

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MINUTES
November 6, 2013**

The Township of West Orange Planning Board held a regular meeting on November 6, 2013 at 7:30 P.M. in Council Chambers, 66 Main Street, West Orange, New Jersey.

Chairman Heller called the meeting to order at approximately 7:30 P.M. It was announced that notification of this meeting was given to the Township Clerk, and posted on the Township Bulletin Board on December 6 2012, in accordance with the requirements of the "Open Public Meetings Act".

PRESENT: Chairman Ben Heller, Robert Bagoff (7:55 P.M.), Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Lee Klein, Council President Susan McCartney, Vice Chairman Ron Weston

ABSENT: Jason Lester, William Wilkes II

ALSO PRESENT: Patrick J. Dwyer, Esq., Board Attorney; Robin Miller, Board Secretary; Kevin Dillon, Audio-Digital Transcription Service

PLEDGE OF ALLEGIANCE

Chairman Heller requested all persons stand for the Pledge of Allegiance.

ROLL CALL

Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Chairman Ben Heller, Lee Klein, Jason Lester, Council President Susan McCartney, Vice Chairman Ron Weston, Williams Wilkes II.

ANNOUNCEMENTS

The next regular Planning Board meeting will be held on **Wednesday December 4, 2013** at 7:30 P.M. in Council Chambers.

ADOPT MINUTES

September 10, 2013 regular meeting.

DISCUSSION

Mr. Gurland asked for clarification regarding the recording of his vote on the Resolution as written on page three of the minutes, why was no vote reflected. Mr. Dwyer advised that Mr. Gurland's recorded vote on the approval of the Application was "Abstain"; as such, he was not permitted to vote on the Resolution memorializing the approval of the Application.

Mr. Gurland asked for clarification to Mr. Dwyer's statement on page three, that Professor Cox did not think members should abstain from a vote; Mr. Gurland inquired if it was the law or just the opinion of Professor Cox. Mr. Dwyer said it was the opinion of Professor Cox, not the rule of law.

The Board voted on approving the September 10, 2013 meeting minutes as follows:

Motion: Vice Chairman Weston

Second: Chairman Heller

Bagoff:	Absent	Carlucci:	Yes	Eben:	Yes
Ghebremicael:	-	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	
Wilkes:	Absent	Heller:	Yes		

ADOPT MEETING DATES

The Board voted on adopting the 2014 meeting dates as follows:

Motion: Chairman Heller

Second: Mr. Ghebremicael

Bagoff:	Absent	Carlucci:	Yes	Eben:	Yes
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

RESOLUTION(S)

PB-13-18T/DEA Enterprises LLC d/b/a Retro Fitness

Block: 152.24; Lots: 1445, 1445.05; Zone: P-C

235 Prospect Avenue

Technical Site Plan for fitness center.

DISCUSSION

Chairman Heller announced the Resolution for the Technical Site Plan approved by the Technical Review Subcommittee at the October 31, 2013 special meeting. Vice Chairman Weston advised the Board he was not present at the meeting; he asked Mr. Gurland to give a recapitulation of the Application.

Robert C. Williams, Esq., attorney for the Applicant was present to confer with Board if they had questions regarding approved Application.

Mr. Gurland advised the Board that the Technical Review Committee thought it was a positive review. He said the major questions covered were the number of employees, fifty (50); there would be child-care services; there would be a complete sprinkler system; there were adequate entrances and exits and travel to exits; an exterior Knox Box would be installed; new curb cuts for handicap access; and restriping for handicap parking; and it was determined that the business was not considered a spa. There would not be a whirlpool or steam room.

Council President McCartney added that the business would be approximately 14,000 square feet; it would include a small gym-related retail space; a juice bar; and tanning stations.

Mr. Eben said that while a licensed architect prepared the plans; the gentleman who presented the plans was not; rather he was a draftsman. Mr. Eben said he had a real problem with a non-architect presenting the plan. Additionally, Mr. Eben said that when conditions were made, they should all be written on the final drawings. In this case, he did not believe a Knox Box would be installed or that the handicap parking area would be re-stripped.

Mr. Gurland said he was not aware that a licensed architect had to be present at Technical Review meetings to make presentations.

Mr. Weston said that all full Site Plan Applications did have the conditions listed on the final plans. He said that our municipality was one of few that had a Technical Review Committee. In other towns, a small business opening would go directly to the Building Department. He said there was a checks and balance system in place among the various departments. He opined that a further discussion regarding Technical Review be held at another time.

Chairman Heller asked if either Mrs. Carlucci or the Board Secretary could discuss the Certificate of Occupancy (CO) process. Mrs. Carlucci said that the process included submitting permits with a copy of the signed Resolution to the building department after an Application was approved. The Board Secretary said that as soon as a Resolution was memorialized, copies were distributed to departments including Building, Fire and Police for their review and reference during their inspection process. Before the Zoning Officer signs off on the Applicant's Affidavit of Compliance, she will review the Resolution to make sure the conditions have been met.

Mr. Eben opined he did not believe there should be Technical Review; he understood that the threshold for interior renovations had been raised; but did not understand who made the determination or the criteria for an Application to be heard by the Technical Review Committee. He said it was important to him that a registered architect present plans, and that conditions be listed on plans.

Mr. Ghebremicael said he recently had conversations with business people in the community who had complained about the process of opening a business in West Orange. They complained that it was costly and time-consuming. He opined there were enough checks and balances to ensure that work would be done properly.

Council President McCartney said that she also heard complaints, but often after Applications were not complete; Technical Review had been created to help Applicants through the process of opening a business; she recounted her own experience with opening a business in West Orange.

Chairman Heller suggested the Board consider the Resolution and continue the discussion after voting.

The Board voted on the Resolution as follows:

Motion: Chairman Heller

Second: Mr. Gurland

Bagoff:	Absent	Carlucci:	Yes	Eben:	Yes
Ghebremicael:	Yes	Gurland:	Yes	Klein:	Yes
Lester:	Absent	McCartney:	Yes	Weston:	Yes
Wilkes:	Absent	Heller:	Yes		

DISCUSSION

Board continued discussing the Technical Review process. Chairman Heller inquired if only licensed professionals be allowed to testify at Technical Review meetings; were professionals sworn in at Tech Review meetings. Mr. Eben said he did not attend Technical Review meetings; he did not know what was discussed at meetings. He

opined that the Board needed to assume that if an issue was discussed at Technical Review, it would be put in the Resolution and the condition would be met. It was his opinion that he saw work being done around the Township that should have been heard by the Board, but was not. Chairman Heller said that Mr. Eben was discussing two separate issues; the current discussion was about the Technical Review process.

Mr. Weston said there were two types of Technical Review Applications, one was for completeness review for a full site plan to go before the entire Board, the other was for a Technical Site plan approval only by the Technical Review Committee; these included small businesses and interior renovations only.

Mr. Gurland asked about Technical Review site visits. Dr. Bagoff said that among other things, the site visits were to help determine the state of the property; any property maintenance issues would be addressed at the Tech meeting.

Chairman Heller opined that for small applications, it was much to ask a tenant Applicant for a full site-plan. He asked the Board Secretary if building owners came to Technical Review meetings. The Board Secretary advised that every Applicant was sent a letter advising that they bring an attorney, property owner or agent, and any other professional(s) to the Technical Review meeting. The Board Secretary said minutes were taken at Technical Review meetings; going forward she would send the minutes to the Board members for their review.

Mr. Dwyer said the Planning Board jurisdiction (lies in) being given information that is presented and heard to determine the outcome of an Application. He said it was not a function of the Board to be the Zoning Police. Dr. Bagoff opined the Board was not a pro-active review panel to visit issues not in its jurisdiction.

Chairman Heller suggested that the process be reviewed, discussed further and should include the input of Mr. Grygiel and the Zoning Official.

MEETING ADJOURNED at approximately 8:29 P.M.

Minutes adopted December 4, 2013



Robin Miller, Planning Board Secretary
Township of West Orange

****THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE
WEDNESDAY JANUARY 8, 2014 AT 7:30 P.M. IN COUNCIL CHAMBERS****