

**MINUTES**  
**TOWNSHIP OF WEST ORANGE**  
**ZONING BOARD OF ADJUSTMENT**  
**MEETING**  
**July 14, 2011**

The West Orange Zoning Board of Adjustment held a regular meeting on July 14, 2011 at 8:00 PM at 66 Main Street, West Orange, NJ in Council Chambers.

Chairman Bruce Buechler called the meeting to order at approximately 8:03 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 December 17, 2010 in accordance with the "Open Public Meetings Act."

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

PRESENT: Bruce Buechler, Gregory Bullock (8:08pm),  
Deborah Gabry, Philip Neuer, Bart Quentzel (8:08pm),  
William Steinhart, Mark Sussman (8:06pm),  
Alice Weiss

ABSENT:

ALSO PRESENT: Susan Borg, A.I.C.P., P.P., A.I.A.  
Eric Heller, Consulting Engineer  
Harvey Grossman, Public Advocate  
Board Attorney: Alice Beirne, Esq.  
Board Secretary, Rose DeSena

**ANNOUNCEMENT OF FUTURE MEETING DATES**

Future Meetings: June 16, 2011 (Regular Meeting) - 8:00 P.M.  
July 14, 2011 (Regular Meeting) - 8:00 P.M.  
August 18, 2011 (Regular Meeting) – 8:00 P.M.  
September 22, 2011 (Regular Meeting) – 8:00 P.M.

Mayor Parisi has appointed Deborah Gabry as a regular member of the Zoning Board effective immediately. Her appointment will continue until June 30, 2015.

**MINUTES**

Adopt Minutes: June 16, 2011 Regular Meeting

Mr. Neuer made a motion to adopt the minutes from the June 16, 2011 meeting and Mr. Sussman seconded. All were in favor.

The minutes of the regular Zoning Board meeting of June 16, 2011 were adopted unanimously.

**REORGANIZATION:**

A motion to appoint Mr. Neuer as the Chairman was made by Mr. Buechler and seconded by Mr. Steinhart and voted upon all to none.

A motion to appoint Ms. Gabry as the Vice Chairman was made by Mr. Buechler and seconded by Mr. Neuer and voted upon all to none.

A motion to re-appoint Rose DeSena as the Board Secretary was made by Mr. Neuer and seconded by Mr. Buechler and voted upon all to none.

A motion to re-appoint Alice Beirne as the Board Attorney was made by Mr. Neuer and seconded by Mr. Steinhart and voted upon all to none.

A motion to re-appoint Debbie Dillon as the Board Transcriber was made by Mr. Neuer and seconded by Ms. Gabry and voted upon all to none.

**SWEARING IN**

Planning Director Susan Borg and Township Consulting Engineer, Eric Keller, were sworn under oath.

**DISCUSSION:**

**RE: Cambria Suites Hotel /ZB-10-15A**

Donna Erem, attorney for the applicant, approached the podium. She explained that the applicant wanted an extension, until December 30, 2011, to file the subdivision deed. She stated that they were dealing with a large lender and they are moving along but not in control. She stated that the applicant applied for the County permits and all other permits and they have no problem providing monthly updates for the Board on the deed issue.

Chairman Neuer asked if the County permits were submitted and Ms. Erem stated she submitted them to Eric Keller. Susan Borg stated that she usually gets them and Chairman Neuer asked Mr. Keller to give them to Ms. Borg.

Chairman Neuer stated that since they haven't completed the sub-divisions, title hasn't been closed.

Richard Mielbye approached the podium and was sworn in. He explained that the reason for said issue is because they are doing a land swap with the adjoining landowner.

Mr. Buechler stated that the last time they were before the Board they wanted the application to be approved then because it was do or die. They claimed that the title had to be closed right away, so why should the Board believe them now. Mr. Mielbye said that the deal fell apart because there was a problem with the deeds. Chairman Neuer said

what concerns him is that part of the land is owned by their neighbor and the Board was not aware of that.

Mr. Buechler asked why it was taking so long to get lender approval to permit the deeds to be filed and Mr. Meilbye stated that they didn't know there was a signature problem from 2007.

Chairman Neuer explained to the Board, when Ms. Weiss asked for an explanation in layman's terms, that it required a land swap. He stated that the company that owns the land is having a signature problem and that the lender won't sign because of the signature issue.

Ms. Weiss stated that Cambria shouldn't be penalized for this and to grant their extension.

Mr. Buechler stated that the legal issue is can the Board amend the condition of approval without an application being filed.

Mr. Bullock said he has the same level of discomfort Mr. Buechler has and asked what piece of property is it. Mr. Meilbye stated it's the sliver that goes into Executive Drive from lot 40.02 to the hotel lot

Chairman Neuer asked why the 6000 feet was so important to the application and Ms. Erem stated that they needed it to square off the property for parking.

Mr. Buechler wanted to discuss if re-submission of the application or noticing is required. Ms. Erem stated that this is not something that would impact the application and it should not require formal notice. She stated that the approvals were already given and they just wanted an extension of time to file the deed.

Ms. Erem claimed that any approvals given to them are extended to 2012 according to the Extension Act. Chairman Neuer stated this does not apply to the satisfaction of conditions.

Ms. Erem stated that she only notified the Board as courtesy and Chairman Neuer stated that they are technically only asking for forgiveness; not permission.

Chairman Neuer asked what if the lender doesn't give their approval and Ms. Erem said they will come back to the Board with a new application for a different hotel or ask for 5 or 6 less parking spaces.

Chairman Neuer stated the Board cannot leave this open until the end of December. Mr. Meilbye said they are only asking for a couple of months. Eric Keller stated that they still need permits and they haven't satisfied all of the conditions.

Chairman Neuer stated that if they amend the site plan they will have to come back with a new application.

Mr. Bullock recommended they keep it on a tight leash and made a motion to grant no more than 90 days and if it was not resolved by that time, they would have to reapply.

Mr. Buechler stated that this is an applicant that worked on this two plus years and claimed they had to have approval right away and the Board accommodated them. He

stated that there will be no further relief from the 90 days and seconded Mr. Bullock's motion.

Chairman Neuer stated that they did not require re-notice.

Ms. Gabry asked if there was a possibility Cambria will break the deal. Mr. Mielbey stated that there is always that chance until they close.

Chairman Neuer stated that the Board will grant them a 90 day extension which includes monthly reports to the Board. He also stated that they should not wait until the 90 days expire to notify the Board if there is a problem.

Vote was as follows:

Bullock:	Yes	Steinhart:	Recused
Gabry:	Yes	Sussman:	Yes
Chairman Neuer:	Yes	Weiss:	No
Quentzel:	Yes	Buechler:	Yes

**RESOLUTIONS**

**ZB-11-06/Daughters of Israel**

**Application approved 6/16/11**

Block: 171 Lot: 12 Zone: R-2

1155 Pleasant Valley Way

Seeking to replace the sign at the foot of the driveway

Chairman Neuer stated he had made some revisions and asked the Board secretary if everyone received them.

Mr. Buechler asked Ms. Borg if everything was satisfied before the Board approves the resolution. Ms. Borg stated that they were and that the trailer was supposedly gone.

Susan Grosser, Executive Director for the Daughters of Israel, was sworn in and stated that the trailer was gone.

Mr. Quentzel asked if the construction sign was gone and Ms. Grosser replied it was.

A motion was made by Mr. Buechler to adopt the resolution. Ms. Weiss seconded and the vote was as follows:

Bullock:	-	Steinhart:	Yes
Gabry:	-	Sussman:	-
Chairman Neuer:	Yes	Weiss:	Yes
Quentzel:	Yes	Buechler:	Yes

**ZB-11-01/Patin**

Block: 165.02 Lot: 5 Zone: R-4

6 Dogwood Road

Seeking "C" variance for an undersized lot to construct a single family dwelling

Application was denied without prejudice.

Ms. Weiss made a motion to adopt the resolution. Mr. Buechler seconded and the vote was as follows:

Bullock:	-	Steinhart:	Yes
Gabry:	-	Sussman:	-
Chairman Neuer:	Yes	Weiss:	Yes
Quentzel:	Yes	Buechler:	Yes

**APPLICATIONS**

**ZB-10-18/ Mt. Pleasant Avenue Assoc., LLC      Carried from 5/19/11**

Block: 170; Lot: 15.05 Zone: R-1

617 Mt. Pleasant Avenue

Seeking two (2) "D" variances for use and height and three (3) "C" variances for parking, steep slope and side yard for removing a house and building a new veterinary facility.

**EXHIBITS**

A-1 Photo Board & Survey

A-2 Photo Board & Survey

A-3 Photo Board & Survey

A-4 Photo Board and Survey

A-5 Exterior Elevations

A-6 Exterior Elevations

A-7 Site Plan

A-8 First Floor Plan

A-9 Basement Floor Plan

A-10 Traffic Report dated 2/28/11 Staigar & Perogoy LLC

A-11 Planner's Report dated 3/31/11 Peter G. Steck

**DISCUSSION**

Mr. Howard Davis, Attorney for the applicant, approached the podium and explained the applicant is seeking a use variance. Chairman Neuer asked if Mr. Davis was past the fact that this is not a hospital and Mr. Davis replied yes but he was just accepting it and not agreeing to it.

Mr. Davis called his first witness, Dr. Doris Cappiello. Dr. Cappiello approached the podium and sworn in. She stated she was a veterinarian and the owner of the Prospect Ridge Veterinarian Hospital on Prospect Avenue since 1992. She also stated that she is

the principal applicant. Dr. Cappiello stated her professional and educational background and that she lived in West Orange all of her life.

Dr. Cappiello went on to explain that her current facility does not serve her needs and is a substandard facility. She stated that she only has outdoor runs now and wants indoor ones and she has many other ways that she can improve her services to her clients.

Dr. Cappiello stated that The Animal Hospital Association of America certifies animal hospitals and she does not qualify at this location to be part of the Association. She said that pet owners have to go outside of West Orange to hospitalize animals over 120 pounds because she cannot hospitalize them at her present facility. Dr. Cappiello also stated that she has been looking for a new facility since 1992 and the proposed site is something she would own in an appropriate location.

Mr. Davis presented photos to the Board. Chairman Neuer asked Dr. Cappiello if she took all of the photos and she replied yes that they were taken in the summer or fall of 2010. He also asked if they accurately depict the property at that time and she replied yes. Chairman Neuer asked Ms. Dillon to mark them and enter them as exhibits. Dr. Cappiello went on to describe the photos. Chairman Neuer clarified that Dr. Cappiello does not own the property yet; she is under contract to buy it.

Mr. Buechler questioned site plan approval and Chairman Neuer stated they are not asking for site plan approval at this time. He also said that the photos they are looking at now are not applicable for the use variance that they are asking for. Mr. Davis stated that they were asked to submit photos of the site and they did. Chairman Neuer stated that the application in front of them asks for site plan approval because it was checked it off. He stated that if they want to amend the application they have to ask for it. Mr. Davis stated that he previously submitted a letter to Ms. Borg, explaining that they wanted the application bifurcated. Mr. Davis asked that the application be amended for only a use variance. Chairman Neuer stated, for the record, the application is amended and for only a use variance. He also stated that if the Board approves this then the applicant will come back to apply for the other variances.

Mr. Buechler stated that they are only dealing with the present lot and if they come back with a site plan for the adjoining lot, then they will need a use variance for the other lot also. Mr. Davis said they understood that.

Ms. Gabry pointed out that there was an affidavit in the application package stating that the closing on the property is contingent on the approval of the application. Chairman Neuer instructed the Board to address the bifurcated application for the use variance to use this property as a veterinarian hospital.

Mr. Davis asked Dr. Cappiello what services she will perform there. She stated that she will do whatever she does now with a bigger and better facility. Mr. Davis asked if she will board animals there and she replied that she does that now. Dr. Cappiello stated that

she takes animals that no one else will take such as geriatric and sick animals. She said she currently has seven outdoor runs and this facility will allow her to have indoor runs.

Chairman Neuer stated that Dr. Cappiello has given them strong testimony about what she wants to do at this facility. He asked Dr. Cappiello how many of those facilities are currently in town. She replied that she thinks two others.

Ms. Borg stated that she wants to make sure there is adequate parking for this facility. Eric Keller stated that Peter Steck's report states adequate parking.

Mr. Davis asked Dr. Cappiello how many employees she has. She replied that there are three part time employees besides her. She also stated that there are no more than 4-5 people, including her, at one time. Chairman Neuer said to let the record reflect that if they approve, they will stipulate only one doctor on staff at one particular time.

Ms. Weiss asked why not just deal with the parking now and Chairman Neuer explained that it's just about the use now. Ms. Weiss also stated that she thinks it's a good place for the hospital and thinks it's unfair to say she cannot have another part time doctor.

Chairman Neuer asked if there will be any retail sale of items on premises and Dr. Cappiello replied she does not sell items unless they are for a prescription. She stated that she does all of her ordering online for that.

Chairman Neuer asked how many people Dr. Cappiello can see in an hour and she replied that she makes an appointment every fifteen minutes. He asked how many parking spots they have now and she stated that she shares 11-12 with another Doctor next to her. She continued to say that they have 13 at this proposed location. Mr. Buechler asked if the staff parks at these spaces and she said no, they park in the back where there are no spaces. She explained that they will have 4-5 staff members and 3-4 patients at one time so 13 spaces should be adequate.

Mr. Buechler asked if she gets deliveries and if so, what size trucks make the deliveries. Dr. Cappiello stated that she gets two deliveries a week; a UPS truck and a Hills food truck. Mr. Buechler asked where they currently park when they make the deliveries and she replied they park on Prospect Avenue. Mr. Buechler asked if they will be able to park at her new location and she replied that she didn't know.

Ms. Weiss asked Dr. Cappiello if she would double her practice if she moved to this location and she replied that she is expecting to quadruple her practice.

Mr. Neuer asked what her hours of operation were and Dr. Cappiello gave the Monday to Saturday schedule and stated they were closed on Sunday. She continued to say that she has staff that comes in on Sunday, three times a day, to check on the animals at different times. There were no more questions for Dr. Cappiello.

Chairman Neuer adjourned for a break at 9:18pm. Meeting resumed at 9:31pm.

For the record Mrs. Gaeta agreed to be carried over to the regular Zoning Board meeting on August 18<sup>th</sup> and placed second on the application agenda.

Mr. Davis called on Warren Freedenfeld as a witness. Mr. Freedenfeld approached the podium and was sworn in. Mr. Freedenfeld stated he was a licensed architect in the State of New Jersey and practices on both the East and West Coast. He also stated that he specializes in veterinary hospitals and has testified about 150 times in matters like this. Chairman Neuer questioned if they were the same scope and size as this one and Mr. Freedenfeld replied yes. Chairman Neuer accepted his qualifications as an expert in architecture.

Mr. Freedenfeld stated that he has been contracted to design the veterinarian hospital. Mr. Freedenfeld went on to describe the photos of the proposed veterinarian hospital that were entered as exhibits. Mr. Buechler asked if the reason the back of the building becomes two stories is because of the slope and Mr. Freedenfeld replied yes. Mr. Freedenfeld stated that from the front it's a one story and the second story would be an exposed basement because there is no land behind it.

Mr. Freedenfeld stated that the parking lot would be located in the front of the building and continued to describe the interior and exposed basement areas.

Mr. Buechler questioned if an elevator was required for ADA compliance and Mr. Freedenfeld stated that there is an exterior and interior stairway to get down there. Ms. Weiss asked him to consider making a ramp when they come back with the site plan. Chairman Neuer told them to please be prepared to address the ADA requirements when they come back for site plan approval.

Mr. Sussman asked what the ceiling height was and Mr. Freedenfeld replied 12'. Mr. Sussman asked what the height of the retaining wall was and Mr. Freedenfeld replied 19'. Mr. Sussman stated that when they come back for the site-plan they will also need a variance for the wall.

Ms. Gabry questioned if there will be grassy area under the arches and Mr. Freedenfeld replied yes.

Mr. Freedenfeld addressed the number of staff members that will be at the facility at one time, including the doctor. He testified that there would be a maximum of five (5) staff members plus six (6) clients which total eleven (11). He stated that they are providing thirteen (13) parking spaces which should be sufficient. There was discussion among the Board members about this number being accurate. Chairman Neuer stated that they will have to deal with the amount of people in the facility when they come back for site plan approval.

There were no more questions for Mr. Freedenfeld.



Mr. Davis called his next witness. Mr. Craig Peregoy approached the podium and was sworn in. Mr. Peregoy stated he was from the firm Steiger and Peregoy and a licenced civil engineer in the State of New Jersey. He has testified over 300 occasions as a traffic expert. Chairman Neuer accepted his qualifications.

Mr. Davis asked Mr. Peregoy if he prepared the traffic report in this application and he replied yes. Chairman Neuer asked that the report marked as exhibit A10.

Mr. Peregoy went on to describe what was in the report and what the worst case scenario would be with traffic.

Mr. Buechler asked, if you are going East on Mt. Pleasant Avenue, how far the site is from the recycling center. Mr. Peregoy replied it is approximately 500 feet and a quarter mile from the curve in the road. Mr. Buechler asked if he thought it was really safe to make a left hand turn all times of the day. Mr. Peregoy replied that it was because there is enough visibility to the right. Mr. Buechler questioned the flow of traffic and Mr. Peregoy replied that there are enough gaps in the traffic to safely make the turn. He continued to explain that his analysis counts for the continuous flow of traffic.

Mr. Bullock asked if they had pulled any accident data from this section of Mt. Pleasant Avenue and Mr. Peregoy replied no.

Chairman Neuer stated that on the site plan they will need to address egress and ingress.

Mr. Buechler stated that Dr. Cappiello stated she gets two deliveries a day and asked Mr. Peregoy if he thought a box truck can park on Mt. Pleasant Avenue safely. Mr. Peregoy replied no; they can pull in the lot. Mr. Buechler asked if a box truck can pull in the driveway to make their deliveries if cars are there and did he examine that at all. Mr. Peregoy replied he did not. Mr. Peregoy suggested the trucks would pull into a parking space when entering the lot. Mr. Buechler asked if they can do that safely and Mr. Peregoy replied yes.

Mr. Keller asked if there is a traffic signal on Summit St. and Mr. Peregoy stated it's a blinking light. Mr. Keller stated that Peter Steck's report refers to it as a signalized intersection.

There were no further questions for the witness.

Mr. Davis called his next witness. Peter Steck approached the podium and was sworn in. Mr. Steck stated he was a professional planner from Montclair. Chairman Neuer accepted his credentials.

Mr. Steck stated that he prepared the planners report with the application. Chairman Neuer asked to enter the report as exhibit A-11.

Mr. Steck described the property and the condition of the existing house on the property and stated that his opinion is that it must be torn down. He stated that the building they are proposing to build looks residential from the front.

Mr. Steck described what was in his report and stated that he felt the area, even though it was in an R-2 zone, could not be used for any residential use because of the wetlands. He also stated that there are no other houses near this property.

Mr. Steck explained they were seeking a "d" variance for use and another variance for height because of the rear slope.

Mr. Steck stated that this property is not suited for residential use because of the location and the cell tower near the property. Mr. Buechler stated that this Board would allow them build a house in the same footprint and doesn't think his analogy is right about it not being suitable for residential. Mr. Steck stated that he thinks it will never be part of a neighborhood because of the actions of the Municipality which allowed a cell tower to be built near this location.

Mr. Steck explained why the veterinarian hospital would conform and be a good use for this area. He quoted from a Township ordinance that stated this area was suitable for an animal shelter and said that the Municipality once thought this area was suitable for this use. Ms. Borg stated that this area was designated for a similar use, at one time, but was never approved for an animal shelter because of the neighbors.

Mr. Buechler stated Mr. Steck said the building looks residential from the front but asked how many houses have thirteen parking spaces in the front. He also pointed out all of the houses near the property had no such parking.

Chairman Neuer stated that, in his opinion, Mr. Steck's analogy of the residential look of this property is not his strongest argument.

Ms. Weiss stated that anyone who wants to be near the recycling center is a good thing and a good use.

Chairman Neuer stated he is in favor of granting the use variance but still has a lot of concerns. He stated that it is a good use for this site, which has been vacant for many years, and that it is providing a service to the Community. Chairman Neuer made a motion to approve this application subject to the applicant making a second application for the site plan for "c" and bulk variances.

Mr. Buechler recommended the following conditions:

- The Board's granting a "d" use variance is not preclusive for any other lot
- The Board's findings and testimony given on this application is not preclusive for any site plan application for the lot in issue or any other variances
- The proposed use for a veterinary hospital is not inherently beneficial

- All requests for site plan approval must be brought to this Board
- Nothing from this application is for any other “c” or “d” variance or for the other adjacent property

Mr. Buechler seconded to approve.

Mr. Bullock stated the use would be an improvement and is beneficial.

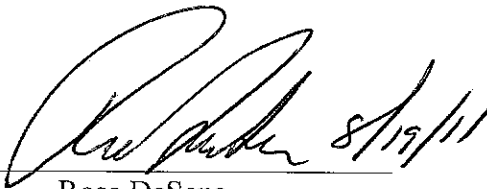
The vote was as follows:

Bullock:	Yes	Steinhart:	Yes
Gabry:	Yes	Sussman:	Yes
Chairman Neuer:	Yes	Weiss:	Yes
Quentzel:	-	Buechler:	Yes

**ADJOURNMENT**

The meeting was adjourned at 11:01 pm

July 14, 2011



Rose DeSena  
Zoning Board Secretary