

**MINUTES  
TOWNSHIP OF WEST ORANGE  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
February 19, 2015**

The West Orange Zoning Board of Adjustment held a regular meeting on February 19, 2015 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Vice 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 December 11, 2014 in accordance with the "Open Public Meetings Act."

Vice Chairman Neuer asked everyone to stand for the Pledge of Allegiance.

Alice Beirne, Esq., Board Attorney, read the Opening Statement.

**PRESENT:** G. Bullock, D. Gabry P. Neuer, B. Quentzel,  
M. Sussman, A. Weiss

**ABSENT:** B. Buechler (excused)  
W. Steinhart (excused)

**ALSO PRESENT:** Paul Grygiel, Consulting Planner  
Eric Keller, Consulting Engineer  
Alice Beirne, Esq., Board Attorney  
Rose DeSena, Board Secretary  
D. Dillon, Audio-Digital Transcription Service

**ANNOUNCEMENTS**

**Future Meetings:** February 26, 2015 (Special Meeting) – 8:00 pm  
March 19, 2015 (Regular Meeting) – 8:00 pm  
April 16, 2015 (Regular Meeting) – 8:00 pm

**MINUTES**

**Adopt Minutes:** January 15, 2015 (regular meeting)

Vice Chairman Neuer asked the Board members if they had any additional comments to the January 15, 2015 regular meeting that were submitted to them for review. Seeing none, he asked for a motion to approve said minutes.

Mr. Sussman made a motion to approve the minutes of the January 15, 2015 regular Zoning Board of Adjustment meeting as submitted to the Board members; Mr. Quentzel seconded the motion and all were in favor.

It was noted for the record that Ms. Gabry was present but did not vote on these minutes.

### **SWEARING IN**

Consulting Planner for the Township, Paul Grygiel and Consulting Engineer for the Township, Eric Keller, were sworn under oath.

### **APPLICATIONS**

**1. ZB-14-10/Franco**

**Carried over from 1/15/15**

Block: 176.25; Lot: 10; Zone: R-4

24 Ferris Drive

Seeking four (4) variances for installing an above ground swimming pool.

### **EXHIBITS**

Blank-1 – Letter and attachments – 10 pages dated 2/19/15

A-1 – Photograph

Hugo Franco, applicant, approached the podium and was sworn under oath.

Vice Chairman Neuer asked Mr. Franco if he has any written agreements from his neighbors; Mr. Franco said he has an agreement with Mr. Abdallah but not with Dr. Blank.

Vice Chairman Neuer stated that the written agreement that Mr. Franco presented to the Board did not have Mr. Abdallah's signature on it and that the Board cannot accept it. He said that in order for the Board to accept it, the agreement requires the parties to sign it.

Vice Chairman Neuer stated that at the last meeting the Board required Mr. Franco to return with a written agreement from Mr. Abdallah and Dr. Blank and he did not satisfy either obligation imposed by them.

Mr. Franco stated that the agreement he has with Mr. Abdallah is verbal.

Vice Chairman Neuer advised Mr. Franco that the Board cannot approve applications for property not owned by the applicant without written permission from the other property owner.

He said that the survey that was submitted as part of his application clearly reflects an encroachment of the property owned by Dr. Blank. Vice Chairman Neuer said that even if the Board wanted to approve the retaining wall that was built without permits they cannot do that. Vice Chairman Neuer asked Mr. Franco if there was anything he wanted to say; Mr. Franco stated that he has tried many times to work it out with Dr. Blank with no success.

Vice Chairman Neuer asked Dr. Blank if he had any comments; he replied yes.

Jonathan Blank approached the podium and was sworn under oath. Dr. Blank stated that he lives at 20 Ferris Drive and was made aware of Mr. Franco's wall encroaching on his property at the last Zoning Board hearing.

Vice Chairman Neuer asked Dr. Blank if he has agreed to leave the wall on his property; he replied no.

Dr. Blank stated that he sent a letter to the Board Members expressing that he would like Mr. Franco held accountable. Vice Chairman Neuer asked the Board Secretary if she received the letter; she replied yes and presented the letter to Vice Chairman Neuer.

Vice Chairman Neuer stated for the record that the letter from Dr. Blank is not signed or dated.

Vice Chairman Neuer asked Dr. Blank if he was to ask him to read the letter would that be his testimony; he replied yes.

Vice Chairman Neuer asked to have the ten (10) page letter from Dr. Blank marked as Exhibit Blank-1 and entered into evidence. He also asked to have the letter dated 2/19/15.

Dr. Blank referred to Exhibit Blank-1 and summarized the contents of his letter.

Vice Chairman Neuer asked Mr. Grygiel if the fence on the wall constitutes a variance. Mr. Grygiel said that the Township's Zoning Official makes that determination but if it appears to be one structure, then it would require a variance.

Dr. Blank stated that the fence is on the wall.

Ms. Weiss stated that this seems like a legal issue and not a Zoning Board issue. She asked Dr. Blank if he is interested in negotiating with Mr. Franco; he replied no.

There were no further questions for Dr. Blank from the Board Members or the Board Professionals.

There were no members of the public that had any questions for Dr. Blank.

Mr. Franco stated that he took a picture of the fence and presented it to the Board Members.

Vice Chairman Neuer asked to have the photo of the fence marked as Exhibit A-1 for identification.

Mr. Franco referred to Exhibit A-1 and stated that the wall cannot be seen; Vice Chairman Neuer stated that this is not the issue.

Vice Chairman Neuer closed the hearing and opened it up for discussion from the Board Members.

Vice Chairman Neuer stated that during the course of the hearing the Board Members learned about the wall encroaching on Dr. Blank's property. He said that there was a Planner and an Engineer listed on the application but they did not appear before the Board. Vice Chairman Neuer said that, based on the application and the way that it was noticed, even if the Board Members were inclined to approve the only thing they could approve was the swimming pool. He said that the retaining wall was built without permits and it encroaches and there is no way to know if the fill that was used was clean fill. Vice Chairman Neuer stated that there were also other defects in the application.

Ms. Weiss stated that this is a legal issue and that the Board Members have no choice but to deny the application.

Mr. Sussman said that he agrees with Ms. Weiss and that the Board has no choice but to deny.

Mr. Quentzel said that he also agrees with the other Board Members and that they cannot approve the application with the survey showing the encroachment.

Vice Chairman Neuer stated that the swimming pool was positive but what was done was illegal. He said that the applicant did not ask for permission and the Board cannot legalize the use based on the application submitted to them.

Vice Chairman Neuer moved that the application be denied with prejudice. He said that the applicant did not properly include all the necessary variances in the application and that the applicant did not present any compelling reasons to approve. Vice Chairman Neuer said that no negative or positive criteria was presented, the fill was installed without permits or inspections so there is no way to know what the contents of that fill is and the wall was built without any review from the Township's Building Department. He said that this Board does not have the power to issue any injunctive relief.

Ms. Gabry seconded the motion to deny with prejudice.

The vote was as follows:

Bullock:	-	Steinhart:	-
Gabry:	Yes to deny	Sussman:	Yes to deny
Neuer:	Yes to deny	Weiss:	Yes to deny
Quentzel:	Yes to deny	Chairman Buechler:	-

Vice Chairman Neuer instructed the Board Secretary to let the Township's Zoning Official know the results of this application. He said that the applicant testified that this matter was referred to the Municipal Court but there is nothing pending in the court.

**2. ZB-14-14/Carter**

Block: 96; Lot: 3; Zone: R-1

34 Oak Bend Road

Two "C" variances for the rear yard setback and impervious coverage for the Construction of an in-ground swimming pool, patio and pergola.

Michael and Bonnie Carter, applicants, approached the podium and were sworn under oath.

Charles DiLorenzo, Engineer for the applicant, approached the podium and was sworn under oath.

Mr. DiLorenzo detailed his educational and professional background as a Professional Engineer and a Professional Planner licensed in the State of New Jersey and said that he will be testifying as an expert in Engineering and Planning.

Vice Chairman Neuer accepted Mr. DiLorenzo as an expert in professional engineering and planning.

Mr. DiLorenzo stated that he is also a licensed surveyor and will be testifying as a surveyor.

Mr. DiLorenzo detailed the application stating that the applicant is proposing to install an in-ground swimming pool in the rear of their property. He said he noticed a discrepancy in the survey that was submitted with the application after he surveyed the property. Mr. DiLorenzo said the applicant's property extends to the middle of Oak Bend Road and the street was calculated into the impervious coverage. He said that he deducted the impervious coverage on Oak Bend Road and a variance for impervious coverage will not be required.

Vice Chairman Neuer asked Mr. Grygiel if pavers are impervious under the Municipal code; he said that space between the pavers does allow some pervious.

Mr. Grygiel stated that the center of the road on Oak Bend Road will not be included in the impervious coverage. He said that Oak Bend Road is a private road.

Mr. DiLorenzo continued his testimony and detailed the aesthetics of the property after the swimming pool is built. He said that "c" variances are required and that there will be no negative impact on the neighbor's property.

Vice Chairman Neuer asked Mr. DiLorenzo if there is access to the property from Tulip Avenue; he replied yes. Mr. DiLorenzo said that the main access to the property is from Oak Bend Road.

Mr. DiLorenzo continued with his testimony detailing the pergola that is being installed and the design of the swimming pool. He said that the hardship is due to the impervious coverage on the property prior to the applicants purchasing the property. Mr. DiLorenzo said that the pavers were also there when they purchased the property.

There were no further questions for Mr. DiLorenzo from the Board Members or the Board Professionals.

There were no members of the public that had any questions for Mr. DiLorenzo.

Vice Chairman Neuer asked Mr. and Mrs. Carter if they received any comments from their neighbors; Mrs. Carter replied no.

Mrs. Carter said that they have active teenagers who want to be able to have their friends in their home. She said that she appreciates the Board's consideration.

There were no further questions for Mr. and Mrs. Carter from the Board Members or the Board Professionals.

There were no members of the public that had any questions for Mr. or Mrs. Carter.

Vice Chairman Neuer closed the hearing.

Vice Chairman Neuer stated that he sees nothing negative with the application and that the Engineers testimony was compelling. He said that the applicants should not be penalized by the impervious coverage because they inherited some of the impervious conditions. Vice Chairman Neuer stated that the pavers are not one hundred percent impervious, the benefits outweigh the detriments and the setbacks are de minimis.

Vice Chairman Neuer made a motion to approve the application

Ms. Gabry seconded the motion to approve the application.

The vote was as follows:

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

**3. ZB-14-08/Sai Hira Ram Trust, Inc.**

**Carried over from 1/15/15**

Block: 177.02; Lots: 15.01 & 16; Zone: R-4

23-27 Laurel Avenue

Seeking "D" and several "C" variances for converting two properties to use as a House of Worship and related uses.

**EXHIBITS**

A-13 - Existing Elevations for the Meditation Room and Temple

A-14 – Materials Board

A-15 – Standing Seam Green Metal Roof photo

Vice Chairman Neuer recused himself from hearing this application and turned the Chair over to Ms. Gabry.

Robert Williams, attorney for the applicant, approached the podium.

Ms. Gabry advised Mr. Williams that there are five (5) Board Members present. Mr. Williams stated that he will order transcripts for the absent Board Members.

Ms. Gabry stated for the record that she was absent from the last meeting on 1/15/15 and read the transcripts from that meeting.

Mr. Williams stated that their architect will be testifying at this meeting.

Drazen Cackovic approached the podium and was sworn under oath. Mr. Cackovic detailed his educational and professional background as a licensed Architect in the State of New Jersey.

Ms. Gabry accepted Mr. Cackovic as an expert in architecture.

Mr. Cackovic presented the existing elevations for the meditation center and the Temple.

Ms. Gabry asked to have the existing elevations for the meditation room and the Temple marked as Exhibit A-13 for identification.

Mr. Cackovic referred to Exhibit A-13 and began detailing it. He stated that the existing house near Laurel Avenue on lot 15.01 will remain and the structure on the adjoining lot 16 will be demolished.

Mr. Cackovic presented the existing and proposed floor plans for the meditation center.

Ms. Gabry noted for the record that the existing and proposed floor plans for the meditation center were pre-marked as Exhibit A-9 for identification.

Mr. Cackovic referred to Exhibit A-9 and began detailing it. He stated that the applicant is proposing to keep the stone on the façade of the existing residence on lot 15.01 and will do some interior renovations. Mr. Cackovic stated that they are proposing to turn the rear of the house into the meditation room which will include a restroom and a storage area. He said they will also add a two (2) car garage and construct a patio in the rear.

Mr. Cackovic presented the proposed elevations for the meditation center.

Ms. Gabry noted for the record that the proposed elevations for the meditation center were pre-marked as Exhibit A-12 for identification.

Mr. Cackovic referred to Exhibit A-12 and began detailing it. He said that the left side elevation will be clad in shiplap siding.

Mr. Cackovic presented the sample materials photo board.

Ms. Gabry asked to have the sample materials photo board marked as Exhibit A-14 for identification.

Mr. Cackovic referred to Exhibit A-14 and detailed the materials being proposed for the existing residence. He said that they will use the existing siding on the right side of the residence and the rear part of the residence and the exterior of the addition will be stucco.

Ms. Weiss referred to Exhibit A-14 and asked Mr. Cackovic what the green shiny material will be used for; he said that it will be used on the roof. Mr. Cackovic said that the material is not shiny; it is matte.

Mr. Cackovic presented the proposed floor plans for the Temple.

Ms. Gabry noted for the record that the proposed floor plans for the Temple were pre-marked as Exhibit A-8 for identification.

Mr. Cackovic referred to Exhibit A-8. He said that the existing structure on lot 16 will be demolished and detailed the proposed floor plan for the new Temple.

Mr. Quentzel asked Mr. Cackovic how high the ceilings in the storage area are; he said approximately 11 feet high.

Mr. Cackovic presented the proposed elevations of the Temple.

Ms. Gabry noted for the record that the proposed elevations of the Temple were pre-marked as Exhibit A-10 for identification.

Mr. Cackovic referred to Exhibit A-10 and began detailing it and describing all of the materials that will be used on the Temple. He said that the proposed roof material is standing seam metal.

Mr. Cackovic presented a photo of a standing seam metal roof.

Mr. Gabry noted for the record that the photo board of the standing seam metal roof was pre-marked as Exhibit A-7.

Mr. Cackovic referred to Exhibit A-7 and stated that the applicant is proposing a similar type of roofing materials that will be used on the Temple.

Mr. Sussman asked Mr. Cackovic what type of material that was in Exhibit A-7; he said steel. Ms. Weiss stated that she would like to see a sample of the roofing material in the color green that is being proposed.

Mr. Cackovic presented a color photo of a roof constructed with the green standing seam metal materials.

Ms. Gabry asked to have the photo of the roof that was constructed with the green standing seam metal materials marked as Exhibit A-15 for identification.

Mr. Cackovic referred to Exhibit A-15 and stated that this color green is very close to the color green that they are proposing on the Temple's roof.

Mr. Cackovic presented a color rendering of the proposed east elevation of the Temple.

Ms. Gabry noted for the record that the color rendering of the proposed east elevation of the Temple was pre-marked as Exhibit A-11 for identification.

Mr. Cackovic referred to Exhibit A-11 and began detailing the materials that will be used on the east elevation of the Temple.

Mr. Cackovic referred to Exhibit A-14 and stated that asphalt shingles will be used for the caretaker's residence and the trim material being proposed on the residence and the meditation room will be Azek PVC in the color white. He said that the Azek PVC trim material does not have to be painted for at least twenty five (25) years.

Ms. Weiss asked Mr. Cackovic how many square feet they will be adding to the existing residence; he said they will be decreasing the size of the residence. Mr. Cackovic said that they are eliminating the attic in the rear portion of the residence.

Ms. Gabry asked Mr. Cackovic how many seats will be in the meditation room; he said that there are no specific guidelines for people sitting on the floor. Mr. Cackovic said that they have requirements for chairs and for people standing but not for people sitting on the floor. He said that the Township's code official will make that determination.

Mr. Grygiel stated that the parking requirements are what is relevant.

Ms. Gabry asked Mr. Cackovic if the meditation room and the Temple will be used at the same time; he said he did not know.

Ms. Weiss referred to the foyer area being proposed in the Temple and asked Mr. Cackovic if the foyer is only for ingress and egress; he replied yes.

Mr. Keller asked Mr. Cackovic if the foot print for the proposed meditation room is larger; he replied yes. Mr. Cackovic said that the foot print of the building is growing over 600 sq. feet.

Mr. Keller asked Mr. Cackovic if the altar and the passage way are included in the square footage of the Temple; he said that the square footage does not include the passage way but it does include the altar.

Mr. Keller asked Mr. Cackovic how many square feet the prayer hall would be minus the altar; he replied approximately 370 sq. feet total.

Mr. Keller asked Mr. Cackovic what the lower level of the Temple will be used for; he said that is a storage area. Mr. Cackovic said that the lower level area will be unfinished and have concrete walls.

Mr. Williams stated that if the Board has a concern about this space being finished for a use in the future that they can condition that the area remains as is.

Mr. Keller asked Mr. Cackovic if there is a gutter system; he replied yes.

Mr. Grygiel asked Mr. Cackovic to explain the large vestibule area in the rear of the Temple; he said that the applicant eliminated the residence and that it was originally a breezeway.

Ms. Weiss asked Mr. Cackovic why they just didn't eliminate the vestibule; he said that the priests utilize the vestibule for changing into their robes.

Ms. Weiss asked Mr. Cackovic why they need an elevator; Mr. Keller said that they need the elevator because it is required by code as vertical transport between the two floors.

Mr. Keller asked Mr. Cackovic why they are keeping the rear vestibule if they are demolishing the existing building. He said that if they shrunk the size of the vestibule it would reduce the size of the rear variance. Mr. Cackovic said that he will ask the applicant if they will consider reducing the size of the vestibule.

Ms. Gabry called for a recess at 9:40 pm.

Ms. Gabry resumed the meeting at 9:54 pm.

There were no further questions for Mr. Cackovic from the Board Members or the Board Professionals.

Ms. Gabry asked if any members of the public had any questions for Mr. Cackovic.

Thomas J. Trautner, Jr. Esq. approached the podium.

Mr. Trautner stated that he is from the law firm Wolf and Samson and represents Tal Benzvi and Travis McManigal, who reside at 5 Allsop Court, as objectors for this application.

Mr. Trautner referred to Exhibit A-8 and asked Mr. Cackovic what the purpose of the dividing wall was; he said that the detachable wall divides the prayer hall and the dining room. Mr. Cackovic said that at the end of service they can open it and go in and dine.

Mr. Trautner asked Mr. Cackovic if the tables and chairs in the dining room can be removed; he replied yes.

Mr. Trautner asked Mr. Cackovic if the congregation can sit on the floor in the dining room; he replied yes.

Mr. Trautner asked Mr. Cackovic if they can add more tables in the dining room besides the nine (9) tables being proposed; he replied yes.

Mr. Trautner referred to Exhibit A-8 and asked Mr. Cackovic if they could put tables and chairs in the entry area in the future if they decided to; he said that it is his opinion that they would have no need to do that.

Mr. Trautner asked Mr. Cackovic if there is a delivery function in the vestibule space; he replied yes.

Mr. Trautner asked Mr. Cackovic what type of deliveries would be delivered in that space; he said food deliveries in preparation for an event.

Mr. Trautner asked Mr. Cackovic if the Temple would be a Sai Baba Temple; he said that it would be a Hindu Temple.

Mr. Trautner asked Mr. Cackovic if there would be a need for an overflow space specifically for the Temple; he said he did not discuss any overflow space.

Mr. Trautner asked Mr. Cackovic if the priest could disrobe anywhere else other than the vestibule; he said the disrobing could possibly take place somewhere else.

Mr. Trautner asked Mr. Cackovic if there is any reason why the elevator cannot be located in a different structure; he said that it could be considered. Mr. Cackovic said the applicant will make that decision.

Mr. Trautner asked Mr. Cackovic how many bedrooms are being proposed in the caretaker's home; he replied three (3) bedrooms.

Mr. Trautner asked Mr. Cackovic why there are multiple bedrooms; he said because the house has three bedrooms.

Mr. Trautner asked Mr. Cackovic if the bedrooms in the caretaker's home will be used as guest quarters; he said not to his knowledge.

Mr. Trautner referred to Exhibit A-11 and asked Mr. Cackovic if the glass on the Temple will have any reflective quality; he said not really. Mr. Cackovic said that any glass will have some reflective quality.

Michal Kasher approached the podium and stated that she lives at 11 Barton Drive.

Ms. Kasher asked Mr. Cackovic why the guest quarters is still on the application if it has been eliminated; he said he does not know what is on the application. Ms. Kasher said that the guest quarters and the garages are still on the current notice that was sent to the residents within 200' of the property. Ms. Beirne said that the notice is still legally valid.

Vincent Vitiello approached the podium and stated that he lives at 6 Barton Drive.

Mr. Vitiello referred to Exhibit A-8 and asked Mr. Cackovic to detail the floor plans again; he complied.

Mr. Vitiello asked Mr. Cackovic why they are expanding the footprint of the existing residence; he said they are proposing a two (2) car garage and a storage room in the caretaker's residence.

Katarzyna Adamczya approached the podium and stated that she lives at 8 Allsop Court.

Ms. Adamczya asked Mr. Cackovic if there is a reason why deliveries have to be made in the rear of the property; he said that the front of the property could also be used for deliveries.

Ms. Adamczya asked Mr. Cackovic how much noise the elevator will create; he said elevators are very quiet and that it is in an enclosed structure.

Mr. Williams stated that this concludes testimony for tonight.

Ms. Gabry stated for the record that this application will be carried over to the regular Zoning Board meeting held on March 19, 2015 and that no further notice will be necessary.

The meeting was adjourned by Ms. Gabry at 10:23 pm.

Adopted: March 19, 2015

A handwritten signature in cursive script, followed by the date "3/20/15". The signature and date are written above a horizontal line.

Rose DeSena  
Zoning Board Secretary