

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MINUTES
February 1, 2012**

The Township of West Orange Planning Board held a regular meeting on February 1, 2012 at 8:00 P.M., in Council Chambers, 66 Main Street.

Chairman Bagoff 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 January 4, 2012 in accordance with the requirements of the "Open Public Meetings Act".

Chairman Bagoff asked all persons in attendance to stand for the Pledge of Allegiance.

PRESENT: Chairman Bagoff, Joanne Carlucci, Jerome Eben, Gerald Gurland,
Vice Chairman Ben Heller, Lee Klein, Councilwoman Susan
McCartney, Ron Weston

ABSENT: Tekeste Ghebremicael, Jason Lester, William Wilkes

ALSO PRESENT: Leonard Lepore, Municipal Engineer, Public Works Director
Debbie Dillon Audio Transcription Service, LLC
Patrick Dwyer, Esq., Board Attorney
Robin Miller, Board Secretary

ROLL CALL

Chairman Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Jason Lester, Councilwoman Susan McCartney, Ron Weston, William Wilkes.

ADOPT MINUTES

The minutes of the January 4, 2011 Planning Board meeting were unanimously adopted.

ANNOUNCEMENTS

The next regular Planning Board meeting will be held on March 7, 2012 in Council Chambers at 8:00 P.M.

SWEARING IN

Director Lepore was sworn in.

RESOLUTIONS

PB-11-18/Falcon Associates for South Mountain Realty Associates, LLC

Block: 168; Lot: 27.02, Zone: B-2

563 Northfield Avenue

Preliminary and final site plan with "C" variances to build an addition to existing building.

DISCUSSION

Chairman Bagoff stated that adopting the Resolution for this Application had been carried from the January 4, 2012 meeting because the Applicant had to make necessary site plan revisions to comply with all the conditions listed in the draft Resolution. Chairman Bagoff said that upon review of the revised plans, the Construction Official, Tom Tracey determined that a second means of egress for the second floor must be included in the plans. After discussing the issue with the Applicant’s architect Anthony Church, the matter had been referred to the DCA for a determination.

Mr. Weston requested Mr. Dwyer read the conditions listed in the draft resolution to the Board for final review. Mr. Dwyer told the Board that he had reviewed the conditions with Director Lepore after Director Lepore had reviewed the revised site plans and was satisfied that the conditions had been addressed.

Mr. Dwyer said that the Application process would always be problematic when the approval is granted based on conditions being satisfied in the time between the approval and the vote to memorialize.

Mr. Dwyer read all conditions as listed on the draft Resolution to the Board. The Board discussed whether all conditions had been satisfied including the ADA requirements, the second floor window re-alignment, and the parking requirements. Mr. Weston said it appeared the new plans indicate the second floor windows had been re-aligned, but windows had been removed. The Board determined that at least five (5) windows were indicated on the original set of plans; the new set indicated three (3) windows. Mr. Weston said that he had significant problems with the revised plans and this review was to ensure all conditions had been met; he suggested that a memo be written to Mr. Tracey to make sure all the conditions had been satisfied.

There were no questions or comments from the Public Advocate or the Public.

Chairman Bagoff called for a vote on the resolution.

The Board voted on the resolution as follows:

Motion: Mr. Klein

Second: Chairman Bagoff

Carlucci: Yes	Eben: -	Ghebremicael: -	Gurland: No
Heller: Yes	Klein: Yes	Lester: -	McCartney: Yes
Weston: Yes	Wilkes: -	Bagoff: Yes	

APPLICATION

PB-11-04/John Galante

Block: 177.5; Lot: 6; Zone: R-5

739 Prospect Avenue

Minor subdivision with six (6) variances.

EXHIBIT(S)

A-1: Aerial photo of the Zone district;

A-2: Aerial photo with Lot boundaries shown;

A-3: Planning report with photos in Exhibit 2 with photos of the site and houses on the street.

DISCUSSION

Steven Greenberg Esq., attorney on behalf of the Applicant explained that the Application had been continued from the November Planning Board meeting. Mr. Greenberg gave a brief description of the Application and then introduced the Applicant, John Galante.

Mr. Galante was sworn in. Mr. Galante told the Board he was the owner of the property located at 739 Eagle Rock Avenue, and had owned it for sixteen (16) years. Mr. Galante said that when he purchased his home, the survey identified his lot as "Lot 5"; he subsequently obtained "Lot 6", which was an undersized lot that he maintained but used infrequently.

The Board had no questions for Mr. Galante.

Mr. Greenberg called George Wheatle Williams, P.P., Nishuane Group, as witness for the Applicant. Mr. Williams was sworn in, stated his credentials, and was accepted by the Board to be an expert witness.

Mr. Williams stated he had reviewed the Municipal Engineer's Report, the Planner's Report and the Application. Mr. Williams described the property and presented three (3) exhibits. He told the Board that the Application was for a subdivision of lots on Valley View Street. Referring to Exhibits A-1, A-2, and A-3, Mr. Williams said the photos showed the properties located R-5 Zone District. The exhibits indicated there were approximately twenty-seven (27) lots similar to the proposed lots. Mr. Williams said the lot lines on Valley View were perpendicular, indicating that the proposed subdivision of the lots might have been the original plan for the property. Mr. Williams said the proposed subdivision would be a better alternative to the existing shape of the lot. The non-conformity of the proposed lots would be minor. Mr. Williams said the subdivision would create a more appropriate density and create a more traditional lot, thereby meeting the positive criteria. Mr. Williams said he did not believe there would be any substantial harm to the public good; the new lots would not be out of scale with the surrounding lots.

Chairman Bagoff asked the Board if they had any questions for Mr. Williams.

Mr. Eben said that this would be the only lot with 50-foot frontage; he was concerned with how it would visually impact the look of Valley View Street. He said the existing lots conformed to the 75-foot minimum lot width. He said he would prefer a variance that would

move the proposed line 10-feet and maintain the L-shaped lot by “flipping” the line to create a backward L-shaped lot. He said that from a planning standpoint, it would make the lot more conforming regarding frontage. The Board discussed that Mr. Eben’s suggestion might trigger variances for Lot 5. Mr. Williams said that Mr. Eben’s suggestion would probably mean changing the proposed structure.

The Board discussed the configuration of current lots in the area, if any were already non-conforming. Mr. Weston asked if it would be reasonable to build the new structure closer to the Applicant’s property. The Board discussed changing the position of the proposed new house, or if that would create the need for a new variance.

Mr. Weston asked about the height of the proposed house. He suggested that a condition of approval would be the house could be no higher than thirty feet. Mr. Williams said that thirty feet would be reasonable from a planning perspective.

Councilwoman McCartney asked if there would be sufficient room for a landscaping buffer between the new lot and the neighbor’s property.

Harvey Grossman, Public Advocate wanted to know the width of the proposed driveway and if it would create a deviation from required setback.

Mr. Lepore had no questions for Mr. Williams.

Chairman Bagoff if any members of the Public had questions.

Wendy Finerty, 6 Valley View Street, West Orange. Ms. Finerty asked what the Code requirement allowed regarding the square footage of a house compared to its lot size; was there a measurement to scale house size to land size; does the application meet that ratio. Chairman Bagoff said Ms. Finerty’s question would be better answered by the Applicant’s architect.

Chairman Bagoff called for a five-minute recess at approximately 9:24 P.M.

Chairman Bagoff reconvened the meeting at approximately 9:33 P.M.

Mr. Greenberg introduced Andrew Podberezniak, R.A., architect for the Applicant. Mr. Podberezniak was sworn in. The Board accepted Mr. Podberezniak to be an expert witness.

Mr. Podberezniak described the changes made to the plans since the November 2011 Planning Board meeting. The front yard setback had been increased to thirty-five feet from the thirty-feet originally proposed. The size of the house had been scaled back to 2,300 square-feet from 2,400 square-feet. A landscaping buffer had been added near the driveways. The elevations, porch design and building materials had not changed from the original plan. Mr. Podberezniak said if the Board was concerned about the size yard setbacks, he could move the north-side right yard setback to twelve feet and the south side left side-yard setback six feet.

The Board questioned Mr. Podberezniak.

Mr. Klein asked if it was possible to make the house two-feet narrower, Mr. Podberezniak said it was not an option.

Mr. Gurland wanted to know if the house had a basement; Mr. Podberezniak said the garage was the basement level, under the garage was a crawl space.

Chairman Bagoff wanted to know the square footage of the house on the existing lot. Mr. Galante said his house was approximately 1,900 square feet.

Mr. Heller asked about the planting plan and if it would be possible to plant higher plantings on the neighbor's side of property.

Mr. Eben asked about the proposed driveway width. He suggested that half the driveway be 9-feet in width, and then widen to 18-feet in width. Councilwoman McCartney said she was concerned that an 18-foot driveway would look like a parking lot. Mr. Klein said he was concerned that the planned driveway would destroy an existing holly bush; he said a 9-foot driveway would be a better look.

Mr. Lepore said the air-conditioning condenser could be no closer than three-feet from the property line.

The Public Advocate had no questions for Mr. Podberezniak.

Ms. Finerty asked Mr. Podberezniak about the footprint of the proposed building on the property. She wanted to know if the scale of the house would be in proportion to the size of the lot. Mr. Podberezniak said the house would be in proportion. Ms. Finerty said she had a three-hundred year old specimen Oak tree; she was concerned what would happen to the tree. Mr. Lepore said that the tree would be adjacent to the new garage and digging would be less than three feet.

There were no further questions for Mr. Podberezniak from the Public.

The Public Advocate, Mr. Grossman commented on the Application. He said it was important to maintain the streetscape on Valley View Street. He said he strongly recommended the Board consider the Applicant's willingness to move a portion of the boundary line on the south side to maintain the integrity of the street scope. He said he agreed with Mr. Eben's suggestion regarding the driveway configuration. He stated it was in the interest of the Board to approve the Application.

Chairman Bagoff asked if the Public had any comments.

Nicholas Galante, 733 Eagle Rock Avenue. Mr. Galante said he lived in his home in 1984 when the current homes on Valley View Street were built. He said he had no objection to a new home being built on Valley View Street.

Wendy Finerty, 6 Valley View Street. Ms. Finerty said she appreciated the dialog. She said the scale of the proposed home on the lot would be out of proportion with the neighborhood.

The Board discussed the Application. Mr. Weston said the issue is the scale of the house. He said the height of the house should stay with the proposed height of 30-feet. He also said

the issue of the driveway with was a good suggestion and that the condenser unit should be screened. He said the proofs by Mr. Williams had satisfied the Application. Mr. Klein said that he agreed with Ms. Finerty that the size of the house would be too large for its lot. Councilwoman McCartney said she was also concerned with the size of the house. Mr. Eben said he was comfortable with the scale of the house. Chairman Bagoff said that the dilemma with this type of Application is the neighbor's view and the rights of the Applicant who is the property owner.

There were no further comments from the Board.

Conditions:

1. The height to be no more than thirty feet as measured in accordance with current ordinance standard at time of Application approval;
2. The driveway curb-cut to be ten feet wide and then open to 18 feet as shown in the Application;
3. The proposed house will have a right side yard setback of 12 feet and left side yard setback of 6 feet;
4. The HVAC condenser unit will be located in the left side yard setback placed at 6 feet and 3 feet from the property line;
5. Applicant agrees to comply with all recommendations listed in memo dated October 20, 2011 from Township Engineer, Mr. Lepore.

The Board voted on the application as follows:

Motion: Chairman Bagoff

Second: Vice Chairman Heller

Carlucci: Yes	Eben: Yes	Ghebremicael: -	Gurland: Yes
Heller: Yes	Klein: No	Lester: -	McCartney: Yes
Weston: Yes	Wilkes: -	Bagoff: Yes	

MEETING ADJOURNED at approximately 10:42 P.M.

Minutes adopted March 7, 2012



Robin Miller, Planning Board Secretary

****THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE
APRIL 4, 2012 AT 8:00 P.M. IN COUNCIL CHAMBERS ****