

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT MEETING
September 28, 2023
8:00 P.M.

The West Orange Zoning Board of Adjustment held a special meeting on September 28, 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.

Steven K. Warner, Esq., Board Attorney read the opening statement.

ROLL CALL

Present: William Michael Barbee, Michael Dannemiller,
Jerome Eben, Philip D. Neuer, Peter Ricci,
Peter Scalora, Irv Schwarzbaum,
Brent D. Scott, Alice Weiss
Absent: Mark Sussman (excused absence)
Also Present: Paul Grygiel, Consulting Planner for the Township
John Hess, Consulting Engineer for the Township
Steven K. Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary

ANNOUNCEMENTS

Future Meetings: October 19, 2023 (Regular Meeting)
November 16, 2023 (Regular Meeting)
December 21, 2023 (Regular Meeting)

EXECUTIVE SESSION TO DISCUSS LITIGATION

- Commencing at 8:16 PM utilizing the virtual Zoom platform

ROLL CALL

Present: William Michael Barbee, Michael Dannemiller
Jerome Eben, Philip D. Neuer, Peter Ricci,
Peter Scalora, Irv Schwarzbaum,
Brent D. Scott, Alice Weiss
Absent: Marc Sussman
Also Present: Paul Grygiel, Consulting Planner
John Hess, Consulting Engineer
Steve Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary

8:58 PM Return to Regular Meeting with confirmation of all Board Members returning.

- Mr. S. Warner read into the record the Resolution removing remand in regard to application ZB-21-21 Daughters of Israel. The following Board Members polled agreed to a “Whispering Woods” hearing.

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

SWEARING IN

- Township Professional(s) Mr. Paul Grygiel (Consulting Planner) and Mr. John Hess (Consulting Engineer) were sworn under oath.

APPLICATIONS

- 1.) **ZB-22-12 / Seton Hall Preparatory School** **(Carried from 6/22/2023)**
Block: 82.01; Lot: 1; Zone: R-1
700 Prospect Avenue
Seeking amended site plan and “d” variance approvals for the expansion of a non-conforming use

9:05 PM- Mrs. A. Weiss and Mr. J. Eben left the meeting as panelists.

PRESENTATION

- Mr. J. Wyciskala Esq. entered the record, gave a summary of previous testimony, and responded to questions from the June 22, 2023 meeting.
- Mr. Charles Stewart entered the record and confirmed that he remains under oath and no change as an expert.

NO BOARD QUESTIONS

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Alexander Dougherty, Planner was sworn under oath, credentials accepted as an expert in Planning, and confirmed knowledge of Mr. John McDonough’s Planning Report. Mr. Dougherty referenced the buffer and setbacks. Mr. Dougherty said that this

property is in the D2 zone and in regards to this application all it has done is provide "site betterment."

BOARD QUESTIONS

- Mr. M. Dannemiller asked for confirmation that the fitness building and the maintenance buildings switching. Mr. Dougherty confirmed as such. Mr. Dannemiller asked if the door would be "human scale". Mr. Dougherty said that it would be used by a private landscaper. Mr. Fiore entered the record qualified himself and said programs have changed since the last application and now private landscapers are being used so the maintenance building is really being used to store off-season athletic equipment.

PROFESSIONALS QUESTIONS

- No Questions from Mr. J. Hess.
- Mr. Grygiel asked Mr. Dougherty for his opinion on the impervious coverage boundaries on the existing property versus the proposed. Mr. Dougherty said that at present, impervious coverage is at .08%, where 1.07% is being proposed.
- Mr. Warner asked Mr. Grygiel for confirmation of the approval for non-conforming use. Mr. Grygiel did as requested.

Break 9:33 PM-9:40 PM. At the end of the break, Chairperson Neuer confirmed that a quorum of the Board had returned.

NO PUBLIC QUESTIONS

PUBLIC COMMENT

- Mr. Kevin Malanga (Ridge Road) was sworn under oath and offered expert witness- Dr. Christine Sheppard who was also sworn under oath and qualified herself as ornithologist and bird strikes- narrative prepared to glass collision; Bird-friendly design used since 2009; smaller buildings and bird strikes only 1-2 take place with skyscrapers. 98% are because of smaller-scale buildings.

There was no cross-examination from Mr. Wyciskala

BOARD QUESTIONS

- Mr. B.D. Scott asked what is the speed for bird injury? Dr. Sheppard answered approximately 10-30 miles per hour. Mr. Scott asked about the New Jersey state statutes. Dr. Sheppard said that she is unsure of New Jersey Statutes.
- Mr. I. Schwarzbbaum asked for confirmation that the applicant, wants to use glass to not damage birds. Dr. Sheppard said that she believes the applicant wants to use glass to limit casualties. In response to this statement, Mr. Wyciskala that the applicant will be using a two (2) inch square pattern where the tighter the pattern the more safety.
- Mr. I. Schwarzbbaum asked Dr. Sheppard if there is any further objection to what is being proposed in regard to the pattern on the glass. Dr. Sheppard found no objection
- Mr. P. Ricci asked if Dr. Sheppard had any recommendations of the pluses or minuses of the design. Dr. Sheppard said that it is okay.
- Mr. W.M. Barbee asked if there are collisions and styles anticipated. Dr. Sheppard answered that there are many options for each style.

Mr. Malanga offered redirect in regard to the effectiveness of glass against a bird strike. Dr. Sheppard said that it is effective with etching but that it is not effective at night.

Chairperson announced no further comment or testimony.

- Mr. Malanga was sworn under oath and gave a statement on Seton Hall Preparatory being a good neighbor. He said that they should abide by the conditions in previous applications and the conditions that arose during this application to control noise and other factors as well.
- Mr. Warner asked Mr. Wyciskala if any conditions brought up by Mr. Malanga are permissible in regard to "bird strike technology" Mr. Wyciskala agreed as such.

CONDITIONS

- All athletic training activities related to the proposed fitness center must take place indoors.
- Additional/enhanced landscape screening shall be added to the area south of the existing field house, to the satisfaction of the Board Professionals;
- The Applicant shall install minimal outdoor nighttime security lighting to the proposed fitness center, subject to the review and approval of the Board Professionals;
- No more than ninety-six (96) persons shall be permitted on the proposed fitness center's second-floor balcony;
- The Applicant shall abide by all conditions of the 2010 and 2016 Approvals;
- No music shall be played on the second-floor balcony of the proposed fitness center;
- Only current students and faculty of Seton Hall Preparatory School are permitted usage;
- All proposed exterior-facing of the fitness center shall be equipped with bird strike-resistant technology and features, consistent with the American Bird Conservatory (subject to the review and approval of the Board Professionals);
- All interior lights within the proposed fitness center shall be turned off at night and equipped with motion sensors;
- Complying with the requirements of the New Jersey Noise Control regulations, and the Township of West Orange Noise Control Ordinance, at all times, including when the overhead doors to the center are opened.

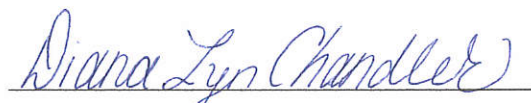
Motion: Chairperson Neuer

Second: W.M. Barbee

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

Chairperson Neuer adjourned the meeting at 10:36 p.m.

Adopted: 10/19/2023


Diana L. Chandler, Secretary