MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
OCTOBER 15, 2026
8:00 P.M.

The West Orange Zoning Board of Adjustment held a regular meeting on **October 15,2026**, 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, Michael Dannemiller, Todd Dubovy, Robin Miller, Philip D. Neuer, Irv Schwarzbaum, Brent D. Scott, Marc Sussman, Alice Weiss

Also Present: Kelly Carey, Esq., Board Attorney
Diana L. Chandler, Board Secretary
Ryan MacNeill, Consultant Engineer
Christopher Dochney, Consultant Planner
Michael Davis, Consultant Planner

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

ANNOUNCEMENTS

- Future Meetings: October 29, 2026 (Special Meeting)
  November 19, 2026 (Regular Meeting)
  December 17, 2026 (Regular Meeting)

- Upon request of the applicant, Ms. Erica Parlavecchio Esq, entered the record on behalf of **ZB-25-10 Seton Hall Preparatory (700 Prospect Avenue)** and asked to be being carried with preservation of notice to the **November 19, 2026, Regular Meeting** via Zoom. Chairperson Neuer agreed and informed that this application despite its efforts to work with an objector's counsel (Mr. James Turteltaub Esq.) must either be ready to present or withdraw the application without prejudice and start over/reapply.

SWEARING IN

- Township Professional(s) Christopher Dochney (Consulting Planner), Michael Davis (Consulting Planner), and Ryan MacNeill (Consultant Engineer) were sworn under oath.

MINUTES

- **September 17, 2026, Regular Meeting**
  Motion: Chairperson Neuer
  Second: R. Miller

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

- **September 17, 2026, Executive Session**
  Motion: Chairperson Neuer
  Second: R. Miller

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

RESOLUTIONS

- **ZB-26-02 Rhode** **(Approved 9/17/2026)**
  13 Porter Road
  Block: 175.24 ; Lot: 3; Zone: R-6
  Application for C Variance for building addition was approved with conditions at the September 17, 2026, Regular Meeting.
  9-18-2026 Response- to Municipal Engineer - R. Vollmar
  9-2026 - Site-plan-Updated - F. Cunha

  Motion: Chairperson Neuer
  Second: A. Weiss

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

- **Adopt 2027 Meeting Schedule**
  Motion: Chairperson Neuer
  Second: W. M. Barbee

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

- **Contract for Zoning Board of Adjustment Attorney**
  Motion: Chairperson Neuer
  Second: I. Schwarzbaum

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

Notes: Prior to the vote, Mr. Scott asked if this is crucial since with the election of new mayor/council etc is coming. Board Attorney, Ms. Carey said that this is actually for 2026 and she has been working without a contract which needs to be taken care of.

- **Resolved that the Board adjourn to an Executive Session to discuss a matter involving litigation.**

Motion: Chairperson Neuer
Second: I. Schwarzbaum

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

Executive Session 8:11PM – 8:51 PM

Upon return from Executive Session, Chairperson Neuer had a roll call performed and a quorum was again confirmed.

APPLICATIONS

1.) **ZB-26-03 - WO Plaza**
235 Prospect Avenue
Block:152.01 Lot: 1445 &14485.05
Zone: P-C
Interpretation of the Zoning Code's definitions for "fast food restaurant" and "restaurant" and the addition of a definition for "fast casual restaurant," in order to permit several proposed food establishments in the Planned Commercial (P-C) Zone.
10-1-2026 - Property-owner-notice - G. Meese Esq.
8-17-26 - PO-list-blk-15201-lot-1445-and144505-81726 - Used For Mailing
10-2-2026 - Certified-mail-receipts
10-1-2026 - Affidavit-of-Publication
10-2-2026 - Aff-of-mailing - J. Gutierrez
9-15-2026 - Planning-Review - M. Apte
8-18-2026 - VERIFICATION-OF-TAX-AND-SEWER-CHARGES-PAID
8-17-2026 - 200 Ft Radius Map
7-30-2026 - Interpretation-submission- G. Meese

PRESENTATION

- Mr. Greg Meese Esq., entered the record and explained that this application is for a Major interpretive hearing: fast food vs. restaurant. An interpretation request concerns West Orange Zoning Code Section 25-4: "fast food restaurant" versus "restaurant." The applicant (owner/developer) states the three contenders are not fast food under the five (5) conjunctive criteria.
    - Five (5) criteria for fast food restaurant (ready to eat, short waiting time, counter ordering, disposable packaging, seating with less than 15 slots) are debated against the open-assembly-line models of Just Salad, honeygrow, and Cava.

- Mr. Rafael Butler, VP of Operations/Construction & Design, Just Salad entered the record and was sworn under oath.
- Mr. Butler explained that Just Salad is assembly-line preparation, disposable packaging largely for takeout, minimal to-go percentage, 26-seat capacity, and a core instruction that meals become ready to eat after personal assembly.

BOARD QUESTIONS

- Chairperson Neuer asked when an employee hands the food to the customer, if it is ready to eat. Mr. Butler said yes.
- I. Schwarzbaum asked about marketing in the terms of fast food, fast casual restaurants criteria continuing as an example that at Just Salad, the kale, lettuce, and chicken is cut up ahead of time. Mr. Butler said yes.
- Mr. Schwarzbaum asked if the food is customized to the customers. Mr. Butler said that it is prepared but not ready to eat yet. It is ready to eat when it is assembled.
- Mr. Schwarzbaum asked about the short waiting time and what the average waiting time is from when a customer places the order to when it is complete. Mr. Butler answered that it really depends on the customer experience. If they want to sample food, if they want to try things, if they want to taste things as they go down the line. If they know what they want, and they're just picking their items, it could be 3 to 5 minutes, it could be 7 to 10 minutes, depending on how they want their experience to go.
- Mr. Schwarzbaum asked about the method of placing their order (person at counter or kiosk). Mr. Butler said that a person walks up to the counter, you place an order with an individual, one of our staff members, and they walk you through the whole process. So, you have one person dealing with you the entire time. That person will serve you from asking you what you need, whether it's a bowl, salad, or more. They'll create with you as you walk down the line and pick your items. They'll bring you to a dressing station, they'll toss it, they'll dress it, they'll ask if you want some fresh bread with it, and then they'll walk you down to the register, and then you pay afterwards.
- Mr. Schwarzbaum asked about products, whether the materials they serve with is disposable, and if Just Salad only offers product in a bowl, or in some takeout container? Mr. Butler said that the customer can get it in a takeout container but for eating onsite, a disposable bowl as well is available.
- Mr. Schwarzbaum asked what percentage of Just Salads is takeout. Mr. Butler answered that probably anywhere from 17% to 20% is takeout.
- R. Miller referenced previous Planning Board applications for Chipotle and Jersey Mike's and if they were considered a restaurant or fast food. Mr. Meese answered that if they were considered fast food they would have appeared before the Zoning Board, not the Planning Board as fast food is not permitted in the zone. In response to these comments, Consultant Planner, Mr. Dochney said that he doesn't know the history of how Jersey Mike's next to the Whole Foods got there as he was not involved in that, but when the Popeyes was before this board over the last several years, the fact that the Jersey Mike's was within 500 feet of the Popeyes, we had considered that a fast food restaurant. That was one of the conditional use variances that was required at the time. So at least this board did treat Jersey Mike's for that particular application that was seen as a fast food restaurant.
- B. D. Scott asked if Mr. Butler knows where locationwise Just Salad will be located. Mr. Meese answered for Mr. Butler stating that it would be in Building C, next to honeygrow.
- T. Ben-Zvi said for some clarification about the food and whether or not Just Salad sells ready to eat food. Mr. Butler said no.
- T. Dubovy asked what the bowl that is onsite for people staying to eat. Mr. Butler said that it is made of sugarcane fibers and bamboo and are currently disposable.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Kevin Malanga (Ridge Road) asked about the location in the building this business is going to be in. Mr. Butler said that is going to be on the left side with enough space for a drive thru. Mr. Malanga followed up asking if a drive thru will be on the premises. Mr. Butler said that he believes so. Mr. Malanga asked how one can order from the establishment thru the drive thru. Mr. Butler said that there would be a menu board that they would order from and pull up to the window.
- Mr. Malanga asked about particulars having to do with bowls. Mr. Butler siad that they have reusable bowls but not all of the ones used for serving. There is a reusable bowl program where customers can bring back a reusable bowl (that they will have to purchase) and they will receive a free item to save plastic.
- Michaela Bennett (Old Indian Road) asked about the comparisons between the proposed Just Salad and existing Chipotle. Mr. Butler said that it is almost identical. Ms. Bennett asked if the packaging is more environmentally friendly than the current Chipotle packaging. Mr. Butler said yes that Just Salad is all about sustainability and recycling.

No redirect was offered for this witness by Mr. Meese.

Break 9 :35 PM- 9 :45 PM

Upon return from break, Chairperson Neuer had a roll call performed and a quorum was again confirmed.

PRESENTATION

- Ms. Jennifer Leonard, Senior Real Estate Manager of honeygrow entered the record and was sworn under oath.
- Ms. Leonard explained that honeygrow have stir-fry bowls, salads and honey bar from scratch assembled to order on a live line with a kiosk, utilizing reusable serveware for dine-in, disposable packaging for takeout, with about 33 seats, and variable wait times depending on peak periods.

BOARD QUESTIONS

- Chairperson Neuer asked referencing the website about the featured items on there being in takeout containers. Ms. Leonard said that it is mainly for a more "Instagrammable" sort of visual but the takeout containers are a higher quality compostable takeout containers. Dine in meals are not served in takeout stir-fry boxes. But only 30% of orders are on a third party platforms meaning 60% of orders are in the restaurant.
- T. Ben-Zvi asked a question about ready to eat food and if the customer is going to need to take any action in order to eat the food once its received. Ms. Leonard said no, that when the customer receives their prepared meal it is ready for them to then eat.
- B. D. Scott asked if there is a drive through component for this location. Ms. Leonard said no.
- R. Miller asked how many seats are proposed for this site. Ms. Leonard answered stating that there will be 33 seats at this establishment.
- W. M. Barbee asked for confirmation of how long the wait will be to get their meal and how large the waiting area is going to be. Ms. Leonard said that unless the order is takeout, that person would be waiting at their table and when food is ready they would go and get it and bring to their table.

- I. Schwarzbaum asked questions about placing the order at the counter and confirming that the food was cooked to order according to the customers' needs. Ms. Leonard answered in the affirmative. Mr. Schwarzbaum asked how the order is made. Ms. Leonard said that it is at a kiosk or in an app.

NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Michaela Bennett (Old Indian Road) asked about the designation of the definition for fast food /restaurants and when it was established in code. Chairperson Neuer answered stating that it goes at least as far back as 1988 as an amendment to an Ordinance that was adopted in 1975 and 1976.
- Ms. Bennett asked where can you rest your bag while food is being pulled from heat lamps that's already been prepared. Ms. Leonard said that it is very similar to Cava and Chipotle where you can see everything that's going on in the kitchen. Ms. Bennett in the same line of questioning asked if that is the distinction between that and what we would consider a traditional counter that is in any fast food restaurant. Ms. Leonard said that she agrees.
- Kevin Malanga (Ridge Road) asked what materials the eating utensils are made of. Ms. Leonard said that she believes that they are made of compostable bamboo and are disposable. In the same respect Mr. Malanga asked what the drinking vessels are made of. Ms. Leonard said that they are disposable clear plastic cups.

Mr. Meese offered redirect of this witness asking about the plates food is served on being made of a hard plastic that is reusable. That the staff onsite collects them when guests are finished with their meals and take them in the back for washing and sanitation.

PRESENTATION

- Mr. Jason Del Pesce, Design Manager and Ms. Elizabeth Shento (Paralegal) of Cava entered the record and were sworn under oath.
- Ms. Shento explained that Cava is Mediterranean bowls with a front-of-house serve line, customizable ingredients, largely on-site preparation, reusable serviceware for dine-in, disposable for takeout, with 54 seats, and a pickup window for online orders.

BOARD QUESTIONS

- I. Schwarzbaum asked for confirmation on seating capacity. Ms. Shento answered 54 seats.
- Mr. Schwarzbaum asked if there is going to be a traditional drive through. Ms. Shento said that there is going to be a pick up window and there is a distinction in the difference. That is it is not like McDonald's where the order is made at the window, a person would drive through the lane tell them their name from the online order and someone on staff will bring it to the window. Mr. Schwarzbaum then asked if someone came into the building what the ordering procedure for picking up would be. Ms. Shento said that it would be similar to Just Salad and honeygrow where they will walk through a service line, customize their meal, and pay at the end of the line with a team member taking their order.
- B. D. Scott asked relating to the pick up window if when automobiles are in queue how many do they anticipate being there at one time. Mr. DelPesce said that since it is pickup only, they anticipate only two (2) at a time since the orders are placed in advance, and they have a scheduled pickup time. Mr. Scott asked as a follow up about timing needed to prepare a meal for pickup. Mr. DelPesce said that they give an average of 15 minutes. Mr.

Scott asked what percentage of business is done through the pickup window. Mr. DelPesce said that it is not something at every restaurant and is a very small part of Cava's deliverables but it is about 25%.

- T. Ben-Zvi asked if a customer dines in what they do with the dishes after they are done. Mr. DelPesce said that they have a full-service dishwashing station in the back of house with a commercial dishwasher.
- T. Dubovy asked if the steak and salmon served is already cooked/chopped up and just placed on the bowl or do they have to be cooked once the customer orders it. Mr. DelPesce said that they try to prepare for the volumes that are coming into the restaurant so that it is readily available but there are circumstances especially with salmon where you have to wait for it to be cooked.

No PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Michaela Bennett (Old Indian Road) asked if this restaurant model is similar to bringing the line out in front so that as the customer walks down the line there is not a traditional counter, but rather a line for them to proceed and let the staff member know what they want added to that bowl. Mr. DelPesce said yes to all of the above ending with a point of sale.

PRESENTATION

- Mr. Edward Vasconcellos, Leasing Agent from Levin Management entered the record and was sworn under oath.
- Mr. Vasconcellos explained that the center's goal: bringing upscale, diverse, non-fast-food tenants, with other non-restaurant amenities are being planned to diversify the West Orange Plaza.

BOARD QUESTIONS

- Chairperson Neuer asked what studies Mr. Vasconcellos did in order to determine whether or not these restaurants tonight would be considered a fast-food restaurant. Mr. Vasconcellos answered saying that his understanding of fast food is Taco Bell, McDonald's, Popeyes etc. with their business model predicated on 80% to go.
- T. Ben-Zvi asked if there was an addendum to the application stating that in this application the owner seeks interpretation that Cava, Just Salad, honeygrow, and similar fast casual restaurants where the company he works for. Mr. Vasconcellos said that he is unsure.
- R. Miller asked if this property is adjacent to any other county land. Mr. Meese answered saying, no. Ms. Miller followed up asking if it is adjacent to a state highway. Mr. Meese said no.
- L. Cohen asked if there was a thought of not having a drive through for Just Salad as in his opinion it morphs into a fast-food restaurant when you have a drive through with an order board. Mr. Vasconcellos said that there are elements of this that are not ultimately approved by the Township. But this application allows for greater circulation throughout the property. It allows greater accessibility to the community members that are in need of accommodations where adding a drive thru offers a greater variety than a lot of full-service sit-down dining establishments.
- I. Schwarzbaum asked for clarifications between fast food and fast casual establishments. Mr. Vasconcellos said that he hasn't made the distinction necessarily about fast casual restaurants. But added that the distinction between Jersey Mikes and a traditional fast food restaurant is that they prepare their meals like you would get at a deli where they make meals to order.

No PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Kevin Malanga (Ridge Road) asked if Mr. Vasconcellos is involved in negotiating the leases with tenants. Mr. Vasconcellos said that to the extent that he is involved with negotiating the business aspects of the lease, but that legal counsel negotiates the leases themselves. Mr. Malanga asked is there is a provision in the lease with these proposed tenants that requires them to comply with the township ordinance with respect to not being a fast food restaurant. Mr. Vascancellos said that the uses themselves are defined as prototypical restaurant use. to each of the tenants so the compliance itself is a predicated on the compliance factor with all governmental requirements that they would need to be able to operate a business.

It was at this point in the meeting that Mr. Robert Gaccione Esq., entered the meeting on behalf of his client, ZB-25-11 Perez (66 Whittlesey Avenue) and requested an adjournment to the next available meeting. Chairperson Neuer agreed to carry this application with preservation of notice to the December 17, 2026, Regular Meeting via Zoom.

PRESENTATION

- Mr. John McDonough, Professional Planner entered the record, was sworn under oath, and credentials were accepted as an expert in the field of Professional Planning.
- Chairperson Neuer and Mr. Meese discussed the fact that there is no Planner's Report, that Mr. McDonough's testimony will be based upon the applications that have been submitted. That in terms of an interpretation, a planning report is not required.
- Mr. McDonough said that the five criteria must be satisfied conjunctively; all three brands, by their stated processes, fail to meet "ready to eat" as defined, since preparation occurs after customer input, not pre-made, instantaneous items.
- The discussion includes concerns about drive-throughs, open kitchens, and the evolution of fast casual since 1988, as well as potential Planning precedents and Master Plan alignment.

BOARD QUESTIONS
NO PROFESSIONALS QUESTIONS

PUBLIC QUESTIONS

- Michaela Bennett (Old Indian Road) asked about the sign that would be on display and whether the applicant is willing to work with the Planning Department to help put it into effective use. Mr. McDonough said yes, of course they would.

PUBLIC COMMENT

- Michaela Bennett (Old Indian Road) stated approval for these restaurants to be approved and confirmed that the Ordinance needs a complete revision.
- Justin Goldsman (Moran Road) stated approval for this to be approved.

BOARD DISCUSSION

- The Board signals a pending decision on interpretation, with the Planner's testimony and the witnesses' clarifications guiding final determination. The hearing demonstrates the tension between traditional definitions and modern, fast-casual restaurant operations, underscoring the necessity of applying the ordinance's current language while considering evolving industry practices. The session concludes with ongoing deliberation, additional questions, and anticipation of a formal interpretation ruling.
- Overall, the proceedings emphasize procedural rigor, expert planning input, and the struggle to categorize contemporary eatery concepts within a decades-old code framework.
- If needed, future updates will follow the board's final interpretation and any resulting permit issuances, adjusted to reflect this nuanced analysis.

Motion to Approve On the proposition that if a restaurant is determined not to be a Fast Food Restaurant, then by default it is Restaurant under the West Orange Code.: Chairperson Neuer
Second: W. M. Barbee

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

Motion to Approve CAVA is not a Fast Food Restaurant: Chairperson Neuer
Second: B. Scott

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

Motion to Approve HONEYGROW is not a Fast Food Restaurant: Chairperson Neuer
Second: B. Scott

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

<u>Motion to Approve JUST SALAD is not a Fast Food Restaurant</u>: Chairperson Neuer
<u>Second</u>: A. Weiss

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

Chairperson Neuer adjourned the meeting at 11:27 PM

Adopted: 11/19/2026

Diana Lyn Chandler

Diana L. Chandler, Secretary