

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
November 17, 2016**

The West Orange Zoning Board of Adjustment held a regular meeting on November 17, 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 "Senator Byron M. Baer 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. Gabry, D. Nash, P. Neuer,
I. Schwarzbau, W. Steinhart, M. Sussman

ABSENT: B. Quentzel (excused absence)
F. Sanders (excused absence)
A. Weiss (excused absence)

ALSO PRESENT: Paul Grygiel, Acting Planner Director for the Township
Charles Thomas, Acting Consulting Engineer
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary
H. Grossman, Esq., Public Advocate

ANNOUNCEMENTS

Future Meetings: December 15, 2016 (regular meeting)
January 19, 2017 (regular meeting)

MINUTES

October 20, 2016 (regular meeting)

Chairman Neuer stated that he and Vice Chairman Buechler submitted their comments to the Board Secretary for the minutes of the October 20, 2016 regular meeting.

Chairman Neuer asked the Board Members if they had any additional comments; there were none.

Chairman Neuer asked for a motion to approve the minutes of the October 20, 2016 regular meeting.

Ms. Gabry made a motion to approve the minutes of the October 20, 2016; Vice Chairman Buechler seconded the motion and all were in favor.

SWEARING IN

Paul Grygiel, Acting Planning Director for the Township and, Charles Thomas Acting Consulting Engineer for the Township were sworn under oath.

RESOLUTIONS

1. ZB-16-07/The Ice Man of NJ

Denied 10/20/16

Block: 117; Lot: 26; Zone: R-T

40 Columbia Street

"D" and "C" variances for minor sub-division approval

Chairman Neuer stated that this resolution was circulated to all of the Board Members and Vice Chairman Buechler, Ms. Gabry and himself submitted their comments to Ms. Beirne which are incorporated into the resolution.

Ms. Beirne stated that the biggest issue with this resolution was regarding the number of variances; there are twenty six (26) "c" variances and one (1) "d" variance.

Chairman Neuer asked if any other Board Member had any comments; seeing none Chairman Neuer asked for a motion to approve the resolution with said revisions.

Vice Chairman Buechler made a motion to adopt the resolution with said revisions and Mr. Sussman seconded the motion.

The vote was as follows:

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

2. Birnboim

Approved 10/20/16

Block: 154.17; Lot: 140; Zone: R-5
10 Dockery Drive
“C” variance for a front yard setback

Chairman Neuer stated that this resolution was circulated to all of the Board Members and that he submitted his comments to Ms. Beirne which are incorporated into the resolution.

Chairman Neuer asked if any other Members of the Board had any comments; seeing none Chairman Neuer asked for a motion to adopt the resolution with said revisions.

Vice Chairman Buechler made a motion to adopt the resolution with said revisions and Ms. Gabry seconded the motions.

The vote was as follows:

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

APPLICATIONS

1. ZB-16-04/Piacenza

Carried from 10/20/16

Block: 172.25; Lot: 12; Zone: R-4
14 Manger Road
“d” variance for establishing a home day care business

Marsha M. Moore, Esq., attorney for the applicant, approached the podium.

Chairman Neuer stated for the record that it was discovered that this applicant did not include a variance for two principal uses on the property and it was not included in the notice.

Ms. Moore stated that the variance appeared on the cover sheet of the plans from Dynamic Consultant. She said that the revised zoning chart on the first page of the recent submissions dated November 5, 2016 shows two principal uses on one lot.

Chairman Neuer stated that although their engineer caught the additional variance which had been omitted, it was neither listed in the application nor included in the notice so this application cannot be heard tonight.

Chairman Neuer said that, as stated at the last meeting, he was concerned about the agenda placement and he will recommend that this Board dismiss this application without prejudice.

Ms. Moore said that the reason they asked that the application be carried was because they needed more time to make a complete site plan submission; she said it was not because they were lackadaisical. Ms. Moore said that she did not know that they needed an easement or development easements. She said that she objects that the application being dismissed and requests that the application be carried over to the next meeting. Ms. Moore said that they will provide notice to the Star Ledger and obtain an updated list of the properties within 200' of the site. She said that the delay was that they were working tirelessly on the re-submissions.

Chairman Neuer said that this all should have been done back in August and that the applicant dragged their heels. He said let us get it right and submit a full application; the applicant failed to ask for the additional variance.

Ms. Moore stated that all of the professionals missed the variance.

Chairman Neuer said that the Zoning Board does not do the applicant's work for them.

Ms. Moore stated for the record that she expects respect from the Chairman. She said that they know they missed the variance and that she objects that the Chairman said that they are dragging their feet. Ms. Moore said that the applicant hired another contractor so that for the Board to dismiss this application is prejudicial. She said that they will be ready for the next meeting.

Chairman Neuer moved that the application be dismissed without prejudice; he said that the applicant would submit a new application and get a new docket number and would be heard quickly.

Chairman Neuer asked for a Board Member to second the motion to dismiss without prejudice; there was none.

Ms. Moore stated for the record that instead of carrying this to the December meeting, the applicant would now like to be carried over to the January 19, 2017 regular meeting. Chairman Neuer granted this request.

2. ZB-16-06/Zamora

Carried from 10/20/16

Block: 113.01; Lot: 69 & 70; Zone: R-T

43 Park Terrace

“c” variances for rear and side yard setbacks

Louis Zamora and Victor Zamora, applicants, approached the podium and were sworn under oath.

Louis Zamora stated that Victor Zamora is his father and owns the property. He said that they completed an addition to the rear of the home that was built without permits. Louis Zamora said that the addition was built by mistake and they are trying to correct it. He said that the addition requires two variances; one side yard setback and one rear yard setback.

Vice Chairman Buechler asked Louis Zamora who did the work for the addition; he replied that his father, Victor Zamora, did the work.

Vice Chairman Buechler asked Louis Zamora if Victor Zamora is licensed; he said no. Louis Zamora said that they were using people who were licensed to do the work.

Vice Chairman Buechler stated that the architectural drawings that were submitted to the Board were dated May 19, 2016 and asked Louis Zamora if they were drawn after the addition was built; he replied yes.

Vice Chairman Buechler asked Louis Zamora if the addition was built without using any drawings; he replied yes.

Vice Chairman Buechler asked Louis Zamora how they knew the addition was built to specification if they did not have any drawings; he said that Victor Zamora checked to see if it was built to specification.

Vice Chairman Buechler told the applicants that permits are required so the work is done properly.

Vice Chairman Buechler asked Victor Zamora if he did the work by himself; he said that he is a painter and has never done a job on his own.

Vice Chairman Buechler asked Victor Zamora when he purchased the property; he said in 2006.

Vice Chairman Buechler asked Victor Zamora when he started construction on the addition; he said approximately three (3) years ago.

Vice Chairman Buechler asked Victor Zamora when the Township stopped construction; Louis Zamora replied and said that construction was stopped in March or April of 2016.

Vice Chairman Buechler asked Victor Zamora if the work was stopped before the architectural plans were drawn; he replied yes.

Chairman Neuer asked Louis Zamora if any inspections were done by anyone; he said that after the Construction Official stopped the work, the Township's Zoning Official came to do an inspection to see if they needed any variances.

Chairman Neuer asked Louis Zamora if they installed any electrical and plumbing work behind the walls; he replied yes.

Chairman Neuer asked Louis Zamora if the foundation was inspected by anyone; he said the contractor looked at the foundation and told them that it was not done right and told them how to correct it.

Vice Chairman Buechler asked Louis Zamora when the contractor told them that the foundation was done improperly; he said after the stop work order from the Township.

Vice Chairman Buechler asked Louis Zamora if they did further work on the house after the stop work order; he said yes they worked on the foundation.

Ms. Gabry asked Louis Zamora if they continued to do any electrical and plumbing work after the stop work order; he replied no.

Vice Chairman Buechler asked Louis Zamora how they did the foundation work; he said that they removed an existing deck and the concrete under the deck and poured more concrete to support the structure.

Vice Chairman Buechler asked Louis Zamora if they did all of this work after the stop work order; he said yes. Louis Zamora said that he received a document from the Construction Official but they did not receive an 'orange stop work order sticker' that is placed on the house.

Vice Chairman Buechler asked Louis Zamora if he knew that they had to stop work after the Township came; he said no.

Vice Chairman Buechler addressed Louis and Victor Zamora stating that they did not bring their professional to testify they did not bring any documents as evidence. He said that the Board does not know how they can help them because they have no one to testify that the foundation is safe and structurally sound. Vice Chairman Buechler said that the Board does not know if what is inside the walls is safe because they did not get any licensed professionals to do the work. He said that the Township's building inspectors will probably go in and tear out the walls of the structure to make sure that the work was done properly.

Mr. Steinhart stated that he also has concerns regarding the work that was done but questioned whether this is in the Board's purview to consider the unlawful construction.

Vice Chairman Buechler stated that the construction was done illegally and against the Township ordinance and the New Jersey State Building Code. He said that even after the applicant received the stop work order they ripped out a slab of the foundation and replaced the footings without inspections.

Chairman Neuer stated that if the Board does grant the variances, the Township building department will determine whether they have to rip open the walls and if the footings will have to come out.

Mr. Schwarzbaum stated that there are two issues here; he said the first issue is that they require two variances and the second issue is the building issue. He said that if the Board does approve the variances it becomes a Building Department issue.

Chairman Neuer asked Louis Zamora if there was any reason why the addition was built on the side of the house and not on the back of the house; he said that the other side of the house has a driveway and that was the only choice they had to build the addition.

Mr. Steinhart stated that the applicant has not provided testimony to justify the variances.

Chairman Neuer explained to the applicant that they have the burden to justify why they need the variances and they did not do that. He said that even the architectural drawings were inaccurate.

Mr. Steinhart said that he would like to hear testimony from someone why the addition is justified according to the Land Use Law.

Chairman Neuer stated that he is concerned that the foundation is not properly installed and that the electrical and the plumbing are also not properly installed.

Mr. Steinhart questioned if the Board can adjourn this matter to allow the applicant to bring back someone to testify.

Vice Chairman Buechler said that the applicant should hire a professional architect and engineer so that testimony can be provided as to what was built and until that time no further work can be done.

Chairman Neuer asked the applicants if they wanted to adjourn and bring back a professional architect or an engineer; Louis Zamora replied yes.

Chairman Neuer stated that this application will be carried over to the January 19, 2017 meeting and that no further notice will be necessary.

Chairman Neuer addressed the applicants and said that all re-submissions must be submitted to the Board Secretary at least ten (10) days before that hearing and that no further work is to be performed at this property

Chairman Neuer asked the Board Secretary to check with the Township Building Department to see if there is a formal stop work order and to send a copy of it to the Board Members.

3. ZB-16-10/Luedders & Pijewski

Block: 49; Lot: 14; Zone: R-5

49 Winding Way

Seeking two "c" variances for the rear and side front yard setback for the

Construction of a two car garage.

Andrew Luedders and Jakub Pijewski, applicants, approached the podium and were sworn under oath.

Karen Brinkman, architect for the applicant, also approached the podium and was sworn under oath.

Mr. Luedders detailed the application stating that they would like to build a two car garage in the rear of their home. He said that the house needed a porch for which they obtained permits.

Mr. Luedders said that they now have tandem parking in the driveway and the two car garage will allow for the cars to be parked side by side.

Vice Chairman Buechler asked Mr. Luedders if the parking spot in the back will still be paved; he replied yes.

Vice Chairman Buechler said that the proposal states they can park two cars in the garage, side by side, and one car parked in the back.

Ms. Brinkman detailed her professional background as a licensed architect in the State of New Jersey practicing over ten (10) years.

Chairman Neuer accepted Ms. Brinkman as an expert in architecture.

Vice Chairman Buechler asked Ms. Brinkman if the garage has direct access to the house; she replied no.

Chairman Neuer asked Mr. Luedders if he received any comments from his neighbors; he said only positive comments.

Chairman Neuer asked Mr. Luedders if any landscaping is being proposed; he said no just grass.

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

There were no questions from any members of the public.

Chairman Neuer closed the public hearing.

Mr. Sussman stated that he is pleased to see that the applicants followed procedure.

Chairman Neuer stated that this is a positive application that will enable the applicants to bring the property up to code.

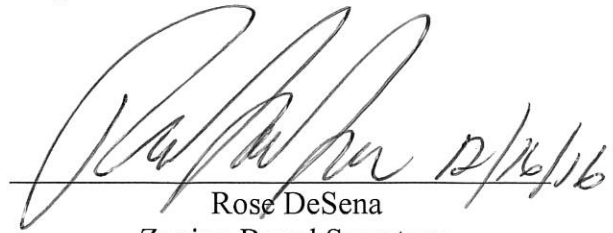
Chairman Neuer made a motion to approve the application and Mr. Steinhart seconded the motion.

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 9:25 pm.

Adopted: December 15, 2016



Rose DeSena
Zoning Board Secretary