

RESOLUTION

Township of West Orange

Planning Board

PB 24-16 ESSEX COUNTY COUNTRY CLUB/350 Mt. Pleasant Avenue

Block: 156 Lot: 1; Zone: R-2

Decided on January 8, 2025

Memorialized on January 22, 2025

Minor Site Plan Approval with Bulk Variances

WHEREAS, Essex County Country Club (hereinafter the “Applicant”) has made an application for Minor Site Plan approval and Bulk Variance to renovate an existing pool house building, and to construct an open-air pavilion with bar seating area to be attached to the pool house as well as a pergola with seating below and associated improvements including expanded paver and walkway areas, outdoor grill area, and landscaping for property located at 350 Mt. Pleasant Avenue, also known as Block: 156 Lot: 1, in the R-2 Zone; and

WHEREAS, properly noticed public hearings were conducted on December 11, 2024, and January 8, 2025; and

WHEREAS, the Applicant was represented by Lisa John-Basta, Esq. of CSG Law; and

WHEREAS, the Applicant provided expert testimony of Paul T. Calabrese, PE a licensed Engineer in the State of New Jersey, Jeff Rawding, AIA a licensed Architect in the State of New Jersey and Michael Pessalano, PP, a licensed Professional Planner in the State of New Jersey whose credentials were accepted by the Board; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

ITEM	SIGNED BY	DATE/REVISION
Pool Complex Site Plan (7 Sheets)	Paul T. Calabrese, P.E.	7/3/2024
ECCC- Existing Pool House w/ Pool Area and Kitchen Renovations Architectural Plans (3 Pages)	Frank J. Rawding, AIA	7/3/2024
Landscape Plans (3 pages)	Andrew J. Lastella, Landscape Architect	7/3/2024
Survey	Charles Stewart	10/27/1978
Completed Sustainability Checklist Form	Watermen, LLC	8/8/2024
Completed Site Plan/Subdivision Checklist w/ Waiver Request	Watermen, LLC	8/8/2024
Pool Complex Improvements Stormwater Memo	Watermen, LLC	7/3/2024
Fully Executed Development Application with attachment along with 10 prior resolutions of approval (PB- 78-42, PB-79-36, PB-93-35, PB-96-27, PB-00-19, PB-02- 10, PB-03-18, PB-14-04, PB- 23-09, PB-23-09, and PB-23- 09)	Applicant	7/23/2024

WHEREAS, representatives of the public asked questions of the witnesses and had an opportunity to offer statements regarding the application; and

WHEREAS, the Board reviewed and considered the application, testimony and documents submitted therewith; and

WHEREAS, the Board also considered the input of its professionals including testimony and reports of Gerard M. Haizel, PP, AICP of Nishuane Group (reports dated August 7, 2024 and December 6, 2024) Phillip Scott, P.E., C.M.E. of Matrix New World Engineering (report dated

September 6, 2024 and which was adopted by CME Associates) and Ryan MacNeill, P.E. of CME; and

WHEREAS, the Board also accepted and considered the following exhibits marked into evidence:

- Bennett Email Exhibit: Email to Board Attorney and Attorney for Applicant dated November 24, 2024 from Micaela Bennett
- Exhibit A-1: Applicant Retail Liquor License Amendment filed April 10, 2024.
- Exhibit A-2: Applicant Liquor License Amendment filed October 10, 2024.
- Exhibit A-3: Overall Location Plan, prepared by Watermen, LLC.
- Exhibit A-4: Photograph of similar trellis/pergola.

WHEREAS, as an initial threshold matter a member of the public Ms. Micaela Bennett raised jurisdictional issues related to the application in email correspondence addressed to the Board Secretary dated November 24, 2024 and November 25, 2024, which the Applicant's attorney addressed in a letter to the Board dated December 2, 2024 with exhibits; and

WHEREAS, the Board heard the jurisdictional arguments of the parties at a public hearing conducted on December 11, 2024 and the Board determined it had subject matter jurisdiction over the application; and

WHEREAS, the merits of the application were considered at a public hearing conducted on January 8, 2025; and

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made:

1. The Board has subject matter jurisdiction over the application.
2. The subject property measures approximately 176.3 acres in total area.
3. The Applicant is the oldest country club in the State of New Jersey and has been in existence at the subject property since 1917.
4. The subject property is currently improved with an existing golf course, clubhouse, tennis courts, swimming pools, pool house and a number of other accessory structures.
5. The property is located in the R-2 Zone which permits golf courses and golf club houses as principal uses and customary accessory buildings or structures thereto such as but not limited pools, pool houses, tennis courts and outdoor dining and bar areas.
6. The Applicant is requesting minor site plan approval to renovate an existing 2,500 square foot pool house building, which will include updates to the interior and exterior of the building but will not expand the existing building footprint. The pool house is an accessory structure to the golf course and the maximum permissible height per Township Code is 15 feet whereas the existing pool house is 15.5 feet in height, and the renovated pool house is proposed at 17.2 feet in height. The Applicant also proposes to construct an open-air pavilion with bar seating area to be attached to the pool house building, which will measure 17.83 feet in height as well as an outdoor grill area, and covered pergola with seating beneath.
7. The Applicant further proposes ancillary improvements in the immediate area including expanded paver and walkway areas, inclusive of an ADA ramp for access to the pool and pool house. The total additional impervious coverage measures 4,885 square feet in area. The maximum permissible impervious coverage per Code is 30%, whereas 7.1% exists, and 7.2% is proposed. Therefore, the increase in impervious coverage is minimal.

8. The Applicant also proposes to enhance the landscaping within the vicinity of the pool house with 10 trees, 86 shrubs, 17 ornamental grasses, and 30 perennials proposed within the enclosed pool area, as well as 3 trees, 41 shrubs and 107 perennials outside the pool area. The Applicant further confirmed that no existing trees would be removed as part of the proposed renovations and improvements.
9. The Applicant also proposes to relocate sun canopies around the pool and proposes additional architectural lighting in the form of wall mounted lights, walkway lighting, bistro lighting, and up lights on the trees for aesthetic enhancement. Testimony was provided that the lighting levels would be minimal.
10. The application complies with the use and bulk zoning regulations of the Township Code with the exception of the requested variance to exceed the maximum permissible height for accessory structures.
11. The Applicant's architect testified that the height variance being sought was to add architectural interest to the existing pool house building and proposed open-air pavilion. Additionally, the height would camouflage the new kitchen exhaust ventilation as part of the pool house renovation. Therefore, the height will create an aesthetically more pleasing environment .
12. The roof lines will not be visible from the street or any residential neighbor, with a slim chance that some part of the roof line might be seen from the people playing golf at the Francis Byrne Golf Course located next to the Essex County Country Club. The location of the proposed improvements are approximately 1,800 feet away from the nearest residential property, and 236 feet from the property line that borders the Francis Byrne Golf Course.

13. Applicant's planning expert testified that the variance could be granted as a c(2) variance because it serves several purposes of zoning as specified in the MLUL including paragraphs i. (promotes a desirable visual environment through creative development techniques and good civic design and arrangement) since the proposed heights will provide visual interest and g. (providing sufficient space in appropriate locations for a variety of recreational uses both public and private.) since the proposed structures are part of upgrades to the permitted golf course use and are intended to modernize and maintenance the facility. Further, the variance relief will not cause a substantial detriment to the public good, zone plan or zoning ordinance. The proposed accessory structures will not be visible to any residential properties or outside of the boundaries of the property itself but for possible visibility from an adjacent golf course. Additionally, the modernization of the golf course structures as proposed promote the purposes of the Master Plan by maintaining large open space, including private country clubs.
14. Applicant requested waivers from Items 13, 19, 28, 29, 32 and 46 of the West Orange Application checklist.
15. Township Planner, Gerard Haizel indicated that the Applicant should provide an updated survey of the property (Item 13) but that waivers for Items 19, 28, 29, 32 and 46 were appropriate. The Board Engineer on the other hand had no issue granting the waiver request due to the confined area of the proposed improvements and the information provided on the "Existing Conditions & Site Clearing Plan", as articulated in comment 1.1 of the Matrix New World Engineering (report dated September 6, 2024 and which was adopted by CME Associates).
16. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	REQUIRED	EXISTING	PROPOSED
25.8.1f	15 ft.	N/A	17.2 ft. (pool house) 17.83ft. (open-air pavilion)

5. N.J.S.A. 40:55D-46.1. and N.J.S.A. 40:55D-5 govern the Board's review of the minor site plan application. N.J.S.A. 40:55D-5 defines "minor site plan" as a development plan of one or more lots which (1) proposes new development within the scope of a development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; and (3) contains the information reasonably required to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met." N.J.S.A. 40:55D-46.1 provides that "Minor site plan approval shall be deemed to be final approval of the site plan by the board, provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements, pursuant to N.J.S.A. 40: 55D-38, 40:55D-39, 40:55D-41 and 40:D-53" As such if the applicant meets the standards set forth in the ordinances, the planning board lacks the authority to deny approval of the site plan. PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984).

17. N.J.S.A. 40:55D-60 permits a planning board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a "d" variance as part of site plan or subdivision review. The variance proofs are the same as for "c" variances as set forth in N.J.S.A. 40:55D-70. A c (2) variance may be granted when the purposes of

zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c (2)” variance must include benefits to the community as a whole, not just the applicant or property owner. A “c” variance must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law:

1. This application requires minor site plan approval and bulk variance relief.
2. The requested improvements consisting of renovation of the existing pool house building, inclusive of expansion of covered walkway and raised roofline, construction of open-air covered bar area with grill area, expansion of existing patio, and construction of pergola with seating underneath are all customary accessory structures or improvements customary to the principal golf course use.
3. The variance relief for the height of 17.2 feet (pool house) and 17.83 feet (open-air pavilion) where 15 feet is permitted fulfills both purpose i. and g. of the MLUL, has no negative impacts on the zone plan or zoning ordinance and will not be a detriment to the public good.
4. Waivers for Items 13, 19, 28, 29, 32 and 46 from the West Orange application checklist are appropriate.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange minor site plan approval and variance relief for the accessory structure heights of 17.2 feet (pool house) and 17.83 feet (open-air pavilion), along with waivers for Items 13, 19, 28, 29, 32 and 46 from the West Orange application checklist are hereby granted.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and 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 but excluding interior renovations, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.
2. 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 successor 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.
3. 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.

4. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, and Board attorney fees for preparation of resolution 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 the notification or this approval shall be deemed withdrawn.
5. 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.
6. Applicant agrees to comply with all the recommendations set forth in the report of Phillip Scott, P.E. dated September 6, 2024.
7. Applicant shall list all conditions of approval onto a final site plan submission.

The undersigned secretary certifies the decision set forth herein was made by this Board on January 8, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on January 22, 2025.

A handwritten signature in dark ink, appearing to read "Jamilet Baquerizo-Vite", is written over a horizontal line.

Jamilet Baquerizo-Vite,
Planning Board Secretary

Vote Action Taken by the Board on January 8, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino		X	X			
L. Klein						----
S. McCartney			X			
C. Morgan					----	
S. Scarpa			X			
P. Smeraldo			X			
W. Wilkes			X			
J. Cardoza			X			
L. Kapferer					----	
R. Bagoff	X		X			

Vote on Memorialization on January 22, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino		X	X			
L. Klein					---	
S. McCartney			X			
C. Morgan					---	
S. Scarpa			X			
P. Smeraldo						---
W. Wilkes			X			
J. Cardoza			X			
L. Kapferer					---	
R. Bagoff	X		X			