

**TOWNSHIP OF WEST ORANGE  
PLANNING BOARD  
MINUTES  
January 8, 2014**

The Township of West Orange Planning Board held a regular meeting on January 8, 2014 at 7:30 P.M. in Council Chambers, 66 Main Street, West Orange, New Jersey.

Chairman Heller called the meeting to order at approximately 7:30 P.M. It was announced that notification of this meeting was given to the Township Clerk, and posted on the Township Bulletin Board on November 21, 2013, in accordance with the requirements of the "Open Public Meetings Act".

**PRESENT:** Chairman Ben Heller, Robert Bagoff, Joanne Carlucci, Jerome Eben, Gerald Gurland, Jason Lester, Council President Susan McCartney, William Wilkes II (7:39 P.M.)

**ABSENT:** Tekeste Ghebremicael, Lee Klein, Vice Chairman Ron Weston

**ALSO PRESENT:** Paul Grygiel, AICP, PP, Acting Township Planner, Patrick J. Dwyer, Board Attorney, Robin Miller, Board Secretary; Kevin Dillon, Audio-Digital Transcription Service

**PLEDGE OF ALLEGIANCE**

Chairman Heller requested all persons stand for the Pledge of Allegiance.

**ROLL CALL**

Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Chairman Ben Heller, Lee Klein, Jason Lester, Council President Susan McCartney, Vice Chairman Ron Weston, Williams Wilkes II.

**ANNOUNCEMENTS**

The next regular Planning Board meeting will be held on **Wednesday February 5, 2014** at 7:30 P.M. in Council Chambers.

**ADOPT MINUTES**

The minutes of the December 4, 2013 Planning Board meeting were unanimously adopted.

**SWEARING IN**

Paul Grygiel, AICP, PP, Phillips Preiss Grygiel LLC, was introduced as Acting Township Planner.

**RESOLUTIONS**

**PB-13-22C/County of Essex-South Mountain Recreation Complex**

Block(s): 162, 163; Lot(s): 2, 1 & 13; Zone: R-1  
1 Cherry Lane

Courtesy Review Application to install two prefabricate bridges; rehabilitate reservoir pathway; install benches, trash receptacles and planters.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Council President McCartney

Bagoff:	Yes	Carlucci:	-	Eben:	Yes
Ghebremicael:	Absent	Gurland:	Yes	Klein:	Absent
Lester:	Yes	McCartney:	Yes	Weston:	Absent
Wilkes:	-	Heller:	Yes		

**PB-13-20T/Arnaldo Gerra d/b/a Express Kitchen Designs**

Block: 152.22; Lot: 1420.02; Zone: B-1

450 Pleasant Valley Way

Technical Site Plan to lease retail space to operate a kitchen cabinet showroom.

**DISCUSSION**

Mr. Grygiel gave a recapitulation of the Application for a cabinet showroom; a re-occupancy of a former Verizon store.

Mr. Eben stated he did not understand why the Board was reviewing the Application. It was his opinion the Application was not a change of use, but a change of tenant. He opined that while some new businesses came before the Board, others that probably should be heard, were not; he voiced concern that the small Technical Review Applications were not in keeping with being business friendly; but served as a delaying tactic for small business openings.

Mr. Grygiel cited Ordinance 25-51.15(c); which as interpreted stated that the Application was under the jurisdiction of the Technical Review Committee; it was a change of use, even though it was a permitted use.

Chairman Heller said that the Board would be discussing the Technical Review process at an upcoming Board meeting; he requested that current comments be tabled for the upcoming meeting.

Dr. Bagoff requested that the Board Attorney and Planner make a presentation at the next Board meeting regarding the Technical Review process. He then asked Mr. Grygiel to list any conditions for the current Application before a vote on the Resolution.

Mr. Grygiel listed the conditions:

1. Building signage to be reviewed and approved by Zoning Official;
2. Applicant shall submit a permit package to the Building Department to secure all necessary building permits;
3. The Applicant shall execute and submit to the West Orange Zoning Official, an Affidavit of Compliance certifying that all conditions of approval agreed to by the Applicant and set forth herein have been fulfilled and satisfied.

Dr. Bagoff asked about a second means of egress as discussed in the previous Application for this site (PB-13-11T/PTSD Yogurt, LLC). Mr. Grygiel said the Applicant was renting the front area of the store only and was in compliance regarding egress requirements.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Mr. Lester

Bagoff:	Yes	Carlucci:	Yes	Eben:	No
Ghebremicael:	Absent	Gurland:	Yes	Klein:	Absent
Lester:	Yes	McCartney:	Yes	Weston:	Absent
Wilkes:	Yes	Heller:	Yes		

Dr. Bagoff addressed the Board; he said that for a member to vote "No" on an Application that had fulfilled the requirements under the law and the Ordinance was arbitrary and capricious; and showed a disregard for the Applicant. Dr. Bagoff requested the Chairman direct the Board attorney to discuss the rules of the Board at the next meeting.

Mr. Eben said that he did have reason for voting against the Application; he did not believe it belonged before the Board; he opined it was a waste of the tenant's time and money.

**PB-13-21T/E.G. Holdings Corp., d/b/a Total Wine and More**

Block: 155.21; Lots: 40, 1445.05; Zone: P-C

495 Prospect Avenue

Technical Site Plan to expand current 13,189 sq/ft space into adjacent premises to create a combined 21,736 sq/ft retail store.

**DISCUSSION**

Mr. Grygiel gave a brief recapitulation of the Application including expanding space and making interior improvements. Mr. Grygiel advised the Board that the Applicant's attorney was present to answer any specific questions. He listed the conditions of approval:

1. Applicant to submit a plan to the Health Department for review and approval;
2. Applicant to apply for permits and obtain plan approval from the Building Department; and
3. Applicant to obtain a Certificate of Occupancy from the Building Department for the expansion space.

Mr. Eben said it appeared that a designer not properly licensed in the State of New Jersey created the interior design plan; he said that the Architect appeared to be properly licensed in New Jersey.

Mr. Dwyer said that the Board had been over this before; he suggested the Board recommend to Council that all professionals be licensed in the State of New Jersey.

Mr. Eben said that it was the responsibility of the Zoning Officer to enforce proper certification.

Dr. Bagoff suggested the Application checklist state that all professionals must present certification that they were licensed in the State of New Jersey. Council President McCartney agreed.

Rosemary G. Vinitzky, Esq., Law Offices of Thomas A. Buonocore, Esq., attorney for Applicant, was sworn in; she said that as it related to the Application, the architect was properly licensed in the State of New Jersey and all plans were properly signed and sealed.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Mr. Lester

Bagoff:	Yes	Carlucci:	Yes	Eben:	No
Ghebremicael:	Absent	Gurland:	Yes	Klein:	Absent
Lester:	Yes	McCartney:	Yes	Weston:	Absent
Wilkes:	Yes	Heller:	Yes		

### **PB-13-23T/AMC Theatres**

Block: 155.21; Lot: 40; Zone: P-C

495 Prospect Avenue

Technical Site Plan to perform interior ADA modification renovations.

### **DISCUSSION**

Mr. Grygiel gave a brief recapitulation of the Application. He advised the Board that the Applicant was completing a national program to refit all AMC Theaters with ADA modifications based on a settlement with the United States Department of Justice; the process had been ongoing for ten years, the West Orange theatre was the last to be modified.

Mr. Grygiel listed the conditions:

1. Applicant to review plans for compliancy with the 2009 New Jersey Uniform Construction Code;
2. Each page of the Applicant's plans to include the name, signature and seal and license number of New Jersey licensed architect.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: MS. Carlucci

Bagoff:	Yes	Carlucci:	Yes	Eben:	Yes
Ghebremicael:	Absent	Gurland:	Yes	Klein:	Absent
Lester:	Yes	McCartney:	Yes	Weston:	Absent
Wilkes:	Yes	Heller:	Yes		

### **PB-13-24T/Xiao Hua Li d/b/a SL Health Center**

Block: 158.02; Lot: 97; Zone: R-5

383 Northfield Avenue

Technical Site Plan to lease office space for Foot Reflexology and Body Massage personal services.

### **DISCUSSION**

Mr. Grygiel gave a brief recapitulation of the Application. He said there were specific concerns made by the Health Department based on their requirements for a massage establishment, which the Applicant agreed to comply.

Mr. Grygiel listed the conditions:

1. Applicant to apply and obtain Massage Establishment Permit from the West Orange Health Department;
2. Applicant to install service sink;

3. Applicant to apply and obtain Certificate of Continued Occupancy from the Building Department;
4. Applicant's exterior building signage to be reviewed and approved by Zoning Official;
5. The Applicant shall execute and submit to the West Orange Zoning Official, an Affidavit of Compliance certifying that all conditions of approval agreed to by the Applicant and set forth herein have been fulfilled and satisfied.

Mr. Eben said he had the same concerns as those of the Application for the kitchen cabinet showroom.

The Board voted on the Resolution as follows:

Motion: Dr. Bagoff

Second: Mr. Lester

Bagoff:	Yes	Carlucci:	Yes	Eben:	No
Ghebremicael:	Absent	Gurland:	Yes	Klein:	Absent
Lester:	Yes	McCartney:	Yes	Weston:	Absent
Wilkes:	Yes	Heller:	Yes		

Chairman Heller advised the Board that they would be reviewing the Technical Review Committee process at the next regular meeting.

MEETING ADJOURNED at approximately 8:05 P.M.

Minutes adopted March 5, 2014



Robin Miller, Planning Board Secretary  
Township of West Orange

**\*\*THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE WEDNESDAY APRIL 2, 2014 AT 7:30 P.M. IN COUNCIL CHAMBERS\*\***