

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

Decided:	October 3, 2018
Memorialized:	November 7, 2018
Amended:	December 5, 2018

Kessler Foundation, Inc.
Amended Preliminary and Final Site Plan Approval
With “c” Variances
1199 Pleasant Valley Way
Block 171, Lot 10
PB-18-09

WHEREAS Kessler Foundation, Inc. (the “Applicant”) having an address at 120 Eagle Rock Avenue, Suite 100, East Hanover, NJ 07936 having made application for Amended Final Site Plan Approval with “c” variances for premises at 1199 Pleasant Valley Way, West Orange, NJ also known as Block 171, Lot 10 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 October 3, 2018; and

WHEREAS the Applicant having appeared by Robert Williams, Esq. and by witness J. Michael Petry, PE, PP, and the Board having received review letters from Township Planner Paul Grygiel, AICP dated August 10, 2018 and September 19, 2018, and a review letter from Board Consulting Engineer Bowman dated September 28, 2018, and having granted an opportunity for public comment; and having deliberated on the merits of the application; and

WHEREAS the Applicant having also requested a soil moving permit;

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/Reasons for Relief;
 - ii. Schedule A – Variance Requests;
 - iii. Schedule B – List of Plat Submissions and Exhibits;
 - iv. Map showing 200’ radius;
 - v. Sustainability Checklist Form;
 - vi. Site Plan/Subdivision Checklist;
 - vii. Stormwater Management Facility Maintenance Plan Manual prepared by Petry Engineering, LLC dated August 7, 2018;
 - viii. Survey prepared by ZL Land Surveying, LLC dated August 8, 2011, last

- revised September 30, 2011;
- ix. Architectural Drawings prepared by NK Architects dated August 7, 2018 (Sheets A-1 through A-4);
 - x. Site Plans prepared by Petry Engineering, LLC dated August 7, 2018 and last revised September 5, 2018 (Sheets SP-1 through SP-17)
 - xi. Resolutions by the Planning Board adopted on December 5, 2001, by the Zoning Board on November 14, 2002, February 19, 2004, and March 17, 2005, by the Planning Board Technical Review Committee on September 3, 2008 and by the Planning Board on October 6, 2010.

The Board also received a Memorandum from the West Orange Fire Department dated September 11, 2018.

2. The following Exhibits were admitted into evidence:

- Ex. A-1 Colorized Sheet SP-2
- Ex. A-2 Colorized Sheet SP-5
- Ex. A-3 Colorized Sheet SP-6
- Ex. A-4 Colorized Sheet SP-9
- Ex. A-5 Sheet A-1 of the Architectural Drawings
- Ex. A-6 Sheet A-2 of the Architectural Drawings
- Ex. A-7 Sheet A-4 of the Architectural Drawings
- Ex. A-8 Color Photographs

- 3. Robert Williams, Esq. introduced the application on behalf of the Applicant stating that it was for an expansion of existing facilities.
- 4. Applicant called J. Michael Petry who was sworn and qualified as an expert engineer and planner. He stated the application sought four variances, a tree removal permit and a waiver from engaging a landscape architect to draft the landscaping plan.
- 5. He noted that the property is located at 1199 Pleasant Valley Way and is irregularly shaped. It is approximately 34.5 acres and 1200' deep. It slopes downward significantly with the rear of the lot at 560' elevation and the front of the lot at Pleasant Valley Way at 378'.
- 6. The property is owned by Kessler Institute for Rehabilitation, Inc. and the Applicant is Kessler Foundation, Inc. which is a tenant on the property.
- 7. The existing facility has a maximum height of 47.04' and one driveway from Pleasant Valley Way. The facility has three entrances and six parking lots labeled A through F with a total of 718 spaces. It is serviced by public sewer and water.
- 8. The proposed addition will have two floors with the bottom floor being buried 6.5' under existing grade due to the slope of the lot. Thirty-six (36) new parking spaces will be added onto the South side of Parking Lot F. All new lighting fixtures will match the existing.
- 9. Applicant will remove 11 trees but will add 9 trees in and around the expanded

parking Lot F.

10. Applicant confirmed they will comply with the comments in the review letter from Bowman dated September 28, 2018.
11. In response to Board questions Mr. Petry testified that the reason for proposing 754 parking spaces when only 690 are required was to accommodate overflow from large events at the conference center. There is no on-street parking available on Pleasant Valley Way which is the only public street adjacent to the property. For large events Applicant utilizes valet parking service. Lot F was being expanded rather than Lot E even though Lot E is closer to the proposed addition because in order to enlarge Lot E it would require steep slope disturbance due to the significant change in grade immediately behind Lot E.
12. Applicant called Walter Kneis, AIA who was sworn and qualified as an expert in architecture. Mr. Kneis testified that Applicant proposes to add two floors each having 5,651 sq. ft. The new space would have offices, storage and dry labs. He reviewed the architectural plans and showed samples of the proposed metal exterior cladding. The existing generator is more than five feet from the proposed building and the windows in this area are inoperable.
13. Responding to Board questions he testified that Applicant would comply with the review letter from the West Orange Fire Department dated September 11, 2018 except for Paragraph 4(c).
14. Mr. Petry was recalled to give planning testimony. He testified that Applicant requires four bulk (4) variances:

Standard	Existing	Proposed	Required/ Allowed
§25-7.1 Maximum Lot Coverage	36.02%	37.05%	30%
§25-11.2 Minimum Side Yard Non-Residential	58.5 ft.	44.2 ft.	75 ft.
§25-12.3(a)(2)(d) Minimum Number of Loading Spaces	2 spaces	2 spaces	7 spaces
§25-28.8 Maximum Effective Lot Coverage	53.42%	54.94%	30%

15. Regarding the setback variance, he noted that the standard should not apply because although the property is located in a residential zone its use is not residential, nor is the adjoining right side user. He argued that the unique condition of the existing use and structure lawfully existing thereon justified a “c(1)” variance.
16. Regarding the other variances he argued that they could be justified on “c(2)” grounds since the benefits outweighed the detriments and they offer a better

alternative to the zone plan. The Applicant already has two loading spaces and the new office, lab and storage space do not require an additional one. As for the lot coverage variances he noted that the two main concerns, namely, stormwater and light and air were well protected despite the variances. He further noted that the size, shape and slope of the lot, as well as the proposed improvements being at the rear and practically unseen from the street were signs that the property could accommodate the increase in coverage.

17. Mr. Petry noted that the new addition would be used for research to further on the purposes of the Kessler rehabilitation facility next door where victims of serious physical and mental injuries received treatment for severe disabilities. In that way he said it was accessory to an inherently beneficial use and should be thought of similarly.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

18. The Premises are located in the R-2 residential zone where a rehabilitation hospital is a permitted use.
19. Applicant seeks to construct a 11,302 sq. ft., two-story, 30' tall addition for additional research facilities at its campus on 1199 Pleasant Valley Way. The addition would contain room for offices, storage and dry lab space. The addition was described as necessary to further the work of Kessler Rehabilitation Institute which treats individuals suffering from severe disabilities.
20. The addition would trigger four (4) variances – lot coverage, effective lot coverage, number of loading spaces and right side yard setback, as described in the chart in Par. 14 above.
21. The variances can be granted. The Board is well aware of the good work and prominent reputation of the Kessler Institute. It performs a valuable service which contributes to public health and safety. The proposed additional research facility will further those institutional goals by creating additional room for research and office functions.
22. The evidence showed that Applicant already has 2 loading spaces and the testimony was that no more are needed and it would be nonsensical to require them. The addition would not create any additional demand for another loading dock or any offsite negative impacts. The lot coverage variances will be accommodated by the large lot, the stormwater management plan, and the fact that the addition and new parking spaces will be at the rear of the lot and largely unseen from Pleasant Valley Way due to the sloping front lawn. The neighbor to the left is a National Guard facility, to the right is the Daughters of Israel Geriatric Center; and behind the property are steep slopes. There are no residential neighbors immediately adjacent to the proposed improvements. In addition, there will be adequate light and air notwithstanding the proposed nonconformities. All of these factors point to a finding that the lot coverage variances, the right side yard setback variance, and loading space variance, can be granted without causing substantial detriment to the public good nor substantial impairment of the zone plan and ordinance.

23. The Board finds that the Applicant has carried the burden of proof necessary to obtain the variances sought.
24. The Board also finds that the Applicant has provided sufficient information to support a soil moving permit in connection with the proposed improvements.
25. The Board further finds that a waiver from having a landscape architect prepare the landscaping plan can be granted since the landscaping proposed is relatively straightforward and involves the installation of only 9 new trees in and around the proposed expansion of parking Lot F, the Applicant's engineer is experienced in site planning and provided a detailed description of where the limited new landscaping would go. There is no need for a landscape architect to prepare the plans in this case as the Applicant has provided sufficient information to adequately inform the Board of the landscaping details, and the information provided met the intent of allowing the Board to understand and approve with the proposed landscaping plan.
26. Finally the Board grants the tree removal permit sought. The Applicant will plant 12 new trees. The Board specifically finds - based upon the evidence presented and the Board's knowledge of local conditions – that pursuant to Ordinance Section 25-27.7(c)(2) the tree removal proposed by the applicant will not result in or cause, increase or aggravate any or all of the following conditions:
 - a. Impaired growth or development of remaining trees or shrubs on the property of the applicant or upon adjacent property;
 - b. Soil erosion, sedimentation and dust;
 - c. Stormwater or drainage problems;
 - d. Significant diminution of the screening between existing or proposed buildings or roads on site and adjacent land or in the wooded aspect of the lot or site from any adjacent road;
 - e. Sewerage problems; and
 - f. Dangerous or hazardous conditions.
27. In summary, the Applicant has provided sufficient proofs to warrant the reliefs sought.

THE DECISION

WHEREAS, the Board, having reviewed the application for Amended Preliminary and Final Site Plan approval and associated "c" variances, tree removal permit, soil moving permit, and waiver from having a landscape architect prepare the landscape plan, and having considered the impact of the proposed application on the Township's Master Plan, 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 Amended Preliminary and Final Site Plan approval with variances, tree removal permit, soil moving permit, and waiver from having a landscape architect prepare the landscape plan all 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. All conditions of approval shall be written on the plans.

8. Applicant to comply with the comments in the review letter from Bowman dated September 28, 2018.

9. Applicant to comply with the comments in the Memorandum from the West Orange Fire Department dated September 11, 2018 except Par. 4(c)

10. Applicant to provide a timeline for installing sprinklers in all buildings on its campus at 1199 Pleasant Valley Way.

11. Applicant shall comply with Chapter 30 of the Township of West Orange Code regarding soil removal permits.

Certified to be a true copy of an Amended Resolution adopted by the West Orange Planning Board on December 5, 2018.



Robin Miller, Secretary

Vote on the Action Taken by the Board

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

Vote on the Memorializing Resolution

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

Vote on the Memorializing Amended Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Cardoza	*		*			
Keigher						*
Klein						
McCartney			*			
Trenk			*			
Wegner		*	*			
Weston (Vice Chair)						
Wilkes						*
Bagoff (Chair)						*