

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

September 15, 2022

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on September 15, 2022 commencing 8:00PM utilizing the virtual Zoom platform.

Chairperson 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."

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,
Irv Schwarzbaum, Dr. Michael Straker, Alice Weiss,

Absent: Peter Ricci (excused absence), Mark Sussman (excused absence)

Also Present: Paul Grygiel, Acting Planning Director for Township
Alice Beirne, Esq. Board Attorney
Jamilet Baquerizo Vite (proxy for Diana L. Chandler), Board Secretary
John Hess, Consulting Engineer for the Township
Sarabraj S. Thapar, Public Advocate (arrival 8:14PM);

ANNOUNCEMENTS

- Future Meetings: October 6, 2022 (Special)
 October 20, 2022 (regular)
 November 17, 2022 (regular)
 December 15, 2022 (regular)

- *Chairperson Neuer* announced that a Special Meeting for **ZB- 21-21 Daughters of Israel Inc. (1155 Pleasant Valley Way)** is being scheduled for October 6, 2022 via Zoom platform.

SWEARING IN

- Township Professionals, *Mr. Paul Grygiel*, Township Planner and *Mr. John Hess*, Consulting Engineer for the Township were sworn under oath.

RESOLUTIONS

- **ZB-22-06 Weinberg – 17 Cleveland Terrace** (Approved 8/18/2022)

Block: 175.14; Lot: 10; Zone: R-5

17 Cleveland Terrace

Motion: Chairperson Neuer

Second: J. Redwine

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

Notes: Application seeking “C” variances for new driveway and related improvements was approved with conditions at the 8/18/2022 Regular Meeting. Resolution was adopted at the 9/15/2022 Regular Meeting.

Revised plans with Landscaping

Planning Director Post Approval Compliance Memo

- **ZB-22-05 – Trademark Sign, LLC/ Burlington** (Denied without prejudice) 8/18/2022)

Block: 155.21; Lot: 40; Zone: P-C

495 Prospect Avenue

Motion: Chairperson Neuer

Second: A. Weiss

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

Notes: Application seeking “c” variance for new monument sign was denied without prejudice at the 8/18/2022 Regular Meeting. Resolution was adopted at the 9/15/2022 Regular Meeting.

APPLICATIONS

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

(Carried from 7/21/2022)

Seeking "C" Variance for expansion of existing house.

PRESENTATION

- Mr. Christopher Dougherty, Architect, entered on the record on behalf of the applicant and was sworn under oath. Mr. Dougherty said that the zoning drawings have been submitted that show the change footprint as built by the contractor. Also, the require notification has been satisfied. No changes will be made to the building until the approval process is complete. Mr. Dougherty's plan is to map out everything that they need to do, regarding the interior alterations, so that the Siju family will be able to occupy the residence.

BOARD QUESTIONS

- Chairperson Neuer asked about the status of the permits, since the constructions is not complete. Mr. Dougherty said that the permits are going to be revised and changed over to the new contractor's name. He stated that the revised drawings will have to be submitted to the Township for review.
- Mr. I. Schwarzbaum asked if the contractor walked the project and, based on his knowledge, knows what needs to be done at the property. He said that he has walked through the project and that the property needs framing, rectified and add beams and partitions need to be put in the right place.
- Mrs. A. Weiss asked if the applicant has hired a structural engineer, to which the contractor answered he is not sure yet.
- Mr. Eben asked if there are any trees being removed. Applicant answered in the negative but filling out the application was a requirement.
- Chairperson Neuer if Mr. Dougherty will be performing regular inspections, to make sure that the construction is in accordance to the plans and permits. Mr. Dougherty answered in the affirmative.

NO PUBLIC ADVOCATE QUESTIONS

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTION

NO PUBLIC COMMENT

CONDITIONS

- The applicant shall retain the services of a structural engineer, the structural engineer will submit a report or plans to the Zoning Board Engineer Mr. John Hess, indicating the findings in regards to the structure.
- All permits need to be reviewed and under the new contractor.
- Mr. Dougherty shall perform periodic and regular supervisions and inspections of the construction.

- No removal of any trees.

Motion: Chairperson Neuer

Second: A. Weiss

Eben:	N	Straker:(Alt. 4)	Y
Redwine:	Y	Sussman:	-
Ricci:	-	Weiss:	Y
Schwarzbaum:	Y	Chairperson Neuer:	Y
		Yes: 5 ; No: 1	

Notes: Application seeking “C” Variance for expansion of existing house was approved with conditions at the 9/15/2022 Regular Meeting

2.) ZB- 21-21 Daughters of Israel Inc. (1155 Pleasant Valley Way) (Carried from 8/18/2022)

Block:171; Lot:12; Zone: R-2

1155 Pleasant Valley Way

Seeking C1, C2, and D Variances with preliminary and final site plan approval to redevelop the campus into a continuum of care community offering independent living, assisted living and skilled nursing components.

PRESENTATION

- Mr. Howard Geneslaw Esq. entered on the record. Mr. Geneslaw gave a brief description of Daughters of Israel and the services that they have offered since their opening in 1962, they are a nursing facility ~~that are~~ licensed for 303 beds. This application seeks approval to redevelop the existing facility into a Continuing Life Community also known as CCRC, which offers independent living, assisted living and skilled nursing components. The site consists of approximately 18 acres located in the R-2 zone district, which does not permit the proposed use and does not permit the existing use. The approvals that the applicant is seeking are preliminary and final major site plan approval, “D” variance approval for a use not permitted in the zone, use variance, height variance & “C” variances. During the technical reviews for this application there were two other items brought in the planner’s report dated June 17, 2022 indicating that variances were required for steep slopes in the 20% to 24.99% category and in the 25% category. Additionally in the engineer’s report dated June, 20, 2022, item 44, requires a design standard exception which concerns the inability to use great infrastructure. The applicant is requesting that any approval by the board have an extension of 10 years to allow time for construction.
- Mr. Jason Halper, President of Daughters of Israel Inc. entered on the record, was sworn under oath and his credentials were accepted by the Board.

- Mr. Halper offered testimony in regards to the services and mission of Daughters of Israel Inc to provide care-giving services to the Jewish elderly. Mr. Halper stated that Daughters of Israel is a non-profit organization, whose mission is to provide health and social related services to the Jewish elderly and others in need regardless of their ability to pay. Daughters of Israel is considered a Jewish entity, which means that they celebrate Jewish holidays, serve Kosher food, etc., but anyone is welcome into the facility. Currently half of the residents are Jewish and the other half are not affiliated in the Jewish religion. Daughters of Israel is basically a skilled nursing home and are licensed by the State of New Jersey. They provide long term skilled nursing care and are licensed for 303 beds but, as of now, they currently have 150 residents. Besides the long-term care, Daughters of Israel also provide rehabilitation services, hospice care and recreational programs for the residents. In addition to operating the home, Daughters of Israel is in partnership with the Jewish community foundation that covers the Essex County and other counties. They also operate a non-profit program called Metro Transport that provides rides for senior citizens and adults with special needs to doctor appointments, the JCC in West Orange and other destinations in the county. This programs currently provides 6,000 rides per year. Mr. Halper explained that the recently low demand in skilled nursing homes is because there has been an increase in in-home care and there are other types of senior facilities including independent assisted living and skilled nursing homes that have become the last resort for seniors. So, the reasons why Daughters of Israel is doing this project in their facility is because the demand on the market has changed and the buildings current size, layout and functionality no longer matches the number of residents they are serving. The second reason is basic economics, since 70 to 75 percent of the residents pay through Medicaid, so the cost exceeds the amount they get paid from the Medicaid program. To be able to cover their losses, Daughter of Israel do fundraisers, have government grants and have support from the Jewish federation, but they know this is not a sustainable long-term model. In 2018, Daughters of Israel had studies in market done by a company called PMD Advisory Services, where they recommended that Daughters of Israel needed to substantially reduce its skilled nursing footprint and, if Daughters of Israel wants to still be a viable entity going forward, they need to get into the independent living and assisted living business and provide these cares and services to the residents. Daughters of Israel were also told that if they do nothing that they will probably be out of business within the next 10 to 15 years. Mr. Halper mentioned that the consultant came up with three options. One was to build a smaller facility at a different location, the second option was to sell the facility to a for-profit organization and the last option was to stay and build new buildings at the current location, which included a smaller skilled nursing building and build an independent living and assisted living facility. The consultants recommended the third option based on the current location of the building. The plan for this application is to build 182 independent living units, 64 assisted living units and

out of those 64 units, 20 units will be memory care beds which are additional services within the assisted living unit, and a new skilled nursing building with 80 units. Along with the new buildings, there will be new common areas, first class amenities, it will also include an auditorium, movie theater, pool, salon, dining options and a lot of outdoor spaces. This project will be built in three different phases. The goal as an organization is to become the premier CCRC (Continuity Care Retirement Community) in northern New Jersey. This project will have a potential cost of \$200,000,000, which will be primarily financed through debt financing. The members of the organization will also donate and the rest of the money will come from fundraisers. Daughters of Israel held a meeting in their facility in August of 2021 with their surrounding neighbors, where they presented the project and invited comments from the residents. Daughters of Israel also met with the Site Plan Advisory Board and as a result of these meetings the only concerns was to reduce the height of the buildings, since in the original plans one of the buildings was going to be 5 story and now is going to be 4 story high. They have also included sustainability measure such as green roofs and solar panels.

BOARD QUESTIONS

- Mrs. A. Weiss asked if the upcoming new facilities for the same use such as the project previously approved by the board in the old Atrium coming into town was taking into consideration in their calculations. Mr. Halper said that they were aware on what other facilities are doing in the area and the reports included West Orange and other surrounding communities, but Mr. Halper is not sure if that specific facility was included in the report.
- Mr. Schwarzbaum asked if the assisted living will be market rate. Mr. Halper said that both independent living and assisted living will be market rate. Mr. Schwarzbaum also asked why would the for-profit organizations, that were willing to buy Daughters of Israel, make the business work. Mr. Halper said that those for-profit organizations will not accept 70% to 75% Medicaid paying residents.
- Chairperson Neuer asked how was it determined that a 43,000 square feet community centers was needed for this facility. Mr. Halper said that based on other facilities, amenities are what attracts new residents and 43,000 square feet is the appropriate size to get all of the first-class amenities that will be necessary to make this project successful. Mr. Neuer asked if the Pub, that will be part of the amenities, will serve alcohol. Mr. Halper said that it will potentially serve alcohol and it will also include dining room.

PUBLIC ADVOCATE QUESTIONS

- Mr. Thapar asked since the organization is currently serving approximately 90 to 100 residents with Medicaid and with the new project only having space for approximately 80 residents, what will happen to the remaining residents. Mr. Halper answered by saying that, based on their calculations, they expect that the

demand on skilled nursing will decline and they believe that is the right number of spaces they need for this specific care. If it gets to the point that they need more space for skilled nursing, they will use the assisted living units. Mr. Thapar also asked out of the 182 independent living units plus the 64 assisted living units, what percentage will be Medicaid. Mr. Halper said that the independent living will be market based and assisted living most will be market based and there will be certain percentage that will qualify for Medicaid. Lastly, Mr. Thapar asked what percentage of the skilled nursing care will be Medicaid. Mr. Halper said that he doesn't have an exact percentage, but it will be a significant number of residents with Medicaid.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTION

- Kevin Malanga at 57 Ridge Road asked how many independent facilities, assisted living and skilled nursing beds are currently available in West Orange. Mr. Halper said that he is not sure of the exact amount. Mr. Malanga also asked what are the losses that Daughters of Israel face per year. Mr. Halper said that approximately \$1,000,000 in operating losses. Mr. Malanga asked what are the cash projections for the propose facility. Mr. Halper said that they are hopeful that starting in the next 5 years, the facility will have a balance for each year going forward.
- Mr. Darren Tobia at Columbia Street asked why Daughters of Israel didn't decide to build a new facility in West Orange. Mr. Halper said he is not sure if properties are available and the idea is to stay in their current location.
- Ms. Joyce Rudin at Woodland Avenue asked if Daughters of Israel have considered using the current skilled nursing units for assisted living units. Mr. Halper said that it was considered a long time ago, but the problem is that the building is outdated and it will not have a good flow.
- Mr. Majekodummi at Parson Drive asked if there are any future meetings with the surrounding neighbors regarding the project. Mr. Halper said that he is not aware of any additional meetings schedule, but they will have the neighbors and the residents in town up to date, he also added that all the plans and changes are made public and if the residents have questions, they can reach out to the executive director.
- Mr. Miky Faibis at 24 Skyline Drive asked how many residents from Daughters of Israel were under Medicaid 30 years ago. Mr. Halper response was that he is not sure. Mr. Faibis also asked if Daughters of Israel were non-profitable 30 years ago versus today. Mr. Halper said that Daughters of Israel is a non-profit organization, which they don't have shareholders, they have revenue and expenses. Lastly, Mr. Faibis asked if Daughters of Israel is considering reducing the number of Medicaid residents and increase paying residents, so they wouldn't have to expand the building. Mr. Halper said that the general goal is to take the

revenues from the independent living which it is going to be market based paying residents and use that to subsidize the skilled nurse and assisted living population.

- Ms. Sally Malanga at 57 Ridge Road asked how many neighbors were notice and how many attended the meetings. Mr. Halper said that he is not sure about the exact number of residents that were noticed, but he knows that 6 people attended the meeting. Ms. Malanga also asked about what other issues were addressed besides the height of the building. Mr. Halper said that he doesn't recall any other comments or concerns regarding the project except only the height of the building, since one resident was concern about the view he will have with the new campus. Ms. Malanga asked if there will any walking paths in the new campus. Mr. Halper referred the question to the architect, since he will be the one able to give more details about the amenities that will be included in the project. Ms. Malanga asked what if Daughters of Israel use the money from donations to upgrade the current building, instead of doing new buildings. Mr. Halper said that the idea was rejected because the building is outdated and the cost of making improvements to the current building is not a long-term solution. Lastly, Ms. Malanga asked if Daughters of Israel is willing to reduce the footprint of the new building in order to preserve more of the steep slope. Mr. Halper also referred these questions to the architect and engineer, since they will be able to explain better and with details.
- Mr. Robert Rashkes at 35 Oak Crest Road asked how many short-term patients will get rehabilitation using this facility. Mr. Halper referred the questions to the executive director, since he is not sure of the answer. Mr. Rashkes also asked if the revenues from the short-term rehabilitation patients are going to help fund the long-term patients that received Medicaid. Mr. Halper said that all revenues go to the same place, since they are one entity. Lastly, Mr. Rashkes asked if the new facility will provide short-term rehabilitation. Mr. Halper said yes that they will continue to provide the service.

Break - 10:06PM

Chairperson Neuer announced ZB- 21-21 Daughters of Israel Inc. (1155 Pleasant Valley Way) was carried to the 10/6/2022 Special Meeting.

3.) ZB 21-01 M Vega Investments LLC/66 Franklin Avenue (Carried from 8/18/2022)

66 Franklin Avenue

Block: 134.02; Lot: 75.03, 79, 81; Zone: B-1

Seeking "c" and "d" variances for modifications to property with mix of uses.

PRESENTATION

- Mr. Nick Salermo, Architect entered on the record and began testifying in regards to the new plans with updates. Mr. Salermo said from the cover sheet they removed the site plan and zoning information and relocated it on the civil

drawings. They also revised the endorsement block to indicate endorsement by the Board of Adjustment not the Planning Board. On drawing AR-1, they just made a note indicating that what the exists presently on the buildings along with existing wood trims will remain. On drawing AR-2 location on the existing windows were revised to coordinate with the elevations. The second-floor layout was revised to eliminate the walk-up stairs to the attic, which allows them to add a bathroom to the front bedroom. Also, as a part of that reconfiguration, in order to add a deck to the rear of the building, they relocated the two bedrooms and bathroom that were located at the back of the building to allow a hallway for access to the deck. They also located a pull-down stair between the two bedrooms in the rear. Drawing number 3 shows the attic plan with the elimination of the dormers that were originally planned, indicator on the elevations and the walk-up stair it has been eliminated and it shows the location of the pull-down stairs within the attic space. The attic space will be used for storage. In the last drawing it shows again the elimination of the dormers, the deck has been added to the rear of the building and windows have been relocated, in order to address the changes on the plans on the second floor. Mr. Donat asked Mr. Salerno if he has been responsive to the comments and concerns from the board since the last meeting, Mr. Salerno answered in the affirmative.

BOARD QUESTIONS

- Mr. Eben asked about the height of the building being not consistent to the size of the walk-up stair in the basement and in the first floor. Mr. Salerno said that he will have to verify the plans and the height to better answer the question in the next meeting. Mr. Eben also asked if the new building codes will be added on the cover sheet. Mr. Salerno said that he is not required use the new codes since the old codes were adopted by the State of New Jersey as of September 6 and they have 6 moth grace period to use them.
- **CONDITIONS**
 - The applicant has agreed to not convert the attic to occupancy and that it will only be used for storage.

NO PROFESSIONALS QUESTIONS

NO PUBLIC ADVOCATE QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Ms. Afton Savitz, Engineer was sworn under oath and her credentials were accepted by the Board. Ms. Savitz showed the preliminary final site plans set dated September 1, 2022 that has been previously submitted. She will be referring

to page 4, site plan C-4 for this presentation. She started her testimony by highlighting the changes they have made to the parking configuration. Ms. Savitz said that there is no change in the number of parking spaces that are been proposed. They are proposing 11 parking spaces, which meets the minimum parking requirement for both uses. On the top of the plan, it shows 5 elongated parking spaces that are 10 by 20. On the right side there are 2 standard spaces that are 9 by 18 and at the bottom there are 3 standard parking spaces and 1 van accessibility with an 11-foot-wide space. In addition, based on the previous meeting there was clarification regarding make-ready electric vehicle charging spaces, as a result there are 2 spaces added to the site plan and as requirement one of them is an ADA parking space. Also, the architect spoke about adjusting the height of the building, which is not a two and half story building, which is permitted and similarly the signage proposed as part of the application has been revised to be consistent with ordinance one wall mounted sign with maximum height of 2 feet. Based on the engineering memo from Mr. Hess regarding the lighting fixtures if there will be after hour lighting, Ms. Savitz said that the applicant has agreed to working with the Board Professionals to make sure that the lighting is dim properly based on the ordinance requirements. Ms. Savitz also presented a 4-page Truck Turn Exhibit; the first page shows a passenger car pulling up into the site and parking in one of the spaces that will be designated for residents only. The second page shows a larger vehicle pulling up into the site and parking in one of the five elongated spaces on the top of the parking lot. The third picture shows the large vehicle pulling up on the site with a trailer attached to the back, backing up to drop the trailer off prior to parking in a different space. The final and fourth picture, shows the West Orange fire apparatus pulling up safely into the site. Finally, to address Mr. Hess question regarding trash services, the location of the trash enclosure has not change and it will remain in the south east corner and it will still have four 90-gallon bins, there will not be dumpsters; the bins will be roll out outside of the enclosure to the curb for pick-up. Ms. Savitz have responded in totality to the comments offered by the town engineer and she will be willing to work with the municipal staff in other to resolve any other issues as a condition of approval.

BOARD QUESTIONS

- Mr. Eben asked if the refuse area will be enclosed with a screen wall. Ms. Savitz said that they will be using a screen wall for the trash enclosure. Mr. Eben asked if there should be a loading area. Mr. Grygiel said that the in the ordinance loading areas are required in retail stores, manufacturing buildings, etc., but not require in this specific space since it is a mixed-use building with office space and a small storage space.

PROFESSIONALS QUESTIONS

- Mr. John Hess asked if there is going to be a private trash collector. Ms. Savitz responded that there was going to be only private bulk pick up and the bins will be place on the sidewalk for pick-up.
- Mr. Hess said that the parking space on the front does not have enough space to back up, he then opined that the applicant should have it removed and replace with landscaping. To which Ms. Savitz responded that specific parking will be designated for employee visiting or operating other vehicles on site, but Mr. Donat included that the applicant is willing to eliminate that specific parking space as a condition of approval and accommodate the space with landscaping.

NO PUBLIC ADVOCATE QUESTIONS

PUBLIC QUESTIONS

- Kevin Malanga at 57 Ridge Road asked if the applicant intention to park vehicles only in the line spaces. Chairperson Neuer said that it is not been a request to allow parking in any place other than the line spaces.

PRESENTATION

Mr. Dougherty entered on the record, was sworn under oath and his credential were accepted by the board. Mr. Dougherty started his testimony by explaining the plans for this application. The commercial use and mixed use are permitted, the connection with commercial vehicles parked at the site is not permitted. The site is already suited for commercial use for light truck parking, they will do a reasonable permitted extension at the site. The site is adjacent to an automotive center use to repair and storage, which they will clean-up and put it behind private fencing so the site looks presentable in the neighborhood. The negatives impacts that the Mr. Dougherty brought up was the commercial vehicles parked at the site, but he said that they can come to an agreement regarding what type of trucks can park on site and also the fencing around the site will not over power the neighborhood. The proposed fence will be 6 feet for the front yard, they think is appropriate given the visual impact to not over power the public ground. Mr. Dougherty conclude by saying that this is a positive application and that everything can be satisfy with C2 and accommodations and conditions from the board can be made in order to have this application approved.

NO BOARD QUESTIONS

PROFESSIONALS QUESTIONS

Mr. Grygiel asked if the use of this property was a permitted used instead of mixed use, would you still need to have parking in similar arrangements on this property and if the impacts would be similar. Mr. Dougherty said that they would be similar arrangements.

Mr. Grygiel asked if the proofs that were put in for the C variances would be similar even for a permitted use with regards to the setbacks and such. Mr. Dougherty said that they would need the same variances.

NO PUBLIC ADVOCATE QUESTIONS

PUBLIC QUESTIONS

Kevin Malanga at 57 Ridge Road asked if it is correct that, based on Mr. Dougherty report, that the site is suitable for light truck parking and what the weight of a light truck is. Mr. Dougherty responded in the affirmative and that light truck refers to the smaller trucks not the heavy-duty ones, since he doesn't have an exact weight for the light trucks.

Chairperson Neuer announced ZB 21-01 M Vega Investments LLC/66 Franklin Avenue was carried to the 10/20/2022 Regular Meeting.

Chairperson Neuer adjourned the meeting at 11:00 PM.

Adopted: 2/16/2023



Jamilet Baquerizo, Acting Secretary