

RESOLUTION
Township of West Orange
Planning Board
PB 25-01 West Orange Community House/250-252 Main Street
Block: 114 Lot: 78; Zone: Main Street Sub Zone (MSS)
Decided on March 12, 2025
Memorialized on March 19, 2025
Application for Site Plan Approval Without Variances

WHEREAS, West Orange Community House (Hereinafter the “Applicant”) has made an application for Site Plan Approval without variances to construct an exterior stairway on the southern side of the existing two-story building located at 250-252 Main Street, also known as Block: 114; Lot 78 (the “Property”); and

WHEREAS, the Property is located in the MSS Zoning District which permits a community center; and

WHEREAS, a properly noticed public hearing on the application was conducted on March 12, 2025; and

WHEREAS, the Applicant was represented by Gregory Mascera, Esq. of the firm Bannon, Rawding, McDonald and Mascera; and

WHEREAS, the Applicant provided testimony of Paul Cito, Director of the Community House (Community House is the owner of the property), and Roderick Watkins, AIA. as a licensed New Jersey Architect expert and Michael Pessolano as a professional planner; (the “Applicant’s Witnesses”); and

WHEREAS, the Board gave the public opportunity to ask questions and make comments from the public, and no opposition or comment being presented; and

WHEREAS, in addition to the Development Application and Checklists the Applicant submitted the following plans to the Board as part the application package:

ITEM	SIGNED BY	DATE/REVISION
Architectural Site Plan (2 pages)	Roderick Watkins, AIA	1/14/2025
Architectural Site Plan (1 page) with color aerial photo	Roderick Watkins, AIA	3/5/2025
Survey	Richard J. Hingos, Jr. Professional Land Surveyor	12/8/2017

WHEREAS, representatives of the public were provided with an opportunity to pose questions of the Applicant's Witnesses and had an opportunity to offer statements regarding the application; and

WHEREAS, the Board reviewed and considered the application, and the documents submitted therewith and the testimony of the Applicant's Witnesses; and

WHEREAS, the Board also considered the testimony and filed review letters of its professionals at the hearing:

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 Site Plan Approval to construct an exterior stairway on the southern side of the existing two-story building.
2. The most recent use of the property was as a gym.
3. The Property has 40-foot-high ceilings and Applicant desires to build a mezzanine level and a mechanical room on the second floor.
4. Due to Fire Code safety concerns, in order to have the mechanical room on the second level an exterior means of ingress and egress is required.

5. The proposed exterior staircase would supply the required means of ingress and egress to the mechanical room.
6. The owner is in discussions with the West Orange Board of Education to convert the gym area into six (6) pre-school classrooms on the first floor.
7. The testimony presented by the Applicant's architect was that the stairs will be constructed of metal and attached with a concrete footing.
8. The proposed stairs will not increase impervious coverage as they have an open-slat design.
9. The proposed stairs will not be used by the pre-school children.
10. The proposed staircase will not impede the sidewalk.
11. The Board Planner agreed that waivers are appropriate for Checklist items: 4 (key map), 5 (schedule of required and provided zone district requirements), 12 (standardized sheet sizes), 14 (affidavit of ownership), 15 (acreage of tract to the nearest tenth of an acre), 18 (location and dimensions of any existing or proposed streets), 19 (all proposed lot lines and area lots in square feet), 25 (design waivers or exceptions), 28 (existing street, water course, flood plains, wetlands or other environmentally sensitive areas on or within 200 feet), 29 (existing right-of-way and/or easements on or within 200 feet of tract), 30 (topographical features of subject property from USGS map), 35 (drainage calculations), 36 (proposed utility infrastructure plans), 38 (soil erosion and sediment control plan), 45 (landscape plan and details prepared by professional landscape architect), 46 (solid waste management plan), 47 (site identification signs, traffic controls and directional signs), 48 (sight triangles), 50

(parking plan), and 52 (plans and legal documents for compliance with West Orange COAH Ordinance).

12. As for Applicant's request for waiver of Checklist item 20 for a copy of any existing or proposed deed restriction, Applicant testified that there are none which satisfies the waiver request.
13. Applicant agreed to provide Checklist items: 21 (any existing or proposed easement or land reserved for or dedicated to public use), 23 (list of required regulatory approvals or permits), 27 (property owners and lines of all parcels within 200 feet identified on most recent tax map sheet), 44 (lighting plan and details) and 49 (vehicle and pedestrian circulation patterns).
14. N.J.S.A. 40:55D-46a. and b. and N.J.S.A. 40:55D-50a. govern the Board's review of the preliminary and final site plan application. N.J.S.A. 40:55D-46a provides that an "ordinance requiring site plan review and approval shall require the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." N.J.S.A. 40:55D-46a further provides that "The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and elevations shall be sufficient." N.J.S.A. 50:55D-46b provides that "if the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original

application for development” and “the planning board shall, if the proposed development complies with the ordinance and this act, grant preliminary site plan approval.” N.J.S.A. 40:55D-50a. provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As such if the Applicant meets the standards set forth in the ordinances, the planning board lacks the authority to deny approval of the site plan and subdivision. N.J.S.A. 40:55D-50a; PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984). Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

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

The proposed application complies with and meets all the standards of the Township ordinance and N.J.S.A. 40:55D-50a .

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of West Orange grants approval for Site Plan waivers for items number 4 (key map), 5

(schedule of required and provided zone district requirements), 12 (standardized sheet sizes), 14 (affidavit of ownership), 15 (acreage of tract to the nearest tenth of an acre), 18 (location and dimensions of any existing or proposed streets), 19 (all proposed lot lines and area lots in square feet), 25 (design waivers or exceptions), 28 (existing street, water course, flood plains, wetlands or other environmentally sensitive areas on or within 200 feet), 29 (existing right-of-way and/or easements on or within 200 feet of tract), 30 (topographical features of subject property from USGS map), 35 (drainage calculations), 36 (proposed utility infrastructure plans), 38 (soil erosion and sediment control plan), 45 (landscape plan and details prepared by professional landscape architect), 46 (solid waste management plan), 47 (site identification signs, traffic controls and directional signs), 48 (sight triangles), 50 (parking plan), and 52 (plans and legal documents for compliance with West Orange COAH Ordinance); and

IT IS FURTHER RESOLVED that the approval granted to West Orange Community Center, is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations, and directives, including without limitation, obtaining all applicable local, state, and federal approvals, or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction but excluding interior renovations, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental land use approvals.
2. If another governmental entity or agency grants a waiver or a variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions

attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.

3. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successor or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
5. The Applicant shall pay all outstanding application fees and technical review fees, attorneys' fees for preparation of resolutions as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.
6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

7. Applicant agrees to submit information to address checklist items 21 (any existing or proposed easement or land reserved for or dedicated to public use), 23 (list of required regulatory approvals or permits), 27 (property owners and lines of all parcels within 200 feet identified on most recent tax map sheet), 44 (lighting plan and details) and 49 (vehicle and pedestrian circulation patterns).
8. The Applicant shall list all conditions of approval onto a final site plan submission prior to the submission of the building permit.

The undersigned secretary certifies the decision set forth herein was made by this Board on March 12, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on March 19, 2025.

Jamilet Baquerizo Vite
Planning Board Secretary

Vote Action Taken by the Board on March 12, 2025:

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

Vote on Memorialization on March 19, 2025:

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