

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT SPECIAL MEETING
October 23, 2025
8:00 P.M.

The West Orange Zoning Board of Adjustment held a special meeting on October 23, 2025, commencing at 8:00 PM, utilizing the virtual Zoom platform.

Chairperson Philip 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 Philip D. Neuer asked everyone to stand for the Pledge of Allegiance.

Mr. 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, Alice Weiss
Absent: Irv Schwarzbaum (excused)
Also Present: Alexander Fisher, Esq., Board Attorney
Diana L. Chandler, Board Secretary
Ryan MacNeill, Consultant Engineer
Christopher Dochney, Consultant Planner

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

ANNOUNCEMENTS

- Future Meetings: November 20, 2025 (Regular Meeting)
December 18, 2025 (Regular Meeting)
- Chairperson Neuer reminded Board Members of their Storm Water requirement being due by December 2, 2025. He explained further that it is mandatory, because if not completed, the township is subject to penalties and violations.

SWEARING IN

- Mr. Ryan MacNeill, Consultant Engineer, and Mr. Christopher Dochney, Consultant Planner, were sworn under oath.

RESOLUTION APPOINTING THE FIRM CME ASSOCIATES AS CONSULTING PLANNERS TO THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF WEST ORANGE FROM OCTOBER 10, 2025, TO DECEMBER 31, 2025

- [Resolution for CME \(modified at new rate\) \(rcd 10-21-2025\)](#)

Motion: Chairperson Neuer

Second: M. Dannemiller

Barbee:	Y	Schwarzbaum:	-
Ben-Zvi (Alt.3):	-	Scott:	Y
Cohen:	Y	Sussman (Alt.1):	Y
Dannemiller (Alt.2):	-	Weiss:	Y
Dubovy (Alt.4):	-	Neuer:	Y
Miller:	Y		

APPLICATION

ZB-22-13 MPB Realty (470 Eagle Rock Avenue) (Carried from 7/31/2025)

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

470 Eagle Rock Avenue

Preliminary & Final Major Site Plan

PRESENTATION

- Ms. Danielle Kinback Esq entered the record on behalf of applicant MPB Realty LLC and gave a brief summary on previous testimony stating this is an application for preliminary and final major site plan approval, d3 conditional use variance, bulk variance and design waiver relief to renovate and repurpose an existing restaurant to house two proposed uses, a sit down IHOP (International House of Pancakes) restaurant and a Popeyes restaurant with drive through accessories.
- Mr. Michael Dick, Acoustic Engineer, was presented, sworn under oath, and his credentials were accepted by the Board.
- Ms. Kinback asked Mr. Dick if, when he performed his initial analysis, he made some assumptions with respect to the rooftop equipment that was specifically for the restaurant. Mr. Dick answered in the affirmative. Ms. Kinback, asked if, in response to the questions of the Board, the architect provided him with more specific information as to the location and type of equipment. Mr Dick, P.E., answered in the affirmative, stating further that they received the roof layout and the schedules with the submitted mechanical equipment selections.
- Ms. Kinback asked what type of analysis was performed with that information. Mr. Dick said that they updated the outdoor acoustical model with the proposed locations as well as the manufacturer's sound data for those unit selections.
- Ms. Kinback asked how that impacted the conclusions that were in the report that was previously submitted and testified to. Mr. Dick said that several of the units were quieter than originally evaluated. So overall, the resulting sound levels were quieter at the southeast residential location, they were marginally quieter. The difference was less than a decibel, and at the other locations, they were generally two (2) to four (4) DBA quieter with the conclusions remaining the same within the limits of the state noise code.

BOARD QUESTIONS

- Todd Dubovy asked about the sound generated from the Menu Order Board and its proximity to the property line, referencing the lack of any real plantings that are going to be useful in attenuating the sound to the adjacent neighbors. There will only be about eight (8) feet of plantings between the driveway and the property line. At a peak point where maybe somebody is talking somewhat loudly out of the speaker, is there any study data that speaks to the peak decibel levels Mr. Dick, answered that the menu board loudspeaker is limited to 15 decibels above the ambient sound and is not going to get louder just from somebody speaking louder. As far as plantings, generally, a significant reduction of sound from plantings does not occur unless it's a very thick, dense forest.
- T. Dubovy, asked about the proposed fencing not appearing to be all that solid, and asked for confirmation on the type of fence it is (vinyl or PVC) and at what height it is. Mr. Dick answered in the affirmative, and it is six feet. He explained further that at the property line, there is not as much reduction at the upper stories. It's not going to help significantly with the rooftop equipment.
- Laurence Cohen, asked if he can incorporate the projected noise from the customers of Popeyes and IHOP into his study. It would be more realistic. Mr. Dick said that the human voice is exempt from the noise code, so it's not something that can be evaluated.
- L. Cohen, asked if they could incorporate loud revving engines, people, young people who use this is what bothers the neighbors already with hot rodders launching in this property and revving their engines. Mr. Dick said, that they are not accounting for somebody driving a car not street illegally, or, doesn't have a muffler or something like that. The analysis of the cars idling was really for typical cars that are operating.
- William Michael Barbee asked for clarification on a cap on the volume that the speaker would be at. Mr. Dick, P.E., said that the point isn't to raise it to the maximum level. It doesn't do that. It limits the sound to 15 decibels above the ambient level. So when the ambient level is lower than the level of the loudspeaker is reduced.
- W.M. Barbee asked if there is a maximum on what that microphone will kick out at any given time no matter how much noise is around. Mr. Dick said yes, that it does have a cap. In particular, when the level is lower, it's going to be even lower than that.
- Chairperson Philip D. Neuer, asked what's the state code level maximum adjacent to a residential neighborhood is. Mr. Dick, P.E., said that it's not generally going to be higher than 76 DBA.
- Chairperson Neuer asked what the state code maximum that is permissible Mr. Dick, answered 50 DBA at the property, at the adjacent property, and that it's not 76 DBA at the adjacent property, it's at the loudspeaker.
- Chairperson Neuer asked what the DBA is going to be at the property line from the loud speaker with the ambient noise that's pushing the level the loud speaker. What is that number at the property line of the nearest resident? Mr. Dick said from the loudspeaker, it's less than, less than 40 DBA.
- T. Dubovy asked for clarification from Mr. Dick because he said that the human voice is exempt from the noise code, and whether the human voice was part of the testing and the sounds that are being expected to be emanating from the speaker, or amplified voice. Mr. Dick answered that the amplified voice is subject to the noise code.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Mr. Hussien Ismail (6 Rosney Terrace) asked if that will be noise he can hear inside my house and disturb my entire family during the day or night? Mr. Dick answered that whether or not he can hear it will depend on a lot of things such as if your windows are open, and there are a lot of factors that will dictate that. But based on conversations had with people who are on the State Noise Council, 50 DBA is the nighttime limit was selected based on research that was conducted to that effect.
- Mr. Seth Weisleder (17 Howell Drive) Asked for a description how drive thru traffic noise differs from a regular parking lot or street noise in residential areas. Mr. Dick, answered that generally its going to be quieter than the noise that's on the adjacent road. It's mostly going to be cars idling, but that they did model that. Its not subject to the noise code, but the noise from the idling itself, was calculated to be less than the limits of the noise code as well.
- Mr. Weisleder asked if there were other mitigation solutions that might be recommended to be a nice neighbor and mitigate any additional noise. Mr. Dick said that they are going to be improving the existing fence with a more robust one. But as far as the vehicle noise, that's basically what's going to be done.
- Mr. Weisleder asked his last question with regard to operations/deliveries, with loud and disturbing noises taken into consideration, because when bringing in a large truck and unloading things that does create some loud and disturbing noise. If certain ordinances or things that have to be taken into account, to respect for additional noise, for loading and unloading activities. Mr. Dick said that there is going to be noise from the truck refrigeration unit, which was modeled. They are going to have shielding from the building, which helps to reduce those noise levels. But calculations of the levels appear to be below the limits of the noise code. Mr. Weisleder followed up his questioning for loading and unloading with any "boom" sounds or other equipment that would need to be used, and what time would that normally take place. Mr. Dick answered that there was testimony previously on what time loading would occur, but it would be done when the restaurants are closed. As far as the loading operations themselves, he deferred to Operations' previous testimony. But the loading noise itself was modeled with the truck refrigeration sound.
- Mr. Andy McLeod (19 Fundis Road)asked about sound modeling, and it was clocked at 93 DBA, and whether this was factored into the evening's version of the model. Mr. Dick, Here, you're referring to truck refrigeration, correct? Yeah, truck refrigeration, yes, yes, that was nighttime, yep, and that was, that was factored into the model, because the nighttime limits to 50 DBA, so that's pretty significantly higher sound power level. So that's not the sound level at the property line or within the residential property. Pressure is dependent on distance. Power is not so the sound pressure level has to be below 50 DBA at the receiving property
- Mr. McLeod asked if Mr. Dick is able to attest to how the vinyl fencing that's proposed is going to dampen the sound for houses in the immediate area. Mr. Dick said that the fence is mostly going to provide a reduction at grade near the property line, and as you go further back, it won't do as much, and as you go to the upper stories of properties, it's not going to do as much. So, at some locations it'll provide a little bit of reduction, but not necessarily relying on that to meet the noise code limits at upper stories and things
- Mr. McLeod asked based on the answer to his previous question, the noise that the upstairs in the surrounding properties, where typically bedrooms are, there

wouldn't be an effective way to mitigate noise. Mr. Dick answered in the affirmative.

- Mr. Emrah Altunkaya (15 Fundis Road) asked how far the last speaker going to be from the nearest property line. Mr. Dick said that he believes that it's approximately 32 feet.
- Mr. Altunkaya asked for confirmation of the maximum decibel levels Mr. Dick said that the expected maximum is 76 DBA. Mr. Altunkaya asked now at 30 feet, it's actually almost at the borderline of 50 decibels. So even though it's 75 or 76 at the sound level at the borderline, it's going to be also be borderline with the state level. So it seems like the fencing is not going to do much as well. Mr. Dick said that the model takes into account air/ground absorption and reflections/reduction from buildings/barriers. It's not just a free field distance calculation.
- Mr. Altunkaya asked for confirmation that these calculations are mostly to make it look sympathetic by taking the averages. But, things happen, so there will be times that neighboring properties are going to be mostly affected and if there is any way to have better sound control at the borderline. Mr. Dick answered, saying that he didn't agree with his assessment of the sound level from the loudspeaker, and that they did their own modeling with a different conclusion as it is expected to meet the limits of the noise code as stated the fence is going to help at the property line itself. There is an automatic volume control for the loudspeaker that will be sufficient in itself.
- Ms. Isabell Rise (10 Rosney Terrace) asked what the plans are to ensure that residents can still enjoy their property and peace and quiet. Mr. Dick answered, that there will be a six foot vinyl fence around the site. The rooftop mechanical equipment when evaluated is low noise equipment. The loudspeaker also has automatic volume control, which will reduce the old sound from the loudspeaker to 15 decibels above the ambient when the ambient is lower.
- Ms. Rise yeah. Asked what happens in the event that there is a system malfunction and it's significantly higher, who is contacted. Chairperson Neuer answered that the Building Department would be contacted to see whether or not there is a basis for a violation or for a change in the installation. This witness has no control over that.
- Mr. Sean Wright (9 Fundis Road) asked a question in clarification bc it had been mentioned that the fencing wouldn't necessarily be sufficient to decrease the sound levels on the second floor. All of the bedrooms on his property are located on the second floor, (about 50 feet away from that that property line) and what will the applicant be doing to mitigate that sound, and how much sound deadening will the vinyl fence proposed actually provide. Mr. Dick responded that the fencing won't provide reduction at the upper stories necessarily, but this site is below the limits of the noise code at the upper stories as well.
- Mr. Wright asked what was the methodology in developing this conclusion that at the second floor there would not be any violation of this code. Mr. Dick said that there was a comprehensive outdoor acoustical model of the site using software called "Sound Plan", which is based on the ISO standard for outdoor sound propagation, where it included the surrounding buildings, the proposed sources, and the topography. Where it modeled the proposed operations, calculated the expected sound levels at the adjacent receiving properties, and a model was done at the property line itself and upper stories.

REDIRECT

- Ms. Kinback asked about the levels that the DEP requires at the property line is 65 DBA during the day, 50 at night. Is that dependent on any specific use that is proposed, or whether this is a sit down restaurant, drive through, restaurant, office, bars, everyone subject to the same requirements. Mr. Dick said it would apply for any of those uses.
- Ms. Kinback asked regarding the speaker board, the hierarchy of what's generating the most noise with our proposed development, where is the speaker board in the hierarchy of this application. Mr. Dick said that it is pretty much at the bottom of the list.
- Ms. Kinback asked what is at the top HVAC equipment and is that why there was a more specific analysis in response to those questions, knowing that was generating the most noise, correct, Mr. Dick answered in the affirmative.
- Ms. Kinback asked in regards to the speaker board that it modeled a level of 76 DBA. Mr. Dick said at the speaker board, yes. Ms. Kinback followed up by asking how he arrived at that number based on being approximately 32 feet from the property line. Mr. Dick said that it's based on the ambient sound levels that measured and what the expected typical idling car to produce at the menu board as well.
- Ms. Kinback asked for confirmation of the ambient measured and the range. Mr. Dick said that the DBA was 45 to 60.
- Chairperson Neuer asked if he recommend to the client that they consider relocating the speaker board, or changing the direction of the speaker board sound so that it goes in a different direction, or not directly to the residents behind this property. Mr. Dick said that he did not. Chairperson Neuer followed up by asking if he had studied whether or not a relocation of the speaker board or a change of the direction of the noise coming out of it would lessen the impact on the neighbors to the rear. Mr. Dick answered that it's not going to do much to reduce the overall sound levels, because it's really the HVAC equipment at the property line. The sound at the property line from the loudspeaker is far enough below the sound from HVAC equipment that it's not adding to the overall level there.
- Chairperson Neuer asked if there is anything proposed to this project to eliminate the impact of the sound from the HVAC on the neighbors to the rear. Mr. Dick answered that there is a parapet, which will help a little bit and also that there is lower noise equipment that's been selected. Chairperson Neuer followed up by adding that as the greatest produces the greatest amount of noise impacting the neighbors to the rear. Mr. Dick said that if you have multiple sources, there's always going to be something that's loudest. Chairperson Neuer said that he agrees with that, but asked for confirmation that he did testify that it's the HVAC equipment that produced the greatest level of noise impacting the neighbors to the rear. Mr. Dick said yes. Chairperson Neuer asked if there are any other mitigation factors that can be installed to reduce the level of noise coming from the HVAC, other than the parapet. Mr. Dick said yes. Chairperson Neuer asked what the other things that can be installed. Mr. Dick responded that there are things like silencers, compressor wraps. There are various HVAC noise control measures that can also be implemented, but they are already meeting the limits of the noise code.
- L. Cohen asked if he was aware that about 40-50 trees are scheduled to be cut down. Mr. Dick said that their model did not include any attenuation of trees. Chairperson Neuer responded to Mr. Cohen, saying that it's not the applicant's obligation to correct all of the problems being caused by other properties.

- L. Cohen responded stating that this application is a contributor to the noise. By cutting down those trees that would make the sound level much higher for the neighbors. Mr. Dick said that they don't expect much reduction from a row of trees.
- Ms. Kinback asked with respect to the mechanical equipment proposed and the uses, is it exacerbated at all? Because this is a fast food restaurant versus if it was a sit down restaurant? Mr. Dick said there would be no difference.

PRESENTATION

- Kevin Savage PP was sworn under oath and credentials were accepted as a Professional Traffic Engineer.
- Mr. Savage referenced the Engineering Report (Dated June 4, 2024 and Originally Dated October 21, 2022) and ran through the report with the couple of minor site plan modifications, and then go through the report.
- Mr. Savage presented **EXHIBIT A-4 Site Plan Rendering (Dated September 18, 2025)**.
- Mr. Savage referenced during his two primary changes since the Engineer's testimony from Mr. Bersch,
 - first was the modified striping adjacent to the trash enclosure in the southeast corner of the property. Previously, this was a 24 foot wide aisle, in response to some comments received from the board that striping has been expanded to really further accentuate that this is a one-way aisle, and vehicles are not able to enter in the southbound direction.
 - Second, the plans provided a pull ahead space immediately in front of the drive through exit. That space would be reserved for vehicles to wait if their food may not be ready for them to pull ahead in order to allow other vehicles to proceed through the drive thru.
- Mr. Savage, referenced during his testimony Engineering Report (Dated June 4, 2024 and Originally Dated October 21, 2022) which pertained to Traffic Impact, Circulation, Access, Parking, and Queuing for the proposed development.
 - Access: right now, there are two, access points to the to the property by providing two (2) full movement driveways in roughly the same location as the proposed driveway shown. In conjunction with the development two (2) access points are mentioned, the Eastern access shown on the bottom left side of the page here, will be maintained as a full movement driveway along Eagle Rock Avenue. The Western driveway located to the to the bottom right of the building, as shown on the plan, will be limited to a full movement Ingress, but right turn egress only driveway, so the left turn egress movement is being removed or restricted, and that's primarily for two reasons.
 - The first is there's currently a vertical crest in Eagle Rock Avenue, approximately where the Eastern driveway is located. So in review of the site review and driveway, it identified, really a sight distance obstruction with vehicles that would be looking to the right wanting to make a left turn onto Eagle Rock Avenue. So, that was one reason for the restriction.
 - Second, the driveway is located about 13.2 feet from the intersection with Rosney Terrace. Based on the proximity of those two (2) intersections, the left turnout movement would provide, the highest potential for conflict with any vehicles turning into or out of Rosney Terrace. So a vehicle turning left out of this western site driveway and a vehicle that, at the same time could be making a

right from Rosney Terrace, was identified as a potential conflict. So therefore that left turn out movement was voluntarily restricted to eliminate the potential conflict and eliminated due to the site, distance obstruction.

- Traffic Impact: Traffic counts were taken at the site in order to establish the existing conditions. So traffic counts were actually taken at the intersection of Eagle Rock Avenue and Rosney Terrace three (3) times (May of 2021, June of 2023, and April of 2024), and taken during the weekday morning peak hour, generally from 7:00 AM to 9:00 AM and the weekday evening peak hour from 4:30 PM to 6:30 PM and Saturday midday, Between 11:00 AM and 2:00 PM. The highest counts were taken from each corresponding morning evening, Saturday midday, peak hour for the weekday morning and evening that that occurred in April of 2024 the Saturday, the highest Saturday volumes observed were actually in June of 2023, so once established existing conditions and existing traffic volumes on the adjacent roadway network, there was some additional background growth on those counts to really project the counts into the future. To account for many things such as population growth. From there, the site-generated traffic is surcharged with volumes onto the existing traffic volumes to generate build conditions or build traffic volumes. As part of the report, the no-build conditions were reviewed to the build conditions with this development.
- The trip generation projections utilized are based on national data published by the Institute of Transportation Engineers, that organization collects and collates traffic data throughout the country from various uses to really summarize anticipated trip generation for uses such as this. Both of these potential uses have a high pass by traffic percentage. There are really two types of trips that are looked at.
 - First is primary traffic, or new traffic, and this is trips that are, originating on the roadway network, specifically to travel to and from this development.
 - The other element of trips is called passerby traffic. Traffic that's already traveling on the roadway network. It's already traveling along Eagle Rock Avenue. It's turning into the site, stopping at Popeyes, grabbing a meal or IHOP, and then getting right back on the roadway network and resuming their trip. It's simply a turn into the development stop and then turn out of the development so based on data published by ITE, fast food restaurant uses with drive thrus, and specifically the Popeyes has a pass by traffic percentage of about 50% and the IHOP that's during the weekday morning higher during the weekday evening and then slightly lower during the Saturday midday peak hour. So 50% during the weekday morning, 55% during the weekday evening and 37% during the Saturday midday peak. The IHOP it has identified a 43% pass by traffic percentage during the weekday evening peak hour.
 - Both primary and pass by trips were incorporated into the trip generation and into the capacity analyses conducted. Both no build conditions without the development and build conditions with the additional trips from development surcharge on to the existing traffic volumes were studied. What was found were the minor changes in delay at the adjacent intersection with Rosney Terrace, and the driveway is operated at good levels of service.

- Parking: Mr. Savage said that Mr. Bersch, during his testimony, went through in detail the parking requirement; the total required for the site is 49 spaces. This breaks down to 15 spaces are required for the Popeyes and 34 spaces are required for the IHOP again, that's looking at the maximum of one parking space per 45 square feet for patron area and one parking space per three seats in each use the site, as proposed, provides 48 spaces, including one Electric Vehicle Charging space. Therefore, with consideration of the EV credit, the parking requirement is met. Parking and queuing conduct counts were performed at a number of Popeyes facilities. Three (3) facilities were counted in New Jersey, one (1) in Union Union County, one (1) in Raleigh Union County, and one (1) in Glassboro, Gloucester County. And from those counts, it was able to identify that a Popeyes typically has a peak parking demand of about 10 to 11 spaces. So the Popeyes itself, specifically, requires 15 based on our accounts, that 15 spaces is more than enough to accommodate the parking typically required for a Popeyes restaurant.
- Queueing: eight (8) queueing spaces are shown on the Site Plan. The Queue spans and wraps around the building to provide eight total spaces. This meets the Township Ordinance, which requires six (6) spaces. 10 vehicles was the maximum counted during any of these counts. So there are eight vehicles shown. Mr. Savage opined that he believes two (2) additional vehicles can fit onto the site without really impacting on the site, circulation or parking. Therefore, he is comfortable and confident that the queueing provided is sufficient to support the anticipated demand.
- Ms. Kinback asked a few questions, because with the proposed Popeyes, it's a conditional use and one of the conditional use variances being sought is to permit a driveway distance to the intersection that is less than 100 feet away and asked for an explanation to having the driveway at that location, its impacts to the Rosney Terrace intersection, and also its impacts or benefits to ingress and egress and on site, circulation. Mr. Savage answered that there were two existing access points to the site. It is proposed to maintain those two (2), and the unique depth and location of this site, he believes that the two (2) driveways will provide for more efficient ingress and Egress to and from the property separately. The sight lines from Rosney Terrace were reviewed and voluntarily restricted that left turn out movement, which he opined would be the highest potential conflict point, with any vehicle turning to or from Rosney Terrace.
- Ms. Kinback asked as part of this application, being represented that the refrigeration truck deliveries will all take place in the front of the building, and that is where the delivery trucks will load and unload. Does having that second driveway access benefit the delivery truck access and their ingress and egress to the property and mitigate impacts to the neighbors so that they don't have to circulate the entire building? Mr. Savage answered that Yes, in my opinion, it would having two driveways essentially allows the tractor trailer to enter the Western driveway, pull up to the front of the building, load and then exit via the Eastern driveway. If there was only one driveway that that truck would need to circulate the building at some point, either entering or leaving the site, so there would more.

BOARD QUESTIONS

- Chairperson Neuer asked for confirmation that the report submitted was written on October 21, 2022, and was revised on June 4, 2024. Mr. Savage said that it is correct.

- Chairperson Neuer asked if other counts than where Rosney Terrace intersects Eagle Rock Avenue took place. Mr. Savage said that they did not, but the counts taken (all three times) were at the intersection of Eagle Rock Avenue and Rosney Terrace.
- Chairperson Neuer asked for confirmation that when those counts were performed didn't know the Genesis point of that traffic (if it came out of the Whole Foods parking lot or any of the other streets to the east, if it came from Prospect Avenue.) Mr. Savage answered that based on the initial accounts taken in May of 2021 it was observed that the directional patterns within Eagle Rock Avenue helped estimate where the site-generated traffic would originate.
- Chairperson Neuer asked for clarification on what site generated traffic means.
- Mr. Savage answered that as part of the report, as mentioned, first take existing counts, add some additional background growth, and there was one approved adjacent development that was included as well to generate no-build traffic volumes.
- Chairperson Neuer asked if Mr. Savage was familiar with the intersection of Eagle Rock Avenue and Prospect Avenue. Mr. Savage said that he was familiar with it.
- Chairperson Neuer asked how many times Mr. Savage has driven past the site. Mr. Savage answered that he has been to the site probably at least half a dozen times in the past year or two. Chairperson followed up by asking if he had driven to the site from the west, coming up the hill, going past Rosney Terrace to the site. Mr. Savage said yes.
- Chairperson Neuer asked for the justification as to why Mr. Savage didn't do any study of the traffic exiting West Orange Plaza, almost directly across the street. Mr. Savage said that the number of trips projected that would travel through that intersection and through Prospect Avenue essentially falls below the NJDOT threshold for requiring a study of that intersection. So the NJDOT threshold is 100 peak-hour trips.
- Chairperson Neuer asked if copies of accident reports from the West Orange Police Department. Mr. Savage answered yes that they received data from January of 2018, through the present. From those reports, there were really two (2) crashes. Of note, one was a rear-end crash for a vehicle turning left into Rosney Terrace. One was a vehicle turning left out of Rosney Terrace from the police report was waived across the first lane of travel by a New Jersey Transit Bus, and then a vehicle in the inner lane of Eagle Rock Avenue, traveling eastbound, crashed with that vehicle. But of note there, those are two crashes of note. But in the review of this, and specifically the review of the site driveways, the Federal Highway Administration identification of five (5) correctable crashes per year as a threshold for looking at potential corrective measures. So as was mentioned, seven years of crash data was requested, and given the limited number, the driveways would function safely and efficiently as designed.

Break 9:38 PM-9:45 PM

Upon return from break Chairperson had a roll call performed to confirm the presence of a quorum of Board Members had returned.

- Chairperson Neuer asked if this development of the Popeyes and the IHOP were to be limited to one (1) restaurant, would that lessen the impacts on the traffic that this development is causing to the area? Mr. Savage said that it would, yes, generate fewer trips.

- Chairperson Neuer asked if newly approved/submitted in the township were taken into account when doing this study. Mr. Savage said that one approved project, the convenience store on the southeast corner of Eagle Rock Avenue and Prospect Avenue added to the existing Exxon Gas Station was examined. However that generally projects submitted but not yet approved are not taken into account during their studies
- Chairperson Neuer asked if he was aware of the Planning Board approval of the West Orange Plaza. Mr. Savage said that he was not until now.
- BD Scott, asked what Mr. Savage means by site generated trips, and if this is a projection of how many trips cars are going to be going to these two establishments if they are approved, and how that type of a projection is made. Mr. Savage answered that the industry data published by the Institute's engineers is evaluated. It essentially collects and collates this data from various locations throughout the country.
- BD Scott asked for confirmation of whether any specific studies have been made involving West Orange Essex County or New Jersey. Mr. Savage answered no. But as mentioned, the opportunity to do trip, generation, parking and queueing counts at three Popeyes locations in New Jersey has occurred.
- BD Scott asked why locations so far away and so very different in their traffic patterns from right here in West Orange and Essex County are part of this study. Mr. Savage said that specifically looking at Popeyes locations that had a single drive through, which is consistent with the development here. Some Popeyes locations essentially have two order boards that merge into one pickup lane. Specifically looking and counted the locations that were similar to the single drive through location.
- BD Scott asked if testing included weekends or holidays? Mr. Savage said it included Saturdays. Yes, Saturdays but it did not include holidays.
- William Michael Barbee asked coming out of the parking lot, making a left, meaning, going out the parking lot, across the lane, making a left from either driveway, considering that that is a yellow strip, a solid yellow strip, will it be an illegal turn, making the left to go west on Eagle Rock? Mr. Savage said No. The double yellow line generally means no passing so turns into or out of driveways are permitted.
- W.M. Barbee asked about the trip generated data. When the analysis of the drive thru, was done, did those existing comparisons also have IHOP traffic in the parking lot as well. Mr. Savage said that they did not know. WM Barbee said now that there is an IHOP with other traffic in the parking lot. Does that back up the does that block the intersection of Rosney Terrace with other traffic? Mr. Savage said that they accounted for both the Popeyes and the IHOP traffic in the traffic study, and based on that, they didn't identify any capacity concerns at either the Rosney Terrace intersection or of the two (2) site driveways.
- L. Cohen, asked if there's going to be spillover parking for Popeyes in this 15 space application site. Mr. Savage responded that he doesn't believe there will be. The maximum counted occupied spaces at those locations was, was about 10 to 11 vehicles. So the 15, in my opinion, should be sufficient to support just the Popeyes itself. So even though they do have large parking supplies, the demand actually counted and identified at those locations was only 10 to 11 vehicles parking.
- L. Cohen, asked if he thinks the neighbors of Popeyes West Orange, have warrant to worry about spillover parking on their residential streets? Mr. Savage opined no that the proposed parking provided sufficient. Looking at the Ordinance, the site meets the Ordinance requirement, and as mentioned, this extensive Popeyes data does show that the 15 spaces in a requirement allocated to Popeyes is more than sufficient.
- Robin Miller asked in confirmation that the stores studied were just single Popeyes, not a combo restaurant. Mr. Savage said that he was not aware of that.
- R. Miller, asked for clarification of about population growth as a factor when doing his study. Did he mean population growth of the township of people, like new housing

complexes? Mr. Savage said that part of the study, essentially projects traffic volumes a few years into the future, and for that, looks to background growth, with percentages and data published by the New Jersey Department of Transportation. So periodically studies are conducted with traffic counts throughout the state. They identify trends in those counts and trends in those specific counties. So the growth rate that utilized, was 2% per year, and that was specific to Essex County.

- R. Miller, asked if Mr. Savage was aware that there's the potential of an over 400 unit residential apartment unit across the street at the current site of Mayfair farms? Mr. Savage said he doesn't believe that's been approved as of yet. In response to that R. Miller suggested that be put into the study. Mr. Savage said that in a study typically only approved plans get reviewed.
- Alice Weiss asked Mr. Savage if he's aware that Target will be opening shortly. Mr. Savage said yes. A. Weiss asked if the traffic for that plaza (West Orange Plaza) was put into the traffic count. Mr. Savage said no it was not.
- A. Weiss asked if when about development being mentioned, it's all over Essex County, as opposed to specifically West Orange, Mr. Savage said correct, that the 2% growth rate is for the county as a whole.
- Michael Dannemiller asked about the crash data. West Orange's number one (1) crash location is Prospect Avenue at Eagle Rock Avenue and asked if any assessment of queuing has occurred or has there been personal observation of queuing at that intersection during peak hours? Mr. Savage said that he has had personal observation. No traffic counts, analyze it or pull crash data has occurred. But he has driven through that intersection at peak times.
- M. Dannemiller, asked while the NJDOT threshold didn't hit the threshold of 100 trips, so assessment of adjacent intersections was necessary. In this case, adjacent intersections are really curious about the travel dynamic. Mr. Dannemiller brought up the dual lane, really four lane configuration of Eagle Rock Avenue mentioned there were really only two (2) crashes, a rear and the left out that had a multiple threat which he was concerned that on entry, and if he thinks it will increase or decrease overall crash incidents on Eagle Rock Avenue. Mr. Savage answered that looking at the left into the Western driveway versus a right turn out, in my opinion, in reviewing that, he believes that the left turning vehicle in will have adequate sight distance and of that vehicle turning out of Rosney Terrace to be able to essentially see it. And if it is turning, react accordingly. That car is traveling, facing westbound, essentially looking ahead, looking at those both lanes. And in my opinion, in review of the the access point, He opined further that it would have adequate visibility to that vehicle. That if there is any use on this site, there is the potential for additional crashes. Right now. It's, closed, the driveways are closed. There's really, no potential there, because there's really no ability to access the site. So, in general, any use itself would theoretically increase the potential for crashes. But in reviewing the crash data specifically correctable actions, or, crashes, which is something that the design could be mitigated to, or design could be altered, essentially to change or, eliminate that, that potential, the the restriction on the left turnout of the Western driveway was something that obviously looked at and modified. But beyond that, there weren't any other potential restrictions of the driveways based on the review of the site and the crash history.
- M. Dannemiller asked if on the eastern driveway, is there any concern about left turns in or left turns even more so out for potential for crashing incidents, Mr. Savage said that he doesn't and specifically, that driveway is really located at the top of the vertical crest. Which is why essentially was limited that left from the Western driveway. So a vehicle turning out there would have a more than sufficient sight distance.
- M. Dannemiller asked for confirmation of sorts regarding the linear measurement of sight distance. It's the multiple threat of having a four (4) lane arterial on a steep slope, such as the incidents that where you said, Okay, a bus was in the curb lane, blocking, shadowing

anyone in the in the left lane and that he's concerned about New Left turn movements, especially out on a four (4) lane arterial. Mr. Dannemiller said that he doesn't see how this is going to make Eagle Rock Avenue safer, especially in an area that while this application doesn't technically need to do analysis of unapproved or adjacent or nearby other applications, the traffic's already very high here and about to increase dramatically. Mr. Savage, said no that its not necessary right now.

- Tal Ben-Zvi, asked for confirmation that the latest report is dated June 4 of 2024. Last year. Is that correct? Mr. Savage said yes.
- T. Ben-Zvi, circled back to Mr. Scott's questioning about counts during holidays and if counts are done during holidays, more or less traffic than regular weekdays or Saturdays. Mr. Savage, said it depends on the depends on the holiday. Traditionally, counts are not performed on holidays as the traffic patterns are atypical, and often, occurs specifically, just for that holiday, and then it resumes normal operations. T. Ben-Zvi asked, how would he would consider Father's Day, for example, a holiday with more traffic or less traffic? Mr. Savage said, that he personally had not counted on Father's Day. T. Ben-Zvi countered for confirmation that the June 2023 count was done on June 17. Mr Savage said that is correct. T. Ben-Zvi, informed him that was, Father's Day weekend. Mr. Savage said that he was not aware that that was Father's Day weekend.
- T. Ben-Zvi questioned Mr. Savage about the 2018 count in light of Mr. Savage's testimony that counts were conducted in 2021, 2023 and 2024.
- T. Ben-Zvi then asked how a pedestrian walking on Eagle Rock Avenue could get to the restaurant safely. Mr. Savage said that you would need to cross between two handicapped spaces. Dr. Ben-Zvi asked whether you would still need to cross between cars that potentially park there. Mr. Savage said correct.
- T. Ben-Zvi asked for clarifications as the report has adjustments of the 2023 accounts, also the 2021 but let's put them aside, because that was the pandemic to 2024 numbers, this 2% mentioned Mr. Savage said yes. T. BenZvi asked for what has happened in about the year and a half that passed since then. Mr. Savage said that report was dated or submitted in June of 2024 the no build and build conditions projected a further two (2) years into the future, so it essentially added a further 2% per year. So in his opinion, the build and no build conditions are supposed to be representative of 2026, if an additional one (1) or two (2) years of growth were added on that the results of the study would not materially change.
- Chairperson Neuer, circled back to Mr. Dannemiller's question in which he asked about the intersection of Prospect Avenue and Eagle Rock Avenue being the largest in West Orange and whether he was aware of that fact before starting the reports. Mr. Savage said that he was not aware of that fact. Chairperson Neuer said so no, you didn't communicate with the county to find out about issues such as the ones raised by Mr. Dannemiller. Mr. Savage said No.

PROFESSIONALS QUESTIONS

- Ryan MacNeill asked questions related to the delivery truck circulation as that is a big concern regarding timing of the delivery truck. He asked for confirmation and an explanation that it will be outside of peak business hours, but will be conducted during business hours and if he could go over how circulation won't be obstructed specifically in those handicap spaces during delivery operations. Mr. Savage said for delivery operations, the Popeyes primary delivery is a WB 50 tractor trailer, which will happen overnight while the store is not open. Similarly, the IHOP delivery is a WB 50 tractor trailer, which is anticipated to occur two (2) times per week, overnight while the store is closed as well. There is no anticipated any impact to the the handicapped or other parking spaces while those deliveries

occur. Popeyes also does have a chicken delivery, which is via a box truck, which happens two (2) to three (3) times per week, generally, typically from 6:00 to 8:00 AM prior to the Popeyes store opening.

- No Questions from Christopher Dochney

PUBLIC QUESTIONS

- Isabelle Bise. (10 Rosney Terrace) asked do you feel being that there's only 13 feet between the opening of my street and then the Western driveway that its enough space for both vehicles to make a right turn heading towards Prospect Avenue. Do you feel like that's enough space where both vehicles will not collide? Mr. Savage answered yes and asked for clarification to her question. where both cars are making a right turn out of the driveway and Rosney Terrace at the same time. Ms. Bise said at the same time, but also, if, turning on right, does he think she will be able to see the vehicle making a right turn quick enough to slow her car down? Mr. Savage said yes.
- I. Bise asked if he factored in that in the morning with less visibility there, because there's just natural sun glare, and if this was factored into the traffic study. Mr. Savage said it was not factored in specifically. But testimony would still be the same.
- I. Bise asked a question regarding parking lot space and people double parking their cars as people get larger cars, was that at all taken into effect in the parking space. Mr. Savage said that a parking space size is consistent with township code requirements regardless of the size of vehicle.
- Kevin Malanga (Ridge Road), asked for confirmation as to whether he knew that there was construction taking place at the West Orange Plaza. Mr. Savage answered that he was not aware that there was an expansion, but was aware that some construction was taking place.
- K. Malanga continued, saying that Mr. Savage knew there was a Target being constructed, but did not take into account the additional traffic generated Mr. Savage said that he was made aware of the potential K. Malanga asked if he feels the need to amend your report now. Mr. Savage said that it can be factored into the analyzes. However, based on the results the impact of that the Target itself would really add trips to the no build scenario. So the number of trips projected would remain the same, even though, traffic volumes along Eagle Rock Avenue may change.
- K. Malanga asked for clarification that the expansion of West Orange Plaza is a potential expansion of customers for the Popeyes and the IHOP. Mr. Savage said that it would not change the trip generation for the Popeyes or IHOP in the study as that's based on nationally published data by the Institute of Transportation Engineers,
- Hussein Ismail (6 Rosney Terrace) asked for clarification on the traffic pattern coming out the development, are they making left turn from the property, going toward going west and east from the property. Mr. Savage said that utilizing the Eastern site driveway, you would be able to make both a left and a right turns out of the Western site driveway, closest to Rosney Terrace left turn out is restricted, so you would only be able to make a right turn,
- H. Ismail asked further if consideration to the speed limit in both directions was taken. Mr. Savage responded that the speed limit utilized was 35 miles per hour, which is the posted speed limit of Eagle Rock Avenue. He testified further stating that they became aware of the vertical crest within Eagle Rock Avenue along the site frontage, specifically the left turn out movement from the western driveway,

which was restricted specifically due to the location of that vertical crest and that was the reason why the left turn out of the western driveway was restricted at the eastern driveway.

- H. Ismail asked about “spill over traffic” stating that people will want to get in there while the parking lot is maximized and what happens if all the parking lot is occupied and people still want to go in there? Mr. Savage responded that based on the analysis, will not be an overflow, specifically for Popeyes, as there is the opportunity, obviously, to use the drive through, or, use a mobile order, if, the parking lot itself was full, but based on the analyzes, and, the data no expectation of a spillover is to occur.
- Emrah Altunkaya (15 Fundis Road) asked if they considered that 11-12, cars may not actually reflect the actual number of cars that would be just for the Popeyes and if people could have parked their cars in the neighboring shopping places. Mr. Savage responded counts were conducted they had an engineer on site reviewing operations, reviewing, people traveling to and from the restaurant. If there was someone that parked elsewhere and walked, parked in an adjacent lot and walked to the extent that were identifiable, those were counted as well in the report. But from discussions with those engineers, there was not a large number that parked elsewhere at an adjacent commercial lot and then walked over.
- E. Altunkaya asked if 18 seats considered in a site that requires about 15 parking spots, how many parking spots are required for 88 seats for the IHOP? Mr. Savage responded that for both uses, the Township Ordinance requires a maximum of one parking space per 45 square feet of patron area, or one parking space per three seats. So for the IHOP that broke down to 15 spaces based on square footage and six (6) spaces based on the seats. So the higher calculation of 15 spaces and then for the IHOP that breaks down to 34 spaces for the patron area square footage, and 30 spaces for the seats. He opined to say that he believes six (6) to eight (8) employees was testified to this by Mr. Bersch on the maximum shift for IHOP. But those parking calculations do take into account for both employees and patrons.
- E. Altunkaya asked how can Mr. Savage could say that 13 feet is safe. Mr Savage answered that the state requirement for distance from the edge of a property line to a driveway is actually 12 feet.
- Andrew Macleod, (19 Fundus Road) asked in terms of the stacking pattern, it was originally cited in a report that there would be 11 stacked cars, but eight (8) were shown on exhibit four, which number is most accurate? Mr. Savage said that eight (8) is correct. The reference to 11 was part of a prior site plan application, and as testified previously, the the peak stacking observed at other Popeyes locations was eight (8).
- A. Macleod asked in terms of the methodology of the three (3) locations that were selected for comparable study, what was the main driver behind selecting the other locations? Mr. Savage said they had previously studied those locations at a prior date, and also they utilized the single drive through, as mentioned, additionally, those those locations, he would say where it was feasible for us to get trip generation, parking, and queuing data from based on the driveway orientation, site layout, etc. A. Macleod followed up this question by confirming that usage was not factored in (single/double usage). Mr. Savage said correct
- A. Macleod asked if Mr. Savage feels that a site of one (1) acre with two (2) restaurants, one of them being a drive in, would be a factor in regards to size and circulation as a result? Mr. Savage said that it can be explained in a couple ways. When looking at a specific site, generally you start by looking at the size of the proposed Popeyes restaurant itself. The size proposed is 2,391 square feet is very

consistent with other Popeyes store sizes then ensure that there's adequate parking and queuing on site. But beyond that, there's always a possibility of obviously, a much larger site. But, opined further based on studies, it could have a lot of parking, so the size of the site itself as a Traffic Engineer, is not a big factor.

- A. Macleod asked in response to a question from Mr. Barbee, where he mentioned that you didn't anticipate too much in way of traffic coming from West Orange Plaza. He asked for some elaboration to clarify any misconception Mr. Savage West Orange Plaza is not necessarily residential use, where one would expect the primary new trips to come primarily from residential areas and people traveling to Popeyes or IHOP itself, the the West Orange Plaza itself, is not, use that somebody would necessarily be destined from he opined to say that he agree that there could be people that utilize the West Orange Plaza and then stop into the IHOP or Popeyes or vice versa. But generally was just referring to the residential component.

It was at this time Chairperson Neuer announced that this application ZB-22-13 MPB Realty (470 Eagle Rock Avenue) is being carried with preservation of notice to the November 20, 2025, Regular Meeting for scheduling purposes only.

Chairperson Neuer adjourned the meeting at 10:58 PM

Adopted:


Diana L. Chandler, Secretary