

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MINUTES
November 9, 2011**

The Township of West Orange Planning Board held a regular meeting on November 9, 2011 at 8:00 P.M., in Council Chambers, 66 Main Street.

Chairman Bagoff 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 January 13, 2011 in accordance with the requirements of the "Open Public Meetings Act".

PRESENT: Chairman Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Lee Klein, Councilwoman Susan McCartney, Ron Weston

ABSENT: Vice Chairman Ben Heller, Jason Lester, William Wilkes

ALSO PRESENT: Susan Borg, AICP, PP, AIA, Planning Director
Debbie Dillon Audio Transcription Service, LLC
Patrick Dwyer, Esq., Board Attorney
Robin Miller, Board Secretary

ROLL CALL

Chairman Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Jason Lester, Councilwoman Susan McCartney, Ron Weston, William Wilkes.

ADOPT MINUTES

The minutes of the October 5, 2011 Planning Board meeting were unanimously adopted.

ANNOUNCEMENTS

The next regular Planning Board meeting will be held on December 7, 2011 in Council Chambers at 8:00 P.M.

SWEARING IN

Director Borg was sworn in.

ADOPTION OF MEETING DATES FOR 2012

Motion: Chairman Bagoff

Second: Mr. Gurland

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

APPLICATION

PB-11-04/John Galante

Block: 177.5; Lot: 6; Zone: R-5
739 Eagle Rock Avenue
Minor subdivision with six (6) variances.

EXHIBIT

PA-1 Minor Subdivision Map

DISCUSSION

Steven Greenberg Esq. introduced himself as attorney for the applicant. Mr. Greenberg said the Applicant was seeking to subdivide an irregular shaped parcel in to two lots. The lots are separate on the tax map. Lot 5 fronts Eagle Rock Avenue and has an existing single family home. The applicant seeks to subdivide the vacant lot property that fronts Valley View Street and build a single-family house. Present ordinance requires minimum lot width of 75 feet. The frontage on Lot 5 already exists with non-conforming size. The applicant proposes to subdivide with six (6) "C" variances.

Mr. Greenberg introduced his first witness, Mark E.V. Daniels, PE. Mr. Daniels was sworn in. The Board accepted Mr. Daniels as an expert witness as a licensed planner.

Mr. Greenberg asked Mr. Daniels if he had the opportunity to visit the property. Mr. Daniels said that he had visited the property. Mr. Daniels said there was an existing home on Lot 5 with 50 feet frontage on Eagle Rock Avenue and driveway access on Valley View Street. Lot 6 had frontage on Valley View Street. Mr. Daniels said both lots had non-conforming side-yard setback issues. Mr. Daniels said the neighborhood was a mixture of architectural styles, including Cape Cods, split-levels, and older home styles not currently shown in the builder's catalogs. Mr. Daniels said the neighborhood was very well kept; the only unkempt lot was the one belonging to the applicant. Mr. Daniels said the minor sub-division would be conforming to the neighborhood.

Mr. Greenberg asked Mr. Daniels if he believed this sub-division would be of benefit to the neighborhood. Mr. Daniels said he believed the neighborhood would look better with a new home and kept yard.

Chairman Bagoff asked the Board if they had questions for Mr. Daniels.

Mr. Eben stated the property rises and then levels off. Mr. Eben wanted to know how would the garage work. Mr. Greenberg said that the architect would discuss the specific site details.

Mr. Weston asked to have the width of the lots calculated. Mr. Daniels did not do a calculation, but said that all the lots on Wakeman Street were 50 feet lots; on Valley View Street there were three properties that appeared to conform to the current standards. The properties had a mix of conforming, somewhat conforming, and some deficient lot sizes.

Mr. Weston asked if the positive/negative criteria had been satisfied. Mr. Daniels said

that the parcel is the last on the block. It was created before the current ordinance standards. It was not identified as being on Eagle Rock Avenue. Lot 6 is "L"- shaped to Lot 5.

Mr. Daniels said that the positive criteria was that the un-maintained lot would become developed as opposed to being an eyesore. Negative criteria would be that the subdivision would not necessitate creating any new roads, it would not be upsetting or setting a precedent to developers. The subdivision would essentially recreate Lot 6.

Mr. Greenberg asked Mr. Daniels if it would be better planning to separate the lots and make them rectangular in shape. Mr. Daniels said the lots looked to be trapezoid in shape, not rectangular.

Discussing the height of the proposed house, Mr. Weston said that the code is 35 feet; he suggested that since the surrounding homes were two stories, the height of the new building could not be any taller than 30 feet. Mr. Daniels said that architect's planned height was less than 30 feet.

Mr. Weston said that the side yards had 10 feet on one side; the site plan states 8 feet setback. If the Board were to grant approval, would it not be better to put the 10 feet setback near the neighbor's house. Would it not be more beneficial to the neighbor on Lot 7 to have larger side yard. Director Borg said that she made the recommendation for an extensive landscaping buffer because the layout was not like a traditional subdivision.

Mr. Greenberg said that the property was on two merged lots and was being taxed as two lots. The lots were bought under one deed. Director Borg said that the zoning had not changed since the applicant bought the property.

Mr. Gurland asked if any neighbors had made comments regarding the plan. Chairman Bagoff said that the public would have the opportunity to ask questions.

There were no further questions for Mr. Daniels from the Board.

Harvey Grossman, Esq., Public Advocate, referred to the minor subdivision map - Exhibit PA-1. Mr. Grossman stated that the Exhibit was conceptually Lot 5 on Valley View Street. Mr. Daniels said he did not prepare the document but did review it. Mr. Grossman asked if Lot 5 fronted Valley View Street. Mr. Daniels said that no, Lot 5 fronted Eagle Rock Avenue. Mr. Grossman stated that Lot 6 is the lot with the proposed structure. He asked if Lot 6 fronts Valley View Street; and in connection with the application, would the barbeque structure be removed. Mr. Daniels said that the barbeque would be removed and a new driveway would be coming in.

Chairman Bagoff asked if there were any questions from the public.

Wendy Finerty, 6 Valley View Street, West Orange. Ms. Finerty identified herself as the owner of Lot 7, the property adjacent to the proposed sub-division. Ms. Finerty said that she had looked at the application; the new lot would be forty-percent smaller than the other lots in the neighborhood. Ms. Finerty wanted to know the size of the new house and its distance from her property. Ms. Finerty stated that there were five homes on Valley View Street; all those homes met the required 75 feet minimum lot width. Ms.

Finerty said that all the homes on Valley View Street were raised-ranch style. She wanted to know what she was up against.

Mr. Weston asked Mr. Daniels to confirm that all the homes on Valley View Street had conforming 75 feet minimum lot width. Mr. Daniels answered that the homes on Valley View Street did conform to 75 feet minimum lot width.

Mrs. Finerty said that she has questions for the architect. Director Borg said that Mr. Daniels should be able to answer Ms. Finerty's question regarding lot coverage. Mr. Daniels said that according to the architect's schematics, there is nothing indicated that violated the current ordinance.

The public had were no further questions for Mr. Daniels.

Mr. Greenberg introduced Andrew Podberezniak, R.A., architect for the applicant. Mr. Podberezniak was sworn in. The Board accepted Mr. Podberezniak to be an expert witness.

Mr. Podberezniak described the proposed house to the Board. The design of the house would require two variances. He said it was a colonial style house roughly 2,400 square feet; that its design would fit in to the neighborhood. He said the house would be situated with a 30 feet front yard set back. The building materials used would be stone and stucco with a front porch to create a family feeling. Mr. Podberezniak described the proposed landscaping plan.

Chairman Bagoff asked the Board if they had any questions for Mr. Podberezniak.

Mr. Eben wanted to know what materials were to be used for the front façade. Mr. Eben stated that he was not sure that any of the existing shrubs would survive the construction phase; he said he wanted to see a snow fence in plans. Mr. Eben said he also wanted to see notes in the plans that would reference protecting the neighbor's property. Mr. Eben stated he was not sure a new driveway would work.

Mr. Ghebremicael wanted to know how many trees would be removed. Mr. Podberezniak said they would keep two evergreens. Mr. Ghebremicael said that as a condition of approval it would be important to supplement or replace buffering.

Mr. Weston stated that the plan shows a 30 feet front yard setback, but the house on Lot 7 has a 35 feet setback. Mr. Weston said would it not be better to have the proposed house not protrude more than the house at Lot 7. He said that a condition could be that the proposed house would have a 35 feet front yard setback. Mr. Weston also asked what were the types of materials of the surrounding houses. Mr. Podberezniak said the surrounding homes were vinyl and brick.

Mr. Greenberg asked Mr. Daniels if the proposed house were to be set back an additional five feet, would it be better planning, would it create a more desirable esthetic. Mr. Daniels said if the proposed house was not developed, the lot would remain the unkempt property on the block. Mr. Weston said that the condition of the property was not a planning issue.

Mr. Gurland asked about the square footage of the proposed house. Mr. Podbereznaik said it was approximately 2,400 square feet.

Mr. Klein wanted to know how the size of the proposed house would conform to the existing homes in the area. Mr. Klein said he visited the site and noticed there were three large holly bushes. He wanted to know if it would be possible to save the bushes; and would it be possible to retain any of the existing landscaping on Valley View Street after the house was built. Mr. Podberezniak said they would try to save the bushes.

Director Borg asked Mr. Podberezniak if the proposed house was going to be a one-car garage. She advised Mr. Podberezniak that there must be spaces for two cars. Director Borg asked if the surrounding homes had two-car garages.

Chairman Bagoff asked if there were any question from the Public Advocate.

Mr. Grossman asked Mr. Podberezniak if he believed that 2,400 square feet was an appropriate size for a four-bedroom house. Mr. Grossman wanted to know what portion of the house would be for cars; if the width of the front yard was 50 feet, what percentage would be for parking and what type of surface material would be used for the parking area; asphalt, concrete, pavers or gravel. Mr. Grossman asked if the plans depicted the driveway.

Chairman Bagoff asked if there were any questions from the public.

Wendy Finerty, 6 Valley View Street, West Orange, New Jersey. Ms. Finerty wanted to know if there was a variance for a house that would cover one-third of the block. She said that the proposed house would be 20% bigger than existing homes, on a lot that would be 40% smaller than existing lots on the street. She wanted to know where the house would be situated relative to her house. Mrs. Finerty said that all the houses on Valley View Street were built in 1983; the proposed house does not conform to the style of raised ranches made of brick and wood. The proposed home should be in keeping with the homes on Valley View Street. Additionally, Ms. Finerty said that the property was not an eyesore; Mr. Galante maintained the lot.

Mr. Weston said that Mrs. Finerty stated the proposed house would be bigger than her smaller home on a larger lot. Mr. Weston wanted to know if her statement was correct; was the proposed house going to be bigger. Mr. Weston asked Mr. Daniels if he had measured the surrounding homes. Mr. Daniels said that he had not measured the surrounding homes. Mr. Weston asked if it was Mr. Daniels sense that the proposed house would be larger than the surrounding homes; Mr. Daniels said no he did not believe it would be larger, that the area was an architectural mixture of styles and lot sizes.

Mr. Klein asked if there were any other lots on Valley View Street with 50 feet width, and if any other homes on Valley View Street had single car garages. He also wanted to know if the existing homes and the proposed home were in proportion with each other; if not, then how could it be designed to better fit in to the surrounding neighborhood.

Mr. Eben discussed re-configuring the house plan to make it better fit the new lot. He

said that Valley View has conforming lots. The proposed lot would be non-conforming. Mr. Eben said he had real problems with the lot width being only 50 feet when all other lots were 75 feet. He said that the appearance of the lot should be uniform. He suggested moving the subdivision line 10 feet to the south for more frontage.

The Board discussed struggling with the application as presented; the expert witness's testimony was not convincing; the plan should be re-configured. Board members voiced concerns with the width of the proposed house and the frontage.

Chairman Bagoff told Mr. Greenberg that the Board had concerns as to the proofs for the variances of the application. Concerns were voiced by the members of the Board, the Public Advocate and the public.

It is the option of the applicant to review the concerns and modify the application as they see fit or ask for a vote by the Board at this time. Mr. Greenberg after consulting with the applicant asked that the application be carried to a subsequent meeting. It is the applicant's intention to review the discussion of the Board and see if they can incorporate some of the modifications that the Board suggested and add proofs for the variances. Chairman Bagoff after consulting the Board ordered the application carried to the January 4, 2012 meeting.

Chairman Bagoff called for a short recess at 9:31 P.M.

Note for the record: Mr. Ghebremicael left the meeting at 9:35 P.M.

Chairman Bagoff reconvened the meeting at 9:39 P.M.

Chairman Bagoff spoke to the Board about invitations to events sponsored by professional firms. Chairman Bagoff said Township Attorney, Richard Trenk, had analyzed the extent to which Board members may accept benefits, gifts or attend events sponsored by professional firms. Mr. Trenk advised that generally it was advisable that no gifts in excess of \$25.00 ever be accepted by a local government official. Chairman Bagoff said that Board members should not close themselves off to attending events, but if they had any questions regarding propriety, it was for the good of the Township that they contact Mr. Dwyer.

DISCUSSION

Revising Chapter 25 Land Use Regulations

Chairman Bagoff told the Board that he would like to spend about one-half hour discussing the revisions to Chapter 25 that had been prepared by the Township of West Orange Zoning Ordinance Review Committee (ZORC).

Director Borg said the ZORC Committee had spent about eight months reviewing the document. It will go to the Council for first reading.

Director Borg said that the direction given to the committee by the Mayor was to make the ordinance more "user-friendly". Director Borg highlighted three major changes in the ordinance:

1. Height definition. The Township has always had a very conservative definition; current ordinance for the height of a building is the measurement from its highest elevation to the lowest elevation of the land immediately adjacent to the building. The elevation of the land shall be determined by the topography.

The new draft version changes the language to read the height of a building shall mean the vertical distance measured from the mean elevation of the finished grade adjacent to the building foundation to the highest point of the roof.

2. Technical Review Applications. Current ordinance requires the Technical Review Committee review all applications where any proposed renovations exceed twenty five thousand dollars (\$25,000.00).

The new draft version changes the amount to renovations that exceed one hundred thousand dollars (\$100,000.00).

3. Mixed Use and Multiple Principal Use on one lot. Current ordinance states that more than one (1) principal use requires a hearing before the Zoning Board of Adjustment for "D" variance.

The new draft permits mixed use and multiple principal use in the B-1, B-2, P-C, O-R and I Districts.

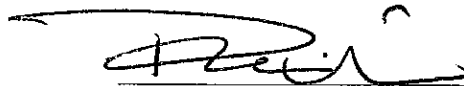
Director Borg said that other changes included moving the Tree Ordinance to Chapter 25.

Director Borg said that archaic words such as "cellar" will be struck and the word "basement" will be used.

Chairman Bagoff told the Board that they should review the draft of the proposed revisions to Chapter 25 and email Director Borg with any questions; the Board will discuss any questions at the next Planning Board meeting.

MEETING ADJOURNED at approximately 10:26 P.M.

Minutes adopted December 7, 2011



Robin Miller, Planning Board Secretary

****THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE
JANUARY 4, 2012 AT 8:00 P.M. IN COUNCIL CHAMBERS ****