

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
December 20, 2012**

The West Orange Zoning Board of Adjustment held a regular meeting on December 20, 2012 at 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Vice 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 29, 2011 in accordance with the "Open Public Meetings Act."

Vice 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, W. Merklinger, B. Quentzel (8:07),
W. Steinhart, M. Sussman, A. Weiss (8:05)

ABSENT: P. Neuer (excused absence)
G. Bullock (excused absence)
L. Zaolino (excused absence)

ALSO PRESENT: P. Grygiel, Consulting Planner/Acting Planning Director
Alice Beirne, Esq., Board Attorney.
Rose DeSena, Board Secretary
Harvey Grossman, Public Advocate

ANNOUNCEMENTS

Future Meetings: January 10, 2013 (Special Meeting) – 8:00 PM
January 17, 2013 (Regular Meeting) – 8:00 PM
February 21, 2013 (Regular Meeting) – 8:00 PM

- Application **ZB-12-22/House of the Holy Comforter t/a Canterbury Village** will be carried to the regular Zoning Board meeting held on January 17, 2013 per the applicant's request.
- Application **ZB-11-14/Longo** will be carried to the Special Zoning Board meeting held on January 10, 2013 per the applicant's request.
- Application **ZB-12-21/Guerrier** will be carried to the regular Zoning Board meeting held on January 17, 2013 per the applicant's request.

- Application **ZB-12-18/T-Mobile Northeast, LLC & New Cingular Wireless PCS, LLC** will not be heard at this meeting but the attorney is present to request a special meeting on behalf of the applicant.

Richard Jenkins, Esq. approached the podium and stated that he was Council for T-Mobile, AT&T and New Cingular Wireless and detailed why they were requesting a special Zoning Board meeting. Mr. Jenkins expressed the urgency stating that the carriers were approved a wireless facility on Rooney Circle and a PSE&G tower provided coverage for them. He stated that currently PSE&G is upgrading their towers and his clients are seeking a temporary site for the antennas at the Marriot Hotel for a two year period because they cannot use the PSE&G tower during the upgrading process. Mr. Jenkins stated that their clients cannot use their cell phones and the carriers need to provide service for these clients as contracted.

Mr. Buechler asked if New Cingular Wireless and AT&T is the same carrier; Mr. Jenkins replied yes. Mr. Buechler said that he may have a conflict and may have to recuse himself from hearing this application. He said that he will check into this.

Vice Chairwoman Gabry asked the Board to check their availability for a special meeting on February 7, 2013; all Board members present stated that they were available on that date. Vice Chairwoman Gabry told Mr. Jenkins that this application will be carried over to a special Zoning Board meeting on February 7, 2013 and noted for the record that there will be a quorum.

MINUTES

Adopt Minutes: December 6, 2012 (Special Meeting)

Vice Chairwoman Gabry asked the Board members if they had any comments regarding the minutes from the special Zoning Board meeting held on December 6, 2012. Seeing none, the Vice Chairwoman asked for a motion to approve.

Mr. Steinhart made a motion to approve the minutes; Mr. Sussman seconded the motion and all were in favor to approve the minutes of the December 6, 2012 meeting.

*Ms. Gabry was recused from that meeting and did not vote on the 12/6/12 minutes.

SWEARING IN

Consulting Planner for the Township, Paul Grygiel, was sworn under oath.

RESOLUTIONS

1. ZB-12-03/DEKAB, LLC

Block: 18; Lots: 27 & 29; Zone: R-M
372 Valley Road

Seeking a "D" variance for use and three (3) "C" variances for parking, lot coverage and signage.

**"D" Primary Use Variance & "D" Second Principal Use Variance – Denied 11/15/12
Bulk Variances – Approved 11/15/12**

Vice Chairwoman Gabry asked the Board if they had a chance to review this resolution and asked if they had any comments.

Ms. Beirne stated that Chairman Neuer and Mr. Buechler had emailed her with some revisions. She said that the applicant's attorney also emailed her with some revisions.

Joseph Vena, Esq., attorney for the applicant, stated that he would like a vote on the denial of the "D" variances and a separate vote on the approval of the "C" variances.

Vice Chairwoman Gabry asked for a motion to approve the denial of the "D" variance request. Mr. Buechler made a motion to approve the denial; Vice Chairwoman Gabry seconded the motion.

The vote was as follows:

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

Vice Chairwoman Gabry asked for a second motion to approve the approval of the "C" variance request. Mr. Buechler made a motion to approve the approval; Mr. Steinhart seconded the motion.

The vote was as follows:

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

2. ZB-12-15/Pappano

Approved 11/15/12

6 West View Road

"C" variances for rear yard setback and lot coverage to build an addition.

Vice Chairwoman Gabry asked the Board if they had a chance to review this resolution and asked if they had any comments. Ms. Beirne stated that Chairman Neuer and Mr. Buechler emailed her with some revisions.

Vice Chairwoman Gabry asked for a motion to approve with the revisions. Mr. Sussman made a motion to approve; Mr. Steinhart seconded the motion.

The vote was as follows:

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

Mr. Grossman approached the podium and stated that, because the three applications on the agenda to be heard this evening do not require "D" variance approvals, that his presence at this meeting is not required.

Mr. Grossman requested to be excused; Vice Chairwoman Gabry agreed and excused Mr. Grossman.

APPLICATIONS

1. ZB-12-16/Bocchino

Carried from 11/15/12

Block: 168; Lot: 35; Zone: R-4

1464 Pleasant Valley Way

Four "C" variances for construction of a two car garage

EXHIBITS

A-1 - Architectural plans (page ZB-1)

A-2 – Photographs

DISCUSSION

Gerald Novak approached the podium and was sworn under oath. Mr. Novak gave his educational and professional background and stated that he is a licensed Architect in the State of New Jersey. Vice Chairwoman Gabry accepted Mr. Novak as an expert witness in the field of Architecture.

Mr. Novak presented architectural plans and stated that he prepared them for the applicant. Vice Chairwoman Gabry asked to have page ZB-1 of the architectural plans marked as Exhibit A-1 for identification.

Mr. Buechler stated that the architectural plans that he received did not have a seal on them. He asked Mr. Novak if the architectural plans that he submitted to the office included a seal; Mr. Novak said no and stated that other towns do not require the plans having a seal on them. Mr. Buechler stated that the West Orange Zoning Board does require that and said that if this application is approved he must submit a set of sealed plans to the office. Mr. Novak said that he would re-submit sealed architectural plans to the Planning office.

Mr. Novak stated that Mr. Bocchino is proposing to build a 30' x 30' detached two-car garage that he designed. He said that one of the bays would be for his boat and boat trailer that is 28' long and the other bay would be for his pick-up truck that he uses for his business.

Mr. Novak referred to the plans and stated that the existing house has a one car garage under it. He said that this garage is being utilized by his wife's car.

Mr. Buechler asked Mr. Novak if the existing garage under the house will remain; Mr. Novak replied yes.

Mr. Novak detailed the area on the plans where the proposed garage will be built. He said that four variances are being requested because the lot is a substandard corner lot that is under 10,000 sq. feet. Mr. Novak stated that the variance for the rear set back is because they are 6' from the property line and 10' is required. He referred to the plans showing trees along this property line and stated that the neighbor will not be able to see the garage because of these trees.

Mr. Buechler asked Mr. Novak if the side 5' is considered a second front yard; Mr. Novak stated that it is defined as the rear set-back.

Mr. Buechler asked Mr. Novak if they would consider moving the garage 4' forward toward the street; Mr. Novak said that they would be glad to do that. Mr. Buechler asked Mr. Grygiel to take a look at that and comment.

Mr. Novak said that the lot coverage is currently 22.1% and 30% is required. He said that with the garage the lot coverage will increase to 31.9%. He said that there is an open deck and if the deck is counted as a structure it puts the applicant over.

Mr. Buechler asked if the patio is pervious or impervious; Mr. Novak said that it is made of brick and is impervious.

Mr. Grygiel stated that there is a separate standard for a side front yard and it is 30% due to the zone that the house is in. Mr. Buechler asked Mr. Grygiel, from a planning perspective, should the applicant move the garage forward 4'; Mr. Grygiel said that it already encroaches in the front and it would be better being a little further from the rear yard neighbor. Mr. Novak stated that he will leave that decision up to the Board.

Mr. Steinhart asked Mr. Grygiel if the impervious coverage would decrease if they moved it closer to the street; Mr. Grygiel said yes. Mr. Buechler said that would be another reason for moving it forward.

Mr. Buechler stated that the photos shows gravel in the driveway and asked if they will be leaving the gravel there; Mr. Novak said no that the gravel will be removed and they will plant grass or put mulch there. He said that the applicant can answer that question.

Michael Bocchino approached the podium and was sworn under oath. Mr. Buechler asked Mr. Bocchino if he was going to plant grass where the gravel is or put mulch there; Mr. Bocchino said it was not gravel, but mulch, and he planned to leave it as mulch.

Mr. Novak addressed the parking in the front and stated that the applicant is being penalized by the two frontages. He said that 30% parking coverage in the front is required and they are proposing 42%.

Mr. Buechler asked Mr. Novak if the siding on the new garage will match the siding on the house; Mr. Novak replied yes.

Mr. Buechler asked Mr. Novak if there will be any heat or a bathroom in the garage; Mr. Novak said that the applicant will answer that question.

Mr. Sussman referred to the photograph board and asked how high the stone wall is on the property line; Mr. Novak replied 4 to 5 feet high.

Mr. Sussman asked Mr. Novak how high the trees were along the property line; Mr. Novak said the trees are 10' high.

Vice Chairwoman Gabry referred to the photograph board and asked Mr. Novak if he took the photographs himself; Mr. Novak replied yes he took them in July of 2012. Mr. Buechler asked Mr. Novak if they accurately depicted the state of the property today except for some lost leaves on the trees; Mr. Novak replied yes. Mr. Buechler asked Mr. Novak if he modified the photos in any way; Mr. Novak replied no. Vice Chairwoman Gabry asked to have the photograph board marked as Exhibit A-2 for identification.

Mr. Buechler asked Mr. Bocchino if any of his neighbors had any comments about the garage; Mr. Bocchino replied no.

Mr. Buechler asked Mr. Bocchino if he will be putting heat in the garage; Mr. Bocchino said no, not at this time.

Mr. Buechler asked Mr. Bocchino if he will be putting any plumbing in the garage; Mr. Bocchino said no.

Mr. Buechler asked Mr. Novak if there is a loft in the garage; Mr. Novak said yes that it is an upstairs loft and will be used for storage. Mr. Buechler asked Mr. Novak how someone would access the loft; Mr. Novak said with a pull down ladder. Mr. Buechler said that it is not shown on the plans and that he is just trying to understand. He said that the applicant is asking this Board to approve an access only structure and there are no drawings. Mr. Novak stated that it will be a pull down hatch and access to the loft will only be from the inside of the garage. Mr. Buechler asked Mr. Novak if there is anything else that the applicant is doing that is not on the plans; Mr. Novak replied no.

Mr. Quentzel asked Mr. Bocchino how he would get water to the garage; Mr. Bocchino said that there is water outside already and he will use a hose.

Mr. Buechler said that a condition, upon approval, will be for electricity only in the garage.

Vice Chairwoman Gabry asked Mr. Bocchino if he would put some landscaping in along his property line if approved; Mr. Bocchino replied yes. Vice Chairwoman Gabry asked Mr. Bocchino if he would continue the landscaping along the side of the house upon approval; Mr. Bocchino replied yes.

There were no more questions for Mr. Bocchino.

Vice Chairwoman Gabry noted, for the record, that there were no members of the public present for this application.

Ms. Beirne asked Mr. Grygiel if the applicant requires a variance for maximum lot coverage because of the deck. Mr. Grygiel stated that the Township ordinance is not clear regarding decks and would have to defer this question to the Zoning Officer.

Vice Chairwoman Gabry declared the meeting closed and asked to have Exhibit A-1 and A-2 entered into evidence. She then asked for a motion.

Mr. Buechler made a motion to approve the application with conditions as follows: The Architect submit revised sealed drawings ten days before the next meeting on January 17, 2013 by January 7, 2013; the plans must reflect the internal structure in the garage on the drawings; the plans must show the 5' section that was gravel as mulch; the garage will be moved 4' closer to Brookside Drive; the siding on the garage will match the siding on the house; there will only be electricity in the garage; prohibit any water, plumbing or heating in the garage; access to the second floor loft will be a pull down ladder and used for storage only; additional shrubs will be added behind the new garage when construction is completed subject to the approval of the Township Planner.

Mr. Merklinger asked if the pickup truck that will be kept in the garage is a commercial vehicle; Mr. Bocchino said no it is his personal vehicle.

Mr. Sussman stated that he is concerned about the height of the garage. He said that Mr. Grygiel's report states that it is 29' high and asked Mr. Grygiel what the height requirement for an accessory structure is according to the ordinance. Mr. Grygiel checked the ordinance and stated that, according to the ordinance, an accessory building in a residential zone is 15' maximum. He said that the application requires another variance.

Vice Chairwoman Gabry opened the hearing again for the record.

Mr. Buechler stated that the garage cannot be taller than 15' according to the ordinance and they are proposing 29.5 feet. Mr. Novak stated that in every other town an accessory structure can only be 1 or 1.5 stories. Mr. Buechler asked Mr. Bocchino if he needed a certain height because of the boat; Mr. Bocchino said yes. Mr. Buechler asked Mr. Bocchino if he could bring it down to fit the boat; Mr. Novak stated that he can bring the ridge down half way and drop it from 14' to 7'. Mr. Buechler stated that the height of the structure will be reduced by 7' and will be

approximately 22.5' tall. He asked Ms. Beirne to have the resolution show this and instructed Mr. Novak to show it on the revised drawings.

Mr. Buechler stated that his motion to approve this application is subject to the changes just stated and the application must be amended to include the additional variance.

Mr. Sussman seconded the motion.

The vote was as follows:

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

2. ZB-12-17/Blake

Carried from 11/15/12

Block: 121; Lot: 45; Zone: R-T

132 High Street

“C” variance for side yard setbacks for a deck

DISCUSSION

Natalie Blake and Keon Blake approached the podium and were sworn under oath. Mr. Blake explained why they had to come before the Zoning Board. He stated that when they purchased their home, the home inspector advised them that the existing deck was unstable and had to be replaced. Mr. Blake said that after they replaced the deck, Ms. Adams came by the house and told them that they needed a variance because it was encroaching the side yard. He said that the original deck was concrete and they replaced it with a wooden deck.

Mr. Buechler asked Mr. Blake if it was a concrete slab; Mr. Blake said yes. Mr. Buechler addressed Mr. Blake asking if the deck was not there when he bought the house; Mr. Blake said yes the deck was not there. Mr. Buechler asked Mr. Blake if he applied for a building permit to build the deck; Mr. Blake said no and said that he did not know they needed a permit. Mr. Buechler asked Mr. Blake if they replaced a concrete slab with a wooden deck; Mr. Blake said yes. Mr. Buechler asked Mr. Blake if the contractor he hired to do the work told them that they needed a permit; Mr. Blake said no. Mr. Buechler asked Mr. Blake if the contractor was from Town; Mr. Blake said no.

Mr. Quentzel asked Mr. Blake if the contractor was licensed; Mr. Blake said no.

Mr. Buechler stated that he is concerned about the deck being safe, the footings in particular, and suggested that someone from the Township’s Building Department inspect the deck. He told Mr. Blake that he should have applied for a building permit and had the deck built correctly. Mr. Buechler said that before they approve this application someone from the Township must inspect the deck. Mr. Quentzel suggested that subject to approval the deck must be inspected.

Mr. Sussman referred to Mr. Blake's letter that was submitted with the application and wanted clarification about the house being deemed unstable. Mr. Buechler asked Mr. Blake if an Engineer came back to inspect the house and say that it is safe. Mr. Blake said that they are currently in the process of having electrical and plumbing inspections.

Ms. Weiss asked Mr. Blake if the same contractor that built the deck is building the garage; Mr. Blake said no. Ms. Weiss advised Mr. Blake to make sure the contractor is licensed before he hires him.

Mr. Buechler asked Mr. Blake if they are rebuilding the garage; Mr. Blake said yes. He said that the garage was leaning and the contractor advised him that it had to be taken down.

Mr. Quentzel asked Mr. Blake if they are rebuilding the garage on the same footprint; Mr. Blake said yes.

Mr. Buechler stated he did not know if the plans were drawn before or after the deck was built so the Town must inspect the deck.

Vice Chairwoman Gabry asked if there were any more questions for Mr. & Mrs. Blake; seeing none.

Vice Chairwoman Gabry asked if there were any members of the public present for this application; seeing none.

Vice Chairwoman Gabry closed the meeting and asked for a motion.

Mr. Buechler made a motion to approve the deck, subject to the Township's Building Inspector doing a physical inspection of the deck and submitting a letter to this Board stating that the deck is structurally sound, and rebuilding the garage on the same footprint with the condition that the exterior of the garage is to match the exterior of the house.

Mr. Quentzel seconded the motion to approve.

The vote was as follows:

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

3. ZB-12-19/Rustagi

Carried from 11/15/12

Block: 167.03; Lot: 34; Zone: R-3AH

Requesting two (2) "C" variances for rear set back to build a deck and height for raising an existing retaining wall

DISCUSSION

Saras Rustagi approached the podium and was sworn under oath.

Vice Chairwoman Gabry asked Mr. Rustagi what development his property was in; Mr. Rustagi said Vizcaya.

Mr. Rustagi stated that when he was having his house built the builder told him that, in order to make a deck as big as he wanted, he would have to apply for a variance because it did not meet the rear set back requirements.

Mr. Rustagi said that he also wanted to utilize all of the property in his narrow back yard. He said that, because of the steep slope, there is an existing 6' high retaining wall and another existing 6' fence that is approximately 5' away from the retaining wall. Mr. Rustagi said that he would like to move the fence closer to the retaining wall to gain five more feet of space in the back yard and increase the height of the retaining wall to 8.6' for safety reasons. He said that he understands that in order to raise the height of the wall another variance is required.

Vice Chairwoman Gabry said that the drawing shows the fence is not on the property line. Mr. Rustagi said that the fence is closer to the house; not the property line. He said that they would just like to move this fence back farther to gain more wasted space in the yard.

Mr. Grygiel confirmed that this is what the applicant is proposing.

Mr. Buechler asked Mr. Rustagi if the Architect that drew the plans will be supervising the project; Mr. Rustagi replied yes.

Ms. Weiss asked Mr. Rustagi if the houses on either side of his house have large decks; Mr. Rustagi replied yes.

Vice Chairwoman Gabry asked Mr. Rustagi if he submitted any detailed plans for the deck; Mr. Rustagi said no. He said all he submitted was the measurements of the deck on the plans.

Ms. Weiss asked Mr. Rustagi what materials he will be using on the deck; Mr. Rustagi said they will be using Trex.

Vice Chairwoman Gabry told Mr. Rustagi that they will need to see detailed plans before they approve the deck.

Vice Chairwoman Gabry asked if there were any more questions for Mr. Rustagi; seeing none.

Vice Chairwoman Gabry asked if any members of the public were present for this application; seeing none.

Vice Chairwoman Gabry closed the meeting and asked for a motion.

Mr. Sussman made a motion to approve with conditions set by Mr. Buechler as follows: the applicant must submit revised plans for the deck ten (10) days before the next regular Zoning Board meeting on 1/17/13 by 1/7/13; the plans must show where the retaining wall will go and where the fence will be relocated to; the plans must be signed and sealed and Trex or similar materials to be used for the deck.

Vice Chairwoman Gabry seconded the motion to approve.

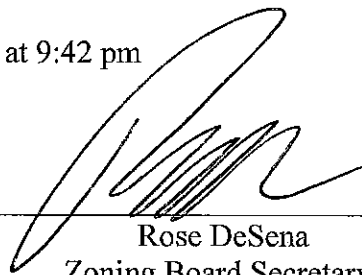
The vote was as follows:

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

ADJOURNMENT

The meeting was adjourned by Vice Chairwoman Gabry at 9:42 pm

January 10, 2013

 1/11/13

Rose DeSena
Zoning Board Secretary