

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

The West Orange Zoning Board of Adjustment held a regular meeting on December 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, B. Quentzel, J. Redwine
W. Steinhart, M. Sussman; A. Weiss

ABSENT: L. Phillips (excused)
I. Schwarzbaum (excused)
M. Straker (excused)

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

ANNOUNCEMENTS

Future Meetings: January 16, 2020 (regular meeting)
February 20, 2020 (regular meeting)
March 19, 2020 (regular meeting)

MINUTES

November 21, 2019 (regular meeting)

Chairman Neuer stated that the draft minutes from the November 21, 2019 regular meeting were circulated to all of the Board Members.

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

Ms. Gabry made a motion to approve the minutes from the November 21, 2019 meeting with said revisions and Mr. Steinhart seconded the motion.

All were in favor.

SWEARING IN

Paul Grygiel, Consulting Planning Director for the Township and John Hess, Consulting Engineer for the Township were sworn under oath.

RESOLUTIONS

1. ZB-19-02/Carter

Approved 11/21/19

Block: 57.01; Lot: 56; Zone: R-5

28 Cobane Terrace

Seeking a "c" variance for a front and side yard setback to replace an existing front porch.

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

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.

The vote was as follows:

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

APPLICATIONS

1. ZB-19-09/Ward

Carried from 11/21/19

Block: 1; Lot: 25; Zone: R-6

547 Hillside Terrace

Seeking a "c" Bulk variance for the side yard setback to build a sunroom in place of an existing deck.

Linda Ward, applicant, and Brian Adams, applicant's contractor, approached the podium and were sworn under oath.

Chairman Neuer noted for the record that at the last meeting the Board had concerns regarding the plans that were submitted with the application and revised plans were submitted by the applicant as required.

Chairman Neuer said that he had a concern about the plans; he said that they do not have a dimension site plan that is readable. Chairman Neuer said that the survey is outdated and that it does not reflect the locations of the proposed improvements.

Chairman Neuer stated that if the Board is comfortable with the applicant providing testimony then they can proceed with hearing.

Mr. Eben stated that he agrees with the Chairman; he said that by law the homeowner can draw their own plans and the Board would like to help her.

Mr. Eben stated that he is assuming that the addition is lining up with the house and that it will remain in non-conformance. He said that he personally would like to see the applicant move the addition over a little so that it is in conformance but he will accept this configuration if the Board so determines as the result.

Mr. Eben stated for the record that the re-submitted plans are not perfect but are better than the first plans.

Ms. Weiss stated that if it is acceptable to Mr. Eben then it is acceptable to her.

Mr. Adams stated that they changed the size of the deck from 6' x 12' to 8' x 12' and the sunroom will be 12' x 12'.

Chairman Neuer said that the plans must be revised to reflect the changes to the size of the deck.

Chairman Neuer stated that the side yard variance is pre-existing and that there are no additional variances required.

Mr. Grygiel stated that due to the shape of the property the applicant satisfied the positive criteria and that this will have no negative impact on the zone.

There were no questions for Ms. Ward or Mr. Adams by any Members of the Board or the Board Professionals.

There were no members of the public who had any questions for Ms. Ward or Mr. Adams.

Chairman Neuer asked if any members of the public had any comments; there were none.

Chairman Neuer closed the public hearing.

Chairman Neuer made a motion to approve the application with the size of the deck increased and Mr. Steinhart seconded the motion.

The vote was as follows:

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

Chairman Neuer stated that revised plans must be submitted to the Board Secretary at least ten (10) days before the next meeting when the resolution will be adopted. He said the next meeting is January 16, 2020 and the plans must be submitted by January 6, 2020.

2. ZB-19-04/Davlouros

Block: 3; Lots: 1.01 & 2.01; Zone: B-1

25 & 27 Tremont Avenue

Seeking variance approval for two lots that were previously sub-divided

EXHIBITS

A-1 – Subdivision deed for the lots

A-2 – Site plan – seven (7) pages with revision dates of 7/28/2001 and 6/11/2005

A-3 - Photo of existing curb cuts dated 12/19/19

James M. Foerst, attorney for the applicant, approached the podium.

Mr. Foerst stated that his client was approved in 2005 by this Zoning Board to subdivide this property and build a single family home on each lot.

Mr. Foerst said that the subdivision of the property was completed but the homes were never built within the two years and one day that, by law, he was to have completed the work.

Mr. Foerst presented the deed for the subdivision of the property that was marked as Exhibit A-1 for identification.

Chairman Neuer asked Mr. Foerst if the subdivision was approved and is in full force; he replied yes.

Chairman Neuer stated for the record that the expiration does not apply to the subdivision.

Mr. Foerst called his first witness.

Anthony Marucci approached the podium and was sworn under oath. Mr. Marucci detailed his educational and professional background as a Professional Engineer and Professional Planner licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Marucci as an expert in professional engineering and planning.

Mr. Marucci presented seven (7) sheets of the site plan drawings with revision dates of 7/28/2001 and 6/11/2005 that was marked as Exhibit A-2 for identification.

Mr. Marucci stated that the previous building on the site was destroyed by a fire; he said that his client first came to the Zoning Board with an application proposing to build a four (4) unit townhouse that was denied.

Mr. Marucci said that his client then came back to the Zoning Board in 2005 with an application to subdivide the lot and build two single family homes and was approved at that time.

Ms. Weiss asked Mr. Marucci if the houses in the current application are the same as what was approved in 2005; he said yes.

Mr. Marucci stated that one of the conditions in the resolution was to create a four (4) foot wide grassy section on the Tremont Avenue side of the property. He said that the Township installed new sidewalks and curbs and cut in the driveway aprons for the two new homes.

Mr. Marucci stated that two and a half (2 ½) stories is allowed by code and they are proposing three (3) stories.

Mr. Foerst asked Mr. Marucci if a traffic study would be required for this type of application; he replied no.

Mr. Marucci stated that there will be no detriment to the zone and this use is better than a commercial use.

Mr. Marucci stated that the Township Engineer will have to approve the grading and soil plan and that the Zoning Board previously recognized that the two (2) houses work at this site.

Mr. Eben stated that he would like to see the house that is further to the east parallel to the property line so it gives it a little more back yard. He asked Mr. Marucci would it be possible to take the house further east and keep the landscaping plan as is; he said yes.

Ms. Weiss asked Mr. Marucci if the houses being proposed are pre-fabricated houses; he said that the architect can answer that question.

Mr. Hess referred to comment number 3 in his technical review dated 11/26/19 regarding the two separate walls, the one in the front and one that runs along the easterly property line extending into the front yard, and asked Mr. Marucci to address it; the witness stated that the retaining walls are needed due to the slope of the property.

Mr. Hess stated that, based on testimony tonight, he recommends that the applicant submit a grading plan and as a condition of approval storm water will not discharge onto the neighbor's property.

Mr. Grygiel stated that single family homes are permitted in the B-1 zone.

Mr. Grygiel asked Mr. Marucci to provide testimony regarding the height of the homes; he stated that, because of the typography of the property, the height balances it out. Mr. Marucci said that the bedrooms will be on the third story.

Chairman Neuer asked Mr. Marucci how many parking spaces are allowed for each lot; he said two (2).

Chairman Neuer stated that they are in conformance with the Township Ordinance with having two spaces in the garage.

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

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

Francis William Joseph Kaczinski approached the podium and stated that he lives at 41 Freeman Place.

He asked Mr. Marucci where they will put the snow when they shovel it; the witness said on either side of their driveway.

Mr. Kaczinski asked Mr. Marucci what the width of the driveways are; he said eighteen (18) to twenty (20) feet wide. Mr. Marucci said there are twenty six (26) feet between the two houses.

Mr. Marucci said that the Town has to approve their grading and drainage plans before construction will begin.

Mr. Foerst called his next witness.

Andrew Davlourous, applicant, approached the podium and was sworn under oath.

Mr. Davlourous presented a photo of the curb cuts along Tremont Avenue that was taken on 12/19/19 and was marked as Exhibit A-3 for identification.

Mr. Davlourous explained that the work was not completed in the time frame allowed by law; because in 2006 his funding went away.

Mr. Davlourous said that he went to the Township's Building Department to apply for permits and at that time found out that the time had expired to complete the work that was approved.

Ms. Gabry asked Mr. Davlourous if a NFA (no further action) letter was issued for the site; he said yes the remediation company took samples of the soil.

There were no further question for Mr. Davlourous from any of the Board Members or Board Professionals.

Chairman Neuer asked if any members of the public had any questions for Mr. Davlourous; there were none.

Mr. Foerst called his next witness.

Maria DeCosimo approached the podium and was sworn under oath. Mr. DeCosimo detailed her professional and education background as an Architect licensed in the State of New Jersey.

Chairman Neuer accepted Ms. DeCosimo as an expert in architecture.

Ms. DeCosimo referred to the architectural plans and detailed them. She stated that the plans are the same as what was approved in 2005 with one change. She said the code changed for the stairs and the dimension of the interior stair has changed.

Ms. DeCosimo stated that the only variances requested are for the setbacks and not for lot coverage. She further stated that the variances are required due to a hardship. She said that the floor plans on the homes are similar but the homes do not look the same. Ms. DeCosimo said that the retaining walls were designed to keep water and debris from going onto the property. She said that the side yard will be used as the rear yard.

Mr. Eben asked if vinyl siding would be used; the witness, on behalf of the applicant, stipulated that vinyl siding would not be used. Mr. Eben told Ms. DeCosimo that the design is beautiful.

Mr. Quentzel asked Ms. DeCosimo if they can move the air conditioning unit on the corner lot; she said no but they will put something there to hide it.

Ms. Weiss also stated that the design is very nice.

There were no further questions for Ms. DeCosimo from any of the Board Members of the Board Professionals.

Chairman Neuer asked if any members of the public had any questions for Ms. DeCosimo.

Francis William Joseph Kaczinski approached the podium and stated that he lives at 41 Freeman Place. He asked Ms. DeCosimo if the windows facing South Valley Road will look at the adjacent house; she said yes.

Mr. Kaczinski asked Ms. DeCosimo what the length of the driveway from the curb to the garage door; she said nineteen (19') feet.

Mr. Kaczinski asked Ms. DeCosimo is the footage inside the garage; she said twenty three (23) feet nine and a half (9 ½) inches.

Audrey Plummer approached the podium and stated that she lives on Tremont Place.

Ms. Plummer asked Ms. DeCosimo what the height of the retaining wall is along the driveway; she said the wall is one (1) foot four (4) inches and will not visually hinder a car pulling out of the driveway.

There were no further questions for Ms. DeCosimo.

Chairman Neuer opened the meeting up for public comment.

Francis William Joseph Kaczinski approached the podium and was sworn under oath. He said that traffic is an issue at this corner where there is a school bus stop. Mr. Kaczinski said that a traffic study would have been helpful.

Mr. Kaczinski said that he is concerned about the windows of the proposed houses looking into the adjacent building and also that there is not enough outdoor space for the homes.

Audrey Porter Plummer approached the podium and was sworn under oath. She stated that she is happy that something is finally going on the lot. Ms. Plummer said the houses look very nice and will make the neighborhood look better. She said her only concern is children walking up to the school bus stop and cars backing out of the driveways.

There were no further comments from the public.

Mr. Foerst summed up and Chairman Neuer closed the public hearing.

Ms. Beirne advised Chairman Neuer that a filed copy of the subdivision deed should be submitted as a condition of approval.

Mr. Sussman stated that he has a problem with this application. He said that it was a conforming lot and the applicant caused his own hardship. Mr. Sussman stated that a twenty-five hundred (2,500) square foot lot is too small.

Mr. Eben stated that the minimum lot size is five thousand (5,000) square feet but there are many houses on lots undersize. He said the lot was already approved for the subdivision and he just wants them to make sure that all the things on the plans presented to the Board happen.

Chairman Neuer made a motion to approve the application with the following conditions:

- A filed copy of the subdivision deed shall be submitted before the adoption of the resolution
- Final plans shall have all of the conditions on the cover page
- No vinyl siding is permitted
- Shrubs or other suitable screening shall be placed around the air conditioner on the corner lot
- Prior to issuance of construction permits, draining and grading plans must be submitted to engineering for approval

Chairman Neuer stated that Mr. Sussman's comment is technically accurate but the history shows that the applicant did try to build a single structure on the lot but was denied by the Zoning Board.

Chairman Neuer stated that the Board accepts the testimony of Mr. Marucci regarding the positive and negative criteria and accepts the Architect's testimony regarding the aesthetics.

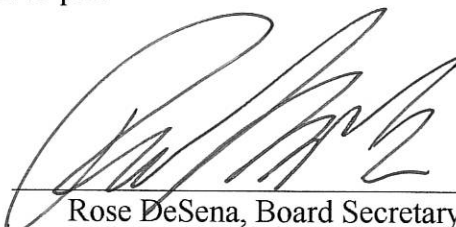
Mr. Eben seconded the motion to adopt with said conditions.

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 8:45 pm.

Adopted: December 17, 2019


Rose DeSena, Board Secretary 1/17/2020