

TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT MEETING
December 16, 2021
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on December 16, 2021 commencing 8:00PM utilizing the virtual Zoom platform.

Chairman Philip Neuer called the meeting to order at approximately 8:00P.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 Philip Neuer asked everyone to stand for the Pledge of Allegiance.

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

PRESENT

Philip D. Neuer, Bart Quentzel, Jonathan Redwine, Peter Ricci, Irv Schwarzbaum,
William Steinhart, Dr. Michael Straker, Mark. Sussman, Alice Weiss

ABSENT

Jerome Eben

Also Present:

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

ANNOUNCEMENTS

- Future Meetings: January 20, 2022 (regular)
February 17, 2022 (regular)
March 24, 2022 (regular)
- *Chairman Neuer* announced to the Board that *William Steinhart* not seeking reappointment from *Councilwoman Susan McCartney*. He wished him the best on behalf of the Board. Mr. Steinhart said that he would miss the Board Members voiced his appreciation for being a Board Member.

- *Chairman Neuer* announced to the Board about *Jerome Eben* being in the hospital. Well wishes and a speedy recovery were sent to him and his family on behalf of the Board.
- **ZB 21-01 M Vega Investments LLC/66 Franklin Avenue** is being carried to the January 20, 2022 Regular Meeting. No further notice required.

SWEARING IN

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

APPLICATIONS

1. ZB 21-13 Panorama LLC – Chit Chat Diner (Carried from 11/18/2021 Meeting)

410 Eagle Rock Avenue

Block 109 & 111; Lots 1.01 & 1.05

Applicant proposes to add rear deck to existing restaurant with an Amended Site Plan and C1 and C2 variances.

Board Discussion/ Comment

- *I. Schwarzbaum* gave a brief summation of the application and reminded Board that this application concluded the Board Comments/ Public Comments. Made motion in regards to the application.
- All Board Members present are eligible to vote on this application.
- *P. Ricci* proposed that if there are 182 total seats at this time being required. If additional seating/parking is necessary, this applicant will have to return to the Board.
- *A. Weiss* thanked the applicant for redoing the lighting and going above and beyond to serve the community.

CONDITIONS:

- Maximum number of patrons will remain at 182. (Number to include total patrons inside and outside.)
- Three (3) parking spaces under the deck will be used for employees only. Signage for designation will be provided.
- The lighting on the deck will be off when the outdoor deck is not in use.
- The last seating on the outdoor deck will be 11:00PM.
- There will be no use of speakers, music or outdoor live entertainment and the like.

Motion: I. Schwarzbaum
Second: A. Weiss
APPROVED

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

2. ZB 21-19 Alleyne/7 Deerfield Drive (Carried from 11/18/2021)
7 Deerfield Drive
Block 151.03; Lots 17; Zone R6

Applicant requests C1 variance with exceptional situation to expand living space into the garage area.

Presentation

- *Mr. Khalfani Alleyne, Applicant* entered the record and was sworn under oath. The Architect and Contractor that *Mr. Alleyne* has as expert witnesses are not present at this meeting.
- *Mr. Alleyne* testified saying that his family is outgrowing their 1,248 square foot (four bedroom) single family home. This application is to make better use of the space in between garage and extend to the living room. They have a one car garage presently with two vehicles on the premises and since they cannot park both in there, would like to make better use of that space by expanding the living area. There no plans to extend the footprint of the property.
- *Chairman Neuer* said that *Mr. Alleyne* has to provide the criteria for an application of this nature and has a few obstacles to overcome in regards to the Municipal Land Use Law. The Zoning Code prohibits elimination of garages. Further because of having a four (4) bedroom home, there would be a need for four parking spaces anyways. If garage is turned into a living space, considering the length of the driveway, that requirement might not be able to be accommodated at all. While the desire to create more living space is understandable, it does not constitute the justification for a deviation from the Ordinance. Especially since there is still room according to the survey submitted to fulfill this result in the back of the house. This would be without a rear yard setback variance.
- *Mr. Alleyne* said that at the previous meeting (November 18, 2021 Regular Meeting) one of his professionals (Contractor) was present. But unfortunately application ZB 21-19 was not heard and he was unavailable for the December 16,

2021 meeting. Chairman Neuer assured Mr. Alleyne that this information will not work against him.

Board Questions

- *Chairman Neuer* asked *Mr. Alleyne* why the Board should approve a deviation from an Ordinance that is town wide. *Mr. Alleyne* responded that this is more about the parking spaces. Referenced his plans and the driveway would allow the four (4) spaces as it exists. If extended to the left or right of the property, this application can meet the four (4) car parking space requirement.
- *Chairman Neuer* asked *Mr. Alleyne* how to justify this address as being the only address in the town without a garage as required. *Mr. Alleyne* said that it would not be the only one in town or neighborhood.
- *I. Schwarzbaum* asked if there were any other alternatives given to add space to this property. *Mr. Alleyne* said that they could potentially build into the backyard. But that is an expensive and extensive project not in a position financially to go this route. This option proposed tonight is less expensive.
- *I. Schwarzbaum* asked if *Mr. Alleyne* thought about going up and adding a level to the property. *Mr. Alleyne* said that this is another possibility but not explored as that would be “pricey as well”. Would create more of a hardship financially and in the regards to the timeline of the project.
- *I. Schwarzbaum* asked if *Mr. Alleyne* understands the Town Ordinance regarding garages for homes. *Mr. Alleyne* answered in the affirmative.
- *P. Ricci* said that the Ordinance is an issue. Based on his knowledge if the house has no existing garage, that is not the same as having one and wanting to remove one. If those properties grandfathered in (originally built without garages) came to this Board asking for revisions to their property, it could be common that they ask for a garage of some kind to be built to conform to the Ordinance. In his opinion, *Mr. Alleyne* does not need a contractor to present to this Board. *Mr. Ricci* opined further saying that the architect should be presenting his case. The Architect that *Mr. Alleyne* is utilizing doesn’t address issue at all. Only item addressed is how the construction would work for renovating garage to a living space. That architect should be addressing the situation of possible converting.
- *A. Weiss* gave the option that if a wall were to be opened and became a three (3) bedroom house would parking change. *P. Ricci* said that this application is to create space, not take it away.

***Mr. Alleyne* asked if it is possible to carry this application. *Chairman Neuer* granted an extension to the February 17, 2022 Regular meeting and urged him to bring Architect and a possible Planner with him. No further notice is required.**

Application ZB 21-19 Alleyne/7 Deerfield Drive is carried to February 17, 2022 Regular Meeting.

3. ZB 21-20 Gurrieri/9 Lowell Avenue

9 Lowell Avenue

Block: 46; Lot: 6; Zone: R-5

Seeking “c” variances for already constructed improvements.

Variance Application

Property Survey

Planning Director Memo

Resubmission

Presentation

- *Michael Gurrieri, Applicant* entered the record and was sworn under oath. *Mr. Gurrieri* did not bring professionals.
- *Mr. Gurrieri* testified saying that when under contract for this property, they learned of the violations. The closing was delayed and if variance approved will get all permits and relocate steps etc. of the property that belongs to the Township of West Orange.

Board Questions

- *Chairman Neuer* asked for confirmation that *Mr. Gurrieri* did not construct these modifications to the property. *Mr. Gurrieri* answered in the affirmative and then read into the record letter from *Mr. Lepore*. At this time, *Ms. Beirne* encouraged them to seek an easement to show and leave improvements. *Chairman* said that an easement is a, “recordable instrument to stay with the home.”
- *I. Schwarzbaum* asked about the ramifications. He
- *P. Ricci* asked if the Township would sell the property. *Chairman* answered that if the resident to live with this as an easement, it should suffice.
- *P. Ricci* said if there is an easement there is no need to relocate the staircase. *Mr. Gurrieri* said that there would have to be a discussion of a compromise. *Ms. Beirne* said that an easement is not a done deal.

Professional Questions

- No Questions from *Mr. Hess*.
- *Mr. Grygiel* wanted it to be on the record that this property has two (2) front yards.

No Public Questions

No Public Comment

Motion: Chairman Neuer
Second: W. Steinhart
Approved

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

Prior to ZB 20-16 PS Atlantic Coast reappearing on the record, Mr. Steinhart (who is recused) left the meeting. Prior to his departure, he said his goodbyes to the Board as this is his last meeting. Councilwoman Susan McCartney entered the record and commented/praised Mr. Steinhart for his appointment.

4. ZB-20-16/PS Atlantic Coast, LLC
- (Carried from 10/28/2021 Meeting)
- 424 Eagle Rock Avenue
- Block: 111; Lot: 1.08; Zone: B-2
- Prelim. & Final Site Plan Approval w/variances to construct a storage unit facility

Presentation

- Ms. Lisa John-Basta, Esq. Attorney for the Applicant entered on the record. Ms. John-Basta said that there have been significant modifications since last meeting. They removed 33 spaces, reduced size of the building;
- Ms. Gabrielle Gornelli, Engineer for the Applicant was sworn under oath, credentials were given and accepted as an expert in the field of engineering.
- Ms. Gornelli submitted **Exhibit A2 Colorized Site Rendering C301 (December 6, 2021 Revision Date)**. The main changes are the removal of parking spaces and the decrease in building footprint. This eliminates need for steep slope.
- Site Layout Plan (December 6, 2021 Revision Date)
- Third Change is for Illustrated Purposes in regards to the Landscape Plan. According to Ms. Gornelli, the applicant will work with the Township easement to landscape. Ms. John- Basta is unsure if there is a copy of the easement.
- The Grading/Draining Plan is part of the reduced lot but not of the detention basin.

Break 9:22-9:30P.M.

- *Ms. John-Basta* confirmed that they are in receipt of *Mr. Paul Grygiel's* December 15, 2021 letter. The rear buffer to South as an exception.

Board Questions

- *Chairman Neuer* asked how many parking spaces remain. *Ms. Gornelli* said that she believes 32 spaces on the eastern side are to remain.
- *Chairman Neuer* asked why Electric Vehicle Charging Stations are not on plans. *Ms. John-Basta* said that they are willing to put as a condition. *Mr. Neuer* said that it must be on the plans. *Ms. Gornelli* agreed.
- *Chairman Neuer* asked in reference to *Mr. John Hess's* letter dated December 16, 2021
- *P. Ricci* said that the 31 spaces remain in the flag area and is an improvement but doesn't state what it is used for. *Ms. Gornelli* said do not contain and that this is not for the Engineer.

No Professional Questions

Public Advocate

Public Questions

- *Kevin Malanga (57 Ridge Road)* asked *Ms. Gornelli* if she was present during *Mr. Nuels's* testimony. She answered in the affirmative.
- *Mr. Malanga* asked how many trees are being cut down. *Ms. Gornelli* said 39 trees will be cut. *Ms. Gornelli* said they will be replaced though.
- *Mr. Malanga* asked how many feet of the building would have to be modified to not have to cut down trees. *Ms. Gornelli* could not answer.
- *Mr. Malanga* asked what the size of the largest tree being cut down is. *Ms. Gornelli* said that she couldn't speak to that.
- *Darren Tobia (24 Columbia Street)* asked for clarification of the statement that the Building is primarily outside the steep slope area. *Ms. Gornelli* said that they will be disturbing 245 square feet of the steep slope. Only 8 percent is being disturbed in comparison to the 60 that they are allowed to.
- *Mr. Tobia* referenced a rockslide and a geotechnical survey if there is any plan to coordinate around the survey. *Ms. Gornelli* said that she can't speak to that but a geotechnical report was completed
- *Mr. Tobia* referenced the fishing derby and other activities for the lake parking. *Ms. John-Basta* said that there is no public parking on private property but an easement on Boland Drive which should appease since still be able to access lake.
- *Joyce Rudin (38 Woodland Avenue)* asked how many square feet would the building need to be reduced to not cut down trees, *Ms. Gornelli* said that she would have to look at the plans.

No Questions From Public Advocate

Ms. Gornelli's testimony concluded.

Presentation

- *Mr. Charles Dietz, Architect for the Applicant* was sworn under oath and confirmed that he was qualified as an expert in the field of architecture at the October 28, 2021 meeting.
- *Mr. Dietz* testified in regards to the building design. There are now 951 units where originally there were originally 1,059. *Mr. Dietz* testified further stating that the proposed building is going to be built with energy compliant materials which will exceed the minimum standards. (i.e., a white roof to reflect roof to help with energy efficiency)
- *Mr. Dietz* further testified stating that given the height of the building with an exterior having a split base and small signage; the site line prospective view won't see "stick out" like the Verizon towers next door which is part of the December 6, 2021 submission.
- *Mr. Dietz* explained based on the Geotechnical Report that the southwestern portion does not encroach. The method of removal is going to be by chipping with no blasting. The reductions are approved and an improvement.

Board Questions

- *Chairman Neuer* asked in reference to the existing footprint from Architectural viewpoint can this be a two (2) story building. *Mr. Dietz* said that PS Atlantic Coast LLC told him that it requires it to be three (3) stories, but yes, it is capable for this footprint. If building becomes two (2) stories it would be reduced by a third and financially not worth it based on his information received by PS Atlantic Coast, LLC.
- *Chairman Neuer* asked if there was a consideration for solar panels to be installed on the roof. *Mr. Dietz* said that it's a possibility.
- *P. Ricci* asked what is located on the southwestern corner of the roof. *Mr. Dietz* said that it is a roof hatch for maintenance to get and utilize the roof.
- *P. Ricci* said overrun. *Mr. Dietz* said that it was for elevator but below the parapet.
- *P. Ricci* asked what the exterior height of the building will be. *Mr. Dietz* said building will be nine (9) or ten (10) feet high.
- *P. Ricci* asked what kind of stucco is being used. *Mr. Dietz* said that it is an over metal stucco.
- *P. Ricci* asked what kind of entrance element will be there. *Mr. Dietz* said that it will be nine (9) or ten (10) feet high with an option for stucco plaster.
- *P. Ricci* asked if there is a possibility for the orange in the design to be eliminated. *Mr. Dietz* said that it is a possibility and it has been discussed.

- *J. Redwine* asked about the natural gas line. *Mr. Dietz* said that he would have to look at the Site Plan and speak to the Engineer but could not fully answer this question.
- *J. Redwine* asked if the applicant would consider electric and not using natural gas. *Mr. Dietz* said that it is a possibility, but would have to confer with the applicant.
- *I. Schwarzbaum* asked about the location of the exterior windows. *Mr. Dietz* said they are located in the lobby. *Mr. Schwarzbaum* then complimented *Mr. Dietz* on bringing down the height of the building.

No Professional Questions

Public Advocate

- *S. Thapar* asked for confirmation of the chipping but no blasting and the location of it taking place. *Mr. Dietz* answered in the affirmative to the chipping and confirmed that it is only in the Southeastern quadrant of the notch along the foundation wall.

Public Questions

- *Kevin Malanga (57 Ridge Road)* asked if a vegetative roof was proposed. *Mr. Dietz* said it was not designed.
- *Mr. Malanga* also asked what accommodations would have to be made for this to come fruition. *Mr. Dietz* said it could cause leaks and further damage to the infrastructure of the building.
- *Joyce Rudin (Woodland Avenue)* asked if there was a way to design building so that this applicant would not disturb trees. *Mr. Dietz* said that yes, a smaller building could be possible in theory, but cannot guarantee about the trees remaining.

Public Portion of Meeting Closed

Application is continued to the January 20, 2022 Regular Meeting. An extension is being granted until the day after the 1/20/22 meeting.

Application ZB 20-16 PS Atlantic Coast is being carried to the January 20, 2021 Regular Meeting. No further notice is required.

Chairman Neuer adjourned meeting at 10:55 P.M.

Adopted: 3/24/22



Diana L. Chandler
Acting Secretary