

**MINUTES  
TOWNSHIP OF WEST ORANGE  
ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING  
May 29, 2014**

The West Orange Zoning Board of Adjustment held a special meeting on May 29, 2014 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

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 May 12, 2014 in accordance with the "Open Public Meetings Act."

Chairwoman Gabry asked everyone to stand for the Pledge of Allegiance.

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

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

**ABSENT:**

**ALSO PRESENT:** Paul Grygiel, Consulting Planner  
Eric Keller, Consulting Engineer  
Alice Beirne, Esq., Board Attorney  
Rose DeSena, Board Secretary  
Harvey Grossman, Esq., Public Advocate  
D. Dillon, Audio-Digital Transcription Service

**ANNOUNCEMENTS**

**Future Meetings:** June 19, 2014 (Regular Meeting) – 8:00 pm  
July 17, 2014 (Regular Meeting) – 8:00 pm  
August 21, 2014 (Regular Meeting) – 8:00 pm

**SWEARING IN**

Consulting Planner for the Township, Paul Grygiel and Consulting Engineer for the Township, Eric Keller were sworn under oath.

## **OLD BUSINESS**

Jennifer M. Porter, Esq., attorney for ZB-13-15/Quick Chek Corp., approached the podium. She stated that at the last hearing on April 24, 2014 the Board approved a special Zoning Board hearing for her client for June 12, 2014. Ms. Porter said that her client is addressing some of the site plan concerns that were expressed at that meeting and would like to adjourn until July.

Chairwoman Gabry asked Ms. Porter if there will be any additional variances being requested. Ms. Porter said that some variances will change and some will also be eliminated.

Mr. Buechler stated that he was not at the last meeting and asked Ms. Porter if the changes are significant enough that he would not have to read the transcripts ; she replied no. She said that he should still read the transcripts.

Mr. Bullock raised a point of order and stated that he thought it was decided that the Board was not to have any special meetings in the months of July and August. Chairwoman Gabry said that due to the heavy agendas for the past two years the Board has been making exceptions to that rule and has been having special meetings during July in order to catch up, but not August.

After some deliberation between the Board members, it was decided that the special meeting for ZB-13-15/Quick Chek Corp. will be held on July 24, 2014.

Chairwoman Gabry noted for the record that no further notice will be necessary for this application.

## **APPLICATION**

### **1. ZB-14-04/Patin**

Block: 165.02; Lots: 4, 5; Zone: B-2/R-4

782 Northfield Avenue & 5 Dogwood Road

Seeking a "D" use variance and several "C" variances to construct an addition to an existing building and construct parking accessory to the existing building on an adjoining lot.

## **EXHIBITS**

A-1 – Site Plan (10 pages) revision date of 11/23/13

A-2 – Architectural Plans (Sheets A1 to A-6) dated 10/28/13

William Sullivan, Esq. approached the podium. Mr. Sullivan stated that he represents the applicant, Yury Patin who is proposing to construct an addition to an existing mixed use building located on Northfield Avenue, known as lot 4. He stated that the applicant also owns the adjacent property on Dogwood Road known as lot 5, described as a split lot zone, and is proposing to construct parking accessory to the building on lot 5.

Mr. Buechler asked Mr. Sullivan what the correct address of the lot on Dogwood Road is; he said that the application noted the address as 5 Dogwood Road. Mr. Sullivan said that this was a typographical error and the correct address of lot 5 is 6 Dogwood Road.

Mr. Neuer stated that the list of the adjacent property owners on the cover page shows Mr. Bornstein as the owner of lot 5. Mr. Sullivan stated that the applicant owns both lots 4 and 5. Mr. Neuer stated that the cover page must be revised to show the correct owner of lot 5.

Mr. Sullivan summarized the history of the property stating that Yury Patin owned lot 5 for approximately four or five years. He said that in 2004 the previous owner of lot 5, Mr. Bornstein, filed an application with the Zoning Board of Adjustment to build a house on that lot; that application was denied by the Board. In 2006, Mr. Bornstein filed an application with the Zoning Board of Adjustment reducing the side of the house to be built on lot 5 but withdrew the application. In 2008 Yury Patin purchased the property and filed an application with the Zoning Board of Adjustment to build a house on lot 5 but withdrew the application. In 2011, Mr. Patin filed an application with the Zoning Board of Adjustment to build a house on lot 5 and the Zoning Board denied this application without prejudice.

Mr. Sullivan stated that there is also a misconception regarding lot 5, stemming from a prior hearing, that this lot can only be used as a buffer. He said this is not true. Mr. Sullivan said that a condition of approval for a prior resolution of an application that was filed for lot 4 stipulated that the applicant must plant plants on the adjacent property known as lot 5. He said that lot 5 was not the subject of that application and therefore this condition is not valid.

Mr. Sullivan said that lot 5 is developable and he referred to a 2004 resolution, ZB-04-60, where the Zoning Board concluded that the lot is buildable.

Mr. Neuer asked Mr. Sullivan if the lots are going to be consolidated; he replied yes. Mr. Neuer asked Mr. Sullivan if he would like to amend the application to consolidate the lots; he replied yes.

Mr. Sullivan called his first witness.

Frederick C. Meola approached the podium and was sworn under oath. Mr. Meola detailed his professional and educational background as a licensed professional Engineer in the State of New Jersey. Mr. Sullivan asked Mr. Meola if this Board has previously accepted him as an expert in Engineering; he replied yes.

Chairwoman Gabry accepted Mr. Meola as an expert in Professional Engineering.

Mr. Meola presented site plans, stating that these are the plans that were submitted to the Board.

Mr. Neuer asked Mr. Meola what the current revision dates are on the site plans; he replied 11/23/13.

Chairwoman Gabry asked to have the site plans consisting of ten (10) sheets with a revision date of 11/23/13 marked as Exhibit A-1 for identification.

Mr. Meola referred to the site plans and detailed the existing conditions of both lots 4 and 5. He said that they are proposing to put an addition on the south east side of the existing building facing Northfield Avenue. Mr. Meola said that the existing parking lot on lot 4 will be graded and striped for twenty two (22) cars. He said that they are proposing partial parking on lot 5 and the remainder of the lot will remain evergreens.

Mr. Meola detailed the onsite traffic circulation.

Mr. Neuer asked Mr. Meola if he is a traffic engineer; he replied no.

Mr. Buechler asked Mr. Meola if one can enter the site from Dogwood Road; he replied no. Mr. Meola said that the only entry is from Northfield Avenue and the exit is from Dogwood Road.

Mr. Meola said that the proposed plan reduces the impervious coverage by 638 sq. ft. Mr. Neuer asked Mr. Meola if lot 5 has any impervious coverage on it now; he replied no.

Mr. Neuer asked Mr. Meola how much impervious coverage is being added on to lot 5; he replied 1944 sq. ft.

Mr. Meola referred to the grading and utility plan and detailed it.

Mr. Neuer asked Mr. Meola if the new parking spaces will be graded on an incline; he replied yes.

Mr. Meola referred to the lighting plan and detailed what is being proposed.

Mr. Neuer asked Mr. Meola what the height of the light poles are; he replied 10'.

Mr. Meola said that the sconces will be wall mounted on the building at 12' high and the free standing light poles will be 10' high.

Mr. Neuer asked Mr. Meola what direction the light will emanate; he said that the light emanates downward. Mr. Neuer said that the light fixture shown on the plan does not look like it points downward. Mr. Meola said that the upper portion of this light fixture is solid and not glass. Mr. Sullivan said that they will use a fixture that points downward. Mr. Neuer said that the plans do not show the light fixture pointing downward and that neighbors will be concerned about spillage.

Chairwoman Gabry asked Mr. Meola what was attached with the tree removal permit application that was submitted with the application. She said that item #7 on the first page of the application states to "see attached". Mr. Meola said that he does not remember but will find out.

Mr. Meola referred to the landscaping plan and detailed it.

Mr. Sullivan stated that they will also sit down with the neighbors to see what suggestions they have regarding the landscaping.

Mr. Sullivan asked Mr. Meola to detail the variances. Mr. Meola referred to the site plans and detailed all of the variances being requested.

Mr. Sullivan addressed the Professionals comments stating that the list of the variances on the cover sheet of the plans will be updated, the lots will be consolidated by deed and the lot lines on the plans will be changed.

Mr. Sullivan asked Mr. Meola to address the following items in the Omland Engineering Report, prepared by Eric Keller on 5/2/314:

1. Mr. Meola stated that the applicant will agree to consolidate the lots as a condition of approval.
2. Mr. Meola stated that he will provide a cover plate on the "clean out" that is identified on the plans.
3. Mr. Meola stated that the existing sanitary sewer is more than adequate and that they will hire someone to run a camera through the line to see if it needs to be replaced.
4. Mr. Meola stated that he will publish the locations of all the existing building entrances on the site plans.
5. Mr. Meola stated that the architect will testify if the building will require fire suppression to be installed during his testimony.
6. Mr. Meola stated that he will consult with the Township's Engineer regarding a need for an easement encompassing the 48" storm drain running thorough lot 4.
7. Mr. Meola stated that testimony will be provided later in hearing regarding the number of parking spaces required.
8. Mr. Meola stated that the parking stall along the Dogwood Road side of the structure will either be eliminated or will service a smaller car.
9. Mr. Meola stated that they will provide a sidewalk along the easterly side of the building addition.
10. Mr. Meola stated that the architect will address the ADA requirement items during his testimony.
11. Mr. Meola stated that they will install the curbing along the southerly side of the parking lot straight across the head of the angled parking stalls instead of the proposed saw tooth curbing.
12. Mr. Meola stated that they will replace the curbing along the Dogwood Road frontage and show the concrete apron across Dogwood Road on the plans.
13. Mr. Meola stated that they will comply with the Township ordinance requiring the planting of one shade tree for every ten parking stalls in the parking area.

14. Mr. Meola stated that he will identify the discharge point of the leader drain headers on the southerly side of the building on the plans.
15. Mr. Meola stated that they will run a camera down the existing area inlet within the southerly parking area in order to evaluate if the proposed leader drains on the building can be directed to that area; Mr. Keller said that is acceptable.
16. Mr. Meola stated that the reason they are proposing to direct the storm water runoff to a new inlet structure because they need the handicap accessible spots. Mr. Keller said that he agrees to keep the plans as proposed but suggested that they find out where the end of the end of the pipe is.
17. Mr. Meola stated that they will agree to move the freestanding light fixture closer to the proposed parking area.
18. Mr. Meola stated that by agreeing to comply with item #17 eliminates this concern regarding spillage.
19. Mr. Sullivan stated that the hours of operation for the mixed use building will be discussed later during this hearing.
20. Mr. Meola stated that the security light fixtures will be discussed later during this hearing.
21. Mr. Meola stated that the architect will address the lighting over the Northfield Avenue entrance of the proposed addition during his testimony.
22. Mr. Keller stated that his comment for this item regarding the evergreen trees not being depicted on the plans was in response to the applicant's planner report and not Mr. Grygiels report. Mr. Meola stated that the trees shown on the plans do exist.
23. Mr. Meola stated that they will submit revised plans showing the location of the HVAC units.
24. Mr. Meola stated that they will provide revised plans showing the location of a Knox box.
25. Mr. Meola stated that the architect will provide testimony regarding the collection of solid waste and recyclables.
26. Mr. Meola stated that no dumpsters are being proposed
27. Mr. Meola said that they will re-visit the details of the doghouse manhole.
28. Mr. Meola stated that the architect will provide testimony regarding the colors and materials used on the signage.
29. Mr. Meola stated that the architect will address the inconsistency on the plans for the building on Northfield Avenue.
30. Mr. Meola stated that the architect will address providing a north arrow on the architectural plans.
31. Mr. Meola stated that they will submit an engineer's estimate for construction costs if the application is approved
32. Mr. Meola said that they will receive approvals from the Essex County Planning Board and the Hudson Essex Passaic Soil Conservation District.

Mr. Buechler asked Mr. Meola if they are going to revise the plans; he replied yes.

Mr. Grigiel asked Mr. Meola if parking spaces will be assigned; he replied no.

Mr. Buechler asked Mr. Meola if anyone parks on Dogwood Road; he said he does not know and he has never seen anyone park on Dogwood Road.

Alice Weiss asked Mr. Meola if the applicant would consider installing a wood fence instead of the vinyl fence that is shown on the plans; he said that the applicant is open to install any type of fence that the neighbors want.

Mr. Neuer asked Mr. Sullivan if any signage is being proposed; he said that there is no sign package yet. Mr. Sullivan said that there are two existing signs on Northfield Avenue.

Mr. Keller stated that he had a comment that he would like the Board to consider. He said that the lights that the applicant is proposing are not good for a residential neighborhood because they still have a "glow" from the glass. Mr. Meola said that they will accept suggestions from Mr. Keller regarding another type of light to use.

Mr. Neuer asked Mr. Keller if lowering the height of the light pole would make a difference; he said no, that a 12' pole is the bottom limit they can use. Mr. Keller said that they need to provide safe lighting for the residents because it is a mixed use building.

Mr. Grossman questioned Mr. Meola about the sewer and sanitary lines.

There were no further questions for Mr. Meola from the Board members or the Professionals.

Chairwoman Gabry called for a recess at 9:35 pm.

Chairwoman Gabry resumed the meeting at 9:47 pm.

Chairwoman Gabry asked if any members of the public had any questions for Mr. Meola.

Peter Reader approached the podium and stated that he lives at 1 Dogwood Drive and that his house is on the corner of Old Short Hills Road. He asked Mr. Meola how many lumens the proposed lights will be; he replied 14,000 lumens but said that may change.

Mr. Reader questioned Mr. Meola about the run off; Mr. Meola stated that there will be less run off then there is today because there will be a reduction of impervious coverage.

Kathy Martin approached the podium and stated that she lives at 20 Dogwood Road and asked Mr. Meola how the landscaping will help the drainage. Mr. Meola said that they are required to post a two year maintenance bond for landscaping with the Township to insure that it does.

Nancy Warshowsky approached the podium and stated that she lives at 40 Dogwood Road. She asked Mr. Meola who is currently responsible for the landscaping on lot 5; he replied the owner. Mr. Keller stated that the responsibility of maintaining the property always lies on the owner.

Mrs. Warshowsky asked Mr. Meola who is responsible for cleaning out the brooks; Mr. Keller stated that the Township is usually responsible for that.

Robert Martin approached the podium and stated that he lives at 45 Dogwood Road. He asked Mr. Martin if there will be more or less parking spaces after the proposed project; he replied more.

John Fogarty approached the podium and stated that he lives at 8 Dogwood Road. He asked Mr. Meola if they will be paving the parking lot; he replied yes.

Mr. Fogarty asked Mr. Meola if the grading will drain into the storm system; he replied yes.

Mr. Fogarty asked Mr. Meola if this will affect his property; he replied no.

Suzanne Robinson approached the podium and stated that she lives at 34 Dogwood Road. She asked Mr. Meola if they are proposing a new driveway with a new pitch; he replied yes.

Ms. Robinson asked Mr. Meola if the new addition will be a medical office; he replied he was not sure yet.

Ms. Robinson asked Mr. Meola how wide Dogwood Road is; he replied 30' wide.

Ms. Robinson asked Mr. Meola what traffic study have they done; he replied minimal. Mr. Meola said that they are proposing a 1700 sq. ft. addition which does not require a traffic expert.

Ms. Weiss stated that the Board has a Professional Engineer that makes sure whatever is being proposed is safe for everyone.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. Meola if trucks will be able to back into this site; he said only smaller trucks will be able to back into the site.

There were no further questions for Mr. Meola.

Mr. Sullivan called his next witness.

Andre G. Szalay approached the podium and was sworn under oath. Mr. Szalay detailed his educational and professional background as a licensed architect in the State of New Jersey. Chairwoman Gabry accepted Mr. Szalay as an expert in architecture.

Mr. Szalay presented six pages of the architectural plans dated 10/28/13.

Chairwoman Gabry asked to have the six pages of the architectural plans, A-1 to A-6 dated 10/28/13 marked as Exhibit A-2 for identification.

Mr. Sullivan asked Mr. Szalay if he prepared these plans; he replied yes.



Mr. Sullivan asked Mr. Szalay if these floor plans show the exact uses; he replied no. Mr. Szalay said that Omland Engineering's report was issued May 23, 2014 and revised plans showing the exact uses had to be submitted ten days before this meeting.

Mr. Sussman asked Mr. Szalay exactly what type of business will utilize the proposed commercial space; he said that he did not know. He said it will be office space and not retail space.

Mr. Buechler asked Mr. Sullivan if the applicant would accept no retail in the proposed commercial space as a condition of approval; he replied yes.

Mr. Sullivan asked Mr. Szalay to address the following items in the Omland Engineering report dated 5/23/14 prepared by Eric Keller:

5. Mr. Szalay said that the applicant will agree to install a fire suppression system.

Mr. Buechler suggested that the applicant find out if the Township's building code requires the fire suppression system to be replaced in the entire building. Mr. Keller said that the water supply is sufficient for the entire building. Mr. Neuer said that the applicant should find out if it has to be installed in the entire building

- 7. Mr. Szalay said that the number of parking spaces will depend on what type of business will occupy the space.
- 10. Mr. Szalay referred to sheet A-5 on Exhibit A-2 and stated that that all three of the new doors will be ADA compliant.
- 19. Mr. Szalay stated that the hours of operation will be normal business hours of operation. He said that the current businesses on site are rarely open past 9 pm and the light fixtures in the parking lot are not necessary to be on after 10 pm.

Mr. Sullivan asked Mr. Szalay if there are lights over the residences; he replied yes. He said that the residents park close to the building and there is no need for lights to be on in the parking lot all night.

Mr. Buechler asked Mr. Sullivan if the applicant would accept that all businesses should be closed before 10 pm as a condition of approval; he replied yes.

Mr. Neuer asked Mr. Szalay how many employees are on the site during the day; he replied seven.

Mr. Neuer asked Mr. Szalay where the employees park; he said on the property.

Mr. Buechler asked Mr. Szalay if he is sure that there are only seven employees there during the day; he said when he has been at the site there are only seven employees there. Mr. Szalay said that the dentist works alone and between the three current tenants there are seven people.

Mr. Buechler advised Mr. Szalay to be prepared to answer questions regarding the hair salon and the number of employees working there at the next meeting.

23. Mr. Szalay said that they are proposing to put the HVAC units in the attic depending on the system they will use. He said that they cannot put the units on the roof because it is pitched. Mr. Szalay said that everything will be inside of the building so it will not require screening. He said if they choose to install a slab on the ground outside then that will need screening.

Mr. Keller said that he also wants the wattage of the light fixtures shown on the revised plans.

25. Mr. Szalay stated that the recyclable items will be collected and detailed where the recyclable and trash enclosures will be on the plans. He said that the medical waste is placed in small containers in the front of the building and collected.
28. Mr. Szalay said that they are proposing the exterior of the proposed addition to be a tan colored stucco that will blend in with the residential scale of the building.

Mr. Buechler asked Mr. Szalay if they are proposing to side the entire building; he said no just the proposed addition. He said that they will match it with the rest of the building.

29. Mr. Szalay said that the buildings address will be consistent on the revised plans.

Mr. Bullock asked Mr. Szalay if he could provide a colorized photo of the proposed addition at the next meeting; he replied yes.

Mr. Sussman asked Mr. Szalay what will be in the attic; he replied that they will be using the attic for storage only.

Chairwoman Gabry asked Mr. Sullivan if the applicant would accept that the attic will be used for storage only as a condition of approval; he replied yes.

There were no further questions for Mr. Szalay from the Board members or the Professionals.

Chairwoman Gabry asked if any members of the public had any questions for Mr. Szalay.

Robert Martin approached the podium and stated that he lives at 25 Dogwood Road. He asked Mr. Szalay how far back the proposed addition is set back; he replied five feet.

Marilyn Fogarty approached the podium and stated that she lives at 8 Dogwood Road. She asked Mr. Szalay if the banner on the front of the building for Family Care is another tenant; he replied no that Family Care is not a business. Mr. Szalay said that the banner will be removed.

Don Freundlich approached the podium and stated that he lives at 62 Dogwood Road and asked Mr. Szalay if they are proposing to make the trash enclosure bigger; he replied yes.

Nancy Warshowsky approached the podium and stated that she lives at 40 Dogwood Road and asked Mr. Szalay if they will be renting the proposed space for retail; he replied no.

There were no further questions for Mr. Szalay.

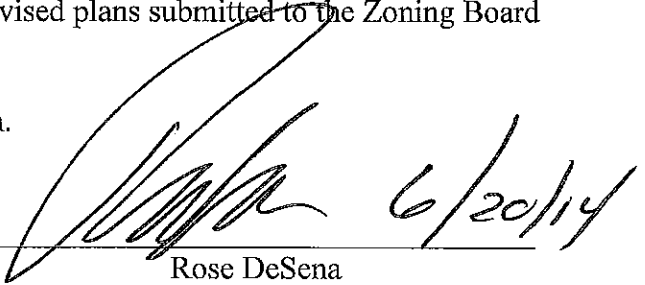
Mr. Neuer suggested to Mr. Sullivan that they re-think hiring a traffic engineer.

Chairwoman Gabry stated that this application will be carried to the July 17, 2014 regular Zoning Board meeting and that no further notice will be necessary.

Chairwoman Gabry advised Mr. Sullivan to have all revised plans submitted to the Zoning Board Secretary at least ten (10) days before that meeting.

Chairwoman Gabry adjourned the meeting at 10:53 pm.

Adopted: June 19, 2014



Rose DeSena  
Zoning Board Secretary