

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MEETING MINUTES
September 4, 2019**

The Township of West Orange Planning Board held a regular meeting on September 4, 2019, at 7:30 P.M. in the Council Chamber, 66 Main Street, West Orange, New Jersey.

Chairman Weston called the meeting to order at approximately 7:35 P.M. He announced that notification of the meeting was given to the Township Clerk, and posted on the Township Bulletin Board, sent to the West Orange Chronicle and the Star Ledger, and posted on the Township's website calendar. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 P.M.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS

The next Planning Board regular meeting will be October 2, 2019 in the Council Chamber at 7:30 P.M.

ROLL CALL

PRESENT: Robert Bagoff
Vice Chairman John Cardoza
Everett M. Johnson
Captain Michael Keigher
Lee Klein
Councilwoman Susan McCartney
Andrew Trenk
Gary Wegner
Chairman Ron Weston
Tammy Williams
William Wilkes II

ABSENT: None

ALSO PRESENT: Paul Grygiel, AICP, PP, Township Planner
John Hess, PE, PP, CME, CME Associates, Board Consulting Engineer
Patrick J. Dwyer, Esq., Board Attorney
Robin Miller, Board Secretary
Harvey Grossman, Esq., Public Advocate

ADOPT MINUTES

The minutes of the August 7, 2019 Planning Board special meeting were unanimously adopted.

SWEARING IN

Township Professionals:

Paul Grygiel, AICP, PP, Township Planner

John Hess, PE, PP, CME, CME Associates, Board Consulting Engineer

RESOLUTION(S)

None

APPLICATION(S)

PB-19-03/Zufall Health Center, Inc.

Block: 88; Lots: 29 & 31 Zone: OB-2

43-45 Mount Pleasant Avenue & 47-49 Mt. Pleasant Avenue

Preliminary and Final Major Site Plan with “c” Variances and Lot Consolidation.

EXHIBITS:

A-1: Architect rendering – PBA301

A-2: PB302

DISCUSSION:

Richard Schkolnick, Esq., appeared on behalf of applicant. States it is a new facility. Waivers and variances requested. 1500 square feet in total

Johnathan Drill – represents 80 Main Street

Mr. Schkolnick spoke of enchantments to storm water

Eva Turnbiner, President & CEO of Zufall.

Described Zufall as an independent 501C, consumer owned organization. Founded in 1990 as a free clinic. Receives a grant every year from the federal government.

Chairman Weston requested summary related to property.

Ms. Turnbiner states it is a family doctor. Not a hospital or doctor’s office. Serve 4,000 patients in WO. Promote healthy lifestyle for patients. Dental services. Pre-natal program. Walkable and accessible for clients. 8 medical exams rooms, 4 dental exam rooms. Staff numbers 17. Maximum number of staff would be 25. Back office and financial management would not be on-site. Garbage collection not out of the ordinary. Parking would be for staff that all drive own cars, and clients use public transportation.

Chairman Weston stated traffic testimony should be done by expert.

Board Questions:

Mr. Wilkes asked would there be emergency vehicles/ambulance to pick up patient

Ms. Turnbiner says not typical.

Mr. Keigher asked a about a bus stop on east side of Mt. Pleasant

Jonathan Drill asked what percentage of clients are seniors; Ms. Turnbiner responded under 5%.

Further Testimony:

Thomas Quinn, civil engineer, provided testimony regarding what is being proposed.

Mr. Hess – concerns re: handicap parking signage. Need additional protection. Increase system by 50%. Treat 34 ½ percent, reduce runoff.

Chairman Weston -condition. Provide drainage calculation. Combined change in slope. Location of detention system. Not an infiltration system. Clay/impervious material. Underground system. Separate grids. Stay out of storm system. Storm tank. Record operation and maintenance manual. County approval required. 1400 cubic feet to storm water reduction. Reduce runoff from site, good neighbor. Testimony concluded

Board questions:

Mr. Klein asked about the cross slope of parking lot – 5% is on cat-corner. 5% or less. Impervious material

Councilwoman McCartney asked about a curb cut on Mt. Pleasant

Chairman Weston asked about a ramp in rear

Mr. Drill asked about using a storm tank system, stating it is easier to maintain.

Chairman Weston concluded testimony. Board makes determination.

8:55 5 minute break.

Reconvened at 9:04.

Mrs. Williams left the dais at 8:55 returned at 9:47 PM

Mr. Quinn recalled for a question from Mr. Drill asking for a clarification on improvement and to redesign outpost structure.

Further Testimony:

Elizabeth Dolan, traffic engineer, site issues and parking variances, traffic impact analysis, Zufall's operations, trip generations, peak volume hours, third floor administrative space, and number of trips. Adding that not all drive, 54% of patients do not drive. Also discussing the CME 7/25 review letter, level of service, traffic volume on Mt. Pleasant being higher in AM hours, and parking spaces being assigned to employees only.

Board questions:

Mr. Johnson

Asked about numbers of employees;

Ms. Dolan stated 25 employees max, but 20 to 21. Also saying there will be 18 spaces for patients. Fourteen rooms inside serving 2-3 patients per hour. Solicit more seniors. Parking variance would apply to this use. Medical office

Captain Keigher – asked about an east bound bus for pedestrian safety

Mr. Drill, asked how many spaces required;

Ms. Dolan stated 49 total: 18 spaces for patients; distribution 3 cars expected throughout the day; and a maximum of 163 patients per day

Mr. Klein asked about an enclosure in front, gas meters, and a transformer, and that it wraps around two sides.

Dr. Bagoff asked about an emergency standby generator, and screening on the roof.

Councilwoman McCartney asked about roof color and trees, and other green features – Ms. Dolan referred to Sheet A102

Chairman Weston spoke of sustainability – LEED checklist – Design guidelines for downtown district. Concern about materials and colors. Some consideration regarding pre-fab. Some consideration regarding pre cast form. Color sympathetic to surrounding area. Fair amount of brick downtown. Concern regarding materials. Further consideration to design materials.

Mr. Grygiel – referring to A201 and the issue of a three story high metal artwork. Considered a sign. Change and call a mural/artwork

Questions from Board:

Councilwoman McCartney spoke of disturbingly steep slope, and balancing the site along old common lot line.

Mr. Drill had no objection to parking variance

No further testimony.

No Public comment.

The Board deliberated the following: Increasing storm water management; issue with use and size of building for the site; applicant will present final material selections per Downtown guidelines; planting trees offsite; compliance with Mr. Hess; issue with artwork review–no signage; using a light colored roof; LEED list; obtaining a letter from the fire chief letter; storm water maintenance plan –

Conditions:

1. The Applicant shall comply with all applicable Township, County and State laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local and state approvals and/or permits.
2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The Applicant shall pay all outstanding taxes, application fees, technical review fees, inspection fees and performance guarantees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or Applicant shall be subject to all appropriate remedies for failure to comply with this condition.
5. The parking variance shall be a temporary variance which is granted for the specific medical use (not the user) as proposed by Zufall Health Center, LLC during the hearing. The use as proposed by Zufall is a medical care facility providing medical, dental and counseling services to low income persons. The parking variance shall expire and become null and void upon the cessation of the use as described above. New Jersey courts have long recognized the authority of a board to grant temporary approvals. In Houdaille Const. Materials v. Tewksbury Board of Adj., 92 N.J. Super. 293, 303-304 (App. Div. 1966), the court upheld a limitation on the duration of a conditional use approval for an industrial operation to 5 years to coincide with the term of the applicant's lease to use the property. In a similar vein, the court in Wilson Coalition v. Mayor and Council of Summit, 245 N.J. Super. 616, 617-618 (Law Div. 1990), noted that the Summit Board of Adjustment had granted temporary use variances to the applicant to coincide with the terms of a lease the applicant had entered into with a tenant. In upholding the trial court's reversal of a board's denial of a use variance to permit parking on the property containing another use – a gas station – the court in Bell Atlantic v. Riverdale Zoning Board of Adj., 352 N.J. Super. 407, 412-413 (App. Div. 2002) commented that the use variance would be for a limited time period – 7 years – which would provide assurance that the proposed parking use would not expand or last forever. See, Cox & Koenig, New Jersey Zoning & Land Use Administration (Gann 2019), section 28-2.1, page 602 (citing Bell Atlantic). In the event the premises are to be used for a materially different purpose the owner will be required to return to the Planning Board (or Zoning Board) for further approval.

6. In connection with the proposed storm water drainage system:

(i) Applicant shall revise and submit to the Planning Board Engineer for review and approval the drainage calculations to model the pervious and impervious coverages as a combined Curve Number (CN), rather than a composite CN, per NJDEP Stormwater Best Management Practices. Route the offsite drainage through the stormwater management system.

(ii) Revise the stormwater system to increase the size of the basin from 1,400 cf to 2,100 cf (a 50% increase in size). Re-design the outflow structure to fully utilize the additional storage being provided by the 2,100 cf basin.

(iii) Add a trench drain to the end of the driveway to eliminate flow across the sidewalk and into the street.

(iv) Review the location of the underground detention system at the easterly property line for mounding issues which could cause water seepage or slope failure and report findings to the Planning Board Engineer for review and approval.

(v) Replace the "Rain Store" system with a "Storm Tank" system which does not require a pre-filter and submit revised plans to the Planning Board Engineer for review and approval.

(vi) Prepare and submit to the Planning Board Engineer for review and approval an Operations and Maintenance Manual ("O&M Manual") for the underground detention system. Upon approval of the Planning Board Engineer and the Township Attorney, record the O&M Manual as a deed restriction for the property.

(vii) Revise the drainage details and outlet structure shown on the plans to reflect the revised stormwater management system as required by the above conditions.

(viii) Approval of the stormwater management system shall also be subject to County review and approvals.

(ix) Provide courtesy copies to Municipal Square Associates, Attention of Lawrence K. Drill, Agent, of all submissions made to the Planning Board Engineer and Township Attorney.

7. The roof of the structure shall be light in color so as not to absorb heat.

8. The exterior façade of the building shall be in a color or colors subject to the review and approval of the Board Planner.

9. Applicant to comply with the review letter from John Hess, PE of CME Associates dated July 26, 2019 (attached) as follows:

Section D1 Applicant agrees to restrict 4 parking spaces closest to the Mt. Pleasant exit for employee parking only;

Section D2 No additional handicapped parking needed. Applicant’s patients utilize Medicaid transportation and Applicant testified that they have not had a need for more handicapped parking at their present location.

Section D3 Suggested change not needed. Mr. Quinn testified the project would not impact the basement wall of the adjoining dwelling.

Section D4 Applicant contends it would be impossible to save trees on the site due to site constraints.

Section D5 Applicant testified that the 9’ x 18’ trash enclosure would enclose a 3 cubic yard dumpster which would be more than enough capacity for the facility.

Sections D6-D9 Applicant will comply.

10. Applicant to plant 15 replacement trees offsite in a location determined by the Township Planner.

11. Applicant to designate 4 parking spaces adjacent to the driveway entrance to Mt. Pleasant Avenue as “Employee Parking Only.”

12. The emergency generator on the roof shall be screened as approved by the Township Planer.

13. The exterior artwork feature on the façade of the building shall contain no lettering or signage.

14. Applicant to provide an engineer’ certification regarding the stability of all retaining walls above 4’.

15. Applicant to install one “No Overflow Parking Allowed at 80 Main Street” sign on the premises.

*The lots shall be consolidated by deed subject to the prior review and approval of the Board Attorney.

The Board voted on the Application as follows:

Motion: Chairman Weston

Second: Dr. Bagoff

Bagoff:	Yes	Wegner:	Yes
Cardoza:	Yes	Wilkes:	Yes
Keigher:	Yes	Williams (Alt #1):	
Klein:	Yes	Johnson (Alt #2):	
McCartney:	Yes	Weston:	Yes
Trenk:	Yes		

MEETING ADJOURNED at approximately 10:33 P.M.

Minutes adopted November 6, 2019.