

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
July 20, 2017**

The West Orange Zoning Board of Adjustment held a regular meeting on July 20, 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,
W. Steinhart, M. Sussman

ABSENT: F. Sanders (excused)
I. Schwarzbaum (excused)
M. Straker (excused)
A. Weiss (excused)

ALSO PRESENT: Paul Grygiel, Acting Planning Director for the Township
Stan Omland, Bowman Consulting
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary
Harvey Grossman, Esq., Public Advocate

ANNOUNCEMENTS

Future Meetings: August 17, 2017 (regular meeting)
September 14, 2017 (regular meeting)
October 19, 2017 (regular meeting)

Chairman Neuer announced that application ZB-16-17/New Cingular Wireless PCS, LLC (AT&T), that was scheduled to be heard at this meeting, has requested to be carried over to the Zoning Board meeting held on August 17, 2017 and no further notice will be required.

MINUTES

June 15, 2017 (regular meeting)

Chairman Neuer stated that the draft minutes from the June 15, 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; there were none.

Vice Chairman Buechler made a motion to approve the minutes of the June 15, 2017 meeting; Mr. Steinhart seconded the motion and all were in favor.

It was noted for the record that Ms. Gabry was present at this meeting but did not vote on these minutes.

SWEARING IN

Paul Grygiel, acting Planning Director for the township and Stan Omland, Acting Consulting Engineer for the township, were sworn under oath.

RESOLUTIONS

1. ZB-17-04/Cameron

Block: 155.01; Lot: 47; Zone: R-5

27 Wedgewood Drive

Seeking a "c" variance for a rear yard setback to construct a deck in the rear of the property.

Approved on 6/15/17

Chairman Neuer stated that this resolution was circulated to all of the Board Members that included comments from Mr. Buechler and himself.

Chairman Neuer asked if any Board Member had any other comments; there were none.

Chairman Neuer made a motion to adopt the resolution as submitted and Mr. Sussman seconded the motion.

The vote was as follows:

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

2. ZB-17-05/Wang

Approved on 6/15/17

Block: 161; Lot: 30; Zone: R-5

7 Oak Avenue

Requesting an extension of approval – ZB-14-00

Chairman Neuer stated that this resolution was circulated to all of the Board Members that included comments from Mr. Buechler and himself.

Chairman Neuer asked if any Board Member had any other comments; there were none.

Vice Chairman Buechler made a motion to adopt the resolution as submitted and Mr. Quentzel seconded the motion.

The vote was as follows:

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

APPLICATIONS

1. ZB-17-06/Alexandre

Block: 139; Lot: 1; Zone: R-T

47 Franklin Avenue

Seeking 'c' variances for setbacks to enclose an existing porch

Lyonel Alexandre, applicant, approached the podium.

Godfrey Hendericks, contractor for the applicant, also approached the podium; Mr. Alexandre and Mr. Hendericks were both sworn under oath.

Ms. Nash stated that she used Mr. Hendericks as her contractor several years ago and asked Ms. Beirne if that would be a conflict.

Ms. Beirne asked Ms. Nash if that would have a negative or positive effect on her decision regarding the application; she replied no.

Ms. Beirne determined that there would be no conflict and that Ms. Nash could hear the application.

Mr. Alexandre stated that he would like to enclose his existing front porch because, during the winter months, snow accumulates on the porch and it creates a lot of work for him. He said that he also noticed the floor on the porch is rotting because of this. Mr. Alexandre said that the porch on the second floor is currently enclosed and they want to duplicate that.

Chairman Neuer asked Mr. Alexandre if enclosing the front porch will increase the size of the dwelling; he replied no.

Chairman Neuer asked Mr. Hendericks if he is licensed in the State of New Jersey and has insurance; he replied yes.

There were no questions for Mr. Alexandre from any of the Board Members or the Board Professionals.

There were no members of the public that had any questions or comments for Mr. Alexandre.

Chairman Neuer closed the hearing and asked for a motion.

Vice Chairman Buechler made a motion to approve the application with the condition that the

enclosure match the existing color of the exterior of the house; Ms. Gabry seconded the motion to approve the application.

The vote was as follows:

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

2. ZB-16-12/McDonalds USA, LLC

Carried from 5/18/17

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

573 Northfield Avenue

Preliminary and Final Site Plan approval with variances to demo an existing McDonalds with drive-thru and construct a new restaurant with drive-thru.

EXHIBITS

A-1 – Aerial view of the site with a revision date of 7/20/17

A-2 – Site Plan sheet 3 of 14 with a revision date of 7/20/17

A-3 – Landscape Plan sheet 1- superimposed in color over sheet 3 of 14 of the site plan dated 7/17/17

A-4 – Email from W.O. Fire Official – approving fire truck turning plan dated 7/17/17

A-5 – Fire Truck turning exhibit dated 7/20/17

A-6 – Traffic report – revised 6/23/17

A-7 – Planners report – revised 6/25/17

A-8 – Elevations plan Sheet A2.0 dated 2/6/17

A-9 – Elevations plan Sheet A2.1 dated 2/6/17

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

Ms. Beirne disclosed that she has a client that is within 200' of the site and asked Mr. Marmora if he felt this would be a conflict; he replied no.

Chairman Neuer stated that the applicant appeared before this Board on May 18th and detailed all of the professionals who testified at this meeting.

Chairman Neuer stated that the applicant has submitted a new application and has requested to start over and that whatever transpired at the May 18th meeting is not to be considered.

Mr. Marmora stated that the applicant re-noticed for this meeting and that Mr. Grygiel approved the notice; Ms. Beirne stated that she also looked at the notice and approved it.

Mr. Marmora called the applicant's engineer as his first witness.

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

Chairman Neuer accepted Mr. Bohler as an expert in Civil Engineering.

Mr. Bohler presented an aerial view of the site that was pre-marked as Exhibit A-1 with a revision date of 7/20/17, sheet 3 of 14 of the site plan drawings submitted to Board with a revision date of 7/20/17 that was pre-marked as Exhibit A-2 and the landscape plan that was superimposed in color over sheet 3 of 14 of the site plan that was pre-marked as Exhibit A-3 all for identification.

Mr. Bohler referred to all of the Exhibits and detailed them. He stated that they are proposing to push the building back and that there will be a right in and right out of the driveway only. Mr. Bohler stated that they are proposing a concrete median in the middle of the driveways and two (2) ADA-compliant parking spaces directly in front of the door. He detailed the circulation of traffic entering and exiting the site and how the cars will enter the side by side drive thru that is being proposed.

Mr. Bohler stated that they are proposing thirty two (32) parking spaces including the two (2) ADA compliant ones. He said that fourteen (14) cars are able to stack before they might impact any of the parking spaces on the site.

Mr. Bohler detailed where sidewalks are being proposed on the site and where and when the deliveries will be made and when the garbage will be picked up.

Chairman Neuer asked Mr. Bohler if the applicant will accept as a condition of approval that all deliveries and pickups are made between 12:00 am and 6:00 am on weekdays and between 12:00 am and 7:30 am on weekends; he replied yes.

Mr. Steinhart asked Mr. Bohler if the food will be left outside on pallets when it is delivered as it currently is; he said no.

Mr. Quentzel asked Mr. Bohler if they felt a need for a pedestrian safety sign on the site; he said yes. Mr. Bohler said they have a "stop for pedestrian" sign proposed for the site and that they will put it on the final site plan.

Mr. Bohler stated that they received an email today from the Township's Fire Official approving the width of the driveway. He presented the email from the Fire Official and it was marked as Exhibit A-4 for identification. Mr. Bohler presented the amended fire truck turning plan dated 7/20/17 that was marked as Exhibit A-5 for identification. He said that they will provide a copy of this plan to Mr. Keller and the Fire Official for approval.

Mr. Bohler detailed the lighting plan stating that they will be using LED lights and there will be very little spillage to the east of the site.

Mr. Bohler detailed the landscaping plan and also detailed the number of signs that will be onsite and their placement.

Mr. Omland referred to Exhibit A-5 and asked Mr. Bohler if a fire truck would interfere with any of the signs or overhangs on the site; he said no.

Mr. Omland asked Mr. Bohler if they are proposing to landscape on the east border of the site; he said no. Mr. Bohler said that the adjacent property planted grass on the property line.

Mr. Omland asked Mr. Bohler if the greenspace is going to be drought tolerant; he said yes.

Mr. Bohler addressed the following items in the memo dated July 14, 2017 from Bowman Consulting:

- Item 2 thru 8 – Will comply
- Item #9
 - b) Applicant prefers to stick with the existing retaining wall
 - c) Applicant will be responsible for those trees on the east property line towards the rear
 - d) Will comply
 - e) Will comply
 - f) Will achieve the grading
 - g) Retaining wall construction will not impact the foundation
- Item #10 – Owner of the adjacent property that Dunkin Donuts is located on is responsible for cleaning out the inlet; the Township's Zoning Official was to contact them and have them clean it out.
- Item #11 – Will comply
- Item #12 – Will comply
- Item #15 – Mr. Bohler detailed the wash down process for the trash enclosure and Mr. Omland was satisfied with his testimony.
- Item #16 – 19 – Will comply
- Item #20 – Mr. Bohler said that there will be one ground mounted and one building mounted "pull forward" sign.
- Item #21 – Mr. Bohler described how a pedestrian would access the building from the parking spaces. There was discussion regarding what direction the doors would swing outward; Mr. Bohler said that he will look into what direction would be safer but noted that there are regulations for this.
- Item #23 - Applicant will consider installing a manufactured treatment device for the runoff that is discharged into the brook; he said that they are going to install a hood which is a fair compromise.
- Item #24 – No longer applicable

Public Advocate Haravey Grossman asked Mr. Bohler if there are any security plans in place; he said yes. Mr. Bohler said security cameras are indicated on the architectural plans for the interior of the building; no cameras are being proposed for the exterior of the building.

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

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 to detail how a pedestrian would access the building from Northfield Avenue; Mr. Bohler referred to Exhibit A-2 and complied.

Mr. Rashkes asked Mr. Bohler how many cars can stack onsite before spilling on to Northfield Avenue; he said two (2).

Mr. Rashkes asked Mr. Bohler if there will be pedestrian signs; he said yes.

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

Chairman Neuer resumed the meeting at 9:38 pm.

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 submitted a revised traffic report dated 6/23/17 that was marked as Exhibit A-6 for identification.

Mr. Harter referred to Exhibit A-6 and detailed his report. He stated that the trip generation was estimated at sixty (60) additional trips.

Chairman Neuer asked Mr. Harter if the ITE takes into consideration that there is a drive thru window; he said yes. Mr. Harter said that the ITE is based on the building size.

Mr. Harter stated that he did the counts in November of 2016 and on a Saturday in June of this year; he said that there was a maximum of twenty four (24) cars parked on the site.

Mr. Omland asked Mr. Harter if circulation will be safe for delivery trucks and fire trucks; he said yes.

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

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

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

if the two (2) car capacity will spill on to Northfield Avenue; he said no.

There were no further questions for Mr. Harter.

Mr. Marmora called his next witness.

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

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

Mr. McDonough stated that he submitted a revised report dated 6/25/17 that was marked as Exhibit A-7 for identification.

Mr. McDonough referred to his report and detailed the variances required for this project citing the negative and positive criteria. He stated that the supply for parking will meet the demand and that the overall site itself will be much better than it is now.

Mr. McDonough presented the elevations plan Sheet A2-0 dated 2/6/17 that was marked as Exhibit A-8 and the elevations plan Sheet A2.1 dated 2/6/17 that was marked as Exhibit A-9 both for identification. He referred to the Exhibits and detailed all of the signage being proposed and where the signs will be located.

Mr. Grygiel stated that all of the variances being requested were addressed in Mr. McDonough's report.

Chairman Neuer stated that Mr. McDonough's report was well done.

Mr. Marmora stated that the architect was supposed to be at this meeting but he is not here and does not know what happened to him.

Chairman Neuer stated that the architectural drawings that were submitted were signed and sealed and are admissible. He asked if any Board Members or Board Professionals had any questions based on the plans that the architect submitted; there were none.

Chairman Neuer asked if any members of the public had any comments.

Robert Rashkes approached the podium and was sworn under oath. He stated that he lives at 35 Oak Crest Road and has concerns about the two car stacking on to Northfield Avenue and the location of the pedestrian entrance.

There were no further comments from members of the public.

Chairman Neuer declared the hearing on this application closed.

Vice Chairman Buechler made a motion to approve the application with the following conditions:

- All plan changes must be submitted ten (10) days before the next meeting to be held on 8/17/17.
- Exhibit A-5 must go to Bowman Consulting, the Planning Department and the Fire Department for approval.
- All food deliveries and garbage pickup on site between 12am and 6 am on weekdays and 12am and 7:30 am on the weekends. No deliveries or garbage pickup on Sundays.
- No Vehicles larger than 40' wheel based tractor and cab may enter the site.
- Applicant responsible for the existing trees on easterly property line.
- Application subject to DEP approval.
- Application subject to Essex County approval.
- Applicant must obtain a soil removal permit if needed.

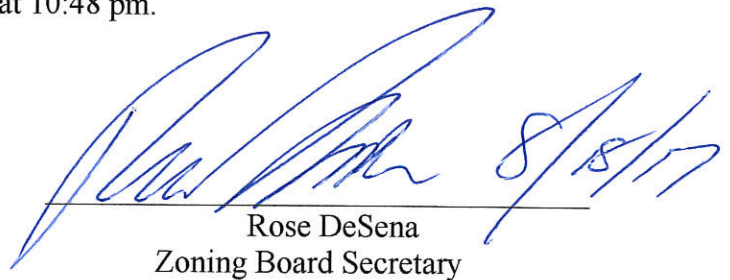
Chairman Neuer seconded the motion to approve with said conditions.

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 10:48 pm.

Adopted: August 17, 2017


Rose DeSena
Zoning Board Secretary