

**RESOLUTION OF THE MUNICIPAL LAND USE BOARD
OF THE BOROUGH OF EMERSON**

In the matter of:

**HACKENSACK GOLF CLUB
473 OLD HOOK ROAD
BLOCK 1301, LOT 1.01
EMERSON, NEW JERSEY**

WHEREAS, Hackensack Golf Club (“Applicant”) has made application to the Municipal Land Use Board of the Borough of Emerson (the “Board”) for approval of a modification to condition 5(C) of a variance which was approved by the Emerson Zoning Board of Adjustment by Resolution on February 16, 1994, to permit the Applicant to construct improvements to a residential building that has been used for housing of the Applicant’s employees (the Building”), to increase the Building’s permitted occupancy from 8 to 23 persons, concerning property located at 880 Soldier Hill Road in the Borough of Emerson and designated on the tax assessment map of the Borough of Emerson as Block 901, Lots 1 and 3, Block 1002, Lot 1 and Block 1008, Lot 1 (the “Property”); and

WHEREAS, the Property is located in the Open Space Conservation Zone District of the Borough of Emerson; and

WHEREAS, the application requires approval of a modification to condition 5(C) of the February 16, 1994 Variance to increase the maximum occupancy of the building from 8 to 23 persons; and

WHEREAS, the Applicant has filed the appropriate application materials timely; and

WHEREAS, the Applicant has presented satisfactory proof to the Board that Notice of the application was published and served in accordance with the Municipal Land Use Laws of the State of New Jersey; and

WHEREAS, Applicant was represented by Nilufer DeScherer, Esq., of Archer & Greiner, P.C., 21 Main Street, Hackensack, New Jersey, 07601 at the hearing on the application; and

WHEREAS, the Board was represented by John W. McDermott, Esq. ; and

WHEREAS, the Board reviewed this matter at public hearings on September 15, 2022, and October 6, 2022; and

WHEREAS, the following persons gave testimony on behalf of the Applicant: Daniel LaMothe, P.E. of Lapatka Associates, Inc., Norman Forsyth, General Manager of Applicant, Linda Del Nobile, RA, of Del Nobile Designs, and Joseph Burgis, P.P. of Burgis Associates;

WHEREAS, the following exhibits were admitted into Evidence:

Exhibit A- Architectural Plans prepared by Linda Del Nobile, of Del Nobile Designs, entitled “Proposed Interior Alteration Employee Building at Hackensack Golf Club, 880 Soldier Hill Road, Emerson, New Jersey,” consisting of two (2) sheets, dated February 18, 2022.

WHEREAS, based upon the sworn and qualified testimony of Daniel LaMothe, P.E. of Lapatka Associates, Inc., the Board made the following findings of fact:

1. The Applicant’s Engineer testified generally with regard to the Residence Building Renovation Location Site Plan dated July 29, 2022, which he prepared. The existing two (2) story building, located on Block 901, Lot 1, is used as a dormitory for the employees of the Applicant. The applicant is seeking approval of a modification to condition 5(C) of the February 16, 1994 use variance (“Variance”), which was

approved by the Emerson Zoning Board of Adjustment, which Variance permitted the Applicant to rebuild a legal, non-conforming employee dormitory building that had been destroyed by a fire. The building was rebuilt on the footprint of the building that had been destroyed (“Building”). The prior Resolution limits occupancy of the dormitory to eight (8) employees. Applicant now seeks to make improvements to the existing residence building, to increase the number of bedrooms from nine (9) to fifteen (15) and to increase the occupancy from eight (8) to twenty-three (23) persons.

2. The Department of Community Affairs (“DCA”) and the building code limit the occupancy of the existing building to a maximum of 23 persons.
3. Some of the employees that will be housed in the dormitory hold H2B Visas which require that housing be provided.

WHEREAS, based upon the sworn testimony of Norman Forsyth, the Board made the following findings of fact:

4. Mr. Forsyth is the General Manager of the Applicant, Hackensack Golf Club. He testified that there is an increased demand for staff. In 2022, the Club hired seven (7) employees holding H2B Visas. The hiring is done through an Agency.
5. The Club is currently renting a house for these additional employees and is required to provide transportation for the employees. None of the current employees have cars. Mr. Forsyth testified that having the employees on site reduces the need for the Club to provide transportation.

6. Applicant seeks to change the layout of the existing building and to increase the number of bedrooms to accommodate the additional employees. Males and females are housed in separate rooms.
7. Applicant is seeking to make improvements and upgrades to the building interior and exterior only. The building's exterior dimensions will not be expanded. Additional fire safety windows will be installed. The application does not propose any tree removal or any change in utilities.
8. No food or cooking is permitted in the dormitory building which contains a dorm -style refrigerator. The Club provides food to the employees.
9. Due to the proposed substantial increase in occupancy, after consultation with the Applicant, visits by the Chairman and discussions with various agencies, the Applicant agreed to modify its application to reduce the occupancy from twenty-three (23) persons to a maximum of eighteen (18) persons. There is no change to the proposed building renovation, the only change is in the number of residents.
10. Applicant agreed to install a fenced area to provide an outdoor recreation space for the residents of the building. The employees will be advised of the rules of conduct.

WHEREAS, based upon the sworn and qualified testimony of Linda Del Nobile, RA, of Del Nobile Designs, 299 Park Avenue, Park Ridge, New Jersey 07656, the Board made the following findings of fact:

1. Ms. Del Nobile is a registered architect with Del Nobile Designs, who testified generally with regard to the plans she prepared dated 2/18/22 and marked as Exhibit A, for the improvements to the subject building. The building consists of 2,415 square

feet, is currently DCA approved and inspected by the state and county annually. The DCA regulations are satisfied. The doors and windows provide fire safety.

2. The first floor will have eleven (11) bedrooms and the second floor will have four (4) bedrooms.

Based upon the sworn and qualified testimony of Joseph Burgis, P.P., of Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey, the Board made the following findings of fact:

1. The Property is in the Open Space Conservation Zone. Although the employee residence use of the Building is not a use that is expressly permitted in the zoning district, the Zoning Board's 1994 resolution granted variance relief permitting this use in connection with the Applicant's permitted use. The Applicant now seeks approval of a modification to condition 5(C) of that variance which limits occupancy to no more than eight (8) employees at any one time, to permit the Applicant to increase the Building's permitted occupancy from 8 to 23 persons and to construct improvements to the interior and exterior of the Building.
2. The Applicant's Planner testified generally with regard to the criteria required for the granting of the requested variance. With regard to the special reasons required to allow departure from the strict application of the zoning ordinances, the increased staff provides a benefit in obtaining seasonal help and assists in the high cost of renting/housing in the area. The goals of the Master Plan are advanced as the proposed application helps to ensure that open space remains. In addition, the general welfare of the community is served by maintaining the use as a golf course. The footprint of the building is not changing and there is no substantial change in the use of the building,

WHEREAS, the Municipal Land Use Board of the Borough of Emerson makes the following factual findings and conclusions:

1. This application involves a building located on the Hackensack Golf Club property, which is known as 880 Soldier Hill Road, Emerson, NJ which is used to house employees of the Club. This property includes the following parcels as designated on the applicable municipal tax maps: Block 515, Lot 14; Block 516, Lot 2; Block 612, Lot 2; Block 901, Lots 1, 2, and 3; Block 1002, Lot 1; and Block 1008, Lot 1 (Emerson), which is located in the Open Space Conservation Zone District of the Borough of Emerson; and Block 901, Lot 1 (Oradell).
2. The Applicant has made application to this Board for approval of a modification to condition 5(C) of a Use variance approved by the Emerson Zoning Board of Adjustment on February 16, 1994 which limits occupancy of the residential Building to no more than eight (8) employees at any one time. Applicant seeks approval to make improvements to the existing residence building, to increase the number of bedrooms from nine (9) to fifteen (15) and to increase the occupancy from eight (8) to twenty-three (23) persons. After comments and concerns raised by the Board and the public, Applicant agreed to modify its application and reduce the maximum occupancy to eighteen (18) persons.
3. The proposed improvements are upgrades to the interior and exterior of the Building, including new windows and doors, and will not expand the exterior dimensions of the Building.

4. The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., gives the Board the power, when reviewing applications for bulk variances, to grant variances in accordance with N.J.S.A. 40:55D-70(c). In order for the Board to grant variances, however, the applicant must demonstrate either: (1) hardship arising out of the exceptional narrowness, shallowness, shape or exceptional topographic conditions of a specific piece of property; or (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the requirements of the ordinances and that the benefits of granting a variance would outweigh any detriment to the public good (the “positive criteria”). The applicant must further demonstrate that granting the requested variance relief will not impair the intent and purposes of the zone and master plan and the zoning land use ordinances (the “negative criteria”). As in all variance cases, the applicant has the burden of establishing both criteria to the satisfaction of the Board.
5. The Board finds from the above testimony and evidence presented by the Applicant that the application satisfies the positive and negative criteria. The existing building will be modernized and improved, to permit occupancy by a total of 18 persons. The Applicant shall continue to comply with the conditions of the Use Variance other than Condition 5(C).
6. The applicant has satisfied the special reasons required to allow departure from the strict application of the zoning ordinance, as the increased staff provides a benefit in obtaining seasonal help and assists in the high cost of renting/housing in the area. In addition, the goals of the Master Plan are advanced as the proposed application helps to ensure that open space remains. Further, the general welfare of the community is served by maintaining the use as a golf course. The footprint of the building is not changing and there is no substantial

change in the use of the building, which is an accessory use to the property. The grant of the variance will not result in substantial detriment to the public good as there has been only one crime recorded which is not substantial and it will not adversely affect the health, safety, and welfare of the residents.

7. The Applicant has met its burden of demonstrating the positive and negative criteria to justify granting of the variance and therefore the Applicant's request may be granted without substantial detriment to the public safety, health and general welfare and will not deter the efforts of the Borough to effectuate the general purposes of municipal planning.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Land Use Board of the Borough of Emerson that the Application of Hackensack Golf Club with respect to the subject Property requesting preliminary and final site plan and variance approval be and is hereby **APPROVED** subject to the terms and conditions hereinafter set forth:

CONDITIONS SPECIFIC TO THIS APPLICATION

1. Applicant shall abide by all the recommendations and conditions of the Borough Engineer.
2. The maximum occupancy of the Building is limited to eighteen (18) persons.
3. Applicant shall install a fenced area on the site to provide an outdoor recreation space for the residents of the building.
4. Applicant shall comply with all local, county, and state health ordinances.

GENERAL CONDITIONS:

1. Approval as necessary from the Bergen County Planning Board. If any material changes are required by Bergen County Planning Board to what is approved by this Resolution, said changes are to be brought by the Applicant on a forthwith basis before this Board, which retains jurisdiction over the Application.

2. Approval from the Bergen County Soil Conservation District if applicable.

3. Approval from the Emerson Police if applicable.

4. Approval from the Board of Health.

5. The Applicant shall at all times comply with the applicable rules, regulations, ordinances and statutes of the Borough of Emerson, County of Bergen, State of New Jersey, and the Federal Government with regard to the construction of the Property including but not limited to the Americans with Disabilities Act.

6. The Applicant shall obtain all other required permits, licenses, and approvals.

7. Building permits as needed must be obtained before any work begins at the site and in accordance with the approval(s) conferred herein.

8. The Applicant shall comply with any and all conditions and requirements rendered by this Board's Engineer and/or the Borough's Engineer and the Construction Code Official.

9. The Applicant shall comply with any and all other federal, state, county and local government rules and regulations regarding the subject application, including, but not necessarily

limited to, the payment of all fees and charges as established by the Borough of Emerson for the application and as applicable compliance with all sign ordinances.

10. Nothing contained in this Resolution shall supersede the provisions of the Uniform Construction Code of the State of New Jersey or any other applicable law or regulation.

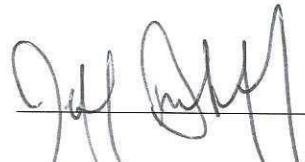
11. Any damage to the public areas, including streets, curbs or sidewalks, a result of the construction of the additions and site work must be remediated to the satisfaction of the Borough Engineer.

BE IT FURTHER RESOLVED that this Resolution does not constitute approval or recommendation for approval for any variance or any exception not requested by the Applicant, nor any variance or exception which may not be expressly or specifically created by this Resolution.

NOW THEREFORE, BE IT RESOLVED that the Chairman and Secretary of the Board are hereby authorized to affix their signatures to this Resolution granting the requested application, to advertise the action taken, by way of Resolution, in the local newspaper, and furthermore to send certified copies to the Zoning Officer, Construction Code Enforcement Official and/or Building Sub-Code Official, the Applicant and/or the Applicant's attorney, the subject property Owner if other than the Applicant, and to the Borough Attorney, Borough Engineer and Board Engineer.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on November 3, 2022.

Dated: Nov 3, 2022



Jeff Bischoff, Chairman
Emerson Land Use Board

Dated: Nov 3, 2022



Marie Shust, Secretary
Emerson Land Use Board

OFFERED BY: Mr. Hulburt

SECONDED BY: Ms. Garis

VOTE: Ayes: 4

Nays: 0

Abstain: 1