

CORRECTED RESOLUTION OF APPROVAL
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Decided: May 3, 2017
Memorialized: June 7, 2017
Memorialized: October 4, 2017

SCOTT WLODYCHAK, APPLICANT
CRESTMONT COUNTRY CLUB, OWNER
Preliminary and Final Site Plan Approval
With “c” Variances
750 Eagle Rock Avenue
Blocks 174, Lot 1 and Block 177, Lots 1 & 29
PB-17-03

WHEREAS Scott Wlodychak (the “Applicant”) having an address at 21 Stepping Ridge, North Caldwell, NJ 07006 having made application for Preliminary and Final Site Plan Approval with “c” variances for premises at 750 Eagle Rock Avenue, West Orange, NJ also known as Blocks 174, Lot 1 and Block 177, Lots 1 & 29 on the tax map of the Township of West Orange (the “Premises”); and

WHEREAS the Board having conducted a public hearing on this application on May 3, 2017 and

WHEREAS the Applicant having appeared by Scott Wlodychak, Jan Ligas and Anthony Marucci, PE, and the Board having received a review letter from Township Planner Paul Grygiel, AICP dated April 24, 2017, and having granted an opportunity for public comment; and having deliberated on the merits of the application;

WHEREAS the purpose of this Corrected Resolution is to correct the date of the meeting (May 3, 2017 not May 4, 2017) and correct the property address (750 Eagle Rock Avenue, not 75 Eagle Rock Avenue);

IT IS HEREBY RESOLVED:

EVIDENCE SUBMITTED

In summary, the following evidence was received and/or introduced in connection with this application:

1. A West Orange Planning Board application, and the following:
 - i. Proposal (1 Sheet);
 - ii. Names and addresses of persons having 10 percent interest;

- iii. Checklist;
 - iv. Site Plan Drawings prepared by Marucci Engineering Associates, LLC dated March 20, 2017 (5 Sheets).
2. The following Exhibits were admitted into evidence:
- Ex. A-1 Photographs of the tennis courts (2)
- Ex. A-2 Aerial photograph of the tennis courts
3. Scott Wlodychak testified that he has been the teaching pro at the Orange Lawn Tennis Club for the past 5 years and previously has coached elsewhere. He is applying to construct a seasonal bubble over tennis courts at the Crestmont Country Club. He stated that he had entered into a 20 year lease with the Club. The bubble would be 36' high, have lighting which hangs from the roof, and would be stored during the off-season in a container on the Club grounds. The lighting would not be seen from the outside because the bubble would be opaque. The bubble would be constructed inside the existing fence surrounding the courts and would have a small 15' x 20' additional waiting/viewing area. There would be no music.
4. Jan Ligas was sworn and testified he is with Arizon Structures which was contracted to construct the bubble. He noted the structure would be inflated to stay upright and there would be triple redundancy to keep it upright. The fan would meet decibel levels at the property line. He stated the structure was built to deflate slowly over a course of minutes in case of loss of power, and was lightweight therefore could be exited safely even upon full deflation. He stated the material was opaque, not translucent, and there would not be light glow. It is built to shed snow in winter.
5. Applicant called Anthony Marucci, PE, PP who was sworn and qualified as an expert in both engineering and planning. He testified that the site consists of two lots resulting from a 2007 subdivision. He introduced photographs (Ex. A-1) showing a significant number of trees between the courts and the nearest residences. He stated the proposed bubble would not require any disturbance of the site except to temporarily dismantle a portion of the fence in order to bring the bubble onto the courts. He opined that it could be granted without detriment to the public good or substantial impairment of the zone plan and ordinance.
6. Mr. Ligas was recalled and testified regarding the steps which would be taken during construction, namely, removal of a portion of the mesh of the fence in order to install a foundation and to make room for a double wide entrance. Mr. Marucci indicated where the generator and propane tanks would be located, the directional signage and the walkway lighting.

7. During public comment a neighbor Adam Goldman testified that he resides at 10 Ferris Drive, has been a member of the Club for 10 years and is in favor of the application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. The Premises are located in the R-2 Zone. The Board accepts the Zoning Officer's interpretation that the use is accessory and therefore permitted in the zone.
9. Applicant seeks to install a seasonal air-supported bubble enclosure over four (4) existing tennis courts on the Club's property. The Club property is 240 acres and the tennis courts cover approximately .6 acres.
10. The area in question is in the northeast corner of the Club grounds with the nearest homes being 250+/- away and separated by a wooded area. The main entrance to the bubble would face west towards the interior of the Club. A heating and inflation unit and a generator are proposed on the north side of the structure.
11. The proposal required variance relief for height of an accessory structure (1.5 stories or 15' allowed, 36' proposed). Because this is an accessory structure, and not a principal structure, it requires a "c" rather than a "d" variance for height.
12. The Board finds that the variance relief sought can be granted on "c(2)" grounds because the public benefits outweigh the detriments. Although the proposed structure is significantly taller than what is allowed under the ordinance, it is well separated from neighboring residential homes and therefore would not interfere with light and air. The bubble is opaque and therefore would not glow when the interior lights are on. The entrance would face the interior of the property and the generator would not be facing neighboring homes. Unlike a smaller residential property there are no immediate neighbors over which the proposed tall accessory structure would tower. The detriments to the proposal are insubstantial and would not cause significant detriment to the public good nor impairment to the intent and purpose of the zone plan and ordinance. Therefore, the Board finds that the benefits of the proposal will outweigh the detriments and the variance relief sought can be granted.

THE DECISION

WHEREAS, the Board, having reviewed the application for Preliminary and Final Site Plan approval and associated "c" variance relief and having considered the impact of the proposed application on the Township's master plan and zoning ordinance and

the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the land use and zoning ordinances of the Township of West Orange and the Municipal Land Use Law; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that the application for Preliminary and Final Site Plan approval with "c" variances relief as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is granted subject to the following conditions:

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 submit revised plans showing the location of the generator and proposed propane tank, the structure and location where the bubble will be stored in the off-season, the propane tank, the door opening to the bubble, any gates or fences, how the pool area will be blocked off, the directional signs, the walkway and path lighting.

8. The generator shall only be tested mid-day and mid-week subject to the review and approval of the Building Inspector.

9. Propane delivery shall be during the same hours as currently for the Club.

10. The vegetative buffer between the bubble and residential homes shall be kept in place and maintained, and the Club shall improve this buffer with additional landscaping and trees so as to block the view of the bubble even during the winter months, subject to the review and approval of the Board Planner..

11. Applicant shall re-grade the swale as shown on the plans.

12. Applicant to comply with any recommendations set forth on review letters from the Board professionals.

13. Applicant shall conduct a noise study within 30 days after the bubble becomes operational and submit same to the Board to show that it complies with allowable noise levels.

14. The bubble shall be opaque and shall not emit a glow when the interior lights are on.

15. Any proposed tree removal shall be subject to the review and approval of the Board Engineer.

16. Fencing to be chain link or solid pvc and subject to the review and approval of the Board Planner.

Certified to be a true copy of the Corrected Resolution adopted on the 7th day of June, 2017.



Robin Miller, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Cardoza (2 nd Alt.)			*			
Eben		*	*			
Ghebremicael						*
Keigher			*			
Klein (Vice Chair)			*			
McCartney			*			
Trenk			*			
Wegner (1 st Alt.)			*			
Weston						*
Wilkes						*
Bagoff (Chair)	*		*			

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Cardoza (2 nd Alt.)			*			
Eben			*			
Ghebremicael						*
Keigher			*			
Klein (Vice Chair)		*	*			
McCartney						*
Trenk			*			
Wegner (1 st Alt.)			*			
Weston						*
Wilkes						
Bagoff (Chair)	*		*			

Vote on Memorializing Corrected Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Cardoza (2 nd Alt.)		*	*			
Eben			*			
Ghebremicael						*
Keigher			*			
Klein (Vice Chair)						*
McCartney						
Trenk			*			
Wegner (1 st Alt.)			*			
Weston						
Wilkes						
Bagoff (Chair)	*		*			