

**TOWNSHIP OF WEST ORANGE  
PLANNING BOARD  
MINUTES  
September 10, 2013**

The Township of West Orange Planning Board held a regular meeting on September 10, 2013 at 7:30 P.M. in Council Chambers, 66 Main Street, West Orange, New Jersey.

Chairman Heller called the meeting to order at approximately 7:34 P.M. It was announced that notification of this meeting was given to the Township Clerk, and posted on the Township Bulletin Board on December 6 2012, in accordance with the requirements of the "Open Public Meetings Act".

**PRESENT:** Chairman Ben Heller, Robert Bagoff, Joanne Carlucci, Jerome Eben, Gerald Gurland, Lee Klein, Jason Lester (7:37 P.M.), Council President Susan McCartney, Vice Chairman Ron Weston, William Wilkes II (7:41 P.M.)

**ABSENT:** Tekeste Ghebremicael

**ALSO PRESENT:** Patrick J. Dwyer, Esq., Board Attorney; Robin Miller, Board Secretary; Debbie Dillon, Audio-Digital Transcription Service

**PLEDGE OF ALLEGIANCE**

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

**ROLL CALL**

Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Chairman Ben Heller, Lee Klein, Jason Lester, Council President Susan McCartney, Vice Chairman Ron Weston, Williams Wilkes II.

**ANNOUNCEMENTS**

The next regular Planning Board meeting will be held on **Wednesday October 2, 2013** at 7:30 P.M. in Council Chambers.

**ADOPT MINUTES**

The minutes of the August 7, 2013 Planning Board meeting were adopted unanimously.

**RESOLUTION(S)**

**PB-13-16/Valley Road Residential, LLC**  
Block: 9; Lots: 1, 7, 44, 50 & 56; Zone: MUBR  
22-26 Central Avenue and 9-16 Mitchell Street  
Preliminary Site Plan with "C" Variance

**DISCUSSION**

Mr. Dwyer said he had received comments from Mr. Sullivan regarding corrections to the draft Resolution; he read all changes to the Board; additionally he listed all conditions which included corrections requested by Mr. Russo:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.
2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.
3. 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.
4. 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.
5. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees 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 this approval shall be deemed withdrawn.
6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
7. Applicant to provide an updated lighting plan subject to the review and approval of the Board Engineer.
8. Applicant will comply with the items set forth in the Omland review letter dated August 1, 2013 except Item #11 and Item #17 will be complied with if doing so will not interfere with Applicant's existing DEP permit.
9. Applicant will provide emergency call box in the parking lot.
10. Applicant will provide updated landscaping plan with smaller trees, large shrubs along the walkway to provide a safety buffer from the river channel subject to Board review and approval.
11. Applicant will provide benches and trash receptacles along the river walkway.

12. Applicant to provide a sustainable material list and an exterior material list subject to the review and approval of the Board. Applicant shall consider having the roof color a lighter shade to avoid heat island effect.
13. Applicant is responsible for the perpetual maintenance obligations associated with the "daylighted" portion of the East Branch of the Rahway River on site, as well as all other property maintenance issues associated with the site improvements.
14. Applicant to provide a listing or summary of energy efficiencies designed into the building and site improvements
15. The plans are to be reviewed and approved by the West Orange Fire Department as to the placement of hydrants and emergency access
16. Applicant must obtain Final Site Plan Approval prior to the commencement of any site improvements shown on the preliminary site plans.

Mr. Sullivan was present and appeared before the Board; he summarized previous testimony regarding the number of plantings proposed to stabilize the site. He said that when the Applicant presents the final site plan in the future, the plan would reflect a detailed landscaping plan.

Mr. Eben inquired as to why Mr. Gurland could not vote on the Resolution. Mr. Dwyer said that Cox clearly states that if a member does not vote in favor of an Application, that member should not "mess" with the Resolution by casting a vote. Additionally, Mr. Dwyer said that Professor Cox did not think members should abstain from a vote. Mr. Gurland said he did believe he had participated in the process by abstaining because he felt the plans were incomplete and was concerned that his questions had not been answered sufficiently. Dr. Bagoff said in the past, the Board had been polled on specific issues so the Applicant would have an understanding of the general mind-set of the Board.

The Board voted on the Resolution as follows:

Motion: Chairman Heller

Second: Mr. Eben

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

**PB-13-15T/Levin Management Corporation as Agent for Owner, West Orange Plaza**  
 Block: 152.24; Lot: 1445 & 1445.05; Zone: P-C  
 235 Prospect Avenue  
 Technical Site Plan for exterior façade improvements.

**DISCUSSION:**

Vice Chairman Weston gave a brief recapitulation of the Application for exterior façade improvements in excess of \$100,000, without variances, approved by the Technical Review Committee on August 15, 2013 with one condition:

- (1) All brick used in the renovations will match the existing brick used by Whole Foods as best as possible.

The Board voted on the Resolution as follows:

Motion: Vice Chairman Weston

Second: Dr. Bagoff

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

## **DISCUSSION**

### **New Legislation**

Mr. Dwyer said that three bills were recently signed in to law by Governor Christie. Referring to the September 4, 2013 memorandum from Paul Grygiel, Acting Municipal Planner, he and the Board discussed the relevance of the bills to municipal planning and zoning in West Orange.

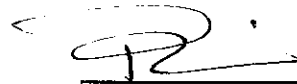
Mr. Grygiel's memorandum stated that the bill most relevant to West Orange was P.L. 2013, c. 106, which clarifies authorization for cluster development under the New Jersey Municipal Land Use Law (MLUL).

Mr. Gurland said the wording "low density" suggested it was in conflict with open space; Mr. Dwyer said he agreed. Council President McCartney said she would need to review the Master Plan regarding density. Vice Chairman Weston said he believed the bill would affect more suburban areas. Chairman Heller opined that recent residential developments have been designed differently; the design elements had changed for suburbia, it was becoming more urban. Dr. Bagoff suggested that when the Master Plan is next re-examined, the issue of cluster development be discussed, as it may affect the Master Plan.

New bill P.L. 2013, c. 107, which enable exemptions to development regulations for raising certain structures in order to meet certain State or Federal flood elevation standards; Mr. Dwyer said the bill was a result of Hurricane Sandy. Council President McCartney said there still had to be regulations; the bill did not eliminate caps. Mr. Eben said that caps were still in place.

MEETING ADJOURNED at approximately 8:04 P.M.

Minutes adopted November 6, 2013



Robin Miller, Planning Board Secretary  
Township of West Orange

**\*\*THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE  
WEDNESDAY DECEMBER 4, 2013 AT 7:30 P.M. IN COUNCIL CHAMBERS\*\***