

RESOLUTION

PB-88-1
PLANNING BOARD RESOLUTION
SITE PLAN APPROVAL FOR A SITE PLAN
SUBMITTED BY MONTCLAIR GOLF CLUB
FOR PROPERTY COMMONLY KNOWN AS
23-35 PROSPECT AVENUE IN THE TOWNSHIP
OF WEST ORANGE BEING BLOCK NO. 151, LOT NO. 1
Zone R-1

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on February 3, 1988, considered an application for site plan approval submitted by Montclair Golf Club for property commonly known as 23-35 Prospect Avenue in the Township of West Orange, being lot number 1, block number 151 on the tax map of the Township of West Orange and,

WHEREAS, the Planning Board considered testimony from John Cali, the Golf Club's President, that it was the intention of the Golf Club to erect a room for their employees to use as a lounge, said room to be constructed over the presently existing caddy shop, and the general public having been given an opportunity to be heard,

NOW, THEREFORE, BE IT RESOLVED that the site plan dated December 31, 1987 and submitted by Montclair Golf Club for property commonly known as 23-35 Prospect Avenue in the Township of West Orange, being block number 151, lot number 1, be and the same is hereby approved subject to the following:

1. Approval by the Engineering Department of the Township of West Orange;
2. That the Applicant will convey sufficient property to the Township of West Orange to enable it to expand the Vitro Pump Station as required by the Municipal Engineer.
3. That all new plumbing fixtures shall be of the low water use type.
4. Approval by the Essex County Planning Board.

DATE OF APPROVAL: February 3, 1988

Kim Lagoni
Secretary

PB-88-33
PLANNING BOARD RESOLUTION
APPROVING SITE PLAN APPLICATION
SUBMITTED BY MONTCLAIR GOLF CLUB
LOCATED AT 25 PROSPECT AVENUE
OF WEST ORANGE, BEING BLOCK 151, LOT 34, ZONE R-2

WHEREAS the Planning Board of the Township of West Orange, at its regular meeting held on November 2, 1988, considered the application for site plan approval submitted by Montclair Golf Club for property located at 25 Prospect Avenue, Block 151, Lot 34, Zone R-2, Township of West Orange; and

WHEREAS the Planning Board considered the presentation of Richard Camp, Esq., attorney for the applicant, Louis Brandt, Architect representing the applicant, George Derrick, Professional Engineer representing the applicant, and Edward Nicholson, the golf course Superintendent employed by the applicant; and

WHEREAS the general public having been given an opportunity to be heard, the Planning Board made the following findings of fact:

1. The engineering site plan is dated October 6, 1988 and was prepared by George Derrick, Professional Engineer.
2. The applicant proposes to build a maintenance facility at the southwest corner of the golf course property, adjacent to Pleasant Valley Way and south of Rosemont Terrace. The facility will be two stories.

3. The facility will be designed to appear as a residential structure from Pleasant Valley Way, and all work related activities will be shielded from Pleasant Valley Way by the structures.

4. Golf courses and golf club houses are permitted uses in the Zone R-2, and a maintenance facility is a customary accessory use.

5. A developer's agreement shall include provisions for periodic cleaning and maintenance of the oil and grease separators.

6. The Board took note that an environmental impact statement by Langen Engineering Associates dated October 12, 1988 accompanied the application. The application was then approved by the Board upon motion duly made and seconded and the following resolution was adopted:

NOW, THEREFORE, BE IT RESOLVED that the application for site plan approval submitted by the Montclair Golf Club for property located at 25 Prospect Avenue, being Block 151. Lot 34, Zone R-2, is hereby approved, subject to the following conditions:

1. The amended site plan is approved as it appears in Drawing 20.01 dated October 6, 1988.

2. It is subject to the unfulfilled conditions as set forth in the letters of October 27, 1988 of the Assistant Municipal Engineer and the Township Planner.

3. The execution of the developer's agreement which shall include provisions for periodic cleaning and maintenance of the oil and grease separators.

Application Approved: November 2, 1988

Resolution Adopted: December 7, 1988

Kim Ragoni
KIM RAGONI,

Secretary

BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
R E S O L U T I O N
ZB-91-24

WHEREAS, NYNEX MOBILE COMMUNICATIONS, having its principle place of business at 200 Corporate Drive, Orangeburg, New York, has applied to the Zoning Board of Adjustment of the Township of West Orange, for a variance from the provisions of the Township Zoning Ordinance for property located at 25 Prospect Avenue, particularly described as Lot 1 Block 151 in an R-2 Zone for the purposes of a use variance for a commercial antenna and final site plan approval; and

WHEREAS, all the facts and data contained in the documents in the Township Variance Applications are incorporated herein as findings of fact of this Board as if set forth herein at length; and

WHEREAS, The Board of Adjustment, after due notice and compliance with all jurisdictional requirements of the Laws of the State of New Jersey and the ordinances of the Township of West Orange and having carefully reviewed the evidence of the applicant and general public, at a public hearings held on February 20, 1992, and March 19, 1992, have made the following factual findings:

1. The entire site is utilized as a private golf course with related facilities. The proposed antenna will be placed upon a water tower which has been in existence for the past 70 years.
2. The antennas per se to be placed upon the water tower are three whip antennas connected to the roof of the existing tower having de minimis impact from the prospective of aesthetics and further are found to be non hazardous to the environment.
3. The granting of this variance will be beneficial to the community insofar as it shall enhance telecommunications.
4. Granting the proposed application would promote the purposes of the Municipal Land Use Act. Specifically, development as proposed will promote public health, safety, and generally benefit the welfare of the community. Moreover, having analyzed the master plan and zoning ordinance of the Township of West Orange, the granting of this application would not substantially impair the intent and purpose of the same.

and

WHEREAS, the Zoning Board of Adjustment of the Township of West Orange has determined that based upon the factual findings that special reasons exist in order to grant the variance sought by the applicant;

and

WHEREAS, the Zoning Board of Adjustment of the Township of West Orange has determined that the purposes of Municipal Land Use Law would be enhanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment;

and

WHEREAS, the Board of Adjustment on March 19, 1992 voted to approve the application of NYNEX MOBILE COMMUNICATIONS by a vote of 7 for approval and 0 against approval.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of West Orange on this 16th day of April, 1992, that the Application of NYNEX MOBILE COMMUNICATIONS for a use variance and final site plan approval be granted.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. This variance is limited to the specific equipment including but not limited to antennas which were the subject of this application.
2. This variance is granted on the condition that no more than one entity, commercial or otherwise be permitted to utilize the tower for placement of antenna(s) or any other communication equipment.

THOSE IN FAVOR

Theodore Abeles

Robert Hoehn

Alice Weiss

Alton Williamson

Nicholas Del Spina

THOSE OPPOSED

The foregoing is a true copy of the Resolution adopted by the Board of Adjustment of the Township of West Orange at its April 16, 1992, meeting.



Catherine Adsitt
Secretary

DATED: April 21, 1992

PLANNING BOARD RESOLUTION
GRANTING SITE PLAN APPROVAL
AND
GRANTING WAIVERS ON APPLICATION BY
MONTCLAIR GOLF CLUB, LOCATED AT
25 PROSPECT AVENUE, WEST ORANGE, NEW JERSEY
BLOCK 151, LOT 7, ZONE R-2

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on August 4, 1993, considered the application for site plan approval and waivers, which application was submitted by Montclair Golf Club, through its attorney, Arnold R. Kent, Esq.; and

WHEREAS, the Planning Board considered the presentation of Arnold R. Kent, Esq., attorney for the applicant, and the testimony of George Derrick, engineer, and Lou Brandt, the applicant's architect, and Exhibits PB1-4; and

WHEREAS, the general public having been given an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that:

The application of Montclair Golf Club for preliminary and final site plan approval based upon the site plan dated June 2, 1993 for Block 151, Lot 7, 25 Prospect Avenue, West Orange, Zone R-2, be and is hereby approved subject to the following conditions:

1. This approval voids previous site plan approval granted in or around 1988.

2. The sanitary sewer connection for the new building shall be depicted on the site plan. If the connection is being used, its condition must be determined and reported to the Township Engineer; and, if he determines that it is not in satisfactory condition, it must be replaced. Also, since this is new construction, the maintenance facility is subject to the Township's supplemental sewer fee.

3. Drainage flow must be directed away from the properties on Deerfield Road and Seaman Road and the Township Engineer determines it is possible.

4. Lighting must be approved by the Township Engineer. Detail of all lighting fixtures is required.

5. Evergreens are to be planted at the southwest corner of the property, near Pleasant Valley Way, and between the new facility and the existing club house. Debris must also be removed from the southwest corner.

6. Essex County Planning Board approval is required; and

BE IT FURTHER RESOLVED, that the following waivers from Ordinance requirements be and are hereby approved:

(a) 25-5.6A-1 Perimeter Curbing of Parking Areas.

(b) 25-5.2K On Site Detention of Storm Water; and

BE IT FURTHER RESOLVED, that the Planning Board approves the Environmental Impact Statement submitted as part of the application.

The following is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: *Sept 9,* 1993


MIGDALIA WAGNER
Secretary of the Planning Board

Signed Site Plans Required
Prior to the Issuance of
Building Permits

PB - 96 - 19

RESOLUTION GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL

AND VARIANCE 25 PROSPECT AVENUE

BEING BLOCK 151 LOT 1 ZONE R-2

MONTCLAIR GOLF CLUB

WHEREAS, the Planning Board of the Township of West Orange at its meetings held on October 2, 1996 and October 9, 1996 considered the application for preliminary and final site plan approval for the premises of Montclair Golf Club at 25 Prospect Avenue, West Orange, New Jersey, being known as Lot 1, Block 151, Zone R-2, West Orange, New Jersey, which application was submitted by Montclair Golf Club through its attorney, Arnold R. Kent, Esq.; and

WHEREAS, the Planning Board considered the presentation of Arnold R. Kent, attorney for applicant and the testimony of Alan Gamble, Montclair Golf Club Manager and George E. Derrick, P.E., Langen Engineering & Environmental Services Inc., the applicant's engineer and Exhibits A1 through A5; and

WHEREAS, the general public was given the opportunity to be heard, the Planning Board made the following findings of fact:

1. The applicant is continuing its existing conforming use.
2. The applicant intends to make improvements to the existing club house by enclosing the existing porch to create a lounge/bar room (1,456 square feet); construct a new porch adjacent to the existing porch (1,000 square feet); add a vestibule to the driveway located on the southeast corner of the building and construct a porte cochere over the driveway at the front entrance of the club house.
3. The proposed new porch and lounge creates the need for 36 additional

parking spaces and the applicant has requested relief from Section 25-3.5B of the Township Zoning Ordinances and relief has been requested by applicant under N.J.S.A. 40:55-70 C2.

4. No environmental impact statement shall be required because of the type and nature of the modification, construction and renovation as the use not having changed since the last application.

5. The Township of West Orange, Department of Public Works has advised the Planning Board through Leonard R. Lepore, Municipal Engineer and Director of Public Works that it has no comment on this application.

6. The proposed modification, construction and renovation will not impact upon the surrounding area.

7. Construction and modification will not result in any new club members or intensified activities.

8. No additional events will take place as a result of prospective alterations.

9. No additional police or fire or municipal services will be required.

10. Addition of porte cochere will enhance safety of entrance and contribute to appearance.

11. Construction and modification will result in ease of egress and ingress for disabled.

12. No new members are proposed nor are any additional events proposed as a result of the modification and construction, therefore, no further parking is needed for club purposes. Present parking is adequate for club purposes.

13. Internal functions will be enhanced - interior flow will eliminate crowding.

14. Existing landscaping and trees fronting on Prospect Avenue will be

retained.

15. Present open space will be conserved and no black-topping will be required - visual environment preserved along with maintaining good design.

16. Proposed variance will not affect the character of the area nor the economics, health, and safety of the area.

17. Intent of the Zoning Ordinance will be enhanced.

18. Minimal effects, if any, on Zoning and Planning.

19. Variance from Section 25-3.5B of the Township Zoning Ordinance for 36 parking spaces can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Ordinance.

20. Signage subject to the approval of the Township Planner.

NOW, THEREFORE, BE IT RESOLVED, that applicant is granted a waiver from the requirements of providing an environment impact statement.

NOW, THEREFORE, BE IT RESOLVED, that the applicant's request for preliminary and final site plan approval be and is hereby granted; and

BE IT FURTHER RESOLVED, that applicant's requested relief from Section 25-3.5B of the Township Zoning Ordinance pertaining to the requirement for an additional 36 parking spaces be and is hereby approved.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: October 9, 1996


MIGDALIA WAGNER, Secretary

RESOLUTION GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL

25 PROSPECT AVENUE

BEING BLOCK 151 LOT 5 ZONE R-2

MONTCLAIR GOLF CLUB

WHEREAS, the Planning Board of the Township of West Orange at its regular meeting held on September 3, 1997 considered the application for preliminary and final site plan approval for the construction of a 526 square foot addition to the existing pump house, which application was submitted by Montclair Golf Club through its attorney, Arnold R. Kent, Esq.; and

WHEREAS, the Planning Board considered the presentation of Arnold R. Kent, attorney for applicant and the testimony of George E. Derrick, P.E., Langen Engineering & Environmental Services Inc., the applicant's engineer and Exhibits P1 and P2; and

WHEREAS, the general public was given the opportunity to be heard, the Planning Board made the following findings of fact:

1. The applicant is continuing its existing conforming use.
2. The applicant intends to construct an addition of 526 square feet to the existing pump house which pump house is situate approximately 2000 feet from Pleasant Valley Way, 1170 feet from Seaman Road, approximately 980 feet from the nearest premises located on Wayland Drive and approximately 1000 feet from Prospect Avenue.
3. The Township of West Orange, Department of Public Works has advised the Planning Board through Leonard R. Lepore, Municipal Engineer and Director of Public Works that it has no comment on this application.

5. The Township of West Orange, Department of Planning and Development has advised the Planning Board through Susan Borg, P.P., A.I.A., Director of Planning and Development that it has no comment on this application.

6. The proposed modification, construction and renovation will not impact upon the surrounding area.

NOW, THEREFORE, BE IT RESOLVED, that the applicant's request for preliminary and final site plan approval be and is hereby granted for the construction of a 526 square foot addition to the existing pump house pursuant to Exhibits P1 and P2 submitted by Langen Engineering & Environmental Services, Pump House Addition, Montclair Golf Club, West Orange, New Jersey, dated July 25, 1997, Drawing No. 19.01.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: Oct 8 , 1997


MIGDALIA WAGNER, Secretary

**BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION
ZB-01-30**

WHEREAS, Omnipoint Communications, Inc., having its main office at 11 Highpoint Drive, Wayne, New Jersey, 07470, ("The Applicant") has applied to the West Orange Zoning Board of Adjustment ("The Board") as tenant of Montclair Golf Club, the owner of the facility who has consented to the application for a "D" variance to install 12 antennas on an existing 100 feet tall water tower and for a height variance because the antennas will be at a height not to exceed 93 feet which will exceed the maximum height permitted of 35 feet, to be erected on the 100 foot tall water tower located on the Montclair Golf Club property at 25 Prospect Avenue, West Orange, New Jersey, being Block 151, Lot 7 on the Tax Maps of the Township of West Orange and located in an R-2 Zone which does not permit the antennas and which would now have two primary uses on the site since there is an existing antenna on the water tower; and for preliminary and final site plan approval; and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of notice of the hearing upon all property owners within 200 feet of the property; and

WHEREAS, the application was heard at a public meeting of the Board on February 21, 2002; and

WHEREAS, the Applicant was represented by Albert E. Cruz, Esquire, who presented the application at the hearing appearing for the law firm of Bateman, Coley, Yospin; Kunzman, Davis, and Lehrer, P.C; and

WHEREAS, submissions included plans prepared and signed by Peter M. Longo, Professional Engineer of the state of New Jersey dated September 13, 2001 which included Cover Sheet, Radius Map, Site Map, and enlarged Site Plan, Elevation and Details; and

WHEREAS, various witnesses were presented by the Applicant's attorney in support of their case who included Peter M. Longo, Licensed New Jersey Professional Engineer and Janice Talley, Licensed Professional Planner of the State of New Jersey, and Jonathan Link, Radio Frequency Engineer.

Mr. Longo described the proposed installation of 12 antennas on the existing 100 foot tall water tower that would require the "D" variance in that the antennas were not permitted and in that it was a second use for the site which had an existing antenna on the water tower . He further pointed out that a height variance was needed indicating the proposed antennas will be 93 feet high and therefore exceed the requirement of 35 feet.

Janice Talley pointed out that this was an application that involved a site that was particularly suited for their purposes because they would use an existing building rather than build a new one and that there would be no impact on the surrounding buildings or area and that no services of the Town would be utilized and no traffic would be generated as it would involve a monthly inspection by a technician to make sure that everything was in order. She further pointed out that the Applicant had an FCC license and that the granting of the license covers the aspect of special reasons. Further since it is an inherently beneficial use, it meets the requirement of the

positive criteria. Further she pointed out that they would service the entire area and surrounding area and that there was 911 capability with access to the wireless internet. She further pointed out that there was no detriment to the application for the site which was well suited for the use and that the variance sought could be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of Zone Plan and Zoning Ordinances. The installation would blend in with the water tower as the antennas would be painted the color of the tower and there would be no intrusion on the site as the water tower was already there; Jonathan Link confirmed that Applicant has an FCC license which includes West Orange for telephone service and E mail.

He described how the 12 antennas would be attached to the water tank and there would be 3 cabinets about the size of a wide refrigerator that will be inside the enclosed building.

He pointed out that no noise will emanate from the site and that what they proposed would provide needed telephone service for the area; and

WHEREAS, various members of the Board questioned the various witnesses and their attorneys; and

WHEREAS, the comments and report of Susan Borg, Township Planner, were considered; and

WHEREAS, no members of the public appeared in opposition to or in favor of the application; and

WHEREAS, no one else testified in favor of or against the application; and

WHEREAS, all the facts and data contained in the submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein

as Findings of Fact of this Board as if set forth at length herein; and

**THE BOARD HAVING MADE THE FOLLOWING SPECIFIC
FINDINGS OF FACT AND CONCLUSIONS:**

- A. Omnipoint Communications, Inc., the Applicant is the tenant of Montclair Golf Club, at premises 25 Prospect Avenue, West Orange, New Jersey, being Block 151, Lot 7 on the Tax Maps of the Township of West Orange and involving the installation of 12 antennas on an existing 100 foot tall water tower.
- B. The owner of the property, Montclair Golf Club, has consented in writing to the application.
- C. The property is located in the R-2 Zone which does not permit antennas so as to require a "D" variance.
- D. In addition this will create a second use on the same lot as there is an existing antenna on the water tower; and two uses are not permitted without the "D" variance.
- E. The antennas will be 93 feet high and thus exceeding the maximum height of 35 feet so as to require a variance for same.
- F. The proposed use will not involve the use of any Township services and will not generate any traffic because only one technician comes there monthly to check on the facility.
- G. The proposed use is inherently beneficial and the site is particularly suited because they are using an existing water tower on which there already is a commercial antenna and not building another installation or using another site. This is

consistent with providing special reasons for what is an inherently beneficial use and will provide needed communication services to the area including 911 capability.

- H. Granting the proposed installation will not impair the intent and purpose of the Zoning Ordinances and Master Plan of the Township of West Orange and will not cause any substantial detriment to the public good and will not present an adverse visual blight as the antennas will be mounted to an existing tank.
- I. The Applicant has satisfied their burden of proof insofar as meeting the positive and negative criteria and has shown the need for a height variance as well as the antennas will be 93 feet high and the ordinance requires 35 feet.
- J. The application advances the purposes of the Municipal Land Use Laws enunciated in N.J.S.A. 40:55-d-2 and is consistent with the kind of development in the area.

A Motion to approve the application to include various conditions as hereinafter stated was made by Bruce Buechler and seconded by John McElroy and voted upon as follows:

AYES

NAYS

ABSTENTIONS

Abeles
Buechler
DeSacia
McElroy
Spango

0

0

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, hereby grants the application

of Omnipoint Communications, Inc., to install 12 antennas on a water tank located at 25 Prospect Avenue, West Orange, New Jersey in Block 151, Lot 7 of the Tax Maps of the Township of West Orange being an R-2 Zone together with a height variance to permit them to be 93 feet above the ground instead of 35 feet as required; and for approval of the preliminary and final site plan; and it was further resolved that the foregoing grant of relief is based upon the Applicant performing the following conditions:

1. The antennas and cables to be installed shall be painted a color to match the color of the water tower.
2. The fence around the building where the equipment is to be placed shall be repaired as required and have slats added.
3. The windows on the building shall be repaired as required.
4. The discoloration on the building shall be painted as required.
5. The landscaping around the building shall be installed as shall be designated by the Township Planner.
6. All Findings of Fact and Conclusions of Law set forth herein are deemed conditions that are binding upon the Applicant.
7. Approvals granted herein are conditioned upon the West Orange Fire Department approval.
8. The Applicant shall execute prior to the issuance of a Certificate of Approval or Certificate of Occupancy, an Affidavit of Compliance certifying that they have fulfilled all conditions set forth which shall be to the satisfaction of the Township Planner, Engineering Department, and Building Department of the Township of

West Orange, who shall be furnished with a copy of the resolution. No Certificate of Occupancy or Certificate of Approval for the addition shall be issued until receipt of an executed Affidavit of Compliance approved and signed by the Zoning Official.

MOVED BY: Vice Chairman Buechler

SECONDED BY: Mr. McElroy

THOSE OPPOSED: 0

THOSE IN FAVOR: 5

ABSTENTIONS: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of March 21, 2002 and said resolution memorializes the action of the Board taken at its meeting held February 21, 2002, granting the application by a vote of 5 in favor and 0 against.

 3/22/02

NORA MYERS, Board Secretary

PB-02-06

MONTCLAIR GOLF CLUB

RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE

Granting preliminary and final site plan approval with a C-2 variance to construct a restroom and an irrigation reservoir on the existing golf course.

WHEREAS, the Planning Board of the Township of West Orange, at a meeting held on May 1, 2002, considered the application for preliminary and final site plan approval with a C-2 variance to construct a restroom and an irrigation reservoir on the existing golf course on property located in the R-2 Zone, identified as Block 151, Lots 1, 5, 7, 11, 14, 15A, 23, 34, 37, 41, 45A, and 49, which was submitted by Montclair Golf Club (the "Applicant"), through its attorney, Arnold Kent, Esq.; and

WHEREAS, the Planning Board considered the presentation of Arnold Kent, Esq., attorney for the Applicant; and heard and considered the testimony of George Derrick, the Applicant's engineer/planner (licensed in New Jersey as an engineer and as a planner, and qualified in both capacities by the Board); and considered the site plan and related drawings dated March 18, 2002, as well as photographs of the site; as well as questions and comments from Board members and from the public as shall appear in the Board's minutes for the meeting of May 1, 2002; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Planning Board have been properly invoked and exercised; and the Board having conducted a vote on this application on May 1, 2002;

WHEREAS, the Applicant has requested a waiver for the requirement to obtain an environmental impact statement; and

WHEREAS, the Applicant requested preliminary and final site plan approval with a C-2 variance to construct a restroom and an irrigation reservoir on the existing golf course;

NOW, THEREFORE, does the Planning Board of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for preliminary and final site plan approval with a C-2 variance to construct a restroom and an irrigation reservoir on the existing golf course.

2. The Board reviewed the site plan and related drawings submitted by George Derrick, the Applicant's engineer/planner, which site plan is dated March 18, 2002, as well as photographs of the property submitted to the Board.

3. The Applicant is granted a waiver for environmental impact statement.

4. The Board has recommended and the Applicant has agreed to the following additional conditions of approval:

(1) Landscaping around the restroom is to be added to the site plan, and submitted to the Director of Planning for approval;

(2) The driveway gate off Pleasant Valley Way is to be slatted with grass-colored material;

(3) The Applicant shall obtain any and all other governmental approvals that may be necessary including, but not limited to, a soil erosion and sediment control certification from Hudson-Essex-Passaic Soil Conservation District and a tree removal permit from West Orange;

(4) The Applicant shall maintain all landscaping in good condition;

(5) The Applicant shall supply the West Orange Director of Planning with an Affidavit of Compliance with all conditions agreed to by the Applicant; and

(6) All findings of fact and conclusions of law set forth herein are deemed conditions that are binding on the Applicant.

NOW, THEREFORE, BE IT RESOLVED that the C-2 variance for parking (5 spaces required, 0 proposed) is approved.

The Applicant's engineer/planner, Peter Derrick, testified and the Board found that the C-2 variance could be granted because the purposes of the Municipal Land Use Law would be furthered in that the deviation would maintain adequate light, air, and open space and would maintain a desirable visual environment (the addition of 5 spaces would require the elimination of a nicely landscaped area); and the benefits of the variance would substantially outweigh any detriment and that there would be no detriment to the public good in that the restroom would not generate any additional demand for parking at the golf course, and that the golf course otherwise has an adequate number of parking spaces to accommodate patrons who use the golf course facilities, and the proposed restroom would provide a much needed facility for golfers using the course.

NOW, THEREFORE, BE IT RESOLVED that this application for preliminary and final site plan approval with a C-2 variance to construct a restroom and an irrigation reservoir on the existing golf course is approved in accordance with the site plan, subject to the conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Elizabeth Visone

Elizabeth Visone, Board Secretary
Planning Board of the Township
of West Orange

Dated: June 5, 2002

**BOARD OF ADJUSTMENT OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION / ZB-02-24**

WHEREAS, Nextel of New York, Inc. d/b/a Nextel Communications, having its principal office at One North Broadway, White Plains, New York 10601, ("the Applicant") has applied to the West Orange Zoning Board of Adjustment of the Township of West Orange, ("the Board") for a "D" variance at add 3 groups of 4 antennas each for a total of 12 antennas to the existing water tower at the Montclair Golf Club located at 25 Prospect Avenue, West Orange, New Jersey and being Block 151, Lots 1, 5, 7, 11, 14, 15.01, 23, 34, 37, 41, 45.01 and 49 and being in zone R-2 and to install an equipment cabinet at the base of the tower and for a "D" variance for height which will be 100 feet existing instead of what is required by the ordinance, and for preliminary and final site plan approval; the Applicant being a tenant of the Montclair Golf Club, the owner, who has consented to the application in writing; and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of the hearing upon all the property owners within 200 feet of the property; and

WHEREAS, the application was heard at a public meeting of the Board on August 22, 2002; and

WHEREAS, the Applicant made their presentation through Warren O. Stilwell, Esq., of law firm of Czura Stilwell, LLC; and

WHEREAS, the admissions included Architectural Plans Z1 - Z4 prepared and signed by Frank Colasurdo, Licensed Architect of New Jersey, dated December 20, 2002 and a property survey prepared and signed by Michael Pronesti, Licensed Land Surveyor, dated April 17, 2002; and Resolution ZB-91-24 adopted by the Zoning Board of Adjustment of the Township of West Orange on April 21, 1992 for the placement of 3 whip antennas connected to the roof of the water tower, West Orange Planning Board Resolution PB-88-1 adopted February 3, 1988 approving the site plan presented by the then applicant for the subject location; and West Orange Planning Board Resolution PB-88-33 adopted December 7, 1988 approving the site plan presented which included the installation of a maintenance facility at subject location; and

WHEREAS, the Applicant presented various witnesses who included Frances Boschulte, Radio Frequency Engineer, Alice Fahy-Elwood, Consultant to Nextel as a Health Physicist in safety analysis in this field; Gary Musciano, Licensed Architect of the State of New Jersey and James Dowling, Licensed Professional Planner of the State of New Jersey.

Ms. Boschulte indicated the Applicant provides two way radio communication, walkie-talkie communication and the usual e-mail. She indicated that the FCC has licensed them to transmit and receive radio frequency which included public service to the police and fire department and the citizens of the area and were within the standards and requirements of the FCC.

Alice Fahy-Elwood indicated that the radio frequency signals complied with FCC regulations and offered no risk to anyone in the area by their use.

Gary Musciano explained the plans and described that the water tower was 100 feet high and that it was not in jeopardy of being adversely affected by any additional weight that they would put on it. He indicated that all equipment for the 12 antennas that they sought to install would be installed in an equipment cabinet to be at the base of the water tank and would not show. He pointed out that they proposed to install 3 groups of 4 antennas each for a total of 12 antennas. They would be the third wireless communications carrier on the water tower already occupied by Omnipoint and Nynex. They indicated that they would follow the pattern of the present occupiers of the tower to camouflage the existing antennas and equipment and would continue to join with them in maintaining the area well as it is now. He indicated further that antennas could not be flush mounted because it was physically impossible to do so because of the other antennas being there.

James Dowling, the Licensed Professional Planner of New Jersey, explained the reason for the "D" variance because the use is not permitted and that the height variance exceeded that which was permitted and was necessary as it was in place, being the water tower which could not be reduced in height. He indicated that the positive and negative criteria were met, that no town facilities would be used and that there was no detriment to the health and public welfare and no trash pick up and no burdens to the town systems. There would be a minimal change in the site by adding the antennas which would be hardly discernable. Mr. Dowling indicated there was no detriment to the public good or to the area

by what they proposed to do and that since they have an FCC license, it indicates they are serving the general welfare and this met the positive criteria. He pointed out that the area was particularly suited for the use intended and there would be no detrimental effects to anyone and it would not impair the master plan or the zoning ordinances of the Township of West Orange or the Municipal Land Use Law as it affected the site; and

WHEREAS, the report filed by Susan Borg, Township Planner and her testimony were considered by the Board; and

WHEREAS, the Board members questioned the various witnesses and their attorney; and

WHEREAS, Barry Moskowitz, the Public Advocate did not conduct any questioning of the witnesses; and

WHEREAS, no one else appeared at the meeting and no one else testified in favor of or in opposition to the project; and

WHEREAS, all the facts and data contained in the submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein as Findings of Fact of this Board as if set forth at length herein and made a part hereof; and

THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS OF FACT AND CONCLUSIONS:

- A. Applicant is a tenant of the Montclair Golf Club for the use of the water tower located at 25 Prospect Avenue, West Orange, New Jersey, being Block 151, Lots 1, 5, 7, 11, 14, 15.01, 23, 34, 37, 41, 45.01 and 49 on the Tax Maps of

the Township of West Orange and located in the R-2 zone.

- B. The West Orange Planning Board adopted Resolution PB-88-1 on February 3, 1988 approving the site plan presented for the site at that time. By Resolution PB-88-33, adopted December 7, 1988 the West Orange Planning Board approved an amended site plan presented at that time. By Resolution ZB-91-24 the West Orange Board of Adjustment adopted on April 21, 1992 Nynex Mobile Communications was granted the right to install antennas on the water tower in question.
- C. The Applicant requires two "D" variances, one to be permitted to install 12 antennas on the water tower at 25 Prospect Avenue, West Orange, New Jersey, being 3 groups of 4 antennas each which is a non-permitted use and therefore requires the variance, together with a height variance which requires the use of the existing facility which is 100 feet and in excess of that which is permitted and therefore requiring a "D" variance. They also seek preliminary and final site plan approval.
- D. The Board was advised that they will also install an equipment shed at the base of the water tower that will house all of the radio frequency equipment and the Board was advised further that the added weight to the tower would not be a danger or cause the tower to fall or crumble.
- E. The Board was advised that if the application was granted the Applicant would be the third wireless communications carrier on the water tower as it is

presently occupied by Omnipoint and Nynex.

- F. The proposed use is not intrusive and does not require any use of the Township's services as it does not generate trash or noise or any emissions that involve odors or anything dangerous to the community and that the radio frequency emissions are in accordance with the standards of FCC who had licensed the Applicant.
- G. From the testimony presented it appears that there are many special reasons for the granting of the proposed relief as enunciated by the licensed planner and that the proposed use is tantamount to an inherently beneficial use and provides a benefit to the general public and would have no adverse effect upon the public good and would not substantially impair the intent of the zoning plan and master plan and zoning ordinances and will have no adverse effect upon the Municipal Land Use Law.
- H. The proposed installation and use is designed to blend in with the character of that which is there and with the character of the neighborhood and will not impact negatively on the surrounding area and represents an improvement of the existing facilities. There will not be any adverse impact to the health, safety or welfare of any other properties or persons in the area or to passers by or by users of the facilities.
- I. The purposes of the Municipal Land Use Law will be advanced by the grant of the two "D" variances.

- J. The granting of the "D" variances will not substantially impair the general purposes of the West Orange Master Plan or Zoning Ordinances of West Orange.
- K. The benefits of the variances will substantially outweigh any detriment and will not substantially negatively impact on the surrounding properties and neighborhood.
- L. The proposed installation and use are not out of character with the neighborhood and will enhance the property, and will enhance the area and benefit the general welfare of the general public and surrounding area.
- M. The proposed installation and use do not pose any threat to the safety and well being of anyone in the surrounding area.

A motion to grant the Applicant's request for a "D" variance to add 12 antennas to the existing water tower at 25 Prospect Avenue, West Orange, New Jersey and to install an equipment cabinet to house the equipment at the base of the tower, and for a "D" variance for the height of 100 feet instead of what the ordinance requires and for approval of the preliminary and final site plan was made by John Blind and seconded by John McElroy and voted upon as follows:

AYES

NAYS

ABSTENTIONS

Blind
Buechler
Flannery
McElroy
Ricci
Spango
Sullivan

0

0

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Adjustment of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, hereby grants the Applicant, Nextel of New York, Inc. d/b/a Nextel Communications, a "D" variance to install 12 transmitting and receiving antennas on the existing water tower at 25 Prospect Avenue, West Orange, New Jersey, and a "D" variance for the height of 100 feet as it exists for the water tower instead of that which the ordinance permits, and for the approval of the preliminary and final site plan, subject to the following conditions; and

BE IT FURTHER RESOLVED, that the grant of said variances shall be conditioned upon the Applicant's full and complete satisfaction of the following conditions:

1. All radio equipment shall be inside the equipment shed that shall be installed at the base of the water tower.
2. The equipment shed and antennas shall match the color of the water tower.
3. The Applicant shall furnish the Township of West Orange a billing address for this location.
4. Prior to the adoption of this Resolution and not later than September 12, 2002, the Applicant shall provide the Engineering Department of the Township of West Orange with a letter signed by their appropriate authorized person indicating that the added weight that will be involved in installing the antennas on the water tower will not have an adverse effect so as to create no danger to the structure of the water tower.

5. All Findings of Fact and Conclusions of Law set forth herein are deemed conditions that are binding upon the Applicant.
6. The approvals granted are subject to West Orange Fire Department approval.
7. Applicant shall execute prior to the issuance of a Certificate of Occupancy, an Affidavit of Compliance certifying that they have fulfilled all conditions set forth which shall be to the satisfaction of the Township Planner, Engineering Department and Building Department of the Township of West Orange, who shall be furnished with a copy of this resolution. No Certificate of Occupancy or Certificate of Approval shall be issued until receipt of an executed Affidavit of Compliance approved and signed by the Zoning Official.

Moved By: Chairman Buechler

Seconded By: Mr. Flannery

Those in Favor: 5

Those Opposed: 0

Abstentions: 0

I hereby certify that the foregoing Resolution was adopted by the West Orange Zoning Board of Adjustment of the Township of West Orange at its meeting of September 19, 2002 memorializing the resolution adopted August 22, 2002 granting the application by a vote of 7 in favor and 0 against.



NORA M. YERS, Board Secretary

Dated: October 17, 2002

Signed Site Plans Required
Prior to the Issuance of
Building Permits

PB-04-16

MONTCLAIR GOLF CLUB
25 PROSPECT AVENUE

RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE

Granting preliminary and final site plan approval with variance to construct additions totaling 999 square feet to the existing clubhouse.

WHEREAS, the Planning Board of the Township of West Orange, at a meeting held on September 8, 2004, considered the application for preliminary and final site plan approval with variance to construct additions totaling 999 square feet to the existing clubhouse, on property located in the R-2 Zone, identified as Block 151, Lots 1, 5, 7, 11, 14, 15a, 23, 34, 37, 41 and 49, which was submitted by the Montclair Golf Club (the "Applicant"), through its attorney, Douglas R. Henshaw, Esq.; and

WHEREAS, the Planning Board considered the presentation of Douglas R. Henshaw, Esq., attorney for the Applicant; and heard and considered the testimony of Frank Rawdling, the Applicant's architect (licensed in New Jersey as an architect, and qualified in that capacity by the Board); and considered the architectural drawings dated July 14, 2004; and heard and considered the testimony of George Derrick, the Applicant's engineer/professional planner (licensed in New Jersey as an engineer and

a professional planner, and qualified in both capacities by the Board); and considered the site plan dated July 16, 2004; and heard and considered the testimony of Christian Potthoff, the Applicant's Golf Club General Manager; as well as questions and comments from Board members as shall appear in the Board's minutes and/or a transcript for the meeting of September 8, 2004; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Planning Board have been properly invoked and exercised; and the Board having conducted a vote on this application on September 8, 2004; and

WHEREAS, the Applicant requested preliminary and final site plan approval with variance to construct additions totaling 999 square feet to the existing clubhouse;

NOW, THEREFORE, does the Planning Board of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for preliminary and final site plan approval with variance to construct additions totaling 999 square feet to the existing clubhouse.

2. The Board reviewed the site plan submitted to the Board, which site plan is dated July 16, 2004

3. The Board reviewed the architectural drawings submitted to the Board, which drawings are dated July 14, 2004.

4. The Board has recommended and the Applicant has agreed to the following additional conditions of approval:

(1) If necessary, Site Plan Approval of the proposed development will be obtained from the Essex County Planning Board;

(2) If necessary, soil erosion and sediment control certification will be obtained from the H-E-P Soil Conservation District;

(3) All landscaping shall be planted in accordance with the approved landscape plan and shall be maintained in healthy and vigorous condition; all plants, shrubs, and trees that die shall be replaced with landscape materials of equal or better quality;

(4) All findings of fact and conclusions of law set forth herein are deemed conditions that are binding on the Applicant;

(5) Before a Temporary or Final Certificate of Occupancy/Approval can be issued, the Applicant shall submit proof to the West Orange Director of Planning that all real estate taxes are paid and current; and

(6) Before a Temporary or Final Certification of Occupancy/Approval can be issued, the Applicant shall execute and submit to the West Orange Director of Planning, an Affidavit of Compliance certifying that all conditions of approval agreed to by the Applicant and set forth herein have been fulfilled and satisfied.

5. The Applicant is granted waivers for environmental impact statement and for a traffic study.

NOW, THEREFORE, BE IT RESOLVED that this application for preliminary and final site plan approval with variance to construct additions totaling 999 square feet to the existing clubhouse is unanimously approved in accordance with the site plan and architectural plan, subject to the additional conditions set forth in this resolution.

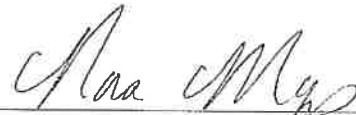
NOW, THEREFORE, BE IT RESOLVED that the following C-2 variance is required:

Minimum parking required for addition of 999 square feet to property - 22 spaces, 0 proposed, approved.

The Applicant's professional planner, George Derrick, testified and the Board found through his testimony that the C-2 variance could be granted because the requested variance met the purposes of the Municipal Land Use Law, specifically (i) providing a benefit to Club members by providing a larger locker

room with added conveniences for handicapped individuals; (ii) providing storage area which will benefit the Club members; and (iii) maintaining green areas by not adding unneeded parking spaces; that the benefits of the variance would substantially outweigh the detriments; and that the granting of this variance would not substantially impair the intent and purpose of the zoning ordinance.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

A handwritten signature in cursive script, appearing to read "Nora Myers", is written over a horizontal line.

Nora Myers, Board Secretary
Planning Board of the Township
of West Orange

Dated: 10-6-04

PB-11 - 02T

MONTCLAIR GOLF CLUB
25 Prospect Avenue, West Orange, NJ

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE
TECHNICAL REVIEW COMMITTEE**

Granting Technical Site Plan Approval (Technical Review Subcommittee), without variances, to renovate the existing clubhouse, add a pergola over the existing patio and re-align the member entrance gate.

WHEREAS, the Technical Review Committee of the Planning Board of the Township of West Orange, at a meeting held on February 15, 2011, considered the application for Technical Site Plan Approval, without variances, to renovate the existing clubhouse, add a pergola over the existing patio and re-align the member entrance gate. on property located in the R-2 Zone, identified as Block 151, Lot 1, which was submitted by Montclair Golf Club (the "Applicant"); and

WHEREAS, the Planning Board considered the presentation of Robert C. Williams, Esq., Attorney for the Applicant, George Derrick, PE, the Applicant's Engineer and Nancy Dougherty, AIA, the Applicant's Architect; and

WHEREAS, a complete application has been filed, all fees required by ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Technical Review Committee of the Planning Board have been properly invoked and exercised; and the Technical Review Committee of the Planning Board having conducted a vote on this application on March 2, 2011; and

WHEREAS, the Applicant requested Technical Site Plan approval, without variances, to renovate the existing clubhouse, add a pergola over the existing patio and re-align the member entrance gate.

NOW, THEREFORE, does the Planning Board (Technical Review Committee) of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for Technical Site Plan Approval, without variances, to renovate the existing clubhouse, add a pergola over the existing patio and re-align the member entrance gate.
2. The Board (Technical Review Committee) has recommended and the Applicant has agreed to the following additional conditions of approval:
 - a. The drain lines for the three (3) compartment sink in the snack bar must be indirectly wasted to the building sewer.
 - b. A mop sink must be installed in the snack bar.

NOW, THEREFORE, BE IT RESOLVED that this application for Technical Site Plan Approval, without variances, to renovate the existing clubhouse, add a pergola over the existing patio and re-align the member entrance gate is approved, subject to the additional conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.



ROSE DeSENA, Board Secretary
Planning Board of the Township of West Orange

Dated: March 2, 2011

3/2/11

RESOLUTION OF APPROVAL
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Decided: September 14, 2011
Memorialized: October 5, 2011

MONTCLAIR GOLF CLUB

Preliminary and Final Site Plan Approval with "c" Variance

25 Prospect Avenue

Block: 151; Lots: 1, 5, 7, 11, 14, 15.01, 23, 34, 37, 41, 45.01 & 49

Case # PB-11-16

WHEREAS Montclair Golf Club (the "Applicant") having an address at 25 Prospect Avenue, West Orange, NJ 07052 having made application for Preliminary and Final Site Plan Approval with variance regarding premises at 25 Prospect Avenue, West Orange, NJ also known as Block 151, Lots 1, 5, 7, 11, 14, 15.01, 23, 34, 37, 41, 45.01 & 49 on the tax map (the "Premises"); and

WHEREAS the Board having conducted a public hearing on this application on September 14, 2011 after notice; and

WHEREAS the Applicant having appeared by its attorney Robert Williams, Esq. and by witnesses George Derrick, A. James Tinson, RA, and Gregory Woodruff, PP who offered testimony and introduced exhibits, and the Board having granted an opportunity for public comment;

IT IS HEREBY RESOLVED:

EVIDENCE SUBMITTED

1. Applicant submitted plans with the application consisting of a Site Plans by Langan Engineering & Environmental Services (8 pages) last revised August 5, 2011, and Architectural Plans by Hart Howerton (6 pages) last revised August 5, 2011.
2. Applicant introduced into evidence the following exhibits during the hearing all of which were identical to the plans submitted with the application except A-9:

Ex. A-1 – Block & Lot Area Map
Ex. A-2 - Site Grading and Drainage Map
Ex. A-3 – Main Level and Renovation Plan
Ex. A-4 – Building Elevations West and North
Ex. A-5 - Building Elevations South
Ex. A-6 - Aerial Photo
Ex. A-7 - Topographic Survey
Ex. A-8 - Basement Level Renovation Plan
Ex. A-9 – Copy of Architectural Plans by Hart Howerton last revised August 5, 2011 with signature block by Jim Tinson, RA added.

3. The premises are located in the R-2 zone and golf courses are a permitted use in the zone. The property is located on Prospect Avenue and is improved with a clubhouse having approximately 45,000 sq. ft., a 36-hole golf course, tennis courts, parking areas and maintenance buildings.
4. Applicant proposes to make upgrades and additions to the clubhouse, which will add approximately 1,336 sq. ft. The improvements include (i) a new entry vestibule including an elevator and stairs for improved accessibility to the 1st floor clubhouse facilities and access to the 2nd floor women's locker room (570 sq. ft.); (ii) construction of a kitchen elevator (100 sq. ft.); (iii) expansion of the Donald Ross Room (256 sq. ft.); (iv) expansion of an existing function room (220 sq. ft.) and (v) a new entry vestibule for exterior access to existing bathrooms (190 sq. ft.)
5. George Derrick testified that he is has been a member of the Club for 30 years and serves on its steering committee for this project. He stated that the purpose of the improvements was to increase handicapped accessibility, improve functionality and improve views out the back over the golf course. He stated that the Club has no plans to increase membership nor to change the volume or capacity of the clubhouse but rather to improve its attractiveness and utilization.
6. A. James Tinson, RA was qualified as an expert in architecture. He testified that the additions/improvements are meant to seamlessly integrate with the existing architectural design and characteristics.
7. The plans indicate that there are presently 324 parking spaces and the improvements would require 30 additional spaces, however, the Applicant seeks variance relief from adding any more parking.
8. Gregory Woodruff, PP was qualified as an expert in planning. He testified that the variance sought is a "c-1" variance by reason of the exceptional conditions on site. Regarding the positive criteria he stated that the site is a unique use and that not all interior meeting spaces will be used at the same time; that the club has the desire and ability to limit membership, that the proposed additions will improve ADA accessibility, that by not paving more parking spaces the Club is preserving open space, and that the highest parking demand occurs in the evenings when the maintenance building area is available because the workers are not there. Regarding the negative criteria he stated that the purpose of the parking requirements in the ordinance is to ensure adequate space for all users and that due to the uniqueness of the site all parking can be accounted for on site and overflow parking can use the maintenance building area thereby causing no substantial detriment to the public good and no substantial impairment to the intent and purpose of the zone plan and ordinance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Applicant has satisfied notice requirements and the Board has jurisdiction over the application.
10. The proposed renovations will improve and enhance the clubhouse and improve handicapped accessibility.

11. The Board finds that "c-1" variance relief is warranted because the peculiar and exceptional conditions on the site in question and buildings lawfully existing thereon. In order to increase parking it would require paving over open space and/or grassy areas which are integral to the use, look and feel of a golf club, and because the club can control the number of patrons and park them all on site there is no detriment to the neighbors or the zone plan and ordinance. The limited enlargement proposed in this project will not cause much if any additional parking demand. The testimony from the Applicant is that they have not had parking issues in the past and do not expect any from this proposal. Any parking demand caused by these limited improvements will be self-contained on site.
12. The Board acknowledges receipt of a letter from Township Engineer Leonard Lepore dated September 14, 2011 requesting permission from Applicant to plant trees in the riparian buffer of the Peckman River. Per discussion at the hearing it was decided that Applicant shall work to comply with this request.
13. Per concerns raised by the Board Applicant agreed to ensure that all ADA requirements are met in conjunction with this project.
14. The Board acknowledges receipt of a letter from the Verona Township Engineer James. M. Helb, PE indicating his belief that some or all of the improvements proposed are on land within Verona Township. Applicant contests this allegation but agrees to obtain site plan approval from Verona if necessary.

THE DECISION

WHEREAS, the Board, having reviewed the application for Preliminary and Final Site Plan approval with associated 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 with variance and other relief enumerated herein.

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 associated variance relief as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is hereby granted with the following conditions:

1. The Applicant shall comply with all applicable Township of West Orange, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or regulatory 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.

6. Applicant shall comply with the rules of the Council on Affordable Housing (COAH) and/or the ordinances of the Township of West Orange, including any amendments or revisions thereto, as the same may require the creation of low- and moderate-income restricted affordable housing as a result of this project.

7. The parking variance to maintain but not increase parking beyond the existing 324 spaces is granted.

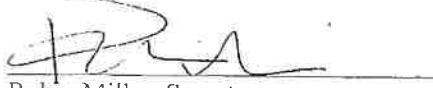
8. Applicant shall comply with all ADA requirements triggered by these improvements.

9. Applicant shall obtain site plan and/or other approvals from Verona Township, if needed, for any improvements in Verona.

10. Applicant shall cooperate and work with the Township Engineer's office to allow the planting of trees in the riparian buffer of the Peckman River as outlined in the letter from West Orange Engineer Leonard Lepore, PE dated September 14, 2011. The letter requests Applicant to provide up to 7,237 sq. ft. of space where the Township may plant 80 trees, consisting of red maple, black gum white ash, American hornbeam and flowering dogwood, on property owned by Applicant along the riparian buffer of the Peckman River. All such plantings shall be outside the area of play for any golf hole i.e. outside the fairway and rough, and the location shall be subject to the review of the Township Engineer.

11. 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.

Certified to be a true copy of the Resolution adopted on the 5th day of October 2011.


Robin Miller, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BAGOFF						
CARLUCCI			X			
EBEN (1 st alt.)			X			
GHEBREMICAEL			X			
GURLAND			X			
HELLER	X					
KLEIN (2 nd alt.)						
LESTER		X	X			
MCCARTNEY			X			
WILKES			X			
WESTON						X

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BAGOFF						
CARLUCCI			X			
EBEN (1 st alt.)			X			
GHEBREMICAEL		X	X			
GURLAND			X			
HELLER	X		X			
KLEIN (2 nd alt.)						
LESTER						
MCCARTNEY			X			
WILKES						
WESTON						

MONTCLAIR GOLF CLUB

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Granting preliminary and final site plan approval and c(2) variances to replace and relocate existing pool and racquet facilities.

WHEREAS, the Planning Board of the Township of West Orange, at a meeting held on March 4, 2020, considered the application for preliminary and final site plan approval with c(2) variances to replace and relocate existing pool and racquet facilities on property located in the R-2 Zone, identified as Block 151, Lots 1, 5, 7, 11, 14, 15.01, 23, 24, 37, 41, 45.01 and 49, which was submitted by Montclair Golf Club (the "Applicant") , through its attorney, Robert A. Gaccione, Esq. ; and

WHEREAS, the Planning Board considered the presentation of Robert A. Gaccione, Esq., attorney for the Applicant; and heard and considered the testimony of Club President Vernon Endo, Timothy B. Derrick, P.E., the Applicant's engineer (licensed in New Jersey as an engineer, and qualified in that capacity by the Board), A. James Tinson, R.A., the Applicant's architect (licensed in New Jersey as an architect, and qualified in that capacity by the Board), Sean Moronski, P.P., the Applicant's Professional Planner (licensed in New Jersey as a Professional Planner, and qualified in that capacity by the Board); and considered the site plan revision dated February 19, 2020, the revised architectural plans dated December 19, 2020, as well as photographs of the site; as well as questions and comments from Board members and from the public as shall appear in the Board's minutes for the meeting of March 4, 2020; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Planning Board have

been properly invoked and exercised; and the Board having conducted a vote on this application on March 4, 2020;

WHEREAS, the Applicant requested preliminary and final site plan approval with c(2) variances to replace and relocate existing pool and racquet facilities;

NOW, THEREFORE, does the Planning Board of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for preliminary and final site plan approval with c(2) variances to replace and relocate existing pool and racquet facilities.
2. The Board reviewed the site plan and related drawings submitted by Langan Engineering and Environmental Services, Inc., the Applicant's engineer, which revised site plan is dated February 19, 2020, revised architectural plans submitted by A. James Tinson, R.A. dated December 19, 2020, as well as photographs of the property submitted to the Board.
3. The Board has recommended and the Applicant has agreed to the following additional conditions of approval:
 - a. Subject to the Applicant's compliance with all comments in the report of the Board Engineer;
 - b. Subject to the Applicant's compliance with all comments in the report of the Township Forester;
 - c. Subject to the Applicant's submission of a Sustainability Checklist describing the sustainable measures included in the proposed site and building improvements;

- d. Subject to the Applicant's installation of one or more new Electric Vehicle Charging Stations for automobiles parking in the existing or new parking spaces at the golf club;
- e. Subject to the Applicant's further review of the need to install protective netting at other locations adjacent to roadways and pedestrian walkways to avoid golf balls from leaving the course and posing a safety hazard to the public;
- f. Subject to the submission of revised plans complying with this Resolution and the review memorandum of the Board Engineer and Township Planning Director, and listing conditions of approval on the plans;
- g. The Applicant shall supply the Township Planning Director with an Affidavit of Compliance with all conditions agreed to by the Applicant;
- h. All findings of fact and conclusions of law set forth herein are deemed conditions that are binding on the Applicant.

NOW, THEREFORE, BE IT RESOLVED that the following (8) c(2) variances requested by the Applicant are approved:

SECTION	REQUIRED	PROPOSED & NOW APPROVED	VARIANCES
25-8.1.f- Maximum accessory building height	1.5 stories/15 feet	-Locker room building: 29 ft.; -Snack bar building: 29 ft.; -Outdoor bar: 25.25 ft.; -Paddle hut: 23.5 ft.	c(2) (4)

25-8.4.a- Maximum fence height	4 feet	-Golf protective netting: 100 ft.; -Paddle tennis courts: 16 ft.; -Pickle ball courts: 10 ft.; -Pool area: 5 feet.	c(2) (4)

The Applicant's engineer, architect, and professional planner, testified and the Board found that the above c(2) variances could be granted because the purposes of the Municipal Land Use Law would be furthered in that these deviations would maintain adequate light, air, and open space and would maintain a desirable visual environment; and the benefits of these c(2) variances would substantially outweigh any detriment and that there would be no detriment to the public good in that the new structures are replacing and removing much older structures, and that the new buildings will have improved functionality via the addition of pitched roofs, and the proposed and approved fencing will improve the safety of the property by conforming with the recommendations of experts and in the case of the pool area fence, state law. The proposed netting will not create a visual impact and there will be no impairment of the Township Zoning Plan. These deviations will provide a more modern, safe and enjoyable experience for both club members and visitors.

NOW, THEREFORE, BE IT RESOLVED that this application for preliminary and final site plan approval with c(2) variances to replace and relocate existing pool and racquet facilities is approved in accordance with the site plan, subject to the conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

SEAN MCCAULEY, ACTING BOARD SECRETARY
WEST ORANGE TOWNSHIP PLANNING BOARD

Dated: _____

**ROLL CALL VOTE ON ACTION TAKEN BY THE BOARD AT REGULAR MEETING
ON MARCH 4, 2020**

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)		X	X			
Johnson (1 st Alt.)			X			
Smeraldo						X
Klein						X
McCartney			X			
Trenk			X			
Wegner						X
Weston (Chair)	X		X			
Williams			X			
Wilkes			X			

**ROLL CALL VOTE ON ADOPTION OF MEMORIALIZED RESOLUTION OF
ACTION TAKEN BY THE BOARD AT SPECIAL MEETING ON APRIL 3, 2020**

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)			X			
Johnson (1 st Alt.)			X			
Smeraldo						X
Klein					X	

McCartney		X	X			
Trenk			X			
Wegner						X
Weston (Chair)	X		X			
Williams						X
Wilkes			X			

Resolution
Township of West Orange
Planning Board
PB 21-06 Montclair Golf Club/ 25 Prospect Avenue
Block: 151; Lot: 1,5,7,11,14,15.01,23,34,37,41,45.01 &49; Zone: R-2
Decided on August 11, 2021
Memorialized on September 1, 2021
C(2) Variance and Amended Site Plan Approval

WHEREAS, Montclair Golf Club (hereinafter the "Applicant") has made an application for C(2) Variance and Amended Site Plan approval in order to lengthen the golf netting previously approved under PB-19-11 at property located at 25 Prospect Avenue, also known as Block: 151; Lot: 1,5,7,11,14,15.01,23,34,37,41,45.01 &49, in the R-2 Zone; and

WHEREAS, a properly noticed public hearing was conducted on June 11, 2021; and

WHEREAS, the Applicant was represented by Robert A. Gaccione, Esq. of the firm Gaccione Pomaco P.C. ; and

WHEREAS, the Applicant provided testimony by Timothy B. Derrick, P.E., a professional civil engineer whose credentials were accepted by the Board; and

WHEREAS, the Applicant provided testimony by Roger Bacon, the General Manager of the Applicant; and

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

ITEM	SIGNED BY	DATE/REVISION
CS001 - COVER SHEET	MICHAEL FOWLER, P.E.	6/11/2021
CS100 - OVERALL SITE MAP AND TAX LOT PLAN	MICHAEL FOWLER, P.E.	4/30/2020
CS100 - OVERALL SITE PLAN	MICHAEL FOWLER, P.E.	6/11/2021
CS101 - PARTIAL SITE PLAN	MICHAEL FOWLER, P.E.	6/11/2021

WHEREAS, representatives of the public asked questions of the witnesses and had an opportunity to offer statements in regard to 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 at the hearing; and

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

1. The applicant is requesting amended site plan and c(2) variance approval in order to lengthen the golf netting, which was previously approved pursuant to PB-19-11, by an additional 140 feet at a height of up to 75 feet.

2. The property is located along Prospect Avenue near the boundary of West Orange and Verona. The surrounding area is primarily characterized by residential uses.

3. The application requires the following bulk variance relief from this Board:

Section/Requirement	Required	Existing	Proposed
25.8-4.a Maximum fence height	4 feet	100 feet	Additional fencing at 75 feet

4. N.J.S.A. 40:55D-46b and 50a are the focal points for consideration of amended preliminary and final site plan applications. N.J.S.A. 40:55D-46b provides that if "any substantial amendment in the layout of improvements proposed by the developer that have been subject of a hearing" is proposed, "an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development." N.J.S.A. 40:55D-46b further provides that the Board "shall" grant amended preliminary site plan approval if the proposed development complies with all provisions of the applicable ordinances. Similarly, 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 application complies with all ordinance requirements, the Board must grant approval. 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.

5. 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-70c. A "c(2)" variance may be granted where 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 applicant also 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 the following variance relief, as well as amended site plan approval:

Section/Requirement	Required	Existing	Proposed
25.8-4.a Maximum fence height	4 feet	100 feet	Additional fencing at 75 feet

2. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs which are 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 that the benefits of any deviation will substantially outweigh any detriment.
4. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" variance relief, under Section (c)(2).
5. 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.
6. The proposal is limited to lengthening a golf netting that is meant to protect members of the public from being struck by golf balls.
7. The original netting approved under PB-19-11 proved insufficient from a safety point of view for screening golf balls from entering into areas where the balls could come into contact with members of the public.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange that the amended application of Montclair Golf Club for property located at 25 Prospect Avenue, is determined as follows:

1. The Board grants the following bulk variance relief pursuant to N.J.S.A. 40:55D-(c)(2):

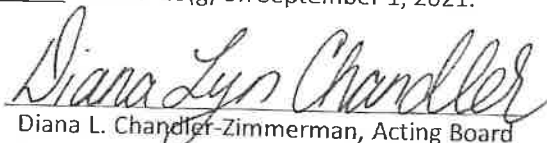
Section/Requirement	Required	Existing	Proposed
25.8-4.a Maximum fence height	4 feet	100 feet	Additional fencing at 75 feet

2. Amended site plan approval is granted along with the c(2) variance approval.

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, 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 shall list all conditions of approval onto a final plan submission.
8. Applicant shall plant and maintain new foliage in the netting area closer to Prospect Avenue in order to improve the screening of the golf net.

The undersigned secretary certifies the decisions set forth herein was made by this Board on August 11, 2021, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on September 1, 2021.


Diana L. Chandler-Zimmerman, Acting Board
Secretary

Vote on Action Taken by the Board on August 11, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	X		X			
Guarino			X			
Smeraldo			X			
Klein			X			
Trenk			X			
McCartney			X			
McNair						X
Wilkes (V.Ch)		X				

Vote on Memorialization on August 11, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	X		X			
Guarino		X	X			
Smeraldo			X			
Klein			X			
McCartney			X			
McNair					X	
Wilkes (V.Ch)			X			

