

**MINUTES  
TOWNSHIP OF WEST ORANGE  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
October 17, 2013**

The West Orange Zoning Board of Adjustment held a regular meeting on October 17, 2013 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Vice Chairman Buechler 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."

Vice Chairman Buechler asked everyone to stand for the Pledge of Allegiance.

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

**PRESENT:** B. Buechler, G. Bullock, W. Merklinger, P. Neuer,  
B. Quentzel, W. Steinhart, M. Sussman (8:03 pm)

**ABSENT:** D. Gabry (excused), A. Weiss (excused)

**ALSO PRESENT:** Paul Grygiel, Consulting Planner  
F. Russo, Consulting Engineer  
Board Attorney, Alice Beirne, Esq.  
Board Secretary, Rose DeSena  
H. Grossman, Public Advocate  
D. Dillon, Audio-Digital Transcription Service

**ANNOUNCEMENTS**

**Future Meetings:** \*October 28, 2013 (Special Meeting) – 8:00 PM  
November 21, 2013 (Regular Meeting) – 8:00 PM  
December 19, 2013 (Regular Meeting) – 8:00 PM  
January 16, 2014 (Regular Meeting) – 8:00 PM

\*Frank Regan, Esq., attorney for the applicant, approached the podium and asked to have ZB-13-03/Prism Green Assoc. III, LLC carried over to a special meeting. The Zoning Board approved his request; the special meeting is scheduled for Monday, October 28, 2013.

## MINUTES

**Adopt Minutes:** September 12, 2013 (Regular Meeting)

Vice Chairman Buechler asked for a motion to approve the minutes from the regular Zoning Board meeting held on September 12, 2013 as submitted to the Board members.

Mr. Neuer made a motion to approve the minutes; Mr. Sussman seconded the motion and all were in favor.

It was noted for the record that Mr. Merklinger was not present at this meeting and did not vote.

## SWEARING IN

Consulting Engineer, Frank Russo and Consulting Planner for the Township, Paul Grygiel were sworn under oath.

## DISCUSSION

1. **ZB-13-12/Interpretation**  
Pursuant to N.J.S. 40:55-D79b  
Fitness Center/Health Club in a P-C Zone  
Defined as a separate use or as a personal service store/studio

Vice Chairman Buechler stated that the Township's Zoning Official is asking the Board to define a Fitness Center/Health Club as a separate use or as a personal service store/studio in a P-C zone. Mr. Grygiel explained that there is no language, regarding fitness centers/health clubs, in the Township's Ordinance. Vice Chairman Buechler read the ordinance and said that this use may constitute a personal service which is defined in the ordinance. He said that a personal service is permitted in the P-C zone and the definition is broad enough to include fitness centers/health clubs as a personal service.

Vice Chairman Buechler said that he spoke with Ms. Adams, the Township's Zoning Official, and asked her what the Township has permitted as a personal service in the past. He said that Ms. Adams stated that some of the uses the Township has considered as personal service/studios, since she has been here, included tailors, beauty shops, nail salons, dry cleaner, barbershops and a yoga studio.

Mr. Bullock asked Mr. Grygiel when the Township ordinance was last updated; Mr. Grygiel said in 2012. Mr. Bullock said that there was a fitness center in the K-Mart shopping Plaza at one time; Vice Chairman Buechler said that there was a fitness center called Spa Lady but there is no record of any permits or approvals on file for it.

Vice Chairman Buechler recommended having the proposed applicant come in to explain what they are proposing. He said massages are defined in the ordinance and the Board would need to know exactly what services they will be providing at this fitness center.

Mr. Grygiel stated the issue is if fitness centers fit into the P-C zone. He said that the application would still have to go for technical review where it would be determined what services they will be providing. He said that "massage" is a separate use and there is something on the books to define that because a license is needed to do massages.

Mr. Neuer said his concern is parking because parking for that specific area is limited.

Vice Chairman Buechler said that he is also concerned about parking.

Ms. Beirne said that Robert Williams is the attorney for the fitness center being proposed and he will come in to answer any questions and recommended tabling the matter until then.

Mr. Neuer said that Mr. Williams can risk coming to the meeting tonight but would have to wait until the end because there are two applications to be heard.

Vice Chairman Buechler stated, for the record, that this matter is tabled for the moment.

## **RESOLUTIONS**

### **1. ZB-13-05/Nicolas**

**Approved 9/12/13**

8 Pen Bryn Road

Block: 148.03; Lot: 13; Zone: R-6

"C" variances for side yard set-backs for installing a deck

Vice Chairman Buechler noted, for the record, that there were suggested revisions to this resolution from Mr. Neuer and himself.

Ms. Beirne said that she approved these revisions and they were incorporated into the resolution.

Vice Chairman Buechler asked if any other Board member had any suggested comments or revisions for this resolution; seeing none he asked for a motion to approve the resolution with the revisions.

Mr. Neuer made a motion to approve with the revisions; Mr. Bullock seconded the motion.

The vote was as follows:

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

## APPLICATIONS

### 1. ZB-13-07/Golda Och

Carried from 8/15/13

Block: 79; Lot: 21; Zone: R-4

122 Gregory Avenue

Amended site plan approval to adjust the curb line on Gregory Avenue.

Vice Chairman Buechler noted for the record that he is recused from hearing this application and stated that Mr. Neuer will act as Chairman and turned the meeting over to him.

Vice Chairman Buechler left the dais.

## EXHIBITS

A-7 - Memo from West Orange Police Traffic Bureau dated 10/14/13

A-8 - Site Dimension Plan, drawing #3, revision date of 6/11/13

Joseph Vena, Esq., attorney for the applicant, approached the podium and stated that this application was last heard August 15, 2013. He said that the application is for the amendment of a previously approved site plan in which the applicant is proposing to eliminate the widening of Gregory Avenue. Mr. Vena said the application is not to amend condition #3 of the prior resolution that was approved on 12/8/11. He said that condition #3 stated that the approval is specifically contingent upon the applicant obtaining all required government consents for completing the widening of Gregory Avenue as per the plans. Mr. Vena said that the widening of Gregory Avenue was not a condition and that Essex County needed to approve the widening. He said that replacing the sidewalks on Gregory Avenue was a condition because that is what the Board wanted but the widening of the road was not. Mr. Vena presented Exhibit A-5, the County of Essex Planning Board amended site plan approval letter dated 7/25/13, stating that the County did not require them to widen Gregory Avenue.

Mr. Vena also presented a memo from the West Orange Police Traffic Safety Division. Mr. Neuer asked to have the memo from the West Orange Police Traffic Safety Division, dated 10/14/13, marked as Exhibit A-7 for identification. Mr. Vena stated that the Traffic Safety Division performed an inspection at the site and determined that the widening of Gregory Avenue is not necessary because they did not witness any queuing of vehicles at the time of the inspection.

Mr. Vena stated that he would like to bring in their traffic expert, Harold Maltz, to explain the changes in the site plan.

Before proceeding, Mr. Neuer asked Ms. Beirne if condition #3 would disappear from the resolution if the amendment to eliminate the widening of Gregory Avenue was approved. Ms. Beirne said that the applicant is presenting a new plan to amend the previously approved site plan; not the condition. She said that Mr. Vena wants the Board to agree with that and would like the opportunity to have someone testify to some of the questions the Board may have regarding the stacking of the cars. Ms. Beirne said that the Board would need to re-open the record.

Mr. Neuer opened the record and stated that condition 3, in the prior resolution of approval, was contingent upon Essex County approving the widening of Gregory Avenue. He said that if the County approved the plan and did not require the applicant to widen Gregory Avenue, then condition #3 of the resolution of approval would no longer be applicable and should be eliminated.

Mr. Quentzel said to remove it as a condition from the prior resolution of approval.

Mr. Steinhart and Mr. Bullock also said to remove it as a condition from the prior resolution of approval.

Mr. Merklinger said that his concern is that he feels the widening of Gregory Avenue was put in the original site plan for a reason because they felt it was necessary.

Mr. Neuer said that all the applicant is talking about is amending the application to say nothing about widening Gregory Avenue.

Mr. Sussman asked Mr. Vena why they wanted to widen Gregory Avenue in the first place; Mr. Vena said because they developed a better design now and Essex County approved the new design.

Mr. Neuer said that the Board will vote on the interim resolution.

Mr. Neuer made a motion to eliminate condition number three in the plan previously approved on 12/8/11 if the amended site plan is approved; Mr. Quentzel seconded the motion.

The vote was as follows:

Buechler:	Recused	Steinhart:	Yes
Bullock:	Yes	Sussman:	Yes
Merklinger:	No	Weiss:	-
Neuer:	Yes	Chairwoman Gabry:	-
Quentzel:	Yes		

Mr. Neuer stated that the application ZB-13-07 before the Zoning Board is to amend a site plan.

Mr. Vena presented a set of plans to each Board member. Mr. Neuer asked Mr. Vena if these plans were submitted to Omland Engineering ten days before this meeting; Mr. Vena replied no. He said that they are a visual depiction of what the witness, Mr. Page, is going to explain to the Board. Mr. Neuer stated that they should have been submitted ten days prior to this meeting and because they were not they will not be entered into evidence.

Mr. Vena called his first witness.

Harold K. Maltz, Traffic Expert for the applicant, approached the podium. Mr. Neuer stated, for the record, that Mr. Maltz will continue under oath and accepted as an expert Traffic Engineer.

Mr. Maltz presented the Site Dimension Plan for the project. Mr. Neuer asked to have drawing #3 of the Site Dimension Plan with the revision date of 6/11/13 marked as Exhibit A-8 for identification.

Mr. Vena stated that Mr. Maltz will be testifying to the queuing.

Mr. Maltz referred to the site dimension plan and detailed what he observed on September 12, 2013 and October 2, 2013 regarding the stacking of the vehicles. He said that it was basically a "drop and go" in the morning and all of the cars were stacked onsite; no vehicles spilled out on to Gregory Avenue.

Mr. Vena then asked Mr. Maltz to describe the queuing during the afternoon pickup.

Mr. Maltz referred to Exhibit A-8 and noted that it has been changed from a single queue to a double queue. He said that during his afternoon observations, the double lane stacking of vehicles did not extend out onto Gregory Avenue.

Mr. Neuer asked Mr. Maltz how many feet were left before a vehicle reached Gregory Avenue; Mr. Maltz said approximately 65 to 70 feet.

Mr. Maltz stated that the prior plan proposed 42 vehicles queued onsite and two (2) vehicles overflowed on to Gregory Avenue. He said this plan is proposing 49 vehicles being queued onsite with no overflow on to Gregory Avenue. Mr. Neuer asked Mr. Maltz if the 2011 plan proposed a single or double lane; Mr. Maltz replied single lane.

Mr. Maltz detailed the stacking lanes and said that there will be an attendant present who controls the stacking of the vehicles.

Mr. Neuer asked Mr. Maltz how many attendants control the stacking; he replied one.

Mr. Neuer asked what time the attendant is there and for how long; Mr. Maltz said the attendant is there for approximately a half hour between 3 and 3:30 pm.

Mr. Maltz stated that the new stacking plan eliminates the need to widen Gregory Avenue.

Mr. Vena asked Mr. Maltz if he responded to the comments from Omland Engineering in their memo dated 6/6/13; Mr. Maltz replied yes.

Mr. Neuer asked Mr. Russo if he had any other comments; Mr. Russo replied no. He said all of the comments were addressed.

Mr. Neuer asked Mr. Maltz if the plan provided safe ingress and egress to the site; Mr. Maltz replied yes.

Mr. Steinhart asked Mr. Maltz why they proposed to widen Gregory Avenue in the first place if the plan is basically the same. Mr. Maltz said it was based on one lane coming in and now they are proposing a double lane and a much wider driveway.

Mr. Steinhart asked Mr. Maltz if the 15' driveway is wide enough for an emergency vehicle; Mr. Maltz replied yes.

Mr. Bullock asked Mr. Maltz what time an attendant manages the queuing in the morning. Mr. Maltz said that the queuing of vehicles never goes beyond the end of the "U" and there is no reason to supervise it.

Mr. Sussman asked Mr. Maltz if he is correct in understanding that the new plan proposes two stacking lanes and a 9' lane for a car to pass if need be; Mr. Maltz replied yes. Mr. Sussman asked Mr. Maltz if a school bus would be able to pass in the 9' lane; Mr. Maltz replied yes. He said that the bus is 8' wide and approximately 35' long and it would be able to pass through.

Mr. Neuer asked Mr. Maltz if the 8' includes the side mirrors; Mr. Maltz replied probably not.

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

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

Erik Cunningham approached the podium and stated that he lived at 14 Devon Drive. Mr. Cunningham asked Mr. Maltz what exactly the attendant does and when are they there. Mr. Maltz said that the attendant organizes the traffic as it moves up the driveway and assures that no one makes an illegal left hand turn on to Gregory Avenue in the afternoon.

Mr. Russo stated that he agrees to what Mr. Maltz has testified to. He said that he personally observed on 10/9/13, both morning and afternoon, that no cars were stacked on to Gregory Avenue. He said that there were three attendants internally and one attendant on Gregory Avenue.

Mr. Vena called his next witness.

Kevin G. Page, Professional Engineer for the applicant, approached the podium. Mr. Neuer stated, for the record, that Mr. Page will continue under oath as an expert in the field of Engineering.

Mr. Vena stated that Mr. Page will address any questions regarding the vehicle turning templates.

Mr. Page said that the turning template shows when a vehicle turns, where the wheels are and where the body is. He stated that the bus movement can be accommodated in the proposed 9' lane.

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

Mr. Neuer asked if any members of the public had any questions for Mr. Page; seeing none, Mr. Vena made his closing comments.

Mr. Neuer asked if any member of the public had any comments; seeing none Mr. Neuer closed the public hearing.

Mr. Neuer stated that the applicant's request for the amendment is appropriate. He said that Mr. Maltz has testified to safe ingress and egress, the Township's Professional Engineer approved the amendment and did not object to it, the Township's Police Departments Traffic Safety Division had no objections to the applicant not widening Gregory Avenue and Essex County had no objections. Mr. Neuer said that, in his opinion, the applicant satisfied the requirements to grant the amendment and the need to widen Gregory Avenue has been eliminated.

Mr. Neuer made a motion to approve the amended application with the condition that one attendant is onsite from 3-3:30 pm; Mr. Sussman seconded the motion.

The vote was as follows:

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

Mr. Neuer called for a recess at 9:42 pm.

Vice Chairman Buechler resumed his position on the dais as acting Chairman and called the meeting back to order at 9:52 pm.

Robert Williams, Esq. approached the podium and addressed the Board. Mr. Williams stated that he was present because he heard that the Board had questions regarding one of his clients and was here to answer them.

Vice Chairman Buechler told Mr. Williams that he will have to wait until after the Board hears the last application on the agenda that is scheduled to be heard at this meeting tonight.

2.      **ZB-13-09/Heart to Heart Home Care**                      **Carried from 9/12/13**  
Block: 45.01; Lot: 14; Zone: R-5  
28 Devon Drive  
"C" side yard variance to install a handicapped ramp at a Group Home.

### **EXHIBITS**

A-1 – Site Plan dated 6-3-13



- A-2 – Photograph and Survey Package (3 photos and survey)
- A-3 – Photograph
- A-4 – Photograph
- A-5 – Letter dated 10/11/13 from the Department of Human Services/Division of Developmental Disabilities
- O-1 – Photograph
- O-2 – Photograph
- O-3 – Photograph Package (17 pages)

Joseph Vena, Esq., attorney for the applicant, approached the podium and detailed the application. He stated that the application is for a handicap ramp for an existing group home. Mr. Vena said that the group home is a permitted use and that the applicant filed all the necessary materials to satisfy State requirements. He said that when the State inspected the home, they were told that because they have wheelchair residents, they must provide a secondary egress for the wheelchairs. Mr. Vena stated that there are only three residents living in the home and it meets all of the other ADA requirements.

Vice Chairman Buechler noted for the record that the application stated that the property is in a B-5 zone but the property is in an R-5 zone.

Mr. Vena stated that the handicap ramp replaced the existing steps in the side yard. He said that the Township ordinance, regarding yard encroachments, clearly states that steps leading to a first floor, which do not project 6' from the home, are permitted. Mr. Vena stated that the ADA ramp replaced the steps and questioned why it would need a variance.

Mr. Neuer noted for the record that the client had built the ramp without the required permits. He asked Mr. Vena how many steps had been there before they were removed by the applicant; Mr. Vena said that his client will answer that question.

Shiggy Rosenberg approached the podium and was sworn under oath.

Mr. Vena asked Mr. Rosenberg how many steps were there; Mr. Rosenberg said there were four steps and they were the same width as the handicap ramp.

Mr. Neuer asked Mr. Rosenberg to state the length of the ramp; Mr. Rosenberg said the ramp is approximately 22 or 23 feet. Mr. Neuer said that he does not see a 23' ramp being equal to four steps. Mr. Rosenberg said that the ramp functions as a step to the residents. He also noted that the ramp does not extend out from the house more than 4'. Mr. Neuer stated that they are expanding the non-conforming use.

Mr. Vena asked the Board if this is an interpretation or is it a variance; Vice Chairman Buechler said that the Board will listen to the testimony first and that there is no decision yet.

Mr. Vena asked Mr. Rosenberg why he purchased the property; Mr. Rosenberg said he purchased the property to open a group home. He said that he finds out what the State requirements are to open a group home and follows what is required. Mr. Rosenberg said that

when the State came to inspect the home, after they received their Certificate of Occupancy from the Township, they were told that they would need two forms of egress for the residents in wheelchairs and that is when they built the ramp. He said that when the State came back to inspect the ramp, they asked to see the Certificate of Approval from the Township for the ramp and that is when he found out they needed a permit to build it. Mr. Rosenberg said that when he went to the Township to apply for the permit, that is when the Zoning Officer told him that he needed a variance and no permits were issued.

Mr. Vena asked Mr. Rosenberg to describe the residents living in the home. Mr. Rosenberg said that all of the current residents are confined to wheelchairs and that they need 24 hour total care.

Mr. Vena asked Mr. Rosenberg if the staff sleeps in the home; Mr. Rosenberg said no.

Vice Chairman Buechler asked Mr. Rosenberg if this was the first group home he owned that had wheelchair occupants; Mr. Rosenberg said no but it was the first group home that they built from the ground up.

Vice Chairman Buechler asked Mr. Rosenberg if they could use the garage as a means of egress; Mr. Rosenberg said the State rejected using the garage as an egress. He said that the State Department of Community Affairs said they do not allow egress through the garage because the door to the garage is in the kitchen and that is not allowed.

Mr. Buechler asked Mr. Rosenberg if there was any other egress from the rear of the house they could have used; Mr. Rosenberg said no. He said that the back of the house slopes and there is no back door. He said that the stairs in the rear of the house come out from the basement.

Mr. Neuer asked Mr. Rosenberg what permits they applied for to get the Certificate of Occupancy from the Township. Mr. Rosenberg said they applied for electrical and plumbing permits and the inspections were done by the Township for the Certificate of Occupancy. Mr. Neuer asked Mr. Rosenberg if his testimony was that even though he knew that he had previously applied for and obtained permits when built the ramp he did not know he needed a permit to build it; Mr. Rosenberg replied yes.

Mr. Neuer asked Mr. Rosenberg who decided where the ramp would go; Mr. Rosenberg said their architect decided where the ramp would go. Mr. Neuer questioned the fact that the architect did not know that the ramp encroached the side yard and asked Mr. Rosenberg who the architect was; Mr. Rosenberg said that Christian Design is the architect firm.

Mr. Bullock asked Mr. Rosenberg if his testimony is that the architect instructed them where to build the ramp but gave no instruction about getting a permit to build it; Mr. Rosenberg replied yes.

Mr. Sussman asked Mr. Rosenberg what room the side door is in; Mr. Rosenberg said the side door is in a vestibule near a bathroom.

Mr. Quentzel asked Mr. Rosenberg if they looked at any other location for the ramp; Mr. Rosenberg replied yes.

Mr. Quentzel asked Mr. Rosenberg what is at the rear of the house on the south side; Mr. Rosenberg stated it is a bedroom area. He said that the garage was a two car garage and it has been converted into a one car garage and one bedroom. Mr. Rosenberg said that there are two bedrooms in the front of the house and one in the rear.

Mr. Neuer asked Mr. Rosenberg what the sizes of the bedrooms were; Mr. Rosenberg said he did not know.

Mr. Neuer asked Mr. Rosenberg if they could convert the front bedroom window into a ramp; Mr. Rosenberg said no because it would not be structurally sound. Mr. Neuer asked Mr. Rosenberg who told him that it would not be structurally sound; Mr. Rosenberg said the State told him that.

Mr. Sussman asked Mr. Rosenberg how many bedrooms in the house; Mr. Rosenberg replied four bedrooms. Mr. Sussman asked Mr. Rosenberg if they were anticipating a fourth resident; he replied yes.

Mr. Neuer asked Mr. Rosenberg who pays for the residents to live there; Mr. Rosenberg said that the State funds it.

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

Mr. Neuer asked if there were any members of the public that have any questions for Mr. Rosenberg.

Norman Frowley approached the podium and stated that he lived at 36 Jessica Way in South Orange, New Jersey. Mr. Foley said that his rear fence borders the property at 28 Devon Drive. Mr. Frowley asked Mr. Rosenberg if the other group homes that he owns have wheelchair residents; Mr. Rosenberg replied no.

Mr. Frowley asked Mr. Rosenberg if the staff at the group home is medically trained; Mr. Rosenberg replied yes. He said that this is required by the State.

Mr. Frowley asked Mr. Rosenberg if he had any documentation proving that they considered alternate places to put the ramp; Mr. Rosenberg said that they met with the State and the architect for the purpose of considering alternate locations for the ramp. He said that he will look to see if they have any documentation regarding these meetings.

Mr. Frowley asked Mr. Rosenberg if the architect advised him that they needed two means of egress for the wheelchair residents; he replied no.

There were no further questions from Mr. Frowley.

Mark Brown approached the podium and stated that he lived at 27 Devon Drive.

Mr. Brown asked Mr. Rosenberg if it was explained to him that he needed to install the ramp before he opened the group home; he replied no.

Mr. Brown asked Mr. Rosenberg if he installed the ramp prior to seeking the variance; he replied yes.

Mr. Brown asked Mr. Rosenberg if the ramp is above ground; he replied yes.

Mr. Brown asked Mr. Rosenberg if the ramp is substantially above ground; he replied no.

Mr. Brown asked Mr. Rosenberg if the ramp is 3' above ground and 20' long; he replied no.

Mr. Brown asked Mr. Rosenberg if he thought the ramp was unsightly; he replied no.

Demi Turner approached the podium and stated that he lived at 8 Mountain Way South.

Mr. Turner asked Mr. Rosenberg if he is the owner of the home; he replied yes.

Mr. Turner asked Mr. Rosenberg if he has opened a group home before; he replied yes. Mr. Rosenberg said that this is his business.

Mr. Turner asked Mr. Rosenberg if he has the proper certifications to run these facilities; Mr. Rosenberg replied yes and stated that he did not proceed until the State approved this site.

Mr. Turner asked Mr. Rosenberg if he did his due diligence; Mr. Rosenberg said that he did his best.

Vice Chairman Buechler asked Mr. Rosenberg who built the ramp; Mr. Rosenberg said he had a contractor build the ramp. Vice Chairman Buechler asked Mr. Rosenberg if the contractor advised him that he needed a permit; he replied no.

Mr. Turner asked Mr. Rosenberg how he resolved the issue when he found out that he needed a permit to build the ramp; Mr. Rosenberg said that he went to Town Hall to apply for the permits and was advised, at that time, that a variance was needed.

Mr. Neuer asked Mr. Rosenberg if he is a paid employee of the company; Mr. Rosenberg replied no and said that he owns the company.

Mr. Bullock asked Mr. Rosenberg if he verified that the contractor he hired to build the ramp was licensed; Mr. Rosenberg replied no and said that it was an error.

Mr. Neuer asked Mr. Rosenberg if the other group home he owns has two egresses; he replied yes but said that they are not wheelchair residents.

Mr. Neuer asked if they can swap the patients from the other residence to this residence; he replied no.

There were no further questions for Mr. Rosenberg.

Mr. Vena called his next witness.

Anthony Marucci approached the podium and was sworn under oath. He detailed his educational and professional background as a licensed Professional Planner and a Professional Engineer in the State of New Jersey. Mr. Buechler accepted Mr. Marucci as an expert in Professional Planning.

Mr. Marucci presented the site plan and stated that he signed and sealed the plans. Mr. Buechler asked to have the site plans dated 6/3/13 marked as Exhibit A-1 as identification.

Mr. Marucci referred to the site plans and detailed the site and where the ramp was built.

Vice Chairman Buechler asked Mr. Marucci if the foot of the ramp is equal to the garage; he replied yes.

Mr. Marucci presented three photographs of the ramp and a copy of the survey; Mr. Buechler asked to have the photography package of three photos and the survey marked as Exhibit A-2 for identification.

Mr. Buechler asked Mr. Marucci if he took the photos; he replied yes and said he took them on May 25, 2013. Mr. Buechler asked Mr. Marucci if the images were altered in any way; he replied no.

Mr. Marucci detailed the photos stating that the platform of the ramp is at the same elevation the steps were and the most it could be is three feet off of the ground. Mr. Marucci said that the Township's Zoning Official is calling the ramp a structure but he calls it a means of egress.

Mr. Marucci presented a second group of photos. Mr. Buechler asked to have the first photo marked as Exhibit A-3 and the second photo marked as Exhibit A-4 for identification.

Mr. Marucci detailed the photos that show hedges alongside and in front of the ramp. He said that the hedges run alongside the ramp and border the property to the north.

Mr. Buechler asked Mr. Rosenberg how many times the State inspected the home; he replied twice.

Mr. Marucci stated that the group home is allowed because it is a permitted use. He said the question is if the ramp is violating the side yard encroachment which requires a variance.

Mr. Marucci began justifying the need for the variance and why the ramp was built in this location. He said that this is the only logical location it could be built because the rear of the

property slopes and a door was already at this location. Mr. Marucci said that it was determined that this was the easiest way to egress.

Mr. Buechler asked Mr. Marucci if the ramp was built in the back of the house, would they have to build a concrete walkway extending to the front; he replied yes.

Mr. Marucci said that the only exceptions to encroachment to a side yard are steps and fire escapes and that this ramp is basically a fire escape. He said that the residents are handicapped and they need this egress.

Mr. Marucci said that the ramp does not impair the zone and there is no detriment to the public good. He said that according to the ADA law, it is critical to have handicap accessibility and that the Township should have policies in place for ADA requirements.

Mr. Vena asked Mr. Marucci if the ramp is visible; Mr. Marucci referred to Exhibit A-3 and Exhibit A-4 and said that the ramp is buffered from view.

Mr. Marucci presented a letter from the State Department of Human Services. Mr. Buechler asked to have the letter from the State Department of Human Services Division of Developmental Disabilities, dated 10/11/13, marked as Exhibit A-5 for identification. Mr. Marucci referred to the letter from the State advising Mr. Rosenberg that in order for the home to be licensed, a ramp is required from the exit door on the side as the home as a second means of egress for the residents that use wheelchairs.

Mr. Neuer asked Mr. Rosenberg if the entity that owns the group home property is a non for profit; he replied no.

Mr. Neuer asked Mr. Rosenberg if he knew the law requiring a second means of egress was in effect when he bought the property; he replied yes.

Mr. Neuer stated that the applicant could have purchased a property with a second means of egress because he knew the law was in effect when he bought the property. He said that this is a self-created hardship. Vice Chairman Buechler stated that the property did have a second means of egress and that the applicant stated that he did not know that it needed a ramp.

Mr. Marucci said that the applicant did not know the property needed a ramp and the Township did not require it; he said that the State required the ramp. He said that if the applicant had known he needed a ramp he would have advised him to build a concrete platform; not a ramp. There were no further questions for Mr. Marucci from the Board or the Professionals.

Mr. Buechler asked if any members of the public had any questions for Mr. Marucci.

Mark Brown approached the podium stating that he lived at 27 Devon Drive. Mr. Brown asked Mr. Marucci if Mr. Rosenberg should have asked the State what the requirements were before he purchased the property; Vice Chairman Buechler said that Mr. Rosenberg testified that the State told him after the fact.

Mr. Vena asked Mr. Rosenberg if he knew what kind of clients he was going to have living in the house. Mr. Rosenberg said he did not know what level of care the residents would have at that time nor did the State. He said that it was unclear until after the residents moved in that they would need a ramp as a second means of egress for them.

There were no further questions and Vice Chairman Buechler declared the hearing closed.

Vice Chairman Buechler asked if any members of the public had any comments.

Ms. Sandra Adams approached the podium and was sworn under oath. She stated that she lives right next door at 26 Devon Drive and the shrubbery and the ramp abuts the property line. Ms. Adams stated that the original landing from the side door was not as wide as the ramp; she said the ramp is much wider than the stairs were. Ms. Adams referred to the shrubs along the property line and said that there is no room to move between them and the ramp. She said that the ramp is unsightly and it lowers her property value. Ms. Adams said that the shrubbery was thinned out when they built the ramp and construction debris was thrown on to her property. She said that snow runoff will end up in her yard because there is no place to put the snow when they have to shovel it.

Ms. Adams presented photos depicting the shrubbery along the ramp on the property line. Vice Chairman Buechler asked Ms. Adams if she took the photos herself and would she testify that they are accurate; she replied yes. Mr. Buechler asked to have the photos of the shrubbery marked as Exhibit O-1 and Exhibit O-2 for identification.

Vice Chairman Buechler asked Ms. Adams if the applicant was asked to plant more shrubs along the property line would she agree to that; she replied no.

Mr. Bullock asked Ms. Adams if the construction debris, in her side yard, was cleaned up; she replied yes and stated that she cleaned it herself.

Vice Chairman Buechler asked Mr. Rosenberg to provide Ms. Adams with his business card.

Mr. Steinhart asked Ms. Adams if the Board required the applicant to build a fence along the ramp on the property line would she agree to that; she replied yes.

Vice Chairman Buechler asked if any other members of the public had any comments.

Norman Foley approached the podium and was sworn under oath. Mr. Foley said that ignorance of the law was no excuse and that Mr. Rosenberg should have known that they needed two forms of egress. He said that installing a fence on the neighbor's property along the ramp is a hazard for the owner of the property. He said that in case of an emergency they will not be able to exit from that side of their property.

Vice Chairman Buechler asked if any other members of the public had any comments.

Candace Pryor Brown approached the property and was sworn under oath. Ms. Brown stated that she lived at 27 Devon Drive and that her objection to the variance is that it changes the nature of her neighborhood. She said that because the employees are a rotating staff they are continually driving up and down the street. Vice Chairman Buechler said that traffic is not relevant and if the applicant did not need the ramp then they would not be before this Board requesting variance. He said the group home is a permitted use.

Ms. Brown presented a photograph package. Vice Chairman Buechler asked Ms. Brown if she took the photos herself; she replied yes. She said that she took them approximately three weeks before this meeting. Vice Chairman Buechler asked to have the photograph package, containing seventeen photos, marked as Exhibit O-3 for identification. Ms. Brown referred to the photos and stated that they show employees double parking in the middle of the street and ambulances coming and going all of the time. She said that it is a detriment to their community.

Vice Chairman Buechler noted the time and stated that the Zoning Board meetings end at 11:00 pm. He said that this hearing will be carried to the next Zoning Board meeting on November 21, 2013 and it will start with public comment.

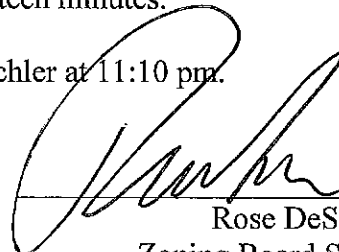
Vice Chairman Buechler said that no further notice of this meeting will be necessary.

Robert Williams, Esq. approached the podium and iterated the fact that he was informed that the Board mentioned his client earlier in the meeting and that he was further advised that the Board had questions for his clients. He said that he came down right away to answer any questions the Board had and expressed his displeasure of having to wait until the end of this meeting to speak.

Vice Chairman Buechler stated that there is a special Zoning Board meeting scheduled for Monday October 28, 2013 and this matter will be continued at that time. He asked the Board Secretary to inform the applicant's attorney, who scheduled the special meeting, that this will be first on the agenda and should take no more than fifteen minutes.

The meeting was adjourned by Vice Chairman Buechler at 11:10 pm.

Adopted: November 21, 2013

  
Rose DeSena  
Zoning Board Secretary

11/22/13