

MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
September 14, 2017

The West Orange Zoning Board of Adjustment held a regular meeting on September 14, 2017 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 the Star Ledger and posted on the Township Bulletin Board in accordance with the "Senator Byron M. Baer Open Public Meetings Act."

Chairman Neuer announced that a digital tape recording system is being utilized to record the proceedings of the meeting and instructed the general public on how the audio of the proceedings may be reviewed or obtained.

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

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

PRESENT: B. Buechler, D. Gabry, D. Nash, P. Neuer, B. Quentzel,
I. Schwarzbaum, M. Straker, M. Sussman, A. Weiss

ABSENT: F. Sanders (excused)
W. Steinhart (excused)

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

ANNOUNCEMENTS

Future Meetings: October 19, 2017 (regular meeting)
November 16, 2017 (regular meeting)
December 21, 2017 (regular meeting)

Chairman Neuer announced that application ZB-16-17/New Cingular Wireless PCS, LLC (AT&T) that was scheduled to be heard at this meeting has requested to be carried over to the Zoning Board meeting to be held on October 19, 2017; in so doing the applicant has extended all statutory time periods for a decision by the Board. Accordingly, this adjournment was granted and no further notice will be required.

Chairman Neuer also welcomed Ms. Gabry's students, studying land use law at Seton Hall, who were at the meeting.

MINUTES

August 17, 2017 (regular meeting)

Chairman Neuer stated that the draft minutes from the August 17, 2017 were circulated to all of the Board Members.

Chairman Neuer said that he and Vice Chairman Buechler submitted their comments for these minutes and asked if any Board Member had any additional comments; there were none.

Ms. Gabry made a motion to approve the minutes of the August 17, 2017 meeting; Mr. Sussman seconded the motion and all were in favor.

It was noted for the record that Mr. Schwarzbaum, Dr. Straker and Ms. Nash are present at this meeting but did not vote on these minutes because they were not in attendance on August 17th.

SWEARING IN

Eric Keller was sworn under oath.

It was noted for the record that Mr. Keller is serving as the consulting engineer and professional planner for the ZB-17-07/2017 Eagle Rock Holdings, LLC application.

RESOLUTIONS

1. ZB-16-11/Facey

Block: 85.03; Lot: 8; Zone: R-5

233 Mt. Pleasant Avenue

Applicant re-purposed an existing garage to be used as a den

Approved on 8/17/17

Chairman Neuer stated that the Board Members received a copy of the draft resolution for this application and that the changes were done by consensus of the Board.

Chairman Neuer stated that all correspondence from the applicant's attorney and the attorney for an objector was given to the Board and was placed into the file but is not considered evidence.

Chairman Neuer asked if the applicant’s attorney, Ms. Berkenwald, was present; it was noted for the record that Ms. Berkenwald was not present.

Chairman Neuer asked Jeffrey Kantowitz, attorney for the objector, if he has anything to add to the correspondence that was sent to the Board Members.

Mr. Kantowitz approached and stated that the rationale behind the language that he offered to be included in the resolution was to make sure that the light was shielded and installed properly.

Anna Facey, applicant, was present at the meeting and approached the podium.

Ms. Facey stated that she has a photo of the shield that they purchased for the light and asked if the Board Members would look at it.

Chairman Neuer stated that the Board Members will pass on looking at the photo; he said that this is something that will have to be resolved with the neighbor and with the enforcement arm of the Building Department.

Chairman Neuer asked for a motion.

Chairman Neuer stated that he did some research and there is a section in the Township’s zoning ordinance, 25-14.1, that speaks generally to commercial parking areas that he believes supports what is in this proposed resolution. He said that the section reads “lighting for off street parking shall be designed so that the light is directed downward and that shields or cut offs, when necessary, shall be installed to prevent spillage onto residential areas or public streets”.

Chairman Neuer stated that the condition that the Board is imposing in the proposed resolution is justified according to the Township Ordinance.

The Board decided to not make further revisions to the proposed resolution. Vice Chairman Buechler moved adoption of the resolution; Ms. Weiss seconded the motion.

The vote was as follows:

Buechler:	Yes	Schwarzbaum:	-
Gabry:	Yes	Steinhart:	-
D. Nash:	-	Straker:	-
Quentzel:	Yes	Sussman:	Yes
Sanders:	-	Weiss:	Yes
		Chairman Neuer:	Yes

APPLICATIONS

1. ZB-17-07/2017 Eagle Rock West Orange, LLC

Block: 176.05; Lot: 12, 12.13, 14; Zone: B-1 & R-6

Seeking preliminary and final site plan approval to construct a bank.

EXHIBITS

A-1 – Aerial View of site dated 9/11/17

A-2 – Site Plan - sheet C-5 with a revision date of 8/9/17

A-3 – Subdivision and Cross Access Plan – sheet 1 of 1 dated 9/14/17

A-4 – Proposed Floor Plan – dated 8/1/17

A-5 – Proposed Exterior Elevations – dated 3/15/17

A-6 – Proposed Drive Thru Canopy Elevations – dated 8/4/17

A-7 – Design Standards Drawing Version 16.2 – Sheet S2.2 – dated 12-16-16

A-8 – Proposed Signage Details – dated 8/7/17

Chairman Neuer announced that the official court reporter for this application is Donna Kells, CCR from Schulman, Weigmann & Associates.

Robert Williams, attorney for the applicant approached the podium.

Mr. Williams detailed the application stating that his client is proposing to construct a bank with two drive thru windows. He said that banks are a permitted use in the B-1 zone where this proposed bank is located but, because there is no language regarding a drive thru in the Township ordinance, the drive-thru is not permitted so they are seeking a use variance.

Mr. Williams stated that they are also proposing to sub divide the property and create a parking lot with thirty seven (37) parking spaces for the Township. He said that the applicant will deed this lot in fee, without compensation, and convey it to the Township to be used as a municipal parking lot.

Mr. Williams stated that if the bank does not purchase this property there is no assurance that another buyer will deed the lot to the Township for parking. He said that in addition to the thirty seven (37) parking spaces, they can utilize the twenty three (23) parking spaces on the bank site when the business is closed.

Mr. Williams stated that this application has already been approved by the Essex County Planning Board.

Chairman Neuer stated for the record that the applicant was required to submit the plan to the Essex County Planning Board because it is located on a county road and that while that body

approved the project as to traffic and drainage considerations, they did not approve the entire application.

Mr. Williams called his first witness.

Jeffrey Martell, professional engineer for the applicant, approached the podium and was sworn under oath.

Mr. Martell detailed his professional and educational background as a professional engineer and professional planner licensed in the State of New Jersey. He said that he is the civil engineer for this project.

Chairman Neuer accepted Mr. Martell as an expert in civil engineering.

Mr. Martell presented an aerial view of the site, dated 9/11/17, that was marked as Exhibit A-1 for identification.

Mr. Martell referred to Exhibit A-1 and detailed the existing conditions of the site and surrounding properties. Mr. Martell stated that there are currently two buildings on lots 12 and 14 and three parking areas that total sixty (60) parking spaces; thirty six (36) spaces on lots 12 and 14 and twenty four (24) spaces for commuter parking on lot 12.13.

Mr. Martell presented sheet C5 of the site plan with a revision date of 9/1/17 that was marked as Exhibit A-2 for identification.

Mr. Martell referred to Exhibit A-2 and detailed what is being proposed. He said that the applicant is proposing to sub divide the three (3) existing lots to create two (2) lots. Mr. Martell stated that the proposed lot 12 is the main subject of the site plan application where the 3470 sq. foot Chase Bank is being proposed with a drive thru located towards the rear of the site. He said that the drive thru will have two (2) lanes with an ATM only; he said there will no teller service in the drive thru or a tube system. Mr. Martell stated that they are also proposing a canopy over the ATM.

Mr. Martell stated that the frontage of the bank is on Pleasant Valley Way but the entrance is in the rear because the Township ordinance only allows parking on the side and rear of a building. He said that the building was architecturally designed so that all sides will look the same.

Mr. Martell stated that there will be twenty three (23) parking spaces located on the bank site which will be made available to the public outside of business hours.

Mr. Martell stated that the lot deeded to the Township will have thirty six (36) parking spots which include two (2) ADA spaces and a cross access agreement between the two lots.

Mr. Martell stated that they are proposing a right turn out only on Haller Road with a left turn out egress onto Pleasant Valley Way from Haller Road and a right turn out only on Pleasant Valley

Way and Eagle Rock Avenue.

Mr. Martell stated that the only trash is waste from the employees and the shredded materials will be picked up daily by the cleaning service.

Mr. Martell stated that they are proposing a six (6) foot solid fence along the west side of the property. He said that the original structures will be demolished and the site will be leveled.

Mr. Martell stated that they will be installing three (3) twenty (20) foot light poles in the interior of the site and ten (10) fifteen (15) foot light poles around the perimeter of the site. He said that their lighting plan meets the Township's standards for lighting.

Mr. Martell stated that Mr. Keller suggested that they consider providing a bus lane along Pleasant Valley Way; he said that would require widening the road and moving the existing bus stop. Mr. Martell said that they will consider doing that and will consult with the County.

Mr. Martell presented the sub division and cross access plan dated 9/14/17 that was pre-marked as Exhibit A-3 for identification.

Mr. Martell referred to Exhibit A-3 and detailed what is existing and being proposed.

Mr. Martell detailed all of the signage; he said that wall mounted signs are being proposed on the bank building and the drive thru canopy and one monument sign near the intersection. Mr. Martell said there are a total of ten (10) signs being proposed.

Mr. Martell stated that the applicant has agreed to comply with items #5 thru #49 in Bowman's technical review memo dated 9/8/17.

Mr. Martell stated that the lot that they are deeding to the Township exceeds what is currently there and what is being proposed balances the public need with the private industry need.

Vice Chairman Buechler asked Mr. Williams if the Township has agreed to accept the deeding of the property; he said that he has had informal discussions with the Township but has not received a formal letter from them yet.

Chairman Neuer asked Mr. Martell how to enter the drive thru; he said that that you enter south and exit north.

Vice Chairman Buechler asked Mr. Martell how far the edge of the driveway coming out from Eagle Rock Avenue is from Haller Road; he said approximately eighty (80) feet.

Vice Chairman Buechler asked if the tree near the side of the driveway will impede the site line

when exiting; he said no. Mr. Martell said that the tree is approximately eight (8) feet back from the curb side.

Vice Chairman Buechler asked Mr. Martell to explain how they would install a bus pull out; he complied and detailed the relocation of the existing curb to create the bus lane.

Vice Chairman Buechler asked Mr. Martell if they would still meet all the setbacks if they cut back ten (10) feet into the curb to install the bus lane; he said yes.

Vice Chairman Buechler asked Mr. Martell if there would be an impact on the impervious coverage to install the bus lane; he said no they are well below what is allowed.

Vice Chairman Buechler asked Mr. Martell how long they anticipate start to finish construction; he said approximately six (6) to seven (7) months.

Ms. Gabry asked Mr. Martell where the employees will park; he said in a row that is adjacent to the drive thru.

Ms. Gabry asked Mr. Martell how many employees they are expecting; he said it will vary. Mr. Martell said that there will be two (2) to four (4) employees during normal banking hours but there may be a couple of additional employees working if they have an appointment there.

Mr. Schwarzbaum asked Mr. Martell to detail the egress and ingress of the drive thru; he referred to Exhibit A-2 and detailed how one would enter and exit the drive thru.

Mr. Schwarzbaum asked Mr. Martell why they are proposing an entrance on Haller Road; he said that this is the most beneficial design and a better configuration.

Mr. Schwarzbaum asked Mr. Martell if they will have a walk-up ATM; he said yes that there is an ATM in the lobby for pedestrians.

Mr. Sussman asked Mr. Martell to detail the ingress and egress on Pleasant Valley Way; he said there a proposing a right out and a left in only. Mr. Martell said that this is being proposed on Eagle Rock Avenue also. He said that you can only make a right out from the site onto Haller Road but you can make a left or a right onto Eagle Rock Avenue from Haller Road.

Mr. Quentzel asked Mr. Martell if the fire department approved the plan for emergency vehicles; he said yes. Mr. Martell said the west side of the bank is where an emergency vehicle would enter and they would exit on the east side of the building.

Mrs. Weiss asked Mr. Martell if the bus pull out was part of the application; he said this was recommended by Mr. Keller. Mr. Martell said that the County approved the application without the bus lane.

Mr. Keller asked Mr. Martell what the County approved for egress and ingress from Eagle Rock Avenue; he said no left turn in our out on Eagle Rock Avenue.

Mr. Keller asked Mr. Martell if they will be re-stripping the commuter lot and repairing the pot holes; he said yes.

Mr. Keller asked Mr. Martell if they require three thousand (3,000) cubic yards of material to bring the site up to grade; he said yes.

Mr. Keller asked Mr. Martell if the imported fill will be certified clean; he said yes.

Mr. Keller advised Mr. Martell that he will need a clear summary of what they are cutting and what they are filling.

Mr. Keller asked Mr. Martell if they looked to see if there was a better way to get more parking spaces in the commuter parking lot; he said that there is no easy way to increase parking spaces unless you stack and if they decrease impervious coverage they will lose two parking spaces.

Mr. Keller asked Mr. Martell where the ADA parking spaces will be located; he said they are eliminating the ADA spaces that are currently there because they are not the closest spots to the entrance.

Mr. Grossman asked Mr. Martell what internal and external security provisions are being proposed; he said that this is not something that they make public record but will meet with the Township's police department.

Chairman Neuer called for a recess at 9:30 pm.

Chairman Neuer resumed the meeting at 9:42 pm.

Chairman Neuer asked if any members of the public had any questions for Mr. Martell.

Robert Daniel approached the podium and stated that he lives at 2b Buckingham Road.

Mr. Daniel asked Mr. Martell why they are not making the entrance to the bank on Pleasant Valley Way because the other banks have their entrances on Pleasant Valley Way; Mr. Martell responded that the entrance facing the parking lot makes more sense. Mr. Martell also stated that the other banks are not corner lots.

Mr. Daniel asked Mr. Martell what is required to make the bus pull out a part of this project; he responded if the Board asks the applicant to pursue it then they will.

Chairman Neuer stated that the bus pull out was discussed at the Site Plan Review meeting and Mr. Keller incorporated that in his review memo (item #3). He said that the witness agreed to comply with all of the comment in that memo.

Mr. Daniel asked Mr. Martell how they will prevent motorists from cutting through the parking lot; he said they are proposing signage that says “no cut-thru”.

Mr. Daniel asked Mr. Martell how old the building is that is being demolished; he said he does not know.

Chairman Neuer advised Mr. Williams to find out when the church building was built between now and the next meeting.

Mr. Daniel asked Mr. Martell if the building is eligible for the historic registry; Chairman Neuer answered and said they know that it has not been registered.

Chairman Neuer stated that the applicant will indicate to the Board at the next meeting the age of the building.

Chairman Neuer advised Mr. Daniel to find out on his own if the building is eligible for the historic registry. Mr. Daniel stated that if it was eligible the Planner would have noted that in his report. Chairman Neuer said that is not part of their job; he said they receive information and do not necessarily investigate such matters.

Theodore Podecuer approached the podium and stated that he lives at 14 Haller Road. He stated that all the other banks in the area have their entrances on Pleasant Valley Way with side parking so what makes this bank different.

Chairman Neuer stated that this question has already been asked and the difference is that this is a corner lot.

Ari Moses approached the podium and stated that he lives at 11 Haller Road. He asked Mr. Martell if there has been any discussions with the Township regarding making a right onto Haller Road and will it remain that way when the Town takes ownership; he said there has been no pre-agreement and would be up to the town. Chairman Neuer stated that if this application is approved the Board can make that a condition.

Jerome Eben approached the podium and stated that he lives at 26 Walker Road. He asked Mr. Martell why they are proposing more parking when less is required; he responded that the owner does not feel comfortable having only what is required.

Mr. Eben asked Mr. Martell how much space is between the widths of the drive aisle in the east west direction of the commuter parking lot; he said fifty three (53) to fifty four (54) feet.

Mr. Eben asked Mr. Martell if they are proposing enter and exit ground signs; he said yes.

Mr. Eben asked Mr. Martell if the ground signs will be visible when it snows; he said the signs are high enough to be seen if it snows.

Gill Ellen Bass approached the podium and stated that she lives at 5 Greenwood Avenue. She said that she lives near the PNC ATM machine and asked Mr. Martell what consideration they are making to account for the noise when people use the ATM during the night hours; he responded that the ATM machine is at a reasonable distance from any residential house.

Ms. Bass asked Mr. Martell if they considered putting the ATM on the side of the bank so that it is not a nuisance; he said that there is no sound component to the ATM and they think that is the best location for it.

Ms. Bass asked Mr. Martell if they considered that people will park on Haller Road to go to the bank; he said they are only required to have twelve (12) parking spaces and they exceed the number required.

Ms. Bass asked Mr. Martell what type of lighting is being proposed; he said that they are proposing lower light levels, shields and fencing. Mr. Martell said that there will be no light spillage on to Haller Road; it will be self-contained. He said that they will look at the light levels requested in the Bowman Consulting memo. Mr. Martell said that all of the lights being proposed are going to be on the Chase Bank site.

Michael Sinnreich approached the podium and stated that he lives at 7 Haller Road. He asked Mr. Martell if the cut thru is necessary for the bank to operate; he said that the cut thru is an enhancement to the commuter parking lot and the bank parking lot and is a better overall site design. Mr. Martell said that he cannot answer whether the bank would be able to operate without it.

Mr. Schwarzbaum asked Mr. Martell if, because Haller Road is a municipal street, the Board could make it a condition that the driveway out to Haller Road is designed so a car cannot make a left turn and is forced to make a right turn only; he said yes.

Chairman Neuer stated that the Township can always change that if the Board approves it.

Mr. Schwarzbaum asked Mr. Williams if there was no access from the bank parking lot to the commuter parking lot would they still convey the land to the Township; he said he does not know but will have an answer for him by the next meeting.

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

There were no further questions for Mr. Martell from members of the public..

Mr. Williams called his next witness.

James Lalli, architect for the applicant, approached the podium and was sworn under oath.

Mr. Lalli detailed his educational and professional background as a Professional Architect licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Lalli as an expert in architecture.

Mr. Lalli presented the proposed floor plan dated 8/1/17 that was marked as Exhibit A-4 for identification and detailed it.

Mr. Lalli presented the proposed exterior elevations dated 3/15/17 that was marked as Exhibit A-5 for identification and detailed the materials being proposed for the façade. He stated that the tower will be facing Pleasant Valley Way and all of the mechanicals will be recessed in the roof structure.

Mr. Lalli presented the proposed drive-thru canopy elevations plan dated 8/7/17 that was marked as Exhibit A-6 for identification and detailed it.

Mr. Lalli presented sheet S2.2 of the design-intent building section plan dated 12/16/16 that was marked as Exhibit A-7 for identification and detailed it.

Mr. Lalli presented the proposed signage details plan dated 8/7/17 that was marked as exhibit A-8 for identification and detailed all of the proposed signage and where the signs will be placed.

Mr. Lalli referred to Exhibit A-5 showing the proposed elevations and stated that the bank wants to propose low up-lighting to light the façade at night. He said that this lighting will be on a dimmer and a timer and only on the Pleasant Valley Way side of the bank.

Ms. Weiss asked Mr. Lalli if that is the light that will be on for twenty-four (24) hours; he said no. Mr. Lalli said only the lights that are essential to the safety of the ATM's will be on for twenty-four (24) hours.

Ms. Weiss asked Mr. Lalli if there is a Chase Bank that looks like the one being proposed so that the Board can go look at it to see what it looks like; he said the closest one is in Hillsborough and not all of the banks have the blue coloring that they are proposing on this one.

Vice Chairman Buechler asked Mr. Lalli if there is a basement; he replied no.

Vice Chairman Buechler asked Mr. Lalli if there is a vault; he said no there are no safe deposit boxes in this branch.

Mr. Lalli stated that all of the lights on the building are internal lights; he said there are no external lights. Mr. Lalli said the signs will be lit from dusk to dawn.

Chairman Neuer stated that he would like testimony at the next meeting regarding if it would be possible to turn off the outdoor ATM at night and just keep the ATM in the lobby open.

Mr. Keller asked Mr. Lalli which signs will be illuminated twenty four (24) hours a day; he said the monument sign and the three (3) building signs.

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

There were no further question for Mr. Lalli from members of the public.

Mr. Williams called his next witness.

John Olivio, landscape architect for the applicant, approached the podium and was sworn under oath. He detailed his professional and educational background as a landscape architect licensed in the State of New Jersey.

Chairman Neuer accepted Mr. Olivio as an expert in landscape architecture.

Mr. Olivio referred to Exhibit A-2 and detailed the landscape plan that is being proposed and stated that the Township's forester, Mr. Linson, approved the plan.

Vice Chairman Buechler asked Mr. Olivio if only the tree trunks will show once the evergreens grow; he said no.

Mr. Keller asked Mr. Olivio of the shrubs will be moved back from the site triangle on Eagle Rock Avenue; he said yes.

Mr. Keller asked Mr. Olivio if they can make the five (5) to six (6) foot tall arborvitae that are being proposed even taller because seven (7) to eight (8) feet tall are standard size. Mr. Williams stated that they will agree to that.

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

Chairman Neuer asked if any members of the public had any questions for Mr. Olivio.

Ted Podecuer approached the podium and stated that he lives at 15 Haller Road. He asked Mr. Olivio what is the guarantee that the evergreens do not die within the first couple of years.

Chairman Neuer stated that the Board requires a maintenance bond for two (2) years.

Michael Sinnreich approached the podium and stated that he lives at 7 Haller Road. He asked Mr. Olivio if the bushes along Haller Road are going to be replaced; he said yes. Mr. Olivio said that the Township's forester, Mr. Linson, suggested that they replace the existing boxwood with new ones.

Mr. Schwarzbaum asked who will be responsible for maintaining the shrubs on the municipal lot; Mr. Williams said the town would be responsible.

There were no further questions for Mr. Olivio.

Chairman Neuer noted the time and stated that their meetings end promptly at 11:00 pm.

Mr. Williams asked to be carried to the October 19th meeting and said that they would like to be first on the agenda so that they can finish.

Chairman Neuer stated for the record that this application will be carried over to the next Zoning Board meeting held on October 19, 2017 and that no further notice will be required.

Chairman Neuer advised the Board Secretary to let the attorney for the New Cingular application know that they will be second on the agenda for the October 19th meeting.

The meeting was adjourned by Chairman Neuer at 11:14 pm.

Adopted: September 14, 2017


Rose DeSena
Zoning Board Secretary