

**DRAFT
MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
March 12, 2025 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on March 12, 2025, at 7:30 P.M. via virtual ZOOM videoconference.

Chairman Bagoff called the meeting to order at approximately 7:30 P.M. He announced that notification of the meeting was given to the Township Clerk, and posted on the Township Bulletin Board, sent to the West Orange Chronicle and the Star Ledger, and posted on the Township's website calendar. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 P.M.

PLEDGE OF ALLEGIANCE

- *Chairman Bagoff* requested all persons stand for the Pledge of Allegiance.

ANNOUNCEMENTS

- The next Planning Board special meeting will be held **Wednesday, March 19, 2025 at 6:30 P.M in person.**
- The next Planning Board regular meeting will be held **Wednesday, April 2, 2025 at 7:30 P.M via Zoom.**

ROLL CALL

PRESENT: Dr. Robert Bagoff; Mr. Jerry Guarino; Mr. Ken Alper; Mr. John Cardoza; Mr. William Wilkes; Mr. Lee Klein; Mr. Christopher Morgan, Sr.; Mayor Susan McCartney; Mr. Peter Smeraldo; Councilwoman Susan Scarpa; Ms. Lori Kapferer

ABSENT:

ALSO PRESENT: Diana P. McGovern, Esq., Planning Board Attorney;
Gerry Haizel, Consulting Town Planner;
Mr. John Hess, Board Engineer;
Zayibeth Carballo, Town Engineer
Jamilet Baquerizo Vite, Planning Board Secretary

MINUTES & RESOLUTIONS

[12-11-2024-WO-PB-Draft-Minutes](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper:	Y	Morgan:	----
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Bagoff:	Y	Scarpa:	-----
Cardoza (Alt.2):	Y	Smeraldo:	-----
Guarino:	Y	Wilkes:	Y
Kapferer:	Y		
Klein:	Y		
Mayor McCartney:	Y		

[1-8-2025-WO-PB-Draft-Minutes](#)

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper:	Y	Morgan:	Y
Bagoff:	Y	Scarpa:	Y
Cardoza (Alt.2):	Y	Smeraldo:	Y
Guarino:	Y	Wilkes:	Y
Kapferer:	Y		
Klein:	---		
Mayor McCartney:	Y		

2/5/2025 WO PB Draft Minutes

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper:	Y	Morgan:	Y
Bagoff:	Y	Scarpa:	Y
Cardoza (Alt.2):	Y	Smeraldo:	Y
Guarino:	Y	Wilkes:	Y
Kapferer:	Y		
Klein:	---		
Mayor McCartney:	Y		

EXECUTIVE SESSION

[Summons](#)

[Filed-Complaint-with-Exhibit](#)

SWEARING IN

- The Township Professional(s) sworn in.

APPLICATIONS

- **PB-24-14 172-174 Main Street LLC**

Block: 83 Lot: 1&5.01 Zone: B-1

172-174 Main Street

The applicant, 172-174 Main Street, LLC, proposes to construct a 3rd floor addition to an existing 2- story building and convert the building to a mixed-use building. The proposed mixed-use building will contain 2,824-SF of office space on the 1st floor and a total of seven (7) residential units on the 2nd and 3rd floor. Additionally, twenty-six (26) existing on-site parking spaces will also be provided. *(The applicant has requested to be adjourned to the April 2, 2025, Planning Board regular meeting)*

- **PB-20-03/The Alpert Group, LLC**

18 Central Avenue

Block: 9; Lots: 32, 36; Zone: Central Valley Corridor Redevelopment Area

Mixed use project with 94 residences, 1223 of amenity, 3640 sf of commercial space and related infrastructure.

PRESENTATION

- The attorney, Patrick Collen, on the behalf of the applicant states there was a preliminary final matrix site plan approval on this property and as part of that there is a soil remediation that is ongoing and now, they have done everything that can be done.
- There is an adjacent property, which is Block: 9 Lot: 32, they have tested some of the materials related to that property, but to do a full test, the building has to be demolished, and it is currently owned by the municipality.
- They are requesting a one-year extension to allow them to completely remediate the site and proceed with construction.
- The property is considered a brownfield site.

NO BOARD QUESTIONS

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

Motion: Chairman Bagoff

Second: Mr. Smeraldo

Alper:	Y	Morgan:	----
Bagoff:	Y	Scarpa:	Y

Cardoza (Alt.2): ----	Smeraldo: Y
Guarino: Y	Wilkes: Y
Kapferer: ----	
Klein: Y	
Mayor McCartney: Y	

- **PB-25-01 West Orange Community House**

250-252 Main Street

Block:114 Lot: 78

The applicant, Paul Cito – West Orange Community House proposes to construct an exterior stairway on the southern side of the existing two-story building. The applicant does not propose to change the exterior of the building nor to impact impervious coverage or any other element of the property, as part of this application

PRESENTATION

- The attorney, Greg Mascera, on behalf of the applicant, states the property is in the downtown redevelopment zone.
- They are seeking to add an exterior staircase on the left-hand side towards the rear of the property.
- The staircase has been depicted in the plans.
- They are seeking no variances; this is simply a site plan approval.
- Paul Cito entered on the record, and he was sworn under oath. He testified to the following:
- Paul Cito is the executive director of the Community House and they run a preschool program at 242 Main Street, after school programs in 5 elementary schools, a summer camp at Edison Middle School, and own the gym at 250-252 Main Street.
- They purchased the building in 2009. They have renovated throughout the years and opened it as a gym in 2017.
- It is solely used as a gym at this time.
- The building is 40 feet high.
- Mr. Cito has entered into negotiations with the West Orange Board of Education for use of the building.
- They are planning on putting 6 classrooms on the existing first floor.
- Mr. Cito has in mind a proposal to add a mezzanine. The height from the floor of the gym to the proposed mezzanine is 13 feet.
- Mr. Cito has presented preliminary plans to the township of West Orange and has been reviewed by anyone of a number of departments.
- Mr. Cito presented plans that called for a mechanical room on the new mezzanine that is still under the existing roof that exists.
- Mr. Cito was told that he could not put a mechanical room on the mezzanine because they needed egresses. There is no egress because there is no second floor.
- The proposed staircase will serve to satisfy an egress to the mechanical room.
- Mr. Cito was told by someone from the fire department that stairs would be absolutely necessary.

NO BOARD QUESTIONS

PROFESSIONALS QUESTIONS

- Mr. Haizel wanted to confirm based on the testimony that the staircase will be used to service the mechanical room and doesn't plan on having any students utilize it. Mr. Mascera said that it is correct.

NO PUBLIC QUESTIONS

GENERAL DISCUSSION

PRESENTATION

- The architect, Peter Mandic, entered on the record, he was sworn under oath, and his credential were accepted by the board. He testified to the following:
- Mr. Mandic designed the staircase.
- Mr. Mandic presented the side elevation of a typical stair they are proposing and is constructed of metal grates, its steel treads, they are all perforated, there is steel guardrails, there are steel posts that go into the ground, there are concrete footings that go a minimum of 3 feet.
- On the top left of the slide presentation, there is the stair that goes on the left-hand side of the site, that is about 8 to 10 feet space between the adjacent property, which has a fence, and gives more than enough egress from the mechanical space that is located on the 2nd floor.
- On the right it is the second means of egress, which also exits onto the adjacent sidewalk of the right-side of the property looking at it from Main Street.
- The stairs are not proposed to increase the amount of impervious coverage in or around the site.
- The slope of the property will not be impacted by the installation of these stairs.
- Mr. Mascera summed up by stating they have an application does not require variances. The only possible property that can be impacted is the property next door owned by the applicant. The stairway will have no adverse impact on the community or the zoning code. They have heard the testimony from the architect of that nature and have heard the testimony from Mr. Cito that the intended use of the stairway would be to create access to the mechanical room on the 2nd floor. There is no issue of safety or welfare.

BOARD QUESTIONS

- Chairman Bagoff asked regarding the waivers, Item 20: Copy and /or deletion of any existing or proposed D restrictions or covenants. Are there any? Mr. Mascera said there are not.
- Chairman Bagoff asked regarding any existing or proposed easement or land reserved for dedicated public use, plans indicate that there is a proposed encroachment into the public right of way on the northern side of the building which should be shown on the plans. Did you show that on the plans? Mr. Mascera said that is not a public right of way, that is a sidewalk between 242 and 250.
- Chairman Bagoff asked regarding Item 23: The applicant should identify any permits and approvals that will be required for the installation of the improvement. Mr. Mascera said yes.

- Chairman Bagoff asked regarding Item 25: The applicant should identify any waiver or exceptions that will be requested required for this application, are there any? Mr. Mascera said not other than what has been propped and addressed.
- Chairman Bagoff asked regarding the applicant providing the list of properties within 250 feet of the property however they do not provide an illustrative map showing this. Mr. Mascera said that was resolved by supplemental submission.
- Chairman Bagoff asked regarding Item 44: The applicant should identify any lighting that is proposed on the exterior in proximity of the proposed staircase, is there any lighting proposed? Mr. Mascera said yes.
- Chairman Bagoff asked regarding Item 49: The applicant should show the access path to and from the proposed staircase. Mr. Mascera said it was submitted already.
- Chairman Bagoff asked regarding Item 52: Is this in compliance with COAH requirements. Mr. Mascera said yes.
- Mayor McCartney asked does the staircase, if it extends, does it still need a sidewalk that is a residential street. Mr. Mandic said yes it does.

NO PROFESSIONALS QUESTIONS

NO PUBLIC QUESTIONS

NO PUBLIC COMMENT

Motion: Chairman Bagoff

Second: Mr. Klein

Alper:	Y	Morgan:	----
Bagoff:	Y	Scarpa:	Y
Cardoza (Alt.2):	Y	Smeraldo:	Y
Guarino:	----	Wilkes:	Y
Kapferer:	----		
Klein:	Y		
Mayor McCartney:	Y		

• **PB-24-19 TheWayMaker LLC**

Block: 106 Lot: 20.03 Zone: R-1

40 Eagle Ridge Way

The applicant, TheWayMaker, LLC, proposes to undertake site work on a lot with an existing one-family dwelling. The proposed site work includes the installation of a subsurface chamber infiltration basin in the rear yard, as an enhancement to a previously approved stormwater seepage pit detention system.

PRESENTATION

- The attorney, Priscilla Triolo, on behalf of the applicant, stated that unfortunately, the Chairman's recommendation that there be a meeting held for Global Resolutions of the situation with the stormwater at Crystal Point at Eagle Ride and Llewellyn Park was not successful.

- At the request of the board, Paul Grabowski, is present to testify regarding the questions that have arisen about the ditch.
- The contractor, Paul Grabowski, entered on the record, he was sworn under oath, and his credential were accepted by the board. He testified to the following:
- Mr. Grabowski is a contractor who does site work and was engaged by TheWayMaker LLC to do the site work at 40 Eagle Ridge Way.
- Mr. Grabowski did the excavation for the pool and the pool house.
- Mr. Grabowski installed the 10-tank seepage pit system and did it in accordance with the plans prepared by Matarazzo.
- The general contractor contacted Mr. Grabowski's office in the summer of 2023 concerning the conditions of the ditch on the property.
- Mr. Grabowski received a call to clean the ditch and put in rip rap in the summer of 2023.
- After this Mr. Grabowski continued to work at 40 Eagle Ridge Way and was notified that there was a potential violation issue with regard to the rip rap in the ditch in November 2023.
- Mr. Grabowski was told to put rip rap in the ditch but he already put rip rap in the ditch.
- In November of 2023 a deficiency notice concerning the rip rap was received.
- That deficiency notice instructed them to add rip rap and Mr. Grabowski added more as they requested. After November, they never received a violation.
- At 2 separate times, Mr. Grabowski cleaned the ditch and put in rip rap.
- Mr. Grabowski did not change the ditch, move it from one side to another, or change the direction that the ditch was already in existence.
- Mr. Grabowski came across 2 broken pipes while working on the ditch. These pipes were made out of vitrified clay and were compromised due to age.
- Mr. Grabowski replaced these broken pipes with an elliptical concrete pipe in the exact location where the broken pipes were.
- Nothing else was done with regard to the ditch or the rip rap or any construction down in that area.

BOARD QUESTIONS

- Mayor McCartney asked was any of this work done near a steep slope. Mr. Grabowski said no
- Mayor McCartney asked did you come to the town to say there is a broken pipe on a steep slope in pre-existing conditions that needs to be repaired. Mr. Grabowski said he was directed by soil conservation to repair what was there as far as putting rip rap in the ditch and replaced the broken pipes.
- Mr. Klein asked if there was a disturbance on the steep slope. Mr. Grabowski said the disturbance was pre-existing, everything was pre-existing except with the exception of adding rip rap that was authorized by soil conservation.
- Ms. Kapferer asked did the soil conservation district directed you to replace the pipe. Mr. Grabowski said they directed him to put rip rap in the ditch.
- Ms. Kapferer asked regarding the pipe replacement, did the conservation district provide guidance about what kind of pipe or the size of pipe to use in the replacement? Mr. Grabowski said there were 2 broken 12-inch pipes, and he put in 1 large concrete pipe that accommodates the same kind of flow that previously flowed through the vitrified clay pipes.
- Chairman Bagoff asked, did the plans given to the soil conservation district show the new pipes. Mr. Triolo said she thinks it was added.

- Chairman Bagoff asked if it was approved by the soil conservation district with the new pipes in place. Mr. Grabowski said he is being told by authorities to do certain things and that's what he did.
- Chairman Bagoff asked did you see the letter from Mr. Scott on his evaluation of the site. Mr. Grabowski said no he hasn't.
- Chairman Bagoff asked what type of equipment did you use to clean the ditch and prepare it to put the rip rap. Mr. Grabowski said it was a track excavator.
- Chairman Bagoff asked if there was any possibility that the ditch has moved. Mr. Grabowski said no, they just followed where the water was flowing through the ditch.
- Mayor McCartney asked if there is no increase of the water flowing, where is the water going, is it being captured. Mr. Grabowski said it's at the end of the drainage ditch and it ends right at the property line of 40 Eagle Ridge Way. It doesn't get captured; it just flows.

PROFESSIONALS QUESTIONS

- Mr. Scott asked were you the contractor that was doing the work on the site for 40 Eagle Ridge Way. Mr. Grabowski said yes.
- Mr. Scott asked regarding putting rip rap in the ditch, was that a directive from the soil conservation district. Mr. Grabowski said yes.
- Mr. Scott asked what was the reason for soil conservation district on site. Mr. Grabowski said they periodically check on the site conditions as they progress with the construction.
- Mr. Scott asked does the 1-acre disturbance go all the way over to the area of the ditch or was the disturbance of the ditch part of the application to the soil conservation district. Ms. Triolo said there were permits issued for the pool and pool house then there was a separate permit issued for the stormwater control seepage pits and all of those were permitted and inspected as they were installed. None of the work included none of the plans and none of the work submitted included the ditch.
- Mr. Scott asked the work at the ditch only took place after the visit by the soil conservation district and the direction that given by the inspector. Ms. Triolo said that is correct.
- Mr. Scott asked is your testimony that you did not reroute the ditch, you just added rip rap and then replaced the 2 12-inch pipes that were discovered during the time you were following directions from the soil conservation district. Mr. Grabowski said yes.

PUBLIC QUESTIONS

- Michael DeCheser at 35 Mountain Ave asked why did you increase the size of the pipe. Mr. Grabowski said to give a better flow and the pipe wouldn't be breached as easily.
- Michael DeCheser asked when did you start working there with Mr. Cohn. Mr. Grabowski said he started in 2021.
- Michael DeCheser asked can you speculate on why there might be an increase on water flow. Mr. Grabowski said there is no increase
- Michael DeCheser asked how many trees were removed while you were there. Mr. Grabowski said he doesn't have an answer for that.
- Michael DeCheser asked do you know the approximately length of the elliptical pipe. Mr. Grabowski said he thinks it is under 60 feet.
- Michael DeCheser asked is that same length as the 2 12-inch pipes that was there previously. Mr. Grabowski said most likely because there are remnants of it broken up.
- Michael DeCheser asked do you know if that is completely on lot 40 property. Mr. Grabowski said he is 90% sure.

- Michael DeCheser asked the ditch that you put rip rap is at the beginning of the elliptical pipe and that elliptical pipe runs on an angle to the beginning of the steep slope, does that sound accurate. Mr. Grabowski said yes, you can visually see it.
- Michael DeCheser asked where is the water coming from that goes into that ditch. Mr. Grabowski said most of the water comes from the surrounding properties.
- Andrew Kessler at 29 Mountain Ave asked do you have any pictures of the broken pipes. Mr. Grabowski said he took a couple of snapshots.
- Andrew Kessler asked have you given these pictures to Mr. Cohn. Mr. Grabowski said yes.
- Andrew Kessler asked did you receive any instructions from the soil conservation group to put in the elliptical pipe. Mr. Grabowski said no.
- Andrew Kessler asked did you submit any drawings to the soil conservation. Mr. Grabowski said they don't get drawings, they just inspect.
- Andrew Kessler asked the elliptical pipe that you put in, water that is running out of the end, where is it going. Mr. Grabowski said it goes downhill.
- Andrew Kessler asked the water running out of the pipes, down the mountain, and then into Llewellyn Park, is that correct. Mr. Grabowski said yes, like it has historically done.
- Andrew Kessler asked have you seen any of the pictures that were circulated to West Orange of the flooding that is occurring down the mountain onto Llewellyn Park. Mr. Grabowski said no.
- Andrew Kessler asked where exactly is the elliptical pipe installed. Mr. Grabowski said in the exact location of where the old pipes were.
- Gerald Sweeny asked you installed the rip rap in the area for the purpose of reducing soil erosion from water flow, is that correct. Mr. Grabowski said yes that's correct.
- Gerald Sweeny asked does the rip rap slow down the pace of water. Mr. Grabowski said pretty much, it contains the water in it, creates a ripple effect, and slows down the sediment movement.
- Gerald Sweeny asked did you install the pipes to increase water flow. Mr. Grabowski said that is not correct.
- Gerald Sweeny asked did you say there was water flow before you installed the pipes. Mr. Grabowski said there was 2 12-inch vitrified clay pipes that were compromised in age and nature and they were clogged and not working properly. The water was flowing over the pipes.
- Gerald Sweeny asked was there a retaining wall on the site when you installed the rip rap. Mr. Grabowski said yes there was.
- Gerald Sweeny asked did you install it. Mr. Grabowski said there was one there historically and they just rebuilt it.
- Gerald Sweeny asked what was the source of the rip rap that you installed. Mr. Grabowski said it was all from the site.
- Gerald Sweeny asked did you excavate the bedrock. Mr. Grabowski said yes that's the source.
- Gerald Sweeny asked do you remember where on the site you removed the bedrock. Mr. Grabowski said yes in Mr. Cohn's backyard.
- Gerald Sweeny followed-up asking right near the slope. Mr. Grabowski said no, right up against Mr. Cohn's house, about 20 feet away from it.
- Oliver DeCheser at 35 Mountain Ave asked regarding the replacement of 2 12-inch pipes for 36-inch elliptical pipe which is about 4 times as much flow, was there a reason you were anticipating such an increase of flow through the pipe. Mr. Grabowski said it creates

a better sheet flow even though there is no increase of water on the site.

OBJECTOR'S QUESTIONS

- The attorney, Robert Simon, on behalf of Llewellyn Park asked for how long have you worked for Mr. Cohn or the WayMaker. Mr. Grabowski said since 2021.
- Mr. Simon asked when in 2021 did you start to work with Mr. Cohn or the WayMaker. Mr. Grabowski said sometime in June.
- Mr. Simon asked when you first started working for the WayMaker in June of 2021, was that pursuant to a written contract. Mr. Grabowski said pretty much.
- Mr. Simon asked when you say “pretty much”, what do you mean by that. Mr. Grabowski said it’s a family business and is told to go to the job location and start. Mr. Grabowski said he didn’t physically see anything but he presumes there’s something there.
- Mr. Simon asked did the WayMaker hire you or your family company. Mr. Grabowski said yes Grabowski Construction.
- Mr. Simon asked is there a written contract between the WayMaker and Grabowski Construction. Mr. Grabowski said yes or else they wouldn’t start anything.
- Mr. Simon asked what was the contract for. Mr. Grabowski said for the improvements of the backyard like the pool and pool house.
- Mr. Simon asked what was Grabowski Construction actually hired to do with regard to the pool and the pool house. Mr. Grabowski said site work, excavation, they did some blasting, and they did underground storm and roof drains.
- Mr. Simon asked when you did the work starting in June of 2021, did you apply for a permit from the township of West Orange to do that work. Mr. Grabowski said no he didn’t, that was Mr. Cohn’s responsibility.
- Mr. Simon asked do you know in what capacity did Mr. Cohn made those applications if at all. Mr. Grabowski said no.
- Mr. Simon asked with regard to your work, did you have a chance to review any of the surveys or plans created with regard to any of the work performed between June of 2012 and the present. Mr. Grabowski said yes he looked at the plans.
- Mr. Simon asked what plans did you look at. Mr. Grabowski said the blueprints of the pool and the pool house
- Mr. Simon asked do you know which plans specifically that you reviewed. Mr. Grabowski said no.
- Mr. Simon asked when you came across the 2 broken clay pipes and you stated they were not working properly and that water was going over the pipe, where was the water going. Mr. Grabowski said down the hill.
- Mr. Simon asked did you perform any site work in the area where you replaced the 2 clay pipes with the elliptical pipes, did you do any soil disturbance in the area. Mr. Grabowski said they put rip rap.
- Mr. Simon asked did soil erosion not tell you to go in and replace the clay pipes with the elliptical pipes. Mr. Grabowski said no
- Mr. Simon asked soil erosion did not instruct you to engage in any disturbance of soil in connection with removal of the clay pipes and/or the installation of the elliptical pipes, correct. Mr. Grabowski said yes that is correct.
- Mr. Simon asked you did not submit any plans or drawings to the Hudson Essex Passaic Soil Conservation District in connections with the removal of the pipes or the installation of the pipes. Mr. Grabowski said correct

- Mr. Simon asked with regard to the deficiency notice that the property owner received in November 2023 from the soil conservation district that stated rip rap needed to be installed at the conduit outlet swell headwall, is that your recollection of what it said. Mr. Grabowski said it had to be done from end to end
- Mr. Simon asked where did it say it had to be done from end to end. Mr. Grabowski said it was a verbal notice.
- Mr. Simon asked didn't the deficiency notice also state that the approved limit of soil disturbance have been exceeded and that the property owner had to submit a revised soil erosion sediment control plan. Mr. Grabowski said he can't answer that, he wasn't aware of that.
- Mr. Simon asked when you installed rip rap in the drainage ditch, did any portion of that drainage ditch encroach upon the property commonly known as 42 Eagle Ridge Way. Mr. Grabowski said he just put it in where the water was traveling.
- Mr. Simon asked do you know when you performed the rip rap installation if you were performing partly on 42 Eagle Ridge Way. Mr. Grabowski said he is not sure.
- Mr. Simon asked the length of the clay pipes. Mr. Grabowski said it was 40-50 feet.
- Mr. Simon asked the length of the elliptical pipe, was that also approximately 50 feet in linear length. Mr. Grabowski said 50-60 feet, he doesn't have the exact measurements.
- Mr. Simon asked are the elliptical pipes longer than the 2 clay pipes. Mr. Grabowski said yes a little bit.
- Mr. Simon asked do you know whether the removal of the clay pipes for the installation of the elliptical pipe partially encroach on either 42 Eagle Ridge Way and/or Lot 11 to the south which is owned by Llewellyn Park. Mr. Grabowski said it is pretty close but to get an exact you would need to get a survey.
- Mr. Simon asked when you performed the work related to the retaining wall, was there any particular plan that you followed. Mr. Grabowski said what was there was a circle of wall and tried to rebuild it of what was there.
- Mr. Simon asked you performed grading or disturbance of the site in the area of the rear yard beyond that retaining wall. Mr. Grabowski said yes.
- Mr. Simon asked when did you put the 10 large tanks. Mr. Grabowski said he doesn't have the exact dates currently.
- Mr. Simon asked do you have training in stormwater management. Mr. Grabowski said he has field experience.
- Mr. Simon asked which engineer were you in consultation with during the time you performed your work at 40 Eagle Ridge Way. Mr. Grabowski said Matarazzo.
- Mr. Simon asked when did you start communication with Mr. Matarazzo regarding the work you performed. Mr. Grabowski said he was hired by Mr. Cohn and he would come out and give him a cut sheet for the pool or the building. He didn't have any in depth conversation about the site.
- Mr. Simon asked did you ever discuss the removal of the clay pipes or the installation of the elliptical pipes with Mr. Matarazzo. Mr. Grabowski said no.
- Mr. Simon asked prior to June 2021, did you perform work at 40 Eagle Ridge Way. Mr. Grabowski said no.
- Mr. Simon asked did you install the rip rap along the entirety of the common lot line between 40 and 42 Eagle Ridge Way. Mr. Grabowski said half of it that was required by soil conservation.
- Mr. Simon asked was it the half towards the rear of the property. Mr. Grabowski said it was from the rear to where it flattens out.

- Mr. Simon asked in that area where you installed the rip rap, were there trees and vegetation in that area as of the time you started working in June of 2021. Mr. Grabowski said there was some vegetation where the stream was that's why they had to clean it. As far as trees, there were no trees in the way.
- Mr. Simon asked when they wanted you to put rip rap in, did it require to remove any vegetation. Mr. Grabowski said he needed to take it out in order for the rip rap to work properly.

OBJECTORS PROFESSIONAL PRESENTATION

- The engineer, Eric Keller, entered on the record, he was sworn under oath, and his credential were accepted by the board. He testified to the following:
- Mr. Keller had the opportunity to review the application materials including those that were contained in the link to the agenda for this application.
- Mr. Keller also reviewed the ordinances regarding stormwater management and steep slope as part of this application.
- Mr. Keller has been present for the testimonies of the applicant's various witnesses with regard to this application.
- Mr. Keller has had the opportunity to review the letter Mr. Simon submitted to the board on March 10th, 2025 outlining some concerns on behalf of Llewellyn Park.
- Based on Mr. Keller's detailed review of Mr. Simon's letter, he agrees with the statements and conclusions that were set forth therein subject to any supplemental testimony he will provide this evening.
- Bowman has worked for Llewellyn Park under stormwater issues throughout the park for quite a while.
- Llewellyn Park brought to their attention an increase of flow coming from the properties uphill of the park in the vicinity of Mountain Ave.
- Due to the familiarity of the park, they became involved in this case looking at the stormwater conditions that have changed overtime in the past few years associated with the property above.
- The township stormwater ordinance is clear and consistent with state regulations as to what constitutes a major development and what the contents of a stormwater plan and report need to be for a major development.
- The report needs to look at what the conditions were in 2004, asking it its cumulative impact.
- The report that has been submitted and discussed in these hearings is incomplete and does not cover the total disturbance and change in land cover that has occurred on this property.
- Due to this, there are significant material deficiencies in the documents before this board for the board to consider.
- Mr. Keller is aware that Mr. Scott submitted a letter on March 11th, 2025, to the board and has reviewed it.
- Mr. Keller agrees with the statements and conclusions set forth in Mr. Scott's letter sent to the board on March 11th, 2025.
- The township regulations and state regulations are clear in that stormwater is cumulative back to February of 2004.
- This house did not exist in 2004. The stormwater report and the stormwater management system have to look at the complete history and record of the development of this site, which includes the house, the driveway that was previously constructed, as well as the

pool, the pool house, and the clearing of vegetation from the entire property.

- It also in the stormwater regulations that you have to look at the entire tributary area to the point of analysis. The point of analysis is that point where the water course discharge into Llewellyn Park which is now the location of the concrete pipe that was installed by Grabowski. You have to look at the entire upstream area to that point and what has changed. That has not been done.
- With regard to the issue about the change in the location of the drainage ditch or the water course, Mr. Keller introduces exhibit O1, an aerial photographic map dated 3/20/21 of the pre-development conditions for the stormwater management system.
- Mr. Keller has annotated this plan to approximately show the property lines based upon surveys that are part of the record. To make it clear, Mr. Keller has drawn a blue line where the water course in this area was historically.
- The orange lines that are drawn on the map represents the boundaries of 40 Eagle Ridge Way property.
- This map shows two things. One is the conditions of the property before which are part of what needs to be incorporated into the stormwater management plans that discusses the disturbance of the property and the ground cover. The second thing this map shows is the fact that this water course has been moved, it is no longer in the location shown in the Exhibit O1.
- It is no longer shown where it is on this exhibit where it is shown on the Matarazzo plans which is part of the record.
- This document supports the finding and reinforces what is shown on the Matarazzo plans and the Robert's survey about where this stream was located.
- The township has a 1959 topographic survey of the township as well as a 2010 topographic survey of the township and the location of this water course is seen on both of the documents in this location as shown in Exhibit O1.
- The other thing Mr. Keller wanted to point is the stormwater report states that ground water recharge is not required for this major development because it's in a planning area 1 of the metropolitan planning area or an urban re-development area. The DEP has stated in their FAQs that does not apply to areas that were not previously developed. In the documents to claim urban re-development it has to be a previously developed area.
- From exhibit O1, the rear of the property and the adjacent areas contain trees and unmaintained areas. Under the rules those areas are not considered previously developed. Regardless of the fact that they are in a PA 1, ground water recharge is required to be addressed for the removal of those wooded and natural areas that were not previously developed. The report does not address ground water recharge.
- Mr. Keller introduced Exhibit O2, an aerial map dated 3/21/23 of the post-development channel. Mr. Keller annotated the map to show the channel no longer follows the path it has done historically as shown on various documents. This water course is now straight.
- There is an elevation on Eagle Ridge Way and another elevation where it meets the Llewellyn Park property line. Those elevations are the same because you are meeting existing conditions on each end but the distance is now shorter. The slope is vertical change over horizontal length. If the top number doesn't change and the bottom number gets shorter, that means that the water course is now steeper. That is important because the steeper the water course the higher the velocity.
- Mr. Keller states that land cover has been changed on the property to the south, which is 42 Eagle Ridge Way. That has an impact on the stormwater and flow to Llewellyn Park.
- The stormwater report does not address that. It focuses on what the ultimate improvements are on 40 Eagle Ridge Way, but Mr. Keller states that is not indicative or

representative of the change in land cover that's tributary to the point where that water course enters upon Llewellyn Park properties.

- Mr. Keller agrees that for the board to properly engage and review it has to look at the conditions of the site both prior and subsequent to the illegal construction activity of the property.
- Mr. Keller has had the opportunity to review the various surveys submitted by the applicant.
- Mr. Keller agrees with what Mr. Simon stated in his letter that the drainage ditch water course constitutes a regulated water feature under the riparian zone portion of the state regulations, based on the photographs and the 2021 Robert survey showing there were banks there.
- Mr. Keller states the applicable regulations are set forth in NJAC 7:13 which is a flood hazard area control act rules which establishes riparian zones adjacent to all water courses that has a defined bed and banks.
- Based on the information provided by the engineer for Crystal Point, it does not have a flood hazard area because the tributary area is less 50 acres but the riparian zone criteria apply regardless of the drainage area, it is defined by the physical characteristics of the water course which has a defined bed and bank and that is clear from the aerial photos and surveys.
- Disturbance of the stream channel and the removal of vegetation within the riparian zone is a violation of those regulations.
- Mr. Keller agrees that the stormwater ordinance includes requirements to show steep slope information and topography within 200 feet of the subject property. That was not done for this application.
- Mr. Keller has reviewed the steep slope ordinance, particularly as it relates to stormwater management.
- Mr. Keller agrees with the narrative that disturbance of steep slopes results in accelerated erosion processes from stormwater runoff.

BOARD QUESTIONS

- Chairman Bagoff asked if the applicant closed off the access of water on this side of Eagle Ridge Way, would that stop all of the water runoff onto Llewellyn Park. Mr. Keller said the wetland area will not have an outlet for that water. It will continue to build up until it flows over the roadway and then flow down uncontrolled through 40 and 42 Eagle Ridge Way and still end up in Llewellyn Park.

NO PROFESSIONAL QUESTIONS

NO PUBLIC QUESTIONS

***The application has been carried to the April 9, 2025, Planning Board special meeting without further notice. ***

Meeting adjourned at 11:15 P.M.

ADOPTED:

Jamilet Baquerizo Vite
Planning Board Secretary