

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING

May 19, 2022

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on May 19, 2022 commencing 8:00PM utilizing the virtual Zoom platform.

Chairman Phillip D. Neuer called the meeting to order at approximately 8:00 PM. 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, Jonathan Redwine, Peter Ricci,
Mark Sussman, Irv Schwarzbaum

Absent: Alice Weiss (excused absence);
Dr. Michael Straker (excused absence);
Sarabraj S. Thapar, Public Advocate;
John Hess, Consulting Engineer for the Township

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

ANNOUNCEMENTS

- Future Meetings: June 16, 2022 (regular)
July 21, 2022 (regular)
August 18, 2022 (regular)
- Application **ZB 21-07 Rozenfeld** is carried to the June 16, 2022 Regular Meeting with no further notice.
- *Chairman Neuer* announced that a Special Meeting for **Application ZB-22-02 - Monarch Development Group JV LLC co Michael Glynn (Mayfair Farms Holding Corp.) - 481 Eagle Rock Avenue** is scheduled for June 9, 2022 via Zoom platform.

MINUTES

Adopt: April 28, 2022 Meeting Minutes

Motion: *Chairman Neuer*

Second: *I. Schwarzbaum*

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

SWEARING IN

- Township Professional, *Mr. Paul Grygiel*, Township Planner was sworn under oath.

RESOLUTIONS

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

(Adopted 5/19/2022)

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.

Motion: *I. Schwarzbaum*

Second: *M. Sussman*

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

Notes: Application seeking variances and removal of conditions of prior approval for a house of worship was approved with conditions at the April 28, 2022 Regular Meeting. Resolution was adopted at May 19, 2022 Regular Meeting.

• **ZB-20-16/PS Atlantic Coast, LLC**

(Denied 4/28/2022)

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

Motion: Chairman Neuer

Second: I. Schwarzbaum

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

Notes: Application for Preliminary and Final Site Plan approval with "d" use variances was denied at the April 28, 2022 Regular Meeting. Resolution was adopted at May 19, 2022 Regular Meeting.

APPLICATIONS

1.) ZB-22-03 Perlman/ 314 Walker Road

Block: 160.01; Lot: 30.04; Zone: R-1

PRESENTATION

- *Ms. Kathryn Perlman*, Applicant was sworn under oath.
- *Ms. Perlman* referenced March 9, 2022 letter from *Mr. Paul Grygiel*.
- *Ms. Perlman* explained that the main goal of this application is to move her elderly mother into the home and wants to give her one level which would require an addition to her property. Due to the rear and side setbacks this would require variances.

BOARD QUESTIONS

- *Chairman Neuer* opined that the proposal *Ms. Perlman* submitted is compelling. He then asked if the finishing on the addition will be the same as currently appears on the property. *Ms. Perlman* answered in the affirmative.
- *Mr. Jerome Eben* asked if *Ms. Perlman* had talked to the Architect about ADA compliance. *Ms. Perlman* answered in the affirmative.

NO PROFESSIONALS QUESTIONS

- *Mr. Grygiel* offered as a condition that landscaping drawings and confirmation of signed/sealed plans be submitted by June 6, 2022 for the June 16, 2022 Regular Meeting. *Ms. Perlman* agreed to this condition.

NO PUBLIC QUESTIONS
NO PUBLIC COMMENT
NO BOARD DISCUSSION

Motion: *Chairman Neuer*

Second: *J. Redwine*

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

Notes: Application seeking “c” variances for expansion of existing house was approved with conditions at the May 19, 2022 Regular Meeting.

- 2.) ZB 21-22 19 Wheatland LLC/ 17 Wheatland Avenue (Carried from 4/28/2022)**
17 Wheatland Avenue
Block:39; Lot:56.06; Zone: R-6
 Seeking “c” variances for construction of a new single-family dwelling.

PRESENTATION

- *Mr. Michael Piromalli, Esq.* entered on the record on behalf of applicant. *Mr. Piromalli* confirmed that he intends to go forward with this application with five (5) board members after *Mr. Peter Ricci* asked to recuse himself as he informed the Board that he is currently working with the law firm that is *Mr. Piromalli's* employer (Gaccione Pomaco, P.C.). *Mr. Ricci's* recusal was accepted by *Chairman Neuer* and confirmed by *Ms. Alice Beirne, Esq.*
- *Mr. Miguel Armijos*, Applicant was sworn under oath and confirmed ownership of the property. *Mr. Armijos* informed that he wants to build a one family home. His connection with 19 Wheatland LLC is that he is the majority owner. After stating this, he confirmed that he will not be living on the property.

BOARD QUESTIONS

- *Mr. I. Schwarzbaum* asked about the name of the LLC. To which *Mr. Armijos* said that they used to own the lot at 19 Wheatland Avenue.
- In response *Mr. Schwarzbaum* asked about the size of the lot on 19 Wheatland Avenue, which *Mr. Armijos* said that he is unsure.

- *Chairman Neuer* asked if there was a building on 19 Wheatland Avenue. *Mr. Armijos* answered in the negative.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

Mr. Armijos' testimony concluded.

PRESENTATION

- *Mr. Charles Baldanza, Architect* was sworn under oath and was qualified as an expert in the field of Architecture.
- **Exhibit A1 was marked for identification Proposed Floor Plans- Colorized (Dated - 9/30/2021)** which showed an open layout on the first floor, three (3) bedrooms on the second floor, and on the third floor an attic which according to *Mr. Baldanza* is "essentially a half story".
- **Exhibit A2 was marked for identification Elevation Plan– Colorized (Dated - 9/31/2021)** which showed the difficulties of building a single-family house with the size of this lot. The exterior proposed is to blend into the neighborhood by utilizing cultured stone and windows with good linear elements.

BOARD QUESTIONS

- *Chairman Neuer* asked if *Mr. Baldanza* was aware of the Steep Slope Ordinance and how they would be accommodating that ordinance. *Mr. Baldanza* said that on the western side of the property, they would get the grading correct and there are no "cookie cutter set of plans."
- *Chairman Neuer* asked *Mr. Baldanza* to opine on the Steep Slope Ordinance. *Mr. Baldanza* asked to defer to the Planner and Engineer.
- *Chairman Neuer* asked about the lowest level of the cellar and if there is a basement in the plans. *Mr. Baldanza* said that only a cellar is proposed.
- *Chairman Neuer* asked *Mr. Baldanza* to opine from an Architectural perspective on the R6 zone and if there was the ability to reduce the building. *Mr. Baldanza* answered in the affirmative and that it could be done but the design submitted is already a compromise.
- *Mr. I. Schwarzbaum* asked where the access to the cellar is. *Mr. Baldanza* said that it can be accessed from the stairway in the Kitchen/Dining Room area.
- *Mr. Schwarzbaum* asked for the height of the ceiling in the cellar. To which *Mr. Baldanza* said that the ceilings are eight (8) feet high and not part of the living space. *Mr. Schwarzbaum* opined in response to this saying that drawings should show basement/cellar.
- *Mr. J. Eben* asked where the water run-off from the roof goes. *Mr. Baldanza* said that there is a stormwater system designed for site.
- *Mr. Eben* asked if there is a gutter provided. *Mr. Baldanza* answered in the affirmative.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- *Kevin Malanga (57 Ridge Road)* asked about the width of the house at the South elevation to which *Mr. Baldanza* answered 24.6 feet.
- *Mr. Malanga* asked if the house is designed to be compatible with the neighborhood to which *Mr. Baldanza* answered in the affirmative.
- *Mr. Malanga* asked if the other houses proximate to this one were measured as part of a neighborhood “survey” to which *Mr. Baldanza* answered in the negative.
- *Mr. Malanga* asked about the interior width of the garage in the interior to which *Mr. Baldanza* said that it is twelve by four feet wide (12’x4’).
- *Mr. Malanga’s* final question was to ask if the garage was designed for two (2) cars to which *Mr. Baldanza* answered in the negative.

Mr. Baldanza’s testimony concluded.

PRESENTATION

- *Mr. Shawn Delaney, Engineer* was sworn under oath and was accepted as an expert in the field of Engineering.
- *Mr. Delaney* referenced the existing conditions on site.
 - This property on Wheatland Avenue is rectangular in shape on a dead end with the area North of the property being developed.
 - Setbacks conform to the R6 Zone. There is a retaining wall along the western side of the property to prevent erosion and placement of garage.
 - In response to *Chairman Neuer’s* questioning in regards to the Steep Slope Ordinance, *Mr. Delaney*, stated this application is proposing the retaining walls on the western side of the property that will help stabilize the slopes and help prevent erosion. *Mr. Delaney* also testified stating that they are placing the garage on the western side to stop the overall earth movement on the site.
- *Mr. Delaney* also testified in the regards to the detention filtration system being proposed for the eastern side of the property. This was designed for the increase of impervious coverage. This system is being located at the low point of the site and is designed to infiltrate to the ground.

BOARD QUESTIONS

- *Mr. I. Schwarzbaum* asked if *Mr. Delaney* has visited the site. *Mr. Delaney* answered in the affirmative.
- *Mr. Schwarzbaum* asked about the types of properties on the Western and Eastern sides of the property. *Mr. Delaney* said that they are single family homes.
- *Mr. Schwarzbaum* asked about how the stormwater will get to the retention basin. *Mr. Delaney* said that it will run off of the roof into the catch basin.
- *Mr. Schwarzbaum* asked how the retaining wall will affect the eastern side of the property. *Mr. Delaney* said that the water is blocked by the western side of the property.
- *Chairman Neuer* asked about the drainage system. *Mr. Delaney* said that it is daylighted behind the wall infiltration system.
- *Chairman Neuer* asked the witness to describe the materials to be used to construct the wall. *Mr. Delaney* said that the material used will be poured cement.

- *Chairman Neuer* asked if there is landscaping proposed. *Mr. Delaney* said there are no plans for landscaping.
- *Chairman Neuer* asked if the wall is visible from 19 Wheatland Avenue. *Mr. Delaney* answered in the negative.
- *Chairman Neuer* asked if one house could be built if lots were combined. *Mr. Delaney* answer in the affirmative.
- *Chairman Neuer* asked if there would be blasting on the site. *Mr. Delaney* said that he is unsure unless testing is being done.
- *Chairman Neuer* asked about the existence of a Landscape plan to which *Mr. Delaney* said that there is not one. *Mr. Piromalli* said that he is willing to accept a Landscape Plan as a condition.

PROFESSIONALS QUESTIONS

- *Mr. Paul Grygiel* asked if there is any portion of the wall which will be six (6) feet or higher. *Mr. Delaney* confirmed that there is and an additional variance would be required.
- *Mr. Grygiel* asked if this could be built without the wall. To which *Mr. Delaney* answered in the affirmative.
- *Mr. Grygiel* asked about the trees being removed and if there is a plan to replace them. *Mr. Delaney* said that no replacements are proposed but the Applicant is willing to add plantings.

PUBLIC QUESTIONS

- *Kevin Malanga (57 Ridge Road)* asked for clarification on the location of the swale on the property. *Mr. Delaney* confirmed that the swale is in the Front/Back of the property.
- *Mr. Malanga* asked for confirmation of the location of the wall. *Mr. Delaney* confirmed the location.
- *Mr. Malanga* asked about the visibility of the wall. *Mr. Delaney* said that it would change the topography of the site.
- *Mr. Malanga* asked about soil being removed. *Mr. Delaney* said that it is unknown at this time.
- *Mr. Malanga* asked how many trees are being removed. *Mr. Delaney* said all ten (10) in question will be removed. After *Mr. Malanga* asked about a replanting plan, *Mr. Delaney* restated that there is no replanting plan but the applicant is willing to have this as a condition.
- *Mr. Malanga* asked about excavating on the property and method that would be used. *Mr. Delaney* said that it would be hammering.

Break: 9:35PM- 9:46PM

Upon return from break, Mr. Piromalli asked for application ZB-21-22 19 Wheatland LLC to be carried to the July 21, 2022 Regular Meeting and include new variances, submission of a complete landscaping plan and new noticing. Chairman Neuer granted this request. To which Mr. Piromalli asked if no new variance is added for the retaining wall (or wall is being reduced in lower height) if new noticing would still be required. Chairman Neuer also granted this request.

3.) ZB 22-01 Siju/ 20 Lorelei Road

Block:172.03; Lot:23; Zone: R-5

Seeking "C" Variance for expansion of existing house.

PRESENTATION

- *Mr. Christopher O. Dougherty*, Architect entered his appearance on the record and his credentials were accepted as an expert in the field of Architecture. It was at this time, *Mr. Joseph and Jemilat Siju*, Applicants and *Mr. Dougherty* were sworn under oath.
- *Mr. Dougherty* explained that during construction of the expansion, there was an issue with the base. Drawing A1 was marked for identification- As Built Survey (Dated November 16, 2021) by *Mr. Belton Brevard* (of Brevard Surveying & Mapping). *Mr. Dougherty* stated that once the applicants realized his architectural plans were not being followed, they dismissed the contractor.

BOARD QUESTIONS

- *Chairman Neuer* asked the name of the original contractor who did not follow the plans and if a copy of the license was seen. *Mrs. Siju* said the name of the company is Camra Construction (located in Newark) and confirmed that a copy of the license was seen. *Chairman Neuer* asked for copy of contract to be submitted for the record prior to the July 21, 2022 Regular Meeting. Response from *Mr. Siju* was that it would be sent as soon as possible.
- *Chairman Neuer* asked the reasoning behind the process that occurred for the project to be shut down. *Mr. & Mrs. Siju* said that there was an inspector from the Building Department who came out and discovered the discrepancy in the plans. They then confirmed that the original survey was given to the Building Department.
- *Chairman Neuer* asked about the building height to which *Mr. Dougherty* said that information is not on the plans.
- *Chairman Neuer* asked *Mr. Dougherty* about his visits to the site and to opine on the grades. *Mr. Dougherty* said that the only time he visited this site was when the contractor had questions and he answered them without having the plans with him.
- *Mr. Eben* asked for revisions to be done of these plans. For example, the risers on the staircases are inconsistent. *Mr. Dougherty* confirmed that this will be rectified.
- *Mr. I. Schwarzbaum* asked if he was supervising the contractor at all and at what phase of construction did he visit the property. *Mr. Dougherty* answered in the affirmative and that his visit took place after finishing on one side.
- *Mr. Schwarzbaum* asked if the applicants are living on the property. It was confirmed that they are not.
- *Mr. Schwarzbaum* asked if there was a discussion about the difference of going from eight (8) to nine (9) feet in the height of the ceilings. *Mr. & Mrs. Siju* confirmed that there was no such discussion.
- *Mr. Schwarzbaum* asked when construction started and when was the quote given. *Mr. & Mrs. Siju* said that the quote was received in 2020 and construction started in March of 2021.

BOARD DISCUSSION

- *Chairman Neuer* said that there cannot be a vote on this application during this meeting as the, “drawings are deficient” meaning that there needs to be a real survey of the property in question and a copy of the original contract needs to be submitted to the Board prior to the July 21, 2022 Regular Meeting. *Chairman Neuer* then asked *Ms. Beirne* to issue a subpoena for the contractor to appear. *Ms. Beirne* confirmed that she will issue the subpoena.
- *Mr. Ricci* asked for the original documents from the Building Department and a listing of when the inspections were made.
- *Mr. Eben* asked *Mr. Grygiel* about the Zoning Chart in regards to this application and discussed side yard versus front yard.

Chairman Neuer announced that application ZB 22-01 Siju/ 20 Lorelei Road is being carried to the July 21, 2022 Regular Meeting. Notice for this application is dependant upon whether or not variances are being added.

Chairman Neuer adjourned the meeting at 10:37PM.

Adopted: 6/16/22


Diana L. Chandler, Secretary