

**MINUTES  
TOWNSHIP OF WEST ORANGE  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
May 23, 2013**

The West Orange Zoning Board of Adjustment held a regular meeting on May 23, 2013 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Neuer 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, 2012 in accordance with the "Open Public Meetings Act."

Chairman Neuer asked everyone to stand for the Pledge of Allegiance

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

**PRESENT:** G. Bullock (8:06), D. Gabry, W. Merklinger, P. Neuer,  
B. Quentzel, W. Steinhart, M. Sussman, A. Weiss

**ABSENT:** B. Buechler (excused absence)

**ALSO PRESENT:** Board Attorney, Alice Beirne, Esq.  
Board Secretary, Rose DeSena  
H. Grossman, Public Advocate  
D. Dillon, Audio-Digital Transcription Service

**ANNOUNCEMENTS**

**Future Meetings:** June 20, 2013 (Regular Meeting) - 8:00 PM  
July 18, 2013 (Regular Meeting) – 8:00 PM  
August 15, 2013 (Regular Meeting) – 8:00 PM

Chairman Neuer noted for the record that the Zoning Board will conduct its annual elections at the June 20, 2013 regular meeting. He said that the transition will be at the July 18, 2013 meeting.

**MINUTES**

**Adopt Minutes:** March 21, 2013 (Regular Meeting)

Vice Chairwoman Gabry made a motion to approve the minutes; Mr. Quentzel seconded the motion. All were in favor to approve the minutes of the regular meeting held on March 21, 2013.

**RESOLUTIONS**

**1. ZB-12-17/Blake**

**Approved 12/20/12**

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

132 High Street

“C” variance for side yard setbacks for a deck

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none the Chairman asked for a motion to approve.

Mr. Steinhart made a motion to approve; Mr. Sussman seconded the motion.

The vote was as follows:

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

**2. ZB-12-23/Merlino**

**Approved 2/21/13**

Block: 168.03; Lot: 19; Zone R-6

12 Rutgers Street

“C” variance for rear yard setback to permit an addition to a home

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none the Chairman asked for a motion to approve.

Vice Chairwoman Gabry made a motion to approve; Mr. Sussman seconded the motion.

The vote was as follows:

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

**3. ZB-12-21/Guerrier**  
 Block: 139; Lot: 39; Zone: R-T  
 32 Kirk Street  
 "C" variance for a third story

**Denied Without Prejudice 2/21/13**

Chairman Neuer stated that this application was scheduled to be heard on January 10, 2013 and, because the applicant failed to notice in time, asked to be carried to the February 21, 2013 regular meeting. He stated that the application was then carried to February 21, 2013 and the applicant failed to appear at this meeting. Chairman Neuer stated that, because the applicant failed to appear, the application was denied without prejudice.

Chairman Neuer asked if the Board reviewed this resolution and had any comments; seeing none the Chairman asked for a motion to approve.

Mr. Steinhart made a motion to approve; Vice Chairwoman Gabry seconded the motion.

The vote was as follows:

Buechler:	-	Steinhart:	Yes to Deny w/o Prejudice
Bullock:	-	Sussman:	Yes to Deny w/o Prejudice
Gabry:	Yes to Deny w/o Prejudice	Weiss:	Yes to Deny w/o Prejudice
Merklinger:	-	Chairman Neuer	Yes to Deny w/o Prejudice
Quentzel:	Yes to Deny w/o Prejudice		

**4. ZB-12-01/Singh**  
 Block: 21; Lot: 18; Zone: R-T  
 61 Riggs Place  
 "C" variances for front, side and rear setbacks for enclosing a front porch and adding a room to the rear of the house.

**Approved 3/21/13**

Ms. Beirne noted all of the revisions that Chairman Neuer suggested for this resolution. She stated that she approved these revisions and that she incorporated them into the resolution.

Chairman Neuer asked if the Board had any comments or suggested revisions for this resolution; seeing none the Chairman asked for a motion to approve with revisions.

Mr. Merklinger made a motion to approve with revisions; Vice Chairwoman Gabry seconded the motion.

The vote was as follows:

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

5. **ZB-12-20/First Hartford Realty Corp.,** **Approved 3/21/13**  
**Designated Agent for CVS**  
 Block: 153.16; Lot: 1-6 & 24-27  
 265 ospect Avenue  
 "D" Use variance & "C" variances for building a CVS Pharmacy

Chairman Neuer noted for the record that Mr. Williams, attorney for the applicant, submitted all of the dates of Paul Grygiel's reports to Ms. Beirne. He said that Ms. Beirne approved the dates and incorporated them into the resolution.

Ms. Beirne noted all of the revisions that Chairman Neuer suggested for this resolution. She stated that she approved these revisions and that she incorporated them into the resolution.

Ms. Beirne also stated that Mr. Quentzel suggested that conditions 1, 5 and 15, should be changed to reflect compliance in the final resolution. She said that she will incorporate that into the resolution.

Mr. Sussman asked if the applicant originally proposed ten (10) façade signs; Mr. Williams said that one of the signs were removed and there is nine (9) façade signs. Ms. Beirne said that she will change the resolution to reflect nine (9) façade signs.

Chairman Neuer noted that the deed to consolidate the lots must be recorded with the Essex County Register no later than September 30, 2013 and asked Ms. Beirne to incorporate that date into the resolution.

Chairman Neuer asked if there were any other suggested revisions or changes to the resolution; seeing none the Chairman asked for a motion to approve with revisions.

Chairman Neuer made a motion to approve with revision; Vice Chairwoman Gabry seconded the motion.

The vote was as follows:

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

## APPLICATION

1. **ZB-13-04/Congregation Ahawas Achim B'Nai Jacob & David**  
 700 Pleasant Valley Way  
 Block: 153.21; Lot: 31; Zone: R-5  
 "C" variance to install a 5' fence in the front yard of the property

## **EXHIBITS**

A-1 – Aerial photo of the site taken from Bing Maps

A-2 - Memo dated 5/20/13 from Police Chief Abbott

A-3 – Photo of the Caprice fence

## **DISCUSSION**

Bruce Shoulson, Esq, attorney for the applicant, approached the podium stating that the applicant is proposing to install a 5' security fence in the front yard of the Synagogue. He stated that this requires a variance because, according to the Township Ordinance, the maximum height of a fence in a front yard is 4'.

Chairman Neuer questioned Mr. Shoulson about the dates of the prior resolutions mentioned in the application but said that only the 1990 resolution was submitted. Mr. Shoulson stated that his associate, Mr. Levitt, submitted the application and stated that there was a problem getting copies of the prior resolutions.

Chairman Neuer asked Peter Steck if he wanted to shed some light on the situation; Mr. Steck replied no.

Chairman Neuer noted that the application stated that the Synagogue received a grant for the security fence and asked who they received the grant from. Mr. Shoulson said it was United States Department of Homeland Security who gave them the grant.

Mr. Shoulson called his first witness.

Bruce Schlanger approached the podium and was sworn under oath. Mr. Schlanger stated that he resides at 10 Redwood Avenue and has lived in West Orange for approximately 35 years. He stated that he is a member of the Synagogue, sits on the Executive Board and is the Chairman of the Security Committee which provides safety and security. Mr. Schlanger said that the reason the Synagogue needs security is because of the situation in the Middle East. He said that Synagogues tend to be proxy towards radical forces and threats and noted specific incidents. Mr. Schlanger said that, to address their concerns, they submitted a grant application to the Department of Homeland Security seeking assistance with the risk assessment they did. He said that this included replacing doors, installing locking structures on the doors, upgrading their camera system and installing security fencing around the perimeter.

Mr. Schoulson asked Mr. Schlanger if the security fencing was specifically mentioned in the grant application; Mr. Schlanger replied yes.

Mr. Schoulson asked Mr. Schlanger if they received the grant; Mr. Schlanger replied yes. Mr. Schoulson asked how much grant money they received; Mr. Schlanger said they received \$75,000 and that \$15,000 of this was for the fencing.

Mr. Shoulson presented a photo and asked Mr. Schlanger to describe it. Mr. Schlanger stated that it was an aerial photo of the property. Chairman Neuer asked Mr. Shoulson who took the photo; Mr. Shoulson said that the photo was taken from Bing maps on the internet. Chairman Neuer asked Mr. Shoulson if the photo accurately depicts the current site; Mr. Shoulson replied yes. Chairman Neuer asked to have the aerial photo marked as Exhibit A-1 and entered into evidence.

Mr. Shoulson asked Mr. Schlanger if the orange area in the photo is the area in question; Mr. Schlanger replied yes. He said that the orange area is where the 5' fence will be installed along the front yard on Wessman Drive. Mr. Schlanger said that the rest of the fencing, that is currently being installed on each side of the property, is also 5' and there is no issue with that.

Mr. Shoulson asked Mr. Schlanger what else they will be doing to the exterior to protect the property from hazard. Mr. Schlanger said that they will be installing bollards. Chairman Neuer asked Mr. Schlanger where the bollards would be installed; Mr. Schlanger said that they will be set in from the driveway toward the building. Chairman Neuer asked Mr. Schlanger how many bollards they will be installing; Mr. Schlanger said they will be installing five (5) or six (6) permanent bollards and two (2) or three (3) removable ones. Mr. Schlanger said that they also have security personnel, who are members of the Synagogue, watching the premises.

Mr. Shoulson asked Mr. Schlanger if there is access to the property from Wessman Drive; Mr. Schlanger said yes that there is pedestrian access from Wessman Drive. He said that the fence along the front yard on Wessman Drive will have a double gate with a combination lock on it. Mr. Shoulson asked Mr. Schlanger if he went over this with the Fire Department; Mr. Schlanger replied yes.

Chairman Neuer asked Mr. Schlanger what the purpose of the gate was on Wessman Drive; Mr. Schlanger said that they will keep the gate closed for unwanted traffic and open for members to access the site. Chairman Neuer asked how this would work if there was a combination lock on the gate. Mr. Schlanger said that the members on Wessman Drive will have the combination to the lock. Chairman Neuer questioned the security of the gate with so many people having the combination; Mr. Schlanger said that they are going to change the combination from time to time. Chairman Neuer asked why they are installing a gate on Wessman Drive and not a solid fence; Mr. Schlanger said that many members enter the Synagogue from Wessman Drive because it is easier. Chairman Neuer said that the purpose of the fence is for security and if the combination is not kept under lock and key then it is worthless. Chairman Neuer asked Mr. Schlanger if Homeland Security and the Police Department approved the combination lock on the gate; Mr. Schlanger replied yes.

Mr. Schoulson asked Mr. Schlanger if they received written proof from the Police Department; Mr. Schlanger replied yes. Mr. Schoulson presented a memo from Police Chief Abbott. Chairman Neuer asked to have the memo from Police Chief Abbott, dated 5/13/13, marked as Exhibit A-2 and entered into evidence.

Mr. Schoulman presented a photo and asked Mr. Schlanger to describe the photo; Mr. Schlanger said that it was a photo of the formal fence that is being installed. He said that the photo shows

what the fence will look like. Chairman Neuer asked to have the photo of the fence marked as Exhibit A-3 for identification.

Mr. Quentzel asked if they felt that the open fence is secure because someone could easily put a gun through this type of fence. Mr. Schoulman said that the witness stated that they will have security personnel watching the premises and that the gate makes a statement saying that it is private property. He said that the Department of Homeland Security also thinks it is appropriate.

Chairman Neuer asked Mr. Schlanger if the fence can stop a vehicle; he replied no.

Ms. Gabry asked Mr. Schlanger what mechanism is on the gate for opening and closing it in an emergency. Mr. Schlanger said that it is a double open gate with a simple padlock on it that the Fire Department can clip in case of an emergency. Ms. Gabry asked what if cars were parked along the fencing in that area; Mr. Schlanger said that the gate is a clear area and the pavement in that area is marked "no parking". Mr. Scholmon referred to Exhibit A-1 and noted on the photo where the no parking signage is.

Chairman Neuer asked if there were any further questions for Mr. Schlanger; seeing none the Chairman asked if any members of the public had any questions for Mr. Schlanger; seeing none the Chairman asked Mr. Schoulson to call his next witness.

Peter Steck approached the podium and was sworn under oath. Mr. Steck stated that he is a Professional Planner, licensed in the State of New Jersey, and has testified before this Zoning Board many times. Chairman Neuer accepted Mr. Steck as an expert witness in Professional Planning.

Mr. Schoulson asked Mr. Steck if he visited and inspected the Synagogue site; Mr. Steck replied yes.

Mr. Steck referred to Exhibit A-1 and stated that he copied the photo from Bing maps on the internet. He said that he outlined the area on the map in orange is where the 5' fence will be installed.

Mr. Steck stated that the House of Worship fronts on Pleasant Valley Way and Wessman Drive. He said that Pleasant Valley Way is a County road and provides the only vehicular access to the site. Mr. Steck stated that they are proposing to install a 5' fence along the frontage on Wessman Drive which is located in a single family area.

Mr. Steck said that in reality the House of Worship has only one functioning front yard. He said that because it is a House of Worship it has security considerations and, although the Township Ordinance recommends a 4' high fence in a front yard, a 5' fence would be a little harder to climb. Mr. Steck also noted that the neighbor at the end of the Wessman Drive cul-de-sac constructed a 6' solid fence along their side yard that abuts the Synagogue property.

Mr. Steck stated that it is his opinion that the 5' fence on Wessman Drive warrants approval of the C1 variance because the fence will match the height of the fencing along the sides of the property and it complies with the aesthetics of the single family neighborhood.

Mr. Steck stated that no one will even question the height difference of the fence because of the handsome fence that is being installed and the well landscaped area. He said that this application can be approved without any detriment to the public good.

Mr. Quentzel asked Mr. Steck if 6' fencing would be safer; Mr. Steck said yes but this is about the aesthetics and this fence will not be offensive to the neighborhood.

Mr. Sussman asked if all the chain link fencing is being replaced; Mr. Steck said no, just the fence that is exposed to the general public.

Chairman Neuer asked Mr. Steck about the security of this fence from a planning perspective. Mr. Steck stated that he feels that this fence meets the qualifications for security because they are eligible for a grant from the Department of Homeland Security and they have the support of the West Orange Police.

Chairman Neuer asked Mr. Steck if he had taken any specialized course in security issues; Mr. Steck replied no.

Chairman Neuer asked if the Board had any further questions for Mr. Steck; seeing none the Chairman asked if any members of the public had any questions for Mr. Steck; seeing none.

Chairman Neuer asked Mr. Schoulman if the proposed fence with the gate and combination lock was run past Homeland Security; Mr. Shoulman said that his first witness, Mr. Schlanger, could answer that question.

Mr. Schlanger approached the podium and stated that the gate was not specified in the grant application because it did not get into detail about the fence. He said that Homeland Security approves the concept of having a fence and not the details. Mr. Schlanger stated that the local Police and Fire Departments were aware of the gate.

Ms. Gabry asked Mr. Schlanger if Homeland Security does any inspections after the fence is installed; Mr. Schlanger replied yes. He said that they submit the invoices along with the details and Homeland Security reimburses them. Mr. Schlanger said that they can also do an audit at some time but he is not sure.

Ms. Weiss asked Mr. Schlanger if there were any objections from anyone who lives on Wessman Drive; he replied no.

Chairman Neuer stated that his concern is the security of the gate.

Chairman Neuer asked if any members of the public want to comment.



Martin Solomon approached the podium and was sworn under oath. Mr. Solomon stated that he lives at 21 Wessman drive and has lived there for 53 years. He said that he is a member of the Synagogue and is part of the Executive Board. Mr. Solomon stated that he is in favor of the type of fence being installed because it is better than chain link and it will serve its purpose. He said that the reason that it has to have a gate is because many of the members are in wheel chairs and they can only access the property from Wessman Drive; they cannot access it from Pleasant Valley Way.

Chairman Neuer asked if any Board members had any questions for Mr. Solomon; seeing none the Chairman asked Mr. Shoulson for his closing comments.

Mr. Shoulson said that the only difference with a 4' fence and a 5' fence is one foot and it will not impact anything.

Ms. Beirne stated that Mr. Merklinger, Zoning Board member, is an employee of the Department of Homeland Security and he wanted to make sure there was no conflict with him hearing this application.

Chairman Neuer asked Mr. Merklinger if he had anything to do with the grant application; he replied no.

Chairman Neuer asked Mr. Shoulman if he had objections to Mr. Merklinger hearing this application; Mr. Shoulman replied no.

Chairman Neuer stated that he finds serious flaws with the concept of this type of fence adding security. He stated that the bollards they are installing in front of the gate will prevent vehicles from crashing through the fence but a truck will demolish it. Chairman Neuer said Mr. Solomon explained why people on Wessman Drive cannot go the distance to enter on Pleasant Valley Way and he can understand the gate for that reason. He said that the one foot in height is de minimis and he agrees with Mr. Steck that it is an inherently beneficial use. The Chairman stated that he agrees that Homeland Security feels that the Synagogue needs security but the fence is not a great enhancement in security. Chairman Neuer said that he urges the Board to approve.

Chairman Neuer asked Mr. Shoulman if the applicant had any objection to striping the area in front of the emergency gate so that no cars park there; Mr. Shoulman said that they have no objection to painting "no parking" in front of the gate as a condition of approval.

Ms. Weiss stated that no one in the community is complaining about the fence and that she is in favor. She said that she is sad that Houses of Worship would even have to have security fences.

Mr. Sussman stated that he agrees with the Chairman. He said that he does not have a problem with the fence however it is a very modest increase in security.

Mr. Steinhart stated that no one on this Board has any qualifications to evaluate the quality of a fence. He said that no one in West Orange would want to see the type of fence where the

protection would be meaningful. Mr. Steinhart said that the fence is attractive and it will have some affect. He said there has been too much time spent on discussing the adequacy of the fence.

Mr. Bullock agreed with Mr. Sussman and he suggested that they may have it reviewed by a security professional. He said that it is aesthetically pleasing and the Board should approve it.

Mr. Merklinger said that this type of fencing is used a lot in Government but the gated area would be a concern to Homeland Security. He said that he would approve.

Chairman Neuer stated that he had an obligation to ask about the security of the fence and made a motion to approve the one foot C2 variance from a planning perspective and not on the security of the gate.

Ms. Gabry seconded the motion to approve the one foot C2 variance.

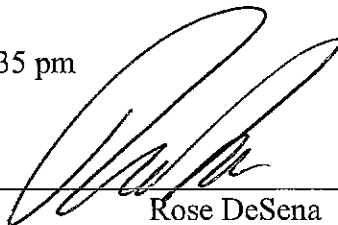
The vote was as follows:

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

**ADJOURNMENT**

The meeting was adjourned by Chairman Neuer at 9:35 pm

Adopted: June 20, 2013

  
Rose DeSena  
Zoning Board Secretary

*6/21/13*