

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
December 13, 2018**

The West Orange Zoning Board of Adjustment held a special meeting on December 13, 2018 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Vice 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."

Vice 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.

Vice Chairman Neuer asked everyone to stand for the Pledge of Allegiance.

PRESENT: J. Eben, D. Gabry P. Neuer, L. Phillips, B. Quentzel ,
I. Schwarzbaum, W. Steinhart

ABSENT: M. Straker (excused)
M. Sussman (excused)
A. Weiss (excused)

ALSO PRESENT: Paul Grygiel, Acting Planning Director for the Township
James Giurintano, Acting Consulting Engineer for the Township
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary
Harvey Grossman, Esq., Public Advocate
Samantha Schinman, Alternate Member Appointee Whose Term begins January 1, 2019

ANNOUNCEMENTS

Future Meetings: December 20, 2018 (regular meeting)
January 17, 2019 (regular meeting)

Vice Chairman Neuer stated for the record that Mr. Steinhart was not present at the October 18, 2018 regular meeting when the Essex Green, LLC application was last heard but has signed an affidavit certifying that he has listened to the audio of that meeting.

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-18-06/CLPF – Essex Green, LLC c/o Clarion Partners** Carried from 11/15/18
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.

A-2 - Rendering of the Essex Green Shopping Center dated 11/15/18.

Vice Chairman Neuer stated for the record that Bridget Lombardozzi, CSR, RMR, CRR, CLR will be the official transcriber for this application at this meeting.

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

Mr. Regan stated that Michael Fowler, site engineer, will present testimony at this meeting regarding the revisions made to the site plan.

Vice Chairman Neuer stated that the Board Secretary received a memo from the Township’s Environmental Commission. He said that this memo was not presented to the Board yet and has not been entered into evidence; it will be placed in the file for this application as is done with all other correspondence received.

Mr. Eben asked Vice Chairman Neuer why the Board Members did not receive a copy of the report from the Environmental Commission; Vice Chairman Neuer referred to the Zoning Board’s Rules of Procedure and stated that unless someone from the Commission testifies under oath to the contents of the report it is not entered into evidence and is simply placed in the applicant’s file.

Vice Chairman Neuer stated that the Environmental Commission is not a Township department.

Ms. Beirne agreed with Vice Chairman Neuer’s explanation and stated that it is a matter of admissibility and authentication of evidence.

Michael Fowler, site engineer, approached the podium.

Vice Chairman Neuer stated that Mr. Fowler was sworn in at the last meeting and will continue under oath.

Mr. Fowler stated that he would like to address some of the changes that resulted from the first hearing and presented the revised site plan dated November 2, 2018.

Mr. Fowler referred to the revised site plan and detailed all of the revisions. He stated that Bowman Consulting had comments regarding the circulation in the vicinity of building G so the applicant eliminated a few parking spaces, made the islands a little bigger and created some stacking areas which added additional green space.

Mr. Fowler stated that they revised the grading on the driveway connecting the upper to the lower level which recovered the site distance and preserved most of the parking they wanted to put there.

Mr. Fowler said that they also recounted some of the square footage on the site which added up to 9,000 additional square feet; this was based on some of the basements and tunnels.

Mr. Fowler stated that because of some of the revisions they lost fourteen (14) parking spaces. He said they are proposing one thousand five hundred forty two (1,542) parking spaces and two thousand two hundred seventy three (2,273) are required by ordinance.

Mr. Fowler said they are also adding a sidewalk from Rooney Circle, across from the LA Fitness Center, down towards the Heart Center building. He said this was done at the request of either the Board or the public.

Mr. Fowler stated that they met with the Township Forester and some members of the Environmental Commission on October 26th for approximately three (3) hours. He said that they walked the entire site and reviewed every tree on the site. He said they will be preserving a few additional trees and transplanting a few trees. Mr. Fowler said that they are also proposing to replace some of the dead trees down by the ShopRite parking lot which is outside of the work area. He said they will also be adding some trees along Rooney Circle.

Mr. Schwarzbaum asked Mr. Fowler if there will be stairs going up the elevated parking where the retaining wall will be; he said yes.

Mr. Eben asked Mr. Fowler how high the retaining wall will be; he said nine and one half (9 1/2) feet.

Mr. Eben asked Mr. Fowler if they will be putting a fence on top of the retaining wall; he said yes.

Mr. Eben asked Mr. Fowler what type of fence; he said he was not sure but it will be a decorative fence.

Mr. Eben asked Mr. Fowler if they prepared a parking chart; he said no, that he does not recall being asked to prepare a parking chart. Mr. Fowler stated they prepared a chart of the building square footage that was included on the revised site plan.

Mr. Eben asked Mr. Fowler if the parking areas will be paved or will they be using something that will allow water to permeate into the ground; he said the parking areas will be paved.

Mr. Eben asked Mr. Fowler where the trees are going to be planted; he said everywhere there is green space.

Mr. Grygiel stated that the applicant requested a variance for the thirteen (13) foot wall but not the nine and one half (9 ½) foot wall; he said they are going to need a variance for that wall also.

Mr. Regan asked to amend the application to request variances for the two retaining walls; Vice Chairman Neuer granted the amendment.

Mr. Schwarzbaum asked Mr. Fowler how many parking spaces are in the ShopRite parking lot; he said five hundred fifteen (515).

Mr. Giurintano referred to the Bowman letter dated November 12, 2018 and asked Mr. Fowler if they had information about the no-build area for the lease that Bowman had requested; he said that the applicant is still in negotiations with AMC theaters and the no-build area is subject to an amendment to that lease. Mr. Fowler said the AMC lease will terminate at the end of 2021 but they expect that the new lease will allow the change of the parameters of the no-build zone.

Mr. Giurintano asked Mr. Fowler if the applicant will be able to address all of the comments in the Bowman letter dated 11/12/18 regarding the site plan; he said yes.

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

Vice Chairman Neuer asked if there were any members of the public that have any questions for Mr. Fowler.

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

Mr. Malanga asked Mr. Fowler if he reviewed the sustainability check list; he said yes.

Mr. Malanga asked Mr. Fowler if there were any storm water sustainability elements being proposed; he said that they will meet the Township ordinance requirements and the State regulations.

Mr. Malanga asked Mr. Fowler if the State regulations are today's regulations or as of when Essex Green was built; he said they are today's regulations.

Mr. Malanga asked Mr. Fowler if there were any plans for green roofs, bioswales or rain gardens; he said not to his knowledge.

In further response to Mr. Malanga, Mr. Fowler went over the sustainability check list and detailed what items they are proposing and what items they are not proposing to use.

Mr. Malanga asked Mr. Fowler if he was proposing to submit a revised plan for the proposed stairs in the new parking area; he said yes.

Jerry Guarino approached the podium and stated that he is a member and chair of the Pedestrian Safety Advisory Board. He asked Mr. Fowler how they are going to incorporate the West Orange Complete Streets requirements into the proposal; Mr. Fowler detailed on the site plan where numerous sidewalks being proposed.

Mr. Guarino asked Mr. Fowler how much of the sidewalk areas will be ADA accessible; he said most of them will be.

Mr. Guarino asked Mr. Fowler if they could meet with the Pedestrian Safety Advisory Board to review and discuss any recommendations that this Board believes are deficient in the proposal; Mr. Regan responded yes and said that they will provide that Board with a set of the plans.

Joyce Rudin approached the podium and stated that she lives at 38 Woodland Avenue.

Ms. Rudin asked Mr. Fowler if the project provides any upgrades with LED lighting; he said yes.

Ms. Rudin asked Mr. Fowler the percentage of lighting efficiency that will improve on the site; he said that he would have to look into that and will provide that information at the next meeting.

Ms. Rudin asked Mr. Fowler how many of the parking spaces will have electric vehicle chargers; he said they are not proposing any at the moment but Clarion is considering it.

Ms. Rudin asked Mr. Fowler if there are any plans for using smart irrigation controls; he said that has not been determined yet.

Ms. Rudin asked Mr. Fowler how much green space was increased since the original proposal; he said a net of .04 acres more of green space.

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

Ms. Malanga asked Mr. Fowler which islands on the site were made bigger; he referred to the site plan and detailed which islands were made bigger stating that they are the ones primarily to the east of the proposed Building G.

Ms. Malanga referred to one of the drive-through's and asked Mr. Fowler to describe what "stacking" means; he said it is a car coming to a stop behind other cars.

Ms. Malanga asked Mr. Fowler if all of the changes discussed with the Township Forester were implemented on the revised plans; he said yes.

Ms. Malanga asked Mr. Fowler where the water goes when it rains; he said the water from Essex Green goes down the slope in the back to the office buildings and into their pond and to the Cambria Hotel property that flows into an open channel. Mr. Fowler reiterated that they will be in compliance with the State and local ordinances regarding storm water.

Vice Chairman Neuer called for a recess at 9:23 pm.

Vice Chairman Neuer resumed the meeting at 9:33 pm.

Jeremy Edwards approached the podium and stated that he lives on Ridge Road.

Mr. Edwards asked Mr. Fowler if they are proposing additional benches or utilizing the green space in a way that benefits the bus stop; he said no.

Michael Dannemiller approached the podium and stated that he lives at 10 Greenwood Avenue.

Mr. Dannemiller asked Mr. Fowler if they are proposing pedestrian connections beyond the site to any adjacent neighborhoods.

Vice Chairman Neuer stated that this would be considered off-tract improvement and it is not the applicant's obligation to improve the entire area.

Rosary Morelli approached the podium and stated that she lives on Ralph Road.

Ms. Morelli asked Mr. Fowler to detail how someone would get to the shopping center from the Cambria hotel; he referred to the site plan and detailed the movements.

Ms. Morelli asked Mr. Fowler how many handicap parking spaces are being proposed; he said they are proposing forty four (44) and only thirty eight (38) are required by the ADA.

Loren Svetvilas approached the podium and stated that he lives on Prospect Avenue.

Mr. Svetvilas asked Mr. Fowler if the Clarion Partners' corporate responsibility report was ever introduced at any of their meetings with the owners; he said no, not in his presence.

Mr. Svetvilas asked Vice Chairman Neuer if he can submit the Clarion Partners' corporate responsibility report to the Board Members; Vice Chairman Neuer stated that he can submit it and it will be placed into the application file because it is not evidentiary.

Mr. Svetvilas stated that he would like the Board Members to review it; Vice Chairman Neuer stated that any Board Member who wishes to see whatever is in the file has access to it.

Mr. Svetvilas asked Mr. Fowler if he is familiar with the United States Green Building Council;

he said yes they oversee the LEED program.

Mr. Svetvilas asked Mr. Fowler if he was asked to look at the LEED checklist with regards to sustainability for this project; he said no that they did not follow any of the LEED checklist.

Roz Moskovitz approached the podium and stated that she lives on Wedgewood Road.

Ms. Moskovitz asked Mr. Fowler if anyone has spoken to the Essex County Engineer in regards to providing safety upgrades for people crossing Prospect Avenue; he said no.

Mr. Regan stated for the record that the applicant has submitted an application to the Essex County Planning Board and has not heard back from them as of date.

Ms. Moskovitz asked Mr. Fowler if they considered putting a bike lane on Rooney Circle; he said no that is a public road and is not under their control.

There were no further questions for Mr. Fowler.

Mr. Regan called his next witness.

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

Vice Chairman Neuer accepted Mr. Szura as an expert in landscape architecture.

Mr. Szura presented a rendering of the Essex Green Shopping Center dated 11/15/18 that was marked as Exhibit A-2 for identification.

Mr. Szura referred to Exhibit A-2 and detailed what plants and trees they are proposing. He stated that there will be one hundred fifty two (152) shade trees; twenty five (25) ornamental trees; seventeen (17) evergreen trees; five hundred ninety (590) deciduous shrubs, over fourteen hundred (1,400) ground cover plants and over forty one hundred (4,100) perennials and grasses.

Mr. Szura detailed the original proposal which was removing one hundred forty four (144) trees and replacing them with one hundred seventy (170) new trees. He said they originally proposed one hundred fifty one (151) trees to remain and zero transplants.

Mr. Szura then detailed the new proposal which is removing one hundred forty eight (148) trees and adding one hundred ninety four (194) trees. He said that one hundred fifty four (154) trees will remain and eight (8) trees will be transplanted on the site.

Mr. Szura referred to Exhibit A-2 and detailed the landscaping plan being proposed.

Ms. Phillips asked Mr. Szura what will happened to the trees that they are proposing to remove; he said they will be chipped and recycled.

Mr. Eben asked Mr. Szura what happens if the transplanted tree dies; he said that they will be replaced.

Mr. Eben asked Mr. Szura if there is enough room for the trees roots to grow in the proposed aisles; he said yes.

Mr. Eben asked Mr. Szura if they were proposing to remove the Juniper hedges that run along Prospect Avenue; he said no.

Mr. Steinhart asked Mr. Szura if there were any standards for transplanting trees; he said that they apply the standards of the American Association of Nurserymen specifications.

Mr. Schwarzbaum asked Mr. Szura the width of the evergreen trees are they are proposing to plant; he said they are sold based on height and not width. Mr. Szura said they are proposing Norway spruce trees which are six (6) to seven (7) feet tall with a base of five (5) to six (6) feet in width.

Mr. Schwarzbaum asked Mr. Szura if the trees in the aisles will block the view of someone trying to find a parking space; he said no.

Mr. Grygiel asked Mr. Szura if the shrubbery being proposed along the southern part of Rooney Circle is sufficient for screening the rear of Building G from Rooney Circle; he said yes.

Mr. Giurintano asked Mr. Szura if they took into account a tractor trailer taking out a tree that was added at the end cap island of the delivery vehicle access routes; he said yes. Mr. Szura said the way the site is configured it allowed them to get trees into the islands and not be in jeopardy of turning movements of the trucks.

Mr. Giurintano asked Mr. Regan if he will be updating his tree removal permit from one hundred forty four (144) trees to one hundred forty eight (148) trees; he said yes.

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

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

Gary Van Wyk approached the podium and stated that he lives at 71 Burnett Terrace.

Mr. Van Wyk asked Mr. Szura if it would be possible to save and transplant more of the mature trees on the site; he said no. Mr. Szura said that the number of trees being saved was determined by the Township Forester.

Mr. Van Wyk asked Mr. Szura if any of the trees are designed for people to sit under them; he said no. Mr. Szura said the areas for pedestrians and seating areas among the trees has not been designed yet and will come at a later date. He said that is something that the building architect

can speak about.

Mr. Van Wyk asked Mr. Szura if, in his opinion, there are any other ways to create more greenspace in the shopping center making it more attractive; he said no. Mr. Szura said he is confident that the design being proposed will make the site much more attractive than it is today.

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

Mr. Malanga asked Mr. Szura what criteria he uses for choosing the plants for this project; he said that they refer to the Township ordinance and use their professional judgement and training based on the architectural effects that they are looking for based on the seasons of the year.

Mr. Malanga asked Mr. Szura if they consider the plants they choose as a food source or a habitat for the birds and bees; he said that the plants that they have chosen have fruit and seeds and will provide some level of habitat and a food source.

Mr. Malanga asked Mr. Szura if there are any plans for green walls at the site; he said no.

Mr. Malanga asked Mr. Szura what time of the year they will be transplanting the trees; he said during a period when they are dormant.

Vice Chairman Neuer noted the time was 10:58 pm and the Zoning Board meetings end promptly at 11:00 pm.

Vice Chairman Neuer stated for the record that this application will be carried over to the next Zoning Board meeting to be held on 12/20/18 and no further notice will be required.

Vice Chairman Neuer stated that they will continue with Mr. Szura who will be available for questions from the public and the Board.

The meeting was adjourned by at 11:03 pm.

Adopted: December 20, 2018

 12/20/18

Rose DeSena
Zoning Board Secretary