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PLANNING REPORT POLICE ATHLETIC LEAGUE OF WEST ORANGE INC. 28 PROSPECT PLACE WEST ORANGE NJ BLOCK 114 LOT 31

This report is prepared in conjunction with an application presented to the West Orange Zoning Board of Adjustment for the modification and expansion to the existing athletic field on the subject property. My office has reviewed the submitted Property Survey and Site Plans which are referenced at the end of the report. My office also has the benefit of having reviewed the Master Plans and Reexamination reports, along with the present zoning code of the Township of West Orange, in order to evaluate the planning appropriateness and history of this application.

The West Orange Police Athletic League (WOPAL) owns and operates the subject property containing an existing athletic field, with associated field house and parking. It has operated here since 1972. WOPAL serves the West Orange community by providing the highest quality recreational athletic opportunities for children accommodating multiple age groups.

The site comprises approximately 2.7 acres and is developed with an existing athletic field, two story field house/office building, 16 parking spaces and related improvements.

WOPAL proposes to modify and expand the existing recreational field by replacing the grass field with synthetic turf. The modification will expand the footprint of the field by approximately 34 linear feet, at its maximum point, along the left field base line.

The project is funded pursuant to a State of New Jersey Department of Community Affairs state budget Grant-In-Aid appropriation of \$ 500,000.00. Grant-In-Aid state budget appropriations represent funding of grants made to individuals and various public and private agencies for services that are considered to be the overall responsibility of the State, but that are provided for by third parties. (P.L. 2022,Chapter49).

The subject property is located in the R-1 District where private clubs are permitted as conditional uses.

The existing development has been located on the property since 1972. Arguably, then, because the development predates the adoption of the Municipal Land Use Law, this could be considered a pre-existing, non-conforming use. Further, it appears that, as part of the Master Plan Reexamination Reports, there were insufficient conditions placed on the “private club” conditional use standard, and it was recommended in both the 2004 and 2010 reports to add conditions to those standards. In 2012, as part of the wholesale revision of the existing code, certain conditions were added related to the extent of landscaping and buffering required for “private club” uses. A marked-up draft from October 2012 showing proposed changes to the zoning code on the agenda of the Township Council confirms that the

definition of “private club” was amended to include the landscaping and objective standards for compliance. See Archived Agenda October 2012, available at <https://www.westorange.org/AgendaCenter/ViewFile/ArchivedAgenda/06262012-20?packet=true> (last accessed on April 11, 2024). Accordingly, the existing conditions are and remain a pre-existing, nonconforming private club conditional use, and the structures and improvements thereon similarly remain.

Attached is an aerial photograph depicting the existing features of the subject property together with the surrounding residential character of the neighborhood. [EXHIBIT #1]

It is important to note that the proposed field condition will look substantially similar, except the athletic field will minimally increase in size. The conditions for Private Clubs now are enumerated in Chapter 25, Section 25-24-2 Conditional Uses (c), following the adoption of Ord. 2357-12:

- (1) Parking lot entrances and exits shall be clearly visible from the public street and shall be located within 75 feet of a street intersection.
- (2) There shall be a twenty-five (25) foot wide buffer adjacent to all residential property lines, within the required setback, which shall consist of natural vegetation and, if required by the Planning Board or Board of Adjustment, new vegetation to supplement the existing vegetation.
- (3) All structures shall be designed to be complimentary to the residential neighborhood.
- (4) A landscape plan, which provided substantial buffering of the parking area, must be approved by the Planning Board or Board of Adjustment, and kept on file in the Department of Planning and Development. All plantings shall be maintained in perpetuity and all plants must be replaced in kind when necessary.

The existing development does not fully conform to these conditions, specifically with respect to the 25 foot buffer along residential property lines. However, none of these nonconforming conditions related to the buffers are being increased or intensified.

Due to the status as a conditional use, the proposed expansion and modification to replace the field turf requires that the use satisfy all conditions of the conditional use standard, or seek relief pursuant to N. J. S. A. 40:D-70.d.(3) for a conditionally permitted use that deviates from one of the conditional use standards. Because the existing conditions violate one of the conditions of the use, a d(3) conditional use variance is therefore required.

The Zoning Board’s standard of review is lessened for a d(3) conditional use variance, as the courts have articulated. In *Coventry Square v. Westwood Zoning Board of Adjustment*, the Supreme Court of New Jersey announced a standard for evaluating conditional use variances that differs from the test for other “d” variances. The focus of the analysis is not whether the use should be permitted – indeed, the Township Council already established that by virtue of its long-standing status as a conditional use – but

instead on the extent of the deviation from the standard established by the municipal code as proposed by the applicant. The Zoning Board of Adjustment has the power to grant conditional use variances where the applicant demonstrates that for special reasons, which is considered the Positive Criteria, the deviation is appropriate, and that the property can accommodate the use without any substantial negative impact on surrounding properties, which is considered the Negative Criteria.

POSITIVE CRITERIA

The athletic field use has existed since 1972 and continues to serve the community.

WOPAL serves the West Orange community providing highest quality recreational athletic opportunities for children in multiple age groups.

The Grant-In-Aid will provide the necessary funding to improve the existing athletic facility in order to continue serving the children of the West Orange community.

To that end, several purposes of the Municipal Land Use Law (MLUL) are promoted:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare.
- b. To provide adequate light, air, and open space.
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement.

The proposed development does not affect the deviation from the condition requiring a landscaped buffer. The athletic field is well-maintained, and compatible with the surrounding homes and uses – consistent with its years of operation. The expansion of the use as proposed would allow for the athletic field to be in top condition for a longer period, and to match with the needs of the community. It also matches with State objectives for funding open space. Nothing about the quality or intensity of the use is altered by virtue of the variance requested hereby. Instead, this requested relief allows the athletic field to continue to occupy its present location, as increased landscaped buffers would decrease the available space for the field, thereby decreasing its efficiencies and value to the community. Requiring compliance would also require reconstruction of the entire athletic field at significant cost to a non-profit entity providing a positive, beneficial use to the community.

NEGATIVE CRITERIA

The required relief can be granted without substantial detriment to the public good.

1. The subject property has been utilized for athletic field use for over 50 years and it continues to serve the community.
2. The expansion/modification will continue the same use and provide a benefit to the community.
3. There is no impact on surrounding homes or properties, as the development pattern is presently well-established, and the location of the athletic field remains appropriate to the property.

The required relief will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

1. The subject property has been utilized for athletic field use for over 50 years and it continues to serve the community.
2. The expansion/modification will continue the same use and provide a benefit to the community.
3. A landscaped buffer exists presently, serving the same purpose as intended, and is well-established in the neighborhood.
4. Requiring a landscaped buffer to the extent required would negatively affect the use of the property as a private athletic field and its ability to be used appropriately in the future, potentially disrupting the zoning plan at that point.

CONCLUSION

The proposed modifications to the existing athletic field will be a positive addition to the WOPAL property and advance its mission to provide safe and enjoyable recreational opportunities for the children of West Orange.

The relief requested can be granted appropriately without any impacts to the community at all, and are consistent with the long-term use of the site as an athletic field as envisioned by WOPAL and the Township Council.

The proposal does not trigger any required relief to parking, coverage, or building height.

The subject property continues to be appropriate for conditional use in this residential zone, notwithstanding the deviations. It will have minimal, if any, negative effects.

The proposed athletic field will look substantially similar to the exiting field, except it will be minimally larger in size.

Respectfully submitted,



Anthony Marucci

Anthony Marucci, PE-LS-PP
NJPP License #33LI00212400

DATE: April 12, 2024

References: Property Survey prepared by RAC Surveying, John J. Hanlon, PLS
P. O. Box 3652 Toms River, NJ 08756
Dated August 29, 2023, and revised to March 15, 2024

Site Plans prepared by Gianforcaro: Architects - Engineers - Planners
535 East Main Street Chester NJ 07930
Dated January 29, 2024, and revised to March 19, 2024

NJ-GeoWeb - 28 Prospect Place (West Orange, Essex County, NJ)



4/11/2024, 4:17:25 PM

-  County Boundaries
-  Parcels Data (Block and Lot)

Exhibit #1

