

**MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
October 9, 2024 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on October 9, 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, November 6, 2024 at 7:30 P.M.**

ROLL CALL

PRESENT: Dr. Robert Bagoff; Mr. Jerry Guarino; Mr. Ken Alper; Mr. John Cardoza (7:44PM); Mr. William Wilkes; Mr. Lee Klein; Mayor Susan McCartney; Mr. Peter Smeraldo; Council president Bill Rutherford; Ms. Lori Kapferer

ABSENT: Mr. Christopher Morgan, Sr.

ALSO PRESENT: Diana P. McGovern, Esq., Planning Board Attorney;
Gerry Haizel, Consulting Town Planner;
Mr. Zachary Jordan, Board Engineer;
Zayibeth Carballo, Town Engineer
Jamilet Baquerizo Vite, Planning Board Secretary

MINUTES & RESOLUTIONS

5/1/24 PB Draft Minutes

Motion: **Chairman Bagoff**

Second: **Mr. Guarino**

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

8/7/24 PB Draft Minutes

Motion: Chairman Bagoff

Second: Mr. Smeraldo

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

SWEARING IN

- The Township Professional(s) sworn in.

APPLICATIONS

- **PB-24-12 Estate of Rita Berman**

Block: 179.03 Lot: 9 Zone: R-6

17 Fairway Avenue

The applicant proposes to subdivide an existing lot, Lot 9, with an existing single-family dwelling, into two (2) new lots, designated as Lots 9.01 and 9.02. New Lot 9.01 will contain the existing single-family dwelling, while new Lot 9.02 will be vacant.

PRESENTATION

- Alan Trembulak, Esq. appeared on behalf of the applicant, Estate of Rita Berman, 17

Fairway Avenue.

- Mr. Trembulak advised the Board that his client sought minor subdivision approval for a subdivision of property located at the corner of Fairway Avenue and Barbara Avenue.
- The current lot area is 16,000 square feet in the R-6 zone which requires lot area of 6,000 square feet. The Applicant proposes to create two lots with one of the lots retaining the current house.
- Both new lots will exceed the 6,000 square foot minimum lot requirement and will also have lot widths of at least 60 feet as required in the zone. The only variance requested is as to Lot 9.01 which will have the existing house. While Lot 9.01 will have a much larger square footage than required at 9,460 square feet, the new rear lot line will reduce the rear yard setback to approximately 18 feet (where 30 feet is needed).
- Robert Berman, executor of the Estate of Rita Berman, was sworn and provided testimony.
- Mr. Berman testified that 17 Fairway Avenue was his parents' house and they purchased the property in 1989.
- The new proposed lot will face Barbara Avenue and Mr. Berman testified that his family plans to build a smaller house for his niece on that lot and then Mr. Berman's son would move into the existing house.
- The rear patio will be removed and the chain link fence will also be removed.

BOARD QUESTIONS

- Mayor McCartney asked what the lot depth would be. Mr. Berman said that is 108.2 feet.
- Council President Rutherford asked about the two large trees in the yard and whether they would have to come down to construct a new house. Mr. Berman said that at least one of them would have to be removed. The Council president remind Mr. Berman that they must abide by the tree ordinance.

PROFESSIONALS QUESTIONS

- The board engineer, Mr. Jordan, asked how the subdivision would be perfected. The attorney answered by deed and Mr. Jordan requested that the deed include a reduced copy of the subdivision plan.
- Mr. Jordan asked how will the applicant address the grading and drainage for the new lot. Mr. Trembulak said that it will be addressed when they apply for building permits.

PUBLIC QUESTIONS

- David Ahmadi at 11 Fairway Avenue asked what the size of the new house would be. Mr. Trembulak said that the maximum square footage of that building envelope appeared to be 2,268 sq. feet.
- Alex Kenny at 15 Fairway Avenue asked if the approval by the Board for this application would be for the footprint as shown. Mr. Trembulak said that the footprint shown on the plans is large enough to accommodate a house on the property.
- Drew Kroessler at 20 Gerdes Avenue asked about the tree that was recently removed from the property. Mr. Berman testified that it was removed because it was dead. Mr. Alex Kenny also stated on the record that the tree was dead and the branches had fallen on his car.

PRESENTATION

- Matthew Flynn, professional planner was sworn and his credentials were accepted by the Board as a professional planning expert.

- Mr. Flynn testified that the current property has a single-family house and the subdivision line would be behind the house. Once subdivided, both lot areas would be conforming and a fully conforming house could be built in the future on the new vacant lot.
- Mr. Flynn testified that the rear yard setback was a c variance and could be justified under the c (2) balancing test as the benefits outweigh the detriments.
- Mr. Flynn testified that the variance could be approved under purpose a. promoting the general welfare because the property is a substantially oversized lot and the area on Barbara Avenue stands out as a void.
- There would also be sufficient building separation and the new house will easily meet setback requirements.
- As to the rear setback, that can also be viewed from Barbara Avenue, like a side yard setback as side yard requirements are substantially less than rear yard requirements. Flynn stated that there won't be a "crammed in effect."
- The variance also satisfies purpose g. variety of uses because a single-family house belongs in this zone. Purpose I desirable visual environment with a new house. Purpose M efficient use of land because the lot coverage and building coverages will continue to be well within the requirements of the zone.
- As to the negative criteria, Lots 9.01 and 9.02 are substantially compliant and the new lot with a new house, when built, will not appear to be crowded.
- Mr. Flynn also suggested that the variance could be granted as a c(1) hardship due to the fact that the lot is a corner lot with two front yards and also due to the fact that the existing building position on the lot is better left than removed.
- The Applicant's planner testified that the proposed subdivision was an appropriate use of space.

BOARD QUESTIONS

- Mr. Klein asked what the width of Lot 8 (north of the subdivision lot) was. the Planner testified that the width was 66 feet.
- Mr. Klein also asked about other properties in the area that appeared to be larger, such as lots 22 and lot 15 and whether they could be subdivided. Mr. Flynn testified that the houses already built on those lots were in the middle of the lots which would prevent a feasible subdivision. Mr. Flynn testified that because the house at 17 Fairway Avenue is very forward on the lot with the open area fronting Barbara Avenue it makes sense to subdivide.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- David Ahmadi at 11 Fairway Avenue asked if the driveway has to be a specific size. Mr. Flynn said that because they have a conforming size lot, the applicant will be able to comply with all the zoning requirements. Mr. Haizel also testified that the township does have an ordinance that requires that driveways have 5-foot setback from the side yard.

NO PUBLIC COMMENT

Conditions:

- See 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:			

Meeting adjourned at 8:33PM.

ADOPTED: 12/4/24



Jamilet Baquerizo Vite
Planning Board Secretary