

**DRAFT
MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
April 16, 2025 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on April 16, 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, April 30, 2025 at 6:30 P.M in person.**
- The next Planning Board regular meeting will be held **Wednesday, May 7, 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; Mayor Susan McCartney; Councilwoman Susan Scarpa; Ms. Lori Kapferer

ABSENT: Mr. Christopher Morgan, Sr.; Mr. Peter Smeraldo;

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

SWEARING IN

- The Township Professional(s) sworn in.

APPLICATIONS

- **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 the applicant and the objector have reached terms of an agreement that will resolve a lot of the concerns the objector had.
- The objector will return the application to the applicant to complete it. For the applicant to complete it, they need to review the terms of the agreement, introduce the exhibits that are part of the agreement, have the applicant's engineer explain it and to provide other relevant testimonies they believe is necessary for the board to reach a final decision.
- The parties met multiple times in order for the applicant and the objector of the Llewellyn Park Board of Managers to examine what each of their concerns were and then what was in the capacity of the applicant in order to meet those concerns and to address them through engineering actions.
- There were series of communication that went on the legal end between Ms. Triolo and Mr. Simon, as well as the engineering end as to whether or not what they were discussing were feasible and workable and would solve the concerns of Llewellyn Park.
- Llewellyn Park indicated they were concern about storm water drainage. To Ms. Triolo's knowledge, there were no issues raised with the storm water management system that was proposed by Collier's with this application fully designed and submitted.
- There were issues that they were concern about that related to storm water management that was extraneous to the storm water management plan because the storm water management plan and system fully complied with the law and the ordinance and the state statues.
- The parties agreed that there would be additional storm water control and that the landscaping that they previously represented to be completed was flushed out to be more sensitive to Llewellyn Park's concern. The specific landscaping materials would then help control any surface storm water that might roll off the property.
- They went through a series of landscaping plans and went through multiple descriptions of different plant life. They came up with a plan that addressed all of that and Mr. Cokeley will testify to the specifics.
- On a legal basis, they are committed to doing all of the planting that doesn't affect the storm water management system and it doesn't require the system to be changed, altered, or redesigned.
- There was a request from Llewellyn Park that they wanted the storm water ditch to have a different flow instead of being straight. They wanted it to have a curvature. Ms. Triolo makes no comment about the engineering proficiency about having a curve as opposed to having a straight ditch.
- The applicant has an agreement with the adjoining property owner to move the ditch to the adjoining property in the configuration that Llewellyn Park wanted, provided that it isn't regulated water because you can't touch a ditch if its regulated water.
- The applicant has committed to doing the work, committed to the design of the ditch, committed to the composition, committed to adding various elements of rip rap and other

delaying matters but it is all dependant on whether or not its regulated water.

- Other concerns Llewellyn Park had was they felt that the elliptical concrete pipe was accelerating the flow of water. The applicant is going to remove the concrete pipe at their request and that Collier has designed a substitute that met with the agreement of Llewellyn Park's engineers.
- The agreement has been signed by the applicant and was submitted to the Planning Board Secretary.
- The engineer, Jesse Cokeley, entered on the record, he was sworn under oath, and his credential were accepted by the board. He testified to the following:
- Mr. Cokeley had discussions with Mr. Scott keeping him apprised of the developments as they were happening that they were approaching in agreement and would be sharing exhibits.
- Ms. Triolo stated they weren't withholding anything until the meeting this evening that the agreement and the terms and the engineering for the agreement were completed this afternoon and were submitted as quickly as they had them.
- Mr. Cokeley presented the exhibit A1 that is the grading and drainage plan from their preliminary and final major site plan set that was previously submitted and reviewed but it has a colorized overlay with the proposed modification to the plan.
- There is a blue rectangle in the middle that is overlaid on top of the proposed subsurface infiltration basin. The blue rectangle represents the revised limits of the system so it got smaller based on updated calculations that their office ran following the geotechnical testing that was requested by the board and was performed on February 17th.
- It also reflects the calculations taking into account the land cover at the site in a pre 2004 condition when there was no impervious cover.
- Another thing that was discussed was the intent to re-establish vegetation on the property. What they did with the colorized version of the map was indicate the driveway was going to be replaced with the pervious pavers that was previously testified to.
- The manila part of the map is the previously installed landscape areas. The brighter yellow part of the map is proposed landscape area, some additional area around the perimeter of the building and the rear.
- The lighter green part of the map is going to be lawn area, typical grass lawn will be maintained for the use by the applicant.
- The darker green part of the map at the rear of the property in between the 2 tier walls in the corner and wrapping around the side and extending up is going to be a proposed groundcover mix of ¼ annual ryegrass seed, ¼ creeping red fescue seed, ¼ perennial ryegrass, and ¼ of white clover seed.
- This mix was strategically placed at the rear and will be left in a groundcover state. It is a more robust vegetation and that is to provide additional stabilization in the lawn area to help prevent future erosion.
- One of the main requests of Llewellyn Park is to remove the elliptical pipe that was installed as a replacement for the clay pipes. They have agreed to remove that and replace it with a rip rap line ditch that will also include stone check dams that will act as a storm water velocity reducing measure.
- They have also agreed to double the size of the previously proposed scour hole at the end of the ditch before the water goes down the hillside.
- They have agreed to increase the limits of the ground cover. They were showing some lawn below the second wall, not all the way up to the property line, but they increased the dark green groundcover in that area.

- They also agreed to install a 2nd curtain drain just above the retaining wall but at the bottom of the sloped lawn area. This would capture any additional runoff that is going down the sloped lawn area.
- They also agreed to install 4 trees in the dark green area of the map. The trees offer a larger root structure and additional stabilization in that area.
- Mr. Cokeley presented exhibit A2 which is the black and white imagery that is sheet 2 of 9 from the site plans set that was submitted for 42 Eagle Ridge Way which is the demolition plan. It is an existing condition plan as it stands today of Lot 42.
- Lot 40 is just to the left side of the page, Eagle Ridge Way is at the bottom, and Llewellyn Park properties is to the top of the page.
- What is shown on this map is the approximate limits of the prior structure that was previously demolished on the property which is shown on the dashed line for reference.
- What was requested by Llewellyn Park was to locate the ditch in a manner similar to the prior aerial maps that has the ditch extending 40 feet from the common property corner on the east side and extend the length of the ditch going to that spot.
- The blue line on Exhibit A2 represents the approximate ditch location.
- The dark green color represents the groundcover mix that would be planted there, not just lawn.
- The other request was to construct a type of temporary diversion feature on lot 42 from a storm water perspective to mitigate the storm water runoff from Lot 42 in this interim state from when the house was previously demolished until a future time that 42's application is pending before the zoning board and it is moved forward.
- The intent of the temporary diversion feature is to be a sort of berm that runs the entire length of the property and extends up to the ditch such that the water as the topography flows west to east, it would prevent that runoff initially entering the ditch and then discharging down the mountain.
- The temporary diversion would act as a berm that would allow the water to stay on Lot 42 for a short period of time. During heavier storms, it would crest over the top of the berm and then sheet at 1 elevation down which is a preferred method for erosion control rather than a channelized flow.
- As part of the agreement, they are going to be removing the 36-inch pipe. The township ordinance for steep slope does have exceptions listed in Section 25-28.5. In Mr. Cokeley's review of the aerial photography for this site, when the house was constructed in 2007 originally, it can be seen it was disturbed in its entirety therefore removing the pipe wouldn't trigger the steep slope ordinance because it would be exempt as it was previously graded.
- As far as the ditch is concern, at a prior hearing it was brought up that it might have been considered regulated water by New Jersey DEP. In their professional opinion, the storm water drainage ditch is not DEP regulated water and therefore it does not contain riparian zones.
- Mr. Cokeley pointed out that New Jersey Administrative Code section 713-2.2A3, accepts that a segment of water is not a regulated water if it has a drainage area of less than 50 acres and one or more of the following conditions apply, Item 1: the water has no discernible channel. Item 2: the water is confined within a lawfully existing man-made conveyance structure or drainage feature such as a pipe, covert, ditch, channel, or basin. Item 3: the water is not connected to a regulated water by a pipe. Mr. Cokeley states these items applies here.
- A review of the USGS Stream Stats Application, which is a common application that engineers use to gauge tributary areas to streams and water shed points, shows that the

nearest available data point, which is located downstream of the ditch, has a drainage area of 23.9 acres. As the ditch on 40 Eagle Ridge Way is upstream of that point, it can be concluded that the ditch has a drainage area of less than 23.9 acres.

- A review of the historical data, topographic maps, and imagery indicate that the ditch is a lawfully existing man-made conveyance.
- Additionally, the storm water ditch is not connected to any regulated water and it ends in the West Orange storm water municipal sewer.
- The ditch is lawfully existing, not connected to a regulated water, and has an area of less than 50 acres, therefore it checks the boxes and is not regulated water under the New Jersey Administrative Code.
- Mr. Cokeley wrote a letter to this effect and shared it with Mr. Scott and would be able to submit it to the board.
- Ms. Triolo stated the agreement does address that if there is any communication with the DEP to try to implicate the storm water drainage ditch into a regulated water that the applicant will be relieved of the responsibility of relocating the ditch.
- Ms. Triolo said they take objection to the concept of restoration of the ditch because it is a relocation as the ditch has always existed.

BOARD QUESTIONS

- Chairman Bagoff asked is there an easement from Lot 40 to 42 for the temporary diversion to happen. Ms. Triolo said there is an agreement between the property owners and an easement.
- Ms. Kapferer asked Mr. Cokeley after reviewing the geotechnical testing report, related to the bedrock that was encountered, if he has the adequate separation distance between bedrock and the bottom of the infiltration basin. Mr. Cokeley said they do. The system has an invert of the stone where they conducted the test which was 2 feet above the bedrock encounter which is the minimum requirement.

PROFESSIONALS QUESTIONS

- Mr. Scott asked with regard to the drainage ditch and Mr. Cokeley's testimony about the drainage ditch that it doesn't have an area greater than 50 acres, does that drainage area take into account the drainage area for the point at Crystal Lake. Mr. Cokeley said yes, the water shed area is inclusive of the part of Crystal Point that comes down into the ditch, in total it would be less than 50 acres.

PROFESSIONALS COMMENTS

- Mr. Scott said he appreciates that there was an agreement between with Collier's and the engineer for Llewellyn Park. He understands there is some type of agreement but he thinks it needs to be inclusive of the township and their engineers as well while coming up with the agreement.
- Mr. Scott said he likes the idea of the plan that was presented by Mr. Cokeley of adding an additional curtain drain but they have no supporting calculations.
- Mr. Scott said with regard to the restoration of the drainage ditch, it sounds like they are trying to put the ditch back to where it was. While he appreciates the effort, Mr. Scott believes it is going to be difficult to do it in a way that is going to make sure that the way the drainage ditch acted before that it will do that again in this situation.
- Mr. Scott said they have an idea based on the previous hearings and comments from the residents and neighbors of Llewellyn Park that they didn't have this problem until some of this work have taken place.

- Mr. Scott said that even though Mr. Cokeley states in his letter that it is not a regulated water, he still feels like it is a regulated water body and it probably does have a riparian zone associated with it.
- Mr. Scott said the board needs input from the DEP as to whether or not the ditch is regulated.

PRESENTOR QUESTIONS TO THE BOARD

- Ms. Triolo asked Mr. Scott if he is aware that there were more spillways of the storm water that came off of Crystal Point rather than the one at 40 Eagle Ridge. Mr. Scott said no he was not aware of any more spillways.
- Ms. Triolo asked Mr. Scott if he was not aware that there was always a ditch that went straight down on 40 and there was flow over a branch that may have gone on to 42 but there was more than 1 spillway in these ditches. Mr. Scott said he seen the spillway that leads from 40 onto the Kessler's property. He has been there on more than one occasion and has only seen that one discharge point.
- Ms. Triolo asked Mr. Scott if he was part of the inspection crew by HEPSCD when they examined the ditch and asked for it to be cleaned out. Mr. Scott said he was not.
- Ms. Triolo asked Mr. Scott if is it his opinion that the storm water traveling through the ditch is coming from Crystal Point. Mr. Scott said some of it yes. He can't say specifically since he doesn't have calculations on the Crystal Point design.
- Ms. Triolo asked Mr. Scott if he has calculations on the municipal storm water sewer system that is on Eagle Ridge Way. Mr. Scott said no.
- Ms. Triolo asked Mr. Scott what does he base his opinion on of making a determination that the water in the storm water ditch is regulated. Mr. Scott said he hasn't made that determination and has contacted the DEP to make that determination.
- Ms. Triolo asked Mr. Scott if he disputes Mr. Cokeley's opinion is important as a professional engineer. Mr. Scott said his opinion is important but he is not saying he completely agrees with it.
- Ms. Triolo asked Mr. Scott what and who filed with the DEP. Mr. Scott said the municipal engineer requested that they reach out to the Department of Environment Protection to let them know about the situation and that they believe it is regulated water and for them to look into it.
- Ms. Triolo asked Mr. Scott if he filed with the DEP. Mr. Scott said yes.
- Ms. Triolo asked Mr. Scott what did he file. Mr. Scott said he reached out and contacted them to let them know. He sent them historical mapping, the 1959 topographic mapping as well as the 2010 topographic mapping.
- Ms. Triolo asked Mr. Scott who did he contact. Mr. Scott said he doesn't know the name specifically right now but can provide that as well as the information that was sent.
- Ms. Triolo asked Mr. Scott did he do this before or after the planning board application was being heard. Mr. Scott said after the application was being heard.
- Ms. Triolo asked Mr. Scott is she can get a copy of what was submitted and to whom it was submitted. Mr. Scott said yes, she will get it tomorrow.
- Ms. Triolo asked Mr. Scott if he knows when he contacted the DEP. Mr. Scott said it was sometime after the meeting that was held at city hall between the municipal engineer, Ms. Carballo, himself, Mr. Keller from Bowman, Llewellyn Park's engineer, and one of Mr. Cokeley's colleagues at Collier's Engineers. During this meeting they were directed by the municipal engineer to reach out to the DEP.
- Ms. Triolo asked Mr. Scott if at the meeting did, he announce that he was going to contact the DEP or did it happen afterwards. Mr. Scott said it was after the meeting.

- Ms. Triolo asked Mr. Scott if there was any reason why he didn't tell Mr. Cokeley, the property owner, or tell the attorney for the planning board to communicate with Ms. Triolo about this communication with the DEP. Mr. Scott said there was no reason.
- Ms. Triolo asked Mr. Scott if anyone told him not to tell them. Mr. Scott said no.
- Ms. Triolo asked Mr. Scott as part of the drainage area, if he is aware of the topography that not all of Crystal Point comes out to Eagle Ridge Way. Mr. Scott said he knows a portion of it does but he doesn't know if all of it does.
- Ms. Triolo asked Mr. Scott that Mr. Cokeley would analyze that portion and not all of Crystal Point. Mr. Scott said yes whatever area that is going to that drainage ditch is what he should be analyzing.
- Ms. Triolo asked Mr. Scott if he has said or written that he disagreed with the storm water management system that Collier has proposed for Lot 40. Mr. Scott said only what was in his initial review letter.
- Ms. Triolo asked Mr. Scott if he received a copy of Collier's geotechnical data report on April 2, 2025. Mr. Scott said yes.
- Ms. Triolo asked Mr. Scott if he was present at the site when the work was done and ordered to test the soil. Mr. Scott said yes.
- Ms. Triolo asked Mr. Scott if he observed that they complied with regard to consistency and percolation. Mr. Scott said yes.
- Ms. Triolo asked Mr. Scott as the engineer for the planning board he has no issue with the design Collier presented for storm water management for 40 Eagle Ridge Way. Mr. Scott said he agrees with that.

PUBLIC QUESTIONS

- Jerry Sweeny, a resident of Llewellyn Park and one of the participants in the meeting to try to work out the engineering plan, asked why is the document presented as Exhibit A referred to Amended Landscape Plan when looked at earlier it was described as Grading and Drainage Plan because it does include elements of the storm water management. Mr. Cokeley said it was originally intended mostly for the ground covers so Mr. Sweeny is right after the meeting earlier today after adding the curtain drain the title shouldn't be amended landscape plan and can change it for the inclusion of the settlement agreement. Mr. Cokeley said it will be named Amended Landscape and Drainage Exhibit.
- Mr. Sweeny asked Mr. Cokeley is it his opinion that the changes that were made such as the addition of the curtain wall, the additions of the tress, landscaping, and vegetation, was that necessary and appropriate for storm water management. Mr. Cokeley said it was very appropriate. He thinks the storm water system they had previously designed was necessary and met the code requirements. He also thinks the additions of the curtain drain and the extense of the ground cover and additional trees will enhance the plan.

APPLICATION SUMMATION

- Ms. Triolo stated the application was for storm water management system.
- Collier presented a complete and detailed plan and testified that the design exceeded the requirements of the township ordinance and the state's code requirements.
- Not only is the underground chamber system proposed for the storm water management, there are interconnections to pre-existing 10 seepage tanks that further enhance the system and that the plan submitted for storm water management also included a reduction in size of the applicant's driveway and a replacement of the driveway with pervious pavers to further educe any impact to storm water flowing on the property.
- After they a prior meeting there were questions concerning the soil and Collier then did a

geotechnical investigation of the property where the chambers were proposed to be located.

- A geotechnical data report was generated on April 2, 2025 to show that the soil was better than they have calculated. Their calculations were based on assumptions. Their assumptions were more conservative than the actual soil that was present and were more than adequate, they were exemplary for the chamber system. That report was submitted to the board.
- The applicant's testimony explained that this is his home and filed for permits and inadvertently the contractor disturbed more than an acre of property. That was never his intention.
- It was never his intention to construct a 10-foot wall, that was a wall that was located on the property as a temporary showing and that the applicant testified that it was his intention to bring his property to compliance and was left under the impression that he could restore everything and not end up in a situation where he had a violation.
- Collier was hired and Collier then came up with the storm water management plan and has provided excellent testimony, excellent backup, and then went beyond that with meeting Llewellyn Park. In this meeting they come up with an enhanced landscaping plan and additional curtain drain in the lawn area to assure that all of the enhancements and betterment with regard to the storm water management stem were implemented.
- Ms. Triolo states that the board has a good faith applicant before them who proceeded by permit. The contractor made a mistake and came before the board.
- Ms. Triolo states that the outreach to Llewellyn Park and to agree to do additional planting and give Llewellyn Park additional insurances and to enhance the system shows the good faith of the applicant.
- The replacement of the concrete elliptical pipe with stone is further indication of the good faith of the applicant and the matter in which he approached this.
- The broken pipes were replaced again. It was thought there was nothing to it because they were broken clay pipes and were replaced with something that was more manageable and they are willing to take it out and put in stone.
- This is an applicant that has been living in West Orange for 27 years and plans to stay there.
- Ms. Triolo states this application is complete, it is well based, well supported and asks the board to vote to approve it. Due to the outreach to Llewellyn Park and with the settlement agreement that has been submitted to the board, the applicant is perfectly fine with having the settlement agreement a conditional approval if the board should vote in that matter.

GENERAL DISCUSSION

PUBLIC COMMENT

Motion: Chairman Bagoff

Second: Mr. Guarino

Alper: Y	Morgan: ----
Bagoff: Y	Scarpa: Y
Cardoza (Alt.2): Y	Smeraldo: ----

Guarino: Y	Wilkes: Y
Kapferer: ----	
Klein: Y	
Mayor McCartney: Y	

Meeting adjourned at 8:35 PM.

ADOPTED:

Jamilet Baquerizo Vite
Planning Board Secretary