

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
October 23, 2014**

The West Orange Zoning Board of Adjustment held a regular meeting on October 23, 2014 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Buechler 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, 2013 in accordance with the "Open Public Meetings Act."

Chairman Buechler asked everyone to stand for the Pledge of Allegiance.

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

PRESENT: B. Buechler, D. Gabry, P. Neuer, B. Quentzel,
M. Sussman, A. Weiss

ABSENT: G. Bullock (excused)
W. Merklinger (excused)
W. Steinhart (excused)

ALSO PRESENT: Paul Grygiel, Consulting Planner
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary
D. Dillon, Audio-Digital Transcription Service

ANNOUNCEMENTS

Future Meetings: October 30, 2014 (Special Meeting) – 8:00 pm
November 17, 2014 (Special Meeting) – 8:00 pm
November 20, 2014 (Regular Meeting) – 8:00 pm
December 18, 2014 (Regular Meeting) – 8:00 pm

Chairman Buechler announced that application **ZB-14-04/Patin** that was scheduled to be heard at this meeting has requested to be carried over to a special meeting on November 17, 2014 and that no further notice will be required.

MINUTES

Adopt Minutes: September 18, 2014 (regular meeting)

Chairman Buechler asked the Board Members if they had any additional comments for the September 18, 2014 regular meeting that were submitted to them for review. Seeing none, he asked for a motion to approve the minutes.

Ms. Gabry made a motion to approve the minutes from the September 18, 2014 regular Zoning Board of Adjustment meeting as submitted to the Board members; Ms. Weiss seconded the motion and all were in favor.

Chairman Buechler noted for the record that Mr. Quentzel was not present at the September 18, 2014 meeting and Mr. Neuer was recused from hearing the application that was on the September 18, 2014 meeting agenda. Both Mr. Quentzel and Mr. Neuer were present but did not vote on these minutes.

ANNUAL REPORT

Adopt: Zoning Board of Adjustment Annual Report – 2013-2014 (Draft)

Chairman Buechler asked the Board members if they reviewed the Annual Report and had any comments; seeing none the Chairman asked for a motion to approve the Zoning Board of Adjustment's 2013-2014 Annual Report.

Mr. Neuer stated that Paul Grygiel did an excellent job on the report and that it now meets all of the requirements of the statute.

Mr. Neuer made a motion to approve the Zoning Board of Adjustment's 2013-2014 Annual Report.

Ms. Weiss said that the report indicated that there is litigation involving the Galvalinez application that the Board denied and said that it is being appealed. She said that she feels that an announcement should have been made to the Board regarding this.

Chairman Buechler stated that someone sent him a copy of the complaint that was filed on June 5, 2014. He said that in the future he will make a note to announce litigation matters at a meeting.

Ms. Gabry seconded the motion to adopt the Zoning Board of Adjustment's 2013-2014 Annual Report and all were in favor.

NEW BUSINESS

Adopt: West Orange Zoning Board of Adjustment Regular Meeting Schedule For 2015.
Chairman Buechler asked for a motion to adopt the West Orange Zoning Board of Adjustment regular meeting schedule for 2015.

Ms. Gabry made a motion to adopt the West Orange Zoning Board of Adjustment regular meeting schedule for 2015; Mr. Quentzel seconded the motion and all were in favor.

DISCUSSION

THE RULES OF PROCEDURE OF THE ZONING BOARD OF ADJUSTMENT

Chairman Buechler stated that at the last meeting he circulated a copy of the amended Rules of Procedure for the Zoning Board of Adjustment that included his suggested revisions and asked if any of the Board Members have any additional comments.

Ms. Gabry stated that she has some additional comments but did not have a chance to submit them to the rest of the Board Members.

Chairman Buechler said that this will be carried over to the next Zoning Board meeting held on November 20, 2014 for discussion.

Ms. Weiss asked why the annual meeting for the election of officers was changed to January first; Chairman Buechler said that the change is because the Municipal election was moved to January first and that all cycles should be coterminous. He said that this will start in January 2016 because the Zoning Board just had their election of officers in July.

SWEARING IN

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

APPLICATIONS

1. ZB-14-00/Wang

Carried from 9/18/14

Block: 161; Lot: 30; Zone: R-5

7 Oak Avenue

Seeking three "C" variances for the expansion of an existing kitchen and the construction of an accessory structure in the rear of the house

Chairman Buechler asked the applicant, Peter Wang, to approach the podium.

Chairman Buechler stated that this application was last heard at the June 19, 2014 Zoning Board meeting. He asked Mr. Wang if his Architect was present at this meeting; he replied no. Mr. Wang said that his Architect had another meeting to go to. Chairman Buechler told Mr. Wang that his Architect had to be at this meeting to answer any questions that the Board may have for him.

Chairman Buechler said that this application will be adjourned to the next regular Zoning Board meeting held on November 20, 2014 and that no further notice will be necessary.

Chairman Buechler advised Mr. Wang to notify the Board Secretary if his Architect cannot be at this meeting.

Chairman Buechler said that he also understands that there is some confusion with the exhibits and that the Board will figure this out at the next Zoning Board meeting.

2. ZB-14-10/Franco

Block: 176.25; Lot: 10; Zone: R-4

24 Ferris Drive

Seeking four (4) variances for installing an above ground swimming pool

Hugo and Emilia Franco approached the podium and was sworn under oath.

Chairman Buechler asked Mr. and Mrs. Franco to describe what work was done to their property and when the Township notified them that there was a problem.

Mrs. Franco stated that they were sorry for not getting the proper permits from the Township for the work that they already did to the property. She said that they set their pool up approximately two (2) years ago.

Chairman Buechler asked Mrs. Franco when they were first notified by the Township that there was a problem; she said eight (8) months ago.

Chairman Buechler asked Mrs. Franco if they received any comments from their neighbors regarding this application; she replied no.

Chairman Buechler asked Mr. and Mrs. Franco if they wanted to add anything to their testimony; they both replied no.

Chairman Buechler asked if any members of the Board had any questions for Mr. and Mrs. Franco.

Mr. Sussman stated that the plans indicated that the fence and the wall is right on the property line and according to Mr. Grygiel's report the distance of 15' from the property line is required.

Mr. Franco said that there is not a wall on the property; just a fence.

Mr. Grygiel stated that no setback is required for the fence and the wall; he said that a height of 6' is allowed.

Mr. Neuer stated that the plans denote that there is a wall and the surveyor who prepared the survey of the property says there is a wall.

Mrs. Franco said that there is a retaining wall.

Mr. Neuer asked Mr. Franco if the fence was theirs; he said that he believes so. He said that the fence was there when they purchased the house.

Ms. Weiss stated that the Township issued the violation for the swimming pool and asked Mr. Franco if the swimming pool deck was built after they received the violation; he replied no.

Chairman Buechler asked Mr. Grygiel if the swimming pool deck requires a 10' setback. Mr. Grygiel said that there are two different ordinances; he said that the swimming pool deck and the bar must be 5' away from the property line and the swimming pool must be 10' away from the property line. Mr. Grygiel said that the swimming pool is not 10' from the property line.

Chairman Buechler asked Mr. Franco to explain the plans that were submitted to the Board.

Mr. Franco said that the deck and the wall were there when they purchased the house and so were the pavers where the bar area is; he said that they built the bar.

Chairman Buechler asked Mr. Franco how high the roof is that is over the bar; he said 10'. Mr. Grygiel said that 15' is allowed.

Ms. Weiss asked what street the swimming pool deck area and the swimming pool is near; Mrs. Franco said Edgemont Road.

Ms. Weiss asked Mrs. Franco if the people who own the house near the swimming pool have said anything to them about the deck and swimming pool; she said no.

Mr. Neuer asked if the swing set is on brick pavers; Mr. Franco said no that it is on mulch.

Mr. Grygiel said that after checking the Township ordinance, he is confirming that the height for an accessory building is 15' but there is no Township ordinance for an accessory structure.

Chairman Buechler asked if they could move the swimming pool deck; Mr. Franco replied yes.

There were no further questions from the Board Members or the Board Professionals.

Chairman Buechler asked if any members of the public had any questions for the applicant.

Ramsey Abdallah approached the podium and stated that he lives at 38 Porter Road and his parents live at 27 Edgemont Road. Mr. Abdallah asked Mr. Franco what the PVC pipe was that they secured to his fence along the property line. He also asked Mr. Franco why he instructed his workers not to speak to him.

Mr. Franco said he did not know anything about the workers telling Mr. Abdallah not to speak to him and had no idea why they said that to him. He also said that Mr. Abdallah's father did come and talk to him about the pool water.

Chairman Buechler asked Mr. Franco if the PVC pipe is attached to the pool and where does that pipe go to; he said that he did not know.

Mr. Abdallah said that the PVC pipe runs along his fence. He said that his father put up both of the fences on the property line; a chain link fence and a wood fence.

Mr. Neuer asked Mr. Abdallah when the fences were built; Mr. Abdallah said that both fences were built before the Franco's purchased the house. He said that Mr. Franco put up another fence in front of the chain link fence after he purchased the house.

Mr. Abdallah said this during the summer, water poured into his father's property that came from the Franco's property. He said that there is a PVC pipe that runs along their fence and it is nailed to his father's fence. Mr. Franco said that he has no idea what PVC pipe he is talking about.

Jonathan Blank approached the podium and stated that he lives at 20 Ferris Drive. Mr. Blank stated that he did speak to the Franco's.

Chairman Buechler asked Mr. Franco if he had a conversation with Mr. Blank; he replied no.

Dr. Blank asked Mr. Franco if he took a tree down that was along the property line; he replied yes. Mr. Franco said that he contracted the Happy Tree Company to take the tree down that was on his property before he did the construction work. He said that this had nothing to do with the swimming pool.

Dr. Blank said that when they were taking down the tree, a branch fell and damaged the tree that was on his property and he had a conversation with Mr. Franco about that. He said that Mr. Franco told him that the tree service was responsible for the damage done to his tree because they took the tree down.

There was discussion that the retaining wall built by Mr. Franco encroaches onto Dr. Blank's property without permission.

Chairman Buechler asked Mr. Franco if he took down any other trees with the construction; he replied no.

Mr. Grygiel stated that a resident is allowed to take down three trees per year but they have to file a notice with the Township when removing a tree. He said that the applicant should have filed a notice with the Township about the removal of the tree.

Mr. Neuer asked Mr. Franco what the status of the violation was and if they went to court; he said court dismissed the charges because they had to come before the Zoning Board.

Mr. Quentzel asked Mr. Franco if the charges were dismissed or was it adjourned until they came before the Zoning Board; he said it was adjourned.

Chairman Buechler said that the Board is going to allow the neighbors to make statements at this meeting. He recommended that a few of the Board Members go look at the property and see if the swimming pool deck can be moved so that it is not up against the property line. He said to check the walls, the fences and the PVC piping.

Chairman Buechler said that they will carry this application over to the regular Zoning Board meeting on 11/20/14 and that no further notice will be necessary.

Chairman Buechler asked if any members of the public had any comments.

Ramsey Abdallah approached the podium and was sworn under oath. Mr. Abdallah said that the applicant should have found out if they needed permits to do the work if they were not sure. He said that his parents chose that neighborhood to live in and that they want their privacy. Mr. Abdallah said do not build something first and ask permission later.

Chairman Buechler asked Mr. Abdallah if the swimming pool deck is the problem and do they want it moved; he said that their major concern is their privacy because if someone is standing on the deck they can see right into their yard. Mr. Abdallah said that they are also concerned about it affecting the sale of their property in the future with the deck being so close to the property line.

Chairman Buechler said that the Board cannot answer the question about the deck affecting the sale of their property; he said that the Board balances the situation the best they can and do what they feel is best.

Chairman Buechler stated that if the swimming pool deck was moved to the other side of the swimming pool, it would be 20' off of the property line but the swimming pool would still be there. He asked Mr. Abdallah if they want the applicant to relocate the swimming pool too. Mr. Abdallah said that they do not want to harm the applicant or destroy what they built with an additional cost to them. He said that if the swimming pool deck was moved to the other side, it

would remedy the privacy situation. Mr. Abdallah said that the bar is not an inconvenience to their property.

Ms. Weiss said that the applicant could possibly put up a higher fence and move the swimming pool deck and that would make a difference.

Jonathan Blank approached the podium and was sworn under oath. Dr. Blank said that he has an issue with the wall between their properties. He said that the 4' wall did not need a variance but then they put a 6' fence on top of that.

Mr. Neuer asked Mr. Franco to explain to the Board where the wall is; he said that the wall goes around the grass area.

Mr. Neuer asked Mr. Franco if he built the wall when he put the swimming pool in; he replied yes but just on the left side of his property and not around his property. Mr. Franco said that after they put the wall up they had to fill in the area with dirt to level it off.

Mr. Neuer asked how much dirt did they have to bring in; he said about five (5) dump trucks of dirt.

Mr. Neuer asked if it was clean dirt; he replied yes.

Chairman Buechler asked Mr. Franco who the contractor was; he replied DLP Contractors.

Chairman Buechler asked Mr. Franco where DLP Contractors is located; he said he will find out their address. Mr. Franco said that they put the wall up and then filled it in with the dirt.

Dr. Blank said that he wants the fence on his property line to be more attractive; he said that he wants the more attractive side of the fence facing his property.

Dr. Blank said that the fence is on a cinder block wall.

Chairman Buechler asked Mr. Grygiel if the fence on top of the wall requires another variance; Mr. Grygiel said it is possible.

Mr. Neuer stated that this may even require site plan approval because of all the work that was done and drainage issues may be a concern.

Chairman Buechler instructed Mr. Franco to call the Board Secretary with the name of the contractor that did all of the work.

Chairman Buechler asked Mr. Franco who built the deck; he said his friend built the deck.

Chairman Buechler asked Mr. Franco what his friend's name is; he said Mike.

Chairman Buechler asked Mr. Franco what Mike's last name is; he said he did not know.

Chairman Buechler instructed Mr. Franco to also tell the Board Secretary the name of the person who built the deck. He told Mr. Franco that if he did not do this then he has no credibility. Chairman Buechler stated that there is a lot more extensive work done on the property and asked Mr. Grygiel to visit the site to see what was done.

Ms. Gabry said that the Board is going to need a full disclosure from the Franco's.

Mr. Franco said that they built the retaining wall and then leveled the back yard. He said then they put a fence on top of the wall and after they leveled it, they built the swimming pool deck. Mr. Franco said that he will move the swimming pool deck.

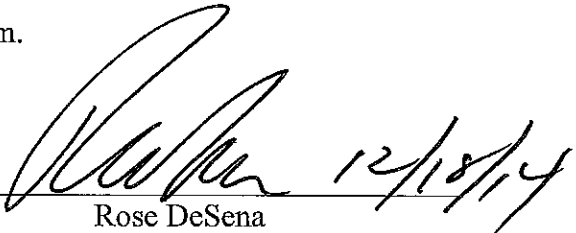
Chairman Buechler instructed Mr. Franco not to do any work until after they come back for the next Zoning Board hearing.

Mr. Neuer told Mr. Franco to bring an estimate to the next meeting for moving the swimming pool deck and the swimming pool.

Chairman Buechler stated that, according to the survey, the retaining wall is .4/10 over the property line. He said told Mr. Franco that he has to either move the wall over or come to a financial agreement with Dr. Blank and file an easement so that a sub division is not needed.

The meeting was adjourned by Chairman Buechler at 9:40 pm.

Adopted: December 11, 2014



Rose DeSena
Zoning Board Secretary