



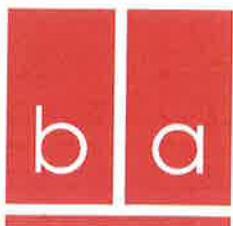
## ZB / PB ~ STAFF COMMENTS TRACKING WORKSHEET

<b>Address:</b>	96 Fernwood Road
<b>Application #:</b>	ZB-25-2294
<b>Description/Variances:</b>	Planting Plan and Revised Variance Plan.
<b>Sent to Staff for Comments:</b>	November 18, 2025
<b>Due Date:</b>	November 24, 2025

<b>Staff / Commission / Consultant</b>	<b>Delivery Method</b>	<b>Report Attached with Comments</b>	<b>Report Attached with No Objections</b>	<b>Not Submitted</b>	<b>Not Required</b>
Engineering: Colliers	<input type="checkbox"/> Paper <input type="checkbox"/> Email	✓			
Board Planner Burgis Associates	<input type="checkbox"/> Paper <input type="checkbox"/> Email	✓			

### AT DUE DATE / UPON RECEIPT FROM ALL STAFF:

<b>Sent to Applicant:</b>	_____/_____/_____
<b>Sent to Attorney:</b>	_____/_____/_____



COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

B U R G I S  
A S S O C I A T E S , I N C .

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 & Tom Behrens, PP, AICP  
Subject: Caponetti Residence (ZB-25-2294)  
96 Fernwood Road  
Block 2105 Lot 34  
'c' Bulk Variance Request  
Date: November 24, 2025  
BA#: 4269.48

### I. INTRODUCTION

The applicants, Christopher and Abigail Caponetti, have submitted revised plans and supplemental application materials in their request for 'c' variance relief to replace the existing rear patio with a new blue stone patio in the same general location, including an outdoor kitchen and associated landscaping. The property is located in the R-25 wherein the existing/proposed detached single-family dwelling is a permitted principal use.

This memorandum is intended to provide an overview of the proposed plan revisions and required variance relief. Please refer to our prior review memorandum dated September 11, 2025 for a comprehensive overview of the proposed improvements and site conditions.

### II. DOCUMENTS SUBMITTED

Our office has received and reviewed the following application documents:

1. Response letter prepared by Careaga Engineering, Inc. dated November 13, 2025.
2. Variance plans (2 sheets) prepared by Careaga Engineering, Inc. last revised November 4, 2025.
3. Landscape plan (1 sheet) prepared by Outdoor Digs, LLC dated November 13, 2025.

### III. REQUIRED VARIANCE RELIEF

The development application requires the following variance relief:

1. **'c' Maximum Lot Coverage.** The R-25 Zone permits a maximum lot coverage of 30% where the property has an existing nonconforming lot coverage of 31.4% that will be increased to 33.3% as a result of the proposed improvements. The applicant shall confirm the extent to which existing and proposed improvements that have not been accounted for might impact this calculation.

2. 'c' Minimum Side Yard Setback. The R-25 Zone requires a minimum side yard setback of 17 feet, including accessory structures attached to the principal building, where the attached patio will have a nonconforming side yard setback of 12.5 feet from the south side lot line.
3. 'c' Maximum Steep Slope Disturbance. The proposed improvements will result in steep slope (>15%) disturbance of 1,485 square feet in the rear southwest corner of the property where a maximum stee slope disturbance of 1,000 square feet is permitted.

#### IV. GENERAL COMMENTS

1. The applicant shall confirm the extent of all proposed improvements.
2. The applicant shall discuss the extent to which the existing 10 foot wide utility easement that traverses the northern rear half of the property impacts the proposed retaining wall and planting within the easement.
3. A landscape plan has been provided which includes the following:
  - A north arrow should be added to the plans.
  - Rows of Green Giant Arborvitae along the side and rear lot lines surrounding the rear yard and along the northern side lot line terminating near the street.
  - One Ginko and one Natchez Crape Myrtle trees are proposed in the rear yard.
  - Landscape beds around the rear patio, in the northwest corner of the rear yard and northeast corner of the driveway include a variety of shrubs, perennials, grasses and groundcover as indicated on the plan.
4. The applicant's engineer's response letter confirms that no exterior lighting is proposed.
5. 6 foot high solid fencing of style to be determined is depicted along the rear lot line and segment of the south side lot line. The landscape plan depicts a 4 foot high deer fence above the retaining wall. The applicant shall clarify the proposed fence height and style. It is noted that the retaining wall appears to exceed 4 feet in certain locations where a maximum combined wall/fence height of 10 feet is permitted. The Applicant shall confirm if variance relief is required from the maximum 10 foot combined wall/fence height requirement.

\*Should the application be approved, the Applicant are hereby noticed to read the Zoning Board resolution of approval making note of all required conditions. It is the applicant's responsibility to take action necessary to meet the stated conditions prior to submitting a construction permit. Failure on the part of the applicant to meet the conditions will result in unnecessary delay in processing the construction and grading permit applications, as applicable.

## V. STATUTORY CRITERIA

The following is a summary of 'c' variance criteria required to be addressed by the Applicant:

### **'c'(1) / 'c'(2) Variance Relief**

The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test as described below. The Applicant may apply one or both of these tests in providing justifications for their 'c' variance requests.

- A. 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.
- B. 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 MLUL; 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, the applicant must address the Negative Criteria of the statute. Specifically, the Applicant must demonstrate: 1) the variance can be granted without substantial detriment to the public good; and 2) that granting the relief will not substantially impair the intent and purpose of the master plan and zoning ordinance.

## Memorandum

To: Zoning Board  
From: Marie Raffay, P.E.  
Date: November 24, 2025  
Subject: 96 Fernwood Road  
**Review #2**  
Block 2105, Lot 34  
Summit, Union County, NJ

Summit No.: ZB-25-2294

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We have reviewed the application and associated submissions prepared by the Applicants, Christopher and Abigail Caponetti of the subject property as referenced below. For ease of review, our updated comments are in **bold**:

- a. Application to Zoning Board of Adjustment, signed, dated May 20, 2025;
- b. Department of Community Services (DCS) Application for Development Worksheet, dated March 21, 2025;
- c. Zoning Board Application Checklist, dated May 20, 2025;
- d. Narrative Description of Proposed Plan for 96 Fernwood Road, prepared by Brian W. Fahey, Jr, Esq. dated May 23, 2025;
- e. Certified List of Property Owners within 200 feet, with map;
- f. Certification of Payment of Taxes, dated 2/28/25;
- g. Survey Map prepared by Apgar Associates dated July 18, 2020.
- h. **Careaga Engineering Inc. Response Letter dated November 13, 2025;**
  - i. Variance Plan, entitled "Variance Plan, 96 Fernwood Road, Lot, 34, Block 2105, Situated in City of Summit, Union County, New Jersey", prepared by Jeffrey Careaga of Careaga Engineering Inc, consisting of one (1) sheet, dated 4/30/2024, **last revised 11/4/2025**;
  - j. Soil Erosion and Sediment Plan, entitled "Soil Erosion and Sediment Plan, 96 Fernwood Road, Lot, 34, Block 2105, Situated in City of Summit, Union County, New Jersey", prepared by Jeffrey Careaga of Careaga Engineering Inc, consisting of one (1) sheet, dated 4/30/2024, **last revised 11/4/2025**;
  - k. **Planting Plan prepared by Outdoor Digs, LLC, consisting of one (1) sheet, dated 11/13/2025.**

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

1. The 15,631 square foot (0.36-acre) property is located on the west side of Fernwood Road, approximately 205 feet north of Brantwood Drive.
2. The property is in the R-25 Single-Family Residential Zone, with surrounding properties in the same zone and across the street from the R-15 zone.
3. The property is a rhombus in shape with 95 feet of frontage along Fernwood Road, an average depth of 165 feet and a rear yard width of 95 feet.
4. The property slopes down from the south-east corner at elevation 358 to the western property line at elevation 348. The southwest corner has 1,534 square feet of steep slopes.
5. The property is encumbered with a 10-foot-wide sanitary easement extending from the center of the northern property line diagonally to the center of the rear property line.
6. The property is currently improved with a dwelling, porch, walkways, asphalt driveway, slate patio, and related site improvements. The Applicant should provide testimony on the existing conditions on the property.
7. The Applicant is proposing to demolish the existing slate patio at the rear of the dwelling to construct a newly configured blue stone patio, improved stairs, additional walls, an outdoor kitchen, and additional landscaping. The Applicant should confirm the proposed improvements in testimony.
8. The Applicant is seeking a variance for disturbance of 1,485 square feet of steep slopes in excess of 15 percent where 1,000 square feet of disturbance is permitted. The disturbance will be accomplished with the use of retaining walls along the rear and southern property line to level the rear yard behind the proposed patio.
9. The Applicant is also seeking a variance for lot coverage of 33.3% where the maximum permitted in the R-25 zone is 30%. The existing lot coverage is 4,912 square feet where the proposed coverage is 5,211 square feet for an increase of 299 square feet of additional impervious coverage. The Applicant should confirm the coverage and if the walls were included in the impervious coverage. **The Applicant has confirmed that all existing and proposed walls were not included in the impervious coverage calculations. The Applicant should provide testimony.**
10. The increase in impervious coverage of 299 square feet is less than 300 square feet so no stormwater mitigation is required. The Applicant should be aware that any increase in impervious coverage in excess of 300 square feet will require stormwater mitigation as required by Summit Ordinance Section 35-15.2E. **The Applicant has proposed an additional stormwater drywell to mitigate runoff from the additional impervious coverage. The proposed drywell appears**

**to be connected to an existing drywell. The Applicant should provide testimony regarding the combined storage capacity of the proposed and existing drywells to demonstrate that the system can adequately accommodate the total tributary area being collected.**

11. The Applicant is proposing to build the new patio configuration encroaching into the side and rear yard setback. We defer to the Board Planner for review and comment on whether or not a variance is required.
12. Testimony should be provided by the Applicant regarding the heights of the proposed walls along the south property line and the rear of the lot. It appears the wall height exceeds 4 feet at one location. We defer to the Building department for review and approval of the wall. **The top and bottom wall elevations along the southern property line are variable and shown to reach 3.85 feet in height near the corner of the property. The Applicant shall ensure that building permits are obtained for all walls greater than 4 feet in height.**
13. The Applicant should provide testimony on the proposed grading on site and where runoff will be directed for the site improvements.
14. The Applicant should provide testimony regarding the utility easement and ensure that the proposed boulder wall will not impact this area, and open access will remain for the existing easement on site during construction.
15. The Applicant should provide the location of all trees greater than eight inches in diameter particularly within the area of steep slopes. **The plans have been revised to include the location of all trees that are greater than eight inches in diameter.**
16. We defer to the City Forester for review and approval of landscaping on site.
17. The Applicant is proposing to disturb 4,457 square feet of the lot. The Applicant should be aware that lot disturbances greater than 5,000 square feet require a soil permit from Somerset-Union Soil Conservation District. The Applicant should revise the Soil Erosion and Sediment Control Plan to reflect the correct Soil Conservation District.
18. 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.
19. 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.
20. 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 shall 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/gd

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