



ZB / PB ~ STAFF COMMENTS TRACKING WORKSHEET

Address:	695 Springfield Avenue
Application #:	ZB-24-2237
Description/Variances:	Preliminary and final site plan approval, conditional use, D1 variance for installation of freestanding solar panels in parking area; D3 variances for deviations from standards of conditional use: lot size less than 2 acres, front yard less than 50 feet, side yard setback/ buffer less than 50 feet, lot coverage exceeding 40 percent, bldg. covg exceeding 15 percent, parking setback less than 20 ft, rear yard buffer less than twenty percent of lot depth. C variances for number of onsite parking spaces, front and side yard setbacks and buffers, rear yard buffers and size of a monument sign identifying the church
Sent to Staff for Comments:	October 29, 2024
Due Date:	November 18, 2024

Staff / Commission / Consultant	<u>Delivery Method</u>	<u>Report Attached with Comments</u>	<u>Report Attached with No Objections</u>	<u>Not Submitted</u>	<u>Not Required</u>
Roger Dornbierer Zoning Officer	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Eric Evers, Director Fire Chief	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Steven Zagorski Police Chief	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email		✓		
Engineering: Colliers	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Ralph Maritato Construction Official	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
John Linson City Forester	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Board of Health: Westfield	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email		✓		
Historic Preservation Commission	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Environmental Commission (if required)	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
City Planner: Burgis (if required)	<input checked="" type="checkbox"/> Paper <input type="checkbox"/> Email	✓			

AT DUE DATE / UPON RECEIPT FROM ALL STAFF:

Sent to Applicant:	____/____/____
Sent to Attorney:	12 / 6 / 24



Community Services Department of Zoning

TO: Zoning Board

FROM: Roger Dornbierer, Zoning Officer

DATE: November 18, 2024

SUBJECT: Zoning Board Application #ZB-24-2237
Block 1702, Lot 47
695 Springfield Ave

COPY TO: File

General Comments

Property is located in the R_15 Zone whose purpose is to preserve the integrity of existing single-family residential areas by preventing the intrusion of nonresidential uses into residential neighborhoods and by maintaining existing development intensity and population density consistent with single-family residential neighborhood patterns. A compatible relationship between new or expanded houses and traditional neighborhood houses that reflect the best of the neighborhood character, particularly in terms of scale, siting, design features and orientation on the site is encouraged.

Application Specifics

The applicants propose the demolition of an existing two-story brick and vinyl building and constructing a two-story church with a footprint of 11,895 sq. ft. The church is a *conditional* use in the R-15 Zone. The conditions being:

- Minimum lot area: two (2) acres.*
- Minimum frontage: two hundred (200) feet.
- Minimum front yard: fifty (50) feet.*
- Minimum rear yard: fifty (50) feet.
- Minimum side yards (each): fifty (50) feet.*
- Maximum building height (excluding spires, steeples, cupolas, and other ornamentation) of thirty-five (35) feet.*

- Side Buffer: A strip of land twenty (20%) percent of the average width of the property, but not to exceed fifty (50) feet, shall be planted and maintained as a landscaped side yard buffer in each side yard that abuts a residential zone or use.
- Rear Buffer: A strip of land twenty (20%) percent of the average depth of the property, but not to exceed fifty (50) feet, shall be planted and maintained as a landscaped rear yard buffer if the rear yard abuts a residential zone or use.
- Maximum lot coverage: forty (40%) percent.*
- Maximum building coverage: fifteen (15%) percent.*
- Parking shall be only in side and rear yards.*
- Minimum parking setback from property lines: twenty (20) feet.*

* Indicates area requiring a variance.

The applicant requests relief from the following requirements:

- Minimum front yard setback of fifty (50) feet whereas forty (40) is proposed.
- Minimum rear yard setback of thirty-five (35) feet whereas ten (10) feet is proposed.
- Minimum (left) side yard setback of twenty-five (25) feet whereas 21.6 feet is proposed.
- Minimum (right) side yard setback of twenty-five (25) feet whereas fifteen (15) is proposed.
- Maximum of six (6) units per acres whereas 7.91 per acre are proposed.

Points of discussion

Applicant should be prepared to discuss the following:

- Sufficient parking with each required space for every three (3) seats or ten (10) square feet of gross floor area, whichever is greater.
- Parking setback from property lines. Requirement is twenty (20) feet.
- Side Buffer: A strip of land twenty (20%) percent of the average width of the property, but not to exceed fifty (50) feet, shall be planted and maintained as a landscaped side yard buffer in each side yard that abuts a residential zone or use.
- Rear Buffer: A strip of land twenty (20%) percent of the average depth of the property, but not to exceed fifty (50) feet, shall be planted and maintained as a landscaped rear yard buffer if the rear yard abuts a residential zone or use.
- Signage
 - Size of sign: whereas 12 sq. ft is permitted, and the applicant seeks 17+ sf.
 - Illumination. Ground mounted lighting casting light up is prohibited.
- Site lighting



STAFF COMMENTS REPORT

DATE: October 29, 2024

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: Fire Chief

☐ FLOOD ZONE

<input type="checkbox"/>	Roger Dornbierer	Zoning Consultant
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
<input type="checkbox"/>	Ralph Maritato	Construction Official

<input type="checkbox"/>	John Linson	City Forester
<input type="checkbox"/>	Health Dept.	Westfield
<input type="checkbox"/>	Caroline King	Chair, HPC
<input type="checkbox"/>	Planner	Burgis Assoc.
<input type="checkbox"/>	TBD	Environmental Commission

Property Address	695 Springfield Ave	Block: 1702	Lot: 47
Application #:	Zb-24-2237	Applicant Names: Beacon Unitarian Universalist Congregation in Summit	
Description/Variances:	Preliminary and final site plan approval, conditional use, D1 variance for installation of freestanding solar panels in parking area; D3 variances for deviations from standards of conditional use: lot size less than 2 acres, front yard less than 50 feet, side yard setback/ buffer less than 50 feet, lot coverage exceeding 40 percent, bldg. covg exceeding 15 percent, parking setback less than 20ft, rear yard buffer less than twenty percent of lot depth. C variances for number of onsite parking spaces, front and side yard setbacks and buffers, rear yard buffers and size of a monument sign identifying the church.		

Comments Due Date:	November 18, 2024	Please email landuse@cityofsummit.org if you are unable to meet this date.
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Attached is a copy of the plans and application for the subject property. Please review this proposal and return a copy of this memo with your comments prior to the date indicated above. Attach additional pages or reports, if necessary.

COMMENTS: Hutch K turn in lot? Combustible landscaping needs a closer look. Remote FDC? _____

Print Name:	Eric Evers	Print Title:	Chief SFD	Date:	11/12/24
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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: Police Chief

☐ FLOOD ZONE

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input checked="" type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
<input type="checkbox"/>	Ralph Maritato	Construction Official

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COMMENTS: No objections
LH CHA

Print Name:		Print Title:		Date:	
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The Memorandum

To: Zoning Board

From: Marie Raffay, P.E.

Date: November 19, 2024

Subject: 695 Springfield Avenue
Block 1702, Lot 47
Summit, Union County, NJ

Summit No.: ZB-24-2237

We have reviewed the application and associated submissions prepared by the Beacon Unitarian Universalist Congregation in Summit, the Applicant, for the subject property as referenced below:

- a. Application to Zoning Board of Adjustment with Memorandum in Support of the Application, signed, dated March 6, 2024;
- b. Certified List of Property Owners within 200 feet dated December 5, 2023;
- c. Architectural Drawings for the Beacon UU Church, 695 Springfield Ave. Summit, NJ, consisting of five (5) sheets, prepared by Louis Cherry, RA, signed, dated 7/18/2024;
- d. Beacon Unitarian Universalist Church Preliminary and Final Site Plans, Block 1702, Lot 47, City of Summit, Union County, New Jersey, consisting of nineteen (19) sheets, prepared by John C. Cote, PE, of Langan Engineering, signed, dated 2/23/2024, last revised 7/18/2024;
- e. List of Required Approvals for Summit Zoning Board Application of Beacon Unitarian Universalist Congregation in Summit;
- f. Site Materials Plan and Details for Beacon Unitarian Universalist Congregation Church, consisting of 10 sheets, prepared and signed by Tavis H. Dockwiller, LLA, of Viridian Landscape Studio, dated 7/18/2024;
- g. Stormwater Management Report for Beacon Unitarian Universalist Congregation Church, prepared and signed by Michael Vitello, PE, and John Cote, PE, of Langan Engineering, dated 2/21/2024;
- h. Stormwater Operation and Maintenance Manual for Beacon Unitarian Universalist Congregation Church, prepared and signed by Michael Vitello, PE, and John Cote, PE, of Langan Engineering, dated 2/21/2024;
- i. Major/Minor Site Plan Application, prepared and signed by Marcy Beitle, President, Board of Trustees of Beacon Unitarian Universalist Congregation in Summit; and
- j. Application for Development Worksheet signed and dated 3/6/24.



Engineering
& Design

Based on our review of the above-referenced documents, this office offers the following comments:

1. The 75,958-square foot (1.74-acre) property is located on the northern side of Springfield Avenue.
2. The property is in the R-15 Residential Zone, with surrounding properties zoned as R-15 as well.
3. The Applicant has provided topographic information from a survey prepared by Langan Engineering dated December 8, 2022. The property slopes down from the northwest corner at elevation 361 to the southwest corner at elevation 343.
4. The property is mostly rectangular in shape with approximately 227-feet of frontage along Springfield Avenue, a rear yard width of approximately 235-feet, and an average depth of approximately 324-feet.
5. The property is improved with a two-story brick and vinyl building with concrete porches, brick patio, asphalt driveway, asphalt parking lot, two story wood frame detached garage, rock/masonry walls, and related site improvements.
6. The Applicant is proposing to demolish the existing structures on the property and replace them with a 300-seat sanctuary, church offices, classrooms for religious study, and other spaces dedicated to church use. The Applicant is also proposing to construct a 42-space parking area, solar panels in the parking area, and extensive landscaping. The Applicant should confirm the improvements in testimony.
7. The Applicant notes that the proposed Limit of Disturbance on the property is approximately 1.66 acres (72,310 square feet).
8. The Applicant is proposing an increase in Building Coverage of 8,811 square feet from 3,038 square feet (4%) to 11,849 square feet (15.6%), where the maximum permitted in the R-15 Zone is 15%.
9. The Applicant is proposing an increase of 12,533-square feet in lot coverage from 22,863-square feet (30.1%) to 35,396-square feet (46.6%), where the maximum permitted in the R-15 Zone is 40%.
10. The Applicant is seeking a number of 'c' and 'd' variances. We defer to the Board Planner for review and comment for zoning review.
11. Information should be provided regarding the capacity of the existing and proposed sewer and additional flow. The Applicant shall provide testimony regarding the need for TWA permit.
12. There are several utility crossings on site. The Applicant shall ensure there will be no pipe conflicts during installation.
13. The maximum height of the solar canopy array is unclear as depicted on the architectural plan details. There are conflicting elevations of the solar canopy elevation. Is the canopy on a tilt

or is it level? What is the height of the highest and lowest points of the canopy? The Applicant should confirm that the solar array canopy will conform to City ordinances.

14. How will snow and rain drain from the solar panels? The Applicant should provide information and testimony regarding any proposed drainage system for the solar array canopies. All drains should have a clean-out at the downspout.
15. The Applicant is providing four (4) electric vehicle charging stations and providing signage indicating that vehicles may park only when charging. The Applicant should confirm in testimony.
16. The Applicant should confirm the location of all mechanical equipment and generators and ensure that they are properly screened.
17. It does not appear that a detail of the green roof has been provided. The Applicant should provide a detail and provide testimony.

Stormwater:

18. The project disturbs more than one (1) acre of land; therefore, is considered a "major development" as defined by NJAC 7:8.
19. The Applicant is proposing to meet the Green Infrastructure (GI) Standards by utilizing GI BMPs from Table 5-1, consisting of porous pavement systems with underdrains at 3 locations, small-scale (subsurface) infiltration systems at two locations, rain garden with underdrain at one location, and manufactured treatment devices (MTD) at three locations (WQ-301 & WQ-302).
20. The Applicant proposes to meet the groundwater recharge requirement per N.J.A.C. 7:8-5.4(b)1i by demonstrating through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site.
21. The project is exempt from the Stormwater Runoff Quality Standards since the proposed improvements will not result in the creation of one-quarter acre or more of "regulated motor vehicle surface." It is noted that the proposed GI Best Management Practices (BMP) will treat runoff generated by the proposed motor vehicle surface areas and reduce the post-construction load of total suspended solids (TSS) by 80 percent.
22. The Applicant is proposing to meet the stormwater quantity requirement per NJAC 7:8-5.6(b)3 by designing the stormwater management measures so that the post-construction peak runoff rates for the current and projected 2, 10, and 100-year storm events, as defined and determined pursuant to N.J.A.C. 7:8-5.7(c) and (d), respectively, are 50, 75, and 80 percent, respectively, of the pre-construction peak runoff rates. Please clarify how emergency overflow with respect to each location will be accommodated per NJAC 5:21-7.8.

23. Please revise the plans and/or Stormwater Management Report (SWM) to address the following minor inconsistencies.
- a. Proposed UND-INF1-1: The one (1) foot rectangular weir crest elevation differs between the Outlet Control Structure Detail on Sheet CG502 and the Pond report stage-discharge. Please revise for consistency.
 - b. Proposed Rain Garden: The Outlet Control Structure Detail on CG503 indicates a four (4) inch orifice at elevation 351.75 however the pond report stage discharge does not include an orifice. Please revise for consistency.
24. The Applicant is proposing an outfall and Conduit Outlet Protection (C.O.P) at HW 2-1. We defer further review and approval to the Somerset-Union Soil Conservation District.
25. The Applicant proposes an on-site stormwater conveyance system consisting of High-Density Polyethylene (HDPE) pipe. The following shall apply:
- a. Per section 5:21-7.3 (c) of the RSIS, velocities in closed conduits flow shall be at least two feet per second to promote self-cleansing. The pipe calculations indicate average velocities that are significantly below the minimum requirement. Please revise for compliance.
 - b. Please revise to address minor inconsistencies between the pipe calculations and drainage plan CG102.
26. Based on the geotechnical report, groundwater was encountered at TP-7, within the vicinity of proposed Porous Pavement System-1, at approximate elevation 347. The bottom of the storage bed is proposed at elevation 348, therefore the minimum one (1) foot clearance required for infiltration systems with underdrains is provided. Please revise the section detail and O&M Manual to indicate the SHWT elevation at proposed Porous Pavement System-1.
27. Per NJAC 7:8-5.2(m), the proposed BMPs (porous pavement systems, small scale infiltration basins, rain garden and MTDs) must be reflected in a deed notice recorded in the Office of the County Clerk. A form of deed notice should be submitted to the City for approval prior to filing.

Site Circulation:

28. The Applicant is requesting a variance for minimum number of parking spaces. 100 spaces are required where 42 are proposed. The Applicant is proposing to use 58 off-site parking spaces on the north side of Springfield Avenue but provides no further information or documentation to support this. The Applicant should provide testimony.
29. The Applicant is requesting a variance for minimum parking lot landscaping. One shade tree per ten parking spaces is required where no parking lot landscaping is provided. The Applicant should provide testimony.

30. Fire Truck Circulation plan has been provided. A gap in the solar array canopy has been provided to allow for truck maneuvering. It is unclear how a truck will maneuver when the parking spaces are full. We defer further comment to the City Fire Official.
31. The Applicant should provide testimony on the site circulation including pickup and drop-off for all programs and events on site.
32. The Applicant is proposing a trash storage area at the northwest corner of the building. A nine (9) foot high wood screen fence is proposed to screen the collection. The Applicant should provide testimony on the amount of trash and recycling anticipated to be collected and how the trash and recycling will be collected.
33. The Applicant should provide testimony on ADA site circulation from the parking lot to the building.
34. The Applicant should provide testimony on the pedestrian access for the parking lot to the building and the outdoor facilities.
35. Dimensions should be added to parking spaces around the curve north of the ADA spaces to ensure that the narrowest point of width still complies with City ordinance. The Applicant should provide testimony on the dimensioning of the spaces.
36. The solar canopies as shown on the architectural plans show supporting columns however the location of the columns is lacking on the site plan. It is unclear where the supporting columns are to be located. The location of columns should be shown in the site plan. The Applicant should provide testimony regarding the columns and any potential interference with vehicles parking.

Miscellaneous:

37. The Applicant appears to propose removal of 30 trees from the property. We defer to the City Forester for review and approval of the proposed improvements.
38. The Applicant shall be aware of their responsibility to repair any damage to improvements within the City right-of-way including, but not limited to, curb and asphalt caused by construction activities associated with the installation of the improvements on the subject lot.
39. The Applicant has noted that they will maintain a silt fence for the entire duration of construction.
40. The Applicant shall remove all excavated and excess soil from the site and shall not use excess soils elsewhere on site.
41. The Applicant shall be aware that if stormwater runoff drainage problems occur on their property and/or neighboring properties because of the construction of the proposed improvements, it is the Applicant's responsibility to remedy that drainage issue.

42. As a condition of approval, signed digital plans shall be transferred to the City of Summit for use in updating the GIS database for the property. Coordination with the City's Engineering Department shall be the responsibility of the Applicant after the application is approved by the City and prior to the issuance of a Certificate of Occupancy.

Should the Board approve the project, the approval may be subject to the issuance of a grading permit (Chapter 35, Article 15) and any required Board conditions. The Applicant should verify the need for a grading permit with the City which will not be issued until all conditions of the resolution of approval are satisfied.

If you have any questions or require anything further, please contact me.

MKR/mlt

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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

☐ **FLOOD ZONE**

TO: Construction Official

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
<input checked="" type="checkbox"/>	Ralph Maritato	Construction Official

<input type="checkbox"/>	John Linson	City Forester
<input type="checkbox"/>	Health Dept.	Westfield
<input type="checkbox"/>	Caroline King	Chair, HPC
<input type="checkbox"/>	Planner	Burgis Assoc.
<input type="checkbox"/>	TBD	Environmental Commission

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COMMENTS:

Plans must include detailed information on all structural elements, fire ratings, fire separations, and other fire safety requirements, all bathrooms must comply to the plumbing code requirements, as well as carbon monoxide control, air exchange, ADA compliance at each level and exterior of building. An HVAC test and air balance report are also required. Additionally, the plans must adhere to all current building codes.

- Please note that if any part of the proposed retaining wall exceeds 4 feet in height, building permits will be required. These permits must be accompanied by signed and sealed plans from a licensed Architect or Engineer.

- According to N.J.A.C. 5:23-2.14 (g), walls are measured from the bottom of the footing to the top of the wall. Ensure that all measurements are accurately documented to comply with this regulation.

- Site conditions may necessitate the installation of a guard on the retaining wall for safety.

- If the project includes steps with four or more risers, please be aware that handrails and/or guardrails may be required for safety compliance.

Print Name:	Ralph Maritato	Print Title:	Construction Official	Date:	10-30-24
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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: City Forester

☐ FLOOD ZONE

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
<input type="checkbox"/>	Ralph Maritato	Construction Official

<input checked="" type="checkbox"/>	John Linson	City Forester
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COMMENTS: Although the property once contained many diverse and unusual tree species, almost all of the trees on the property are in poor condition due to lack of maintenance. The handful of trees worth preserving are in areas of proposed development. There are three trees proposed for removal in the northwest corner of the property. I believe it is worthwhile trying to preserve these 3 trees. The replacement landscaping is extensive, deer resistant, and provides seasonal interest. I recommend approval.

John Linson Forester

11/14/24

Print Name:		Print Title:		Date:	
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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: Health Department

☐ FLOOD ZONE

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
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COMMENTS: No comments -

Print Name:

George Kostas

Print Title:

REHS

Date:

10/31/24



STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: HPC

☐ FLOOD ZONE

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
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COMMENTS:

The scale and massing of the proposed sanctuary structure and the significant loss of tree cover across the whole property will create a stark change along Springfield Avenue and the surrounding properties.

The front-facing façade consists of two sections of large blank walls (approximately 40' long x 30' tall and 60' x 30' tall) blank walls of EIFS stucco and wood planking, a portion of which projects in the required front yard setback as close as 42.7' to the Springfield Avenue right-of-way. The proposed streetscape is inconsistent with the Development Design Guidelines (DDG) in the City's Developments Regulations Ordinance (DRO).

The applicant's efforts to include green and sustainable elements in this application are commendable and the HPC would like to point out that Adaptive Reuse is one of the greenest techniques that can be employed. Reuse

is a great way to be sustainable while respecting the history of the community. We would suggest the applicant consider incorporating the existing principal structure into the design of the complex and could be a location for the meeting rooms, offices and other secondary functions that occupy the proposed sprawling footprint.

The original house was built in 1901 as private residence and was later adaptively reused as American Red Cross offices for many decades. As noted is the Historic Sites Survey (<https://www.summitlibrary.org/wp-content/uploads/2023/09/Springfield-Ave-to-Waldron-Ave-Vol-8-part-2.pdf>) “The house was built as the home of David Leslie Young, who moved to Summit from Brooklyn in 1900. The Young family had a lumber and millwork business in New York City, and artisans from the shop are said to have supervised construction of the house's interior. The Young family occupied the house until 1945. In 1959, it was purchased by the Red Cross, and has been used as their offices since that time. The house was a notable architectural achievement, harmoniously combining elements of Tudor half timbering, Mediterranean stucco and arcades, and prairie style emphasis of roof and chimney.” Of particular note is the unique entry rotunda and elaborate millwork inside portions of the home.

The HPC objects to the application in its current form and would recommend that the applicant seek a design solution that is more contextual; sensitive to the neighborhood and surroundings; and more consistent with the Development Design Guidelines in the DRO and the City’s Master Plan.

Print Name:	Mike DiGeronimo	Print Title:	HPC Member	Date:	11/18/24
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DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

FLOOD ZONE

TO: Environmental Comm.

<input type="checkbox"/>	Roger Dornbierer	Zoning Officer
<input type="checkbox"/>	Eric Evers	Fire Chief
<input type="checkbox"/>	Steven Zagorski	Police Chief
<input type="checkbox"/>	Engineering	Colliers
<input type="checkbox"/>	Ralph Maritato	Construction Official

<input type="checkbox"/>	John Linson	City Forester
<input type="checkbox"/>	Health Dept.	Westfield
<input type="checkbox"/>	Caroline King	Chair, HPC
<input type="checkbox"/>	Planner	Burgis Assoc.
<input checked="" type="checkbox"/>	Lara Mendenhall	Environmental Commission

Property Address:	695 Springfield Ave	Block: 1702	Lot: 47
Application #:	Zb-24-2237	Applicant Names: Beacon Unitarian Universalist Congregation in Summit	
Description/Variances:	Preliminary and final site plan approval, conditional use, D1 variance for installation of freestanding solar panels in parking area; D3 variances for deviations from standards of conditional use: lot size less than 2 acres, front yard less than 50 feet, side yard setback/ buffer less than 50 feet, lot coverage exceeding 40 percent, bldg. covg exceeding 15 percent, parking setback less than 20 ft, rear yard buffer less than twenty percent of lot depth. C variances for number of onsite parking spaces, front and side yard setbacks and buffers, rear yard buffers and size of a monument sign identifying the church		

Comments Due Date:	November 18, 2024	Please email landuse@cityofsummit.org if you are unable to meet this date.
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Attached is a copy of the plans and application for the subject property. Please review this proposal and return a copy of this memo with your comments prior to the date indicated above. Attach additional pages or reports, if necessary.

COMMENTS:

This application is for a plan to demolish the existing buildings and to build a new structure and parking area with freestanding solar panels.

On behalf of the Environmental Commission (EC), I do not object to the requested variance.

The EC is thrilled to see the inclusion of sustainable building practices, rooftop solar and solar canopies, bike racks, a green roof, natural lighting, energy efficient HVAC and lighting systems, native plant and tree landscaping, porous pavement, and outdoor educational and community spaces.

We are also glad to see that the applicants consulted with the City Forester on the removal and replacement of existing trees.

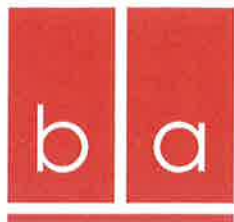
We see the following benefits from the design:

1. Minimizing lawn space and landscaping with a wide variety of [native trees and plants](#) which are beautiful, will provide habitat for birds and butterflies, and require far fewer inputs than nonnatives (water, fertilizer, and pesticides), reducing costs and protecting waterways. The list of plants is impressive. (See also: [Guide to Landscaping with Native Plants](#))
2. Planting native [shade trees](#) will assist with stormwater runoff, provide shade, etc
3. Using [green infrastructure](#) such as [permeable hardscape materials](#) for patios and parking areas will assist with drainage, reduce stormwater runoff, mitigate heat island effects, and decrease VOC (Volatile organic compounds) emissions from asphalt paving and markings.
4. Freestanding solar panels will provide clean electricity and shade the paved areas, further reducing the heat island effect.
5. The [green roof](#) will insulate the building, absorb water, etc.
6. Rooftop solar and energy efficient HVAC and lighting will reduce energy demand.

These may have already been considered, but could also be options:

1. HVAC systems using [heat pumps](#) to further reduce energy demand.
2. Battery storage and a [microgrid system](#) rather than a backup generator

Print Name:	Lara Mendenhall	Print Title:	Environmental Commission	Date:	Nov 15, 2024
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B U R G I S
A S S O C I A T E S , I N C .

COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

PRINCIPALS:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

MEMORANDUM

To: City of Summit Zoning Board of Adjustment
From: Ed Snieckus, Jr. PP, LLA and Tom Behrens, PP, AICP
Subject: Beacon Unitarian Universalist Congregation in Summit (ZB-24-2237)
Preliminary/Final Major Site Plan Application
'd'(1) Use, 'd'(3) Conditional Use, 'd'(4) FAR & 'c' Bulk Variance Requests
695 Springfield Avenue
Block 1702 Lot 47
Date: November 21, 2024
BA#: 4167.14

I. INTRODUCTION

The Applicant, Beacon Unitarian Universalist Congregation in Summit, is seeking preliminary and final major site plan approval requiring 'd'(1) use, 'd'(3) conditional use, 'd'(4) FAR and 'c' bulk variance relief to develop a new house of worship with associated site improvements at the above-referenced site. The property is located in the City's R-15 Single-Family Residential Zone which permits houses of worship as a conditional use. The extent of proposed site improvements and required variance relief are detailed herein.

II. DOCUMENTS SUBMITTED

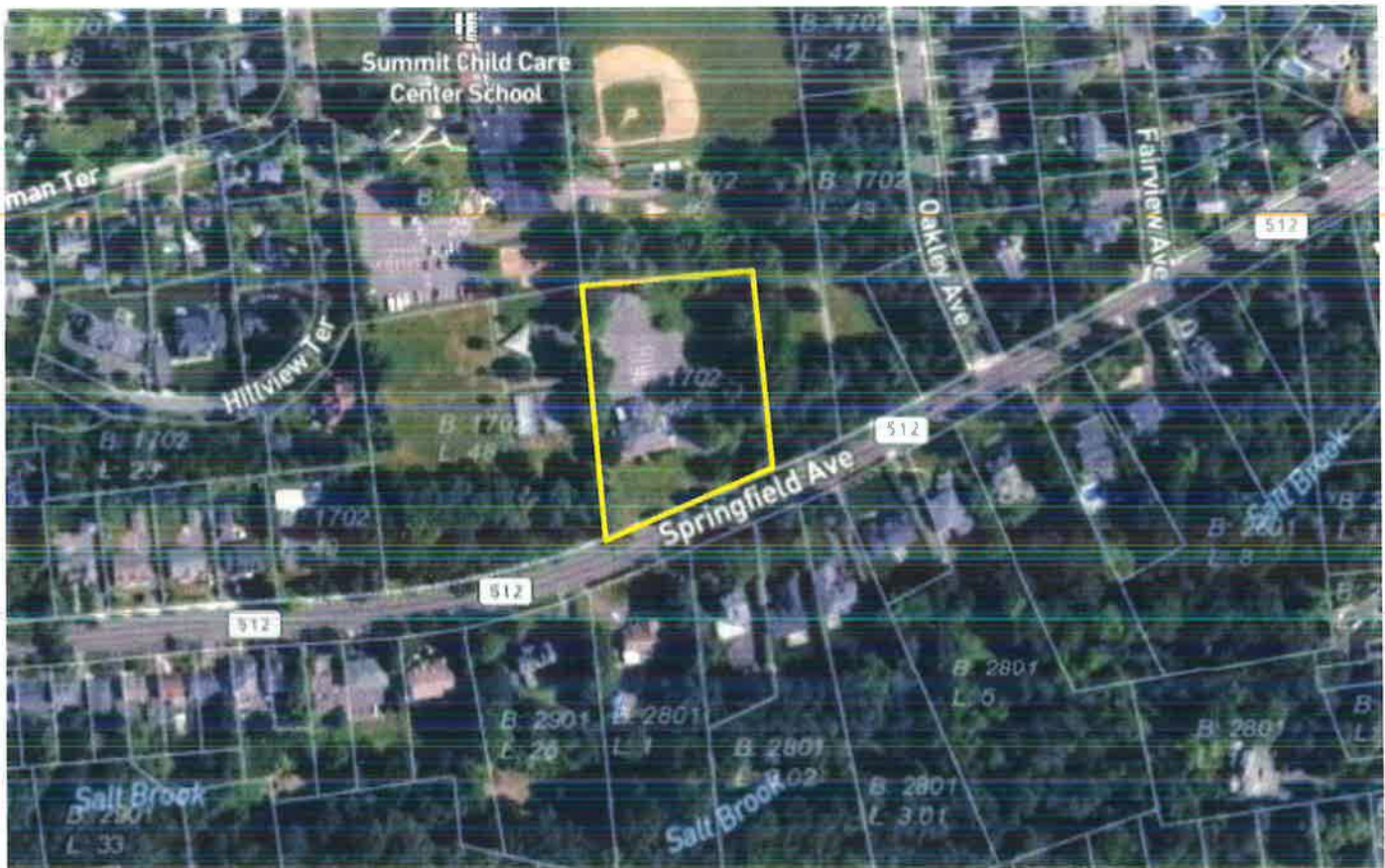
Our office is in receipt of the following documents:

1. Application and checklists dated November 18, 2019, revised February 10, 2020.
2. Response to comments letter dated July 22, 2024.
3. Site plans (19 sheets) prepared by Langan Engineering and Environmental Services, LLC last revised July 18, 2024.
4. Existing grade plan analysis prepared by Langan Engineering and Environmental Services, LLC dated July 18, 2024.
5. Site plan coverage analysis prepared by Langan Engineering and Environmental Services, LLC dated July 18, 2024.
6. Architectural plans (5 sheets) prepared by Louis Cherry Architecture dated July 18, 2024.
7. Architectural renderings (25 sheets).
8. Landscape plans (11 sheets) prepared by Viridian Landscape Studio dated July 18, 2024.
9. Landscape renderings (2 sheets) prepared by Viridian Landscape Studio.

II. PROPERTY DESCRIPTION

The site, identified as Block 1702 Lot 47 in City tax records is a 1.74-acre rectangular parcel developed with a 2-story frame dwelling previously occupied as the American Red Cross of New Jersey administrative offices with associated site improvements. Development surrounding the site consists of Wilson Primary School and athletic fields to the north and west, City-owned park space to the east and single-family development to the south across Springfield Avenue. The following aerial image provides a general overview of the site and surrounding development pattern.

Image 1 - Site Aerial Map



Source: Parcel Explorer, Rowan University.

PROPOSED DEVELOPMENT

The Applicant proposes to raze the existing improvements on the property to accommodate the development of a new house of worship with associated site improvements, including paved parking and circulation areas, pathways, outdoor gathering spaces, landscaping, lighting and signage. The church intends to hold a single Sunday morning worship with all of its congregants as opposed to the two Sunday services currently being held at its 43 Waldron Avenue location. The sanctuary space will have 300 seats. The facility will have 4 full-time and 10 part-time employees.

The following is offered for the Board's consideration with respect to specific elements of the development proposal:

1. Uses. As indicated in the application materials, the proposed house of worship will include regular Sunday worship, church administrative offices, education and will be available to rent for private events such as weddings and memorial services, at a minimum. The Applicant shall provide an overview of all proposed site programming, including the intended uses of all indoor and outdoor spaces, schedule of regular services and events, holidays, maximum number of people on-site at a given time and hours of operation. In addition, the Applicant shall confirm if the facility can be used or rented by congregants or third parties for private events, community group meetings, classes, etc.
2. Building. The Applicant shall provide an overview of all proposed exterior building materials and colors as they relate to the color renderings submitted with the application. The Applicant shall address compliance with the design requirements for nonresidential development contained in Section 25-14.5 and the Development Design Guidelines contained Attachment 1 of the DRO.

Solar panels will be installed on the roof of the church building. 2,360 square feet of the roof area will also be constructed as a green roof. A roof plan should be provided indicating the locations of all roof mounted equipment, solar panels, green house space, elevator penthouse, etc. The screening of all roof mounted equipment should be confirmed.

The building floor plans include the following distribution of spaces:

- Basement (3,635 sf): mechanical room, storage, riser room, IT room and janitor room
 - First Floor (11,896 sf): sanctuary, storage, kitchen, restrooms, lobby, foyer, common area and meeting rooms
 - Second Floor (3,765 sf): sanctuary balcony, family lounge, meeting room, offices, AV booth, work room and restroom
3. Parking and Circulation. The site will retain its one existing two-way driveway on Springfield Avenue that will lead to the side and rear parking areas and circular turning area in the rear. A total of 42 parking stalls, including 3 handicap spaces, are proposed. Any additional parking demands would require on-street parking. The zoning table on the site plans indicates 4 EV spaces will be provided in the eastern parking aisle under the solar canopy. A network of pedestrian pathways is proposed around the site leading to various points of interest on the property and connecting to existing pathways on adjacent City-owned property.

The City's parking requirement for houses of worship is 1 space per 3 seats or 1 space per 10 square feet of gross floor area, whichever is greater. In this case, the proposal includes 300 sanctuary seats requiring 100 spaces and 15,661 square feet of gross floor area (1st and 2nd floors) technically requiring 1,566 parking spaces. The ordinance requirement does not specifically indicate that the gross floor area is limited to the sanctuary space for which the Board may render an interpretation. The total sanctuary space, including the balcony, is roughly 3,750 square feet which would require a minimum of 375 parking spaces. The Applicant should confirm which method of parking calculation yields the greater parking requirement to be utilized.

The Application forms indicate the anticipated average attendance at Sunday services will be 133 adults and 65 youth/children for a total of 198 congregants. This appears to be inconsistent with the testimony offered at the Church's prior application for 43 Waldron Avenue location through which it was indicated that facility would have a maximum of 400 congregants attend Sunday services. The congregation's website indicates it has 450 adult members and 150 children members who live in Summit and the region.

The applicant shall provide testimony indicating how parking will be managed to mitigate impacts to surrounding residential areas which should take into consideration all proposed uses and programming of the site. In addition, the Applicant shall address how loading and deliveries will be managed for services, private events, etc. though houses of worship are not required to have a designated loading space.

The firetruck turning template indicates that firetrucks entering the site will be required to conduct a k-turn utilizing parking spaces which may be occupied. It is unclear if the solar canopy with a minimum 8'6" clearance will be in the path of these turning movements.

4. Solar Canopies. The easterly parking area and a portion of the walkway adjacent to the circular driveway will be covered by 11'8" feet high solar canopies which are expressly prohibited in the R-15 Zone. The locations of the footings of the solar canopies are not indicated on the plans to demonstrate whether they will impact the functionality of the adjacent parking spaces and minimum required dimensions.
5. Landscaping. The landscape plans indicated that a total of 29 trees will be removed and 91 trees will be planted. The landscape plan features a variety of shade trees, understory trees and shrubs as indicated on sheet LP101 of the landscape plans. A variety of perennials, grasses, sedges and bulbs will be planted in phases though it is unclear how these phases will be implemented. The following additional comments are offered with respect to the proposed landscaping and applicable DRO requirements:
 - A. The Applicant shall address the landscape requirements for parking lots of 10 spaces or more per Section 35-14.1.P.2.I.
 - B. Per Section 35-14.1.P.2.m. street trees shall be provided along all rights-of-way at a minimum spacing to be approved by the City Forester.
 - C. The Applicant shall address compliance with Section 35-14.1.L.2.a. which requires that a minimum of 5% of the lot area shall have landscape plantings.
 - D. The Applicant shall demonstrate compliance with the green roof requirements contained in Section 35-9.9.F.

6. Lighting. The proposed site lighting includes freestanding lighting fixtures around the parking area, bollard lights around pathways, building mounted lights, column mounted lights, fixtures under the solar canopies and fixtures under the benches in the front yard area. The proposed lighting plan appears to be compliant though we defer to the Board Engineer. All site lighting shall be capped at a maximum color temperature of 3,500 Kelvin and shall be designed to minimize impact to surrounding uses and the public roadway.
7. Signage. Two freestanding stainless steel signs are proposed west of the driveway with front yard setbacks of 9 feet and 10 feet intended to face each direction of Springfield Avenue. The Applicant shall confirm if these signs will be illuminated. The wall-mounted religious symbols do not appear to constitute regulated signs and are therefore compliant.
8. Playground. A playground area will be installed immediately north of the building. This area will be partially enclosed with compliant 4 foot high black wire mesh fencing. Details of the playground equipment and materials are provided on sheet (L-300) of the landscape plans.
9. Garbage and Recycling. A trash enclosure composed of 9 foot high fencing is proposed immediately west of the building near the central outdoor space.
10. Equipment. The Applicant shall confirm the proposed locations for all ground and roof mounted equipment and demonstrate that all equipment will be sufficiently screened. A transformer will be located in the southwest corner of the site approximately 16 feet from the front lot line. This area will be leveled with maximum 4 feet high retaining walls. It is our understanding that an emergency generator is located at the rear of the building which should be clearly identified on the plans.

Master Plan

2000 Master Plan

The City's 2000 Master Plan sets forth the following applicable goals, objectives and policies:

1. *Balance growth and development opportunities with the established pattern of development and existing infrastructure.*

The applicant shall demonstrate the extent to which the proposed development is consistent with the surrounding neighborhood with respect to use, functionality and design features.

2. *Encourage a balanced development pattern, which will protect and enhance long-term economic and social interests of present and future residents in order to maintain and improve the City's overall quality of life.*

The house of worship is recognized as an inherently beneficial use, or one of having universal community value. The applicant shall address the merits of the proposed development and any potential negative impacts to the surrounding community, and particularly, the adjacent residential properties.

3. *To promote a desirable visual environment through creative and flexible development techniques with respect to environmental assets and constraints of the City.*

The applicant shall demonstrate the extent to which the proposed building is consistent with the surrounding development and character of Summit in general.

4. *To clearly define commercial and industrial areas with natural boundaries and effective buffers.*

Though the house of worship is not a commercial use, the Applicant shall address the adequacy of the proposed nonconforming side and rear buffers.

5. *To recognize the city's role as a regional center without impacting quality of life of its residents.*

The extent to which the church may serve residents of the City of Summit is irrelevant when reviewing a development application for a house of worship. In reviewing this application, the Board's focus should be on the four prong SICA case law criteria provided below governing the review of inherently beneficial uses in accordance with the Municipal Land Use Law.

6. *To provide for adequate parking and adequate loading and unloading facilities.*

A critical component of this application relies on the Applicant's ability to demonstrate the adequacy of their parking plan in relation to the proposed programming of the facility.

7. *To recognize and preserve the historic character of the City.*

The Applicant shall address how the proposed building relates to the City's design vernacular, particularly along Springfield Avenue in the vicinity of the site. The property does not appear to be listed on any of the City's inventories of historic sites.

8. *Land development should be designed to protect and enhance the quality and diversity of the City and to protect neighborhoods from the intrusion of inappropriate or incompatible uses.*

The Applicant shall address impacts to surrounding residential development and the appropriateness of the proposed development given the site's context in the community.

9. *The City will consider and evaluate innovative development and zoning proposals which would enhance and protect the City's diverse character, economic vitality and overall high quality of life.*

Again, the Applicant shall address the development's consistency with the existing use of the site, surrounding development and the City of Summit in general.

III. ZONING

The site is located in the R-15 Zone wherein the proposed house of worship is a permitted conditional use. The Stated purpose of the R-15 Zone is *"to preserve the integrity of existing single-family residential areas by preventing the intrusion of nonresidential uses into residential neighborhoods and by maintaining existing development intensity and population density consistent with single-family residential neighborhood patterns. A compatible relationship between new or expanded houses and traditional neighborhood houses that reflect the best of the neighborhood character, particularly in terms of scale, siting, design features and orientation on the site is encouraged."*

The zoning table below indicates the R-15 bulk requirements as compared to the existing and proposed conditions.

Table 1 - R-15 Zone Conditional Use Requirements

Zone	Conditional Use	Existing	Proposed
Min. Lot Area	2 ac	1.74 ac	1.74 ac (V)
Min. Lot Frontage	200 ft	246.1 ft	246.1 ft
Min. Front Yard	50 ft	91.8 ft	42.7 ft (V)
Min. Rear Yard	50 ft	181.8 ft	89.8 ft
Min. Side Yard (One)	50 ft	26.8 ft, >50 ft	57.3 ft, 24 ft (V)
Min. Combined Side Yard	N/A	N/A	N/A
Max. Lot Coverage	40%	30.1%	47.5% (V)
Max. Building Coverage	15%	4%	15.6% (V)
Max. Building Height	35 ft/2 sty	<35 ft/2 sty	37.9 ft/2 sty (V)
Max. FAR	25%	<25%	25.4% (V)
Min. Side Buffer Strip	20% Lot Width (not to exceed 50 ft)	N/A	10.4 ft, 9.8 ft (V)
Min. Rear Buffer Strip	20% Lot Depth (not to exceed 50 ft)	N/A	15 ft (V)
Min. Parking	1 space/3 seats or 10 sq ft of GFA (whichever is greater)	27	To be confirmed
Min. Parking Setback	20 ft	N/A	15 ft (V)

(V) Variance relief required; (E) Existing nonconforming condition.

Required Variance Relief

The development application requires the following variance relief:

1. 'd'(1) Use Variance. In accordance with Section 35-9.9.O.4.a., solar array canopies are considered accessory uses that are expressly prohibited in residential zones where the proposed site is located in an R-15 Zone.

2. 'd'(3) Conditional Use Variance

The proposed house of worship is a permitted conditional use in the R-15 Zone. The application proposes several deviations from the conditional use requirements for houses of worship set forth in section 35-11.2.C. of the DRO as listed below.

- A. Min. Lot Area. A minimum lot area of 2 acres is the required for houses of worship where the site has a nonconforming lot area of 1.74 acres. This represents a deviation of 11,325.6 square feet.
 - B. Min. Front Yard Setback. The church building will have a nonconforming front yard setback of 42.7 feet where a minimum front yard setback of 50 feet is required. This represents a deviation of 7.3 feet or 14.6%.
 - C. Min. Side Yard Setback. The western building side yard setback is a nonconforming 24 feet where a minimum side yard setback of 50 feet is required. This represents a deviation of 26 feet or 52%.
 - D. Max. Building Height. The proposed building height is 37.9 feet where a maximum height of 35 feet is permitted. This represents a deviation of 2.9 feet or 8.3%.
 - E. Maximum Lot Coverage. The proposed development will result in a nonconforming lot coverage of 47.5% where a maximum lot coverage of 40% is permitted. This represents a deviation of 5,685 square feet.
 - F. Max. Building Coverage. The proposed combined building coverage of 37.2% exceeds the maximum permitted conditional use standard of 15%. It is noted that Lot 1 has an existing building coverage of 62.2% and lot 2 has a coverage of 33.05%.
 - G. Min. Side Buffer. A minimum buffer of 47 feet (20% lot width) is required along each side lot line where nonconforming buffers of 10.4 feet and 9.8 feet are proposed.
 - H. Min. Rear Buffer. A minimum buffer of 50 feet is required along the rear lot line where a nonconforming 15 foot buffer is proposed.
 - I. Min. Parking Setback. A minimum parking setback of 20 feet is required where a nonconforming parking setback of 15 feet is proposed.
3. 'd'(4) FAR Variance. The R-15 Zone permits a maximum floor area ratio of 25% where the proposed house of worship will have a nonconforming FAR of 25.4% which represents a deviation of 303.18 square feet.

4. 'c' Variances

- A. 'c' Min. Parking Requirement. The site will contain a total of 42 parking spaces where at least 100 parking spaces is required. The Applicant shall confirm the parking requirement as indicated above.
- B. 'c' Parking Location. In residential zones, all parking areas shall be located either in the required rear yard or in the buildable area of the lot in accordance with Section 35-14.P.5.a. where less than half of the proposed spaces are located in compliant locations.
- C. 'c' Min. Side Buffer. A buffer of at least 20% the lot width (47 feet each) is required along both side lot lines where the western side buffer is 10.4 feet wide and the eastern side buffer is approximately 10 feet wide requiring variance relief. The Applicant shall address the buffer requirements contained in Section 35-14.7.B.
- D. 'c' Min. Rear Buffer. A buffer of at least 20% the lot depth not to exceed 50 feet is required along the rear lot line where the proposed buffer is 15 feet wide.
- E. 'c' Minimum Parking Area Trees. 1 shade tree is required in the parking area for every 10 parking spaces, or 4.2 trees in this case (42 spaces/10), where no trees are provided.
- F. 'c' Canopy above EV station prohibited. Section 35-9.9.E.5. prohibits canopies and similar roof-like structures above EV charging stations. It is unclear if the charging equipment is located directly under the canopies or deviates from the intent of this requirement.
- G. 'c' Max. Freestanding Sign Area. Both freestanding signs will have nonconforming sign areas of approximately 18 square feet where a maximum sign area of 12 feet is permitted.
- H. 'c' Max. Sign Letter Height. The freestanding signs will have nonconforming letter height of 7.5 inches where a maximum letter height of 6 inches is permitted.
- I. 'c' Max. Number of Freestanding Signs. 1 freestanding sign is permitted where, technically, two freestanding signs are proposed.
- J. 'c' Min. Active Accessory Structure Setback. The proposed patio and seating area located in the western side yard area will have a nonconforming side yard setback of 10.4 feet where a minimum setback of 15 feet is required for "active" accessory structures.

IV. STATUTORY CRITERIA

The Applicant is required to address the following statutory criteria for the requested 'd' and 'c' variance relief:

Religious Land Use and Institutionalized Persons Act (RLUIPA).

In reviewing this application involving a house of worship, the Board should bear in mind the Religious Land Use and Institutionalized Persons Act of 2000. In brief, this Federal law establishes the following:

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly or institution:

- 1. is in furtherance of a compelling governmental interest; and,*
- 2. is the least restrictive means of furthering that compelling governmental interest.*

SICA Test for Inherently Beneficial Use Variances (Applies to House of Worship)

Though typically applied to 'd'(1) use variances for inherently beneficial uses, the SICA balancing test should be considered in evaluating this development application for a house of worship. Inherently beneficial uses are considered to have satisfied the positive criteria set forth in N.J.S.A. 40:55D-70(d) of the Municipal Land Use Law. In the decision *Sica v. Board of Adjustment of the Township of Wall et al.*, the Supreme Court stated that, in reviewing applications with inherently beneficial uses, the board must:

1. Identify the public interest at stake;
2. Identify the detrimental effect that will ensue from the grant of the variance, recognizing that certain impacts will result from permitting a use not normally permitted in a zone. When minimal, such impacts need not outweigh an inherently beneficial use that satisfies the positive criteria;
3. Impose reasonable conditions to reduce prospective detrimental effects, and
4. Weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good.

To address the "negative criteria," the applicant must demonstrate that the proposed variance can be granted "without substantial detriment to the public good" nor will the granting of the variance "substantially impair the intent and the purpose of the zone plan and zoning ordinance" of the municipality.

'd'(1) Use Variance Relief (Medici) (Applies to Solar Canopies)

The Municipal Land Use Law (MLUL) sets forth the statutory positive and negative criteria for variance relief. It permits a Zoning Board of Adjustment to grant a 'd' variance "in particular cases and for special reasons." The courts have determined that special reasons include a showing by the applicant that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the local master plan. This is the "positive criteria" of the statute.

An applicant for a 'd'(1) use variance is obligated to address the planning issues raised in *Medici v. BPR, Co.*, 107 NJ 1 (1987). In accordance with the guidelines set forth in *Medici*, an applicant for a use variance must demonstrate that special reasons are satisfied by either showing that the proposed use is one which "inherently serves the public good" or that the proposed use promotes the general welfare because the proposed site is particularly suitable for that use. The *Medici* decision provides that in conjunction with the demonstration of the negative criteria, an enhanced quality of proof must be demonstrated to indicate that the grant of the requested use variance is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance.

'd'(3) Conditional Use Variance

The existing house of worship constitutes an 'inherently beneficial' use. The Municipal Land Use Law (MLUL) defines 'inherently beneficial use' as a use which is "universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare" that is generally held to satisfy the positive criteria of the statutory requirements.

Coventry Square, Inc. v. Westwood, 138 N.J. 285 (1994) provides guidance for Boards of Adjustment in evaluating applications deviating from conditional use requirements. The case established that in considering such applications Boards must consider whether the site continues to function well despite failure to comply with conditional use standards. In addition, the applicant must address the positive and negative criteria, specifically identifying the special reasons for granting variance relief and that the development will not pose a substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning ordinance.

'd'(4) FAR Variance

The application requires variance relief pursuant to N.J.S.A. 40:55D-70d(4) for the proposed floor area ratio (FAR) which exceeds the zone's maximum permitted FAR of 25%. An applicant requesting a 'd' variance must demonstrate that special reasons exist for the granting of the variance, and that the granting of the variance will further the purposes of the Municipal Land Use Law (MLUL). This is referred to as the positive criteria. In addition, the applicant must address the negative criteria by proving there will be no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Ordinance.

In *Randolph Town Center v. Randolph*, 324 N.J. Super. 412, 416 (App. Div. 1999), the Appellate Division held that a 'd'(4) FAR variance is more akin to a 'd'(3) conditional use variance than a 'd'(1) use variance. As such, the standard established for 'd'(3) variance requests in *Coventry Square v. Westwood Board of Adjustment*, 138 N.J. 285, 298-299 (1994) was applied to 'd'(4) variances. Specifically, the applicant is not obligated to show the particular suitability of the site as required for a 'd'(1) variance, but rather that the site can accommodate the problems associated with the proposed permitted use with a larger FAR than permitted by ordinance.

'c'(1) / 'c'(2) Variances

The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:

1. **Physical Features Test:** An applicant may be granted 'c'(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
2. **Public Benefits Test:** An applicant may be granted 'c'(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

In addition to the above, an applicant must address the Negative Criteria of the statute. To meet the negative criteria, an applicant must demonstrate the variance can be granted without substantial detriment to the public good and it will not substantially impair the intent and the purpose of the master plan and zoning ordinance.