

**MINUTES**  
**TOWNSHIP OF WEST ORANGE**  
**ZONING BOARD OF ADJUSTMENT**  
**REGULAR MEETING**  
**May 18, 2017**

The West Orange Zoning Board of Adjustment held a regular meeting on May 18, 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:** B. Buechler, D. Gabry, D. Nash, P. Neuer, B. Quentzel,  
I. Schwarzbaum, M. Straker, M. Sussman, A. Weiss

**ABSENT:** F. Sanders (excused)  
W. Steinhart (excused)

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

## **ANNOUNCEMENTS**

### **Future Meetings:**

June 1, 2017 (special meeting)  
June 15, 2017 (regular meeting)  
July 20, 2017 (regular meeting)  
August 17, 2017 (regular meeting)

- Application **ZB-16-11/Facey**, that was scheduled to be heard at this meeting, is being carried to the June 15, 2017 regular meeting by request of an interested party and with consent of the applicant. No further notice will be given.

## **MINUTES**

April 20, 2017 (regular meeting)

Chairman Neuer stated that the draft minutes from the April 20, 2017 were circulated to all of the Board Members.

Chairman Neuer said that he submitted his comments for these minutes and asked if any Board Member had any additional comments to the April 20, 2017; there were none.

Chairman Neuer asked for a motion to approve the minutes of the April 20, 2017 meeting.

Ms. Gabry made a motion to approve the minutes of the April 20, 2017 meeting and Mr. Sussman seconded the motion. All were in favor.

It was noted for the record that Mr. Buechler was not present at the April 20<sup>th</sup> meeting and did not vote on these minutes.

## **SWEARING IN**

Paul Grygiel, acting Planning Director for the Township and James Giurintano, acting consulting Engineer for the Township were sworn under oath.

## **APPLICATIONS**

### **1. ZB-16-12/McDonalds USA, LLC**

Block: 168; Lot: 27.03; Zone: B-2

573 Northfield Avenue

Preliminary and Final Site Plan approval with variances to demolish an existing

McDonalds Restaurant with drive-thru facilities and construct a new restaurant with drive-thru.

## **EXHIBITS**

A-1 – Aerial view of the site dated 5-15-17

A-2 – Site plan sheet 3 of 14 dated 10/19/16

Chairman Neuer stated for the record that Ms. Terri Corlett is the official transcriber for this application.

John Marmora, Esq., attorney for the applicant, approached the podium.

Chairman Neuer disclosed for the record that he represents a property owner in West Caldwell who has a landlord/tenant relationship with McDonalds. Chairman Neuer stated that he represents the interests of his client solely as the property owner in a land use approval matter in West Caldwell and that he does not represent McDonalds. Chairman Neuer said that he consulted with the Zoning Board attorney regarding this and there is no conflict; Ms. Beirne concurred with Chairman Neuer and stated that there is no conflict.

Chairman Neuer addressed Mr. Marmora and said that before they begin he would like to address the differences between the variances that Mr. Grygiel noted in his report and the variances in the application that was submitted. He said that he just wants to make sure that there will be no issues as to whether the notice was proper.

Mr. Marmora stated that John McDonough is the Planner for this application and he will address Mr. Grygiel's memo regarding the variances. He said that he believes that the notice was accurate and he doesn't think there will be a problem with the notice because the significant "d" variances were included in it.

Chairman Neuer stated that Mr. McDonough's report pre-dated the changes and asked Mr. Marmora if he submitted a revised report; he said no. Mr. Marmora said that Mr. McDonough will address this during his testimony.

Chairman Neuer noted for the record that this Board prefers a written report from professional planners rather than only the testimony; he also noted that the applicant's traffic expert did not submit a revised report.

Mr. Marmora gave a little background about the restaurant and stated that it was built and approved by this Board in 1971 and the drive-thru was approved in 1989. He said that they are proposing a complete scraping of the site, a total rebuild and update of the facility and site improvements. Mr. Marmora said that they are also proposing a side by side drive thru that will provide better circulation; he said the site currently has one single lane drive thru.

Vice Chairman Buechler stated that there were conflicting numbers and asked Mr. Marmora how many seats the new restaurant will have; he said eighty two (82) seats. Mr. Marmora said that the restaurant currently has eighty five (85) seats.

Vice Chairman Buechler stated that the traffic report said it will have sixty seven (67) seats and that is why he asked this question.

Chairman Neuer stated that this is why the traffic and planner reports must be updated because the planner's report also did not include the correct number of seats.

Mr. Marmora said that he has five witnesses testifying; William Weisgerber an employee of McDonalds; Brad Bohler from Bohler Engineering; John Harter, Traffic Expert; John McDonough, Professional Planner and James Lalli, architect.

Mr. Marmora called his first witness.

William Weisgerber approached the podium and was sworn under oath. He stated that he is the construction manager for McDonald's and has been employed by them for three (3) years, does site assessments and works on projects like this one and new projects.

Mr. Weisgerber stated that the restaurant is old and they are proposing a new kitchen, seating and dual ordering drive thru facilities. He said that the site is challenged, especially the ingress and egress, and

they are proposing a better design.

Mr. Weisgerber said that the design for the new kitchen has been around for five (5) years and there will be a new menu.

Mr. Weisgerber detailed the interior design which will include more comfortable seating and wifi. He said that the current restaurant has a play place but the new design will not have the play place due to strict standards.

Mr. Weisgerber described the efficiency of the drive thru facilities and the stacking of the cars; he said the drive thru and the parking are separated more which is more efficient for the restaurant.

Mr. Weisgerber detailed the new kitchen design and said that it is enhanced by new menu items.

Mr. Weisgerber stated that they are anticipating the construction period to be one hundred twenty (120) days.

Chairman Neuer asked Mr. Weisgerber why West Orange does not qualify to have a play place; he said that the play place is based on how many "happy meals" are served and this location does not meet those standards.

Ms. Gabry asked Mr. Weisgerber to explain how the square footage is being increased but the number of seats are being reduced; he said that the current restaurant has a 1500 sq. ft. basement, which is larger than the restaurant they are proposing to build, but the new restaurant will not have a basement. Mr. Weisgerber said that they are moving some of the storage areas that were in the basement up to the main level.

Ms. Gabry asked if the drive-thru is the greater part of the business; he said that he thinks the existing store is in the 70% range now.

Chairman Neuer asked Mr. Weisgerber to state the difference of the number of cars that can stack for the current restaurant and the new one; he said that the engineer can answer that question.

Vice Chairman Buechler asked Mr. Weisgerber how many employees at any time are at the existing store; he said that there are ten (10) to twelve (12) per shift and there are three (3) shifts. Mr. Weisgerber said

there are forty five (45) employees overall; He said that the new store will have the same number of employees

Mr. Weisgerber said they will offer the employees at the current restaurant their jobs back and more than likely 55-60% will return.

Vice Chairman Buechler asked Mr. Weisgerber if most of the employees drive their cars to work; he said he does not think so. He said less than 1/3 of the staff will drive to work and the remainder either get dropped off and picked up or take public transportation.

Vice Chairman Buechler asked Mr. Weisgerber why they are proposing a restaurant that can accommodate eighty two (82) customers if 70% of their customers go to the drive thru; he said that the demand for seating is mostly guests walking across the street from the arena or the zoo.

Mr. Quentzel asked Mr. Weisgerber if they will have kiosk ordering; he said all of the new McDonald's will have kiosk ordering. Mr. Weisgerber said that they will probably have four (4) kiosks inside of the restaurant.

Mr. Schwarzbaum requested that the applicant provide data to the Board Members regarding the number of customers by hours and days; Mr. Weisgerber said that he will have to look into it to see if he can get that information to them.

There were no further questions for Mr. Weisgerber.

Mr. Marmora called his next witness.

Brad Bohler approached the podium and was sworn under oath. He detailed his educational and professional background as a professional engineer licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Bohler as an expert in engineering.

Mr. Bohler presented an aerial map of the site that was pre-marked as Exhibit A-1 for identification.

Mr. Bohler referred to Exhibit A-1 and stated that the map was composed from a GIS program that is a

little more current than Google maps and the photo of the site was taken approximately in 2015.

Mr. Bohler detailed the existing site and the surrounding properties and stated that there is a ditch that runs east to west on the property that separates the site and the athletic field on the north side. He said that they currently have an application in with the DEP to verify the flood elevations of the site.

Mr. Bohler detailed the single entrance and exit driveways from Northfield Avenue and the location of the three lanes that are proposed. He detailed where the parking spaces will be on the site and stated that the number of stacked cars on the site are eleven (11) before they impact any parking spaces on the site.

Chairman Neuer asked Mr. Bohler what the average queue time for a vehicle to enter and exit the site would be; he said he does not know the time for the existing conditions but he would approximate it to be three (3) minutes. Mr. Bohler said that the proposed time is approximately two (2) minutes from the time you order until you receive your food.

Mr. Bohler presented sheets three of fourteen of the site plan that were pre-marked as Exhibit A-2 for identification.

Mr. Bohler referred to Exhibit A-2 and detailed the proposed site stating that there will be dual drive-thru lanes and eighty two (82) seats inside of the restaurant. He said that they are compliant with all of the setbacks and will be making the width of the front of the driveway wider. Mr. Bohler said that currently a vehicle enters the site clockwise and now a vehicle will enter the side counter-clockwise.

Mr. Schwarzbaum asked Mr. Bohler how many cars can fit in the width of the entrance driveway; he said one. Mr. Bohler said that a vehicle cannot bypass another vehicle until they get to the drive-thru by-pass lane.

Mr. Bohler stated that they are proposing twenty eight (28) parking spaces and there will one parking space near the trash enclosure for employees. He said that they meet the criteria for the number of parking spaces and the two ADA handicap parking spaces.

Chairman Neuer stated that he expressed a concern about the location of the handicap parking space at the site plan review meeting. He said that someone who is handicapped would have to walk across a busy driveway to get to the building and he asked if the handicap parking space could be moved to the front of the building.

Mr. Bohler said that there is a stop sign at that point; Chairman Neuer said that it is a dangerous situation.

Mr. Bohler stated that the trash will be picked up on a week day before 7:00 am.

Ms. Gabry asked Mr. Bohler to explain how deliveries will be made and what type of truck will make the deliveries; he said that deliveries are made during off-peak hours in a 46' long truck. Mr. Bohler said that the truck takes up six (6) parking spaces and deliveries are made through the back door on the side of the building; unloading takes approximately twenty (20) minutes.

Ms. Gabry asked Mr. Bohler if the driveway accommodates emergency vehicles; he said yes.

Chairman Neuer asked the Board Secretary to have the Township's Fire Official submit a memo to the Board Members informing them what the width of a driveway has to be to be in order to be in compliance with the fire code for an emergency vehicle.

Ms. Gabry asked Mr. Bohler if the 25' driveway is wide enough for two large sport utility vehicles to enter and exit; he said yes.

Mr. Bohler said that the restaurant will be open from, 6:00 am to midnight; the drive-thru will close at 11:00 pm.

Chairman Neuer stated that he thinks large trucks navigating the site should be done before or after hours.

Mr. Schwarzbaum requested that they provide a simulation of a truck making the south eastern turn on the site.

Mr. Quentzel asked Mr. Bohler why they cannot provide separate driveways for one way in and one way out; he said that this is a county road and this is how they want the driveway.

Mr. Sussman asked Mr. Bohler why they have a flood warning sign on the site; he said that the sign warns customers that the parking lot may flood even though it never has flooded.

Mr. Bohler detailed the lighting plan.

Alice Weiss asked Mr. Marmora who testifies to the signage; he said the Planner.

Chairman Neuer stated that after the break Mr. Bohler can go through all the comments in the Bowman Consulting memo dated May 3, 2017.

Chairman Neuer called for a recess at 9:28 pm.

Chairman Neuer resumed the meeting at 9:38 pm.

Mr. Marmora stated that during the break he consulted with James Giurintano of Bowman Consulting and he agreed to meet with their professionals to address the comments in the Bowman memo dated May 3, 2017.

Mr. Marmora stated that they would like to come back to the July 20<sup>th</sup> meeting and all supplemental reports will be provided to the Board Members before that meeting.

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

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Bohler if a bus could use the drive thru; he said no. Mr. Bohler said that there are canopies over the drive thru and the clearance is 9' high.

Mr. Rashkes asked Mr. Bohler if a bus would be allowed to park in the parking lot; he said no.

Mr. Rashkes asked Mr. Bohler if they could post a sign that states no buses can enter the site; he said they would look into that.

There were no further questions for Mr. Bohler.

Mr. Marmora called his next witness.

John Harter approached the podium and was sworn under oath. Mr. Harter detailed his credentials as a traffic engineer licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Harter as an expert in traffic engineering.

Mr. Harter stated that he worked with Bohler Engineering on this site and on at least one hundred (100) McDonald sites and said he never saw such an unusual layout as this site.

Mr. Harter referred to his report dated November 22, 2016 and detailed the existing conditions of the site and what is being proposed.

Mr. Harter stated that he used the Institute of Transportation Engineers (ITE) traffic projections for trip generation calculations and his counts did not include the pedestrians walking across the street to the site.

Mr. Harter said that the side by side drive-thru consist of two menu boards and a pay and pickup window. He said that currently the drive-thru can accommodate up to eleven (11) vehicles in queue without any impact on site circulation or parking. Mr. Harter said the proposed side by side drive-thru can accommodate fifteen (15) vehicles in queue and will not block any vehicle entering the site.

Mr. Harter stated that there will be a fifty (50) percent improvement with what is being proposed; he said the restaurant has more business in the drive-thru than customers dining in the restaurant.

Mr. Harter stated that the County wants the driveway to be further away from the traffic light on Northfield Avenue and the Dunkin Donuts but he said they will discuss one egress and one ingress driveway when they meet with them.

Mr. Harter stated that he studied the drive-thru for eight (8) hours at different times and Saturday is peak demand; he said that they found twenty four (24) vehicles on the site on Saturday.

Ms. Nash asked Mr. Harter why they cannot put the parking spaces on the other side of the site; Mr. Bohler answered that question and said that they cannot re-locate the sewer line or put a building over the sewer line.

Vice Chairman Buechler asked Mr. Harter if he knew what the fire code for a width of a driveway is; he said no but he thinks the width is a generous size.

Mr. Schwarzbaum asked Mr. Harter if the counts would be different if they were done in the summer rather than in November; he said he did not have that information.

Chairman Neuer suggested that they do another set of counts before they come back before the Board.

Mr. Quentzel asked Mr. Harter what the requirement for a handicap parking space is; he said that the space has to be closest to the entrance.

Mr. Quentzel asked Mr. Harter if he thought a separate ingress and egress was safer; he said there are benefits for both. Mr. Harter said that he would like to widen the driveway a little.

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

Chairman Neuer asked if any member of the public had any questions for Mr. Harter.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Harter if they had any plans to install speed bumps on the site to slow down the traffic; he said no.

Mr. Schwarzbaum asked Mr. Harter what the height of the shrubs will be along the front of the property line; he said he did not know but they will not exceed 30".

Mr. Giurintano stated that vegetation should be no higher than 24".

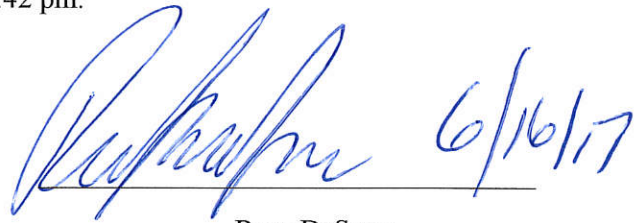
There were no further questions for Mr. Harter.

Chairman Neuer stated for the record that this application will be carried over to the July 20, 2017 meeting and that no further notice will be necessary.

Chairman Neuer advised Mr. Marmora that all revised drawings and reports must be submitted at least ten (10) days before the meeting.

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

Adopted: June 15, 2017

A handwritten signature in blue ink, which appears to read "Rose DeSena", is written over a horizontal line. To the right of the signature, the date "6/16/17" is handwritten in blue ink.

Rose DeSena

Zoning Board Secretary