

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT MEETING

April 28, 2022

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on April 28, 2022 commencing 8:00PM utilizing the virtual Zoom platform.

Chairman Philip D. Neuer called the meeting to order at approximately 8:00PM. 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 please rise for the Pledge of Allegiance.

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

Present: Jerome Eben, Philip D. Neuer, Bart Quentzel, Jonathan Redwine, Peter Ricci, Mark Sussman, Alice Weiss, Dr. Michael Straker, Irv Schwarzbaum

Absent: Sarabraj S. Thapar, Public Advocate

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

ANNOUNCEMENTS

- Future Meetings: May 19, 2022 (regular)
June 16, 2022 (regular)
July 21, 2022 (regular)
- Application **ZB 21-01 M Vega Investments LLC/66 Franklin Avenue** is carried to the June 16, 2022 Regular Meeting with no further notice.
- Application **ZB 21-22 19 Wheatland LLC/ 17 Wheatland Avenue** is carried to the May 19, 2022 Regular Meeting with no further notice.
- *Chairman Neuer* announced that the option to go back to in person meetings has been raised to the Board. After polling, and being unable to socially distance in Council Chambers, the Zoning Board will remain virtual for the foreseeable future.
- *Chairman Neuer* announced to the Board that *Mr. Bart Quentzel* has resigned from the Board. He wished him best on behalf of the Zoning Board. *Mr. Quentzel* said that he has enjoyed his time serving on this Board and comradery with his

fellow Board Members but the decision to leave the Board is to spend time with other matters.

Mr. Quentzel left meeting at 8:09PM.

MINUTES

Adopt: March 24, 2022 Meeting Minutes

March 24, 2022

Motion: Mr. J. Redwine

Second: Mr. M. Sussman

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

SWEARING IN

- Township Professional(s), *Mr. Paul Grygiel* and *Mr. John Hess*, were sworn under oath.

RESOLUTIONS

- **ZB-21-08/Main West Orange LLC** (Approved 3/24/2022)
Block: 116; Lot:53, 53.01 & 55; Zone: B-1 &R-T
257-259 Main Street
Seeking site plan approval with “d” variance to convert existing 2 attached buildings which vary in height into one 4 story building.
 - *Ms. Beirne* said that since circulation *Ms. Kasetta* (Applicant’s Counsel) has offered edits which were approved.
 - *Mr. Peter Ricci* offered further edits in regard to the front facade. *Chairman Neuer* approved this addition to the Resolution.

Motion: *Chairman Neuer* [to approve as amended]

Second: *Mr. M. Sussman*

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

Notes: Application seeking site plan approval with "d" variance to convert existing 2 attached buildings which vary in height into one 4 story building was approved at the March 24, 2022 Regular Meeting and Adopted at the April 28, 2022 Regular Meeting.

APPLICATIONS

1. ZB-20-16/PS Atlantic Coast, LLC

(Carried from 3/24/2022 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

-Chairman Neuer confirmed that this application was previously heard on September 9, 2021, October 28, 2021, December 16, 2021, January 20, 2022, and on March 24, 2022 where at the conclusion of March 24, 2022 meeting it was left that all testimony from the applicant has been completed. For this meeting, the Board will consider only sworn testimony under Public Comment, then closing remarks by applicant's attorney (Ms. Lisa John-Basta, Esq.), finally concluding in Board Discussion and a vote on the application.

PUBLIC COMMENT

- *Ms. Sally Malanga (57 Ridge Road) was sworn under oath and objected to building next to a historic site like Crystal Lake and urged Board to deny application.*
- *Mr. Kevin Malanga (57 Ridge Road) was sworn under oath and expressed his dismay by how parking has been handled and feels applicant is being dishonest. He urged Board to deny application.*
- *Mr. Darren Tobia (24 Columbia Street) was sworn under oath and read letter referencing the memory of former Town Planner, Sue Borg and how this application tarnishes her memory. He urged Board to deny application.*
- *Mr. Steven Dwyer (71 Fairview Avenue) was sworn under oath, and said that he does not believe the application fits the area. He opined to say that he understands the need, but believes Eagle Rock should be preserved and urged Board to deny application.*

Chairman Neuer closed public hearing.

CLOSING STATEMENT

- *Ms. Lisa John-Basta, Esq.* in her closing arguments said that the existing Bowling Alley itself is a nonconforming use. It is currently a dilapidated and unusable building. In her opinion, significant modifications have been made to the plans since its first appearance as requested by the Board. (i.e. Building height has been reduced by one and a half feet to comply with height requirements, the orange band on top of the building was removed, the façade and materials were changed, the steep slope variances were eliminated entirely, building footprint was reduced by approximately 500 square feet, all sixty-six spaces within the front yard of property and some of the existing nonconforming conditions were eliminated in their entirety.)
 - In regards to the parking at the front of the property by anyone, including the applicant any such request to construct parking will require an application to this Board for approval.
 - Revised plans submitted by the applicant show proposed solar panels on the roof and two designated parking spaces to be utilized by the public for access to Crystal Lake which *Ms. John-Basta* characterized as the applicant being a good corporate citizen.
 - Merits to the application for a vote according to *Ms. John-Basta* are as follows: planning proofs to show the granting of the application, new variances boil down to three (3): Use variance for the proposed self-storage; height for an additional half story (although the proposal does meet the code requirements as measured in feet), and in loading spaces.

Application ZB-20-16 PS Atlantic Coast LLC concluded.

BOARD DISCUSSION

- *Chairman Neuer* said that there are permitted uses that could be placed on this property that would be far more compatible with Crystal Lake, the Eagle Rock Reservation, and the Lenape Trail which are all part of what makes West Orange the vibrant community that exists currently. *Chairman* also cited "*Belleville v. Parrillo's Inc.*" (1980) and "*Grundlehner v. Dangler*" (1959) regarding the need to eliminate and not expand non-conforming uses such as exists in this case. The land should be restored to the use it was originally zoned for and the way the Master Plan intended it to be. "It is our job to eliminate nonconforming uses, not continue them and certainly not to expand them or intensify them." *Chairman Neuer* continued providing further reasons to deny this application including the absence of credible proofs that this proposed use is particularly suited for this site.
- *Mr. Jonathan Redwine* agrees with *Chairman Neuer* and will vote in favor of denial.
- *Mr. Jerome Eben* agrees with *Chairman Neuer* and will vote no in regards to this application. He opined to say that he is appalled at the condition of the site.
- *Mr. Irv Schwarzbaum* concurs with *Chairman Neuer* and opined that the public pushed his vote as not one person has commented in favor of this application. He also opined saying that this applicant was asked multiple times to Consider requests by various members of the Board and other than a few minor concessions the applicant would not cooperate with the Board.

- *Mr. Peter Ricci* said politics aside, “my belief” is that the applicant has tried to conform to requests then cited the addition of solar panels. However, this applicant has been a stickler pertaining to Crystal Lake by advancing the proposition that the applicant has no responsibility to provide parking to the lake in turn there have been no clear answers in regard to how the front stem of the property will be used for parking.
- *Mr. Marc Sussman* agrees with *Mr. Ricci* and opined that this proposed setback is good for self-storage but has reservations in regards to parking at the lake.
- *Mrs. Alice Weiss* agrees with *Mr. Ricci* and *Mr. Sussman*. *Mrs. Weiss* stated her concerns about access to the lake and a clearer picture of the proposed parking.

Motion To Deny: Chairman Neuer

Second: Mr. J. Redwine

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

Notes: Application for Preliminary and Final Site Plan approval with "d" use variances and numerous "c" variances was denied at the April 28, 2022 Regular Meeting.

BREAK: 9:28-PM- 9:41PM

2. ZB 21-23 Sai Hira Ram Trust, Inc.

(Carried from 3/24/2022)

23-27 Laurel Avenue

Block: 177.02; Lot: 1.01; Zone: R-4

Seeking variances and removal of conditions of prior approval for a house of worship.

PRESENTATION

- *Mr. Robert C. Williams, Esq.* entered his appearance on the record on behalf of the applicant. He then stated that this application is regarding Amended Site Plan Approval for relocation of the approved gazebo. He further stated that the applicant is willing to accept the condition that this structure it is a strictly decorative item but no activities will be taking place at the gazebo (i.e. weddings). The applicant also seeks to remove the concrete wall on perimeter of the property, and to modify the hour restrictions for prayer which was a condition in the initial approval by this Board.

- *Mr. J. Michael Petry* was sworn in and was accepted by Chairman Neuer as an expert both as a professional engineer and professional planner. He then stated that the change to the wall is being made on request of *Former Town Forester, John Linson* who feared it would damage three (3) trees on the property and instead of the wall *Mr. Linson* suggested a six (6) foot tall chain link fence. *Mr. Petry* also showed the proposed relocation of the gazebo to the rear of the temple building. *Mr. Petry* then referenced letter from *Town Forester, Ron Farr* (Dated January 26, 2022) stating that seven (7) of the planted screening trees are dead/ or in serious decline. *Mr. Petry* said that the trees in question will be replaced.

BOARD QUESTIONS

- *Chairman Neuer* asked if the gazebo will be seen from the street. *Mr. Petry* answered in the negative.
- *Mrs. Alice Weiss* commented on the beautiful landscaping at this property and asked who planted the bushes. *Mr. Petry* said that he cannot testify to that but knows that a lot of money has been spent on landscaping.
- *Mr. Peter Ricci* asked about the fencing and the purpose of it. *Mr. Petry* said that the fencing is a form of screening for the neighbors. *Mr. Ricci* asked what the purpose of the gazebo will serve and if permits will be necessary. *Mr. Petry* said no permission will be necessary as the posts and roof are decorative features.
- *Mr. Irv Schwarzbaum* asked about the dimensions of the gazebo. *Mr. Petry* said that it is 10 ½ feet by 10 ½ feet on the points but unsure of the height to which *Mr. Williams* answered that at the pinnacle is (nineteen) 19 feet high.
- *Mr. Jerome Eben* asked if there is going to be lighting on the gazebo. *Mr. Petry* said that no electric is proposed
- *Chairman Neuer* asked if there is going to be an as built survey. *Mr. Williams* agreed to this.

NO PROFESSIONAL QUESTIONS

NO PUBLIC QUESTIONS

PUBLIC COMMENT

- *Ms. Elizabeth Durkin (Durkin Firm, representing neighbor Tal Ben-Zvi)* said that all issues her client originally had have been addressed.

BOARD DISCUSSION

- *Chairman Neuer* said that this is a benign application and that the applicant is acting as a good citizen.

Chairman Neuer moved approval of the application subject to the following conditions:

- Applicant will comply with the letter from *Mr. Ron Farr* in regards to the tree replacement.
- Applicant will replace the wall with a chain link fence with privacy slats.
- No events may take place in the gazebo, it is a purely decorative structure..
- The prior condition of approval regarding hours of worship is amended and those hours of worship shall be 8:00AM - 10:00PM.

Motion: *Chairman Neuer*

Second: *Mr. I. Schwarzbaum*

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

Notes: Application seeking variances and amendment of conditions of prior approval for a house of worship was approved with conditions at the April 28, 2022 Regular Meeting.

3.) ZB 21-07 Rozenfeld

(Carried from 3/24/2022)

1, 3, 5 Maple Avenue

Block: 161.02; Lot: 26; Zone: R-5

Seeking "c" variance

PRESENTATION

- *Ms. Larissa Rozenfeld*, the applicant, was sworn under oath. *Ms. Rozenfeld* stated that this application in regards to impervious coverage in front yard for additional parking area by installing a circle driveway in the front yard.

BOARD QUESTIONS

- *Chairman Neuer* asked in regards to landscaping to which *Ms. Rozenfeld* said that there is no visibility in her opinion. *Chairman* said that the Board needs an actual survey and cannot approve of this application without one to which *Ms. Rozenfeld* said that it will give the same result.
- *Ms. Rozenfeld* explained the issue regarding the curb cut. In response to which *Chairman Neuer*, *Mrs. Weiss*, and *Mr. Ricci* tried explaining the difference between a Site Plan and a Survey.

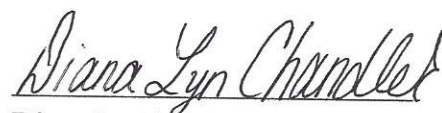
BOARD DISCUSSION

- *Chairman Neuer* said that until an official Site Plan is submitted, he will out of kindness carry this application monthly so applicant will not have to issue new formal notices again.

Application ZB-21-07 Rozenfeld is carried with no further notice to the May 19, 2022 Regular Meeting.

Chairman Neuer adjourned the meeting at 10:37PM.

Adopted: 5/19/22


Diana L. Chandler, Secretary