

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
August 21, 2025
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on August 21, 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.

John Deluca, Esq., 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,
Marc Sussman

Absent: Alice Weiss & Brent D. Scott

Also Present: John DeLuca, Esq., Board Attorney
Jamilet Baquerizo Vite, Interim Board Secretary
Zayibeth Carballo, Municipal Engineer
Ryan MacNeill, Consulting Engineer
Erik DeLine, Consulting Planner

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

ANNOUNCEMENTS

- Future Meetings:
 - September 4, 2025 (Special Meeting)
 - September 18, 2025 (Regular Meeting)
 - October 16, 2025 (Regular Meeting)
- A Special Meeting for application **ZB-24-15 Waystone Realty (42 Eagle Ridge Way)** is scheduled for **Thursday, September 4, 2025, at 8:00 PM.**

SWEARING IN

- Consulting Professionals (Zayibeth Carballo, Municipal Engineer; Ryan MacNeill with CME Associates, covering for Board Engineer; Eric Deline, Board Planner) were sworn under oath.

RESOLUTION

• ZB-21-22 17 Wheatland LLC

(Approved July 17, 2025)

17 Wheatland Avenue

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

Application 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. Extension of time for this application was adopted with conditions at the August 21, 2025, Regular Meeting.

Motion: Chairperson Neuer

Second: Mr. Barbee

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

• **ZB-23-11 DeOliveira/ 31 Bradford**
31 Bradford Avenue
Block: 55.06; Lot: 1.01; Zone: R-5

(Approved July 17, 2025)

Application seeking “c” variance approvals for retaining walls and fences was adopted with conditions at the August 21, 2025, Regular Meeting.

Motion: Mr. Barbee

Second: Mr. Dannemiller

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

APPLICATIONS

3.) ZB-24-16 Northfield Ave Realty

(Carried from 4/17/2025)

81 Northfield Avenue

Block: 71.03; Lot: 43; Zone: OB-1

Application is seeking an interpretation of the ordinance.

Chairperson Neuer announced that this application, (ZB-24-16 Northfield Ave Realty) is adjourned to October 16th, 2025. No further notice is required.

1.) ZB-25-03 Klein

7 Himsl Court

Block: 167.01; Lot: 13; Zone: R-3 AH

Seeking “c” variance for construction of new deck.

PRESENTATION

- The applicant, Mr. Alwyn Klein, entered the record and was sworn under oath.
- Mr. Klein is requesting a variance to build a new deck at his property, looking for it to be 6 feet beyond the appropriate zoning ordinance. He is looking for a 6-foot setback.
- Mr. Klein states his property presents some unique challenges. The first being the shape of the property, the confined rear yard setback, as well as the elevation difference.

- Due to these unique challenges, it becomes difficult to comply with the ordinance if Mr. Klein would like a safely accessible space that's practical for outside use and well within the intent of the zoning regulations.
- Mr. Klein states his property is on a corner unit, irregularly shaped, and that results in a very confined rear yard setback.
- Mr. Klein referenced 2a where he testified stating the photo shows the narrowness of the setback in his yard. It also shows the stairs from the exit of his kitchen. It's about a four feet elevation from the ground.
- Mr. Klein considered whether a patio would make sense, knowing that a patio would need stairs and would take up additional space, as well as the constant going up and down the stairs to get in and out of the house would create a safety risk.
- The setback from Mr. Klein's house to the property line is 30 feet, 30.1 to be exact, according to his survey. Therefore, if Mr. Klein does put in a 14-foot deck onto his property, he still has 16 feet before they get to the property line.
- Mr. Klein referenced 3a explaining the reason for this photo is to show the privacy screening from the evergreen trees on his property. It is a year round privacy screening providing both him and his neighbor privacy in terms of where the deck would be situated.
- The following photo shows another view from the other side of the neighbor's driveway in terms of showing the privacy screen that's created by these trees.
- Referencing Exhibit 4, Mr. Klein explains the reason for the layman's layout of the deck to show the four-foot elevation to get in and out of the house.
- Mr. Klein feels safer having a same level area for gatherings. He is also trying to optimize the use of the land that he has. Mr. Klein believes if he had a smaller deck, it would create a strip of land towards the trees that would be unusable and awkward.
- Mr. Klein is trying to maximize his use without getting in the way of the intent of the zoning regulations or impeding his neighbors in any negative way.
- In Mr. Klein's opinion, the additional six feet will not substantially impact his neighbors negatively. The deck faces onto their driveway and the side of their house.
- Mr. Klein will make sure that it's consistent with the neighborhood.

BOARD QUESTIONS

- Mr. Barbee asked if the trees are on Mr. Klein's property or his neighbor's property. Mr. Klein said they're on his property.
- Mr. Barbee asked how high off the ground the deck would be to propose. Mr. Klein said he is proposing the deck be at the same elevation to be a straight walkout as best as possible and safe within all the safety requirements. Four feet is his estimate.
- Mr. Barbee asked how tall are the evergreen trees. Mr. Klein said he would estimate it to be around 20 feet approximately, some of them may be taller.

- Ms. Miller asked Mr. Klein if he is thinking of doing any kind of privacy screening for himself due to lack of privacy from the sidewalk. Mr. Klein said they may want to apply for a fence within all code and ordinance, but landscaping was their first conversation on this.
- Ms. Miller asked Mr. Klein if he had any plans for exterior lighting, either mounted to the deck or above. Mr. Klein said their plans are to have the required lighting because of the stairs going down into the garden.
- Mr. Dannemiller asked what is a rough estimate of what the offset from the adjacent neighbor with the solar panels is to A, Mr. Klein's property line and B, what that offset will be to the proposed deck. Mr. Klein said he does not have an estimate. He mentioned that the neighbor is lower down. There is a drop after those trees onto the neighbor's property.
- Mr. Cohen asked Mr. Klein if he has spoken at all with his neighbor at 5 Himsl Court about this deck. Mr. Klein said he has not spoken directly to the owners of the property.
- Mr. Cohen asked Mr. Klein if he had noticed wildlife going on his property. Mr. Klein said yes, they have a relative abundance of wildlife, mainly on the tree side.
- Chairperson Neuer asked Mr. Klein if he had the opportunity to review the memorandum from Ms. Carballo and Mr. Kip dated April 10th, 2025. Mr. Klein said he did.
- Chairperson Neuer asked Mr. Klein if he read the last paragraph about the spruce trees possibly growing into the deck and needing to do some trimming. Mr. Klein said yes, he is aware of that.

NO PROFESSIONAL QUESTIONS

NO PUBLIC QUESTIONS

Motion: Chairperson Neuer

Second: Mr. Cohen

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

- Chairperson Neuer asked Mr. Klein to provide proof that taxes have been paid to date between now and the time they adopt the resolution, which is usually at the next monthly meeting, which would be September 18th. Mr. Klein agreed to this.

2.) ZB-25-01 Taharally

79 Lessing Road

Block:158.14; Lot:243; Zone: R-4

- It was at this time that Chairperson Neuer recognized the applicant Mr. Taharally and Mrs. Taharally, who entered the record.
- Mr. DeLuca, Esq. stated without an attorney, they would have to adjourn this matter to retain counsel and come back with the representation of an attorney.
- Chairperson Neuer asked if they are operating the business now. Mr. Taharally said they had applied for a cottage license through the New Jersey Department of Health and have been growing their online presence, doing charitable work, and doing pop-up events at the local elementary school.
- Chairperson Neuer asked if they are doing any sales from the property. Mr. Taharally said they are not doing sales at the property. Chairperson Neuer asked Mr. Taharally if he was cooking at the property. Mr. Taharally said yes.
- Chairperson Neuer pointed out to you that there's a flaw in the application for the cottage license, which was attached under prerequisite information on page two. The applicant checked off "Yes" to the box that says, "I have checked with my local municipal government, and there are no local ordinances or zoning requirements that would prevent me from operating a home-based food business." Chairperson Neuer said that's inaccurate. The home occupation ordinance specifically prohibits cooking in the home.
- The application will be left as pending. Chairperson Neuer requests that the applicant ask their legal counsel how to resolve the issue of the cottage license that he just raised, and they will be set down for another hearing.

Application ZB-25-01 Taharally (79 Lessing Road) is adjourned to the Regular Meeting of November 20, 2025. No further notice is required.

4.) ZB-24-17 Pardo Development Group Inc.

(Carried from 6/12/2025)

104 Winding Way

Block: 46.01; Lot: 33

Application for C Variance

PRESENTATION

- Mr. Trevor Endler, Esq. entered the record on behalf of the applicant, Pardo Development Group, Incorporated.

- Chairperson Neuer pointed out that there was a prior application on this property, and it's going back a substantial number of years. Chairperson Neuer asked to provide, either do an upper request or however else they can get a hold of the application itself and submit that as part of the application.
- Chairperson Neuer also pointed out that while this application may have started before Mr. Endler's involvement, he is in it now, and Chairperson Neuer happened to look at the application for tree removal and replacement permit and the entire second page is blank. It's an incomplete application.
- Chairperson Neuer will let the applicant present as much of their case as they can without the prior applications and the tree removal permit. The board is unable to make a vote during this meeting due to the lack of a valid and fully completed application for a tree removal and replacement permit.
- Mr. Endler testified that the applicant in this project is seeking bulk C variances to place a single family, 2 ½ story dwelling, on an unimproved vacant lot.
- The site is located in the R1 district, which allows for 1 family residential uses, as proposed here. The C variances that are requested are the minimum lot area per unit, minimum lot width, minimum side yard, minimum side yard combined, minimum floor area, maximum building coverage, maximum lot coverage, and relief from the steep slope requirements of the ordinance.
- The engineer, Kevin Furao, entered on record and was sworn under oath. His credentials were accepted by the board and he testified to the following:
- Mr. Furao shared the screen, displayed, and explained these are variance plans that were submitted as part of the application.
- The property is situated in Block 46.01, Lot 33, also known as 104 Winding Way. The lot is situated in the R1 One-Family Zone. It is an irregularly rectangular shape with about 72-foot frontage along the right-of-way of Winding Way and 89 feet wide towards the back. It has an approximate depth of 180 feet.
- The site is currently vacant and only has remnants of some stone walls and some small improvements and it mostly consists of steep slopes and trees.
- The up and down of the block is mostly all single-family residential, making this project consistent with the rest of the neighborhood.
- The elevations on the site vary and it greatly increases from Elevation 84 to Elevation 154. There are a variety of steep slopes of 25% and greater consisting of about 76% of the lot.
- This and the calculations shown on the steep slope plan diminishes the effective lot area to 2,491, even though the lot area per the tax map in the survey is 14,352. Most of the variances that the applicant is seeking are because of the effective lot area and how it's calculated.
- The applicant is proposing a 2 ½ story single-family dwelling with a driveway and associated site improvements like a covered porch and some steps to access the first floor and a proposed deck in the rear.

- The house is placed at the front yard to try to minimize the amount of disturbance on the property and the steep slopes. The applicant is proposing retaining walls along the side and the rear of the property and also along the driveway entering the property due to the steep slope.
- A portion of the existing retaining wall in the right-of-way would need to be removed to accommodate the driveway entrance for this property.
- The variances that the applicant is seeking for this project is a lot area. The effective lot area is 2,491. The minimum lot area per unit is 1 per 80,000. The applicant is seeking a variance for 1 per 2,491 square feet.
- The minimum side yard is 25 feet. Applicant is seeking a variance of 11.4.
- The minimum combined side yard required is 50 feet. Applicant is seeking 26.5.
- Minimum floor area is 3,000 square feet. Applicant is seeking 2,689 square feet.
- The building coverage and the lot coverage also is calculated by the effective lot area which is encumbered by the steep slopes as well.
- The building coverage being proposed is 64% and the maximum lot coverage being proposed is 111.6.
- Mr. Furao noted that for those two variances, if they were to calculate it for the entire actual lot area, it would actually be under the maximum required if they were to take the actual full lot area.
- Mr. Endler asked Mr. Furao to go through the tree removal.
- Mr. Furao testified they are removing 11 trees on their property.
- Mr. Endler asked Mr. Furao to explain the landscaping plan to make up for the tree removals.
- Mr. Furao testified that right now they are not proposing any trees to accommodate the tree removal. The site is constrained, so there's not many locations to put trees.
- The retaining walls are placed at the rear of the lot and the side of the lot. They are also seeking a variance for the retaining wall height, which is only allowed to be 6 feet in height, but due to the steep slopes on the property, they are having a variety of retaining wall heights. At its maximum, they're going almost close to 20 feet high in the rear.
- Mr. Endler asked Mr. Furao to clarify about the lot size is actually 14,000, but the effective size is 2,000.
- Mr. Furao testified that for the steep slope ordinance and the ordinance of West Orange, the effective lot area has to be calculated based on the site constraints and in this particular site constraint, steep slopes. West Orange provides an adjustment factor for the slope ranges on the property. It was calculated on sheet two, and it totaled into 2,491. For the ordinance, the maximum building coverage, the maximum lot coverage, and the lot area all have to be calculated by the effective lot area.

- Mr. Furao testified that if they were to calculate the maximum building coverage and the maximum lot coverage without having it to be reduced to 2,491, they actually would be compliant. The maximum building coverage would actually come out to be 18.7 percent, which is under the 20 percent required, and the maximum lot coverage would come out to be 19.4, which is under the 30 percent required.

Chairperson Neuer walked through the February 13, 2025, memorandum from the consulting engineer John Hess of CME Associates with Mr. Furao.

- Chairperson Neuer asked Mr. Furao if he had the opportunity to review the February 13, 2025, memorandum from the consulting engineer John Hess of CME Associates. Mr. Furao said yes.
- Starting with design comments on page 2, with what remains to be submitted on checklist items, Chairperson Neuer asked if that information had been submitted. Mr. Furao said the submitted documents on the list of property owners should have been submitted. Mr. Endler added they never received a revised letter from either CME or the Nishuane group, but had conversations with the town professionals and had sent in revised plans that fulfilled the completeness requirements.
- MacNeill from CME said they have provided the additional items to their office for review. He added they have items A, B, C, and D but for number E, that is the only item Mr. MacNeill could not find. Mr. MacNeill said they did not have any issue with them proceeding if they could provide those requirements.
- Chairperson Neuer asked if plans and documents for West Orange CCO have been received. Mr. MacNeill said no. Mr. Endler said that will be provided along with the previous application and the revised tree removal permit as needed.
- Chairperson Neuer asked Mr. Furao with respect to item number two, what is his testimony with regard to section 25-9.7 of the land use regulations. Mr. Furao said the applicant has his architect on the line and he talked about the design of the dwelling.
- Chairperson Neuer Mr. Furao, what are his comments with regard to four and five regarding the steep slope. Mr. Furao said those are the variances and the relief that they are seeking from the board currently. The basis for the variances are that the lot is without disturbance within the sleep so that the lot isn't developable.
- Chairperson Neuer asked what is the basis for the variance request under item six regarding the height of the retaining walls. Mr. Furao said because of the steep slopes on the property, it is to provide an accessible driveway. They designed the driveway at the maximum slope possible to reduce the height of the wall. They also provided the applicant and the proposed dwelling a backyard. Those are the reasons for the retaining walls in the rear of that height, exceeding the heights of the ordinance.
- Chairperson Neuer asked Mr. Furao what is his response to Mr. Hess's number seven regarding safety fences on top of the retaining walls. Mr. Furao said there is no issue with it, they'll be willing to comply with that.
- Chairperson Neuer asked Mr. Endler if he wishes to amend the application to include safety fences on top of the retaining walls. Mr. Endler said they can have

that as a condition that they can provide as well with the other items they've already mentioned.

- Chairperson Neuer said regarding the street address, it's something that should be resolved. Mr. Furao said, as explained in his testimony, the Winding Way right of way in the tax map seems to have just ended for some reason in front of this property, and that's where the Undercliff right of way started.
- Chairperson Neuer asked to talk about the runoff resulting from the construction of the new building, item number nine. Mr. Furao said they're willing to work with the board engineer to satisfy any additional runoff on the property.
- Chairperson Neuer asked about item number 10, sheet three, regarding cleanouts. Mr. Furao said they will provide that in their revised plans.
- Chairperson Neuer asked about the overhead electric telephone lines, item number 11. Mr. Furao said the ordinance requires that the utility lines be underground and tied to the nearest utility pole, which is across the street.
- Chairperson Neuer asked in regards to number 12, was an application submitted to the Hudson-Essex-Passaic Soil Conservation District. Mr. Furao said they are planning to submit to the soil erosion once they obtain approval from the board. They will submit a certification as a condition of approval.
- Chairperson Neuer asked in regards to number 13, were the details provided as requested, A through G. Mr. Furao said they will provide them as a condition of approval.

BOARD QUESTIONS

- Mr. Dubovy asked Mr. Furao to explain the process behind 11 trees being removed, but none are going to be replaced, given West Orange's sensitivity to tree loss and canopy. Mr. Furao said with its steep slopes, the limitations, and the size of the site, it hinders the amount of area available for tree planting.
- Mr. Dubovy asked Mr. Furao if he is sticking with the zero-tree replacement. Mr. Furao said they're open to tree replacement, if that's what the board would like.
- Mr. Cohen visited the property and noticed a brook running through it and a 50-foot-wide oak tree. He asked if there is any way to keep that oak tree and build the house, and also, what they are doing with that brook. Mr. Furao said he is not aware of any brook through the property. If the tree that is being talked about is the one that's labeled as 30 inches wide in the existing conditions plan, then yes they would need to remove it as part of the location of the new driveway that they're proposing.
- Mr. Dannemiller asked Mr. Furao to briefly restate what's the relief they're looking for from the height and the retaining wall, what's required and what's being requested. Mr. Furao said the maximum required for a retaining wall is 6 feet and the highest elevated retaining wall would be 20 feet.
- Mr. Dannemiller asked what is beyond that wall. Mr. Furao said the backyard of the neighbor.
- Mr. Barbee asked Mr. Furao if he knows the age of the trees that they want to remove. Mr. Furao said no, he doesn't.
- Mr. Barbee asked if the neighbors have 20-foot retaining walls. Mr. Furao said there's no neighbor to the right because it's just wooded areas. He is not aware of any 20-foot retaining walls on the neighbor to the left.

- Mr. Sussman asked Mr. Furao to clarify if the difference in elevation on this site was approximately 84 feet at the front to 154 feet at the rear. Mr. Furao said yes, the rear being at the top of the property.
- Mr. Sussman asked what is the difference in elevation between those two points. Mr. Furao said about 70 feet.
- Mr. Sussman said, according to Mr. Hess's memo, they're planning to disturb over 50% of the site, which is in excess of 25% in slope, where the zoning ordinance actually permits no disturbance over 25% and asked Mr. Furao is his testimony that this is an undevelopable lot otherwise, if they don't do that. Mr. Furao said there's no opportunity to develop a lot without disturbing the steep slopes.
- Mr. Sussman asked if over half the area of the lot is on over 25% of the steep slope. Mr. Furao said yes, a majority of the property is within the 25% over area of steep slopes.
- Mr. Sussman said, according to Mr. Hess's memo, the maximum is 4 feet, but Mr. Furao said the maximum is 6 feet. Mr. Furao said he apologized; he thought it was 6 feet.
- Mr. Sussman asked if it was his testimony that the retaining wall at the rear will be over 20.5 feet high. Mr. Furao said yes.
- Mr. Cohen asked if the applicant would consider putting the house on stilts to leave the land as it is, in order not to disturb the steep slope. Mr. Furao said he will defer to the applicant's testimony later.

Break-9:35-9:45 PM

Upon return from break, Chairperson Neuer announced the presence of a quorum. At this time, Chairperson Neuer announced the carrying and adjournment of application ZB-24-17 Pardo Development Group Inc. (104 Winding Way) to the November 20, 2025, Regular Meeting without further notice.

Chairperson Neuer adjourned the meeting at 9:51 PM.

Adopted: 10/16/25

