

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
January 17, 2013**

The West Orange Zoning Board of Adjustment held a regular meeting on January 17, 2013 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer called the meeting to order at approximately 8:00 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle, and posted on the Township Bulletin Board on November 21, 2012 in accordance with the "Open Public Meetings Act."

Chairman Neuer asked everyone to stand for the Pledge of Allegiance
Alice Beirne, Esq., Board Attorney, read the Opening Statement.

PRESENT: G. Bullock, W. Merklinger, P. Neuer, B. Quentzel,
W. Steinhart, M. Sussman, A. Weiss

ABSENT: B. Buechler (excused absence)
D. Gabry (excused absence)
L. Zaolino (excused absence)

ALSO PRESENT: Frank Russo, Consulting Engineer
Board Attorney, Alice Beirne, Esq.
Board Secretary, Rose DeSena
Harvey Grossman, Public Advocate

ANNOUNCEMENTS

Future Meetings: February 7, 2013 (Special Meeting) – 8:00 PM
February 21, 2013 (Regular Meeting) - 8:00 PM
March 7, 2013 (Special Meeting) – 8:00 PM
March 21, 2013 (Regular Meeting) - 8:00 PM
April 18, 2013 (Regular Meeting) – 8:00 PM

- Application **ZB-12-21/Guerrier** will be carried to the regular Zoning Board meeting to be held on February 21, 2013 per the applicant's request.
- Application **ZB-12-23/Merlino** will be carried to the regular Zoning Board meeting to be held on February 21, 2013 per the applicant's request.

SWEARING IN

Consulting Engineer, Frank Russo, was sworn under oath.

RESOLUTIONS

- 1. ZB-12-17/Blake** **Approved 12/20/12**
Block: 121; Lot: 45
132 High Street
“C” variance for side yard setbacks for a deck

DISCUSSION

Ms. Beirne stated that a resolution condition for pre-approval of the application was to have Tom Tracy, the Township’s Construction Official, inspect the footings on the deck. She referred to Mr. Tracy’s letter advising the Board that required inspections will only be performed after the permit application has been reviewed, approved and issued. She said that because Mr. Buechler recommended this condition, and he is not here to advise her on how to re-word the resolution, it will be put off until the next Zoning Board meeting.

- 2. ZB-12-16/Bocchino** **Approved 12/20/12**
Block: 168; Lot: 35; Zone: R-4
1464 Pleasant Valley Way
Four “C” variances for construction of a two car garage

Alice Beirne explained that at the last regular meeting on 12/20/12, the Board asked the applicant if he would consider moving the proposed garage further up in order to eliminate the rear set back variance that he requested. She said that the applicant agreed to do this and was required to re-submit plans ten days before this hearing. Ms. Beirne said that, according to the revised plans, moving the garage further up on the property created a front yard variance of 4’. She stated that this variance was not discussed on the record at the last meeting.

Chairman Neuer asked Mr. Bocchino to approach.

Michael Bocchino approached the podium and was sworn under oath. Chairman Neuer asked Mr. Bocchino if he wanted to amend the application and request the variance for the 4’ front yard setback; Mr. Bocchino said yes. Chairman Neuer accepted the amendment.

Chairman Neuer asked Ms. Beirne if the resolution takes this amendment into account; Ms. Beirne said yes it is in the resolution.

Chairman Neuer asked for a motion to approve the resolution as amended.

Mr. Steinhart made a motion to approve the resolution as amended; Mr. Quentzel seconded the motion to approve subject to the changes stated in the resolution.

The vote was as follows:

Buechler:	-	Steinhart:	Yes
Bullock:	-	Sussman:	Yes
Gabry:	-	Weiss:	Yes
Merklinger:	-	Zaolino:	-
Quentzel:	Yes	Chairman Neuer	-

- 3. ZB-08-37/Seton Hall Prep. - Kelly Athletic Center Approved 12/6/12**
 700 Prospect Avenue
 Site Plan Amendment

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none Chairman Neuer asked for a motion to approve.

Mr. Steinhart made a motion to approve the resolution; Chairman Neuer seconded the motion to approve.

The vote was as follows:

Buechler:	-	Steinhart:	Yes
Bullock:	Yes	Sussman:	Yes
Gabry:	Recused	Weiss:	Yes
Merklinger:	-	Zaolino:	-
Quentzel:	Yes	Chairman Neuer	Yes

APPLICATION

- 1. ZB-12-01/Singh**
 Block: 21; Lot: 18; Zone: R-T
 61 Riggs Place
 "C" variances for front, side and rear setbacks for enclosing a front porch and adding a room to the rear of the house.

Chairman Neuer asked the applicant to approach.

Nazeema Singh approached the podium. Chairman Neuer asked Ms. Singh if she had a Professional Planner. Ms. Singh said that she was not sure what he was asking her. The Chairman explained that, by law, she must have a licensed Professional Planner that will testify to the positive and negative criteria because of the C (1) and C (2) variances. Ms. Singh said that she does not have a Planner. Chairman Neuer asked Ms. Singh if she had an Architect and if he was at this meeting; Ms. Singh replied yes.

David Jablonka approached the podium. Chairman Neuer asked Mr. Jablonka if he also held a license as a Professional Planner; Mr. Jablonka replied no.

Chairman Neuer stated that, by law, this Board cannot vote in favor because the applicant does not have anyone here qualified to testify to the positive and negative criteria.

Chairman Neuer stated that the Board will not require a written report but the applicant must hire a Planner to testify to the positive and negative criteria.

Chairman asked Ms. Singh if she would like to request an adjournment until the next meeting and retain the services of a licensed Professional Planner in the State of New Jersey; Ms. Singh replied yes and requested an adjournment.

Chairman Neuer stated that this application will be carried to the next Zoning Board meeting on 2/21/13. He said that this application will be first on the agenda and that no further notice will be necessary.

2. ZB-12-22/House of the Holy Comforter t/a Canterbury Village

33 Mt. Pleasant Avenue

Block: 99; Lot: 26; Zone: OB-2

Seeking amended site plan approval for modifications to the previous plan approved for ZB-11-17

EXHIBITS

A-1 - Site Plan – cover page, sheet 1, 3, 4, 5 dated 9/4/12

A-2 – Landscape Plan dated 9/11/11

A-3 – Landscape Plan dated 9/14/12

A-4 – Dumpster Enclosure Details

Robert Williams, Esq. approached the podium and entered his appearance as attorney for the applicant.

Mr. Williams detailed the amendments that are being proposed to the original site plan that was approved on 10/27/11. He stated that the applicant is proposing to relocate the existing dumpster from the southerly to the northerly corner of the parking lot and add an emergency generator and concrete pad near the front of the site. Mr. Williams stated that no additional variances are being requested.

Chairman Neuer explained that the reason this application comes back to the Zoning Board is because this Board originally heard this application.

Chairman Neuer asked Mr. Williams if he will be presenting any witnesses to testify at this meeting; Mr. Williams stated that the applicant's Engineer will be testifying.

Edward Brogan approached the podium and was sworn under oath. Chairman Neuer stated that Mr. Brogan testified at the last hearing and he is still accepted as a licensed Professional Engineer in the State of New Jersey and as an expert in the field of Engineering.

Mr. Williams referred to the cover page and sheets 1, 3, 4 and 5 of the Site plan dated 9/4/12. Chairman Neuer stated that the cover page and sheets 1, 3, 4 and 5 were pre-marked as Exhibit A-1 for identification. Mr. Williams stated that after the Zoning Board approved this application the applicant had to go to the N.J. Department of Community Affairs and they had some suggestions regarding site issues. Mr. Williams detailed those changes on the plans.

Chairman Neuer referred to page two of Omland Engineering's report. He asked Mr. Brogan if they agreed to make the changes that Omland recommended regarding the generator and the dumpster; Mr. Brogan replied yes.

Mr. Brogan referred to the Landscape Plan dated 9/11/11 and detailed where the dumpster is currently located and where they are proposing to relocate it. Chairman Neuer stated that the Landscape Plan dated 9/11/11 was pre-marked as Exhibit A-2 for identification.

Ms. Weiss asked Mr. Brogan if there is a street located behind the dumpster's new location; Mr. Brogan said that there is a wooded area and Llewellyn Park behind the dumpster. He said there are no residents behind it.

Mr. Brogan referred to the Landscape Plan dated 9/14/12 and detailed where the proposed generator and the generator pad will go. Chairman Neuer stated that the Landscape Plan dated 9/14/12 was pre-marked as Exhibit A-3 for identification.

Chairman Neuer asked Mr. Brogan how long the generator will run; Mr. Brogan said that the generator runs on natural gas and it will run until the natural gas runs out.

Chairman Neuer asked Mr. Brogan about the noise levels of the generator and if the decibel levels are within the allowable limit. Mr. Brogan stated that the decibels meet the State standards and are within the allowable limit. He said that the generator will be 22 feet from the property line and is surrounded by landscaping. Mr. Brogan said that the landscaping will also absorb some of the sound.

Mr. Sussman stated that generators are loud and he is very concerned with the sound.

Mr. Merklinger stated that a natural gas generator is much quieter; Mr. Brogan said that Mr. Merklinger is correct.

Chairman Neuer asked Ms. Beirne to note that a sound analysis report showing allowable decibel levels and actual decibel levels is a condition.

Ms. Weiss said that the generator should only be used in an emergency.

Chairman Neuer stated that, as a condition, all testing should be done during normal business hours, once a week for twenty (20) minutes.

Chairman Neuer referred to #5 of Omland Engineering's report, requesting a detail for the dumpster, and asked Mr. Brogan if they provided this. Mr. Brogan replied yes and presented a Dumpster Enclosure Detail Plan and began describing it. Chairman Neuer asked to have the Dumpster Enclosure Detail plan marked as Exhibit A-4 for identification.

Mr. Brogan stated that the applicant is also reserving the right for a garden in the rear of the yard.

Mr. Sussman asked if moving the dumpster to this location would change the number of parking spaces; Mr. Brogan said no.

Mr. Bullock asked Mr. Brogan if a wooden enclosure around the generator would absorb some of the noise; Mr. Brogan said possibly. Chairman Neuer asked Mr. Brogan to consider doing that.

There were no further questions for Mr. Brogan from the Board.

Chairman Neuer asked if there were any members of the public here for this application; seeing none the Chairman closed the public hearing.

Chairman Neuer asked if there were any comments from any of the Board members; seeing none the Chairman recommended that the Board approve this application. He said that there are no variances, it is a beneficial use for the Community and he urges everyone to be in favor.

Chairman Neuer asked for a motion to approve this application subject to the two conditions previously stated.

Mr. Sussman made a motion to approve; Mr. Steinhart seconded the motion to approve.

The vote was as follows:

Buechler:	-	Steinhart:	Yes
Bullock:	Yes	Sussman:	Yes
Gabry:	-	Weiss:	Yes
Merklinger:	Yes	Zaolino:	-
Quentzel:	Yes	Chairman Neuer	Yes

Chairman Neuer stated that Mr. Grossman approached him before the meeting started and asked to be excused because there was nothing applicable for him. The Chairman excused Mr. Grossman.

ADJOURNMENT

The meeting was adjourned by Chairman Neuer at 8:34 pm.

Approved: February 7, 2013

A handwritten signature in cursive script, followed by the date "2/8/13". The signature is written over a horizontal line.

Rose DeSena
Zoning Board Secretary