

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
January 19, 2017**

The West Orange Zoning Board of Adjustment held a regular meeting on January 19, 2017 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: D. Gabry, D. Nash, P. Neuer, B. Quentzel
I. Schwarzbaum, M. Straker, M. Sussman
A. Weiss

ABSENT: B. Buechler (excused)
F. Sanders (excused)
W. Steinhart (excused)

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

ANNOUNCEMENTS

Future Meetings: February 16, 2017 (regular meeting)
 March 16, 2017 (regular meeting)
 April 20, 2017 (regular meeting)

Chairman Neuer announced that application **ZB-16-16/Image Resources Group on behalf of Macy's Backstage** that was scheduled to be heard at this meeting has requested to be carried over to the February 16, 2017 regular Zoning Board meeting. The request was granted; the public was advised of the new date and the fact that no further notices would be required.

REORGANIZATION

Chairman Neuer stated that the Board will have their annual reorganization at this meeting and turned the Chair over to Ms. Gabry.

Ms. Gabry asked for a nomination for Zoning Board Chair.

Mr. Sussman nominated Mr. Neuer for chairman and Ms. Gabry seconded the nomination.

All were in favor; none were opposed.

Ms. Gabry turned the chair back over to Chairman Neuer.

Chairman Neuer nominated Mr. Buechler for Vice Chairman and Mr. Sussman seconded the nomination.

All were in favor; none were opposed.

Chairman Neuer nominated Ms. DeSena for Zoning Board Secretary and Ms. Weiss seconded the nomination.

All were in favor; none were opposed.

Chairman Neuer nominated Ms. Beirne for Zoning Board Attorney and Mr. Schwarzbaum seconded the nomination.

All were in favor; none were opposed.

MINUTES

December 15, 2016 (regular meeting)

Chairman Neuer asked the Board Members if they had any additional comments to the December 15, 2016 regular meeting minutes that were submitted to them for review; there were none.

Chairman Neuer asked for a motion to approve the minutes of the December 15, 2016 meeting.

Ms. Gabry made a motion to approve the minutes of the December 15, 2016 minutes; Mr. Quentzel seconded the motion and all were in favor.

It was noted for the record that Ms. Nash, Mr. Schwarzbaum and Mr. Sussman were 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-16-13/H & L Orange, LLC

Approved 12/15/16

Block 78.02 & 71.02; Lots: 103,1 & 1.02; Zone: R-G

160 Randolph Place

Seeking a one year extension of prior approval for an amended site plan
with variances.

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

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.

Ms. Gabry made a motion to adopt the resolution with said revisions and Dr. Straker seconded the motion.

The vote was as follows:

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

APPLICATIONS

1. ZB-16-18/Panorama, LLC d/b/a/ Chit Chat Diner

Block: 111; Lot: 1.05; Zone: B-2 & PURD

410 Eagle Rock Avenue

Seeking amendments for upgrades to a prior approval for ZB-15-11

EXHIBITS

A-13 – Proposed upgrades to the Chit Chat Diner dated 12/19/16

A-14 – Drawing C-4 of the Site Plan with a revision date of 1/10/17

Robert Williams, attorney for Panorama, LLC d/b/a Chit Chat Diner (to be referred as the “applicant”), approached the podium.

Mr. Williams stated that this project was previously approved by this Board in 2015 and that the applicant is seeking amendments for upgrades to the proposed building. He said that neither variances nor site plan approval are required for this application.

Mr. Williams stated that the applicant presented the proposed upgrades to the building department and that they were instructed to submit the proposal to the Zoning Board for approval.

Mr. Williams called the applicant's architect as his first witness.

Charles Isiofia approached the podium and was sworn under oath. Mr. Isiofia detailed his educational and professional background as an architect licensed in the State of New Jersey.

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

Mr. Isiofia presented the new upgrades that are being proposed to the Chit Chat diner dated 12/19/16 which was marked as Exhibit A-13 for identification.

Mr. Isiofia referred to Exhibit A-13 and detailed all of the revisions being proposed. He said that the building will be two levels and they are proposing a cellar instead of a crawl space. Mr. Isiofia said that the cellar will be used for storage only.

Chairman Neuer asked Mr. Williams if they will accept a condition that the cellar will be used for storage and mechanicals only; he replied yes.

Mr. Isiofia continued with his testimony stating that they removed one of the windows and are proposing the addition of an awning. He said they are also proposing to replace the stucco on the façade with stone and that the roof will be synthetic slate and will match the color of the stone on the façade.

Mr. Williams passed around a sample of the stone to be used on the façade and a sample showing the color of the awning.

Mr. Isiofia detailed the proposed redesign to the front entrance of the diner and clarified by saying that the photo on Exhibit A-13 is to show how the stone will look on the building after it is built; he said it is not a photo of the proposed diner.

Mr. Isiofia stated that they are proposing to remove the second door in the rear and to replace it with a delivery door which will accommodate deliveries.

Chairman Neuer asked Mr. Keller if he was satisfied with the removal of the second door in the rear; he said that if the owner is satisfied that his delivery people will be carrying product into a thirty six (36) inch door then he has no problem with it.

Mr. Sussman asked Mr. Isiofia if the height of the building is changing; he said no.

Mr. Quentzel asked Mr. Isiofia what the square footage of the cellar will be; he said 39 square feet.

Mr. Quentzel asked Mr. Isiofia if there is any way to create another means of egress in the cellar. Mr. Williams stated that the cellar will be used for storage only and a second means of egress is not required.

Chairman Neuer asked Mr. Isiofia if there will be sprinklers in the cellar; he said yes.

Mr. Schwarzbaum asked Mr. Isiofia if there will be any changes to the HVAC; he said no.

There were no further questions for Mr. Isiofia from the Board Members, the Board Professionals or members of the public.

Mr. Williams called his second witness.

John Yakimik approached the podium and was sworn under oath. Mr. Yakimik detailed his professional and educational background as a licensed civil engineer in the State of New Jersey.

Chairman Neuer accepted Mr. Yakimik as an expert in professional engineering.

Mr. Yakimik presented drawing C-04 of the site plan with a revision date of 1/10/17 which was marked as Exhibit A-14 for identification.

Mr. Yakimik referred to Exhibit A-14 and detailed the proposed changes to the site plan. He said that they will be replacing the chain link fence with decorative fencing and the cement curbing with Belgium block curbing.

There were no questions for Mr. Yakimik from the Board Members, the Board Professionals or members of the public.

Chairman Neuer asked if any members of the public wished to be heard on this application. Seeing none, Chairman Neuer closed the public hearing and made a motion to approve the application with the condition that the cellar be used for storage and mechanicals only.

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

The vote was as follows:

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

2. ZB-16-04/Piacenza

Carried from 11/17/16

Block: 172.25; Lot: 12; Zone: R-4

14 Manger Road

“d” variance for establishing a home day care business

EXHIBITS

A-1 – Letter from Essex County Planner, David Antonio – dated 1/4/17.

A-2 – Proposed Floor Plans – Sheet A1 - revision date of 12/16/16

A-3 – Site Plan – Sheets 3, and 9 - revision date of 12/16/16

Marsha M. Moore, Esq., attorney for the applicant, approached the podium and stated that they will be starting over due to a variance omission in the original application.

Ms. Moore stated that her client is proposing to renovate a portion of the ground floor of their home to create a child care facility. She said that the application requires the approval of two (2) "D-1" variances and several bulk variances.

Ms. Moore stated that she has four (4) witnesses who will be testifying; the architect, the applicant, the traffic expert and the planner.

Chairman Neuer stated for the record that the Board received a letter from Alan Ozarow, Esq., who will representing Robert Rosenfeld residing at 12 Manger Road.

Ms. Moore stated that this is her client's primary residence and that no modifications will be made to the first and second floor; she said renovations will solely be made to the basement.

Ms. Moore stated that they submitted plans to the Essex County Planning Board, seeking approval, and received a letter stating that an application to them is not required.

Ms. Moore presented the letter from David Antonio, Supervising Planner for Essex County, dated January 4, 2017 which was marked as Exhibit A-1 for identification.

Ms. Moore called the applicant as her first witness.

Daniela Piacenza approached the podium and was sworn under oath.

Ms. Piacenza stated that she lives at 14 Manger Road with her husband and two children. She detailed her educational background here in the United States and in Venezuela and said that she currently completed one hundred and twenty hours towards her child development associate credentials. Mr. Piacenza stated that she is currently employed doing market research for a consulting firm.

Ms. Piacenza stated that two years ago, she realized that it was difficult to raise two children and work a full time job out of the home. She said that because of her background she tutored children and also volunteered at her son's daycare and that is when she realized that she wanted to make a living doing that. Ms. Piacenza stated that because she does not have the economic means to rent or purchase a commercial space, opening a daycare facility in her home was a necessity.

Ms. Moore asked Ms. Piacenza if the elementary school across the street from her home will have any impact on her daycare; she said no because her hours of operation will be from 7am to 6pm Monday to Friday.

Ms. Piacenza stated that she researched the requirements for a home daycare and that

she specifically chose the home she purchased because it had a basement and the space she needed for the daycare. She said that if she is approved, she is aware that there are certain things that are mandated by the State in order to get a license.

Ms. Piacenza said that the daycare will offer a language enrichment program and that she chose the creative curriculum which includes activities based on age appropriate goals.

Ms. Piacenza said that the children are required to play outside for thirty (30) minutes a day if they are there for four (4) hours or sixty (60) minutes a day if they are there for eight (8) hours. Ms. Piacenza said weather permitting, they will play outside or else they will stay inside and play. She said that the groups will be separated by age but there is no requirement for that.

Ms. Piacenza said that the play area is entirely fenced in and large enough to provide separation by age group.

Ms. Piacenza said that there will be three (3) employees which include herself as one of the employees; she stated that the number of employees is dependent on how many children she has enrolled and their ages.

Ms. Piacenza said that the qualifications of the employees depends on a combination of State requirements as stated in the manual. She said if they have a master's degree in education they do not need any specific years of experience. Ms. Piacenza said that one head teacher is required and she is not qualified for that position so she has to hire one. She said that her head teacher only has to be there six (6) hours minimum per day according to the manual.

Ms. Moore asked Ms. Piacenza to detail when her first employee will arrive and where the employees will park.

Ms. Piacenza said that her first employee will arrive at 7 am; she said that she and her husband park in the garage and her husband leaves for work between 7 and 7:30am and is home at 5:30 pm. Ms. Piacenza said one employee will park in the garage after her husband leaves and there is one additional parking space outside.

Ms. Moore asked Ms. Piacenza to explain the activity on the street during school hours.

Ms. Piacenza said that the buses for the elementary school begin to arrive at 8:35 am and line up inside the parking area of the school designated for buses only. She said that cars cannot park on her side of the street from 8am to 10 am and 2pm to 4 pm and the other side of the street is for parent drop off. Ms.

Piacenza said that she is providing onsite parking for the parents and a pick up and drop off area; she said that she will provide a handbook for the parents which details the procedures for the drop off and the pickup. Ms. Piacenza said that the entrance to the daycare is in the back of her home. She said that the elementary school dismisses at 3:21 pm and her parents will pick up around 4:30 pm. Ms. Piacenza stated that if a parent wants to visit the daycare they must ask for an appointment and it is usually during nap time.

Ms. Piacenza stated that she must provide a sick room if a child is sick; she said that she will call the parents immediately to pick up their child.

Ms. Piacenza stated that there will not be any recitals onsite or large parties; she said the only party would possibly be a small birthday party for a child.

Ms. Piacenza said that she has a mini kitchenette and will provide snacks for the children only but no food.

Chairman Neuer asked Ms. Piacenza if she purchased her home with the intent of turning it into a day care; she replied yes.

Chairman Neuer asked Ms. Piacenza if she has a mortgage on the property; she replied yes.

Chairman Neuer asked Ms. Piacenza if the mortgage company gave her consent to turn it into a daycare; she said no that she did not approach them yet about it.

Chairman Neuer stated his opinion that her bank is most likely required to approve this application and that should have been done before coming before this Board.

Chairman Neuer asked Ms. Piacenza if she has money put away for the cost of the day care; she said yes and that she will also try to get a loan but will use her 401k if need be.

Chairman Neuer asked Ms. Piacenza if she has prepared an operating budget; she replied yes.

Chairman Neuer asked Ms. Piacenza if her budget includes hiring a head teacher; she replied yes.

Chairman Neuer asked Ms. Piacenza what the head teacher's salary would be; she said between \$40,000 and \$45,000 per year for a full time position. Ms. Piacenza said that she budgeted \$10 to \$12 per hour for

the other teacher.

Ms. Gabry asked Ms. Piacenza what type of medical training is required; she said first aid and CPR.

Mr. Quentzel asked Ms. Piacenza what kind of profits she will derive from the daycare; she said close to her current salary of \$120,000 per year. Ms. Piacenza said that it will cost \$1500 per child per month for infants and \$1100 to \$1200 per child per month for older children.

Ms. Nash asked Ms. Piacenza what the age ratio of the children will be; she said there will be a combination of ages.

Ms. Gabry asked Ms. Piacenza where an employee will park if her husband is home sick or on vacation; she said that they will take his car out of the garage.

Chairman Neuer asked Ms. Piacenza if she considered opening a day care limited to five (5) children because she would not need any variances for that; she said no because that was not viable for her.

Mr. Grossman asked Ms. Piacenza if she discussed her plans with her neighbors; she said yes.

Mr. Grossman asked Ms. Piacenza if any of them voiced any objections; she said yes.

Mr. Grossman asked Ms. Piacenza if the children will be outside; she said yes and that they will be supervised at all times.

Alan Ozarow, attorney for Robert Rosenfeld, asked Ms. Piacenza if it was important to separate children by ages; she replied yes.

Mr. Ozarow asked Ms. Piacenza if the children will be all together inside; she replied yes.

Mr. Ozarow asked Ms. Piacenza if there was enough room inside to segregate the children by age; she replied yes.

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

Chairman Neuer asked if any members of the public had any questions for Ms. Piacenza.

Tal Ben Zvi approached the podium and stated that he lives at 5 Allsop Court.

Mr. Ben Zvi asked Ms. Piacenza what courses she had in child care; she detailed how many hours of a child development course she attended.

Chairman Neuer stated that the day care will be licensed according to State regulations.

Mr. Ben Zvi asked Ms. Piacenza if she is only required to have one head teacher; she said yes.

Mr. Ben Zvi asked Ms. Piacenza if she would accept a condition that birthday parties will be indoors only; she replied yes.

Chairman Neuer noted the time and said that the Board will recess for ten minutes and Mr. Ben Zvi will continue after the break.

Chairman Neuer called for a recess at 9:42 pm.

Chairman Neuer resumed the meeting at 9:52 pm,

Louis Zamora approached the podium.

Chairman Neuer stated that application ZB-16-06/Zamora was on the agenda to be heard at this meeting. He addressed Mr. Zamora and advised him that he will more than likely not be heard tonight and asked if he would like to be carried over to the February 16, 2017 meeting; Mr. Zamora replied yes and agreed to the extension of the statutory time period for the Board to render a decision.

Chairman Neuer stated for the record that application ZB-16-06 for Zamora will be carried to the regular Zoning Board meeting to be held on February 16, 2017 and no further notice will be necessary.

Chairman Neuer asked Mr. Ben Zvi to approach the podium and continue his questioning.

Mr. Ben Zvi asked Ms. Piacenza if she was creating her own hardship.

Ms. Moore objected to that question and said that the Planner will answer that when he testifies.

Mr. Ben Zvi asked Ms. Piacenza if her property taxes were paid up to date.

Ms. Moore objected to that question. She stated that a letter from the tax collector's office was submitted with the application verifying that the property taxes were up to date and the application was deemed complete.

There were no further questions for Ms. Piacenza.

Ms. Moore called her next witness.

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

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

Mr. Barberio presented drawing A-1 of the proposed floor plans with revision date of December 16, 2016 that was marked as Exhibit A-2 for identification.

Mr. Barberio stated that he did not sign and seal the plans; he said he is an associate of the firm and he drafted the floor plans.

Mr. Barberio referred to Exhibit A-2 and detailed the plans and how he calculated the dimensions of all of the usable areas; he said that the plans will remain as is.

Mr. Keller stated that as per his review letter dated November 12, 2016, he recommends that there are no more than twenty (20) children attending the day care even if the state stipulates that they can have more than twenty (20).

Chairman Neuer stated that the state may also require less than twenty (20) children based on the usable area and asked Ms. Moore if she will agree to that.

Ms. Moore stated that they will agree to the state requirements.

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

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

Joseph Randazzo approached the podium and stated that he lives at 34 Manger Road. He asked Mr. Barberio how far below grade the front wall closest to the street is.

Ms. Moore stated that Mr. Barberio only testified to the interior layout of the property.

Mr. Randazzo asked Mr. Barberio what the ceiling height is; he said the lowest point of the ceiling is 7' and the highest point is 7'6".

Mr. Randazzo asked Mr. Barberio if that was considered livable area; he said it is occupiable and habitable area according building code IBC 2015.

Mr. Randazzo asked Mr. Barberio if there is adequate ventilation; he replied yes.

Mr. Barberio said they have not yet finalized the design for the HVAC system; he said when they do the design work it will have to be inspected by the state for day care use.

Ms. Moore stated that they are proposing a sprinkler system throughout the house.

There were no further questions for Mr. Barberio.

Ms. Moore called her next witness.

Joseph Staigar approached the podium and was sworn under oath. Mr. Staigar detailed his educational

and professional background as a civil engineer licensed in the State of New Jersey and as a traffic engineer. He said he has worked on many daycare facility projects and that he will be testifying as the traffic engineer.

Chairman Neuer accepted Mr. Staigar as an expert as both a professional engineer and a traffic engineer.

Mr. Staigar presented sheets 3, 4 and 9 of the site plan with a revision date of December 16, 2016 that was marked as Exhibit A-3 for identification.

Mr. Staigar referred to Exhibit A-3 and stated that the access driveway is on Manger Road and detailed the seven (7) parking spaces onsite that they are providing.

Mr. Staigar detailed where a retaining wall is being proposed with a guard rail and delineated where the parents will enter the building with the children. He also detailed the 1769 sq. feet of outdoor play area with a six (6) foot fence around it.

Mr. Staigar stated that the property is almost a half-acre and they will be decreasing the amount of impervious coverage by one hundred and thirty two (132) sq. feet. He also said that they are not paving the driveway.

Mr. Staigar referred to Mr. Keller's memo dated January 5, 2017 and addressed the following comments:

1. Replace the proposed arborvitae used for screening with an alternative plant that deer do not eat.

Subject to approval a revised landscape plan must be submitted.

2. Agrees to replace the tree to be taken down within the slope area.
3. They are proposing two (2) 150 watt bulbs that are motion sensitive along on the house along the walkway. An emergency light will also be installed if the power goes out.
4. Shoebox lights will be provided to light up the three parking spaces in the rear of the property.

Mr. Keller commented on this and said to make sure that they are compatible to residential areas.

Mr. Staigar referred to page two of Mr. Keller's memo regarding the waiver of checklist items #28 & #31; Mr. Keller stated that from an engineering perspective there is no objection to granting them the waivers.

Chairman Neuer asked the Board Members if they agree to approve to waive items #28 and #31 of the checklist; all Board Members were in favor so that the waivers were approved.

Mr. Staigar referred to his traffic report dated April 4, 2016. He said that he took counts from 7:30 am to 9:00 am and at 3:00 pm to 5:30 pm. Mr. Staigar said that peak hours occurred between 8:00 am and 9:00 am and then between 3:00 pm and 4:00 pm. He said that there were two hundred vehicles per hour. Mr. Staigar also detailed the number of drop offs on Manger Road and stated that school buses drop the children off in a parking lot on school property.

He said that there is no parking on the southerly side of Manger Road during different hours of the day.

Mr. Staigar said that the applicant meets the Township's ordinance regarding parking spaces for drop off and pickup; he said they are required to have three (3) parking spaces for that.

Mr. Staigar detailed how the cars will maneuver within the site when picking up and dropping off the children.

Chairman Neuer asked Mr. Staigar if he is concerned that parents will back into the spaces; he said no.

Chairman Neuer expressed his concern regarding parents backing into the spaces because the walkway is along those parking spaces; Mr. Staigar stated that Chairman Neuer made a good point.

Chairman Neuer asked Mr. Staigar if he thought there should be signage that states "head in parking only"; he said probably so.

Chairman Neuer asked Mr. Staigar if he could provide a template for the buses entering and leaving the school with respect to the proximity to the site; he said yes.

Chairman Neuer asked Mr. Staigar if his report would be different if there were sixty (60) students staggered in and out; he said yes.

Alan Ozarow, Esq. approached the podium and asked Mr. Staigar how he based his conclusion of eight (8) drop offs per peak hour; he said they are based on ITE, the Institute of Transportation Engineers, where there are trip generated rates for daycares.

Mr. Ozarow asked Mr. Staigar if his testimony regarding taking five (5) minutes to drop off a child was

based on the ITE also; he said no. Mr. Staigar said that was his firm's analysis taken from smaller daycares where they timed how long it took to drop off a child.

Ms. Gabry asked Mr. Staigar what peak hours were; he said peak hours of the roadway are 8am to 9am and 3pm to 4 pm. Mr. Staigar said that when the parents are dropping off their children in the morning it may coincide with the activity on Manger Road but when the school gets out at 3 pm to 4pm the daycare will not be busy.

Mr. Keller asked Mr. Staigar if the ITE trip generated manual publishes daily traffic volumes for daycare centers; he said he thinks it does.

Chairman Neuer stated that, as a condition, the Board should consider closing off access to the daycare center during the peak hours of the school.

Mr. Staigar stated that the additional eight (8) cars going in and out from the daycare would not have any impact during that time.

Chairman Neuer asked Mr. Staigar how he based the eight (8) trips; he said it is based on the ITE rates for the number of students.

Chairman Neuer noted the time and stated that this Board adjourns promptly at 11:00 pm. He said that this application will be carried over to the next Zoning Board meeting held on February 16, 2017, Mr. Staigar will come back and continue where he left off, and that no further notice will be necessary. Ms. Moore confirmed that the applicant has agreed to the extension of the statutory time period for the Board to render a decision.

The meeting was adjourned by Chairman Neuer at 11:02 pm.

Adopted: February 16, 2017



Rose DeSena

Zoning Board Secretary