



**Consulting & Municipal
ENGINEERS**
A Subsidiary of Artheon, Inc.

One Market Street, Suite 1F
Camden, NJ 08102
732.410.2651 ☎
www.cmeusa1.com 🌐

March 4, 2026

West Orange Township – Zoning Board
66 Main Street
West Orange, NJ 07052

**Re: Seton Hall Preparatory School Athletic Complex
D-Variance and Site Plan - Planning Review #1
700 Prospect Avenue
Block 82.01 Lot 1
Zone: R-1 Residential District
Our File No. 115.WRZ0082.V03**

Dear Chairman and Board Members:

1. Summary

The subject property is the Kelly Athletic Complex (KAC), which serves Seton Hall Preparatory School and is located at 700 Prospect Avenue. The school's athletic fields were previously permitted at the site through a use variance granted by the Board in 2010. The Applicant seeks to amend certain conditions of that approval established under Resolution ZB-08-37, including limits on the operation and to install lighting on the football field and parking lot.



CONSULTING AND MUNICIPAL ENGINEERS, LLC • A SUBSIDIARY OF ARTHEON, INC.

NJ CERTIFICATE OF AUTHORIZATION NO. 24GA28359000 (CME)
NJ CERTIFICATE OF AUTHORIZATION NO. 24GA28412500 (ARTHEON)

Barnegat • Berlin • Camden • Cape May Court House • East Brunswick • Howell • Parlin



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 2

2. Project and Property Description

The subject property is a 44.5 acre; irregularly shaped parcel located along Prospect Avenue that is currently developed with the Seton Hall Prep athletic fields and complex. The site includes currently 221 off-street parking spaces that are accessed by one ingress and egress driveway onto Prospect Avenue.

The surrounding land uses include Shillelagh Pub and Essex Shillelaghs GAA Sports Club, and the Essex County Country Club to the west; Antioch Presbyterian Church to the north; and several single-family residences to the east and south.

The property and the use has a history of zoning board action on the site, including the following:

- 1) Resolution ZB-08-37 (2010) – Granted a d-1 use variance to permit athletic fields in a residential zone as well as site plan approval and associated bulk variances;
- 2) Amended Resolution ZB-08-37 (2013) – Reaffirmed the granting of the d-1 use variance and approving a different site plan, and modifying certain conditions of approval;
- 3) Resolution ZB-15-03 (2015) – Amended site plan approval to change the surface of two playing fields;
- 4) Resolution ZB-16-05 (2016) – Amended site plan approval and a 'd' variance to permit the expansion of a non-conforming conditional use to install new signs and change the location of batting cages;
- 5) Resolution ZB-22-12 (2023) – Approval of a d-2 expansion of a non-conforming use variance and amended site plan to permit an addition to a maintenance building on the site to include athletic training facilities and administrative offices;

The Applicant now seeks to amend several of the conditions of the initial approval for the use on the site. The proposed amendments seek to change the following conditions:

Condition imposed by Resolution ZB-08-37	Requested Modification
36. During the months of June, July and August, the athletic fields can only be used directly by Seton Hall Prep and its own students or athletes and not by Seton Hall coaches or third parties	Allow use by the West Orange Recreation Department throughout the year to conduct regularly offered programs and activities.
37. There shall be no installation of any field lights on any of the fields, whether on a permanent or temporary basis.	Install Sports Lighting on Tevlin Field and Pathway lighting extending from the Home Grandstands and Visitors Bleachers to both parking lots. Lighting with a mounting height of 90 feet is proposed.
40. Seton Hall Prep can have a maximum of 8 home football games per year.	The school seeks to allow for hosting of additional home football games in the event that there are state playoffs.



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 3

41. No more than one athletic event can occur at the same time, with a minimum of 1.5 hours between scheduled event times.	Events can occur at the reasonable discretion of the administration operating the fields and courts.
46. No county or state athletic tournaments are permitted at the site.	County or state tournaments may be permitted if Seton Hall Prep is one of the participants.
53. The fields shall be offered for use to the Townships of West Orange, Livingston and South Orange for their high school varsity teams in the case of an emergency.	The Applicant seeks to make the fields available to the West Orange Recreation Department and other local area community programs for use in conducting regularly offered programs and activities.
61. The use of a public address system at the Subject Property shall be limited to football games and	Use a public address system during any regular event.

3. Zoning Compliance

The site is located within the R-1 Residential District of the Township.

Private schools are listed as conditionally permitted uses in the district, subject to the following conditional use requirements:

- 1) The minimum lot area shall be 5 acres. The site is 44.5 acres.
- 2) All buildings and outdoor recreation facilities shall be setback at least 125 feet from any property line, and any parking areas and accessory buildings shall be setback at least 75 feet. It appears that there are several encroachments into these required setbacks.
- 3) A fifty-foot wide vegetative buffer is required adjacent to all property lines. It does not appear that a buffer of at least 50 feet is provided around the site.
- 4) Required setbacks for outdoor recreation shall be doubled for any facilities that will be lighted for evening use. No recreation facilities shall be used after 11:00 pm. The applicant is proposing light fixtures that will be setback 59.13 feet from Ridge Road.
- 5) A landscape plan with substantial buffering must be approved by the Planning Board or Board of Adjustment.

A commercial recreation facility is also listed as a conditionally permitted use, with the same conditional use requirements as a private school.

The athletic fields can technically be considered an accessory use to Seton Hall Prep, and since the school itself is on a different site, the athletic fields may not necessarily be considered a conditionally permitted use as a school, but could otherwise then potentially fall under the category of commercial recreation.



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 4

Lighting Requirements

The maximum height of light fixtures is required to be less than or equal to 18 feet. Four light fixtures with a 90 foot mounting height are proposed.

Additionally, lighting fixtures are required to be directed downward and screened. The proposed lighting fixtures for the athletic fields are neither directed downward nor screened.

4. Variances & Waivers Required

It appears that the following conditions are not in compliance with the Township's land development regulations and will require variance or design waiver relief from the Board to permit the project as proposed:

Variances:

- a. **§25-7.1 / §25 Attachment 1 Use** – Private schools are conditional uses, and not all of the conditional use requirements are satisfied. This requires a d-3 conditional use variance.
 - i. **§25-24.2(d)(4) Setbacks** – A minimum of a 150-foot setback is required for any accessory structure whereas 2 of the 4 light poles will be setback 59.13 feet.
 - ii. **§25-24.2(d)(4) Buffer** – A minimum buffer of 100 feet is required adjacent to all property lines when recreational fields will have lighting, where buffering is less than 100 feet along many property lines.
- b. **§25-14.1(c) Maximum Height** – Light poles cannot exceed a height of 18 feet above normal grade, whereas the height of the light fixture is proposed at 90 feet.

Design Waivers:

- c. **§ 25-14.1(b) Shielding of Fixtures** – Light fixtures are required to be directed downward and shielded, whereas the proposed athletic field lighting will be directed outwards towards the fields and parking areas, and will not be shielded.

5. Planning Comments

- a. The applicant should provide testimony outlining the overall scope of the proposed project. It appears that other than the proposed new lighting, no changes are proposed for the site itself. The applicant should confirm.
- b. The applicant should discuss the reasoning behind the requests to modify the prior conditions of approval. In particular the applicant should address whether there are any changes in the circumstances or conditions on or around the site that would warrant relief from the conditions imposed by the board at the time of the last approval.



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 5

- c. The existing use on the site was established by the granting of a d-1 use variance, and subsequent approvals were indicated to be for d-2 variances. The application at this time is primarily for amendments to the conditions of approval that relate to the timing of use, number of events on the site, and the specific users of the site, and do not include any changes to the conditions of the site itself. However, with the proposal to add lighting to the football field and the parking lot near the baseball field, this can be then viewed as an expansion or intensification of the use on the site, and also triggers additional setback and buffering requirements.
- d. The application as proposed may require a d-3 conditional use variance, for each of the conditional use standards that are not met. The applicant must satisfy both the positive and negative criteria for each of these variances:
 - i. Positive Criteria: The applicant must show that there are special reasons to grant the variance. Special reasons can come in one of three forms: 1) that there is a practical hardship or burden and economic inutility in using the site for one of the permitted uses; 2) that the proposed use is inherently beneficial; or 3) that the proposed use will promote the general welfare by advancing one of the purposes of zoning, and that the site is particularly suitable for the use.
 - ii. Negative Criteria: The applicant must show that the variance can be granted without substantial detriment to the public good, and without substantially impairing the intent and purpose of the zone plan.
- e. For a d-3 conditional use variance, the focus of the Board's consideration and the applicant's testimony should be on those conditions that are not satisfied, and not on the overall use itself. The use itself is permitted to remain on the property and was approved (with conditions) previously by the Board.
- f. The applicant has indicated in the materials provided that they are seeking a d-3 conditional use variance as well as a d-2 expansion of a non-conforming use variance. We note that the case of *Puleio v. North Brunswick* states that the d-2 variance is only to apply to non-conforming uses that pre-date the establishment of the zoning on the property, and not to uses that were previously permitted by a use variance. With this in mind, a d-2 variance may not technically be necessary for the expansion of a non-conforming use. However, since the application is to expand a use that is not consistent with the site's zoning requirements, the general standard of review for a d-2 variance may be appropriate to be applied as it is similar in many ways to that of a d-3 variance, or for that of an amended d-1 use variance.
- g. For a d-2 variance, the applicant must show that the positive and negative criteria can be satisfied, with the focus of the criteria being on just the expansion rather than the overall use itself.



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 6

- h. We note that the previous approval for the application found the use to be inherently beneficial as a school facility. We have no objection to the Board continuing to treat the school's athletic fields as an inherently beneficial use for the purpose of this application.
- i. Accordingly, the statutory standard applicable to inherently beneficial uses is less stringent than that applied to other categories of uses. The four-prong balancing test governing inherently beneficial uses is set forth and applied below.
 - i. Identify the public interest at stake;
 - ii. Identify the potential detrimental effects that could ensue from the grant of the variance;
 - iii. Consider whether the imposition of reasonable conditions would mitigate the detrimental impacts; and
 - iv. Weigh the positive and negative criteria and determine whether, on balance, the benefits outweigh the detrimental impacts.
- j. A bulk variance is also required to permit lighting at a height of 90 feet. The applicant must address the positive and negative criteria for a 'c' variance:
 - i. Positive Criteria: The applicant must show that either there is a practical hardship (c-1 undue burden) in conforming to the requirements of the code, or that the proposed conditions will advance the purposes of zoning and that the benefits will outweigh any negative impacts (c-2 flexible variance)
 - ii. Negative Criteria: the applicant must show that the variance can be granted without substantial detriment to the public good, and without substantially impairing the intent and purpose of the zoning plan.
- k. The applicant should address any anticipated changes in traffic impacts and parking demand that may result from the expansion of permissible users and events on the site. Based on the conditions of the previous approval, it appears that one of the primary concerns of the Board at the time was limiting the traffic impacts on the neighborhood.
- l. The applicant should address potential impacts of the proposed lighting on adjacent properties. While the lighting plans show minimal spillover into adjacent properties in terms of footcandles, with sports lighting at 90 feet there may be significant glare and light pollution that can impact the area.
- m. We defer any comment on grading, drainage, utilities, and stormwater management to the Board Engineer.



**Consulting & Municipal
ENGINEERS**

West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 7

If you have any questions about this report, please do not hesitate to reach out to our office.

Sincerely,
CME Associates

Christopher N. Dochney – PP, AICP
Zoning Board Planner

CD:ME

cc: Geniece Gary-Adams – Township Zoning Official
Zayibeth Carballo, PE, PLS, PP, CME, CFM – Township Engineer
Steven Warner, Esq. – Zoning Board Attorney
Alex Fisher, Esq. – Board Attorney
John Hess, PE, PP, CME – Board Engineer
Christopher Dochney – PP, AICP – Zoning Board Planner
Seton Hall Preparatory School Health and Fitness Center – Applicant
Marc E. Leibman, Esq. – Applicant's Attorney
Donald R. Fiore, AIA. – Applicant's Architect
John McDonough LA, AICP, PP – Applicant's Planner



West Orange Zoning Board
Re: Seton Hall Prep Health & Fitness Center
CME Planning Review #1

March 4, 2026
Our File No. 115.WRZ0082.V03
Page 8

6. Materials Submitted

The following materials have been submitted and reviewed in association with this application:

- Township of West Orange Application Form for the Planning Board or Board of Adjustment, with accompanying checklists and forms, dated September 24, 2025.
- Prior resolutions of approval from the West Orange Zoning Board of Adjustment
- Resolution of Approval, ZB-23-09, West Orange Zoning Board of Adjustment, dated May 16, 2024.
- An eleven (11) sheet set of Architectural Drawings, prepared by Donald R. Fiore of Heintz and Fiore Architects, LLC.
- Planning Report prepared by John McDonough, LA, AICP, PP of John McDonough Associates, LLC, dated January 9, 2026.