

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

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

Chairman Neuer called the meeting to order at approximately 8:06 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.

OATH OF OFFICE

- The Oath of Office was administered to new Board Member *Peter Ricci* by Board Counsel, *Alice Beirne Esq.*

PRESENT:

Jerome Eben, Philip D. Neuer, Bart Quentzel, Jonathan Redwine, Peter Ricci,

Irv Schwarzbaum, Dr. Michael Straker, M. Sussman, Alice Weiss

ABSENT: William Steinhart [excused absence]

ALSO PRESENT:

Paul Grygiel, Acting Planning Director for the Township

Alice Beirne, Esq., Board Attorney

Diana L Chandler, Acting Board Secretary

ANNOUNCEMENTS

- *Chairman Neuer* announced that ZB -21-02/Santiago will not be heard tonight. It will be carried to the April 15, 2021 meeting.

- *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 a “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 a Special Meeting scheduled for March 29, 2021 at 8:00PM via Zoom. No further notice is required.

- *Chairman Neuer* announced ZB-20-14/E&J Masonry Supply Inc. will not be heard tonight.

It will be carried to the April 15, 2021 meeting. No further notice is required.

Note: *Richard Schkolnick* interrupted the announcements seeking to make a comment on behalf of the applicant for ZB 20-14/E&J Masonry. *Chairman Neuer* did not recognize *Mr. Schkolnick* to speak. *Mr. Schkolnick* was reminded that he requested the adjournment and it was granted. No further comment is required.

Future Meetings: March 29, 2021 (Special Meeting)

April 15, 2021 (Regular)

May 20, 2021 (Regular)

MINUTES ADOPTED

Chairman Neuer announced that adoption of the February 18, 2021 Meeting Minutes will not occur this evening as they need further work according to email exchanges received from the Board. They are anticipated to be adopted at the April 15, 2021 Regular Meeting.

SWEARING IN

Paul Grygiel, acting Planning Director for the Township, was sworn under oath by *Ms. Beirne*.

RESOLUTIONS

1) **ZB-20-05/Keith and Mary Beth Russell**

Approved on 2/18/2021

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

20 Oak Crest Road

Seeking “c” variance approval for a residential property

Motion: Mr. Redwine

Second: Mr. Schwartzman

Eben:	Y	
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	Sussman (Alt. 3): NA Straker (Alt. 4) NA
Redwine: Y	Weiss: NA
Ricci: NA	Chairman Neuer: Y
Schwarzbaum: Y	Yes: 5; unable to vote 4
Steinhart: Absent	
Quentzel (Alt. 1): Y	

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

Approved on 2/18/2021

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”.

Motion: Chairman Neuer

Second: Mr. Schwarzbaum

Eben: NA	
	Sussman (Alt. 3): NA Straker (Alt. 4) NA
Redwine: Y	Weiss:
Ricci: NA	Chairman Neuer: Y
Schwarzbaum: Y	4 yes; 4 unable to vote
Steinhart: Absent	
Quentzel (Alt. 1): Y	

Note: Attorney for applicant, *Richard Schkolnick* voiced his concern with paragraph 6 on the last page of the Resolution where applicant would have to return to the Board for an application to remove a condition to allow children only on the first floor. This was in regards to Fire Exits in regard to child safety. Mr. Schkolnick offered a suggestion. If Applicant does in fact install new doors and fire exits that could likely be handled by Code Department instead of returning to this Board because of cost concerns for a new application and escrow fees as we are dealing with a not for profit organization and this process is incredibly expensive. Mr. Schkolnick states that the Board should strike that from the last paragraph the requirement to file a new application if the Code Department approves new stairs and fire exits. *Chairman Neuer* reminded Mr. Schkolnick that under the Board rules and regulations it would not be a new application it would

be under reconsideration. Concerns of cost are misplaced. *Chairman Neuer* further reminded *Mr. Schkolnick* that the Board does not approve hypotheticals. *Chairman Neuer* then opened the floor to members of Board to discuss this condition. *Mr. Schwarzbaum* asked for clarification if the exit is built on the second floor and it is approved by Code Enforcement do they have to come back to the Zoning Board. *Chairman Neuer* said applicant will have to come back to the Board for reconsideration and a revised site plan showing the exit route. Changes cannot be approved if they are not going to build. *Chairman Neuer* stated that the resolution has been adopted.

J. APPLICATIONS

1. ZB-20-15/Dean

Block: 46.05; Lot: 1; Zone: R-5

171 Walker Road

Seeking a “c” variance for the rear yard setback for the expansion of an existing upper deck and replace lower patio with a deck.

Presentation:

- *Mr. Christopher Dean*, the applicant and *Mr. Stephen Majewski* were sworn in by *Alice Beirne, Esq.* *Mr. Majewski* offered his credentials as a New Jersey licensed architect and was recognized by *Chairman Neuer* as an expert in Architecture.

- *Mr. Majewski* explained that the lot in question contains an unusually placed house. This is a unique corner lot. It is triangular in shape (not even a standard corner lot) and is sloped from the top end to the bottom. The house is located in the very northern quarter of the property. The witness testified that very little of the area of this lot is actually buildable. The witness then noted that current house is not in compliance in regards to the side yard, front yard and rear yard. There is actually very little space you can do anything on this lot. The ultimate goal of this application is to match the lower floor concrete patio. After further analysis, it was discovered that building a lower level deck structure would be better. Structurally, architecturally, and physically it was decided that the upper deck would need to be designed and built to match the lower deck. The benefits are this links two living spaces with the yard space.

Board Questions:

- *Chairman Neuer* questioned *Mr. Majewski* in regards to his "Zoning Review Data". Other than existing nonconformities, it was confirmed that the applicant is seeking one C variance and questioned whether the applicant performed any action to the property that has contributed to the hardship of this variance. *Mr. Majewski* responded that there is no such case as this house is very unusual in regards to the Zone when it was built in 1965.

-*Mr. Eben* asked based off of the renderings if applicant was willing to pull back deck/balcony 6 inches from edge of the house, as the vertical trim will be seen from the street. *Mr. Majewski* responded that it was setback and that is difficult to see on the corner scale. It is about four inches according to the updated rendering and both were agreeable that was a decent compromise based on what was seen in the report.

Public Questions:

No public questions.

Additional Board Questions:

- No questions from professionals.

- *Mr. Schwarzbaum* asked if the upper deck was there when applicant purchased home. *Mr. Christopher Dean* came on the record, and confirmed that it was indeed a part of his home when purchased it even though at this time it is deteriorating in spots. *Mr. Schwarzbaum* asked for confirmation that the upper deck was not constructed by applicant. *Mr. Dean* said he did not.

Public Comments:

-*Ms. Carol Martink* (169 Walker Road) is one of *Mr. Dean's* neighbors and she is all for this application after speaking with *Mr. Dean*.

Board Discussion:

-*Chairman Neuer* commented that *Mr. Majewski* gave creditable testimony. Information in regards to the hardship is evident as *Chairman Neuer* went to the property and the difficult configuration of the lot can be readily seen which was not created by the applicant. All criteria for a C1 Variance have been met. *Mr. Majewski* also testified to the negative criteria where he is also found to be creditable. It is a credit to our community that *Mr. Dean* wants to improve his property as a benefit not only to his family but for all of us. *Chairman Neuer* urges fellow Board

Members to vote in favor of this application. Chairman Neuer then moved to approve this application.

Conditions:

No conditions

Approval of ZB 20-15/Dean:

Motion: Chairman Neuer

Second: Mr. Redwine

Eben: Y	Sussman 3
	Straker 4
Redwine: Y	Weiss: Y
Ricci: Y	Chairman Neuer: Y
Schwarzbaum: Y	
Steinhart: Absent	Yes 7
Quentzel (Alt. 1): Y	

2. ZB-21-03/Ice

Block: 148.04; Lot: 5; Zone: R-6

37 Moore Terrace

Seeking a “c” variance for the side yard setback for installing a mini split air condenser on the side of house

Presentation:

-*Mr. Ryan Ice* as the applicant was sworn under oath by Board Counsel *Alice Beirne, Esq.*

-*Mr. Ice* testified that he plans to install a mini split air condenser within five (5) feet of his home and this would encroach upon the side property line setback which is a violation of Section 25-8.1 of the ordinance. After speaking with the contractor, it was determined that the West Side of the property is the best suited location for placement of the condenser without practical difficulties. It is a narrow property with a west side retaining wall which is elevated. Mr. Ice’s property is sitting below the retaining wall. Mr. Ice testified, pursuant to advice from his contractor, that mini split systems have to be on the exterior portion of home. Placing this unit towards the back would have caused damage to the existing porch and if placed on other side, the

applicant would have to run ducts or piping through the wall which would have caused unnecessary work. The unit itself will be greater than 10 feet from the nearest property. Decibel level as per manufacturer will be less than or equal to that of normal conversation level. The height of the unit is lower than the retaining wall. From the front of the property, it will be behind the chimney and existing gate which obstruct it from view at the front of the property. Mr. Ice stated his belief that this will add to the property value.

Board Questions:

-*Chairman Neuer* wants to be certain that no hardships or other improvements were made to the home and the property after Mr. Ice purchased the home. *Mr. Ice* confirmed that the mini condenser is the only improvement and all other improvements were made prior to his purchase of property.

-*Mrs. Weiss* asked *Mr. Ice* if there was any neighbor how expressed any objection to him. *Mr. Ice* responded that after he notified his neighbors, they have no objections with it. *Mrs. Weiss* followed up to be sure that the neighbor on the West Side of the property has no objection. *Mr. Ice* confirmed this to be the case.

-*Mr. Grygiel* asked if applicant if he had any plans to remove the fencing from the gate. *Mr. Ice* responded that there were no plans to do so.

Public Questions:

No questions from the public.

Additional Board Questions:

No additional questions from the Board.

Public Comments:

No public comments.

Board Discussion: *Chairman Neuer* referred to this as a rather benign application. It is not a self-created hardship. This application seeks only to benefit the community and the property values of those surrounding him. Chairman Neuer moved to approve this application.

Conditions:

No Conditions given

Approval of ZB-21-03 / Ice

Motion: Chairman Neuer

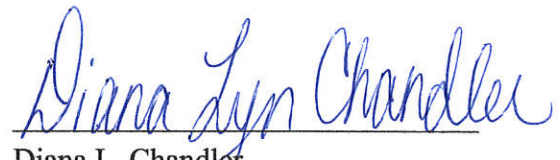
Second: Mr. Schwarzbaum

Eben: Y	: NA Sussman 3
	NA Straker 4
Redwine: Y	Weiss: Y
Ricci: Y	Chairman Neuer: Y
Schwarzbaum: Y	
Steinhart: Absent	yes; 7
Quentzel (Alt. 1): Y	

J. ADJOURNMENT

The meeting was adjourned by Chairman Neuer at 8:57 PM.

Adopted:


Diana L. Chandler,
Acting Board Secretary