

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
April 17, 2025
8:00 P.M.**

The West Orange Zoning Board of Adjustment held a regular meeting on April 17, 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, Laurence Cohen,
Todd Dubovy, Robin Miller,
Philip D. Neuer, Brent D. Scott (8:33PM arrival),
Marc Sussman, Alice Weiss

Absent: Michael Dannemiller (excused), Irv Schwarzbaum (excused),
Tal Ben-Zvi (excused)

Also Present: Steven Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary
Ryan MacNeill (proxy for John Hess), Consulting Engineer
George Wheatle Williams, Consulting Planner

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

ANNOUNCEMENTS

- Future Meetings: May 15, 2025 (Regular Meeting)
June 12, 2025 (Regular Meeting)
July 17, 2025 (Regular Meeting)

SWEARING IN

- Township Professional(s) were sworn under oath.

MINUTES

- March 20, 2025, Regular Meeting

Motion: Chairperson Neuer

Second: W.M. Barbee

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

EXECUTIVE SESSION (8:06 PM-8:20 PM)

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

APPLICATIONS

(Carried from 3/20/2025)

1.) 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.

- Ms. Erica Parlavechio Esq. and Mr. James Turteltaub Esq. entered the record on behalf of the applicant and the opposing counsel. They requested an adjournment for additional time for discussions to continue on May 15, 2025, to give an update on progress with no intention of providing testimony.

Chairperson Neuer announced that application ZB-24-06 Public Service Electric & Gas Company (325 Mount Pleasant Avenue) is being carried with preservation of notice to the May 15, 2025, Regular Meeting.

2.) ZB-24-14 Farrington (10 Shrump Place)

Block: 176.07; Lot: 30; Zone: R-6

10 Shrump Place

Application for C Variance

PRESENTATION

- Ms. Joanne Farrington (owner) entered the record along with Ms. Agnes Rizzo (Design Consultant). Both parties were sworn under oath.
- Prior to any testimony occurring, Mr. B.D. Scott, Board Member entered the record at 8:33 PM, making him still eligible to vote in regards to this application.
- Mr. Warner confirmed noticing requirements with the correct date. Ms. Farrington answered in the affirmative but explained further that this application was originally

slated for the March 20, 2025, Regular Meeting but due to the Town not receiving all information by the deadline of ten (10) days prior to the meeting date. But yes, new notices were sent out

- Ms. Farrington said that she believes the whole point of this application is to cover her existing porch. Ms. Rizzo confirmed her statements as being true.

BOARD QUESTIONS

- Mrs. A. Weiss asked if the neighbors have given their opinions about the project. Ms. Farrington said yes and the neighbors are in approval of the application. She said the main reason in her case is because she has a fear of bugs.
- Mr. L. Cohen asked if the deck was preexisting. Ms. Farrington answered in the affirmative. In response to this, Chairperson Neuer said that he assumes this application was because it is a structure instead of just a flat deck, and in some instances could be classified as a secondary structure.

PROFESSIONALS QUESTIONS

- Ms. Z. Carballo asked if there is going to be a new survey issued for this application site. Chairperson Neuer interjected, saying that he does not believe it to be a necessary expense for a residential application of this size.
- No questions from Mr. Williams.

NO PUBLIC QUESTIONS **NO PUBLIC COMMENT**

Motion: Chairperson Neuer

Second: A. Weiss

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

3.) ZB-24-12 – LS SB Canterbury/Zinnia Health

(Carried from 2/13/2025)

33 Mount Pleasant Avenue

Block: 88; Lot: 26

Application for Appeal of Action of Zoning Office and D Variance

PRESENTATION

- Mr. William Sullivan, Esq. entered the record on behalf of the applicant. Mr. Matthew Dolan, Esq. entered the record on behalf of the objectors
- Chairperson Neuer addressed Mr. Dolan's Planning Report submitted where he stated that it will be in the file with the three (3) lawsuits information and suggested that the Professional Planner send it separately as Mr. Warner has advised that it should not be admitted into evidence until the Planner's Report is sent separately as a stand alone submission. Mr. Dolan asked the Chairperson if the lawsuits could be for example FCC fraud one versus Mr. Katsen could be admitted into evidence and considered for the purposes of impeaching Mr. Katsen's creditability. Chairperson said that when it is properly authenticated, the Board can consider that. Mr. Dolan asked if the court document (which in his opinion is self-authenticating) was downloaded by himself. Chairperson Neuer said it should be a certified copy.
- Mr John McDonough, Professional Planner was sworn under oath.

BOARD QUESTIONS

- Mr. Cohen asked how this application is being compared to a hospital. Mr. McDonough said that this use has been withdrawn.
- Mr. Cohen asked what the actual variance is for. Mr. McDonough said that it is for the (conditional) use to service the community.
- Ms. Miller referenced the initial application stating that there were no prior applications/resolutions and yet the report from the Nishuane Group stating that there was an application ZB-95-16 and wanted to know if he had access to that. Mr. Sullivan answered that after submission of the application the resolutions were supplied as well.
- Mr. Dubovy asked that since there are 22 parking spaces yet during peak daytime hours 35 employees will be on site, where those additional employees and visitors be parking. Mr. McDonough referenced **Exhibit A-3 Zufall Photograph** as to where overflow parking will be taking place.
- Mr. Dubovy asked in regard to security with previous facilities if he knew the number of patients that have left the premises without permission and required intervention by the staff and/or by the local police. Mr. McDonough said that he does not know the answer.
- Chairperson Neuer said that in Mr. McDonough's report he referenced the Jaber Case versus The Township of West Orange and asked if in Mr. McDonough's opinion, if the use of this site is inherently beneficial. Mr. McDonough said yes.
- Chairperson Neuer said that in Mr. McDonough's report he also referenced House of Fire versus the City of Clifton and asked for an explanation in regards to that case. Mr. McDonough said that case is a Coventry standard stating that when you find a conditional use and an inherently beneficial use. He then went on to explain the SIKA test for inherently beneficial uses.

PROFESSIONALS QUESTIONS

- Mr. Williams asked about the second prong of the negative criteria of the application and the proofs used. Mr. McDonough answered that the first thing he went after was the actual zone and the impacts in the district. It was in his conclusion that the departure from the Zone scheme is not so substantial that it would alter the character of the zone district and utilized the Master Plan to see if it adhered to the goals of the it.

Break- 9:26-9:38 PM

Upon return from break, Chairperson announced the presence of a quorum. At this time, Chairperson Neuer announced the carrying and adjournment of application ZB-24-16 Northfield Avenue Realty (81 Northfield Avenue) to the June 12, 2025, Regular Meeting with preservation of notice.

- Mr. Dolan cross-examined Mr. McDonough
 - Mr. Dolan asked if a stay of 35-40 days per resident qualifies as long term. Mr. McDonough said yes.
 - Mr. Dolan said that according to testimony that Mr. Katsen has not obtained a certificate of need from the State Department of Health. Mr. McDonough answered in the affirmative that it is not a requirement of the analysis.
 - Mr. Dolan asked if it is in his opinion that any applicant providing health care services would need to prove that there is a need using an inherently beneficial use test. Mr. McDonough said no because it depends on the nature of the use, because not all uses are beneficial.
 - Mr. Dolan asked if there were any other documents not yet submitted to the Board or into evidence. Mr. McDonough said no.

PUBLIC QUESTIONS

- Gerard Anthony (18 Wildwood Avenue) asked in referencing pictures if you can see the gap between the fence. Mr. McDonough said that he had no recollection.
- Mr. Anthony asked if the stream was easily walked/ shallow. Mr. McDonough said yes.
- Mr. Anthony asked if the property next door (Zufall Health) offered the same services as on their website no mention of drug and alcohol was there. Mr. McDonough said that he has no recollection.
- Jared Levine (10 Tulip Avenue) asked for an explanation about the minimum lot size of five (5) acres. Mr. McDonough said that there are 11 conditional use for standards for residential health care facility use standards.
- Mr. Levine asked what was on the premises prior to this application. Mr. McDonough said that it was a nursing home / assisted living facility.
- Mr. Levine asked how many residents are they proposing to be at this site. Mr. McDonough said that he is unaware that he would have to check his notes. Mr. Levine offered the information of 80 residents to which Mr. McDonough agreed.
- Jeffe McClain (14 Long Branch Way) asked about the intensity of services Mr. McDonough said that this application is on par with the industry standard.
- Ms. McClain asked if the applicants looked at the comparison of other facilities with safety measures. Mr. McDonough said that using the correct protocols this does not become a high risk land use with good separation from the homes behind the facility.

Mr. Sullivan offered no redirect, and the applicant rests.

PRESENTATION

- Mr. Dolan offered testimony of Mr. Marc Watkins, Chair of the Security Committee for Llewellyn Park, was sworn under oath and offered testimony, including a history of

Llewlyn Park with information about previous safeguarding issues, and pictures (Dated March 25, 2025) taken by Mr. Gerard Anthony.

- Exhibits O-1 Pictures (fence with #14)
- Exhibits O-2 Pictures (same section of fence as O-1)
- Exhibits O-3 Pictures (fence on driveway to recycling center)

Chairperson Neuer announced that application ZB-24-12 Zinnia (33 Mount Pleasant Avenue) is carried with preservation of notice to announce the scheduling of a Special Meeting.

Chairperson Neuer adjourned the meeting at 10:50 PM.

Adopted: 5/15/2025

Diana Lyn Chandler

Diana L. Chandler, Secretary