

RESOLUTION
Township of West Orange
Planning Board
PB 24-03 Crystal Eagle, LLC/424 Eagle Rock Avenue
Block: 111 Lot: 108; Zone: B-2
Decided on May 1, 2024
Memorialized on June 5, 2024
Minor Site Plan Approval with Bulk Variances

WHEREAS, Crystal Eagle, LLC (Hereinafter the “Applicant”) has made an application for Minor Site Plan approval and Bulk Variances to modify the layout of site improvements and undertake other modifications on a developed property located at 424 Eagle Rock Avenue, also known as Block: 111 Lot: 108, in the B-2 Zone; and

WHEREAS, a properly noticed public hearing was conducted on May 3, 2024; and

WHEREAS, the Applicant was represented by Craig Gianetti, Esq.; and

WHEREAS, the Applicant provided testimony by Paul Couvrette, of Sessi Consulting Engineers, a licensed Civil Engineer in the State of New Jersey whose credentials were accepted by the Board; and

WHEREAS, the Applicant provided testimony of Matthew Jarmel, AIA, MBA, a licensed Architect in the State of New Jersey whose credentials were accepted by the Board; and

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

ITEM	SIGNED BY	DATE/REVISION
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Property Survey	Douglas B. Smith, PLS	9/18/2015
Site Plan (7 sheets)	Anthony Castillo, P.E.	12/19/2023

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

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

WHEREAS, the Board also considered the input of its professionals at the hearing; and

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

1. The Applicant is requesting minor site plan approval with bulk variances for maximum lot coverage and maximum parking row length without landscaped island to increase the number of parking spaces on the property from 149 spaces to 169 spaces.
2. The subject property is an irregularly shaped lot and is 114,469 square feet (2.63 acres) in area located on the south side of Eagle Rock Avenue.
3. The subject property is developed with a one-story building formerly occupied by a bowling alley and parking lots.
4. The property is a “flag lot” with a 60-foot-wide stem with frontage on Eagle Rock Avenue and the wider portion of the site set back approximately 350 feet from the street.
5. Parking spaces exist along both sides of an access aisle in the property’s stem.
6. The existing access aisle is one-way into the site, with site egress provided through the adjacent property to the east.

7. The property is located in the B-2 Zone and is surrounded by a mix of commercial, office, public, utility, open space and recreational uses. A commercial antenna and ancillary uses, an office building and a diner are located to the northeast; a telecommunications facility and a service station are located to the northwest; Crystal Lake is located to the west, residential uses area located to the southwest, south and southeast; and Eagle Rock Reservation is located to the north across Eagle Rock Avenue.
8. The one-story building formerly utilized as a bowling alley is 25,300 square feet.
9. The Applicant is proposing to increase the number of parking spaces on the property from 149 spaces to 169 spaces. This total includes six (6) ADA spaces in two locations adjacent to the building and ten compact spaces and a reduction of one space as agreed to by the Applicant at the hearing for the construction of an additional landscape island. There will also be two (2) make ready EV spaces.
10. The access aisle from the street to the rear portion of the property where the building is located will be converted from one-way to two-way. The area behind the building; however, will be one-way.
11. The site plan proposes to remove existing pavement encroaching on the adjacent properties to the west.
12. The parking lot will be milled and paved.
13. The Applicant is seeking to convert the building from a bowling alley to a commercial space. The floor plans depict two (2) tenant spaces with separate entrances; however, the Applicant stated during the hearing it could potentially be a single-tenanted commercial space or multiple (more than two) tenants. The Applicant is proposing to reuse the area of the “Bow!” façade sign for the new tenant(s).

14. New windows are proposed along the front of the building and new signage is proposed for future tenants.
15. The Applicant testified that it does not currently have a tenant for the building.
16. Some modifications are proposed for the building's facades, including providing locations for tenant signage as well as new window openings and parapet screening.
17. The existing free-standing sign along Eagle Rock Avenue is proposed to remain and be refaced.
18. Landscaping is proposed in various locations on the property, from the driveway at Eagle Rock Avenue to around the building and parking areas.
19. New exterior lighting is proposed on the building.
20. Two dumpster areas are provided at each end of the site.
21. Applicants presented testimony as to the design comment of the Board's engineering expert (Hess report dated February 20, 2024) item #3 of adding a curb to the west parking lot and explained that the existing drainage flows off the paved area and because they are not changing the grade of the lot it is advantageous to allow the run off to continue (which would be impeded by a curb.)
22. As to design comment #11 (Hess report) pertaining to wheel stops at the rear and east side, the applicant explained that snow plowing would be very difficult.
23. As to design comment #13 (Hess report), the Applicant indicated that they were removing the connection to lot 1.07 because there is no easement agreement with the owner of lot 1.07 to share the parking and lot 1.07 has three points of access even with the installation of the curb by Applicant.

24. As to design comment #14 (Hess report), Applicant believes the most of the potential tenants to the site would not require a loading dock and Applicant agreed to a condition to return to the Board for site plan review should a proposed tenant need a loading space.

25. As to design comment #17 regarding access to Crystal Lake, Applicant provided testimony that lot 1.01 fronts on Crystal Lake and not the lot owned by Applicant (lot 1.08), therefore, Applicant has no control over access to the lake.

26. As to design comment #8 regarding feasibility of providing a sidewalk along the stem from Eagle Rock Avenue to the building, the Applicant provided testimony that the stem is only 60 feet wide which just allows for angle parking spaces and no additional space for a sidewalk.

27. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	REQUIRED	EXISTING	PROPOSED
25.71 Maximum lot coverage	50%	86.6%	82,1%
25-12.1o. Maximum parking row length without landscaped island	20 spaces	>20 spaces	38 spaces

In addition, the Applicant is seeking relief from Ordinance Section 25-12.3, which requires at least one loading space for certain commercial uses. The Applicant is requesting relief to the extent that the eventual tenant is for a use that requires a loading space under the Ordinance. However, if the eventual tenant desires to have a loading space, the Applicant (or tenant) shall come back to the Board for amended site plan approval.

28. N.J.S.A. 40:55D-46.1. and N.J.S.A. 40:55D-5 govern the Board’s review of the minor site plan application. N.J.S.A. 40:55D-5 defines “minor site plan” as a development plan of one or more lots which (1) proposes new development within the scope of a development {Cyrstal Eagle Draft Resolution}

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

29. N.J.S.A. 40:55D-60 permits a planning board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance as part of site plan or subdivision review. The variance proofs are the same as for “c” variances as set forth in N.J.S.A. 40:55D-70. A c (2) variance may be granted when the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c (2)” variance must include benefits to the community as a whole, not just the applicant or property owner A “c” variance must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without

substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

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

1. This application requires minor site plan approval and bulk variance relief.
2. The requested variances for maximum lot coverage and maximum parking row length without landscaped island, satisfy the c (1) criteria as they are pre-existing conditions which are hardships caused by the property and with the proposed additional landscape island and the improvements to landscaping and curbing there will be an improvement to the conditions on site.
3. The requested parking variance and loading space relief satisfies the c (2) criteria because the project as a whole advances the purpose of the MLUL as it is inherently beneficial and also will be an aesthetic improvement due to added safety measures regarding traffic and aesthetic improvement.
4. The proposal is to increase the number of parking spaces on the property from 149 spaces to 169 spaces which includes six ADA spaces in two locations adjacent to the building and ten compact spaces and also allows for parking lot landscape islands to line up across from each other as a traffic calming measure.
5. As to the Design Comments noted in the report of John Hess dated February 20, 2024, items #3(Curb on west parking area), #11 (Wheel stops and rear and east side), #13 (Removing connection to lot 1.07) #14 (Loading space which is discussed in condition #12), #17 (Access to Crystal Lake), and #8 (Sidewalk from Eagle Rock Avenue to

Building), the Applicant provided sufficient proofs that exceptions should be granted and the Board finds that conditions agreed to by the Applicant will alleviate or reduce any negative effects of the exceptions.

6. A waiver from submitting the Sustainability Checklist and for the requirement that Applicant submit a signed and sealed copy of the survey of the property is granted as these items are not relevant due to the very limited scope of the work and are not relevant to the proposed project.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange minor site plan approval and variance relief for maximum lot coverage and maximum parking row length without landscaped island is granted.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction but excluding interior renovations, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.
2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those

municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successor or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, and Board attorney fees for preparation of resolution as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.
5. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
6. Applicant agrees to comply with all recommendations set forth in the report of John Hess, P.E. dated February 20, 2024.
7. Applicant shall list all conditions of approval onto a final site plan submission.
8. Applicant shall stipe “stem” area of flag lot and paint a warning such as “SLOW” or “CAUTION PEDESTRIANS.” The painted warning must be maintained so it is clearly visible to traffic using the area.

9. Applicant agrees to remove one or two parking spaces to allow for a pair of landscape islands to be located on each side of the drive aisle (across from each other) which will create the feeling of a narrower aisle to slow traffic and act as a traffic calming measure. To the extent that variance relief is needed for the reduction in parking spaces, the Board hereby grants it as the landscape islands provide a benefit of aesthetics and controlling internal circulation, which outweighs the benefit of one or two parking spaces along the “stem” of the access drive.
10. The landscape islands shall have plants approved by the Forester and be maintained in perpetuity.
11. If the standpipe requires removal of an additional parking space, such may permitted without need to return to the Board and will be considered part of the parking variance.
12. The Board issues a waiver as to the requirement of a loading dock as there are potential tenants that are not required to have a loading dock. In the event a proposed tenant need a loading space, the Applicant and/or tenant must return to the Board for a review of a potential for amendment to the site plan.

The undersigned secretary certifies the decision set forth herein was made by this Board on May 1, 2024, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on June 5, 2024.

Jamilet Baquerizo-Vite,
Planning Board Secretary

Vote Action Taken by the Board on May 4, 2024:

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

Vote on Memorialization on June 5, 2024:

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