

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
November 15, 2012**

The West Orange Zoning Board of Adjustment held a regular meeting on November 15, 2012 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 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, G. Bullock, D. Gabry, W. Merklinger, P. Neuer,
B. Quentzel, W. Steinhart, M. Sussman, A. Weiss

ABSENT: L. Zaolino (excused absence)

ALSO PRESENT: P. Grygiel, Consulting Planner/Acting Planning Director
Alice Beirne, Esq., Board Attorney.
Rose DeSena, Board Secretary
Harvey Grossman, Public Advocate

ANNOUNCEMENTS

Future Meetings: December 6, 2012 (Special Meeting) – 8:00 PM
December 20, 2012 (Regular Meeting) – 8:00 PM
January 10, 2013 (Special Meeting) – 8:00 PM
January 17, 2013 (Regular Meeting) – 8:00 PM

- Application **ZB-12-19/Rustagi** originally scheduled to be heard at this meeting, will be carried to the Zoning Board's regular meeting on 12/20/12 per the applicant's request.

Chairman Neuer asked the applicant for ZB-12-17/Blake to approach the podium. Mr. & Mrs. Blake approached the podium. The Chairman explained to the applicant that the meeting is closed at 11 pm and there may be a chance that they will not be heard tonight because they are last on the agenda. He told them that they could wait it out to see how the meeting progresses and he will discuss them their desire, at that later time, to request an adjournment. The applicants agreed to wait.

MINUTES

Adopt Minutes: October 18, 2012 (Regular Meeting)

Chairman Neuer asked the Board members if they had any comments regarding the minutes from the regular Zoning Board meeting held on October 18, 2012. Seeing none, the Chairman asked for a motion to approve.

Mr. Buechler made a motion to approve the minutes; Ms. Gabry seconded the motion and all were in favor.

SWEARING IN

Consulting Planner for the Township, Paul Grygiel, was sworn under oath.

RESOLUTIONS

- | | |
|--|---------------------------------|
| <p>1. ZB-12-10/Bell Block: 32; Lot: 176.24; Zone: R-5 9 Stanford Court "C" variances for construction of retaining walls</p> | <p>Approved 10/18/12</p> |
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Chairman Neuer made a motion to adopt resolution ZB-12-10/Bell; Ms. Weiss seconded the motion.

The vote was as follows:

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

It was noted, for the record, that Mr. Buechler was present but not voting.
It was noted, for the record, that Mr. Bullock was present but not voting.

APPLICATION

- | | |
|---|-------------------------------------|
| <p>1. ZB-12-03/DEKAB, LLC Block: 18; Lots: 27 & 29; Zone: R-M 372 Valley Road Seeking a "D" variance for use and three (3) "C" variances for parking, lot coverage and signage.</p> | <p>Carried from 10/18/12</p> |
|---|-------------------------------------|

DISCUSSION

Joseph Vena, Esq., attorney for the applicant, approached the podium. Mr. Vena stated that the only issue, regarding this application, is the vote.

Chairman Neuer asked if any member of the public would like to offer any commentary or testify; seeing none the record was closed by the Chairman.

Chairman Neuer asked to have Exhibits A-1 and A-2 entered into evidence and opened the floor for discussion.

Mr. Buechler stated that he thinks the consolidation of the lots to increase parking is a great thing but he opposes the onsite pharmacy. He said that the Planners testimony did not demonstrate the negative and positive criteria for the variances relating to this use. Mr. Buechler said that he believes there is not truly a need for a pharmacy because there is a pharmacy about a quarter of a mile down the road. He said that he recommends approving the parking but not the pharmacy.

Ms. Gabry stated that her concern is the security issues for the pharmacy and she agrees with Mr. Buechler. She said that so few people will be interested in using it and it does not serve all the needs of the patients.

Mr. Buechler stated that Dr. Abbassi testified that 2 to 3 years ago there were 10 to 15 patients that were interested in having a pharmacy onsite. He said when Dr. Abbassi was asked how many patients he had, he said approximately 10,000; Mr. Buechler said that, in his opinion, this does not constitute a need for the community.

Mr. Bullock stated that he understands the concern for the justification of the pharmacy but in this part of town the pharmacy would be beneficial. He said that he thinks the benefits outweigh the negative aspects of it. Mr. Bullock also stated that, in regards to the concern about narcotics being distributed on a Saturday, the Pharmacist has the legal responsibility for that; not the Doctors. He stated that the applicant did satisfy the criteria for the pharmacy and that he would approve it.

Mr. Steinhart stated that, for reasons Mr. Bullock expressed, he would also vote in favor of this application.

Ms. Weiss said that she agrees with Mr. Buechler and Ms. Gabry but she agrees more with Mr. Bullock and Mr. Steinhart. She said that she does not think it will be a traffic issue or outsiders will utilize the pharmacy. Ms. Weiss said that the positive outweighs the negative and that she will vote to approve this application.

Chairman Neuer stated that he agrees with Mr. Buechler and Ms. Gabry. He said that he finds the presentation of Mr. Williams, as a Planner, deficient and that neither the negative nor positive criteria was satisfied. The Chairman stated that the pharmacy is not permitted in this zone and that he did not hear any testimony that established a compelling a need for it. He observed that Mr. Williams stated that the pharmacy was to service the patients but yet Dr. Abbassi said that only 10 or 15 patients requested it. Chairman Neuer stated that there is a pharmacy approximately 500 ft. away and that the neighborhood does have one to serve them. He said that he did not accept Mr. Williams's testimony at all. The Chairman said that the addition of two employees for the pharmacy does not improve the economy and that the testimony did not establish that the negative criteria have not been proven. Chairman Neuer described Mr.

Williams' testimony as rife with net opinions which were not supported by underlying facts and analysis so that the planning testimony was not entitled to great weight.

Chairman Neuer said that he suggests that they approve the application, except for the two "D" variances, and noted that he thinks the other part of the application is an improvement.

Chairman Neuer asked for a motion for the "D" variances; Mr. Buechler made a motion to deny the application requesting the "D" variances and Ms. Gabry seconded the motion.

Before the Board Secretary called for the vote, the Chairman stated that the vote will be "yes" to deny the "D" variances and "no" to approve the "D" variances.

The vote was as follows:

| | | | |
|-------------|-----|----------------|-----|
| Buechler: | Yes | Steinhart: | No |
| Bullock: | No | Sussman: | No |
| Gabry: | Yes | Weiss: | Yes |
| Merklinger: | - | Zaolino: | - |
| Quentzel: | - | Chairman Neuer | Yes |

Chairman Neuer stated that, by law, the "D" variances are denied due to the failure of the applicant to receive five votes in favor of those variances.

Chairman Neuer asked for a motion for the "C" variances; Mr. Buechler made a motion to approve with the following conditions: the free standing sign will be permitted for identification of the Doctors, the first floor will be used for storage only and remain as is, signs marked "employee use only" posted on both staircases, employees will park only in the seven spaces provided for them in the Municipal parking lot and the second floor will be used for storage and an employee room only.

Chairman Neuer told Mr. Vena to amend the application for the following: Omland Engineering report dated 5/11/12, item #12 on page three referring to conditions of prior approval stating that there will not be any storage on the first floor. Mr. Vena said that was a condition based on the pharmacy going there and the application was so amended.

Chairman Neuer suggested the following conditions, referring to item #13 in Omland Engineering report dated 5/11/12 regarding the applicant expanding the irrigation system to the new landscape areas, item #14 regarding replacing the front sidewalk within six months and adding a second handicap parking spot so that the resolution will state that there are two handicap parking spots.

Mr. Buechler stated that he accepts the Chairman's conditions.

Ms. Weiss seconded the motion to approve.

The vote was as follows:

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

It was noted for the record that Mr. Buechler and Mr. Vena are conferring in regards to the fence. It was noted that the existing fence will come down and a new fence will be erected.

2. ZB-12-15/Pappano

Carried from 10/18/12

Block: 159.08; Lot: 37.01; Zone: R-5
6 West View Road

“C” variances for rear yard setback and lot coverage to build an addition.

EXHIBITS

A-1 – Site Plans (revision date of 10/18/12)

A-2 – Planners report (revision date of 10/19/12)

DISCUSSION

Chairman Neuer asked the applicant to approach.

Vincenzo Pappano approached the podium and was sworn under oath.

The Chairman stated that Geoffrey Gogan prepared a lot of the work on this application and asked Mr. Gogan to approach.

Geoffrey L. Gogan approached the podium and was sworn under oath. Mr. Gogan detailed his educational and professional background stating that he is a licensed Planner and a licensed Architect in the State of New Jersey and that he will be testifying as both this evening. Chairman Neuer accepted Mr. Gogan as an expert witness in the fields of Architecture and Planning.

Chairman Neuer stated that the applicant submitted a letter to the Board today. He said that the Board Secretary had Mr. Lepore opined earlier this evening that his predecessor, Mr. McCann, and the applicant had come to an agreement regarding the rear property line. Chairman Neuer stated that the new plans were accepted and have become part of the record.

Mr. Pappano stated that, while married, he and his wife purchased a home on West View Road and that is where he lived until their divorce. He explained that after the divorce he decided to buy another house for himself on West View Road so that he could spend time with his children.

Mr. Pappano said that the house had two bedrooms and it was perfect for him and his two daughters while they were young. He said that now that they are older, he needs the additional space for another bedroom so that they can have sleep-over's and play dates with their friends.

Ms. Weiss stated that one of the Planner's concerns was the location of nearby neighbors. Chairman Neuer stated that Mr. McCann, one of Mr. Pappano's neighbors, was here and asked if any other neighbors were present; seeing none the Chairman stated for the record that there was no opposition.

Mr. Buechler stated that the Planner also talks about a ditch and asked Mr. Pappano if it was on his property or not. Mr. Pappano stated that his Architect will answer that question.

Mr. Buechler asked Mr. Pappano if he was going to match the materials used for the addition to the existing house; Mr. Pappano said that they are going re-side the entire house and replace the roof.

Chairman Neuer opened the floor to the public for questions to be addressed to this witness. There were no more questions for Mr. Pappano.

Mr. Gogan presented site plans with a revision date of 10/18/12. Chairman Neuer asked to have the site plan drawings C-1 to A-7, with a revision date of 10/18/12, marked as Exhibit A-1 for identification. Mr. Gogan referred to sheet C-1 and noted where Mr. Pappano and Mr. McCann's property lines abut. He stated that the "ditch" was never on Mr. Pappano's property line. Chairman Neuer asked Mr. Gogan if the ditch was ever part of his client's property when they ran their calculations; Mr. Gogan stated that it was surveyed as off of the property.

Mr. Sussman asked Mr. Gogan if he prepared Exhibit A-1; Mr. Gogan replied yes.

Mr. Sussman referred to an arrow on the tax maps of drawing C-2 of the plans and asked Mr. Gogan if he put the arrows there; Mr. Gogan replied yes.

Mr. Sussman referred to the tax maps on drawing C-2 of the plans and asked Mr. Gogan who put the two tax maps together; Mr. Gogan said that someone in his office prepared the tax maps. Mr. Gogan stated that he first thought it was a ditch on the property line and then he realized that there was no ditch there. He said that it is just a low line area of the property that redirects the storm water into West View Road.

Mr. Gogan stated that there is a change to the impervious coverage. He said that on the original application he had measured the impervious to the curb line. Mr. Gogan said that after concurring with Mr. Lepore, the impervious should only extend to the front property line. He stated that after recalculating the impervious coverage they will be under the 45% as allowed and they will not need the "C" variance.

Mr. Gogan began detailing the storm drain, on drawing C-3, stating that it will allow for any overflow. He also detailed the tree protection fence that will be installed if needed.

Mr. Gogan stated that the applicant is proposing a modest addition to his home and that the building will still be within the same ratio with the improved lot area.

Mr. Gogan presented drawing A-1, noting the low ceiling in the basement, and drawing A-2 detailing the main floor plan. He noted on drawing A-2 of the plans where the applicant is proposing the rear family room addition.

Mr. Sussman questioned the notation on drawing A-2 regarding a gas fireplace being installed somewhere; Mr. Gogan stated that the gas fireplace is not pertinent to the application.

Mr. Buechler asked Mr. Gogan if there will be any sleeping quarters in the basement; Mr. Gogan replied no. Mr. Buechler asked Mr. Gogan if there is any egress from the basement besides the staircase; Mr. Gogan replied no. Mr. Buechler stated that one of the conditions would be that the applicant cannot use the downstairs basement for sleeping because of only one egress and ingress.

Mr. Quentzel asked Mr. Gogan if there were any windows in the basement; Mr. Gogan replied yes and stated that the windows were very high. Mr. Quentzel said that he recommends one of the conditions would be making a window well outside one of the windows so that it could be used as an emergency exit.

Mr. Sussman asked Mr. Gogan what the lowest height of the basement ceiling was; Mr. Gogan said he did not have an exact measurement but estimated it at 7'. He said that the new basement will be set down farther and the ceiling will be a little higher.

Mr. Gogan presented drawing A-3 and detailed the second floor plan. He said that the upper floor consists of a full bath and two bedrooms at the front of the house with dormers. Mr. Gogan stated that closet space is also very limited in the bedrooms. He noted where the new master bedroom would be and said that there will be a step up from the existing landing to enter it.

Mr. Gogan presented drawing A-4, the left elevation, which shows the pitch of the house. He stated that the existing dormer will be removed and noted the small deck and new roof on the plans.

Mr. Gogan presented drawing A-5, the rear elevation, and stated that the new roof will be perpendicular to the main house.

Mr. Gogan presented drawing A-6 and detailed what the the front elevation of the house will look like.

Ms. Weiss asked Mr. Gogan if they will be taking any trees down in front of the house; Mr. Gogan said that they currently do not have any plans to remove any of the trees in the front but if they do, they will follow the Township's ordinance for tree removal.

Mr. Gogan began detailing the positive and negative criteria from his report. He stated that the applicant's lot is very small compared to the rest of the lots on the street. Chairman Neuer asked Mr. Gogan if he was to ask him to read his report would he testify that it was accurate; Mr.

Gogan replied yes. Chairman Neuer asked to have Mr. Gogan's report, with a revision date of 10/19/12, marked as Exhibit A-2 and to have Exhibit A-1 and Exhibit A-2 entered into evidence.

Mr. Gogan stated that water flows from all of the properties on West View Road into the applicant's rear property line and causes a problem for Mr. McCann. He said that they are proposing to redirect the water to West View Road by installing new gutters and a new drain. Chairman Neuer asked Mr. Gogan if they will be complying with Mr. Lepore's letter; Mr. Gogan replied yes.

Mr. Gogan stated that the width of the rear yard is compliant but the shortage is in the depth of the yard which requires a rear yard variance. He said that it would be a hardship for that reason.

Mr. Quentzel referred to drawing C-1 of the plans and asked Mr. Gogan if the front stoop is being reduced; Mr. Gogan said that they are planning on rebuilding the front stoop. Mr. Quentzel asked if they are reducing it in size. Mr. Gogan said it will be slightly increased in size but not subject to a variance. Mr. Quentzel stated that if they are expanding the stoop then it will need a variance because the stoop will be extended closer to the curb.

Mr. Grygiel asked Mr. Gogan if the roof line will be closer to the lot line; Mr. Gogan replied no. Mr. Grygiel said that no variance will be needed then.

Mr. Gogan stated that they will be using modular pavers. Chairman Neuer asked if the pavers were pervious; Mr. Gogan replied yes.

Chairman Neuer asked if any members of the public had any comments.

John McCann, 46 Edgewood Avenue, approached the podium and was sworn under oath. Mr. McCann stated that he bought his house in 1977 and at that time there were only five houses on the street. He said that he raised his house up to let the drainage run off and eventually he put a pipe into the storm sewer to let the water run down to the storm sewer. Mr. McCann stated that it appears there is a depression there, not a ditch, and it helps to control the storm water run-off.

Mr. McCann stated that he is not opposed to this application and that the applicant is very cooperative.

Ms. Weiss stated that she thinks it is an improvement and that if Mr. McCann is pleased then she approves.

Chairman Neuer asked for a motion. Mr. Buechler made a motion to approve with the following conditions: the roof may be raised in height and will be uniform construction higher structure, the siding materials on the addition match the existing color on the house, no overnight sleeping in the basement, install emergency access steps, that Mr. Quentzel called Bilco, or a similar type emergency exit through the upper basement windows.

Ms. Beirne stated that requiring the applicant to make a bigger window is not an egress; Mr. Buechler said it would just be an emergency exit and not for allowing overnight sleeping in the basement.

Ms. Gabry seconded the motion to approve.

The vote was as follows:

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

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

Chairman Neuer resumed the meeting at 9:45 pm.

- 3. ZB-11-14/Longo** **Carried from 10/18/12**
 Block: 88; Lot: 21; Zone: OB-2
 Seeking "D" and "C" variances for converting a two family house
 Into a three family house

EXHIBITS

A-1 – Architectural drawings (AR-1) and Elevations (AR-2) dated 2/23/12

A-2 – Site plan, zoning table and existing and proposed conditions (sheet 1) and Survey (sheet 2)
 revision date of 4/21/12.

DISCUSSION

Carmine Campanile, Esq., attorney for the applicant, approached the podium.

Mr. Campanile stated that his client, Vincent Longo, submitted an application to re-convert an existing two family house back to a three family house. He said that originally it was a three family house. He said that Mr. Longo will make some changes and add additional space to the third floor.

Mr. Campanile detailed the existing conditions and stated that they are requesting a "D" use variance and "C" variances for lot area, side yard setback, lot coverage and parking. He said that the applicant is proposing three parking spaces with three tandem spaces behind them. Chairman Neuer asked Mr. Campanile if he recognizes that the Township does not recognize tandem parking; Mr. Campanile replied yes.

Mr. Campanile stated that some of the variances are for existing conditions and the "D" use variance is for the three family house. He said that he has three witnesses testifying this evening; the owner, Nicholas Salerno the Architect and Anthony Marucci the Engineer.

Mr. Buechler asked Mr. Campanile if the house is being currently used as a two or three family house and if someone is living on the third floor. Mr. Campanile stated that there is someone living on the third floor and that the applicant was violated for that on 10/27/11. Mr. Buechler asked Mr. Campanile why it took the applicant a year to get back before this Board. Mr. Campanile said that the applicant had to get a new architect and those plans were finished in February, 2012 because the owner made some changes; he said that Mr. Marucci's plans were dated April, 2012 and submitted in May, 2012 and that a new Planner came in and did not complete his report until August of 2012.

Chairman Neuer said that he always makes the same comment in this situation and said that it is much preferred to ask for permission rather than forgiveness. The Chairman said that he is having a lot of trouble understanding how his client is still collecting rent on the third floor. He said that the third floor should have been closed off. Mr. Campanile said that the applicant is in constant contact with the Township and that he still has to deal with the violation.

Mr. Quentzel asked Mr. Campanile if there is proof that it was once a three family house. Mr. Campanile said yes and that the property record card was submitted with the application.

Chairman Neuer said that they did not give a date when it was converted to a two family house; Mr. Campanile said that they can only go by the property record. Chairman Neuer observed that the alleged prior non-conforming use, in his opinion, has been abandoned. Mr. Campanile that this application is not bottomed on the former use.

Vincent Longo approached the podium and was sworn under oath. Mr. Longo stated that he is the owner of the property and purchased it in December 2010. Mr. Campanile asked Mr. Longo if he is aware that there is still an issue to be resolved by the court regarding the house being used as a three family; Mr. Longo said he does understand that.

Mr. Campanile asked Mr. Longo to comment on Ms. Borg's report regarding her concerns with the existing garage. Mr. Longo said that he had a contractor make sure it was structurally safe and he has replaced the garage door. He stated that he also re-seeded the front lawn and will paint and replace the hand rail on the front stairs.

Mr. Longo stated that he wants to convert the house back to a three family because he feels the third floor is wasted space and he wants to make it more livable. He said that he also wants to improve the rear staircase.

Mr. Campanile asked Mr. Longo how many cars the tenants currently have. Mr. Longo said they have three cars and he will assign them their parking spots.

Ms. Weiss asked Mr. Longo if the house was sold as a two or three family house when he bought the property in 2010; Mr. Longo said he did not know because it was never discussed. Ms. Weiss asked Mr. Longo if a realtor was involved in the sale of the house; Mr. Longo said that he bought it from the owner and a realtor was not involved. Ms. Weiss asked Mr. Longo if the owner was living in the house when he purchased it; Mr. Longo said he was not sure but he thinks the owner was living there part time. Ms. Weiss asked Mr. Longo if he made the deal himself; Mr. Longo replied yes. Ms. Weiss asked Mr. Longo how many families were living in the house when he purchased it; Mr. Longo said there were only people living on the first floor. Ms. Weiss asked Mr. Longo if he knew whether it was a legal two or three family house when he purchased it; Mr. Longo said that it was never discussed if it was a two or three family house.

Mr. Quentzel asked Mr. Longo if he had a HUD settlement when he purchased the house or if any rents were adjusted; Mr. Longo said no because there was no one living on the second or third floor.

Mr. Buechler asked Mr. Longo how quickly after he purchased the house he leased out all three floors; Mr. Longo said he leased them out approximately two or three months after the purchase. Mr. Buechler asked Mr. Longo if he was taxed as a two or three family house; Mr. Longo said he did not know because his wife takes care of that.

Mr. Longo stated that after he purchased the house and made repairs to it, he made an economic decision to rent all three floors.

Mr. Quentzel asked Mr. Longo what type of repairs he made to make the third floor livable. Mr. Longo said that he did electrical work, made repairs to the bathroom, replaced tiles and painted. He said that he did a total renovation.

Chairman Neuer asked Mr. Longo if he obtained permits when he did this work; Mr. Longo replied yes.

Ms. Gabry asked Mr. Longo if he was represented by an attorney when he bought the house; Mr. Longo replied yes. Ms. Gabry asked Mr. Longo if he owned other rental properties; Mr. Longo replied yes. Ms. Gabry asked Mr. Longo if he inquired about the Township's requirements to rent out the house; Mr. Longo said that Tom Tracy, the Townships Construction Official, told him that he could rent out the second and third floor as one apartment.

Mr. Steinhart asked Mr. Longo if he paid cash for the house or did he finance the house; Mr. Longo said that he does not know. Mr. Steinhart asked Mr. Longo if an appraisal was done on the house; Mr. Longo said no. Mr. Steinhart said that if he did finance the house then he would have had to have had an appraisal done.

Mr. Bullock stated that the house was purchased in 2010 and in 2011 he received a violation from the Township because the house was being rented improperly. Mr. Bullock told Mr. Longo that he is still in violation.

Chairman Neuer told Mr. Campanile that he is having a difficult time accepting testimony from his client because Mr. Longo stated that he does not know if he has a mortgage on his property or

if he paid cash. The Chairman stated that Mr. Longo invested \$200,000 of his money and did not know if he could rent the third floor.

Chairman Neuer opened the floor to questions from the public. There were no more questions for Mr. Longo.

Mr. Campanile called his next witness.

Nicholas Salerno approached the podium and was sworn under oath. Mr. Salerno detailed his educational and professional background stating he was a licensed Architect in the State of New Jersey. He said that he has testified before this Board many times. Chairman Neuer accepted his credentials as an expert witness in the field of Architecture.

Mr. Salerno presented the architectural and elevation plans and stated that he prepared these plans for this application. Chairman Neuer noted that drawing AR-1 of the architectural plans and drawing AR-2 of the elevation plans, dated 2/23/12, were pre-marked as Exhibit A-1 for identification.

Mr. Salerno referred to drawing AR-1 and detailed the existing first, second and third floor plans and stated that the applicant is proposing to add 376 sq. ft. to the third floor's existing 613 sq. ft. He said that they are also proposing to widen the stairwell so that it meets code.

Mr. Salerno referred to drawing AR-2 and detailed the elevations of the house. He said that the addition will only be seen in the rear of the house.

Chairman Neuer asked Mr. Salerno how many staircases will serve the second and third floor; Mr. Salerno said there is one staircase on the second floor and one staircase to the third floor. He said that two forms of ingress and egress are required and the State will be requiring fire escapes for a third floor but they are not installing one. Chairman Neuer asked Mr. Salerno if there are two forms of ingress and egress on the first and second floor; Mr. Salerno replied yes and said that the third floor currently has one form of ingress and egress.

Mr. Salerno stated that they are not proposing any additional height and the house currently meets the Township's height requirement.

Chairman Neuer opened the floor to questions from the public. There were no more questions for Mr. Salerno.

Chairman Neuer asked Mr. Salerno if he prepared drawings AR-1 and AR-2 of the plans; Mr. Salerno replied yes. Chairman Neuer asked to have drawing AR-1 of the architectural plans and drawing AR-2 of the elevation plans, dated 2/23/12 entered into evidence.

Mr. Campanile called his next witness.

Anthony Marucci approached the podium and was sworn under oath. Mr. Marucci detailed his educational and professional background stating that he is a Professional Planner and Engineer

licensed in the State of New Jersey. Mr. Marucci said that he has testified before this Board many times. Chairman Neuer asked Mr. Marucci if he prepared the plans being presented; Mr. Marucci replied yes. The Chairman recognized Mr. Marucci as an expert in the fields of Engineering and Professional Planning.

Mr. Marucci presented the site plan, zoning table and existing and proposed conditions on sheet 1 and the property survey on sheet 2 with a revision date of 4/21/12. Chairman Neuer stated that these plans were pre-marked as Exhibit A-2 for identification.

Mr. Marucci detailed the existing conditions of the property. He said that they will be extending the rear of the property to allow for an additional bedroom and egress on the third floor. Mr. Marucci said that they are proposing a third parking space and that the impervious lot coverage will be increased.

Mr. Marucci described the six neighboring houses stating that they are all three story and were built prior to any zoning ordinance. He described the rear of the house and said that there is plenty of room to park three more cars behind the existing parking spaces.

Mr. Marucci stated that the allowable height in an OB-2 zone is not to exceed 48' and that they are well below this.

Mr. Marucci detailed the positive and negative criteria. He said that the "D" variance is non-conforming for a two family house and that a three family is even more non-conforming. Mr. Marucci said that they are not changing any of the existing conditions even though they do not meet the current requirements.

Mr. Marucci stated that at one time, according to tax records, this property was a three family house and was converted to a two family house before 2010. He said that converting it back to a three family makes sense because there is a need for rental units.

Mr. Marucci stated that Mr. Longo had a conversation with the Township's Construction Official, Tom Tracy, and he was told that he can utilize the second and third floor to make one larger apartment. Mr. Marucci said that doing that would negatively affect the neighborhood because it would attract larger families.

Mr. Buechler stated that he is not willing to accept testimony regarding Mr. Tracy because that is just hearsay.

Chairman Neuer told Mr. Marucci that he should not harp on what Mr. Tracy said. Mr. Marucci said that Mr. Tracy is the Construction Official and he knows the code.

Mr. Marucci said that the parking variance is being requested because the Township ordinance does not approve tandem parking. Chairman Neuer questioned if they are asking this Board to approve tandem parking or parking spaces for three cars. Mr. Campanile stated that the variance would be for three parking spaces only.

Mr. Marucci stated that the new staircase does not include impervious coverage.

Mr. Campanile asked Mr. Marucci if he thought this would be impairment to the public good; Mr. Marucci replied no.

Mr. Buechler asked if there is anything that prohibits five college students renting out the second and third unit; Mr. Marucci said yes but there is no limit to adults.

Mr. Buechler asked Mr. Marucci if there is on street parking; Mr. Marucci replied no.

Chairman Neuer stated that most of the neighboring houses are two family homes and that is consistent with the neighborhood; not three family homes.

Mr. Sussman asked if the sunroom was heated and could they make a bedroom out of it; Mr. Marucci said that he did not check to see if it was heated.

Ms. Weiss read from Mr. Marucci's report stating testimony from Mr. Longo was that the house was converted from a three family to a two family for tax purposes.

Chairman Neuer opened the floor to questions from the public. There were no more questions for Mr. Marucci.

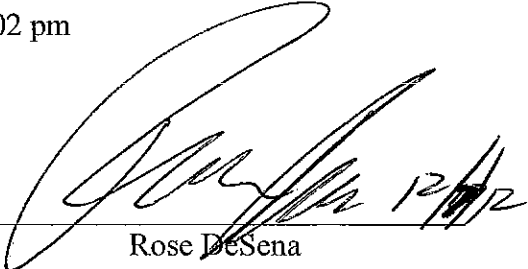
Chairman Neuer stated that the time was 11:00 PM, the usual time for adjournment. The Chairman polled the Board and the Members were disinclined to stay at least another 45 minutes to debate the decision. The Chairman observed that our Members are all volunteers, many of whom arrived at the meeting room directly from their "day jobs" and that it would be unfair to require them to remain later than the established time for adjournment.

Chairman Neuer stated that this application will be carried over to regular meeting on 12/20/12, along with ZB-12-16/Bocchino and ZB-12-17/Blake, and no further notice will be required.

ADJOURNMENT

The meeting was adjourned by Chairman Neuer at 11:02 pm

December 6, 2012



Rose DeSena
Zoning Board Secretary