

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

The West Orange Zoning Board of Adjustment held a regular meeting on July 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.

Alexander Fisher, 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, Brent D. Scott, Marc Sussman

Absent: Irv Schwarzbaum (excused), Alice Weiss (excused)

Also Present: Steven Warner, Esq., Board Attorney
Diana L. Chandler, Board Secretary
John Hess, Consulting Engineer
George Wheatle Williams, Consulting Planner
Christopher Dochney, Consulting Planner (ZB-22-13 MPB Realty LLC/470 Eagle Rock Avenue)
Phil Scott, Consulting Engineer (ZB-24-15 Waystone Realty/42 Eagle Ridge Way)

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

ANNOUNCEMENTS

- Future Meetings: July 31, 2025 (Special Meeting)
August 21, 2025 (Regular Meeting)
September 18, 2025 (Regular Meeting)
October 16, 2025 (Regular Meeting)
- Chairperson Neuer announced that **ZB-24-06 PSEG** is being carried with preservation of notice to the September 18, 2025, Regular Meeting.
- Chairperson Neuer announced that **ZB-24-11 Wonder** is being carried with preservation of notice to the September 18, 2025, Regular Meeting.
- Chairperson Neuer announced that on July 31, 2025, starting at **7:00 PM**, a Special Meeting will be held for **ZB-24-12 Zinnia/LS Canterbury (33 Mount Pleasant Avenue)** and **ZB-22-13 MPB Realty (470 Eagle Rock Avenue)**.

SWEARING IN

- Professionals, Mr. George Wheatle Williams (Consulting Planner), Mr. Christopher Dochney (Consulting Planner), Mr. John Hess (Consulting Engineer), and Mr. Phil Scott (Consulting Engineer) were sworn under oath.

MINUTES

- June 12, 2025, Regular Meeting – Executive Session

Motion: Chairperson Neuer

Second: R. Miller

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

Note: Edits from L.Cohen, R. Miller, and T. Ben-Zvi have been accepted.

- June 12, 2025, Regular Meeting

Motion: Chairperson Neuer

Second: W.M. Barbee

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

APPLICATIONS:

1.) ZB-21-22 17 Wheatland LLC (17 Wheatland Avenue)

(Approved July 21, 2022, Adopted August 18, 2022)

Block: 61; Lot: 44 & 45; Zone: I

Seeking an extension of an approved application for “c” variances for construction of a new single-family dwelling was approved with conditions at the **Approved July 21, 2022** Regular Meeting and Resolution was adopted at the **August 18, 2022**, Regular Meeting.

PRESENTATION

- Mr. Robert Gaccione, Esq. entered the record on behalf of his client, 17 Wheatland LLC. He then explained that this application was for an extension of the date to apply for permits with the West Orange Building Department with a retroactive date to July 2, 2026.

- Ms. Natalia Bolivar, owner was sworn under oath and confirmed that she was unaware of the Zoning Board of Adjustment application expiration at the time of the sale and only became aware when going to the Building Department to apply for permits.

BOARD QUESTIONS

- R. Miller asked for confirmation of tax payment being current. Mr. Gaccione said that he believes it was completed. But if not, can make it a condition of agreement. It was confirmed by Board Secretary that the tax payment form was submitted.
- T. Ben-Zvi asked if this is the same applicant as the previous one. Mr. Gaccione said no.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

CONDITIONS

- The Applicant agreed to no powder room from the basement or occupancy in the basement.
- The Applicant agreed that a Maintenance Plan must be in effect for trees on the property.
- The Applicant shall post sufficient funds with the Township to satisfy any deficiency in the Applicant's escrow account;
- The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent the same are not inconsistent with the terms and conditions set forth herein;
- 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; and
- The Applicant shall be bound by all the evidence, including documents and testimony presented by the Applicant at the Public Hearing.

Motion: Chairperson Neuer

Second: L. Cohen

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

2.) ZB-23-11 DeOliveira/ 31 Bradford

(Carried from 3/20/2025)

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 P. Dell'Italia Esq entered the record on behalf of his applicant Mr. Jose DeOliviera.
- Mr. Dell'Italia presented testimony from Mr. Mizra Baig, Professional Engineer.

BOARD QUESTIONS

- Chairperson Neuer asked if Mr. Baig was employed by Mr. Baig at time of the construction. Mr. Baig said no.
- R. Miller asked if all construction is sound. Mr. Baig said yes but that he has not visited the site in over a year. He has however, received confirmation from the client that it is okay.
- L. Cohen asked if the area was flattened. Mr. DeOliviera said that the previous had a slope and the yard would not have been able to be used in its previous condition. It might not be at a zero percent (0%) slope but flat enough to be workable.
- M. Dannemiller asked for how placement of this wall/fence combination compares to setbacks. Mr. Baig said that the location is the same, only the height is different and not aware of any violation.
- T. Ben-Zvi asked for confirmation that this application site was in distress a year ago. Mr. Baig said yes that he spoke to the applicant and he confirmed as such.
- T. Dubovy said that when visiting the application site, the retaining wall has a buldge in it and looks worn in his opinion an inspection should be done and provided to the Board. Chairperson Neuer said that it has been addressed and that it will be discussed further later on in the meeting.

PROFESSIONALS QUESTIONS

- J. Hess questioned the accuracy of the survey as in his opinon no significant slope and Board considers them as "As Built Plans" and impose an inspection requirement to prevent deterioration. Mr. Dell'Italia said that he has no objection to this if the Board wants to have this as a condition of approval.
- E. DeLine referenced KSI Engineering C-01 (Revision Date- 12/5/2024) and asked about the height of both elevations. Mr. DeLine asked about familiarity of photos. Mr. Baig said yes and confirmed the current conditions of the yard.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

Break 9:19 PM – 9:30 PM

- ***Upon return from break, a quorum of Board Members are confirmed.***
- ***Chairperson Neuer recognized Mr. Benjamin Wine of application ZB-22-13 MPB Realty (470 Eagle Rock Avenue) where he requested that the aforementioned application be carried with preservation of notice to the July 31, 2025, Special Meeting and upon confirmation from Chairperson Neuer, Mr. Wine confirmed the extension of the statutory time.***
- Mr. Dell'Italia recalled for the sake of testimony, Mr. Jose DeOliveira, Applicant, who was sworn under oath to answer number 8 in Mr. Hess' CME Review Letter 3 (Dated July 9, 2025), for fencing and reasoning for a safety feature for children.

BOARD QUESTIONS:

- Chairperson Neuer referenced online for Vylla Home and quoted from the website and found it puzzling that he did not know that permits were required. Mr. DeOliviera said that he was unaware of the need for a permit since the wall was previously there so he did not think that it was needed. Chairperson Neuer asked what the period of time was before this work was done. Mr. DeOliviera said that it was approximately seven (7) years before this work was done.

- B. D. Scott asked if Mr. DeOliveira has received complaints in regards to this application. Mr. DeOliveira said no.
- L. Cohen asked Mr. DeOliveira if he believes that the neighbor is shy and scared to speak up and that's why he did not say anything. Mr. Dell'Italia objected on speculative grounds. Mr. DeOliveira said that the residents next door to him are around his age and that the wall is an improvement to their property as well.
- M. Dannemiller asked what the height of the side yard gray fence is. Mr. DeOliveira said that it is approximately three (3) feet high.

PROFESSIONALS QUESTIONS

- E. DeLine asked for confirmation of no permits being applied for. Mr. DeOliveira did as requested.
- J. Hess asked for the need for a safety fence. Mr. DeOliveira said that it is essential because he has two (2) young children.

NO PUBLIC QUESTIONS

NO PUBLIC COMMENTS

EXHIBITS:

- **A-1** Pictures of the previous wall (All pictures were taken by Mr. De Oliveira approximately at end of Winter of 2021)
- **A-2** Southeast Wall Elevations (Sheet C-03 -Dated 5/14/2023)
- **A-3** Survey showing retaining wall in place (Dated)
- **A-4** Retaining Wall Easement (Dated 6-10-2024)
- **A-5** General Notes/Block Retaining Wall with Geogrid (Sheet C-02 -Dated 5/14/2023)
- **A-6** Description of Easement
- **A-7** Pictures of the rear of the house existing on the Northfield Avenue side, and the drainage side
- **A-8** Pictures of the site after construction of the wall.

CONDITIONS:

- The Applicant shall submit a yearly report indicating the condition of the retaining wall to the satisfaction of the Board Engineer or Township Engineer, whichever shall be applicable.
- The Applicant shall post sufficient funds with the Township to satisfy any deficiency in the Applicant's escrow account;
- 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;
- 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;
- The Applicant shall be bound by all the evidence, including documents and testimony presented by the Applicant at the Public Hearing;
- These Conditions shall be clearly printed on the engineering drawings submitted for filing in the official records of the Board.

Motion: B. Scott

Second: W.M. Barbee

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

Notes:

- M. Dannemiller at this time felt compelled to opine about the fact that a large quantity of yards in West Orange are sloped and will give that an appropriate weight in his decision making process.
- T. Ben-Zvi stated of his level of uncomfortability on voting in this application as it appeared to him that the applicant was asking for forgiveness as opposed to asking for permission.

It was at this point of the meeting when Ms. Priscilla Triolo, Esq. entered the record to request a Special Meeting for her client, ZB-24-15 Waystone Realty (42 Eagle Ridge Way). Chairperson Neuer said that he would carry this application to the August 21, 2025, Regular Meeting with preservation of notice with no intention of testimony being given for this application. It will solely be for the announcement of a future Special Meeting.

3.) ZB-24-12 – LS SB Canterbury/Zinnia Health (Carried from 6/12/2025)

33 Mount Pleasant Avenue

Block: 88; Lot: 26

Application for Appeal of Action of Zoning Officer and D Variance

PRESENTATION

- Mr. William Sullivan, Esq, entered the record on behalf of the applicant, Zinnia Health.
- Mr. Matthew Dolan, Esq entered the record on behalf of the Objector, Llewellyn Park Committee of Managers.
- Mr. Michael Pessolano, Professional Planner, was sworn under oath.
- Mr. Sullivan finished doing a brief cross examination of Mr. Pessolano.
 - o Conditional Use
 - o Bulk Conditions: size/ height (physical)
 - o Matter (Jayber case cited)
 - o Screen shared A8 with Mr. Sullivan and a listing of treatment centers and distance from the application site.
- *It was at this time Chairperson Neuer disclosed that he as a retiree from the United States Air Force has contributed to the VA clinic and has contributed funds but does not believe that this effects any decision making and is choosing to not recuse himself at this time.*

BOARD QUESTIONS

- B. D. Scott asked if this is a beneficial use for the property. Mr. Pessolano said that in his opinion, it is not.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

REDIRECT

- Security: Self screening, Mr. Pessolano said that it supports his theory of this.
- Services and Treatments: Provided the definition from Cox Book being discussed based on comparable properties.
- Convalsent Care
- Any further research for lists of long term care facilities where the State of NJ Website links were referenced.

BOARD QUESTIONS

- B.D. Scott asked if this site is not a beneficial use. It was answered that, in Mr. Pessolano's opinion, it is not.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

It was at this time that Chairperson Neuer adjourned application ZB-24-12 Zinnia (33 Mount Pleasant Avenue) to the July 31, 2025, Special Meeting with preservation of notice and a continuation of the statutory of time agreed upon.

Chairperson Neuer adjourned the meeting at 10:49 PM.

Adopted: 10/16/25



Diana L. Chandler, Secretary