

**ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF WEST ORANGE**

CRESTMONT COUNTRY CLUB

**Block: 174 Lot: 1.01
750 Eagle Rock Avenue, West Orange
Case No. ZB-24-07**

RESOLUTION

WHEREAS, CRESTMONT COUNTRY CLUB (the "Applicant" or "Crestmont") has applied to the Zoning Board of Adjustment of the Township of West Orange (the "Board"), for minor site plan approval and the following items of variance relief, in connection with its proposal to construct a modular dwelling for seasonal employees on property located within the R2 (Single-Family Residential) Zone, identified as Lot 1.01 within Block 174 on the Official Tax Map of the Township of West Orange, more commonly known, respectively, as 750 Eagle Rock Avenue, West Orange (the "Property"):

A variance pursuant to N.J.S.A. 40:55D-70(d)(1) (a "(d)(1) use variance"), to permit the proposed accessory dwelling use, whereas such use is not permitted in the R-2 Zone, pursuant to Section 25-7.1 of the Township of West Orange Land Use Regulations Ordinance (the "Ordinance"); and

WHEREAS, a public hearing, on notice, was held on such application on October 10, 2024, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the reports from consultants and reviewing agencies and questioning by a member or members of the public, has made the following factual findings and conclusions:

1. The Board and its professionals reviewed the application and deemed it to be complete.
2. The subject site is a 146.7-acre property, which is currently used as a country club.

The property includes a golf course, tennis courts, swimming pools, a staff housing building and a club house.

3. The Applicant proposes to install a 1,248-SF modular accessory dwelling structure on the Property, to accommodate seasonal employees. The modular structure will be situated in the northeastern area of the property in the northeastern corner of a parking lot, adjacent to the egress on to Eagle Rock Avenue..

4. The proposed structure will have dimensions of 24-feet by 54-feet and will be setback 214.08-feet from the front property line on Eagle Rock Avenue, approximately 4,300-feet from the rear property line and 38.36-feet from the eastern side property line. The proposed dwelling will be located approximately 430-feet from the closest residential property to the east. On the southern side of the parking lot from the proposed location of the dwelling, is an existing 1-story structure, which is surrounded by a thicket of trees, which would effectively obscure the dwelling from direct view from the club house. The area of the parking lot where the dwelling will be located is currently striped for two rows of head-to-head stalls. Plans call for a portion of the striping for four (4) parking spaces on the northernmost row to be removed to accommodate the dwelling. The existing island at the end of the row to the immediate south will also be reconfigured. A series of bollards are proposed on the western and southern perimeter of the dwelling, to provide protection and separation from the surrounding circulation aisles in the parking lot.

5. The floor plan of the proposed dwelling, as provided by the applicant, will include a 19-foot by 11-foot living room, surrounded by a kitchen and dining area, a full bathroom, two (2) bedrooms, each measuring 9.6-feet by 11-feet and 10.1-feet by 8.75-feet and a 13.5-foot by 11-foot master bedroom, which will include a second full bathroom. A utility room, which will include

laundry facilities, is also included.

6. The Applicant's proposal is depicted on, and otherwise supported by, the following items submitted with its application:

- i. A Preliminary & Final Site Plan set, prepared by James A. Bash., P.E., Van Cleef Engineering Associates, LLC, dated April 9, 2024 and revised September 16, 2024, same consisting of six (6) sheets; and
- ii. Floor Plan drawing, undated, and Exterior Photograph, undated.

7. George Wheatle Williams, A.I.C.P., P.P., the Township/Board Planner, and John J. Hess., P.E., P.P., C.M.E., the Board Engineer, were duly sworn according to law.

8. Richard Schkolnick, Esq. entered his appearance on behalf of the Applicant and provided an overview of the application, relief sought, and witnesses to be presented.

9. The Applicant offered testimony, in support of its application, from the following witnesses:

- i. Dana Cancellaro, the General Manager and Chief Operating Officer of Crestmont Country Club located at 750 Eagle Rock Avenue, West Orange, NJ 07052;
- ii. James Bash, P.E. of Van Cleef Engineering Associates, LLC located at 4 AAA Drive, Suite 103, Hamilton, NJ 08691; and
- iii. John McDonough, LA, PP, AICP of John J. McDonough Associates, LLC, located at 101 Gibraltar Drive, Suite 1A, Morris Plains, NJ 07950.

10. The Applicant submitted Exhibit A-1 during the hearing, consisting of a series of three photographs taken by Mr. McDonough on October 8, 2024.

Ms. Cancellaro's Testimony

11. Ms. Cancellaro was duly sworn according to law and testified as a fact witness.

12. Ms. Cancellaro testified that: (i) Crestmont is seeking a modular dwelling unit because it cannot source all employees from local towns, and instead needs to use H2B visa

students, who spend one-half of the year at the club and one-half of the year in Florida; (ii) these students do not have access to transportation and cannot afford the local rental market; (iii) the club only needs three additional rooms to supplement the existing staff housing; (iv) the parking lot where the home is proposed to be located is a staff parking/overflow lot, which was not utilized in 2024; and (v) similarly situated golf clubs in this area have this type of staff accommodation.

13. On questioning by members of the Board and professionals, Ms. Cancellaro testified that: (i) the Applicant considered adding a second story to the existing staff housing building, but rooftop HVAC units and the overall height made it impractical; (ii) the modular dwelling would be placed on existing pavement and use the existing sewer connection; (iii) other country clubs have equal, or better, staff housing; and (iv) the modular dwelling unit will be permanent.

14. On questioning by Kevin Malanga, a member of the public, Ms. Cancellaro testified that (i) the age range of the individuals will generally be 22-28 years old, but there is no cutoff; (ii) the Applicant tried unsuccessfully to recruit from local urban areas; (iii) some other country clubs have modular housing; and (iv) sexual harassment training is provided.

Mr. Bash's Testimony

15. Mr. Bash was duly sworn according to law, provided his credentials, and was accepted by the Board as an expert in the field of civil engineering.

16. Mr. Bash provided an overview of the site and proposed site plan. He further testified that (i) he revised the site plan to address all items from the engineering review, except for installation of an EV charging station; (ii) the Applicant will install a make-ready EV station, but suggests that it be placed a location in consultation with the Board Engineer and Board Planner; and (iii) a sustainability checklist was not submitted due to the small scope and minimal

impact of the project.

17. On questioning by members of the Board, Mr. Bash testified that appropriate height vegetation could be planted for screening purposes.

18. On questioning by Kevin Malanga, a member of the public, Mr. Bash testified that the home would have an electric central HVAC unit located at the ground level.

Mr. McDonough's Testimony

19. Mr. McDonough was duly sworn according to law, provided his credentials, and was accepted by the Board as an expert in the field of professional planning.

20. Mr. McDonough testified that: (i) the Property is 146.7 acres; (ii) the modular building of roughly 1,200 square feet is being placed in the corner of an existing parking lot and is nicely positioned so that it will not impede circulation or necessary parking; (iii) the proposed building is well buffered from Eagle Rock Avenue, with substantial mature vegetation up to the edge of the building; (iv) the nearest homes are 400-ft away from the proposed building; (v) this provides for a variety and location of land uses in appropriate places; (vi) the Applicant can add planters in front; (vii) it will meet all applicable building codes; (viii) the seven overflow parking spaces taken up by the building can be easily managed; (ix) this is a retrofit of an existing developed space that complements the site; (x) the proposal furthers purposes in subsections 'a', 'g', and 'm' of Section 2 of the Municipal Land Use Law and is consistent with the character of the zone and the master plan.

21. On questioning by members of the Board and the public, Mr. McDonough testified that no trees are being taken down as part of this proposal.

22. No members of the Public, except as described above, objected to the Applicant's proposal or asked questions of Applicant's witnesses.

DECISION

31. After reviewing the evidence submitted, the Board, by a vote of six (6) to one (1), finds that the Applicant has satisfied its burden of proving an entitlement to the requested minor site plan approval and (d)(1) use variance relief.

Minor Site Plan Approval

23. As it relates to the Applicant's request for minor site plan approval, the Board first notes that, in evaluating such a request, the MLUL requires a land use board to consider the development plan provided by an applicant, and to grant site plan approval if the detailed drawings, specifications, and estimates of the application conform to the standards established by ordinance for final approval, pursuant to N.J.S.A. 40:55D-50(a).

24. Here, the Board finds that the Applicant has demonstrated sufficient compliance with the Township's Minor Site Plan requirements, as set forth in Section 25-51.6 *et seq.* of the Ordinance, and, as such, that good cause exists to grant the Applicant minor site plan approval, with the requested variance relief detailed below.

Statutory Parameters for Variance Relief

25. Regarding the Applicant's request for (d)(1) use and bulk variance relief, the Board first notes that to establish an entitlement to any variance relief under N.J.S.A. 40:55D-70, an applicant must demonstrate the "positive" and "negative" criteria applicable to the type of relief requested.

(d)(1) Use Variance Relief

26. Regarding the Applicant's requested items of (d)(1) use variance relief – to permit an accessory dwelling use – the Board notes that, for variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) specifically, the "positive" criteria for such relief is established by a showing of "special

reasons" to permit "a use or principal structure in a district restricted against such use or principal structure." New Jersey Courts recognize three circumstances in which such "special reasons" may be found: (1) where the proposed use inherently serves the public good, such as a school, hospital or public housing facility; (2) where the property owner would suffer "undue hardship" if compelled to use the property in conformity with the permitted uses in the zone; and (3) where the use would serve the general welfare because "the proposed site is particularly suitable for the proposed use." See, Saddle Brook Realty, LLC v. Twp. of Saddle Brook Zoning Bd. of Adj., 388 N.J. Super. 67, 76 (App. Div. 2006).

27. The Board also notes that the "negative criteria" for all forms of variance relief under N.J.S.A. 40:55D-70 is ordinarily satisfied by an applicant demonstrating that the proposed deviation(s) from the requirements of the Ordinance will neither pose a "substantial detriment" to the public good, nor "substantially impair" the intent and purpose of a municipality's master plan and zoning ordinance.

28. Here, the Board concurs with the unrefuted expert testimony offered by the Applicant's Professional Planner, Mr. McDonough, in finding that the Applicant has sufficiently demonstrated the positive criteria required for the grant of its requested items of (d)(1) use variance relief. In this regard, the Board concurs with Mr. McDonough that the site serves the general welfare pursuant to purposes in subsections "a", "g", and "m" of Section 2 of the Municipal Land Use Law and that the site, as a fully buffered 146.7 acre parcel, is particularly suitable for this 1,248 square foot modular home more than 400 feet away from the nearest residences on a small portion of a rarely used staff/overflow parking lot.

29. As it relates to the "negative" criteria for the Applicant's requested item of (d)(1) use variance relief, the Board again concurs with Mr. McDonough's unrefuted expert opinion that

the Applicant has sufficiently demonstrated same. The proposed dwelling unit is extremely small compared to the size of the property. It is well buffered and located more than 400 feet to the nearest residences, requires no tree removal, uses a small portion of a rarely used staff/overflow parking lot, and will have planters installed in a manner satisfactory to the Board professionals and Township Forester. Any detriment to the public good, if such detriment even exists, is de minimis. Nor will the Township's master plan be impaired in any conceivable way.

44. Accordingly, based upon the foregoing, the Board thus finds that the Applicant has demonstrated an entitlement to the requested minor site plan approval and the item of (d)(1) use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1).

WHEREAS, the Board acted on this application at its meeting on October 10, 2024 and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of West Orange, on the 21st day of November, 2024 that the application of **CRESTMONT COUNTRY CLUB**, for minor site plan approval and (d)(1) use variance relief, as aforesaid, be and is hereby GRANTED, subject to the following conditions:

- (1) The Applicant shall install planters in such species and locations as approved by the Board Planner, Board Engineer, and Township Forester.
- (2) The Applicant shall post sufficient funds with the Township to satisfy any deficiency in the Applicant's escrow account;
- (3) The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;
- (4) The Applicant shall comply with all Federal, State, County and Township statutes, ordinances, rules, regulations and requirements affecting development in the Township, County and State;

- (5) The Applicant shall comply with all comments and recommendations stated in the Engineering Report issued by CMA dated August 15, 2024 with the exception of the installation of a make-ready EV station in lieu of an EV charging station, the location of which shall be subject to the reasonable approval of the Boad Consulting Engineer, John Hess, and the Board Planner, George Wheatle Williams;
- (6) The Applicant shall install vegetation for screening purposes at a height deemed appropriate by the Township Engineer, Zayibeth Carballo;
- (7) Prior to the issuance of a Construction Permit the Applicant shall comply with the August 15, 2024 Memorandum issued by the Board Engineer;
- (8) Prior to the issuance of a Certificate of Occupancy, the Applicant shall obtain the permits and certificate listed on the August 15, 2024 Memorandum;
- (9) The Applicant is and shall be bound by all the evidence, including documents and testimony presented by the Applicant at the Public Hearing;
- (10) Pursuant to Sections 25-48.10(a) and 25-48.10(c), of the Ordinance, the variance relief granted by the Board and identified herein shall expire within two (2) years and one (1) day from the date of publication of a notice of the granting of such relief in either the official newspaper of the Township of West Orange or a newspaper of general circulation in the Township, unless, before the expiration of said two (2) year and one (1) day period, either (i) a building or construction permit is secured and issued or (ii) the actions authorized hereby have been taken; and
- (11) These Conditions shall be clearly printed on the engineering drawings submitted for filing in the official records of the Board.

(continued)

ROLL CALL VOTE:

Member	Motion to Grant the Application Date: October 10, 2024						Resolution of Memorialization Date: November 21, 2024					
	Motion	2nd	Aye	Nay	Abstain	Absent	Motion	2nd	Aye	Nay	Ineligible	Absent
Neuer	x		x				x		x			
Schwarzbaum		x	x						x			
Barbee						x						x
Eben			x						x			
Ricci			x									x
Scott				x							x	
Weiss			x						x			
Dannemiller			x					x				
Sealora												
Sussman			x						x			

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment
of the Township of West Orange at its meeting of November 21, 2024.



Diana Chandler-Zimmermann, Secretary
ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF WEST ORANGE,
COUNTY OF ESSEX,
STATE OF NEW JERSEY

Dated: November 21, 2024