

**Resolution
Township of West Orange
Planning Board
732 Eagle Rock Ave LLC
PB-19-09
Decided on April 7, 2021
Memorialized on May 5, 2021
Modification of Approval Condition**

WHEREAS, 732 Eagle Rock Ave LLC (hereinafter the “Applicant”) has made an application to amend a condition imposed by the Township of West Orange Planning Board (“the Board”) in a Resolution adopted April 3, 2020, granting c(2) variance and minor subdivision approval to subdivide Block 177, Lot 26 into two lots at property located at 732 Eagle Rock Ave; and;

WHEREAS, a publicly noticed hearing was conducted on April 7, 2021; and

WHEREAS, the Applicant provided Notice of the public meeting to all property owners within 200 feet of the subject property; and

WHEREAS, the Applicant was represented by James M. Parisi, Esq.; and

WHEREAS, the Applicant provided testimony by both William J. Martin, R.A., AIA, P.P., N.C.A.R.B., the architect of the Applicant and Anthony Marucci, P.E., P.P., the engineer of the Applicant; and

WHEREAS, the Board reviewed and considered the Resolution adopted April 3, 2020; and

WHEREAS, the Board also considered a letter to the Township of West Orange Zoning Officer from the Applicant's architect, William J. Martin, R.A., AIA, P.P., N.C.A.R.B., dated December 1, 2020; and

WHEREAS, the Board also considered a letter to the Board's attorney from the Applicant's attorney, James M. Parisi, Esq., dated January 29, 2021; and

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at the aforementioned public hearing, at which a record was made and at which members of the public were provided an opportunity to comment and to also ask questions of the Applicant's professionals.

1. By Resolution adopted April 3, 2020, the Board granted the Applicant c(2) variance and minor subdivision approval for the purpose of subdividing Block 177, Lot 26 into two (2) lots on property located at 732 Eagle Rock Avenue. A variance was required in connection with the minor subdivision as the proposal did not comply with the minimum lot width requirements in the R-4 Residential Zone. Condition 2(e) in that Resolution provides that “[t]he existing dwelling must be renovated

prior to the issuance of the certificate of occupancy for any new dwelling on the property." In summary, the Applicant offered expert testimony that the foundation of the existing dwelling is aged, misaligned and overall substandard to the degree that renovation of the existing structure would be unsafe for occupants.

2. The Applicant will comply with all other conditions in the April 3, 2020 Resolution.

NOW THEREFORE, the Board makes the following conclusions of law, based upon the foregoing findings of fact. Based upon the application, and testimony placed before the Board, the Board finds that the prior condition of approval 2(e) can be modified without substantial detriment to the public good or substantial interference with the intent and purpose of the Township's Zoning Ordinance. More specifically, the allowance for the demolition of the existing structure and the construction of a new structure that is fully conforming to the Township's zoning requirements, will enhance public safety on the property.

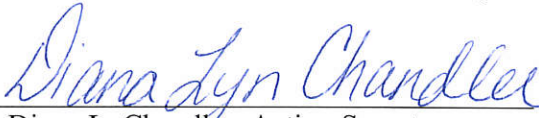
NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange that the Applicant's Application for Modification of PB-19-09 of 732 Eagle Rock Ave LLC is determined as follows:

1. Condition 2(e) of the decision memorialized by Resolution on April 3, 2020, is hereby modified to provide as follows: "The existing dwelling may be demolished for safety purposes. The dwelling that is to be constructed in the place of the existing dwelling must be fully conforming with the Township's zoning requirements, including but not limited to any bulk and setback requirements. The dwelling that is to be constructed in the place of the existing dwelling shall be fully conforming with the Township's zoning requirements, including but not limited to any bulk and setback requirements, and the owner shall make all reasonable efforts to utilize the same general footprint as the existing dwelling for the new dwelling, but shall not be limited to the existing foundation footprint. Such new dwelling must be constructed prior to the issuance of the certificate of occupancy for any other dwellings on either lot.
2. Any other references, implied or express, to the need of the Applicant to renovate the existing dwelling which may be found in the Board's decision memorialized by Resolution on April 3, 2020, are hereby altered by this Resolution of the Board, which will be controlling as to that issue.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. As stated, the Applicant will comply with all other conditions of approval set forth in the Board's Resolution adopted April 3, 2020.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the May 5, 2021.


Diana L. Chandler, Acting Secretary

Vote on Action Taken by the Board on April 7, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	x		x			
Guarino			x			
Johnson		x	x			
Trenk			x			
Smeraldo			x			
Klein						x
McCartney			x			
McNair			x			
Wilkes (V.Ch)			x			

Vote on Memorialization on May 5, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)						
Guarino						
Johnson						
Trenk						
Smeraldo						
Klein						
McCartney						
McNair						
Wilkes (V.Ch)						