

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
September 19, 2019**

The West Orange Zoning Board of Adjustment held a regular meeting on September 19, 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 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: J. Eben, D. Gabry, P. Neuer, L. Phillips, B. Quentzel, J. Redwine
I. Schwarzbaum, M. Straker, M. Sussman, A. Weiss

ABSENT: W. Steinhart (excused)

ALSO PRESENT: Paul Phillips, Consulting Planner for the Township
John Hess, Consulting Engineer for the Township
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary

ANNOUNCEMENTS

Future Meetings: October 17, 2019 (regular meeting)
November 21, 2019 (regular meeting)
December 19, 2019 (regular meeting)

Chairman Neuer announced that application **ZB-19-05/New Cingular Wireless PCS LLC (AT&T)**, that was scheduled to be heard at this meeting, has been carried over and adjourned by the Applicant. This application will be heard at the Zoning Board meeting scheduled for October 17, 2019 at 8:00 pm and no further notice will be required.

MINUTES

August 15, 2019 (regular meeting)

Chairman Neuer stated that the draft minutes from the August 15, 2019 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.

All Board Members were in favor of the adoption of the August 15, 2019 regular meeting as submitted to them; none were opposed.

It was noted for the record that Mr. Schwarzbaum and Ms. Weiss was not present for the August 15, 2019 meeting and they did not vote on these minutes.

SWEARING IN

Paul Phillips, Consulting Planner for the Township and John Hess, Consulting Engineer for the Township, were sworn under oath.

RESOLUTIONS

1. ZB-19-01/Marsella

Approved 8/15/19

Block: 44.02; Lot: 76; Zone: R-5

130 Walker Road

Seeking two (2) 'c' variances for side and rear setbacks to replace an existing deck with pergola

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.

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

Mr. Eben stated that there were gutters and skylights missing on the plans; he said that the gutters were put on the plans but the skylights were not. Mr. Eben said that he thought both were to be incorporated on the plans as a condition of approval. He said that, in his opinion, the skylights were more important than the gutters and asked why it was left out of the resolution as a condition of approval.

Chairman Neuer stated for the record that he responded to Mr. Eben in an email that he received asking why the skylights were not incorporated into the resolution as a condition of approval.

Chairman Neuer stated that the skylights were not a condition; it was a recommendation made by Mr. Eben that the applicant chose not to agree to as a condition. He stated that he made the motion to approve the resolution and he is not going to include Mr. Eben's proposed amendment regarding incorporating skylights as a condition.

Chairman Neuer said that the recommendation made by Mr. Eben is reflected in the minutes.

The vote was as follows:

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

APPLICATIONS

1. ZB-18-09/555 Northfield Avenue, LLC

Carried from 8/15/19

Block: 168; Lots: 26 & 28; Zone: B-2

555 Northfield Avenue

Seeking “d” variance for building height and “c” variances to construct a luxury apartment complex and daycare center.

EXHIBITS

- A-1 - Sheet 2 of the site plans with a revision date of 2/15/19
- A-2 – Colorized version of sheet 4 of the site plan with a revision date of 2/15/19
- A-3 – Map of building heights dated 1/21/19
- A-4 – Fire truck turning analysis dated 2/15/19
- A-5 – Garbage truck turning analysis dated 2/15/19
- A-6 – Landscape Plan; drawing #6 with a revision date of 2/19/19
- A-7 – Shade Study dated 12/15/19
- A-8 – Sheet A-4 of the Primrose School exterior elevations dated 11/15/18
- A-9 – Sheet A-1.4 of the Primrose School floor plans dated 11/15/18
- A-10 – Relocated Child Care Study dated 6/7/19
- A-12 – Material Board
- A-13 – Artistic renderings – four (4) renderings (A to D)
- A-13-E – Artistic rendering of the rear of the West Village apartment building
- A-14 – List of Projects completed by Harold Maltz
- A-15 – Revised architectural floor plans Sheets Sheet A-03, A-04, A-05 & A-06 dated 8/14/19.
- A-16 – Revised architectural elevation plans Sheets C-01, A-01, A-01.1 & A-02 dated 8/14/19
- A-17 – Revised elevation massing redline overlay Sheet A-01-R dated 8/14/19
- A-18 – Sheet 4 of the site plan with a revision date of 8/5/19
- A-19 – Revised architectural plans – 8 pages with a revision date of 9/4/19
- A-20 - Revised rendering of the West Village apartment mixed-use building with a revision date of 9/3/19
- A-21 – Revised colorized site plan with a revision date of 9/4/19
- A-22 - Colorized aerial view of the site – taken by a drone

Chairman Neuer stated for the record that Board Members Mr. Schwarzbaum and Ms. Weiss

have signed certifications that they have listened to the audio recording of the Zoning Board meeting that was held on August 15, 2019, that they did not attend, at which this application was heard. He stated that they may participate and will be eligible to vote should this matter should be concluded tonight.

Chairman Neuer stated for the record that questions for the applicant's professionals are only for testimony presented at tonight's meeting.

Robert Williams, attorney for the applicant, approached the podium.

Mr. Williams briefly detailed the application and stated that this is their fifth appearance before the Board. He stated that the applicant re-submitted plans on 9/4/19 and detailed what plans were re-submitted.

Mr. Williams called his first witness.

Larry Appel, architect for the mixed-use apartment building, approached the podium and continued his testimony under oath.

Mr. Appel presented eight (8) pages of revised drawings of the mixed-use building, dated 9/4/19, this set of drawings was marked as Exhibit A-19 for identification.

Mr. Appel referred to Exhibit A-19 and detailed all of the revisions to the building. He stated that they scaled back the height and the bulk of the top floor of a majority of the building, the footprint was reduced slightly and some of the units were reconfigured.

Mr. Appel presented a reduced copy of the revised rendering of the mixed-use building, dated 9/3/19, that was marked as Exhibit A-10 for identification. He said that they addressed the concerns of the Board; the building remains similar but just a little smaller.

Mr. Appel detailed the location of all of the parking stalls and stated that the signage proposed remains unchanged. He said that the height of one area of the building did not change but portions of the building were lowered by ten feet eight inches (10'8").

Mr. Redwine asked Mr. Appel the distance of the building from the street; he said seventy-one (71) feet. He said the hotel is currently five (5) feet from the sidewalk.

Mr. Schwarzbaum asked Mr. Appel how someone would get to the rooftop deck; he referred to Exhibit A-19 and delineated how to get to the amenity deck.

Ms. Phillips asked Mr. Appel what makes this a luxury apartment building; he said the indoor amenities, fitness center, outdoor space, large units with high end finishes, covered parking, trash chutes, indoor mailboxes, parcel lockers and a club room.

Ms. Weiss asked Mr. Appel if the amenity deck is the same size as previously proposed or smaller; he said it is 1,500 sq. feet smaller.

Mr. Schwarzbaum asked Mr. Appel to detail what is on the rooftop deck; he complied.

Mr. Schwarzbaum asked Mr. Appel if the rooftop amenities are only for the residents and their guests; he said yes.

Chairman Neuer asked Mr. Williams if the applicant would accept a condition of approval that the rooftop amenities are only for the residents and their guests; he said yes.

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

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

Christine Bosco approached the podium and stated that she lives at 4 Mason Place. She asked Mr. Appel how many total units are being proposed; he said seventy (70).

Ms. Bosco asked Mr. Appel how many one, two and three bedroom apartments they are proposing; he said sixteen (16) one bedroom, fifty two (52) two bedroom and two (2) three bedroom.

Ms. Bosco asked Mr. Appel if the complex is pet friendly; he said he does not know.

Scott Dias approached the podium and stated that he lives at 272 St. Cloud Avenue. He asked Mr. Appel how tall the building will be; he said sixty two feet ten inches (62'10") to the roof level. Mr. Appel said the top of the pergola will not exceed the top of the roof.

Robert Rashkes approached the podium and stated he lives at 35 Oak Crest Road. He asked Mr. Appel if the revisions to the building create more or less amenity space; he said less.

Mr. Rashkes asked Mr. Appel if the length of the building increased; he said slightly at the North West corner.

There were no further questions for Mr. Appel.

Mr. Williams called his next witness.

Michael Lanzafama, engineer, approached the podium and continued his testimony under oath.

Mr. Lanzafama presented a colorized site plan with a revision date of 9/4/19 that was marked as Exhibit A-21 for identification.

Mr. Lanzafama referred to Exhibit A-21 and stated that there were minor changes to the site; he said that they incorporated into the site plan the changes made by the architect and detailed them.

Mr. Lanzafama referred to the memo from CME Engineering dated 9/13/19 and said that they will comply with all of the items in that memo except for item #7.

Mr. Schwarzbaum asked Mr. Lanzafama how many of the one hundred and fifty five (155) parking spaces are required for the daycare; he said under the Municipal Land Use Law, none are required.

Ms. Gabry asked Mr. Lanzafama if there is an entrance to the site on St. Cloud Avenue; he said it is solely for ingress and not for use as an exit.

Mr. Redwine asked Mr. Lanzafama if they had a discussion with the fire department regarding the narrowing of the driveway on St. Cloud Avenue; he stated that the truck turning analysis was given to the Township's Fire Official and he had no problem with that.

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

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

Joel Goldstein approached the podium and stated that he lives at 299 St. Cloud Avenue. He asked Mr. Lanzafama if the building will interfere with the operation of the cell phone tower located in Stagg Field; he said he does not know.

Scott Dias approached the podium and stated that he lives at 272 St. Cloud Avenue. He asked Mr. Lanzafama if the entrance to the site on Northfield Avenue is traffic light controlled; he said no.

Mr. Dias asked Mr. Lanzafama the distance from Stagg Field to the entrance to the complex on St. Cloud Avenue; he said forty (40) to fifty (50) feet.

Christine Bosco approached the podium and stated that she lives at 4 Mason Place. She asked Mr. Lanzafama to delineate on the site plan the location of the fire hydrants; he complied.

There were no further questions for Mr. Lanzafama.

Chairman Neuer called for a recess at 9:17 pm.

Chairman Neuer resumed the meeting at 9:30 pm.

Mr. Williams called his next witness.

Philip Abramson approached the podium and was sworn under oath.

Mr. Abramson detailed his educational and professional background as a Professional Planner licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Abramson as an expert in professional planning.

Mr. Abramson referred to his report dated 2/14/19 and detailed it.

Mr. Abramson stated that he took aerial images of the site, from a drone, which was marked as Exhibit A-22 for identification and detailed the area; he said that the area is well buffered.

Mr. Abramson stated that he reviewed Mr. Grygiel's reports dated 3/6/19 and 9/16/19 and agrees with him in regards to the variances that are being requested in his reports.

Mr. Abramson stated that all of the uses are permitted in this B-2 zone; he said the "d"(6) variance is for the height of the building that exceeds the maximum height allowed.

Mr. Abramson detailed all of the bulk "c" variances being requested.

Mr. Abramson detailed the positive and the negative criteria stating that this is an improvement over the existing conditions and an inherently beneficial use. Mr. Abramson said that they found no significant negative impact to the zone and will not be detrimental to the neighborhood.

Mr. Schwarzbaum asked Mr. Abramson if there would be any negative impact to the child care center with the entrances being so close to the sidewalk; he said no.

Mr. Schwarzbaum asked Mr. Abramson if they should put bollards in front of the day care center's doors; Mr. Williams answered and said there are bollards already on the plan.

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

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

Andrea Schoeneberger approached the podium and stated that she lives at 39 Oak Crest Road. She asked Mr. Abramson if he felt that the proposed plan will have a detrimental burden on the overcrowded St. Cloud elementary school; he said that that State law does not allow this Board to consider school child generations as part of their zoning decisions.

Scott Dias approached the podium and stated that he lives at 272 St. Cloud Avenue. Mr. Dias asked Mr. Abramson if the proposed day care building is closer to Stagg field than the existing building; he said no.

Beverly Reilly approached the podium and stated that she live at 56 Lenox Terrace. She asked Mr. Abramson to explain why there would be no impact from the height of the building when there was no shade study performed.

Chairman Neuer stated that there was a shade study done for the building at five (5) stories but there has not been a new shade study done for the reduced stories of the proposed building. He said Mr. Abramson meant to say there was no new shade study done.

Ms. Reilly asked Mr. Abramson to explain why he stated that this project would not have a detrimental impact to the residents in the neighborhood; he said that all the uses are permitted in this zone, it is better than the existing condition of the property and provides affordable housing in the community.

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

Chairman Neuer opened the floor for public comment.

The following members of the public approached the podium and commented under oath:

- Robert Rashkes residing at 35 Oak Crest Road
- Joel Goldstein residing at 299 St. Cloud Avenue
- Beverly Reilly residing at 56 Lenox Terrace
- Jean Goldstein residing at 299 St. Cloud Avenue
- Charlotte Westcott residing at 346 St. Cloud Avenue
- Andrea Schoeneberger residing at 39 Oak Crest Road
- Claire Silvestri residing at 20 Grand View Avenue
- Christine Bosco residing at 4 Mason Place
- Scott Dias residing at 272 St. Cloud Avenue.

Chairman Neuer closed the public hearing.

Mr. Williams summed up asking the Board to approve the application.

Mr. Eben stated that he is concerned about the enforcement of the conditions and requests that there is no “bait and switch” to the materials of the building as proposed.

Mr. Quentzel stated that he is in favor of the application and it is necessary for the town to meet the COAH obligation.

Mr. Redwine stated that he heard the concerns of the public, he appreciates the re-design of the buildings and that we do need to meet our COAH obligation. He also stated that the small increase to the population in this area will have a positive economic impact to the surrounding businesses.

Ms. Gabry stated that the area has been an eyesore for a long time and that the design team has been compliant to the Board’s recommendations; she urged the Board Members to vote yes.

Mr. Schwarzbaum commended all of the professionals for listening to the Board. He said that he is concerned about adding to the school population and suggested that they add a condition that the day care building only be used for as day care facility. Mr. Schwarzbaum stated that the roof top deck should only be used for the residents and their guests, that there will be no parking in Stagg Field and the entrance on St. Cloud Avenue only be used during non-school hours.

Ms. Phillips stated that she is happy that they agreed to scale back the building.

Ms. Weiss said that she is pleased that they listened to the Board. She said that this project benefits the entire town and it is a better situation then what is there now. Ms. Weiss said that the positives outweigh the negatives.

Chairman Neuer detailed his reasons for recommending approval of this application and moved to approve the application with the following conditions:

- The resolution will state that the applicant is bound by the evidence presented, including the exhibits and testimony, without deviation
 - No cell towers to be placed on the roof of the building
 - No exit to St. Cloud Avenue
 - Must provide a waste management plan
 - Applicant must submit hours of operation for the day care facility
 - Final landscaping plans must be approved by the township forester
 - No den or non-bedroom area may be converted into a bedroom
 - No signs for commercial use
 - West Orange postmaster must approve the mail boxes and their location
 - No commuter parking permitted on the site
 - Signs to be posted that violators will be ticketed and towed by the police
 - Must comply with all of the COAH regulations
 - Fire code must be in compliance by the township’s fire chief
 - Applicant must run a camera through the existing sewer line to confirm the integrity and capacity of that line
 - All architectural materials shall be used as presented on Exhibit A-12
 - No public events may be conducted in the amenity areas which are for the exclusive use of residents and their guests
 - Amenity areas to be used by residents and their guests only
 - Residents and their guests shall not park in the Stagg Field parking areas
- Day care

- building must remain a day care center
- No left turn permitted from each or any driveway onto Northfield Avenue

Chairman Neuer stated for the record that all exhibits are accepted into evidence.

Chairman Neuer addressed the residents and explained the purpose of the Zoning Board of Adjustment. He said that the variances that were granted did not impair the zoning ordinance and that the use is permitted.

Chairman Neuer stated that each application before this Board stands on its own merits and does constitute precedent for any future applications.

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

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 10:50 pm.

Adopted: October 17, 2019

 10/18/19
Rose DeSena, Board Secretary