

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
September 17, 2020**

The West Orange Zoning Board of Adjustment held a meeting on September 17, 2020 commencing 8:00 PM utilizing the virtual Zoom platform.

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 asked everyone to stand for the Pledge of Allegiance.

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

ABSENT: B. Quentzel

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

ANNOUNCEMENTS

Future Meetings: September 24, 2020 (special meeting)
October 15, 2020 (regular meeting)
November 19, 2020 (regular meeting)

Chairman Neuer announced that application ZB-20-04/Valley Hill Properties LLC, that was scheduled to be heard at this meeting, has been carried over and adjourned to the Zoning Board regular meeting to be held on 10/15/2020 and that no further notice will be required.

MINUTES

August 20, 2020 (regular meeting)

Chairman Neuer stated that the draft minutes from the August 20, 2020 regular meeting were circulated to all of the Board Members.

Chairman Neuer asked if any Board Member had any comments besides the comments made by Mr. Eben and himself; there were none.

Chairman Neuer moved to approve said minutes with revisions made by Mr. Eben and himself; Mr. Schwarzbaum seconded the motion to approve said minutes.

All in favor.

Ms. Gabry and Ms. Weiss were not in attendance at the August 20, 2020 meeting and did not vote on these minutes.

Mr. Sussman was recused from hearing application ZB-19-10/955 Pleasant Valley Way LLC and was not in attendance at the August 20, 2020 meeting and also did not vote on these minutes.

SWEARING IN

Paul Grygiel, acting Planning Director for the Township was sworn under oath.

APPLICATIONS

1. ZB-20-09/Morris Union Holdings, LLC

Block: 155; Lots: 26 & 29; Zone: OR

475 Prospect Avenue

Amended site plan approval with “c” variances to reduce the number of parking spaces by one space for the location of a generator.

Chairman Neuer stated for the record that Mr. Eben and Dr. Straker recused themselves from hearing this application and turned off their video feeds.

Robert Williams, Esq., attorney for the applicant, stated that the applicant was granted minor site plan approval by this Board; the resolution granting the approval was dated 7/22/2019.

Mr. Williams stated that two hundred sixteen (216) parking spaces were required for this site; the applicant provided and was approved for one hundred ninety eight (198) and forty (40) shared parking spaces.

Mr. Williams stated that an emergency generator must be located on the site which will reduce the parking spaces by one; one hundred ninety seven (197) parking spaces will be provided and forty (40) parking spaces will still be shared.

Mr. Williams said that this is why they applicant is here before the Board again seeking approval

to provide one less parking space on the site.

Chairman Neuer stated that the applicant was to submit an easement package to the Board Attorney and asked Mr. Williams if he submitted it; he said yes.

Mr. Williams presented his first witness.

James Brick, Architect for the applicant, was sworn under oath.

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

Chairman Neuer accepted Mr. Brick as an expert in architecture.

Mr. Brick detailed the requirement for the emergency generator and why the specific location of one of the parking spaces was chosen for the placement of the generator; he said that this location will have the least impact on the parking lot.

Chairman Neuer asked Mr. Brick if he designed the configuration and the bollards; he said yes.

Mr. Schwarzbaum asked Mr. Brick if the surgical center is currently operating; he said no.

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

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

Mr. Williams called his next witness.

Gerard Gesario, Professional Engineer for the applicant, was sworn under oath.

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

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

Mr. Gesario detailed the generator stating that it is a diesel generator with a five hundred (500) gallon capacity that is tested once a month.

Chairman Neuer asked Mr. Gesario how many gallons is the overflow; he said a five (5) gallon overflow.

Mr. Sussman said he is concerned about the five (5) gallon overflow; he said that they will need to make sure that there are adequate things in place to assure that there is never an overflow onto the property.

Ms. Weiss stated that she thinks that the Board does not have to worry about the overflow because they install generators like this all the time.

Mr. Schwarzbaum asked Mr. Gesario if the patient elevator is complete yet; he said it is almost complete.

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

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

Mr. Williams called his next witness.

Peter Steck, Professional Planner for the applicant, was sworn under oath.

Chairman Neuer stated that there is no need for Mr. Steck to go through his credentials because he has appeared before this Board many times as an expert in Professional Planning; he accepted Mr. Steck as an expert in Planning.

Mr. Williams asked Mr. Steck if the reduction of the one (1) parking space will hinder the use of this site; he said no.

Mr. Steck stated that the back-up generator is mandatory for this type of use; he said that the placement of the generator is in a location that is not intrusive and will have no detriment to the general public.

Mr. Steck stated that the double wall tank around the generator is very safe.

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

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

Mr. Williams asked Mr. Brick about the safety of the generator; he said that the surgery center has to get approval from the New Jersey State Acute Care Licenser Division. Mr. Brick said that the State comes to inspect the center and the generator before the installation is approved.

Chairman Neuer asked Ms. Beirne to check to see if she received the easement package.

Chairman Neuer stated for the record that he is concerned about the five (5) gallon overflow for a five hundred (500) gallon tank.

Chairman Neuer state that this is an inherently beneficial use as stated in the resolution dated 7/22/2019 and that the elimination of one parking space is *de minimis*.

Chairman Neuer made a motion to approve the application; Ms. Gabry seconded the motion.

The vote was as follows:

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

2. ZB-20-02/Odegov

from 6/18/2020

Block: 175.22; Lot: 9; Zone: R-6

48 Sunnyside Road

“c” side yard variance to extend an existing driveway

Chairman Neuer stated for the record that Mr. Eben and Dr. Straker have both rejoined the meeting.

Yugeniv Odegov , applicant, was sworn under oath.

Mr. Odegov stated that he would like to move forward with his application and has submitted a storm water runoff analysis plan as requested by the Board.

Chairman Neuer asked Mr. Odegov if he will have the engineer testify at the meeting tonight; he said no. Mr. Odegov said that his architect will be testifying.

Chairman Neuer asked Mr. Odegov who signed and sealed the plan; he said Mr. Lanzafama from Casey and Keller Engineering.

Chairman Neuer stated for the record that there was a letter submitted to the Board that was signed and sealed by Mr. Lanzafama. He said that Mr. Lanzafama, who has testified before this Board many times, will be accepted as an expert in professional engineering.

Camilla Flannery, architect for the applicant, was sworn under oath.

Ms. Flannery stated that Mr. Odegov has supplied the Board with everything they have asked for; she said that the engineering report states, that in order to mitigate any impact to the adjoining properties, the west side of the property will be curbed to direct the runoff from the driveway to the street and collected by the towns storm sewer system.

Mr. Grygiel said that the plans submitted show that they are proposing a significant amount of paving.

Ms. Flannery said that the proposed driveway is consistent with the front yards on the entire block; she said that Mr. Odegov is not asking for anything that is not consistent with the other houses on the block.

Ms. Gabry asked Ms. Flannery what the height of the Belgium block curb is; she said six (6) inches. Ms. Flannery said that their civil engineer stated that six (6) inches is adequate.

Chairman Neuer said that he would rather have had the engineer testifying at the meeting because he has questions for him.

Mr. Grygiel asked Ms. Flannery if a six (6) inch Belgium block curb is standard; she said yes.

There were no more questions for Ms. Flannery from any of the Board Members or the Board Professionals.

There were no members of the public that has any questions for Ms. Flannery.

Mr. Odegov stated that he has changed his plans three (3) times already and has provided the Board with all of the information that they requested; he said he has nothing more to present.

Chairman Neuer closed the public hearing and opened the floor for discussion by the Board Members.

Mr. Eben stated that he read Mr. Lanzafama's report and that he feels that this will work and that the applicant does not need a retaining wall.

Chairman Neuer stated that he is on the fence about this application.

Ms. Weiss said that she has mixed feelings about this but has spent a lot of time on that street; she said eighty (80) percent of the homes on that street have double driveways.

Mr. Redwine said that if the proposal fits in with the character of the neighborhood, then he has no issue with the application.

Ms. Gabry said that she is also on the fence about this application; she said the applicant purchased the property knowing that he has five (5) cars.

Ms. Gabry said that he is required by town ordinance to park one car in the garage but questioned how that will be enforced.

Mr. Schwarzbaum said that this application is no different than any other application; he said the Board approves and the Town enforces.

Chairman Neuer said, from a legal standpoint he is not sure the applicant proved the positive and negative criteria.

Chairman Neuer stated that the applicant bought this house and wants to be a resident of West Orange. He said the applicant knows the law now and he is certain that he will comply with parking just four(4) cars in the driveway. Chairman Neuer stated that the street has other houses with double driveways also.

Chairman Neuer offered a motion to approve with the following conditions:

- One (1) car shall be parked in the garage and no more than four (4) cars shall be parked in the driveway.
- All cars parked in the driveway shall be owned and operated by someone living in the house.

Chairman Neuer instructed Ms. Flannery that she must list the conditions on the front page of the final plans.

Mr. Eben seconded the motion to approve the application.

The vote was as follows:

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

Chairman Neuer called for a recess at 9:14 pm.

Chairman Neuer resumed the meeting at 9:21 pm.

3. ZB-20-06/Miller

Block: 48; Lot: 11; Zone: R-5

34 Dartmouth Road

Seeking "c" variance to construct a rear deck

Charles Miller, applicant, was sworn under oath.

Mr. Miller thanked the Board Members and detailed why he is asking for the variance to build a deck; he said that his family wanted to enjoy the outdoor space in his back yard.

Mr. Miller called his architect as his first witness.

David Spence, architect for the applicant, was sworn under oath. He detailed his educational and professional background as an Architect licensed in the State of New Jersey.

Chairman Neuer advised Mr. Spence to make sure that his name and not just the company's name is incorporated on the application next time. Mr. Spence was accepted as an expert in the field of architecture.

Mr. Spence stated that he designed the proposed deck; he said that the size of the yard created some hardships and this is why a "c" variance for the side yard and lot coverage is required.

Mr. Spence detailed the positive and the negative criteria stating that the deck will not be detrimental to the zone; he said that the family wants to share the outdoor pleasures that their neighbors currently enjoy.

Chairman Neuer asked Mr. Spence why the deck must encroach two and one half (2 ½) feet into the side yard property; he said that a deck fills up quickly i.e. dining table, chairs and a grill. Mr. Spence said that, architecturally, they were looking for an architectural balance.

Mr. Grygiel asked Mr. Spence if the deck will not extend farther then the dwelling; he said no it will not.

Chairman Neuer asked Mr. Spence how high off of the ground will the deck be; he said four (4) feet against the house and as the property slopes the deck will be five (5) feet above the ground.

Mr. Spence stated that the impervious coverage of the property will not be increased.

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

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

Chairman Neuer closed the public hearing.

There were no comments from any members of the public.

Mr. Eben stated that he knows the location and that it is a difficult site; he said that the deck is nicely designed and he is in favor of the application.

Chairman Neuer agreed with Mr. Eben; he said that it is a positive application and that Mr. Spence and Mr. Miller were credible in their testimony.

Chairman Neuer stated that the application can be granted and there will be no detriment to the zoning ordinance.

Chairman Neuer stated that the property is a hardship for them and he urged the other Board Members to approve the application.

Chairman Neuer made a motion to approve the application with no conditions and Ms. Gabry seconded the motion.

The vote was as follows:

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

4. ZB-20-08/Master Form Engineering

Block: 176.10; Lot: 10; Zone: R-5

32 Morris Road

Seeking "c" variance for front yard to expand dining room

James Emery, engineer for the applicant and representing the applicant, was sworn under oath.

Chairman Neuer stated that he was a little confused; he said the applicant is listed as Master Form Engineering and the property owner is Mr. Markovitz.

Chairman Neuer asked Mr. Emery who is Master Form Engineering; he said it is the company Mr. Markovitz hired to do the work for the garage extension.

Mr. Emery said the owners of the property are Peter and Andrea Markovitz and as their hired contractor he is giving testimony this evening.

Mr. Markovitz, owner of the property, and Mr. Emery, contractor for the owners of the property, were sworn under oath

Mr. Emery stated that he will be testifying as a licenced professional engineer and detailed his educational and professional background as a civil engineer licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Emery as an expert in professional engineering.

Mr. Eben referred to the architectural plans and asked Mr. Emery if he ever designed a garage before; he said that he has done houses and garages in timber and steel construction for thirty (30) plus years.

Mr. Eben asked Mr. Emery if he has ever been cited for practicing architecture without an architect license; he said no.

Mr. Emery stated that when Mr. Markovitz purchased the home the former owner was cited for the garage that was not in conformance with the zoning ordinance.

Chairman Neuer asked Mr. Markovitz who cited the former owner; he said he was not sure if the fine was ever issued.

Mr. Markovitz said that a township inspector, Mr. Jambor, came by the property for a certificate of continued occupancy inspection and said that the garage was not in compliance; he said that the garage is shorter than it should be by three (3) feet thereby rendering it non-functional.

Mr. Markovitz said that Mr. Jambor said if a house was built with a functioning garage it had to remain a functioning garage.

Chairman Neuer asked Mr. Markovitz if when the house was built was the garage in compliance; he said yes. Mr. Markovitz said that the prior owner extended the kitchen prior to 2006 and shortened the garage by three (3) feet.

Mr. Grygiel stated that there are no dimensions for a garage in the Township ordinance and asked Mr. Emery why the garage needs to be extended; he said that a typical car is sixteen (16) feet and a garage is sixteen and a half (16 ½) feet and Mr. Markovitz wants to be able to park a car in the garage.

Ms. Weiss stated that if the Township ordinance says one car must be parked in the garage, then the garage must be able to fit a car.

Mr. Emery stated that the standard size of a garage is nine (9) feet by twenty (20) feet.

Mr. Eben asked Mr. Emery if the contractor is going to put roof rafters in the garage because none are shown on the plans; he said yes.

Mr. Eben stated that there are no details on the plans and asked Mr. Emery if they are planning on installing a new garage door; Mr. Markovitz answered and said yes.

Mr. Eben stated that the plans must have details on them in order to protect the owner.

Mr. Emery stated that all of this will be sorted out with the Building Department and they will submit whatever is required from them.

Chairman Neuer stated that the Board is concerned with aesthetics and asked Mr. Markovitz if the new siding will match the rest of the house; he said yes.

There were no further questions for Mr. Emery or Mr. Markovitz from any of the Board Members or the Board professionals.

There were no questions for Mr. Emery or Mr. Markovitz from any members of the public. Chairman Neuer closed the public hearing.

Chairman Neuer stated that Mr. Markovitz probably did not know he needed a bigger garage when he purchased the house. He said that the Township ordinance states that he needs a garage and he recommends that the Board approve this application with the condition that the proposed siding matches the rest of the house.

Chairman Neuer stated for the record that the Board is not approving the drawing that was submitted by Mr. Emery; he said that the Building Department will require proper drawings to be submitted before permits are issued.

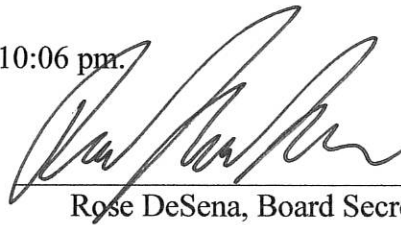
Mr. Gabry seconded the motion to approve with said condition

The vote was as follows:

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

The meeting was adjourned by Chairman Neuer at 10:06 pm.

Adopted: October 15, 2020

 10/19/2020
Rose DeSena, Board Secretary