

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
December 20, 2018**

The West Orange Zoning Board of Adjustment held a regular meeting on December 20, 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 J 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, M. Straker, M. Sussman
A. Weiss

ABSENT: None

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

ANNOUNCEMENTS

Future Meetings: January 17, 2019 (regular meeting)
February 21, 2019 (regular meeting)
March 21, 2019 (regular meeting)

Vice Chairman Neuer stated that application **ZB-17-11/Youssef, Inc**, that was scheduled to be heard at this meeting, has requested to be carried over and adjourned to the Zoning Board meeting scheduled for January 17, 2019 at 8:00 pm and no further notice will be required.

Vice Chairman Neuer also stated that 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 January 17, 2019 at 8:00 pm and no further notice will be required.

MINUTES

October 18, 2018 (regular meeting)

Vice Chairman Neuer stated that the draft minutes from the October 18, 2018 regular meeting were circulated to all of the Board Members.

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

Mr. Eben made a motion to adopt the minutes from the October 18, 2018 regular meeting as amended; Ms. Gabry seconded the motion and all were in favor.

It was noted for the record that Dr. Straker and Mr. Steinhart were present but did not vote on these minutes because they were not in attendance at the October 28, 2018 meeting.

December 13, 2018 (special meeting)

Vice Chairman Neuer stated that the draft minutes from the December 13, 2018 special meeting were circulated to all of the Board Members.

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

Mr. Schwarzbaum made a motion to adopt the minutes from the December 13, 2018 special meeting as amended; Ms. Gabry seconded the motion and all were in favor.

It was noted for the record that Dr. Straker, Mr. Sussman and Ms. Weiss were present but did not vote on these minutes because they were not in attendance at the December 13, 2018 special 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-18-07/Lassiter

Block: 173.10; Lot: 5.07; Zone: R-5

24 Westover Terrace

Seeking a "c" variances for front and side yard setbacks for an addition to an existing 1 ½ story home

Cecelia Lassiter, applicant, and Peter Ricci, architect for the applicant approached the podium and were sworn under oath.

Ms. Lassiter stated that they would like to add an addition to their existing home that would enlarge the dining room and make a bedroom and a closet on the second floor larger. She said that they would also would like to convert the driveway into a garage.

Mr. Ricci detailed his professional and educational background as an architect licensed in the State of New Jersey; Vice Chairman Neuer accepted Mr. Ricci as an expert in architecture.

Mr. Ricci stated that his client owns a one and a half story single family house. He said that they are proposing to add a single car garage and an addition to enlarge the dining room and one of the smaller bedrooms and a closet on the second floor. Mr. Ricci said that the additions would be behind the garage.

Mr. Ricci presented sheet A-1 of the site plan dated 10/11/18 and detailed the existing floor plan and what is being proposed. He said that the impervious coverage will be slightly increased from the garage.

Vice Chairman Neuer asked Mr. Ricci if he is also a Professional Planner; he replied yes.

Mr. Ricci detailed his educational and professional background as a Professional Planner licensed in the State of New Jersey; Vice Chairman Neuer accepted Mr. Ricci as an expert in professional planning.

Mr. Ricci stated that the property is an undersized lot and, according to the Township Ordinance as to what is required, this proposal requires a variance for the front and side yard.

Mr. Ricci stated that they are also proposing a slight retaining wall approximately two (2) to three (3) feet high along with a brick paver walkway.

Mr. Ricci presented sheet A-2 of the floor plan of the second floor of the house dated 10/11/18. He referred to the floor plan and detailed what is existing and what is being proposed.

Mr. Ricci presented sheet A-3 of the front exterior of the house, dated 10/11/18, and detailed what is existing and what is being proposed. He said that they will match all of the existing materials of the house.

Mr. Ricci presented sheet A-4 of the rear exterior of the house, dated 10/11/18, and detailed what is existing and what is being proposed. Sheets A-1 through A-4 were prepared by or under the supervision and control of Mr. Ricci. These documents are part of the Application presented to the Board, are part of the formal record and were not separately marked as Exhibits.

Mr. Ricci detailed the positive and negative criteria, stating that the property is a very small lot.

Ms. Weiss asked Ms. Lassiter if she spoke to the neighbor facing the proposed garage about what they would like to do; she said yes and that they are here at the meeting to speak in favor of the application.

Mr. Quentzel asked Mr. Ricci if they are proposing any landscaping; he said yes after the construction is done.

Ms. Gabry asked Mr. Ricci how close the house next door is to the work being proposed; he said he stated that the distance was sufficient so that the garage would not impact that neighbor.

Mr. Schwarzbach asked Mr. Ricci if they are re-locating the air conditioner unit; he said yes. Mr. Ricci said the air conditioner unit will be relocated to the rear of the house.

Mr. Quentzel asked Mr. Ricci what size vehicle can fit in the garage; he said a mid-size vehicle.

Mr. Grygiel asked Mr. Ricci if the walkway being proposed will be less than three (3) feet; he said yes.

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

Vice Chairman Neuer asked if any members of the public had any questions for Mr. Ricci or Ms. Lassiter.

Claire Thigpen approached the podium and stated that she live at 20 Westover Terrace.

Ms. Thigpen asked Mr. Ricci if there was an emergency could someone pass through the proposed walkway going to the rear of the house; he said yes. Mr. Ricci said it would be a tight fit on the walkway but there are two ways go get to the rear of the house; from the proposed walkway or the other side of the house.

Ms. Thigpen asked Mr. Ricci if they would be able to do maintenance on that side of the house where the walkway is being proposed; he said there is adequate room for someone to do maintenance on that side of the house.

Ms. Thigpen asked Mr. Ricci how long the proposed walkway is; he said thirty five (35) feet.

There were no further questions from members of the public.

Mr. Ricci summed up and stated that what is being proposed will have no detriment to the zone plan or the zoning ordinance and will be beneficial to the neighborhood.

Mr. Ricci asked that the Members of the Board approve the application.

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

Claire Thigpen approached the podium and was sworn under oath.

Ms. Thigpen stated that she lives at 20 Westover Terrace and said that she disagrees with a statement that was made; she said that one third of the homes in the neighborhood have garages in the back of their homes and that two thirds do not have garages.

Ms. Thigpen said she is also concerned about losing off-street parking because they can only fit one car in the driveway now.

Ms. Thigpen said that she is concerned with the project causing erosion because there is currently a problem on her property when it rains.

Vice Chairman Neuer advised Ms. Thigpen that they are not building the addition on her property and they are not increasing the pervious coverage.

Mr. Grygiel stated for the record that he would like to clarify a comment that was made. He said that there will still be twenty five (25) feet of adequate space in the driveway in front of the proposed garage.

Virginia and Daniel Klimek approached the podium and were sworn under oath.

Mr. & Mrs. Klimek stated that they live at 25 Crestmont Road and said that they do not have any objection to what is being proposed.

Mr. Schwarzbaum asked Mr. Klimek if they have any water issues on their property; he said no.

Thomas Phon approached the podium and was sworn under oath.

Mr. Phon stated that he lives at 21 Crestmont Road and has no objection to what is being proposed.

There were no further comments.

Vice Chairman Neuer declared the hearing closed and made a motion to approve the application with the condition that the finish of the garage must match the home; Ms. Gabry seconded the motion to approve the application.

The vote was as follows:

Eben:	Yes	Steinhart:	Yes
Gabry:	Yes	Straker:	-
Phillips	-	Sussman:	Yes
Quentzel:	Yes	Weiss:	-
Schwarzbaum:	Yes	Vice Chairman Neuer:	Yes

DISCUSSION

Vice Chairman Neuer stated that an application, on the behalf of Facey/ZB-18-05, came before this Board requesting an amendment to a resolution.

Vice Chairman Neuer stated that the applicants were approved for a variance with conditions in 2017. He said that the condition in question pertains to spot lights over a sliding glass door in the rear of the house and another one over a porch.

Vice Chairman Neuer said that the condition was that the light emanating from the spot lights must point in a downward direction so that the lights do not shine towards their neighbor's house located at 19 Jones Place, West Orange.

Vice Chairman Neuer stated that the applicant and the neighbor at 19 Jones Place appeared before the Municipal Court. He said that the Municipal Judge overseeing this is now requesting that the Zoning Board determine if the condition was met.

Vice Chairman Neuer stated that this matter is beyond the jurisdiction of the Zoning Board because they do not engage in enforcement; he said that this is left up to the Township's Zoning Official and the Court.

Vice Chairman Neuer stated that the Zoning Official issued notices of violation and that is what was presented to the Municipal Court; he said it is up to that body to determine if the condition was met or violated.

Mr. Kantowitz, attorney for the neighbor, objected to the process whereby the Municipal Judge asked the Zoning Board make this determination.

Vice Chairman Neuer stated that in an effort to resolve this matter, the former Chairman of the Zoning Board asked the Board Members to visit the property at night time to determine if the condition was met.

Vice Chairman Neuer stated that Board Member Sussman, visited the property and determined that the condition was satisfied. He said that he and former Chairman Buechler visited the property and determined that the condition had not been satisfied.

Vice Chairman Neuer said as a result of further discussion, the Board permitted Board Member Schwarzbaum to visit the site to determine if the bulbs protruded below the shields that were installed on the spot lights.

Vice Chairman Neuer stated that it is the Board's belief that this suggestion was erroneous and that the original condition did not relate to the configuration of the shields but only to whether the lights shined towards the neighbor's house.

Vice Chairman Neuer stated that although a resolution memorializing the results of ZB-18-05 at the July 19, 2018 Zoning Board meeting has not yet been adopted, he said that on that night this Board voted to deny the application without prejudice and that motion was passed.

Vice Chairman Neuer recommended to the Board that no further action be taken on this application other than requesting that the Board Attorney prepare a resolution that reflects the denial of the application ZB-18-05 without prejudice.

There was some discussion amongst the Board Members.

Vice Chairman Neuer made a motion to deny without prejudice application ZB-18-05 requesting to have a condition removed from the original resolution of approval; Ms. Weiss seconded the motion.

The vote was as follows:

Eben:	-	Steinhart:	Yes to deny
Gabry:	-	Straker:	-
Phillips	-	Sussman:	No to deny
Quentzel:	Yes to deny	Weiss:	Yes to deny
Schwarzbaum:	No to deny	Vice Chairman Neuer:	Yes to deny

Vice Chairman Neuer stated that original resolution stands.

2. ZB-18-06/CLPF – Essex Green, LLC

Carried from 12/13/18

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

A-3 – Tree Quantity Analysis dated 12/20/18

A-4 – Site Demolition Plan showing where the trees will be transplanted dated 12/20/18

O-1 – Photos taken by Linda Stiles dated 10/26/18

O-2 – Photos taken by Linda Stiles dated 10/26/18

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

Vice Chairman Neuer stated that at the last meeting the applicant’s landscape architect, Mr. Szura., had finished with his testimony and that when the meeting ended Mr. Szura was in the process of answering questions from members of the public.

Vice Chairman Neuer said that Mr. Szura will continue where he left off.

Mr. Regan said that one statement Mr. Szura made at the last meeting regarding the total number of trees was incorrect. He said that Mr. Szura reviewed his calculations of what trees were existing on the site and what trees will be on site after construction and created a new table.

Mr. Regan asked Mr. Szura to approach.

Vice Chairman Neuer stated for the record that Ms. Weiss, Dr. Straker and Mr. Steinhart have signed affidavits stating that they have listened to the audio or read the transcripts of the meetings for this application that they did not attend so therefore they are eligible to vote on this application.

Vice Chairman Neuer stated that Mr. Szura will continue under oath.

Mr. Szura presented a Tree Quantity Analysis dated 12/20/18 that was marked as Exhibit A-3 for identification.

Mr. Szura referred to Exhibit A-3 and detailed what is existing and what is being proposed; he said that the total number of trees on site will be three hundred sixty-four (364) when the project is constructed.

Mr. Eben stated that at the last meeting he spoke about “pinching” of the curbs at different locations; he said the he prepared his own drawings and got rid of some of the parking and got rid of the “pinches” and it added about fifty (50) or sixty (60) trees/bushes to the site.

Mr. Eben asked Mr. Regan if they could take his drawings and come up with more trees than their chart shows.

Vice Chairman Neuer advised Mr. Eben that his drawing should not be circulated because it is up to the applicant to prepare their own plans. He said they understand his concept that eliminating more parking spaces will add more green to the site.

Vice Chairman Neuer asked Mr. Regan if he would like to move Exhibit A-3 into evidence; he replied yes.

Mr. Schwarzbaum asked Mr. Szura if the five hundred four (504) trees that he testified to at the last meeting is now three hundred ten (310); he said yes that he double counted one group of existing trees.

Mr. Giurintano stated that there are actually three hundred eighteen trees existing on the site; Mr. Szura said yes that is what he is testifying to today.

Mr. Giurintano asked Mr. Szura the average size of the trees being removed; he said they within the four (4) to seven (7) inch range. Mr. Szura said they are considered "middle age" trees.

Mr. Grossman asked Mr. Szura the size of the trees that are planted on the islands; he said they are from four (4) to seven (7) inches.

Mr. Grossman asked Mr. Szura whether there two (2) trees per island; he said typically, yes.

Mr. Grossman asked Mr. Szura how tall the trees will be at maturity; he said four (4) to seven (7) feet.

Mr. Grossman asked Mr. Szura if the islands were enlarged could they plant more trees on it; he said yes.

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

Linda Stiles approached the podium and stated that she lives on Jones Place.

Ms. Stiles referred to the site demolition plan, drawing CD101 of the submittal set, that shows what trees will be removed and asked Mr. Szura to explain why certain trees along with the islands in front of the existing row of buildings which face Prospect Avenue had to be removed; he explained why they had to be removed.

Ms. Stiles asked Mr. Szura to describe the size and species of some of the replacement trees be; he noted the species and height of some of the replacement trees that were in question.

Ms. Stiles asked Mr. Szura if he prepared an itemized plan showing the species and sizes of the replacement trees; he said no.

Ms. Stiles stated that she thinks the Township's tree ordinance requires that this plan should have been presented to the Township Forester before this meeting.

Vice Chairman Neuer stated that it is up to the Township Forester, upon receipt of the tree removal application, to determine if there is enough information in the application to issue the tree removal permit. He said that it is not up to this Board to determine the height and caliper of the trees.

Ms. Stiles presented photos that she took on 10/26/18 of trees on the site.

Vice Chairman Neuer asked Ms. Stiles if the photos taken by her accurately depict the existing conditions of the site on that day; she replied yes.

The photos taken by Ms. Stiles on 10/26/18 were marked as Exhibit's O-1 and O-2 for identification only.

Ms. Stiles asked Mr. Szura to depict on Exhibit A-2 of the site plan the location of the trees in her photos; he complied.

Ms. Stiles asked Mr. Szura if their plan is in compliance with the steep slope ordinance; he said that they are in compliance.

Ms. Stiles asked Mr. Szura to describe the locations where the trees will be transplanted.

Mr. Szura presented an overlay of the site demolition plan, dated 12/20/18, showing where the trees will be transplanted; that plan was marked as Exhibit A-4 for identification.

Mr. Szura referred to Exhibit A-4 and detailed proposed locations of the transplanted trees.

Vice Chairman Neuer asked Mr. Szura to have Exhibit A-4 color-coded for the next meeting.

Michael Brick approached the podium and stated that he lives at 19 Colony Drive West.

Mr. Brick asked Mr. Szura if they use the EPA guidelines for the landscape work; he said that they do when it is required or requested.

Mr. Brick asked Mr. Szura if they keep the same size islands will the tree growth be stunted; he said no.

Mr. Brick asked Mr. Szura if the islands should be bigger so that they could have healthier and larger trees; he said that the trees will be the same size.

Mr. Brick asked Mr. Szura why they are proposing deciduous trees and not evergreens in the islands; he said because evergreens will block lines of sight of drivers.

Mr. Brick asked Mr. Szura if evergreen trees have ever been used in a parking lot; he said yes.

Mr. Brick asked Mr. Szura if they considered putting upright evergreens in the parking lot; he said no.

Mr. Brick asked Mr. Szura if they will consider putting upright evergreens in the parking lot; he said no. Mr. Szura said that it is his opinion that they would never use an evergreen in an island because of the negative impacts on visibility.

Mr. Brick asked Mr. Szura why a healthy tree must be removed because of the grading of the site; he said they base it on viability.

Mr. Brick asked Mr. Szura if he feels a twenty (20) to thirty (30) foot tree would be better for the environment in the parking lot; he said it depends on the species of the tree.

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

Mr. Svetvilas asked Mr. Szura if he feels that more of the best practices, in regards to sustainability, should be included in the plans; he said that they are consultants that develop designs based on the goals of their clients that are in compliance with the ordinances of the towns where they work.

Mr. Svetvilas asked Mr. Szura if he has designed parking lots the same size as this one; he said yes.

Mr. Svetvilas asked Mr. Szura if he is familiar with EPA standards for parking lot designs; he said yes.

Mr. Svetvilas asked Mr. Szura if he was part of the team design discussions; he said yes.

Mr. Svetvilas asked Mr. Szura if he was asked about irrigation during these discussions; he said not specifically.

Mr. Svetvilas asked Mr. Szura if rooftop gardens are being proposed; he said no. Mr. Szura said that there is significant greenspace on the site.

Mr. Svetvilas asked Mr. Szura if this plan will reduce pollution; he stated that all he can say is that they are adding more trees to the site.

Mr. Svetvilas questioned what happens when the trees that are planted either die or “disappear”.

Vice Chairman Neuer reiterated what was said at the last meeting and said that the Board will require a five (5) year maintenance bond for the trees if this application is approved.

Mr. Svetvilas asked Mr. Szura if they would be open to receiving a list of the NJ species of “pollinator” plants to review; he said yes.

Mr. Eben stated that, in response to one of the questions by a member of the public earlier, it is

his opinion that many of the healthy trees are going to be destroyed due to the reconfiguration of the parking lot; he said that if they had larger islands the trees could be a little taller.

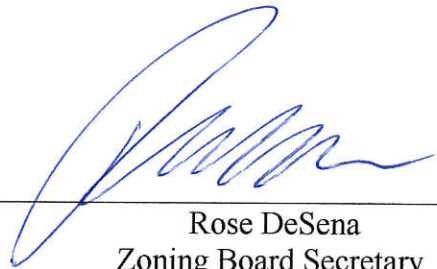
Mr. Eben asked Mr. Regan if the applicant would consider bigger islands and less parking spaces; he said he is not sure if the applicant is prepared to do that because parking is a significant issue.

Vice Chairman Neuer noted the time and stated that this application will be carried over to the next regular Zoning Board meeting to be held on January 17, 2019 and no further notice will be required.

Vice Chairman Neuer stated that Mr. Szura will return at that time to continue answering questions.

The meeting was adjourned by at 10:58 pm.

Adopted: January 17, 2019



Rose DeSena
Zoning Board Secretary