

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

April 20, 2023

8:00 P.M.

Will be held virtually

The West Orange Zoning Board of Adjustment held a regular meeting on April 20, 2023, commencing at 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.

ROLL CALL

Present: William Michael Barbee, Michael Dannemiller, Jerome Eben,
Philip D. Neuer, Peter Ricci (left at 8:56PM), Peter Scalora, Irv Schwarzbaum,
Brent D. Scott, Mark Sussman, Alice Weiss
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: May 18, 2023 (Regular Meeting)
June 15, 2023 (Regular Meeting)
July 20, 2023 (Regular Meeting)

Chairperson Neuer* announced that application **ZB-22-12 Seton Hall Preparatory School is being carried to the **June 15, 2023, Regular Meeting** with no further notice.

* *Chairperson Neuer* announced that application **ZB-22-08 Flores/ 156 Main Street** is being carried to the **May 18, 2023, Regular Meeting** with no further notice required.

* *Chairperson Neuer* announced that application **ZB-22-13 MBP Realty LLC/ 470 Eagle Rock Avenue** is being carried to the May 18, 2023, Regular Meeting with no further notice is required.

SWEARING IN

Township Professionals, *Mr. Paul Grygiel* (Consulting Planner) and *Mr. John Hess* (Consulting Engineer) were sworn under oath.

RESOLUTIONS

ZB 21-01 M Vega Investments LLC/66 Franklin Avenue

(Denied 2/16/2023)

66 Franklin Avenue

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

Application seeking “c” and “d” variances for modifications to property with mix of uses was denied at the February 16, 2023, Regular Meeting.

Motion to approve denial of application: B. Scott

Second: J. Eben

Barbee:	Y	Scott:	Y
Dannemiller (Alt. 1)	-	Sussman (Alt. 3):	-
Eben:	Y	Weiss:	-
Ricci:	-	Chairman Neuer:	Abstaining
Scalora (Alt. 2)	-		
Schwarzbaum:	-		

APPLICATIONS

- 1) **ZB- 21-21 Daughters of Israel Inc. (1155 Pleasant Valley Way)** **(Carried from 3/23/2023)**

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.

[H. Geneslaw Ltr to A. Beirne \(3-31-2023\)](#)

[ZB-21-21 Daughters of Israel - Objectors Planning Report DoI](#)

[ZB-21-21 Daughters of Israel - woolley resume \(Objector Planner\)](#)

PRESENTATION

- *Mr. H. Geneslaw, Esq.* entered the record on behalf of the applicant and confirmed that there is no further testimony on his end.

PUBLIC (OBJECTOR’S TESTIMONY)

- *Mr. Richard Webster* (on behalf of client Loren Svetvillas, Prospect Avenue) presented *Ms. Barbara Allen Woolley Dillon*, Professional Planner for the objector was sworn under oath, and professional qualifications were accepted in the field of planning.
- Before the beginning of the testimony, Chairperson Neuer said that the Planner’s Report was not signed or sealed. It will be accepted for testimony but will not be brought into evidence.

- Ms. Woolley Dillon started testimony by referencing 1) – 2) No burden of proof 3) Applicant did not notice for D5 variance (density needed and not noticed). 143 welling units beds and well beyond each (295 NJ Supreme Court 234 1996 Appellate Division) 4) Ms. Woolley Dillon testified further stating that this application is not beneficial. The context is sensitive in number. For example, a church is not an inheritable use. The number of types of uses in the state as of November 5, 2022. In Essex County, 63 types of use applicants need a use variance, height variance, and size variance especially if not considered inherently beneficial.
- Planned Obscalisneces are responding to something from ten years ago. There is not enough off-street parking; No Electric vehicle charging stations in the loading zone. She referenced the traffic parking section of her planning report. *Mr. Geneslaw* objected as *Ms. Woolley Dillon* has not been qualified as a traffic expert. *Ms. Woolley Dillon* testified further stating that the signage requires variance relief. She also stated that even though DOI is existing as a non-conforming use with anticipation for obsolescence as the Master Plan has never been changed.
 - a: municipal guide doesn't need variance relief and is not appropriate
 - b: protect man-made and natural spaces
 - c: substantial deficient
 - e: application needed for population density
 - g: a variety of uses (i.e. golf courses are a permitted use)
 - i: desirable visual is half stories and will tower over anything and tremendous drop and at the same level as houses
 - j: conservation of site; strain ;
- *Ms. Woolley Dillon* testified in regards to "suitability density" and said that with this application Daughters of Israel is utilizing eight times the permitted space that the 2004 Master Plan Reexamination allows. The way this could have been rectified would have been to create an appropriate development and this municipality has been inactive in changing this part of the Master Plan
- In regards to the Environment and Open Space/Steep Slopes "View Sheds" preservation would be about the impact on surrounding homes. Cited *Price v. Himeji* 214 NJ 263, 292-293 (2013)
- Waivers and variances were not advertised or applied for and benefits would not outweigh the negative criteria.
- Chairperson Neuer asked *Mr. Geneslaw* about noticing and *Mr. Geneslaw* said that he finds it appalling that this is being addressed at the tenth hearing.
- *Mr. Grygiel* said that there is no mention of a D5 variance in any of his reports. *Ms. Beirne* said that if a D5 is not required, there is no problem in continuing with the hearing this evening.
- *Chairperson Neuer* said that unless there is an issue from *Mr. Grygiel* and/or *Zoning Official, Ms. Gary-Adams, Mr. Webster* can bring it up at a later time. The report will be in the file but will not be in evidence.

BOARD QUESTIONS

- *Mr. Scott* asked why *Ms. Woolley Dillon* is not qualified as a “noise expert”. *Chairperson* answered that because *Mr. Webster* recognized and presented her as a Planner. *Mr. Scott* asked about the density and if there is further detail needed. *Ms. Allen Woolley* said that a 40,000 square feet lot requirement exceeds density.
- *Mrs. Weiss* asked if visits were made to the site. *Ms. Allen Woolley Dillon* said that she visited the site one time in October of 2022. *Mrs. Weiss* referenced the part of the report submitted stating that the Manor is going to be converted into an assisted living area. She wanted to know where that information came from. *Ms. Allen Woolley Dillon* said that it was solely speculation. *Mrs. Weiss* asked for confirmation that if the application is denied, and single-family homes are built, will more trees be saved? *Ms. Allen Woolley Dillon* said that she is unsure. *Mrs. Weiss* asked about her reference to the golf course creating open space around the development. *Ms. Allen Woolley Dillon* said that she is struggling to answer this question for things not on the property are in question.
- *Mr. I. Schwarzbaum* said in response to her comment of Daughters of Israel being an obsolete business model, what is the age of this property in that case. *Ms. Allen Woolley Dillon* said that it is at least 20 years.

Break 9:33 PM-9:43 PM

- *Chairperson Neuer*’s observation is in regards to the “Planned obsolescence” term for manufacturers to create/sell new items and asked for examples from *Ms. Allen Woolley Dillon* in regards to this. *Ms. Allen Woolley Dillon* said that sometimes retail uses for example limo usage got approved and was out of business in less than one year. *Chairperson* asked about the market conditions regarding applications like these. *Ms. Woolley Dillon* said that the Zoning Board of Adjustment granted their approval for limousine property but the business folded in less than a year.

Chairperson Neuer announced that this application is being carried to the May 18, 2023, Regular Meeting. *Mr. Scott* suggested a Special Meeting. *Chairperson* said that he is open to scheduling a special meeting but let *Mr. Geneslaw* know that if it takes place prior to the May regular meeting, *Mr. Geneslaw* would have to notice neighbors again.

Chairman Neuer adjourned the meeting at 11:01 PM.

Adopted:

6/15/23

Diana Lyn Chandler

Diana L. Chandler, Secretary