

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
June 16, 2016**

The West Orange Zoning Board of Adjustment held a regular meeting on June 16, 2016 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer 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."

Chairman Neuer 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.

Chairman Neuer asked everyone to stand for the Pledge of Allegiance.

Alice Beirne, Esq., Board Attorney, read the Opening Statement.

PRESENT: B. Buechler, D. Nash, P. Neuer, B. Quentzel
I. Schwarzbaum, W. Steinhart, M. Sussman

ABSENT: C. Darconte (excused absence)
D. Gabry (recused)
A. Weiss (excused absence)

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

ANNOUNCEMENTS

Future Meetings: July 21, 2016 (regular meeting)
 August 18, 2016 (regular meeting)
 September 15, 2016 (regular meeting)

The applicant for application **ZB-16-02/Arceo**, which was scheduled to be heard at this meeting, has requested that this matter be carried over to the next regular Zoning Board of Adjustment meeting to be held on July 21, 2016. The adjournment request was granted; no further notice is required.

MINUTES

Adopt Minutes: May 19, 2016 (regular meeting)

Chairman Neuer asked the Board Members if they had any additional comments to the minutes of the May 19, 2016 regular meeting that were submitted to them for review; there were none.

Chairman Neuer asked for a motion to approve the minutes of the May 19, 2016 regular meeting.

Vice Chairman Buechler made a motion to approve the minutes of the May 19, 2016 regular meeting; Mr. Steinhart seconded the motion and all were in favor.

It was noted for the record that Chairman Neuer and Mr. Sussman had an excused absence for the May 19, 2016 meeting and did not vote on these minutes.

SWEARING IN

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

RESOLUTIONS

1. ZB-15-16/Stratford Manor Rehabilitation &Care, LLC Approved 5/19/16

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.

Vice Chairman Buechler stated that there was an exchange of drafts for this resolution and asked Ms. Beirne if Mr. Keller’s comments were incorporated in the final draft; she replied yes and noted for the record the comments by Mr. Keller.

Vice Chairman Buechler made a motion to adopt the resolution as amended and Mr. Schwarzbaum seconded the motion.

The vote was as follows:

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

APPLICATION(S)

1. ZB-16-05/Seton Hall Preparatory School

Block 82.01; Lot: 1; Zone: R-1

700 Prospect Avenue

Amended Site Plan

Seeking a “d” variance for the expansion of a non-conforming use and bulk Variances.

EXHIBITS

A-1 – Amended Detailed Utility Plan, sheet 8 of 15, with a revision date of 5/12/16.

A-2 – Detailed Utility Plan, sheet 8 of 15, dated 7/31/14.

A-3 – Dimension Plan, sheet 4 of 9, dated 2/12/16.

A-4 - Grading, Drainage and Utility Plan, sheet 5 of 9, dated 2/12/16.

A-5 – Scoreboard Detail Sheet

Chairman Neuer stated for the record that Ms. Denise Clark is the official transcriber for this application.

Robert Williams, Esq., attorney for the applicant, approached the podium and detailed the application stating that the applicant is back before the Board with an amended site plan application.

Mr. Williams stated that he would like to call his first witness who will explain the proposed revisions to the original site plan approval.

Charles Stewart approached the podium and was sworn under oath.

Mr. Stewart detailed his professional and educational background as a licensed Professional Engineer in the State of New Jersey; Chairman Neuer accepted him as an expert in Engineering.

Mr. Stewart presented sheet 8 of 15 of an amended detailed utility plan, with a revision date of 5/12/16, which had been pre-marked as Exhibit A-1 for identification.

Mr. Stewart also presented sheet 8 of 15 of the original detailed utility plan dated 7/31/14 that had been pre-marked as Exhibit A-2 for identification for the present application.

Mr. Stewart referred to Exhibit A-2 and stated that all of the revisions are listed on this Exhibit and that he will go through them one by one.

Mr. Stewart stated that the original plan proposed a rain garden but during construction they encountered rock so they made a revision and introduced a prefabricated water quality chamber.

Mr. Stewart described how the treatment device functions and stated that it will require ongoing maintenance.

Chairman Neuer asked Mr. Stewart if there is a maintenance manual for this device; Mr. Keller responded yes and said that the maintenance manual has to be revised.

Mr. Stewart described the second change. He said that the original plan proposed a curved island that separates the ingress and egress and they are now proposing to install a painted island. Mr. Stewart said the proposed change will facilitate better movement into the site; he said that a large truck entering the site could drive over the painted island as may be required.

Chairman Neuer stated that this is not a major change; He said that it was discussed at the Site Plan Advisory Committee meeting and that the Fire Department prefers the painted island.

Mr. Keller stated that the island is still being shown as curved on the plans and they need to amend the plans to show the ingress and egress as straight in and out.

Mr. Stewart said that the cross country track developed a low point and water was ponding in that area. He said that the third change is that they are proposing an underground pipe and an above ground inlet that will discharge into a detention basin.

Mr. Stewart said that the fourth change was that they added a sidewalk and modified a retaining wall in the area adjacent to the junior varsity field they. He said that the wall is more rounded and ties into the stairs which looks better than the original proposed wall.

Chairman Neuer asked Mr. Stewart if they did that work already; he said yes.

Mr. Stewart said the water chamber is not installed yet and the painted island is not painted yet. He said that the work for item #4 was done approximately six (6) months ago. Mr. Stewart said that they just made some modifications and added a sidewalk.

Vice Chairman Buechler asked Mr. Stewart if it is his opinion that the original design was not properly designed; Mr. Stewart replied that he did not think it would be a big deal because it was de minimus and only a slight modification.

Chairman Neuer stated that installing a sidewalk is not a slight modification.

Mr. Stewart said that the fifth change was adding bleachers near the lower baseball field and a walkway between the tennis courts. He said that the walkway was done to allow pedestrians to park in the parking lot and access the bleacher area easier. Mr. Stewart said the bleachers and the sidewalk were already installed. He said that the sidewalk is not concrete; it is a cinder path.

Vice Chairman Buechler asked Mr. Stewart how many feet of sidewalk was installed; he said 400' of sidewalk.

Vice Chairman Buechler asked Mr. Stewart how long ago the sidewalk was constructed; he said approximately six (6) months ago.

Vice Chairman Buechler asked Mr. Stewart if he thinks that this is a slight modification; he said yes. Mr. Stewart said it is a bleacher area for a baseball field.

Chairman Neuer asked Mr. Stewart to identify the supervisor of the project; he said that he does not know.

Vice Chairman Buechler stated that he feels this is a big deal and that it is shocking how cavalier Mr. Stewart's attitude is about this. Vice Chairman Buechler said that 400 feet of sidewalk is not de minimus.

Vice Chairman Buechler asked Mr. Stewart if he was consulted when the sidewalks were installed; he said no. Mr. Stewart said he is not in charge of the site construction.

Chairman Neuer asked Mr. Stewart if he inspected the work; he replied yes.

Mr. Williams stated for the record that when he found out that the additional bleachers were put in he advised the applicant that they had to go back before the Zoning Board.

Vice Chairman Buechler stated that he has not heard a proper justification yet.

Mr. Williams stated that it is a better plan.

Chairman Neuer stated that if the Board is inclined to let the changes remain he will recommend that, at the applicant's expense, a monitor must be on the site every day.

Chairman Neuer asked Mr. Stewart what size is the slab that the bleachers rest on; he said 70'x25'.

Chairman Neuer asked Mr. Stewart how many seats are in the additional bleachers; he said one hundred and forty five (145).

Mr. Stewart stated that the sixth revision was made to the sewer, water and electric utility layout. He said that they encountered a lot of rock during construction so they had to change the sewer line. Mr. Stewart said that the line is better aligned and has already been inspected by the Township's plumbing inspector.

Vice Chairman Buechler asked Mr. Stewart how long ago was that change made; he said a couple of weeks ago.

Chairman Neuer asked Mr. Keller if the Township's inspector approved it even though it wasn't on the plans; he said yes.

Mr. Stewart said the seventh revision is a proposed concrete sidewalk near the junior varsity field. He said that the original plan showed stairs that would take you to the field area but now they show a sidewalk to the island and another sidewalk for a small spectator area.

Chairman Neuer asked Mr. Stewart if that area was originally a planted area; he replied yes.

Mr. Sussman asked Mr. Stewart if all of the sidewalks are cinder; he said no. He said this sidewalk is a concrete sidewalk.

Mr. Stewart said the eighth revision is that they are proposing to replace the existing scoreboard on the football field.

Chairman Neuer asked Mr. Stewart if the scoreboard is the same size; he said no it is bigger.

Mr. Williams said that the proposed scoreboard is seven (7) feet wider.

Mr. Stewart said the ninth revision is that they are proposing to add utility poles. He said that they met with PSE&G on the site and they suggested that they run new pole lines on the property. Mr. Stewart said they are not constructed yet.

Mr. Stewart said the tenth revision is that they are proposing sidewalks and access walkways to the practice field and bleachers on either side of the varsity baseball field.

Vice Chairman Buechler asked Mr. Stewart if they were constructed yet; he said the cinder path was but not the concrete sidewalk.

Vice Chairman Buechler asked Mr. Stewart if the cinder paths are pervious or impervious; he said pervious.

Mr. Keller stated that the cinder paths, in his opinion, are not impervious but they are not totally pervious either.

Mr. Stewart said that the eleventh revision is introducing a cinder path in front of the tennis courts.

Vice Chairman Buechler asked Mr. Stewart if the path was constructed yes; he said they are partially constructed.

Mr. Stewart said the twelfth revision is to construct two inlets in front of the tennis courts to collect water.

Mr. Stewart said that the thirteenth revision is to relocate the batting cages located adjacent to the tennis courts. He said that after Board approval, it was determined that the location was not good for them. Mr. Stewart said they also added a retaining wall in that area and that the work has already been done.

Vice Chairman Buechler asked Mr. Stewart when he was told that the location of the batting cages was not good; he said a year ago.

Vice Chairman Buechler asked Mr. Stewart how high the retaining wall is; he said four (4) or five (5) feet high.

Mr. Stewart said he filed amended site plans with Mr. Keller's office. Mr. Keller said that he does not recall getting a call about relocation the batting cages and adding the retaining wall. He said that the Township's code official was there and said that no permit was granted to construct the retaining wall but that a permit was subsequently issued after the wall was constructed.

Mr. Williams stated that all of the revisions that were done was an upgrade and an enhancement.

Mr. Stewart said they would also like to convert the existing grass field into a turf field and upgrade the track. He said that would be the fourteenth revision to the plan.

Vice Chairman Buechler asked Mr. Keller if the artificial turf is pervious or impervious; he said impervious.

Vice Chairman Buechler asked Mr. Stewart if the artificial turf will impact water flow on neighboring properties; he said no. Mr. Stewart said he recalculated and it meets the regulations they need to satisfy.

Mr. Williams stated that a revised stormwater management report was issued.

Mr. Keller said that his staff looked at key parts of the document and had some questions about the recharge system. He said that they are going to need some additional information to clarify how they will meet the Township's stormwater regulations. Mr. Keller said that the design meets the town's regulation but further review is required.

Mr. Williams said that nothing will be final until Mr. Keller can approve it.

Mr. Quentzel asked Mr. Stewart if the bleacher addition will affect the parking requirement; he said that more parking will be required because there are more seats.

Vice Chairman Buechler said that the additional parking requirement would make the fifteenth revision.

Vice Chairman Buechler asked Mr. Stewart if there is anything else on the site plan that is being revised that he did not point out to the Board; he replied no.

Vice Chairman Buechler asked Mr. Stewart to review the plans and make sure there are only fifteen (15) changes.

Mr. Keller stated that the cross country track was previously shown as cinder and asked Mr. Stewart if the plan was revised to show some paved and some cinder; he said yes.

Vice Chairman Buechler stated that this is now the sixteenth revision.

Mr. Grygiel asked Mr. Stewart if they can modify the plan to make ADA parking spaces near the tennis courts; he said yes. Mr. Stewart said they will move three (3) handicap parking spaces over to the tennis courts.

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

Chairman Neuer asked if any members of the public had any questions for Mr. Stewart.

Kevin Malanga approached the podium and stated that he lives on Ridge Road. He asked Mr. Stewart if Mr. Malanga was the person who made them aware of the water ponding near the cross country track; he said that Mr. Malanga may have done so.

Mr. Malanga asked Mr. Stewart if he notified anyone when the slab was constructed; he replied no.

Mr. Malanga asked Mr. Stewart if he saw the bleachers being constructed and did it concern him; he replied yes.

Mr. Malanga asked Mr. Stewart if the proposed new scoreboard is equipped to broadcast music; he said that he did not know.

Mr. Malanga asked Mr. Stewart if the detention pond will serve as the drain for the artificial turf field; he replied yes.

Gerald Carp approached the podium and stated that he lives on Ridge Road. He asked Mr. Stewart to delineate on the plans where the new electric poles are going to be constructed; he complied. Mr. Stewart said that the purpose of the new poles is to provide the facility with electricity.

Mr. Carp asked Mr. Stewart if there will be lights on the playing fields; he said no.

Mr. Carp asked Mr. Stewart if they have any intention of using the new poles to enhance audio or broadcasting; he said he does not know but will get back to him about that.

Rhea Seagull approached the podium and stated that she lives at 662 Prospect Avenue. She asked Mr. Stewart if, because of the additional bleachers, there will be increased lavatory facilities; he said he thinks the facilities will remain the same but he will check into that.

Vice Chairman Buechler noted condition #61 in the original resolution of approval stated that the use of the public address system shall be limited to football games at ordinary decibels.

Vice Chairman Buechler asked Mr. Carp if he heard what had just been read; It was noted for the record that Mr. Carp replied yes.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Stewart if they are proposing sidewalks along Prospect Avenue; he replied no.

Mr. Rashkes asked Mr. Stewart if there are sidewalks for pedestrians on Prospect Avenue; he said he does not know.

Kevni Malanga approached the podium a second time and asked Mr. Stewart if there has been any discussion regarding paving the overflow parking on the site; he replied no.

Mr. Keller noted for the record that condition #4 of the original approval states that the storm sewer pipe must be videotaped.

Vice Chairman Buechler advised Mr. Stewart to check the conditions of the original approval during the meeting break to see if there are any that have not been complied with by the applicant.

Chairman Neuer declared the meeting in recess at 9:44 pm.

Chairman Neuer called the meeting back to order at 9:56 pm.

Mr. Williams called his next witness.

Carl O'Brien approached the podium and was sworn under oath. Mr. O'Brien detailed his professional background as a professional engineer and planner licensed in the State of New Jersey. He said that his license is in good standing and will be testifying as an engineer in regards to the artificial turf.

Chairman Neuer accepted Mr. O'Brien as an expert in Engineering.

Mr. O'Brien presented sheet 4 of 9 of the construction plans that had been pre-marked as Exhibit A-3 for identification. He referred to Exhibit A-3 and detailed the proposed track updates and the artificial turf being proposed on the field. Mr. O'Brien also delineated on the Exhibit where the home and away bleachers will be located; he said that they wanted to make a handicap access to the bleachers. Mr. O'Brien said that they are also proposing a walking path on the "away side"; he said currently there is not one.

Chairman Neuer stated that the walking path is the seventeenth revision to the plans.

Mr. O'Brien said that where the two trees are located on the north side of the home field where the bleachers would be they had originally proposed putting fill in that area to provide stability for the trees. He said that they will regrade that area so that they would not need to provide fill there.

Mr. O'Brien presented a detail sheet for the scoreboard that was marked as Exhibit A-5 for identification. He referred to Exhibit A-5 and detailed all of the specifications of the proposed scoreboard. Mr. O'Brien said that the proposed scoreboard will not be any higher than the existing scoreboard because he will set the grade of the bottom of the scoreboard at fourteen (14) feet high so the top of the scoreboard will be the same elevation.

Mr. O'Brien said that there will be LED lighting in the scoreboard and no sound system in it; he said there are no external lights on the proposed scoreboard.

Chairman Neuer asked Mr. O'Brien if his testimony is that the track has to be milled and the millings will be removed off site and cannot be used anywhere else on the site; he replied yes.

Chairman Neuer asked Mr. O'Brien if the millings are hazardous substances; he replied not to his knowledge.

Chairman Neuer asked Mr. O'Brien to explain what happens to the existing top soil on the grass field.

Mr. O'Brien said that a contractor has to remove the existing top soil on the grass field and truck it offsite. He said that the receiving agency of the top soil has to sign off on it and they would keep a record of the disposal.

Vice Chairman Buechler asked Mr. O'Brien if the artificial turf project has been started yet; he replied no.

Vice Chairman Buechler asked Mr. O'Brien, depending on approval, when they would start this project; he said that they would have to obtain a contractor first and then hopefully start this as soon as possible.

Mr. Keller stated that the three (3) sets of sidewalks that lead to the home side bleachers were not shown on the original plans and that is another revision.

Mr. Keller asked Mr. O'Brien how high the retaining wall is that is at the rear of the home bleachers that is shown on the plans; he said approximately two (2) feet high.

Mr. O'Brien presented sheet 5 of 9 of the grading, drainage and utility plan that was marked as Exhibit A-4 for identification. He referred to the Exhibit, delineating where the retaining wall is on the plans and said it is approximately two (2) feet high.

Vice Chairman Buechler noted for the record that the retaining wall is revision #18.

There were no further questions for Mr. O'Brien from the Board Members or the Board Professionals.

Chairman Neuer asked if any members of the public had any questions for Mr. O'Brien.

Kevin Malanga approached the podium and stated that he lives on Ridge Road. He asked Mr. O'Brien what access road will be used for the construction trucks moving the soil from the site; he said through the existing parking lot.

Mr. Malanga asked Mr. O'Brien if they have any intention of using the cross county path that runs through the buffer area in the woods; he replied no.

Vice Chairman Buechler noted for the record that condition #56 of the original approval states that the path running in the northerly portion of the property will not be used by construction vehicles or construction equipment unless authorized by the Township's Engineer. He said that the conditions of the prior approval will carry to this application because it is an amendment.

There were no further questions for Mr. O'Brien.

Mr. Williams called his next witness.

John M. Sadlon approached the podium and was sworn under oath. Mr. Sadlon detailed his professional background as a landscape architect licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Sadlon as an expert in landscape architecture.

Mr. Sadlon testified as to what his role was on this project. He said that he compiled a list of species and submitted it to the consultants and revised the plans to reflect the revisions.

Mr. Sadlon referred to the landscape plan and stated that as the site was being constructed, some species that were chosen needed sandy soil which they do not have here on this site. He said that they needed plant material that are hardy because they would be exposed to wind and sun.

Mr. Sadlon detailed what species of trees will be planted and delineated on the landscape plan where they will be planted.

Mr. Williams referred to the Township's Forester's letter dated 6/16/16 and said that Mr. Linson approves what Mr. Sadlon is proposing.

Mr. Sussman asked Mr. Sadlon what the average height of a tree along Prospect Avenue is; he said that depends on the tree. Mr. Sadlon said that a pine tree is 14-16' tall and a shade tree is 16-20' tall.

Mr. Keller referred to item #10 in his review letter dated 6/13/16 and asked Mr. Sadlon to identify what plant species will be planted between the cross country path and the Shillelagh Club; he said evergreen shrubs.

Mr. Grygiel advised Mr. Sadlon to change the title block on the landscaping plan and incorporate the actual municipality, county and state.

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

Chairman Neuer asked if any members of the public had any questions for Mr. Sadlon.

Kevin Malanga approached the podium and stated he lives on Ridge Road. He asked Mr. Sadlon if they are proposing to plant the same number of trees that were taken down; he replied no. Mr. Sadlon said they are trying to replace the number of species of trees that were cut down. He said that the total number of trees and shrubs to be planted are listed on the plan.

There were no further questions for Mr. Sadlon.

Mr. Williams called his next witness.

Donald Fiorie approached the podium and was sworn under oath. Mr. Fiorie detailed his educational and professional background as a professional architect licensed in the State of New

Jersey. He said that his license is in good standing.

Chairman Neuer accepted Mr. Fiorie as an expert in architecture.

Mr. Fiori stated that there were originally 1500 seats proposed in the grandstands; 900 on the home side and 600 on the visitor side. He said that the amended plan proposes 1476 seats which is 24 less.

Mr. Fiori said that two toilets were added in the concession stand and no other changes were made to the original plan.

Mr. Schwarzbach asked Mr. Fiori if they are still proposing to use portable bathrooms; he said the original plans provided a space for them and nothing has changed.

Mr. Sussman asked Mr. Fiori how many additional seats on the baseball field will there be; he said between the football field and the baseball field there are 109 additional seats over and above what was approved.

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

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

Vice Chairman Buechler asked Mr. Stewart if, during the break, he checked to see if there were any other revisions to the plan that were not specified during testimony; he said yes and there were none other than what he identified and the sidewalks on either side of the grandstands.

Vice Chairman Buechler asked Mr. Stewart if the applicant has complied with all of the conditions of the prior approval yet; he replied no.

Mr. Williams called his next witness.

Peter Steck approached the podium and was sworn under oath. He detailed his professional background as a professional planner licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Steck as an expert in professional planning.

Mr. Steck referred to his report dated 6/3/16 and said that the applicant is proposing several modifications to its previously approved site plan. He stated that although recreational facilities do not meet the newer school conditional use setback and buffer standards, the applicant remains subject to the provisions of the prior adopted resolution and can be viewed as an expansion of a non-conforming use.

Mr. Steck asked the Board to look at this under the Sica standards as an inherently beneficial use and said that the four steps of the Sica standards have been satisfied.

Vice Chairman Buechler asked Mr. Steck, as a professional planner, how you deal with an applicant who has done work without permission; Mr. Steck replied you do not punish them, you take them to court. Mr. Steck said that is a question for the enforcing agency and the Zoning Board is not an enforcing agency.

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

Chairman Neuer asked if there were any members of the public who had any questions for Mr. Steck; there were none.

Mr. Williams stated that this completes the applicant's presentation.

Vice Chairman Buechler stated that the Board would like Mr. Keller's office to review all of the additional revisions.

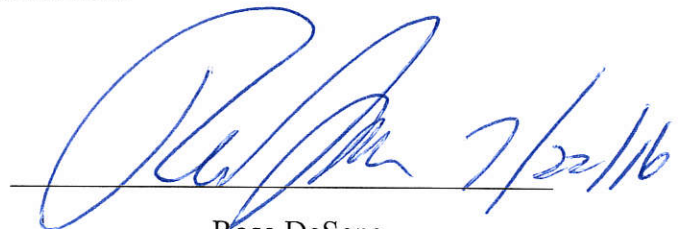
Chairman Neuer asked, by a show of hands, how many members of the public would like to comment; the Chairman stated that based upon the show of hands it appeared that public comment should take approximately one half hour to forty-five minutes.

Chairman Neuer stated that due to the fact that the 11 PM ending time for all Zoning Board meetings, the Board will not vote on this application this evening for that reason and because documentation from Mr. Keller has to be submitted. He stated his opinion that any approval that would be given this evening would be susceptible to an appeal and that would delay the project even more.

Chairman Neuer said that this application will be carried over to the July 21, 2016 regular Zoning Board meeting and that no further notice will be required.

The meeting was adjourned by Chairman Neuer at 11:06 PM.

Adopted: July 21, 2016



Rose DeSena

Zoning Board Secretary