

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
February 21, 2019**

The West Orange Zoning Board of Adjustment held a regular meeting on February 21, 2019 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer called the meeting to order at approximately 8:00 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle J and the Star Ledger and posted on the Township Bulletin Board in accordance with the "Senator Byron M. Baer Open Public Meetings Act."

Chairman Neuer announced that a digital tape recording system is being utilized to record the proceedings of the meeting and instructed the general public on how the audio of the proceedings may be reviewed or obtained.

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

PRESENT: D. Gabry, P. Neuer, B. Quentzel, J. Redwine, I. Schwarzbaum,
W. Steinhart, M. Straker, M. Sussman, A. Weiss

ABSENT: J. Eben (excused)
L Phillips (excused)

ALSO PRESENT: Paul Phillips, Acting Consulting Planner 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: March 7, 2019 (special meeting)
March 21, 2019 (regular meeting)
April 11, 2019 (regular meeting)
May 16, 2019 (regular meeting)

MINUTES

January 31, 2019 (special meeting)

Chairman Neuer stated that the draft minutes from the January 31, 2019 special 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. Redwine made a motion to approve the minutes of the January 31, 2019 special meeting; Mr. Schwarzbaum seconded the motion and all were in favor.

It was noted for the record that Ms. Gabry and Ms. Weiss although present at this meeting, did not vote on these minutes because they were not in attendance at the January 31, 2019 special meeting.

SWEARING IN

Paul Phillips, acting consulting Planner for the Township and Eric Keller, Consulting Engineer for the Township, were sworn under oath.

APPLICATIONS:

1. ZB-18-08/B’Nai Shalom

Carried from 1/17/19

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.

Mr. Quentzel stated for the record that he is friends with one member of the Board of Directors for B’Nai Shalom and asked Ms. Beirne if there is a conflict; she said no.

Mr. Kohut stated that the applicant submitted revised plans on January 23, 2019 addressing the comments in Mr. Keller’s memo dated January 11, 2019. He said that a copy of the plans were issued directly to Mr. Keller.

Mr. Kohut stated that on January 7, 2019 the applicant had commenced using a portion of the property for daycare purposes for fifteen (15) children in the west wing of the building. He said that after meeting with the Township’s Zoning Officer, she informed them that the applicant cannot use that space for daycare and since that time the applicant vacated that portion of the premises.

Mr. Kohut stated that the applicant had previously submitted an application to the State for a

certificate of occupancy which was issued for the use of a daycare during synagogue hours. He said that the applicant thought that because the State gave the approval, he assumed that it was acceptable to operate the daycare on the premises.

Ms. Weiss asked Mr. Kohut if the person that was operating the daycare on January 7, 2019 is Angelo Nevado even though he was before the Board during that time; he said yes.

Chairman Neuer asked Mr. Kohut from a legal standpoint if his client is claiming any type of vested rights; he said he has not looked into the history of the use since the synagogue has been around since the 1950's.

Mr. Kohut said that they are not going to appeal the Zoning Official's determination; he said they would just like to move forward with the application that would allow a daycare to be used for up to eighty (80) children in the synagogue.

Chairman Neuer asked Mr. Kohut if the west wing of the building is part of the entire portion of the synagogue that will be used for the daycare; he said yes.

Chairman Neuer asked Mr. Kohut if the application is denied, will the use in the west wing be resumed; he said no.

Ms. Gabry asked Mr. Kohut if the children in the daycare are there only during synagogue hours; he said no they are there full time.

Mr. Kohut stated that his client thought that once the State issued the approval that he could operate the daycare.

Chairman Neuer stated for the record that this will personally not affect his vote on the application.

Rabbi Tobin from B'Nai Shalom approached the podium and was sworn under oath.

Rabbi Tobin stated that the synagogue has been in town for eighty five (85) years; he said that he has been there for only ten (10) years and has no idea what has been done in the past.

Rabbi Tobin stated that B'Nai Shalom may end their run in West Orange; he said that their congregation is aging and not many young families are in the congregation. Rabbi Tobin said that they want to create services in their building so that the population grows in the synagogue. He said that the daycare is for the wellbeing of the community and will serve the young families.

Mr. Schwarzbaum asked Rabbi Tobin if the Hebrew school is part of the certificate of occupancy; he said he does not know.

Mr. Kohut called his next witness.

Joseph Staigar approached the podium and was sworn under oath. He detailed his professional

and educational background as a professional planner, site engineer and traffic engineer. Chairman Neuer accepted Mr. Staigar as an expert in site engineering, traffic engineering and planning.

Mr. Kohut asked Mr. Staigar if the traffic report dated 9/21/18 and the planning report dated 11/19/18 that were submitted with the application package were prepared by someone under his supervision; he replied yes.

Mr. Staigar presented the site plan with a revision date of 1/14/19 and detailed it.

Mr. Staigar stated that they will prepare an updated survey of the property showing the play area; he said the survey that was submitted with the application did not have the play area on it.

Chairman Neuer asked Mr. Staigar if they will install slats on the chain link fence; he said yes.

Mr. Staigar stated that the fence requires a height variance and a variance for it being more than fifty (50) percent solid to provide more screening.

Mr. Keller instructed Mr. Staigar to add onto the site plan the information showing that the fence will have screening material on it.

Mr. Staigar detailed the parking requirements; Mr. Kohut stated that the daycare will not operate on Saturdays and Jewish High Holydays.

Mr. Staigar referred to the traffic report dated 9/21/18 and detailed when the peak hour traffic times; he also detailed pickup and drop-off times for the children.

Mr. Staigar referred to the planning report dated 11/19/18 and detailed the planning aspects of the application. He said that the daycare requires a 'D' variance because the day care facility is not allowed in the R5 zone. Mr. Staigar also detailed the bulk variances being requested.

Mr. Staigar detailed the positive and negative criteria and stated that the daycare will not be detrimental to the zone plan or the ordinance.

Mr. Staigar stated that the two vehicles that were parked in the rear of the property have been removed; he said that the trailer that is parked on the site is for the boy scouts and the truck belongs to the synagogue.

Mr. Schwarzbaum asked Mr. Staigar if the parking lot has ever been at full capacity; he said yes.

Mr. Sussman asked Mr. Staigar if his report is based on eighty (80) children in the daycare; he said yes.

Mr. Keller stated that all of Mr. Staigar's re-submissions addressed any/all questions in his review letter dated 2/12/19.

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

There were no questions or comments from any members of the public.

Chairman Neuer declared the hearing closed and made a motion to approve the application with the following conditions:

- The daycare will be closed on Saturdays and High Holy days.
- Fencing details to be shown on the plans.
- No food preparation for lunch to be done on site.

Ms. Gabry seconded the motion to approve with said conditions.

The vote was as follows:

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

Chairman Neuer called for a break at 9:15 pm.

Chairman Neuer resumed the meeting at 9:30 pm.

Chairman Neuer made an announcement stating that this Board was informed that the governing body has obtained the services of a new engineering firm and that this will be the last meeting that Eric Keller will be attending as the consulting Engineer for this Board. The Chairman praised Mr. Keller for his more than twelve years of excellent service to the Board.

2. ZB-18-06/CLPF – Essex Green, LLC c/o Clarion Partners Carried from 1/31/19

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

A-5 – Upper Level Leasing Plan dated 10/18/18

A-6 – Rendering of the New Lower Level – Retail Building I dated 10/18/18

A-7 – Site Line Study of Proposed Towner Sign dated 11/15/18

A-8 - Site Line Study of Proposed Tower Sign dated 11/15/18

A-9 - Lower level site plan with a revision date of 11/15/18

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 stated for the record that Ms. Gabry and Ms. Weiss have each signed an affidavit stating that they have read the transcript of the January 31, 2019 special meeting and are eligible to vote should this matter come to a vote tonight.

Mr. Regan stated that he would like to have the applicant's architect, Anthony Koehler, address some of the items in the Professionals' memos.

Chairman Neuer stated for the record that the Board has agreed to a second special meeting on March 7, 2019 for the applicant.

Anthony Koehler approached the podium.

Chairman Neuer advised Mr. Koehler that he will continue under oath from the last meeting.

Mr. Regan referred to the Township Fire Official's memo dated September 11, 2018 and stated that the applicant had agreed to comply with all of the items in that memo except for item #3 regarding sprinklers.

Mr. Koehler stated that sprinklers in the new buildings are not required by law but the applicant has agreed to install them anyway.

Mr. Regan referred to Mr. Grygiel's revised memo dated 11/14/18 in regards to the appearance of building G.

Mr. Koehler stated that building G, that backs up to Rooney Circle, will be treated as if it has no rear side and there will be windows and architectural treatments on all sides of the building.

Mr. Regan referred to Mr. Keller's memo dated 11/12/18 regarding the architectural plans. He said that in reviewing them there has been some information that has not been provided to the Board. Mr. Regan stated that they will submit revised architectural plans to address those comments.

Chairman Neuer asked Mr. Regan if those plans will be submitted before the March 7th meeting; he said they will try to have them submitted by that time.

Chairman Neuer stated that all revised plans must be submitted at least ten (10) days before a meeting at which they are reviewed.

Ms. Weiss stated for the record that she would like to comment on the proposed sign that will face Route #280. She said that if that sign remains, as proposed, that she will not vote yes. Ms. Weiss stated that the sign is offensive.

Mr. Schwarzbaum asked Mr. Koehler to identify what the differences are between the renderings and the architectural plans; he said the plans depict the layout of the buildings and the renderings depict specific features that an anticipated individual business may install. The actual tenants have not yet been confirmed.

Mr. Koehler presented the lower level site plan with a revision date of 11/15/18 that was marked at Exhibit A-9 for identification.

Mr. Schwarzbaum asked Mr. Koehler why building A is marked as available; he said that they are assuming Sears will be vacating that space and that Petco would be better relocated to the lower level. Mr. Koehler said that is contingent on lease negotiations.

Mr. Quentzel stated that he has some sustainability issues and asked Mr. Koehler if he would be the person to address these.

Mr. Koehler stated that as part of the design they would like to re-position the shopping center as a town center. They are not only thinking about what is on the site but they are also thinking about the entire community by providing the types of services that will benefit the community. Mr. Koehler said that is the thought process aimed at creating a more sustainable community.

Mr. Koehler stated that there has been a lot of talk about the trees and, although some are not impressed with the number of trees the applicant is proposing to relocate, they are trying to improve things where they can but they must also maintain clear visibility to the retail stores. He said that if they turn the shopping center into a "forest" then the storefronts could not be seen and that would cause the retail to be held back. Mr. Koehler said that they are creating spaces for the pedestrians to slow down and enjoy water features, ornamental trees etc.

Mr. Quentzel asked Mr. Koehler if they could put some kind of solar usage in the Shop Rite parking lot or anywhere else on the site to be used for energy production and shade for the cars; he said that they have gone back to re-think the landscaping in that area. Mr. Koehler said they are also talking to the client about alternative energy for some of the tenants by way of installations on the roofs.

Mr. Redwine asked Mr. Koehler if they are doing a projected energy usage analysis; he said that they are replacing very old systems and the changes to the energy conservation codes will have a huge impact on the usage. Mr. Koehler said that the proposed site lighting is all LED and using solar fixtures wherever they are able.

Mr. Redwine asked Mr. Koehler is they thought of using the greywater system to reduce the amount of fresh water on the site; he said that the amount of irrigation that they have would not warrant a greywater system.

Mr. Keller asked Mr. Koehler if there is any reason why building G cannot be moved further west to preserve some of the trees and create a buffer; he said that based on the square footage of the Sears building they will require parking in front of the store.

Mr. Keller questioned the renderings of the Essex Green sign; he said that views three (3) and view four (4) show the sign on top of a building. Mr. Keller said that view five (5) shows the Essex Green sign on the façade and asked Mr. Koehler which one is correct. Mr. Koehler said that the proposal is for a rooftop sign. He said the different views were created for different purposes. Mr. Keller stated that a rooftop sign is not permitted but a façade sign is permitted.

Mr. Keller asked Mr. Koehler if the roof will be a reflective roof of light colored material; he said yes.

Mr. Keller asked Mr. Koehler to state the number of messages that will be on the digital sign and how often will they change; Mr. Koehler said that a significant criteria package will have to be submitted to the Board as part of the approval.

Ms. Weiss asked Mr. Koehler if a digital sign is usually something that is in a residential neighborhood; he said that the closest version of the proposed digital sign he knows of is located at the Clifton Commons on Route #3 which is not in a residential neighborhood.

Chairman Neuer stated for the record that the Board will need more information on the digital sign and what the impact will be on the neighbors across the street; Mr. Koehler said that he will submit a rendering of the digital sign.

Dr. Straker referred to a raised architectural feature on the Macy's Backstage building and asked Mr. Koehler if it increases the square footage of the building; he said no that it actually decreases the square footage.

Mr. Steinhart stated that thirty (30) or forty (40) years ago the raised area of the building had a sawtooth roof; he asked Mr. Koehler if it is still there. Mr. Koehler said yes it is still there and it is very integral to the structure so this is why they raised the parapet to screen it.

Mr. Phillips asked Mr. Koehler to characterize the facades in terms of the materials being used etc.; he said that their vision as far as "the look" is a more modern line and they will be using composite wood materials.

Mr. Schwarzbaum asked Mr. Koehler if they are building first and then looking for tenants; Mr. Koehler said that their plan is to give the merchants the space that is suitable for them. Mr. Koehler said that they are proposing to change some of the existing spaces to suit the merchants.

Mr. Sussman asked Mr. Koehler to state the size of the center now and how much square footage this application is adding; he said the center will go from three hundred and thirty thousand (330,000) sq. feet to three hundred and eighty thousand (380,000) sq. feet.

Mr. Grossman asked Mr. Koehler if they are constructing the mall to be more of a neighborhood; he said they are turning the existing regional mall into a "town center". Mr. Koehler stated that everything they are proposing will be of a value to the people in the neighborhood.

Mr. Grossman asked if the applicant can provide a 3-D model of the proposed site; Chairman Neuer stated that they are very costly and he will not ask the applicant to provide that.

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

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

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

Mr. Van Wyk asked Mr. Koehler if he has read West Orange's Master Plan; he said no.

Mr. Van Wyk asked Mr. Koehler if he believes a town center is portrayed by large signs; he said when he used the term town center he was referring to a term that is used often in sustainability as a site that provides basic services to the community. Mr. Koehler said that the threshold for achieving that is that a site provides ten (10) basic services i.e. a grocery store; he said basically something that will support a community. Mr. Koehler said that they wanted to construct something that would be more pedestrian friendly and community connected.

Mr. Van Wyk asked Mr. Koehler to identify the ten (10) factors that make a town center besides a grocery store; he said there are probably more than ten (10) but examples would be beauty parlors, day care centers; small clothing stores; restaurants, to name a few.

Mr. Van Wyk asked Mr. Koehler why they need large signs if a shopper already knows what stores are in the shopping center; he said because they have to lure the tenant and a tenant will demand in a retail market a very favorable branding condition. Mr. Koehler said that he has to compete with sites that have perfectly situated signage with views from the street.

Mr. Van Wyk asked Mr. Koehler to state the functions of the thirty-five (35) foot tower; he said it is about improving visibility.

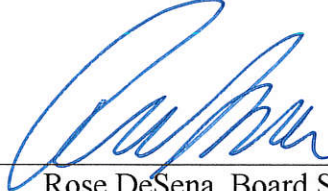
Mr. Van Wyk asked Mr. Koehler why they are building space rather than renovating existing space; he said that tenants do not want a space that is not visible. Mr. Koehler said those spaces will be very hard to lease.

Chairman Neuer noted the time and stated that this application will be carried over to a special meeting held on March 7, 2019 and that no further notice will be necessary.

Chairman Neuer stated that the public can continue to ask Mr. Koehler questions at that time.

The meeting was adjourned by at 10:47 pm.

Adopted: March 7, 2019

 3/22/19

Rose DeSena, Board Secretary