



TOWNSHIP OF WEST ORANGE

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Department of Planning and Development

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TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Township Planner

DATE: January 18, 2023 – *revised March 31, 2023*

RE: **ZB-22-12 / Seton Hall Preparatory School**
Block: 82.01; Lot: 1; Zone: R-1
700 Prospect Avenue
Seeking amended site plan and “d” variance approvals for the expansion of a non-conforming use

The applicant has made modifications to the proposed plans. This memorandum supplements my updated review memorandum dated January 18, 2023. New information is denoted in **bold**, deletions are shown in ~~striketrough~~.

INTRODUCTION

The applicant is seeking amended final major site plan approval and a “d(2)” variance to permit modifications to previously approved plans to construct an addition to a building at its athletic complex and to change the occupancy of another building. It has been previously determined by the West Orange Zoning Board of Adjustment that changes of this type constitute an expansion of nonconforming use, thus requiring a “d(2)” variance.

LAND USE

The subject property is located on the east side of Prospect Avenue a short distance to the north of Northfield Avenue in the R-1 zone and is owned by Seton Hall Preparatory School, a private high school. The lot is 44.5 acres in area and developed with Seton Hall Prep’s “Kelly Athletic



Complex,” which includes multiple sports fields and facilities (e.g. track, tennis courts) and related facilities, including field houses, storage buildings and parking areas. The site has multiple frontages and driveways on Prospect Avenue. Photographs of the portion of the site where the building expansion is proposed and nearby areas are included at the end of this memorandum.

A mix of land uses is located in the surrounding area, including single-family residential and multifamily residential, as well as religious institutions and private clubs. commercial, industrial, office, governmental and open space. The building that is proposed to be expanded is 138.1 feet from the closest adjacent property line, which is the multi-family residential development at 275 Northfield Avenue that is currently unoccupied due to damage from a rock slide. The nearest single-family residential lot is a house on Mountain Drive 391.9 feet to the east.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Boundary Survey	Charles J. Stewart, P.E., P.L.S	10/13/22
Site Plan (9 8 sheets)	Charles J. Stewart, P.E., P.L.S	1/31/23
Architectural Plans (3 sheets)	Donald R. Fiore, A.I.A.	8/30/22
Planning Report	John McDonough, L.A., AICP, P.P.	12/23/22

VARIANCES REQUIRED

SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED	VARIANCE
25-7.1 Use	Expansion of a nonconforming school use previously granted variances			“d(2)”

PROPOSED DEVELOPMENT

The applicant is proposing to construct a two-story addition to an existing one-story storage building in the east central portion of the subject property. The existing building is located 138 feet from the eastern property line at its closest point. The footprint of the expanded building will be 6,144 square feet and the area of the new second floor will be 2,871 square feet. Therefore the total floor area of the expanded building will be 9,015 square feet.

The expanded building will include a fitness room covering most of the first floor, which will also have two offices, restrooms, a machine room and a janitor’s closet. The second floor will include a team training area, an office, storage rooms, rest rooms and a janitor’s closet. A terrace



is proposed atop a roof on the south side of the building. Two interior stairways and an elevator are proposed to provide access to the second floor and the roof terrace.

An existing field house at the southern end of the property is proposed to be converted to storage use to replace the existing storage space in the building that is being expanded. According to the site plan, this building is 6,630 square feet in area.

According to the application materials, two new parking spaces are proposed, which would increase the total number of spaces on site from 677 to 679, although it is unclear from the site plan where these spaces would be located.

It is not apparent from the site plan what new landscaping, if any, is proposed.

DISCUSSION/RECOMMENDATIONS

Variance Proofs

The subject property is located in the R-1 single-family residential zone district. A public or private school is a permitted conditional use in the R-1 zone, but as has been previously determined by the Board, school athletic fields are not a principal permitted use in the R-1 zone. A use variance was previously granted to permit the use, which has been modified through subsequent applications for “d(2)” variance approval for the expansion of a nonconforming use.

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(2) enables a board of adjustment to grant a variance to permit the expansion of a nonconforming use. An applicant for a “d” variance must comply with the requirements of the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d. A “d” variance may be granted only “in particular cases for special reasons.” In addition, an applicant for a “d” 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.

The applicant’s planner indicates in his report that the existing and proposed use of the subject property can be considered an “inherently beneficial use,” as it is an integral part of the overall school use by Seton Hall Prep. This position is consistent with the Board’s findings in prior applications for this property. Therefore the appropriate standard for review is in accordance with the Sica court decision cited in the applicant’s planner’s report.



Other Issues

The applicant should provide additional information regarding the required number of parking spaces for the overall site, as the additional expanded use requires 16 additional spaces and the applicant is increasing the parking supply by two spaces. The parking calculation table on Sheet SP-100.00 states that 663 spaces are required per a site plan last revised on July 31, 2014 and approved by the Board on August 26, 2014. However, these dates are not consistent with the prior West Orange Zoning Board of Adjustment resolutions submitted with the application, which have adoption dates of December 16, 2010 (ZB-08-37), January 17, 2013 (Amended Resolution ZB-08-37), April 16, 2015 (ZB-15-03) and August 18, 2016 (ZB-16-05). In addition, the location of the two proposed new parking spaces should be clearly delineated on the site plan.

The applicant should provide additional information regarding proposed tree removal and planting, as well as any other landscaping that is proposed (**see comment below**).

The Township of West Orange Site Plan Review Advisory Board (SPRAB) held a meeting on March 7, 2023. At this meeting, the SPRAB reviewed the application with the applicant's attorney, engineer, architect and planner. One issue raised at the SPRAB meeting that remains to be addressed is as follows:

- **Tree removal:** The application proposes the potential temporary removal of some trees in a landscaped area to the west of the proposed building addition, which would be replaced once construction is completed. Although it is not clear a tree removal permit would be necessary for temporary removal of trees, the applicant agreed to submit an application for the permit. This information has not yet been provided.

The applicant indicated its professionals will submit additional information, as necessary, with the intention of being scheduled for an upcoming Zoning Board of Adjustment meeting.





Front of existing building and driveway



Rear of existing building



Walkway approaching existing building closer to track/stadium field



Walkway approaching existing building along baseball field



Walkways between existing building and parking area



Edge of closest parking area to proposed expanded building