

**MINUTES**  
**TOWNSHIP OF WEST ORANGE**  
**ZONING BOARD OF ADJUSTMENT**  
**REGULAR MEETING**  
**February 21, 2013**

The West Orange Zoning Board of Adjustment held a regular meeting on February 21, 2013 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 21, 2012 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, W. Merklinger, P. Neuer,  
B. Quentzel, W. Steinhart, M. Sussman, A. Weiss

**ABSENT:** G. Bullock (excused absence)  
L. Zaolino (unexcused absence)

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

**ANNOUNCEMENTS**

**Future Meetings:** March 7, 2013 (Special Meeting) – 8:00 PM  
March 21, 2013 (Regular Meeting) - 8:00 PM  
April 18, 2013 (Regular Meeting) – 8:00 PM  
May 23, 2012 (Regular Meeting) – 8:00 PM

**MINUTES**

**Adopt Minutes:** February 7, 2013 (Special Meeting)

Vice Chairwoman Gabry made a motion to approve the minutes; Mr. Sussman seconded the motion. All were in favor to approve the minutes of the special meeting held on February 7, 2013.

Note for the record that Mr. Buechler was present but not voting.

**SWEARING IN**

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

**RESOLUTIONS**

- 1. ZB-12-18/T-Mobile Northeast, LLC & New Cingular Wireless** **Approved 2/7/13**  
 Block: 155; Lot: 40.01; Zone: B-2  
 8 Rooney Circle  
 Seeking site plan approval and three (3) "D" variances for establishing a temporary wireless communication facility.

Noted for the record that Mr. Buechler was recused from hearing this application and did not vote on the resolution.

Ms. Beirne stated that the applicant had requested two changes in the resolution and that she approved them. She said that incorporated those changes in the resolution along with Chairman Neuer's suggested revisions that she also approved.

Chairman Neuer asked if the Board reviewed this resolution and had any other comments; seeing none Chairman Neuer asked for a motion to approve with revisions.

Ms. Gabry made a motion to adopt; Mr. Steinhart seconded the motion.

The vote was as follows:

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

- 2. ZB-12-22/House of the Holy Comforter t/a Canterbury Village** **Approved 1/17/13**  
 33 Mt. Pleasant Avenue  
 Block: 99; Lot: 26; Zone: OB-2  
 Seeking amended site plan approval for modifications to the previous plan approved for **ZB-11-17** on 10/27/12 – resolution adopted on 12/8/11.

Ms. Beirne stated that Chairman Neuer had submitted some suggested revisions for this resolution that she approved.

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none

Chairman Neuer made a motion to approve the resolution with revisions; Mr. Quentzel seconded the motion.

The vote was as follows:

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

**3. ZB-11-14/Longo**

**Denied 1/17/13**

Block: 88; Lot: 21; Zone: OB-2  
 Seeking "D" and "C" variances for converting a two family house into a three family house.

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none Chairman Neuer asked for a motion to approve.

Mr. Buechler made a motion to approve the resolution; Ms. Gabry seconded the motion.

The vote was as follows:

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

**4. ZB-12-17/Blake**

**Approved 12/20/12**

Block: 121; Lot: 45; Zone: R-T  
 132 High Street  
 "C" variance for side yard setbacks for a deck

Chairman Neuer stated that resolution ZB-12-17 will be carried to 3/7/13 meeting.

**APPLICATION**

**1. ZB-12-01/Singh**

**Carried from 1/17/13**

Block: 21; Lot: 18; Zone: R-T  
 61 Riggs Place  
 "C" variances for front, side and rear setbacks for enclosing a front porch and adding a room to the rear of the house.

**EXHIBITS**

A-1 - Architectural plans, sheet Z-1, with revision date of 9/27/12.

**DISCUSSION**

Nazeema Singh approached the podium and was sworn under oath. She stated that she moved here from Canada and when they purchased their home, the front porch was not in very good condition and was a hazard. Ms. Singh stated that cold air was coming into the house and that she and her husband decided to enclose the porch but did not know they would need a permit to do that. She said that they have never dealt with the Town before and she apologized for that.

Ms. Singh stated that they also removed the existing wooden deck at the rear of the house and built a large family room on the same footprint of the deck. She said that the existing room was small and was not insulated and they wanted to make it bigger and insulate the room. Ms. Singh stated that they began making home improvements and never thought they would need permits because her husband did the work himself.

Mr. Buechler asked Ms. Singh how she knew that she would have to come before the Zoning Board. Ms. Singh stated that Tom Tracey, the Municipal Code Official, came to her house to let them know that someone had called him about the work being done on her house.

Mr. Buechler asked Ms. Singh if they went to court; she said yes and said that she paid a fine to the Municipal Court for doing the work without permits.

Mr. Buechler asked Ms. Singh if Mr. Tracey saw any structural defects with the work that was done when he came to her house; she replied yes.

Mr. Buechler asked Ms. Singh what Mr. Tracey told her; she said that she invited him into her home and he said that she would need an architect and that the back room needed ventilation.

Mr. Buechler asked Ms. Singh if they added a bathroom; she replied no.

Mr. Buechler asked Ms. Singh if there is any door going outside from the rear room; she said yes there is direct access to outside of the house.

Mr. Sussman asked Ms. Singh if the rear room was constructed on top of the deck. Ms. Singh said that they removed the existing wooden deck and left the concrete that was under the deck. She said that the room was built on top of the concrete and is sitting on the area where the deck originally was.

Mr. Sussman asked Ms. Singh what the floor is made of in the room addition; she said that they put a new wood floor in.

Mr. Merklinger asked Ms. Singh if the existing footprint of the deck is where the back room addition is; she replied yes.

Ms. Gabry asked Ms. Singh if the wooden deck was there when they purchased the house; she replied yes.

Ms. Singh called her Architect to testify.

David Jablonka approached the podium and was sworn under oath. Mr. Jablonka detailed his educational and professional background as a licensed Architect in the State of New Jersey. He said that he is also licensed in the States of New York and Connecticut since 1995 and has testified before other Boards in the State of New Jersey. Chairman Neuer accepted Mr. Jablonka as an expert in the field of Architecture.

Mr. Jablonka presented architectural plans. Chairman Neuer asked to have sheet Z-1 of the architectural plans, with the revision date of 9/27/12, marked as Exhibit A-1 for identification.

Mr. Jablonka referred to the architectural plans and detailed what work Ms. Singh already did to the house. He said that he was not sure what the defects are in the construction but stated that the work will be inspected when the applicant applies for the permits at the Building Department.

Mr. Quentzel asked Mr. Jablonka if he would be preparing the construction plans; Mr. Jablonka said that he has not been contracted to do that yet.

Mr. Jablonka stated that two additions were made. He said that they enclosed the front porch and made it a sitting area with a front foyer and a coat closet.

Mr. Buechler asked Mr. Jablonka how someone enters the house if the front stairs were removed. Mr. Jablonka stated that the existing front porch stairs are still there and in disrepair. He said that they will be building new front stairs. Mr. Buechler asked Mr. Jablonka if the front stairs will come out a little further then the existing ones; Mr. Jablonka said yes.

Mr. Jablonka said that the house is currently in disrepair because construction was stopped. Mr. Buechler asked Mr. Jablonka how long ago the construction was stopped; Mr. Jablonka said approximately one year.

Mr. Buechler asked Ms. Singh why it took so long to come before this Board; Ms. Singh stated that there was a problem with the original Architect.

Mr. Jablonka said that he was not the first Architect on the job and the applicant had to re-submit prior architectural plans twice because they were not complete.

Mr. Buechler asked if the front porch was done without approvals; Mr. Jablonka replied yes.

Mr. Buechler asked if the back room was done without approvals; Mr. Jablonka replied yes.

Mr. Buechler asked if concrete was poured over grass in the back of the house; Mr. Jablonka replied yes.

Mr. Buechler asked Ms. Singh what other work have they done to the house besides that; Ms. Singh said that they installed wood flooring in the living room.

Chairman Neuer asked Mr. Jablonka if this work was done before he was hired as their architect; he replied yes.

Mr. Quentzel referred to the plans and asked Mr. Jablonka if there was a load bearing wall in the back; Mr. Jablonka said yes but it was removed. He said that the wall and the roof are not there any longer and that the addition is a one story piece. Mr. Jablonka said that it is not a load bearing wall now.

Mr. Jablonka presented sheet I-1 of a Photo Board dated 9/27/12. Chairman Neuer asked to have sheet I-1 of the photo board dated 9/27/12 marked as Exhibit A-2 for identification.

Mr. Buechler asked Mr. Jablonka if he took the photos; he replied yes. Mr. Buechler asked Mr. Jablonka if he did anything to enhance the photos; he replied no. Mr. Buechler asked Mr. Jablonka if they accurately depict what is in the photos; he replied yes.

Mr. Jablonka stated that the applicant is requesting a variance for an existing front yard setback and referred to the photo board showing all of the houses to the right of Ms. Singh's property. He said that all of these houses are in alignment and that Ms. Singh's house is in alignment with the other houses.

Chairman Neuer asked Mr. Jablonka why the applicants are asking this Board to grant the variances. Mr. Jablonka said that it is a very narrow lot and it would not be detrimental to the area because the house is in scale with the neighbors.

Mr. Buechler asked Mr. Jablonka if the concrete pavers in the rear are impervious; Mr. Jablonka said they are sand pavers and they can be considered pervious or impervious.

Chairman Neuer asked Mr. Grygiel if the pavers are impervious; Mr. Grygiel said yes.

Chairman Neuer asked Mr. Grygiel if the calculations of impervious coverage are accurately done; Mr. Grygiel said he would have to double check because it is not possible to tell from the drawings. He said that the dimensions need to be provided to him in order to calculate that.

Chairman Neuer told Mr. Jablonka that if this Board is going to approve he would have to provide Mr. Grygiel with the calculations. He said that if Mr. Grygiel is then satisfied that impervious coverage is consistent with the Township's Ordinance they will then proceed.

Mr. Buechler asked Ms. Singh if the two sheds shown on the site plan are on top of grass or concrete; she said one is directly on the ground and she is not sure about the other one.

Mr. Buechler asked Mr. Grygiel if a rear or side yard setback variance required for the sheds. Mr. Grygiel said that they would need a variance for the accessory structure that is required to be 5' from the property line.

Mr. Buechler told Ms. Singh that because Mr. Tracey stated that there are some defects with the work, she is going to have to retain a Professional Engineer to advise this Board whether the construction is safe and if not, then what needs to be fixed before this Board can approve it.

Chairman Neuer said that he endorses Mr. Buechler's suggestion so that this Board can be satisfied that the work that was completed is safe. He said that it is a structural engineer's job to do that.

Mr. Buechler suggested that they adjourn this hearing until the applicant hires an Engineer.

Ms. Weiss said she would like to know if the Board would be willing to grant the variance if the work is built properly. She recommended that the Board have a discussion regarding this.

Chairman Neuer stated that Ms. Weiss is suggesting that before the applicant pays for an Engineer to let them know if they will approve the variance if it is built right.

Mr. Buechler said that if this Board decides to do it that way then the Engineer must provide testimony and not a report.

Chairman Neuer said that it would be a condition that the Structural Engineer must provide testimony that the work was done correctly. He said that the Board would not approve it as it is constructed now; they would approve it when they know it is structurally safe.

Chairman Neuer also stated that this Board cannot approve the patio until Mr. Grygiel receives the calculations from Mr. Jablonka.

Chairman Neuer stated that the current location of the sheds will require another variance. He asked Ms. Singh if she will remove them or move them; she said that she will move them. Mr. Buechler told Ms. Singh that because she is required to come back in front of this Board, she can tell them at that time what they will do with the sheds.

Ms. Gabry asked Mr. Jablonka how far back the asphalt driveway goes; he said the driveway goes back to the concrete patio.

Chairman Neuer asked if any members of the public had any questions or comments; seeing none the Chairman closed the public hearing and closed the application for the time being.

Chairman Neuer made a motion to grant the bulk variances for the former porch and the rear room that was erected subject to the applicant presenting satisfactory testimony from a licensed Professional Engineer in the State of New Jersey for those structures constructed without permits and to consider the impervious coverage after the testimony and the issue of the encroaching sheds. He said that the applicant will consent to a continuance to reach the final decision of this application.

Ms. Weiss seconded the motion made by Chairman Neuer.

Mr. Buechler said that he is not in favor of this resolution based upon his suggestions previously stated for the record.

Mr. Sussman said that this is a reasonable course of action for the Board to take. He said that the applicant should not have to go through all of this work if they will not get the variance.

Mr. Buechler stated that he will vote to deny the interim motion to approve the variances sought assuming the work is inspected by a Professional Engineer and was done in accordance with the construction code and is structurally sound. He said that the Zoning Board and Township did not create the applicant's problem and that the applicant built the additions on their own without requesting building permits from the Town or seeking a variance from the Board. Mr. Buechler said that the Board should not grant preliminary approval subject to a determination if the construction was done in accordance with code and is structurally sound. He said that Board should have that information in advance of making a determination. Mr. Buechler will vote to deny the motion for preliminary approval without prejudice.

Ms. Gabry agreed with Mr. Buechler and would vote to deny the motion.

The vote was as follows:

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

Chairman Neuer advised the applicant to get this done fast and asked her to state for the record that she agrees to this; she replied yes.

Chairman Neuer called for a recess at 9:18 pm.

Chairman Neuer resumed the meeting at 9:25 pm.

**2. ZB-12-23/Merlino**

**Carried from 12/20/12**

Block: 168.03; Lot: 19; Zone R-6

12 Rutgers Street

"C" variance for rear yard setback to permit an addition to a home

**DISCUSSION**

Daniel Merlino and Rebecca Rojas, applicants, approached the podium and were sworn under oath.



Mr. Merlino stated that they are looking to expand the living space in their home by proposing a small 144 sq. ft. addition. He said that they are here to request a variance for the rear setback because the addition is encroaching by 5'.

Mr. Buechler said that the plans show a shed in the rear of the property and told Mr. Merlino that it has to be 5' from the property line or else they would need another variance. He asked him if the shed was there when he purchased the property or did he put it there; Mr. Merlino said that the shed was there when they moved in.

Chairman Neuer asked Mr. Merlino if he would like to amend the application to include the variance for the rear setback for the shed so that it can remain where it is; Mr. Merlino said yes. Chairman Neuer accepted the amendment.

Mr. Merlino called his Architect to testify.

Jorge Toll approached the podium and was sworn under oath. Mr. Toll detailed his educational and professional background as a licensed Architect in the State of New Jersey and a licensed Professional Planner in the State of New Jersey. He also said that this is his first time testifying in West Orange. Chairman Neuer welcomed Mr. Toll and accepted him as an expert in the field of Architecture and as a Professional Planner.

Mr. Toll referred to the architectural plans that were submitted with the application. He said that the applicant is proposing to add a 12'x12' addition to the rear of his home to be used as a study. Mr. Toll said that the addition would encroach into the rear yard by 5'4". He asked the Board to take into consideration that this is a large lot and that the remainder of the building is 41' from the property line. Mr. Toll said that the open space will be slightly reduced but is in excess of the minimum requirements of the Township's ordinance.

Chairman Neuer asked Mr. Merlino if he received any comments from his neighbors regarding the work he is proposing; Mr. Merlino said that he has received only positive comments. He said that his neighbor to the north is very supportive.

Mr. Buechler asked Mr. Merlino if the addition will match the color and materials of his existing home; Mr. Merlino replied yes.

Chairman Neuer asked if there were any further questions from the Board; seeing none. Chairman Neuer asked if any members of the public were here for this application; seeing none the Chairman closed the public hearing.

Chairman Neuer asked for a motion.

Mr. Quentzel made a motion to approve the application with the condition that the siding on the addition matched the existing siding on the house.

Ms. Weiss seconded the motion.

The vote was as follows:

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

**3. ZB-12-21/Guerrier**

**Carried from 12/20/12**

Block: 139; Lot: 39; Zone: R-T  
32 Kirk Street  
"C" variance for a third story

**DISCUSSION**

Chairman Neuer asked if anyone was here for this application; seeing none.

Chairman Neuer said that the applicant failed to notice twice and they informed the Board Secretary that they were not even sure if they wanted to go forward with the application.

Chairman Neuer presented a motion to deny this application without prejudice; Mr. Buechler seconded the motion.

Mr. Buechler said that the applicant would have to file a new application if they did decide to move forward.

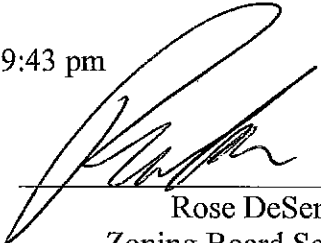
The vote was as follows:

Buechler:	Yes to deny w/o prejudice	Steinhart:	Yes to deny w/o prejudice
Bullock:	-	Sussman:	Yes to deny w/o prejudice
Gabry:	Yes to deny w/o prejudice	Weiss:	Yes to deny w/o prejudice
Merklinger:	-	Zaolino:	-
Quentzel:	Yes to deny w/o prejudice	Chairman Neuer	Yes to deny w/o prejudice

**ADJOURNMENT**

The meeting was adjourned by Chairman Neuer at 9:43 pm

March 7, 2013

  
3/8/13  
Rose DeSena  
Zoning Board Secretary