. Out of the sixteen conditions, eleven have not been met and remain open.

Mr. Disko requested that all utility services be put on the plans.

The board discussed the possibility of removing an oil tank, DEP regulations and the height of the proposed homes.

Due to the fact that many of the conditions from the preliminary subdivision resolution, Attorney Bernstein request that the application for final subdivision approval

is carried over to the May 9, 2013 meeting. This was agreed to by the board and announced to the audience so that the applicant would not need to re-notice.

Having no further discussion, the application was adjourned until the May 9, 2013 meeting.

ASC Mountainside Realty, 1450 Route 22, Block 3.C, Lots 9 & 12 - Applicant a Change of Tenancy and Change of Use for medical offices. Existing variances include front yard under 50 feet where 49.6 feet exists and parking in the rear yard. New variance includes insufficient parking for medical use, where 215 parking spaces are proposed but 276 parking spaces are required.

Mr. Joseph Paparo, Esq. Hehl and Hehl represented the building owner for the Change of Tenancy.

Attorney Paparo informed the board that Crest Physical Therapy currently occupies approximately 5,000 square feet on the second floor.

Attorney Paparo explained that several changes have been made since ASC had appeared before the board in March 2012.

- Children Specialized Hospital administrative offices are no longer a tenant and that space is now vacant.
- Center for Ambulatory Surgery currently occupies the first floor.
- The second floor only has Crest Physical Therapy

After the application was filed for a Change of Tenancy for an orthopedic surgeon to occupy a portion of the second floor, Attorney Paparo was informed that the surgeon decided not to lease the space.

Attorney Paparo requested that the remaining space on the second floor from professional offices to medical offices. Attorney Paparo again stressed that they do not have a tenant but that they would like to lease the space for medical services.

Mr. Zawislak inquired as to what types of medical services may occupy the building and the parking requirements.

Mr. Disko stated that if the board approved the application, he would be allowed to approve any future applications for medical offices. The board would also have to approve the parking variance.

Attorney Loughlin duly swore in Mr. Michael Staskiewicz of Little Falls, NJ as the broker for the building. He gave his credentials to the board.

Exhibit A-1: Second floor plan showing the existing and proposed spaces

Mr. Staskiewicz informed the board regarding commercial office space in today's economy.

Mr. Staskiewicz showed the existing and proposed floor plan of the building.

Mr. Staskiewicz stated that a proposed medical service would be in line with the current same-day surgery center.

Mr. Tomaine opened up the floor to the audience for questions. There were none.

Attorney Loughlin duly swore in Mr. Robert Freud of Wall, New Jersey. Mr. Freud did not have to give his credentials to the board.

Mr. Freud informed the board that there would be no site improvements associated with the application.

Per the board's request for Crest Physical Therapy, new handicapped parking spaces were created, landscaping buffer was planted and the shed was removed. Mr. Disko stated that the landscaping buffer screening was not high enough.

Mr. Freud reviewed the variances.

Mr. Zawislak reviewed the parking requirements. He wanted assurance that there would be enough parking when the building owners leased the vacant space. Mr. Freud stated that there would be enough parking spaces.

Mr. Freud stated that by changing the use of the building from professional to medical, medical would be the best use for the building.

There would be no changes to the existing ground sign.

Attorney Loughlin inquired about proposed hours of operation. Mr. Disko suggested that the latest the tenant should be opened would be 10:00 p.m. This was agreed to by the applicant.

Conditions:

Hours of operation would be to 10:00 p.m.

Landscaping plan would be approved by the Borough Engineer

The height of the plantings would be approved by the Borough Engineer

Additional handicapped parking spaces may be required in the future, depending on the type of tenant moves in

Additional trees the height of 6 to 8 feet would be required on the north side

Only "Appointment Driven" would be permitted for a medical service

A Change of Tenancy would be required for both medical and non-medical services.

Mr. Tomaine opened up the floor to the audience for questions. There were none.

Having no further discussion Mr. Zawislak made a motion to approve the application and Mr. Younghans seconded the motions.

ROLL CALL VOTE:

AYES: Mayor Mirabelli
Co. Mortimer
Mr. Disko
Mr. Tomaine
Mr. Zawislak
Mr. Garran
Mr. Wyvratt
Mr. Younghans
Mr. Parker

NAYS: 0

MOTION: Carried

Padin, 1434 Dunn Parkway, Block 10.E, Lot 17 – Applicant proposed an addition to a single-family dwelling on a non-conforming lot. Existing variances included lot area within 150 feet, fence in the front yard, walkway and shed which were considered accessory structures in the required side yard setback and existing front yard of 21.9 feet where 30 feet was required. New variances included lot width under 100 feet where 81 feet existed, and lot coverage over 30 percent where 38.6 percent was proposed.

Attorney Loughlin duly swore in Ms. Evelyn Padin as the homeowner.

Ms. Padin testified that her sunroom was severely damaged during Super Storm Sandy and she would like to construct a new sunroom and add a second floor addition above the new sunroom.

Attorney Loughlin duly swore in Mr. Rui Amaral of Bloomfield, NJ as the architect for the proposed addition. Mr. Amaral gave his credentials to the board.

Exhibit A-1: Photographs of the existing house and property.

Mr. Amaral explained that the house is on a non-conforming corner lot, so that there are two front yards and each front must have at least 100 feet.

Mr. Amaral reviewed the variances.

There would be two French facing the swimming pool.

The existing patio would be removed.

The existing ground coverage would remain the same – 38.56. There would be no changes.

Ms. Padin would like approval to build a deck on the second floor, overlooking the pool.

There are no variances for the existing and proposed footprint of the house.

Mr. Zawislak expressed his concern regarding the proposed deck on the second floor overlooking the pool. It would be 9 feet, 11 inches from the pool. Ms. Padin agreed to withdraw the balcony from the application.

Having no further discussion, Mr. Zawislak made a motion to approve the application with the condition that Ms. Padin would withdraw the second story deck from the application. Mr. Wyvratt seconded the motion.

ROLL CALL VOTE:

AYES: Mr. Disko
Mr. Tomaine
Mr. Zawislak
Mr. Garran
Mr. Wyvratt
Mr. Younghans
Mr. Parker

NAYS: 0

MOTION: Carried

DISCUSSION:

Attorney Loughlin advised the board regarding correspondence that he received from the ARC of Union County. The ARC was required to obtain certification from a certified playground inspector. It has not yet been done, nor were they going to do it. Attorney Loughlin informed them that it was a condition by the Planning Board that they had obtain certification. ARC's attorney requested that the board carry the application until such time that they obtain an inspection of the playground and make any repairs to the playground. This was agreed to by the board.

Having no further business, the meeting was duly adjourned at 11:10 p.m.

Respectfully submitted,

Ruth M. Rees
Secretary

Having no further business, the meeting was duly adjourned at 11:10 p.m.

Respectfully submitted,

Ruth M. Rees
Secretary