

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
January 17, 2019**

The West Orange Zoning Board of Adjustment held a regular meeting on January 17, 2019 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, J. Redwine,
W. Steinhart, M. Sussman, A. Weiss

ABSENT: B. Quentzel (excused)
I. Schwarzbaum (excused)
M. Straker (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: January 31, 2019 (special meeting)
February 21, 2019 (regular meeting)
March 21, 2019 (regular meeting)
April 11, 2019 (regular meeting)

Vice Chairman Neuer also stated that regarding application **ZB-18-02/Rosario**, that was scheduled to be heard at this meeting, the applicant has requested to be carried over and adjourned to the Zoning Board meeting scheduled for March 21, 2019 at 8:00 pm. The request was granted and no further notice will be required.

REORGANIZATION

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

Vice Chairman Neuer asked for a nomination for Zoning Board Chair.

Ms. Weiss nominated Vice Chairman Neuer for Chairman; there were no other nominations for Chairman.

The vote was all to one.

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

All were in favor; none were opposed.

Chairman Neuer nominated Ms. DeSena for Zoning Board Secretary;

All were in favor; none were opposed.

Chairman Neuer nominated Ms. Beirne for Zoning Board Attorney.

The vote was all to one.

Chairman Neuer stated that Vice Chairman Schwarzbaum will serve as the Zoning Board representative on the Site Plan Review Advisory Board and he will serve as the alternate representative.

MINUTES

December 20, 2018 (regular meeting)

Chairman Neuer stated that the draft minutes from the December 20, 2018 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 20, 2018 regular meeting; Ms. Gabry seconded the motion and all were in favor.

SWEARING IN

Ms. Beirne swore in Jonathan Redwine as the new regular Zoning Board Member appointed by Councilwoman Matute-Brown and Mark Sussman as alternate Zoning Board Member #3 appointed by Mayor Parisi.

Ms. Beirne also swore in Paul Grygiel, acting Planning Director for the Township and Eric Keller, Consulting Engineer for the Township for all applications to be heard at this meeting.

RESOLUTIONS:

1. ZB-18-07/Lassiter

Approved 12/20/18

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.

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

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

Ms. Gabry made a motion to adopt the resolution as submitted and Mr. Steinhart seconded the motion.

The vote was as follows:

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

2. ZB-18-05/Facey**Denied w/o Prejudice 12/20/18**

Block: 85.03; Lot: 8 & 10; Zone: R-5

233 Mt. Pleasant Avenue

Applicant is requesting an amendment to the resolution of approval to amend a condition related to exterior lighting at the rear of the house.

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

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

Ms. Steinhart made a motion to adopt the resolution as submitted and Chairman Neuer seconded the motion.

The vote was as follows:

Eben	-	Steinhart:	Yes
Gabry:	-	Straker:	-
Phillips	-	Sussman:	No
Quentzel	-	Weiss:	Yes
Redwine	-	Chairman Neuer:	Yes
Schwarzbaum	-		

APPLICATIONS**1. ZB-18-08/B’Nai Shalom**

Block: 152.23; Lot: 1434; Zone: R-5

300 Pleasant Valley Way

Seeking use variance, “c” variance and amended site plan approvals to permit a childcare center in an existing synagogue

Andrew Kohut, Esq., attorney for the applicant, approached the podium and detailed the application. He stated that his client is seeking amended site plan approval and a use variance to permit a daycare to operate in the existing synagogue.

Mr. Kohut stated that they are seeking a variance for the height of the fence and a parking variance; he said that their traffic expert will testify along with the owner of the child care center.

Mr. Kohut called his first witness.

Angelo Nevado Nevado approached the podium and was sworn under oath.

Mr. Nevado stated that he is the owner and director of a child care center that he runs out of his

home for eight (8) children. He said that he is licensed in child care with the State and detailed his background in the child care profession.

Mr. Nevado stated that he would like to rent space at the B'Nai Shalom Synagogue for his day care center for eighty (80) children ages infant to five (5) years old.

Mr. Nevado stated that the center would be open Monday to Friday from 7am to 7 pm and will be closed for religious and federal holidays.

Mr. Nevado stated that there will be between twenty (20) to twenty five (25) employees at the center with four (4) head teachers.

Mr. Nevado presented sheet A-1 of the proposed day care plan that was submitted with the application package and detailed it. He said that the existing playground currently holds twenty (20) children in that space and that they are proposing to install a six (6) foot high chain link fence for additional privacy.

Mr. Nevado stated that no meals will be prepared on site; he said that they will only provide cereal and milk for breakfast.

Mr. Nevado detailed how the children will arrive; he said that some children will arrive between 7:30 and 9:00 am and some children will also be dropped off in the middle of the day

Mr. Nevado detailed how the parents will drop the children off and pick them up; he said that there will not be any school buses.

Mr. Nevado stated that no random person will be able to pick up a child; he said that anyone authorized to pick up one of the children will have their name on a list that is provided by the parent.

Mr. Nevado said that there is a building custodian on the premises who will take care of the trash removal.

Ms. Weiss asked Mr. Nevado how he would be able to handle eighty (80) children when he currently has eight (8) children; he said that he will hire experts to work at the day care.

Ms. Weiss asked Mr. Nevado if he has advertised yet; he said not yet.

Ms. Weiss asked Mr. Nevado if the school will enroll autistic children; he said no.

Ms. Weiss asked Mr. Nevado if the temple has approved this yet; he said yes.

Ms. Weiss asked Mr. Nevado if he will be utilizing the existing playground; he said yes.

Ms. Weiss asked Mr. Nevado why he needs to open an eighty (80) children facility; he said because people are already asking when he will be opening because some of the current day

cares are lacking in the care of the children. Mr. Nevado said that this day care will also be affordable.

Mr. Redwine asked Mr. Nevado if he will transfer his current day care location to this location; he said yes. Mr. Nevado said the eight (8) children he has at his home day care will transfer to this location.

Mr. Redwine asked Mr. Nevado what the time frame would be for hiring his staff; he said that it depends on the State's timeline for background checks.

Mr. Redwine asked Mr. Nevado what the target date to open the day care is; he said as soon as possible.

Mr. Redwine asked Mr. Nevado if he hired any teachers yet; he said yes. Mr. Nevado said the teachers hired have been cleared by the State already.

Mr. Redwine asked Mr. Nevado how many teachers he currently has; he said two teachers and himself.

Mr. Sussman asked Mr. Nevado if he will be making any changes to the playground; he said no.

Ms. Gabry asked Mr. Nevado if the teachers will have emergency training; he said yes.

Mr. Eben asked Mr. Nevado how he will be using the classrooms on the days they have Hebrew school; he said that the library will be used for Hebrew school.

Mr. Eben asked Mr. Nevado if the classrooms are currently being used; he said no.

Mr. Eben asked Mr. Nevado if he will be doing any type of interior repairs to the classrooms; he said he will pay for the rooms to be painted but there will not be any type of construction that requires construction permits.

Mr. Eben asked Mr. Nevado if the infant classroom has two means of egress; he said yes.

Mr. Eben asked Mr. Nevado if the infant classroom has cribs; he said yes.

Mr. Eben asked Mr. Nevado if the cribs can fit through the doors in case of an emergency; he said yes.

Mr. Eben asked Mr. Nevado if the hardware on the classroom doors are ADA compliant.

Chairman Neuer stated that the Township's Building Department will check to see if the hardware is ADA compliant when they issue the CO.

Mr. Eben asked Mr. Nevado if they will be using non-shatter light bulbs; he said yes. Mr.

Nevado said the electrical outlets will also be protected.

Ms. Phillips asked Mr. Nevado how many exits there are in the building; he said there are a few but he does not know exactly how many.

Ms. Phillips asked Mr. Nevado what type of security he is proposing; he said that he currently has technology for security but he may hire someone in the future.

Chairman Neuer asked Mr. Nevado if there was a lead paint investigation done; he said yes.

Chairman Neuer asked Mr. Nevado if anyone else will be using the playground; he said not during daycare hours.

Chairman Neuer asked Mr. Nevado if he calculated how many children must be enrolled to break even; he said thirteen (13) toddlers and four (4) infants.

Chairman Neuer addressed Mr. Nevado and stated that he is going to need more than two (2) experienced teachers when he opens up the day care.

Mr. Nevado stated that he took a course to learn how to run a day care.

There were no further questions for Mr. Nevado from the Board Members and the Board Professionals.

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

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

Mr. Malanga asked Mr. Nevado if there were any environmental inspections done on the property; he said yes. Mr. Nevado said that there is an RAO (Response Action Outcome) on the site.

Mr. Malanga asked Mr. Nevado what happens if a parent arrives late to pick up their child; he said that the staff stays with the child until the parent arrives.

Chairman Neuer asked Mr. Nevado if he was required to do the RAO under the State education mandate; he said yes.

Penelope Stillwell approached the podium and stated that she live at 702 Eagle Rock Avenue.

Ms. Stillwell asked Mr. Nevado what they do in regards to caring for an infant who becomes ill; he said that they have a separate room to give them proper care. Mr. Nevado said that they have trained staff members who are CPR certified.

Chairman Neuer noted that the time that the applicant was allotted to be heard at this meeting was at the end.

Chairman Neuer asked Mr. Kohut how many witnesses he had left; he said one witness, Mr. Staigar.

Chairman Neuer stated that this application will be carried over to the next regular Zoning Board meeting on February 21, 2019 and that no further notice will be required.

Mr. Kohut asked Chairman Neuer what information the Board is asking the applicant to re-submit; he said the applicant needs to submit a definitive plan regarding staffing.

Mr. Keller said that the applicant testified that they installed a fence. He asked Mr. Kohut to have the applicant submit photos of the fence or a plan so that the Board can see what actually was done.

Chairman Neuer stated that all re-submission must be received by the Board Secretary at least ten (10) days before the next meeting.

Chairman Neuer called for a recess at 8:59 pm.

Chairman Neuer resumed the meeting at 9:04 pm.

- 2. ZB-18-06/CLPF – Essex Green, LLC c/o Clarion Partners** **Carried from 12/20/18**
Block: 155.21; Lot: 40; Zone: P-C
495 Prospect Avenue
Seeking “d” and “c” 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.

Chairman Neuer noted for the record that the newest Zoning Board member, Mr. Redwine, has signed an affidavit that he has listened to the audios of all of the prior meetings for this application that were held on 10/18/18; 12/13/18 and 12/20/18. He said that Mr. Redwine will be eligible to vote on this application.

Mr. Regan stated that at the last meeting their landscape architect, Michael Szura, was answering questions from members of the public. He said that they will continue with that questioning at this meeting.

Michael Szura approached the podium and continued under oath.

Ms. Alana Amaya approached the podium and stated that she lives at 12 Helen Avenue.

Ms. Amaya asked Mr. Szura if some of the plants and trees that were on the list to be planted were native to New Jersey; he detailed the plants and trees that were and were not native to New Jersey.

Ms. Amaya asked Mr. Szura to detail the plants that are being proposed to be planted in certain areas; he complied. He said that the plans that were submitted to the Board reflect what is being planted and in what area they are being planted.

Phillip Litwinoff approached the podium and stated that he lives at 11 Linden Avenue.

Mr. Litwinoff asked Mr. Szura if the shade coverage will be the same in the parking lot; he said that they are adding larger islands and healthy new trees that will replace older ones. Mr. Szura said that they did not do an analysis calculating if the shade coverage will decrease or increase.

Chairman Neuer asked Mr. Regan to provide an analysis of shade tree to shade tree before the next meeting. Mr. Regan agreed to do so.

Frank Freschet approached the podium and stated that he lives at 12 Burnett Terrace.

Mr. Freschet asked Mr. Szura if he performed professional services at any other shopping centers so that they can compare this plan to something similar that he has done; he said yes. Mr. Szura said that they can provide the Board with a list of completed projects he helped to design.

Mr. Freschet asked Mr. Szura if any of them are in close radius of driving distance; he said yes.

Chairman Neuer asked Mr. Regan to provide the Board Secretary with the list. He advised Mr. Freschet to contact Ms. DeSena and provide her with his contact information so that she can send him the list when she receives it.

Mr. Freschet asked Mr. Szura if they are proposing more greenspace or will it be about the same amount; he said they will be providing approximately the same amount of greenspace as currently exists although he went on to state that it is his opinion that there would probably be more greenspace.

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

Ms. Malanga referred to the Township's tree ordinance and questioned Mr. Szura on several sections of it; he replied to Ms. Malanga's specific questions.

Ms. Malanga asked Mr. Szura to explain the purpose of trees in a parking lot; he said there are a number of reasons. Mr. Szura said that among the reasons are that they provide shade and produce oxygen.

Ms. Malanga asked Mr. Szura to describe the heat island effect in the parking lot is; he said it refers to paved surfaces getting hotter and staying hotter in the summer months.

Ms. Malanga asked Mr. Szura if the temperature in a parking lot is higher; he said yes.

Ms. Malanga asked Mr. Szura if the trees in the parking lot are related to the aesthetics; he said yes.

Ms. Malanga asked Mr. Szura how many years will it take for the new trees to provide shade; he said they provide shade right away.

Ms. Malanga asked Mr. Szura if they provided a detailed list of the current species of trees, their size measurements and whether they are a major or minor tree; he said no.

Ms. Malanga stated what certain elements in the Township's tree ordinance are required to be submitted by the applicant.

Chairman Neuer asked Mr. Szura if he submitted what Ms. Malanga just read from the Township's tree ordinance that she asserts is required; he said no.

Chairman Neuer instructed Mr. Regan to submit the elements in the Township's tree ordinance that are required as part of an application of development.

Mr. Regan stated that they will review the Township's tree ordinance again. He said that they submitted a tree removal application for a permit and a landscape plan identifying all of the trees. Mr. Regan said that they will submit whatever is required to be submitted.

Chairman Neuer advised Ms. Malanga that she will have the opportunity to continue with her questions at another meeting.

John Linson, Township Forester, approached the podium and was sworn under oath.

Mr. Linson stated that he prepared a report and visited the site. He said that originally the applicant did not give him a list of the trees on the site that they were proposing to remove. Mr. Linson said that he met with them on the site and defined what trees will be removed and those that will be transplanted on site.

Mr. Linson said that he would like the Board to require a snow removal plan that requires the applicant to either cart the snow off site or put it near a catch basin so that the snow/salt does not damage the new trees.

Mr. Linson said that the maintenance of the existing trees is poor; he said that he would like them to improve on that by providing a maintenance plan.

Mr. Linson said that he would like them to save as many trees as possible on the site.

Chairman Neuer asked Mr. Linson if he could return at the next meeting on 1/31/19 to answer any questions the Board or members of the public may have for him; he said yes.

Mr. Regan stated that the applicant has already said that they would comply with Mr. Linson's recommendations in his 10/30/18 letter.

Mr. Regan said that the owner would need to work with the property manager to develop a snow removal and a long term tree maintenance plan and that they would agree to have the Board require that as a condition of approval.

Chairman Neuer stated that this application will be carried over to the special Zoning Board meeting to be held on 1/31/19 and that no further notice will be necessary.

Chairman Neuer called for a two minute break at 9:56 pm.

Chairman Neuer resumed the meeting at 9:59 pm.

3. ZB-17-11/Youssef, Inc.

Carried from 12/20/18

Block: 111; Lot: 1.06; Zone: B-2

438 Eagle Rock Avenue

Seeking a 'd' variance and 'c' variances to permit the construction of a convenience store and other changes to the site.

Chairman Neuer stated that Mr. Steinhart is recused from hearing this application; Mr. Steinhart stepped off the dais.

Michael Oliveira, Esq., attorney for the applicant, approached the podium.

Mr. Oliveira stated that his client is seeking site plan approval and variance relief for the modification of an existing service station and detailed the application.

Chairman Neuer stated for the record that he does not live within 200' of the site but he drives through this intersection at least twice and sometimes three times a day. He said that he has made personal observations of the operation of this property and the operation of the intersection. Chairman Neuer said that if any of his observations play a role in his decision-making he will place them on the record as he is required to do by law. Mr. Oliveira stated that he has no objection.

Mr. Oliveira called the project manager as his first witness.

Abnan Kahn approached the podium and was sworn under oath. He detailed his professional and educational background as a Professional Engineer licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Kahn as an expert in engineering.

Mr. Kahn stated that he has reviewed the site and all of the plans. He said that he has also reviewed all of the memos and letters from the Board and Township's Professionals.

Mr. Kahn presented sheet C-02 of the demolition plan that was part of the submission package and detailed what is existing on the site.

Mr. Kahn presented sheet C-03 of the site development plan that was part of the submission package and detailed what is being proposed. He said that there will be five (5) islands and ten (10) pumping stations with a canopy and a kiosk in the center.

Chairman Neuer asked Mr. Kahn if the existing gas pumps will be removed; he said yes. Mr. Kahn said that the underground tanks are to remain in place.

Mr. Kahn stated that they would like to install solar panels on the canopy in the future but this is not part of this application.

Mr. Kahn said that they are proposing to demolish the existing building on the site and build a convenience store.

Mr. Kahn detailed all of the existing driveways and said that they are proposing to streamline the southerly driveway on Prospect Avenue (which he sometimes referred to as to the west) so that a car cannot make a left hand turn out of that driveway.

Mr. Kahn said that the northern driveway on Prospect Avenue will be eliminated and detailed where there will be two new driveways on Eagle Rock Avenue.

Mr. Kahn said that they had preliminary discussions with the County regarding the driveways and that the new configurations were the result of that meeting.

Mr. Kahn stated that they are required to have twenty six (26) parking spaces and that they are proposing twenty six (26) parking spaces and detailed their locations.

Mr. Kahn referred to sheet C-04 of the grading plan that was part of the submission package and detailed it.

Mr. Kahn referred to sheet C-06 of the lighting and landscape plan that was part of the submission package and detailed it.

Mr. Kahn stated that they are proposing to install cameras for security.

Mr. Kahn referred to Bowman Engineering technical review memo dated January 8, 2019 and addressed the comments in the memo.

Mr. Kahn referred to the following items on the checklist review comments:

- #2 - They will provide an updated Planner's report
- #s 29, 31 and 45 – requesting a waiver
- #36 – will comply
- #41 & 42 – not applicable
- #46 – will submit a solid waste management plan in a written report

Mr. Kahn addressed the following technical comments:

- #1 – complied
- #3 – will comply
- #4 - will comply
- #7 – will comply
- #8 – will comply
- #9 – will comply
- #11- will comply
- #12- addressed pedestrian circulation in testimony
- #13- addressed conflicts from vehicles entering the western driveway in testimony
- #15 – will comply
- #s 16 through 43 – will review these items with Mr. Keller and re-submit

Mr. Redwine asked Mr. Kahn if the footprint of the proposed building will be the same as the current building; he said no it will be larger than the existing building. Mr. Kahn said the current building is approximately 2,000 sq. feet and the proposing building will be approximately 4,000 sq. feet.

Mr. Redwine asked Mr. Kahn if they considered reconfiguring the location of the proposed building to make better use of the site; he said no because they have certain restrictions on the site.

Chairman Neuer asked Mr. Kahn if the existing repair bays have hydraulics; he said yes.

Chairman Neuer asked Mr. Kahn if the ground was tested for any oil spills where the repair bays are located; he said they were sealed a long time ago and are above ground.

Chairman Neuer asked Mr. Keller to look into that further to make sure this was done in accordance with all applicable laws and regulations.

Mr. Keller asked Mr. Kahn if they would consider moving the three southerly pump islands to the north to allow a greater separation between the parking spaces along the southerly side of the site and the first pump isle; he said they will consider it.

Mr. Keller asked Mr. Kahn to provide details on the handicap ramp.

Mr. Keller asked Mr. Kahn if they are removing trees on the site; he said no.

Ms. Gabry asked Mr. Kahn if Exxon has to approve this proposal; he said no.

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

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

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

Mr. Rashkes asked Mr. Kahn if the soil was tested for environmental issues; he said yes.

Mr. Rashkes asked Mr. Kahn how they are proposing to enforce illegal turns out of the site; he said they will be installing signage.

Joe Krakoviak approached the podium and stated that he lives at 20 Grandview Avenue.

Mr. Krakoviak asked Mr. Kahn what the amount of retail space is going to be; he said the architect can answer that better but the building will be approximately 4,000 sq. ft.

Mr. Krakoviak asked Mr. Kahn if it is a single story building; he said yes.

Mr. Krakoviak asked Mr. Kahn what the current and proposed sizes of the fuel dispenser islands are; he said they are currently four (4) feet and will be eight (8) feet.

Mr. Krakoviak asked Mr. Kahn how much of the property is being taken up by the fuel dispensing infrastructure currently and proposed.

Chairman Neuer stated that Mr. Kahn does not have enough time to figure out those calculations, due to the time; he advised Mr. Oliveira to have the witness prepare that analysis and submit it to the Board Secretary.

Chairman Neuer advised Mr. Krakoviak to contact the Board Secretary and she will provide him with that analysis once it is submitted.

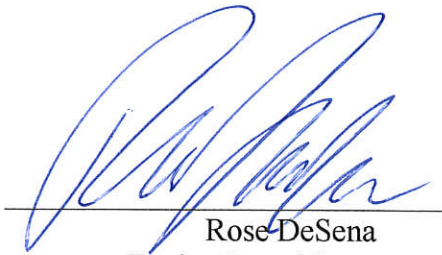
There were no further questions for Mr. Kahn from any members of the public.

Chairman Neuer stated that the Board has a very full agenda for the February 21st meeting and asked Mr. Oliveira if they could come back at the March 21, 2019 meeting; he said yes.

Chairman Neuer stated that this application will be carried over to the March 21, 2019 regular meeting and no further notice will be necessary.

The meeting was adjourned by at 10:58 pm.

Adopted: January 31, 2019



Rose DeSena
Zoning Board Secretary

2/1/19