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November 27, 2024

Via email: ptriolo@bittigerelias.com

Priscilla J. Triolo, Esq.

Bittiger, Elias, Triolo & Diehl

12 Route 17 North, Suite 206

Paramus, New Jersey 07652

RE: The WayMaker, LLC
40 Eagle Ridge Way
Block 106, Lot 2003

Dear Ms. Triolo:

It has been brought to my attention that on behalf of your client, The WayMaker, LLC, you served notices of "Default Approval" upon the neighbors of the above referenced property and published the Notice of Default Approval in the Star Ledger on November 22, 2024. I am the attorney for the Planning Board of West Orange and have now had the opportunity to review the application that you submitted to the Planning Board Secretary.

The application submitted is not complete and therefore your request that the default approval be certified by the Board Secretary is denied.

The plan shows a retaining wall "under construction" which is known to be over eight feet in height and found to be violative of the Township Ordinances as per the ruling of the Essex County Construction Board of Appeals in July of 2024 (attached is the decision of the Board dated July 16, 2024). You and your client were made fully aware that the wall requires a variance as it is in violation of West Orange Ordinance 25-8.4a. Therefore, as the application failed to include the required variance relief (or pay the fees associated with the required variance), this application continues to be incomplete. (Please see West Orange Code, §25-51.2(j) which requires "A listing of all variance requests, waiver requests of miscellaneous design standards and checklist waiver requests.")

In addition to the variance for the unusually high wall (only a four (4') foot wall is permitted by Code without a variance, where here the wall is double the permitted height), the project also requires a soil movement permit (which you also fail to indicate on the application.)

Finally, I note that any failure to act by the Planning Board was technical or inadvertent, and there was no intentional delay or inattention to the application. Moreover, the public interest here weighs far more heavily against automatic approval than does the Board's arguably late determination. Finally, the proposed project should be reviewed by the Planning Board and its experts, especially as to storm water management and drainage which may present an unreasonably adverse impact upon the area if not correctly constructed. For the health and safety of the residents in the area of 40 Eagle Ridge Way this matter should receive a full review and hearing before the Planning Board.

We reserve all rights and remedies concerning all aspects of the project and the pending application.

If you have any questions with respect to these deficiencies, please contact me to discuss. I am happy to assist you in your efforts to complete the application so that the matter may be properly scheduled before the Planning Board.

Thank you.

Very truly yours,



DIANA POWELL MCGOVERN, ESQ.
E-mail: dmcgovern@gpmlegal.com

CC: Richard Trenk- rtrenk@trenkisabel.com
Jamilet Baquerizo Vite – jvite@westorange.org

CONSTRUCTION BOARD OF APPEALS ON APPEAL
OF 40 EAGLE RIDGE WAY, WEST ORANGE, NJ 07052

Premises: 40 Eagle Ridge Way, West Orange, NJ 07052

Notices/Orders

Appealed: Notice and Order of Penalty and Stop
Construction Order

Date of Inspection:

Appearances

For Appellant: Priscilla Triolo, Attorney

Appearances

For Municipality: Richard Trenk, Attorney, Tom Biondi,
Construction Official

Board Members

Participating: DeTrollo, Grenci, O'Connor

WHEREAS, the above appeal was heard by a three-member Board on July 16, 2024 and the Board having heard testimony from the witnesses and having reviewed all written submissions by the parties, now makes the following findings;

1. This appeal is from a Notice and Order of Penalty issued by the Township of West Orange for work without a permit i.e., in violation of the Uniform Construction Code for which a Stop Construction Order was issued pursuant to N.J.A.C. 5:23-2.31(d). A West Orange official issued the violation. An immediate monetary penalty of \$2,000.00 was assessed.
2. Mr. Biondi testified that a retaining wall was built without a permit.
3. The Appellate contended the wall was a temporary necessity.

WHEREAS the Board finds the evidence to be both credible and persuasive that work was done without a permit.

NOW, THEREFORE, BE IT RESOLVED by unanimous vote of the Essex County Construction Board of Appeals with that the violation shall be upheld and the penalty of \$2,000.00 be upheld.

The foregoing action was duly taken by the Essex County Construction Board of Appeals On July 16, 2024 and this formal resolution was adopted by the Board on August 20, 2024.

A handwritten signature in dark ink, appearing to read 'Dan DeTriolo', is written over a horizontal line.

Dan DeTriolo, Acting Chairman