

**MINUTES**  
**TOWNSHIP OF WEST ORANGE**  
**ZONING BOARD OF ADJUSTMENT**  
**REGULAR MEETING**  
**June 20, 2019**

The West Orange Zoning Board of Adjustment held a regular meeting on June 20, 2019 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.

**PRESENT:** J. Eben, D. Gabry, P. Neuer, B. Quentzel, J. Redwine,  
I. Schwarzbaum, W. Steinhart, M. Sussman, W. Weiss

**ABSENT:** L. Phillips (excused)  
M. Straker (excused)

**ALSO PRESENT:** Paul Grygiel, Consulting Planning Director for the Township  
John Hess, Consulting Engineer for the Township  
Alice Beirne, Esq., Board Attorney  
Rose DeSena, Board Secretary  
Harvey Grossman, Esq., Public Advocate

**ANNOUNCEMENTS**

Future Meetings: July 18, 2019 (regular meeting)  
August 15, 2019 (regular meeting)  
September 19, 2019 (regular meeting)

Chairman Neuer announced that application **ZB-18-02/Rosario**, that was scheduled to be heard at this meeting, has requested to be carried over and adjourned to the Zoning Board meeting scheduled for July 18, 2019 at 8:00 pm and no further notice will be required.

### **DISCUSSION**

Chairman Neuer stated that Robert Williams, attorney for application ZB-18-09/555 Northfield Avenue, LLC, is requesting a special meeting during the month of July.

Chairman Neuer took a poll from the Board Members asking if they could be available for a special meeting on either July 11<sup>th</sup> or July 25<sup>th</sup>; Mr. Williams stated that July 25<sup>th</sup> would be better for his client and his Professionals.

Chairman Neuer stated that the Board Members agreed to have a special Zoning Board meeting on July 25, 2019 @ 8:00 pm in Council Chambers.

Chairman Neuer stated for the record that the special meeting will be noticed in two publications but since the matter is on the agenda for this evening and will be heard shortly, notices will not be mailed to residents.

### **MINUTES**

May 16, 2019 (regular meeting)

Chairman Neuer stated that the draft minutes from the May 16, 2019 regular meeting were circulated to all of the Board Members.

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

All Board Members were in favor of the adoption of the May 16, 2019 regular meeting as submitted to them; none were opposed.

It was noted for the record that Ms. Weiss was not present for the May 16, 2019 meeting and did not vote on these minutes.

### **SWEARING IN**

Paul Grygiel, Consulting Planning Director for the Township and John Hess, Consulting Engineer for the Township, were sworn under oath.

### **APPLICATIONS:**

- 1. ZB-18-09/555 Northfield Avenue, LLC** **Carried from 4/11/19**  
Block: 168; Lots: 26 & 28; Zone: B-2  
555 Northfield Avenue  
Seeking “d” variance for building height and “c” variances to construct a luxury apartment complex and daycare center.

## **EXHIBITS**

- A-1 - Sheet 2 of the site plans with a revision date of 2/15/19
- A-2 – Colorized version of sheet 4 of the site plan with a revision date of 2/15/19
- A-3 – Map of building heights dated 1/21/19
- A-4 – Fire truck turning analysis dated 2/15/19
- A-5 – Garbage truck turning analysis dated 2/15/19
- A-6 – Landscape Plan; drawing #6 with a revision date of 2/19/19
- A-7 – Shade Study dated 12/15/19
- A-8 – Sheet A-4 of the Primrose School exterior elevations dated 11/15/18
- A-9 – Sheet A-1.4 of the Primrose School floor plans dated 11/15/18
- A-10 – Relocated Child Care Study dated 6/7/19
- A-12 – Material Board
- A-13 – Artistic renderings – four (4) renderings (A to D)

Robert Williams, attorney for the applicant, approached the podium. He stated that they appeared before the Board on May 16, 2019 and noted who testified at that meeting.

Mr. Williams stated that there was a request from one of the Board Members at the last meeting to change the orientation of the school building. He said that they rotated the building and submitted revised drawings to the Board Members showing the change.

Mr. Williams asked the Board Members if they thought the change to the child care building was a favorable change.

Mr. Grygiel stated that he thought the rotation of the building was a positive change.

Mr. Eben stated that he felt it is a positive move putting the front door on the street and the playground in the back out of harm's way.

Mr. Quentzel stated that he felt it is a much better design.

Mr. Redwine stated that he would like to explore this concept more.

Ms. Gabry stated that she feels that it is a positive change.

Mr. Schwarzbaum stated that he feels that it is up to the applicant to design the building and not up to this Board.

Mr. Steinhart stated that he likes the idea of moving the building.

Mr. Sussman stated that he thinks putting the playground in the rear is a good idea.

Chairman Neuer stated that he concurs with Mr. Schwarzbaum; he said that it is not up to the Board to design this building.

Mr. Williams presented his first witness.

Brian Conway 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. Mr. Conway stated that he also has his credentials as a licensed Professional Planner. Chairman

Neuer accepted Mr. Conway as an expert in landscape architecture. Mr. Conway presented the relocated child care study that was marked as Exhibit A-10 for identification. He said he was involved in the change of the orientation of the school and referred to Exhibit A-10 detailing the change.

Mr. Conway also stated that at the last meeting the Board had concerns regarding the proposed driveway off of St. Cloud Avenue. He said that they have changed it to a one way providing ingress only so that now it has less of an impact to St. Cloud Avenue.

Mr. Schwarzbaum asked why the landscape architect is giving testimony to the change of the orientation of the school.

Mr. Williams stated that he was trying to give the Board additional information regarding the concept plan to change the orientation of the school.

Chairman Neuer stated that Mr. Conway can only testify with respect to landscaping matters as a result of the new design of the building.

Mr. Williams stated that Mr. Conway will continue testimony regarding the landscaping.

Mr. Conway presented sheet 5 of the lighting plan from the submission package and detailed it. He said that they will be using the same fixtures as the ones at the Turtle Back Zoo so that there is some consistency in the neighborhood.

Mr. Hess stated that he has no problem with what is being proposed because it meets the illuminating engineer's recommendations; he said that the applicant will need a waiver from the Board for the reduced levels.

Chairman Neuer asked Mr. Williams if he requested this design waiver; he said yes. Chairman Neuer stated that the waiver is granted.

Mr. Schwarzbaum asked Mr. Conway if the direction of the child care building is not changed, are foot candles being proposed at the south side of the building; he said no.

Mr. Conway stated that if the client decides to change the building then the lighting plan will be updated. He said that they will provide adequate lighting on whatever the Board determines the direction of the building to be.

There were no further questions for Mr. Conway from any of the Board Members or the Board Professionals.

Chairman Neuer asked if any members of the public had any questions for Mr. Conway regarding the lighting plan.

Joel Goldstein approached the podium and stated that he lives at 299 St. Cloud Avenue. He asked Mr. Conway if any lighting is being proposed in the current playground area; he said no.

Chairman Neuer asked Mr. Williams if it is their intention to submit a new plan which rotates the building; he said they are undecided at this point based on comments that were made.

There were no further questions for Mr. Conway regarding the lighting plan.

Mr. Conway presented the colorized version of the landscape plan dated 2/15/19 that was marked as Exhibit A-6 for identification.

Mr. Conway referred to Exhibits A-6 and detailed it.

Mr. Conway stated that all items in John's Linson's memo dated 1/4/19 will be addressed to Mr. Linson's satisfaction. He also stated that they will comply with items #13 and #14 in John Hess' memo dated 4/1/19 and incorporated them on the plans.

Mr. Eben asked Mr. Grygiel how many trees per parking spaces are required; he said one tree for every ten (10) parking spaces.

Mr. Eben requested that the applicant keep the group of landscaping at the corner of Northfield Avenue and St. Cloud Avenue. He also requested that they plant some boxwood shrubs around the transformer located in front of the property

Mr. Hess requested that they comply with the sight triangle regulations at the corner of St. Cloud Avenue and Northfield Avenue so that there are no visibility issues. He also said that he is concerned with the sight line when making a left turn out of that intersection if the building is turned and moved closer to Northfield Avenue.

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

Chairman Neuer asked if any members of the public had any questions for Mr. Conway regarding the landscape plan.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Conway where the eleven (11) trees that are being removed are located on the site.

Mr. Conway referred to sheet 3 of the demolition plan and delineated the locations of trees that are being removed.

Joel Goldstein approached the podium and stated that he lives at 299 St. Cloud Avenue. He asked Mr. Conway how tall the trees along Northfield Avenue will grow; he said approximately thirty (30) to forty (40) feet.

There were no further questions for Mr. Conway regarding the landscaping plan.

Mr. Conway also presented the shade study, dated 3/6/19, that was marked as Exhibit A-7 for identification and detailed how the sun and shade will affect the surrounding properties impacted by the project during the summer and winter solstice.

Mr. Schwarzbaum asked Mr. Conway what the existing shade condition is over Stagg Field; he said that he was not asked to do a study of the existing shade condition over Stagg Field.

There were no questions for Mr. Conway from the Board Members or the Board Professionals regarding the shade study.

Chairman Neuer asked if any members of the public had any questions for Mr. Conway regarding the shade study.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Conway how the shade will impact the parking lot at Stagg Field.

Mr. Conway referred to Exhibit A-7 and detailed when the field will have shade.

Mr. Hess asked Mr. Conway if any of the proposed lighting will be powered by alternative lighting sources; he said no. Mr. Conway stated that they will be using LED fixtures that are very low wattage.

There were no further questions for Mr. Conway.

Mr. Williams called his next witness.

Laurence Appel approached the podium and was sworn under oath. He detailed his professional and educational background as an architect licensed in the State of New Jersey.

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

Mr. Appel presented seven pages of architectural plans of the West Village; the floor plans were marked as Exhibit A-8 and the elevations were marked as Exhibit A-9 for identification.<sup>1</sup>

Mr. Appel also presented the material board that was marked as Exhibit A-12 and sheets A to D of the artistic renderings of the West Village that was marked as Exhibit A-13 for identification.

Mr. Appel referred to Exhibit A-13 and stated that he took photographs of the area and modeled the building to scale and dropped it into the photos.

Ms. Weiss stated that she wanted to see the rear of the building; Mr. Appel stated that the rear view of the building is on the elevation plan of the submission package.

Mr. Appel stated that they are proposing seventy (70) units including eleven (11) COAH affordable units. He said there will be seventy one (71) covered parking spaces and a minimum of one assigned space per unit. Mr. Appel stated that there will also be additional parking on the site.

Mr. Appel stated that the ground floor will be retail space and the upper floors will all be residential units with the affordable units mixed in.

Mr. Appel stated that they are proposing an indoor amenity space and the roof over the garage will be used as an outdoor deck. He said that they are also proposing a rooftop deck with amenities.

Chairman Neuer noted the time and stated that the application will be carried over to a special meeting held on July 25, 2019 and that no further notice to the residents will be necessary although notice is to be published.

Chairman Neuer advised Mr. Williams to also have Mr. Appel come back to this meeting.

Chairman Neuer called for a recess at 9:20 pm.

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<sup>1</sup> These designations repeat those used for prior Exhibits. This will be addressed and corrected at the next meeting on this application.

Chairman Neuer resumed the meeting at 9:35 pm.

**2. ZB-17-11/Youssef, Inc.**

**Carried from 4/11/19**

Block: 111; Lot: 1.06; Zone: B-2

438 Eagle Rock Avenue

Seeking a 'd' variance and 'c' variances to permit the construction of a convenience store and other changes to the site.

**EXHIBITS**

A-1 – Sheet C-03 of the colorized site plan dated 6/29/18

Michael Oliveira, attorney for the applicant, approached the podium. He stated that his client last appeared on January 17, 2019 and stated who will be testifying at this meeting.

Chairman Neuer stated that he has reviewed the deed submitted by the applicant and there are deed restrictions and engineering requirements on pages three to five of the deed that are relevant to this application.

Chairman Neuer advised Mr. Oliveira that the Board is going to need further information regarding the environmental conditions and how this construction may impact it. He said that he would like to have their Licensed Site Remediation Professional (LSRP) appear to testify regarding this matter because he has some concerns about what is in the ground and in the ground water.

Mr. Oliveira stated that he has four (4) copies of the Response Action Outcome ("RAO") dated 12/15/16 that was issued for the site.

Chairman Neuer stated that this RAO was prepared by Andrew Thomas, a licensed LSRP, has replaced the no further action letter from NJDEP.

Mr. Oliveira called his first witness.

Abnan Kahn approached the podium and was sworn under oath.

Mr. Kahn was previously accepted as an expert in engineering; he presented a colorized version of sheet C-03 of the site plan dated 6/29/18 that was marked as Exhibit A-1 for identification.

Mr. Kahn detailed the application and referred to Exhibit A-1 and detailed the site plan.

Mr. Kahn stated that they revised the original plans based on comments from the Board and the Board Engineer and issued revised plans dated 2/14/19. He said that they originally proposed twenty six (26) parking spaces which were required; they have eliminated six (6) parking spaces. Mr. Kahn said the new proposed number of parking spaces is now twenty (20).

Chairman Neuer asked Mr. Oliveira if he wanted to amend the application requesting a variance for the parking spaces; he replied yes. The amendment was accepted by Chairman Neuer.

Mr. Kahn addressed all of the items in the memo from John Hess, CME Associates, dated March 28, 2019.

Mr. Kahn went through all of the items in the waiver checklist.

Mr. Kahn went through all of the items in Design comments and testified to items #1 through #4.

Mr. Kahn addressed item #5 and said that they do not have any immediate plans to install solar panels on the canopy but might do so at a later date.

Chairman Neuer stated that if the Board approves this application they are not approving solar panels on the canopy; he said if they decide to install them they will have to come back before this Board.

Mr. Kahn said that they will comply with all of the comments in items #7 through #16.

Mr. Kahn stated that their traffic expert will address all of the traffic items.

Mr. Quentzel asked Mr. Kahn if the applicant would object to a condition of approval to have solar panels installed on the canopy; he said that would be a question for the owner when he testifies.

Chairman Neuer stated that he has concerns regarding the environmental conditions at the property; he said what he would like them to be more specific with regards to the liner being installed because of the vapor intrusion issues.

Chairman Neuer said that the Board needs more specifics regarding the installation of the vapor intrusion liner and that is why he requested to have an LSRP come testify at the meeting so that he can say if it complies with the requirements of the New Jersey Department of Environmental Protection ("NJDEP").

Chairman Neuer also stated that if this application is approved he is going to recommend that the specific restrictions and institutional controls that are in the deed are to be placed on to the drawings.

There were no further questions for Mr. Kahn.

Mr. Oliveira called his next witness.

Nassar Almukhtar approached the podium and was sworn under oath.

Mr. Almukhtar detailed his professional and educational background as an architect licensed in the State of New Jersey.

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

Mr. Almukhtar presented the architectural floor plans for the building with a revision date of 2/19/19 and detailed them.

Ms. Weiss stated that the plans show just the size of the sign but it doesn't show what is on the sign. She asked Mr. Almukhtar if they can show the Board what the sign is going to look like; he said that they will present a detail of the signage.

Mr. Schwarzbaum asked Mr. Almukhtar if the Exxon sign at the northern corner will remain; he said yes.

Mr. Redwine asked Mr. Almukhtar if they are proposing to place a sign on the side of the building; he said no.

Chairman Neuer asked Mr. Almukhtar how high will they be stacking items in front of the window; he said three (3) feet high.

Chairman Neuer stated that there will not be any temporary signs displayed in the windows and recommended that as a condition of approval.

Chairman Neuer asked Mr. Almukhtar if he had a chance to review the environmental deed restriction document; he said yes.

Chairman Neuer asked Mr. Almukhtar if there is a water well installed on the site or are they going to use city water; he said city water.

Mr. Eben asked Mr. Almukhtar if they are in compliance with all of the ADA requirements; he said yes.

There were no further questions for Mr. Almukhtar from any of the Board Members or the Board Professionals.

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

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Almukhtar if they are proposing to have a generator; he said they did not discuss having a generator at this time.

Mr. Schwarzbaum stated that after Super Storm Sandy they are required to have a small generator sufficient to meet the New Jersey requirements to operate the gas pumps.

Chairman Neuer advised Mr. Oliveira to revise the plans to include at least one small generator that will meet the New Jersey requirements.

There were no further questions for Mr. Almukhtar.

Mr. Oliveira called his next witness.

Eliasm Addelnour approached the podium and was sworn under oath.

Mr. Addelnour stated that he is the president and the only share holder of Youssef Inc. and has been operating at this location since 1994.

Mr. Addelnour stated that there are three employees working during the daytime and two employees at night. He said that if the application is approved, there will be three shifts with four employees at each shift for twenty four hours a day.

Mr. Addelnour detailed the security being proposed. He said they will have cameras that have recording capability for forty (40) days; two (2) cameras will be inside with voice and two (2)

cameras outside that have night vision so it can see a license plate going in and out of the site.

Mr. Addelnour said that there will never be one employee working at a time; there will always be at least two (2) employees working at a time.

Mr. Addelnour detailed how deliveries will be made; he said small box trucks will deliver all of the food items and cigarettes and a bigger truck will deliver soda. Mr. Addelnour said all deliveries will be early between the hours of 5am and 7am; he said that he has signs that say no deliveries between peak hours.

Mr. Addelnour said that there will be one delivery for soda, ice cream and the convenience store once a week.

Mr. Oliveira asked Mr. Addelnour if he would install solar panels on the canopy and the building; he said yes.

Chairman Neuer advised Mr. Oliveira that the solar panels are to be shown on the next set of revised plans and it will be a condition of approval.

Mr. Schwarzbaum asked Mr. Addelnour if they will be selling any alcohol; he said no.

Ms. Gabry asked Mr. Addelnour what kind of food is going to be in the store; he said prepared foods such as soup and hot dogs.

Ms. Gabry asked Mr. Addelnour if there will be cooking on the premises; he said no.

Mr. Quentzel asked Mr. Addelnour if they are going to have any signs in the window; he said no.

Mr. Redwine asked Mr. Addelnour if there are any environmental issues that he is concerned with; he said no. Mr. Addelnour said that Exxon is addressing all of the environmental issues.

Mr. Sussman asked Mr. Addelnour how long is Exxon responsible for the environmental cleanup; he said until it is clean.

Chairman Neuer stated that Mr. Addelnour's statement is incorrect; he read from the environmental deed that was circulated to the Board Members that stated that the grantee, Youseff, Inc., has engineering responsibilities during the development of the property.

Chairman Neuer stated that the Board needs more information regarding the compliance of this deed and this is why he has asked that the LSRP testify before this Board to the compliance.

Chairman Neuer stated that he is concerned about any preparation or service of food when there is something on public record stating that there is a vapor intrusion problem.

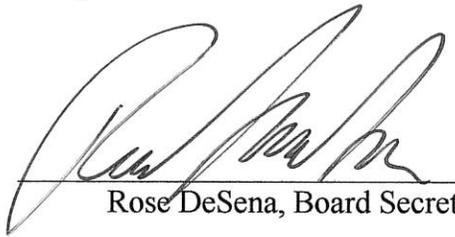
Chairman Neuer stated for the record that before he votes he would like to know that the general public is safe from any environmental hazard.

Mr. Oliveira said that they will have their LSRP at the next meeting to answer these questions.

Chairman Neuer noted the time and said that this application will be carried over to the next meeting held on July 18, 2019 and that no further notice will be required.

The meeting was adjourned by Chairman Neuer at 10:56 pm.

Adopted: July 18, 2019

 7/19/19  
Rose DeSena, Board Secretary