

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

June 15, 2023

8:00 P.M.

Will be held virtually

The West Orange Zoning Board of Adjustment held a regular meeting on June 15, 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, Jerome Eben,
Philip D. Neuer, Peter Ricci, Peter Scalora, Irv Schwarzbaum,
Brent D. Scott, Mark Sussman
Absent: Alice Weiss
Also Present: Paul Grygiel, Consulting Planner for the Township
Alice Beirne, Esq., Board Attorney
Diana L. Chandler, Board Secretary

ANNOUNCEMENTS

Future Meetings: June 22, 2023 (Special Meeting)
July 20, 2023 (Regular Meeting)
August 17, 2023 (Regular Meeting)

- Chairperson Neuer announced that a special Meeting for **ZB-22-12 Seton Hall Preparatory** is scheduled for **June 22, 2023**, via Zoom. The aforementioned application will not be appearing and will be carried to a Special Meeting with no further notice.
- Chairperson Neuer announced that **ZB-22-13 MBP Realty/ 470 Eagle Rock Avenue** is carried to the **July 20, 2023, Regular Meeting** with no further notice.
- Chairperson Neuer offered an update on the search for the new Zoning Board of Adjustment attorney. There are six (6) applicants thus far and resumes will be circulated to Board Members.

MINUTES

Adopt:

January 12, 2023, Special Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

January 19, 2023, Regular Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

February 9, 2023, Special Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

February 16, 2023, Regular Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

March 16, 2023, Regular Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

March 23, 2023, Special Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

April 20, 2023, Regular Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

May 11, 2023, Regular Meeting Minutes

Motion: Chairperson Neuer

Second: I. Schwarzbaum

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

SWEARING IN

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

RESOLUTIONS

ZB- 21-21 Daughters of Israel Inc. (1155 Pleasant Valley Way) (Adopted 6/15/23)

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 was denied at the May 11, 2023, Special Meeting.

Motion to deny: B. Scott

Second: W.M. Barbee

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

APPLICATIONS

1.) ZB-23-03 - Penn - 11 Highland Place

Block: 86.05; Lot: 18; Zone: R-5

11 Highland Place

Request for interpretation of whether an electrolysis business qualifies as a "home occupation"

PRESENTATION

- Ms. Danielle Penn, applicant, entered the record and was sworn under oath. Ms. Penn stated that the proposed business (Electrolysis) at this property is going to be solely owner-operated and not exposed to the house. She confirmed that there is no need for signage and no infringement or electrical interference. She testified further stating that clients will be seen by appointment only with a fifteen (15) minute grace period between each appointment to prevent overlapping.

BOARD QUESTIONS

- Chairperson Neuer asked for confirmation of no off-street parking. Ms. Penn answered in the affirmative. Chairperson stated that Ms. Penn's company "Default to Design" would not be able to be used in the home if this application were approved. Ms. Penn said that she understood and is willing to accept that condition.
- Mr. J. Eben referenced the condition of Ms. Penn's driveway and asked if she intends to have it paved. Ms. Penn said yes.
- Mr. M. Dannemiller asked if a lack of handicapped access is going to be an issue. Ms. Penn said no because they are allowed to go to the client for services.
- Mr. W.M. Barbee asked for a description of the electrolysis process. Ms. Penn detailed the process.

NO PUBLIC QUESTIONS

PUBLIC COMMENT

- Mr. Elliot Saltzman (9 Highland Place) entered the record and said that he is the next-door neighbor to the application site and has no issues with the application.

DISCUSSION

- Ms. Penn agreed to comply with all of the restrictions listed in Ordinance 25-9.9
“No home occupation may be conducted in a legal owner-occupied one (1) family residence unless the following conditions are met:
 - a) A simplified site plan indicating the location of the use on the premises within the principal structure and a written description of the occupation to be conducted shall be submitted to the Technical Review Committee of the Planning Board for approval. A Certificate of Continued Occupancy, Certificate of Occupancy, or Certificate of Habitability shall be required for home occupations.
 - b) The proposed activity shall comply with the following:
 - 1. Only one such activity shall be permitted on the premises within the principal structure, and such use must not be incompatible with or disturb the adjacent residential neighborhood.
 - 2. The activity shall be conducted solely by a person or persons, and members of his/her immediate family, all of whom shall be residing full-time and permanently on the premises, and by no other person or persons living off the premises.
 - 3. Not more than twelve and one-half (12.5%) percent or one-eighth (1/8) of the floor area of the principal structure shall be used for such activity.
 - 4. No display or advertising of products or services shall be visible from outside of the principal structure in which the activity takes place.
 - 5. No outside storage in any way related to the activity shall be visible from outside of the principal structure in which the activity takes place.
 - 6. No pick-up or delivery of materials to or from the premises in which the activity takes place shall be made, except by private passenger vehicle, licensed package delivery service, or US Postal Service.
 - 7. The activity, including deliveries as described in paragraph 6, shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m.
 - 8. The activity shall not give rise to the need for on-street parking which shall interfere with the residential parking on the street adjacent to the principal structure in which the activity is permitted.
 - c) The following activities related to home occupations are prohibited:
 - 1. Any activity which creates noise, smells, or sights, which are ascertainable outside of the principal structure in which the activity takes place;
 - 2. Any activity which causes interference with electrical or electronic equipment off the premises in which the activity takes place;
 - 3. A retail or wholesale salesroom(s) or showroom(s);
 - 4. Any activity which involves the use or storage of hazardous materials as defined by law. 30 (Ord. No. 904-88 § 25-5.3I; Ord. No. 1140-92 § 1)”
- Ms. Penn thanked the Board and then said that the first step to operating this business out of her home was to gain Zoning Board approval. Then, she could apply for licensure with the State of New Jersey Cosmetology Board.

Motion: Chairperson Neuer

Second: W.M. Barbee

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

2.) ZB-23-04 Seivright/13 Bromley Drive

Block: 152.12; Lot: 7; Zone: R-5

13 Bromley Drive

Seeking "c" variances for expansion of existing house

PRESENTATION

- Ms. Latasha Seivright, applicant, entered the record and was sworn under oath. Ms. Seivright stated that the overall request for her variances is for relief from rear and front yard setbacks with no interior renovation. The plan is to have an overhang for a new walkway, convert the driveway to a safer walkway for her children, and expand the area of the deck to only the lowest point.
- Ms. Seivright testified further stating that her main reasons for this application are for the safety of her children and animals from the hot pavement in the summer, ease of access to the house, and cosmetic purposes.

BOARD QUESTIONS

- Mr. Dannemiller asked if the walkway and overhang will be enclosed. Ms. Seivright said no and that it will just be columns.
Mr. Dannemiller followed up by asking how the overhang will it be attached. Ms. Seivright said that it will be over the door and will be open on both sides; not "tunnel" like.
- Mr. I. Schwarzbaum asked if the gutters are going to be moved. Ms. Seivright said no. Mr. Schwarzbaum followed up by asking how water is not going to end up on the lawn. Ms. Seivright said that she assumes they will all flow through the proper channels and end up on the street.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

Motion: I. Schwarzbaum

Second: W.M. Barbee

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

3.) ZB-23-02/Robert and Rachel Ciottariello

Block: 170; Lot: 15.4; Zone: R-2

606 Mount Pleasant Avenue

Seeking use and bulk variances and minor site plan approval for mix of residential and commercial uses.

PRESENTATION

- Mr. John Dusingerre, Esq. entered the record on behalf of applicant, Mr. & Mrs. Robert and Rachel Ciottariello.
- Mr. & Mrs. Robert and Rachel Ciottariello were sworn under oath
- Chairperson confirmed that Mr. Hess was not at the meeting.
- Mr. Dusingerre stated that the application site, 606 Mount Pleasant Avenue, was purchased in 2010 and is adjacent to the Environmental Center. He said that the nature of the site is a single-family residence and the goal is to create a landscaper storage yard. In turn, making it for Commercial use in a residential yard. Mr. Dusingerre stated that when the property was purchased, there was a business back there, so Mr. Ciottariello was under the impression that it was approved, when in fact it was not. Mr. Dusingerre continued by stating that it will consist of mainly gravel so no impervious coverage will be eliminated. He also requested that an Environmental Impact Statement be waived. Chairperson Neuer stated that the request is denied until testimony is received.

BOARD QUESTIONS

- Chairperson Neuer asked since the property was purchased in 2010 what was the property used in the back prior to the closing. Mr. Ciottariello said that the previous owner's nephew ran an unapproved landscaping business. Chairperson asked where the trucks are stored. Mr. Ciottariello said they are stored at 26 Eisenhower Parkway in Roseland, NJ.

The Chairperson announced on the record the Planning Board/Zoning Board affiliation with his legal practice and how he believes his being a part of this application is not a conflict of interest due to the statute of time that has passed.

Chairperson asked who is living on the property. Mr. Ciottariello said that it is occupied by a coworker and is a single-family household.

Chairperson asked what kind of trucks are on the property. Mr. Ciottariello said that there will be five (5) trucks, three (3) box trailers, three (3) utility trailers, a Bobcat, and a mini excavator (for digging).

Chairperson asked what are the hours of operation. Mr. Ciottariello stated the hours being during the week 7:30 AM- 3:30 and Saturdays 7:30-1:00 PM. They are not operational on Sundays.

Chairperson asked how many trips are taken on a given day. Mr. Ciottariello said in the morning and afternoon there are three to five trips in each section of the day.

Chairperson asked if there is signage. Mr. Ciottariello said no.

Chairperson asked if there is interaction with the public or the sale of any retail goods. Mr. Ciottariello said no.

Chairperson asked for confirmation that only landscaping business storage would be on the premises. Mr. Ciottariello answered in the affirmative.

- Mr. I. Schwarzbaum asked, in 2010 what kind of business were they told was on the premises. Mr. Ciottariello said that it was a construction business.

Mr. Schwarzbaum asked if a Certificate of Continuous Occupancy was issued. Mr. Ciottariello said yes but only for the house; not for the business.

- Mr. W.M. Barbee asked for confirmation on the number of vehicles. Mr. Ciottariello said it depends on the time of year but approximately five (5).

- Mr. B. D. Scott asked if the storage includes pesticides and, if so, does the applicant have a license. Mr. Ciottariello said that he has a license but does not use it as they use only organic materials.

Mr. Scott asked if this would be considered a family-run business. Mr. Ciottariello said that it is a staff-run business.

Mr. Scott asked for confirmation of the days and hours of operation being six days a week. (Weekdays 7:30 AM-6:00 PM; Saturdays. Mr. Ciottariello answered in the affirmative.

- Mr. M. Dannemiller asked if they will be cleaning trucks and trailers on site. Mr. Ciottariello answered in the affirmative.

Mr. Dannemiller asked if maintenance will be done on-site. Mr. Ciottariello said no that his company has a contract with West Essex Sunoco.

Mr. Dannemiller asked if there are idling issues on the premises. Mr. Ciottariello said that there are no issues.

- Mr. J. Eben asked if the concrete walls will be used for storage. Mr. Ciottariello said yes. Mr. Eben asked if they are going to be permanent. Mr. Ciottariello said that they weigh 1,000 pounds apiece so there is no chance they are going to be moved anytime soon. Mr. Eben asked what the outcome would be if a truck hit them. Mr. Ciottariello said that the truck would be damaged.

Mr. Eben asked, since there is no roof if roll-off conditions would occur. Mr. Ciottariello said only if flood-like conditions occurred and the soil is tarped.

Mr. Eben asked if there is a dumpster on the premises. Mr. Ciottariello said no.

- Mr. Ricci asked how many snowplows they have and use. Mr. Ciottariello said there are one or two depending on the winter in West Orange.

Mr. Ricci asked where the morning meetings for the company take place. Mr. Ciottariello said in the mornings they meet outside or in the garage not attached to the building.

- Chairperson Neuer asked where the main office of the company is. Mr. Ciottariello said in their Pine Brook, NJ home.

Chairperson Neuer asked for specifics in regard to the five vehicles that will be on site.

Mr. Ciottariello said that there will be five (5) trucks, three (3) box trailers, three (3) utility trailers, a Bobcat, and a mini excavator (for digging).

Chairperson Neuer asked who or what company does vehicle maintenance. Mr. Ciottariello said that the Bobcat is through the service provider, but no vehicle services will be provided on-site.

- Mr. Dannemiller asked if the company power washes their equipment onsite. Mr. Ciottariello said yes and that they are washed and blown off onsite.

- Mr. B. D. Scott asked if his company stores gas onsite. Mr. Ciottariello said no bulk gas is stored onsite and the State and Township inspect in regard to this annually.

PROFESSIONALS QUESTIONS

- Mr. P. Grygiel asked for confirmation on the number of dwelling units. Mr. Ciottariello answered that this property has four (bedrooms), one (1) kitchen, and two and a half (2 ½) bathrooms.

PUBLIC QUESTIONS

- Ms. Joyce Rudin (Woodland Avenue) asked how much equipment is stored on site. Mr. Ciottariello answered that there are five (5) trucks, three (3) box trailers, three (3) utility trailers, a Bobcat, and a mini excavator (for digging).
Ms. Rudin asked where the lawnmowers are stored in transit to job sites. Mr. Ciottariello answered in the box trailers there are mowers and backup machines which are in the garage as needed.
Ms. Rudin asked if all equipment was gas-powered. Mr. Ciottariello said yes.

Break: 9:30 PM-9:40 PM

- Chairperson Neuer announced that application **ZB-22-08 Flores/ 156 Main Street** due to time restraints would not be heard and carried to the July 20, 2023, Regular Meeting with no further notice.

PRESENTATION

- Mr. Anthony Marucci, PE was sworn under oath and his credentials were accepted by the Board as an expert in the field of Engineering.
Mr. Marucci referenced the Site Plan where the storage is completely enclosed with fencing. He stated that the wall that appears to be an L shape is only six percent (6%) stone from east to west and they will be smoothing out the lot for to allow for five (5) parking spaces for trucks but leave room for more if the need arises.
Mr. Marucci also stated that ~~there will be~~ only five percent (5%) of the area will be graded and that the awning at the rear of the garage is being removed.
- Mr. Marucci referenced Site Plan (Dated November 8, 2021) to show how storage is completely enclosed with fencing, the wall with an "L" shape has six percent (6%) stone from east to west to smooth out existing conditions and five (5) parking spaces for trucks but with room for more if the need/necessity arises. Grading according to Mr. Marucci is only going to be at a maximum of five percent (5%) of the whole area. Mr. Marucci testified that the awning in the rear of the property is going to be removed.
- Mr. Marucci referenced CME Report (Dated- March 21, 2023) and testified stating that there is going to be no need for the New Jersey Department of Transportation to be involved because there will be no change to the entrance or exit.
- Chairperson wanted to note for the record that he spoke to Mr. Hess during the break and that there was a miscommunication and he will work with the applicant.
Mr. Dusingberre confirmed that his client is willing to accept the condition for his approval.
- Mr. Marucci continued testimony stating that his client will comply with the COAH Ordinance. He also stated that he does not believe in the necessity of a Traffic Report

since the site will not be open to the public as the reason for the waiver being requested. Chairperson Neuer stated that onsite circulation might be an issue.

Mr. Marucci requested a waiver for an Environmental Impact Statement as it is an open site and they are only enhancing it not creating anything new. Site lighting is irrelevant, according to Mr. Marucci, since operations will only be taking place during daytime hours and during the winter no one will be there.

Mr. Marucci stated that, in regard to Electric Vehicle Charging Stations, it would be applicable for public parking. He said that since this is not a public business with transactions, it is unnecessary.

Mr. Marucci stated that there will be minimal noise impact with landscaping/buffering or impervious coverage since it is only using stone/gravel.

BOARD QUESTIONS

- Mr. Dannemiller asked if there is a staged area for vehicles. Mr. Marucci said yes. Mr. Dannemiller asked for the size of the trailers. Mr. Marucci said that they are the regular size of a motor vehicle and if they are not fitting in the staged area, there are bins nearby.
- Mr. Dannemiller asked about employee transportation safety. Mr. Marucci said that most employees take public transportation and will walk across one lawn to the business.
- Mr. Barbee asked what is in the garage. Mr. Marucci described the type of landscaping equipment in there (i.e.: wheelbarrow, tarp, etc.)
- Mr. Ricci asked if the applicant was willing to develop the application site a little more. Mr. Ciottariello answered that he wants there to be more landscaping in the front of the house.
- Mr. Schwarzbaum asked if there will be trucks bringing in stone. Mr. Ciottariello said that their pickup trucks are graded on their own bulk materials from the environmental center clutter and can hold 20 yards of stone at a time.
- Mr. Scott asked, in regard to expenses, did the applicant think of renting elsewhere. Mr. Ciottariello said that they currently rent in Roseland but have to move and it is hard to find a space locally to rent; he said that they want to stay in the area.
- Mr. Scott asked if the applicant would consider renting commercial space. Mr. Ciottariello said that he wanted to upgrade the area that he currently owns and give a safe area to display consideration of work possibly performed.

PROFESSIONALS QUESTIONS

- Mr. Grygiel asked if there was going to be a Stormwater Management Plan submitted. Mr. Marucci opined answering to say that it is unnecessary because the stone would absorb the water.
- Chairperson Neuer announced that application **ZB-23-02 Ciottoriello** is being carried to the **August 17, 2023, Regular Meeting** with no further notice. The next appearance of **ZB-23-02** will begin with the public questioning of Mr. Marucci.

Chairperson Neuer adjourned the meeting at 10:53 PM.

Adopted:

7/20/2023

Diana Lyn Chandler

Diana L. Chandler, Secretary