

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
January 18, 2018**

The West Orange Zoning Board of Adjustment held a regular meeting on January 18, 2018 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, F. Sanders
I. Schwarzbaum, W. Steinhart, M. Straker, M. Sussman, A. Weiss

ABSENT: B. Buechler (excused)

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

ANNOUNCEMENTS

Future Meetings: February 15, 2018 (regular meeting)
March 15, 2018 (regular meeting)
April 19, 2018 (regular meeting)

RE-ORGANIZATION

Chairman Neuer stated that the Board will have their annual reorganization at this meeting.

Chairman Neuer asked for a nomination for Zoning Board Chair.

Mr. Steinhart nominated Mr. Buechler for Chairman; there were no other nominations for Chairman.

All were in favor; none were opposed.

Mr. Sussman nominated Mr. Neuer for Vice Chairman; there were no other nominations for Vice Chairman.

All were in favor; none were opposed.

Vice Chairman Neuer nominated Ms. DeSena for Zoning Board Secretary;

All were in favor; none were opposed.

Vice Chairman Neuer nominated Ms. Beirne for Zoning Board Attorney.

All were in favor; none were opposed.

MINUTES

December 21, 2017 (regular meeting)

Chairman Neuer stated that the draft minutes from the December 21, 2017 regular meeting 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.

Mr. Sussman made a motion to approve the minutes of the December 21, 2017 regular meeting; Ms. Weiss seconded the motion and all were in favor.

It was noted for the record that Ms. Gabry, Mr. Steinhart and Mr. Quentzel were present but did not vote on these minutes because they were not in attendance at the December 21, 2017 meeting.

SWEARING IN

Paul Grygiel, acting Planning Director for the Township and Eric Keller, Consulting Engineer for the Township, were sworn under oath.

APPLICATIONS

- | | |
|---|------------------------------|
| 1. ZB-17-08/470 Eagle Rock Holdings, LLC | Carried from 12/21/17 |
| Block: 153; Lot: 38; Zone: B-2 | |
| 470 Eagle Rock Avenue | |
| seeking a "d" use variance to permit a motor vehicle service station in a B-2 zone with bulk variances. | |

EXHIBITS

A-5 – Site Plan – colorized with a revision date of 1/5/18.

Vice Chairman Neuer noted for the record that Ms. Gabry and Mr. Steinhart are recused from hearing this application and they stepped off the dais.

Frank Regan, attorney for the applicant, approached the podium.

Vice Chairman Neuer addressed Mr. Regan and stated that Phase 1 of the environmental site assessment report that was submitted to the Board is not addressed to his client but to PAG Investments. Mr. Regan was asked to explain the role of PAG in this application.

Mr. Regan stated that the applicant and PAG Investments have a connection but he is not quite sure how. He said that he will get a satisfactory answer for him by the next meeting but his client, the applicant, is the contract purchaser of the property.

Vice Chairman Neuer stated that if PAG Investments is the purchaser, the application must be amended.

Mr. Regan stated that at the last meeting on 12/21/17 the only testimony that was given was from

the Engineer and he will answer the issues brought up at that meeting. He said that a representative from Mavis Tire will also testify at the meeting tonight.

Mr. Regan called his first witness.

Zachary Chaplin approached the podium and was sworn under oath. He stated that he submitted revised plans to the Board and presented a colorized site plan with a revision date of 1/5/18 that was marked as Exhibit A-4 for identification.

Mr. Chaplin referred to Exhibit A-4 and detailed the changes; he said that they lowered the light poles, relocated the monument sign to the easterly driveway and updated the landscape plan as per the Township Forester's comment in his memo dated 12/14/17.

Mr. Chaplin stated that they will keep the existing trees on Rosney Terrace, reduce the width of the loading zone area and will relocate three trees on the site. He said that if for any reason they cannot save one of the trees they will notify Mr. Keller.

Mr. Chaplin stated that they received new review letters from Mr. Grygiel and Mr. Keller and will comply with all of the comments in the letters.

Mr. Chaplin stated that they also provided the template for the truck circulation plan.

Vice Chairman Neuer asked Mr. Chaplin to go through the Township Forester's report dated 12/14/17 from John Linson and address the comments one by one.

Item #1 – will comply with removing and replacing the trees along the eastern portion of the property with sixteen (16) Leland Cypress evergreens.

Item #2 – will remove the white oak tree along the south east corner of the building.

Item #3 – will increase the size of the Blue Girl Holly along the southern property line; sheet 8 of the plans will be revised.

Item #4 – will save the trees within the Rosney Terrace right-of-way.

Item #5 – will relocate the Japanese maple tree.

Item #6 – will eliminate the lawn area along Eagle Rock Avenue and make it a perennial bed.

Mr. Chaplin continued his testimony stated that they will be removing twenty five (25) trees in total and planting forty two (42) trees on the site.

Ms. Weiss suggested to Mr. Chaplin that they propose using Skip Laurel shrubs as a filler along the fence area; Mr. Chaplin said they would consider that.

Mr. Schwarzbaum asked Mr. Chaplin if the line of sight will be blocked by the trees that are to remain; he said no.

Mr. Keller stated that the applicant has agreed to comply with all of the comments in his review letter dated 1/11/18 but had questions regarding the following items:

- Item #6 – Mr. Keller said that, according to the truck circulation plan that was submitted, the refuse truck will take up the entire driveway when entering and leaving the site. Mr. Keller asked Mr. Chaplin when the deliveries and pick-ups are going to be made so that there is no conflict; he said that the Mavis representative will answer that question.
- Item #7 – Mr. Keller said that, if need be, as a condition of approval the applicant will provide a small retaining wall in the vicinity of the trees along Rosney Terrace.
- Item #13 – Mr. Keller asked Mr. Chaplin if the sidewalk will be wide enough for accessibility once the ADA parking signs are relocated there; he said yes the path is three (3) feet wide and the signs will be on the back side.
- Item #14 – Mr. Keller was still concerned with the lighting; he said that he was specifically concerned with a fifteen (15) foot light pole and stated that the foot candle levels are still high. Mr. Chaplin stated that there will be no spillage into the neighbor's property; he said that the pole lights will not be on after closing but the security lights will be on all night. Mr. Keller said that there are residents across the street and that they need to reach a balance; he said that they may not need both security lights on all night or they could possibly use a pole light as a security light. Mr. Keller said that another options would be to use LED lights that are not at full level. Mr. Chaplin said that they will do whatever Mr. Keller recommends. Mr. Keller advised Mr. Chaplin that he will have to submit an additional lighting plan for the security lights.
- Item #18 – Mr. Keller asked Mr. Chaplin when the lights will be turned off; he said one hour after the store closes. Vice Chairman Neuer stated that if this application is approved, this will be one of the conditions.

Mr. Sussman asked Mr. Chaplin why they are proposing a right turn out only at the westerly driveway and full movements at the easterly driveway; he said that the Traffic Engineer will testify to the reasoning.

Mr. Regan stated that Eagle Rock Avenue is a county road and that Mr. Chaplin met with the Essex County Planner, Mr. Antonio, at the site and that they determined the movements of the driveways.

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

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

Ismail Hussein approached the podium and stated that he lives at 6 Rosney Terrace. He asked Mr. Chaplin how the trash will be disposed of; Mr. Chaplin referred to Exhibit A-4 and described how the trash will be disposed of.

Mr. Hussein asked Mr. Chaplin if they will be replacing the privacy fence between his property and the site; Mr. Chaplin said that they will be installing a six (6) foot privacy fence.

Ms. Weiss asked Mr. Chaplin to consider replacing it with an eight (8) foot fence. A fence of that height will require a variance.

Mr. Hussein asked Mr. Chaplin how tall the trees are that they are proposing to plant between the rear of his property and the site; he said the trees will be six (6) to seven (7) feet high and will grow to twelve (12) feet high.

Mr. Hussein asked Mr. Chaplin if there will be any spillage from the lights to the south of the property; he said no. Mr. Chaplin said they are not proposing to install lights there.

Mr. Hussein asked Mr. Chaplin if they are proposing to install a traffic signal at the corner of Rosney Terrace and Eagle Rock Avenue; he said no.

Johnathan Larney approached the podium and stated that he lives at 478 Eagle Rock Avenue. He asked Mr. Chaplin where the storm sewer connects; Mr. Chaplin referred to Exhibit A-4 and delineated on the plans where it will connect. He said that they are also installing new lines that will have the least impact on the trees.

Mr. Larney asked Mr. Chaplin if they can put the security lights on a pole facing the building; he said that it is possible and they will work with Mr. Keller on this.

Mr. Larney asked Mr. Chaplin if they are proposing to have an oil separator; he said no.

Emrah Altunkaya approached the podium and stated that he lives at 15 Fundus Road. He asked Mr. Chaplin how they will keep the sound levels down during construction; he said that they will meet all the Township's noise level requirements when the improvements are being constructed.

Winston Jackson approached the podium and stated that he lives at 22 Rosney Terrace. He asked Mr. Chaplin if there was an entrance being proposed on Rosney Terrace; he said no.

Kevin Malanga approached the podium and stated that he lives on Ridge Road. He asked Mr. Chaplin if there are no plans to wash the floor of the shop because the applicant is not proposing an oil separator.

Mr. Regan stated that a representative of Mavis Tire will address that question.

Mr. Malanga asked Mr. Chaplin if construction will impact the roots of the trees along the westerly border of the property; he said that they are required to do some grading in that area and it may impact the roots of the trees but, because they are keeping the existing pavement line they may be able to save those trees.

Mr. Malanga asked Mr. Chaplin if he is aware that there is a tree protection ordinance in town; he said yes.

Mr. Malanga asked Mr. Chaplin if there is some sort of tree protection around those trees to protect the roots; he said yes they are proposing to install fencing around the trees. Mr. Chaplin said that if there is a problem during construction they will notify Mr. Keller and rectify it.

Mr. Malanga asked Mr. Chaplin where the storm line will be constructed; he referred to Exhibit

A-4 and delineated on the plans where it will run between the trees.

Mr. Malanga asked Mr. Chaplin why they are proposing to install a new storm line in that area; he said that they are increasing the size and upgrading the equipment.

Mr. Keller stated that the current pipe is six (6) feet, which is not sufficient, and they are changing it to fifteen (15) feet.

Mr. Malanga asked Mr. Chaplin if the storm line can be installed anywhere else; he said there is an alternate area but there is a tree there also.

Mr. Regan said that they will do an analysis regarding this.

Mr. Malanga asked Mr. Chaplin when they will be relocating the Japanese maple tree; he said he does not know.

Mr. Malanga asked Mr. Chaplin if it is fair to say that there is a better time to relocate the Japanese maple tree; he said yes. Mr. Chaplin said that the landscape architect can answer concerning the optimum time is to relocate this tree.

Joyce Rudin approached the podium and stated that she lives at 38 Woodland Avenue. She asked Mr. Chaplin to depict on the plans where the Japanese maple is located; he complied.

Ms. Rudin asked Mr. Chaplin what the height, diameter and the characteristics of the Japanese maple tree were; he did not know and the landscape architect can answer those questions.

Ms. Rudin stated that she is trying to determine if this is a mature tree because it can be relocated during the fall.

Vice Chairman Neuer stated that the Township forester will supervise and recommend professionals to supervise the relocation of the tree.

Ms. Rudin asked Mr. Chaplin if construction starts outside of the fall then what will they do with the tree; he said that they will consult with the Township forester and Mr. Keller to see if there is an alternative.

Ms. Rudin asked Mr. Chaplin to detail the lighting plan and specifically asked what lights will be lit all night; he complied.

Ms. Rudin stated that at the current Mavis tire location there is a thirty (30) foot light pole that is left on all night and asked Mr. Rudin if they are proposing the same light at this site; he said no.

Vice Chairman Neuer stated that the Board is not being asked to approve a thirty (30) foot tall light pole.

Elizabeth Ismail approached the podium and stated that she lives at 6 Rosney Terrace. She asked Mr. Chaplin when construction will start.

Vice Chairman Neuer replied to Ms. Ismail's question and explained the process. He said that, if the application is approved, forty five (45) later they can start taking out permits for construction. Vice Chairman Neuer stated that construction could possibly start in May or later.

Ms. Ismail asked Mr. Chaplin how high the fence will be that they are proposing to install; he said six (6) feet or possibly eight (8) feet high.

Sandra Wright approached the podium and stated that she lives at 9 Fundus Road. She asked Mr. Chaplin how they will demolish the existing building; He said that the contractor can answer that question.

Vice Chairman Neuer stated that if there is asbestos in the existing building that will have to be addressed first.

Ms. Wright stated that she is concerned about rodents escaping the building.

Vice Chairman Neuer noted the time and stated that the Board will take their break.

Vice Chairman Neuer stated that this application will be carried over to the February 15, 2018 regular meeting and that no further notice will be required. He also advised Mr. Regan that, depending on the February meeting agenda, he may end up with only a half of the meeting again.

Vice Chairman Neuer called for a recess at 9:35 pm.

Vice Chairman Neuer resumed the meeting at 9:45 pm.

2. ZB-17-10/350 Pleasant Valley Realty, LLC

Block: 152.22; Lot: 1428; Zone: R-5

350 Pleasant Valley Way

Seek a "d" variance for the expansion of a non-conforming use and bulk variances for parking spaces for modifications to the lower level of an existing space.

EXHIBITS

A-1 – Colorized Site Plan dated 8/18/17

A-2 – Colorized Survey dated 3/15/18

A-3 – Architectural Plans dated 8/18/17

Vice Chairman stated that Mr. Steinhart has resumed his seat on the dais.

Robert Williams, attorney for the applicant, approached the podium. He stated that his client is

proposing to renovate the lower level of the Wilshire Grand Hotel in order to accommodate the demands of the public. Mr. Williams stated that this would be an area that after parties could be held after a wedding or other event. He said that this is an expansion of a non-conforming use that requires a "d" variance.

Mr. Williams called his first witness.

J. Michael Petry approached the podium and was sworn under oath. He detailed his professional and educational background as a Professional Planner and an Engineer licensed in the State of New Jersey. Mr. Petry stated that he will be testifying as their engineer first.

Vice Chairman Neuer accepted Mr. Petry as an expert in Engineering.

Mr. Petry presented a colorized version of the site plan that was submitted with the application that was marked as Exhibit A-1 for identification.

Mr. Petry stated that the future expansion of the parking lot would only happen if necessary. He also said that no exterior improvements are being proposed.

Mr. Petry said that a parking study was done; he said that parking counts were taken in 2012 during July when it is a busy time for weddings. Mr. Petry said that they performed additional parking counts more recently and there was no change from 2012.

Vice Chairman Neuer told Mr. Petry that his planning report was not updated to reflect the parking counts; he said that it should have been submitted at least ten (10) days before this meeting.

Vice Chairman Neuer also told Mr. Petry that, according to Mr. Keller's report dated 10/21/18, a solid waste management plan was required to be submitted and it was not.

Mr. Petry stated that he assumed that he could testify to that; Vice Chairman Neuer said that Mr. Keller requested it as a document.

Vice Chairman Neuer asked Mr. Petry to address the following conditions of approval in resolution ZB-08-06:

- Condition #4 – owner was required to cover the lower parking lot that was in disrepair with topsoil and grass seed; Mr. Petry stated that the owner placed wood chips and planted trees in lower parking lot.
Vice Chairman Neuer asked Mr. Keller if this condition was satisfied; he said that he never went to inspect it.
- Condition #9 – no more than 4500 sq. feet dedicated to retail space; Mr. Petry stated that there is currently 2500 sq. feet of retail space which is well below 4500 sq. ft.
- Condition #11 – owner was required to provide a dumpster location and have it enclosed and screened; Mr. Petry said that a dumpster was provided as required.

Mr. Petry stated that he will address the following comments in Mr. Keller's memo dated

10/31/18:

- Item #7 – Mr. Petry stated that new regulations for design standards are not required for this application.
- Item #8 – Mr. Petry stated that the existing utility service connections are adequate.
- Item #9 - Mr. Petry stated that it was determined that seventy three (73) additional vehicles would be the largest number associated with the new space which would not create a measurable impact on the surrounding roadways or access.
- Item #10 & Item #14 – Mr. Petry presented the current boundary survey that was marked as Exhibit A-2 dated March 12, 2012. He delineated on the Exhibit where the fence is shown on the survey, where the parking spaces were completed, a small deck was completed and a gate.

Mr. Petry continued with his testimony and stated that there are five hundred ninety nine existing parking spaces on the site.

Mr. Keller stated that the four (4) parallel parking spaces in the rear lot were required to be eliminated as a condition in a prior resolution in 2008; he said that this condition can be eliminated and that the drive aisle could be used for valet parking only.

Mr. Schwarzbaum asked Mr. Petry how many new parking spaces are required for the new space; he said there are currently three hundred seventy eight spaces and the new space requires an additional one hundred two (102) spaces.

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

There were no questions for Mr. Petry from any members of the public.

Mr. Williams called his next witness.

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

Vice Chairman Neuer accepted Mr. Horten as an expert in architecture.

Mr. Horten presented sheet A-2 of the architectural plans dated 8/18/17 that was marked as Exhibit A-3 for identification.

Mr. Horten referred to Exhibit A-3 and detailed the layout of all of the rooms. He said the loft will remain the same and the multi-purpose room will be below the loft. Mr. Horten detailed all of the entrances and the exits and stated that the area is fully sprinklered. He said that they are also proposing to install a new mechanical system.

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

There were no questions for Mr. Horten from any members of the public.

Mr. Williams re-called Mr. Petry to give his testimony as the planner.

Vice Chairman Neuer accepted Mr. Petry as an expert in professional planning.

Mr. Petry approached the podium again and referred to his planning report dated 8/18/17. He stated that the facility is located in an R-5 zone and, as a conditional use, it does not meet all the conditions required for this zone but stated that this application does not affect any of the conditions that are required.

Mr. Petry stated that this is an expansion of a non-conforming use and detailed all of the variances that are being requested and also the previous variances that the applicant was granted.

Mr. Petry detailed the positive and the negative criteria.

Mr. Schwarzbaum asked Mr. Petry if his parking space counts included the hotel; he said yes.

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

There were no questions for Mr. Petry from any members of the public.

There was no public comment.

Mr. Williams asked Vice Chairman Neuer to approve the waivers that were requested in the application; Vice Chairman Neuer granted the waivers.

Vice Chairman Neuer advised Mr. Williams that the applicant is required to submit a solid waste management plan to Mr. Keller and the Board Secretary at least ten (10) day before the next meeting before the resolution is voted on.

Vice Chairman Neuer closed the public hearing.

Vice Chairman Neuer stated that he recommends voting yes on this application; he said that what they are proposing will have a very minor impact on the community.

Vice Chairman Neuer stated that the approval will be for the site plan and the variances requested and that the waivers requested are also granted.

Vice Chairman Neuer stated that the applicant must comply with Mr. Keller's review letter dated 10/31/17 regarding the waste management report as a condition of approval.

Vice Chairman Neuer said that condition #3 in resolution ZB-08-06 would be rescinded and the drive aisle will be used for valet use only.

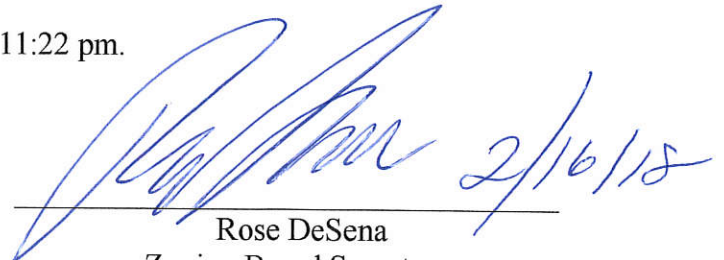
Mr. Steinhart seconded the motion to approve the application with said conditions.

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 11:22 pm.

Adopted: February 15, 2018


Rose DeSena
Zoning Board Secretary