

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

March 23, 2023

8:00 P.M.

Will be held virtually

The West Orange Zoning Board of Adjustment held a special meeting on March 23, 2023, commencing 8:00 PM 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.

Before roll call, *Michael Dannemiller (Alternate #1)* was sworn in as Alternate #1 due to his appointment by Town Council.

ROLL CALL

Present: William Michael Barbee, Michael Dannemiller,
Jerome Eben, Philip D. Neuer, Peter Scalora, Irv Schwarzbaum,
Brent D. Scott, Mark Sussman, Alice Weiss

Absent: Peter Ricci (excused)

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

ANNOUNCEMENTS

Future Meetings: April 20, 2023 (Regular Meeting)
May 18, 2023 (Regular Meeting)
June 15, 2023 (Regular Meeting)

It was during this time *Mr. Scott* interrupted the meeting to discuss Ordinance 2713-23 (Ordinance Amending Chapter 25, Section 47.5 of the Revised General Ordinances of the Township of West Orange) to eliminate successive Chairperson and Vice Chairperson term limits being denied by Town Council with *Ms. Beirne*. *Mr. Scott* wanted to ensure the legitimacy of the meeting given this Ordinance did not get passed and it was explained by *Ms. Beirne* that

- The variances requested have no negative impact on the neighbors
- An entire phase of the building was eliminated because of comments received from the Board, Professionals, and the public.
- A goal of the application is to balance the public interest to combine aging with progressive levels of care
- Parking needs
- Green roofs to the highest aspects possible with proximity to blocking air topography. Homes were elevated above campus.
- Zoning Ordinance with no regulations to be effected for different characters and clusters of care units
- Open Space on the Daughters of Israel site proves that the steep slope will be minimally affected.
- The existence of this evolution of the site, in *Mr. Banish's* opinion will adjoin nearby municipalities with the type of care that Daughters of Israel brings.
- *Mr. Banish* said that regarding the report, the criteria applied to C2 or D variances listed. The bulk variances and benefits outweigh the detriment.
- Hardship relief; suitability; if the application is denied property is being predicted to be demolished and in turn approximately five (5) single-family homes.
- *Mr. Banish* gave further testimony of a description of the 1989 Master Plan and how it relates to this application. Daughters of Israel site at 1155 Pleasant Valley Way is in the R-2 Zone with 25% of land use and private acreage for additional development; departed from the zone and circumstances to expand. The Master Plan supports the development of the constant continuum of care and the shape of the proposal. *Mr. Banish* summarized this analysis stating that approval of this application would expand the quality of care. He stated that with the baby boomers, properties like these will be a necessary use. Daughters of Israel are confirmed to be in a full residential area. CCRC for service to the frail
- *Mr. Banish* recommended no special conditions recommended from him as all comments feel addressed; structured parking will inherit benefits and been satisfied by Board
- *Mr. Geneslaw* said in regards to the height variances that he wants the objector to consider impacts on this property. *Mr. Banish* said that the high elevation to drop towards the golf course will give no neighbors any opportunity to see anything.

Chairperson Neuer accepted **Planning Report (Dated March 3, 2023) into evidence as Exhibit A5**

BOARD QUESTIONS

- *Mr. Scott* asked *Mr. Banish* if he is considered a "Princeton Planner". *Mr. Banish* said that he was hired specifically by the Daughters of Israel.
- *Mr. Scott* referenced page 36 of Exhibit A5 and asked for confirmation on what the picture conveyed. *Mr. Banish* said that it is the nature of an existing visual with a proposed attractive façade.
- *Mr. Scott* asked about the patients living in the existing facility and whether or not there will be a guarantee that there will be available placement for them. *Mr. Banish* said that he is the wrong person to ask.

- *Chairperson Neuer* asked if “bank parking” won’t be installed. *Mr. Banish* said it will still be seen.
- *Mr. W. M. Barbee* asked if they are using the same footprint, and why is there tree removal. *Mr. Banish* said that it was partly in the area of the bank parking. The footprint is meaning the building footprint.
- *Mr. Barbee* asked what the beds and benefits for the community are if the applicant is reducing beds by 2/3. *Mr. Banish* said that it happened on its own. The ratio will provide the proper scale.
- *Mr. Barbee* asked if the nonprofit and apartments at market rate will change their tax status. *Mr. Geneslaw* said that *Mr. Stafford* testified regarding this.
- *Mr. Scott* questioned the needs assessment from 1989 with the trend for less skilled beds. *Mr. Banish* said that he can only imagine trends of aging baby boomers as there is no demographic study to respond to.

PROFESSIONALS QUESTIONS

- No questions from *Mr. Hess*.
- *Mr. Grygiel* asked for confirmation regarding uses. (It is going to be mixed-use and integrated as three separate units.) *Mr. Banish* answered in the affirmative.

PUBLIC ADVOCATE QUESTIONS

- *Mr. Thapar* asked if there will be a reduction in the steep slope. *Mr. Banish* said no there would be no change to the steep slope if they weren’t doing anything- a reduction incremented at a minor disturbance will be taking place.

Break 9:29 PM- 9:30 PM

PUBLIC QUESTIONS

- Richard Webster (on behalf of Loren Svetvilas 699 Prospect Avenue, WO) asked what portion of this development will be independent living utilizing Medicaid. *Mr. Banish* said that if they pay the market rate, those Medicaid individuals will not be able to afford it. *Mr. Webster* asked if there are lower provisions for low-income individuals to incorporate Medicaid. *Mr. Banish* said that the overall total would be a reduction of Medicaid beds. *Mr. Webster* asked why is this being considered a beneficial use. *Mr. Banish* answered because of it housing for seniors can be for both profit and nonprofit. *Mr. Webster* followed up by asking what makes the addition of a pub on the premises beneficial. *Mr. Banish* said it would not be a separate use. *Mr. Webster* asked how market-rate units help low-income residents. *Mr. Banish* said it was not in his plans but Daughters of Israel has said that they will subsidize for Medicaid clients. *Mr. Webster* asked if Kessler and Daughters of Israel are similar heights. *Mr. Banish* said that he cannot give information that he does not have but believes that there is somewhere around a five or ten-foot difference with Kessler being the higher of the structures. *Mr. Webster* asked about the roofline of the proposed and where it would line with the residential structures in that area. *Mr. Banish* said that the first and second homes up the hill would be seeing the roofline.
- Phil Litwinoff (11 Linden Avenue) asked for clarification in regards to page twelve (12), first paragraph because he doesn’t believe it to be accurate. *Mr. Banish* answered yes that it is incorrect and will be fixed.

- *Mr. Litwinoff* referenced page sixteen (16), second paragraph, and asked how since it is not low priced how this program will work. *Mr. Banish* said that he did not testify to that. *Mr. Litwinoff* asked about the business' efficiency as Daughters of Israel is a beneficiary of the Jewish Federation of Greater MetroWest NJ (JFW) and wanted to reconfigure. *Mr. Banish* said that it was not part of his testimony.
- Kevin Malanga (57 Ridge Road) asked *Mr. Geneslaw* if square feet calculations were performed. *Mr. Geneslaw* said that KDA Architects gave a total
- Ken Schnitzer (6 Skyline Drive) asked about the probability of an increase in traffic because of no sidewalks. *Chairperson Neuer* responded that this is the wrong witness to answer that.
- Clare Silvestri (20 Grandview Avenue) referenced page 36 in the Planner's Report and stated that the artist's rendering is incorrect as it is dense in trees and doesn't portray the reality from the street. *Mr. Banish* said that he is not in a position to respond since he is not the Architect.
- Solomon Nnanna (6 Parson Drive) said that the view in the images showed no residential properties on higher elevations. *Mr. Banish* said that it is a different juxtaposition and has the right for a view from backyards and used aerial photos for the terrain.
- Zarah Khademi (4 Dawes Avenue) asked if trees will be cut down. *Mr. Banish* said initially yes. But applicant was able to save most of the original application. In response to this *Chairperson Neuer* asked if the tree removal plan is up to date. *Mr. Geneslaw* and *Mr. Banish* answered in the affirmative. *Ms. Khademi* asked why there are still pink ribbons. *Mr. Banish* said that he was unsure.
- Joyce Rudin (38 Woodland Avenue) asked what the minimum age for independent living residents is. *Mr. Banish* said usually 55 and over. *Mr. Geneslaw* confirmed that *Mr. Stafford* testified to this. *Mr. Banish* added that there are different ages for federal regulations though. *Ms. Rudin* asked how in six years will they know what the market rate is. *Mr. Banish* said he did not testify to this. *Ms. Rudin* asked for confirmation that Daughters of Israel is a nonprofit. *Mr. Banish* said that he is not the expert who testified to this. *Ms. Rudin* asked regarding real estate taxes, and how it operates as a nonprofit. *Mr. Geneslaw* answered that it is usually with assistance from the Tax Assessor. *Ms. Rudin* asked if there were any studies done to determine the facility as is. *Mr. Banish* said that Daughters of Israel hired experts for application and no study was done as it was not required.

After public questioning, *Mr. Geneslaw* asked a few questions of *Mr. Banish* in a summation of sorts regarding his testimony. In regards to footprint clarification, *Mr. Banish* said that the footprint is the area of the building in the built areas. The new building footprint is the same in height and will be implicated.

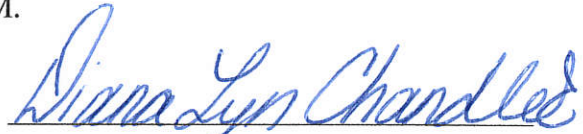
Chairperson Neuer announced that application ZB-21-21 Daughters of Israel is being carried with no further notice to the April 20, 2023, Regular Meeting.

Mr. Scott questioned the fact that there is no vote to change the agenda. *Chairperson Neuer* reiterated that *Ms. Beirne* is awaiting a report from Legal Department and a potential reorganization.

Chairman Neuer adjourned the meeting at 11:03 PM.

Adopted:

6/15/23

A handwritten signature in blue ink that reads "Diana Lyn Chandler". The signature is written in a cursive style with a horizontal line underneath the name.

Diana L. Chandler, Secretary