

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

November 16, 2023

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on November 16, 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,
Mark Sussman, Alice Weiss

Absent: John Hess, Consulting Engineer for the Township

Also Present: Paul Grygiel, Consulting Planner for the Township
Steven K. Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary

ANNOUNCEMENTS

- Future Meetings: December 21, 2023 (Regular Meeting)
- Chairperson Neuer announced that **ZB-22-08 Flores/156 Main Street** is adjourned at the request of the applicant to the December 21, 2023, Regular meeting.

SWEARING IN

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

MINUTES

- Adopt: October 19, 2023 Meeting Minutes

Motion: Chairperson Neuer

Second: W.M. Barbee

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

- Adopt: September 21, 2023, Executive Session Minutes

Motion: Chairperson Neuer

Second: A. Weiss

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

- Adopt: September 28, 2023, Executive Session Minutes

Motion: Chairperson Neuer

Second: A. Weiss

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

RESOLUTIONS

- ADOPT 2024 MEETING SCHEDULE

Motion: Chairperson Neuer

Second: M. Dannemiller

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

Note: Mr. Scott brought up a possible conflict with the January 18, 2024, Regular Meeting Date due to the Martin Luther King Jr. holiday (even though the holiday takes place on January 15, 2024). Chairperson Neuer said that the Board will move to Adopt and adjust dates if a conflict becomes apparent with new noticing. Mr. Dannemiller confirmed in seconding this motion with that understanding.

- ZB-23-05/Red Barn Dog OPS NJ LLC

(Approved 10/19/2023)

Block: 152.01; Lots: 1445 and 1445.05; Zone: P-C and R-5/IHO-1

235 Prospect Avenue

Application seeking use variances and minor site plan approval for dog daycare facility was approved with conditions at the October 19, 2023, Regular Meeting.

Motion: Chairperson Neuer

Second: Mr. Dannemiller

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

- **ZB-21-21 Daughters of Israel, Inc.** (1155 Pleasant Valley Way, Block 171 Lot 12), for a public hearing pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., Whispering Woods at Bamm Hollow, Inc. v. Twp. of Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987), and other applicable case law, on a settlement proposal relating to litigation entitled Daughters of Israel, Inc. v. the Zoning Board of Adjustment of the Township of West Orange Docket No.: ESX-L-004045-23 was heard and statutorily denied by a vote of four in favor and three opposed where five affirmative votes are required at the October 26, 2023 Meeting

Motion: B. D. Scott

Second: W.M. Barbee

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

APPLICATIONS

1.) ZB-23-01/Williams

(Carried from 9/21/2023)

Block: 76; Lot: 6; Zone: R-4

6 Merrywood Drive

Seeking "c" variances for expansion of existing garage and house.

PRESENTATION

- Mr. Eric Williams (Applicant), Ms. Aishah Coleman, (Project Architect), and Ms. Francine A. Alheid (Registered Architect) were sworn under oath.
- Mr. Williams gave a summary of testimony from the March 16, 2023 meeting when this application last appeared and the changes to the plans that have occurred since.
- Ms. Coleman verified the dimensions with the new extension and the new paving instructions. She then referenced **Drawing T102 (Dated- November 6, 2023)** with the surfaces presently at 48.2% where the proposed will be at 50.29%. 12.79% at present and 14.23 being proposed. Ms. Coleman testified that the current plans do not show catch basins. In response to this information, Chairperson Neuer said that revisions reflecting catch basins will need to be made.
- Ms. Coleman said that there is a slight triangle and in response to this, Chairperson Neuer asked if the applicant is willing to accept this as a condition of approval to provide as-built plans to be requested by the Construction Official. Mr. Williams confirmed that he is willing to accept as a condition.

BOARD QUESTIONS

- Mr. Dannemiller asked if the applicant was aware of the neighbors' opinion on the project. Mr. Williams answered that all the neighbors he has spoken to are in approval of this improvement to his property.
- Mr. Ricci asked regarding the site plan and whether the driveway width belongs to the applicant as there is currently 38 feet with the garage pavement. Mr. Williams said that the true property line goes into the middle of the street line.
- Mr. Scalora asked how the 40% of impervious coverage required is going to be converted from the 48% currently on the premises. Ms. Coleman said that it was because of the new construction.

PROFESSIONALS QUESTIONS

- Mr. Grygiel asked if this would be considered an exceptional situation and create a hardship. Mr. Williams said that there is no hardship.

NO PUBLIC QUESTIONS

Chairperson Neuer announced that application ZB-23-01 Williams (6 Merrywood Drive) is being carried to the December 21, 2023 Regular Meeting with no further notice necessary. Mr. Williams consented to the extension of the decision.

Mr. Scott asked for it to be stated on the record that not all Board Members find revisions necessary and then apologized to the applicant that it has taken this long for the application to be approved by the Board.

2.) ZB-23-07/Petco Animal Supplies Stores, Inc. (Carried from 9/21/2023)

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

495 Prospect Avenue

Seeking use variance approval for veterinary operations

PRESENTATION

- Ms. Victoria Cascio, Esq. entered the record on behalf of the applicant and gave a summary of previous testimony.
- Ms. Carolyn Archibold, Director of Petco was sworn under oath and presented **Exhibit A5 AO.1 Project Data Sheet** and **Exhibit A6 Revised Site Plan Exhibit** and accepted previous testimony from the last appearance before the Zoning Board on September 21, 2023.

BOARD QUESTIONS

- Chairperson Neuer asked if any analyses had been performed. Ms. Archibold said no. Chairperson Neuer asked about the difference between a clinic versus a hospital. In response to this, Ms. Archibold said that there is no overnight boarding.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Ms. Maddy Baker, General Manager of Petco (West Orange location) was sworn under oath and gave a run-down of activities step by step occurring at the location.

BOARD QUESTIONS

- Chairperson Neuer asked if Ms. Baker knew where the two vet hospitals are located. Ms. Baker said that she is aware of the West Orange Animal Hospital on Northfield Avenue and the West Orange Veterinary Hospital

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Chris Brady, Area Operations Manager was sworn under oath and gave a list of the equipment with maintenance by the compliance team.
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BOARD QUESTIONS

- Chairperson Neuer asked for any particulars of the x-ray machine that will be on the premises. Mr. Brady said that the X-ray machine will be of low radiation. The Chairperson asked if any partnerships with any veterinary hospitals have been made. Mr. Brady said no, not yet. The Chairperson asked if this addition would be considered a hospital or a clinic. Mr. Brady said it would be a clinic because there would be no overnight animal services.
- Mr. Barbee asked if Petco will be planning on contracting with small business hospitals. Mr. Brady answered in the affirmative and that they usually do so with the closest one in location to the store.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

Break 9:23 PM- 9:35 PM Chairperson Neuer announced that a quorum of Board Members returned.

PRESENTATION

- Mr. George Fanous, Architect was sworn under oath and was qualified/accepted as an expert in the field of Architecture. Mr. Fanous gave a brief overview of previous testimony
- A-6 with revisions and the existing site plan (Dated October 31, 2023)
- A-7 Aerial View (Dated October 31, 2023)
- A-8 Architectural Plan (Dated October 31, 2023)

BOARD QUESTIONS

- Chairperson Neuer asked about Mr. Fanous' radiation and x-ray expertise. Mr. Fanous answered that his only expertise is in design.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Sergio Henriques, Construction Manager was sworn under oath. He then explained that the store was going to be open during the store remodel.

BOARD QUESTIONS

- Mr. Dannemiller asked about the parking impact during the remodel. Mr. Henriques said that the landlord is using a remote area to store materials during construction.
- Mr. Schwarzbaum asked about the HVAC's special additional requirements for the facility. Mr. Henriquez answered that there are not any additional requirements that he is aware of.
- Mr. Eben asked if there would be any roof-mounted units. Mr. Henriquez answered in the affirmative.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Joseph Mancini, Engineer & Planner was sworn under oath, and his credentials were accepted as an expert in the field of Professional Planning.
- Mr. Mancini testified about the types of rooms for evaluation with the purposes of the renovation being primarily for the good of the public health of animals.

BOARD QUESTIONS

- Mr. Ricci compared this renovation to a CVS and asked about the additional signage that might be needed. Ms. Archbold answered that they would comply after the approval.

PROFESSIONALS QUESTIONS

- Mr. Grygiel asked Ms. Archbold about the zone with a mix not being prominent she said that it is but that the purpose of the application.

NO PUBLIC QUESTIONS

Ms. Cascio offered a summary of the application and all components.

NO PUBLIC COMMENT

CONDITIONS

- The Applicant shall ensure a partnership with an animal hospital/clinic in West Orange and only when unsuccessful in getting a relationship with one will search outside the West Orange Community.
- The Applicant shall ensure the use of X-Ray Equipment (applicant bound) complies with all requirements and the October 3, 2023 letter as well as Shielding Design Report to the Construction Official"
- The Applicant shall be inspected by the Zoning Official twice annually.

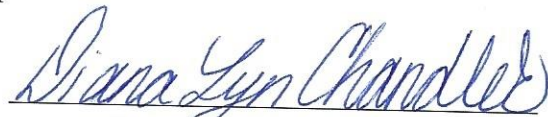
Motion: Chairperson Neuer

Second: A. Weiss

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

Chairperson Neuer adjourned the meeting at 10:28 p.m.

Adopted: 12/21/23


Diana L. Chandler, Secretary