

**MINUTES  
TOWNSHIP OF WEST ORANGE  
ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING  
November 17, 2014**

The West Orange Zoning Board of Adjustment held a special meeting on November 17, 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 3, 2014 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, G. Bullock, D. Gabry, P. Neuer,  
B. Quentzel, M. Sussman, A. Weiss

**ABSENT:** W. Merklinger (excused absence)  
W. Steinhart (excused absence)

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

**ANNOUNCEMENTS**

**Future Meetings:** November 20, 2014 (Regular Meeting) – 8:00 pm  
December 11, 2014 (Special Meeting) – 8:00 pm  
December 18, 2014 (Regular Meeting) – 8:00 pm  
January 15, 2015 (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.

**APPLICATION(S)**

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

**Carried over from 9/18/14**

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-6 – Proposed Addition and Attic Floor Plan - Sheet A-5a with a revision date of 11/7/14
- A-7 – Site Plan – 10 sheets with a revision date of 9/8/14
- A-8 – Revised Traffic Assessment – three (3) pages
- A-9 – Planning Exhibit – three (3) pages

William Sullivan, Esq., attorney for the applicant, approached the podium.

Chairman Buechler stated that this application was last heard at the Zoning Board’s regular meeting held on August 21, 2014.

Mr. Sullivan stated that the applicant’s Architect and Engineer will be testifying to address some issues that came up at the last meeting on August 21, 2014. He said that their Traffic Expert and Professional Planner will also be testifying.

Mr. Sullivan called his first witness.

Andre G. Szalay approached the podium and was sworn under oath.

Chairman Buechler stated for the record that Mr. Szalay was accepted as an expert witness in architecture at the last meeting.

Mr. Sullivan asked Mr. Szalay to address item #38 in the Omland Engineering technical review dated 9/13/14 regarding the screening of the air conditioner condensers.

Mr. Szalay presented a revised plan of the attic floor and proposed addition; Chairman Buechler asked to have Sheet A-5a of the revised plan of the attic floor and proposed addition marked as Exhibit A-6 for identification.

Mr. Szalay referred to Exhibit A-6 and described where the access to the attic is on the plans and noted where the air conditioner condensers will be located.

Mr. Sullivan asked Mr. Szalay how high the ceilings are in the attic; he replied seven (7) feet high.

Chairman Buechler asked Mr. Szalay if the attic will be used for storage only; he replied yes.

Mr. Sullivan stated that they will accept the attic being used for storage only as a condition of approval.

Mr. Szalay referred to item #25 of the Omland Engineering technical review letter dated November 13, 2014 regarding refuse pickup. He said that he spoke to the Township's Health Official and was told that under the Township's current code that they are allowed to put their trash on the curb on Dogwood Road. Mr. Szalay said that they are not required to have the trash privately picked up.

Mr. Szalay also stated that the boat that was in the parking lot has been removed.

Mr. Szalay said that they will be removing a little over of a foot of the neighbor's driveway on Dogwood Road that is encroaching on the applicants' property. He said that the applicant decided to remove the portion that is extending on to his property at his own expense so that there are no title issues.

Chairman Buechler asked Mr. Szalay if he notified the neighbor that they will be removing a portion of their driveway; he replied no.

Mr. Sullivan stated that the neighbor did not want to entertain any discussion with them.

Mr. Neuer said that the driveway issue is not the architect's purview; he said that the engineer should discuss this.

Chairman Buechler asked who will address the "for rent" sign on the building that was discussed at the last meeting.

Mr. Sullivan asked Mr. Szalay if there are any signs currently on the building; he said no. Mr. Szalay said that he was at the site about a week and a half ago and all of the signs have been removed. He said that the owner wanted to rent an apartment space that was going to be vacant but he changed his mind.

Mr. Sussman asked Mr. Szalay if the apartment is vacant; he replied no. Mr. Szalay said that the tenant decided not to leave.

Mr. Neuer asked Mr. Szalay to include a legend on the front page of the final architectural drawings showing the air conditioner condensers.

There were no further questions for Mr. Szalay from the Board Members of the Board Professionals.

Chairman Buechler asked if any members of the public had any questions for Mr. Szalay; there were none.

Mr. Sullivan called his next witness.

Frederick C. Meola approached the podium and was sworn under oath.

Chairman Buechler asked Mr. Meola if there have been any changes in his qualifications since the last hearing; he replied no.

Chairman Buechler stated that Mr. Meola is still accepted as an expert in professional engineering.

Mr. Meola presented revised site plans with a revision date of 9/8/14.

Chairman Buechler asked to have the ten (10) sheets of the revised site plans with a revision date of 9/8/14 marked as Exhibit A-7 for identification.

Mr. Sullivan asked Mr. Meola to refer to Exhibit A-7 and point out the water line on the plans.

Mr. Meola referred to page 4 of the site plans and pointed out where the water line is located. He said that they only need one water line going in but if they need a second line it will run along the first water line.

Mr. Sullivan asked Mr. Meola to refer to the Omland Engineering technical review letter dated November 13, 2014 and address the security lighting being proposed.

Mr. Meola referred to the lighting plan on sheet ten (1) of Exhibit A-7 and stated that they are proposing all LED lights and installing a motion sensor light that will go on if a tenant is outside or putting out the garbage.

Mr. Sullivan referred to item #19 on the Omland Engineering review letter and stated that Mr. Keller felt that the motion sensor lighting would be distracting because the on and off lights could be very intrusive to the neighbors. He said that Mr. Keller is suggesting that the security LED lights operate at half the power after 10:00 pm.

Mr. Neuer asked Mr. Keller what his decision is regarding the security lighting; he said they should reduce the LED light to half power at night instead of installing a motion sensor light.

Mr. Sullivan referred to a memo from the Township's Police Department dated September 2, 2014 regarding a lighting survey they conducted at the site. He said that the police noted in the survey that some fixtures that were not working needed to be repaired. Mr. Sullivan said that they survey also noted that there was a PSE&G light pole that was not lit.

Mr. Meola said that if some of the lights are not working, they will fix them.

Mr. Neuer asked Mr. Meola if he meant that they will be repairing the lights on the site and not the PSE&G light pole; he said yes.

Mr. Sullivan asked Mr. Meola if they revised the landscaping plan; he replied yes.

Mr. Sullivan asked Mr. Meola to address item #35 in the Omland Engineering review letter dated 11/13/14 and to detail the tree removal revisions that were made to the plan.

Mr. Meola referred to the revised landscaping plan on page three (3) of Exhibit A-7 and said that the x's shown on the plan are the trees that will be removed.

Mr. Keller stated that the plans need a little more revision and should show if a tree is dead.

Mr. Sullivan asked Mr. Meola to address item #36 in the Omland Engineering review letter dated 11/13/14.

Mr. Meola referred to sheet six (6) of Exhibit A-7 regarding the landscape on Northfield Avenue and detailed what additional landscaping is being proposed. He said that the five (5) Japanese Hollies will come out and be replaced with azaleas.

Mr. Keller stated that the proposed landscaping plan presents a much nicer view from Northfield Avenue and Dogwood Road.

Mr. Sullivan asked Mr. Meola to address the neighbor's driveway that is encroaching on the applicant's property.

Mr. Meola referred to sheet 2 of Exhibit A-7 and noted the location of the neighbor's driveway on the plans. He said that the driveway is encroaching approximately 2' and they are proposing to remove it by cutting the blacktop.

Chairman Buechler asked Mr. Meola how wide the neighbor's driveway will be after the portion is removed; he said at least ten (10) feet or more.

Mr. Neuer asked Mr. Meola how long has the neighbor's driveway been like that; he said he did not know.

Mr. Neuer stated for the record that this Board cannot approve the removal of the encroached portion of the neighbor's driveway and the Board will not endorse that.

Mr. Sullivan referred to Omland Engineering's technical review dated 11/13/14 and stated that they will address the following comments:

Item #3 regarding the Township's Building Department requiring another cleanout provided on the existing sewer lateral outside the new building – applicant will comply.

Item #5 regarding the fire and sprinkler line – applicant will comply.

Item #6 regarding providing the Township an easement for the storm drain that runs under the building – Mr. Meola said that the applicant will not provide the Township with an easement but will provide the Township access to repair the pipe if need be.

Mr. Neuer suggested that Mr. Sullivan have the Township Attorney make the decision as to whether the Town will need an easement or just access to the pipe.

Ms. Beirne stated for the record that a condition of approval regarding this matter will be to the satisfaction of the Township Attorney.

Item #7 regarding discrepancy of the parking calculations – applicant will resolve the discrepancy.

Item #15 regarding cleaning and video inspecting the existing storm sewers – applicant will comply as a condition of approval.

Item #19 and Item #20 regarding lighting/security lighting on site – Mr. Meola stated that the applicant will comply.

Item #28 regarding site signage – Mr. Sullivan stated that the applicant does not have a sign package yet because they have not secured a tenant. He said that the signage will conform with the Township's sign ordinance.

Chairman Buechler stated that the Board will not approve the signage.

Mr. Sullivan stated that if the applicant applies for a sign permit then it must be in compliance with the Township's sign ordinance.

There were no further questions for Mr. Meola from the Board Members of the Board Professionals.

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

Marilyn Fogarty approached the podium and stated that she lives at 8 Dogwood Road. She asked Mr. Meola how many trees will be taken down. Mr. Meola referred to page three (3) of Exhibit A-7 and listed all of the trees that will be taken down.

Ms. Fogarty asked Mr. Meola how many live trees will be taken down; he replied fifteen (15). Mr. Meola said that six (6) of these trees are in fair to poor condition and nine (9) are in good condition.

Ms. Fogarty asked Mr. Meola what the landscaping plans are after they remove the strip of driveway that is encroaching; he said they will replace it with grass.

Allegra Lagani approached the podium and stated that she lives at 21 Dogwood Road. She asked Mr. Meola if they will be providing the Township with an easement or access to the storm drain that runs under the building. Mr. Sullivan replied and stated that the applicant will have to negotiate that with the Township Attorney.

There were no further question for Mr. Meola.

Mr. Sullivan called his next witness.

John A. Desch approached the podium and was sworn under oath. Mr. Desch detailed his educational and professional background as a licensed Professional Engineer in the States of New Jersey, Pennsylvania and Ohio. He stated that he has worked for many Municipalities as the Township Engineer and have testified before many Boards. Mr. Desch stated that he will be testifying as the Traffic Engineer for the applicant.

Chairman Buechler accepted Mr. Desch as an expert in Traffic Engineering.

Chairman Buechler asked Mr. Desch if he prepared the traffic report dated November 6, 2014 that was submitted to this Board; he replied yes.

Mr. Sullivan asked Mr. Desch to define the levels of service and volumes of traffic for the site. Mr. Desch referred to his report dated 11/6/14 and stated that he provided an analysis of the 1700 sq. ft. space, based on a single occupancy, and the impact it will have on Northfield Avenue and Dogwood Road. He said that he determined that there will be adequate parking spaces onsite with an occasional one or two parking spaces needed on Dogwood Road. Mr. Desch said that he also determined how many vehicles will be generated from this site.

Mr. Neuer asked Mr. Desch why it was based on a single occupancy when the application states there will be two new uses. Mr. Desch said to just reduce the numbers he shows in his report in half.

There was some discussion regarding the numbers that were used to determine the levels of service. Mr. Sullivan stated that they used the larger numbers to determine that.

Mr. Desch stated that in conclusion, all traffic coming in from Northfield Avenue and exiting on Dogwood Road makes the site safer.

Mr. Sullivan referred to a memo from West Orange Police Officer Chris Jacksic dated 7/14/14 and said that this report states that the proposed addition will have no significant impact on the neighborhood.

Mr. Desch referred to Table 3 of his traffic report regarding the parking analysis and stated that the parking counts were inaccurate in the report and detailed the correct counts. He said that on page five (5) at 11:00 am on Friday 9/5/14 the correct count is twenty one (21) instead of twenty four (24) required spaces and at 2:00 pm the correct number is fourteen (14) instead of thirteen (13) occupied spaces and the total spaces needed only on Friday evening is twenty four (24) spaces and not twenty one (21) spaces.

Chairman Buechler asked how many parking spaces are on site today; Mr. Sullivan said there are no striped parking spaces on site today. Mr. Desch said that there will be twenty one (21) parking spaces onsite and only twenty four (24) spaces are needed one time a week.

Chairman Buechler called for a recess at 9:26 pm.

Chairman Buechler resumed the meeting at 9:38 pm.

Mr. Neuer asked Mr. Desch, in his opinion, what repairs should be made in the parking lot; he said that would be beyond his area of involvement but in his opinion he would recommend striping.

Mr. Keller asked Mr. Desch if he received any similar time frame count information from Essex County for Northfield Avenue so that he could compare his counts when school was open; he said that he took his counts in May of 2009 and the counts that Essex County took are less. Mr. Desch said the numbers went down.

Mr. Keller asked Mr. Desch if he observed any change to the traffic flow from Old Short Hills Road when the traffic signal turned red while he was taking his counts; he said the counts showed that there was not a lot of delay.

Mr. Keller asked Mr. Desch if there was any site obstruction at the intersection of Dogwood Road and Northfield Avenue; he replied no.

Mr. Grygiel stated for the record that it was stipulated at a prior meeting that there would be no retail in the 1700 sq. ft. proposed addition and it would be used for office space only.

There were no further questions for Mr. Desch from the Board Members of the Board Professionals.

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

Allegra Lagani approached the podium and stated that she lives at 21 Dogwood Road. She asked Mr. Desch if the counts included the traffic for the after school park activities; he said yes. Mr. Desch said that those counts were ten (10) cars per hour.

Marilyn Fogarty approached the podium and stated that she lives at 8 Dogwood Road. She asked Mr. Desch if his counts included all of the vehicles from the existing space exiting on Dogwood Road; he replied yes.

Ms. Fogarty asked Mr. Desch if he noticed how difficult it was making a left turn on to Northfield Avenue from Dogwood Road; he replied yes.

There were no further questions for Mr. Desch.

Mr. Sullivan called his next witness.

John McDonough approached the podium and was sworn under oath. Mr. McDonough detailed his professional background as a Professional Planner and Landscape Architect licensed in the State of New Jersey.



Chairman Buechler accepted Mr. McDonough as an expert in Professional Planning.

Mr. McDonough stated that the application requires preliminary and final site plan approval. He said that the applicant is also seeking the approval of a use variance, setback variances, parking variances, relief from parking stall dimensions and parking spaces.

Mr. McDonough presented the Board Members with three pages of photographs.

Chairman Buechler asked to have the three pages of photographs marked as Exhibit A-9 for identification.

Chairman Buechler asked Mr. McDonough if he took the photos; he said that he took the photos on pages two and three and he downloaded page one from the Bing website.

Mr. McDonough referred to page one of Exhibit A-9 and detailed the surrounding area. He then referred to pages two and three of Exhibit A-9 and detailed the existing conditions of the site.

Ms. Weiss referred to photo #8 on page three of Exhibit A-9 and asked Mr. McDonough how long it took for the Norway Spruces to get to that height; he said they grow about a foot per year and the trees in the photo are ten (10) years old. Mr. McDonough said that they can work with the Township Forester to provide a denser buffer.

Mr. McDonough stated that the applicant is proposing a 1700 sq. ft. addition that would expand the existing commercial building to the east.

Mr. McDonough detailed the proposed driveway circulation stating that it will be reconfigured to accommodate a one-way flow and eliminate the left turn out to Northfield Avenue. He said that the parking lot will also be reconfigured to accommodate the addition and they will be providing twenty one (21) parking spaces. Mr. McDonough also detailed the landscaping being proposed in the front and the rear of the building.

Mr. McDonough referred to his report dated March 8, 2014 and detailed the positive criteria. He said that there is a 25' buffer between the residential and commercial property which is more than adequate according to the Township's Ordinance.

Mr. McDonough detailed the negative criteria and stated that in conclusion the variances can be granted without any substantial detriment to the public good or the Township's Zoning Ordinance.

Mr. Sullivan detailed the history of lot #5 and stated that there were two prior applications submitted that were denied by this Board and two applications that were withdrawn by the applicant.

Chairman Buechler stated for the record that the denial in 2011 was for lack of public notice and lack of prosecution. He said that the Board did not deny the application.

Mr. Sullivan said that the application was withdrawn in 2006, by the applicant at the time, due to their concern about the development of lot #5.

Mr. Neuer asked Mr. McDonough if the application did not include the 1700 sq. ft. addition and it was only for utilizing the undersize lot, would his opinion be the same. Mr. McDonough said that he thinks the proposal for the addition and the lot works hand in hand. Mr. Neuer said he disagrees.

Mr. Neuer asked Mr. McDonough if the applicant knew the lot was undersized when he bought the property and that it would need a variance; he replied yes.

Mr. Grygiel stated for the record that he does not think that a side yard variance is required for the property on Northfield Avenue and Dogwood Road.

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

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

Anthony Magarelli approached the podium and stated that he lives at 7 Dogwood Road. Mr. Magarelli asked Mr. McDonough if there will be any conditions regarding the maintenance of the property.

Chairman Buechler stated that if the application is approved the applicant is required to maintain the property for two years. He said that any time after that, if the property is not maintained, you can call the Township and report it. Chairman Buechler also said that the applicant is required to provide escrow to replace any trees that die within two years.

Robert Rashkes approached the podium and stated that he lives at 35 Oak Crest Road. He asked Mr. McDonough if they will be replacing the sidewalks on Northfield Avenue and Dogwood Road; he replied no.

Suzanne Robinson approached the podium and stated that she lives at 34 Dogwood Road. She asked Mr. McDonough if the windows in the proposed addition will be covered with the same white window treatments that the existing building windows are covered in; he said he did not know.

There were no further questions for Mr. McDonough from the members of the public.

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

Marilyn Fogarty approached the podium and was sworn under oath. Ms. Fogarty stated that she lives at 8 Dogwood Road and asked the Board if lots #4 and #5 were consolidated would it remain residential.

Chairman Buechler said lot #5 would remain residential unless the Township decides to re-zone the line.

Ms. Fogarty said that the criteria for the "D" variance for the overdevelopment of the undersized lot was not proven and that another office space in the area is not needed. She said that any hardship the applicant has incurred has been self-imposed. Ms. Fogarty said that the removal of the screening on lot #5 will affect the aesthetics of their neighborhood and that taking a lot and turning it into a parking lot is not beneficial to the neighborhood. She said that the parking configuration is confusing and there will be fewer parking spaces and tighter traffic flow. Ms. Fogarty said that Mr. Patin is an absentee landlord who does not maintain the property and there are property maintenance issues. She said that the lot was to remain a buffer and she is urging the Board to preserve their neighborhood and deny this application.

Ellen Magarelli approached the podium and was sworn under oath. Ms. Maganelli stated that she lives at 7 Dogwood Road and supports everything that Ms. Fogarty said. She said that cars are parking on Dogwood Road and they interfere with snow and leaf removal.

Allegra Lagani approached the podium and was sworn under oath. Ms. Lagani stated that she lives at 21 Dogwood Road and her concern is the traffic. She said that she lives on the corner lot which is the bus stop for the school children. Ms. Lagani said that her concern is for the children and the pets because it is a safety issue.

Robert Rashkes approached the podium and was sworn under oath. Mr. Rashkes stated that he lives at 35 Oak Crest Road and that he wants the applicant to replace the sidewalk. He said that when there is ice and snow on the sidewalks he has to walk in the street.

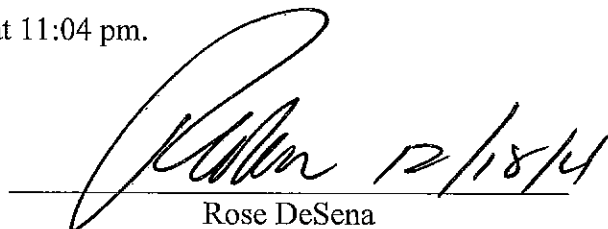
Mr. Sullivan summed up and stated that the applicant would like to utilize his property; not for a house but for a permitted use on that lot. He said that the same neighbor shows up every time someone came before this Board to do something with this lot. Mr. Sullivan said that the applicant has agreed to compromise and make more onsite parking and more buffering between the commercial and residential lots. He said that the applicant has met the statutory criteria.

Chairman Buechler stated that it was 11:00 pm and that he is going to recommend that this application be carried over to the next regular meeting held on November 20, 2014 so that the Board Members have time to review their notes. He said that this item will be first on the agenda for the Board to deliberate and there will be no further testimony. The Board agreed to adjourn the matter for decision until the next meeting on November 20, 2014.

Chairman Buechler announced for the record that no further notice will be required.

The meeting was adjourned by Chairman Buechler at 11:04 pm.

Adopted:

  
Rose DeSena