
MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT SPECIAL MEETING
January 22, 2026
8:00 P.M.

The West Orange Zoning Board of Adjustment held a special meeting on January 22, 2026, 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.

Ms. Kelly M. Carey, Esq., Board Attorney, read the opening statement.

ROLL CALL

Present: William Michael Barbee, Tal Ben-Zvi,
Laurence Cohen, Todd Dubovy,
Robin Miller, Philip D. Neuer,
Irv Schwarzbaum, Brent D. Scott, Alice Weiss
Absent: Michael Dannemiller (Excused), Marc Sussman (Excused)
Also Present: Kelly M. Carey, Esq., Board Attorney
Diana L. Chandler, Board Secretary
Ryan MacNeill, Consultant Engineer
Myles Elgart, Consultant Planner

Ms. Carey and Chairperson Neuer confirmed the presence of a quorum of Board Members.

ANNOUNCEMENTS

- Future Meetings:
 - February 19, 2026 (Regular Meeting)
 - March 19, 2026 (Regular Meeting)

SWEARING IN

- Township Professionals: Mr. Ryan MacNeill (Consultant Engineer) and Mr. Myles Elgart (Consultant Planner) were sworn under oath.

MOTION

- **Appoint Board Attorney, Ms. Kelly M. Carey**
Motion: Chairperson Neuer nominated Ms. Kelly M. Carey
Second: I. Schwarzbaum

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

APPLICATION

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

(Carried from 12/18/2025)

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 (470 Eagle Rock Avenue) and gave a brief summary of testimony and confirmed the dates of testimony (March 20, 2025, July 31, 2025, September 18, 2025, and October 23, 2025) and other appearances being strictly for scheduling purposes. Ms. Kinback asked for confirmation of all Board Members' eligibility to vote. In response, Ms. Chandler confirmed that all eligible Board Members were either present or that there are signed forms confirming that all who were not present listened to the testimony.
- Mr. Matthew Bersch, PE entered the record, confirmed no change to credentials/licenses, and was sworn under oath. He presented **EXHIBIT A5 – Colorized Site Plan Rendering (Dated January 22, 2026)** and explained the modifications to the rear of the property.
 - Shift of the drive-thru lane and rear bypass lane approximately three (3) feet closer to the building to increase the buffer between the outside curb line and the rear property line by three (3) feet. So that increased from 8.8 feet to 11.8 feet and this actually improved a variance condition that was requested.
 - The amount of impervious coverage was reduced from 75.7% to 75%. This improved the variance but he stated that the applicant is still requesting a variance from the maximum allowable impervious coverage requirement.
 - Shifting of trash enclosure farther to the northern section of the property away from the property line, for circulation purposes.
 - Two (2) of the proposed freestanding light fixtures in the rear of the property saved three (3) feet to follow the curb line. With this addition, there was minimal impact to the overall lighting design and light levels at the site.
 - Additional planting in the rear buffer. The additional three (3) feet allowed the applicant to provide 10 additional evergreen trees as well as three (3) shade trees in the rear of the property. In Mr. Bersch's opinion, adding those shade trees allows for a multilevel landscape design as well.

BOARD QUESTIONS

- Chairperson Neuer asked where the curbing to separate the drive thru and the building are located. Mr. Bersch said that the curb follows the east side of the building. Chairperson

asked a similar question regarding curbing but about the landscaping. Mr. Bersch said that it shows separation without interfering with the Drive Thru lane.

- R. Miller asked if there was designated delivery parking for Doordash/UberEats etc. Mr. Bersch said no. He opined that there's plenty of parking directly near the Popeye's building and doesn't think it is required to have separate stalls distinguished for services like that. While not against it and he doesn't think its necessary if that is the Board's preference that they be added, they will agree to do so.
- T. Ben-Zvi asked if additional landscaping would be added. Mr. Bersch said that in the rear, ten (10) Evergreen trees and three (3) shade trees would be added and being disbursed throughout the rear buffer.
- T. Dubovy asked if any further acoustical testing was done. Mr. Bersch said to his knowledge, no additional acoustical report was not submitted. But in his opinion, the changes were minor with only slight improvements. He was unsure if it changes the previous testimony but wanted to defer to the acoustical engineer if there were any further specific questions.
- B.D. Scott asked if drive-thru versus sit-down restaurants change any of the calculations. Mr. Bersch said no.
- L. Cohen asked if Mr. Bersch looked at the previous use for the parking lot. Mr. Bersch said that his testimony was only about impervious use.

PROFESSIONALS QUESTIONS

- Mr. M. Elgart wanted to discuss the buffers to the rear and note that the residences actually that are to the rear being in a split zone so half is in the B-2 district and the other half is in the residential district.
- Mr. R. MacNeill asked if there were issues with the circulation further south in the property. Mr. Bersch said no. Mr. MacNeill asked for confirmation that loading was the equivalent to a parking space, but it was not provided on the plans. Mr. Bersch said that is the reason the Variance was required as the loading zone is in front of the drive-thru aisle.
- In response to R. MacNeill's question, M. Elgart asked if as per the Township's code a condition of approval could be possible to include a loading space. Mr. Bersch answered in the affirmative.
- A. Weiss asked Mr. Elgart for clarification on buffers with zones that if this property was in the business district only, it would be a 20 ft buffer, but since it is partially in a residential district, it's a 50 ft buffer so which part works with this property. M. Elgart said that in the rear of the property, there are residential areas within the rear of the property that those parcels are essentially a split zone, to they have two (2) zoning codes so some of it is in the B-2 district and then some of it is in the residential district. So it's basically whether that buffer is really applicable because those properties are in two zones.

PUBLIC QUESTIONS

- Joseph Boutsikaris (22 Blackburne Terrace) asked if Mr. Bersch knows if Doordash/UberEats will be utilized. Mr. Bersch said that he was unaware.
- Hussein Ismail (6 Rosney Terrace) asked about the buffer zone/distance and if they meet the code. Chairperson Neuer said that is not the point of the application.
- Dante Spagnuolo (20 Blackburne Terrace) asked for clarification on what time of the day these businesses will be run. Mr. Bersch said that the IHOP will be open from 6:00 AM – Midnight seven (7) days a week, and the Popeye's will be open from 10:30 AM to 11:30 PM Sunday through Thursday and 10:30 AM to 11:30 PM Fridays and Saturdays.
- Emrah Antunkaya (15 Fundus Road) asked about the business zone and residential zones of the property and clarifications of the buffer zones. Mr. Bersch said that it does not

matter whether its in a commercial zone or a residential zone, but that those two (2) lots are within commercial zones. Mr. Antunkaya asked about the Rosney Terrace side. Mr. Bersch said that properties on the opposite side of Rosney Terrace are in the Residential Zone.

REDIRECT

Ms. Kinback asked about the drive up stacking lanes in the back/parking and driving aisle. Mr. Bersch said that it is a two-way circulation along the rear, only separated by the striping.

PRESENTATION

- Mr. Patrick Downey, Traffic Engineer entered the record and his credentials were accepted as an expert in the field of Traffic Engineering. He provided a brief overview on previous testimony including updates including counts from the West Orange Plaza Planning Board application (PB-21-01).

BOARD QUESTIONS

- T. Dubovy asked for confirmation that making a left turn on Eagle Rock Avenue not being problematic. Mr. Downey did as requested.
- T. Ben-Zvi asked for confirmation that there would be no problem crossing the double yellow line. Mr. Downey said there should be no problem.
- I. Schwarzbaum asked how many cars can be in the queue for the drive thru. Mr. Downey said depending on car size, approximately four or five (4/5).
- Chairperson asked Mr. Downey if he visited the site. Mr. Downey said not personally, but had traffic counters perform the counts at that location.

PROFESSIONALS QUESTIONS

- No questions from M. Elgart
- R. MacNeill asked for clarification regarding the county and whether or not the applicant has submitted for county review yet. Mr. Downey said he was aware of a pre-application meeting, but unsure if application has been made with the county yet.

PUBLIC QUESTIONS

- Joseph Boutsikaris (22 Blackburne Terrace) asked for confirmation of there being no issue making a left turn from Eagle Rock Avenue. Mr. Downey did as requested.
- Kevin Malanga (53 Ridge Road) asked while referencing **EXHIBIT A5 – Colorized Site Rendering (Dated January 22, 2026)**, after picking up their meal which direction must a vehicle turn when leaving the premises. Mr. Downey said either left or right. There is no preference.
- Emrah Altunkaya (15 Fundus Road) asked what speed is safe to enter those parking lots. Mr. Downey said that given the variety of factors he would have to look into it and get back to him as he cannot offer a specific number.
- Dante Spagnuolo (20 Blackburne Terrace) asked about confirmation of the peak business hours and making a left hand turn and the queue in the drive thru. Mr. Downey said that there should be no issue for eight (8) cars to be in the queue, just not on a regular basis.
- Hussein Ismail (6 Rosney Terrace) asked for confirmation on the traffic signal. Chairperson Neuer answered stating that any improvements to that intersection and the timing of the signals is subject to the jurisdiction of Essex County as Eagle Rock Avenue is a county road. Chairperson stated that if this application is approved is conditioned upon resolving the timing of the signals with the county.

Break 10:01 PM – 10:10 PM. Upon return from the break, a roll call was performed to confirm the presence of a quorum.

Redirect by Ms. Kinback:

- If there were any restrictions on left turns into the property on Eagle Rock Avenue between the application site and the Whole Foods traffic light. Mr. Downey said that he was unaware of any.
- If there were to be a queue at the light at Whole Foods, are those driveways closer to the intersection than the application site's driveways. Mr. Downey said yes.
- If someone wanted to make a left into one of those commercial driveways to the east of the application site, there would be approximately three (3) lanes that they would need to cross. Mr. Downey said yes.
- The access driveway is really the driveway apron. Ms. Kinback said that they would have to meet ADA requirements. She followed by asking if the county goes through a level of review and have additional requirement to meet for driveways that enter their roads. Mr. Downey said yes and that the applicants' will need to meet their driveway design criteria, including the grading of that driveway.
- Ms. Kinback asked if when the analysis was done, were the counts done at existing pick ups/drive thru numbers? Mr. Downey answered saying pickup and that the total number of vehicles were in the drive-thru totals with a maximum of five (5) eventhough this application is providing stacking for eight (8).

BOARD QUESTIONS FROM REDIRECT

- A. Weiss asked for confirmation based on the numbers, the research used was not for a combination store, just a Popeyes, Mr. Downey said yes. A. Weiss asked why no information on IHOP at all. Mr. Downey said that they have not done any research counts at other IHOPs like Popeye's but that the parking provided on this proposed site plan is sufficient to satisfy the total parking requirement for both of the businesses.
- L. Cohen asked a follow up of A. Weiss' question asking if there are any comparable statistics for a join operation of Popeye's with any other restaurant combined in one. Mr. Downey said that he's not personally aware.
- I. Schwarzbaum asked if in Mr. Downey's opinion, there were only one (1) restaurant, would the traffic diminish. Mr. Downey said it wouldn't diminish, it would just be different, though.

Ms. Kinback asked questions in redirect Mr. Downey in response to A. Weiss' questions

- What is the parking demand for the IHOP portion of the application, how many spaces? Mr. Downey said that the total requirement for the IHOP portion is 34 spaces.
- At its' maximum observed how many spaces at a Popeye's location are utilized? Mr. Downey said at the nearest locations, the demand at peak parking was 11, so by requesting 15 for Popeye's is conservative in itself.

PRESENTATION

- Mr. Michael Dick, Sound Engineer was sworn under oath and confirmed no change to his credentials.
- Mr. Dick provided testimony regarding the relocation of the buffer and the sound study.
- Mr. Dick said that in his professional opinion, the additional space and landscaping provided no impacts to the conclusions from the study or previous testimony with no changes to the total calculated sound levels. Yet, there will be a marginal improvement to the nearest property line of the loudspeaker, for the noise from the loudspeaker itself. But

that it was a relatively low contributor compared to the other sound sources on the site, the overall impact wouldn't change, the calculated total sound levels would remain unchanged.

BOARD QUESTIONS

- T. Ben-Zvi asked if the conclusions on the measurements, actual calculations, or just a prediction. Mr. Dick said that no new measurements were done but the total remains the same based on the study done since the sound from the loudspeaker and the HVAC would remain the same.
- T. Dubovy asked for confirmation that "Measurements" meant the same as "Decibels". Mr. Dick said yes. T. Dubovy asked if there were any sound measurements. Mr. Dick said that they did measurements on site for the ambient sound levels calculated for the proposed use.
- T. Dubovy asked if the studies assessed frequencies meaning the transmission of noise and sound is more than decibels, what about its frequencies. Mr. Dick said yes it was in the evaluation.

NO PROFESSIONALS' QUESTIONS

PUBLIC QUESTIONS

- Dante Spagnuolo (20 Blackburne Terrace) asked about decibels when refrigeration trucks are delivering and their exhaust notes. Mr. Dick said that he had previously testified (October 23, 2025) in reference to it.

No Redirect from Ms. Kinback was offered.

- Chairperson Neuer recalled Mr. Bersch for a question pertaining to the Environmental Impact Statement (Dated June, 2024) where there's a section on odor and the report stated that the project proposes (1) one 2,500 gallon grease trap for each of the proposed buildings/ restaurants so the proposed application will have theirs with 5,000 gallon capacity. Mr. Bersch said yes. Chairperson Neuer followed up by asking if there would be the need for more than one (1) on a site if there was only one (1) restaurant. Mr. Bersch said that is usually something generated by the EDP and the architect.

It was at this point of the meeting that Chairperson Neuer announced that application ZB-22-13 MPB Realty (470 Eagle Rock Avenue) is carried with preservation of notice to the March 19, 2026, Regular Meeting starting at 8:00 PM utilizing the Zoom platform.

Chairperson Neuer adjourned the meeting at 10:40 PM

Adopted: 2/19/2026


Diana L. Chandler, Secretary