

TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT MEETING
September 23, 2021
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on September 23, 2021 commencing 8:00PM utilizing the virtual Zoom platform.

Chairman Phillip D. Neuer called the meeting to order at approximately 8:02PM. 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

Jerome Eben, Philip D. Neuer, Bart Quentzel, Jonathan Redwine (excused lateness with arrival of 8:14PM), Irv Schwarzbaum, Mark. Sussman, Alice Weiss

ABSENT

William Steinhart (excused), Peter Ricci (excused), Dr. Michael Straker (excused)

Also Present:

Paul Grygiel, Acting Planning Director for Township
John Hess, Consulting Engineer for the Township
Alice Beirne, Esq. Board Attorney
Diana L. Chandler, Acting Board Secretary

ANNOUNCEMENTS

Future Meetings: October 21, 2021 (regular)
November 18, 2021 (regular)
December 16, 2021 (regular)

- Chairman Neuer announced that application **ZB 21-14/ 182 Watchung Avenue/ Paguay & Chuqui**, 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 **October 21, 2021** and that no further notice will be required.

MINUTES

Adopt: May 20, 2021 Meeting Minutes

Motion: **I. Schwarzbaum**

Second: **J. Eben**

Adopted

Eben:	Y	Straker:(Alt. 4)	-
Quentzel: (Alt. 1):	Y	Sussman: (Alt. 3)	Y
Redwine:	-	Weiss:	Y
Ricci:	-	Chairman Neuer:	Y
Schwarzbaum:	Y		
Steinhart:	-	Yes:	6

Adopt: June 17, 2021 Meeting Minutes

Motion: **M. Sussman**

Second: **Chairman Neuer**

Adopted

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

NOTES:

SWEARING IN

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

RESOLUTIONS

1. ZB 21-12 Sanchez-Nunez /35 Llewellyn Avenue (Approved 8/19/2021 Meeting)

35 Llewellyn Avenue

Block: 113.02; Lot: 112

Applicant is requesting a C Variance with an exceptional situation for a waiver to garage construction.

Motion: I. Schwarzbaum

Second: J. Eben

Adopted

Eben:	Y	Straker:(Alt. 4)	-
Quentzel: (Alt. 1):	Y	Sussman: (Alt. 3)	Y
Redwine:	-	Weiss:	Y
Ricci:	-	Chairman Neuer:	-
Schwarzbaum:	Y		
Steinhart:	-	Yes:	5

2. ZB 21-05 / Tamay

(Approved 8/19/2021 Meeting)

60 Cherry Street

Block: 125.02; Lot: 100

- ***The Plans listed below were submitted as part of their approval at the 8/19/2021 Regular Meeting. Additional plans were needed to be submitted prior to the adoption of the Resolution.***

Blue Prints & Zoning Board Application

01-C-1-60-Cherry-St-REV-3-24X36

03-A-1-60-Cherry-St-REV3-24X36

05-A-3-60-Cherry-St-REV-3-24X36

06-A-4-60-Cherry-St-REV-3-24x36

60-Cherry-St-Blueprints-and-PB-ZBA

Motion: I. Schwarzbaum

Second: B. Quentzel

Adopted

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

Steinhart:	Yes:
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APPLICATIONS

1. ZB 21-13 Panorama LLC – Chit Chat Diner

410 Eagle Rock Avenue

Block 109 & 111; Lots 1.01 & 1.05

Amended preliminary & final site plan and parking variance approvals.

EXHIBITS

- **Exhibit A-1 (Existing Condition Plan- Colorized)**
- **Exhibit A-2 (Layout Plan - Colorized)**
- **Exhibit A-3 (Grading and Drainage Plan -Colorized)**
- **Exhibit A-4 (Lighting Plan - Colorized)**

PRESENTATION

- *Mr. Robert Williams, Esq*, Attorney for the Applicant, entered on the record.
- *Chairman Neuer* explained that he is recusing himself from the application due to a conflict of interest. At this point, *Vice Chairman Schwarzbaum* has the chair for this application.
- *Mr. Williams* said that this application is for an outdoor deck at the Chit Chat Diner.
- Impact of the deck on number of patrons is nonexistent.
- Due to COVID-19 and outdoor dining became prominent, the request was undeniable.
- *Mr. J. Michael Petry, (Engineer and Planner)* entered on the record, was sworn under oath by *Ms. Alice Beirne* and accepted by Board as an expert in Engineering and Planning.
- *Mr. Petry* presented and explained **Exhibit A-1 (Existing Condition Plan- Colorized)**
- *Mr. Petry* presented and detailed **Exhibit A-2 (Layout Plan - Colorized)**
 - *Deck/tent during COVID-19 took up lot of space and needed to create raised platform.*
- *Mr. Petry* presented and detailed **Exhibit A-3 (Grading and Drainage Plan - Colorized)** where there is no change in drainage.
- *Mr. Petry* presented and detailed **Exhibit A-4 (Lighting Plan - Colorized)** where this plan showcases the addition of more seats.

BOARD QUESTIONS/DISCUSSION

- *Vice Chairman Schwarzbaum* asked about how the traffic flow is going to be. *Mr. Petry* answered that it will be an easternly two-way circulation with four spaces
- *Vice Chairman* followed up by asking if the underneath section of parking is going to have stoppers. *Mr. Petry* said that they are intending on using curbing.
- *Vice Chairman* also asked the height of the deck. *Mr. Petry* answered that it is 7 feet but the Architect would be the best person to answer something of that nature.
- *Mr. Bart Quentzel* asked about the fumes under the deck and what materials are being used as that could, in his opinion, “interfere with the customer’s dining experience”.

Mr. Petry said that the four spaces underneath the deck are going to be used for employees but he would like the architect to confirm that.

- *Mr. Jerry Eben* asked if there was going to be signage for the employee parking. *Mr. Petry* said that they can agree to that.
- *Mr. Eben* followed up his question with asking about fire separation, where *Mr. Petry* deferred to the Architect for his answer.

PUBLIC ADVOCATE QUESTIONS

- *Mr. Sarabraj Thapar, Esq. (Public Advocate)* asked if someone could drive through the bottom of the deck because the flow doesn't seem "workable". *Mr. Petry* answered that a K turn would be necessary.
- *Mr. Thapar* followed up by asking if safety precautions could be utilized. *Mr. Petry* said that for a drive aisle it just wouldn't make sense. "You can see the four spaces, that's why we didn't count on that in the plans."

NO PROFESSIONAL QUESTIONS

PUBLIC QUESTIONS

- *Ms. Palwasha Deftani (1043 Smith Manor Boulevard)* asked how secure the deck is. *Mr. Petry* confirmed that the deck with retractable canopy is secure.
- *Ms. Deftani* said that in reference to privacy, she is not comfortable with proximity and the possibility of people littering from the cliff. She also wanted to know what steps are being taken to ensure that is not going to happen. *Mr. Petry* said that the edge of the deck is 75 feet from the cliff with the closest property being 750 feet away which is comparable to two (2) football fields so doesn't see how that is possible.
- *Mr. Christian Wypasek (1020 Smith Manor Boulevard)* asked about the HOA boundary lawsuit and how does the site plan provide vegetation screening. *Mr. Williams* objected to the question and testified that his office has never been contacted with complaints or violations. *Ms. Beirne* added that the agreement is not the matter to bring before this Board.
- *Mr. Wypasek* then asked about screening. *Mr. Petry* said that screening is not part of this application.
 - In response to this, *Vice Chairman Schwarzbaum* asked *Mr. Paul Grygiel* about separations with ordinances but *Mr. Grygiel* confirmed that this application only deals with parking.
- *Ms. Kate Distasio (1010 Smith Manor Boulevard)* asked about the height impact and if the structure is higher than the existing building. *Mr. Petry* said that question is better suited for the Architect.
- *Ms. Emily Jones (1094 Smith Manor Boulevard)* asked about the noise/light ordinances. *Mr. Petry* answered that light will have reduced glare and spillage but it would be more appropriate for the Operator/Owner to answer in regards to noise.
- *Ms. Joyce Rudin (38 Woodland Avenue)* asked if no outdoor seating would parking be lowered? *Mr. Petry* answered in the affirmative.
- *Ms. Rudin* then followed up by asking if saving those three spaces would there be a light issue. *Mr. Petry* said that he disagrees and this application proposes three (3) fixtures lower in height where no one at the bottom of the hill will be able to see.
- *Ms. Rudin* asked about how COVID came into play. *Mr. Petry* responded that the applicant is considering COVID as result of the burdens to stay in business.

- *Mr. Christian Wypasek (1020 Smith Manor Boulevard)* asked if there are changes in the works for additional lighting and if the deck would have lighting. *Mr. Petry* answered that there is nothing besides the center and confirmed that the deck will have lighting.
- *Ms. Palwasha Deftani (1043 Smith Manor Boulevard)* asked if there will be a generator on the premises. *Mr. Petry* deferred to the Operator/Owner.
- *Mr. John Jackson (1016 Smith Manor Boulevard)* asked about the light fixtures and if outdoor speakers are being proposed for the new designs. *Mr. Petry* said that outdoor speakers haven't been brought up and deferred to the Operator/Owner.

PRESENTATION

- *Mr. Mark Blasch*, Architect entered on the record, was sworn under oath by *Ms. Alice Beirne, Esq* and accepted as an expert in Architecture.
- *Mr. Blasch* explained that the deck is proposed with a handicapped lift (depending on the space below) and will withstand hurricane type weather, fire rated steel/ concrete structure and slip proof outdoor tile. Lighting will be LED task lighting for the walkways and tables. Diner addition will be three (3) feet lower than the actual building with, at the present moment, no sound system.

BOARD QUESTIONS/DISCUSSION

- *Vice Chairman Schwarzbaum* asked about the height of the addition. *Mr. Blasch* answered that it is 29 feet from the peak of the building.
- *Vice Chairman Schwarzbaum* asked about the dimensions of the steps. *Mr. Blasch* answered that they are 5 feet 3 inches and stairs are four feet clear railing to railing.
- *Vice Chairman Schwarzbaum* asked if there was no lift, would this site remain handicap accessible. *Mr. Blasch* explained that only with the lift would they stay compliant.
- *Vice Chairman* asked if the lift was to be located in the parking area. *Mr. Blasch* responded that it all depends on the detail with the column.
- *Vice Chairman* asked if deliveries will be taking place. *Mr. Blasch* deferred to the Operator/Owner but said that he doesn't see any difference from how they handle deliveries now with a chute to the basement.
- *Mr. Jerry Eben* asked in regards to the dimensions of stairways between the lift gate. *Mr. Blasch* said that the dimensions are five (5) feet by six (6) inches even though five (5) feet is required by code.
- *Mr. Eben* followed up by asking about the occupancy in regards to the bathroom facilities. *Mr. Blasch* advised *Mr. Eben* that this property is good in that aspect until they hit the 300 mark of occupancy.
- *Mrs. Alice Weiss* remarked that we are going to extremes for three parking spaces. She asked if it would be better to find parking in the spaces elsewhere (i.e. Eagle Rock Bowling Alley). *Mr. Williams* said that it could be possible.
- *Mr. Bart Quentzel* asked about the back door height and *Mr. Blasch* said that the stairs presently exist.
- *Mr. Quentzel* followed up by asking what the chances are in making it flush against the building. *Mr. Blasch* said that it would make wait staff happy but would take seats away from the actual Diner.

NO PROFESSIONAL QUESTIONS

BREAK 9:35- 9:45PM

-Application ZB 21-13 Panorama, LLC/Chit Chat is Carried to October 21, 2021 Regular Meeting. No further notice required.

2. ZB -21-04/ CSH Development LLC

(Carried from 8/19/2021)

Block: 152.22; Lot 1; Zone B-2

609 Eagle Rock Avenue

Seeking “c” and “d” variances for development of an assisted living facility.

PRESENTATION

- *Mr. Robert Podvey, Esq. Attorney for the Applicant* entered on the record
- On the record, it was stated by *Mr. Podvey* that *Mr. Jerry Eben* is recused from voting on this application.
- *Chairman Neuer* let *Mr. Podvey* know that there are six (6) voting Board members present to which *Mr. Podvey* agreed to proceed.
- *Mr. Podvey* said that originally at the August 19, 2021 meeting, CSH was put on the October 21, 2021 agenda. After speaking with the *Chairman*, the application was carried to the September 23, 2021 Meeting (which was re-noticed).
- *Chairman Neuer* noted for the record that any Board Member that was absent from any of the prior meetings for this application, have listened to those meetings and supplied affidavits.
- On September 23, 2021 *Leonard Lepore* called applicant to set up a meeting with Essex County for the sewer line.
 - In response to questions for *Mr. McElwee*, the Professional Planner supplied a response on the record.
- *Mr. Ed Snieckus, Planner for the applicant*, entered on the record and was sworn under oath. His credentials were given and accepted as an expert Professional Planner by the Board.
- *Mr. Snieckus* referenced letter dated March 10, 2021, where he has made two site visits. He has also reviewed Ordinances and the Master Plan to provide the foundation and gave summarization of previous testimony about the property.
- *Mr. Snieckus* explained in detail the Existing Conditions and Zoning Analysis (dated September 20, 2021)
 - With photos of the property and area structures (especially those three floors)
 - Three (3) story 185 bed assisted living qualifies as a use variance and seeking license from Human Services certification.
- *Mr. Snieckus* testified that the adjacent area is is a three (3) foot residential buffer; with a 50 car parking quantity measuring .5 foot per dwelling; with parking in the front yard; height of retaining walls; design waivers; preserve trees
- In *Mr. Snieckus*’ analysis he utilized Master Plans dated 1989 and 2019
- According to *Mr. Snieckus*’ research he discovered that Alzheimer’s care is growing and senior care is planning to grow to 85%. Will adhere to screening features and parapets on the roof with a Residential buffer.

- In regards to architectural aesthetic, *Mr. Snieckus* informed the Board that sustainable materials will be used. (i.e., Energy Star appliances, Solar Power, Charging Stations for vehicles)
- In *Mr. Snieckus'* opinion that this application is a public good with the location being appropriate and the applicant will comply with the Master Plan and as a transitional use will age in place as well.

NO BOARD QUESTIONS/DISCUSSION

PROFESSIONAL QUESTIONS

- No questions from *Mr. John Hess*.
- *Mr. Paul Grygiel* asked if variations were because of the neighbors. *Mr. Snieckus* answered in the affirmative.
- *Mr. Grygiel* followed up his question by asking if the buffer has increased as well. *Mr. Snieckus* answered in the affirmative.

NO QUESTIONS FROM PUBLIC ADVOCATE

PUBLIC QUESTIONS

- *Ms. Elizabeth Rosenkrantz (22 Waldeck Ct.)* asked in regards to the 55-foot Buffer, currently there are three (3) additional feet and in regards to the loading dock if it is twelve (12) feet from the property, that's going to be a problem for her as her residence is nearby. What are the exact dimensions. *Mr. Snieckus* said that there are 71.2 feet in the back of the building and will be 59.2 feet in the loading area property line that comes closer.
- *Ms. Rosenkrantz* followed up her question by asking how enforceable it would be limiting the property to two (2) deliveries daily for premises.
- *Chairman Neuer* advised her to call the Building Department in the Township of West Orange if she sees more than two (2) deliveries taking place.
- *Ms. Joyce Rudin (38 Woodland Avenue)* asked if the trees in the rear of section two would be coming down. *Mr. Snieckus* answered in the negative.
- *Ms. Rudin* asked if the trees in section three (3) would be coming down. *Mr. Snieckus* said that is a possibility.
- *Ms. Rudin's* asked how this application is protecting 24% of trees and why the applicant cannot agree to 30% protection. *Chairman Neuer* said that this question must be meant for the Landscape Architect, not *Mr. Snieckus*.
- *Mr. Christopher Aleverias (595 Eagle Rock Avenue)* asked about the six (6) foot fence on the western side of the property and if it is similar on the eastern side. *Mr. Snieckus* said that a retaining wall is proposed to the adjacent side and landscaping/fencing are not required for that area.
- *Mr. Aleverias* asked about the garbage and the animals in the area where *Mr. Snieckus* answered that he is unsure how to respond because not his level of expertise.

PUBLIC COMMENT

- *Mr. Rob Weston (42 Whitbay Drive)* was sworn under oath then opined to say that this applicant has been direct and forthright with this application and transition is beneficial. He urged the Board to approve this application.

- *Mr. Robert Rashkes (25 Oakcrest Road)* was sworn under oath then opined to say that he would like a concrete crosswalk as opposed to painted and didn't see anything in this application about safety for pedestrians
- *Chairman Neuer* prior to closing Public Hearing made the following statements about applications **ZB 21-16/Reichman (12 Moore Terrace)** and **ZB 21-17 Trusca (36 Gregory Avenue)**
 - *Application ZB 21-16 Reichman (12 Moore Terrace) is carried to the October 21, 2021 (Regular) Meeting. No further notice is required.*
 - *Application ZB 21-17 Trusca (36 Gregory Avenue) is carried to the October 21, 2021 (Regular) Meeting. Applicant (Dorina Trusca) no longer owns the property and a new application needs to be filled out, given, and processed 10 days prior to the October 21, 2021 Regular Meeting. No further notice is required.*

PUBLIC HEARING CLOSED

BOARD DISCUSSION

- *Chairman Neuer* exercised the Chair's prerogative by stating that he is proud of this application. Applicants have listened to the professionals and community and adjusted everything on their ends accordingly.
- *Chairman Neuer* made a motion to approve this application with the following conditions:
 - Need license from Department of Human Services
 - Final Plans – for the addition of the solar panels (on the roof)
 - Obligation state statute for Electric Charging stations
 - New sidewalk to be installed
 - Restriction of delivery hours no earlier than 8:00AM

Motion: *Chairman Neuer*

Second: *Mrs. A. Weiss*

Approved

Eben:	-	Straker:(Alt. 4)	-
Quentzel: (Alt. 1):	Y	Sussman: (Alt. 3)	Y
Redwine:	Y	Weiss:	Y
Ricci:	-	Chairman Neuer:	Y
Schwarzbaum:	-		
Steinhart:	-	Yes:	5

Chairman Neuer adjourned this meeting at 11:20PM.

Adopted: 3/24/22

Diana L. Chandler
Acting Secretary