

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
MEETING
July 19, 2012**

The West Orange Zoning Board of Adjustment held a regular meeting on July 19, 2012 at 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer called the meeting to order at approximately 8:00 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle, and posted on the Township Bulletin Board on November 29, 2011 in accordance with the "Open Public Meetings Act."

Chairman Neuer asked everyone to stand for the Pledge of Allegiance

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

PRESENT: B. Buechler, D. Gabry, P. Neuer, B. Quentzel (8:04),
W. Steinhart, M. Sussman, A. Weiss, L. Zaolino

ABSENT: G. Bullock (excused absence)

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

ANNOUNCEMENTS

- **Future Meetings:** August 16, 2012 (Regular Meeting) – 8:00 PM
September 20, 2012 (Regular Meeting) – 8:00 PM
October 18, 2012 (Regular Meeting) – 8:00 PM
November 15, 2012 (Regular Meeting) - 8:00 PM

- **Application ZB-12-03/DEKAB/LLC, that was scheduled to be heard at this meeting, has requested to be carried to the 9/20/12 Zoning Board Meeting**

ANNUAL REPORT

Adopt: Zoning Board of Adjustment Annual Report – 2011-2012 (Draft)

Chairman Neuer stated that the Zoning Board of Adjustment's annual report, which is submitted by the Township's Planning Director Susan Borg, had previously been viewed by this Board and

some changes were made and incorporated into it. The Chairman asked if any Board member had any other comments or changes before he called for a motion to adopt.

Mr. Buechler stated that the report period, on page 2 of the report, should reflect July 1, 2011 to June 30, 2012 and should be corrected. He also commented on one of the applications that has been pending since 2010 and asked the Board Attorney, Ms. Beirne, to research how long an application can remain pending before the Board can deny it without prejudice. Mr. Buechler stated that there is a 45 day period, from the time the application is filed, to deem it complete or incomplete. Ms. Beirne said that she will check into it and report back at the next Zoning Board meeting.

Chairman Neuer asked for a motion to adopt the Zoning Board of Adjustment's Annual Report for July 1, 2011 to June 30, 2012. Ms. Gabry made a motion to adopt and Mr. Buechler seconded.

All were in favor.

REORGANIZATION

Vote:

A motion to re-appoint Mr. Neuer as the Chairman was made by Mr. Buechler. It was seconded by Mr. Steinhart and voted upon all to none.

A motion to re-appoint Ms. Gabry as the Vice Chairman was made by Mr. Buechler. It was seconded by Mr. Sussman and voted upon all to none.

A motion to re-appoint Rose DeSena as the Board Secretary was made by Chairman Neuer. It was seconded by Mr. Steinhart and voted upon all to none.

A motion to re-appoint Alice Beirne as the Board Attorney was made by Chairman Neuer. It was seconded by Ms. Gabry and voted upon all to none.

A motion to re-appoint Debbie Dillon, c/o Audio Digital Transcribing Services, as the Board Transcriber was made by Mr. Neuer. It was seconded by Mr. Buechler and voted upon all to none.

A motion was made by Chairman Neuer to designate Planning Director Susan Borg as the Township's Planning Professional to the Board. It was seconded by Ms. Weiss and voted upon all to none.

A motion was made by Chairman Neuer to designate the Township Council's appointed interim Planning Director for the Township as the Township's interim Planning Professional to the Board. It was seconded by Ms. Weiss and voted upon all to none.

Chairman Neuer stated that Eric Keller had suggested additional conditions to be incorporated into this resolution and asked for a motion to adopt with said conditions. Mr. Sussman made a motion to adopt; Ms. Weiss seconded and all were in favor.

Ms. Gabry returned to the dais.

ZB-12-02M/Auburn Data Systems, LLC

Approved 7/12/12

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

10 Marcella Avenue

Seeking one "D" variance for more than one principal use and a "C" variance for rear setback to install two (2) microwave dishes on an existing tower.

DISCUSSION

Chairman Neuer asked if any Board member had any comments or changes to this resolution, besides the changes he submitted.

Mr. Buechler suggested incorporating the name of the applicant into the heading of the resolution. He also referred to page 7 of the resolution, condition 3, regarding the applicant providing a structural report every five years. Mr. Buechler said to include that this will commence on 4/2012 and the report should be submitted no later than 4/2017. Chairman Neuer said that if the applicant fails to provide this report every five years, the Township can suspend their continued certificate of occupancy.

Mr. Buechler made a motion to adopt with changes; Ms. Gabry seconded and all were in favor.

APPLICATION

ZB-12-11/Boyle

Block: 158.12; Lot: 184; Zone: R-4

101 Fairview Avenue

"C" variance for side yard setback for one story addition

DISCUSSION

Ronald Weiss, architect for the applicant, approached the podium and was sworn under oath. James Boyle, applicant, also approached the podium and was sworn under oath.

Chairman Neuer asked Mr. Weiss if he read Director Borg's report and Mr. Weiss replied yes.

Chairman Neuer asked Mr. Weiss who drew the Township's tax map that was included in the application package submitted by the applicant and Mr. Weiss replied that he did.

Chairman Neuer asked if the applicant obtained the list of the property owners within 200' of this property from the Township's Tax Assessors office and Mr. Boyle replied yes.

Mr. Weiss detailed his educational and professional background and stated that he is a licensed Architect in the State of New Jersey. Chairman Neuer accepted Mr. Weiss as an expert in Architecture.

Mr. Weiss stated that the applicant is proposing to extend his dining room by adding a one story addition to the rear of his home. He said that they are requesting a "C" variance for a right side yard encroachment. Mr. Weiss then stated that the house is currently 6.76' from the property line on the side they are proposing the addition and they will not be increasing that. He said that all of the new materials they will be using on the exterior will match the current façade.

Mr. Weiss stated that they read Ms. Borg's report and will comply with her recommendations regarding the shrubs remaining along the side of the house and installing hand rails along the stairs. He said that that they will be re-siding the entire house, which will address Ms. Borg's recommendation regarding the removal of the mold on the existing siding, and that they will also be repairing the cracks in the foundation.

Mr. Buechler asked Mr. Boyle if he had received any comments from his neighbors regarding the work he will be doing on his home; Mr. Boyle replied no.

There were no members of the Board or members of the public that had any questions for either Mr. Weiss or Mr. Boyle.

Chairman Neuer closed the hearing.

Ms. Weiss stated that this is a small addition and she will recommend that the Board votes to approve.

Chairman Neuer stated that the resolution will include the recommendations made by Ms. Borg as conditions and asked for a motion to approve.

Mr. Sussman made a motion to approve this application; Mr. Quentzel seconded the motion.

Vote was as follows:

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

APPLICATION

ZB-12-12/350 Pleasant Valley Way Realty, LLC (Wilshire Grand Hotel)

Block: 15.22; Lot: 1428; Zone: R-5
350 Pleasant Valley Way

“D” variance for use & “C” variance for parking spaces for enclosing an existing patio with a canopy & interior renovations to the first and lower level.

EXHIBITS

- A-1 - Cover Sheet drawing A0.00 4/5/12
- A-2 – First Floor Plan drawing A2.01 4/5/12
- A-3 – Basement Floor Plan drawing A2.02 4/5/12
- A-4 – Proposed covered porch details drawing A4.01 4/5/12
- A-5 – Architectural rendering – not in evidence
- A-6 – Aerial Photograph with tax map
- A-7 – Overall plan SP-2 rendered
- A-8 – Area of Detail colored SP-8
- ZB-1- Lepore letter dated 7/9/12 with attachments

DISCUSSION

Robert Williams, Esq., attorney for the applicant, approached the podium. Mr. Williams began detailing the application stating that the Wilshire Grand Hotel is proposing to do some interior renovations. He said that they are also proposing to install a canopy over the existing rear outdoor patio.

Mr. Williams stated that this application is an extension of a non conforming use in an R-5 zone. He also stated that the addition will require a slight parking variance due to the addition in the basement that will require 8 additional parking spaces.

Chairman Neuer stated that he is confused about the wording in the application regarding the addition of offices in the lower level. He said that this is a basement and a basement is not a lower level. Chairman Neuer asked Mr. William’s if he wanted to amend the application so that it referred to it as a basement and not a lower level; Mr. Williams said yes, he would like to amend the application to refer to it as a basement instead of lower level.

Chairman Neuer stated that the applicant is requesting to waive the submission of an environmental impact statement, a soil survey and drainage plans because there will not be any changes to the building foundation or parking area.

Mr. Buechler stated that the waivers are acceptable, per Director Lepore’s report.

Chairman Neuer asked for a motion to waive the submission of the environmental impact statement, the soil survey and drainage plans. Mr. Sussman made a motion for said request; Ms. Gabry seconded the motion and all were in favor.

Chairman Neuer stated that the applicant has requested waiving the tree removal permit because they will not be removing any trees and asked for a motion to waive said request. Mr. Buechler

made a motion to waive the tree removal permit; Ms. Gabry seconded the motion and all were in favor.

Mr. Buechler stated that three prior resolutions were adopted by this Board for applications submitted by the applicant. He asked Mr. Williams if his client is seeking to modify any of the conditions set in these resolutions; Mr. Williams replied no. Chairman Neuer stated that all prior conditions will be in effect.

Mr. Williams called his first witness.

Benjamin Horten approached the podium and was sworn under oath. Mr. Horten detailed his educational and professional background stating that he is a licensed architect in the State of New Jersey and has testified before many municipalities. Chairman Neuer asked Mr. Horten if he testified to projects of similar size and scope; Mr. Horten replied yes. Chairman Neuer accepted Mr. Horten as an expert in Architecture.

Mr. Horten presented architectural plans, stating that they were modifications to the site and he began detailing the plans. Chairman Neuer stated that the architectural drawings that Mr. Horten is presenting were submitted with the application and have been pre-marked as Exhibits A-1 through A-4 and entered into evidence. The Chairman also noted that the architectural rendering that Mr. Horten is presenting this evening was pre-marked as Exhibit A-5 and entered into evidence.

Mr. Horten began detailing Exhibit A-1 of the architectural plans noting where the offices will be re-located along with a bridal suite in the basement area. He also stated that behind the main lobby is a paved patio where they are proposing to create a covered porch for outside seating for the hotel guests.

Mr. Horten stated that they are proposing to relocate an existing catering service area. Mr. Buechler asked Mr. Horten for clarification regarding this area. He said that the proposed plans that were submitted to this Board define this area as a kitchen. Mr. Horten said that this is not a kitchen; he stated that this is just an area where the wait staff can prepare pre-cooked food that is brought in by a caterer. He said that the catering hall already exists and that they are just re-locating it.

Mr. Horten continued and began describing Exhibit A-2 of the architectural plans detailing the basement floor plan. He detailed all of the existing stairs that connect from the upper to the lower floor. Mr. Horten outlined where the catering office will be located on this level. He also stated that they will be re-locating the bridal suite on this level, which is currently on the first floor. Mr. Horten said that this is an area where the brides get ready and it will include a private bathroom for the bride.

Chairman Neuer asked if there are any windows in this area; Mr. Horten replied no.

Mr. Buechler asked if it is handicap wheelchair accessible in the basement area. Mr. Horten stated that there is an elevator in the basement. Chairman Neuer stated that if there was a fire, the elevator would shut down. Mr. Horten stated that the stairs are wider than the 48" that are required.

Mr. Sussman asked Mr. Horten how many exits there are in the basement; Mr. Horten said there are six (6) exits from the basement level.

Ms. Gabry asked how the hallways are marked to show where to exit; Mr. Horten said that there are existing exit signs. He said that, if approved, when they apply for their building permits they will bring it up to code if required to do so.

Mr. Horten began describing the outdoor patio details on Exhibit A-4. He noted what is existing and described the canopy that they are proposing to install over the patio.

Mr. Horten continued by describing the architectural renderings on Exhibit A-5 detailing the renderings of the portable doors, stating that the sides of the windows are folding partitions. Chairman Neuer asked Mr. Weiss where they will store the doors when they are taken down. Mr. Weiss said that the doors fold up, like an accordion, and will remain outside.

Mr. Quentzel asked Mr. Horten if the client intends to add furniture outside. Mr. Horten said that there is already furniture outside. Mr. Quentzel asked Mr. Horten how many tables they currently have outside. Mr. Horten said that there are a few tables outside, he was not sure exactly how many, but stated that there will be some inside the enclosure and some outside.

Mr. Williams stated that the service will be continued as it is now.

Ms. Weiss asked for clarification regarding Exhibit A-5 and asked Mr. Horten to explain the rendering showing people walking in and out of the hotel. She said that the rendering suggest that the patio will be totally enclosed when in reality only a portion will be enclosed. Ms. Weiss stated that the rendering is somewhat inaccurate.

Chairman Neuer stated for the record that Exhibit A-5 will be taken out of evidence and only marked for identification

Mr. Williams called his next witness.

J. Michael Petry approached the podium and was sworn under oath. Chairman Neuer stated that Mr. Petry has testified before this Board many times as an expert in Engineering and as a Professional Planner and asked if any of the Board members would like to hear his credentials again. Seeing none, Chairman Neuer accepted Mr. Petry as an expert in Engineering and as a Professional Planner.

Mr. Petry began by detailing the application, stating that this facility serves as a hotel and a banquet facility. He detailed the prior application along with the prior approvals they received.

Mr. Petry presented a rendering of the overall plan along with a rendering of a super imposed tax map. Chairman Neuer asked Mr. Petry if he prepared these renderings himself; Mr. Petry replied yes. Chairman Neuer asked to have the aerial photo with the tax map marked as Exhibit A-6 and the rendering of the overall plan marked as Exhibit A-7 and both entered into evidence.

Mr. Petry described the parking lots on premise and detailed what the original approvals for the parking plan were. He said that they were approved for 397 vehicles in the upper parking lot. Mr. Petry said that, if need be, the lower parking lot could be paved which would add an additional 146 parking spaces bringing the total parking spaces to 543. He said that there is also another area on site that could be paved and used for parking, if necessary, that would provide 84 parking spaces which would bring the total of parking spaces to 627.

Mr. Petry then began detailing the area that the applicant is proposing to convert to a kosher kitchen area. He said that an outside kosher caterer prepares and brings the food into this area, separate from the existing kitchen area, and will be served from this location.

Mr. Petry described the basement area where the offices are being proposed. He said that these offices are an accessory for the banquet use.

Mr. Petry referred to the site plan where it detailed the patio area. Chairman Neuer asked to have the colored area of detail plan marked as Exhibit A-8 and entered into evidence. Mr. Petry referred to a portion of the patio, where they are proposing to place a canopy over it, and stated that the remainder of the 18' x 50' patio area will remain the same.

Mr. Petry stated that they will also be putting an island in the middle of the patio but they will not be expanding the patio area. He said that this portion of the application will not have any impact on the parking because it is part of the hotel lobby.

Mr. Petry stated that this application requires a D (3) variance because it is an expansion of a non conforming use. He stated that this also requires a C variance because there will be an increase in parking and the existing parking is less than is required.

Mr. Petry detailed the positive criteria for the parking variance stating that they are not doing anything to change the existing structure and that there will not be any more traffic than there presently is. He said that his opinion is that this is not a real expansion of a banquet use but they must appear before the Zoning Board according to the Township's ordinance.

Mr. Petry stated that there was already a kosher banquet facility located outside and they are proposing to convert an existing meeting room into the kosher catering serving room. He said that the applicants request is technical in nature and has no effect on anything in the ordinance.

Mr. Petry detailed the times that the hotel was at full capacity and said that the maximum total of parked cars on those three separate occasions were 265, 299 and 155. He said that the site functioned, at those times, with no problems.

Mr. Sussman asked Mr. Petry how many striped parking spaces the parking lot has and Mr. Petry said that he did not have that exact number. He said that there are not 397 striped spaces on the site; there are 75 spaces less than the 397 they were previously approved for. Mr. Petry said that the valet parking is where they squeeze 75 more cars in because they were approved for tandem parking in valet, even though tandem parking is not permitted in the Town ordinance.

There was some discussion regarding the valet parking. Chairman Neuer stated that there have been times he was at the facility and there was not valet parking. Mr. Petry stated that they only have valet parking during peak events.

Chairman Neuer asked the Board members if they would like to continue the meeting without taking their usual break; they all agreed to continue the meeting without taking a break.

Mr. Petry continued and stated that there will be no change in the building area or impervious area. He said that the canopy they are proposing to install over the patio can only be seen from Kenz Terrace and not from anywhere else.

Mr. Petry stated that, in his opinion, there is sufficient parking for this site. He said that the owners have upgraded the facility and there is no detriment. Mr. Petry stated that they have met the criteria for the D (3) and C (2) variances.

Mr. Buechler asked Mr. Petry how many parking spaces there currently are; Mr. Petry said there are 397 parking spaces and that includes valet parking.

Mr. Buechler asked how many parking spaces there would be if the non-paved areas were paved; Mr. Petry said there would be up to 600 parking spaces with the other areas.

Mr. Buechler asked how many people were in attendance during the largest affair they have had. Mr. Petry said that there were 400 people at an affair the time he was there, but he doesn't know the capacity of the banquet rooms. He said the owner can answer that question.

David Weiss approached the podium and was sworn under oath. Mr. Weiss stated that he is one of the owners and operators of the facility. Mr. Buechler stated that there are two banquet halls at this facility and asked Mr. Weiss how many people would be there if two affairs were being held at one time. Mr. Weiss stated that the facility can hold the maximum of 475 people if two affairs were being held at one time.

Ms. Gabry asked Mr. Weiss if the 475 included employees and he replied no. Ms. Gabry asked Mr. Weiss where the employee's park and he said in the north parking lot. Ms. Gabry then asked if the 397 parking spaces include parking for employees and Mr. Weiss replied yes.

Mr. Quentzel asked Mr. Petry what equipment will be in the kosher serving area. Mr. Petry said there will be movable, insignificant equipment in the serving area such as electric warmers.

Chairman Neuer referred to a letter dated July 9, 2012 from Director Lepore and told Mr. Williams that this letter was not addressed yet. Mr. Williams said that the applicant is consenting to the easement but whatever work the Town has to do, they must do.

Chairman Neuer referred to the 4th and 5th line in Director Lepore's letter, regarding the applicant's engineer delineating the right buffers, and asked Mr. Williams if his client is agreeing to do this or not. Mr. Williams stated he spoke with Director Lepore before the meeting and Director Lepore agreed to modify this. Mr. Buechler said that if Director Lepore agreed to modify his letter then he should have stayed for the meeting and told the Board this.

Chairman Neuer stated that the applicant must agree to everything in Director Lepore's letter if they want the Board to vote on this application tonight. Mr. Williams discussed this briefly with his client and said that his client agrees to pay for the delineation and file the deed restriction.

Mr. Grossman stated that he feels the Board should approve this application and he recommends that the conditions noted in Director Lepore's letter should be incorporated into the deed. Chairman Neuer clarified and stated that buffers are not recorded but easements must be recorded.

Ms. Weiss said that she is recommending that the Board approve this application. She said the work they are proposing is minimal and that the Wilshire Grand Hotel has been a “Grand” addition to West Orange.

Chairman Neuer stated that the applicant has met its burden. He said that he was initially concerned about an office in a basement and advised the applicant not to call a basement a lower level. The Chairman stated that he is glad the applicant has agreed to Director Lepore’s report and asked to have it marked as Exhibit ZB-1 and attached to the resolution.

Chairman Neuer made a motion to approve this application. Mr. Steinhart seconded the motion.

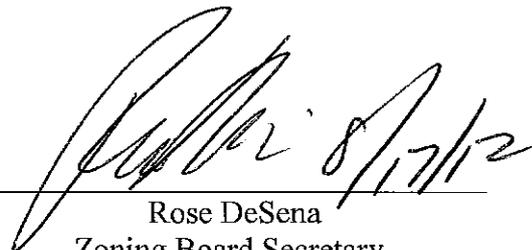
Vote was as follows:

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

ADJOURNMENT

The meeting was adjourned by Chairman Neuer at 9:54 pm.

July 19, 2012



Rose DeSena
Zoning Board Secretary