

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
February 18, 2021**

The West Orange Zoning Board of Adjustment held a meeting on February 18, 2021 commencing 8:00 PM utilizing the virtual Zoom platform.

Chairman Neuer called the meeting to order at 8:02 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.

Alice Beirne, Esq., Board Attorney read the opening statement.

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

ABSENT: None.

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

ANNOUNCEMENTS

- *Chairman Neuer* presented a certificate to celebrate *Deborah Gabry's* service on the Board; *Ms. Gabry* is relocating her residence and will no longer be eligible to serve this Board. Members of the Board, members of the public and the professional staff offered statements of praise for Deborah and wished her well in her new residence;
- *Chairman Neuer* announced that Peter Ricci has been appointed by Mayor Parisi to fill the remainder of *Ms. Gabry's* Term which ends December 31, 2023.
- *Chairman Neuer* announced ZB 19-10/955 Pleasant Valley Way, LLC; Block 172.02; Lots: 8.01 & 8.03; Zone: B-2. 955 & 963 Pleasant Valley Way; Seeking "d" use variance and "c" variances and preliminary and final major site plan approval to construct a four (4) story self-storage facility, originally carried from 1/21/2021 will be carried to the March 18, 2021 meeting to be heard that night or at a Special Meeting at a date to be announced.

Future Meetings:

March 18, 2021 (regular)
April 15, 2021 (regular)
May 20, 2021 (regular)

OATHS OF OFFICE

Oaths of office were administered by Board Counsel, *Alice Beirne, Esq.* to reappointed Board Members as follows: *Chairman Philip D. Neuer, Alice Weiss, Jerome Eben, Bart Quentzel and Dr. Michael Straker.*

MINUTES ADOPTED

Adoption of the January 21, 2021 Regular Meeting Minutes:

Motion: P. Neuer

Second: I. Schwarzbaum

Approved by voice vote of all to none with the exception of *Ms. Weiss* who was not in attendance at the January 21, 2021 meeting and is therefore present but not voting on these minutes.

SWEARING IN

Paul Grygiel, acting Planning Director for the Township and *John Hess*, consulting Engineer for the Township were sworn under oath by Board Counsel *Alice Beirne Esq.*

2020 ZONING BOARD OF ADJUSTMENT ANNUAL REPORT

Chairman Neuer moved to approve the Annual Report as presented to the Board; *Dr. Straker* seconded the Motion which was unanimously approved by voice vote.

APPLICATIONS

1. ZB-20-05/Keith and Mary Beth Russell

Carried from 12/17/2020

Block: 164.08; Lot: 18; Zone: R-4

20 Oak Crest Road

Seeking "c" variance approval for a residential property

Steve Tombalakian, Esq. entered his appearance as attorney for the Applicant. *Tom Graham* Applicant's Engineer was sworn under oath. *Mr. Graham* stated his credentials as a licensed professional engineer in the State of New Jersey. *Mr. Graham* was accepted by the Board as an expert in the field of engineering. *Mr. Graham* testified by describing the proposed improvements to the Property as set forth on the revised Site Plan presented to the Board. *Mr. Graham* presented (3) views of the lot and the calculations defining the parking area; including the percentages of parts of the front and side yards to be used as parking for (6) vehicles. Additionally, showing the placement of a wall that would prevent parking in different areas of the property. The witness summarized the existing and proposed area sizes and lot coverage

percentages against the requirements for a R-4 Zone; asking for 68.8% lot coverage for parking against the zoning requirement of 40%

Board Questions and Comments:

Mr. Schwarzbaum questioned if when the house was built it was not conforming to standards in regards to the location of the driveway; *Mr. Graham* answered that the parking areas have not conformed since it was built and it is setback 6" from property line where the requirement is 10 feet; the variance request is for the pre-existing deficiency of 9.5 feet. On the Northerly side of the property the Driveway is right against the property line.

There were no questions from the Board Professionals *J. Hess/P. Grygiel*.

Public Questions and Additional Board Comments

- No questions from Public
- *Chairman Neuer* observed that 1) Hardship was not created by applicant. *Mr. Graham* answered that the lot is less than one-half size it is supposed to be. 2) The Variances are primarily for existing conditions as confirmed by *Mr. Graham*.
- *Chairman Neuer* asked *Mr. Tombalakian* whether a Planner was retained by the Applicant. In response, *Mr. Tombalakian* offered his services as a planner to answer any questions; *Chairman* stated that this was not allowed since as attorney *Mr. Tombalakian* may not offer testimony.
- No Comments from Public

Closing Statements:

- *Mr. Tombalakian* offered closing statement at *Chairman Neuer*'s request.
- *Chairman Neuer* urged the Board to approve this application as revised in response to comments from the Board at prior hearings. He observed that the applicants worked with Board and in so doing, the requirements for the grant of a C-1 Hardship variance have been established. *Chairman Neuer* offered a Motion to approve the application with conditions to appear on the final Site Plan to be presented for signatures that: (1) A sixth vehicle may be parked in the driveway for no more than two consecutive nights; the five (5) spaces are only for *Mr. And Mrs. Russell* and their three daughters all of whom are current residents of home. The number of cars to be parked on the driveway shall be reduced if any current residents of the home relocate. Updated sealed Site Plans shall be submitted to the Board Secretary. *Ms. Gabry* Seconded the Motion to approve.

Approval of ZB-20-05/Keith and Mary Beth Russell:

Eben:	Y	
Gabry:	Y	
Quentzel (Alt. 1):	Y	Weiss: Present/Not Voting
Redwine:	Y	Chairman Neuer: Y
Schwarzbaum:	Present/Not Voting	6 yes; 2 unable to vote
Steinhart:	Y	

2. ZB-20-12/J.O.Y. Church of God, Inc.

Carried from 12/17/2020

Block: 160; Lot: 11; Zone: R-4

446 Northfield Avenue

Proposing to utilize portions of an existing mixed commercial use building as a place of worship with "d" and "c" variances".

Presentation: *Richard Scholnick, Esq.* entered his appearance as attorney for the Applicant. *J. Michael Petry* was sworn under oath. Pastor Adams was in attendance but not to be on record at this time. The Applicant seeks to repurpose what had been built as a house to now be used for religious purposes and one independent office. A parking variance is required. The primary proposed use is a Conditional Use in this zone.

Exhibits:

A1- Full Set of Plans

A1a- Site Plans

A1b- Contour Signage Map

A1c- Striping (SP3)

A1d- Details (SP4)

A1e- Floor Plans

A1f- Existing Elevation

A1g- Architectural Plans

A1h- Reconstruction of existing parking lot

Mr. Petry presented his expert credentials and was accepted by the Chairman as an expert in the fields of civil engineering, architecture and professional planning. On questioning from *Mr. Scholnick*, *Mr. Petry* testified that Exhibit A1c- depicts handicapped parking; striped loading area; parking pattern which is similar to what is presently there; seven spaces (one handicap; six standard); 9x18 stalls are standard sized spaces (all provide for overhang of not more than two feet)

Mr. Petry further testified that drive aisle width in one location does not meet code thus requiring a variance even though it is an existing condition; the revised plans show the relocated curb line.

Mr. Petry then testified as to the Lighting on the Driveways; fixtures are being installed in the Southwest Corner of the lot and on the Building for a total of six fixtures.

Mr. Petry testified regarding Exhibits A1g and A3 Architectural Plans (Exit signing is subject to approval by the Building Department).

The new plans show fire stairs which will require replacing existing windows with doors for stairs; Alternate classification having to do with occupancy which is being reviewed with *Mr. Tom Tracey* at the Building Department.

Mr. Petry then reviewed the February 9, 2021 Letter from Board Engineer John Hess.

- 1) Mill and Pavement Detail to be added
- 2) Agreed
- 3) Prefer for handicap sign rather than in pavement
- 4) Guardrail (not acceptable)
- 5) Need for wheel stops (does not recommend these because of the potential for

lawsuits)

- 6) Details to plans will be added
- 7) Illumination requirements will be shown on Exhibit A1d
 - Adding 1 or 2 fixtures outside of curb line will not be done; *Mr. Petry* deems these unnecessary details for concrete sidewalks (A1c) will be added only in event of staircase being built.
 - *Mr. Petry* then provided Planning Testimony as a Professional Planner:
 - Conditional Use criteria needed for the granting of variance were discussed; *Mr. Petry* concludes the application complies.
 - Existing structure will not be changed

Balancing test

- 1) The proposed use can be accommodated by reasonable conditions; the Board should balance the benefits against the detriments)
Here, there will be no single-family homes added; there is no detriment to the neighborhood other than possibly overflow parking to the offices across Northfield Avenue.
- 2) Conditions can be imposed to resolve detriments
- 3) Balancing; This plan presents a way to keep *Pastor Adams* and his congregation in this area; they are established parts of this community;

Board Questions and Comments:

Questions:

Mr. Eben – Inquired about the placement of the existing shed in the parking area and would it offer difficulty in parking for it to be turned 90 degrees? *Mr. Petry* reported that turning the shed would not allow the shed doors to open and that the doors would be closed if cars were present. Door of shed would also hit the curb so that revision is not advisable. *Mr. Eben* continued that the shed could potentially be damaged by poor drivers. In response, *Mr. Petry* responded that this would need to be discussed with the Construction Official. *Mr. Eben* further asked about the current second floor window egress to the fire stair and its proximity to the area being used for childcare; and code that may only allow five children could ever occupy the second floor due to it being a building without sprinklers. *Mr. Petry* responded that this will be studied. *Mr. Eben* continued about fire blocking the walls of the balloon frame construction. *Mr. Petry* responded that these are discussions to be had with the Construction and Fire Officials.

Dr. Straker inquired about signing the compact car spots. *Mr. Petry* replied that it would be marked by ground striping and not signed.

Chairman Neuer- Storage and Private Office on the first floor can be used for children instead of going to 2nd floor. *Pastor Adams* was sworn under oath and responded that every space is multiuse. That it would be possible to use this space; and that there will be few children at any given time. *Chairman Neuer* stated, in good conscience do not put children in harm's way during emergency conditions. *Chairman Neuer* continued by pointing to the three meeting rooms on the second floor which could potentially be used for office/storage so that the children could be closer to easier egress in case of emergency. It would be his recommendation to require the

staircase if the applicant is adamant about using 2nd floor. *Pastor Adams* agreed that the children would be maintained on the first floor and responded that the proposed childcare area was chosen due to its new appointments and proximity to a restroom; but will move childcare to the first floor. The witness added that the former tenant used this space as childcare space for children with disabilities.

Design Waiver Requested for Drive Aisle width; *Chairman Neuer* determined this to be a minor amendment to the application

There were no questions from Board Professionals, *Messrs. Grygiel and Hess*

Public Questions and Comments

No Public Questions.

End of Architecture and Engineering Questioning.

All member of the public offering comments were sworn under oath.

Ms. Lisa Adams – 9 Westover Terrace, - Commented about the thoughtful consideration it took all parties to finish this process to its completion.

Ms. Tammy Williams- 16 Hillside Avenue – Commented in support of application and the character of Pastor Adams.

End of Public Comment

Chairman Neuer moves to approve application with conditions:

- 1) Applicant to comply with paragraphs 1, 2, 3, 4 and 6 of *Mr. Hess*' February 9, 2021 review letter
- 2) Occupancy of the property shall be limited to no more than forty-nine (49) individuals at any time in accordance with code
- 3) A parking coordinator shall be utilized at all times and the applicant is to include carpooling
- 4) Younger children will be cared for in the area of the first floor previously designated as storage and an office. If the applicant wishes to use the second floor for the care of the children then the emergency stairway must be installed and the applicant must return to the Board for relief from this condition.

Additional Board Questions/Comments:

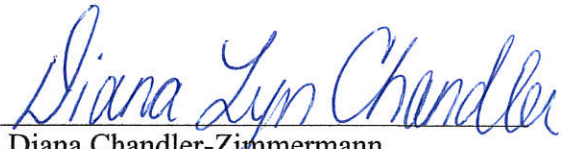
Mr. Eben stated he has visited the site on a Sunday and saw a parking coordinator and parking spaces and aisles filled with cars; concerned that this could continue; asked for suggestions on how this can be avoided. *Mr. Petry* responded that the applicant is willing to use a carpooling van from a different parking area and a parking coordinator.

- Motion seconded by *Ms. Gabry* and voted upon as follows:

Eben:	NO	Straker (Alt.4):	N/A
Gabry:	Y	Sussman (Alt. 3):	N/A
Quentzel (Alt. 1):	Y	Weiss:	N/A
Redwine:	Y	Chairman Neuer:	Y
Schwarzbaum:	Y	6 yes; 1 No; 3 unable to vote	
Steinhart:	Y		

The meeting was adjourned by **Chairman Neuer** at 11:01PM

Adopted:


Diana Chandler-Zimmermann
Acting Board Secretary