

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
May 16, 2024
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on May 16, 2024, 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 stand for the Pledge of Allegiance.

Alexander Fisher, Esq., Board Attorney read the opening statement.

ROLL CALL

Present: William Michael Barbee (arrival 10:13 PM), Michael Dannemiller,
Jerome Eben, Philip D. Neuer, Peter Ricci
Irv Schwarzbuaam, Mark Sussman, Alice Weiss
Absent: Brent D. Scott (Unexcused)
Also Present: Erik DeLine, Consulting Planner for the Township
Alexander Fisher, Esq. (proxy for Steven K. Warner, Esq.,) Board Attorney
Diana L. Chandler, Board Secretary
Christopher Dochney, Planner

ANNOUNCEMENTS

- Future Meetings: May 23, 2024 (Special Meeting)
June 20, 2024 (Regular Meeting)
July 18, 2024 (Regular Meeting)
August 15, 2024 (Regular Meeting)
- A Special Meeting is scheduled for Application **ZB-24-05 West Orange Police Athletic League (28 Prospect Place)** on **May 23, 2024**.
- Application **ZB-23-11 DeOliviera (31 Bradford Avenue)** is adjourned at the request of the applicant to the **June 20, 2024, Regular Meeting**.

MINUTES

April 18, 2024 (Regular Meeting)

Motion to Approve: Chairperson Neuer

Second: I Schwarzbaum

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

NOTES: To approve with M. Dannemiller's edits.

SWEARING IN

- Township Professionals Mr. Erik DeLine (Consulting Township Planner), Mr. Christopher Dochney (Planner), and Ms. Zayibeth Carballo (Municipal Engineer) were sworn under oath.

RESOLUTIONS

- **ZB 23-09 / Seton Hall Preparatory School**

Block: 59.04; Lot: 1.01; Zone: R-6

120 Northfield Avenue

Seeking preliminary and final site plan and "d" variance approvals for the expansion of a non-conforming use was approved with conditions at the April 18, 2024, Regular Meeting.

Motion to Approve: Chairperson Neuer

Second: I. Schwarzbaum

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

- **ZB-24-01/Georges**

Block: 137; Lot: 83; Zone: R-T

10 Elm Street

Seeking “c” variances for the expansion of an existing house was approved with conditions at the April 18, 2024, Regular Meeting.

Motion to Approve: Chairperson Neuer

Second: M. Sussman

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

APPLICATIONS

1.) ZB-23-12/Washington

(Carried from 4/18/2024)

Block: 41.01; Lot: 123; Zone: R-6

4 Harvard Terrace

Application for use variance to permit home occupation in an accessory building

PRESENTATION

- Mr. Fisher confirmed that the notice for application was complete, timely, and adequately served.
- Mr. Alan Trembulak, Esq appeared on the record on behalf of the applicants, Aja and Blair Washington. He explained that this application is for D-1 Variance for a Home Occupation in an accessory use. It would be utilized for a three (3) to five (5) year old early learning center.
- Ms. Aja Washington was sworn under oath, presented her expert qualifications, and employment history in the Education field. She explained that she filled out the Home Occupation Application with the Planning & Development Department. This is intended to be a “Drop off program” utilizing her fully fenced/gated property, with six (6) sessions per week occurring on Mondays, Wednesdays, and Fridays with no other staff.
- Ms. Washington showed pictures of the accessory building – **Exhibit A1-A4 (Dated June 2023)**, she confirmed the accuracy of the building. She stated that since she was informed of it not being an acceptable use, it is not operated onsite or in the house. The accessory use is one (1) room with an RV quality restroom which was installed in May of 2023. There were no Building permits obtained, but there were electrical permits obtained for the power, electric air conditioning, and baseboard heating.
- Ms. Washington said that she was approved for the Home Occupation via the Planning & Development Department. She testified further saying that, because of the nature of the work, the accessory use’s setting offers limited distraction. She has reached out to her neighbors by way of an open house and, as per her testimony, they believe it to be beneficial to the neighborhood and are all in support.

BOARD QUESTIONS

- A. Weiss asked if there is a permit needed for a building of this nature. Mr. Trembulak said no and elaborated saying that only when electrical permits were taken out and inspected was Ms. Washington made aware of the use not being acceptable.
- J. Eben asked whether she would be able to accommodate students with physical disabilities as there are steps to the accessory use. Ms. Washington said that the plan is to have a temporary ramp installed for situations like those.
- J. Eben asked if the West Orange Fire Department performed any inspections; Ms. Washington said no.
- J. Eben asked for confirmation that there is only one (1) entrance. Ms. Washington said yes.
- J. Eben asked if there will be fire drills performed with this accessory structure. Ms. Washington said that fire drills are typically only for schools and, after her research, not for this being considered a tutoring center.
- P. Ricci asked for the definition of an "Inclusion Classroom" since Ms. Washington previously said that was where some of her experience in teaching was. Ms. Washington explained that it is where Special Education and Non-Special Education students are in one classroom.
- P. Ricci asked what the foundation for the accessory use is made out of. Ms. Washington answered that it is gravel.
- M. Sussman asked if it is possible for the building to show dimensions with no results, is it comparable to a one (1) car garage and how many students can go into the site. Ms. Washington said that five (5) children max can fit comfortably.
- I. Schwarzbaum asked if services are being provided now. Ms. Washington said no.
- I. Schwarzbaum asked for elaboration on the bathroom situation. Ms. Washington said the bathroom is similar to an RV.
- I. Schwarzbaum asked for a comparison between tutoring and school. Mr. Dochney answered that there is no difference between the code and the state law other than if the applicant is willing to have the Certificate of Occupancy issued for safety. Mr. Schwarzbaum encouraged the applicant to return to the Board with plans including fire safety and keeping handicapped students in mind as well.

PROFESSIONALS QUESTIONS

- Z. Carballo asked if there is a holding tank in the bathroom. Ms. Washington said that there is a "cassette" type tank similar to those used in an RV and can be pulled out every time the building is not in use.
- Z. Carballo asked if the building is sprinklered for fire prevention. Ms. Washington said no.
- Z. Carballo asked if those inspectors were from the West Orange Building Department. Ms. Washington said that she was unsure.
- Z. Carballo asked for confirmation that the foundation is gravel because of a manufacturer's recommendation. Ms. Washington said yes.

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Alex McClean, Professional Planner was sworn under oath, presented his expert qualifications, and confirmed familiarity with the Planning Report written by Mr. John McDonough.
- Mr. McClean showed **Exhibit A5 – Aerial Photo (Dated - December 2023)** and **Exhibit A6- Zoning Map** where he testified that this accessory use is an “Incidental dwelling for an alternative educational opportunity.”

Break 9:36 PM – 9:44 PM

*Upon return from the break, Mr. Trembulak said that the applicant would like to fix issues that arose and asked for application **ZB-23-12 Washington (4 Harvard Terrace)** to be carried to the June 20, 2024 Regular Meeting. Chairperson Neuer announced as such with no further notice being required by the applicant for **ZB -23-12 Washington (4 Harvard Terrace)**.*

2.) ZB-24-03/Rahaman

Block: 34; Lot: 33.01; Zone: R-6

91 Oakridge Road

Seeking “c” variance for construction of new deck

PRESENTATION

- Mr. Fisher confirmed that the notice for application was complete, timely, and adequately served.
- Mr. Gregory Rahaman, applicant, was sworn under oath. He then provided context of the application for the replacement and expansion of the existing deck. Utilizing Photos **Exhibits A1 A-C, and Exhibits A2 A-C (Dated- May 6, 2024)** he explained that when they went to extend and fix the deck, it was discovered the main beam was out of compliance. The goal is to repair the existing deck only wanting to use the existing footprint.

BOARD QUESTIONS

- P. Ricci asked about an issue concerning the property survey to which Mr. Rahamn referred to the Architect.

PROFESSIONAL QUESTIONS

- Mr. E. DeLine asked for confirmation of Mr. Rahaman living on the property since 2000 and no revisions were personally done to the deck. Mr. Rahaman said yes.
- Me. E. DeLine referenced the discrepancy in imagery. Mr. Rahaman said that he could not comment on the changes in the images.
- No questions from Ms. Carballo.

NO PUBLIC QUESTIONS

PRESENTATION

- Mr. Charles Baldanza, Architect, Engineer, and Planner was sworn under oath, and presented his expert qualifications.
- Chairperson Neuer announced that a waiver for an expert report (Planner's Report) was waived.
- Mr. Baldanza explained that the application site is in the R-6 zone with frontage towards the east. He explained that the property is not lined up at all as the site is an "irregular shape."
- Mr. Baldanza gave a brief description as to why the variances are being requested.
 - Property size is 16.4 feet where 22 feet are required.
 - Reason behind this application is that the deck has outlived its lifespan and now they require more space.
 - There is no change in draining as deck is only a few feet higher with no trees being cut down.

BOARD QUESTIONS

- I. Schwarzbaum asked what the height of the existing deck is. Mr. Baldanza said that it is less than two (2) feet and is only one (1) foot below grade.
- M. Dannemiller asked Mr. DeLine for confirmation on the setbacks. Mr. DeLine provided the information requested.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

Chairperson Neuer closed the public meeting.

CONDITIONS

- To be clearly stated on the Final Site Plans

EXHIBITS

Exhibits A1 A-C Photos (Dated- May 6, 2024)

Exhibits A2 A-C Photos (Dated- May 6, 2024)

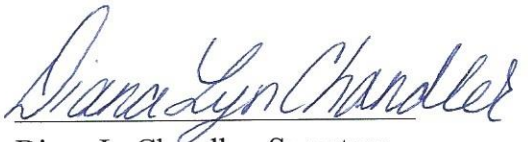
Motion to Approve with Conditions: Chairperson Neuer

Second: I. Schwarzbaum

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

Chairperson Neuer adjourned the meeting at 10:37 PM.

Adopted: 6/20/2024


Diana L. Chandler, Secretary