

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING**

**April 16, 2026
8:00 P.M.**

The West Orange Zoning Board of Adjustment held a regular meeting on April 16, 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" and the "Publication Reform Act."

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

Ms. Kelly 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
Marc Sussman,
Absent: Michael Dannemiller (excused), Alice Weiss (excused)
Also Present: Kelly Carey, Esq., Board Attorney
Diana L. Chandler, Board Secretary
John Hess, Consultant Engineer
Christopher Dochney, Consultant Planner

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

ANNOUNCEMENTS

- Future Meetings: May 28, 2026 (Regular Meeting) (Not the 3rd Thursday of the month)
June 18, 2026 (Regular Meeting)
July 16, 2026 (Regular Meeting)

SWEARING IN

- Township Professional(s), Mr. John Hess (Consultant Planner), Ms. Zayibeth Carballo (Municipal Engineer), and Mr. Christopher Dochney (Consultant Planner) were sworn under oath.

MINUTES

- March 19, 2026 (Regular Meeting)

Motion: Chairperson Neuer

Second: W.M. Barbee

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

RESOLUTIONS

- ZB-24-17 Pardo Development Group Inc.

(Denied 3/19/2026)

104 Winding Way

Block: 46.01; Lot: 33

Application for C Variances for a single family dwelling was denied at the March 19, 2026, Regular Meeting.

Motion: Chairperson Neuer

Second: L. Cohen

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

APPLICATIONS

- 1.) ZB-25-12 Pullman (12 Knollwood Drive)

Block: 161.06; Lot 21; Zone: R-4 Residential

The applicant proposes to construct a new reading room and deck in the rear of an existing ranch style single family home with a two-car garage. The property's existing rear yard setback does not conform to the R-4 bulk requirements. A bulk variance is required for a continuing encroachment into the required rear yard setback.

PRESENTATION

- John & Myra Pullman entered the record, were sworn under oath, and confirmed their role in the application as being the property owner. They confirmed that they will amend the application with their signatures, then explained that the purpose of this application is for construction of an all season sunroom to be used as a reading room. They explained that they had a 3-season porch in the rear of their old home, and they missed it.

- William Figdor, AIA entered the record as an expert in the field of Architecture on behalf of the applicant. His credentials were accepted, and he confirmed receipt of both memos from the Consultant Planner (dated - January 15, 2026) and Municipal Engineer (dated – January 15, 2026).
- Mr. Figdor testified that they are reducing the size of the deck and balancing the look of the doors and windows in the rear. The roof line will match the existing. He testified that all other bulk requirements are met.
- Mr. Figdor confirmed that a note will be added to the plans stating that any disturbed area of the yard will be restored with landscaping. He will also add the location roof leaders and down spouts to the plans. He will add a note that no soil moving is needed, indicate the limit of disturbance on the plan and add signature blocks. The Applicant also agreed to provide an as-built plan when complete.
- Some components that Mr. Figdor mentioned this application site are having cathedral ceilings, rear yard setback, and a rear tree to remain so as not to be hindered by the deck. It is a nonconforming use, and rear yard setbacks are the only variances required/requested.
- J. & M. Pullman confirmed that they will be adding plantings and preserving the trees on the site.
- Chairperson Neuer requested that the plan revisions be made and provided to the Board. He further advised that a memorializing resolution will not be voted on until the revised plans are provided and reviewed.
- Chairperson Neuer said that all agreed to revisions and the amendment to the application in order to have the Resolution be adopted need to be in the possession of the Board Secretary ten (10) days prior to the May 28, 2026, Regular Meeting (May 18, 2026).

BOARD QUESTIONS

- I. Schwarzbaum asked for confirmation that this project is an improvement to the property. Mr. Figdor said yes.

PROFESSIONALS QUESTIONS

- No questions from C. Dochney.
- Z. Carballo said in response that steep slope calculations are needed and asked for confirmation of the land being flat. In response to questions from the Township Engineer, he testified that, although he is not an engineer, it is easy to observe that the lot is very flat and there are no slope issues. He agreed to add a note that states there is no disturbance to steep slopes. He also testified that there is a large tree in the back that will remain, and no trees will be removed.

NO PUBLIC QUESTIONS **NO PUBLIC COMMENT**

CONDITIONS:

- The Applicant shall comply with the comments in the Board's Engineering Review Report dated January 15, 2026 and the comments in the Board Planners Report dated January 15, 2026 and the conditions agreed to at the hearing, to the extent not otherwise stated herein; including (a) any disturbed area of the yard will be restored with landscaping, and (b) an as-built plan will be provided to the Township when construction is complete.

- This approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent that same are not inconsistent with the terms and conditions set forth herein.
- This approval is for the variances stated herein only, the Applicant shall be required to obtain all building permits and other approvals as may be applicable prior to beginning construction.
- The Applicant shall comply with all Federal, State, County and Township statutes, ordinances, rules, regulations and requirements affecting development in the Township, County, and State, including but not limited to the June 2024 Municipal Tree Ordinance, Essex County Planning, and Hudson Essex Soil Conservation District requirements.
- The Applicant shall be bound by all the evidence, including documents and testimony presented by the Applicant at the Public Hearing.
- Pursuant to Sections 25-48.10(a) and 25-48.10(c), of the Ordinance, the variance relief granted by the Board and identified herein shall expire within two (2) years and one (1) day from the date of publication of a notice of the granting of such relief in either the official newspaper of the Township of West Orange or a newspaper of general circulation in the Township, unless, before the expiration of said two (2) year and one (1) day period, either (i) a building or construction permit is secured and issued or (ii) the actions authorized hereby have been commenced.

Motion: Chairperson Neuer
Second: R. Miller

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

2.) ZB-22-13 MPB Realty (470 Eagle Rock Avenue) (Carried from 3/19/2026)

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

470 Eagle Rock Avenue

Application for Preliminary and Final Major Site Plan Approval with D Variances

PRESENTATION

- Ms. Danielle Kinback, Esq. entered the record on behalf of the applicant, provided a brief summary of previous testimony and information on an eCode error ordinance to remove a variance request.
- Nicholas Longobardi, Director of Operations with Franchise Group (Popeyes) entered the record and was sworn under oath.
- Nicholas Longobardi and Chairperson had an exchange pertaining to Popeyes' operating approximately 290 stores nationwide, with 32 in New Jersey; not all have drive-throughs.

- Drive-throughs are considered to increase profitability and operational success compared to non-drive-through locations.
- Drive-through operations require more training and equipment management but are not inherently more complicated.
- Mr. Longobardi explained that typical peak hours are lunchtime (mild) and dinner rush (heavier) and at average the daily transactions at comparable locations are about 100 to 120; exact car counts for drive-throughs are not specified. He explained that wait time from order to pickup at the drive-through is targeted at 180 seconds (3 minutes).
- In Mr. Longobardi's opinion, there is adequate stacking space for cars, with provisions for pull-up parking spaces to avoid congestion. Elaborating further that promotions which could cause significant delays (e.g., K-pop collectible giveaways) are not planned at this location.
- Mr. Longobardi explained that he is unaware of specific market studies or competition in the immediate area. Reiterating that he had no direct involvement in site selection or traffic studies.

BOARD QUESTIONS

- R. Miller asked if Mr. Longobardi ever visited the site. He answered, no. Ms. Miller asked what the pro/cons are of operating a drive thru with details. Mr. Longobardi said that it was in reference towards a standalone stall without a drive-through and a drive-through just being in his opinion, dealing with a drive-through, the drive-through itself is not a con, it's more because of the equipment and lineup being a bit differently and the typical staffing for drive-through has more training involved, where as a non-drive- thru store, the same training methods are not focused and utilized.
- L. Cohen asked about the issue of "stacking cars" on the property. Mr. Longobardi said that he believes it not to be an issue.
- T. Ben-Zvi asked for particulars having to do with the locations in Union, NJ, Toms River, NJ, and Paramus, NJ having drive-thrus.
- T. Dubovy asked in regards to the distance from order board and the property boundary and of he is aware of what the footage is between the board and the rear boundary property line. Mr. Longobardi said that he did not have that exact information.
- Mr. Dubovy asked whether or not during a late summer night if the property owner behind the application site will be able to hear the sound coming from the order board in the rooms inside their house. Mr. Dubovy was reminded by Ms. Kinback that there was an acoustics engineer who testified to the sound impacts from the ordering board.
- B. D. Scott asked if there was a study conducted to determine what type of traffic expected for the drive thru. Mr. Longobardi said that the information requested is outside of his scope of information.
- Mr. Scott asked if there are any Popeye's with drive-thrus in residential locations. Mr. Longobardi said that he would have to look that up as he doesn't have exacts on that but that there are 32 locations in New Jersey with drive-thrus but from what he believes, they are all on highways not in residential areas.

PROFESSIONALS QUESTIONS

- No questions from Z. Carballo
- No questions from J. Hess
- C. Dochney asked what promotions might do to parking/traffic for the application site. Mr. Longobardi said that collectible items, those locations are hand-selected by Popeyes, and we come into agreements with them about which location we'll be doing that. So, at this location it just prefers not to have something like that.

PUBLIC QUESTIONS

- Kevin Malanga (57 Ridge Road) asked if speed and efficiency are the goal? Mr. Longobardi said yes.
- K. Malanga asked if he knew the number of trips on average. Mr. Longobardi said with peaks during a day approximately 100 to 120 per day.
- Sally Malanga (57 Ridge Road) asked if there would be a smell from the proposed site. Ms. Kinback answered, stating that there was an architectural expert who testified previously regarding the kitchen equipment and that there will be nominal impact, and that the company will comply with all odor requirements at the state and town levels if they have any. But in Mr. Longobardi's opinion, Popeye's has state of the art equipment that suppresses the odors from escaping, which would be an improvement over what was operating at the sit down restaurant that previously occupied the site.
- S. Malanga asked about the treatment of food waste and how it will affect the residents of this facility. Mr. Longobardi said that there was no general raw waste that is being thrown out that when it comes to cooked product that is being thrown out, the technology in place between prep charts, hold times based on sales, are pretty accurate with what's being used.

Break 9:21 PM – 9:33 PM

Upon return from the break, the Chairperson requested a roll call and the presence of a quorum was confirmed.

PRESENTATION

- Ms. Mallory Clark, Professional Planner entered the record, was sworn under oath, and confirmed of no change in credentials from her previous appearance before this Board.
- Ms. Clark's testimony focused on the project's compliance with zoning standards, variances, and land use policies, presenting revised plans **Exhibit A7 (dated – April 16, 2026)** in that she spent time detailing the changes from Exhibit A6, the variances, curbing/leading (along the drive thru lane), and the lighting (with .06 candles), including updated variances and site modifications.
- She explained that the application addresses multiple variances, including those related to drive-thru operations, impervious coverage, and signage. - The project proposes 64 new trees, exceeding the required 22, and includes landscape buffers to mitigate environmental impacts.
 - Variances for front yard parking, curb placement near structures, and signage area and number were justified based on site context and aesthetic considerations.
 - The application aims to improve the visual environment, promote redevelopment, and align with the township's master plan objectives.
- Ms. Clark argued that the project would not substantially impair zone intent or public good, citing traffic safety and corridor character improvements.
- She explained that there are 500 feet measurements from building to building and curbcuts to curbcuts.
- She explained that the minimum 5-acre lot size variance was withdrawn.

- She explained that the application complies with the criteria of the drive-up window ordinance, which covers not only fast food but also banks and pharmacies.
- The tree replacement requirement was recalculated to 22 trees required (down from 40+), with 64 trees proposed, exceeding requirements.
- Ms. Clark explained that relief being sought for:
 - Parking in front yard/front side yard (allowed by variance due to corner lot and existing conditions).
 - Curbing within 5 feet of structure for safety near drive-through window.
 - No dedicated loading space, with loading planned during off-hours.
 - Signage: proposing 7 signs totaling 229 sq. ft., exceeding the 120 sq. ft. permitted; largest individual sign is about 48 sq. ft.
 - Lighting: parking area lighting dips below the 2-foot-candle minimum in some areas (lowest 0.6 foot-candles) to reduce light pollution, mitigated by landscape buffers and solid fencing.
- Ms. Clark highlighted that the application advances multiple purposes of municipal land use law, including promotion of general welfare, a desirable visual environment, and economic development compatible with the suburban character.
- In her opinion, the site design provides adequate queuing for drive-through traffic and safe circulation.
- Ms. Clark referenced a comparable existing Popeyes in East Orange being located on county roads adjacent to residential properties, offering suitable comparisons.
- The planner acknowledged that some ordinance interpretations (e.g., 500-foot spacing between fast food uses) were done conservatively but confirmed that site distances and safety measures are adequate.

BOARD QUESTIONS

- W.M. Barbee asked about the lighting in the rear signage and if there is a time that it goes out. Ms. Clark said that she believes its from previously testified signage. To which Mr. Barbee said that he withdrew the question.
- L. Cohen asked for the name of the tree expert utilized expertise behind the tree expert's report and if they had visited the site, noting trees marked as dead in his opinion appeared healthy.
- T. Ben-Zvi asked (using A7 as a reference) about the distance to the building From Jersey Mike's to the building was 320 feet, correct? Ms. Clark said that from building to building, and then from curb cut to curb cut, it's 325 feet. Dr. BenZi referenced page 3 in the report submitted that the driveway on the subject property serving the fast food use is located approximately 360 feet from the driveway to a shopping center housing the Jersey Mike's and Chipotle and how those calculations occurred. Ms. Clark said that there are two (2) kind of metrics and that they were trying to be conservative. The 325 feet gets to the curb cut for the other property. But that's actually just the turnout lane. So if it was measured to the turn-in point for that property, it's actually closer to 425 feet. So it ranges depending on how that measurement is being cut. The Ordinance doesn't specify exactly, but if you want to go egress to egress, it's closer to 425 feet, so that 360 was probably pulled just from the midline of the median.

PROFESSIONALS QUESTIONS

- C. Dochney confirmed that granting a variance to allow fast food restaurants within 500 feet of others could create a nonconforming use, but case law supports that this is an acceptable conditional use with proper impact mitigation

NO PUBLIC QUESTIONS

It was at this time that Chairperson Neuer announced this application ZB-22-13 MPB Realty (470 Eagle Rock Avenue), will be carried with preservation of notice to the May 28, 2026, Regular Meeting via the Zoom platform. This will be put on the schedule, understanding that the applicant would like a Special Meeting considered. Ms. Kinback waived the statutory time period for this application.

Chairperson Neuer adjourned the meeting at 10:58 PM

Adopted: 5/28/2026



Diana L. Chandler, Secretary