

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
May 19, 2016**

The West Orange Zoning Board of Adjustment held a regular meeting on May 19, 2016 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Vice Chairman Buechler called the meeting to order at approximately 8:00 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle and the Star Ledger and posted on the Township Bulletin Board in accordance with the "Open Public Meetings Act."

Vice Chairman Buechler announced that a digital tape recording system is being utilized to record the proceedings of the meeting and instructed the general public on how the audio of the proceedings may be reviewed or obtained.

Vice Chairman Buechler stated that one of the applicants retained the services of Ms. Laura A. Carucci, a certified court reporter, and she will be recording the Stratford Manor application at this hearing.

Vice Chairman Buechler asked everyone to stand for the Pledge of Allegiance.

Patrick Dwyer, Esq., Board Attorney, read the Opening Statement.

PRESENT: B. Buechler, C. Darconte, D. Gabry, D. Nash,
B. Quentzel I. Schwarzbaum, W. Steinhart, A. Weiss

ABSENT: P. Neuer (excused)
M. Sussman (excused)

ALSO PRESENT: Paul Grygiel, Township Planner
Eric Keller, Consulting Engineer
Patrick Dwyer, Esq., Board Attorney
Rose DeSena, Board Secretary

ANNOUNCEMENTS

Future Meetings: June 16, 2016 (regular meeting)
 July 21, 2016 (regular meeting)
 August 18, 2016 (regular meeting)

MINUTES

Adopt Minutes: **February 18, 2016 (executive session)**

Vice Chairman Buechler asked the Board Members if they had any additional comments to the February 18, 2016 executive session minutes that were submitted to them for review; there were none.

Vice Chairman Buechler asked for a motion to approve the minutes of the February 18, 2016 executive session.

Ms. Gabry made a motion to approve the minutes of the February 18, 2016 executive session; Mr. Quentzel seconded the motion and all were in favor.

It was noted for the record that Mr. Schwarzbaum, Mr. Steinhart and Ms. Weiss were present but did not vote on these minutes

April 21, 2016 (regular meeting)

Vice Chairman Buechler asked the Board Members if they had any additional comments to the minutes of the April 21, 2016 regular meeting that were submitted to them for review; there were none.

Vice Chairman Buechler asked for a motion to approve the minutes of the April 21, 2016 regular meeting.

Mr. Schwarzbaum made a motion to approve the minutes of the April 21, 2016 regular meeting; Mr. Steinhart seconded the motion and all were in favor.

It was noted for the record that Mr. Quentzel was present but did not vote on these minutes.

SWEARING IN

Paul Grygiel, Planner for the Township for the Township and Eric Keller, consulting Engineer for the Township were sworn under oath.

RESOLUTIONS

1. ZB-15-17/Prism Green Associates III, LLC

Denied 4/21/16

Block: 155; Lot: 26.03; Zone: O-R

Rooney Circle

Seeking "c" variances to erect a monument sign

Vice Chairman Buechler stated that a number of changes were circulated for this resolution. He said that Mr. Schwarzbaum recommended that paragraph 8 should be eliminated. Vice Chairman Buechler recommended that it not be eliminated due to certain case law. It was agreed that paragraph 8 would remain in the resolution.

Vice Chairman Buechler noted three additional minor changes to be made in the resolution and asked for a motion to adopt with said changes.

Ms. Gabry made a motion to adopt the resolution with said changes and Mr. Schwarzbaum seconded the motion.

The vote was as follows:

Buechler	Yes	Schwarzbaum:	Yes
DarConte:	Yes	Steinhart:	-
Gabry:	Yes	Sussman:	-
D. Nash:	-	Weiss:	Yes
Quentzel:	-	Chairman Neuer:	-

2. ZB-16-01/Sai Hira Ram Trust, Inc.

Approved 4/21/16

23 Laurel Avenue

Block: 177.02; Lots: 15.01 & 16; Zone: R-4

Request modification of a condition in a prior resolution

Vice Chairman Buechler stated that a few changes were circulated to the Board Members and incorporated into this resolution.

Vice Chairman Buechler asked for a motion to adopt the resolution with said changes.

Ms. Gabry made a motion to adopt the resolution with said changes and Mr. Steinhart seconded the motion.

The vote was as follows:

Buechler	Yes	Schwarzbaum:	Yes
DarConte:	-	Steinhart:	Yes
Gabry:	Yes	Sussman:	-
D. Nash:	-	Weiss:	Yes
Quentzel:	-	Chairman Neuer:	-

APPLICATION(S)

- 1. ZB-15-16/Stratford Manor Rehabilitation & Care, LLC** **Carried from 4/21/16**
Block: 166.15; Lots: 7 & 11; Zone: OB-1
787 Northfield Avenue
Seeks preliminary and final amended site plan approval with “d” and bulk variances to add a physical therapy room in the rear of an existing building.

EXHIBITS

- A-6 – Reduced Landscape Plan & Reduced Tree Replacement Plan
- A-7 – Revised site plan dated 5/18/16
- A-8 – Revised Schematic Plan & Elevations dated 4/21/16
- A-9 – Roof Plan – A-2 dated 4/21/16
- A-10 – Bowman letter dated 5/16/16

Robert Williams, Esq., attorney for the applicant, approached the podium.

Mr. Williams stated that this application was last heard on January 21, 2016.

Vice Chairman Buechler stated for the record that he read the transcript from the January 21, 2016 meeting and signed the affidavit.

Mr. Williams detailed the application and stated that he brought back their architect so that he can complete his testimony.

Barry Brommer, architect for the applicant, approached the podium.

Mr. Williams stated that Mr. Brommer was sworn in at the last meeting and was previously

qualified as an expert in architecture. He said that there have been no changes in his qualifications and that his license is valid in the State of New Jersey.

Mr. Brommer presented the revised elevations plan with a revision date of 4/21/16 that was pre-marked as Exhibit A-8 for identification.

Mr. Brommer referred to Exhibit A-8 and stated that he added a roof plan that shows the HVAC unit screening that Mr. Keller recommended be incorporated in the plans as per item #13 of his memo dated May 16, 2016.

Mr. Keller asked Mr. Brommer to address item #12 of his memo dated May 16, 2016 and provide testimony regarding the anticipated height of the screen above the roof.

Mr. Brommer stated that the screen is 6'2" above the roof surface as shown on Exhibit A-8.

Vice Chairman Buechler asked Mr. Brommer how tall the air conditioning unit is; he said 5'8" maximum height.

Mr. Schwarzbaum asked Mr. Brommer what kind of screening material is being used; he said metal acoustic.

Vice Chairman Buechler asked Mr. Brommer what color is the screening; he said he recommends that they use the color of aluminum.

Ms. Gabry asked Mr. Brommer if that aluminum color is silver; he replied yes.

There were no further questions for Mr. Brommer from the Board Members or the Board Professionals.

There were no members of the public that had any questions for Mr. Brommer.

Mr. Williams called his next witness.

Michael Marinelli, approached the podium and was sworn under oath

Mr. Marinelli stated that he testified at the January 21, 2016 meeting and his license as a Professional Engineer is in good standing.

Mr. Marinelli said that circulation and parking was an issue discussed at the last meeting. He said that he re-submitted a new site plan with a revision date of 5/19/16 and it was pre-marked as Exhibit A-7 for identification.

Mr. Marinelli said that the only modifications made were parking and relocation of the dumpster; he said no modifications were made to the physical therapy addition.

Mr. Marinelli referred to Exhibit A-7 and detailed all of the parking on the site.

Vice Chairman Buechler asked Mr. Marinelli if any changes were made to the total number of parking spaces; he said yes.

Mr. Marinelli stated that the circular area in the front driveway is for pickup and drop off. He said that they will be installing additional signage and striping of the parking lot per Mr. Keller's recommendation.

Mr. Marinelli said that they will be re-constructing the ramp in the rear of the building. He said that the only public entrance and exit will be through the front door except for employees who will enter and exit from the rear door.

Mr. Marinelli detailed the employee parking area in the rear of the building and said that it will be paved.

Mr. Marinelli stated that Mr. Keller reviewed the storm water management plan and it not only met all of the conditions but extra measures were provided in the plan.

Mr. Marinelli said that there are currently fifty four (54) parking spaces and they are proposing eighty seven (87). He said that one hundred and forty nine (149) spots are required.

Mr. Marinelli referred to Mr. Keller's memo dated May 16, 2016 that was pre-marked as Exhibit A-10 for identification and addressed all of the items.

Mr. Marinelli addressed item #5 and said that all ADA parking spaces will be located in the front of the building.

Mr. Keller said that the Township's building department will have to agree with the rear of the building not being ADA accessible.

Mr. Marinelli addressed item #6 regarding any impact from the soil removal and said that the landscaping being proposed will prevent any runoff.

Mr. Marinelli addressed item #8 regarding the additional light fixture proposed along the rear driveway. He said there was a concern about the light spilling on to the neighbor's properties so they removed that light fixture from the plan.

Mr. Keller said that the height of the proposed light fixture was his concern and asked Mr. Marinelli what type of lighting they are proposing to illuminate the driveway; he said none that he knows of.

Vice Chairman Buechler said that the rear driveway is not a heavy traffic area and they do not need to install a light fixture there.

Mr. Marinelli addressed item #3 and item #4 regarding the storm water calculations and said that they will comply.

There were no further questions for Mr. Marinelli from the Board Members or the Board

Professionals.

There were no questions for Mr. Marinelli from members of the public.

Mr. Williams called his next witness.

Beth Strom approached the podium and was sworn under oath.

Ms. Strum detailed her educational and professional background as a landscape architect and professional planner licensed in the State of New Jersey. She said that she prepared the tree replacement and landscape plans that were submitted with the application and will be testifying as the applicant's landscape architect.

Vice Chairman Buechler accepted Ms. Strum as an expert in landscape architecture.

Vice Chairman Buechler asked Ms. Strum if she saw Mr. Linson's letter dated December 9, 2015; she replied yes. Ms. Strum said that the original landscape plan was limited to new construction but Mr. Linson requested they prepare an extensive landscape plan.

Ms. Strum referred to Exhibit A-7 and detailed the landscape plan and noted where the trees will be planted, replaced and pruned. She said that she will submit a revised plan within ten (10) days from today.

Mr. Quentzel asked Ms. Strum if there is a need for irrigation; she said no. Ms. Strum said that there is a two (2) year guarantee from the contractor for tree replacement.

Mr. Keller asked Ms. Strum if the plant material that was selected is a "mature size" and is appropriate for the locations; she replied yes.

There were no further questions for Ms. Strum from the Board Members or the Board Professionals.

There were no questions for Ms. Strum from members of the public.

Mr. Williams called his next witness.

Joseph Staigar approached the podium and was sworn under oath.

Vice Chairman Buechler stated that Mr. Staigar has appeared before this Board many times and accepted him as an expert in Traffic Engineering.

Mr. Staigar stated that he addressed all of Mr. Keller's comments in his memo dated May 16, 2016, items 14, 15 and 16, in an email to him today.

Mr. Keller said that he did receive an email from Mr. Staigar today and he will discuss that letter in his testimony tonight.

Vice Chairman Buechler asked Mr. Staigar to send the Board Secretary the letter dated May 18, 2016 that he sent to Mr. Keller. He said that the letter will not be entered into evidence.

Mr. Staigar stated that the Town ordinance requires them to have one hundred and forty nine (149) parking spaces and they are proposing eighty seven (87). He said that based on his survey the peak parking depends on the shifts and the early shift is the busiest because there are sixty (60) employees during that shift.

Vice Chairman Buechler noted the inconsistency of the number of employees in the building during the first shift and stated that originally it was said that there are thirty five (35) employees during the first shift and asked Mr. Staigar how it increased to sixty (60) employees. Mr. Staigar said that there are thirty five (35) regular employees but different workers come in at different times and sixty (60) is the number of employees in the building at one time. He said there will not be any additional staff.

Vice Chairman Buechler asked Mr. Staigar what the basis of his testimony is regarding the sixty (60) employees; he said his discussion with the applicant.

Vice Chairman Buechler asked Mr. Staigar if all of the employees drive to work; he said no that some of them take a bus.

Mr. Staigar continued his testimony and detailed the parking demand, based on employees, visitors and doctors, during different times and days of the week. He said his numbers were based on two (2) weeks of visitor log in sheets.

Mr. Staigar stated that they currently have fifty four (54) parking spaces and are proposing eighty seven (87).

Mr. Schwarzbaum asked Mr. Staigar out of the sixty (60) employees how many vehicles are there; he said he did not know.

There was some discussion regarding the twenty seven (27) parking spaces in the rear of the building, for employees only, being better utilized. Vice Chairman Buechler asked Mr. Staigar if he had any suggestions regarding this; he said that they are just going to have to do the best they can.

Mr. Quentzel asked Mr. Staigar if they can stagger the employee's times; he said he does not think so. Mr. Staigar said that increasing the number of parking spaces should rectify this.

There were no further questions for Mr. Staigar from the Board Members or the Board Professionals.

There were no questions for Mr. Staigar from members of the public.

Mr. Williams called his next witness.

Peter Steck approached the podium and was sworn under oath.

Vice Chairman Buechler stated that Mr. Steck has testified before this Board many times and accepts him as an expert in Professional Planning.

Mr. Steck referred to his report dated April 8, 2016 and detailed what is being proposed and noted all of the variances being requested. He said that because this does not meet all of the conditional use standards for a nursing home in an OB-1 zone, it requires a “d(3)” variance. Mr. Steck said that it also requires a “d(1)” variance because a portion of the driveway abuts the R-5 zone.

Mr. Steck referred to the conclusion page of his report and stated that this is an inherently beneficial use and can be reviewed under the terms of the Sica standards. He said that the number of beds will remain the same, they will be providing better care for the patients and the increased parking will alleviate illegal parking on the site. Mr. Steck stated that the negative criteria has been fully satisfied, there will be no detriment to the zoning ordinance and approving these modifications allows the facility to provide better healthcare and improve the look of the property.

Mr. Steck noted for the record that the storage containers will be removed when the construction is complete.

Vice Chairman Buechler asked Mr. Grygiel if he concurs with Mr. Steck that the use of this property is an inherently beneficial use; he replied yes.

There were no further questions for Mr. Steck from the Board Members or the Board Professionals.

There were no members of the public that had any questions for Mr. Steck.

Vice Chairman Buechler called for a recess at 9:33 pm.

Vice Chairman Buechler resumed the meeting at 9:44 pm.

The applicant had no further witnesses.

Vice Chairman Buechler opened the meeting up for public comment.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road.

Mr. Rashkes stated that the original approval for this application included a condition to install sidewalks on Northfield Avenue.

Mr. Keller stated that these plans include sidewalks being installed along Northfield Avenue.

There were no further comments from members of the public.

Mr. Williams presented his closing statements and asked the Board to approve this application.

Vice Chairman Buechler declared the record closed.

Ms. Weiss stated that the proposed modifications will make this a better facility and that she is in favor of the application.

Ms. Gabry stated that her concern regarding the parallel parking issue in the front of the building was addressed and that she is in favor of the application.

Mr. Schwarzbaum said that the proposed modification is big improvement especially for parking. He said that he would like to make a motion to approve this application with a condition that physical therapy and occupational therapy be provided for residents only and not for non-residents.

Vice Chairman Buechler said that enforcing this condition would be difficult but they can add it as a condition.

Vice Chairman Buechler said that he would suggest a condition regarding the containers on the premises be removed forty five (45) days at the conclusion of the construction and that all of the waivers Mr. Williams requested be approved and added as part of the resolution.

Ms. Gabry seconded the motion to approve the application with said conditions.

The vote was as follows:

Buechler	Yes	Schwarzbaum:	Yes
DarConte:	Yes	Steinhart:	Yes
Gabry:	Yes	Sussman:	-
D. Nash:	-	Weiss:	Yes
Quentzel:	Yes	Chairman Neuer:	-

2. ZB-16-02/Arceo

Carried from 4/21/16

Block: 43; Lot: 29; Zone: R-5

70 Lowell Avenue

Seeking a "c" variance for the height of a retaining wall to be constructed in the rear yard

EXHIBIT

A-1 – Photo Board – nine (9) photos

David Oliverous and Samuel Arceo approached the podium. Mr. Oliverous stated that Mr. Arceo is the applicant and is his uncle and that he is present to help him with the translation because Mr. Arceo does not speak English very well.

Mr. Oliverous and Mr. Arceo were sworn under oath.

Daniel Roma approached the podium and was sworn under oath.

Mr. Roma stated that he is the architect for the applicant and detailed his educational and professional background as a licensed architect in the State of New Jersey.

Vice Chairman Buechler accepted Mr. Roma as an expert in architecture.

Mr. Oliverous stated that his uncle, Mr. Arceo, wanted to repair the retaining wall on his property to make it better and started to repair it himself.

Vice Chairman Buechler asked Mr. Oliverious if his uncle is a licensed contractor; he replied no.

Vice Chairman Buechler asked Mr. Oliverious if his uncle read the Township Engineer's letter; he replied yes.

Mr. Roma presented photos of the property.

Vice Chairman Buechler asked Mr. Roma if he took the photos himself; he replied yes that he took them this morning.

Vice Chairman Buechler asked to have the photo board marked as Exhibit A-1 for identification.

Mr. Roma referred to Exhibit A-1 and detailed all of the photos.

Mr. Roma stated that Mr. Arceo removed some plants without authorization to repair the wall and planted new ones.

Vice Chairman Buechler asked Mr. Roma if Mr. Arceo planted them on his property or the neighbor's property. Mr. Roma said that it is hard to say because it is hard to tell where the property line is on the existing survey.

Vice Chairman Buechler asked Mr. Roma if they will have a surveyor survey the property before they build the wall so that it is on his property; he replied yes.

Mr. Roma said that Mr. Arceo decided to remove the old wall because it was in disrepair.

Vice Chairman Buechler asked Mr. Roma when Mr. Arceo tore the wall down; he said in 2015.

Vice Chairman Buechler asked Mr. Roma when Mr. Arceo purchased the house; he said twenty (20) years ago.

Ms. Gabry asked Mr. Roma if the applicant built the wall twenty (20) years ago; he replied no.

Vice Chairman Buechler asked Mr. Roma if he knew when the wall was built; he replied no.

Mr. Roma said that Mr. Lepore suggested that he extend the wall along the side of the house up to the front property line and he agreed with him. Mr. Roma said in order to extend the wall, they would have to remove two trees at the end of the property.

Mr. Roma referred to the architectural plans that were submitted to the Board showing the reconstructed wall and said that it will only be two (2) to three (3) feet high along the side of the house. He said that a licensed contractor will be hired to reconstruct the wall. Mr. Roma said that the wall will be nine (9) feet above the ground at the middle of the wall.

There was some discussion regarding how high the block wall will appear to be from the neighbor's back yard.

Mr. Quentzel asked Mr. Roma if there are any photos of the applicant's wall before it was torn down; he replied no. Mr. Roma noted a photo in Exhibit A-1 of a retaining wall on a neighbor's property. He said that he took this photo to demonstrate what the applicant's wall looked like before he took it down.

Vice Chairman Buechler asked Mr. Roma how high the old wall was; he replied seven (7) feet. Mr. Roma said that the wall was just in the rear of the house and not along the side of the house. He said that the purpose of the wall was to eliminate the water runoff to the neighbor's property.

Vice Chairman Buechler said that the applicant must comply with everything stipulated in Mr. Lepore's letter.

Vice Chairman Buechler referred to Mr. Lepore's letter regarding the roof leaders and asked Mr. Roma where the roof leaders go to; he said he did not know.

Vice Chairman Buechler asked Mr. Roma what type of seepage pit they are proposing; he said that they will install a pit with crushed stones that will collect the water.

Vice Chairman Buechler advised Mr. Roma that they will not finish hearing this application this evening because they will have to come back with additional drawings and information for the Board to even consider this.

Mr. DarConte asked Mr. Roma how far from the property line will the wall be constructed; he said approximately six (6) inches.

Mr. Grygiel asked Mr. Roma if the height of the wall that is being proposed will make the back yard flat; he replied yes.

Mr. Grygiel asked Mr. Roma if the height of the wall being built complied with the height that is required by ordinance, would the yard still be usable; he replied yes.

There were no further questions for Mr. Roma from the Board Members or the Board Professionals.

Vice Chairman Buechler asked if any members of the public had any questions for Mr. Roma.

Dorothy Butler approached the podium and stated that her mother lives at 88 Lawrence Avenue. She asked Mr. Roma if the dirt pile in his back yard was dirt brought in since the applicant purchased the property; he said no.

Ms. Butler asked Mr. Arceo if he changed the grade from the original side yard since he purchased the house; he replied no. Mr. Arceo said that when he built his patio five (5) years ago he pushed the dirt back.

Vice Chairman Buechler asked Mr. Arceo how much dirt he moved in his back yard; he said approximately one hundred (100) wheelbarrows.

Ms. Gabry asked Mr. Arceo if the applicant got a permit for the patio; he said no that it was an existing patio and he put stairs in.

Ms. Butler asked Mr. Arceo if the applicant added a wall to the patio; he replied yes.

Vice Chairman Buechler asked Mr. Arceo how high the wall along the patio is; he replied three (3) feet.

Ms. Butler asked Mr. Arceo how high the wall was that was taken down; he replied six (6) feet.

Chris Scioscia approached the podium and stated that her mother lives at 88 Lawrence Avenue.

Ms. Scioscia asked Mr. Roma to show her where the nine (9) feet high part of the wall be on the plans; he complied.

Ms. Scioscia asked Mr. Arceo if he put the concrete from the old patio he removed and buried it under the pile of dirt that he moved; he replied no.

Shiela Tropp approached the podium and stated that she lived at 9 Florence Place.

Ms. Tropp asked Mr. Roma if there will be adequate drainage after they install the wall because she does not have water runoff on her property now; he replied yes.

Ms. Tropp asked Mr. Roma will they be removing any trees; he said they will be removing two pine trees on the side of the house.

Vice Chairman Buechler asked Mr. Grygiel if removing those trees require a permit; he said no.

Mr. Roma asked Vice Chairman Buechler if the applicant builds the wall six (6) feet high that is the maximum height allowed by the Town would he have to come back before the Board.

Vice Chairman Buechler said if he decides to scale down he would not have to come back before the Board but then he would not have enough protection for his children playing in the back yard

so they would not fall down the hill as he stated in his testimony. He said that he will still need permits to do the work.

Vice Chairman Buechler asked Mr. Arceo if he has any outstanding fines from the Township's Zoning Officer; he said no he paid the fine.

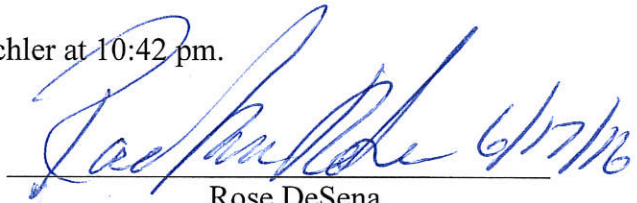
Vice Chairman Buechler said that this application will be carried to the June 16, 2016 meeting and no new notice will be required.

Vice Chairman Buechler said that all revised architectural drawings must be submitted ten (10) days before the meeting. Vice Chairman Buchler said that the drawings must show the wall continued up the side of the property and what type of block they will be using for the construction of the wall. He said that the applicant must clean up all of the debris before the next meeting and to have someone else testify at that meeting as to how the water drainage will be addressed and testify as to where the roof leaders drain off to.

Vice Chairman Buechler said the applicant must also re-stake the property line so it shows whose property the new trees are on.

The meeting was adjourned by Vice Chairman Buechler at 10:42 pm.

Adopted: June 16, 2016


Rose DeSena
Zoning Board Secretary