

**TOWNSHIP OF WEST ORANGE  
PLANNING BOARD  
MINUTES  
April 3, 2013**

The Township of West Orange Planning Board held a regular meeting on April 3, 2013 at 7:30 P.M. in Council Chambers, 66 Main Street, West Orange, New Jersey.

Chairman Bagoff called the meeting to order at approximately 7:30 P.M. It was announced that notification of this meeting was given to the Township Clerk, and posted on the Township Bulletin Board on December 6 2012, in accordance with the requirements of the "Open Public Meetings Act".

**PRESENT:** Chairman Bagoff, Jerome Eben Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller Lee Klein, Councilwoman Susan McCartney, Ron Weston

**ABSENT:** Joanne Carlucci, Jason Lester, William Wilkes II

**ALSO PRESENT:** Paul Grygiel, AICP, PP, Acting Township Planner; Patrick J. Dwyer, Esq., Board Attorney; Robin Miller, Board Secretary; Debbie Dillon, Audio-Digital Transcription Service

**PLEDGE OF ALLEGIANCE**

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

**ROLL CALL**

Chairman Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Jason Lester, Councilwoman Susan McCartney, Ron Weston, Williams Wilkes II.

**ANNOUNCEMENTS**

The next regular Planning Board meeting will be held on **May 1, 2013** at 7:30 P.M. in Council Chambers.

**ADOPT MINUTES**

The minutes of the March 20, 2013 Planning Board meeting were unanimously adopted.

**SWEARING IN**

Paul Grygiel, AICP, PP, Phillips Preiss Grygiel LLC, Acting Township Planner.

**DISCUSSION**

**Recommendation to Township Council regarding three Historic Landmark Designation reports from the Historic Preservation Commission.** (Brian Feeney, Chairman and Martin Feitlowitz, Commissioner)

Appearing before the Board were Brian Feeney, Chairman and Martin Feitlowitz, Commissioner, West Orange Historic Preservation Commission.

Mr. Feeney advised the Board that the Historic Preservation Commission was the entity charged with maintaining the historic character of the Township. One of the tools the Committee used was to identify important structures for landmark designations. As required by Ordinance, the Commission held a public meeting in April 2012 and presented the draft designation reports to the Public. In May 2012, the Commission approved a motion to recommend to the Township Council and the Planning Board the designation of three Township properties as local landmarks, as provided for under Article 25-30.3 of the West Orange Land Use Ordinance: 45 Park Way, 7 Bloomfield Way, and 48 Fairview Avenue.

Mr. Feitlowitz gave a brief synopsis of each property. Beginning with 48 Fairview Avenue, Mr. Feitlowitz said the property was one of eight remaining local St. Cloud area properties that represented Second Empire architecture. The house retained much of its original ornamentation and displayed the romantic lines and homage to French architecture that was prominent in the late nineteenth century. Built in 1871, by the architectural firm of J. Cleveland Cady, the man who designed the Metropolitan Opera House in New York City; it was used primarily as the summer residence of Alfred Kimball.

7 Bloomfield Way, also known as the Anna Frost House, was built in 1855; it was home to the mother-in-law of Llewellyn Haskell. The house was a rare surviving building from the earliest period of the development of Llewellyn Park; actually preceding the development of the Park, the oldest planned community in the United States. The house is an example of a bracketed cottage, designed by Orange based architect Alexander Jackson Davis. Mr. Davis was a well-known architect of his day; his designs gave new meaning to the word "picturesque". The house is one of six remaining buildings designed by Davis from the first phase of development in the Park.

45 Park Way, also known as the Nichols-McKim Cottage, was erected in 1859-59. The Gothic Revival-style house was designed by Alexander Jackson Davis; it has been identified as the single most historic building in the Township of West Orange. The first owner of the Cottage was Edward W. Nichols, an eminent painter of the Hudson Valley School art movement. The Cottage was later home to the Reverend James Miller McKim, a leading pre Civil War abolitionist. His son, Charles Follen McKim, became a famed Beaux Arts architect, one of the founders of McKim, Mead and White, the leading American architectural firm of the later nineteenth century.

Chairman Bagoff thanked the Commissioners for an excellent presentation.

Mr. Gurland stated that the Commission had followed all legal requirements for designation; he requested the Planning Board submit its recommendation to the Township Council to designate the three properties as local historic landmarks.

The Board voted on the Recommendation as follows:

Motion: Mr. Gurland

Second: Chairman Bagoff

Carlucci:	-	Eben:	Y	Ghebremicael:	Y
Gurland:	Y	Heller:	Y	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

## **RESOLUTIONS**

### **PB-13-02/Auburn Data Systems, LLC**

Block: 84.01; Lot: 22; Zone: B-2

10 Marcella Avenue

Conditional Use and Preliminary and Final Site Plan with waivers to install two (2) dish antennas on to existing telecommunications tower.

### **DISCUSSION:**

Mr. Dwyer advised the Board of minor revisions to wording of the Resolution as per recommendation of Eric Keller, P.E., P.P., Omland Engineering Associates, Inc., consulting engineer.

The Board voted on the Resolution as follows:

Motion: Mr. Weston

Second: Chairman Bagoff

Carlucci:	-	Eben:	-	Ghebremicael:	-
Gurland:	Y	Heller:	-	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

### **PB-13-06T/Dialysis Center of West Orange, LLC**

Block: 164; Lot: 1.03; Zone: OB-2

101 Old Short Hills Road

Technical Site Plan to operate a dialysis center in medical office building.

### **DISCUSSION:**

Chairman Bagoff advised the Board that at its last meeting, the Technical Review Committee approved the Application for interior renovations to construct and operate a ten (10) patient station outpatient dialysis center in an existing medical office. The conditions were as follows:

1. Subject to receipt of all required State regulatory approvals;
2. Subject to the Applicant entering into an association agreement with Saint Barnabas Medical Center.

Mr. Eben inquired if the Applicant's architect was properly licensed in the State of New Jersey; he requested that Mr. Grygiel confirm the architect had a Certificate of Authorization.

The Board voted on the Resolution as follows:

Motion: Mr. Weston

Second: Chairman Bagoff

Carlucci:	-	Eben:	N	Ghebremicael:	Y
Gurland:	Y	Heller:	Y	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

## **APPLICATION**

### **PB-13-05C/County of Essex-South Mountain Recreation Complex**

Block(s): 163; Lot(s): 1; Zone: R-1

560 Northfield Avenue

Courtesy Review Application to construct new pavilion over existing concrete pad and to install new playground structure at Turtle Back Zoo.

## **EXHIBITS**

- A-1** – Ariel photograph of overall view of Turtle Back Zoo, prepared by French & Parrello Associates, P.A., dated April 1, 2013.
- A-2** – Rendering of Concept Site Plan for new playground, prepared by Suburban Consulting Engineers, Inc., dated February 20, 2013.
- A-3** – Site layout and grading plan of pavilion area, signed by Daren J. Phil, P.E., Suburban Consulting Engineers, Inc., dated March 14, 2013.
- A-4** – (Preliminary) Conceptual Plan and Profiles, prepared by Suburban Consulting Engineers, Inc., dated February 19, 2013.
- A-5** – Ariel Plan, prepared by Suburban Consulting Engineers, Inc., dated February 28, 2013.

Joseph N. DiVincenzo, Jr., County Executive appeared before the Board. He thanked the Planning Board, Mayor and Township Council for their support; he offered an invitation to all to join him on April 10, 2013 at 11:00 A.M. for the grand opening of the brand new Sea Lion Exhibit at Turtle Back Zoo. He then gave a brief summary of the current Applications; one would include a new dinosaur-themed playground area and new pavilion; the other was to replace and expand the Tree Top Adventure course damaged during Hurricane Sandy; it was expected to re-open August 1, 2013 together with a new Education Center. The projects totaled eight million dollars worth of new work done in the Township of West Orange.

Mark L. Fleder, Esq., Connell Foley LLP, attorney for the Applicant addressed the Board. Mr. Fleder stated that the County was concerned that there was the appearance that it did not follow Township ordinances. He said the record should reflect that assumption was entirely wrong. The two new projects reflected eight million dollars worth of improvements; the County was (not) in any sense, not heeding to the ordinances of the Township; the County Executive and the County wanted a first-class operation.

Joseph D. Perello, L.L.A, Suburban Consulting Engineers, Inc., was sworn in and accepted by the Board to be an expert in landscape architecture. Referring to Exhibit A-1, Mr. Perello said it showed an overall view of the Zoo property that had also been superimposed with the proposed improvements. Mr. Perello said the new playground would be located adjacent to the aviary and barn structure; the existing playground would be removed and a new pavilion would be installed over the old playground's existing footprint. The new playground would have an entrance feature, a portal in the shape of a large Teri dactyl. Children would be able to dig for fossils throughout the playground. The playground would be divided in to two areas for different age groups. The first, a playground geared for two-to-five year olds would have standard playground structures and rock formations. The second, geared to five-to-twelve year olds, would be customized with dinosaur features including a saber-toothed tiger with slides and climbers. All playground surfacing would be light-colored rubberized material. The playground would have an accessible area for handicapped children. The entire area surrounding the playground would be landscaped with perennial plantings including larger prehistoric looking plantings. The area would have modular blocks retaining walls; and would be entirely fenced to keep children within the area. Near the existing carousel, a new pavilion would be built on the existing 30'x50' concrete pad with rubberized matting; the new structure would be a shaded pavilion with twelve poles and a gabled roof with electrical outlets and lighting. The pavilion would be used for picnics. Additionally, there would be a small wood structure to store children's backpacks. There would be no impact to the existing site other than taking out the existing playground and building a shade structure. The pavilion would look exactly like the existing pavilion located approximately 150 feet away. Mr. Perello concluded his testimony.

Mr. Eben inquired as to the number of trees that would be removed for the new playground; he asked about the storm water management control for area; and the proximity of the restrooms to the new playground area. Mr. Perello said that twenty-nine (29) trees would be removed for the new playground area and replaced with eight (8) very large deciduous trees, together with many other trees and plantings. Regarding storm water management, Mr. Perello said there were under-drains in the area that would be recharging the ground; the soil erosion control plan had already been filed with the State. Mr. Perello indicated that there were two restrooms in the area; one located approximately 150 feet from the playground, another one near a shaded area approximately 200 feet away. Mr. Eben suggested that perhaps some ground signs be placed in the area indicating when the restrooms were located.

Councilwoman McCartney asked what type of fence would surround the playground area. Mr. Perello said there would be a new 4 ft. chain link fence along the top of a retaining wall; the entire area had an 11 ft. high perimeter fence.

Mr. Heller asked if the playground surface was ADA compliant. Mr. Perello said the playground surface would be a light-colored rubberized material that looked like sand.

Mr. Klein asked for details regarding the safety fence. Mr. Perello said the entire area would be fenced in; there would be a lower module safety fence.

Mr. Grygiel asked Mr. Perello to detail the timing of the construction; Mr. Perello said the plan was to build the new playground first, then the pavilion. Mr. Grygiel confirmed that the new amusement would not result in new trip generation.

Mr. Grossman said he had no questions; but would like to reserve his comments until after the County finished its testimony on the Applications.

The Public had no questions or comments.

The Board deliberated on the Application.

Recommendations:

1. Ground signs installed to indicate the location of bathroom facilities should be installed.

Chairman Bagoff called for a vote on the Application.

The Board voted on the Application as follows:

Motion: Chairman Bagoff

Second: Mr. Ghebremicael

Carlucci:	-	Eben:	Y	Ghebremicael:	Y
Gurland:	Y	Heller:	Y	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

Chairman Bagoff announced a brief recess at approximately 8:23 P.M.; he reconvened the meeting at approximately 8:29 P.M.

### **PB-13-04C/County of Essex-South Mountain Recreation Complex**

Block(s): 163; Lot(s): 1; Zone: R-1

560 Northfield Avenue

Courtesy Review Application to construct Education Center at Turtle Back Zoo; to reconstruct Tree Top Adventure Course.

#### **EXHIBITS**

**A-1** – Ariel photograph of overall view of Turtle Back Zoo, prepared by French & Parrello Associates, P.A., dated April 1, 2013.

**A-2** – PowerPoint Presentation – The Education Center at the Turtle Back Zoo prepared by USA Architects Planners & Interior Designers.

**A-3** – Preliminary Conceptual Plan of Tree Top Adventure Course prepared by French & Parrello Associates, P.A., dated February 26, 2013.

Mr. Fleder introduced Michael J. Piga, C.L.A., R.L.A, Manager of Landscape Architecture, French & Parrello, Associates, P.A. Mike Piga, licensed landscape architect, French & Parrello. Chairman Bagoff stated that Mr. Piga had appeared before the Board on several occasions; the Board acknowledged him an expert witness.

Referring to Exhibit A-1, Mr. Piga identified the area of the Tree Top Adventure Course, he said the project was along Northfield Avenue; the County had appeared before the Board two years ago and had approved the course using the actual trees on the property; due to Hurricane Sandy, the existing course was destroyed. The new Application was to rebuild the course. Continuing to Exhibit A-3, Mr. Piga said that previously the course had twenty-four elements; the new proposal was to enlarge the course; it would have forty-six elements and a zip line. All elements would be on timber poles. The new course would include fifteen elements for children. The zip line would be on towers located near the Black Bear Exhibit. The existing stone access road would be paved up to the stone fence fronting Northfield Avenue; drainage system would be improved; ten trees would be removed, (American Elm and Ash), to be replaced with thirty-two new trees, shrubbery and perennial plantings. The second portion of the project would be the construction of a new Education Center, which would include a new drop-off area for buses to ease the congestion at the existing main entrance. The new saw tooth bus-parking set-up would accommodate up to eight buses at a time; nine designated employee parking spaces and additional designated parking for handicap accessibility. The configuration would include bollards; stamped concrete coverage, and new fencing to ensure pedestrians use crosswalks. The entry plaza would have animal footprints motif similar to the hand and footprint feature at TLC Chinese Theatre (formerly Grauman's) in Hollywood; there would also be a globe installation. The new area to the west would have a snake motif with a two-foot high wall; the asphalt path trail would be ADA compliant – visitors could access both the Tree Top Adventure Course or go directly to the Zoo.

Mr. Fleder confirmed with Mr. Piga that the Department of Consumer Affairs (DCA) had approved the plan for the new Tree Top Adventure Course. Mr. Fleder advised the Board that a structural engineer was present, and if requested, would be able to testify to the details of the construction. However, since the Course was technically an amusement type ride, the actual structural calculations were unavailable. The plan calculations review and approval for the Course was within the exclusive jurisdiction of the DCA.

Chairman Bagoff inquired if the Board had any questions in response to Mr. Piga's testimony.

Mr. Eben stated that the original approval from the Board, two years ago, had a condition that the Course would be set back thirty feet from the property line; but it was not built according to the approved plan. He inquired if Mr. Dwyer would make it a recommendation of approval that the new Course maintain the thirty-foot setback. Mr. Piga answered in the affirmative; it could be moved back to maintain the thirty foot setback.

Chairman Bagoff advised Mr. Dwyer to make the thirty-foot setback a condition of the recommendation.

Mr. Heller inquired as to the reason the outdoor pavilion entrance was open to the street; he said he was concerned the globe installation would be visible on Northfield Avenue; he also asked if Mr. Piga knew how the Course tied in to the original Lenape Trail. Mr. Piga said the area was very steep, the entrance area would be visible from the street but would have much landscaping; the globe was not large; it

would not create a visual problem for passerbys. Mr. Piga said the Course did not impact the Lenape Trail.

Chairman Bagoff asked if a material other than asphalt could be used on the access road. Mr. Piga said that asphalt would be best material.

Mr. Weston said the conceptual plan for the Course showed much ground area; Mr. Piga said there would be plantings.

Chairman Bagoff asked if the Public had any questions for Mr. Piga.

Suzanne Robinson, 34 Dogwood Drive, asked Mr. Piga to confirm the Course would be designed for two different age groups. Mr. Piga answered in the affirmative.

Robert Rashkes 35 Oak Crest Road, asked where the buses would be moved after drop off. Chairman Bagoff advised that Mr. Piga had not testified to administrative matters and suggested Mr. Rashkes hold the question until after additional witness testimony.

Mr. Fleder introduced the County's next witness, Mark A. Coan, AIA, USA Architects Planners + Interior Designers. Mr. Coan stated his credentials; the Board accepted him to be an expert witness in architecture. Mr. Coan began his testimony with a PowerPoint presentation, (Exhibit A-2 - The Education Center, dated April 3, 2013). Mr. Coan said the Center ran in north-south direction, it would be setback from Northfield Avenue further than the Arena; given the substantial grade, there was the opportunity to build in to the slope. Mr. Coan described the proposed ticket area, educational classrooms, barrier free restrooms, animal holding areas, and the design of the second floor which would be organized along the west side of the building. Mr. Coan concluded his testimony.

Referring to the first floor plan, Mr. Eben asked if there would be a slop sink; if the ticketing windows and interior desk area would be ADA compliant; and asked for confirmation that the proposed exterior retail space would be connected to the building but not accessible from the interior for bathroom accessibility. He also asked if the retail space and roof area would be handicap accessible. Mr. Coan advised that there would be a slop sink; the ticketing windows and interior desk areas would be ADA compliant; and the proposed retail space would be used seasonally, with no direct access to the interior of the building. He said access to the roof would be from the southeast corner; the only means of egress for a disable person.

Mr. Heller asked if a Green roof had been considered. Mr. Coan said it was not easy to get an organic edge.

Mr. Weston asked if the plan had considered LEED certification. Mr. Coan said that LEED Certification would not be sought, however many elements had been incorporated in the design of the structure. Mr. Weston opined that certification would be good for the structure and the County; he suggested including as a condition of recommendation the County provide all aspects of sustainability in the design of the structure.

Mr. Klein asked what was planned for the old (existing) Education Center. Mr. Fleder advised that question could be answered by Dr. Goodman, the Director of Turtle Back Zoo.

Harvey Grossman, Public Advocate, asked where buses would be stored after drop off. Mr. Fleder advised the question could be answered by Dr. Goodman.

Dr. Jeremy Goodman, Director of Turtle Back Zoo, was sworn in and accepted by Board to be an expert witness.

Dr. Goodman testified that the buses would be parked in the existing lot on Cherry Lane; and the County was currently negotiating for additional parking across Northfield Avenue, opposite the Zoo. The existing Education Center would continue to be used for educational programs, birthday parties, and the summer camp program. Dr. Goodman stated that the issue of safety was a primary reason for the new Education Center; there would be a system of safety lights, and buses would no longer be idling in the parking lots.

Mr. Grossman stated that the bus parking facility would be located on Cherry Lane; he opined that between thirty and forty buses would be in the reservation per day. He asked if the buses would be stored within or outside of the Reservation. Dr. Goodman said the buses would be stored within the Reservation. Dr. Bagoff advised Mr. Grossman that the storing of buses on Cherry Lane were part of a previously approved Application; there would be no additional black top paving in that area of the Reservation.

Chairman Bagoff asked if the Public had any questions for Dr. Goodman.

Robert Rashkes, 35 Oak Crest Road, stated he had counted sixty-four buses in the existing parking lot. He said the previous Application indicated that there might be ample space during the week, but the weekends would be a challenge. Dr. Goodman said he had never seen that number of buses in the lot. Chairman Bagoff reminded Mr. Rashkes that Dr. Goodman would not be answering questions to testimony from the previous Application.

Chairman Bagoff indicated the Public could comment on the Application.

Robert Rashkes, 35 Oak Crest Road, thanked Mr. Dwyer for his recommendation regarding public noticing. He recommended the County build a Green multi-tiered parking garage. He opined the County was not prepared to handle the traffic generated by the Zoo visitors; he was concerned that Northfield Avenue was an important route for emergency vehicles; the increased traffic could create hazardous traffic backups. He requested the Education Center be put in a different location; he requested that members of the Public be included in planning future projects.

Harvey Grossman, Public Advocate, thanked the County for their presentation. He opined that all the facilities were first-rate. However, the focus of the presentation was solely internal and did not take in to account the impact on West Orange as a whole. He said three neighborhoods were impacted in a detrimental manner; Dogwood, Olmsted and St. Cloud areas. He opined that as the County projects grew; it would remove the open space and forest, creating a negative impact on

surrounding property values. It was his opinion that the facility had reached critical mass; it should not be allowed to grow. He said he appreciated the Courtesy Review; but suggested that from the early planning stage, future projects be the collaboration between the County and the Township.

The Board deliberated on the Application.

Mr. Eben opined that Mr. Grossman had made valid points; he agreed that the County and Township should work together. He also stated he would like something done about the illegal banner signs along the perimeter fences.

Mr. Ghebremicael opined that the County did a great job; he traveled Northfield Avenue several times a day and did not encounter traffic problems along the corridor.

Councilwoman McCartney said she took exception to comments made by the Public Advocate; she said the County had worked with the Township every step of the way regarding the Applications. She advised the Board that a coalition of Aspen Road residents had contacted her; they were very concerned that people missing the turn to the Reservation were making hazardous turn-around(s) off Aspen Road; additionally the graffiti on the County footbridge should be cleaned up.

Mr. Heller opined he looked at the projects from a detail perspective and the big picture. He said the Reservation trails were designed by the same person who designed Central Park. He opined the County did a fantastic job of enhancing the Olmsted vision.

Mr. Weston said he also took exception to Public Advocate's comments; the area was now better than it was several years ago; he said he supported the project; the project encompassed twenty acres out of an area of over two-thousand acres.

Chairman Bagoff said the Board had the opportunity to say yes or no to the project; he said the County Executive has shown great interest in the project; he opined the project was a great opportunity for the education of children. He said he supported the Application; but noted there were traffic issues associated with the project

Recommendations:

1. The Tree Top Adventure Course should maintain a 30 ft. setback from Northfield Avenue;
2. Within 30 days Applicant to provide Board with a list of all the sustainable design features incorporated in the project;
3. County should adopt a one-for-one tree removal/tree replacement policy for the project;
4. County should improve the "Left Turn / U Turn" signage on the westbound side of Northfield Avenue across from the Zoo to make it more visible.

Chairman Bagoff called for a vote on the Application.

The Board voted on the Application as follows:

Motion: Chairman Bagoff

Second: Mr. Ghebremicael

Carlucci:	-	Eben:	Y	Ghebremicael:	Y
Gurland:	Y	Heller:	Y	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

## **APPLICATION**

### **PB-13-07/Village Supermarket Inc., d/b/a Shop Rite**

Block: 155.21; Lot: 40; Zone: P-C

1 Rooney Circle

Preliminary and final site plan without variances to operate 24-hour business.

## **EXHIBITS**

None

## **DISCUSSION**

Joseph H. Alessi, Esq., attorney for the Applicant, told the Board the Applicant, Village Super Market Inc., was seeking to extend its operation to be opened twenty-four hours. As indicated in West Orange ordinance 4-9.1, the Applicant was to comply with the regulations of the West Orange Police Department; the Applicant was also required to have site plan approval, which had been granted several years ago.

Enzo Pavese, AIA, The Pavese Group, P.A. was sworn in and accepted by the Board to be an expert witness in architecture. Mr. Pavese advised the Board he had designed the original project; he stated the site plan that was part of the current Application was the same as the original site plan.

Mr. Eben opined that the original Langan Engineering site plan, in the easterly corner was there was confusion as to the way the parking spaces were laid out. Referencing the Overall Site Plan dated March 14, 2013; he asked Mr. Pavese how the parking was laid out because it appeared to show double parking. Mr. Pavese said the darker lines on the plan indicated what was currently on the site. The parking stalls were in an east-west pattern. Mr. Eben said he would like to see a cleaned-up site plan; he did not think the disabled parking was correctly indicated.

Mr. Grygiel said that some items were not on the submitted site plan but that anything not shown on the current plan would be included in the plans submitted for subsequent Applications. Chairman Bagoff asked if the Application's site plan was sufficient for the ordinance being discussed. Mr. Grygiel answered in the affirmative.

Vito Altieri, General Store Manager, West Orange Shop Rite, was sworn in and accepted to be an expert witness. Mr. Altieri said the store wanted to move to a twenty-four hour operation for the convenience of the community. He gave a brief recapitulation of comments from Sergeant John Morella of the West Orange Police Department in his report dated March 13, 2013. Mr. Altieri discussed the outstanding issues, which included the amount of money permitted in the cash

register; window signage; visibility of cash registers; the number of employees during overnight hours; burglarproof drop safes; the alarm system and camera monitoring.

Mr. Alessi gave a recapitulation of three outstanding issues that the Applicant was requesting waivers (per Ordinance Section 4-9) including 4-9.1b 3 "each employee ...does not carry more than one hundred dollars cash on his or her person". Due to the large volume of business each cashier starts with \$100.00 in cash; 4-9.1 e "Any signs posted in the windows shall be located so as to provide a clear and unobstructed view of the cash register and interior sales area from the outside." – Due to the large size and design of the building and the nature of the business operation each cash register and interior sales area cannot be visible from the outside. The Applicant will post the required signs; 4-9.1 f – "The interior sales area shall be designed and located so that the sales clerk and customer are fully visible from the street at the time of the sales transaction." – Due to the large size and design of the building and the nature of the business operation the sales clerks and customers cannot be fully visible from the street at the time of the sales transaction.

Councilwoman McCartney inquired if the Applicant complied with outdoor ordinance and fire code.

Chairman Bagoff stated the Applicant should provide the Building Department with an internal footprint of the store within three months of Approval.

Mr. Gurland inquired if the ATM machines were to be operational twenty-four hours. Mr. Altieri said an outside company, not Shop Rite, maintained the machines. He indicated the machines would be accessible.

Mr. Heller asked if additional employees would be hired. Mr. Altieri said that current employees would have the option of working over-night hours. No new hires were planned.

Chairman Bagoff polled the Board for the three requested waivers: Section 4-9.1b 3; 4-9.1 e; 4-9.1 f. The Board unanimously voted to grant the requested waivers.

Conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.
2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.

3. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
5. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.
6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
7. A Waiver is granted from West Orange Revised General Ordinance Section 4-9.1b(3) so that Applicant's cashiers may have more than \$100 cash at their registers.
8. A partial Waiver is granted from West Orange Revised General Ordinance Section 4-9.1(e) and (f) so that Applicant agrees that during the hours between midnight and 6 a.m. it shall use no more than ten (10) cash registers and they shall be ones that are visible from the outside. Applicant shall also move and/or place the window signs so that the ten overnight registers being used shall be more visible from the outside.
9. Applicant shall provide a charging station for public use during periods of power outage.
10. Applicant shall within 90 days apply for necessary approvals allowing sales of gardening and other items occurring outside the building or cease such sales.
11. Applicant to provide an interior floor plan of the building to the Township to assist with fire and police safety concerns.

Chairman Bagoff called for a vote on the Application.

The Board voted on the Application as follows:

Motion: Chairman Bagoff

Second: Mr. Weston

Carlucci:	-	Eben:	Y	Ghebremicael:	Y
Gurland:	Y	Heller:	Y	Klein:	Y
Lester:	-	McCartney:	Y	Weston:	Y
Wilkes II:	-	Bagoff:	Y		

### DISCUSSION

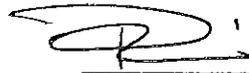
Recommendation to Township Council regarding potential zoning changes to streamline standby generator installation. (Paul Grygiel, Patrick Dwyer)

Chairman Bagoff announced the discussion would be adjourned to an upcoming meeting.

Chairman Bagoff announced there would be a presentation of the Complete Streets project at the next meeting. He requested Councilwoman McCartney provide the Secretary with details to coordinate the presentation.

MEETING ADJOURNED at approximately 10:24 P.M.

Minutes adopted May 1, 2013



\_\_\_\_\_  
Robin Miller, Planning Board Secretary  
Township of West Orange

**\*\*THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE  
JUNE 5, 2013 AT 7:30 P.M. IN COUNCIL CHAMBERS\*\***