

**MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
February 7, 2024 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on February 7, 2024 at 7:30 P.M. via virtual ZOOM videoconference.

Chairman Bagoff called the meeting to order at approximately 7:30 P.M. He announced that notification of the meeting was given to the Township Clerk, and posted on the Township Bulletin Board, sent to the West Orange Chronicle and the Star Ledger, and posted on the Township's website calendar. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 P.M.

PLEDGE OF ALLEGIANCE

- *Chairman Bagoff* requested all persons stand for the Pledge of Allegiance.

ANNOUNCEMENTS

- The next Planning Board regular meeting will be held **Wednesday, March 6, 2024 at 7:30 P.M.**

ROLL CALL

PRESENT: Dr. Robert Bagoff; Mr. William Wilkes; Mr. Ken Alper; Mr. John Cardoza (7:35PM); Mr. Jerry Guarino; Mr. Lee Klein; Mr. Christopher Morgan, Sr.; Mayor Susan McCartney; Mr. Peter Smeraldo; Council President Bill Rutherford; Ms. Lori Kapferer

ABSENT:

ALSO PRESENT: Diana P. McGovern, Esq., Planning Board Attorney;
Paul Grygiel, Consulting Town Planner;
Mr. Doug Rohmeyer, Board Engineer;
Jamilet Baquerizo Vite, Planning Board Secretary

MINUTES & RESOLUTIONS

[PB-23-11 Tompkins Realty - Draft Resolution](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper:	Y	Morgan:	----
Bagoff:	Y	Rutherford:	Y

Cardoza (Alt.2): Y	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: -----	
Klein: Y	
Mayor McCartney: Y	

[PB Attorney Appointment Resolution 2024](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper: Y	Morgan: Y
Bagoff: Y	Rutherford: Y
Cardoza (Alt.2): Y	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: -----	
Klein: Y	
Mayor McCartney: Y	

[7-19-2023 WO PB Draft Minutes](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper: Y	Morgan: Y
Bagoff: Y	Rutherford: ----
Cardoza (Alt.2): Y	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: -----	
Klein: Y	
Mayor McCartney: Y	

[8-2-2023 WO PB Draft Minutes](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper: Y	Morgan: Y
Bagoff: Y	Rutherford: -----
Cardoza (Alt.2): Y	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: -----	
Klein: Y	
Mayor McCartney: Y	

9-6-2023 WO PB Draft Minutes

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper: Y	Morgan: Y
Bagoff: Y	Rutherford: -----
Cardoza (Alt.2): Y	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: -----	
Klein: Y	
Mayor McCartney: Y	

SWEARING IN

- The Township Professional(s) sworn in.
- Lori Kapferer sworn in as Alternate #2.

APPLICATIONS

• **PB-23-09 Essex County Country Club**

Block: 156; Lots:1; Zone: R-2

350 Mt Pleasant Avenue

The applicant is proposing modifications to existing improvements and construction of new accessory buildings associates with its golf course and other facilities.

PRESENTATION

- The attorney for the Applicant Ms. Lisa John-Basta entered on the record.
- Ms. John-Basta wanted to clarify that they were before the board in November of 2023

for certain improvements of the golf course. At that point in time, they were proposing a comfort station, which was two restroom facilities and a snack beverage bar which was approximately 620 square feet.

- At the November 2023 hearing there were questions that were raised by Ms. Michaela Bennet and her expert. So, during the November hearing, the applicant effectively withdrew the request for the comfort station. Thereafter the planning board granted the approval on the remainder of the site plan improvements that were proposed. The golf club filed a new amended site plan application that relates solely to the 620 square foot halfway house.
- The proposed use is permitted. Golf courses are permitted within the R2 zone district for the properties located along with customary accessory structures.
- The halfway house satisfies all bulk and other zoning requirements as it relates to the code and this is the fully conforming site plan application.
- The objector for this application Ms. Micaela Bennet briefly entered on the record requesting the board to deny the application due to the notice being insufficient.
- The planning board members voted for the application to continue.
- The president of the golf course Mr. John Del Mauro entered on the record and he was sworn under oath.
- Mr. Del Mauro testified that there are no restroom facilities on the back half of the golf course, so anyone looking to use a restroom there's nowhere to go so our intention is to have restroom facility and a small snack bar.
- Female members for many years have requested that they put restrooms back there. It will be a unisex bathroom.
- Only prepackage food will be sold at the halfway house, which will include water and soft drinks.
- No cooking or grilling at the facility.
- There will be no seating and no tables.
- The applicant will potentially sell alcoholic beverages at the halfway house, once they get a license from the ABC alcohol beverage Control Act.
- The proposed structure will have an overhang to protect golfers from the sun, lightening, storms, and golf balls.
- The halfway house will be open only when the golf course is open for play (approximately 8AM to 7:30PM or less depending upon sunrise and sundown).
- The proposed facility is solely an amenity to the golfers.
- It will be secured and winterized in the off season
- The facility will have security cameras at the building and it'll be locked and secured every day.
- This will enhance the safety of both the person selling the snacks and beverages as well as those purchasing the snacks and beverages.
- The proposed structure satisfies the setback requirements of the code.
- The golf course will be willing if necessary to do additional planting along the rear property line.

NO BOARD QUESTIONS

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Mr. Alan Graham at 31 Old Indian Road asked will there be music coming from the facility, if so, will there be any noise mitigation strategies. Mr. Del Mauro said that there will be no music.
- Ms. Alexandria Byun at 37 Old Indian Road asked if the intention was to create a safe cover especially for women does alcohol need to be served. Mr. Del Mauro said that they provide that as a service to the paying members of the club, given that it's a private club have that benefit already it's in a mobile cart and they are just trying to bring those benefits into this safe facility.
- Ms. Byun asked what other places have they looked that may be a further away from some of the property that is surrounding the proposed location. Mr. Del Mauro said that they looked at multiple locations and they are all in line-of-sight people getting hit with golf balls and putting them in danger.
- Ms. Micaela Bennet at 35 Old Indian Road asked how will food be served from your halfway house. Mr. Del Mauro said that it will sell from a window.
- Ms. Bennet asked if the beverages will be served in glasses or plastic cups. Mr. Del Mauro said that there will be no glass around the golf course.
- Ms. Bennet asked how will the trash be handled. Mr. Del Mauro said that they have multiple garbage cans around the golf course.
- Ms. Bennet asked if there is parking or cart path. Mr. Del Mauro said that there's no cart path there, there will be grass and the intention is to have the carts sit on the fairway walk over, get your drink if you're in a cart get in the cart and move on.
- Ms. Bennet asked how will an emergency be handled in the building. Mr. Del Mauro said they have members all over the golf course during the season, so we would handle it in the appropriate manner that would handle it any in any other case.
- Ms. Bennet asked how do they intend to staff the building. Mr. Del Mauro said that they will have one employee at the building and that person will get dropped off and picked up whenever their shift begins and concludes.
- Mr. Sahib Bennet at 35 Old Indian Road asked what existing fines do you have for littering and what plans do you have for any additional trash that will eventually exist. Mr. Del Mauro said that they do not fine members.
- Mr. Lou Picciano at 29 Old Indian Road asked would you reasonably assert that parking of a bunch of golf carts around that building doesn't expose those golfers to the risk of golf balls coming off. Mr. Del Mauro said no.
- Mr. Picciano asked if it is true that players sometimes hang out on a hole to have a drink. Mr. Del Mauro said not at their club.
- Mr. William Lindsey at 41 Old Indian Road asked are there any additional plans to increase the level of care and attention by the groundskeeping staff. Mr. Del Mauro said they do everything we can to keep the golf courses clean and dispose of all trash.
- Mr. Lindsey asked if the golf course ever considered potentially increasing the amount of attention that's given so that inadvertent trash or anything that may or may not be intentional or unintentional doesn't end up on neighboring properties. Mr. Del Mauro said they will do everything they can to try to mitigate any trash in any of the yards.
- Ms. Donna Graham at 31 Old Indian Road asked what recourse will you provide to residents who have complaints about extra noise disturbance, light disturbance or litter on their yards. Mr. Del Mauro said that there will be no extra activity.
- Mr. Alan Graham asked how often will you anticipate pest control coming by the facility. Mr. Del Mauro said that they haven't called one for the golf course.

PRESENTATION

- The civil engineer Mr. Paul Calabrese entered on the record, he was sworn under and his credentials were accepted by the board.
- Mr. Calabrese testified that the location of the proposed building is at the South end of the site near Old Indian Rd. over by the 14th fairway, 65 feet from the nearest property line.
- The facility will be 620 square foot that's going to have a snack beverage counter in the center and on either side, there are bathrooms. One is a men's room and the second will be a unisex, the reason is that the unisex bathroom is also is also an ADA bathroom and in there it has one toilet and one sink. The men's bathroom has a urinal and a toilet with the partition hence 2 people can go in at the same time. The building is going to be 14 feet 7 inches and it will be underneath the 15-foot required for an accessory building.
- The building will be having utilities that will extend to Old Indian Rd. which will include electric water and sewer.
- The wetlands consultant went out and located the center line of the stream and the wetlands edge would have a 52-foot buffer assigned to it, this was a mapped GPS coordinates put on the map and shows that they are at least 20 feet away from that buffer line with the building.
- Applicant will seek a New Jersey Department of Environmental Protection ("NJDEP") Freshwater Wetlands Letter of Interpretation (LOI) for the construction of the halfway house to confirm the presence/absence of wetlands and the required wetlands buffer.
- The closest property structure is 175 feet away from the structure.
- Only interior lighting will be used and a single light for decorative accent will be placed over each of the restroom doors. This lighting will be shielded and pointed down so there is no spillage of light onto neighboring property.
- The location was thought to be the safest location off of the golf of course for balls getting in the way. It was reviewed by the golf course architect and he thought this was the best location as well.
- Mr. Calabrese said that the application satisfies bulk standards and does not present any variance requirements.

PROFESSIONALS QUESTIONS

- Mr. Alpert asked how many people would fit in the halfway house during a storm. Mr. Calabrese said that it could fit around 10 people.
- Mr. Smeraldo asked if the facility will have fire alarms. Mr. Calabrese said there will be local siren alarms.
- Mr. Smeraldo asked if an AED can be place in the facility. Mr. Calabrese said that an AED will be placed at the facility.

OBJECTOR'S CROSS EXAMINATION

- Ms. Bennet asked why did the engineer included wetlands in the site plans. Mr. Calabrese said they included the wetlands for the benefit of the board, so they can see that wetlands do not impact the building.
- Ms. Bennet asked why is there a 50-foot buffer. Mr. Calabrese said that that's the standard in state of New Jersey for this type of wetlands to require 50-foot buffer
- Ms. Bennet asked why did they choose a 50-foot buffer instead of a larger buffer. Mr. Calabrese said that as a stated before is the standard buffer for this type of wetland.
- Ms. Bennet asked why they didn't ask for a letter of interpretation prior to the hearing. Mr. Calabrese said that the process is first have approval from the Planning Board and then get the LOI from the DEP based on time and cost.

- Ms. Bennet asked what other locations were considered for this project. Mr. Calabrese said that they considered were across the fairway and then up by where the current moving cart is now and there is another location more to the West, so they look at around three to four different locations.
- Ms. Bennet asked what time will the exterior light be on and off. Mr. Calabrese said that the lights will be on during the day and off during the night.

PUBLIC QUESTIONS

- David Robinson at 39 Old Indian Road asked if they considered the neighboring properties before deciding the location of the facility. Mr. Calabrese said that they attempted to put the building as far as possible. They are 65 feet away from the nearest property line and 175 feet away from the nearest building.
- Mr. Robinson asked if Mr. Calabrese is aware of the drainage that causes overflow in his property. Mr. Calabrese said he is not aware. The township Engineer added that the modifications will decrease the runoff in the area
- Kevin Malanga at Ridge Road asked how many trees will be cut down. Mr. Calabrese said that two trees.
- Mr. Malanga asked what will be the impact on the roots of the trees that will remain from the construction. Mr. Calabrese said the intention is for impact to be minimal.
- Mr. Malanga asked to explain the construction methodology that will prevent the roots of the remaining trees from being damaged by the construction. Mr. Calabrese said the slab is elevated slightly, so they don't have to dig down into the ground.
- Mr. Malanga asked will the tree protection ordinance be violated or adhered to by the proposed building being constructed within three or four feet of existing trees. Mr. Calabrese did not know the answer.
- Mr. Sahib Bennet at 35 Old Indian Road asked what is the timeline. Mr. Calabrese said that the intention is to construct the building in the fall or winter of next year and it will take around on month.
- Mr. Bennet asked with the removal of those existing trees how will that impact the neighboring residents. Mr. Calabrese said that there is a 6 inch and 9-inch tree that seat behind a 42-inch oak tree that is 20 feet in front, so they are shielded behind.
- Mr. Alan Graham at 31 Old Indian Road asked what risks the residents face if a disaster occur at the facility. Vice Chairman said that safety is based on the Township.

PRESENTATION

- The planner Mr. Michael J. Pessolano entered on the record, he was sworn under oath and his credential were accepted by the board.
- He worked with Mr. Del Mauro to determined the location of the facility and also reviewed the ABC licensing information of seven nearby golf courses that feature halfway houses to be able to prepare for the meeting.
- In Mr. Pessolano opinion the proposed building does qualify as an accessory building and is permitted in the zone.
- His review of the ordinance states that accessory structures in the R-2 and any district can be within 5 feet of a property and so they have extra measure of protection by saving this facility 13 times that distance at 65 feet from the property line, so it satisfies any concern that the facilities properly cited away from the neighboring property.
- Based on Mr. Pessolano opinion there are no additional variances that are triggered by the proposed halfway house.

- On Mr. Pessolano professional opinion the planning board is obligated to approve the application if the applicant satisfies all the requirements of the zoning code.
- A bar needs to be a principal use of a property to qualify as a bar in the definition and this is clearly not the principal use of the property so it can't possibly be called or considered a bar.
- Restaurant is implicating a public service type of operation this is a private club and not open to the public, so it cannot be considered restaurant.
- The facility is not considered a fast food because fast food establishment needs to have 15 seats in order to begin qualifying and the proposed facility does not even have seats.
- Mr. Pessolano testified that based on the materials that he reviewed from a planning perspective; he believes that the planning board is within the authority to grant this application.

NO BOARD QUESTIONS

PROFESSIONALS QUESTIONS

- Mr. Grygiel asked in regard to the use issue, if the application is before a planning board is assume that it's being reviewed by the municipality and zoning official to determine the uses permitted because planning board cannot grant uses variances. Mr. Pessolano answered in the affirmative.

PUBLIC QUESTIONS

- Ms. Bennet asked if an application has no variances and a site plan review is required, does the board still have the ability to shift the location of the building. Mr. Pessolano said that the board can give feedback to the applicant, but if the application complies it is entitled to approval.
- Ms. Bennet asked if a property is more than five acres does West Orange require an environmental impact statement. Mr. Pessolano said that he believes it does based on the ordinance.
- Ms. Benner asked is the sale of alcohol a relevant land use consideration. Mr. Pessolano said that the planning board has no jurisdiction over the sale of alcohol and where it takes place.
- Ms. Bennet asked did he measure the distance of those halfway houses from their closest residential neighbors. Mr. Pessolano said he looked at the ones that had diagrams, didn't do any measurements though not scale drawings just sketches.
- William Mincy at 41 Old Indian Road asked if during his review of the other halfway houses included any objections. Mr. Pessolano said that specific information was not available.
- Mr. David Robinson at 39 Old Indian Road asked if he feels that all relevant properties that are affected by this type of structure should be included in the plan. Mr. Pessolano said that the application concerns the subject property, people surrounding that subject property are required to be notified by law to participate. But the subject property did not implicate the adjacent properties to be part of the board review.
- Mr. Kevin Malanga at Ridge Road asked if Mr. Pessolano asked if he was you involved in the collection of the liquor licenses that were part of this application pertaining to other country clubs in New Jersey. Mr. Pessolano said no.

OBJECTOR'S PROFESSIONAL PRESENTATION

- Ms. Bennet, attorney, called Mr. Peter Steck on behalf of the objector's entered on the record, he was sworn under oath and his credential were accepted by the board.
- Mr. Steck reviewed the applicant's most recent submissions and revised his opinion as a result.
- In his current opinion the applicant has demonstrated that halfway houses are a bona fide accessory use to a golf course.
- Mr. Steck presented exhibit A1 and said that there is a dramatic difference in location between the seven other golf courses reviewed and what is being proposed.
- Mr. Peter Steck also presented exhibit A2
- Mr. Steck previously showed a diagram that showed that there were wetlands suspected in the area and the applicant has now conceded that there are wetlands.
- Mr. Steck also pointed out that the applicant did not survey the entire wetlands they only did a portion.
- Mr. Steck presented exhibit A3, if the board carefully looks at the plan, they'll see that there's a 12-inch tree that is on the left-hand side of the disturbed area and he have superimposed the location of the building in the area that's going to be disturbed. The disturbed area cuts through a 12-inch tree, this tree is probably maybe a foot or two from the eaves of the building, so he is not sure how they're going to save that tree if they're going to have indentation in the building to allow the tree to grow and clearly, they're going to disturb probably half of the root system of that tree.
- On the exhibit Mr. Steck also showing the other possible trees that might be disturbed by the proposed project.
- Mr. Steck also said that this property is over 5 acres and it's required to have an environmental impact statement and one of those statements has to do with tree removal and wetlands.
- Mr. Steck said that applicant in their public notice says that this facility may have alcoholic beverages served in his opinion that is a relevant land use consideration and he thinks the only fair way for this board to approve or analyze this application is assume that a liquor license is going to be approved because this board has no control over it, but the applicant is certainly indicated that it is subject to another agency. But that doesn't mean that the board doesn't play a role in this if an application for site plan approval is on a County Road and the county has jurisdiction you still have the right to shift driveways to decide whether they should be left turns in or right turns out. In his opinion it is fundamentally relevant whether alcoholic beverages are served here and he thinks the only fair way to analyze this application is to assume that alcoholic beverages are going to be served.
- Mr. Steck disagrees with Mr. Pessolano that the board has to approve this application on the location of the facility.
- Mr. Steck said that the saving of trees is in the township ordinance. It's one of the purposes of the tree ordinance to minimize the destruction of trees. On this application not only does the applicant have an unrealistic application only removing 2 trees, but they didn't even survey the trees down the line that are going to be removed so he believes that the board does not have enough information to approve the application.
- Mr. Steck on his opinion believes that there is deficient information and there are other locations that involve less tree removal and there are other locations on the golf course that the facility can go.

***The application has been carried to the March 6, 2024 Planning Board regular meeting.
No further notice will be necessary. ***

Meeting adjourned at 11:15PM.

ADOPTED: 6/5/24



Jamilet Baquerizo Vite
Planning Board Secretary