

RESOLUTION

Township of West Orange

Planning Board

PB 25-03 Jeffrey & Sara Kantor/9 Schindler Terrace

Block: 166.3 Lot: 1 C0105; Zone: R-C Single Family/Townhouses

Decided on November 5, 2025

Memorialized on November 10, 2025

Application for Amended Final Site Plan Approval with Bulk Variance

WHEREAS, Jeffrey and Sara Kantor (Hereinafter the “Applicants”) have made an application for Amended Final Site Plan Approval with Variance to expand to expand an existing deck at property located at 9 Schindler Terrace, also known as Block: 166.3; Lot 1-C0105 (the “Property”), in the R-C Townhouse zone; and

WHEREAS, a properly noticed public hearing was conducted on November 5, 2025; and

WHEREAS, the Applicants were self-represented; and

WHEREAS, the Applicants provided testimony of Michael Lanzafama, P.E., P.P. as a professional engineer and professional planner; and

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

ITEM	SIGNED BY	DATE/REVISION
Amended Site Plan: Variance Application (2 pages)	Michael T. Lanzafama	3-20-2025
Letter from Normandie Estate Board of HOA	Mintze Shay and Susan Balan	11/14/2024
Resolution of West Orange Planning Board PB-06-16	Maria Abeles, Secretary	2/7/2007

WHEREAS, representatives of the public were provided with an opportunity to pose questions of the Witnesses and also had an opportunity to offer statements in regard to the Application; and

WHEREAS, the Board reviewed and considered the Application and the documents submitted therewith, the testimony of the Witnesses and members of the public; and

WHEREAS, the Board also considered the testimony and filed review letters of its professionals at the hearing; 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 Applicant is requesting approval for amended final site plan with a variance to demolish an existing deck which extends five (5') feet from the property and construct a deck that extends ten (10') feet from the property.
2. The subject property is a townhouse located within the Normandie Estates as is known as unit number 9.
3. At a regular meeting of the West Orange Planning Board held January 3, 2007, the Normandie Estates Condominium Association appeared as an Applicant seeking Amended Site Plan approval with Variances for certain unit owners to extend balconies of certain units into the existing rear yard setback.
4. Unit #9, Applicants unit in the Application currently before the Board was one of the units that sought to extend their balcony/deck an additional five feet (to a total of 10 feet).
5. The Planning Board granted the amendment to the site plan of Normandie Estates on January 3, 2007 to extend the balconies into the rear setback (granting variances for

both rear yard setback and violation of the 50 foot natural state buffer (the same variances sought by Applicants Jeffrey and Sara Kantor herein.)

6. Applicants presented a letter from Mintze Hay and Susan Balan of the Normandie Estates HOA advising that the HOA approves of the Application before the Board.
7. Applicants' Planner testified that there is a large, wooded area behind the existing setback and the nearest residence to the property is over 150 feet away so there would be no negative effects on the surrounding neighborhood.
8. The proposed deck is in line with the other decks that were previously approved by the Board.
9. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	PERMITTED/REQUIRED	PROPOSED
25-7.1, Part B Minimum rear yard setback	50 feet	45.25 feet
25-10.2d.4- Natural state buffer	50 feet	45.25 feet

10. N.J.S.A. 40:55D-46a. and b. and N.J.S.A. 40:55D-50a. govern the Board's review of the preliminary and final site plan application. N.J.S.A. 40:55D-46a provides that an "ordinance requiring site plan review and approval shall require the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." N.J.S.A. 40:55D-46a further provides that "The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and

elevations shall be sufficient.” N.J.S.A. 50:55D-46b provides that “if the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development” and “the planning board shall, if the proposed development complies with the ordinance and this act, grant preliminary site plan approval.” N.J.S.A. 40:55D-50a. provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. 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 and subdivision. N.J.S.A. 40:55D-50a; 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).

Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

11. 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. The Applicant requires the following variance relief as well as an amendment to final site plan approval to expand the existing rear deck:

SECTION/REQUIREMENT	PERMITTED/REQUIRED	PROPOSED
25-7.1, Part B Minimum rear yard setback -	50 feet	45.25 feet
25-10.2d.4- Natural state buffer	50 feet	45.25 feet

2. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Planning Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs enunciated in the statute.
3. Under the c(2) criteria, the Applicant must demonstrate that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by

allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment.

4. The Applicant demonstrated that the proposed deck would provide a desirable visual environment by revising the old deck, and would provide more adequate light, air and open space for the unit owners.
5. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” variance relief, under Section c (2).
6. Also, an applicant for these variances must show that the proposed relief sought will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The burden of proof is upon the Applicant to establish that these criteria have been met, and Applicant has demonstrated that no additional variance need was presented for parking, and in fact, the parking was being increased.
7. The Board finds that the benefits of the proposed project significantly outweigh the detriments as the project advances the purposes of the MLUL (N.J.S.A. 40:55D-1 et. seq.) by the expansion of the deck.
8. With respect to the negative criteria under the MLUL, the Board accepts the testimony that the proposed changes will not have any negative effect on the zone plan. The Board finds that the detriments of the application are significantly outweighed by the many benefits.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of West Orange that approval for an amendment to the Final Site Plan with a variance to remove the existing deck and construct a new 10-foot deck is granted; and

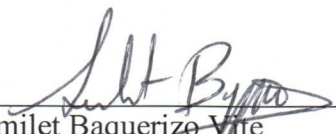
IT IS FURTHER RESOLVED that the approval granted to Jeffrey and Sara Kantor is subject to the following terms and conditions:

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, 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 land use approvals. Recognizing the unique regulatory scheme for cannabis, the Board expressly recognizes that a final license from the CRC and the Township is a condition precedent to operation of the facility but is not a zoning condition precedent to the signing of plans and associated construction.
2. If another governmental entity or agency grants a waiver or a 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 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.

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 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 the 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. The Applicant shall list all conditions of approval onto a final site plan submission prior to the submission of the building permit.

The undersigned secretary certifies the decision set forth herein was made by this Board on November 5, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on November 10, 2025.



Jamilet Baquerizo Yite
Planning Board Secretary

Vote Action Taken by the Board on November 5, 2025:

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

Vote on Memorialization on November 10, 2025:

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