

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING

August 15, 2024

8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on August 15, 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, Jerome Eben,
Philip D. Neuer, Peter Ricci
Irv Schwarzbuaam, Brent D. Scott,
Mark Sussman, Alice Weiss

Absent: Michael Dannemiller (excused absence)

Also Present: Erik DeLine, Consulting Planner for the Township
John Hess, Consulting Engineer for the Township
Alexander Fisher, Esq. (proxy for Steven K. Warner, Esq.,) Board Attorney
Diana L. Chandler, Board Secretary

ANNOUNCEMENTS

- Future Meetings: September 19, 2024 (Regular Meeting)
October 10, 2024 (Regular Meeting)
November 21, 2024 (Regular Meeting)

MINUTES

July 18, 2024 (Regular Meeting)

Motion to Approve: Chairperson Neuer

Second: W.M. Barbee

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

NOTES:

SWEARING IN

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

RESOLUTIONS

- ZB-23-11 DeOliveira/ 31 Bradford**
31 Bradford Avenue
Block: 55.06; Lot: 1.01; Zone: R-5
31 Bradford Avenue
Application seeking "c" variance approvals for retaining walls and fences was dismissed without prejudice at the July 18, 2024, Regular Meeting.

Motion to Approve: Chairperson Neuer

Second: M. Sussman

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

APPLICATIONS

- 1.) **ZB-24-08- Wallace (6 Mountain Way South)**
Block: 45.06; Lot: 3; Zone:
6 Mountain Way South
Seeking "c" variance for construction of new deck

PRESENTATION

- Mr. James Wallace was sworn under oath as the Owner/Applicant.
- Chairperson Neuer confirmed the following exhibits for the basis of Mr. Wallace's testimony:
 - o **EXHIBIT A1 Proposal**
 - o **EXHIBIT A2 Reasons for Relief**
- Mr. Wallace said that the home was purchased in 2017 and his family wants to expand the home with the community and neighbors in thought. They want to be able to utilize their lot to its full potential and cannot do so because of the drastic slope. He referenced that the deck's purpose is to line up with the patio and that the plans are to integrate the stairs to align with the patio. He said that this project became an issue because an unroofed patio is not allowed by Ordinance.
- Mr. Wallace testified that the application site is significantly sloped and is undersized with the main floor at ground level in the front yard, but equivalent to the second story in the rear; there is currently no rear yard access from the main level; the deck is 175 square feet and will extend 10.5 feet from the house to provide the necessary distance to integrate stairs; and the deck will provide direct access to the main level of the home from the rear yard.
- Mr. Wallace further testified that the sloped topography and the required distance for safe and functional stair design constitute a hardship; the deck will facilitate a more enjoyable/functional use of the property; and the proposed deck aligns with the deck's stairs with the existing raised patio for a seamless transition and maintenance of the visual harmony of the neighborhood.
- Mr. Wallace said that the existing picture window will be replaced with a sliding door to maximize the square footage. Phase two (in the future) would be to revitalize the patio but Mr. Wallace admitted that they are a long ways away from Phase two occurring.
- Chairperson Neuer confirmed that while he appreciates the letters from the neighbors since they are not present at the meeting, the letters in approval from Mr. Wallace's neighbors will be accepted as **EXHIBIT A3**.
- Mr. Wallace continued his testimony stating that the Rainwater and Stormwater coming through the deck and open air will be preserved. Mr. Wallace also said that privacy trees have already been planted in anticipation of the Board's approval of this application.

BOARD QUESTIONS

- Mr. P. Ricci asked if the existing patio metal railing will be replaced. Mr. Wallace answered that it will be replaced with a Trex railing system to keep uniform with the new deck.
- Mr. J. Eben asked if, during construction, the children who live there will be running around the deck without railings in place. Mr. Wallace answered that he has no intention of allowing his children to have access to the deck until a secure railing is present.

- Mr. W.M. Barbee asked if the existing patio is made of cement/cinder block. Mr. Wallace answered in the affirmative. Mr. Barbee asked how he intended to make it uniform. Mr. Wallace said that they would use some of the same material from the deck to hide the "square cube" shape.
- Mr. I. Schwarzbaum asked for confirmation that the current patio is in alignment with the proposed deck. Mr. Wallace answered in the affirmative.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

BOARD DISCUSSION

- Mr. Schwarzbaum complimented Mr. Wallace on his well-thought-out application.
- Mr. Sussman agreed with Mr. Schwarzbaum and said that it is a great improvement to the property.

Exhibits:

- o **A1 – Proposal**
- o **A2 – Reasons for Relief**
- o **A3 – Letters of Neighbors' Approval**

Conditions:

- o The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;
- o The Applicant shall comply with all Federal, State, County and Township statutes, ordinances, rules, regulations and requirements affecting development in the Township, County and State;
- o The Applicant shall be bound by all the evidence, including documents and testimony presented by the Applicant at the Public Hearing;
- o Pursuant to Sections 25-48.10(a) and 25-48.10(c), of the Ordinance, the variance relief granted by the Board and identified herein shall expire within two (2) years and one (1) day from the date of publication of a notice of the granting of such relief in either the official newspaper of the Township of West Orange or a newspaper of general circulation in the Township, unless, before the expiration of said two (2) year and one (1) day period, either (i) a building or construction permit is secured and issued or (ii) the actions authorized hereby have been taken; and
- o These Conditions will be clearly printed on the engineering drawings to be submitted for filing in the official records of the Board.

Motion to Approve: Chairperson Neuer

Second: I. Schwarzbaum

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

2.) ZB-24-02/Nwaiwu Properties, LLC

(Carried from 7/18/2024)

Block: 177.08; Lot: 21; Zone: R-6

691 Eagle Rock Avenue

Seeking "c" variance for construction of new house

PRESENTATION

- Mr. Robert Taylor, attorney for the applicant, entered on the record, confirmed the presence of Mr. Evans and Mr. Nwaiwu, and gave a brief summation of the testimony at the April 18, 2024, and June 20, 2024 meetings.
- Mr. Matthew Evans, Architect qualified himself as an Architect and Planner.
- Board Member, Mrs. A. Weiss entered the record and said she was not present at the June 20, 2024 meeting and the Chairperson followed up about her question asked at the April 18, 2024 meeting about a subdivision at Shrum Place. Mr. Taylor and the professional at the time had no answer and was unsure. Mrs. Weiss said that she contacted the Tax Assessor's office and found the property card for the property.. stated that she wanted all information out in the open. Chairperson Neuer accepted the property cards as **Exhibits A1 and A2**.
- Mr. Evans continued by sharing Site Plan (Dated July 8, 2024) based on the Enginner's Review.
 - o C1 – Zoning Map; R-6 is a one (1) family Zone and believes that with the plan presented all conditions are met with the only exception being the nonconforming size/shape of the lot.
 - o S1 – old survey with the trampoline and grading of utilities with lighting and landscaping plan. Slope calculations would not require a steep slope.
 - o Chairperson Neuer said that the pipe is not on the drawings. Mr. Evans said that the new pipe would be down Eagle Rock Avenue towards the nearest catch basin.
 - o Sheet 5 displayed the basement, first/second floors, and the garage front elevation.
- As a Planner, Mr. Evans testified that this application is for a stand-alone lot to build a single family home. He then referenced Sheet C1 (Site Conditions). He opined that what makes sense is while the lot size is larger than usual, the width is what brings them to the Board.

BOARD QUESTIONS

- Chairperson Neuer asked for confirmation that in a drawing there is a bathtub in the basement. Mr. Evans said that it could be removed if necessary. Chairperson Neuer asked if there was any reason the property can be developed with less than three (3) bedrooms.

Mr. Evans answered in the affirmative that was simply the preference of the applicant. Chairperson Neuer asked about the logistics of cars backing into Eagle Rock Avenue. To which Mr. Evans said that he was unsure. Chairperson asked if Mr. Evans was a Traffic Engineer. Mr. Evans said no but the application could get one if requested. Chairperson asked how many times he had been to the site. Mr. Evans said once.

- Mrs. Weiss asked if there is a way, with the current drawings, to make the driveway circular. Mr. Evans said no and that the current design gives availability for a K-turn via the apron of the driveway.
- Mr. B.D. Scott asked for confirmation that there is a possibility of a semi-circular driveway being added. Mr. Evans said it is only a possibility with edits to the current design.
- Mr. P. Ricci said that the driveway is not an issue in his opinion. He thinks it's a matter of overdevelopment with not a so-great solution. Mr. Evans responded that it is a matter of opinion.
- Mr. J. Eben asked in concern about the applicant turning this property into a boarding house or a single family property. Chairperson confirmed that it was previously testified stationing that it will not be and at the end of the application we can ask that to be a condition if need be.
- Mr. W.M. Barbee referenced Mrs. Weiss' discoveries and brought up the Note on the Tax Assessor's Property Record Card from the 1980s and asked for confirmation that the application can go forward given that the card states that it is an "unbuildable lot". Chairperson said there is nothing illegal being done and there has been a legal application for a Board approval.
- Mr. I. Schwarzbaum asked about the amount of other 50-foot lots with development he has worked on. Mr. Evans said that he does not have that information.

PROFESSIONALS QUESTIONS

- Ms. Z. Carballo referencing Sheet S1 asked for confirmation of no trees. Mr. Evans said that they intend to leave the existing trees on the site. Ms. Carballo said that the landscaping plan has "X" on them, and to please explain. Mr. Evans said that must be an error and could leave them in place.

PUBLIC QUESTIONS

- Mr. K. Malanga (57 Ridge Road) asked if it is common to design homes with no bedrooms on the floor. Mr. Evans said that it sometimes happens but there is no other information.
- Mr. R. Ahlawat (15 Shrum Place) asked for the distance between the two (2) houses. Mr. Evans said he did not survey his property. Mr. Ahlawat asked about the proposed windows on the site. Mr. Evans said that he could not comment.

Public Questioning Closed

Chairperson Neuer announced that application ZB-24-02 Nwaiwu Properties LLC is carried to the October 10, 2024, Regular Meeting with preservation of notice and Counsel agreeing to an application extension to October 11, 2024.

Break- 9:47 PM – 9:52 PM

Upon return from break, Chairperson Neuer announced that Mrs. Weiss left the meeting, but with her absence, there is still a quorum of Board Members.

3.) ZB-24-06 PUBLIC SERVICE ELECTRIC AND GAS COMPANY

**Block: 155 Lot: 26.01 Zone: (O-R) Office Research; (PURD) Planned Unit Residential Development; (R-5) Single Family Residential Zone
325 Mount Pleasant Avenue**

Seeking Variances, Preliminary, and Final Major Site Plan Approval in connection with upgrades.

PRESENTATION

- Mr. Fisher confirmed the notice is adequate and the jurisdiction of the Board is approved.
- Ms. Jennifer Porter, Esq. entered the record on behalf of the applicant, Public Service Electric and Gas. She gave a brief synopsis of the proposed application seeking use/bulk variances, preliminary, and final major Site Plan approval in connection with upgrades.
- Mr. Fisher said that a waiver request has been filed and is not incomplete and as long as Nishuane with the applicant meets to fulfill the environmental impact requirement and is in fact complete.
- Chairperson Neuer said that the Environmental Impact Statement Ordinance (Section 25-13) does require the applicant to consult with the Consulting Planner and said that he would be remiss if he did not require the applicant to meet with them between now and before this application concludes to discuss as to whether or not an Environmental Impact Statement is required. The Environmental Impact Statement is not a checklist item. Ms. Porter said that the applicant agreed with that request.
- Mr. Miguel Briones, Project Manager, Public Service Electric and Gas entered the record, credentials were accepted, and was sworn under oath.
- Mr. Briones said that the application is for the switching station located at 325 Mount Pleasant Avenue. Then displayed M-1 Development Site Plans (Sheet 1 of the boundary and topographic survey.) where he showed the northern region of the property with retail spaces such as LA Fitness, the eastern region of the station by Prospect Avenue with commercial businesses such as Sunoco Gas, and southern region of the station with Essex County Country Club.
- Mr. Briones testified further stated that inside this property there are two (2) electrical stations. The Marion Drive substation operating at 13kV and the Mount Pleasant Avenue switching station operating at 26kV.

BOARD QUESTIONS

- Mr. Schwarzbaum asked for confirmation that they are replacing two 15 26kV volt substations described. Mr. Briones answered in the affirmative. Mr. Schwarzbaum asked if there would be any interruption of electricity (i.e. brownouts). Mr. Briones said that they will try their best but can't say that there will be 100 percent no brownouts/lightouts but will do their best to keep the reliability in the station. Mr. Schwarzbaum asked if PSEG did any studies about the projected needs of the service area and if that is going to be sufficient to meet the demands of a natural progression to electricity both from EVs in people's homes and electric appliances? Mr. Briones answered that not only is PSE&G going to be preparing for that, but also ensuring that the operational capabilities of the existing equipment can be updated to its modern standards for PSE&G while making sure that the equipment is operating at its full capacity. Mr. Schwarzbaum asked if the new substations, have the ability to supply more energy than the old ones? Mr. Briones said that right now PSE&G is replacing as well as being able to prepare for that increased load. So, yes, that will be part of when the new search gear is installed. Mr. Schwarzbaum asked if the proposed change is sufficient for anticipated demands given that society is moving away from fossil fuels to electricity and natural gases. Mr. Briones

- said that with the new installation of this 26kV switchgear in itself, the replacement of the existing equipment is meeting that expectancy and increasing the load in the area.
- Mr. Barbee asked that given the trailers will be on the property for four (4) years if they would be visible to the public. Mr. Briones said that the trailer will only be visible from the top section of Prospect Avenue. Mr. Barbee asked for confirmation that the removal of the perimeter fence is being replaced with wrought iron being customary. Mr. Briones said that the current fence is a wrought iron and 6 ft in height. The plan is to replace all of that with a new 8-eight-foot metal Ameristar fence. Mr. Barbee asked what the reason is for changing the look Mr. Briones said that currently fences have been on the site for a very, very long time. The maintenance to make sure the following fences are being able to up to standard, and to make sure that nothing is corroding, making sure that it's safe for everybody. It's getting to a point where it's better to proceed with a modern style for the fence in the area. Not only to make it easier to maintain, it also might be a better site for the public as well. Mr. Barbee asked for confirmation of the new path from the entrance on Mount Pleasant being constructed? Mr. Briones said yes, and that it will be on Mount Pleasant Avenue. Mr. Barbee said that it hasn't been mentioned if the applicant will be cutting down trees on the perimeter of the entrance, or anywhere. Mr. Briones said yes, with regard to the trees and the landscaping portion he referred to the landscaping architect for his further testimony.
 - Mr. Eben asked when the applicant came about deciding that they had to do this application? Mr. Briones said that they had a planning group to evaluate the lifecycle of each of these substations over time. Part of the planning criteria included the information deemed as one of the older and the oldest aged equipment due to the age of the equipment. So, the planning group identified this area as the area to improve on with the given age, the structure, and the condition of the equipment; this is the path, moving forward, that we plan to do just to better serve the community as well. Mr. Eben asked if Mr. Briones is aware if this site has been declared a brownfield site by the Federal government. Mr. Briones said not that he's aware of.
 - Mr. P. Ricci asked if Mr. Briones had been to the site. Mr. Briones said yes, multiple times. Mr. Ricci asked if he enters the site at the gates on Mount Pleasant Avenue. Mr. Briones said that for himself, he has access to multiple gates but most of the time he does enter on Mount Pleasant Avenue. Mr. Ricci said that the existing metal six foot perimeter fence is going to be removed and a new eight foot high Ameristar fence is being installed; he asked for confirmation of what an Ameristar fence is. Mr. Briones said that Ameristar is the company that produces the fence itself but referred any other questions about it to the Landscape Architect's testimony.
 - Mr. B. Scott asked if this substation services other townships or does it only serve West Orange? Mr. Briones said that it not only serves West Orange, but adjacent towns on the boundary of West Orange.
 - Mr. M. Sussman asked if PSE&G was installing one or two 26kV stations. Mr. Briones said only one 26kV sheltered house switchgear. Mr. Sussman asked for confirmation that they are not upgrading the capacity. Mr. Briones said that they are replacing it with the same voltage level as the current station.

PROFESSIONALS QUESTIONS

- Mr. J. Hess asked if the trailers are going to be temporary. Mr. Briones answered in the affirmative and that they will be on the premises for a total of four and a half (4 ½) years.
- No questions from Mr. E. DeLine.

PUBLIC QUESTIONS

- Ms. Z. Khademi (4 Dawes Avenue) asked Mr. Briones if he is the designer of the project. Mr. Briones said that he is not the Engineer of record, just the Project Manager. Ms. Khademi asked if it is possible to conservatively save trees and the historically aesthetically pleasing fence on the property. Mr. Briones said that would be best left for the Landscape Architect to testify in regards to.
- Mr. K. Malanga (57 Ridge Road) asked to be shown the existing switchgear. Mr. Briones did as such on the screen. Mr. Malanga asked if Mr. Briones was involved in the decision as to where to site the new switchgear. Mr. Briones said that he was not. Mr. Malanga asked if Mr. Briones was involved with the decision to cut down trees. Mr. Briones answered in the affirmative. The consideration to cut those trees were proposed from the Landscape Architect as well as the Engineering Group in terms of making this applicable to this Site Plan and to adhere to the Zoning requirements. Mr. Malanga asked how many feet from the switchgear are the trees along the perimeter of the site along Prospect Avenue and Mount Pleasant Avenue are from those trees. Mr. Briones said that he wanted to refer to the Landscape Architect. Mr. Malanga asked if the switchgear can be installed without cutting down those trees. Mr. Briones said that he believes cutting of the trees will be part of it but asked to refer to the Landscape Architect. Ms. Porter said that Mr. Briones can only answer in his own opinion and PSE&G designed this site the way its proposed. The Landscape Architect will explain the necessity for the removal of each and every tree that's proposed and the rationality behind it.

Chairperson Neuer offered the option of a Special Meeting to the applicant with a date to be and then announced that application ZB-24-06 PUBLIC SERVICE ELECTRIC AND GAS COMPANY is carried to the September 19, 2024, Regular Meeting with preservation of notice and Counsel agreeing to an extension of the application to September 20, 2024.

Chairperson Neuer adjourned the meeting at 11:14 PM.

Adopted: 9/19/2024


Diana L. Chandler, Secretary