

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
March 20, 2025
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on March 20, 2025, commencing at 8:00 PM utilizing the virtual Zoom platform.

Chairperson Phillip 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.

Steven Warner, Esq., Board Attorney, read the opening statement.

ROLL CALL

Present: William Michael Barbee, Tal Ben-Zvi, Laurence Cohen,
Michael Dannemiller, Todd Dubovy, Robin Miller,
Philip D. Neuer, Irv Schwarzbaum,
Brent D. Scott, Marc Sussman (left at 8:45 PM),
Absent: Alice Weiss (excused)
Also Present: Steven Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary
John Hess, Consulting Engineer
George Wheatle Williams, Consulting Planner
Nathan Foote, Consulting Planner (ZB-22-13 MPB)

Mr. Warner and Chairperson Neuer confirmed the presence of a quorum of Board Members.

ANNOUNCEMENTS

- Future Meetings: April 17, 2025 (Regular Meeting)
May 15, 2025 (Regular Meeting)
June 12, 2025 (Regular Meeting)
- Chairperson Neuer announced that application **ZB-24-11 Wonder (481 Eagle Rock Avenue)**, at the applicant's request, is being carried to the May 15, 2025, Regular Meeting. No further Notice is required.

SWEARING IN

- Re/appointed Board Members (Laurence Cohen and Michael Dannemiller) were sworn under oath.

MINUTES

- February 13, 2025, Special Meeting

Motion: T. Ben-Zvi

Second: I. Schwarzbaum

Barbee:	-	Schwarzbaum:	Y
Ben-Zvi (Alt.):	Y	Scott:	Y
Cohen:	-	Sussman (Alt.):	Y
Dannemiller (Alt.):	-	Weiss:	-
Dubovy (Alt.):	-	Neuer:	-
Miller:	Y		

- February 20, 2025, Regular Meeting

Motion: Chairperson Neuer

Second: W.M. Barbee

Barbee:	Y	Schwarzbaum:	Y
Ben-Zvi (Alt.):	Y	Scott:	Y
Cohen:	-	Sussman (Alt.):	Y
Dannemiller (Alt.):	-	Weiss:	-
Dubovy (Alt.):	-	Neuer:	Y
Miller:	Y		

- February 20, 2025, Regular Meeting (Executive Session)

Motion: Chairperson Neuer

Second: B.D. Scott

Barbee:	Y	Schwarzbaum:	Y
Ben-Zvi (Alt.):	Y	Scott:	Y
Cohen:	-	Sussman (Alt.):	Y
Dannemiller (Alt.):	-	Weiss:	-
Dubovy (Alt.):	-	Neuer:	Y
Miller:	Y		

Note: Including the edit from Ms. Miller.

- ZB-24-06 PUBLIC SERVICE ELECTRIC AND GAS COMPANY (Carried from 2/20/25)**
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.
 - Ms. Jennifer Porter, Esq. (Applicant's Counsel) entered the record and explained that they have had fruitful discussions with Mr. Turteltaub (Objector's Counsel) about potential

design changes in order to preserve trees with status calls consistently but additional time is required to work further on this and requested an adjournment with preservation of notice to the April 17, 2025, Regular Meeting for a status update/report and verdict to continue with the objector's testimony or not.

Chairperson Neuer stated his appreciation in all persons' efforts and announced that application ZB-24-06 Public Service Electric and Gas Company is carried to the April 17, 2025, Regular Meeting with preservation of notice.

EXECUTIVE SESSION (8:18 PM-8:45 PM)

Upon return to the Regular Meeting, Chairperson Neuer had a roll call done and then confirmed the presence of a quorum.

SWEARING IN

Township Professionals Mr. Erik DeLine (Consulting Planner), Mr. John Hess (Consulting Engineer), and Mr. Nathan Foote (Consulting Planner) were sworn under oath.

APPLICATIONS

1.) ZB-23-11 DeOliveira/ 31 Bradford (Carried from 12/19/2024)

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

PRESENTATION

- Mr. John Dell'Italia, Esq. entered the record on behalf of applicant, Jose DeOliveira.
- Mr. DeOliveira shared screen, displayed, and explained the following pictures which were marked for identification:
 - o **Exhibit A1**- pictures of the previous wall (All pictures were taken by Mr. DeOliveira approximately at end of Winter of 2021)
 - o **Exhibit A2** – Southeast Wall Elevations (Sheet C-03 – Dated 5/14/2023)
 - o **Exhibit A3** – Survey showing retaining wall in place (Dated)
 - o **Exhibit A4**- Retaining Wall Easement (Dated 6-10-2024)
 - o **Exhibit A5**- General Notes/Block Retaining Wall with Geogrid (Sheet C-02 – Dated 5/14/2023)
 - o **Exhibit A6** – Description of Easement
 - o **Exhibit A7** - Pictures of the rear of the house existing on the Northfield Avenue side, and the drainage side
 - o **Exhibit A8** – Pictures of the site after construction of the wall.
- Chairperson Neuer asked for confirmation of what variances this application is applying for C1 or C2? Mr. Dell'Italia said that he believes that this application is under the "hardship" criteria and confirmed that a Planner will not be testifying in regards to this application.
- Mr. DeOliveira testified that there have been no issues with drainage after the installation of the wall and easement retaining wall under the fence.

BOARD QUESTIONS

- Chairperson Neuer asked if the Zoning Code was reviewed. Mr. DeOliveira said no because he replaced the existing wall but wanted to create something to compete with the elements.

- Chairperson Neuer asked who built the wall. Mr. DeOliveira said that he did, but he did go to school for engineering and supervised the project.
- Chairperson Neuer asked why the wall was built without permits. Mr. DeOliveira said that he did not know that permits were going to be needed.
- Ms. R. Miller asked for clarification. In the Nishuane Group LLC Report it is stated that this application is for a proposed wall, but it is already constructed. Mr. DeOliveira said yes, that it is already constructed.
- Mr. B.D. Scott asked what street the highest point of the wall is facing. Mr. DeOliveira said that in his opinion, Grandview Avenue is facing the highest point.
- Mr. Scott asked for confirmation of the address of the property with the easement for this application. Mr. DeOliveira said 29 Bradford Avenue.
- Mr. Scott asked if the neighbors had input. Mr. DeOliveira said that he did speak to the neighbors and that they liked the outcome.
- Mr. L. Cohen asked if the neighbor with easement had a discussion take place prior to the construction. Mr. DeOliveira said yes. Mr. Cohen asked if the easement “partially demolished” was part of the agreement if a sale takes place. Mr. DeOliveira said that it was to ensure the wall would remain in good condition.
- Mr. Cohen asked about the lack of vegetation on the property. Mr. DeOliveira said it is because of the heavy rain flow.
- Dr. T. Ben-Zvi asked when the wall was constructed. Mr. DeOliveira answered that it was built in 2022.
- Mr. M. Dannemiller asked if this was an emergency repair. Mr. DeOliveira said yes. Mr. Dannemiller asked if the replacement was a surprise or did he speak to the neighbors prior. Mr. DeOliveira said that he spoke to the neighbors, but this was built especially with safety in mind.

PROFESSIONAL QUESTIONS

- Mr. E. DeLine asked if the fence on the wall was originally there. Mr. DeOliveira said no.
- Mr. DeLine asked why there wasn't a permit. Mr. DeOliveira said that he was unaware that he needed one and apologized.
- Mr. DeLine asked for confirmation that he supervised the installation but asked further if those who installed are contractors. Mr. DeOliveira said no.
- Mr. DeLine asked if any inspections were performed. Mr. DeOliveira said yes.
- Mr. DeLine asked if there are any reports. Mr. DeOliveira referred to the Engineer's pending testimony.
- Mr. J. Hess asked for confirmation on the date of the plans being August 14, 2022. Mr. DeOliveira said yes.

NO PUBLIC QUESTIONS

Testimony of Mr. DeOliveira concluded.

Break 9:42 PM- 9:52 PM

Upon return from the break, Chairperson Neuer confirmed the presence of a quorum.

PRESENTATION

- Mr. Dell'Italia offered the testimony of Mr. Mizra Baig, PE (Civil Engineer). His credentials were accepted as an expert in the field of Engineering.
 - o Mr. Baig started testifying about revisions that were not submitted or circulated to the Board/Professionals. Mr. Hess confirmed that he was not in receipt of these revisions for review.

Chairperson Neuer carried application ZB-23-11 DeOliveira (31 Bradford Avenue) to the July 17, 2025, Regular Meeting with preservation of notice.

2.) ZB-22-13 MPB Realty (470 Eagle Rock Avenue)

Block: 153; Lot:38; Zone:B-2

470 Eagle Rock Avenue

Preliminary & Final Major Site Plan

PRESENTATION

- Ms. Danielle Kinsback, Esq entered the record on behalf of the applicant to convert an existing restaurant into a Popeyes and an IHOP.
- Mr. Matthew Bersch, Professional Engineer was sworn under oath, and qualifications were accepted as a Professional Engineer.
- Mr. Bersch referenced **A1 Aerial Map (Dated March 20, 2025)** where he testified stating that there would be significant upgrades to the site due to the disrepair of the site as it currently sits, with the example of undersized PVC for drainage.
- Mr. Bersch referenced **A2 Site Plan Rendering (Dated March 20, 2025)** where he explained that this exhibit:
 - o Is the colorized version of the Site Plan with a Landscaping Plan combined.
 - o Shows that the site will be using the proposed building footprint in size and structure will remain. Other than the small section in the front being removed and a section being added onto in the back corner, it will be pretty much the same footprint. Mr. Bersch confirmed this information upon request of Chairperson Neuer.
 - o Displays minimum road frontage.
 - o Displays the upgrading sidewalks for an accessible route
 - including the sidewalk on Fundus Road which will remain.
 - o Will be upgrading Stormwater infrastructure facilities and utilities.
 - o Will have an Electric Vehicle make ready station included in the 48 spaces for the application site.
 - o Approximately six (6) feet fencing along the side of Rosney Terrace.
 - o Operating hours:
 - Popeye: Sunday thru Thursday: 10:30 am to 11:00 pm and Friday & Saturday: 10:30 am to 11:30 pm
 - Ihop: 6:00 AM – 12:00 AM Daily
 - o Deliveries will take place twice a week via WB50 Trucks outside of peak business hours.
 - o Garbage will be picked up three (3) times a week typically during the day on off peak hours. Cardboard pick ups will be two (2) times a week during the day on off peak hours. If additional pick up needed it will be scheduled accordingly as that need arises.
 - o Sideyard requirements (via Rosney Terrace)
 - o Aerial Lights
 - o Will have a freestanding sign and a panel for each tenant. There will also be building and mounted signs as well.

- Mr Bersch displayed some of the differences between this application and the previous application request such as:
 - Previously, there were two (2) drive-thrus proposed, where now it is only one (1).
 - Vehicular movement decreases due to the second drive-thru being removed with the drive aisles.
 - Increased setbacks to the property lines on all sides.

Chairperson Neuer announced that application ZB-22-13 MPB Realty (470 Eagle Rock Avenue) is being carried with preservation of notice to the June 12, 2025, Regular Meeting. At that time, Mr. Bersch will be recalled for questioning by the Board, Professionals, and the Public.

Chairperson Neuer adjourned the meeting at 10:54 PM.

Adopted:


Diana L. Chandler, Secretary