

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING**

July 21, 2022

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on July 21, 2022 commencing 8:00PM utilizing the virtual Zoom platform.

Chairperson Philip 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."

Chairperson 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,
Mark Sussman, Alice Weiss

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

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

ANNOUNCEMENTS

- Future Meetings: August 18, 2022 (regular)
September 15, 2022 (regular)
October 20, 2022 (regular)
- **ZB-22-05 Trademark Sign, LLC/Burlington** is carried to the **August 18, 2022 Regular Meeting.**

SWEARING IN

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

RESOLUTIONS

• **ZB-22-04 Saviet/ 1 Normandy Terrace (Approved 6/16/2022 & Adopted 7/21/2022)**

Block: 155.10; Lot: 26; Zone: R-5

1 Normandy Terrace

Seeking “c” variance for addition of porch to existing house.

Motion: Chairperson Neuer

Second: M. Sussman

Eben:	No	Straker:(Alt. 4)	-
Redwine:	Yes	Sussman:	Yes
Ricci:	-	Weiss:	-
Schwarzbaum:	-	Chairperson Neuer:	Yes
		Yes: 3 ; No: 1	

Application seeking “c” variance for addition of porch to existing house was approved at the June 16, 2022 Regular Meeting and the resolution was Adopted at the July 21, 2022 Regular Meeting.

APPLICATIONS

1) ZB 21-22 19 Wheatland LLC/ 17 Wheatland Avenue (Carried from 5/19/2022)

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 and gave a brief summation on the previous testimony.
- *Chairperson Neuer* said the excess of trees variance covered under catchall in public notice; inversion of block and lot and because of the correct address approved to continue this testimony.
- *Mr. Piromalli* referenced the July 15, 2022 letter from *Mr. Paul Grygiel* amendment to application approved by *Chairperson Neuer*.
- *Mr. Shaun Delaney, Engineer* entered the record, was sworn under oath and credentials were still accepted/recognized from the previous meeting.
- *Mr. Delaney* testified in regards to the Grading Plot Plan referenced the Test Pits (total of four) for permeability of soil per hour. (i.e. Test Pits Three and Four were excavated for bedrocking and ground water; with a cellar intended)
- **EXHIBIT A4 Colorized Grading Plot Plan (Dated July 7, 2022)** which has been annotated to show the Test Pits to test the permeability rate.
- **EXHIBIT A5 Colorized Landscaping Plan (Dated July 7, 2022)**
 - *Mr. Delaney* explained that in regards to this exhibit, ten (10) trees are to be removed and replaced (two minor and eight major). There is also going to be supplemental landscaping for screening purposes of the garage. The HVAC location to rear of existing house; *Mr. Delaney* reviewed *Mr. Grygiel's* July

15, 2022 report and testified in response that the steep slope will remain unchanged.

BOARD QUESTIONS

- *Mr. Jerome Eben* asked in regards to the retaining wall if it is being replaced or is it being left as is. *Mr. Delaney* answered that it is being left as is. *Mr. Eben* asked about the location of the street and curb. *Mr. Delaney* said that there would be a new driveway constructed. *Mr. Grygiel* said that sidewalk would be a waiver for this applicaiton. *Mr. Eben* asked if the road is paved. *Mr. Delaney* answered in the affirmative and it is an approved roadway. In response to this *Mr. Delaney* showed **EXHIBIT A6 Photo Board of Existing Homes on Wheatland Avenue.**
- *Mr. Jonathan Redwine* asked if there is a minimum caliber of width for replacement trees to which *Mr. Delaney* answered in the affirmative. *Mr. Redwine* asked if there is a way to avoid having “stick trees”. *Mr. Delaney* said that it is exactly what they are doing by using 2.5 caliper trees. *Mr. Redwine* asked if he could get a commitment of larger size trees. *Chairperson Neuer* in response suggested three (3) inch and said it could be listed as possibly a condition for the application.
- *Mrs. Alice Weiss* said that she agrees with *Mr. Redwine’s* remarks and asks for possibility of a compromise if there is a possibility for growth available. *Mr. Delaney* asked for *Mr. Petry* to testify prior to agreeing to this.

PROFESSIONALS QUESTIONS

- *Mr. Grygiel* asked for confirmation that the street is indeed paved with asphalt in front of the property. *Mr. Delaney* answered in the affirmative.

PUBLIC QUESTIONS

- *Mr. Kevin Malanga (57 Ridge Road)* confirmed that his property not within 200 feet from the application site then asked about the choice of trees. *Mr. Delaney* said that the choice was made in regards to the screening to the rear of the property. *Mr. Malanga* asked about trees being prone to deer damage. *Mr. Delaney* answered that deer damage is a possibility but on the retaining wall it is less likely. *Mr. Malanga* followed up with a maintenance plan for trees. *Mr. Delaney* said that replaced trees die within a certain time frame (one to two years) they will be replaced again.

Mr. Delaney’s testimony concluded.

PRESENTATION

- *Mr. Charles Baldanza, Architect* entered the record, was sworn under oath, and credentials were still accepted/recognized from the previous meeting.
- *Mr. Baldanza* showed **Sheet A.1 Proposed Floor Plans (Dated 7/2/2022)** with a cellar floor plan and unfinished storage.

BOARD QUESTIONS

- *Chairperson Neuer* asked about the purpose of the powder room. *Mr. Baldanza* responded that it is an amenity to future residents of the house.
- *Mr. Eben* stated that he agrees with *Chairperson Neuer* and elaborated further that if applicant cannot finish cellar how can the Board approve a powder room. *Chairperson Neuer* said that he would like to put as a condition to eliminate the powder room. *Mr. Piromalli* agreed.
- *Mr. Redwine* asked if renewable resources were being used for the structure (i.e., solar panels). *Mr. Baldanza* said that it has not been discussed but does not believe this property is a great candidate.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- *Kevin Malanga (57 Ridge Road)* asked if a sump pump is going to be installed in the cellar of the property. *Mr. Baldanza* answered in the affirmative since the Building Code requires it.

Mr. Baldanza's testimony concluded.

PRESENTATION

- *Mr. J. Michael Petry, Planner* entered the record, was sworn under oath, and was accepted/recognized as an expert in the field of Planning.
- *Mr. Petry* referenced *Mr. Grygiel's* July 15, 2022 letter outlining variances as being correct and can be proven under C1 or C2 criteria. He then displayed Exhibit A1 again **(Proposed Floor Plans- Colorized- Dated 9/30/2021)** and explained that this application is a classic C1 standard with an undersized lot. *Mr. Petry* opined that this application is "completing a neighborhood" as it is appropriately sized for the lot/neighborhood.
- *Mr. Petry* offered testimony on the types of trees on the property the variances in removing them and what is being replaced.

BOARD QUESTIONS

- *Mrs. Weiss* said that height of the trees is more important and wants to take back her previous statement. Based on the testimony of *Mr. Petry* she agrees that screening is more important.
- *Chairperson Neuer* quoted and opined on the ordinance. *Mr. Petry* said that the ordinance does not have to grant variance with confirmation of having to return to Board to refinish the basement.

PROFESSIONALS QUESTIONS

- *Mr. Grygiel* asked about the variances to be constructed. *Mr. Petry* said that the variances are reasonable in size but when steep slope is involved any property will require a variance.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENTS

Mr. Piromalli made closing remarks in summation of the application.

Chairperson Neuer closed public hearing.

CONDITIONS:

- The Red Maple replacement trees proposed would be a minimum of 3.5 inches in caliper and in regard to the major replacement trees of American Arborvitae with those having a minimum planting height of ten (10) feet.
- Powder Room in cellar will be eliminated from plans.
- Cellar area will remain unfinished and not be used for living space. In order to convert cellar area into a living space in the future, the applicant would be required to return back to Board for approval.

Motion: Chairperson Neuer

Second: A. Weiss

APPROVED

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

Notes: Application seeking “c” variances for construction of a new single-family dwelling was approved with conditions at the July 21, 2022 Regular Meeting.

BREAK 9:25PM – 9:37PM

2.) ZB 22-01 Siju/ 20 Lorelei Road
Block:172.03 ; Lot:23 ; Zone: R-5

(Carried from 5/19/2022)

Seeking "C" Variance for expansion of existing house.

PRESENTATION

- *Mr. Christopher Dougherty, Architect* led the presentation, was sworn under oath, and credentials were still accepted/recognized from the previous meeting.
- *Mr. Dougherty* explained that he submitted original plans drafted and revisions to Planning & Development on July 9, 2022. *Mr. Dougherty* and *Chairperson Neuer* discussed the situation where there is no catch all for noticing testimony so can continue in its entirety just not in regards to the heights.
- *Chairperson Neuer* referenced the Builder's Copy of plans did not call out variances or zoning table. Setbacks were listed by *Chairperson Neuer* and he also referenced the inconsistent zoning table. "Property line is adjacent to the property in question," along where Mount Pleasant Avenue (C1 Sheet dated 8-14-2020)
 - *Not built-in conformance with plans*
 - *Submission to rectify overbuilding and permits submitted (then approved)*
- *Chairperson Neuer* asked *Mr. Grygiel* about variances side yard, not height with no further variances as well as side yard.
- *Chairperson Neuer* asked about the contractor's relationship with *Mr. Dougherty*, he responded that he has been on the premises once but was always available to discuss with the contractor. *Mr. Dougherty* also mentioned that when they were to failed for multiple inspections by the Building Department, he was told to send a letter stating the inconsistencies in the property (which he did not do).

NO BOARD QUESTIONS

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- *Mr. Mwamba Camara, Original Contractor* was sworn under oath. *Chairperson Neuer* mentioned that *Mr. Camara's* Contractor License is not on the contract with the Applicants. *Mr. Camara* responded that after being in the hospital changes were made to the site and that the owner wanted a two-car garage.

BOARD QUESTIONS

- *Mrs. Weiss* asked if the applicant knew and still wanted a two (2) car garage and wanted to continue. *Mr. Camara* answered in the affirmative. *Mrs. Weiss* asked if he is telling the truth.
- *Chairperson Neuer* asked if there were conversations with the applicant, architect and himself. *Mr. Camara* answered in the affirmative.

- *Mr. Redwine* asked if the letter requested by the Inspector from the Building Department was ever written. *Mr. Dougherty* answered in the negative. *Mr. Redwine* asked what should have been included in the overbuild. *Mr. Dougherty* said that there is verification of the foundation in the back. *Mr. Redwine* asked if approval from Building Department was contingent on receipt of letter. *Mr. Camara* said that he is unsure. *Mr. Redwine* asked if final approval was ever received to which *Mr. Dougherty* answered that approval is behind the plans.
- *Mrs. Weiss* said that this is a comedy of errors blames architect and elaborated saying that she has no faith in the testimony of *Mr. Dougherty* and believes that *Mr. Camara* is not being totally honest either.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- *Kevin Malanga (57 Ridge Road)* asked if a surveyor was used for the project. *Mr. Camara* said that a masonry was used as a subcontractor.
- *Mr. Malanga* asked if he was there when excavation was done and was the footing poured. *Mr. Camara* and *Mr. Dougherty* answered in the negative. *Mr. Malanga* asked *Mr. Camara* if *Mr. Dougherty* was ever contacted or called. *Mr. Camara* said that he did call, but *Mr. Dougherty* did not come.
- *Mr. Malanga* asked about when the additional funds were requested by *Mr. Camara*. *Mr. Camara* said that he only requested such when inflation occurred.

PRESENTATION

- *Ms. Jemilat Siju* was sworn under oath and testified that *Mr. Camara* asked for more funds prior to digging and said that they purchased materials themselves.

PUBLIC QUESTIONS

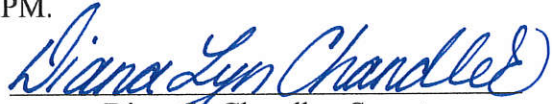
- *Kevin Malanga (57 Ridge Road)* asked for clarification that *Mr. Camara* requested \$10,000 but gave \$7,000. *Ms. Siju* said that this was in relation to digging.
- *Mr. Camara* said that there were additional monies requested for the timber price change. *Chairperson Neuer* responded confirming that the contract submitted was not consistent of the total as "Phase Four (4)" was left blank. *Chairperson Neuer* asked when the Contractor saw the size did they ask for the Architect and or Contractor to reduce. To which *Mr. Camara* said that he did ask for a reduction.

Chairperson Neuer announced that application ZB-22-01 Siju/ 20 Lorelei Road seeking "C" Variance for expansion of existing house was carried to the September 15, 2022 Regular Meeting. Applicants must renote prior to said meeting to include the height variance. Applicants agreed to the continuance/extension for application.

Chairperson Neuer announced that application ZB 21-07 Rozenfeld / 1,3, 5 Maple Avenue was carried to the October 20, 2022 Regular Meeting. Applicants agreed to the continuance/extension for application.

Chairperson Neuer adjourned the meeting at 10:53 PM.

Adopted: 2/16/2023


Diana L. Chandler, Secretary