

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

The West Orange Zoning Board of Adjustment held a regular meeting on October 18, 2018 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Buechler 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 Buechler 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 Buechler asked everyone to stand for the Pledge of Allegiance.

**PRESENT:** B. Buechler, J. Eben, D. Gabry P. Neuer, L. Phillips,  
B. Quentzel (8:04 pm), I. Schwarzbaum, M. Sussman, A. Weiss

**ABSENT:** W. Steinhart (excused)  
M. Straker (excused)

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

**ANNOUNCEMENTS**

**Future Meetings:** November 15, 2018 (regular meeting)  
December 20, 2018 (regular meeting)

\*The resolution for ZB-18-05/Facey, for the Board determination on the Applicant's request for an amendment of a prior Board resolution for this property seeking to amend a condition related

to exterior lighting at the rear of the house, that was scheduled to be adopted at this meeting will be adjourned until the November 15, 2018 regular meeting.

\*Application **ZB-18-02/Rosario**, that was scheduled to be heard at this meeting, has requested to be carried over and adjourned to the Zoning Board meeting scheduled for November 15, 2018 at 8:00 pm. This request was granted and no further notice will be required.

## **MINUTES**

September 20, 2018 (regular meeting)

Chairman Buechler stated that the draft minutes from the September 20, 2018 regular meeting were circulated to all of the Board Members.

Chairman Buechler said that Vice Chairman Neuer submitted comments for these minutes and asked if any Board Member had any additional comments; there were none.

Vice Chairman Neuer made a motion to adopt the minutes from the September 20, 2018 as amended; Mr. Sussman seconded the motion and all were in favor.

It was noted for the record that Ms. Gabry and Ms. Phillips were present but did not vote on these minutes because they were not in attendance at the September 20, 2018 meeting.

September 20, 2018 (executive session)

Chairman Buechler stated that he and Vice Chairman Neuer submitted comments for the minutes from the September 20, 2018 executive session and asked if any Board Member had any additional comments; there were none.

Vice Chairman Neuer made a motion to adopt the minutes from the September 20, 2018 executive session as amended; Mr. Schwarzbaum seconded the motion and all were in favor.

Vice Chairman Neuer stated that Ms. Gabry and Ms. Phillips were present but did not vote on these minutes because they were not in attendance at the September 20, 2018 executive session.

Vice Chairman Neuer advised the Board Members to destroy their copy of the minutes from the September 20, 2018 executive session because they are confidential; he said Ms. Beirne will retain her copy of said minutes.

## **NEW BUSINESS**

Chairman Buechler made a motion to adopt the Zoning Board of Adjustment's regular meeting schedule for 2019; Ms. Gabry seconded the motion and all were in favor.

## **SWEARING IN**

Paul Grygiel, acting Planning Director for the Township and Anthony Facchino, Acting Consulting Engineer for the Township, were sworn under oath.

Chairman Buechler stated that he is turning over the meeting to Vice Chairman Neuer.

Chairman Buechler said that this will be his last meeting because he has been nominated by the Governor of New Jersey as a Superior Court Judge and that he handed in his resignation to the Mayor after being on the Zoning Board for over twenty years. Chairman Buechler stated that his resignation will be effective tomorrow.

Vice Chairman Neuer presented Chairman Buechler with a certificate of appreciation from the Board Members thanking him for his twenty plus years of service on the Zoning Board.

Chairman Buechler thanked the Board Members, wished them well and stepped off of the dais.

## **APPLICATIONS**

### **1. ZB-18-06/CLPF – Essex Green, LLC c/o Clarion Partners**

Block: 155.21; Lot: 40: Zone: P-C

495 Prospect Avenue

Seeking “d” and bulk variances for the expansion and renovation of an existing Shopping center.

## **EXHIBITS**

A-1 – Aerial map of the site dated 9/12/18.

Francis X. Regan, Esq., attorney for the applicant, approached the podium and detailed the application.

Mr. Regan stated that his client is proposing the renovation of the Essex Green shopping center located at 495 Prospect Avenue. He said that they have served notice to all of the property owners within 200 ft. of the site and published the required notice in the Star Ledger.

Mr. Regan stated that the renovations do not include changes to the TGI Friday’s restaurant, the bank or Shop Rite. He said that they are seeking use variances because they are proposing two drive-thru spaces and height variances. Mr. Regan said they are also seeking bulk variances including parking.

Mr. Regan stated that although the property is located in a designated redevelopment area, his client is not seeking tax abatements at this time.

Vice Chairman Neuer asked Mr. Regan if the three signs that are being proposed require variances; he said yes. Mr. Regan said that the sign variances also include the height of the free standing sign.

Mr. Regan stated that he has three witnesses and called the representative of the owner of the

property as his first witness.

Michael Gordon, approached the podium and identified himself as a representative of the Eagle Ridge condominium association. He stated that none of the residents in the complex were noticed.

Ms. Beirne stated that there are no individual units in the complex that are within 200' of the site.

Vice Chairman Neuer stated that the condominium association receives the notice.

Mr. Grossman approached the podium and stated that each unit had to be noticed

Vice Chairman Neuer stated that Ms. Beirne determined that there are no individual units within the complex that are within 200' from the site. Vice Chairman Neuer, on the advice of counsel, concluded that notice was proper and the application may proceed.

Lauren M. Holden, managing director of Clarion Partners, owner of the property, approached the podium and was sworn under oath.

Ms. Holden stated that Clarion Partners, owner of the property, buys and develops properties and that their role is to improve each property they purchase. She stated that they acquired Essex Green two years ago and have the opportunity to restore the center. Ms. Holden said they want to focus on layout and outdoor structures and increase dwell time for the customers.

Ms. Holden went on to detail what renovations that they are proposing to the center.

Mr. Eben stated that he is concerned about the removal of trees, no sidewalk connection and the placement of one of buildings.

Ms. Holden said that they will be addressing all of their concerns and also proposing to dress up the rear elevations of the buildings to make them aesthetically pleasing.

Mr. Eben asked Ms. Holden what type of drive-thru's they are proposing; she said they will be for a food business but not like McDonalds.

Mr. Schwarzbaum asked Ms. Holden what types of restaurants will be added to the site; she said family style restaurants where you will be able to get anything from a burger to a glass of wine. Ms. Holden said that they will use the courtyard in front of the movie theater to bring in a family sit down restaurant.

Mr. Schwarzbaum asked Ms. Holden if they were impacted by the Sears bankruptcy; she said not yet but they may be eventually.

Mr. Quentzel asked Ms. Holden if they have any letters of intent; she said yes.

Mr. Quentzel asked Ms. Holden how much square footage is currently occupied; she said they

are eighty percent (80%) occupied today and are within approximately 50,000 square feet of capacity.

Ms. Gabry asked Ms. Holden if most of the current tenants are staying; she said yes.

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

Vice Chairman Neuer asked if any members of the public had any question for Ms. Holden.

Kevin Malanga approached the podium and stated that he lives at 57 Ridge Road.

Mr. Malanga asked Ms. Holden if they did a demographic study of incomes in West Orange; she said yes.

Mr. Malanga asked Ms. Holden what the study concluded; she said a middle to upper income community. Ms. Holden stated that the average income is over \$100,000.

Mr. Malanga asked Ms. Holden if they are proposing water features or greenspace; she said yes. Ms. Holden said that they will also be cutting back some of the store fronts and make the sidewalks wider.

Mr. Malanga asked Ms. Holden how many businesses there will be; she said that she will provide that information at the next meeting.

Sally Malanga approached the podium and stated that she lives at 57 Ridge Road.

Ms. Malanga asked Ms. Holden if they met with the residents of Eagle Ridge; she said no not yet but they are planning on meeting with them.

Ms. Malanga asked Ms. Holden if they are going to address making some sidewalks easier for pedestrian access; she said that they are proposing some crosswalks towards the hotel but some of the roads are town roads and they would have to look at the overall cost.

Ms. Malanga asked Ms. Holden how they are proposing to create greenspace by removing all of the trees on the site; she said that she will defer that question to their site engineer.

Michael Gorman approached the podium and stated that he lives at 212 Cerutti Court.

Mr. Gorman asked Ms. Holden if they can make it a sustainable shopping center; she said that sustainability is very important to Clarion and their clients. Ms. Holden said they are proposing LED lighting in the parking lot and are looking at other energy star efficiencies.

Mr. Gorman asked Ms. Holden if they are increasing the impervious coverage; she said yes.

Roz Moskowitz Bielski approached the podium and stated that she lives 11 Wedgewood Drive.

Ms. Bielski asked Ms. Holden if they are going to complete the sidewalks on Rooney Circle; she said that Rooney Circle is a town road and that they will work with the town.

Ms. Bielski asked Ms. Holden if they are also planning on working with the County of Essex regarding pedestrian safety on Prospect Avenue which is a county road.

Mr. Regan stated that the applicant also needs Essex County Planning Board approval and they have already submitted an application to them.

Vice Chairman Neuer stated that Essex County has jurisdiction over Prospect Avenue.

There were no further questions for Ms. Holden.

Mr. Regan called his next witness.

Michael Fowler, site engineer for the applicant, approached the podium and was sworn under oath.

Mr. Fowler detailed his background as a professional engineer licensed in the State of New Jersey and said that his license is current.

Vice Chairman Neuer accepted Mr. Fowler as an expert as a licensed professional engineer.

Mr. Regan asked Mr. Fowler if he was involved in preparing the site plans that were submitted; he replied yes.

Mr. Fowler presented the aerial map of the site dated 9/12/18 that was marked as Exhibit A-1 for identification.

Mr. Fowler referred to Exhibit A-1 and detailed the surrounding area, the site, the access points into the site and the circulation of the site. He also detailed the number of parking spaces on the site.

Mr. Fowler referred to the site plan that was submitted with the application that was dated 10/1/18 and stated that the applicant is proposing to add approximately 50,000 square feet to the site. He said that the impervious coverage will be slightly increased.

Mr. Fowler detailed the existing circulation on site and what is being proposed. He said that they are also proposing to reduce the parking spaces from 1,722 to 1,556.

Mr. Fowler detailed the existing signage and what is being proposed.

Mr. Fowler detailed where the on-site sidewalks and the loading docks are being proposed, and described the tractor trailer and fire truck circulation.

Mr. Fowler detailed the drainage plan and where the site drains are located. He said that all of the old corroded pipes are being replaced. Mr. Fowler said that they are also proposing to

relocate some of the catch basins.

Vice Chairman Neuer asked Mr. Fowler if any of the drainage will go to Eagle Ridge; he said no. Mr. Fowler said that the drainage from Eagle Ridge goes to Essex Green.

Mr. Regan asked Mr. Fowler if there are a number of easements across the site; he said yes. Mr. Fowler stated that they will have to re-configure at least some of the easements.

Mr. Fowler presented the Landscaping Plan dated 10/1/18 and detailed it. He said that they are proposing to remove most of the existing landscaping along with removing one hundred forty four (144) trees. Mr. Fowler said that some of the trees are in good condition but they are not big trees and they will be replacing them with one hundred seventy (170) trees. He stated that the Township Ordinance requires one hundred fifty six trees and in the end there will be two hundred forty nine (249) trees. Mr. Fowler detailed what types of trees, shrubs and ground covering they are proposing.

Mr. Fowler presented the Lighting Plan dated 10/1/18 and detailed it. He said all of the lights will be LED and some will be dimmed when needed.

Mr. Fowler presented the Phasing Plan dated 10/1/18 and detailed how and when the work will be phased. He said that access and parking will be done in Phase 1; construction of the building G will be done in Phase 2; modifications to buildings A and B will be done in Phase 3; construction of building H will be done in Phase 4; construction of building I will be done in Phase 5.

Vice Chairman Neuer called for a recess at 9:27 pm.

Vice Chairman Neuer resumed the meeting at 9:42 pm.

Mr. Eben asked Mr. Fowler if they will be putting some type of fence on top of the retaining wall; he said yes. Mr. Fowler said the fence will also provide screening.

Mr. Sussman asked Mr. Fowler to detail the parking deck; the witness said that the architect will provide more detail of the parking deck.

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

Michael Gorman approached the podium and stated that he lives at 212 Cerutti Court.

Mr. Gorman asked Mr. Fowler to detail the signage being proposed; the witness referred to the site plan and detailed what signs are being removed and the details and placement of the proposed signs.

Mr. Gorman asked Mr. Fowler if the applicant would consider leaving some of the parking spaces for commuter parking; the witness said there has been no discussion regarding that concept. Vice Chairman Neuer requested that such discussions be conducted.

Mr. Gorman asked Mr. Fowler if there are any plans to beautify the parking lot in the Shop Rite area; he said no.

Mr. Gorman asked Mr. Fowler if there has been any consideration to adding a walking path to the site for exercise; he said no.

Mr. Gorman asked Mr. Fowler how long construction will last; he said approximately one to two years.

Kevin Malanga approached the podium and stated that he lives at 57 Ridge Road.

Mr. Malanga asked Mr. Fowler if the Landscaping Plan shows the species of the existing trees; he said no.

Mr. Malanga asked Mr. Fowler how many trees were surveyed; he said all of the trees.

Mr. Malanga asked Mr. Fowler if the Township's tree protection ordinance requires that the species of trees must be shown on the plans; he said no.

Mr. Malanga asked Mr. Fowler what percent of trees are being preserved on the site; he said approximately 3/5 of the trees are being removed.

Mr. Malanga asked Mr. Fowler if he is aware that thirty (30) percent of the trees must remain according to the township ordinance; he said yes.

Mr. Malanga asked Mr. Fowler who determines what species of trees will be planted; he said the landscape architect.

Mr. Malanga asked Mr. Fowler if there are any plans for solar panels; he said no.

Mr. Malanga asked Mr. Fowler if they have any renderings of how the proposed 48-foot-tall sign will look from Route 280; he said no.

Sally Malanga approached the podium and stated that she lives at 57 Ridge Road.

Ms. Malanga asked Mr. Fowler if they would consider transplanting some of the trees; he said that they can discuss that.

Ms. Malanga asked Mr. Fowler what the size of the court yard will be; he said it will be close to what it is today.

Louis Dorf approached the podium and stated that he lives at 4 Hepworth Court.

Mr. Dorf asked Mr. Fowler if they are proposing four (4) signs on Prospect Avenue; he said yes.

Mr. Dorf asked Mr. Fowler if the proposed 48 foot sign would be half the size of a basketball court; he said yes.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road and asked Mr. Fowler what type of pedestrian access is being proposed from the Executive Drive office buildings and the Rooney Circle medical building to Essex Green; he said there are no sidewalks there so there is nothing to connect to but detailed how pedestrians can safely access the site from what is existing.

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

Mr. Ben Zvi asked Mr. Fowler how many ADA parking spaces are being proposed; he said forty four (44).

Mr. Ben Zvi asked Mr. Fowler to detail how the parking spaces are calculated; he complied.

There were no further questions from members of the public.

Mr. Fowler addressed the comments in the technical review letter submitted by Bowman Consulting dated 10/11/18. He said that they will comply with item numbers 3, 17, 20, 21, 25, 31 and 46.

Mr. Fowler said that Bowman requests a parking study and they will comply; Vice Chairman Neuer stated that they must have it submitted no later than ten (10) days before the next meeting.

Vice Chairman Neuer advised Mr. Fowler to have their Traffic Engineer meet with Mr. Keller to see what additional items may be required.

Mr. Fowler stated that NJDEP requirements will be addressed.

Mr. Fowler stated that the no-build designation in the parking lot in front of the Sears building will be removed.

Mr. Fowler said they will re-design the configuration of the main drive to Rooney Circle on the east side of building G.

Mr. Fowler stated that revised plans were submitted to address the re-configuration of the drive thru window at building H.

Mr. Fowler stated that they will make the area by the TGI Friday's an exit only.

Mr. Fowler stated that the handicap crossings for building A and building B will be moved further away from the intersection.

Mr. Fowler stated that the height of the retaining wall was addressed during testimony regarding the fence on top of the wall.

Vice Chairman Neuer stated that the Board would like to see a detail of the composition of the wall.

Mr. Fowler stated that they will provide testimony about the site visibility at the bend of Rooney Circle.

Mr. Fowler stated that they will comply with comment 4-F and 4-G.

Mr. Fowler stated that the architect will provide more detail of the parking deck being proposed.

Mr. Fowler stated that building H does not have any loading spaces.

Mr. Fowler stated that they will provide additional documentation clarifying the number of parking spaces.

Mr. Fowler stated that they will re-visit the tractor trailer access to building A.

Mr. Fowler stated that they will provide more detail for the Phasing Plan.

Mr. Fowler stated that they will comply with items 11 to 14.

Mr. Fowler stated that items 15 to 24 will be addressed by the architect.

Mr. Fowler stated that they will comply with some of the sustainability items.

Mr. Eben stated for the record that he does not think the waiver should be granted for item #31; Mr. Fowler stated that he will touch base with Mr. Keller on that issue.

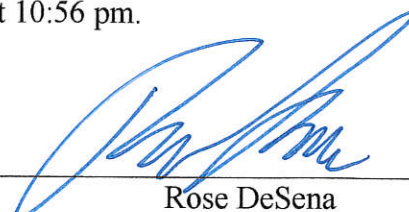
Mr. Fowler stated that they will comply with items #1, 4, 5 and 7 of the Township Fire Official's memo dated 9/11/18.

Mr. Regan noted what professionals will be testifying at the next meeting.

Vice Chairman Neuer stated that this application will be carried over to the next regular Zoning Board meeting to be held on November 15, 2018 and no further notice will be required.

The meeting was adjourned by Vice Chairman Neuer at 10:56 pm.

Adopted: December 20, 2018

 12/21/18  
\_\_\_\_\_  
Rose DeSena  
Zoning Board Secretary