

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
May 15, 2014**

The West Orange Zoning Board of Adjustment held a regular meeting on May 15, 2014 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairwoman Gabry 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, 2013 in accordance with the "Open Public Meetings Act."

Chairwoman Gabry asked everyone to stand for the Pledge of Allegiance.

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

PRESENT: B. Buechler, D. Gabry, P. Neuer, B. Quentzel,
W. Steinhart, M. Sussman, A. Weiss

ABSENT: G. Bullock (excused absence)
W. Merklinger (excused absence)

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

ANNOUNCEMENTS

Future Meetings: May 29, 2014 (Special Meeting) – 8:00 pm
June 12, 2014 (Special Meeting) – 8:00 pm
June 19, 2014 (Regular Meeting) – 8:00 pm
July 17, 2014 (Regular Meeting) – 8:00 pm
August 21, 2014 (Regular Meeting) – 8:00 pm

Chairwoman Gabry announced that applications ZB-14-02 for E.G. Holdings dba Total Wine and More and ZB-14-00 for Wang, that were scheduled to be heard at this meeting, are being carried to the June 19, 2014 Zoning Board of Adjustment meeting at the request of these applicants. She also announced, for the record, that no further notice will be required for these applications.

MINUTES

Adopt Minutes: April 17, 2014 (Regular Meeting)

Chairwoman Gabry asked for a motion to approve the minutes from the regular Zoning Board meeting held on April 17, 2014 as submitted to the Board members.

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

It was noted for the record that Mr. Buechler and Ms. Weiss were present but did not vote on these minutes.

Adopt Minutes: April 24, 2014 (Regular Meeting)

Chairwoman Gabry asked for a motion to approve the minutes from the special Zoning Board meeting held on April 24, 2014 as submitted to the Board members.

Mr. Sussman made a motion to approve the minutes as submitted; Chairwoman Gabry seconded the motion and all were in favor.

It was noted for the record that Mr. Buechler was present but did not vote on these minutes.

SWEARING IN

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

RESOLUTIONS

- | | |
|---|--------------------------------|
| <p>1. ZB-13-13/Alvarez
Block: 170; Lot: 15; Zone: R-2
608 Mt. Pleasant Avenue
Bulk variances for building a single family house.</p> | <p>Approved 4/17/14</p> |
|---|--------------------------------|

Chairwoman Gabry asked if the Board reviewed this resolution and if any Member had any comments.

Ms. Beirne stated that Mr. Neuer and Chairwoman Gabry submitted their comments to her for this resolution and that she accepted them.

Chairwoman Gabry asked for a motion to adopt the resolution with said revisions.

Mr. Neuer made a motion to adopt and Mr. Sussman seconded the motion.

The vote was as follows:

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

2. **ZB-13-19/ Amanuel Ethiopian Orthodox Tewahedo Church** Approved 4/17/14
Block: 11; Lot: 17; Zone: R-M
15 Dean Street
“D” variance for conditional use and several “C” variances for the conversion
Of an existing commercial garage into a House of Worship.

Chairwoman Gabry stated that amended site plans were required to be submitted to the Board ten days before this hearing and that three or four items were to have been shown on these revised plans. She stated that because some items were still missing from the plans she is suggesting that they table this resolution until revised plans are submitted.

Mr. Neuer said that he agrees that the resolution should not be adopted because, among other things, the handicapped parking must be shown on the site plans.

The Board agreed that this resolution should not be adopted at this meeting. The vote should not occur until amended site plans are submitted at least ten days prior to a Zoning Board meeting.

Mr. Neuer stated for the record that based upon the signature on the form which is part of the application, the statutory waiver will carry throughout for this application.

APPLICATION(S)

1. **ZB-14-01/Communication Infrastructure Corp.** Carried from 4/17/14
Block: 111; Lot: 1.03; Zone: B-2
416 Eagle Rock Avenue
“D” use variance to install two microwave dishes on an existing tower

Chairwoman Gabry stated that she was not present for the special meeting on March 27, 2014 when this application was first heard and asked Mr. Neuer to preside over the meeting. Mr. Neuer assumed the role as Chairperson for this application.

Dean Stamos approached the podium and stated that he is appearing for James Pryor, Esq. the attorney for this application.

Mr. Neuer stated that at the last meeting the applicant was directed to submit certain documents to this Board ten (10) days before this meeting. That was not done until letters were submitted by the Applicant today. He said that he would have liked to have heard testimony from the Engineer and not be required to rely upon a letter certification.

Mr. Neuer asked Mr. Stamos if he understood that the issue regarding antennas not functioning is a significant issue and the letter that has just today been submitted to the Board does not tell the Board Members what they need to know. Mr. Stamos said that the letter does answer the question raised by the Board. He also said that

the letter is signed by professional engineers regarding the structural integrity of the tower. Mr. Neuer said that the Board's concern was regarding the antennas which are no longer functioning and were required to be removed from the tower. He said that there is nothing in this letter that tells them that explains what has been removed.

Mr. Sussman stated that the letter they submitted was dated a year ago; Mr. Stamos said that was a mistake. He said that the date of 4/30/13 was a typo and should be 4/30/14.

Mr. Neuer said that the Board has very relaxed rules about certain types of evidence but this letter is not credible; he said that he has no idea who even wrote this letter.

Chairwoman Gabry said that it appears that someone wrote the letter in April and the other person simply signed off on it in May.

Ms. Weiss said that the information that the Board wants to confirm is that every antenna not in use has been removed and asked if that is what this letter is certifying. Mr. Neuer said that the vast majority of this letter is about the structural integrity of the tower; he said that the Board is concerned about all the non-operational antennas having been removed from the tower.

Alice Beirne stated that the Board needs some type of certification that all of the non-operational antennas have been removed.

Mr. Buechler said that the Board asked for several things that Mr. Pryor had to submit to them. He said that the structural integrity of the tower was taken care of but the prior resolution condition regarding the non-operational antennas having been removed was not. Mr. Buechler said that the Board also required these documents to be submitted at least ten (10) days before this meeting and Mr. Pryor did not do that.

Mr. Stamos said that the letter does state that the non-operational antennas have been removed; Mr. Neuer said that the letter does not say all of the antennas on the tower are operational and sound.

Mr. Neuer stated that Mr. Pryor must come back before this Board. He said that he must also clarify what the dates are in the letter that has been submitted to the Board.

Mr. Neuer stated that this application will be carried to the next Zoning Board meeting on 6/19/14 and the applicant must submit all required documentation at least ten (10) days prior to that date. He also stated for the record that no further notice is required to be given.

Mr. Neuer then stepped down from the Chair and Chairperson Gabry resumed her position as presiding officer.

- 2. ZB-13-16/Feld** **Carried from 4/17/14**
Block: 97; Lot: 24.03; Zone: R-1
62 Tulip Avenue
"D" height variance to construct a two story single family home

EXHIBITS

- A-1 - Sheet one of the site plan, with the revision date of 4/1/14, prepared by Casey and Keller
A-2 - Sheets 3, 4, 5, 6 and 7 of the architectural plans, prepared by Heyrich Architects, dated 12/23/13

- A-3 - Sheets 5, 6, and 7 of the architectural elevations plan, prepared by Heyrich Architects, with the revised date of 3/26/14
- A-4 - Sheet 2 of the lower level floor plans, prepared by Heyrich Architects, dated 12/23/13
- A-5 - Sheet 1 of the landscaping plan, prepared Casey & Keller, with the revision date of 4/1/14
- A-6 - Sheet 1 of the colored rendering landscaping plan, prepared by Casey & Keller, with the revision date Of 4/1/14
- A-7 - Photo board #1, photo board #2 and aerial photo prepared by Casey & Keller dated 5/14/14

Robert Simon, Esq., attorney for the applicant, approached the podium. Mr. Simon stated that Mr. Feld has reached out to the Committee of Managers for Llewellyn Park and that he also met with neighbors regarding landscaping.

Mr. Simon said that the applicant is proposing to build a two-story single family home with an attached three car garage on a flag lot. He said that a D6 variance for the height is being requested because it is in excess of ten (10%) percent above the maximum height allowed by the Township's ordinance. Mr. Simon stated that all the required set-backs on this lot are met.

Mr. Neuer observed that the original application did not include references to an attorney or a professional planner and asked Mr. Simon if he would like to amend the application, on the record, to include an attorney and a professional planner. Mr. Simon amended the application to include an attorney and a professional planner.

Mr. Neuer referred to a prior resolution of approval for the sub-division which created this lot and in specific regarding the need for a rear yard variance. Mr. Simon said that the variance in that resolution dealt with a structure that has since been removed.

Mr. Simon stated that two witnesses will be testifying; John Heyrich, the architect and Richard Keller, the Engineer and Planner for this project.

John Heyrich approached the podium and was sworn under oath. Mr. Heyrich detailed his professional background as a licensed architect in the State of New Jersey. He said that he has been licensed since 1983 and has testified many times before Boards for projects similar to this one.

Chairwoman Gabry accepted Mr. Heyrich as an expert in Architecture.

Mr. Heyrich presented the architectural plans and stated that he prepared them for this application along with members of his office.

There was some confusion regarding the architectural plans; Mr. Heyrich stated that there were seven sheets of the architectural plans and Mr. Buechler said that the Board only has three sheets of the plans. Mr. Grygiel said that there are two different sets of the plans; the revised plans that were submitted did not include all of the original seven sheets that were submitted with the application.

Chairwoman Gabry stated that her architectural plans denote sixteen (16) sheets; Mr. Heyrich stated that the mechanical architectural plans will contain sixteen (16) sheets.

Mr. Simon stated for the record that he will have Mr. Heyrich go through the architectural plans sheet by sheet to make sure that they are the same plans that were submitted to the Board.

Mr. Neuer stated that the site plan should be Exhibit A-1 and the architectural plans should be second.

Chairwoman Gabry asked to have sheet one of the site plan with the revision date of 4/1/14, prepared by Casey and Keller, marked as Exhibit A-1 for identification.

Chairwoman Gabry asked to have sheets 3, 4, 5, 6 and 7 of the architectural plans prepared by Heyrich Architects dated 12/23/13 marked as Exhibit A-2 for identification.

Chairwoman Gabry asked to have sheets 5, 6, and 7 of the architectural elevations plan prepared by Heyrich Architects, with the revised date of 3/26/14, marked as Exhibit A-3 for identification.

Chairwoman Gabry asked to have sheet 2 of the lower level floor plans prepared by Heyrich Architects, dated 12/23/13, marked as Exhibit A-4 for identification.

Mr. Heyrich referred to the architectural plans and detailed the home's style as being of "French design". Mr. Simon asked Mr. Heyrich if the design of the house fits in well with the other homes in the area; he replied yes. Mr. Simon asked Mr. Heyrich if the scale will look proportionate to the house; he replied yes. He said that it is consistent to the other homes in the area.

Mr. Neuer asked Mr. Heyrich why there are two windows on the plans marked "egress". Mr. Heyrich said that it is a window that is required in every house by the fire department so that someone could get out in case of a fire.

Mr. Heyrich noted two chimneys on the plans and stated that they are fake and have no function. He said that the pipes and venting go through these chimneys.

Mr. Neuer asked Mr. Heyrich if the chimney increases the height. Mr. Simon said that the definition of the Township ordinance is to the height of the roof. Mr. Grygiel said that the definition is correct; that it is to the height of the roof. He said that there are exceptions such as cupolas and chimneys and they shall not exceed ten (10) feet.

Mr. Heyrich said that there is one chimney that is functional for the fireplace in a bedroom.

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

Chairwoman Gabry asked if any members of the public had any questions for Mr. Heyrich; there were none.

Mr. Simon called his next witness.

Richard Keller approached the podium and was sworn under oath. Mr. Keller detailed his educational and professional background as a Professional Engineer and a Professional Planner licensed in the State of New Jersey. He said that he also possesses a master's degree in architecture and has appeared before this Board many times.

Chairwoman Gabry accepted Mr. Keller as an expert in Engineering and Planning.

Mr. Keller presented the landscaping plan and a colorized rendering of the landscaping plan, both dated 4/14/14. Chairwoman Gabry asked to have the landscaping plan dated 4/14/14 marked as Exhibit A-5 and the colorized rendering of the landscaping plan dated 4/14/14 marked as Exhibit A-6 both for identification.

Mr. Keller referred to the landscaping plans and detailed what is being proposed.

Mr. Keller presented photo boards. He referred to photo boards one and two of color photos he took on 5/14/14 and detailed them. Mr. Keller said that the lot is an 80,000 sq. ft. flag lot and that the house being proposed was designed for this property.

Mr. Simon asked Mr. Keller if any other variances are required other than the height variance and the variance for the sub-division; he replied no.

Mr. Keller presented an aerial photo and detailed the surrounding area. He stated that the original house on the lot is gone and the gazebo and the swimming pool are the only things that are remaining.

Chairwoman Gabry asked to have the photo boards and the aerial photo marked as Exhibit A-7 for identification.

Mr. Keller stated that the grade is 7' below the first floor and this is why a D6 height variance is required. He said that you cannot see this house from any of the streets and that it fully conforms to the other sections of the Township ordinance. Mr. Keller said that the site can accommodate the height of the house with no impact on the area.

Mr. Keller said that the applicant is proposing ten (10) evergreen trees along the property if the application is approved and he detailed the heights of the trees and the locations where they will be planted.

Mr. Buechler asked if the applicant received any positive or negative comments from anyone in Llewellyn Park other than the two neighbors with buffers. Mr. Keller said that the applicant removed the millings that were questioned by the Committee of Managers for Llewellyn Park and that was the only comment they received.

Mr. Keller detailed the negative and positive criteria, stating that this will not be a detriment to the area.

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

Chairwoman Gabry asked if there were any members of the public that had any questions for Mr. Keller; there were none.

Mr. Simon stated that he had no additional witnesses.

Chairwoman Gabry asked if there was any public comment.

David Owen, Esq. approached the podium. Mr. Owen said that he represents Ron Bauer who resides at 100 Mountain Avenue and Kurt and Leslie Knowles who reside at 60 Tulip Avenue. He stated that he is confirming that the meeting with the applicant and his clients, regarding the landscaping, is accurate and asked the Board to make it a condition of approval.

Barry Feldman approached the podium and was sworn under oath. Mr. Feldman stated that he works for Weichert Realty and represents the owner of the property at 33 Oak Bend. He said that his client is in favor of the construction of this house.

Chairwoman Gabry closed the hearing.

Chairwoman Gabry asked if any members of the Board had any comments. Mr. Buechler said that he would like to make a motion to approve with the condition regarding the planting of the evergreen trees 10' apart.

Mr. Neuer stated that the applicant proved the negative and the positive criteria and that the testimony from Mr. Keller was credible.

Mr. Neuer seconded the motion to approve the application.

The vote was as follows:

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

3. ZB-14-05/Ehrlich

Block: 176; Lot: 9; Zone: R-5

2 Dale Drive

“C” rear yard variance for building a deck in the rear of the home

Belinda and Reuben Ehrlich approached the podium and were sworn under oath. Ms. Ehrlich stated that she and her husband reside at 2 Dale Drive and they would like to build a deck in the rear of their house. She said that the main reason is that during Sukkot they currently utilize their driveway located in the front of their home and would much rather have a deck that would provide them with more privacy.

Mr. Buechler advised Ms. Ehrlich to hire a licensed contractor and to make sure that they get a building permit.

Mr. Neuer referred to Mr. Grygiel’s report regarding the deck materials and asked Ms. Ehrlich what materials will be used on the deck. Ms. Ehrlich detailed the materials to be used.

There were no further questions for the Ehrlich’s from the Board or its Professionals.

Chairwoman Gabry asked if any members of the public had any questions for the Ehrlich’s; there were none.

Chairwoman Gabry closed the hearing.

Chairwoman Gabry suggested that the Board approve this application with the condition that the applicant use a licensed contractor and use the deck materials that were as stated in Ms. Ehrlich’s testimony.

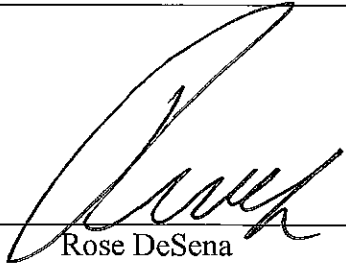
Mr. Steinhart seconded the motion to approve.

The vote was as follows:

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

The meeting was adjourned by Chairwoman Gabry at 9:48 pm.

Adopted: June 19, 2014


Rose DeSena
Zoning Board Secretary

6/20/14