



TOWNSHIP OF FRANKLIN
Board of Adjustment
Agenda
Thursday, September 24, 2026

SUNSHINEÂ LAW

ROLL CALL

MINUTES

RESOLUTION

Ukrainian Orthodox Church of USA / ZBA-25-00007

APPROVED

[RESOLUTION.docx](#)

Ukrainian Orthodox Church of USA / ZBA-25-00008

APPROVED

[RESOLUTION.docx](#)

Syracuse 1950 Easton Avenue Owner LLC / ZBA-25-00009

APPROVED

[RESOLUTION.docx](#)

Raritan Valley Habitat for Humanity / ZBA-26-00007 (main st)

APPROVED

[RESOLUTION.docx](#)

Raritan Valley Habitat for Humanity / ZBA-26-00007 (kossuth st)

APPROVED

[RESOLUTION.docx](#)

HEARING

TAWHEED DAHWAH CENTER / ZBA-24-00017

Amended Preliminary and Final Site Plan plus Relief of Condition in which the applicant is proposing construction of a 19,350sqft place of worship at 630 South Middlebush Road, Somerset; Block 37.02 Lot 46.03 in zone A

DL 10/01/2026

<https://www.franklintwpnj.org/committees-commissions/zoning-board-of-adjustment/application-material/tawheed-dahwah-center-zba-24-00017/-fsiteid-1#!/>

CARRIED to October 01, 2026 – no further notification required

TRC REVISED report 09.10.26.pdf

SCPb 09.08.26.pdf

D&R 03.17.26.pdf

EC report 02.17.26 ng.docx

ADJOURNMENT

**THE TOWNSHIP OF FRANKLIN BOARD OF ADJUSTMENT
SOMERSET COUNTY, NEW JERSEY
UKRAINIAN ORTHODOX CHURCH OF U.S.A. (ZBA-25-00007)
135 DAVIDSON AVENUE**

WHEREAS, UKRAINIAN ORTHODOX CHURCH OF U.S.A. (hereinafter referred to as “Applicant”), being the owner of the property located at 135 Davidson Avenue, in the Township of Franklin, County of Somerset, State of New Jersey, said premises also being known as Block 469, Lot 1.06 (hereinafter referred to as the “Site” or the “Property”) as is indicated on the official Tax Assessment Map for the Township of Franklin (hereinafter referred to as the “Township”), has applied to the Township of Franklin Board of Adjustment (hereinafter referred to as the “BOARD”) seeking a “d(2)” variance and Preliminary & Final Site Plan approval in which the proposal consists of site modifications associated with the retention of certain existing (church and seminary) facilities on the Site.

WHEREAS, Applicant submitted an application packet with attachments, which were considered by the BOARD, which included the following:

1. Application packet for variance relief, signed by the Applicant, dated January 31, 2025, consisting of seven (7) pages;
2. Application packet for site plan approval, signed by the Applicant, dated January 31, 2025, consisting of six (6) pages;
3. Preliminary and Final Major Site Plan, prepared by Langan Engineering NJ, LLC, last revised July 18, 2025, consisting of twenty-five (25) sheets;
4. Survey, prepared by Langan Engineering NJ, LLC, last revised November 24, 2024, consisting of six (6) sheets;
5. Letter from Langan Engineering NJ, LLC, dated March 13, 2025, regarding parking, consisting of one (1) page;
6. Letter from Savo Schalk, dated March 26, 2025, regarding parking, consisting of two (2) pages;
7. Parking Evaluation, prepared by Langan Engineering NJ, LLC, dated October 22, 2025, consisting of four (4) pages;
8. Environmental Assessment, prepared by Langan Engineering NJ, LLC, last revised July 31, 2025, consisting of eighty-seven (87) pages;
9. Final Geotechnical Engineering Study Report, prepared by Langan Engineering NJ, LLC, dated January 10, 2025, consisting of one hundred and ninety (190) pages;

10. Stormwater Management Facilities Operation and Maintenance Manual, prepared by Langan Engineering NJ, LLC, last revised July 31, 2025, consisting of twenty-six (26) pages;
11. Stormwater Management Report, prepared by Langan Engineering NJ, LLC, last revised July 18, 2025, consisting of thirty-five (35) pages;
12. Environmental Constraints Plan, prepared by Langan Engineering NJ, LLC, dated January 17, 2025, consisting of six hundred and eighty-four (684) sheets; and,
13. Traffic Impact Study, prepared by Langan Engineering NJ, LLC, last revised July 23, 2025, consisting of ninety-five (95) pages.

WHEREAS, the Township officials and outside agencies submitted memos, which were considered by the BOARD, which included the following:

1. Memorandum from Mark Healey, PP, Township Director of Planning/Senior Zoning Officer, dated August 14, 2025, consisting of seven (7) pages;
2. Memorandum from Darren Mazzei, PE, CME, Township Engineer, Center State Engineering dated, September 11, 2025, consisting of seven (7) pages;
3. Memorandum from Officer Ryan Ellington, Franklin Township Police, Traffic Safety Bureau, dated September 22, 2025, consisting of one (1) page;
4. Memorandum from John Hauss, Township Fire Prevention Director, dated August 25, 2025, consisting of one (1) page;
5. Memorandum from Rashida Boima, REHS, MPH, Township Department of Health, dated September 2, 2025, consisting of one (1) page;
6. Memorandum from Tara Kenyon, AICP/PP, Sustainability Coordinator, Township Environmental Commission, dated April 8, 2025, consisting of two (2) pages; and,
7. Memorandum from William E. Korosec, PE, Consulting Engineer, Franklin Township Sewerage Authority, dated May 8, 2025, consisting of two (2) pages.

WHEREAS, the Applicant introduced, and the BOARD admitted, various Exhibits as follows:

- a. A-1 – Slide Presentation (September 18, 2025 hearing).
- b. A-2 – Subdivision Plat, last revised 1/23/25 (September 18, 2025 hearing).
- c. A-3 – Minor Subdivision Plot, Drawing No. CB-102, submitted as part of the subdivision application (November 6, 2025 hearing).

- d. A-4 – Colorized Site Plan Rendering submitted with warehouse application (Application No. ZBA-25-00009) (November 6, 2025 hearing).
- e. A-1 – Site Plan Drawings, prepared by Langan Engineering NJ, LLC, dated March 5, 2026 (March 5, 2026 hearing).
- f. A-2 – Architectural Elevations and Building Façade Details, prepared by NELSON, dated March 5, 2026 (March 5, 2026 hearing).
- g. A-3 – Colorized Creation Parcel Site Plan Rendering depicting proposed warehouse layout, parking, loading areas, landscaping, and lot lines, dated March 5, 2026 (March 5, 2026 hearing).
- h. A-1 – Ordinance No. 4501-26 Releasing, Extinguishing and Vacating a Portion of Executive Drive (May 7, 2026 hearing).

WHEREAS, at the conclusion of the hearing, the Applicant seeks variance relief from the Township’s Code as follows:

Section 112, Schedule 1 – To permit the expansion of a non-conforming use.

WHEREAS, the BOARD determined it had jurisdiction and upon due notice as required by law, public hearings were conducted on September 18, 2025, November 6, 2025, March 5, 2026, May 7, 2026 and June 18, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN, the BOARD hereby makes the following findings of fact:

1. The Site is located in the Business & Industry (B-I) Zoning District.
2. Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC. The overall project site is the subject of three (3) related applications, as follows: ZBA-25-00007, in which the Applicant is seeking a “d(2)” variance and Preliminary & Final Site Plan approval with respect to site modifications associated with the retention of certain existing (church, library, museum, seminary, and other church related uses) facilities on the Site; ZBA-25-00008, in which the Applicant seeks a “d(2)” variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels; and, ZBA-25-00009, an application on behalf of Syracuse 1950 Easton Avenue Owner, LLC, in which the Applicant is seeking a “d(1)” use variance, Preliminary & Final Site Plan with associated “c” variances to build a 258,150 square foot warehouse.
3. Mr. Lanfrit asked that the witnesses that were involved in all three (3) applications be able to provide overarching testimony as to the project. Mr. Bernstein, BOARD

Attorney, indicated that they may not have to come up three (3) times, but they were going to have to be clearly separated between which application was which because each one of these applications was different and not just one (1) big application – it was a series of applications. He then indicated that the testimony could be taken all at once, but the BOARD was ultimately going to have to decide and end up breaking up some of this as it hears it based upon what their questions are and what the public has to say. Mr. Lanfrit stated that they would need separate resolutions for each application because he thought it would be in the best interest of both the BOARD and the applicants that there were separate resolutions for the church and for the warehouse, as well as a separate resolution for the subdivision.

4. Mr. Bernstein then asked if anyone in the chamber asked to speak on behalf of a group of individuals in the public, either as legal counsel or as a designated spokesperson. He explained that if anyone was obtaining that status, that would preclude other members of the public upon whom you are representing from coming up and speaking, either in a cross-examination situation or at the end of the application.
5. Vice Chair Shepherd then indicated that he was listening about the three (3) witnesses that would be providing overarching testimony. He added that his concern was that after they provided their testimony, there may be issues that come up later which would require additional information from them. He went on further to state that he would want to be sure that those witnesses, even after they testify, would remain available throughout however long it takes. Mr. Lanfrit assured the Vice Chair that every witness who gave testimony that evening would also be available at the next hearing should the matter be carried to another hearing.
6. Mr. Alexander Tiran came to the podium and asked if he could respectfully raise procedural questions before the testimony begins. He stated that he was just representing himself. Mr. Bernstein, BOARD Attorney, stated that he could not at this point.
7. Mr. Lanfrit then stated that they were there that evening to present testimony on three (3) separate applications. He indicated that there was an application before the BOARD to subdivide the parcel of land that was currently owned by the church that consisted of 32 acres. He noted that the subdivision that they were seeking approval for was to create a fourteen point nine (14.9) acre parcel to be retained by the church and a seventeen point seven (17.7) acre parcel which would be used for the construction of the warehouse. He then told the BOARD that the subdivision was a conforming subdivision and met all of the requirements of the zoning code and is an “as of right” subdivision with respect to the bulk requirements of the zone. Mr. Lanfrit added that they were also seeking a d(2) variance with respect to the lot containing the existing church and a d(1) Use Variance for the proposed warehouse. He reminded the BOARD and the public that warehouses were a permitted use in the B-I Zone, but then they were removed from the B-I Zone and may be back in the B-I Zone before these hearings conclude. He then stated that they were also seeking a “d(2)” Variance for the church because when the church conveyed off land, the land that they were going to convey to

the warehouse, it is technically called an expansion of a non-conforming use because the church right now is a non-conforming use in the B-I Zone.

8. Vice Chair Shepherd then asked how the church could have an expansion of a non-conforming use if they were reducing the size of their property. Mr. Lanfrit explained that because the church right now was a non-conforming use in the B-I Zone, the church is on thirty two (32) acres and would be on fourteen (14) acres if the subdivision was granted. He added that the church was functioning on thirty two (32) acres and would now be functioning on fourteen (14) acres, so the same activities would be functioning on fourteen (14) acres and, technically, on the fourteen (14) acres the potential use was more intense, which triggers the need for a D(2) variance (expansion of a non-conforming use).
9. Mr. Lanfrit then indicated that, lastly, they were before the BOARD for Preliminary and Final Site Plan approvals for both the church site and the warehouse. He added that the church site had certain modifications, which included reconfiguration of the parking and some stormwater management. Mr. Lanfrit indicated that there were no structures being proposed on the church site. They were also seeking Preliminary and Final Site Plan approval for the warehouse; however, with both applications they received staff reports from the Township Engineer, Mr. Darren Mazzei, who had some concerns that they needed more information regarding stormwater management, which he stated they were in the process of obtaining and providing. Because they did not have all of that information, they would be requesting only a Preliminary Site Plan approval for both the church and the warehouse and coming back for a Final Site Plan approval after they provided the storm water management to the Township Engineer. Mr. Mazzei stated that he agreed with that process.
10. Mr. Bernstein interjected by saying that there may be other reasons for it not to be granted a Final Site Plan approval above and beyond the stormwater management issue. Mr. Mazzei agreed with that statement.
11. Mr. Lanfrit then indicated that all of the applications were presented to the Franklin Township Historic Commission and the Historic Commission conducted three (3) hearings on these applications. He added that they reviewed the subdivision, they reviewed both site plans and had requested some changes to the plans which Applicant made. Additionally, Mr. Lanfrit stated that all three (3) of the applications were approved and the Historic Commission granted approval for the demolition of the cultural center, which was on the site where the warehouse was going to be constructed. Since the property was within 1,000 ft. of the Delaware & Raritan Canal, you have to go to the Historic Commission before you can get approval to demolish something and they have already done so and the approval had been obtained. He added that all three (3) applications had been submitted to the Delaware & Raritan Canal Commission (DRCC) and have all been reviewed by them and have found no fault with the applications and were just waiting for the municipal approval and County approval which were required before they can formally approve the application.

12. Mr. Bernstein explained that he didn't want to leave the public the wrong assumption here. He explained that the demolition issue is not an issue before the BOARD, irrespective of where it exists, and Mr. Lanfrit concurred. Mr. Bernstein went on to state that the granting of a demolition permit by the Historic Preservation Commission would not be an issue before this BOARD, irrespective of the application. Mr. Lanfrit agreed that the BOARD did not have any jurisdiction over demolition. Mr. Bernstein added that the Historic Preservation Commission deals with historic preservation. Any approvals or any consents granted by the Commission were not binding on the BOARD. Mr. Lanfrit concurred with that statement, and Mr. Bernstein went on to state that anything that the Commission did relate either to the applications before this BOARD or to the demolition permit do not affect the BOARD's hearing of the application in its totality, except that the BOARD had no jurisdiction over demolition. So, Mr. Bernstein concluded by stating that if a demolition were to occur, irrespective of any other application, it was immaterial to the one before the BOARD. Mr. Lanfrit concurred.
13. In conjunction with the application, Mr. Lanfrit stated that one (1) of the sites was affected by Buckeye Pipeline and they were aware of the application and they had worked through them and indicated that they have no issues.
14. Lastly, Mr. Lanfrit stated that the BOARD had heard an application about a month ago called IDIL, which was a warehouse on Davidson Avenue just to the south of the subject property and adjacent to the subject property, except for Executive Drive. He added that, in the IDIL application which the BOARD approved, they recommended to the Township Council that Executive Drive be vacated, but wanted the BOARD to know that their plans do not show that because the road has not yet been vacated. He then told the BOARD that they had been in discussions with IDI Logistics and that they were in accord with the vacation of Executive Drive. He added that should the project be approved, they would also apply and join in applying with IDIL to the Council for the vacation of Executive Drive. Mr. Lanfrit then noted that if that road were vacated, there were two (2) variances that they were seeking that would disappear. Mr. Bernstein reminded Mr. Lanfrit that they still had to apply for the variances at that time since the road has not been vacated yet.
15. Mr. Lanfrit indicated that they had a slide presentation prepared that involved all three (3) applications. He, therefore, would like to mark the handout of the slide presentation as Exhibit A-1 for all three (3) applications. Mr. Lanfrit then left a copy of the slide presentation at the public podium.
16. Mr. Josh Zemon, Principal & Chief Investment Officer of Creation Equity testified for their project, called Somerset Exchange, one of the Applicants involved in the project. He indicated that his company had contracted to purchase the seventeen (17) acres from the church should the applications be approved. Mr. Zemon then told the BOARD that Creation Equity was a real estate investment and development company. He described the fact that they had forty (40) projects across the country and that they focus almost exclusively on ground up development of logistics projects and retail and mixed-use

projects. He then noted that the subject project would be their fourth (4th) in the NY/NJ metropolitan area over the last five (5) years. Mr. Zemon wanted the BOARD to know that they were passionate about architecture, design and placemaking for all of their projects. He showed pictures of several of their projects, stating that their projects do not look like traditional warehouses. He highlighted their most recent project in New Jersey, called McClellan One, located in Newark, NJ. He noted that they had been working with the Ukrainian Church over the past two (2) years and was transformative for their organization as they needed to revitalize their campus and desperately want to remain in Franklin Township where they have been for the past seventy five (75) years. Mr. Zemon stated that the location of the subject property at Route 287 and Davidson Avenue provided excellent access and visibility to potential corporate users without impacting any residential areas and would complement surrounding businesses, including the IDIL project that would be developed immediately south of us. Mr. Zemon stated that the packet of slides that were also being shown on the screen was prepared by his company, dated September 16, 2025, and included photographs of his company's facilities and accurately represented the other facilities that his company owns. Mr. Zemon added that the rest of the document showed site plans and pictures of the church, which were obtained by himself from their Site Engineer and were incorporated into the package.

17. Vice Chair Shepherd then asked Mr. Zemon if they had a tenant for the property or was the project going to be built on speculation and he responded that they would be developing the project on speculation.
18. Mr. Healey then asked if the project was being developed for one (1) or more tenants. Mr. Zemon indicated that the building was designed to be broken up into multiple tenants within the approximately 258,000 sq. ft. building and could be broken down into 40,000 to 50,000 sq. ft. areas. He added that he had also designed multiple office entries to allow for the building to split.
19. The Vice Chair then asked if it was going to be a one (1) story building. Mr. Zemon testified that it was thirty six (36) ft. clear and forty to forty two (40-42) ft. to the top of the roof. He then added that they would clarify that information with their Engineer.
20. Mr. Lakhia then asked what type of clientele they were hoping to attract. Mr. Zemon stated that their buildings appealed to a wide range of potential uses, i.e., traditional logistics, distribution and warehousing. He then added that the prospective building size was a little small for that type of use, so they envisioned 50,000 to 100,000 sq. ft. tenants that have some component of warehousing distribution, some component of light manufacturing and some component of office or retail showroom which was why the building was designed to be broken down into smaller tenant use.
21. Chairman Thomas then made a motion to open the meeting to the public. He told the public that this session was their opportunity to ask the witness questions based upon the testimony that was just given. He reiterated that it was not time to make a statement or tell the BOARD what they like or do not like about the project.

22. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked, based upon NJ Statute 40:55D-10B, if any relevant documentation for the hearings should be presented to the public ten (10) days in advance, at least, and it was clearly not presented to the public prior to the hearing and it did impact the decision of the BOARD. He then respectfully requested that the matter be carried to allow for public review. Mr. Lanfrit responded by stating that the relevant parts of this exhibit that include the pictures of the church, the site plan of the warehouse, were all colorized versions of what was filed with the Township and was on public record. He added that the only thing that was included that was in addition to that was some background information concerning the Applicant and the Applicant's business. Mr. Lanfrit added that he did not think that it was relevant to the Application itself, and he thought that the BOARD could accept, and had in the past accepted, exhibits on the night of a hearing. Mr. Bernstein added that the exhibit was marked for identification, it was not in evidence, and he indicated that they would have to see what other evidence came in as to what the impact of Exhibit A-1 was relative to. He noted his recollection of N.J.S.A. 40:55D-10B is that it addressed more the issue of professional testimony, i.e., engineering, planning, architecture, etc. rather than, with respect to Mr. Zemon, a PR piece that was ostensibly here to tell the BOARD and public why his company's project should ultimately be approved.
23. Mr. Turon then asked if Mr. Zemon, or the people he represents, conducted a study with the local Ukrainian community on the relevance of building this warehouse given that the larger complex issue that has just been presented and whether the public has been asked about their opinions. Mr. Bernstein stated that Mr. Zemon testified to a proposed Application for the possibility of approval and was why the public was in the chambers to ask questions regarding the Application. That being said, he added that it was not a public opinion situation - land use Board applications, whether it is the Zoning Board, the Planning Board, or the Land Use Board, were not based on what the neighbors believe, think or feel but based on what was provided to the BOARD and whether it met the criteria of the Municipal Land Use Law (MLUL).
24. Mr. Turon then asked if the Applicant had filed proof of service for a 200-foot owner/agency notice to the governing body. Mr. Lanfrit then stated that they had served all property owners within 200 ft., have also published in the newspaper and provided proof of same to the Township. He then asked that the submission of the presentation from Mr. Zemon would not impact the decision of the BOARD given that the public was not presented it prior to the hearing. Mr. Bernstein then indicated that he would advise the BOARD that at that time, Exhibit A-1 had been provided for the purposes of a background of the proposed Applicant relative to other projects that they have done outside of the Township. He stated that he assumed that Mr. Lanfrit would have other witnesses who were going to testify as to what was being produced or proposed to be produced here at the meeting. Mr. Lanfrit concurred.
25. Ms. Svitlana Malovana, 42 East 5th Street, Brooklyn, NY, came forward. Ms. Malovana asked if there was or was not a detailed report about risk of flooding and

- about a storm water management system to address that concern. Mr. Lanfrit stated that they had submitted a storm water report as part of their plan and was reviewed by the Township Engineer, Mr. Mazzei. He added that it was an extensive report and also reviewed by the Delaware & Raritan Canal Commission (DRCC) and the NJDEP and they found no issue with it. He added that it had not been approved as yet, because it was not the time yet to do so, but Mr. Mazzei had asked for some additional information. Mr. Lanfrit then stated that they were in the process of getting that information and providing it to him, and the project Engineer would testify as to his opinion as to whether there were any storm water issues when he came up to testify.
26. Chairman Thomas stepped in to state that Mr. Zemon's testimony was basically a preliminary summary of the project. He told Ms. Malovana that her questions were to be related to Mr. Zemon's testimony, which was not about stormwater.
 27. Mr. Kovalev, 25 West Price Street, Linden, NJ, came forward. Mr. Kovalev asked if Mr. Zemon asked the right person because there was a big difference between churches and the Ukrainian Orthodox Church. Chairman Thomas stopped Mr. Kovalev's line of questioning because it was not related to Mr. Zemon's testimony. Mr. Bernstein explained the process of notifying neighbors of the subject property within 200 ft. and that individual parishioners or members of a house of worship were not the owners of record for purposes of providing the 200 ft. notice as the law required. It was simply that entity (Ukrainian Orthodox Church) which was recognized by the municipality on the tax records as the property owner.
 28. Mr. Kovalev then stated that the Ukrainian Orthodox Church recently changed jurisdiction, originally UAPC and now was UPC so the Archbishop now is like a Turkish jurisdiction. Mr. Bernstein stated that whether the church changed their name, the Ukrainian Church of U.S.A. is the listed entity on the Application. He told Mr. Kovalev that if they changed names or entities there was a separate issue that he could raise at a later point during these proceedings. For purposes of Mr. Zemon's testimony, Mr. Bernstein told Mr. Kovalev that his questioning did not address that testimony, which was what they were allowing public questions at that time.
 29. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. She referred to the images in Mr. Zemon's slide presentation, noting that the building looks like an office building and only has automobiles shown parked there. Mr. Lanfrit stated that they would present testimony to the site plan which would show the car parking, truck parking and how the property would be used with a later witness' testimony.
 30. Mr. Healey then suggested that Mr. Lanfrit explain to the public the witnesses they would be presenting and what they were going to speak about so that members of the public might understand who to ask their questions of.
 31. Mr. Lanfrit told the public that he intended to call Archbishop Anthony and a Site Engineer who prepared the site plan for both the church and the warehouse and will testify as to what the warehouse facility would look like to include parking, lighting,

- drainage, etc. He would also testify to the changes that would be made to the church lot. He then indicated that he had a licensed Architect who would describe the building, both inside and outside, that was proposed to be constructed. He added that he would also have a Traffic Consultant who would present traffic testimony as well as a parking analysis as to the adequacy of parking. Lastly, he stated that a Planner would be testifying as to the variances that they were seeking.
32. Ms. Pylypovyc then asked Mr. Zemon why they were looking at images of warehouse buildings that were not representative of the project and what you would be offering to the Township. Mr. Zemon stated that the image shown was on the side of the building that would be facing the church property and the office front of the property. That portion of the building is in a darker color with lots of glass and was the area where the office entries would be along the length of the building and where the car parking for the employees would be. He noted that that was a representative image of what they were proposing. She then asked which side of the building would be facing the church, to the right or to the left, and Mr. Zemon indicated that the church would be to the right of the side of the building that was being shown.
33. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away their project was away from the St. Andrew Cemetery. Mr. Zemon indicated that their Civil Engineer would testify to that. Mr. Wolk indicated that there was a restriction of 1,000 ft. from a historical place.
34. Ms. Jana Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward. Ms. Varnichenko asked why Mr. Zemon's company wanted to build in Franklin Township and why specifically that plot of land. Mr. Zemon responded by saying that it was a great community, very diverse and a great labor base and was very well located in the State of New Jersey with access to all the major freeways in the area including the New Jersey Turnpike and I287. He then spoke to the choice of land parcel, noting its inclusion in the Business & Industry (B-I) Zone, with Davidson Avenue being a business core. He added that they started working with the Ukrainian Orthodox Church over two (2) years ago and that it was really a collaboration between the two (2) organizations. Mr. Zemon then stated it was never their intention to buy the entire parcel and demolish the church to put up a larger building, but to subdivide the property and build a smaller building for their company to ultimately provide the sums necessary to provide the Ukrainian Orthodox Church through a transaction for them to rehabilitate their facilities, which included a to be built museum and a seminary that was on-site today. He stated that Archbishop Anthony would testify to all of that though. He then discussed the extensive dialogue that his company has had with the Ukrainian Orthodox Church on the project, being sensitive to their needs.
35. Mr. Bagen Jasinski, One Upton Court, Morganville, NJ, came forward. Mr. Jasinski again asked why the Applicant chose the property to build a warehouse and displace people in the Ukrainian Orthodox Church.

36. Mr. Michael Werthmuller, 5 Pollbrook Road, Jackson, NJ, came forward. Mr. Werthmuller asked how long they were prepared to fund the project before they got a tenant for it and Mr. Zemon stated that they were prepared to fund the project for as long as it took to obtain a tenant(s).
37. Mr. Alexander Lazurka, 2536 Bush Street, East Meadow, New York, came forward. Mr. Lazurka asked for financial liquidity and Mr. Zemon's company's ability to complete the project and his previous experiences. Mr. Zemon indicated that they have completed every project they have started in the past five (5) years he has worked with the company.
38. Seeing no one further coming forward, the meeting was closed to the public by Chairman Thomas.
39. Mr. Daniel Miola, Civil Engineer, employed by Langan Engineering and Environmental Services, LLC, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials.
40. Mr. Miola testified that his firm prepared the subdivision plan that was before the BOARD that evening, as well as the site plans that were going to be heard, under his direction. Mr. Miola then described to the BOARD the property that was being subdivided in its current state. He pulled up the subdivision plat that was submitted to the Township in connection with the subdivision Application. The subdivision plat was marked into evidence as Exhibit A-2, prepared by Langan Engineering by a professional and licensed surveyor within Langan Engineering (Tom Reeves), dated October 23, 2024 and last revised January 23, 2025.
41. Mr. Miola indicated that the tract of land included one (1) lot with a total of thirty two point sixty (32.60) acres. He added that they were proposing to subdivide this lot into two (2) lots. The first lot he spoke about was the northerly lot and would have frontage on both Easton Avenue and Davidson Avenue and was called proposed Lot 1.09 with approximately fourteen point nine (14.9) acres. He noted that the second lot that he was referring to was the southern lot and proposed as Lot 1.08. He noted that it would encompass approximately seventeen point seven (17.7) acres and would have frontage on Davidson Avenue and Executive Drive that bordered the southern lot. Mr. Miola noted that the minimum lot size in the zone was two (2) acres so both lots exceed the minimum lot size of the zone. He then told the BOARD that the minimum frontage size in the zone was one hundred fifty (150) ft. and both lots met the requirements of the zone on Easton Avenue, Davidson Avenue and Executive Drive. He stated that the two (2) lots were fully conforming with all bulk requirements, including lot area, lot frontage, building setbacks, lot coverage, and floor area ratio as well as impervious coverage. He told the BOARD that the southerly lot, Lot 1.08, was the proposed warehouse lot.
42. Mr. Miola then discussed that there were currently structures on both lots, but when the one (1) structure was removed from the one (1) lot, the remaining structure on the

church site met the side-yard setback requirement. He added that there were no bulk variances that were created by the subdivision.

43. Mr. Miola then addressed the staff reports and indicated he was in receipt of both the staff Planner (Technical Review Committee (TRC) report, dated July 8, 2025) and could comply with all of the comments in the subdivision component of the Application and staff Engineer and agreed to address all remaining comments with respect to the subdivision component of the Application. Mr. Miola added that complying with all staff comments would not in any way alter or change what the BOARD was looking at that evening.
44. Mr. Mazzei, Township Engineer asked about item #2 in his report and whether there was going to be an access easement granted between the subdivision. Mr. Lanfrit stated that there would be an easement, but that it would be part of the site plan testimony.
45. Chairman Thomas then made a motion to open the meeting to the public for questions for the Site Engineer.
46. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked a question regarding the Use Variances for the two (2) lots and Mr. Healey explained that that question would be for the Planner during the site plan portion of the Application.
47. Mr. Matviyshyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Matvyshyn asked what would happen if the subdivision were approved, but there were issues with other components with the Application, and it was left as just two (2) lots. Mr. Healey explained that there would be easements between the properties, so you can drive across the property and there might be utilities that cross the property and the Applicant would have to address those easements that would be necessary so that the site would continue to function as it did now, notwithstanding the fact that there was an invisible lot line now that existed. He added that the easements would have to happen at the time the subdivision was filed. Mr. Lanfrit stated that ownership could not change unless the subdivision was granted.
48. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. He asked if the subdivision would proceed, what would occur to the current existing structures that were in place and did the subdivision line go through them. Mr. Miola stated that the subdivision line did not go through any structure and all required setbacks from buildings were being adhered to with the introduction of the subdivision line.
49. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc asked that the copy of the slide presentation of Mr. Zemon be made available to the public as most people could not see if from the seating area. Mr. Bernstein indicated that all copies of all documents submitted to the BOARD were or would be accessible online on the BOARD/Township's website.

50. Ms. Pylypovyc asked Mr. Miola to explain the changes to the site in relation to the subdivision. Mr. Miola indicated that there would be no physical changes happening on the site due to the subdivision.
51. Mr. Lanfrit explained what would happen if the subdivision was approved, but the warehouse was not approved for some reason.
52. Ms. Svitlana, 16 Dorsey Drive, Manalapan, NJ, came forward. Ms. Svitlana asked what the required distance would be between the buildings on each side of the subdivision line. Mr. Miola stated that the required side-yard setback was ten (10) ft., but the cultural center was sixty (60) ft. from the subdivision line and the chapel on the other lot was about thirty five (35) ft. from the subdivision line.
53. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked how the seminary would be accessed with someone else owning the separated lot. Mr. Lanfrit stated that that would be presented during site plan testimony and, as he stated he already indicated, they have reconfigured the parking around the chapel and there was access easements located on the church lot which would be heard during the site plan testimony.
54. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc thought that the subdivision was not being considered along with the site plan for the warehouse and she didn't think that the subdivision could stand on its own. Mr. Bernstein once again explained that it was the Applicant's right to present an application in the order that they wanted to and it was the BOARD's responsibility to put the pieces together to determine if some or all pieces fit or do not and are acceptable.
55. Mr. Lanfrit explained again to Ms. Pylypovyc that the setbacks all comply and the distance between the buildings on both created lots were more than necessary.
56. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away the project is from the cemetery of St. Andrews. Mr. Miola stated that the property bordered the cemetery of St. Andrews and subdividing the lot would not change the distance from the cemetery of St. Andrew lot. Mr. Lanfrit explained that the cemetery was on a different lot in a different municipality.
57. Chairman Thomas closed the meeting to the public, seeing no one further coming forward.
58. Mr. Healey reminded the public that since future testimony was going to be presented and related to the physical development of the project, the plans are on the Township website at franklintwpnj.org, and then go to Committees/Commissions and under Zoning BOARD of Adjustment there was an area for application materials that included all of the plans, the traffic studies, the storm water management reports are all there for the public's review. He added that new material submitted to the BOARD, those would be updated on the Township website. He also added that the

Township/BOARD professional reports were included on the agenda for the upcoming meeting.

59. Mr. Lanfrit indicated that his next witness would take longer than the time left that evening and should be carried to the next meeting. He also suggested that the next hearing should be held at the Board of Education Building to accommodate a larger crowd. He then asked if they could start the meeting a little earlier so they could get through the bulk of the testimony at the next meeting.
60. The hearings on all three (3) applications were carried to November 6, 2025, with no further notification required.
61. At the hearing held on November 6, 2025, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00008, in which the Applicant is seeking a d(2) variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels at 135 Davidson Avenue.
62. Peter MacArthur, Esq., 75 Lane Road, Fairfield, NJ, appeared before the BOARD on behalf of Spidok NYC, Inc. and was representing Alexander Taran, Merrila Havliok, Leon Gristok, Svetlana Maleanova, Makita Stayachenko and Yuri Welk. Mr. MacArthur told the BOARD and the public that he was representing the interests of those people whose names he just read and were doing so as an objector. He agreed with Mr. Bernstein that those listed people would not be permitted to speak or question witnesses during that process because Mr. MacArthur was representing their interests.
63. Mr. Bernstein then discussed some of the ground rules for the evening's proceedings. He proceeded to state that it was his understanding that Mr. Lanfrit was going to call his various professional witnesses, one (1) witness at a time, covering all the applications that the Chairman had just discussed to the extent that their testimony applied to the specific application. He instructed Mr. Lanfrit to indicate during the testimony where they would stop on one application and start on another. Mr. Lanfrit agreed. He went on to state that once the testimony of the witness was concluded, it would then be the BOARD's opportunity to question the witness, then Mr. MacArthur's opportunity to question the witness and, finally, anyone not represented by Mr. MacArthur would have the opportunity to question the witness. Mr. Bernstein then made it clear that it was not the time to question the propriety or impropriety of the Application as that would come at the end of the hearing, whenever that would be. He went on to state that once all of Mr. Lanfrit's witnesses have concluded their testimony, then it would be Mr. MacArthur's opportunity to make his presentations, present any witnesses and would be required to submit any reports at least ten (10) calendar days in advance to the Township if presenting professionals as witnesses. Mr. Bernstein then addressed the public, giving them instructions for asking questions of witnesses, limiting them to the witness and the testimony just given.

64. Mr. Healey gave instructions to the BOARD and witnesses regarding the use of the microphones.
65. Mr. Lanfrit then noted that, at that time, they were only seeking Preliminary Site Plan approval and not Final Site Plan approval for the warehouse. He then stated the other applications that they were seeking were the Site Plan approval for the church on the remaining thirteen (13) acres of the church property and subdivision approval for which they presented testimony at the last hearing. For the record, Mr. Lanfrit stated that Mr. Miola, the Project Engineer, testified to the subdivision where he stated that it was a fully compliant subdivision at the last hearing. He then added that Mr. Zemon testified as a representative of the Applicant on the warehouse project, giving a history of their company. Mr. Lanfrit then stated that he had intended to call Archbishop Anthony to testify. After the prior meeting was over, outside of the municipal building in the parking lot, the members of the clergy that were at the meeting were, in fact, assaulted, spat upon and cursed at by certain people who were sitting in the audience and the police had to be called. He then noted that the Archbishop is 78 years old and has a bad heart and elected, after discussion with him, not to bring him there that evening to testify. Mr. Lanfrit then told the BOARD that he was going to call as his first witness, Mr. David Lonski.
66. Mr. David Lonski, Esq., licensed to practice in the State of New Jersey, representing the Ukrainian Orthodox Church. Mr. Lonski then detailed the history of the property as he was familiar with it based on conversations with the members of the clergy. He then indicated that he had a brief statement that included that information that he thought would be informative for the BOARD and for the members of the public that were in attendance.
67. Vice Chair Shepherd then asked if anyone else had been given a copy of the statement he was about to read. Mr. Lonski indicated that no copy was given to anyone, but that it was his statement. He read his statement, as follows:
68. The Ukrainian Orthodox Church of the United States of America was incorporated in New Jersey on September 7th, 1951, as a not-for-profit religious corporation. He added that its stated purposes are and were to erect and maintain a church and to carry out other religious works in accordance with the religious doctrines espoused and maintained by the Ukrainian Orthodox Church of the United States of America and to acquire, hold and dispose of real property. Its governance of the corporation rests in 19 trustees and Archbishop Antony served as the Chairman of the Board of Trustees, and Archbishop Daniel as the Vice Chairman of the Board. Mr. Lonski then stated that, with respect to this Application and the sale of the property, there were formal actions that were taken. He noted that all 19 members of the Board of Trustees were comprised of the council of Metropolia, in essence, the cardinals of the church for those that were familiar with that analogy to the Roman Catholic Church. He then stated that the Metropolia of the church, all 19 Board of Trustees voted unanimously at a meeting on May 25, 2024, to enter into an agreement to sell approximately 17.6 acres of land. He added that that decision was recently ratified unanimously in October of 2025, just

last month not just before that council of Metropolia, but all the Orthodox diaspora and all of the clergy of the church that met last month in a big formal meeting/setting and were all ratified unanimously by every member present. Mr. Lonski then told the BOARD and public that the officers of the corporation were constitutionally and now specifically authorized to execute all necessary documents to effectuate this sale.

69. He went on to state that the history of the Ukrainian Orthodox Church of the United States of America in Franklin Township, parcel #1 (or the first parcel) purchased 50.2 acres of land from the former Fisher estate in 1951, with the entire purchase price paid by the church through the Ukrainian Orthodox Church parishes. He went on to explain that in the 1960's, approximately 14 acres of land from that parcel was condemned for the construction of Interstate 287 and added that 18 acres were orphaned on the other side of Interstate 287 across from Easton Avenue. Additionally, he went on by saying that on the side remaining nearest Easton Avenue, construction of the St. Andrew Memorial Church was initiated with the condemnation proceeds from Interstate 287 and the project took ten (10) years to complete. Mr. Lonski then told the BOARD that the other improvements on that property were the original Fisher family residence, which was said to be the oldest existing structure in Somerset County and was presently the residence of the church hierarchy. He added that the Pakova Social Center and another small residence for the property manager also rest on that site. He then told the BOARD and public that the balance of the parcel was a cemetery with approximately 11,000 burial plots.
70. Mr. Lonski then drew the BOARD's and the public's attention to parcel #2, which is the parcel of land that they were talking about. He stated that, in 1972, the Board of Trustees and sober clergy, a leity congress of all the clergies with approximately 100 members approved the purchase of 50.5 acres in Franklin Township from the Heathering estate. He added that aside from a garage building, the only improvement was the actual Heathering home on that property. He went on to explain that, in 1974, that house was converted into the St. Sophia Ukrainian Orthodox Theological Seminary, which opened in November 1975, coincidentally 50 years ago this month. He noted that a small chapel was located in that seminary building and, in 1978, plans were developed to construct a church hall for religious gatherings such as wedding receptions and banquets for parishioners. He added that while budgets were being finalized, a developer came forth seeking to purchase approximately 16 acres of the property at the Heathering estate, which was the land that bordered Interstate 287 and Davidson Avenue. He then indicated that the sale was approved and the proceeds were used to cover most of the construction costs for that church hall, also known as the cultural center.
71. Mr. Lonski explained that the balance of the funds needed to construct the church hall (aka the cultural center) was paid for by the Orthodox parishes and the Ukrainian Orthodox Diaspora. In 1988, Mr. Lonski stated that plans were developed to construct a new administration consistory building, along with a library, funded primarily with the proceeds of the sale of the 18 acres that were then orphaned on the other side of Interstate 287 to the Roto Clip Corporation. He then spoke about the church hall (aka

- the cultural center) even though construction began in 1980, it suffered various construction related issues in that the building did not meet building code requirements, and the C.O. was not issued until almost three (3) years later. Once that was completed, Mr. Lonski indicated that a church library was initially moved from the seminary building into a conference room in the cultural center; however, due to inadequate moisture control and persistent roof leaks, the library books and records were being compromised and were moved and housed in the new library building that was constructed in about 1988.
72. He then told the BOARD that a museum was initially designed and approved in a museum that was constructed in the basement of the St. Andrew Memorial Church, however, humidity control conditions proved detrimental to those historical literary collections, so they were moved to a mezzanine section of the cultural center where church archives were also stored. He noted that the space proved to be inadequate and too small for all of the collections and records, so in 2002, construction began and was approved on the Ukrainian History and Education building on the front portion nearest Easton Avenue on the property. He told the BOARD and public that a plan was developed to relocate the museum and archives from the church hall (aka cultural center) into a new, modern building that would also house a new education complex. He noted that it was a state-of-the-art facility located adjacent to the administration consistory building and the library complex that were now there.
73. Mr. Lonski stated that the church went through a government approval process to have the new building approval with facilities for religious archives, museum collections, exhibition galleries, a gift shop, educational space and more, all to be housed in this modern facility. Although the plans were approved and construction began almost 20 years ago, the interior construction had still not been completed for financial reasons. Upon the sale of the now obsolete cultural center property, funds have already been earmarked to complete those facilities to house the museum, art exhibits, education program and other missions of the church. He told the BOARD and public that all cultural materials, educational programs and events now at the cultural center building would continue on the site once it was completed. The Ukrainian Church, which formerly used the cultural center, has already relocated to another New Jersey community where most of the students and their families live. As the financial issues arose for the completion of the new state-of-the-art buildings, the church decided to entertain the sale of the church hall (aka cultural center) so funds could be made available to complete the construction of the new museum building. He then noted that the sale of the property to construct this building that served the religious corporation's purposes was repeated throughout history. New sales proceeds, like in this case, were earmarked for completion of the new history and education complex, repairs to the St. Sophia Seminary building, repairs to the consistory administration building, the museum and library buildings, along with several other smaller projects and also to expand the Pakova Social Center on the memorial church parcel. He stated that there was clearly no intent here to remove this church's history and culture, but only to preserve it for future generations.

74. Vice Chair Shepherd indicated that it sounded like a lot of the money that was used to purchase property or facilities was raised by the church. He then spoke of the diaspora and also the many priests that were involved. He asked if any promises were made to the people who were contributing any money. Mr. Lonski indicated that there was none that he was aware of or that he had been informed of. When the purchases of the property in question were made, the Vice Chair asked if he represented the church at that point. Mr. Lonski stated that he did not represent the church then, and that the first purchase was made in 1951 and the second was in 1972, and he was not an attorney during these purchases.
75. Mr. Lakhia indicated that he was just trying to understand if the land and everything there was brought with the money from the people who go and worship there. He asked if they had any ownership in those facilities there at all. Mr. Lonski stated that they do not have any ownership as the corporation was the owner. Mr. Lanfrit indicated that his testimony was that part of the land that was purchased was a result of the monies they obtained from the condemnation of Interstate 287, not necessarily from the funds of the parishioners.
76. Mr. Dougherty stated that it seemed that the Metropolia that Mr. Lonski spoke of seemed to be made up of church leadership (ordained members) and wanted to know if that were true. Mr. Lonski answered in the affirmative. He then asked if there were some non-ordained lay people for the Ukrainian Church that had any input or any representation in this body. Mr. Lonski indicated that they did not in the Board of Trustees of the church, but the Board of trustees of the church had conferences with additional priests and members of the public. He added that that one (1) of those took place last month at which the sale was unanimously ratified by that entire group.
77. Regarding the development of the property that was part of the application where the warehouse would go and sold to an outside group, Chairman Thomas asked if the same procedure was followed for this as for all of the other historical purchases that were made. Mr. Lonski explained that it was as far as he understood it but was not involved at that time and could not speak from personal knowledge. He then stated that it was his understanding that it was the same process which was governed by their corporate documents. Mr. Lanfrit stated that, in 1979, the church sold the 16 acres on the other side of Executive Drive, between Executive Drive and Interstate 287, to a company in Maryland who he happened to represent at that time. At that time, Mr. Lanfrit indicated that he knew that the church went through the same procedures and that they all met, got authorization to sell the property and then the closing took place. He noted that that this was the IDIL site which the Zoning Board heard a few months ago.
78. Mr. Rich then asked to confirm that a corporation oversaw the sale, so there would also then be corporation bylaws and articles of incorporation. Mr. Lonski answered in the affirmative and Mr. Rich then asked when they were last updated. Mr. Lonski indicated that he did not know because he was not their general counsel, but that he did the real estate work and could tell the BOARD that he has seen the minutes approving the sale and had been supplied to the purchaser and the title company and they feel comfortable

that all the appropriate procedures were followed to execute the contract and to consummate the sale.

79. Mr. MacArthur, Esq., attorney for the objectors, asked whether there were any formal actions taken in connection with the sale and memorialized in resolutions pursuant to the bylaws. Mr. Lonski answered in the affirmative. Mr. MacArthur then asked Mr. Lanfrit if he could produce the bylaws of the corporation, as well as the resolutions that authorize the sale. Mr. Lanfrit indicated that he did not think it was relevant to the Application. He added that the church signed the Application as the owner of the property and did not think the BOARD did not need and had never requested anything other than the church signing the application to indicate that the seller had the authority or needs approvals in order to sign those applications.
80. Mr. MacArthur then addressed Mr. Bernstein, BOARD Attorney, and Chairman Thomas to make a proffer because he indicated that the number of people that were there that evening from the public have only had this transparency ever since the saga began for them and have been left in the dark. He stated that he reviewed the Traffic Report last evening and he sent an excerpt of the Executive Summary which described what was going to happen to the property. He then stated that he asked if they ever heard of the plans before and she answered in the negative. As a result, Mr. MacArthur stated that he thought his clients were entitled even though it is a BOARD issue in terms of standing because he thought as BOARD members that you would want to ensure that the Applicant had standing to bring the application. He asked if there was a problem in the process of authorizing the person to sign the contract and then asked who signed the contract. Mr. Lonski indicated that he believed it was Archbishop Anthony who signed the contract. Mr. MacArthur then stated that there would then be a resolution that authorized him to do so. Mr. Lonski indicated that the resolution authorizing the sale was dated May 25, 2024, which authorized him to execute documents necessary to effectuate the transaction. Mr. MacArthur then requested, to ensure that the Applicant had "standing", that the BOARD review the documents and see that and went back to the definitions of what was in the Municipal Land Use Law (MLUL). He added that when you look at sections 3 and 4, the definitions of applicant and developer were shown, with a developer defined as someone who was a contract purchaser and what they would consider Mr. Zemon and his company to be. He added that if there were no proper authorization for Archbishop Anthony to sign the contract, then they did not have a contract and meant that they did not have an applicant or developer and also did not have an application, so it was a matter of standing. Mr. MacArthur stated that his clients and the public should have transparency and let them see the documents because he thought they were highly relevant to the proceedings that evening.
81. Mr. Bernstein, BOARD Attorney indicated that the issue of whether the church had the authority or not to sell the property was not in the purview of the Zoning Board. He then stated that the application was submitted with an affidavit that, in fact, the party had the right to bring the application before the BOARD. He then added that Mr. Lonski testified before the BOARD as to certain actions taken by the church related to

the subject application. He then stated that he believed that at least two (2) resolutions were made and requested that copies be sent to the BOARD for purposes of the record. Mr. Bernstein then added that the standing issue may end up being litigated or dealt with separately. He did state, however, that that would not necessarily be here before the BOARD, but for the purposes of the subject application, he stated that he felt that those two (2) items should be in the record. Mr. MacArthur then stated that he would appreciate it if the BOARD would share those with him. Mr. Bernstein indicated that Mr. Lanfrit would share them with Ms. Woodbury, the BOARD Secretary, and she would distribute those with Mr. MacArthur being copied.

82. Chairman Thomas then opened the meeting to the public for questions related to Mr. Lonski's testimony.
83. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk then addressed the testimony given by Mr. Lonski about the Ukrainian history. He added that Ukrainians have a long history in education and the first book of ABC's was done in 1574. He then added that the church played a big role in educating people, supporting book printing and a lot of different activities. Mr. Khreptyk asked what was done to save buildings or areas without selling property. Mr. Lanfrit indicated that it was not the determination of the BOARD as to what process the church took. Mr. Bernstein indicated that he had the right to see what was part of the public record, but the question he raised was an issue he was going to have to bring up with the church. Mr. Lanfrit stated that Mr. Lonski spoke about the steps that were taken by the church to get to where they were today. Mr. Lanfrit indicated that he felt it went beyond Mr. Lonski's testimony, which were the procedures that the church took over the past few years to get them to where they were today. He added that the reasons behind the church's decisions were irrelevant to the BOARD, and that he was asking Mr. Lonski not to answer the question.
84. Yuri Wedid, 1890 Woodland Terrance, Bound Brook, NJ, came forward. Mr. Wedid stated that someone on the BOARD asked a question regarding where the monies raised for the building of this cultural center came from and what promises were made. He added that the promises made were to uphold the culture of the Ukrainian culture in America and someone said that it was not important, but Mr. Wedid thought it was. He then reiterated the construction and purchases of land timeline over the years that was discussed by Mr. Lonski and then Mr. Wedid asked if anyone put together a history of what the cultural events that occurred in the particular location over the past 40 years. Chairman Thomas agreed that Mr. Lonski gave a timeline of construction/purchases of land, as well as the development of the property over the years. The Chairman told Mr. Wedid that that was what his question needed to deal with. Mr. Wedid indicated that Mr. Lonski came to conclusion that efforts were made to move things from one location to another and whatever was required to maintain the integrity of the cultural events that occurred there. Mr. Wedid stated that he disagreed that the continuation of the cultural events was not being upheld. The Chairman again reiterated that they were not discussing what was continued or not, but that they were dealing with three (3) applications for development. Mr. Wedid asked if the closing comments of Mr. Lonski

should be stricken from the record since it is not a matter of discussion that evening. Mr. Bernstein indicated that the BOARD would take the public's comments into consideration accordingly.

85. Mr. Victor Boranenko, 11 Sherbourne Street, Somerset, NJ. Mr. Boranenko questioned Mr. Lonski regarding the year that he stated the church was built, 1952. He then added that Mr. Lonski mentioned that the Board of Trustees consisting of 19 members approved all of the requests which were a matter of consideration today. He asked if Mr. Lonski considered that most of the members/trustees were about 4 years old at that time in 1952. He also questioned his statement that the parishioners all took part in what he called "diaspora", but that the parishioners took part in collecting money to build the church and all other properties on the land. He wanted to know if the Board of Trustees really represented the owners of the property. Mr. Lonski stated that he did not have all their names but, in essence, the Board of Trustees were the Metropolia of the church, in essence like the cardinals of the Roman Catholic Church. Mr. Boranenko asked whether the parishioners were represented and Mr. Lanfrit objected, once again, to the relevance of the question to the proceedings that evening. Mr. Boranenko asked if the applicants really had the right to submit the request. Mr. Bernstein once again explained that the BOARD was not empowered to determine whether or not the parishioners or the Board of Trustees are the applicants and not within the purview of the BOARD. He went on to state that if the parties believe that the applicant was not "legitimate" or that it did not represent the interests of the parishioners, again, it was not the BOARD's situation to deal with, but through another venue. A discussion ensued between Mr. Bernstein and Mr. Boranenko regarding the engagement of anticipatory actions related to whether the applicant had a right to make the application and represent parishioners. In the absence of proof, any anticipatory action would not be engaged by the BOARD. Mr. Boranenko indicated that they will read through the by-laws of the church, with anticipation that their attorney would discuss this topic in the future.
86. Mr. Boranenko then asked Mr. Bernstein what the basis would be to reject the applications brought before the BOARD related to the Ukrainian Church of the United States. Mr. Bernstein then explained that the BOARD's determinations were based upon its review of the applications in accordance with the Municipal Land use Law (MLUL). He added that the BOARD is quasi-judicial because it is making determinations based upon evidence and testimony of the proof that was placed before this BOARD into evidence but did not make it a court of law. Mr. Bernstein again stated that he and others from the public had questioned the standing issue of the application, but that issue did not get addressed before the BOARD. He added again that the standing issue may get addressed in another location, but he was not going to give legal advice.
87. Ms. Valeria Balakiryeva, a Dunellen, NJ resident, asked Mr. Lonski if he knew that the educational school and dance school left the cultural center. Mr. Lonski stated that the educational school left, but was not sure of the dance school. She asked Mr. Lonski to provide the addresses of the new locations of those schools and he testified that he did

- not have the current addresses of these educational schools that he stated were located where many parishioners live. Ms. Balakiryeva then asked questions about who said the schools wanted to move and gave Mr. Lonski that information. Mr. Lanfrit indicated that Mr. Lonski's testimony was that the school was being relocated and was not a question about who wanted to relocate it or who decided. Ms. Balakiryeva then asked where the other cultural events such as weddings, etc., will be occurring if the cultural center is removed. Mr. Lonski stated that it was his understanding that the cultural material and museum artifacts were being relocated to the building that was already built, but not finished, in the front portion of the property closer to Easton Avenue. Mr. Lonski then stated that the rest of the property which was the subject of the application was for extra parking and some of the exterior site improvements so that the public could access the museum and the various other facilities. As far as the cultural events, weddings, etc., he can only say that the building that has the museum and library also has open space for gatherings. He added that he did not know what events that may take place there in the future. Mr. Bernstein, once again, had to remind the public what the BOARD's purview was related to the application.
88. Ms. Balakiryeva then asked Mr. Lonski whether they had proof/documentation that the leaking roof of the cultural center was beyond repair. Mr. Lanfrit stated that they have information concerning the status of the building, but that it was irrelevant to the application before the BOARD.
89. Ms. Arena Chikerinets, 26 Northfield Avenue, East Brunswick, NJ, asked what notice the members of the public have prior to the May 2024 and October 2025 meetings in order to attend. Mr. Lonski indicated that members of the public who had titles, like priests and bishops, were notified and who attended as leaders of the church the previous month in October 2025 in which the prior action in May of 2024 was ratified. He added that he was waiting on the formalization of what happened in October 2025. Mr. Lanfrit stated that counsel for some of the objectors asked and Mr. Bernstein required them to provide both resolutions which would answer those questions. Mr. Lanfrit indicated that they would provide them before the next meeting. Ms. Chikerinets asked that Mr. Lonski have his client be present because the public/parishioners have questions of the person who was putting forth the application.
90. Mr. Mark Bukachevsky, Edison, NJ resident, came forward. He asked how ownership of the subject property was verified before the application came before the BOARD and who was the person who explained that they have the authority to sell the property. Mr. Lanfrit stated that they had a deed to the property and a title search of the property which he said that he would be happy to provide to the BOARD. Mr. Bukachevsky asked again who had the authority to sign for the sale of the property. Mr. Lanfrit indicated that there was no deed signed by anyone, but a contract that had been signed on behalf of the church and believed that Archbishop Anthony signed the contract. Mr. Bukachevsky asked when he would be able to see the title for the property and asked when it would be available. Mr. Lanfrit indicated that it would most likely be by the following week and Mr. Bernstein stated that it would be made available by the BOARD Secretary, Ms. Woodbury, who would then place it on the BOARD website.

91. Mr. Healey, Director of Planning, made a statement regarding what Mr. Lanfrit had been asked and promised to provide. Mr. Healey reminded Mr. Lanfrit and Mr. Bernstein that Mr. Lanfrit needed to make sure to redact necessary information that might include dollar amounts, social security numbers, etc. if the document would be placed on the public website.
92. Mr. Olak Matviyhyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Martviyhyn asked what specific documents would be provided on the Township/BOARD website. Mr. Lonski stated that they would provide the two (2) resolutions, the deed and the title. Mr. Bernstein indicated that if the desire was to obtain the bylaws, he stated that it would be the church upon whom the bylaws would be obtained because the bylaws had no bearing on the application. Mr. Matviyhyn indicated that the parishioners have been trying to ask questions of the church and they had always avoided the questions and all they wanted was the church's transparency.
93. Mr. Mquala Kovaleav, parishioner, asked Mr. Lonski how many members of the Board of Trustees were clergy and otherwise. Mr. Lonski indicated that his understanding is that the Board of Trustees consisted of the clergy of the church. Mr. Kovaleav then asked the BOARD to postpone the action and take a poll of who had the authority or did not have the authority. Mr. Bernstein had to once again reiterate that the Zoning BOARD meeting was not the place to discuss the standing issue. He also added that the BOARD was also not going to postpone a pending land use application on that issue.
94. Mr. Nazruck, 16 Dortmunder, Manalapan, NJ, came forward. Mr. Nazruck asked for clarification regarding promises. Mr. Lonski stated that he said he did not know. He then drew the BOARD's attention to the testimony given by Mr. Lonski regarding the funding that came from the 1-287 construction and the funds obtained from that and how much money was raised by the community. Mr. Lanfrit stated that it had no relevance to the pending application. Mr. Lonski indicated that he did not have the exact numbers.
95. The Chairman then closed the meeting to the public.
96. A motion was made to carry ZBA-25-00008 to January 22, 2026, with no further notification required, which was approved unanimously.
97. On January 22, 2026, Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00007, in which the Applicant seeks a "d(2)" variance and Preliminary & Final Site Plan approval regarding site modifications associated with the retention of certain existing (church and seminary) facilities at 135 Davidson Avenue.
98. Mr. Daniel Miola, Engineer, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The

BOARD accepted his qualifications. Mr. Miola stated that he testified to the minor subdivision at the last hearing that they were seeking. He then entered into the record as Exhibit A, entitled Minor Subdivision Plot, drawing #CB102, that was submitted as part of the subdivision application. He stated that the exhibit being shown on the screen showed two (2) parcels that were being subdivided. He then described the parcel to the right of the screen that was being retained by the Ukrainian Church and would continue to front on Easton Avenue and contain fifteen (15) acres. He went on to describe the second lot, which he stated would front on Davidson Avenue and the parcel shown on the left side of the screen, which consisted of approximately seventeen point seven (17.7) acres and it was proposed to be sold to the applicant for the warehouse. He then noted that just south of the lot to the left side of the property to be subdivided was Executive Drive, which was a public right-of-way and the property to the left of Executive Drive was the property that was the subject of the IDII application that the BOARD heard a few months ago and approved a few months ago. He noted that the property to the left of Executive Drive was formerly owned by the church and sold in approximately 1979.

99. Mr. Lanfrit then stated that they were there that evening to review two (2) site plans, one site plan for the remainder parcel of the existing church and the other site plan for the proposed warehouse.
100. Mr. Miola then brought up was a colorized version of the site plan for the improvements proposed on the lot to be retained by the church that had previously been provided to the BOARD. He added that it was part of the slide deck that was introduced as part of the Zemon testimony from the last hearing. Mr. Miola then described the site plan application on the lot to be retained by the church just to indicate the two (2) existing buildings on the church property that included the existing seminary building to the north and the administrative church office that was located to the south of that. He then added that there was also a chapel there and a museum. Mr. Miola then told the BOARD and public that the second building to the south currently had twenty (20) parking spaces; and, the church had indicated that that building would need a total of eighty (80) parking spaces after the property was subdivided. He went on to state that they propose to add to those twenty (20) parking spaces an additional sixty two (62) spaces, which would bring the parking total up to eighty two (82) parking spaces.
101. Mr. Miola then stated that part of the building was a museum use, which had no parking requirements in the Township Code, and in the absence of a requirement, the Code allowed for the submittal of documentation that confirmed that the number of spaces was adequate. He then informed the BOARD that the Applicant's Traffic Engineer, Mr. Lothian, had submitted a parking evaluation that did just that and it confirmed that the eighty two (82) parking spaces were an adequate number based on the parking demands of the building. Mr. Miola then added that the 82 spaces would include four (4) ADA accessible spaces, as well as three (3) electric vehicle make ready spaces, both in compliance with State statutes. Parking space dimensions would be nine (9) ft. wide by eighteen (18) ft. long, which would meet the minimum space size requirements of the Township ordinance. He then indicated that the drive aisles would

be twenty six (26) ft. wide, which also met ordinance requirements, with parking setbacks also compliant. He then added that five (5) ft. sidewalks were proposed approximate to the parking areas that would connect to the building's doors, and the sidewalk was also proposed from the intersection of Easton Avenue to the south along the entire Davidson Avenue frontage, a new sidewalk that would ultimately connect to the sidewalk that was proposed for the warehouse application. Mr. Miola then indicated that the eighty two (82) space lot would be accessed by two (2) driveways that would connect to the parking lot of the warehouse. The access was previously proposed through the existing driveway down to Davidson Avenue but, in response to comments from the Township's professionals, they removed that access and revised it to be through the warehouse parking lot, therefore, the vehicles accessing that parking lot would all come through the warehouse parking lot. Mr. Miola then added that they were proposing a gate at the existing driveway by the seminary to restrict access to that parking area from Easton Avenue. He then testified that that gate would be operable for emergency vehicles, but would not be open for regular traffic. He then informed the BOARD that that driveway that connected the cemetery would be increased to twelve (12) ft. wide in order to comply with Township standards and a circulation plan would be provided that confirmed that Township emergency vehicles could now navigate that connecting driveway.

102. In connection with the increase in impervious coverage proposed for the parking spaces, he indicated that they performed a storm water management design that would consist of two (2) above-ground basins to the north of the parking lot that would provide the required water quantity, water quality and groundwater recharge management for the parking lot. He then added that the landscape plan proposed trees around the parking area, as well as along the driveway down to Easton Avenue and along the entire frontage of Easton Avenue. Mr. Miola then stated that those additional trees that were indicated on the subject rendering mainly flanked the Easton Avenue frontage as well as the driveway off of Easton Avenue. He then added that additional trees and landscaping were provided around the new parking area as well. In total, Mr. Miola stated that there would be twenty nine (29) shade trees, thirty eight (38) ornamental trees, and one hundred ten (110) evergreen trees were proposed for the church lot, as well as approximately two hundred (200) shrubs and various grasses and perennials to round out the landscape design. He then noted that a tree removal and replacement plan had also been provided that showed that the required amount of replacement trees was being provided on the Site.
103. Additionally, Mr. Miola indicated that a lighting design was performed for the eighty two (82) parking space lot and included nineteen (19) pole-mounted, LED lights at fourteen (14) ft. heights which fully complied with Township requirements.
104. Mr. Miola stated that he was in receipt of the Township Planner and Engineer comment letters and, overall, could agree to comply with the comments provided in those letters. He then discussed one of the items required in the letters that asked for testimony regarding trash collection. He then told the BOARD that a dumpster pad and screen fence were proposed along the west side of the parking lot and that dumpster would be

serviced by a private waste hauler. He testified that in complying with the staff comments, they do not significantly alter what was being reviewed by the BOARD that evening or viewed on the exhibit being shown.

105. Mr. Miola then drew the BOARD's attention to the fact that the application had been reviewed by the Franklin Township Historic Commission and were before them on three (3) separate occasions. He added that much of the landscape design was based upon their comments and they were particularly sensitive to the view of the site from the towpath along the Raritan River and the reason for the landscaping along the Easton Avenue frontage.
106. Mr. Miola then stated that the only improvements to the site were landscaping, parking and stormwater management and no new buildings were being proposed and no new construction being proposed. He added, however, that there were some utility improvements/connections proposed as well to separate the Site from the site to the south, which was the warehouse application. He also added that there were no variances associated with the site plan application.
107. A motion was made to carry all three (3) applications to January 22, 2026, with no further notice required.
108. Peter U. Lanfrit, Esq., also appeared before the BOARD on behalf of the Applicant, Syracuse 1950 Easton Avenue Owner LLC with respect to ZBA-25-00009 in which the Applicant seeks a "d(1)" use variance, Preliminary & Final Site Plan approval and associated "c" variances to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse at 135 Davidson Avenue.
109. Mr. Daniel Miola, PE, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The BOARD accepted his qualifications. Mr. Miola then showed a slide that was a colorized version of the site plan that was submitted in the application package for the proposed warehouse. He noted that the building will have a footprint totaling 258,150 sq. ft., with ancillary office space, which was shown in the three separate pods of the building, to the northwest, to the center and to the northeast. He indicated that the office component of the building would total 10,500 sq. ft., with the remainder being all warehouse space. He then told the BOARD that the building would have one (1) car parking lot to the north side of the and used the cursor to point out the location of the museum building of the church as well as the location of Executive Drive, which was shown to the south of the proposed warehouse building. He then went on to describe the location of the IDIL site that was recently approved that included three (3) office components to the south of Executive Drive and shown with his pointer. He then told the BOARD that the three (3) office components of the proposed warehouse building were proposed for the side of the building that would face the museum building. Mr. Miola then stated that the cemetery for the church was located to the west on the other side of the tributary located along the property line.

110. Mr. Miola testified that the car parking lot would have one hundred fifty one (151) spaces and that the thirty five (35) loading docks would be on the part of the warehouse building facing Executive Drive to the west and the IDIL site. Additionally, Mr. Miola stated that they were proposing a total of seventeen (17) trailer parking spaces, which would also be located to the west of the warehouse building. He then told the BOARD and the public that the warehouse was being designed on “spec”, which meant that there were no tenants that were identified at that time. While there was a use variance that was required, he noted that the project was compliant with most of the bulk standards set forth in the B-I Zone, including building setbacks, building height, lot coverage, impervious coverage, and floor area ratio. He stated that three (3) “c” variances were required that he stated he would touch upon throughout his testimony, with the Planner also providing proofs.
111. Mr. Miola then drew the BOARD’s and public’s attention to the topic of circulation, where two (2) driveways were proposed. He indicated that the first driveway would be out to Davidson Avenue for the car parking lot and that driveway would be twenty six (26) ft. wide and utilized by passenger vehicles. He added that there would be a second driveway proposed off Executive Drive, which would connect to the loading part of the building and used primarily by trucks. He testified that the width of that driveway would be sixty six (66) ft. wide and required a variance from the Township’s maximum driveway width requirement, which was thirty six (36) ft. wide. Mr. Miola then explained that the sixty six (66) ft. width at the mouth of that driveway was the minimum width necessary to accommodate truck turning movements into and out of the driveway. For that reason, he stated that they would be requesting relief for that driveway width. He then moved on to speaking about the loading area depth, which was the dimension from the loading docks to the opposite curb and proposed at one hundred thirty (130) ft. Mr. Miola then testified that they also required a variance from the Township ordinance which required a minimum dimension of one hundred forty seven (147) ft. He added that they had provided truck turning templates and submitted those with the application package that show how vehicles would access the docks and that those templates show that 130 ft. was enough room. Based on his experience laying out warehouse sites, Mr. Miola indicated that one hundred thirty (130) ft. was an industry standard. He then told the BOARD that they would also require a variance for front yard loading as the pavement for the truck court was within the required front setback of Executive Drive. He then discussed the fact that both the driveway width and the front yard pavement setback were required relative to Executive Drive; however, they were of the understanding that Executive Drive was proposed to be vacated by the Township and, if that occurred, both of those variances would not be required.
112. Mr. Lanfrit then clarified the last statement made by Mr. Miola by stating that the Township Council introduced an ordinance the previous week to vacate Executive Drive. He added that the ordinance was introduced because of the actions of the Zoning Board in the IDIL application, wherein the BOARD requested that IDIL request the vacation of Executive Drive. In compliance with the BOARD’s request, IDIL has done that. He then explained that part of the resolution of the IDIL application was that once

Executive Drive was vacated, that they would have to provide the applicant with an access easement so that they would gain access to their property. Mr. Lanfrit indicated that they were in discussions with IDIL as far as the language of that easement, but that is being accomplished. He added that Mr. Miola's testimony was based upon the application that they submitted, at which time Executive Drive was a public right-of-way. He added that the reality is that if the resolution of the Council to vacate is adopted, which should be within the next few weeks, the variances for driveway width and front yard pavement setback would go away.

113. Mr. Miola then indicated he wanted to explain some other aspects of the site plan. As he had stated before introducing the church application, they were proposing a sidewalk along Davidson Avenue. He wanted the BOARD to know that the subject application they were discussing proposed to pick up that sidewalk and carry it along the frontage of Davidson Avenue, ultimately terminating at the Executive Drive/Davidson Avenue intersection. He also added that the Executive Drive/Davidson Avenue intersection would be upgraded and the intersection improvements would include widening the curb radius to better facilitate turning movements as well as including ADA ramps, crosswalks, signage, signals, controls, and new striping. Additionally, Mr. Miola stated that several retaining walls were proposed on the Site to support the grading plan. Firstly, an eight (8) ft. high wall was proposed to screen the truck court from Davidson Avenue. In addition, four (4) ft. high walls were proposed around some of the basins for storm water management as well as between the car parking lot and church. He noted that two (2) monument signs were also proposed, one (1) by the car driveway out to Davidson Avenue and the other by the truck driveway at Executive Drive as well as wall signs that were proposed on the building. To identify the building's tenants. He testified that the monument signs and the wall signs would be fully compliant with Township requirements with respect to their number, their setbacks and their sizes.
114. Other components of the site plan included waste management, which Mr. Miola expected would be done using a waste compactor that would be in one (1) of the loading dock positions, with the exact location of the compactor to be determined by the tenant and serviced by a private waste hauler.
115. Mr. Miola stated that stormwater management had been designed to meet the water quantity, water quality and storm groundwater re-charge requirements of the Township. He added that the site would include eight (8) storm water management facilities which included three (3) pervious pavement systems and five (5) bio-retention above ground basins. He went on to explain that these facilities, after providing water treatment, would ultimately discharge runoff to the ditch on the west side of the site, which was a tributary to the Raritan River. He wanted the BOARD to know that the storm water management design was done under and in compliance with the Township, Delaware & Raritan Canal Commission (DRCC) and NJDEP permits. He then noted that the NJDEP had, in fact, issued their permit for the project and the DRCC had indicated that they have no more technical comments to that design and that they would be issuing their permit once all other approvals were received by the Township and the County. He then went on to explain that the outfall into the Raritan River or into the Raritan

River tributary required relief or a hardship waiver from Section 112-228.B of the Township Code due to its presence within the stream corridor to justify that waiver. Mr. Miola then stated that most of the disturbance to the outfall was within previously disturbed lawn areas and that there would only be a small section of the installation, the area that was most downstream part closer to the riverbank that would require some clearing. He noted that the clearing had been approved by NJDEP and the area would be restored with indigenous, non-invasive vegetation.

116. Mr. Miola then touched on landscaping next, showing in the exhibit that the site design included a landscape plan that focused landscaping around the perimeter of the site, in particular, the street frontages of Davidson Avenue and Executive Drive. In total, he stated that there would be fifty four (54) shade trees, fifty three (53) ornamental trees, and one hundred twenty six (126) evergreen trees proposed, which totaled two hundred thirty three (233) trees. In addition, he stated that two hundred forty one (241) shrubs were proposed as well as ornamental grasses and perennial plantings. He then discussed their locations, noting that most of the shrubs would go directly next to the pavement areas, with most of the trees going along the street frontages as well as the rest of the perimeter of the site. He then testified that the landscape plan met the tree planting requirement of one (1) tree for every two thousand (2,000) sq. ft. of pavement. Mr. Miola did state that they received a comment from the Township Planner who asked that they add more trees to every island throughout the car parking area and stated that they agreed to do that. He then stated that a tree removal plan was prepared as required by the Township, but not all the required replacement trees were proposed on the Site and, therefore, the applicant agreed to contribute to the Township's Tree Fund for the remaining required plantings as allowed for by ordinance.
117. Mr. Miola then discussed the lighting plan, noting that LED lights would be mounted on the building. For the north side, the side that faced the church retained property in the car parking lot, the lights would be mounted on the building at twenty (20) ft. heights. He added that the other building-mounted lights on the opposite side would be mounted at a taller height of thirty (30) ft., and in addition, some pole-mounted lights were proposed which would also be mounted at thirty (30) ft. He then noted that the lighting design fully complied with ordinance requirements with respect to light levels for parking lots, property line spillover and other requirements.
118. Mr. Miola then discussed the Buckeye Pipeline that was located to the west of the site along the ditch on that western side. He added that Buckeye had a thirty (30) ft. easement over the pipe and he stated that they have had multiple discussions with them regarding the work that impacted their easement which really consisted of that storm pipe crossing. He testified that they would ultimately provide appropriate documentation from Buckeye to the Township that allowed for their proposed storm crossing. In addition, Mr. Miola indicated that they had three (3) meetings with the Township's Historic Preservation Advisory Commission and made several design revisions that they recommended to ultimately issue letters supporting both applications.

119. Lastly, Mr. Miola stated that they were in receipt of the comment letters from the BOARD professionals, including the BOARD Planner and the BOARD Engineer and can agree with all the comments.
120. Since Mr. Miola had received a question related to the cemetery, he pointed out in the exhibit the location of the cemetery. He noted that the cemetery property, which bordered both the church parcel and the proposed warehouse parcel entirely and extended from I-287 to Easton Avenue. He noted that there was no connection between the warehouse parcel and the cemetery, but that there was a connection between the church parcel and the cemetery by way of a pedestrian foot bridge that crossed the stream that divided the cemetery from the church site.
121. Mr. Miola then discussed the fact that there were wetlands on the site, along the tributary bank, but they have accounted for those and were doing work within the buffers of the wetlands, but stated that they received a permit from the NJDEP in order to perform that work that they were requesting a waiver from the Township for that stream corridor ordinance.
122. Vice Chair Shepherd asked what kind of vegetative buffer was on the side of the warehouse that can be seen from the Delta Hotel that was across the street. Mr. Miola stated that they had tree plantings along Davidson Avenue on their side of the roadway between the warehouse and the curb, providing two (2) rows of trees with one (1) row pretty close to the Davidson Avenue curb and the other pretty close to the warehouse wall. Mr. Miola then zoomed in to show the landscaping plan in the exhibit.
123. Mr. Lakhia then asked how the museum building that was on the property that would stay with the church would access that and asked if they had to use that common driveway to get there. Mr. Miola indicated that cars that want to access the 82-space parking lot that wraps around the museum building would have to utilize the Davidson Avenue driveway for the warehouse and then turn into that parking lot. Mr. Lakhia then asked under whose ownership that driveway would be. Mr. Miola stated that the ownership would be dependent on the subdivision line and there would be an access easement executive between the parties that would allow access. Mr. Lanfrit stated that it would be a recorded permanent easement which would be binding on all future owners.
124. Mr. Thomas then asked if all the traffic had the benefit of the traffic signal remaining as part of the Executive Drive improvements. Mr. Lanfrit stated that the traffic signal would remain even though Executive Drive would be vacated, but the light would stay.
125. Mr. Healey then asked if they had submitted to the DRCC and Mr. Miola answered in the affirmative. Mr. Healey then asked what the Applicant's overall status was with their review. Mr. Miola testified that the DRCC had indicated via letters for both the improvements and the church site, as well as the improvement at the warehouse site that they have no further technical comments. He added that the DRCC indicated that as soon as they give evidence of County and Township approvals, that they would be

in a position to grant their approval. Mr. Healey then drew Mr. Miola's attention to Fig. 5 on Page 9 where he had provided a comparison of the site to the IDI Logistics warehouse application that was on the south side of Executive Drive and basically showed that, on that application, there was a much wider landscaped front lawn. He continued by saying that, if the BOARD recalled, that that plan had a very robust landscape plan between Davidson and the warehouse proposed for that site. He further indicated that with the subject site, the building was basically right up to the fifty (50) ft. required front yard with far less landscaping and wondered if there was a reason for that. Mr. Lanfrit explained that they were complying with the Code, but Mr. Healey reminded him that the Applicant was seeking a use variance, as well as your site application, and the BOARD felt it appropriate to grant the use variance for IDIL. He added that some of the discussions that were held before the BOARD on that application was the buffer that was provided. In answer to Mr. Healey's question, Mr. Miola indicated the difference between our application and the IDIL application and why they have a greater setback. Mr. Miola indicated that the IDIL application had a different lot configuration and he went to a slide they had that would help explain the situation between the two (2) applications. He showed that the IDIL lot had the benefit of their long access on the I-287 side of the property, which allowed them to use that access for the building in the layout shown. He added that the IDIL building proposed a driveway within the area between the building and Davidson Avenue for their car parking lot. So, while they do have a buffer between the buildings, they both had a detention basin as well as that driveway proposed for the circulation. He then explained that it was really a function of the lot area that the two (2) developers must work with and the layouts that they have advanced for approval.

126. Vice Chair Shepherd then asked if they could just make their building a little bit smaller and then match up with the buffering that has been done by IDI Logistics. Mr. Miola indicated that IDI Logistics' basin was as close to Davidson Avenue as our building, so it was not like they had a landscape planted berm buffer because they were doing their storm water management there for their project. In addition, Mr. Miola added that just to the west of that, they had a drive aisle for circulation, so he believed that if you match up how close their basin is to the Davidson Avenue curb, that looks about the same distance as our building is to the Davidson Avenue curb.
127. Mr. Healey stated he did not want to argue the point, however, that basin on IDIL's property was landscaped with trees and shrubs and that is what was on their plan and did not want the BOARD to think it was just hardscaped because it was a landscaped retention basin with trees and shrubs.
128. BOARD Engineer, Mr. Darren Mazzei, CME, noted that the sidewalk along Davidson Avenue had portions of it get out of the right-of-way, so he just wanted to make sure that they would be granting an access easement, in perpetuity, for the public. Mr. Miola stated that they would agree to that. Secondly, he noted that the one (1) retention basin let us say on the IDIL side, there were some comments in his letter regarding raising the top of the wall. He stated that he just wanted to make sure that they knew that they had to address that with the BOARD because that section almost ended up being a bowl

so we want to flatten it up so it was going to be more than a four (4) ft. wall there in order to flatten out the grates. Mr. Miola stated that the basin Mr. Mazzei referred to was the basin near the Davidson Avenue/Executive Drive intersection that they have a four (4) ft. retaining wall for, but he indicated that they also have a five (5) ft. vertical slope down to the top of that wall. Mr. Miola then addressed Mr. Mazzei's comment of asking for just a wall for the entire nine (9) ft., which he indicated that they could agree to do.

129. Chairman Thomas then opened the meeting to the public for questions of Mr. Miola, the Applicant's engineer.
130. Mr. MacArthur, Attorney for the objectors, came forward. He asked Mr. Miola to confirm that the testimony he gave related to the parcel that was being retained by the church had no variances required on that lot. Mr. Miola confirmed that that was what he testified to, however, as everyone would hear from their planner because they were subdividing the property and that there was an existing church, he asked if that was a technical "D" variance. Mr. Lanfrit indicated that they would present testimony and there is a "D" variance required for that site, but there were no bulk variances that were required and that they would present planning testimony to that effect.
131. Mr. MacArthur then asked Mr. Miola if he was familiar with the zoning ordinance of Franklin Township and he answered in the affirmative. Mr. MacArthur then pointed out Section 112- 37E of the Township Code that stated that most of the parking should be located at the rear of the main structure for the church, as it is a place of worship, with no more than ten (10%) percent of the total parking located at the front entrance for handicapped accessibility, weddings and funeral services. Mr. MacArthur believed that the application would require a variance for that and pointed out that the plan for the church had most of the parking in the front of the building and it was kind of wrapping around the whole property. Mr. Miola then asked for the Code section to be read again to him for his understanding, and Mr. MacArthur did so.
132. Mr. Miola then indicated that while the building had a chapel, it also had administrative offices, as well as a museum, so he was not sure that the Township Code Section applies. He added that St. Andrews Church was not on the property in question. A discussion ensued and Mr. Miola indicated that he would have to review the Township Code for more clarity. Mr. MacArthur then asked Mr. Miola about the easement between the church property and the proposed warehouse property on the other side of the subdivision line. Mr. Miola explained that the easement would have to cover access to both driveways into the parking lot for the museum, so it would go from the property line down the driveway in front of the warehouse and out to Davidson Avenue. He then further explained that the cross easement was not for parking, but for access only.
133. Mr. MacArthur then directed a question to Mr. Miola regarding the landscaping that was to be provided and asked to confirm that there was going to be a five hundred seventy seven (577) tree shortfall of what was being provided. Mr. Miola indicated that he was referring to the tree replacement plan and the total replacement trees

required was five hundred seventy seven and of that, he stated that they were proposing two hundred thirty two (232) trees, which makes the shortfall only three hundred forty five (345) trees, not five hundred seventy seven (577).

134. Mr. MacArthur then drew Mr. Miola's attention to the darkened area on the site plan indicated a Township of Franklin stream corridor preservation area. Mr. Miola stated the darkened area was with respect to a conservation restriction area proposed for that western part of the site where the river corridor is and that they have the storm sewer improvements that he said he testified to earlier. Mr. MacArthur then asked if there were wetlands associated with the tributary that was north of the site. Mr. Miola answered by stating that the tributary was located west of the site and, yes, there were wetlands, which were considered in the category of "exceptional" which would mean that there was a one hundred fifty (150) ft. buffer from the wetland limit. They then discussed why there was the term "anticipated" related to the wetlands and Mr. Miola indicated that at the time of the submittal they were not confirmed, but has subsequently been confirmed by the NJDEP as exceptional. Mr. MacArthur then noted that it appeared that many items were cutting through certain improvements shown on the site plan, through a basin, a sliver of impervious coverage, a second basin and related infrastructure, three (3) parking spaces and a third basin. Mr. Miola confirmed that information and stated that they could build in a wetland buffer due to a policy at the NJDEP known as transition area waiver or transition area averaging which he indicated they received via permit from the NJDEP. He then confirmed that all improvements proposed on the plan with respect to the wetlands and the wetlands buffer had been approved by the State. Mr. MacArthur then asked them to provide a copy of that transition area waiver, and Mr. Miola said that they could.
135. Mr. MacArthur then asked if the tributary had any other environmental designations and was it a C1, C2 or C3 stream. Mr. Miola stated that the tributary had been assigned a fifty (50) ft. riparian zone, which meant that it was not a C1 stream and was not sure if it was deemed a C2 or C3 stream but agreed to find out for them.
136. Mr. Healey then asked if the fifty (50) ft. riparian zone part of a submittal to the NJDEP and did they confirm that. Mr. Miola stated that the NJDEP confirmed a fifty (50) ft. riparian zone off that stream and would confirm whether it was a C2 or C3 stream.
137. Mr. MacArthur then referred to the landscape plan, LP-101 and asked if any plants on the schedule considered non-native. Mr. Miola stated that the species that they selected were always either native or adaptive and he explained the difference between an adaptive species or one that was non-native was that adaptive species were not originally native, but had been in the region and had adapted to the climate and the conditions and, therefore, would thrive.
138. Mr. MacArthur asked if the lighting proposed for the warehouse spilled over more than 0.1 of a foot candle along the boundary lines of the parcel. Mr. Miola stated that it was more than 0.1 of a footcandle, but less than 1 footcandle. He stated that he could see 0.4 footcandles where it spills over to the driveways that were located for the eighty

- two (82) space parking lot. Mr. Miola indicated that he believed the Township Code stated that lighting fixtures shall not exceed 0.1 footcandles at the property adjoining residentially zoned property.
139. Mr. MacArthur then asked how big of a truck would fit in one of the truck bays and Mr. Miola stated that they did circulation plans that were included in the submittal package that show that a New Jersey Title 39 tractor trailer could access that truck yard, more akin to a WB67 and it did represent the largest truck that was permissible in New Jersey.
 140. Mr. Igor Kreptik, 17 Majestic Drive, Freehold, NJ, came forward. He asked Mr. Miola how he came to the required number of parking spots as eighty two (82) were needed for the application. Mr. Miola stated that a parking evaluation was undertaken for that existing building, which confirmed that eighty two (82) parking spaces was an adequate number based on the number of people expected in that building as authored by their traffic engineer and he would provide more testimony on it later in the proceedings. Mr. Kreptik then asked about the illumination levels of the lighting and Mr. Miola stated that the parking design or the illumination design was done in order to disperse light so that it was in accordance with standards that were applicable to parking lot design, so that their design was in accordance with those levels. He told Mr. Kreptik that the Lighting Plan was part of the original submission to the Township.
 141. Mr. Mark Bukachevski, Edison, NJ resident. Mr. Bukachevski asked what the dimensions of the warehouse building were and Mr. Miola stated that, end to end, the length was eight hundred eighteen (818) ft., and the depth was about three hundred sixty (360) ft. He then indicated that the height of the building complied with the fifty (50) ft. height requirement, with the height of the building along Davidson Avenue was reported to be forty four (44) ft. and the height of the building along Executive Drive was reported to be forty six point seventy six (46.76) ft. Mr. Bukachevski asked what the word “spec” entailed and Mr. Miola explained that it means ‘speculative’ where there was no tenant yet for the building. Mr. Bukachevski asked when they might have a specific tenant for the building and Mr. Lanfrit indicated that until the building was approved and construction was underway, they probably would not have a client.
 142. Mr. Nazruck, 16 Dortmund Drive, Manalapan, NJ resident came forward. He asked about how the easement worked and Mr. Lanfrit and Mr. Miola both explained that the easement was for the driveway that would allow access to the parking lot by the chapel/museum building. A discussion ensued as to where they could park and if parking on the other side of warehouse near Executive Drive would be considered trespassing. Mr. Bernstein indicated that nothing had been decided other than there was an easement to allow access from the warehouse property to the eighty two (82) parking lot for the chapel/library/museum building.
 143. Thereafter, all three (3) applications were carried until March 5, 2026, which was approved unanimously.

144. At the hearing held on March 5, 2026, Mr. Lanfrit explained that the testimony given that evening would be inclusive of all three (3) Applications that were being heard simultaneously.
145. Mr. Lanfrit asked if all the BOARD members in attendance that evening had been to both previous meetings or listened to the tapes of the hearings so that they have seven (7) members. Ms. Woodbury confirmed that all members present that evening had either been to both hearings or had viewed the videotape of the hearings.
146. Mr. Lanfrit then asked Mr. Bernstein who the person was in the back of the room recording the proceedings that evening. The person who was recording from the back of the room came forward and stated that he was with Portrait of Freedom, New York, NY, which was a public organization.
147. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.
148. Mr. Lanfrit then explained that they had had three (3) previous meetings in the past, September 18, 2025, November 6, 2025 and January 22, 2026. On September 18, 2025, he noted that they presented the testimony of Josh Zemon who was a representative of the warehouse developer who indicated his background and his company's background in the warehouse industry. He went on to state that Mr. Zemon presented photographs of projects that his company had developed. Mr. Lanfrit then added that they presented testimony of Dan Miola, who was their Site Engineer, and that testimony was mostly focused on church property. He went on to state that at the November 6, 2025 meeting, Mr. David Lonski, Esq., Attorney, appeared on behalf of the church and presented testimony concerning the church's right to sell the property, the contract that was entered into, and a little bit of history of the church. Mr. Lanfrit went on to state that they went back to Mr. Miola on January 22, 2026, who presented the rest of the Site Plan testimony concerning the warehouse that evening.
149. Mr. Lanfrit then indicated that he intended to call three (3) witnesses, including Scott Winger, their architect, Mr. Alan Lothian, their traffic consultant, and Shawn Moronski, who was their planner. In addition, Mr. Lanfrit indicated when they had the first meeting, he had informed the BOARD that, based on the staff reports that were issued, that they would not be seeking Final Site Plan approval because the Township Engineer had requested additional topographical information and additional soil testing. Since it had been five (5) months, they were able to accomplish all of that testing and had submitted all of the paperwork to the Township Engineer and he thought that if the BOARD were to act favorably on these applications, they would be in a position to grant not only Preliminary Site Plan approval but also Final Site Plan approval, but the BOARD could confirm that with the Township Engineer.
150. Secondly, since the last hearing, Mr. Lanfrit indicated that he has provided to the BOARD, by way of submission, documents concerning the Church's authority to sell

the property and were now part of the record since he submitted them consistently outside the ten (10) day submission timeline in advance of the hearing.

151. Lastly, if the BOARD recalled the IDIL hearing which was a warehouse on the other side of Executive Drive, that the BOARD imposed a condition upon them to seek vacation of Executive Drive from the Township Council and were supposed to provide an easement to Mr. Lanfrit's client for access to our site through their property. He went on to state that at that time, they had put that report Mr. Lanfrit stated that the Township introduced an ordinance last year to vacate Executive Drive. He added that they put that on hold since they had not reached an easement agreement with IDIL. Mr. Lanfrit stated that he was happy to report that they had reached that agreement with IDIL, so they would have an easement through their property to gain access and so that Executive Drive will be vacated. At the present time, they have two (2) variances they were requesting because of Executive Drive. Mr. Lanfrit then stated that since Executive Drive would be vacated, those variances would go away but, as of that evening, they still exist and Mr. Lanfrit stated he would provide testimony concerning those variances, but as soon as he would be notified that the Council vacated Executive Drive, those variances would no longer exist.
152. Mr. Wayne Scott Winger, RA, Regional Technical Director, employed with Nelson Architecture Interiors, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Winger indicated that he and his firm prepared the floor plans and architectural plans. Mr. Winger then showed the larger scale overall plans prepared by Langan for the site plan by the Site Engineer, marked into the record as Exhibit A-1, and noting that it was comprised of two hundred fifty eight thousand one hundred and fifty (258,150 sq. ft., seven hundred ninety point fifty (790.50) feet long and approximately three hundred thirty (330) ft. eight (8) inches in its depth, with one hundred fifty eight (158) car parking spaces, seventeen (17) trailer positions, thirty four (34) exterior docks and the building will be made solar ready. He then showed an exhibit showing the four (4) building façade elevations of the proposed building and an enlarged version of what would be indicative of what the façade would look like along Davidson Avenue. This exhibit was marked into evidence as Exhibit A-2, noting the insulated pre-cast panels with vertical reveals (+/- forty four (44) ft. above grade) that would be the product covering the outside of the building, with them stepping down about a foot at the corners of the building for office zones and a canopy over the front entrance being twenty four (24) ft. above grade. Mr. Winger then added that clearance side space was about thirty five (35) to thirty eight (38) ft. clear for the facility and several water detention areas proposed for around the site. He then noted that the building was set back about fifty (50) ft. from Davidson Avenue, allowing for a buffer of shrubs and trees, meeting the request of the Historic Commission, while softening the eastern edge of the property. He explained that the use of color and varying panel sizes break down the façades in a rhythmic fashion, allowing the building façade to be viewed as segments, and lessening the impact of the length of the facades. The rhythmic patterning of the façades was similar to that of a piano keyboard in a vertical orientation. He added that the elevations included also incorporated vertical shading devices at the windows, which enhanced the elevations throughout the day and casting

varying degrees of shadow about the façade. He then noted that the corners consisted of metal panels and lots of glass. He described the lighting mounted to the façade of the building would be strategically shrouded to control the impact of the illumination of the site. He then discussed the wall near Davidson Avenue by the truck bays to help shield the trucks from view. Mr. Winger then stated that rooftop mechanicals would be set back to the center of the building for less impact to the street view, and they would have one bay dedicated for refuse from the facility.

153. Mr. Winger then stated that the building was planned to be a multiple user, with the four (4) corners being able to be used as office areas for different tenants.
154. Mr. Alan Lothian, PE, Associate Principal and specializing as a Traffic Engineer, employed by Langan Engineering, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Lothian was tasked with analyzing the changes to the parking layout on the site that would be retained by the church, which was one (1) parking space for every seat in the church and there were no requirements in the Township Code for the other uses on the site, including St. Sophia Seminary, the chapel and the history and education center and the museum. He indicated that they were looking to the BOARD to decide on what was required based on what they already submitted and his testimony that evening. In undertaking the analysis, Mr. Lothian stated that he discussed the anticipated and current operations of the site with church leadership as well as visiting the Site numerous times. He went on to discuss the current parking of the church, including twenty (20) spaces, with the cultural center included was three hundred seventy five (375) and just under four hundred (400) parking spaces in total. Mr. Lothian then added that the twenty (20) spaces currently serve the employees and visitors coming to the facilities that included the history and education center and chapel. In the future, he stated that the anticipated demand for the site was for the office/museum employees (ten (10), with six (6) on-site at any given time). Mr. Lothian then indicated that the parking for the chapel visitors included the residents of the seminary who did not have vehicles for themselves and were already on-site and up to five (5) visitors per day for the chapel, with five (5) parking spaces provided. He did mention that on holy days, four (4) times per year, there were likely to attract up to fifty (50) visitors in the chapel, assuming two to three (2-3) people per car would require fifteen to twenty (15-20) occupied spaces for a total of twenty five (25) spaces provided. Mr. Lothian then discussed the parking for the museum, which he indicated operated 9AM to 5PM and anticipated approximately ten (10) visitors on a typical day, to include ten (10) parking spaces. He did note that the museum operated when there were no services at the chapel because they were conducted earlier in the day. During special events that occur a few times throughout the year and on Saturdays, when there was no other activity on the site, it would include forty to fifty (40-50) guests at those events and up to one hundred (100) guests at larger events that would require thirty to fifty (30-50) parking spaces required. On a typical day, Mr. Lothian testified that they were looking at twenty five (25) occupied spaces. He then discussed that they were providing eighty two (82) parking spaces and that it would be more than enough to provide enough parking for the typical demands and to accommodate the larger events at the museum.

155. Mr. Lothian then had a discussion regarding the parking circulation on-site and operation for the proposed warehouse. He indicated that Mr. Miola, the Applicants' Engineer, went over access and circulation and was very detailed relating to the site plan, so he would discuss these very generally. He went on to state that access to the site was currently via one (1) signalized driveway on Davidson Avenue and one (1) very infrequently utilized driveway on Easton Avenue. He added that they were proposing one (1) unsignalized access on Davidson Avenue to serve passenger vehicles for the warehouse and the activity on the church site. He noted that that driveway was generally in the same location it was currently in, but that they just shifted it a little bit further away from the Easton Avenue intersection. He then spoke of the access that was currently out to Easton Avenue would be closed off and used for emergency vehicles only. Mr. Lothian added that they would have access to Executive Drive, which currently was a Township roadway but would be vacated and be a private access road for the trucks and come into the warehouse site at the signal and would not utilize the unsignalized entrance. He then stated that they had proposed improvements at the signalized intersections to facilitate turning movements of the trucks, to upgrade the signal to provide pedestrian accommodations that do not exist today. Mr. Lothian testified that they had designed those improvements and were part of the packet submitted to the Township. He then stated that those improvements would maintain operations as they were today with their access out to Executive Drive and the IDI traffic next door.
156. Mr. Lothian then discussed the site circulation, including truck movements on the property and vehicle movements to avoid any conflicts between them. He indicated that the site had been designed to accommodate all vehicles specifically for the Davidson Avenue driveway and the parking lot in the front and the church parking lot was designed to accommodate passenger vehicles, emergency vehicles, refuse trucks and smaller delivery vehicles. He then indicated that the Executive Drive access was designed to accommodate any of those vehicles as well in addition to the tractor trailers. He then told the BOARD that there were one hundred fifty (150) parking spaces required, based on the Township Code, on the warehouse site and one hundred fifty (150) were provided.
157. Mr. Lothian then explained that they did a Traffic Impact Study for both sites combined because they do share access. He noted that they did traffic counts in October 2025 and looked at extended peak hours (6-9 a.m. peak hours and 3-6 p.m. peak hours), as well as collecting a week's worth of data with ATRs to see what was happening along Davidson Avenue and to identify the peak hours. He indicated that the a.m. peak hours were between 7:45 a.m. and 8:45 a.m. and between 5:00 p.m. and 6:00 p.m. Mr. Lothian then told the BOARD that they then projected "no-build" volumes by including a background growth rate and the IDI trip generation from the site next door based upon their approved Traffic Impact Study. He then added that they generated trips for the warehouse based on language code 150 (warehousing) from the Institute of Traffic Engineers (ITE) Trip Generation Manual (11th Edition). He noted that their calculations were fifty seven (57) a.m. trips and fifty nine (59) p.m. trips, which were

significantly less than one hundred (100) trips, which was considered by the NJ Dept. of Transportation and ITE as a significant increase in trips from a site. He noted that the 12th Edition of the ITE Trip Generation Manual actually had a lower rate for this size warehousing. Using the background growth of the development, their conservative trip generation, looked at the Easton Avenue and Davidson Avenue intersection and looked at the “build” and “no-build” scenarios and noted that they used a conservative estimate, showing that there was no significant impact and would operate at a level “C”. He then added that the Davidson Avenue and Executive Drive intersection would operate at level service “B”, utilizing the “build” and “no-build” scenarios, with no change. He noted that the site driveway had a little bit more constrained operations exiting the site and had a level service “E” in the a.m. and an “F” in the p.m., but explained that it was low delays with the higher trip generation that they estimated and equated to a queue of about two (2) vehicles exiting the site and would not affect the traffic flow along Davidson Avenue. He added that it was just people waiting on-site to make a left or a right out of the driveway. He noted that there were signals on both sides that created gaps to help facilitate movements.

158. Mr. Sean Moronski, PP, Senior Project Planner, employed with Langan Engineering and Environmental Services, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials. Mr. Moronski entered into the record Exhibit 3A, Creation Partial Site Plan, a colorized rendering of the warehouse lot that showed the layout of the proposed warehouse to include the building, the parking, the loading areas, the landscaping, along with the lot lines. He discussed the history of the site, speaking of various approvals in the past that included a Use Variance for the cemetery in 1999, a variance extension and site approval in 2000. He then discussed the approved uses in the Business & Industry (B-I) Zone and noted that they were requesting a “d(1)” Use Variance for the warehouse. He then discussed the surrounding land uses to include the Delaware & Raritan Canal State Park and Raritan River, office buildings, hotels and a previously approved warehouse site, Rte. 287, light industrial and office uses as well as the St. Andrew Ukrainian Orthodox Cemetery and an R-10 residential zone beyond that. He noted that the rear of the proposed warehouse was at least eight hundred (800) feet away from the residential area. He then discussed the request for the Minor Subdivision to create two (2) lots, with no variances related to that and stated that they were also requesting a “d(2)” variance for the proposed church area lot because they were reducing the size of the lot, they were technically expanding the non-conforming use with the use now being on a smaller lot than was previously permitted. He then indicated that they were requesting a “d(1)” variance for the proposed warehouse site because it was not permitted in the B-I Zone. Additionally, he stated that they were requesting several “c” variances, two (2) of which involve Executive Drive in which the front yard did not permit any loading area and was within the twenty (20) ft. front yard setback. Mr. Moronski stated that they were also requesting a “c” variance for maximum driveway width and a minimum loading depth.
159. He then started the discussion with the “d(2)” variance for the church, speaking toward the fact that a church was an inherently beneficial use. He then discussed the “Sica

balancing” test and the four (4) related uses, noting that reducing the site size would allow the church to continue its use and removing the cultural center and parking lot did not change the inherently beneficial use of the site as the core functions would remain. He then discussed the potential detrimental effects of the use, to include reducing the parking space would limit the church’s ability to address demand and referred to Mr. Lothian’s testimony as to the people who would be coming to the site, including employees, visitors to the chapel and the museum/library, the holy day observance increase in visitors, as well as such regarding a few events throughout the year. He noted that the parking would be able to accommodate those uses on-site. He then discussed reasonable conditions to mitigate the effects and he noted that the easement on the warehouse lot would provide access between the buildings to remain and Davidson Avenue. He added that since visitors would be able to use the driveway along Davidson Avenue, they would be able to limit the driveway use on Easton Avenue for emergency use only and have it gated as such. He added that when the Cultural Center building was removed, the events would be relocated to the social building next to St. Andrews Church, northwest of the site and non-church activities would no longer be offered on the site. Mr. Moronski said that the final test was to weigh the positive and negative criteria to see if granting the variance would cause substantial detriment. He then stated that the Applicant was providing eighty two (82) parking spaces with sufficient circulation and capacity to address the parking needs and that reducing the lot size did not intensify the use. He added that removing the larger Cultural Center building and ending non-church activities was appropriate for the new lot area because it did not affect the core functions of the church site.

160. With regards to the “d(1)” use variance for the warehouse, Mr. Moronski testified that the site was particularly suited with convenient access to Interstate 287 and the highway network without travelling through residential areas. The uses along Davidson Avenue included light industrial, warehouse and office uses. He noted that adjacent to the church site, Executive Drive provided access for trucks, was not a through road and will only have warehouse uses on it. He added that a substantial portion of the church property had already been developed with the Cultural Center and the parking lot. Mr. Moronski then discussed several purposes of the MLUL at N.J.S.A. 40:55-2, purpose A, purpose G, purpose H and purpose I. He then stated that he did not believe there was any substantial detriment to the public good as was reviewed by the Delaware & Raritan Canal Commission (DRCC), with their comments being administrative in nature, and the approval by the Township Historic Commission. He added that the new site had less impervious coverage while still addressing parking needs and that the traffic counts during peak hours fell well below the level that NJ DOT would consider the need for further review. He then noted that the intersection improvements were positive at the intersection of Davidson Avenue and Executive Drive, as well as the landscaping along Davidson Avenue and the building meeting the setback requirements, as well as being a significant distance away from residential areas and screening the loading area from Davidson Avenue. Mr. Moronski then indicated that the development would assist the church in continuing their core functions. He then added that there was no substantial detriment to the Township Zoning Code or zone plan and then summarized the B-I Zone’s purpose. Mr. Moronski stated that the project

addressed the standards as noted in the Master Plan and Land Use goal #2 was carried forward from the 2016 Re-Examination report to encourage commercial and industrial development areas with access to major regional highways in established areas with language related to warehouses.

161. With regard to the “c” variances, Mr. Moronski felt that they could all be granted under the “c(2)” criteria, where the overall benefits of the project outweigh any potential detriments. The first (1st) one was the front yard along Executive Drive, which as of that day, still existed where part of the loading area was within the front yard setback. He noted that the warehouse building was within twenty (20) ft. of the Executive Drive lot line, without specifically the loading that was proposed. He noted that Executive Drive was not a through street and would only be used by warehouses. He then stated that the twenty (20) ft. they were providing included landscaping along the lot line while placing the loading in the appropriate location to include a screen to block the views of the loading area from Davidson Avenue and surrounding uses. He then addressed the maximum driveway width was thirty six (36) ft. and they were proposing sixty six (66) ft. to allow for sufficient turning radius between the site and Executive Drive and noted that the turning templates in the plans do show that. He stated that he felt that the thirty six (36) ft. maximum was too low for the type of truck traffic that would be utilizing the driveway and that sixty six (66) ft. width was more appropriate. Mr. Moronski then addressed the minimum loading area depth, where the Township required 2x the maximum truck length and, in this case, it would be seventy three and one half (73.50) ft. which would translate to one hundred forty seven (147) ft. and they were proposing one hundred thirty (130) ft. He explained that the truck circulation plan allowed that the largest truck was able to circulate in and out of the loading spaces. He then stated that the loading spaces were sixty (60) ft. deep and that gave seventy (70) ft. for circulation. Mr. Moronski indicated that he believed that the variances further the purposes of zoning that he had outlined in the “d (1)” Use Variance, which was appropriate since the “C” variances were related to the warehouse development. In terms of the negative criteria, he stated that there would be no substantial detriment to the public good because the circulation design allowed for more efficient movement of vehicles and parking. He added that the twenty (20) ft. front yard setback along Executive Drive allowed for a substantial landscaped area and it was not a through road so concerns of mitigating any activity from a lower intensity use could be allayed. Mr. Moronski indicated that there was no substantial impairment to the zoning ordinance or zone plan. He noted that buffering and screening was defined as natural and man-made elements to shield lower intensity uses from higher ones. Mr. Moronski then stated that he believed that the landscaping was effective in terms of providing an adequate buffer screen from viewing the loading area.
162. Mr. Lanfrit then spoke with Mr. Moronski relating to the history of the inclusion of warehouses in the B-I Zone, then recent action by the Council removed them from that zone. He referenced Mr. Moronski’s statement that, recently, that the recommendation to Council was to amend the Master Plan to now call for warehousing to be put back into the zone based on some of the conditions that he testified to in his testimony that evening. They discussed that should the zoning be amended and be consistent with the

Master Plan, the proposed warehouse would be a conforming facility and Mr. Moronski agreed with that statement.

163. Mr. Moronski then stated that the variance for the loading area being within fifty (50) ft. of the front yard would not be needed once Executive Drive was vacated, the twenty (20) ft. setback variance would disappear because it would become a side yard.
164. Mr. Darren Mazzei, CME, BOARD Engineer, asked Mr. Lothian if while the Davidson Avenue driveway would also be the entrance to the church, would there be an easement put in place there for church access. Mr. Lanfrit stated that there would be permanent easements put in place, as a condition of approval, which was recommended in both Mr. Mazzei's report, as well as Mr. Healey's Planning report. Mr. Mazzei stated that, with that easement, was there any intention for the church to use the warehouse area parking for overflow. Mr. Lanfrit indicated that, in discussing this with his client, there was no formal agreement for the church to use the warehouse parking, but if there was available space, it would accommodate the church to provide that parking if it became necessary.
165. Mr. Dougherty then asked about peak travel time in the morning hours asking whether they approximate how many trucks would be entering and leaving during that peak hour of 7:45 a.m. to 8:45 a.m. Mr. Lothian indicated that they looked at it based upon conservative estimates and looked at five (5) trucks entering and eleven (11) trucks exiting the warehouse site during the peak morning hour, for a total of sixteen (16) truck trips. Mr. Lothian indicated that they did take a conservative approach and the numbers he just quoted typically occur during the middle of the day and truck trips during the peak hours, it was more like four (4) trucks entering and four (4) trucks exiting.
166. Mr. Rosenthal then asked whether they took into consideration the inclusion of handicap parking. Mr. Lothian stated that ADA accessible parking spaces were included in the calculations.
167. Mr. Healey then stated that he had a question for the Planner. He referred Mr. Moronski to his comment regarding the Master Plan Re-Examination regarding the B-I Zone, which had been adopted, but in the Appendix there was a draft ordinance that was proposed. He reminded Mr. Moronski that he had indicated in his direct testimony in response to Mr. Lanfrit that the proposal would be entirely compliant with the standards that were in there. For the record, Mr. Healey stated he wanted to correct Mr. Moronski's testimony by stating that, for medium intensity uses, they had to be within one (1) road mile of Rte. 287, which the proposed warehouse clearly was, but said that the second part of that stated that "it shall not abut a residential zone". Mr. Healey reminded Mr. Moronski that the proposed warehouse abutted a residential zone and would not be consistent with the proposed ordinance. Mr. Moronski replied that he would reconcile his testimony with that statement by saying the location of the proposed warehouse was a rather large site and mentioned earlier in his testimony that the rear of the property was over 800 ft. away from any residential zone. He added that

none of the traffic was going to be using residential streets. He added that every other standard set was met by the Applicant. Mr. Lanfrit also brought up the fact that even though the closest “residential zone” property was a cemetery and that the property could not be used as a residential property as such. He added that the cemetery property was between the first actual residential property that was over 800 ft. away.

168. Mr. Bernstein then asked Mr. Healey what the status was of the proposed ordinance that they were speaking of. Mr. Healey replied that the Planning Board had adopted the Master Plan Re-Examination and in it was an Appendix with the draft ordinance that was currently been forwarded to Council for their consideration. He added that the Council had not taken any action or adopted it at that time.
169. Mr. Healey addressed the Applicant’s Architect, confirming that they went through the Township’s Historic Commission and the DRCC and asked whether he was present at those meetings. The architect indicated that he was not present at those meetings. Mr. Healey then asked if he was aware of what comments either of those bodies offered regarding the architecture. He indicated that he was aware of some of the comments related to landscaping. Mr. Healey then asked if either body made any comments on the architecture of the warehouse. Mr. Lanfrit indicated that his office was at those meetings and there were three (3) comments from the Historic Commission, but none about the architecture. He also confirmed that the biggest discussion was about landscaping and screening and approved the landscaping plan at the last meeting with them. He explained that there were some extensive plantings along Davidson Avenue on the church site which would further block the view of the warehouse from the canal. Mr. Healey then asked if the comments made by either body were incorporated into the plans that the BOARD was reviewing that evening. Mr. Lanfrit answered in the affirmative and that the DRCC was now waiting for approval from Franklin Township and Somerset County in order to approve the project. He stated that they had satisfied all their comments.
170. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, and representing the objectors, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.
171. Mr. MacArthur asked the Architect what the height was of the warehouse, in terms of feet and stories. Mr. Winger replied that he believed he stated that it was +/- forty four (44) ft. tall in a single-story building. Mr. MacArthur asked if the air conditioning unit being proposed on the roof was going to be behind a parapet. Mr. Winger stated that the parapet was intended to be low and the equipment was proposed to be located central to the building footprint, which would allow minimal to no sight lines from Davidson Avenue. They then discussed how far away from Davidson Avenue the air conditioning unit would be situated and Mr. Winger explained that should the units be visible from Davidson Avenue that they would shield those, both from a visual aspect and from a noise aspect.

172. Mr. MacArthur then asked questions of the Traffic Engineer, Mr. Lothian. Mr. MacArthur then referred to Mr. Lothian's Executive Summary on page 1 and used the 11th Edition of the ITE Trip Generation Manual. Mr. MacArthur asked about whether what previously took place at the Cultural Center would now take place at a social building by St. Andrew's Church. Mr. Lothian stated that the church activities would relocate to a social building by St. Andrew's Church. He then added that there would be no external activities on the site as there were today, noting that the Cultural Center could be rented out currently. They had a discussion regarding the square footage of both of those buildings, with Mr. Lothian stating that he had not been inside either building and was not aware of their layouts. Mr. Lothian also stated that it was the intention, as he knew of it, that the social building would now be utilized for church activities, but did not know if it were a suitable replacement. Mr. MacArthur then asked, to his knowledge, if the museum inside the chapel building on Lot 106 would close if the Application were granted. Mr. Lothian indicated that the museum would remain open in the chapel building. A discussion ensued about the width of the emergency driveway at Easton Avenue and Mr. Lothian indicated that it was approximately twenty four (24) ft. wide internal to the site and possibly a bit wider up to thirty (30) ft. He then indicated that that driveway would be gated and used for emergency purposes only and accessed possibly by a knox box. Referring to the Land Use Code 150, Mr. MacArthur asked if the 12th edition of the ITE Trip Generation Manual considered the site as less trip generated than the previous edition (11th edition) and Mr. Lothian agreed. A discussion ensued, with Mr. Lothian explaining that it was based on different data sets that were provided to the ITE and incorporated them into their model, whereby the numbers could go up or go down depending on what the trends were.
173. Mr. MacArthur then brought up Mr. Zemon's testimony at a previous hearing about there being four (4) other warehouse developments that he had in the NY/NJ area and asked Mr. Lothian if he was aware of those other locations. Mr. Lothian answered in the negative. A discussion ensued regarding Mr. Lothian or one of his colleagues being involved in those other warehouse developments. Mr. Lothian stated he did not recall if he was involved and that there was a possibility that one of his colleagues might possibly have been involved. He stated that he evaluated the proposed warehouse development based on what traffic a warehouse of similar size would generate based on ITE, which he indicated was the standard of his profession. He added that the ITE data was based upon actual warehouse traffic counts. He added that he relied upon ITE data because there was no specific data to utilize as the proposed warehouse was not operating and that there was not a specific tenant in mind as yet.
174. Mr. MacArthur then asked that utilizing Land Use Code 150, were they speaking of a long-term storage facility. Mr. Lothian stated that there was a wide variety of uses that went into Land Use Code 150, which was typical warehouse and distribution activities. Mr. MacArthur then asked if he had considered using Land Use Code 154, which was high cube transload short-term storage warehouse. Mr. Lothian stated that the trip generation for Land Use 154 was typically less than Land Use Code 150. They then discussed Land Use Code 155, the fulfillment center warehouse, with Mr. Lothian

indicating that that was not the type of warehouse they were looking at here and a discussion ensued regarding their larger size, higher parking demands and more loading dock doors. Mr. MacArthur then discussed Land Use Code 156 warehouse types and Mr. Lothian stated it was not appropriate for the proposed warehouse and that the site would have to be designed differently because that warehouse type was for FEDEX, UPS, etc. utilizing that type of van coming in and out of the facility to deliver to homes and would have higher trip generation numbers, but not what was anticipated for the subject site. They then discussed Land Use Code 157 and Mr. Lothian explained that that type of warehouse was not anticipated to be considered with the proposed warehouse. They then spoke of the previous testimony regarding the a.m. and p.m. peak hours and coinciding with the a.m. and p.m. commuting hours. Mr. Lothian then stated again that the truck traffic typically would occur during off-peak hours, with the warehouse having thirty five (35) truck bays. Mr. Lothian could speak to Mr. MacArthur's question related to how many trucks would be on-site at one (1) time utilizing trip generation numbers, specifically about fifty five (55) trucks coming in and out of the site in one (1) day. They then discussed the need for thirty five (35) truck bays, with Mr. Lothian indicating that each bay could be turned over multiple times per day. Mr. Lothian indicated that WB-67, Title 39 sized trucks were anticipated to be the size truck coming to the site, which he indicated were the largest trucks that were legally allowed in New Jersey with the truck bays designed to accommodate them. They then discussed Land Use Code 150 that incorporated office space into the square footage of the building in their trip generation analysis. He added that they utilized the data of activity coming into and out of the site related to Land Use Code 150 that incorporated office space into the overall square footage calculations. He then spoke of the trip generations for a church for the report and Mr. Lothian testified that they continued to utilize the activity that was entering and exiting the site today during the peak hours. He noted that the Seminary did not generate any traffic related to the church and all the uses for the church were incorporated into the analysis. He and Mr. MacArthur then discussed utilizing a 1.0 growth factor to incorporate into the analysis for Easton Avenue and a 1.75 growth factor was used on Davidson Avenue consistent with the NJ Dept. of Transportation Background Growth Rates for Somerset County. Mr. MacArthur then drew Mr. Lothian's attention to the intersection of Easton Avenue and Davidson Avenue, asking if a W67, in the exclusive left-hand turn lane on Easton Avenue heading down Davidson Avenue, would be able to turn into Davidson Avenue in the left hand lane on Davidson Avenue, sitting at the light, without encroaching on traffic for eastbound Davidson Avenue sitting at the light in the dedicated left-hand turn lane. Mr. Lothian indicated that they did not evaluate truck turns at the County controlled Davidson Avenue/Easton Avenue intersection, but that trucks are currently utilizing that intersection on a daily basis. Mr. MacArthur noted that there would be even more trucks with the new warehouse site, but Mr. Lothian indicated that there would be slightly more trucks because of the new warehouse activity. Mr. MacArthur then asked if Mr. Lothian looked at whether there would be any encroachment of traffic stopped at a light with a WB67. Mr. Lothian explained that part of the reason they were doing the improvements at the signalized intersection of Davidson Avenue and Executive Drive was to facilitate truck turning movements because, in the existing condition, trucks did not have enough room to turn into and out of the site. He stated

that they were opening the radii to allow that to occur without conflict. They then spoke about a traffic impact statement for Executive Drive prepared by Dolan & Dean related to the IDIL matter, recognizing that their statement would include traffic from an already existing 200,000+ warehouse development. Mr. MacArthur then spoke about their Traffic Capacity analysis on Table 3, page 9, related to Davidson Avenue and the site driveway, specifically a southbound left right turn during a evening weekday hour and seeing a 23.1 second delay in a no build scenario (level of service C). He added that it increased to a 61.2 second delay on that turning movement. Mr. Lothian agreed with that statement when trucks were exiting the site. He also stated that his testimony was that the exiting traffic would have an anticipated queue of approximately two (2) vehicles where there was room for three (3) vehicles worth of storage before you would get to the first parking space. He added that with the inclusion of the conservatively higher trip generation they used on the intersection, they would not have a significant impact on-site and would not impede traffic on the free flow on Davidson Avenue. He explained that going from a level C of service to an E would be internal to the site and not on Davidson Avenue.

175. Chairman Thomas then stated that they would take a five (5) minute break for Mr. MacArthur to speak with one (1) of his experts.
176. Mr. MacArthur then directed his questioning to Mr. Moronski, the Applicant's Planner. He asked him if he looked at the 2006 Master Plan, 2007 amendment and two (2) amendments in 2008. Mr. Moronski testified that he looked at the 2006 Master Plan, the 2016 Re-Examination report and the 2026 Re-Examination report that was under review at the time and had since been adopted by the Planning Board per Mr. Healey. He added that he also looked at the 2023 amendment regarding the prohibition of warehouses, as well as the zoning ordinance and checked all the schedules, parking requirements, landscape buffer and land use table. Mr. MacArthur then asked if his testimony was that the property planned for warehouse could not be adopted for any of the permitted uses in the zone. Mr. Lothian answered in the negative and repeated his testimony of the particular suitability of the warehouse for the proposed site. Mr. Moronski also repeated his testimony of the surrounding uses in the area to include office use, including the office building on the corner of Davidson Avenue and Easton Avenue. Mr. MacArthur asked if the alleviation of economic hardship is not by itself a special reason and Mr. Moronski stated that he questioned the relevance of that statement as it was not brought up in his testimony. Mr. Moronski went on to state that his testimony was that the removal of the cultural center and the parking lot did not take away from the core functions of the church use. Mr. MacArthur asked if wedding celebrations, concerts, storage of historic artifacts from the USSR and books going back in history regarding the church were not core values. Mr. Moronski indicated that the remaining aspects of the church, i.e., the chapel, museum, and seminary, were still remaining and that the removal of the Cultural Center meant that there would not be any non-church related events on the site. A discussion ensued related to the size of the Cultural Center and associated parking area versus the warehouse, which was much larger in size. They then discussed the definition of an inherently beneficial use, which Mr. Moronski stated was that it was a use that served a greater purpose than most uses

and promoted the general welfare that he included in his previous testimony. Mr. MacArthur then read the definition of an inherently beneficial use from the Municipal Land Use Law and that the BOARD should consider the effect the proposed warehouse would have on the area. Mr. Moronski agreed and indicated that he included in that his testimony. They then discussed all the uses that were permitted in the zone, including warehouses, prior to 2023. Mr. MacArthur brought up open space in the area and Mr. Moronski stated that the warehouse was not affecting anything surrounding the property that included a stream, a cemetery and the land that they were proposing for a warehouse was not currently open space. He answered Mr. MacArthur's question about the acreage the subdivision would provide for the warehouse to include seventeen point seventy (17.70) acres that would accommodate the 258,000 sq. ft. for the footprint of the warehouse and impervious coverage of fifty five point ninety nine percent (55.99%), roughly nine (9) acres. He added that they were meeting the impervious coverage requirement for the zone for what they were proposing. Mr. MacArthur then asked if the change in the proposed use of that land changed the character of the neighborhood. Mr. Moronski answered in the negative because the character was not just the space it occupied, but the type of use and the design of the site related to Mr. Miola's testimony about the measures that were taken to deal with storm water and drainage and that there was less impervious coverage on the church site. Mr. Moronski stated that the subdivision did not create any variances and that they were able to go up to sixty percent (60%) lot coverage on that lot.

177. Mr. MacArthur brought up the fact that the completed Application was submitted after the effective date of Ordinance #4391-22 which eliminated warehouse use as a conditionally permitted use in the B-I Zone where a "d(1)" use variance was now required. He added that the Applicant must now show an enhanced quality of proof by clear and specific rulings where the Applicant's proof and the BOARD's findings must reconcile the proposed use variance with the zoning ordinance's omission of the use permitted in the zoning district. Mr. MacArthur then drew the BOARD's attention to the purpose of the B-I Zone as listed in the Planner's report, indicating that it was updated in 2023. Mr. Moronski stated that what Mr. MacArthur was reading regarding the exponential addition of warehouses between 2018 and 2023 was included in his report. Mr. Moronski then added that what Mr. MacArthur failed to mention was the requirement for Applicants to achieve proper site design, which they believe they have addressed in testimony from their witnesses. He also added that the 2026 Re-Examination of the Master Plan, which was adopted, included the reconsideration of recommending warehouses as a permitted use under certain criteria most of which they were consistent with except one (1) standard, but believed that they could reconcile that with the warehouse at that location. Mr. Healey then confirmed that the 2026 Re-Examination was adopted. Mr. MacArthur stated that it was not an amendment to the Master Plan, just a re-examination and did not change what the Township did in 2023 in which they removed any reference of warehouses in the B-I Zone. Mr. Healey stated that it was an ordinance that was approved in 2023 and remained on the books, however, the Planning Board adopted a Master Plan Re-Examination about a month ago which made recommendations to amend the ordinance again.

178. A discussion ensued regarding the use of the neighboring property to the south to remove the existing three (3) office buildings and replace it with a warehouse (IDIL site). Mr. Moronski agreed with Mr. MacArthur's discussion of the 2023 ordinance to not allow warehouses, but he believed that one would also have to include the recent recommendation by the Planning Board to amend the ordinance again to include them with a "d(1)" use variance to prove why the subject site was particularly suited. They then discussed some of the language in Mr. Moronski's Planning Report to include the cessation of events that had been occurring at the Cultural Center that included outside parties renting the space gained during discussions with the Applicant and their team, while preparing his testimony. Mr. MacArthur then moved on to the justification for particular suitability for the warehouse lot that included convenient access to Rte. 287 and that trucks did not have to travel through residential zones. A discussion ensued about other uses in the zone. He then drew the BOARD's attention to Mr. Moronski's discussion in his report regarding a more efficient design and asked how it would be a more efficient design when there was more lot coverage on-site. Mr. Moronski stated that it would be more efficient in the site circulation and were meeting the imperious coverage standard for the district. Mr. Moronski also added that the new storm water design improved the storm water management situation on the site from its current state. Mr. MacArthur reminded Mr. Moronski that he mentioned a desirable visual environment as a land use purpose in his testimony and asked if he thought that a forty four (44) ft. high building was an aesthetic improvement over what was there now. Mr. Moronski replied by saying that he believed a building that met the standards, in terms of height and design for the type of use that was intended in that area was certainly an improvement over a decaying parking lot that had no defined spaces and a building several hundred feet set back from the street. Mr. MacArthur mentioned that Mr. Moronski made reference to that in the 2016 re-examination but asked if that had been overridden with the 2023 amendment. Mr. Moronski stated that with the warehouse, it was overridden, but that the general theme about encouraging commercial and industrial development in areas with access to major regional highways remained the same. He then mentioned the B-I (Business & Industry zone) purpose where it spoke to appropriate locations, included light industrial uses such as manufacturing, office, laboratory, hotel, etc. and described the general theme he was speaking about. He then spoke about the warehouses that were removed from the B-I Zone as a permitted use and expanded on the need to have proper attention to site design, proper ingress and egress, architectural design, etc. Mr. MacArthur then asked Mr. Moronski if they were applying for a variance for the maximum driveway width, and he answered in the affirmative. Mr. MacArthur asked to confirm that thirty six (36) ft. width was the maximum allowable and sixty six (66) ft. was proposed, and Mr. Moronski answered again in the affirmative as that larger width was needed to allow the trucks to enter the site. Mr. MacArthur then cited Kaufman case law related to bulk variances of which Mr. Moronski stated he was aware. Mr. MacArthur indicated that the Kaufman case spoke to the need for a better zoning alternative to grant the variance and Mr. Moronski agreed that there needed to be a public benefit. They spoke about it being only for the benefit of the Applicant so that they could get the biggest truck into their site, but Mr. Moronski stated that what it actually did was to allow for more efficient circulation and to be able to make the turns to avoid having situations where you may have more

accidents. He noted that having a 66 ft. wide driveway allowed for these truck movements.

179. Mr. MacArthur stated that he had at least two (2) witnesses to put forward, with one providing planning testimony. The other witness would be speaking about the Cultural Center, what it has been used for and its importance to the community. Mr. Lanfrit indicated that he would object to Mr. MacArthur providing any planning testimony because Mr. Bernstein, BOARD Counsel, clearly stated at a prior hearing to counsel that any planning testimony being provided would have to have written report provided to the BOARD. He then told the BOARD and Mr. MacArthur that it was his understanding that no report had been provided and asked that no testimony of any kind by a planner should be allowed.
180. Chairman Thomas stated that since they had a policy of no new testimony being presented after 10:00 p.m., they would like to put Mr. MacArthur's witnesses off until the next hearing and would be open to the public for the remainder of the meeting to ask questions concerning the testimony that was presented that evening. The Chairman then gave the public the guidelines and parameters that needed to be followed, including only asking questions of the Architect, the Traffic Engineer or the Planner that provided testimony that evening. The Chairman also stated that they would only hearing public questions up until 10:00 p.m. and would continue with public questioning at the next hearing.
181. Mr. Bernstein also instructed the public that they would be asked a question as to whether or not they were already being represented by the objector's counsel or not. If anyone was already represented by the objector's counsel, then you will not be able to also get up and ask your own questions since you were already represented by the objector's attorney.
182. Mr. MacArthur then asked whether they would have to provide a planner's report and whether he could get a future date for the next hearing so that he can make sure his planner would be available. Mr. Bernstein stated that the planner did have to provide a report and that it had to be no later than ten (10) calendar days prior to the next scheduled hearing. Mr. Bernstein also indicated that before the evening ended, the next future date for the next hearing would be determined.
183. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk had questions for the Traffic Engineer. He wanted to know if Mr. Lothian had personally seen the traffic in the area around the subject property daily. Mr. Lothian testified that he was very familiar with the area and had been to the site multiple times during different times of day, including the weekends. Additionally, Mr. Lothian stated that they did traffic counts on Davidson Avenue for a week straight and have those counts for each of the seven (7) days of the week. Mr. Lothian answered Mr. Khreptyk's concern regarding the additional traffic that would be brought to the area with the IDIL warehouse by stating that they did account for the traffic from the IDIL approved development from their approved study in their analysis for their no-build condition.

184. Mr. Mark Anthony Datz, 4 Fairview Drive, North Caldwell, NJ, came forward. Mr. Datz spoke to Mr. Lothian, the Traffic Engineer, stating that he did not include a large event that occurred on the church property since the cemetery had been open related to parking. He noted that about a week after the Orthodox Easter, which could vary from the Roman Catholic Easter, the faithful who have their departed family members in the cemetery gather at St. Andrews, so the Cultural Center parking lot was very important for that because there was probably close to one thousand (1,000) people come through there. He added that the buses picked people up from the parking lot by the Cultural Center, which was stated could hold up to four hundred (400) cars, with the people being driven across the road down Davidson Avenue onto Easton Avenue and into the cemetery proper to visit the graves. He then noted that the cemetery could not handle that number of cars and he stated that he noticed that that was not in the Traffic Study and thought that needed to be added. Mr. Lothian stated that they were not in the study and there were discussions regarding extremely large events that happen once per year. He went on to state that they were told that, similar to today, if there was a need, they would coordinate with local businesses to find parking and use shuttles as Mr. Datz described.
185. Ms. Olana Sharvan, 14 South Locust Avenue, Edison, NJ, came forward. Ms. Sharvan state, for the record, that she had parents who reside in Franklin Township at 66 Grough Avenue, Somerset, NJ so she had an interest in this community and the impact the development would have. Ms. Sharvan asked Mr. Lothian how they collected the data for the Traffic Study and Mr. Lothian explained that they contracted a company to go out and collect the data that included turning counts using video and the week-long data was collected using pneumatic tubes across the roadway. She then asked how parking requirements were calculated and Mr. Lothian indicated that the parking requirements were based upon the anticipated operations provided by the church ownership/leadership. Ms. Sharvan then asked if he had considered any other source for information related to parking. She asked Mr. Lothian if he did not utilize any other source of information that was based on verified facts, did it make his study incomplete. Mr. Lothian indicated that he based his calculations on the information that was provided. She then discussed the different elements of the remaining church property that would include the library, museum and chapel, referring to Mr. Lothian's earlier testimony that the parking provided met the requirements and that there would be employees, visitors to the library, museum and existing chapel would be utilizing the parking spaces. She then focused on Mr. Lothian's testimony regarding the number of people visiting the museum being five to ten (5-10) on a typical day. Mr. Lothian stated that they are looking at the library and museum as one (1) facility. Ms. Sharvan then spoke about another museum space that was being renovated on the property, with Mr. Lothian indicated that it was part of the Site, as a whole. Mr. Lothian indicated that it was his understanding that the museum was to incorporate things that were presently in the Cultural Center. Ms. Sharvan then asked Mr. Lothian if the larger museum space having more artifacts would have more visitors than five to ten (5-10) per day, and he answered that it was not necessarily so. Mr. Lothian indicated that they had a surplus of thirty-five (35) parking spaces for larger events. Mr. Lothian explained that they

anticipated the use of twenty-five (25) of the thirty-five (35) surplus parking spaces would fulfill the parking needs even if everyone was on the site at the same time. Mr. Lothian stated that even if there was double the amount of parking needed, there would still be enough parking for the site as a whole. Ms. Sharvan then asked what data was used to calculate how many trucks would be on the site on a given day. Mr. Lothian stated that the trips were calculated by data contained in the Institute of Traffic Engineers Trip Generation Manual, where it broke down total vehicles and trucks. Mr. Lanfrit interjected that Ms. Sharvan knows nothing of how long trucks stay in bays and other information related to the data surrounding their activity, so her questioning was making assumptions.

186. Ms. Sharvan then had questions for the Planner. Ms. Sharvan asked where his information came from about the core functions of the church and Mr. Moronski stated that it came from church leadership. Ms. Sharvan asked Mr. Moronski if he was aware that there was a functioning Saturday school as a part of the Cultural Center that was occurring up until October 2025. Mr. Moronski stated that he did not remember if that was mentioned, specifically or not, as he was working on this project for well over a year now. He added that he asked what functions were going on at the property and utilized that information in his report.
187. The Applicant and BOARD agreed that the meeting would be carried to May 7, 2026, with no further notification required. The public portion would continue at the next meeting.
188. At the hearing held on May 7, 2026, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC and presented testimony related to all three (3) applications at the same time. Mr. Lanfrit indicated that the Applicants had completed their presentation; however, at the last meeting, three (3) of the witnesses who testified were being cross-examined by members of the public and that cross examination had not been completed. He then indicated that they had to complete the cross-examination that evening with the public related to the testimony of Mr. Moronski, the Applicants' Planner, and Mr. Lothian, their Traffic Consultant, as well as Mr. Winger, who was their Architect.
189. At the last hearing, Chairman Thomas stated that they were in the middle of being open to the public to question those three (3) witnesses mentioned by Mr. Lanfrit based on their testimony and, therefore, he stated that that was where they would begin that evening. Mr. Bernstein indicated that they would start off the evening listening to the questioning of members of the public who did not have an opportunity to ask any questions of these three (3) witnesses.
190. Peter MacArthur, Esq., Objectors' Attorney, made his appearance known to the BOARD and the public for the evening. Seeing no further public wishing to ask questions of the previously stated witnesses who presented testimony at the last hearing, Chairman Thomas then closed the meeting to the public. Chairman Thomas

- then introduced the objectors' attorney, Mr. Peter MacArthur, Esq. He appeared before the BOARD on behalf of Svitanak, NYC to raise procedural objections that have gone on so far. He added that a couple of days ago he wrote to Mr. Bernstein and contacted the BOARD Secretary as he was trying to raise an issue with the Open Public Meetings Act. He stated that he was having some conversations via email with the BOARD Secretary that same day and did receive the second newspaper notice for both 2025 and 2026. As a result of that, he indicated that there was an additional issue that came up with respect to the meeting being held that night. He stated that the notice for 2026 listed the location of the meeting as being at the Township offices and not there at the Board of Education building on Rt 27. Mr. MacArthur then told the BOARD that he had written to Ms. Woodbury and he did not know if she saw the e-mail as it was late in the day. He explained that he had said that for the March 2, 2026 hearing she had provided a Sunshine notice which changed the location of that meeting to the Board of Education building where they were that evening. He then added that he was curious as to whether she had a similar notice for today's hearing.
191. Ms. Woodbury stated that she did see that he sent an e-mail to her at 2:36 p.m. that day but told Mr. MacArthur that she was already out of the office and did not answer that e-mail. As far as the notice for this evening, it was done digitally because in March 2026, they changed the way that the Township was doing business as to public notice. Ms. Woodbury asked Mr. MacArthur if he needed her to send that to him only because she did not see his e-mail that afternoon. She then told Mr. MacArthur that she would look to see if she had that available to her that evening, but if she did not, she stated she could scan it and get to him tomorrow. Mr. MacArthur agreed to that but wanted to raise that as well.
192. Mr. Bernstein asked Mr. MacArthur if, other than that issue, were the Open Public Meetings Act issues now resolved and Mr. MacArthur stated that he could not say that they were resolved because he had not seen it yet. Mr. Bernstein then reminded Mr. MacArthur that he raised the issue of the annual notice and compliance in two (2) official newspapers and again asked if he had been provided with the paperwork. Mr. MacArthur then agreed that he had been provided with the paperwork for 2025 and 2026, which were the annual notice of meetings which he thought would seem to comply with Section 10:4-6 of the Open Public Meetings Act. He stated that he had not looked at any case law on that subject but would seem to take care of it because it took care of day, time, location and all of the other relevant requirements of that section. Mr. MacArthur asked if there were to be a future proceedings in this matter, barring the fact that he had not had the chance to look at case law, that it would seem to be resolved.
193. Mr. MacArthur moved on and told the BOARD that more than ten (10) calendar days before this hearing, that they had asked for all expert reports and Mr. Steck, his Planner, submitted his report. He drew the BOARD's attention to the bottom of Page 4 and the top of Page 5 of that report, he indicated that there were some notice issues in his mind. He added that this time it was not with the Open Public Meetings Act, but with the Municipal Land Use Law (MLUL), Mr. MacArthur stated that the MLUL indicated

that the date, time, place of the hearing and the matter to be considered and identification of the property by street address, etc., have to be made ten (10) calendar days ahead of time of the first hearing and the excerpt from Mr. Steck's report, beginning at the bottom of Page 4 indicated that the cemetery required a use variance. He then added that no testimony had been provided regarding approval of the cemetery use on proposed Lot 1.09 as indicated in the Zoning Board of Adjustment's Resolutions appended to the Applicant's January 5, 2026 Planning Report. Mr. Lanfrit then asked why Mr. Steck did not give testimony and conclusions about what was included in the report he wrote. Mr. MacArthur stated that it was a legal issue and Mr. Bernstein then indicated that begged the question that they were getting a legal opinion from a planner. Mr. Bernstein then stated that he would concur with Mr. Lanfrit as to the issue of having Mr. Steck testify. He went on to state that if Mr. MacArthur wanted to raise the legal issues that Mr. Steck raised in his report, then maybe thereafter they could have that conversation. Mr. MacArthur then asked for clarification, repeating Mr. Bernstein's comment that he should hold this objection in abeyance pending Mr. Steck's testimony and could raise it again, which he said he would.

194. Mr. MacArthur then brought up the other procedural issues that he had related to something that came up a few hearings ago when he raised issues concerning whether or not they had authorized contracts, contract purchases, etc. under the definitions of the MLUL and believed that went back to November 2025. In response, Mr. Lanfrit produced a constitution for the Ukrainian Orthodox Church of the USA to see if the documentation submitted with that followed the constitution provided. Mr. MacArthur added that he had serious doubts that it does. He then noted that the "so-called" minutes that were provided really were not minutes, but summaries, which he felt glossed over, in his opinion, multiple nuts and bolts requirements in the constitution concerning notices of publications and things of that nature. Mr. MacArthur noted that to begin with, in Roman Numeral 2 (II), the church Sobor, Section 3C and asked if the lay delegates were properly authorized. He then stated that the next issue at hand was if the Sober agenda, published in the Ukrainian Orthodox Word, was published in the UOC of USA website and if it was done 60 days prior to the Sober. In Section 5, Mr. MacArthur asked if a draft resolution for this transaction was received by pre-Sober resolutions thirty (30) days prior to the Sober. He then went on to ask if a resolution was approved in Section 6 and was the resolution that was approved published in the Ukrainian Orthodox Word and/or the UOC of the USA within sixty (60) days of the Sober. He then stated that there did not appear to be any indication that the Consistory received the Sober minutes and whether they were printed or distributed to the Council of the Metropolia or the parish priests and the parish Board of Administration in Section 10 of Roman numeral 2 (II). Mr. MacArthur then stated that, in Section 11, there was no indication of a quorum being present either.
195. Next, Mr. MacArthur stated that he looked at Roman numeral 5 (V) of said constitution, the Council of the Metropolia, and looked to see if there was a quorum present with a majority of the members from the Metropolia, the metropolitan or the Vice Chair of the Council of the Bishops. Looking at Section 9, he looked to see if the minutes were printed and distributed to Council members for additions, corrections, or deletions

within sixty (60) days. He then also posed the question as to whether there was a summary of the session published in the Ukrainian Orthodox Word and the UOC of the USA website. He then added that there, likewise, did not seem to be or seem to appear to be mention of their Consistory actions when it was their responsibility to administer a sale such as this. He then spoke of whether the parishes were involved and under their jurisdiction, all of which was mentioned in Section 10. Mr. MacArthur added that it said that it should be under the parish Board of Administrators and appears to have been left out. He then went on to state that there was no mentioned of summary documents from the summaries that were provided and appeared that this was pushed through. Mr. MacArthur then stated that reading the constitution and its mandatory language, it did not appear that all constitutional requirements followed here. He also stated that the action taken by the Sober in the Metropolia did not authorize the contract. He then stated that if it was not properly authorized, there was no contract, no contract purchaser, which means that there was no Applicant or Application.

196. Mr. MacArthur stated that, according to the definitional sections of 3 and 4 of the MLUL, and the Township's own definitions in the ordinance, of which the ordinance had the same terms as the MLUL. He then explained that he was not there to argue that the actions of the Sober or the Council of the Metropolia should be overturned and stated that he understood the BOARD did not have that power. He then indicated that what he did ask was that the BOARD interpret the definitions of the Township's zoning ordinances, which he stated that they had the inherit right to do and find under these facts that there was no contract purchaser. He then reminded the BOARD as well as Mr. MacArthur that the BOARD did not interpret contracts.
197. Mr. Lanfrit then stated, this BOARD had the authority to hear site plan applications, use variance applications, bulk variance applications, and subdivisions. He went on to explain that the BOARD did not review contracts. He then stated that he then provided all of the paperwork that the church had provided to his office, indicating that they did have the authority to sign the contract. Mr. Lanfrit reminded the BOARD that Mr. Lonsky testified at one (1) of the prior hearings and he was the attorney for the church and that the church had the authority to sign the contract. He did, however, indicate that the last statement made by Mr. MacArthur was accurate. He then told the BOARD that they had documentation that the church had the authority to sign the application, but that they needed to hear all the Application. Mr. Lanfrit then indicated that if Mr. MacArthur believed that his clients thought that the contract was either void or voidable, there was a courthouse up in Somerville, NJ where he could litigate that issue, but it was not to be litigated there at the BOARD meeting.
198. Mr. MacArthur believed that they were dealing with a limited Municipal Land Use Law issue because they were dealing with the definitional sections of not only the MLUL, but the Township Zoning Code.
199. Mr. Bernstein then asked Mr. Lanfrit when the documents were provided to the BOARD. Mr. Lanfrit stated that they were provided by a submission after the second hearing, sometime in January of 2026. They then had a discussion regarding whether

the Applicant had a right to be before the BOARD between the adequate notice issue that was on Mr. MacArthur's agenda for the past two (2) months and now the issue of the Applicant having authorization to sell, which seemed to be on Mr. MacArthur's mind for the past four (4) months. Mr. Bernstein told Mr. MacArthur if he was interested in his office providing legal interpretation, assuming the BOARD was even interested in his legal interpretation, he would have to put it in writing and allow Mr. Lanfrit to respond and then and, only then, would he issue an opinion. He included that short of that, he was not going to advise this client to suspend the hearing on the allegations that Mr. MacArthur had placed before relating to contracts that were in his hands for four (4) months and using those issues to now apparently trying to stop the hearing from either continuing or finishing that evening.

200. Mr. MacArthur stated that he had asked back at the November 2025 hearing whether it was time to lodge objections to procedural issues. He went on to state that he was told it was not the time to do so, so he added that he was respectful of the hearing process at that time. Mr. Bernstein indicated that if there was information in Mr. Steck's report that he wanted to provide the BOARD, he needed to put Mr. Steck under oath to provide that. Mr. MacArthur then called Mr. Steck to provide testimony.
201. Mr. Peter Steck, Planner, 80 Maplewood Avenue, Maplewood, NJ, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Steck then described what he did in preparation for his testimony that evening, what he reviewed and what other actions he took in order to testify that evening. He stated that he reviewed the Application materials that had been submitted. He did state that he was present at the last hearing (March 5, 2026) and listened to the YouTube videos of the September 18, 2025 meeting as well as the November 6, 2025 meeting, toured the property on at least two (2) occasions and reviewed the Master Plan and Re-Examination reports. He also noted that he was present at the last hearing and present earlier that evening when there was a discussion on procedures. As a result of his preparation, Mr. Steck indicated that he produced a report, titled Planning Evaluation of Three (3) Applications, dated April 24, 2026. He told the BOARD that that report was delivered to the municipality on that same date. He then proceeded to go through his report for the BOARD's edification and examined carefully the planning testimony that was presented by Mr. Moronski. In his opinion, Mr. Steck stated that there had not been substantial credible evidence that would justify the relief sought and stated that he felt that there were procedural issues having to do with what was in the public notice and what the extent of the property was. He referred the BOARD to the bottom of Page 1 of his report where he understood that the Applicant was phrasing this as three (3) separate applications. He noted that it was alleged that the first application was a two (2) lot minor subdivision was phrased as an as of right subdivision. Mr. Steck indicated that he did not agree that it was an as of right subdivision because what it did was lessen the amount of land that was associated with the church facility. He added that since it was a non-conforming use, that non-conforming use was being intensified because the land was being diminished. He noted that the subdivision was being phrased as a separate application, unrelated to anything else and fully conforming. Mr. Steck testified that it was not fully conforming because it triggered a "d(2)" variance. He

added that it was being treated as a separate application, and if so, it would be heard by the Planning Board. He noted that the reason it was before the BOARD was because it was connected to, at least as a minimum, the “d(2)” variance for the smaller lot that was housing the church facilities as well as the cemetery. He then stated that the second Application was the one that was the intensification of the Ukrainian Orthodox Church because the land area was being reduced, with the Applicant acknowledging that that was a “d(2)” variance. He then spoke of the third application that was for the warehouse use that was on one (1) of the subdivided lots. He added that it was not exclusively a warehouse use because there was an access driveway through the warehouse lot to get to the church facilities as proposed in the subdivision. Mr. Steck stated that that part of the Application was the “d(1)” Medici case.

202. Mr. Steck stated that he did listen carefully to the testimony of the Applicant’s Planner, which followed his January 5, 2026 Planning Report. Mr. Steck then summarized what he heard him testify, referencing past resolutions affecting the subject property. He added that those resolutions that were in the Appendix to his report essentially talked about the cemetery that was proposed for the subject property. He added that those resolutions indicated that there was an approval of a cemetery that was proposed and because of the lapse of time, had to be extended, with two (2) extensions being utilized already and the approval for a cemetery had lapsed. Mr. Steck stated that because that was a non-conforming use in the zone; to re-establish a cemetery on the subject property or part of the subject property, it involved testimony and a use variance for the cemetery. He went on to state that the Applicant’s Planner talked about the subdivision being fully conforming, but that was only on the dimensional standards. He reiterated that that would not be before the BOARD, but for the fact that it triggers a “d(2)” variance for the expansion of a non-conforming use.
203. Vice Chair Shepherd then opened a discussion regarding what was triggering the “d(2)” variance – the intensification of the church facility or was it the cemetery. Mr. Steck indicated that there were two (2) separate issues that the Applicant has not really presented any testimony about the cemetery and Mr. Steck stated that he believed the Applicant needed to apply for a cemetery because that approval seemed to have lapsed. The Vice Chair stated that that was fine, but wondered why it needed to be part of the current case and Mr. Steck replied that there was a cemetery on the plans that the BOARD was asking their approval from. Mr. Steck then described a case of a property that had a non-conforming use on it and the Applicant wanted to subdivide some of the property from a two (2)-family house. He explained that it was an oversized lot but was not touching the house and wanted to subdivide some of the vacant land off the house. He continued by stating that the Court ruled that because that house was non-conforming, to take property away from it was the same as expanding the two (2) family house because they would be taking away the buffers and the setbacks that were surrounding it. He stated that there were two (2) “d” variances that were associated with the Application. One was the cemetery that no one had talked about so far and the other was the “d(2)” variance, which was, in effect, the intensification of the church use.

204. Mr. Steck indicated that one of the other issues was when Mr. Moronski testified he stated that the core activities of the church, even though the property was being reduced, would be accommodated because they were going to use an adjacent lot across the river and putting some of the activity that was happening on the subject property related to the church on the other property. He added that that now affects the other property by adding uses across the stream. He then told the BOARD that, two (2) hearings ago, the Applicant testified that there was a foot bridge across the river that connected the two (2) properties so one could get there without going on the street. Mr. Steck then spoke about the cemetery that was proposed on the subject property and seems to be intimately related to the cemetery across the stream. Mr. Moronski, in his testimony, indicated that the warehouse use was particularly suited because the property was close to Route 287, no residential uses in the area and would use Executive Drive for truck generated traffic, citing certain purposes of the MLUL. Mr. Steck testified that the Applicant did have to show that the property was particularly suited for a warehouse and proximity to Rte. 287. Chairman Thomas then asked if the property was less suited for a warehouse because it is generic in nature to the many other properties in that area. The Chairman then asked how it would be more suited to the property by rezoning the area. Mr. Steck replied that it would be more suited if it supported the Master Plan and if the zoning permitted the use and then he would not be there that evening. Mr. Steck stated if it was generic, the solution should be to re-zone it. He stated that the subdivision was encouraging a non-permitted use (a warehouse) and encouraging intensification of the church, neither of which were permitted under the zoning. The Chairman stated that that was why the Applicant came to the Zoning Board to get a variance and, ultimately, they have provided the proof that they were suitable sites for those uses. A discussion ensued regarding a Master Plan Re-Examination and update that the Planning Board adopted in January that made recommendations to allow warehouses in different areas of the town.
205. Mr. Steck then circled back to Mr. Moronski's testimony about having front yard loading that was substandard in area and the driveways to the loading area were in the front yard, but Executive Drive may be vacated and suggesting that then those variances would disappear. Mr. Steck then stated that it was not yet vacated as of that evening, as far as he knows. He also told the BOARD that it was his understanding that when a public road was vacated, each side gets half of the right-of-way. He then discussed the law changing regarding the B-I Zone and no longer allowing warehousing, as well as the Master Plan changing. He then stated that Mr. Moronski failed to refer to the Master Plan Amendment that stated that the Township did not want new warehouses anywhere in the B-I Zone.
206. Mr. Steck then gave his planning conclusions related to the bottom of Page 4 of his report. He reiterated his statement that the cemetery use on the subject property had lapsed, having already asked for two (2) extensions. He added that the Site Plan showed a substantial portion of the new northerly lot (Lot 1.06) to be in cemetery use. It was determined by Mr. Steck that the Applicant should have said in the public notice that they were reapplying for a cemetery and the Applicant should have provided evidence that that could meet the statutory criteria for a use variance. He then referred

to his second point on Page 5 of his report that he believed that Lot 2.01 had to be part of the Application because in the testimony, the Applicant said “not to worry, I’m going to put some of these church functions across the stream. He added that they did not have any idea or evidence about how big that social building was, how many parking spaces there were associated with the social building, where traffic circulated to serve the social building. He noted that the cemetery on the subject property was essentially part of the larger cemetery across the stream, with a pedestrian bridge referenced by the Applicant that connected the properties. Mr. Steck indicated that the Applicant had not referenced the extent of the Application, which involved both properties, it was not put in the notice that told the public what was about to be reviewed, and the Applicant did not draw the 200 ft. notice line from both properties. Mr. Steck then referenced the adoption of a new Plan Re-Examination Report recommending that the governing body make three (3) categories of land use, make warehouses again permitted, conditional uses in the B-I Zone. He indicated that they did not know that the governing body was going to adopt that and that the Re-Examination Report was not the Master Plan, which still did not allow warehouses in the B-I Zone as of that evening. He stated that the Re-Examination Report was a separate section of the MLUL and did not even require a public hearing as the Master Plan did. The fact that some changes were being recommended was not the law currently and it was not the test of whether the negative criteria were satisfied. Mr. Steck noted that Mr. Moronski did not mention that the Planning Board, on January 18, 2023 updated its Master Plan, but that it amended it to state that the Township wanted to prohibit future warehouses and a fundamental defect or flaw, in his opinion, in his testimony.

207. Mr. Steck then noted that the Applicant’s Planner indicated that no residential homes were in the area that would be affected; however, if both lots were included as they should be, there was a whole row of single-family homes that abut that property to the northwest, but there were also residential components to the church facility that include seminarians, retired priests, etc.
208. Mr. Steck then drew the BOARD’s attention to his reading the Resolution of the IDIL approval on Executive Drive, it assumed that across Executive Drive was this church area, which was the fact at that time, and that the Applicant should use its best efforts to have Executive Drive vacated. He spoke about motorists entering the church property would be utilizing Executive Drive utilizing the signalized traffic light to traverse around trucks and truck bays.
209. Mr. Steck then discussed the fact that the church building is supposed to have most of its parking to the rear of the building and the new parking arrangement for the church did not have that. The ordinance also says, according to Mr. Steck, that they need to have no more than ten percent (10%) of the parking to be in front of a building and that was not the case. He added that there was no testimony given by the Applicant to justify those variances.

210. Mr. Steck then discussed the lack of landscaping close to the subject's side of Executive Drive where they would be able to see into the truck bays and truck movements and not an aesthetic improvement over what was there today.
211. In summary, Mr. Steck indicated that he did not think that the Applicant had met the burden of proof for the warehouse and did not think the site was particularly suited just because they said that they comply with environmental regulations and they were close to Rte. 287. Mr. Steck also indicated that both subject property lots (Lot 1.06 and Lot 2.01) were inherently part of the Application and should be referenced as well as informing the public about that and drawing your 200 ft. notice list from these properties. Additionally, you would need a "d(1)" approval for a cemetery on the record because the approval had elapsed. Mr. Steck stated that, in his opinion, there had not been substantial credible evidence that would justify any of the variances and jurisdictional defects.
212. Mr. MacArthur then asked some follow-up questions, drawing the BOARD's attention to the last paragraph in Mr. Steck's report on Page 7. He then mentioned that Mr. Steck's report indicated that the property was, in fact, particularly unsuitable for the proposed use. Mr. Steck then discussed his reasons for believing the property was particularly unsuitable, included the fact that there was a lot of open space land to the rear of the proposed warehouse building that the public did not even see. He added that, because of the size of the proposed building, there was insufficient loading space, the loading maneuvering area was in the front yard and highly visible and why the Applicant needed to use the driveway for some of the truck maneuvering. Additionally, the church users also have the right to go through that industrial property, which allows them to be intermingling with truck maneuvering.
213. Mr. Steck then disagreed with Mr. Moronski's statement that the Application satisfied the first (1st) prong of the negative criteria, which is not detrimental to the public good. He noted that there would be a level of service E, with a deterioration of traffic at the intersection with a back-up on the property. He also indicated that the hotel/conference center would have a direct view of the truck traffic coming in and out of Executive Drive, with a lack of sufficient landscaping for shielding that view.
214. Mr. Steck then discussed the Kaufman case and applied a broader view of "c" variances, where the "c2" variances include the language that the benefits substantially outweigh the detriments, with the benefits going to the public and not the developer. He also reiterated that much of the truck activity on the site was proposed in the front yard within public view due to not having enough room for adequate landscape buffering due to the size of the warehouse. Being in close proximity to Rte. 287 gives it regional accessibility, but did not mean it had to be warehouse use. He then discussed again the need for a wider driveway to accommodate for better truck maneuverability.
215. Mr. Procanik asked about what Mr. Steck meant by not being able to have an enhanced visual improvement. Mr. Steck indicated that he was relating that to Mr. Moronski's testimony that they would be including landscaping to shield the building from view

and indicating that it would be a nice- looking building and an improved aesthetic look. Mr. Steck spoke about the tall and wide wall and would not be aesthetically pleasing. They also discussed access to Rte. 287.

216. Mr. Healey brought up Mr. Steck's statement of the use for adjoining Lot 2.01 and he questioned the types of activities they would have there and if there would be an impact. Mr. MacArthur told Mr. Healey he had another witness to come forward to answer some of those types of questioning.
217. Mr. Healey then asked the relevance of things having to do with the cemetery and Mr. Steck mentioned that Mr. Moronski noted past resolutions having to do with the cemetery and the fact that the extensions had lapsed and that the Applicant would have to reapply if they were going to leave them on the plans.
218. Mr. Healey then mentioned to Mr. Steck that the Township Council did end up vacating the plans and approved the ordinance. He added that when Executive Drive was created, it was carved out of the Lots 1, 2, and 3 and would go back to the previous parent parcel and not to the adjoining property owner.
219. Mr. Healey corrected Mr. Steck's characterization of the January 2026's Master Plan Re-examination and Update regarding the B-I Zone. Mr. Healey clarified that it was both a Master Plan re-examination and a Master Plan update. Mr. Healey added that it was titled as such and described as such in the document, noticed as such, heard as such, and adopted as both a Master Plan Re-examination and a Master Plan Update, with the document making that clear. Mr. Healey then informed Mr. Steck that he authored the 2023 Master Plan Update and intimately involved in the recently adopted update to the Master Plan regarding the B-I Zone that was a two (2)-year process involving multiple hearings well beyond the Municipal Land Use Law with community hearings, a dedicated webpage and a community input section on the website. He added that they videotaped all the meetings, put it on the website, etc.
220. Mr. Lanfrit then entered into the record as Exhibit A1 – May 7, 2026, which was Ordinance Number 451-26, an Ordinance releasing, extinguishing and vacating the rights of the public to a portion of a street known as Executive Drive in the Township of Franklin, County of Somerset, State of New Jersey, adopted and introduced on March 24, 2026 and finally adopted on April 14, 2026.
221. Mr. Steck conceded that, the road vacation of Executive Drive was vacated and adopted on April 14, 2026. Mr. Lanfrit stated that because the road was vacated, the warehouse did not have frontage on Executive Drive because that road did not exist. Mr. Steck agreed. Mr. Lanfrit indicated that because of that, the bulk variances the Applicant was seeking with respect to Executive Drive also go away. Mr. Steck also agreed that there was no longer a front yard requirement there and the road went back to IDI Logistics. Mr. Steck stated that the question then arose that if it was now private property, can there be an accessory use that was not on the same site as the principal use? Mr. Lanfrit stated that that was assumed during the IDIL Application when it was requested that

- they vacate Executive Drive. Mr. Lanfrit and Mr. Steck discussed the use of the private drive by the church congregation and Mr. Lanfrit indicated that the church congregation would be utilizing the closest driveway off Davidson Avenue for access. Mr. Steck indicated that there was testimony stating that there would be an easement for the church congregation to utilize the private driveway at Executive Drive. Mr. Lanfrit stated that the testimony was for the church congregation to use the driveway closest to the church.
222. Mr. Lanfrit then opened a discussion regarding Lot 2.01. They spoke about any improvements included for Lot 2.01 in the plans. Mr. Steck said the only thing noted on the plans was a reference by the Applicant's engineer to a pedestrian bridge across the stream, an existing condition that would be replaced.
223. Mr. Lanfrit then stated that there is no request for approval for the cemetery on Lot 1.06 at the present time since same had been previously approved. The hash mark area listed as cemetery should be on the site plan, and whether said approval has expired is not in the purview of the board.
224. Mr. Lanfrit then opened a discussion regarding the Master Plan Re-examination and Update. Mr. Steck stated his understanding now was that the 2026 Master Plan Re-examination and Update adopted in January 2026 recommended that warehouses be made a conditional use.
225. Mr. Lanfrit then opened a questioning/discussion regarding the Applicant hearing appeared before the Historic Commission three (3) times and recommended changes to improve the aesthetics along the entire frontage of Davidson Avenue, both on the warehouse site and the church site Mr. Steck saw those recommendations and agreed it okayed the demolition of the Cultural Center.
226. They then discussed the fact that the demolition of the Cultural Center had nothing to do with it remaining or not and was totally up to the Applicant and not subject to the BOARD's approval. Mr. Steck agreed and indicated that the Applicant's Planner was saying that the fundamental operations of the church would not be intensified and stated that the Applicant was shifting some unknown and undefined functions across the stream to Lot 1.02 with no description of what functions would be shifted and those that might be abandoned. He added that there did not seem to state how big the building was, how much parking there is and where the traffic is going.
227. Mr. Lanfrit then opened a discussion about Mr. Steck's opinion that the site was not particularly suited for a warehouse. He asked Mr. Steck if he had reviewed the BOARD's decision regarding the IDIL Application just next door, with Mr. Steck answering in the affirmative. A discussion ensued related to the decision by the governing body to vacate Executive Drive as part of upcoming decisions, with the BOARD relying upon that thought process to approve the IDIL Application.

228. Mr. Lanfrit opened a discussion regarding the proposed warehouse development having no impact on Lot 2.01, with no improvements. Mr. Steck agreed with that statement for the warehouse project, but stated he anticipated the bridge replacement over the stream on that lot. He added that there was no description or testimony to describe what uses would be moving from the Cultural Center to Lot 2.01. They then discussed the small parking lot for the Social Center and for the Church.
229. Vice Chair Shepherd then asked what the Social Building houses on Lot 2.01 and Mr. Steck stated that there was no testimony regarding that just that some functions might be moved there from the Cultural Center.
230. Mr. Steck indicated that the Applicant was saying that there were three (3) different applications, the subdivision cannot be separated from the “d(2)” church application because you need that due to the subdivision. He then stated that, in his opinion, none of the applications warrant approval. He stated that he believed that the use variance for the warehouse should be denied and, if it were denied, the Cultural Center did not have to be demolished. Mr. Steck stated that one of themes of the Medici case was that the municipality kept on giving variances for hotels and the Court said, although you are granting subsequent variances for hotels, the fact that the governing body had not changed the ordinance to permit hotels was important and was the basis for saying there is an enhanced burden of proof to grant approvals.
231. Mr. Steck then stated that the impervious coverage was being increased substantially to more than there is today.
232. Mr. MacArthur asked if Medici stated that the applicant had to prove a substantial impairment to the Re-examination Plan or to the Master Plan. Mr. Steck stated that the Medici Case referred to the traditional negative criteria in the MLUL and says that no detriment to the zone plan, with the zone plan being the Master Plan and not the Re-examination report.
233. Mr. Lanfrit then asked if the Cultural Center could be demolished even if the warehouse does not get approved. Mr. Steck stated that the Applicant needed certain municipal approvals and Historic Preservation approvals to demolish the Cultural Center, which were all procedural approvals. Mr. Steck then indicated that the Historic Commission had already given approval to knock down the Cultural Center.
234. Mr. Lanfrit asked Mr. Steck if the warehouse building meets the impervious coverage for the zone. Mr. Steck answered in the affirmative.
235. Mr. MacArthur then asked Mr. Steck whether impervious coverage have an effect on light, air and open space. Mr. Steck answered in the affirmative. They then discussed paying into the Tree Fund instead of planting on site and how that would help the negative criteria, i.e., buffering issues.

236. Mr. Steck stated that he was not advocating for the Cultural Center to be demolished, but he stated that the Applicant had not adequately explained how the core functions of the church were going to be maintained on a lot substantially reduced in size.
237. Chairman Thomas then opened the meeting to the public.
238. Ms. Valeria Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward and was sworn in. Ms. Varnichenko asked if the Environmental Commission approved the project and Mr. Healey stated that they do not have approval authority. Mr. Healey did state that they did issue a report and the report is advisory to the BOARD.
239. Ms. Varnichenko asked Mr. Steck whether he reviewed the project with regards to the possibility of a proposed warehouse being used as a data center. Mr. Healey answered the question, stating that warehouses and data centers were different uses under the Township's ordinances. A discussion ensued regarding the different uses in the B-I Zone, with a concern that a warehouse could be converted to a data center. Mr. Healey explained that they could not build a data center because that is not what they applied for.
240. Mr. Vsevolod Myrnyi, 2833 Harway Avenue, Brooklyn, NY 11214, came forward. Mr. Myrnyi asked Mr. Steck if this might be a way from the warehouse to become a data center. Mr. Steck stated that the Applicant was not requesting approval for a data center and the Application was for a warehouse. He added that his experience is that the property was too small for a data center.
241. Mr. Bogdan Jasinski, One Operative Court, Morganville, NJ, came forward and was sworn in. Mr. Jasinski started to explain what the Cultural Center is and what it stood for. Chairman Thomas stated that the activities in the Cultural Center and if they keep any of them or are moved to another building was not relevant to the decision-making for a Use Variance before the BOARD.
242. Mr. Lanfrit stated that even though the people at the meetings are referred to as members of the congregation or parishioners, he wanted it on the record to say that none of the people here are members of the congregation of this church.
243. Mr. Jasinski indicated that his experience with the Cultural Center went back to 1976/77, with his children attending school there in the 1980's, as well as his grandchildren until very recently. Children were schooled there until the priests decided to eliminate the education component. He also stated that the Cultural Center had been driven to a dilapidated condition and thought it might have been intentional. He stated that he had met with Bishop Daniel who said they had no money to fix it. Mr. Jasinski offered to organize the fundraising of money and he agreed to talk about it, but the meeting never happened. He also spoke to Bishop Anthony who shut down any conversation and said that it was church business.

244. Mr. Jasinski then detailed the type of events and activities that occur at the center to include festivals, christenings, weddings, All Saints Day, ethnic food, crafts, sales, etc. He added that there were about 10-12 classrooms for schools of culture, language, dancing, music, history, etc., storage of artifacts, library, etc. Mr. Bernstein stated that Mr. Jasinski was not qualified to compare the spaces between the Cultural Center and the other buildings to show that these activities would not be able to be accommodated in the smaller space. Mr. Jasinski indicated that he had pictures that had been taken at various events in the Cultural Center. Mr. Jasinski had photos of the exterior of the building showing that the building was not in disrepair.
245. Mr. MacArthur was discussing with the Chairman that Mr. Jasinski's testimony was important to the hearing but Mr. Jasinski had no professional qualifications to testify what was beyond his earlier testimony.
246. Chairman Thomas opened the meeting to the public. Seeing no one come forward, they closed the meeting to the public.
247. The BOARD and Applicant/Objector's attorneys all agreed to carry the hearing to June 18, 2026, with no further notification required.
248. At the hearing held on June 18, 2026, Chairman Thomas stated that the applications were at the point where the hearing would be opened for public discussion and there would be closing statements.
249. Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC, stated that he had reviewed additional staff reports that were issued from Mr. Healey, dated June 11, 2026, and from the municipal engineer, dated June 11, 2026, with his client and professionals and indicated that the Applicants would comply with everything contained in those reports and that they did not intend to call any witnesses.
250. Peter MacArthur, Esq. from Peter MacArthur Law, 75 Lane Road, Suite 204, Fairfield, New Jersey also placed his appearance on the record on behalf of the objectors, Svitanok NYC.
251. Mr. Bernstein indicated that all BOARD members who were on the dais were eligible to participate and vote on all three (3) applications.
252. The hearing was then opened to the public.
253. Vadym Nazarchuk, 16 Dortmunder Drive, Manalapan, New Jersey, raised two (2) issues as follows: (1) the application does not explain what is going to happen between new facility and remaining seminary building with respect to the shared parking; and, (2) that new warehouse facility is very close to existing remaining seminary building.

254. Jim Johnston at 34 Norwich Place, Somerset, New Jersey, had one (1) question, whether the warehouse could ever be used as a data center. Vice Chair Shepard and Chairman Thomas indicated that the Applicant would have to come back before the BOARD with a new application if that was to be the case.
255. The public comment portion of the hearing was then closed.
256. Mr. MacArthur and Mr. Lanfrit both gave their closing summations.
257. Vice Chair Shepherd made a motion to grant the “d(2)” use variance, Preliminary and Final Site Plan approval plan with “c” variances in which the proposal consists of site modifications associated with the retention of certain existing church and seminary facilities, at 135 Davidson Avenue, Somerset, Block 469, Lot 1.06 in the B-I Zone. Mr. Rich seconded the motion.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN the BOARD makes the following findings of fact and conclusions of law:

1. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70d, provides the BOARD with the power, in particular cases for special reasons, to grant a variance to allow departure from zoning regulations when the applicant satisfies certain proofs, which are enunciated in the statute. N.J.S.A. 40:55D-70d(2) permits the BOARD to grant a variance to permit the expansion of a non-conforming use. A “d” variance may be granted only “in particular cases for special reasons.” These “special reasons” for a use variance may include: (1) a use that is inherently beneficial; (2) an undue hardship that would be suffered by the property owner if forced to use the property in conformance with the permitted uses in the zone; or (3) a site that is particularly suited for a proposed use so as to promote the general welfare. This is the “positive criteria”.
2. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Township Zoning Ordinance. These are the negative criteria. An “enhanced quality of proof” is required for a d(1) variance to be granted, in accordance with Medici v. BPR Co., 107 N.J. 1 (1987), which requires a showing that the “grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance.”
3. An applicant seeking a “d” variance must also address the “negative criteria” associated with the proposal and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and the zoning ordinance” of the Township.
4. It is only in those instances when an applicant has satisfied both tests that a BOARD, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the applicant to establish these criteria.

5. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c, also provides the BOARD with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain proofs which are enunciated in the statute. Specifically, an applicant may be entitled to relief if this specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic or physical features exist that uniquely affect a specific piece of property. Further, the applicant may also provide evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Township Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Those categories specifically enumerated above constitute the positive criteria necessary in order to obtain “bulk” or c variance relief.
6. Moreover, the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c(2) further provides the BOARD with the power to grant variances based on whether the Applicant’s proofs advance the purposed of the MLUL by the deviation from the zoning ordinance requirements and if the benefits of the deviation from the zoning ordinance requirements substantially outweigh any detriment.
7. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. See Jacoby v Englewood Cliffs Zon. Bd. Of Adjustment, 442 N.J. Super. 450, 471 (App. Div. 2015). This is the negative criteria. It is only in those instances when an applicant has satisfied both tests that a BOARD, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the Applicant to establish these criteria.
8. After a review of the record evidence, presentation of testimony and public comment, the BOARD finds the strict application of the Township Zoning Code would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the Applicant. The Applicant has also satisfied its burden of proof establishing that the positive criteria for granting the variance relief outweighs the negative criteria. The BOARD finds the required variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance.
9. The BOARD finds that the Site is particularly suitable for the requested variances sought as to the stie modifications sought by the Applicant, as discussed through the testimony provided during the BOARD hearings associated with the retention of certain existing facilities on the Property in question.
10. The BOARD finds the testimony of Josh Zemon, a representative of the warehouse developer, to be credible, persuasive and uncontroverted.

11. The BOARD finds the testimony of David Lonski, Esq., an attorney who represented the Church, to be credible, persuasive and uncontroverted.
12. The BOARD finds the testimony of Daniel Miola, PE, a licensed professional engineer to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that what is being proposed for the church property and what is being proposed for the warehouse property meets the Township Code and State law requirements.
13. The BOARD finds the testimony of Sean Moronski, PP, a licensed professional planner to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that the development of the Site would serve various purposes of the Municipal Land Use Law, that the Site is particularly suited to the proposed use and could accommodate the project, that the benefits outweighed any detriments, that there would be no substantial detriment to the public good, and that there would be no detriment to the zoning ordinance or zone plan.
14. The BOARD finds the testimony of Peter Steck, PP, a licensed professional planner who testified on behalf objectors, Svitanok NYC, **not** to be credible, persuasive and uncontroverted regarding the variances sought as per this specific Application.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment on the 24th day of September, 2026, on the basis of the evidence and testimony presented, the BOARD does hereby grant Preliminary & Final Major Site Plan approval, d(2) variance, and related “c” variances in which the proposal consists of site modifications associated with the retention of certain existing church and seminary facilities on the Site, subject to the following conditions:

1. The granting of this relief shall not be construed or eliminate the satisfaction of any other requirements of the zoning ordinance or requirements of the agencies, boards, or authorities of the Township of Franklin, County of Somerset or State of New Jersey.
2. The BOARD specifically grants approval to the latest set of application materials submitted by the Applicant.
3. The Applicant shall comply with any recommendations made in reports of the Townships staff, consultants and/or in any reports from the Boards/Commissions who have sent recommendations, except as waived or modified herein.
4. The Applicant shall obtain all other applicable permits and approvals from all applicable governmental boards and agencies prior to any construction.
5. This approval is subject to the Applicant’s continuing obligation to pay all professional fees generated by this application prior to issuance of a building permit and/or the issuance of the Certificate of Occupancy, as applicable.
6. Any ambiguities regarding the interpretation of this Resolution shall be resolved by the BOARD upon due notice to the public.

7. Applicant shall meet all conditions agreed upon on the records and memorialized in this Resolution.

CHRISTINE WOODBURY
Board Secretary

VOTE ON MOTION: 06/18/2026

FOR:

Chairman Robert Thomas
Vice Chair Robert Shepard
Cheryl Bethea
Richard Procanik
Vaseem Firdaus
Alan Rich
Gary Rosenthal

AGAINST:

NONE

ABSTENTIONS:

NONE

VOTE ON RESOLUTION: 09/24/2026

FOR:

AGAINST:

ABSTENTIONS:

**THE TOWNSHIP OF FRANKLIN BOARD OF ADJUSTMENT
SOMERSET COUNTY, NEW JERSEY
UKRAINIAN ORTHODOX CHURCH OF U.S.A. (ZBA-25-00008)
135 DAVIDSON AVENUE**

WHEREAS, UKRAINIAN ORTHODOX CHURCH OF U.S.A. (hereinafter referred to as “Applicant”), being the owner of the property located at 135 Davidson Avenue, in the Township of Franklin, County of Somerset, State of New Jersey, said premises also being known as Block 469, Lot 1.06 (hereinafter referred to as the “Site” or the “Property”) as is indicated on the official Tax Assessment Map for the Township of Franklin (hereinafter referred to as the “Township”), has applied to the Township of Franklin Board of Adjustment (hereinafter referred to as the “BOARD”) seeking a “d(2)” variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels.

WHEREAS, Applicant submitted an application packet with attachments, which were considered by the BOARD, which included the following:

1. Application packet for variance relief, signed by the Applicant, dated January 31, 2025, consisting of seven (7) pages;
2. Application packet for subdivision approval, signed by the Applicant, dated January 31, 2025, consisting of five (5) pages;
3. Minor Subdivision Plat, prepared by Langan Engineering NJ, LLC, dated October 23, 2024 and last revised January 23, 2025, consisting of two (2) sheets; and,
4. Survey, prepared by Langan Engineering NJ, LLC, last revised November 24, 2024, consisting of six (6) sheets.

WHEREAS, the Township officials and outside agencies submitted memos, which were considered by the BOARD, which included the following:

1. Memorandum from Mark Healey, PP, Township Director of Planning/Senior Zoning Officer, dated May 27, 2025, consisting of six (6) pages;
2. Memorandum from the Township Technical Review Committee, dated July 8, 2025, consisting of five (5) pages;
3. Memorandum from Officer Ryan Ellington, Franklin Township Police, Traffic Safety Bureau, dated June 17, 2025, consisting of one (1) page;
4. Memorandum from John Hauss, Township Fire Prevention Director, dated May 15, 2025, consisting of one (1) page;
5. Memorandum from Rashida Boima, REHS, MPH, Township Department of Health, dated May 9, 2025, consisting of one (1) page; and,

6. Memorandum from Tara Kenyon, AICP/PP, Sustainability Coordinator, Township Environmental Commission, dated April 8, 2025, consisting of two (1) page.

WHEREAS, the Applicant introduced, and the BOARD admitted, various Exhibits as follows:

- a. A-1 – Slide Presentation (September 18, 2025 hearing).
- b. A-2 – Subdivision Plat, last revised 1/23/25 (September 18, 2025 hearing).
- c. A-3 – Minor Subdivision Plot, Drawing No. CB-102, submitted as part of the subdivision application (November 6, 2025 hearing).
- d. A-4 – Colorized Site Plan Rendering submitted with warehouse application (Application No. ZBA-25-00009) (November 6, 2025 hearing).
- e. A-1 – Site Plan Drawings, prepared by Langan Engineering NJ, LLC, dated March 5, 2026 (March 5, 2026 hearing).
- f. A-2 – Architectural Elevations and Building Façade Details, prepared by Nelson, dated March 5, 2026 (March 5, 2026 hearing).
- g. A-3 – Colorized Creation Parcel Site Plan Rendering depicting proposed warehouse layout, parking, loading areas, landscaping and lot lines, dated March 5, 2026 (March 5, 2026 hearing).
- h. A-1 – Ordinance No. 4501-26 Releasing, Extinguishing and Vacating a Portion of Executive Drive (May 7, 2026 hearing).

WHEREAS, at the conclusion of the hearing, the Applicant seeks variance relief from the Township’s Code as follows:

Section 112, Schedule 1 – To permit the expansion of a non-conforming use.

WHEREAS, the BOARD determined it had jurisdiction and upon due notice as required by law, public hearings were conducted on September 18, 2025, November 6, 2025, March 5, 2026, May 7, 2026 and June 18, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN, the BOARD hereby makes the following findings of fact:

1. The Site is located in the Business & Industry (B-I) Zoning District.
2. Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC.

The overall project site is the subject of three (3) related applications, as follows: ZBA-25-00007, in which the Applicant is seeking a “d(2)” variance and Preliminary & Final Site Plan approval with respect to site modifications associated with the retention of certain existing (church, library, museum, seminary, and other church related uses) facilities on the Site; ZBA-25-00008, in which the Applicant seeks a “d(2)” variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels; and, ZBA-25-00009, an application on behalf of Syracuse 1950 Easton Avenue Owner, LLC, in which the Applicant is seeking a “d(1)” use variance, Preliminary & Final Site Plan with associated “c” variances to build a 258,150 square foot warehouse.

3. Mr. Lanfrit asked that the witnesses that were involved in all three (3) applications be able to provide overarching testimony as to the project. Mr. Bernstein, BOARD Attorney, indicated that they may not have to come up three (3) times, but they were going to have to be clearly separated between which application was which because each one of these applications was different and not just one (1) big application – it was a series of applications. He then indicated that the testimony could be taken all at once, but the BOARD was ultimately going to have to decide and end up breaking up some of this as it hears it based upon what their questions are and what the public has to say. Mr. Lanfrit stated that they would need separate resolutions for each application because he thought it would be in the best interest of both the BOARD and the applicants that there were separate resolutions for the church and for the warehouse, as well as a separate resolution for the subdivision.
4. Mr. Bernstein then asked if anyone in the chamber asked to speak on behalf of a group of individuals in the public, either as legal counsel or as a designated spokesperson. He explained that if anyone was obtaining that status, that would preclude other members of the public upon who you are representing from coming up and speaking, either in a cross-examination situation or at the end of the application.
5. Vice Chair Shepherd then indicated that he was listening about the three (3) witnesses that would be providing overarching testimony. He added that his concern was that after they provided their testimony, there may be issues that come up later which would require additional information from them. He went on further to state that he would want to be sure that those witnesses, even after they testify, would remain available throughout however long it takes. Mr. Lanfrit assured the Vice Chair that every witness who gave testimony that evening would also be available at the next hearing should the matter be carried to another hearing.
6. Mr. Alexander Tiran came to the podium and asked if he could respectfully raise procedural questions before the testimony begins. He stated that he was just representing himself. Mr. Bernstein, BOARD Attorney, stated that he could not at this point.
7. Mr. Lanfrit then stated that they were there that evening to present testimony on three (3) separate applications. He indicated that there was an application before the BOARD to subdivide the parcel of land that was currently owned by the church that

consisted of 32 acres. He noted that the subdivision that they were seeking approval for was to create a fourteen point nine (14.9) acre parcel to be retained by the church and a seventeen point seven (17.7) acre parcel which would be used for the construction of the warehouse. He then told the BOARD that the subdivision was a conforming subdivision and met all of the requirements of the zoning code and is an “as of right” subdivision with respect to the bulk requirements of the zone. Mr. Lanfrit added that they were also seeking a d(2) variance with respect to the lot containing the existing church and a d(1) Use Variance for the proposed warehouse. He reminded the BOARD and the public that warehouses were a permitted use in the B-I Zone, but then they were removed from the B-I Zone and may be back in the B-I Zone before these hearings conclude. He then stated that they were also seeking a “d(2)” Variance for the church because when the church conveyed off land, the land that they were going to convey to the warehouse, it is technically called an expansion of a non-conforming use because the church right now is a non-conforming use in the B-I Zone.

8. Vice Chair Shepherd then asked how the church could have an expansion of a non-conforming use if they were reducing the size of their property. Mr. Lanfrit explained that because the church right now was a non-conforming use in the B-I Zone, the church is on thirty two (32) acres and would be on fourteen (14) acres if the subdivision was granted. He added that the church was functioning on thirty two (32) acres and would now be functioning on fourteen (14) acres, so the same activities would be functioning on fourteen (14) acres and, technically, on the fourteen (14) acres the potential use was more intense, which triggers the need for a D(2) variance (expansion of a non-conforming use).
9. Mr. Lanfrit then indicated that, lastly, they were before the BOARD for Preliminary and Final Site Plan approvals for both the church site and the warehouse. He added that the church site had certain modifications, which included reconfiguration of the parking and some stormwater management. Mr. Lanfrit indicated that there were no structures being proposed on the church site. They were also seeking Preliminary and Final Site Plan approval for the warehouse; however, with both applications they received staff reports from the Township Engineer, Mr. Darren Mazzei, who had some concerns that they needed more information regarding stormwater management, which he stated they were in the process of obtaining and providing. Because they did not have all of that information, they would be requesting only a Preliminary Site Plan approval for both the church and the warehouse and coming back for a Final Site Plan approval after they provided the storm water management to the Township Engineer. Mr. Mazzei stated that he agreed with that process.
10. Mr. Bernstein interjected by saying that there may be other reasons for it not to be granted a Final Site Plan approval above and beyond the stormwater management issue. Mr. Mazzei agreed with that statement.
11. Mr. Lanfrit then indicated that all of the applications were presented to the Franklin Township Historic Commission and the Historic Commission conducted three (3) hearings on these applications. He added that they reviewed the subdivision, they

- reviewed both site plans and had requested some changes to the plans which Applicant made. Additionally, Mr. Lanfrit stated that all three (3) of the applications were approved and the Historic Commission granted approval for the demolition of the cultural center, which was on the site where the warehouse was going to be constructed. Since the property was within 1,000 ft. of the Delaware & Raritan Canal, you have to go to the Historic Commission before you can get approval to demolish something and they have already done so and the approval had been obtained. He added that all three (3) applications had been submitted to the Delaware & Raritan Canal Commission (DRCC) and have all been reviewed by them and have found no fault with the applications and were just waiting for the municipal approval and County approval which were required before they can formally approve the application.
12. Mr. Bernstein explained that he didn't want to leave the public the wrong assumption here. He explained that the demolition issue is not an issue before the BOARD, irrespective of where it exists, and Mr. Lanfrit concurred. Mr. Bernstein went on to state that the granting of a demolition permit by the Historic Preservation Commission would not be an issue before this BOARD, irrespective of the application. Mr. Lanfrit agreed that the BOARD did not have any jurisdiction over demolition. Mr. Bernstein added that the Historic Preservation Commission deals with historic preservation. Any approvals or any consents granted by the Commission were not binding on the BOARD. Mr. Lanfrit concurred with that statement, and Mr. Bernstein went on to state that anything that the Commission did relate either to the applications before this BOARD or to the demolition permit do not affect the BOARD's hearing of the application in its totality, except that the BOARD had no jurisdiction over demolition. So, Mr. Bernstein concluded by stating that if a demolition were to occur, irrespective of any other application, it was immaterial to the one before the BOARD. Mr. Lanfrit concurred.
 13. In conjunction with the application, Mr. Lanfrit stated that one (1) of the sites was affected by Buckeye Pipeline and they were aware of the application and they had worked through them and indicated that they have no issues.
 14. Lastly, Mr. Lanfrit stated that the BOARD had heard an application about a month ago called IDIL, which was a warehouse on Davidson Avenue just to the south of the subject property and adjacent to the subject property, except for Executive Drive. He added that, in the IDIL application which the BOARD approved, they recommended to the Township Council that Executive Drive be vacated, but wanted the BOARD to know that their plans do not show that because the road has not yet been vacated. He then told the BOARD that they had been in discussions with IDI Logistics and that they were in accord with the vacation of Executive Drive. He added that should the project be approved, they would also apply and join in applying with IDIL to the Council for the vacation of Executive Drive. Mr. Lanfrit then noted that if that road were vacated, there were two (2) variances that they were seeking that would disappear. Mr. Bernstein reminded Mr. Lanfrit that they still had to apply for the variances at that time since the road has not been vacated yet.

15. Mr. Lanfrit indicated that they had a slide presentation prepared that involved all three (3) applications. He, therefore, would like to mark the handout of the slide presentation as Exhibit A-1 for all three (3) applications. Mr. Lanfrit then left a copy of the slide presentation at the public podium.
16. Mr. Josh Zemon, Principal & Chief Investment Officer of Creation Equity testified for their project, called Somerset Exchange, one of the Applicants involved in the project. He indicated that his company had contracted to purchase the seventeen (17) acres from the church should the applications be approved. Mr. Zemon then told the BOARD that Creation Equity was a real estate investment and development company. He described the fact that they had forty (40) projects across the country and that they focus almost exclusively on ground up development of logistics projects and retail and mixed-use projects. He then noted that the subject project would be their fourth (4th) in the NY/NJ metropolitan area over the last five (5) years. Mr. Zemon wanted the BOARD to know that they were passionate about architecture, design and placemaking for all of their projects. He showed pictures of several of their projects, stating that their projects do not look like traditional warehouses. He highlighted their most recent project in New Jersey, called McClellan One, located in Newark, NJ. He noted that they had been working with the Ukrainian Church over the past two (2) years and was transformative for their organization as they needed to revitalize their campus and desperately want to remain in Franklin Township where they have been for the past seventy five (75) years. Mr. Zemon stated that the location of the subject property at Route 287 and Davidson Avenue provided excellent access and visibility to potential corporate users without impacting any residential areas and would complement surrounding businesses, including the IDIL project that would be developed immediately south of us. Mr. Zemon stated that the packet of slides that were also being shown on the screen was prepared by his company, dated September 16, 2025, and included photographs of his company's facilities and accurately represented the other facilities that his company owns. Mr. Zemon added that the rest of the document showed site plans and pictures of the church, which were obtained by himself from their Site Engineer and were incorporated into the package.
17. Vice Chair Shepherd then asked Mr. Zemon if they had a tenant for the property or was the project going to be built on speculation and he responded that they would be developing the project on speculation.
18. Mr. Healey then asked if the project was being developed for one (1) or more tenants. Mr. Zemon indicated that the building was designed to be broken up into multiple tenants within the approximately 258,000 sq. ft. building and could be broken down into 40,000 to 50,000 sq. ft. areas. He added that he had also designed multiple office entries to allow for the building to split.
19. The Vice Chair then asked if it was going to be a one (1) story building. Mr. Zemon testified that it was thirty six (36) ft. clear and forty to forty two (40-42) ft. to the top of the roof. He then added that they would clarify that information with their Engineer.

20. Mr. Lakhia then asked what type of clientele they were hoping to attract. Mr. Zemon stated that their buildings appealed to a wide range of potential uses, i.e., traditional logistics, distribution and warehousing. He then added that the prospective building size was a little small for that type of use, so they envisioned 50,000 to 100,000 sq. ft. tenants that have some component of warehousing distribution, some component of light manufacturing and some component of office or retail showroom which was why the building was designed to be broken down into smaller tenant use.
21. Chairman Thomas then made a motion to open the meeting to the public. He told the public that this session was their opportunity to ask the witness questions based upon the testimony that was just given. He reiterated that it was not time to make a statement or tell the BOARD what they like or do not like about the project.
22. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked, based upon NJ Statute 40:55D-10B, if any relevant documentation for the hearings should be presented to the public ten (10) days in advance, at least, and it was clearly not presented to the public prior to the hearing and it did impact the decision of the BOARD. He then respectfully requested that the matter be carried to allow for public review. Mr. Lanfrit responded by stating that the relevant parts of this exhibit that include the pictures of the church, the site plan of the warehouse, were all colorized versions of what was filed with the Township and was on public record. He added that the only thing that was included that was in addition to that was some background information concerning the Applicant and the Applicant's business. Mr. Lanfrit added that he did not think that it was relevant to the Application itself, and he thought that the BOARD could accept, and had in the past accepted, exhibits on the night of a hearing. Mr. Bernstein added that the exhibit was marked for identification, it was not in evidence, and he indicated that they would have to see what other evidence came in as to what the impact of Exhibit A-1 was relative to. He noted his recollection of N.J.S.A. 40:55D-10B is that it addressed more the issue of professional testimony, i.e., engineering, planning, architecture, etc. rather than, with respect to Mr. Zemon, a PR piece that was ostensibly here to tell the BOARD and public why his company's project should ultimately be approved.
23. Mr. Turon then asked if Mr. Zemon, or the people he represents, conducted a study with the local Ukrainian community on the relevance of building this warehouse given that the larger complex issue that has just been presented and whether the public has been asked about their opinions. Mr. Bernstein stated that Mr. Zemon testified to a proposed Application for the possibility of approval and was why the public was in the chambers to ask questions regarding the Application. That being said, he added that it was not a public opinion situation - land use Board applications, whether it is the Zoning Board, the Planning Board, or the Land Use Board, were not based on what the neighbors believe, think or feel but based on what was provided to the BOARD and whether it met the criteria of the Municipal Land Use Law (MLUL).
24. Mr. Turon then asked if the Applicant had filed proof of service for a 200-foot owner/agency notice to the governing body. Mr. Lanfrit then stated that they had

- served all property owners within 200 ft., have also published in the newspaper and provided proof of same to the Township. He then asked that the submission of the presentation from Mr. Zemon would not impact the decision of the BOARD given that the public was not presented it prior to the hearing. Mr. Bernstein then indicated that he would advise the BOARD that at that time, Exhibit A-1 had been provided for the purposes of a background of the proposed Applicant relative to other projects that they have done outside of the Township. He stated that he assumed that Mr. Lanfrit would have other witnesses who were going to testify as to what was being produced or proposed to be produced here at the meeting. Mr. Lanfrit concurred.
25. Ms. Svitlana Malovana, 42 East 5th Street, Brooklyn, NY, came forward. Ms. Malovana asked if there was or was not a detailed report about risk of flooding and about a storm water management system to address that concern. Mr. Lanfrit stated that they had submitted a storm water report as part of their plan and was reviewed by the Township Engineer, Mr. Mazzei. He added that it was an extensive report and also reviewed by the Delaware & Raritan Canal Commission (DRCC) and the NJDEP and they found no issue with it. He added that it had not been approved as yet, because it was not the time yet to do so, but Mr. Mazzei had asked for some additional information. Mr. Lanfrit then stated that they were in the process of getting that information and providing it to him, and the project Engineer would testify as to his opinion as to whether there were any storm water issues when he came up to testify.
26. Chairman Thomas stepped in to state that Mr. Zemon's testimony was basically a preliminary summary of the project. He told Ms. Malovana that her questions were to be related to Mr. Zemon's testimony, which was not about stormwater.
27. Mr. Kovalev, 25 West Price Street, Linden, NJ, came forward. Mr. Kovalev asked if Mr. Zemon asked the right person because there was a big difference between churches and the Ukrainian Orthodox Church. Chairman Thomas stopped Mr. Kovalev's line of questioning because it was not related to Mr. Zemon's testimony. Mr. Bernstein explained the process of notifying neighbors of the subject property within 200 ft. and that individual parishioners or members of a house of worship were not the owners of record for purposes of providing the 200 ft. notice as the law required. It was simply that entity (Ukrainian Orthodox Church) which was recognized by the municipality on the tax records as the property owner.
28. Mr. Kovalev then stated that the Ukrainian Orthodox Church recently changed jurisdiction, originally UAPC and now was UPC so the Archbishop now is like a Turkish jurisdiction. Mr. Bernstein stated that whether the church changed their name, the Ukrainian Church of U.S.A. is the listed entity on the Application. He told Mr. Kovalev that if they changed names or entities there was a separate issue that he could raise at a later point during these proceedings. For purposes of Mr. Zemon's testimony, Mr. Bernstein told Mr. Kovalev that his questioning did not address that testimony, which was what they were allowing public questions at that time.

29. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. She referred to the images in Mr. Zemon's slide presentation, noting that the building looks like an office building and only has automobiles shown parked there. Mr. Lanfrit stated that they would present testimony to the site plan which would show the car parking, truck parking and how the property would be used with a later witness' testimony.
30. Mr. Healey then suggested that Mr. Lanfrit explain to the public the witnesses they would be presenting and what they were going to speak about so that members of the public might understand who to ask their questions of.
31. Mr. Lanfrit told the public that he intended to call Archbishop Anthony and a Site Engineer who prepared the site plan for both the church and the warehouse and will testify as to what the warehouse facility would look like to include parking, lighting, drainage, etc. He would also testify to the changes that would be made to the church lot. He then indicated that he had a licensed Architect who would describe the building, both inside and outside, that was proposed to be constructed. He added that he would also have a Traffic Consultant who would present traffic testimony as well as a parking analysis as to the adequacy of parking. Lastly, he stated that a Planner would be testifying as to the variances that they were seeking.
32. Ms. Pylypovyc then asked Mr. Zemon why they were looking at images of warehouse buildings that were not representative of the project and what you would be offering to the Township. Mr. Zemon stated that the image shown was on the side of the building that would be facing the church property and the office front of the property. That portion of the building is in a darker color with lots of glass and was the area where the office entries would be along the length of the building and where the car parking for the employees would be. He noted that that was a representative image of what they were proposing. She then asked which side of the building would be facing the church, to the right or to the left, and Mr. Zemon indicated that the church would be to the right of the side of the building that was being shown.
33. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away their project was away from the St. Andrew Cemetery. Mr. Zemon indicated that their Civil Engineer would testify to that. Mr. Wolk indicated that there was a restriction of 1,000 ft. from a historical place.
34. Ms. Jana Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward. Ms. Varnichenko asked why Mr. Zemon's company wanted to build in Franklin Township and why specifically that plot of land. Mr. Zemon responded by saying that it was a great community, very diverse and a great labor base and was very well located in the State of New Jersey with access to all the major freeways in the area including the New Jersey Turnpike and I287. He then spoke to the choice of land parcel, noting its inclusion in the Business & Industry (B-I) Zone, with Davidson Avenue being a business core. He added that they started working with the Ukrainian Orthodox Church over two (2) years ago and that it was really a collaboration between the two (2) organizations. Mr. Zemon then stated it was never their intention to buy the entire

- parcel and demolish the church to put up a larger building, but to subdivide the property and build a smaller building for their company to ultimately provide the sums necessary to provide the Ukrainian Orthodox Church through a transaction for them to rehabilitate their facilities, which included a to be built museum and a seminary that was on-site today. He stated that Archbishop Anthony would testify to all of that though. He then discussed the extensive dialogue that his company has had with the Ukrainian Orthodox Church on the project, being sensitive to their needs.
35. Mr. Bagen Jasinski, One Upton Court, Morganville, NJ, came forward. Mr. Jasinski again asked why the Applicant chose the property to build a warehouse and displace people in the Ukrainian Orthodox Church.
 36. Mr. Michael Werthmuller, 5 Pollbrook Road, Jackson, NJ, came forward. Mr. Werthmuller asked how long they were prepared to fund the project before they got a tenant for it and Mr. Zemon stated that they were prepared to fund the project for as long as it took to obtain a tenant(s).
 37. Mr. Alexander Lazurka, 2536 Bush Street, East Meadow, New York, came forward. Mr. Lazurka asked for financial liquidity and Mr. Zemon's company's ability to complete the project and his previous experiences. Mr. Zemon indicated that they have completed every project they have started in the past five (5) years he has worked with the company.
 38. Seeing no one further coming forward, the meeting was closed to the public by Chairman Thomas.
 39. Mr. Daniel Miola, Civil Engineer, employed by Langan Engineering and Environmental Services, LLC, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials.
 40. Mr. Miola testified that his firm prepared the subdivision plan that was before the BOARD that evening, as well as the site plans that were going to be heard, under his direction. Mr. Miola then described to the BOARD the property that was being subdivided in its current state. He pulled up the subdivision plat that was submitted to the Township in connection with the subdivision Application. The subdivision plat was marked into evidence as Exhibit A-2, prepared by Langan Engineering by a professional and licensed surveyor within Langan Engineering (Tom Reeves), dated October 23, 2024 and last revised January 23, 2025.
 41. Mr. Miola indicated that the tract of land included one (1) lot with a total of thirty two point sixty (32.60) acres. He added that they were proposing to subdivide this lot into two (2) lots. The first lot he spoke about was the northerly lot and would have frontage on both Easton Avenue and Davidson Avenue and was called proposed Lot 1.09 with approximately fourteen point nine (14.9) acres. He noted that the second lot that he was referring to was the southern lot and proposed as Lot 1.08. He noted that it would encompass approximately seventeen point seven (17.7) acres and would have frontage

- on Davidson Avenue and Executive Drive that bordered the southern lot. Mr. Miola noted that the minimum lot size in the zone was two (2) acres so both lots exceed the minimum lot size of the zone. He then told the BOARD that the minimum frontage size in the zone was one hundred fifty (150) ft. and both lots met the requirements of the zone on Easton Avenue, Davidson Avenue and Executive Drive. He stated that the two (2) lots were fully conforming with all bulk requirements, including lot area, lot frontage, building setbacks, lot coverage, and floor area ratio as well as impervious coverage. He told the BOARD that the southerly lot, Lot 1.08, was the proposed warehouse lot.
42. Mr. Miola then discussed that there were currently structures on both lots, but when the one (1) structure was removed from the one (1) lot, the remaining structure on the church site met the side-yard setback requirement. He added that there were no bulk variances that were created by the subdivision.
 43. Mr. Miola then addressed the staff reports and indicated he was in receipt of both the staff Planner (Technical Review Committee (TRC) report, dated July 8, 2025) and could comply with all of the comments in the subdivision component of the Application and staff Engineer and agreed to address all remaining comments with respect to the subdivision component of the Application. Mr. Miola added that complying with all staff comments would not in any way alter or change what the BOARD was looking at that evening.
 44. Mr. Mazzei, Township Engineer asked about item #2 in his report and whether there was going to be an access easement granted between the subdivision. Mr. Lanfrit stated that there would be an easement, but that it would be part of the site plan testimony.
 45. Chairman Thomas then made a motion to open the meeting to the public for questions for the Site Engineer.
 46. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked a question regarding the Use Variances for the two (2) lots and Mr. Healey explained that that question would be for the Planner during the site plan portion of the Application.
 47. Mr. Matviyshyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Matviyshyn asked what would happen if the subdivision were approved, but there were issues with other components with the Application, and it was left as just two (2) lots. Mr. Healey explained that there would be easements between the properties, so you can drive across the property and there might be utilities that cross the property and the Applicant would have to address those easements that would be necessary so that the site would continue to function as it did now, notwithstanding the fact that there was an invisible lot line now that existed. He added that the easements would have to happen at the time the subdivision was filed. Mr. Lanfrit stated that ownership could not change unless the subdivision was granted.

48. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. He asked if the subdivision would proceed, what would occur to the current existing structures that were in place and did the subdivision line go through them. Mr. Miola stated that the subdivision line did not go through any structure and all required setbacks from buildings were being adhered to with the introduction of the subdivision line.
49. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc asked that the copy of the slide presentation of Mr. Zemon be made available to the public as most people could not see it from the seating area. Mr. Bernstein indicated that all copies of all documents submitted to the BOARD were or would be accessible online on the BOARD/Township's website.
50. Ms. Pylypovyc asked Mr. Miola to explain the changes to the site in relation to the subdivision. Mr. Miola indicated that there would be no physical changes happening on the site due to the subdivision.
51. Mr. Lanfrit explained what would happen if the subdivision was approved, but the warehouse was not approved for some reason.
52. Ms. Svitlana, 16 Dorsey Drive, Manalapan, NJ, came forward. Ms. Svitlana asked what the required distance would be between the buildings on each side of the subdivision line. Mr. Miola stated that the required side-yard setback was ten (10) ft., but the cultural center was sixty (60) ft. from the subdivision line and the chapel on the other lot was about thirty five (35) ft. from the subdivision line.
53. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked how the seminary would be accessed with someone else owning the separated lot. Mr. Lanfrit stated that that would be presented during site plan testimony and, as he stated he already indicated, they have reconfigured the parking around the chapel and there was access easements located on the church lot which would be heard during the site plan testimony.
54. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc thought that the subdivision was not being considered along with the site plan for the warehouse and she didn't think that the subdivision could stand on its own. Mr. Bernstein once again explained that it was the Applicant's right to present an application in the order that they wanted to and it was the BOARD's responsibility to put the pieces together to determine if some or all pieces fit or do not and are acceptable.
55. Mr. Lanfrit explained again to Ms. Pylypovyc that the setbacks all comply and the distance between the buildings on both created lots were more than necessary.
56. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away the project is from the cemetery of St. Andrews. Mr. Miola stated that the property bordered the cemetery of St. Andrews and subdividing the lot would not

change the distance from the cemetery of St. Andrew lot. Mr. Lanfrit explained that the cemetery was on a different lot in a different municipality.

57. Chairman Thomas closed the meeting to the public, seeing no one further coming forward.
58. Mr. Healey reminded the public that since future testimony was going to be presented and related to the physical development of the project, the plans are on the Township website at franklintwpnj.org, and then go to Committees/Commissions and under Zoning BOARD of Adjustment there was an area for application materials that included all of the plans, the traffic studies, the storm water management reports are all there for the public's review. He added that new material submitted to the BOARD, those would be updated on the Township website. He also added that the Township/BOARD professional reports were included on the agenda for the upcoming meeting.
59. Mr. Lanfrit indicated that his next witness would take longer than the time left that evening and should be carried to the next meeting. He also suggested that the next hearing should be held at the Board of Education Building to accommodate a larger crowd. He then asked if they could start the meeting a little earlier so they could get through the bulk of the testimony at the next meeting.
60. The hearings on all three (3) applications were carried to November 6, 2025, with no further notification required.
61. At the hearing held on November 6, 2025, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00008, in which the Applicant is seeking a d(2) variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels at 135 Davidson Avenue.
62. Peter MacArthur, Esq., 75 Lane Road, Fairfield, NJ, appeared before the BOARD on behalf of Spidok NYC, Inc. and was representing Alexander Taran, Merrila Havliok, Leon Gristok, Svetlana Maleanova, Makita Stayachenko and Yuri Welk. Mr. MacArthur told the BOARD and the public that he was representing the interests of those people whose names he just read and were doing so as an objector. He agreed with Mr. Bernstein that those listed people would not be permitted to speak or question witnesses during that process because Mr. MacArthur was representing their interests.
63. Mr. Bernstein then discussed some of the ground rules for the evening's proceedings. He proceeded to state that it was his understanding that Mr. Lanfrit was going to call his various professional witnesses, one (1) witness at a time, covering all the applications that the Chairman had just discussed to the extent that their testimony applied to the specific application. He instructed Mr. Lanfrit to indicate during the testimony where they would stop on one application and start on another. Mr. Lanfrit agreed. He went on to state that once the testimony of the witness was concluded, it

- would then be the BOARD's opportunity to question the witness, then Mr. MacArthur's opportunity to question the witness and, finally, anyone not represented by Mr. MacArthur would have the opportunity to question the witness. Mr. Bernstein then made it clear that it was not the time to question the propriety or impropriety of the Application as that would come at the end of the hearing, whenever that would be. He went on to state that once all of Mr. Lanfrit's witnesses have concluded their testimony, then it would be Mr. MacArthur's opportunity to make his presentations, present any witnesses and would be required to submit any reports at least ten (10) calendar days in advance to the Township if presenting professionals as witnesses. Mr. Bernstein then addressed the public, giving them instructions for asking questions of witnesses, limiting them to the witness and the testimony just given.
64. Mr. Healey gave instructions to the BOARD and witnesses regarding the use of the microphones.
65. Mr. Lanfrit then noted that, at that time, they were only seeking Preliminary Site Plan approval and not Final Site Plan approval for the warehouse. He then stated the other applications that they were seeking were the Site Plan approval for the church on the remaining thirteen (13) acres of the church property and subdivision approval for which they presented testimony at the last hearing. For the record, Mr. Lanfrit stated that Mr. Miola, the Project Engineer, testified to the subdivision where he stated that it was a fully compliant subdivision at the last hearing. He then added that Mr. Zemon testified as a representative of the Applicant on the warehouse project, giving a history of their company. Mr. Lanfrit then stated that he had intended to call Archbishop Anthony to testify. After the prior meeting was over, outside of the municipal building in the parking lot, the members of the clergy that were at the meeting were, in fact, assaulted, spat upon and cursed at by certain people who were sitting in the audience and the police had to be called. He then noted that the Archbishop is 78 years old and has a bad heart and elected, after discussion with him, not to bring him there that evening to testify. Mr. Lanfrit then told the BOARD that he was going to call as his first witness, Mr. David Lonski.
66. Mr. David Lonski, Esq., licensed to practice in the State of New Jersey, representing the Ukrainian Orthodox Church. Mr. Lonski then detailed the history of the property as he was familiar with it based on conversations with the members of the clergy. He then indicated that he had a brief statement that included that information that he thought would be informative for the BOARD and for the members of the public that were in attendance.
67. Vice Chair Shepherd then asked if anyone else had been given a copy of the statement he was about to read. Mr. Lonski indicated that no copy was given to anyone, but that it was his statement. He read his statement, as follows:
68. The Ukrainian Orthodox Church of the United States of America was incorporated in New Jersey on September 7th, 1951, as a not-for-profit religious corporation. He added that its stated purposes are and were to erect and maintain a church and to carry out

other religious works in accordance with the religious doctrines espoused and maintained by the Ukrainian Orthodox Church of the United States of America and to acquire, hold and dispose of real property. Its governance of the corporation rests in 19 trustees and Archbishop Antony served as the Chairman of the Board of Trustees, and Archbishop Daniel as the Vice Chairman of the Board. Mr. Lonski then stated that, with respect to this Application and the sale of the property, there were formal actions that were taken. He noted that all 19 members of the Board of Trustees were comprised of the council of Metropolia, in essence, the cardinals of the church for those that were familiar with that analogy to the Roman Catholic Church. He then stated that the Metropolia of the church, all 19 Board of Trustees voted unanimously at a meeting on May 25, 2024, to enter into an agreement to sell approximately 17.6 acres of land. He added that that decision was recently ratified unanimously in October of 2025, just last month not just before that council of Metropolia, but all the Orthodox diaspora and all of the clergy of the church that met last month in a big formal meeting/setting and were all ratified unanimously by every member present. Mr. Lonski then told the BOARD and public that the officers of the corporation were constitutionally and now specifically authorized to execute all necessary documents to effectuate this sale.

69. He went on to state that the history of the Ukrainian Orthodox Church of the United States of America in Franklin Township, parcel #1 (or the first parcel) purchased 50.2 acres of land from the former Fisher estate in 1951, with the entire purchase price paid by the church through the Ukrainian Orthodox Church parishes. He went on to explain that in the 1960's, approximately 14 acres of land from that parcel was condemned for the construction of Interstate 287 and added that 18 acres were orphaned on the other side of Interstate 287 across from Easton Avenue. Additionally, he went on by saying that on the side remaining nearest Easton Avenue, construction of the St. Andrew Memorial Church was initiated with the condemnation proceeds from Interstate 287 and the project took ten (10) years to complete. Mr. Lonski then told the BOARD that the other improvements on that property were the original Fisher family residence, which was said to be the oldest existing structure in Somerset County and was presently the residence of the church hierarchy. He added that the Pakova Social Center and another small residence for the property manager also rest on that site. He then told the BOARD and public that the balance of the parcel was a cemetery with approximately 11,000 burial plots.
70. Mr. Lonski then drew the BOARD's and the public's attention to parcel #2, which is the parcel of land that they were talking about. He stated that, in 1972, the Board of Trustees and sober clergy, a leity congress of all the clergies with approximately 100 members approved the purchase of 50.5 acres in Franklin Township from the Heathering estate. He added that aside from a garage building, the only improvement was the actual Heathering home on that property. He went on to explain that, in 1974, that house was converted into the St. Sophia Ukrainian Orthodox Theological Seminary, which opened in November 1975, coincidentally 50 years ago this month. He noted that a small chapel was located in that seminary building and, in 1978, plans were developed to construct a church hall for religious gatherings such as wedding receptions and banquets for parishioners. He added that while budgets were being

finalized, a developer came forth seeking to purchase approximately 16 acres of the property at the Heathering estate, which was the land that bordered Interstate 287 and Davidson Avenue. He then indicated that the sale was approved and the proceeds were used to cover most of the construction costs for that church hall, also known as the cultural center.

71. Mr. Lonski explained that the balance of the funds needed to construct the church hall (aka the cultural center) was paid for by the Orthodox parishes and the Ukrainian Orthodox Diaspora. In 1988, Mr. Lonski stated that plans were developed to construct a new administration consistory building, along with a library, funded primarily with the proceeds of the sale of the 18 acres that were then orphaned on the other side of Interstate 287 to the Roto Clip Corporation. He then spoke about the church hall (aka the cultural center) even though construction began in 1980, it suffered various construction related issues in that the building did not meet building code requirements, and the C.O. was not issued until almost three (3) years later. Once that was completed, Mr. Lonski indicated that a church library was initially moved from the seminary building into a conference room in the cultural center; however, due to inadequate moisture control and persistent roof leaks, the library books and records were being compromised and were moved and housed in the new library building that was constructed in about 1988.
72. He then told the BOARD that a museum was initially designed and approved in a museum that was constructed in the basement of the St. Andrew Memorial Church, however, humidity control conditions proved detrimental to those historical literary collections, so they were moved to a mezzanine section of the cultural center where church archives were also stored. He noted that the space proved to be inadequate and too small for all of the collections and records, so in 2002, construction began and was approved on the Ukrainian History and Education building on the front portion nearest Easton Avenue on the property. He told the BOARD and public that a plan was developed to relocate the museum and archives from the church hall (aka cultural center) into a new, modern building that would also house a new education complex. He noted that it was a state-of-the-art facility located adjacent to the administration consistory building and the library complex that were now there.
73. Mr. Lonski stated that the church went through a government approval process to have the new building approval with facilities for religious archives, museum collections, exhibition galleries, a gift shop, educational space and more, all to be housed in this modern facility. Although the plans were approved and construction began almost 20 years ago, the interior construction had still not been completed for financial reasons. Upon the sale of the now obsolete cultural center property, funds have already been earmarked to complete those facilities to house the museum, art exhibits, education program and other missions of the church. He told the BOARD and public that all cultural materials, educational programs and events now at the cultural center building would continue on the site once it was completed. The Ukrainian Church, which formerly used the cultural center, has already relocated to another New Jersey community where most of the students and their families live. As the financial issues

- arose for the completion of the new state-of-the-art buildings, the church decided to entertain the sale of the church hall (aka cultural center) so funds could be made available to complete the construction of the new museum building. He then noted that the sale of the property to construct this building that served the religious corporation's purposes was repeated throughout history. New sales proceeds, like in this case, were earmarked for completion of the new history and education complex, repairs to the St. Sophia Seminary building, repairs to the consistory administration building, the museum and library buildings, along with several other smaller projects and also to expand the Pakova Social Center on the memorial church parcel. He stated that there was clearly no intent here to remove this church's history and culture, but only to preserve it for future generations.
74. Vice Chair Shepherd indicated that it sounded like a lot of the money that was used to purchase property or facilities was raised by the church. He then spoke of the diaspora and also the many priests that were involved. He asked if any promises were made to the people who were contributing any money. Mr. Lonski indicated that there was none that he was aware of or that he had been informed of. When the purchases of the property in question were made, the Vice Chair asked if he represented the church at that point. Mr. Lonski stated that he did not represent the church then, and that the first purchase was made in 1951 and the second was in 1972, and he was not an attorney during these purchases.
 75. Mr. Lakhia indicated that he was just trying to understand if the land and everything there was brought with the money from the people who go and worship there. He asked if they had any ownership in those facilities there at all. Mr. Lonski stated that they do not have any ownership as the corporation was the owner. Mr. Lanfrit indicated that his testimony was that part of the land that was purchased was a result of the monies they obtained from the condemnation of Interstate 287, not necessarily from the funds of the parishioners.
 76. Mr. Dougherty stated that it seemed that the Metropolia that Mr. Lonski spoke of seemed to be made up of church leadership (ordained members) and wanted to know if that were true. Mr. Lonski answered in the affirmative. He then asked if there were some non-ordained lay people for the Ukrainian Church that had any input or any representation in this body. Mr. Lonski indicated that they did not in the Board of Trustees of the church, but the Board of trustees of the church had conferences with additional priests and members of the public. He added that that one (1) of those took place last month at which the sale was unanimously ratified by that entire group.
 77. Regarding the development of the property that was part of the application where the warehouse would go and sold to an outside group, Chairman Thomas asked if the same procedure was followed for this as for all of the other historical purchases that were made. Mr. Lonski explained that it was as far as he understood it but was not involved at that time and could not speak from personal knowledge. He then stated that it was his understanding that it was the same process which was governed by their corporate documents. Mr. Lanfrit stated that, in 1979, the church sold the 16 acres on the other

side of Executive Drive, between Executive Drive and Interstate 287, to a company in Maryland who he happened to represent at that time. At that time, Mr. Lanfrit indicated that he knew that the church went through the same procedures and that they all met, got authorization to sell the property and then the closing took place. He noted that that this was the IDIL site which the Zoning Board heard a few months ago.

78. Mr. Rich then asked to confirm that a corporation oversaw the sale, so there would also then be corporation bylaws and articles of incorporation. Mr. Lonski answered in the affirmative and Mr. Rich then asked when they were last updated. Mr. Lonski indicated that he did not know because he was not their general counsel, but that he did the real estate work and could tell the BOARD that he has seen the minutes approving the sale and had been supplied to the purchaser and the title company and they feel comfortable that all the appropriate procedures were followed to execute the contract and to consummate the sale.
79. Mr. MacArthur, Esq., attorney for the objectors, asked whether there were any formal actions taken in connection with the sale and memorialized in resolutions pursuant to the bylaws. Mr. Lonski answered in the affirmative. Mr. MacArthur then asked Mr. Lanfrit if he could produce the bylaws of the corporation, as well as the resolutions that authorize the sale. Mr. Lanfrit indicated that he did not think it was relevant to the Application. He added that the church signed the Application as the owner of the property and did not think the BOARD did not need and had never requested anything other than the church signing the application to indicate that the seller had the authority or needs approvals in order to sign those applications.
80. Mr. MacArthur then addressed Mr. Bernstein, BOARD Attorney, and Chairman Thomas to make a proffer because he indicated that the number of people that were there that evening from the public have only had this transparency ever since the saga began for them and have been left in the dark. He stated that he reviewed the Traffic Report last evening and he sent an excerpt of the Executive Summary which described what was going to happen to the property. He then stated that he asked if they ever heard of the plans before and she answered in the negative. As a result, Mr. MacArthur stated that he thought his clients were entitled even though it is a BOARD issue in terms of standing because he thought as BOARD members that you would want to ensure that the Applicant had standing to bring the application. He asked if there was a problem in the process of authorizing the person to sign the contract and then asked who signed the contract. Mr. Lonski indicated that he believed it was Archbishop Anthony who signed the contract. Mr. MacArthur then stated that there would then be a resolution that authorized him to do so. Mr. Lonski indicated that the resolution authorizing the sale was dated May 25, 2024, which authorized him to execute documents necessary to effectuate the transaction. Mr. MacArthur then requested, to ensure that the Applicant had “standing”, that the BOARD review the documents and see that and went back to the definitions of what was in the Municipal Land Use Law (MLUL). He added that when you look at sections 3 and 4, the definitions of applicant and developer were shown, with a developer defined as someone who was a contract purchaser and what they would consider Mr. Zemon and his company to be. He added

that if there were no proper authorization for Archbishop Anthony to sign the contract, then they did not have a contract and meant that they did not have an applicant or developer and also did not have an application, so it was a matter of standing. Mr. MacArthur stated that his clients and the public should have transparency and let them see the documents because he thought they were highly relevant to the proceedings that evening.

81. Mr. Bernstein, BOARD Attorney indicated that the issue of whether the church had the authority or not to sell the property was not in the purview of the Zoning Board. He then stated that the application was submitted with an affidavit that, in fact, the party had the right to bring the application before the BOARD. He then added that Mr. Lonski testified before the BOARD as to certain actions taken by the church related to the subject application. He then stated that he believed that at least two (2) resolutions were made and requested that copies be sent to the BOARD for purposes of the record. Mr. Bernstein then added that the standing issue may end up being litigated or dealt with separately. He did state, however, that that would not necessarily be here before the BOARD, but for the purposes of the subject application, he stated that he felt that those two (2) items should be in the record. Mr. MacArthur then stated that he would appreciate it if the BOARD would share those with him. Mr. Bernstein indicated that Mr. Lanfrit would share them with Ms. Woodbury, the BOARD Secretary, and she would distribute those with Mr. MacArthur being copied.
82. Chairman Thomas then opened the meeting to the public for questions related to Mr. Lonski's testimony.
83. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk then addressed the testimony given by Mr. Lonski about the Ukrainian history. He added that Ukrainians have a long history in education and the first book of ABC's was done in 1574. He then added that the church played a big role in educating people, supporting book printing and a lot of different activities. Mr. Khreptyk asked what was done to save buildings or areas without selling property. Mr. Lanfrit indicated that it was not the determination of the BOARD as to what process the church took. Mr. Bernstein indicated that he had the right to see what was part of the public record, but the question he raised was an issue he was going to have to bring up with the church. Mr. Lanfrit stated that Mr. Lonski spoke about the steps that were taken by the church to get to where they were today. Mr. Lanfrit indicated that he felt it went beyond Mr. Lonski's testimony, which were the procedures that the church took over the past few years to get them to where they were today. He added that the reasons behind the church's decisions were irrelevant to the BOARD, and that he was asking Mr. Lonski not to answer the question.
84. Yuri Wedid, 1890 Woodland Terrance, Bound Brook, NJ, came forward. Mr. Wedid stated that someone on the BOARD asked a question regarding where the monies raised for the building of this cultural center came from and what promises were made. He added that the promises made were to uphold the culture of the Ukrainian culture in America and someone said that it was not important, but Mr. Wedid thought it was. He

then reiterated the construction and purchases of land timeline over the years that was discussed by Mr. Lonski and then Mr. Wedid asked if anyone put together a history of what the cultural events that occurred in the particular location over the past 40 years. Chairman Thomas agreed that Mr. Lonski gave a timeline of construction/purchases of land, as well as the development of the property over the years. The Chairman told Mr. Wedid that that was what his question needed to deal with. Mr. Wedid indicated that Mr. Lonski came to conclusion that efforts were made to move things from one location to another and whatever was required to maintain the integrity of the cultural events that occurred there. Mr. Wedid stated that he disagreed that the continuation of the cultural events was not being upheld. The Chairman again reiterated that they were not discussing what was continued or not, but that they were dealing with three (3) applications for development. Mr. Wedid asked if the closing comments of Mr. Lonski should be stricken from the record since it is not a matter of discussion that evening. Mr. Bernstein indicated that the BOARD would take the public's comments into consideration accordingly.

85. Mr. Victor Boranenko, 11 Sherbourne Street, Somerset, NJ. Mr. Boranenko questioned Mr. Lonski regarding the year that he stated the church was built, 1952. He then added that Mr. Lonski mentioned that the Board of Trustees consisting of 19 members approved all of the requests which were a matter of consideration today. He asked if Mr. Lonski considered that most of the members/trustees were about 4 years old at that time in 1952. He also questioned his statement that the parishioners all took part in what he called "diaspora", but that the parishioners took part in collecting money to build the church and all other properties on the land. He wanted to know if the Board of Trustees really represented the owners of the property. Mr. Lonski stated that he did not have all their names but, in essence, the Board of Trustees were the Metropolia of the church, in essence like the cardinals of the Roman Catholic Church. Mr. Boranenko asked whether the parishioners were represented and Mr. Lanfrit objected, once again, to the relevance of the question to the proceedings that evening. Mr. Boranenko asked if the applicants really had the right to submit the request. Mr. Bernstein once again explained that the BOARD was not empowered to determine whether or not the parishioners or the Board of Trustees are the applicants and not within the purview of the BOARD. He went on to state that if the parties believe that the applicant was not "legitimate" or that it did not represent the interests of the parishioners, again, it was not the BOARD's situation to deal with, but through another venue. A discussion ensued between Mr. Bernstein and Mr. Boranenko regarding the engagement of anticipatory actions related to whether the applicant had a right to make the application and represent parishioners. In the absence of proof, any anticipatory action would not be engaged by the BOARD. Mr. Boranenko indicated that they will read through the by-laws of the church, with anticipation that their attorney would discuss this topic in the future.
86. Mr. Boranenko then asked Mr. Bernstein what the basis would be to reject the applications brought before the BOARD related to the Ukrainian Church of the United States. Mr. Bernstein then explained that the BOARD's determinations were based upon its review of the applications in accordance with the Municipal Land use Law

(MLUL). He added that the BOARD is quasi-judicial because it is making determinations based upon evidence and testimony of the proof that was placed before this BOARD into evidence but did not make it a court of law. Mr. Bernstein again stated that he and others from the public had questioned the standing issue of the application, but that issue did not get addressed before the BOARD. He added again that the standing issue may get addressed in another location, but he was not going to give legal advice.

87. Ms. Valeria Balakiryeva, a Dunellen, NJ resident, asked Mr. Lonski if he knew that the educational school and dance school left the cultural center. Mr. Lonski stated that the educational school left, but was not sure of the dance school. She asked Mr. Lonski to provide the addresses of the new locations of those schools and he testified that he did not have the current addresses of these educational schools that he stated were located where many parishioners live. Ms. Balakiryeva then asked questions about who said the schools wanted to move and gave Mr. Lonski that information. Mr. Lanfrit indicated that Mr. Lonski's testimony was that the school was being relocated and was not a question about who wanted to relocate it or who decided. Ms. Balakiryeva then asked where the other cultural events such as weddings, etc., will be occurring if the cultural center is removed. Mr. Lonski stated that it was his understanding that the cultural material and museum artifacts were being relocated to the building that was already built, but not finished, in the front portion of the property closer to Easton Avenue. Mr. Lonski then stated that the rest of the property which was the subject of the application was for extra parking and some of the exterior site improvements so that the public could access the museum and the various other facilities. As far as the cultural events, weddings, etc., he can only say that the building that has the museum and library also has open space for gatherings. He added that he did not know what events that may take place there in the future. Mr. Bernstein, once again, had to remind the public what the BOARD's purview was related to the application.
88. Ms. Balakiryeva then asked Mr. Lonski whether they had proof/documentation that the leaking roof of the cultural center was beyond repair. Mr. Lanfrit stated that they have information concerning the status of the building, but that it was irrelevant to the application before the BOARD.
89. Ms. Arena Chikerinets, 26 Northfield Avenue, East Brunswick, NJ, asked what notice the members of the public have prior to the May 2024 and October 2025 meetings in order to attend. Mr. Lonski indicated that members of the public who had titles, like priests and bishops, were notified and who attended as leaders of the church the previous month in October 2025 in which the prior action in May of 2024 was ratified. He added that he was waiting on the formalization of what happened in October 2025. Mr. Lanfrit stated that counsel for some of the objectors asked and Mr. Bernstein required them to provide both resolutions which would answer those questions. Mr. Lanfrit indicated that they would provide them before the next meeting. Ms. Chikerinets asked that Mr. Lonski have his client be present because the public/parishioners have questions of the person who was putting forth the application.

90. Mr. Mark Bukachevsky, Edison, NJ resident, came forward. He asked how ownership of the subject property was verified before the application came before the BOARD and who was the person who explained that they have the authority to sell the property. Mr. Lanfrit stated that they had a deed to the property and a title search of the property which he said that he would be happy to provide to the BOARD. Mr. Bukachevsky asked again who had the authority to sign for the sale of the property. Mr. Lanfrit indicated that there was no deed signed by anyone, but a contract that had been signed on behalf of the church and believed that Archbishop Anthony signed the contract. Mr. Bukachevsky asked when he would be able to see the title for the property and asked when it would be available. Mr. Lanfrit indicated that it would most likely be by the following week and Mr. Bernstein stated that it would be made available by the BOARD Secretary, Ms. Woodbury, who would then place it on the BOARD website.
91. Mr. Healey, Director of Planning, made a statement regarding what Mr. Lanfrit had been asked and promised to provide. Mr. Healey reminded Mr. Lanfrit and Mr. Bernstein that Mr. Lanfrit needed to make sure to redact necessary information that might include dollar amounts, social security numbers, etc. if the document would be placed on the public website.
92. Mr. Olak Matviyhyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Matviyhyn asked what specific documents would be provided on the Township/BOARD website. Mr. Lonski stated that they would provide the two (2) resolutions, the deed and the title. Mr. Bernstein indicated that if the desire was to obtain the bylaws, he stated that it would be the church upon whom the bylaws would be obtained because the bylaws had no bearing on the application. Mr. Matviyhyn indicated that the parishioners have been trying to ask questions of the church and they had always avoided the questions and all they wanted was the church's transparency.
93. Mr. Mquala Kovaleav, parishioner, asked Mr. Lonski how many members of the Board of Trustees were clergy and otherwise. Mr. Lonski indicated that his understanding is that the Board of Trustees consisted of the clergy of the church. Mr. Kovaleav then asked the BOARD to postpone the action and take a poll of who had the authority or did not have the authority. Mr. Bernstein had to once again reiterate that the Zoning BOARD meeting was not the place to discuss the standing issue. He also added that the BOARD was also not going to postpone a pending land use application on that issue.
94. Mr. Nazruck, 16 Dortmunder, Manalapan, NJ, came forward. Mr. Nazruck asked for clarification regarding promises. Mr. Lonski stated that he said he did not know. He then drew the BOARD's attention to the testimony given by Mr. Lonski regarding the funding that came from the 1-287 construction and the funds obtained from that and how much money was raised by the community. Mr. Lanfrit stated that it had no relevance to the pending application. Mr. Lonski indicated that he did not have the exact numbers.
95. The Chairman then closed the meeting to the public.

96. A motion was made to carry ZBA-25-00008 to January 22, 2026, with no further notification required, which was approved unanimously.
97. On January 22, 2026, Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00007, in which the Applicant seeks a “d(2)” variance and Preliminary & Final Site Plan approval regarding site modifications associated with the retention of certain existing (church and seminary) facilities at 135 Davidson Avenue.
98. Mr. Daniel Miola, Engineer, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The BOARD accepted his qualifications. Mr. Miola stated that he testified to the minor subdivision at the last hearing that they were seeking. He then entered into the record as Exhibit A, entitled Minor Subdivision Plot, drawing #CB102, that was submitted as part of the subdivision application. He stated that the exhibit being shown on the screen showed two (2) parcels that were being subdivided. He then described the parcel to the right of the screen that was being retained by the Ukrainian Church and would continue to front on Easton Avenue and contain fifteen (15) acres. He went on to describe the second lot, which he stated would front on Davidson Avenue and the parcel shown on the left side of the screen, which consisted of approximately seventeen point seven (17.7) acres and it was proposed to be sold to the applicant for the warehouse. He then noted that just south of the lot to the left side of the property to be subdivided was Executive Drive, which was a public right-of-way and the property to the left of Executive Drive was the property that was the subject of the IDII application that the BOARD heard a few months ago and approved a few months ago. He noted that the property to the left of Executive Drive was formerly owned by the church and sold in approximately 1979.
99. Mr. Lanfrit then stated that they were there that evening to review two (2) site plans, one site plan for the remainder parcel of the existing church and the other site plan for the proposed warehouse.
100. Mr. Miola then brought up was a colorized version of the site plan for the improvements proposed on the lot to be retained by the church that had previously been provided to the BOARD. He added that it was part of the slide deck that was introduced as part of the Zemon testimony from the last hearing. Mr. Miola then described the site plan application on the lot to be retained by the church just to indicate the two (2) existing buildings on the church property that included the existing seminary building to the north and the administrative church office that was located to the south of that. He then added that there was also a chapel there and a museum. Mr. Miola then told the BOARD and public that the second building to the south currently had twenty (20) parking spaces; and, the church had indicated that that building would need a total of eighty (80) parking spaces after the property was subdivided. He went on to state that they propose to add to those twenty (20) parking spaces an additional sixty two (62) spaces, which would bring the parking total up to eighty two (82) parking spaces.

101. Mr. Miola then stated that part of the building was a museum use, which had no parking requirements in the Township Code, and in the absence of a requirement, the Code allowed for the submittal of documentation that confirmed that the number of spaces was adequate. He then informed the BOARD that the Applicant's Traffic Engineer, Mr. Lothian, had submitted a parking evaluation that did just that and it confirmed that the eighty two (82) parking spaces were an adequate number based on the parking demands of the building. Mr. Miola then added that the 82 spaces would include four (4) ADA accessible spaces, as well as three (3) electric vehicle make ready spaces, both in compliance with State statutes. Parking space dimensions would be nine (9) ft. wide by eighteen (18) ft. long, which would meet the minimum space size requirements of the Township ordinance. He then indicated that the drive aisles would be twenty six (26) ft. wide, which also met ordinance requirements, with parking setbacks also compliant. He then added that five (5) ft. sidewalks were proposed approximate to the parking areas that would connect to the building's doors, and the sidewalk was also proposed from the intersection of Easton Avenue to the south along the entire Davidson Avenue frontage, a new sidewalk that would ultimately connect to the sidewalk that was proposed for the warehouse application. Mr. Miola then indicated that the eighty two (82) space lot would be accessed by two (2) driveways that would connect to the parking lot of the warehouse. The access was previously proposed through the existing driveway down to Davidson Avenue but, in response to comments from the Township's professionals, they removed that access and revised it to be through the warehouse parking lot, therefore, the vehicles accessing that parking lot would all come through the warehouse parking lot. Mr. Miola then added that they were proposing a gate at the existing driveway by the seminary to restrict access to that parking area from Easton Avenue. He then testified that that gate would be operable for emergency vehicles, but would not be open for regular traffic. He then informed the BOARD that that driveway that connected the cemetery would be increased to twelve (12) ft. wide in order to comply with Township standards and a circulation plan would be provided that confirmed that Township emergency vehicles could now navigate that connecting driveway.

102. In connection with the increase in impervious coverage proposed for the parking spaces, he indicated that they performed a storm water management design that would consist of two (2) above-ground basins to the north of the parking lot that would provide the required water quantity, water quality and groundwater recharge management for the parking lot. He then added that the landscape plan proposed trees around the parking area, as well as along the driveway down to Easton Avenue and along the entire frontage of Easton Avenue. Mr. Miola then stated that those additional trees that were indicated on the subject rendering mainly flanked the Easton Avenue frontage as well as the driveway off of Easton Avenue. He then added that additional trees and landscaping were provided around the new parking area as well. In total, Mr. Miola stated that there would be twenty nine (29) shade trees, thirty eight (38) ornamental trees, and one hundred ten (110) evergreen trees were proposed for the church lot, as well as approximately two hundred (200) shrubs and various grasses and perennials to round out the landscape design. He then noted that a tree removal and replacement

plan had also been provided that showed that the required amount of replacement trees was being provided on the Site.

103. Additionally, Mr. Miola indicated that a lighting design was performed for the eighty two (82) parking space lot and included nineteen (19) pole-mounted, LED lights at fourteen (14) ft. heights which fully complied with Township requirements.
104. Mr. Miola stated that he was in receipt of the Township Planner and Engineer comment letters and, overall, could agree to comply with the comments provided in those letters. He then discussed one of the items required in the letters that asked for testimony regarding trash collection. He then told the BOARD that a dumpster pad and screen fence were proposed along the west side of the parking lot and that dumpster would be serviced by a private waste hauler. He testified that in complying with the staff comments, they do not significantly alter what was being reviewed by the BOARD that evening or viewed on the exhibit being shown.
105. Mr. Miola then drew the BOARD's attention to the fact that the application had been reviewed by the Franklin Township Historic Commission and were before them on three (3) separate occasions. He added that much of the landscape design was based upon their comments and they were particularly sensitive to the view of the site from the towpath along the Raritan River and the reason for the landscaping along the Easton Avenue frontage.
106. Mr. Miola then stated that the only improvements to the site were landscaping, parking and stormwater management and no new buildings were being proposed and no new construction being proposed. He added, however, that there were some utility improvements/connections proposed as well to separate the Site from the site to the south, which was the warehouse application. He also added that there were no variances associated with the site plan application.
107. A motion was made to carry all three (3) applications to January 22, 2026, with no further notice required.
108. Peter U. Lanfrit, Esq., also appeared before the BOARD on behalf of the Applicant, Syracuse 1950 Easton Avenue Owner LLC with respect to ZBA-25-00009 in which the Applicant seeks a "d(1)" use variance, Preliminary & Final Site Plan approval and associated "c" variances to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse at 135 Davidson Avenue.
109. Mr. Daniel Miola, PE, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The BOARD accepted his qualifications. Mr. Miola then showed a slide that was a colorized version of the site plan that was submitted in the application package for the proposed warehouse. He noted that the building will have a footprint totaling 258,150 sq. ft., with ancillary office space, which was shown in the three separate pods of the building, to the northwest, to the center and to the northeast. He indicated that the

office component of the building would total 10,500 sq. ft., with the remainder being all warehouse space. He then told the BOARD that the building would have one (1) car parking lot to the north side of the and used the cursor to point out the location of the museum building of the church as well as the location of Executive Drive, which was shown to the south of the proposed warehouse building. He then went on to describe the location of the IDIL site that was recently approved that included three (3) office components to the south of Executive Drive and shown with his pointer. He then told the BOARD that the three (3) office components of the proposed warehouse building were proposed for the side of the building that would face the museum building. Mr. Miola then stated that the cemetery for the church was located to the west on the other side of the tributary located along the property line.

110. Mr. Miola testified that the car parking lot would have one hundred fifty one (151) spaces and that the thirty five (35) loading docks would be on the part of the warehouse building facing Executive Drive to the west and the IDIL site. Additionally, Mr. Miola stated that they were proposing a total of seventeen (17) trailer parking spaces, which would also be located to the west of the warehouse building. He then told the BOARD and the public that the warehouse was being designed on “spec”, which meant that there were no tenants that were identified at that time. While there was a use variance that was required, he noted that the project was compliant with most of the bulk standards set forth in the B-I Zone, including building setbacks, building height, lot coverage, impervious coverage, and floor area ratio. He stated that three (3) “c” variances were required that he stated he would touch upon throughout his testimony, with the Planner also providing proofs.
111. Mr. Miola then drew the BOARD’s and public’s attention to the topic of circulation, where two (2) driveways were proposed. He indicated that the first driveway would be out to Davidson Avenue for the car parking lot and that driveway would be twenty six (26) ft. wide and utilized by passenger vehicles. He added that there would be a second driveway proposed off Executive Drive, which would connect to the loading part of the building and used primarily by trucks. He testified that the width of that driveway would be sixty six (66) ft. wide and required a variance from the Township’s maximum driveway width requirement, which was thirty six (36) ft. wide. Mr. Miola then explained that the sixty six (66) ft. width at the mouth of that driveway was the minimum width necessary to accommodate truck turning movements into and out of the driveway. For that reason, he stated that they would be requesting relief for that driveway width. He then moved on to speaking about the loading area depth, which was the dimension from the loading docks to the opposite curb and proposed at one hundred thirty (130) ft. Mr. Miola then testified that they also required a variance from the Township ordinance which required a minimum dimension of one hundred forty seven (147) ft. He added that they had provided truck turning templates and submitted those with the application package that show how vehicles would access the docks and that those templates show that 130 ft. was enough room. Based on his experience laying out warehouse sites, Mr. Miola indicated that one hundred thirty (130) ft. was an industry standard. He then told the BOARD that they would also require a variance for front yard loading as the pavement for the truck court was within the required front

setback of Executive Drive. He then discussed the fact that both the driveway width and the front yard pavement setback were required relative to Executive Drive; however, they were of the understanding that Executive Drive was proposed to be vacated by the Township and, if that occurred, both of those variances would not be required.

112. Mr. Lanfrit then clarified the last statement made by Mr. Miola by stating that the Township Council introduced an ordinance the previous week to vacate Executive Drive. He added that the ordinance was introduced because of the actions of the Zoning Board in the IDIL application, wherein the BOARD requested that IDIL request the vacation of Executive Drive. In compliance with the BOARD's request, IDIL has done that. He then explained that part of the resolution of the IDIL application was that once Executive Drive was vacated, that they would have to provide the applicant with an access easement so that they would gain access to their property. Mr. Lanfrit indicated that they were in discussions with IDIL as far as the language of that easement, but that is being accomplished. He added that Mr. Miola's testimony was based upon the application that they submitted, at which time Executive Drive was a public right-of-way. He added that the reality is that if the resolution of the Council to vacate is adopted, which should be within the next few weeks, the variances for driveway width and front yard pavement setback would go away.
113. Mr. Miola then indicated he wanted to explain some other aspects of the site plan. As he had stated before introducing the church application, they were proposing a sidewalk along Davidson Avenue. He wanted the BOARD to know that the subject application they were discussing proposed to pick up that sidewalk and carry it along the frontage of Davidson Avenue, ultimately terminating at the Executive Drive/Davidson Avenue intersection. He also added that the Executive Drive/Davidson Avenue intersection would be upgraded and the intersection improvements would include widening the curb radius to better facilitate turning movements as well as including ADA ramps, crosswalks, signage, signals, controls, and new striping. Additionally, Mr. Miola stated that several retaining walls were proposed on the Site to support the grading plan. Firstly, an eight (8) ft. high wall was proposed to screen the truck court from Davidson Avenue. In addition, four (4) ft. high walls were proposed around some of the basins for storm water management as well as between the car parking lot and church. He noted that two (2) monument signs were also proposed, one (1) by the car driveway out to Davidson Avenue and the other by the truck driveway at Executive Drive as well as wall signs that were proposed on the building. To identify the building's tenants. He testified that the monument signs and the wall signs would be fully compliant with Township requirements with respect to their number, their setbacks and their sizes.
114. Other components of the site plan included waste management, which Mr. Miola expected would be done using a waste compactor that would be in one (1) of the loading dock positions, with the exact location of the compactor to be determined by the tenant and serviced by a private waste hauler.

115. Mr. Miola stated that stormwater management had been designed to meet the water quantity, water quality and storm groundwater re-charge requirements of the Township. He added that the site would include eight (8) storm water management facilities which included three (3) pervious pavement systems and five (5) bio-retention above ground basins. He went on to explain that these facilities, after providing water treatment, would ultimately discharge runoff to the ditch on the west side of the site, which was a tributary to the Raritan River. He wanted the BOARD to know that the storm water management design was done under and in compliance with the Township, Delaware & Raritan Canal Commission (DRCC) and NJDEP permits. He then noted that the NJDEP had, in fact, issued their permit for the project and the DRCC had indicated that they have no more technical comments to that design and that they would be issuing their permit once all other approvals were received by the Township and the County. He then went on to explain that the outfall into the Raritan River or into the Raritan River tributary required relief or a hardship waiver from Section 112-228.B of the Township Code due to its presence within the stream corridor to justify that waiver. Mr. Miola then stated that most of the disturbance to the outfall was within previously disturbed lawn areas and that there would only be a small section of the installation, the area that was most downstream part closer to the riverbank that would require some clearing. He noted that the clearing had been approved by NJDEP and the area would be restored with indigenous, non-invasive vegetation.
116. Mr. Miola then touched on landscaping next, showing in the exhibit that the site design included a landscape plan that focused landscaping around the perimeter of the site, in particular, the street frontages of Davidson Avenue and Executive Drive. In total, he stated that there would be fifty four (54) shade trees, fifty three (53) ornamental trees, and one hundred twenty six (126) evergreen trees proposed, which totaled two hundred thirty three (233) trees. In addition, he stated that two hundred forty one (241) shrubs were proposed as well as ornamental grasses and perennial plantings. He then discussed their locations, noting that most of the shrubs would go directly next to the pavement areas, with most of the trees going along the street frontages as well as the rest of the perimeter of the site. He then testified that the landscape plan met the tree planting requirement of one (1) tree for every two thousand (2,000) sq. ft. of pavement. Mr. Miola did state that they received a comment from the Township Planner who asked that they add more trees to every island throughout the car parking area and stated that they agreed to do that. He then stated that a tree removal plan was prepared as required by the Township, but not all the required replacement trees were proposed on the Site and, therefore, the applicant agreed to contribute to the Township's Tree Fund for the remaining required plantings as allowed for by ordinance.
117. Mr. Miola then discussed the lighting plan, noting that LED lights would be mounted on the building. For the north side, the side that faced the church retained property in the car parking lot, the lights would be mounted on the building at twenty (20) ft. heights. He added that the other building-mounted lights on the opposite side would be mounted at a taller height of thirty (30) ft., and in addition, some pole-mounted lights were proposed which would also be mounted at thirty (30) ft. He then noted that the

lighting design fully complied with ordinance requirements with respect to light levels for parking lots, property line spillover and other requirements.

118. Mr. Miola then discussed the Buckeye Pipeline that was located to the west of the site along the ditch on that western side. He added that Buckeye had a thirty (30) ft. easement over the pipe and he stated that they have had multiple discussions with them regarding the work that impacted their easement which really consisted of that storm pipe crossing. He testified that they would ultimately provide appropriate documentation from Buckeye to the Township that allowed for their proposed storm crossing. In addition, Mr. Miola indicated that they had three (3) meetings with the Township's Historic Preservation Advisory Commission and made several design revisions that they recommended to ultimately issue letters supporting both applications.
119. Lastly, Mr. Miola stated that they were in receipt of the comment letters from the BOARD professionals, including the BOARD Planner and the BOARD Engineer and can agree with all the comments.
120. Since Mr. Miola had received a question related to the cemetery, he pointed out in the exhibit the location of the cemetery. He noted that the cemetery property, which bordered both the church parcel and the proposed warehouse parcel entirely and extended from I-287 to Easton Avenue. He noted that there was no connection between the warehouse parcel and the cemetery, but that there was a connection between the church parcel and the cemetery by way of a pedestrian foot bridge that crossed the stream that divided the cemetery from the church site.
121. Mr. Miola then discussed the fact that there were wetlands on the site, along the tributary bank, but they have accounted for those and were doing work within the buffers of the wetlands, but stated that they received a permit from the NJDEP in order to perform that work that they were requesting a waiver from the Township for that stream corridor ordinance.
122. Vice Chair Shepherd asked what kind of vegetative buffer was on the side of the warehouse that can be seen from the Delta Hotel that was across the street. Mr. Miola stated that they had tree plantings along Davidson Avenue on their side of the roadway between the warehouse and the curb, providing two (2) rows of trees with one (1) row pretty close to the Davidson Avenue curb and the other pretty close to the warehouse wall. Mr. Miola then zoomed in to show the landscaping plan in the exhibit.
123. Mr. Lakhia then asked how the museum building that was on the property that would stay with the church would access that and asked if they had to use that common driveway to get there. Mr. Miola indicated that cars that want to access the 82-space parking lot that wraps around the museum building would have to utilize the Davidson Avenue driveway for the warehouse and then turn into that parking lot. Mr. Lakhia then asked under whose ownership that driveway would be. Mr. Miola stated that the ownership would be dependent on the subdivision line and there would be an access

easement executive between the parties that would allow access. Mr. Lanfrit stated that it would be a recorded permanent easement which would be binding on all future owners.

124. Mr. Thomas then asked if all the traffic had the benefit of the traffic signal remaining as part of the Executive Drive improvements. Mr. Lanfrit stated that the traffic signal would remain even though Executive Drive would be vacated, but the light would stay.
125. Mr. Healey then asked if they had submitted to the DRCC and Mr. Miola answered in the affirmative. Mr. Healey then asked what the Applicant's overall status was with their review. Mr. Miola testified that the DRCC had indicated via letters for both the improvements and the church site, as well as the improvement at the warehouse site that they have no further technical comments. He added that the DRCC indicated that as soon as they give evidence of County and Township approvals, that they would be in a position to grant their approval. Mr. Healey then drew Mr. Miola's attention to Fig. 5 on Page 9 where he had provided a comparison of the site to the IDI Logistics warehouse application that was on the south side of Executive Drive and basically showed that, on that application, there was a much wider landscaped front lawn. He continued by saying that, if the BOARD recalled, that that plan had a very robust landscape plan between Davidson and the warehouse proposed for that site. He further indicated that with the subject site, the building was basically right up to the fifty (50) ft. required front yard with far less landscaping and wondered if there was a reason for that. Mr. Lanfrit explained that they were complying with the Code, but Mr. Healey reminded him that the Applicant was seeking a use variance, as well as your site application, and the BOARD felt it appropriate to grant the use variance for IDIL. He added that some of the discussions that were held before the BOARD on that application was the buffer that was provided. In answer to Mr. Healey's question, Mr. Miola indicated the difference between our application and the IDIL application and why they have a greater setback. Mr. Miola indicated that the IDIL application had a different lot configuration and he went to a slide they had that would help explain the situation between the two (2) applications. He showed that the IDIL lot had the benefit of their long access on the I-287 side of the property, which allowed them to use that access for the building in the layout shown. He added that the IDIL building proposed a driveway within the area between the building and Davidson Avenue for their car parking lot. So, while they do have a buffer between the buildings, they both had a detention basin as well as that driveway proposed for the circulation. He then explained that it was really a function of the lot area that the two (2) developers must work with and the layouts that they have advanced for approval.
126. Vice Chair Shepherd then asked if they could just make their building a little bit smaller and then match up with the buffering that has been done by IDI Logistics. Mr. Miola indicated that IDI Logistics' basin was as close to Davidson Avenue as our building, so it was not like they had a landscape planted berm buffer because they were doing their storm water management there for their project. In addition, Mr. Miola added that just to the west of that, they had a drive aisle for circulation, so he believed that if you

match up how close their basin is to the Davidson Avenue curb, that looks about the same distance as our building is to the Davidson Avenue curb.

127. Mr. Healey stated he did not want to argue the point, however, that basin on IDIL's property was landscaped with trees and shrubs and that is what was on their plan and did not want the BOARD to think it was just hardscaped because it was a landscaped retention basin with trees and shrubs.
128. BOARD Engineer, Mr. Darren Mazzei, CME, noted that the sidewalk along Davidson Avenue had portions of it get out of the right-of-way, so he just wanted to make sure that they would be granting an access easement, in perpetuity, for the public. Mr. Miola stated that they would agree to that. Secondly, he noted that the one (1) retention basin let us say on the IDIL side, there were some comments in his letter regarding raising the top of the wall. He stated that he just wanted to make sure that they knew that they had to address that with the BOARD because that section almost ended up being a bowl so we want to flatten it up so it was going to be more than a four (4) ft. wall there in order to flatten out the grates. Mr. Miola stated that the basin Mr. Mazzei referred to was the basin near the Davidson Avenue/Executive Drive intersection that they have a four (4) ft. retaining wall for, but he indicated that they also have a five (5) ft. vertical slope down to the top of that wall. Mr. Miola then addressed Mr. Mazzei's comment of asking for just a wall for the entire nine (9) ft., which he indicated that they could agree to do.
129. Chairman Thomas then opened the meeting to the public for questions of Mr. Miola, the Applicant's engineer.
130. Mr. MacArthur, Attorney for the objectors, came forward. He asked Mr. Miola to confirm that the testimony he gave related to the parcel that was being retained by the church had no variances required on that lot. Mr. Miola confirmed that that was what he testified to, however, as everyone would hear from their planner because they were subdividing the property and that there was an existing church, he asked if that was a technical "D" variance. Mr. Lanfrit indicated that they would present testimony and there is a "D" variance required for that site, but there were no bulk variances that were required and that they would present planning testimony to that effect.
131. Mr. MacArthur then asked Mr. Miola if he was familiar with the zoning ordinance of Franklin Township and he answered in the affirmative. Mr. MacArthur then pointed out Section 112- 37E of the Township Code that stated that most of the parking should be located at the rear of the main structure for the church, as it is a place of worship, with no more than ten (10%) percent of the total parking located at the front entrance for handicapped accessibility, weddings and funeral services. Mr. MacArthur believed that the application would require a variance for that and pointed out that the plan for the church had most of the parking in the front of the building and it was kind of wrapping around the whole property. Mr. Miola then asked for the Code section to be read again to him for his understanding, and Mr. MacArthur did so.

132. Mr. Miola then indicated that while the building had a chapel, it also had administrative offices, as well as a museum, so he was not sure that the Township Code Section applies. He added that St. Andrews Church was not on the property in question. A discussion ensued and Mr. Miola indicated that he would have to review the Township Code for more clarity. Mr. MacArthur then asked Mr. Miola about the easement between the church property and the proposed warehouse property on the other side of the subdivision line. Mr. Miola explained that the easement would have to cover access to both driveways into the parking lot for the museum, so it would go from the property line down the driveway in front of the warehouse and out to Davidson Avenue. He then further explained that the cross easement was not for parking, but for access only.
133. Mr. MacArthur then directed a question to Mr. Miola regarding the landscaping that was to be provided and asked to confirm that there was going to be a five hundred seventy seven (577) tree shortfall of what was being provided. Mr. Miola indicated that he was referring to the tree replacement plan and the total replacement trees required was five hundred seventy seven and of that, he stated that they were proposing two hundred thirty two (232) trees, which makes the shortfall only three hundred forty five (345) trees, not five hundred seventy seven (577).
134. Mr. MacArthur then drew Mr. Miola's attention to the darkened area on the site plan indicated a Township of Franklin stream corridor preservation area. Mr. Miola stated the darkened area was with respect to a conservation restriction area proposed for that western part of the site where the river corridor is and that they have the storm sewer improvements that he said he testified to earlier. Mr. MacArthur then asked if there were wetlands associated with the tributary that was north of the site. Mr. Miola answered by stating that the tributary was located west of the site and, yes, there were wetlands, which were considered in the category of "exceptional" which would mean that there was a one hundred fifty (150) ft. buffer from the wetland limit. They then discussed why there was the term "anticipated" related to the wetlands and Mr. Miola indicated that at the time of the submittal they were not confirmed, but has subsequently been confirmed by the NJDEP as exceptional. Mr. MacArthur then noted that it appeared that many items were cutting through certain improvements shown on the site plan, through a basin, a sliver of impervious coverage, a second basin and related infrastructure, three (3) parking spaces and a third basin. Mr. Miola confirmed that information and stated that they could build in a wetland buffer due to a policy at the NJDEP known as transition area waiver or transition area averaging which he indicated they received via permit from the NJDEP. He then confirmed that all improvements proposed on the plan with respect to the wetlands and the wetlands buffer had been approved by the State. Mr. MacArthur then asked them to provide a copy of that transition area waiver, and Mr. Miola said that they could.
135. Mr. MacArthur then asked if the tributary had any other environmental designations and was it a C1, C2 or C3 stream. Mr. Miola stated that the tributary had been assigned a fifty (50) ft. riparian zone, which meant that it was not a C1 stream and was not sure if it was deemed a C2 or C3 stream but agreed to find out for them.

136. Mr. Healey then asked if the fifty (50) ft. riparian zone part of a submittal to the NJDEP and did they confirm that. Mr. Miola stated that the NJDEP confirmed a fifty (50) ft. riparian zone off that stream and would confirm whether it was a C2 or C3 stream.
137. Mr. MacArthur then referred to the landscape plan, LP-101 and asked if any plants on the schedule considered non-native. Mr. Miola stated that the species that they selected were always either native or adaptive and he explained the difference between an adaptive species or one that was non-native was that adaptive species were not originally native, but had been in the region and had adapted to the climate and the conditions and, therefore, would thrive.
138. Mr. MacArthur asked if the lighting proposed for the warehouse spilled over more than 0.1 of a foot candle along the boundary lines of the parcel. Mr. Miola stated that it was more than 0.1 of a footcandle, but less than 1 footcandle. He stated that he could see 0.4 footcandles where it spills over to the driveways that were located for the eighty two (82) space parking lot. Mr. Miola indicated that he believed the Township Code stated that lighting fixtures shall not exceed 0.1 footcandles at the property adjoining residentially zoned property.
139. Mr. MacArthur then asked how big of a truck would fit in one of the truck bays and Mr. Miola stated that they did circulation plans that were included in the submittal package that show that a New Jersey Title 39 tractor trailer could access that truck yard, more akin to a WB67 and it did represent the largest truck that was permissible in New Jersey.
140. Mr. Igor Kreptik, 17 Majestic Drive, Freehold, NJ, came forward. He asked Mr. Miola how he came to the required number of parking spots as eighty two (82) were needed for the application. Mr. Miola stated that a parking evaluation was undertaken for that existing building, which confirmed that eighty two (82) parking spaces was an adequate number based on the number of people expected in that building as authored by their traffic engineer and he would provide more testimony on it later in the proceedings. Mr. Kreptik then asked about the illumination levels of the lighting and Mr. Miola stated that the parking design or the illumination design was done in order to disperse light so that it was in accordance with standards that were applicable to parking lot design, so that their design was in accordance with those levels. He told Mr. Kreptik that the Lighting Plan was part of the original submission to the Township.
141. Mr. Mark Bukachevski, Edison, NJ resident. Mr. Bukachevski asked what the dimensions of the warehouse building were and Mr. Miola stated that, end to end, the length was eight hundred eighteen (818) ft., and the depth was about three hundred sixty (360) ft. He then indicated that the height of the building complied with the fifty (50) ft. height requirement, with the height of the building along Davidson Avenue was reported to be forty four (44) ft. and the height of the building along Executive Drive was reported to be forty six point seventy six (46.76) ft. Mr. Bukachevski asked what the word “spec” entailed and Mr. Miola explained that it means “speculative” where there was no tenant yet for the building. Mr. Bukachevski asked when they might have

a specific tenant for the building and Mr. Lanfrit indicated that until the building was approved and construction was underway, they probably would not have a client.

142. Mr. Nazruck, 16 Dortmund Drive, Manalapan, NJ resident came forward. He asked about how the easement worked and Mr. Lanfrit and Mr. Miola both explained that the easement was for the driveway that would allow access to the parking lot by the chapel/museum building. A discussion ensued as to where they could park and if parking on the other side of warehouse near Executive Drive would be considered trespassing. Mr. Bernstein indicated that nothing had been decided other than there was an easement to allow access from the warehouse property to the eighty two (82) parking lot for the chapel/library/museum building.
143. Thereafter, all three (3) applications were carried until March 5, 2026, which was approved unanimously.
144. At the hearing held on March 5, 2026, Mr. Lanfrit explained that the testimony given that evening would be inclusive of all three (3) Applications that were being heard simultaneously.
145. Mr. Lanfrit asked if all the BOARD members in attendance that evening had been to both previous meetings or listened to the tapes of the hearings so that they have seven (7) members. Ms. Woodbury confirmed that all members present that evening had either been to both hearings or had viewed the videotape of the hearings.
146. Mr. Lanfrit then asked Mr. Bernstein who the person was in the back of the room recording the proceedings that evening. The person who was recording from the back of the room came forward and stated that he was with Portrait of Freedom, New York, NY, which was a public organization.
147. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.
148. Mr. Lanfrit then explained that they had had three (3) previous meetings in the past, September 18, 2025, November 6, 2025 and January 22, 2026. On September 18, 2025, he noted that they presented the testimony of Josh Zemon who was a representative of the warehouse developer who indicated his background and his company's background in the warehouse industry. He went on to state that Mr. Zemon presented photographs of projects that his company had developed. Mr. Lanfrit then added that they presented testimony of Dan Miola, who was their Site Engineer, and that testimony was mostly focused on church property. He went on to state that at the November 6, 2025 meeting, Mr. David Lonski, Esq., Attorney, appeared on behalf of the church and presented testimony concerning the church's right to sell the property, the contract that was entered into, and a little bit of history of the church. Mr. Lanfrit went on to state that they went back to Mr. Miola on January 22, 2026, who presented the rest of the Site Plan testimony concerning the warehouse that evening.

149. Mr. Lanfrit then indicated that he intended to call three (3) witnesses, including Scott Winger, their architect, Mr. Alan Lothian, their traffic consultant, and Shawn Moronski, who was their planner. In addition, Mr. Lanfrit indicated when they had the first meeting, he had informed the BOARD that, based on the staff reports that were issued, that they would not be seeking Final Site Plan approval because the Township Engineer had requested additional topographical information and additional soil testing. Since it had been five (5) months, they were able to accomplish all of that testing and had submitted all of the paperwork to the Township Engineer and he thought that if the BOARD were to act favorably on these applications, they would be in a position to grant not only Preliminary Site Plan approval but also Final Site Plan approval, but the BOARD could confirm that with the Township Engineer.
150. Secondly, since the last hearing, Mr. Lanfrit indicated that he has provided to the BOARD, by way of submission, documents concerning the Church's authority to sell the property and were now part of the record since he submitted them consistently outside the ten (10) day submission timeline in advance of the hearing.
151. Lastly, if the BOARD recalled the IDIL hearing which was a warehouse on the other side of Executive Drive, that the BOARD imposed a condition upon them to seek vacation of Executive Drive from the Township Council and were supposed to provide an easement to Mr. Lanfrit's client for access to our site through their property. He went on to state that at that time, they had put that report Mr. Lanfrit stated that the Township introduced an ordinance last year to vacate Executive Drive. He added that they put that on hold since they had not reached an easement agreement with IDIL. Mr. Lanfrit stated that he was happy to report that they had reached that agreement with IDIL, so they would have an easement through their property to gain access and so that Executive Drive will be vacated. At the present time, they have two (2) variances they were requesting because of Executive Drive. Mr. Lanfrit then stated that since Executive Drive would be vacated, those variances would go away but, as of that evening, they still exist and Mr. Lanfrit stated he would provide testimony concerning those variances, but as soon as he would be notified that the Council vacated Executive Drive, those variances would no longer exist.
152. Mr. Wayne Scott Winger, RA, Regional Technical Director, employed with Nelson Architecture Interiors, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Winger indicated that he and his firm prepared the floor plans and architectural plans. Mr. Winger then showed the larger scale overall plans prepared by Langan for the site plan by the Site Engineer, marked into the record as Exhibit A-1, and noting that it was comprised of two hundred fifty eight thousand one hundred and fifty (258,150 sq. ft., seven hundred ninety point fifty (790.50) feet long and approximately three hundred thirty (330) ft. eight (8) inches in its depth, with one hundred fifty eight (158) car parking spaces, seventeen (17) trailer positions, thirty four (34) exterior docks and the building will be made solar ready. He then showed an exhibit showing the four (4) building façade elevations of the proposed building and an enlarged version of what would be indicative of what the façade would look like along

Davidson Avenue. This exhibit was marked into evidence as Exhibit A-2, noting the insulated pre-cast panels with vertical reveals (+/- forty four (44) ft. above grade) that would be the product covering the outside of the building, with them stepping down about a foot at the corners of the building for office zones and a canopy over the front entrance being twenty four (24) ft. above grade. Mr. Winger then added that clearance side space was about thirty five (35) to thirty eight (38) ft. clear for the facility and several water detention areas proposed for around the site. He then noted that the building was set back about fifty (50) ft. from Davidson Avenue, allowing for a buffer of shrubs and trees, meeting the request of the Historic Commission, while softening the eastern edge of the property. He explained that the use of color and varying panel sizes break down the façades in a rhythmic fashion, allowing the building façade to be viewed as segments, and lessening the impact of the length of the facades. The rhythmic patterning of the façades was similar to that of a piano keyboard in a vertical orientation. He added that the elevations included also incorporated vertical shading devices at the windows, which enhanced the elevations throughout the day and casting varying degrees of shadow about the façade. He then noted that the corners consisted of metal panels and lots of glass. He described the lighting mounted to the façade of the building would be strategically shrouded to control the impact of the illumination of the site. He then discussed the wall near Davidson Avenue by the truck bays to help shield the trucks from view. Mr. Winger then stated that rooftop mechanicals would be set back to the center of the building for less impact to the street view, and they would have one bay dedicated for refuse from the facility.

153. Mr. Winger then stated that the building was planned to be a multiple user, with the four (4) corners being able to be used as office areas for different tenants.
154. Mr. Alan Lothian, PE, Associate Principal and specializing as a Traffic Engineer, employed by Langan Engineering, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Lothian was tasked with analyzing the changes to the parking layout on the site that would be retained by the church, which was one (1) parking space for every seat in the church and there were no requirements in the Township Code for the other uses on the site, including St. Sophia Seminary, the chapel and the history and education center and the museum. He indicated that they were looking to the BOARD to decide on what was required based on what they already submitted and his testimony that evening. In undertaking the analysis, Mr. Lothian stated that he discussed the anticipated and current operations of the site with church leadership as well as visiting the Site numerous times. He went on to discuss the current parking of the church, including twenty (20) spaces, with the cultural center included was three hundred seventy five (375) and just under four hundred (400) parking spaces in total. Mr. Lothian then added that the twenty (20) spaces currently serve the employees and visitors coming to the facilities that included the history and education center and chapel. In the future, he stated that the anticipated demand for the site was for the office/museum employees (ten (10), with six (6) on-site at any given time). Mr. Lothian then indicated that the parking for the chapel visitors included the residents of the seminary who did not have vehicles for themselves and were already on-site and up to five (5) visitors per day for the chapel, with five (5) parking spaces provided. He

did mention that on holy days, four (4) times per year, there were likely to attract up to fifty (50) visitors in the chapel, assuming two to three (2-3) people per car would require fifteen to twenty (15-20) occupied spaces for a total of twenty five (25) spaces provided. Mr. Lothian then discussed the parking for the museum, which he indicated operated 9AM to 5PM and anticipated approximately ten (10) visitors on a typical day, to include ten (10) parking spaces. He did note that the museum operated when there were no services at the chapel because they were conducted earlier in the day. During special events that occur a few times throughout the year and on Saturdays, when there was no other activity on the site, it would include forty to fifty (40-50) guests at those events and up to one hundred (100) guests at larger events that would require thirty to fifty (30-50) parking spaces required. On a typical day, Mr. Lothian testified that they were looking at twenty five (25) occupied spaces. He then discussed that they were providing eighty two (82) parking spaces and that it would be more than enough to provide enough parking for the typical demands and to accommodate the larger events at the museum.

155. Mr. Lothian then had a discussion regarding the parking circulation on-site and operation for the proposed warehouse. He indicated that Mr. Miola, the Applicants' Engineer, went over access and circulation and was very detailed relating to the site plan, so he would discuss these very generally. He went on to state that access to the site was currently via one (1) signalized driveway on Davidson Avenue and one (1) very infrequently utilized driveway on Easton Avenue. He added that they were proposing one (1) unsignalized access on Davidson Avenue to serve passenger vehicles for the warehouse and the activity on the church site. He noted that that driveway was generally in the same location it was currently in, but that they just shifted it a little bit further away from the Easton Avenue intersection. He then spoke of the access that was currently out to Easton Avenue would be closed off and used for emergency vehicles only. Mr. Lothian added that they would have access to Executive Drive, which currently was a Township roadway but would be vacated and be a private access road for the trucks and come into the warehouse site at the signal and would not utilize the unsignalized entrance. He then stated that they had proposed improvements at the signalized intersections to facilitate turning movements of the trucks, to upgrade the signal to provide pedestrian accommodations that do not exist today. Mr. Lothian testified that they had designed those improvements and were part of the packet submitted to the Township. He then stated that those improvements would maintain operations as they were today with their access out to Executive Drive and the IDI traffic next door.
156. Mr. Lothian then discussed the site circulation, including truck movements on the property and vehicle movements to avoid any conflicts between them. He indicated that the site had been designed to accommodate all vehicles specifically for the Davidson Avenue driveway and the parking lot in the front and the church parking lot was designed to accommodate passenger vehicles, emergency vehicles, refuse trucks and smaller delivery vehicles. He then indicated that the Executive Drive access was designed to accommodate any of those vehicles as well in addition to the tractor trailers. He then told the BOARD that there were one hundred fifty (150) parking spaces

required, based on the Township Code, on the warehouse site and one hundred fifty (150) were provided.

157. Mr. Lothian then explained that they did a Traffic Impact Study for both sites combined because they do share access. He noted that they did traffic counts in October 2025 and looked at extended peak hours (6-9 a.m. peak hours and 3-6 p.m. peak hours), as well as collecting a week's worth of data with ATRs to see what was happening along Davidson Avenue and to identify the peak hours. He indicated that the a.m. peak hours were between 7:45 a.m. and 8:45 am. and between 5:00 p.m. and 6:00 p.m. Mr. Lothian then told the BOARD that they then projected "no-build" volumes by including a background growth rate and the IDI trip generation from the site next door based upon their approved Traffic Impact Study. He then added that they generated trips for the warehouse based on language code 150 (warehousing) from the Institute of Traffic Engineers (ITE) Trip Generation Manual (11th Edition). He noted that their calculations were fifty seven (57) a.m. trips and fifty nine (59) p.m. trips, which were significantly less than one hundred (100) trips, which was considered by the NJ Dept. of Transportation and ITE as a significant increase in trips from a site. He noted that the 12th Edition of the ITE Trip Generation Manual actually had a lower rate for this size warehousing. Using the background growth of the development, their conservative trip generation, looked at the Easton Avenue and Davidson Avenue intersection and looked at the "build" and "no-build" scenarios and noted that they used a conservative estimate, showing that there was no significant impact and would operate at a level "C". He then added that the Davidson Avenue and Executive Drive intersection would operate at level service "B", utilizing the "build" and "no-build" scenarios, with no change. He noted that the site driveway had a little bit more constrained operations exiting the site and had a level service "E" in the a.m. and an "F" in the p.m., but explained that it was low delays with the higher trip generation that they estimated and equated to a queue of about two (2) vehicles exiting the site and would not affect the traffic flow along Davidson Avenue. He added that it was just people waiting on-site to make a left or a right out of the driveway. He noted that there were signals on both sides that created gaps to help facilitate movements.
158. Mr. Sean Moronski, PP, Senior Project Planner, employed with Langan Engineering and Environmental Services, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials. Mr. Moronski entered into the record Exhibit 3A, Creation Partial Site Plan, a colorized rendering of the warehouse lot that showed the layout of the proposed warehouse to include the building, the parking, the loading areas, the landscaping, along with the lot lines. He discussed the history of the site, speaking of various approvals in the past that included a Use Variance for the cemetery in 1999, a variance extension and site approval in 2000. He then discussed the approved uses in the Business & Industry (B-I) Zone and noted that they were requesting a "d(1)" Use Variance for the warehouse. He then discussed the surrounding land uses to include the Delaware & Raritan Canal State Park and Raritan River, office buildings, hotels and a previously approved warehouse site, Rte. 287, light industrial and office uses as well as the St. Andrew Ukrainian Orthodox Cemetery and an R-10 residential zone beyond that. He noted that the rear of the proposed warehouse

- was at least eight hundred (800) feet away from the residential area. He then discussed the request for the Minor Subdivision to create two (2) lots, with no variances related to that and stated that they were also requesting a “d(2)” variance for the proposed church area lot because they were reducing the size of the lot, they were technically expanding the non-conforming use with the use now being on a smaller lot than was previously permitted. He then indicated that they were requesting a “d(1)” variance for the proposed warehouse site because it was not permitted in the B-I Zone. Additionally, he stated that they were requesting several “c” variances, two (2) of which involve Executive Drive in which the front yard did not permit any loading area and was within the twenty (20) ft. front yard setback. Mr. Moronski stated that they were also requesting a “c” variance for maximum driveway width and a minimum loading depth.
159. He then started the discussion with the “d(2)” variance for the church, speaking toward the fact that a church was an inherently beneficial use. He then discussed the “Sica balancing” test and the four (4) related uses, noting that reducing the site size would allow the church to continue its use and removing the cultural center and parking lot did not change the inherently beneficial use of the site as the core functions would remain. He then discussed the potential detrimental effects of the use, to include reducing the parking space would limit the church’s ability to address demand and referred to Mr. Lothian’s testimony as to the people who would be coming to the site, including employees, visitors to the chapel and the museum/library, the holy day observance increase in visitors, as well as such regarding a few events throughout the year. He noted that the parking would be able to accommodate those uses on-site. He then discussed reasonable conditions to mitigate the effects and he noted that the easement on the warehouse lot would provide access between the buildings to remain and Davidson Avenue. He added that since visitors would be able to use the driveway along Davidson Avenue, they would be able to limit the driveway use on Easton Avenue for emergency use only and have it gated as such. He added that when the Cultural Center building was removed, the events would be relocated to the social building next to St. Andrews Church, northwest of the site and non-church activities would no longer be offered on the site. Mr. Moronski said that the final test was to weigh the positive and negative criteria to see if granting the variance would cause substantial detriment. He then stated that the Applicant was providing eighty two (82) parking spaces with sufficient circulation and capacity to address the parking needs and that reducing the lot size did not intensify the use. He added that removing the larger Cultural Center building and ending non-church activities was appropriate for the new lot area because it did not affect the core functions of the church site.
160. With regards to the “d(1)” use variance for the warehouse, Mr. Moronski testified that the site was particularly suited with convenient access to Interstate 287 and the highway network without travelling through residential areas. The uses along Davidson Avenue included light industrial, warehouse and office uses. He noted that adjacent to the church site, Executive Drive provided access for trucks, was not a through road and will only have warehouse uses on it. He added that a substantial portion of the church property had already been developed with the Cultural Center and the parking lot. Mr.

Moronski then discussed several purposes of the MLUL at N.J.S.A. 40:55-2, purpose A, purpose G, purpose H and purpose I. He then stated that he did not believe there was any substantial detriment to the public good as was reviewed by the Delaware & Raritan Canal Commission (DRCC), with their comments being administrative in nature, and the approval by the Township Historic Commission. He added that the new site had less impervious coverage while still addressing parking needs and that the traffic counts during peak hours fell well below the level that NJ DOT would consider the need for further review. He then noted that the intersection improvements were positive at the intersection of Davidson Avenue and Executive Drive, as well as the landscaping along Davidson Avenue and the building meeting the setback requirements, as well as being a significant distance away from residential areas and screening the loading area from Davidson Avenue. Mr. Moronski then indicated that the development would assist the church in continuing their core functions. He then added that there was no substantial detriment to the Township Zoning Code or zone plan and then summarized the B-I Zone's purpose. Mr. Moronski stated that the project addressed the standards as noted in the Master Plan and Land Use goal #2 was carried forward from the 2016 Re-Examination report to encourage commercial and industrial development areas with access to major regional highways in established areas with language related to warehouses.

161. With regard to the "c" variances, Mr. Moronski felt that they could all be granted under the "c(2)" criteria, where the overall benefits of the project outweigh any potential detriments. The first (1st) one was the front yard along Executive Drive, which as of that day, still existed where part of the loading area was within the front yard setback. He noted that the warehouse building was within twenty (20) ft. of the Executive Drive lot line, without specifically the loading that was proposed. He noted that Executive Drive was not a through street and would only be used by warehouses. He then stated that the twenty (20) ft. they were providing included landscaping along the lot line while placing the loading in the appropriate location to include a screen to block the views of the loading area from Davidson Avenue and surrounding uses. He then addressed the maximum driveway width was thirty six (36) ft. and they were proposing sixty six (66) ft. to allow for sufficient turning radius between the site and Executive Drive and noted that the turning templates in the plans do show that. He stated that he felt that the thirty six (36) ft. maximum was too low for the type of truck traffic that would be utilizing the driveway and that sixty six (66) ft. width was more appropriate. Mr. Moronski then addressed the minimum loading area depth, where the Township required 2x the maximum truck length and, in this case, it would be seventy three and one half (73.50) ft. which would translate to one hundred forty seven (147) ft. and they were proposing one hundred thirty (130) ft. He explained that the truck circulation plan allowed that the largest truck was able to circulate in and out of the loading spaces. He then stated that the loading spaces were sixty (60) ft. deep and that gave seventy (70) ft. for circulation. Mr. Moronski indicated that he believed that the variances further the purposes of zoning that he had outlined in the "d (1)" Use Variance, which was appropriate since the "C" variances were related to the warehouse development. In terms of the negative criteria, he stated that there would be no substantial detriment to the public good because the circulation design allowed for more efficient movement of

- vehicles and parking. He added that the twenty (20) ft. front yard setback along Executive Drive allowed for a substantial landscaped area and it was not a through road so concerns of mitigating any activity from a lower intensity use could be allayed. Mr. Moronski indicated that there was no substantial impairment to the zoning ordinance or zone plan. He noted that buffering and screening was defined as natural and man-made elements to shield lower intensity uses from higher ones. Mr. Moronski then stated that he believed that the landscaping was effective in terms of providing an adequate buffer screen from viewing the loading area.
162. Mr. Lanfrit then spoke with Mr. Moronski relating to the history of the inclusion of warehouses in the B-I Zone, then recent action by the Council removed them from that zone. He referenced Mr. Moronski's statement that, recently, that the recommendation to Council was to amend the Master Plan to now call for warehousing to be put back into the zone based on some of the conditions that he testified to in his testimony that evening. They discussed that should the zoning be amended and be consistent with the Master Plan, the proposed warehouse would be a conforming facility and Mr. Moronski agreed with that statement.
163. Mr. Moronski then stated that the variance for the loading area being within fifty (50) ft. of the front yard would not be needed once Executive Drive was vacated, the twenty (20) ft. setback variance would disappear because it would become a side yard.
164. Mr. Darren Mazzei, CME, BOARD Engineer, asked Mr. Lothian if while the Davidson Avenue driveway would also be the entrance to the church, would there be an easement put in place there for church access. Mr. Lanfrit stated that there would be permanent easements put in place, as a condition of approval, which was recommended in both Mr. Mazzei's report, as well as Mr. Healey's Planning report. Mr. Mazzei stated that, with that easement, was there any intention for the church to use the warehouse area parking for overflow. Mr. Lanfrit indicated that, in discussing this with his client, there was no formal agreement for the church to use the warehouse parking, but if there was available space, it would accommodate the church to provide that parking if it became necessary.
165. Mr. Dougherty then asked about peak travel time in the morning hours asking whether they approximate how many trucks would be entering and leaving during that peak hour of 7:45 a.m. to 8:45 a.m. Mr. Lothian indicated that they looked at it based upon conservative estimates and looked at five (5) trucks entering and eleven (11) trucks exiting the warehouse site during the peak morning hour, for a total of sixteen (16) truck trips. Mr. Lothian indicated that they did take a conservative approach and the numbers he just quoted typically occur during the middle of the day and truck trips during the peak hours, it was more like four (4) trucks entering and four (4) trucks exiting.
166. Mr. Rosenthal then asked whether they took into consideration the inclusion of handicap parking. Mr. Lothian stated that ADA accessible parking spaces were included in the calculations.

167. Mr. Healey then stated that he had a question for the Planner. He referred Mr. Moronski to his comment regarding the Master Plan Re-Examination regarding the B-I Zone, which had been adopted, but in the Appendix there was a draft ordinance that was proposed. He reminded Mr. Moronski that he had indicated in his direct testimony in response to Mr. Lanfrit that the proposal would be entirely compliant with the standards that were in there. For the record, Mr. Healey stated he wanted to correct Mr. Moronski's testimony by stating that, for medium intensity uses, they had to be within one (1) road mile of Rte. 287, which the proposed warehouse clearly was, but said that the second part of that stated that "it shall not abut a residential zone". Mr. Healey reminded Mr. Moronski that the proposed warehouse abutted a residential zone and would not be consistent with the proposed ordinance. Mr. Moronski replied that he would reconcile his testimony with that statement by saying the location of the proposed warehouse was a rather large site and mentioned earlier in his testimony that the rear of the property was over 800 ft. away from any residential zone. He added that none of the traffic was going to be using residential streets. He added that every other standard set was met by the Applicant. Mr. Lanfrit also brought up the fact that even though the closest "residential zone" property was a cemetery and that the property could not be used as a residential property as such. He added that the cemetery property was between the first actual residential property that was over 800 ft. away.
168. Mr. Bernstein then asked Mr. Healey what the status was of the proposed ordinance that they were speaking of. Mr. Healey replied that the Planning Board had adopted the Master Plan Re-Examination and in it was an Appendix with the draft ordinance that was currently been forwarded to Council for their consideration. He added that the Council had not taken any action or adopted it at that time.
169. Mr. Healey addressed the Applicant's Architect, confirming that they went through the Township's Historic Commission and the DRCC and asked whether he was present at those meetings. The architect indicated that he was not present at those meetings. Mr. Healey then asked if he was aware of what comments either of those bodies offered regarding the architecture. He indicated that he was aware of some of the comments related to landscaping. Mr. Healey then asked if either body made any comments on the architecture of the warehouse. Mr. Lanfrit indicated that his office was at those meetings and there were three (3) comments from the Historic Commission, but none about the architecture. He also confirmed that the biggest discussion was about landscaping and screening and approved the landscaping plan at the last meeting with them. He explained that there were some extensive plantings along Davidson Avenue on the church site which would further block the view of the warehouse from the canal. Mr. Healey then asked if the comments made by either body were incorporated into the plans that the BOARD was reviewing that evening. Mr. Lanfrit answered in the affirmative and that the DRCC was now waiting for approval from Franklin Township and Somerset County in order to approve the project. He stated that they had satisfied all their comments.

170. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, and representing the objectors, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.
171. Mr. MacArthur asked the Architect what the height was of the warehouse, in terms of feet and stories. Mr. Winger replied that he believed he stated that it was +/- forty four (44) ft. tall in a single-story building. Mr. MacArthur asked if the air conditioning unit being proposed on the roof was going to be behind a parapet. Mr. Winger stated that the parapet was intended to be low and the equipment was proposed to be located central to the building footprint, which would allow minimal to no sight lines from Davidson Avenue. They then discussed how far away from Davidson Avenue the air conditioning unit would be situated and Mr. Winger explained that should the units be visible from Davidson Avenue that they would shield those, both from a visual aspect and from a noise aspect.
172. Mr. MacArthur then asked questions of the Traffic Engineer, Mr. Lothian. Mr. MacArthur then referred to Mr. Lothian's Executive Summary on page 1 and used the 11th Edition of the ITE Trip Generation Manual. Mr. MacArthur asked about whether what previously took place at the Cultural Center would now take place at a social building by St. Andrew's Church. Mr. Lothian stated that the church activities would relocate to a social building by St. Andrew's Church. He then added that there would be no external activities on the site as there were today, noting that the Cultural Center could be rented out currently. They had a discussion regarding the square footage of both of those buildings, with Mr. Lothian stating that he had not been inside either building and was not aware of their layouts. Mr. Lothian also stated that it was the intention, as he knew of it, that the social building would now be utilized for church activities, but did not know if it were a suitable replacement. Mr. MacArthur then asked, to his knowledge, if the museum inside the chapel building on Lot 106 would close if the Application were granted. Mr. Lothian indicated that the museum would remain open in the chapel building. A discussion ensued about the width of the emergency driveway at Easton Avenue and Mr. Lothian indicated that it was approximately twenty four (24) ft. wide internal to the site and possibly a bit wider up to thirty (30) ft. He then indicated that that driveway would be gated and used for emergency purposes only and accessed possibly by a knox box. Referring to the Land Use Code 150, Mr. MacArthur asked if the 12th edition of the ITE Trip Generation Manual considered the site as less trip generated than the previous edition (11th edition) and Mr. Lothian agreed. A discussion ensued, with Mr. Lothian explaining that it was based on different data sets that were provided to the ITE and incorporated them into their model, whereby the numbers could go up or go down depending on what the trends were.
173. Mr. MacArthur then brought up Mr. Zemon's testimony at a previous hearing about there being four (4) other warehouse developments that he had in the NY/NJ area and asked Mr. Lothian if he was aware of those other locations. Mr. Lothian answered in the negative. A discussion ensued regarding Mr. Lothian or one of his colleagues being involved in those other warehouse developments. Mr. Lothian stated he did not recall

if he was involved and that there was a possibility that one of his colleagues might possibly have been involved. He stated that he evaluated the proposed warehouse development based on what traffic a warehouse of similar size would generate based on ITE, which he indicated was the standard of his profession. He added that the ITE data was based upon actual warehouse traffic counts. He added that he relied upon ITE data because there was no specific data to utilize as the proposed warehouse was not operating and that there was not a specific tenant in mind as yet.

174. Mr. MacArthur then asked that utilizing Land Use Code 150, were they speaking of a long-term storage facility. Mr. Lothian stated that there was a wide variety of uses that went into Land Use Code 150, which was typical warehouse and distribution activities. Mr. MacArthur then asked if he had considered using Land Use Code 154, which was high cube transload short-term storage warehouse. Mr. Lothian stated that the trip generation for Land Use 154 was typically less than Land Use Code 150. They then discussed Land Use Code 155, the fulfillment center warehouse, with Mr. Lothian indicating that that was not the type of warehouse they were looking at here and a discussion ensued regarding their larger size, higher parking demands and more loading dock doors. Mr. MacArthur then discussed Land Use Code 156 warehouse types and Mr. Lothian stated it was not appropriate for the proposed warehouse and that the site would have to be designed differently because that warehouse type was for FEDEX, UPS, etc. utilizing that type of van coming in and out of the facility to deliver to homes and would have higher trip generation numbers, but not what was anticipated for the subject site. They then discussed Land Use Code 157 and Mr. Lothian explained that that type of warehouse was not anticipated to be considered with the proposed warehouse. They then spoke of the previous testimony regarding the a.m. and p.m. peak hours and coinciding with the a.m. and p.m. commuting hours. Mr. Lothian then stated again that the truck traffic typically would occur during off-peak hours, with the warehouse having thirty five (35) truck bays. Mr. Lothian could speak to Mr. MacArthur's question related to how many trucks would be on-site at one (1) time utilizing trip generation numbers, specifically about fifty five (55) trucks coming in and out of the site in one (1) day. They then discussed the need for thirty five (35) truck bays, with Mr. Lothian indicating that each bay could be turned over multiple times per day. Mr. Lothian indicated that WB-67, Title 39 sized trucks were anticipated to be the size truck coming to the site, which he indicated were the largest trucks that were legally allowed in New Jersey with the truck bays designed to accommodate them. They then discussed Land Use Code 150 that incorporated office space into the square footage of the building in their trip generation analysis. He added that they utilized the data of activity coming into and out of the site related to Land Use Code 150 that incorporated office space into the overall square footage calculations. He then spoke of the trip generations for a church for the report and Mr. Lothian testified that they continued to utilize the activity that was entering and exiting the site today during the peak hours. He noted that the Seminary did not generate any traffic related to the church and all the uses for the church were incorporated into the analysis. He and Mr. MacArthur then discussed utilizing a 1.0 growth factor to incorporate into the analysis for Easton Avenue and a 1.75 growth factor was used on Davidson Avenue consistent with the NJ Dept. of Transportation Background Growth Rates for Somerset County.

Mr. MacArthur then drew Mr. Lothian's attention to the intersection of Easton Avenue and Davidson Avenue, asking if a W67, in the exclusive left-hand turn lane on Easton Avenue heading down Davidson Avenue, would be able to turn into Davidson Avenue in the left hand lane on Davidson Avenue, sitting at the light, without encroaching on traffic for eastbound Davidson Avenue sitting at the light in the dedicated left-hand turn lane. Mr. Lothian indicated that they did not evaluate truck turns at the County controlled Davidson Avenue/Easton Avenue intersection, but that trucks are currently utilizing that intersection on a daily basis. Mr. MacArthur noted that there would be even more trucks with the new warehouse site, but Mr. Lothian indicated that there would be slightly more trucks because of the new warehouse activity. Mr. MacArthur then asked if Mr. Lothian looked at whether there would be any encroachment of traffic stopped at a light with a WB67. Mr. Lothian explained that part of the reason they were doing the improvements at the signalized intersection of Davidson Avenue and Executive Drive was to facilitate truck turning movements because, in the existing condition, trucks did not have enough room to turn into and out of the site. He stated that they were opening the radii to allow that to occur without conflict. They then spoke about a traffic impact statement for Executive Drive prepared by Dolan & Dean related to the IDIL matter, recognizing that their statement would include traffic from an already existing 200,000+ warehouse development. Mr. MacArthur then spoke about their Traffic Capacity analysis on Table 3, page 9, related to Davidson Avenue and the site driveway, specifically a southbound left right turn during a evening weekday hour and seeing a 23.1 second delay in a no build scenario (level of service C). He added that it increased to a 61.2 second delay on that turning movement. Mr. Lothian agreed with that statement when trucks were exiting the site. He also stated that his testimony was that the exiting traffic would have an anticipated queue of approximately two (2) vehicles where there was room for three (3) vehicles worth of storage before you would get to the first parking space. He added that with the inclusion of the conservatively higher trip generation they used on the intersection, they would not have a significant impact on-site and would not impede traffic on the free flow on Davidson Avenue. He explained that going from a level C of service to an E would be internal to the site and not on Davidson Avenue.

175. Chairman Thomas then stated that they would take a five (5) minute break for Mr. MacArthur to speak with one (1) of his experts.
176. Mr. MacArthur then directed his questioning to Mr. Moronski, the Applicant's Planner. He asked him if he looked at the 2006 Master Plan, 2007 amendment and two (2) amendments in 2008. Mr. Moronski testified that he looked at the 2006 Master Plan, the 2016 Re-Examination report and the 2026 Re-Examination report that was under review at the time and had since been adopted by the Planning Board per Mr. Healey. He added that he also looked at the 2023 amendment regarding the prohibition of warehouses, as well as the zoning ordinance and checked all the schedules, parking requirements, landscape buffer and land use table. Mr. MacArthur then asked if his testimony was that the property planned for warehouse could not be adopted for any of the permitted uses in the zone. Mr. Lothian answered in the negative and repeated his testimony of the particular suitability of the warehouse for the proposed site. Mr.

Moronski also repeated his testimony of the surrounding uses in the area to include office use, including the office building on the corner of Davidson Avenue and Easton Avenue. Mr. MacArthur asked if the alleviation of economic hardship is not by itself a special reason and Mr. Moronski stated that he questioned the relevance of that statement as it was not brought up in his testimony. Mr. Moronski went on to state that his testimony was that the removal of the cultural center and the parking lot did not take away from the core functions of the church use. Mr. MacArthur asked if wedding celebrations, concerts, storage of historic artifacts from the USSR and books going back in history regarding the church were not core values. Mr. Moronski indicated that the remaining aspects of the church, i.e., the chapel, museum, and seminary, were still remaining and that the removal of the Cultural Center meant that there would not be any non-church related events on the site. A discussion ensued related to the size of the Cultural Center and associated parking area versus the warehouse, which was much larger in size. They then discussed the definition of an inherently beneficial use, which Mr. Moronski stated was that it was a use that served a greater purpose than most uses and promoted the general welfare that he included in his previous testimony. Mr. MacArthur then read the definition of an inherently beneficial use from the Municipal Land Use Law and that the BOARD should consider the effect the proposed warehouse would have on the area. Mr. Moronski agreed and indicated that he included in that his testimony. They then discussed all the uses that were permitted in the zone, including warehouses, prior to 2023. Mr. MacArthur brought up open space in the area and Mr. Moronski stated that the warehouse was not affecting anything surrounding the property that included a stream, a cemetery and the land that they were proposing for a warehouse was not currently open space. He answered Mr. MacArthur's question about the acreage the subdivision would provide for the warehouse to include seventeen point seventy (17.70) acres that would accommodate the 258,000 sq. ft. for the footprint of the warehouse and impervious coverage of fifty five point ninety nine percent (55.99%), roughly nine (9) acres. He added that they were meeting the impervious coverage requirement for the zone for what they were proposing. Mr. MacArthur then asked if the change in the proposed use of that land changed the character of the neighborhood. Mr. Moronski answered in the negative because the character was not just the space it occupied, but the type of use and the design of the site related to Mr. Miola's testimony about the measures that were taken to deal with storm water and drainage and that there was less impervious coverage on the church site. Mr. Moronski stated that the subdivision did not create any variances and that they were able to go up to sixty percent (60%) lot coverage on that lot.

177. Mr. MacArthur brought up the fact that the completed Application was submitted after the effective date of Ordinance #4391-22 which eliminated warehouse use as a conditionally permitted use in the B-I Zone where a "d(1)" use variance was now required. He added that the Applicant must now show an enhanced quality of proof by clear and specific rulings where the Applicant's proof and the BOARD's findings must reconcile the proposed use variance with the zoning ordinance's omission of the use permitted in the zoning district. Mr. MacArthur then drew the BOARD's attention to the purpose of the B-I Zone as listed in the Planner's report, indicating that it was updated in 2023. Mr. Moronski stated that what Mr. MacArthur was reading regarding

the exponential addition of warehouses between 2018 and 2023 was included in his report. Mr. Moronski then added that what Mr. MacArthur failed to mention was the requirement for Applicants to achieve proper site design, which they believe they have addressed in testimony from their witnesses. He also added that the 2026 Re-Examination of the Master Plan, which was adopted, included the reconsideration of recommending warehouses as a permitted use under certain criteria most of which they were consistent with except one (1) standard, but believed that they could reconcile that with the warehouse at that location. Mr. Healey then confirmed that the 2026 Re-Examination was adopted. Mr. MacArthur stated that it was not an amendment to the Master Plan, just a re-examination and did not change what the Township did in 2023 in which they removed any reference of warehouses in the B-I Zone. Mr. Healey stated that it was an ordinance that was approved in 2023 and remained on the books, however, the Planning Board adopted a Master Plan Re-Examination about a month ago which made recommendations to amend the ordinance again.

178. A discussion ensued regarding the use of the neighboring property to the south to remove the existing three (3) office buildings and replace it with a warehouse (IDIL site). Mr. Moronski agreed with Mr. MacArthur's discussion of the 2023 ordinance to not allow warehouses, but he believed that one would also have to include the recent recommendation by the Planning Board to amend the ordinance again to include them with a "d(1)" use variance to prove why the subject site was particularly suited. They then discussed some of the language in Mr. Moronski's Planning Report to include the cessation of events that had been occurring at the Cultural Center that included outside parties renting the space gained during discussions with the Applicant and their team, while preparing his testimony. Mr. MacArthur then moved on to the justification for particular suitability for the warehouse lot that included convenient access to Rte. 287 and that trucks did not have to travel through residential zones. A discussion ensued about other uses in the zone. He then drew the BOARD's attention to Mr. Moronski's discussion in his report regarding a more efficient design and asked how it would be a more efficient design when there was more lot coverage on-site. Mr. Moronski stated that it would be more efficient in the site circulation and were meeting the imperious coverage standard for the district. Mr. Moronski also added that the new storm water design improved the storm water management situation on the site from its current state. Mr. MacArthur reminded Mr. Moronski that he mentioned a desirable visual environment as a land use purpose in his testimony and asked if he thought that a forty four (44) ft. high building was an aesthetic improvement over what was there now. Mr. Moronski replied by saying that he believed a building that met the standards, in terms of height and design for the type of use that was intended in that area was certainly an improvement over a decaying parking lot that had no defined spaces and a building several hundred feet set back from the street. Mr. MacArthur mentioned that Mr. Moronski made reference to that in the 2016 re-examination but asked if that had been overridden with the 2023 amendment. Mr. Moronski stated that with the warehouse, it was overridden, but that the general theme about encouraging commercial and industrial development in areas with access to major regional highways remained the same. He then mentioned the B-I (Business & Industry zone) purpose where it spoke to appropriate locations, included light industrial uses such as manufacturing, office,

laboratory, hotel, etc. and described the general theme he was speaking about. He then spoke about the warehouses that were removed from the B-I Zone as a permitted use and expanded on the need to have proper attention to site design, proper ingress and egress, architectural design, etc. Mr. MacArthur then asked Mr. Moronski if they were applying for a variance for the maximum driveway width, and he answered in the affirmative. Mr. MacArthur asked to confirm that thirty six (36) ft. width was the maximum allowable and sixty six (66) ft. was proposed, and Mr. Moronski answered again in the affirmative as that larger width was needed to allow the trucks to enter the site. Mr. MacArthur then cited Kaufman case law related to bulk variances of which Mr. Moronski stated he was aware. Mr. MacArthur indicated that the Kaufman case spoke to the need for a better zoning alternative to grant the variance and Mr. Moronski agreed that there needed to be a public benefit. They spoke about it being only for the benefit of the Applicant so that they could get the biggest truck into their site, but Mr. Moronski stated that what it actually did was to allow for more efficient circulation and to be able to make the turns to avoid having situations where you may have more accidents. He noted that having a 66 ft. wide driveway allowed for these truck movements.

179. Mr. MacArthur stated that he had at least two (2) witnesses to put forward, with one providing planning testimony. The other witness would be speaking about the Cultural Center, what it has been used for and its importance to the community. Mr. Lanfrit indicated that he would object to Mr. MacArthur providing any planning testimony because Mr. Bernstein, BOARD Counsel, clearly stated at a prior hearing to counsel that any planning testimony being provided would have to have written report provided to the BOARD. He then told the BOARD and Mr. MacArthur that it was his understanding that no report had been provided and asked that no testimony of any kind by a planner should be allowed.
180. Chairman Thomas stated that since they had a policy of no new testimony being presented after 10:00 p.m., they would like to put Mr. MacArthur's witnesses off until the next hearing and would be open to the public for the remainder of the meeting to ask questions concerning the testimony that was presented that evening. The Chairman then gave the public the guidelines and parameters that needed to be followed, including only asking questions of the Architect, the Traffic Engineer or the Planner that provided testimony that evening. The Chairman also stated that they would only hearing public questions up until 10:00 p.m. and would continue with public questioning at the next hearing.
181. Mr. Bernstein also instructed the public that they would be asked a question as to whether or not they were already being represented by the objector's counsel or not. If anyone was already represented by the objector's counsel, then you will not be able to also get up and ask your own questions since you were already represented by the objector's attorney.
182. Mr. MacArthur then asked whether they would have to provide a planner's report and whether he could get a future date for the next hearing so that he can make sure his

- planner would be available. Mr. Bernstein stated that the planner did have to provide a report and that it had to be no later than ten (10) calendar days prior to the next scheduled hearing. Mr. Bernstein also indicated that before the evening ended, the next future date for the next hearing would be determined.
183. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk had questions for the Traffic Engineer. He wanted to know if Mr. Lothian had personally seen the traffic in the area around the subject property daily. Mr. Lothian testified that he was very familiar with the area and had been to the site multiple times during different times of day, including the weekends. Additionally, Mr. Lothian stated that they did traffic counts on Davidson Avenue for a week straight and have those counts for each of the seven (7) days of the week. Mr. Lothian answered Mr. Khreptyk's concern regarding the additional traffic that would be brought to the area with the IDIL warehouse by stating that they did account for the traffic from the IDIL approved development from their approved study in their analysis for their no-build condition.
184. Mr. Mark Anthony Datz, 4 Fairview Drive, North Caldwell, NJ, came forward. Mr. Datz spoke to Mr. Lothian, the Traffic Engineer, stating that he did not include a large event that occurred on the church property since the cemetery had been open related to parking. He noted that about a week after the Orthodox Easter, which could vary from the Roman Catholic Easter, the faithful who have their departed family members in the cemetery gather at St. Andrews, so the Cultural Center parking lot was very important for that because there was probably close to one thousand (1,000) people come through there. He added that the buses picked people up from the parking lot by the Cultural Center, which was stated could hold up to four hundred (400) cars, with the people being driven across the road down Davidson Avenue onto Easton Avenue and into the cemetery proper to visit the graves. He then noted that the cemetery could not handle that number of cars and he stated that he noticed that that was not in the Traffic Study and thought that needed to be added. Mr. Lothian stated that they were not in the study and there were discussions regarding extremely large events that happen once per year. He went on to state that they were told that, similar to today, if there was a need, they would coordinate with local businesses to find parking and use shuttles as Mr. Datz described.
185. Ms. Olana Sharvan, 14 South Locust Avenue, Edison, NJ, came forward. Ms. Sharvan state, for the record, that she had parents who reside in Franklin Township at 66 Grough Avenue, Somerset, NJ so she had an interest in this community and the impact the development would have. Ms. Sharvan asked Mr. Lothian how they collected the data for the Traffic Study and Mr. Lothian explained that they contracted a company to go out and collect the data that included turning counts using video and the week-long data was collected using pneumatic tubes across the roadway. She then asked how parking requirements were calculated and Mr. Lothian indicated that the parking requirements were based upon the anticipated operations provided by the church ownership/leadership. Ms. Sharvan then asked if he had considered any other source for information related to parking. She asked Mr. Lothian if he did not utilize any other source of information that was based on verified facts, did it make his study incomplete.

Mr. Lothian indicated that he based his calculations on the information that was provided. She then discussed the different elements of the remaining church property that would include the library, museum and chapel, referring to Mr. Lothian's earlier testimony that the parking provided met the requirements and that there would be employees, visitors to the library, museum and existing chapel would be utilizing the parking spaces. She then focused on Mr. Lothian's testimony regarding the number of people visiting the museum being five to ten (5-10) on a typical day. Mr. Lothian stated that they are looking at the library and museum as one (1) facility. Ms. Sharvan then spoke about another museum space that was being renovated on the property, with Mr. Lothian indicated that it was part of the Site, as a whole. Mr. Lothian indicated that it was his understanding that the museum was to incorporate things that were presently in the Cultural Center. Ms. Sharvan then asked Mr. Lothian if the larger museum space having more artifacts would have more visitors than five to ten (5-10) per day, and he answered that it was not necessarily so. Mr. Lothian indicated that they had a surplus of thirty-five (35) parking spaces for larger events. Mr. Lothian explained that they anticipated the use of twenty-five (25) of the thirty-five (35) surplus parking spaces would fulfill the parking needs even if everyone was on the site at the same time. Mr. Lothian stated that even if there was double the amount of parking needed, there would still be enough parking for the site as a whole. Ms. Sharvan then asked what data was used to calculate how many trucks would be on the site on a given day. Mr. Lothian stated that the trips were calculated by data contained in the Institute of Traffic Engineers Trip Generation Manual, where it broke down total vehicles and trucks. Mr. Lanfrit interjected that Ms. Sharvan knows nothing of how long trucks stay in bays and other information related to the data surrounding their activity, so her questioning was making assumptions.

186. Ms. Sharvan then had questions for the Planner. Ms. Sharvan asked where his information came from about the core functions of the church and Mr. Moronski stated that it came from church leadership. Ms. Sharvan asked Mr. Moronski if he was aware that there was a functioning Saturday school as a part of the Cultural Center that was occurring up until October 2025. Mr. Moronski stated that he did not remember if that was mentioned, specifically or not, as he was working on this project for well over a year now. He added that he asked what functions were going on at the property and utilized that information in his report.
187. The Applicant and BOARD agreed that the meeting would be carried to May 7, 2026, with no further notification required. The public portion would continue at the next meeting.
188. At the hearing held on May 7, 2026, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC and presented testimony related to all three (3) applications at the same time. Mr. Lanfrit indicated that the Applicants had completed their presentation; however, at the last meeting, three (3) of the witnesses who testified were being cross-examined by members of the public and that cross examination had not been completed. He then indicated that they had to complete the

cross-examination that evening with the public related to the testimony of Mr. Moronski, the Applicants' Planner, and Mr. Lothian, their Traffic Consultant, as well as Mr. Winger, who was their Architect.

189. At the last hearing, Chairman Thomas stated that they were in the middle of being open to the public to question those three (3) witnesses mentioned by Mr. Lanfrit based on their testimony and, therefore, he stated that that was where they would begin that evening. Mr. Bernstein indicated that they would start off the evening listening to the questioning of members of the public who did not have an opportunity to ask any questions of these three (3) witnesses.
190. Peter MacArthur, Esq., Objectors' Attorney, made his appearance known to the BOARD and the public for the evening. Seeing no further public wishing to ask questions of the previously stated witnesses who presented testimony at the last hearing, Chairman Thomas then closed the meeting to the public. Chairman Thomas then introduced the objectors' attorney, Mr. Peter MacArthur, Esq. He appeared before the BOARD on behalf of Svitanak, NYC to raise procedural objections that have gone on so far. He added that a couple of days ago he wrote to Mr. Bernstein and contacted the BOARD Secretary as he was trying to raise an issue with the Open Public Meetings Act. He stated that he was having some conversations via email with the BOARD Secretary that same day and did receive the second newspaper notice for both 2025 and 2026. As a result of that, he indicated that there was an additional issue that came up with respect to the meeting being held that night. He stated that the notice for 2026 listed the location of the meeting as being at the Township offices and not there at the Board of Education building on Rt 27. Mr. MacArthur then told the BOARD that he had written to Ms. Woodbury and he did not know if she saw the e-mail as it was late in the day. He explained that he had said that for the March 2, 2026 hearing she had provided a Sunshine notice which changed the location of that meeting to the Board of Education building where they were that evening. He then added that he was curious as to whether she had a similar notice for today's hearing.
191. Ms. Woodbury stated that she did see that he sent an e-mail to her at 2:36 p.m. that day but told Mr. MacArthur that she was already out of the office and did not answer that e-mail. As far as the notice for this evening, it was done digitally because in March 2026, they changed the way that the Township was doing business as to public notice. Ms. Woodbury asked Mr. MacArthur if he needed her to send that to him only because she did not see his e-mail that afternoon. She then told Mr. MacArthur that she would look to see if she had that available to her that evening, but if she did not, she stated she could scan it and get to him tomorrow. Mr. MacArthur agreed to that but wanted to raise that as well.
192. Mr. Bernstein asked Mr. MacArthur if, other than that issue, were the Open Public Meetings Act issues now resolved and Mr. MacArthur stated that he could not say that they were resolved because he had not seen it yet. Mr. Bernstein then reminded Mr. MacArthur that he raised the issue of the annual notice and compliance in two (2) official newspapers and again asked if he had been provided with the paperwork. Mr.

- MacArthur then agreed that he had been provided with the paperwork for 2025 and 2026, which were the annual notice of meetings which he thought would seem to comply with Section 10:4-6 of the Open Public Meetings Act. He stated that he had not looked at any case law on that subject but would seem to take care of it because it took care of day, time, location and all of the other relevant requirements of that section. Mr. MacArthur asked if there were to be a future proceedings in this matter, barring the fact that he had not had the chance to look at case law, that it would seem to be resolved.
193. Mr. MacArthur moved on and told the BOARD that more than ten (10) calendar days before this hearing, that they had asked for all expert reports and Mr. Steck, his Planner, submitted his report. He drew the BOARD's attention to the bottom of Page 4 and the top of Page 5 of that report, he indicated that there were some notice issues in his mind. He added that this time it was not with the Open Public Meetings Act, but with the Municipal Land Use Law (MLUL), Mr. MacArthur stated that the MLUL indicated that the date, time, place of the hearing and the matter to be considered and identification of the property by street address, etc., have to be made ten (10) calendar days ahead of time of the first hearing and the excerpt from Mr. Steck's report, beginning at the bottom of Page 4 indicated that the cemetery required a use variance. He then added that no testimony had been provided regarding approval of the cemetery use on proposed Lot 1.09 as indicated in the Zoning Board of Adjustment's Resolutions appended to the Applicant's January 5, 2026 Planning Report. Mr. Lanfrit then asked why Mr. Steck did not give testimony and conclusions about what was included in the report he wrote. Mr. MacArthur stated that it was a legal issue and Mr. Bernstein then indicated that begged the question that they were getting a legal opinion from a planner. Mr. Bernstein then stated that he would concur with Mr. Lanfrit as to the issue of having Mr. Steck testify. He went on to state that if Mr. MacArthur wanted to raise the legal issues that Mr. Steck raised in his report, then maybe thereafter they could have that conversation. Mr. MacArthur then asked for clarification, repeating Mr. Bernstein's comment that he should hold this objection in abeyance pending Mr. Steck's testimony and could raise it again, which he said he would.
194. Mr. MacArthur then brought up the other procedural issues that he had related to something that came up a few hearings ago when he raised issues concerning whether or not they had authorized contracts, contract purchases, etc. under the definitions of the MLUL and believed that went back to November 2025. In response, Mr. Lanfrit produced a constitution for the Ukrainian Orthodox Church of the USA to see if the documentation submitted with that followed the constitution provided. Mr. MacArthur added that he had serious doubts that it does. He then noted that the "so-called" minutes that were provided really were not minutes, but summaries, which he felt glossed over, in his opinion, multiple nuts and bolts requirements in the constitution concerning notices of publications and things of that nature. Mr. MacArthur noted that to begin with, in Roman Numeral 2 (II), the church Sobor, Section 3C and asked if the lay delegates were properly authorized. He then stated that the next issue at hand was if the Sober agenda, published in the Ukrainian Orthodox Word, was published in the UOC of USA website and if it was done 60 days prior to the Sober. In Section 5, Mr.

MacArthur asked if a draft resolution for this transaction was received by pre-Sober resolutions thirty (30) days prior to the Sober. He then went on to ask if a resolution was approved in Section 6 and was the resolution that was approved published in the Ukrainian Orthodox Word and/or the UOC of the USA within sixty (60) days of the Sober. He then stated that there did not appear to be any indication that the Consistory received the Sober minutes and whether they were printed or distributed to the Council of the Metropolia or the parish priests and the parish Board of Administration in Section 10 of Roman numeral 2 (II). Mr. MacArthur then stated that, in Section 11, there was no indication of a quorum being present either.

195. Next, Mr. MacArthur stated that he looked at Roman numeral 5 (V) of said constitution, the Council of the Metropolia, and looked to see if there was a quorum present with a majority of the members from the Metropolia, the metropolitan or the Vice Chair of the Council of the Bishops. Looking at Section 9, he looked to see if the minutes were printed and distributed to Council members for additions, corrections, or deletions within sixty (60) days. He then also posed the question as to whether there was a summary of the session published in the Ukrainian Orthodox Word and the UOC of the USA website. He then added that there, likewise, did not seem to be or seem to appear to be mention of their Consistory actions when it was their responsibility to administer a sale such as this. He then spoke of whether the parishes were involved and under their jurisdiction, all of which was mentioned in Section 10. Mr. MacArthur added that it said that it should be under the parish Board of Administrators and appears to have been left out. He then went on to state that there was no mentioned of summary documents from the summaries that were provided and appeared that this was pushed through. Mr. MacArthur then stated that reading the constitution and its mandatory language, it did not appear that all constitutional requirements followed here. He also stated that the action taken by the Sober in the Metropolia did not authorize the contract. He then stated that if it was not properly authorized, there was no contract, no contract purchaser, which means that there was no Applicant or Application.
196. Mr. MacArthur stated that, according to the definitional sections of 3 and 4 of the MLUL, and the Township's own definitions in the ordinance, of which the ordinance had the same terms as the MLUL. He then explained that he was not there to argue that the actions of the Sober or the Council of the Metropolia should be overturned and stated that he understood the BOARD did not have that power. He then indicated that what he did ask was that the BOARD interpret the definitions of the Township's zoning ordinances, which he stated that they had the inherit right to do and find under these facts that there was no contract purchaser. He then reminded the BOARD as well as Mr. MacArthur that the BOARD did not interpret contracts.
197. Mr. Lanfrit then stated, this BOARD had the authority to hear site plan applications, use variance applications, bulk variance applications, and subdivisions. He went on to explain that the BOARD did not review contracts. He then stated that he then provided all of the paperwork that the church had provided to his office, indicating that they did have the authority to sign the contract. Mr. Lanfrit reminded the BOARD that Mr. Lonsky testified at one (1) of the prior hearings and he was the attorney for the church

- and that the church had the authority to sign the contract. He did, however, indicate that the last statement made by Mr. MacArthur was accurate. He then told the BOARD that they had documentation that the church had the authority to sign the application, but that they needed to hear all the Application. Mr. Lanfrit then indicated that if Mr. MacArthur believed that his clients thought that the contract was either void or voidable, there was a courthouse up in Somerville, NJ where he could litigate that issue, but it was not to be litigated there at the BOARD meeting.
198. Mr. MacArthur believed that they were dealing with a limited Municipal Land Use Law issue because they were dealing with the definitional sections of not only the MLUL, but the Township Zoning Code.
199. Mr. Bernstein then asked Mr. Lanfrit when the documents were provided to the BOARD. Mr. Lanfrit stated that they were provided by a submission after the second hearing, sometime in January of 2026. They then had a discussion regarding whether the Applicant had a right to be before the BOARD between the adequate notice issue that was on Mr. MacArthur's agenda for the past two (2) months and now the issue of the Applicant having authorization to sell, which seemed to be on Mr. MacArthur's mind for the past four (4) months. Mr. Bernstein told Mr. MacArthur if he was interested in his office providing legal interpretation, assuming the BOARD was even interested in his legal interpretation, he would have to put it in writing and allow Mr. Lanfrit to respond and then and, only then, would he issue an opinion. He included that short of that, he was not going to advise this client to suspend the hearing on the allegations that Mr. MacArthur had placed before relating to contracts that were in his hands for four (4) months and using those issues to now apparently trying to stop the hearing from either continuing or finishing that evening.
200. Mr. MacArthur stated that he had asked back at the November 2025 hearing whether it was time to lodge objections to procedural issues. He went on to state that he was told it was not the time to do so, so he added that he was respectful of the hearing process at that time. Mr. Bernstein indicated that if there was information in Mr. Steck's report that he wanted to provide the BOARD, he needed to put Mr. Steck under oath to provide that. Mr. MacArthur then called Mr. Steck to provide testimony.
201. Mr. Peter Steck, Planner, 80 Maplewood Avenue, Maplewood, NJ, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Steck then described what he did in preparation for his testimony that evening, what he reviewed and what other actions he took in order to testify that evening. He stated that he reviewed the Application materials that had been submitted. He did state that he was present at the last hearing (March 5, 2026) and listened to the YouTube videos of the September 18, 2025 meeting as well as the November 6, 2025 meeting, toured the property on at least two (2) occasions and reviewed the Master Plan and Re-Examination reports. He also noted that he was present at the last hearing and present earlier that evening when there was a discussion on procedures. As a result of his preparation, Mr. Steck indicated that he produced a report, titled Planning Evaluation of Three (3) Applications, dated April 24, 2026. He told the BOARD that that report was delivered to the municipality on

that same date. He then proceeded to go through his report for the BOARD's edification and examined carefully the planning testimony that was presented by Mr. Moronski. In his opinion, Mr. Steck stated that there had not been substantial credible evidence that would justify the relief sought and stated that he felt that there were procedural issues having to do with what was in the public notice and what the extent of the property was. He referred the BOARD to the bottom of Page 1 of his report where he understood that the Applicant was phrasing this as three (3) separate applications. He noted that it was alleged that the first application was a two (2) lot minor subdivision was phrased as an as of right subdivision. Mr. Steck indicated that he did not agree that it was an as of right subdivision because what it did was lessen the amount of land that was associated with the church facility. He added that since it was a non-conforming use, that non-conforming use was being intensified because the land was being diminished. He noted that the subdivision was being phrased as a separate application, unrelated to anything else and fully conforming. Mr. Steck testified that it was not fully conforming because it triggered a "d(2)" variance. He added that it was being treated as a separate application, and if so, it would be heard by the Planning Board. He noted that the reason it was before the BOARD was because it was connected to, at least as a minimum, the "d(2)" variance for the smaller lot that was housing the church facilities as well as the cemetery. He then stated that the second Application was the one that was the intensification of the Ukrainian Orthodox Church because the land area was being reduced, with the Applicant acknowledging that that was a "d(2)" variance. He then spoke of the third application that was for the warehouse use that was on one (1) of the subdivided lots. He added that it was not exclusively a warehouse use because there was an access driveway through the warehouse lot to get to the church facilities as proposed in the subdivision. Mr. Steck stated that that part of the Application was the "d(1)" Medici case.

202. Mr. Steck stated that he did listen carefully to the testimony of the Applicant's Planner, which followed his January 5, 2026 Planning Report. Mr. Steck then summarized what he heard him testify, referencing past resolutions affecting the subject property. He added that those resolutions that were in the Appendix to his report essentially talked about the cemetery that was proposed for the subject property. He added that those resolutions indicated that there was an approval of a cemetery that was proposed and because of the lapse of time, had to be extended, with two (2) extensions being utilized already and the approval for a cemetery had lapsed. Mr. Steck stated that because that was a non-conforming use in the zone; to re-establish a cemetery on the subject property or part of the subject property, it involved testimony and a use variance for the cemetery. He went on to state that the Applicant's Planner talked about the subdivision being fully conforming, but that was only on the dimensional standards. He reiterated that that would not be before the BOARD, but for the fact that it triggers a "d(2)" variance for the expansion of a non-conforming use.
203. Vice Chair Shepherd then opened a discussion regarding what was triggering the "d(2)" variance – the intensification of the church facility or was it the cemetery. Mr. Steck indicated that there were two (2) separate issues that the Applicant has not really presented any testimony about the cemetery and Mr. Steck stated that he believed the

- Applicant needed to apply for a cemetery because that approval seemed to have lapsed. The Vice Chair stated that that was fine, but wondered why it needed to be part of the current case and Mr. Steck replied that there was a cemetery on the plans that the BOARD was asking their approval from. Mr. Steck then described a case of a property that had a non-conforming use on it and the Applicant wanted to subdivide some of the property from a two (2)-family house. He explained that it was an oversized lot but was not touching the house and wanted to subdivide some of the vacant land off the house. He continued by stating that the Court ruled that because that house was non-conforming, to take property away from it was the same as expanding the two (2) family house because they would be taking away the buffers and the setbacks that were surrounding it. He stated that there were two (2) “d” variances that were associated with the Application. One was the cemetery that no one had talked about so far and the other was the “d(2)” variance, which was, in effect, the intensification of the church use.
204. Mr. Steck indicated that one of the other issues was when Mr. Moronski testified he stated that the core activities of the church, even though the property was being reduced, would be accommodated because they were going to use an adjacent lot across the river and putting some of the activity that was happening on the subject property related to the church on the other property. He added that that now affects the other property by adding uses across the stream. He then told the BOARD that, two (2) hearings ago, the Applicant testified that there was a foot bridge across the river that connected the two (2) properties so one could get there without going on the street. Mr. Steck then spoke about the cemetery that was proposed on the subject property and seems to be intimately related to the cemetery across the stream. Mr. Moronski, in his testimony, indicated that the warehouse use was particularly suited because the property was close to Route 287, no residential uses in the area and would use Executive Drive for truck generated traffic, citing certain purposes of the MLUL. Mr. Steck testified that the Applicant did have to show that the property was particularly suited for a warehouse and proximity to Rte. 287. Chairman Thomas then asked if the property was less suited for a warehouse because it is generic in nature to the many other properties in that area. The Chairman then asked how it would be more suited to the property by rezoning the area. Mr. Steck replied that it would be more suited if it supported the Master Plan and if the zoning permitted the use and then he would not be there that evening. Mr. Steck stated if it was generic, the solution should be to re-zone it. He stated that the subdivision was encouraging a non-permitted use (a warehouse) and encouraging intensification of the church, neither of which were permitted under the zoning. The Chairman stated that that was why the Applicant came to the Zoning Board to get a variance and, ultimately, they have provided the proof that they were suitable sites for those uses. A discussion ensued regarding a Master Plan Re-Examination and update that the Planning Board adopted in January that made recommendations to allow warehouses in different areas of the town.
205. Mr. Steck then circled back to Mr. Moronski’s testimony about having front yard loading that was substandard in area and the driveways to the loading area were in the front yard, but Executive Drive may be vacated and suggesting that then those

variances would disappear. Mr. Steck then stated that it was not yet vacated as of that evening, as far as he knows. He also told the BOARD that it was his understanding that when a public road was vacated, each side gets half of the right-of-way. He then discussed the law changing regarding the B-I Zone and no longer allowing warehousing, as well as the Master Plan changing. He then stated that Mr. Moronski failed to refer to the Master Plan Amendment that stated that the Township did not want new warehouses anywhere in the B-I Zone.

206. Mr. Steck then gave his planning conclusions related to the bottom of Page 4 of his report. He reiterated his statement that the cemetery use on the subject property had lapsed, having already asked for two (2) extensions. He added that the Site Plan showed a substantial portion of the new northerly lot (Lot 1.06) to be in cemetery use. It was determined by Mr. Steck that the Applicant should have said in the public notice that they were reapplying for a cemetery and the Applicant should have provided evidence that that could meet the statutory criteria for a use variance. He then referred to his second point on Page 5 of his report that he believed that Lot 2.01 had to be part of the Application because in the testimony, the Applicant said “not to worry, I’m going to put some of these church functions across the stream. He added that they did not have any idea or evidence about how big that social building was, how many parking spaces there were associated with the social building, where traffic circulated to serve the social building. He noted that the cemetery on the subject property was essentially part of the larger cemetery across the stream, with a pedestrian bridge referenced by the Applicant that connected the properties. Mr. Steck indicated that the Applicant had not referenced the extent of the Application, which involved both properties, it was not put in the notice that told the public what was about to be reviewed, and the Applicant did not draw the 200 ft. notice line from both properties. Mr. Steck then referenced the adoption of a new Plan Re-Examination Report recommending that the governing body make three (3) categories of land use, make warehouses again permitted, conditional uses in the B-I Zone. He indicated that they did not know that the governing body was going to adopt that and that the Re-Examination Report was not the Master Plan, which still did not allow warehouses in the B-I Zone as of that evening. He stated that the Re-Examination Report was a separate section of the MLUL and did not even require a public hearing as the Master Plan did. The fact that some changes were being recommended was not the law currently and it was not the test of whether the negative criteria were satisfied. Mr. Steck noted that Mr. Moronski did not mention that the Planning Board, on January 18, 2023 updated its Master Plan, but that it amended it to state that the Township wanted to prohibit future warehouses and a fundamental defect or flaw, in his opinion, in his testimony.
207. Mr. Steck then noted that the Applicant’s Planner indicated that no residential homes were in the area that would be affected; however, if both lots were included as they should be, there was a whole row of single-family homes that abut that property to the northwest, but there were also residential components to the church facility that include seminarians, retired priests, etc.

208. Mr. Steck then drew the BOARD's attention to his reading the Resolution of the IDIL approval on Executive Drive, it assumed that across Executive Drive was this church area, which was the fact at that time, and that the Applicant should use its best efforts to have Executive Drive vacated. He spoke about motorists entering the church property would be utilizing Executive Drive utilizing the signalized traffic light to traverse around trucks and truck bays.
209. Mr. Steck then discussed the fact that the church building is supposed to have most of its parking to the rear of the building and the new parking arrangement for the church did not have that. The ordinance also says, according to Mr. Steck, that they need to have no more than ten percent (10%) of the parking to be in front of a building and that was not the case. He added that there was no testimony given by the Applicant to justify those variances.
210. Mr. Steck then discussed the lack of landscaping close to the subject's side of Executive Drive where they would be able to see into the truck bays and truck movements and not an aesthetic improvement over what was there today.
211. In summary, Mr. Steck indicated that he did not think that the Applicant had met the burden of proof for the warehouse and did not think the site was particularly suited just because they said that they comply with environmental regulations and they were close to Rte. 287. Mr. Steck also indicated that both subject property lots (Lot 1.06 and Lot 2.01) were inherently part of the Application and should be referenced as well as informing the public about that and drawing your 200 ft. notice list from these properties. Additionally, you would need a "d(1)" approval for a cemetery on the record because the approval had elapsed. Mr. Steck stated that, in his opinion, there had not been substantial credible evidence that would justify any of the variances and jurisdictional defects.
212. Mr. MacArthur then asked some follow-up questions, drawing the BOARD's attention to the last paragraph in Mr. Steck's report on Page 7. He then mentioned that Mr. Steck's report indicated that the property was, in fact, particularly unsuitable for the proposed use. Mr. Steck then discussed his reasons for believing the property was particularly unsuitable, included the fact that there was a lot of open space land to the rear of the proposed warehouse building that the public did not even see. He added that, because of the size of the proposed building, there was insufficient loading space, the loading maneuvering area was in the front yard and highly visible and why the Applicant needed to use the driveway for some of the truck maneuvering. Additionally, the church users also have the right to go through that industrial property, which allows them to be intermingling with truck maneuvering.
213. Mr. Steck then disagreed with Mr. Moronski's statement that the Application satisfied the first (1st) prong of the negative criteria, which is not detrimental to the public good. He noted that there would be a level of service E, with a deterioration of traffic at the intersection with a back-up on the property. He also indicated that the hotel/conference

center would have a direct view of the truck traffic coming in and out of Executive Drive, with a lack of sufficient landscaping for shielding that view.

214. Mr. Steck then discussed the Kaufman case and applied a broader view of “c” variances, where the “c2” variances include the language that the benefits substantially outweigh the detriments, with the benefits going to the public and not the developer. He also reiterated that much of the truck activity on the site was proposed in the front yard within public view due to not having enough room for adequate landscape buffering due to the size of the warehouse. Being in close proximity to Rte. 287 gives it regional accessibility, but did not mean it had to be warehouse use. He then discussed again the need for a wider driveway to accommodate for better truck maneuverability.
215. Mr. Procanik asked about what Mr. Steck meant by not being able to have an enhanced visual improvement. Mr. Steck indicated that he was relating that to Mr. Moronski’s testimony that they would be including landscaping to shield the building from view and indicating that it would be a nice- looking building and an improved aesthetic look. Mr. Steck spoke about the tall and wide wall and would not be aesthetically pleasing. They also discussed access to Rte. 287.
216. Mr. Healey brought up Mr. Steck’s statement of the use for adjoining Lot 2.01 and he questioned the types of activities they would have there and if there would be an impact. Mr. MacArthur told Mr. Healey he had another witness to come forward to answer some of those types of questioning.
217. Mr. Healey then asked the relevance of things having to do with the cemetery and Mr. Steck mentioned that Mr. Moronski noted past resolutions having to do with the cemetery and the fact that the extensions had lapsed and that the Applicant would have to reapply if they were going to leave them on the plans.
218. Mr. Healey then mentioned to Mr. Steck that the Township Council did end up vacating the plans and approved the ordinance. He added that when Executive Drive was created, it was carved out of the Lots 1, 2, and 3 and would go back to the previous parent parcel and not to the adjoining property owner.
219. Mr. Healey corrected Mr. Steck’s characterization of the January 2026’s Master Plan Re-examination and Update regarding the B-I Zone. Mr. Healey clarified that it was both a Master Plan re-examination and a Master Plan update. Mr. Healey added that it was titled as such and described as such in the document, noticed as such, heard as such, and adopted as both a Master Plan Re-examination and a Master Plan Update, with the document making that clear. Mr. Healey then informed Mr. Steck that he authored the 2023 Master Plan Update and intimately involved in the recently adopted update to the Master Plan regarding the B-I Zone that was a two (2)-year process involving multiple hearings well beyond the Municipal Land Use Law with community hearings, a dedicated webpage and a community input section on the website. He added that they videotaped all the meetings, put it on the website, etc.

220. Mr. Lanfrit then entered into the record as Exhibit A1 – May 7, 2026, which was Ordinance Number 451-26, an Ordinance releasing, extinguishing and vacating the rights of the public to a portion of a street known as Executive Drive in the Township of Franklin, County of Somerset, State of New Jersey, adopted and introduced on March 24, 2026 and finally adopted on April 14, 2026.
221. Mr. Steck conceded that, the road vacation of Executive Drive was vacated and adopted on April 14, 2026. Mr. Lanfrit stated that because the road was vacated, the warehouse did not have frontage on Executive Drive because that road did not exist. Mr. Steck agreed. Mr. Lanfrit indicated that because of that, the bulk variances the Applicant was seeking with respect to Executive Drive also go away. Mr. Steck also agreed that there was no longer a front yard requirement there and the road went back to IDI Logistics. Mr. Steck stated that the question then arose that if it was now private property, can there be an accessory use that was not on the same site as the principal use? Mr. Lanfrit stated that that was assumed during the IDIL Application when it was requested that they vacate Executive Drive. Mr. Lanfrit and Mr. Steck discussed the use of the private drive by the church congregation and Mr. Lanfrit indicated that the church congregation would be utilizing the closest driveway off Davidson Avenue for access. Mr. Steck indicated that there was testimony stating that there would be an easement for the church congregation to utilize the private driveway at Executive Drive. Mr. Lanfrit stated that the testimony was for the church congregation to use the driveway closest to the church.
222. Mr. Lanfrit then opened a discussion regarding Lot 2.01. They spoke about any improvements included for Lot 2.01 in the plans. Mr. Steck said the only thing noted on the plans was a reference by the Applicant's engineer to a pedestrian bridge across the stream, an existing condition that would be replaced.
223. Mr. Lanfrit then stated that there is no request for approval for the cemetery on Lot 1.06 at the present time since same had been previously approved. The hash mark area listed as cemetery should be on the site plan, and whether said approval has expired is not in the purview of the board.
224. Mr. Lanfrit then opened a discussion regarding the Master Plan Re-examination and Update. Mr. Steck stated his understanding now was that the 2026 Master Plan Re-examination and Update adopted in January 2026 recommended that warehouses be made a conditional use.
225. Mr. Lanfrit then opened a questioning/discussion regarding the Applicant hearing appeared before the Historic Commission three (3) times and recommended changes to improve the aesthetics along the entire frontage of Davidson Avenue, both on the warehouse site and the church site Mr. Steck saw those recommendations and agreed it okayed the demolition of the Cultural Center.
226. They then discussed the fact that the demolition of the Cultural Center had nothing to do with it remaining or not and was totally up to the Applicant and not subject to the

- BOARD's approval. Mr. Steck agreed and indicated that the Applicant's Planner was saying that the fundamental operations of the church would not be intensified and stated that the Applicant was shifting some unknown and undefined functions across the stream to Lot 1.02 with no description of what functions would be shifted and those that might be abandoned. He added that there did not seem to state how big the building was, how much parking there is and where the traffic is going.
227. Mr. Lanfrit then opened a discussion about Mr. Steck's opinion that the site was not particularly suited for a warehouse. He asked Mr. Steck if he had reviewed the BOARD's decision regarding the IDIL Application just next door, with Mr. Steck answering in the affirmative. A discussion ensued related to the decision by the governing body to vacate Executive Drive as part of upcoming decisions, with the BOARD relying upon that thought process to approve the IDIL Application.
228. Mr. Lanfrit opened a discussion regarding the proposed warehouse development having no impact on Lot 2.01, with no improvements. Mr. Steck agreed with that statement for the warehouse project, but stated he anticipated the bridge replacement over the stream on that lot. He added that there was no description or testimony to describe what uses would be moving from the Cultural Center to Lot 2.01. They then discussed the small parking lot for the Social Center and for the Church.
229. Vice Chair Shepherd then asked what the Social Building houses on Lot 2.01 and Mr. Steck stated that there was no testimony regarding that just that some functions might be moved there from the Cultural Center.
230. Mr. Steck indicated that the Applicant was saying that there were three (3) different applications, the subdivision cannot be separated from the "d(2)" church application because you need that due to the subdivision. He then stated that, in his opinion, none of the applications warrant approval. He stated that he believed that the use variance for the warehouse should be denied and, if it were denied, the Cultural Center did not have to be demolished. Mr. Steck stated that one of themes of the Medici case was that the municipality kept on giving variances for hotels and the Court said, although you are granting subsequent variances for hotels, the fact that the governing body had not changed the ordinance to permit hotels was important and was the basis for saying there is an enhanced burden of proof to grant approvals.
231. Mr. Steck then stated that the impervious coverage was being increased substantially to more than there is today.
232. Mr. MacArthur asked if Medici stated that the applicant had to prove a substantial impairment to the Re-examination Plan or to the Master Plan. Mr. Steck stated that the Medici Case referred to the traditional negative criteria in the MLUL and says that no detriment to the zone plan, with the zone plan being the Master Plan and not the Re-examination report.

233. Mr. Lanfrit then asked if the Cultural Center could be demolished even if the warehouse does not get approved. Mr. Steck stated that the Applicant needed certain municipal approvals and Historic Preservation approvals to demolish the Cultural Center, which were all procedural approvals. Mr. Steck then indicated that the Historic Commission had already given approval to knock down the Cultural Center.
234. Mr. Lanfrit asked Mr. Steck if the warehouse building meets the impervious coverage for the zone. Mr. Steck answered in the affirmative.
235. Mr. MacArthur then asked Mr. Steck whether impervious coverage have an effect on light, air and open space. Mr. Steck answered in the affirmative. They then discussed paying into the Tree Fund instead of planting on site and how that would help the negative criteria, i.e., buffering issues.
236. Mr. Steck stated that he was not advocating for the Cultural Center to be demolished, but he stated that the Applicant had not adequately explained how the core functions of the church were going to be maintained on a lot substantially reduced in size.
237. Chairman Thomas then opened the meeting to the public.
238. Ms. Valeria Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward and was sworn in. Ms. Varnichenko asked if the Environmental Commission approved the project and Mr. Healey stated that they do not have approval authority. Mr. Healey did state that they did issue a report and the report is advisory to the BOARD.
239. Ms. Varnichenko asked Mr. Steck whether he reviewed the project with regards to the possibility of a proposed warehouse being used as a data center. Mr. Healey answered the question, stating that warehouses and data centers were different uses under the Township's ordinances. A discussion ensued regarding the different uses in the B-I Zone, with a concern that a warehouse could be converted to a data center. Mr. Healey explained that they could not build a data center because that is not what they applied for.
240. Mr. Vsevolod Myrnyi, 2833 Harway Avenue, Brooklyn, NY 11214, came forward. Mr. Myrnyi asked Mr. Steck if this might be a way from the warehouse to become a data center. Mr. Steck stated that the Applicant was not requesting approval for a data center and the Application was for a warehouse. He added that his experience is that the property was too small for a data center.
241. Mr. Bogdan Jasinski, One Operative Court, Morganville, NJ, came forward and was sworn in. Mr. Jasinski started to explain what the Cultural Center is and what it stood for. Chairman Thomas stated that the activities in the Cultural Center and if they keep any of them or are moved to another building was not relevant to the decision-making for a Use Variance before the BOARD.

242. Mr. Lanfrit stated that even though the people at the meetings are referred to as members of the congregation or parishioners, he wanted it on the record to say that none of the people here are members of the congregation of this church.
243. Mr. Jasinski indicated that his experience with the Cultural Center went back to 1976/77, with his children attending school there in the 1980's, as well as his grandchildren until very recently. Children were schooled there until the priests decided to eliminate the education component. He also stated that the Cultural Center had been driven to a dilapidated condition and thought it might have been intentional. He stated that he had met with Bishop Daniel who said they had no money to fix it. Mr. Jasinski offered to organize the fundraising of money and he agreed to talk about it, but the meeting never happened. He also spoke to Bishop Anthony who shut down any conversation and said that it was church business.
244. Mr. Jasinski then detailed the type of events and activities that occur at the center to include festivals, christenings, weddings, All Saints Day, ethnic food, crafts, sales, etc. He added that there were about 10-12 classrooms for schools of culture, language, dancing, music, history, etc., storage of artifacts, library, etc. Mr. Bernstein stated that Mr. Jasinski was not qualified to compare the spaces between the Cultural Center and the other buildings to show that these activities would not be able to be accommodated in the smaller space. Mr. Jasinski indicated that he had pictures that had been taken at various events in the Cultural Center. Mr. Jasinski had photos of the exterior of the building showing that the building was not in disrepair.
245. Mr. MacArthur was discussing with the Chairman that Mr. Jasinski's testimony was important to the hearing but Mr. Jasinski had no professional qualifications to testify what was beyond his earlier testimony.
246. Chairman Thomas opened the meeting to the public. Seeing no one come forward, they closed the meeting to the public.
247. The BOARD and Applicant/Objector's attorneys all agreed to carry the hearing to June 18, 2026, with no further notification required.
248. At the hearing held on June 18, 2026, Chairman Thomas stated that the applications were at the point where the hearing would be opened for public discussion and there would be closing statements.
249. Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC, stated that he had reviewed additional staff reports that were issued from Mr. Healey, dated June 11, 2026, and from the municipal engineer, dated June 11, 2026, with his client and professionals and indicated that the Applicants would comply with everything contained in those reports and that they did not intend to call any witnesses.

250. Peter MacArthur, Esq. from Peter MacArthur Law, 75 Lane Road, Suite 204, Fairfield, New Jersey also placed his appearance on the record on behalf of the objectors, Svitanok NYC.
251. Mr. Bernstein indicated that all BOARD members who were on the dais were eligible to participate and vote on all three (3) applications.
252. The hearing was then opened to the public.
253. Vadym Nazarchuk, 16 Dortmunder Drive, Manalapan, New Jersey, raised two (2) issues as follows: (1) the application does not explain what is going to happen between new facility and remaining seminary building with respect to the shared parking; and, (2) that new warehouse facility is very close to existing remaining seminary building.
254. Jim Johnston at 34 Norwich Place, Somerset, New Jersey, had one (1) question, whether the warehouse could ever be used as a data center. Vice Chair Shepard and Chairman Thomas indicated that the Applicant would have to come back before the BOARD with a new application if that was to be the case.
255. The public comment portion of the hearing was then closed.
256. Mr. MacArthur and Mr. Lanfrit both gave their closing summations.
257. Vice Chair Shepherd made a motion to grant the “d(2)” use variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels, at 135 Davidson Avenue, Somerset, Block 469, Lot 1.06 in the B-I Zone. Mr. Rich seconded the motion.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN the BOARD makes the following findings of fact and conclusions of law:

1. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70d, provides the BOARD with the power, in particular cases for special reasons, to grant a variance to allow departure from zoning regulations when the applicant satisfies certain proofs, which are enunciated in the statute. N.J.S.A. 40:55D-70d(2) permits the BOARD to grant a variance to permit the expansion of a non-conforming use. A “d” variance may be granted only “in particular cases for special reasons.” These “special reasons” for a use variance may include: (1) a use that is inherently beneficial; (2) an undue hardship that would be suffered by the property owner if forced to use the property in conformance with the permitted uses in the zone; or, (3) a site that is particularly suited for a proposed use so as to promote the general welfare. This is the “positive criteria”.
2. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. These are the negative

- criteria. An “enhanced quality of proof” is required for a “d(1)” variance to be granted, in accordance with Medici v. BPR Co., 107 N.J. 1 (1987), which requires a showing that the “grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance.”
3. An applicant seeking a “d” variance must also address the “negative criteria” associated with the proposal and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and the zoning ordinance” of the Township.
 4. It is only in those instances when an applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the applicant to establish these criteria.
 5. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c, also provides the BOARD with the power to grant variances from strict bulk and other non-use related issues when the Applicant satisfies certain proofs which are enunciated in the statute. Specifically, an Applicant may be entitled to relief if this specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic or physical features exist that uniquely affect a specific piece of property. Further, the applicant may also provide evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Code would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Those categories specifically enumerated above constitute the positive criteria necessary in order to obtain “bulk” or “c” variance relief.
 6. Moreover, the Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c(2), further provides the BOARD with the power to grant variances based on whether the Applicant’s proofs advance the purposed of the MLUL by the deviation from the zoning ordinance requirements and if the benefits of the deviation from the zoning ordinance requirements substantially outweigh any detriment.
 7. In addition, the Applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. See Jacoby v Englewood Cliffs Zon. Bd. Of Adjustment, 442 N.J. Super. 450, 471 (App. Div. 2015). This is the negative criteria. It is only in those instances when an applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the Applicant to establish these criteria.
 8. After a full review of the record evidence, presentation of testimony and public comment, the BOARD finds the strict application of the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the Applicant. The Applicant has also satisfied its burden of proof establishing

that the positive criteria for granting the variance relief outweighs the negative criteria. The BOARD finds the required variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Township Zoning Code.

9. The BOARD finds that the Applicant's request to expand an existing pre-existing non-conforming use by subdividing the current property upon which the Church occupies can be subdivided into two (2) properties, one approximately fifteen (15) acres that will continue to contain the Church and its facilities and a second (2nd) property of almost eighteen (18) acres which could be used for a possible warehouse project and the approval of a minor subdivision to provide for such two (2) new parcels.
10. The BOARD finds the testimony of Josh Zemon, a representative of the warehouse developer, to be credible, persuasive and uncontroverted.
11. The BOARD finds the testimony of David Lonski, Esq., an attorney who represents the church, to be credible, persuasive and uncontroverted.
12. The BOARD finds the testimony of Daniel Miola, PE, a licensed professional engineer to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that what is being proposed for the church property and what is being proposed for the warehouse property meets the ordinance requirements and that the warehouse development will not impact surrounding residential uses.
13. The BOARD finds the testimony of Alan Lothian, PE, a licensed professional traffic engineer, to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that there would not be any negative traffic impact from the proposed development.
14. The BOARD finds the testimony of Sean Moronski, PP, a licensed professional planner to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that the development of the Site would serve various purposes of the Municipal Land Use Law, that the Site is particularly suited to the proposed use and could accommodate the project, that the benefits outweighed any detriments, that there would be no substantial detriment to the public good and that there would be no detriment to the zoning ordinance or zone plan.
15. The BOARD finds the testimony of Peter Steck, PP, a licensed professional planner who testified on behalf objectors, Svitanok NYC, **not** to be credible, persuasive and uncontroverted regarding the suitability of the Site for the Application in question.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment on the 24th day of September, 2026, on the basis of the evidence and testimony presented, the BOARD does hereby grant Minor Subdivision approval and a d(2) variance to subdivide the existing lot into two (2) new parcels, subject to the following conditions:

1. The granting of this relief shall not be construed or eliminate the satisfaction of any other requirements of the zoning ordinance or requirements of the agencies, boards, or authorities of the Township of Franklin, County of Somerset or State of New Jersey.
2. The BOARD specifically grants approval to the latest set of application materials submitted by the Applicant.
3. The Applicant shall comply with any recommendations made reports of Township staff, consultants, and/or in any reports from the Boards/Commissions who have sent recommendations, except waived or modified herein.
4. The filing of a subdivision deed or plat approved by the BOARD's Attorney and the BOARD's Engineer.
5. The Applicant shall obtain all other applicable permits and approvals from all applicable governmental boards and agencies prior to any construction.
6. This approval is subject to the Applicant's continuing obligation to pay all professional fees generated by this application prior to issuance of a building permit and/or the issuance of the Certificate of Occupancy, as applicable.
7. Any ambiguities regarding the interpretation of this Resolution shall be resolved by the BOARD upon due notice to the public.

CHRISTINE WOODBURY
Board Secretary

**VOTE ON MOTION: 06/18/2026
FOR:**

Chairman Robert Thomas
Vice Chair Robert Shepard
Cheryl Bethea
Richard Procanik
Vaseem Firdaus
Alan Rich
Gary Rosenthal

**AGAINST:
NONE**

**ABSTENTIONS:
NONE**

**VOTE ON RESOLUTION: 09/24/2026
FOR:**

AGAINST:

ABSTENTIONS:

**THE TOWNSHIP OF FRANKLIN BOARD OF ADJUSTMENT
SOMERSET COUNTY, NEW JERSEY
SYRACUSE 1950 EASTON AVENUE OWNER, LLC (ZBA-25-00009)
135 DAVIDSON AVENUE**

WHEREAS, SYRACUSE 1950 EASTON AVENUE OWNER, LLC (hereinafter referred to as “Applicant”), being the contract purchaser of the property located at 135 Davidson Avenue, in the Township of Franklin, County of Somerset, State of New Jersey, said premises also being known as Block 469, Lot 1.06 (hereinafter referred to as the “Site” or the “Property”) as is indicated on the Tax Assessment Map for the Township of Franklin (hereinafter referred to as the “Township”), has applied to the Township of Franklin Board of Adjustment (hereinafter referred to as the “BOARD”) seeking a “d(1)” use variance, Preliminary & Final Site Plan approval with associated “c” variances to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse on the Site.

WHEREAS, Applicant submitted an application packet with attachments, which were considered by BOARD, which included the following:

1. Application packet for variance relief, signed by the Applicant, dated January 28, 2025, consisting of eight (8) pages;
2. Application packet for site plan approval, signed by the Applicant, dated January 28, 2025, consisting of seven (7) pages;
3. Preliminary and Final Major Site Plan, prepared by Langan Engineering NJ, LLC, last revised July 18, 2025, consisting of thirty (30) sheets;
4. Survey, prepared by Langan Engineering NJ, LLC, last revised November 24, 2024, consisting of six (6) sheets;
5. Environmental Assessment, prepared by Langan Engineering NJ, LLC, last revised July 31, 2025, consisting of eighty-seven (87) pages;
6. Final Geotechnical Engineering Study Report, prepared by Langan Engineering NJ, LLC, dated January 10, 2025, consisting of one hundred and ninety (190) pages;
7. Stormwater Management Facilities Operation and Maintenance Manual, prepared by Langan Engineering NJ, LLC, dated January 17, 2025, consisting of twenty-seven (27) pages;
8. Stormwater Management Report, prepared by Langan Engineering NJ, LLC, last revised July 18, 2025, consisting of thirty-eight (38) pages;
9. Environmental Assessment, prepared by Langan Engineering NJ, LLC, dated January 17, 2025, last revised July 31, 2025, consisting of eighty-seven (87) pages;

10. Traffic Impact Study, prepared by Langan Engineering NJ, LLC, last revised July 23, 2025, consisting of ninety-five (95) pages;
11. Intersection and Traffic Signal Improvements Plan, prepared by Langan Engineering NJ, LLC, last revised July 23, 2025, consisting of nineteen (19) sheets; and,
12. Architectural drawings, prepared by Nelco Architecture, Inc., dated January 8, 2025 and January 15, 2025, consisting of two (2) sheets.

WHEREAS, the Township officials and outside agencies submitted memos, which were considered by BOARD, which included the following:

1. Memorandum from Mark Healey, PP, Township Director of Planning/Senior Zoning Officer, dated August 15, 2025, consisting of ten (10) pages;
2. Memorandum from Darren Mazzei, PE, CME, Township Engineer, Center State Engineering, dated September 11, 2025, consisting of nine (9) pages;
3. Memorandum from Officer Ryan Ellington, Franklin Township Police, Traffic Safety Bureau, dated September 22, 2025, consisting of one (1) page;
4. Memorandum, from John Hauss, Township Fire Prevention Director, dated August 25, 2025, consisting of one (1) page;
5. Memorandum from Rashida Boima, REHS, MPH, Township Department of Health, dated September 2, 2025, consisting of one (1) page;
6. Memorandum from Tara Kenyon, AICP/PP, Sustainability Coordinator, Township Environmental Commission, dated April 8, 2025, consisting of two (1) page; and,
7. Memorandum from William E. Korosec, PE, Consulting Engineer, Franklin Township Sewerage Authority, dated May 8, 2025, consisting of two (2) pages.

WHEREAS, the Applicant introduced, and the BOARD admitted, various Exhibits as follows:

- a. A-1 – Slide Presentation (September 18, 2025 hearing).
- b. A-2 – Subdivision Plat, last revised 1/23/25 (September 18, 2025 hearing).
- c. A-3 – Minor Subdivision Plot, Drawing No. CB-102, submitted as part of the subdivision application (November 6, 2025 hearing).
- d. A-4 – Colorized Site Plan Rendering submitted with warehouse application (Application No. ZBA-25-00009) (November 6, 2025 hearing).

- e. A-1 – Site Plan Drawings, prepared by Langan Engineering NJ, LLC, dated March 5, 2026 (March 5, 2026 hearing).
- f. A-2 – Architectural Elevations and Building Façade Details, prepared by NELSON, dated March 5, 2026 (March 5, 2026 hearing).
- g. A-3 – Colorized Creation Parcel Site Plan Rendering depicting proposed warehouse layout, parking, loading areas, landscaping, and lot lines, dated March 5, 2026 (March 5, 2026 hearing).
- h. A-1 – Ordinance No. 4501-26 Releasing, Extinguishing and Vacating a Portion of Executive Drive (May 7, 2026 hearing).

WHEREAS, at the conclusion of the hearing, the Applicant seeks variance relief from the Township’s Code as follows:

- 1. Section 112, Schedule 1 – To permit a warehouse facility in the Business and Industry (B-I) Zone, where such use is not permitted.
- 2. Section 112-104A – To permit a loading area depth of one hundred and thirty (130) feet, where one hundred and forty-seven (147) feet is required.
- 3. Section 112-102G – To permit a truck driveway width of sixty-six (66) feet, where a maximum of thirty-six (36) feet is permitted.
- 4. Section 112-102I – To permit a loading area in the front yard setback area, where none is permitted.

WHEREAS, the BOARD determined it had jurisdiction and upon due notice as required by law, public hearings were conducted on September 18, 2025, November 6, 2025, March 5, 2026, May 7, 2026 and June 18, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN, the BOARD hereby makes the following findings of fact:

- 1. The Site is located in the Business & Industry (B-I) Zoning District.
- 2. Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC. The overall project site is the subject of three (3) related applications, as follows: ZBA-25-00007, in which the Applicant is seeking a “d(2)” variance and Preliminary & Final Site Plan approval with respect to site modifications associated with the retention of certain existing (church, library, museum, seminary, and other church related uses) facilities on the Site; ZBA-25-00008, in which the Applicant seeks a “d(2)” variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels; and, ZBA-25-00009, an application on behalf of Syracuse 1950 Easton Avenue Owner,

LLC, in which the Applicant is seeking a “d(1)” use variance, Preliminary & Final Site Plan with associated “c” variances to build a 258,150 square foot warehouse.

3. Mr. Lanfrit asked that the witnesses that were involved in all three (3) applications be able to provide overarching testimony as to the project. Mr. Bernstein, BOARD Attorney, indicated that they may not have to come up three (3) times, but they were going to have to be clearly separated between which application was which because each one of these applications was different and not just one (1) big application – it was a series of applications. He then indicated that the testimony could be taken all at once, but the BOARD was ultimately going to have to decide and end up breaking up some of this as it hears it based upon what their questions are and what the public has to say. Mr. Lanfrit stated that they would need separate resolutions for each application because he thought it would be in the best interest of both the BOARD and the applicants that there were separate resolutions for the church and for the warehouse, as well as a separate resolution for the subdivision.
4. Mr. Bernstein then asked if anyone in the chamber asked to speak on behalf of a group of individuals in the public, either as legal counsel or as a designated spokesperson. He explained that if anyone was obtaining that status, that would preclude other members of the public upon who you are representing from coming up and speaking, either in a cross-examination situation or at the end of the application.
5. Vice Chair Shepherd then indicated that he was listening about the three (3) witnesses that would be providing overarching testimony. He added that his concern was that after they provided their testimony, there may be issues that come up later which would require additional information from them. He went on further to state that he would want to be sure that those witnesses, even after they testify, would remain available throughout however long it takes. Mr. Lanfrit assured the Vice Chair that every witness who gave testimony that evening would also be available at the next hearing should the matter be carried to another hearing.
6. Mr. Alexander Tiran came to the podium and asked if he could respectfully raise procedural questions before the testimony begins. He stated that he was just representing himself. Mr. Bernstein, BOARD Attorney, stated that he could not at this point.
7. Mr. Lanfrit then stated that they were there that evening to present testimony on three (3) separate applications. He indicated that there was an application before the BOARD to subdivide the parcel of land that was currently owned by the church that consisted of 32 acres. He noted that the subdivision that they were seeking approval for was to create a fourteen point nine (14.9) acre parcel to be retained by the church and a seventeen point seven (17.7) acre parcel which would be used for the construction of the warehouse. He then told the BOARD that the subdivision was a conforming subdivision and met all of the requirements of the zoning code and is an “as of right” subdivision with respect to the bulk requirements of the zone. Mr. Lanfrit added that they were also seeking a d(2) variance with respect to the lot containing the existing

church and a d(1) Use Variance for the proposed warehouse. He reminded the BOARD and the public that warehouses were a permitted use in the B-I Zone, but then they were removed from the B-I Zone and may be back in the B-I Zone before these hearings conclude. He then stated that they were also seeking a “d(2)” Variance for the church because when the church conveyed off land, the land that they were going to convey to the warehouse, it is technically called an expansion of a non-conforming use because the church right now is a non-conforming use in the B-I Zone.

8. Vice Chair Shepherd then asked how the church could have an expansion of a non-conforming use if they were reducing the size of their property. Mr. Lanfrit explained that because the church right now was a non-conforming use in the B-I Zone, the church is on thirty two (32) acres and would be on fourteen (14) acres if the subdivision was granted. He added that the church was functioning on thirty two (32) acres and would now be functioning on fourteen (14) acres, so the same activities would be functioning on fourteen (14) acres and, technically, on the fourteen (14) acres the potential use was more intense, which triggers the need for a D(2) variance (expansion of a non-conforming use).
9. Mr. Lanfrit then indicated that, lastly, they were before the BOARD for Preliminary and Final Site Plan approvals for both the church site and the warehouse. He added that the church site had certain modifications, which included reconfiguration of the parking and some stormwater management. Mr. Lanfrit indicated that there were no structures being proposed on the church site. They were also seeking Preliminary and Final Site Plan approval for the warehouse; however, with both applications they received staff reports from the Township Engineer, Mr. Darren Mazzei, who had some concerns that they needed more information regarding stormwater management, which he stated they were in the process of obtaining and providing. Because they did not have all of that information, they would be requesting only a Preliminary Site Plan approval for both the church and the warehouse and coming back for a Final Site Plan approval after they provided the storm water management to the Township Engineer. Mr. Mazzei stated that he agreed with that process.
10. Mr. Bernstein interjected by saying that there may be other reasons for it not to be granted a Final Site Plan approval above and beyond the stormwater management issue. Mr. Mazzei agreed with that statement.
11. Mr. Lanfrit then indicated that all of the applications were presented to the Franklin Township Historic Commission and the Historic Commission conducted three (3) hearings on these applications. He added that they reviewed the subdivision, they reviewed both site plans and had requested some changes to the plans which Applicant made. Additionally, Mr. Lanfrit stated that all three (3) of the applications were approved and the Historic Commission granted approval for the demolition of the cultural center, which was on the site where the warehouse was going to be constructed. Since the property was within 1,000 ft. of the Delaware & Raritan Canal, you have to go to the Historic Commission before you can get approval to demolish something and they have already done so and the approval had been obtained. He added that all three

- (3) applications had been submitted to the Delaware & Raritan Canal Commission (DRCC) and have all been reviewed by them and have found no fault with the applications and were just waiting for the municipal approval and County approval which were required before they can formally approve the application.
12. Mr. Bernstein explained that he didn't want to leave the public the wrong assumption here. He explained that the demolition issue is not an issue before the BOARD, irrespective of where it exists, and Mr. Lanfrit concurred. Mr. Bernstein went on to state that the granting of a demolition permit by the Historic Preservation Commission would not be an issue before this BOARD, irrespective of the application. Mr. Lanfrit agreed that the BOARD did not have any jurisdiction over demolition. Mr. Bernstein added that the Historic Preservation Commission deals with historic preservation. Any approvals or any consents granted by the Commission were not binding on the BOARD. Mr. Lanfrit concurred with that statement, and Mr. Bernstein went on to state that anything that the Commission did relate either to the applications before this BOARD or to the demolition permit do not affect the BOARD's hearing of the application in its totality, except that the BOARD had no jurisdiction over demolition. So, Mr. Bernstein concluded by stating that if a demolition were to occur, irrespective of any other application, it was immaterial to the one before the BOARD. Mr. Lanfrit concurred.
 13. In conjunction with the application, Mr. Lanfrit stated that one (1) of the sites was affected by Buckeye Pipeline and they were aware of the application and they had worked through them and indicated that they have no issues.
 14. Lastly, Mr. Lanfrit stated that the BOARD had heard an application about a month ago called IDIL, which was a warehouse on Davidson Avenue just to the south of the subject property and adjacent to the subject property, except for Executive Drive. He added that, in the IDIL application which the BOARD approved, they recommended to the Township Council that Executive Drive be vacated, but wanted the BOARD to know that their plans do not show that because the road has not yet been vacated. He then told the BOARD that they had been in discussions with IDI Logistics and that they were in accord with the vacation of Executive Drive. He added that should the project be approved, they would also apply and join in applying with IDIL to the Council for the vacation of Executive Drive. Mr. Lanfrit then noted that if that road were vacated, there were two (2) variances that they were seeking that would disappear. Mr. Bernstein reminded Mr. Lanfrit that they still had to apply for the variances at that time since the road has not been vacated yet.
 15. Mr. Lanfrit indicated that they had a slide presentation prepared that involved all three (3) applications. He, therefore, would like to mark the handout of the slide presentation as Exhibit A-1 for all three (3) applications. Mr. Lanfrit then left a copy of the slide presentation at the public podium.
 16. Mr. Josh Zemon, Principal & Chief Investment Officer of Creation Equity testified for their project, called Somerset Exchange, one of the Applicants involved in the project.

He indicated that his company had contracted to purchase the seventeen (17) acres from the church should the applications be approved. Mr. Zemon then told the BOARD that Creation Equity was a real estate investment and development company. He described the fact that they had forty (40) projects across the country and that they focus almost exclusively on ground up development of logistics projects and retail and mixed-use projects. He then noted that the subject project would be their fourth (4th) in the NY/NJ metropolitan area over the last five (5) years. Mr. Zemon wanted the BOARD to know that they were passionate about architecture, design and placemaking for all of their projects. He showed pictures of several of their projects, stating that their projects do not look like traditional warehouses. He highlighted their most recent project in New Jersey, called McClellan One, located in Newark, NJ. He noted that they had been working with the Ukrainian Church over the past two (2) years and was transformative for their organization as they needed to revitalize their campus and desperately want to remain in Franklin Township where they have been for the past seventy five (75) years. Mr. Zemon stated that the location of the subject property at Route 287 and Davidson Avenue provided excellent access and visibility to potential corporate users without impacting any residential areas and would complement surrounding businesses, including the IDIL project that would be developed immediately south of us. Mr. Zemon stated that the packet of slides that were also being shown on the screen was prepared by his company, dated September 16, 2025, and included photographs of his company's facilities and accurately represented the other facilities that his company owns. Mr. Zemon added that the rest of the document showed site plans and pictures of the church, which were obtained by himself from their Site Engineer and were incorporated into the package.

17. Vice Chair Shepherd then asked Mr. Zemon if they had a tenant for the property or was the project going to be built on speculation and he responded that they would be developing the project on speculation.
18. Mr. Healey then asked if the project was being developed for one (1) or more tenants. Mr. Zemon indicated that the building was designed to be broken up into multiple tenants within the approximately 258,000 sq. ft. building and could be broken down into 40,000 to 50,000 sq. ft. areas. He added that he had also designed multiple office entries to allow for the building to split.
19. The Vice Chair then asked if it was going to be a one (1) story building. Mr. Zemon testified that it was thirty six (36) ft. clear and forty to forty two (40-42) ft. to the top of the roof. He then added that they would clarify that information with their Engineer.
20. Mr. Lakhia then asked what type of clientele they were hoping to attract. Mr. Zemon stated that their buildings appealed to a wide range of potential uses, i.e., traditional logistics, distribution and warehousing. He then added that the prospective building size was a little small for that type of use, so they envisioned 50,000 to 100,000 sq. ft. tenants that have some component of warehousing distribution, some component of light manufacturing and some component of office or retail showroom which was why the building was designed to be broken down into smaller tenant use.

21. Chairman Thomas then made a motion to open the meeting to the public. He told the public that this session was their opportunity to ask the witness questions based upon the testimony that was just given. He reiterated that it was not time to make a statement or tell the BOARD what they like or do not like about the project.
22. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked, based upon NJ Statute 40:55D-10B, if any relevant documentation for the hearings should be presented to the public ten (10) days in advance, at least, and it was clearly not presented to the public prior to the hearing and it did impact the decision of the BOARD. He then respectfully requested that the matter be carried to allow for public review. Mr. Lanfrit responded by stating that the relevant parts of this exhibit that include the pictures of the church, the site plan of the warehouse, were all colorized versions of what was filed with the Township and was on public record. He added that the only thing that was included that was in addition to that was some background information concerning the Applicant and the Applicant's business. Mr. Lanfrit added that he did not think that it was relevant to the Application itself, and he thought that the BOARD could accept, and had in the past accepted, exhibits on the night of a hearing. Mr. Bernstein added that the exhibit was marked for identification, it was not in evidence, and he indicated that they would have to see what other evidence came in as to what the impact of Exhibit A-1 was relative to. He noted his recollection of N.J.S.A. 40:55D-10B is that it addressed more the issue of professional testimony, i.e., engineering, planning, architecture, etc. rather than, with respect to Mr. Zemon, a PR piece that was ostensibly here to tell the BOARD and public why his company's project should ultimately be approved.
23. Mr. Turon then asked if Mr. Zemon, or the people he represents, conducted a study with the local Ukrainian community on the relevance of building this warehouse given that the larger complex issue that has just been presented and whether the public has been asked about their opinions. Mr. Bernstein stated that Mr. Zemon testified to a proposed Application for the possibility of approval and was why the public was in the chambers to ask questions regarding the Application. That being said, he added that it was not a public opinion situation - land use Board applications, whether it is the Zoning Board, the Planning Board, or the Land Use Board, were not based on what the neighbors believe, think or feel but based on what was provided to the BOARD and whether it met the criteria of the Municipal Land Use Law (MLUL).
24. Mr. Turon then asked if the Applicant had filed proof of service for a 200-foot owner/agency notice to the governing body. Mr. Lanfrit then stated that they had served all property owners within 200 ft., have also published in the newspaper and provided proof of same to the Township. He then asked that the submission of the presentation from Mr. Zemon would not impact the decision of the BOARD given that the public was not presented it prior to the hearing. Mr. Bernstein then indicated that he would advise the BOARD that at that time, Exhibit A-1 had been provided for the purposes of a background of the proposed Applicant relative to other projects that they have done outside of the Township. He stated that he assumed that Mr. Lanfrit would

- have other witnesses who were going to testify as to what was being produced or proposed to be produced here at the meeting. Mr. Lanfrit concurred.
25. Ms. Svitlana Malovana, 42 East 5th Street, Brooklyn, NY, came forward. Ms. Malovana asked if there was or was not a detailed report about risk of flooding and about a storm water management system to address that concern. Mr. Lanfrit stated that they had submitted a storm water report as part of their plan and was reviewed by the Township Engineer, Mr. Mazzei. He added that it was an extensive report and also reviewed by the Delaware & Raritan Canal Commission (DRCC) and the NJDEP and they found no issue with it. He added that it had not been approved as yet, because it was not the time yet to do so, but Mr. Mazzei had asked for some additional information. Mr. Lanfrit then stated that they were in the process of getting that information and providing it to him, and the project Engineer would testify as to his opinion as to whether there were any storm water issues when he came up to testify.
 26. Chairman Thomas stepped in to state that Mr. Zemon's testimony was basically a preliminary summary of the project. He told Ms. Malovana that her questions were to be related to Mr. Zemon's testimony, which was not about stormwater.
 27. Mr. Kovalev, 25 West Price Street, Linden, NJ, came forward. Mr. Kovalev asked if Mr. Zemon asked the right person because there was a big difference between churches and the Ukrainian Orthodox Church. Chairman Thomas stopped Mr. Kovalev's line of questioning because it was not related to Mr. Zemon's testimony. Mr. Bernstein explained the process of notifying neighbors of the subject property within 200 ft. and that individual parishioners or members of a house of worship were not the owners of record for purposes of providing the 200 ft. notice as the law required. It was simply that entity (Ukrainian Orthodox Church) which was recognized by the municipality on the tax records as the property owner.
 28. Mr. Kovalev then stated that the Ukrainian Orthodox Church recently changed jurisdiction, originally UAPC and now was UPC so the Archbishop now is like a Turkish jurisdiction. Mr. Bernstein stated that whether the church changed their name, the Ukrainian Church of U.S.A. is the listed entity on the Application. He told Mr. Kovalev that if they changed names or entities there was a separate issue that he could raise at a later point during these proceedings. For purposes of Mr. Zemon's testimony, Mr. Bernstein told Mr. Kovalev that his questioning did not address that testimony, which was what they were allowing public questions at that time.
 29. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. She referred to the images in Mr. Zemon's slide presentation, noting that the building looks like an office building and only has automobiles shown parked there. Mr. Lanfrit stated that they would present testimony to the site plan which would show the car parking, truck parking and how the property would be used with a later witness' testimony.

30. Mr. Healey then suggested that Mr. Lanfrit explain to the public the witnesses they would be presenting and what they were going to speak about so that members of the public might understand who to ask their questions of.
31. Mr. Lanfrit told the public that he intended to call Archbishop Anthony and a Site Engineer who prepared the site plan for both the church and the warehouse and will testify as to what the warehouse facility would look like to include parking, lighting, drainage, etc. He would also testify to the changes that would be made to the church lot. He then indicated that he had a licensed Architect who would describe the building, both inside and outside, that was proposed to be constructed. He added that he would also have a Traffic Consultant who would present traffic testimony as well as a parking analysis as to the adequacy of parking. Lastly, he stated that a Planner would be testifying as to the variances that they were seeking.
32. Ms. Pylypovyc then asked Mr. Zemon why they were looking at images of warehouse buildings that were not representative of the project and what you would be offering to the Township. Mr. Zemon stated that the image shown was on the side of the building that would be facing the church property and the office front of the property. That portion of the building is in a darker color with lots of glass and was the area where the office entries would be along the length of the building and where the car parking for the employees would be. He noted that that was a representative image of what they were proposing. She then asked which side of the building would be facing the church, to the right or to the left, and Mr. Zemon indicated that the church would be to the right of the side of the building that was being shown.
33. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away their project was away from the St. Andrew Cemetery. Mr. Zemon indicated that their Civil Engineer would testify to that. Mr. Wolk indicated that there was a restriction of 1,000 ft. from a historical place.
34. Ms. Jana Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward. Ms. Varnichenko asked why Mr. Zemon's company wanted to build in Franklin Township and why specifically that plot of land. Mr. Zemon responded by saying that it was a great community, very diverse and a great labor base and was very well located in the State of New Jersey with access to all the major freeways in the area including the New Jersey Turnpike and I287. He then spoke to the choice of land parcel, noting its inclusion in the Business & Industry (B-I) Zone, with Davidson Avenue being a business core. He added that they started working with the Ukrainian Orthodox Church over two (2) years ago and that it was really a collaboration between the two (2) organizations. Mr. Zemon then stated it was never their intention to buy the entire parcel and demolish the church to put up a larger building, but to subdivide the property and build a smaller building for their company to ultimately provide the sums necessary to provide the Ukrainian Orthodox Church through a transaction for them to rehabilitate their facilities, which included a to be built museum and a seminary that was on-site today. He stated that Archbishop Anthony would testify to all of that though. He then

discussed the extensive dialogue that his company has had with the Ukrainian Orthodox Church on the project, being sensitive to their needs.

35. Mr. Bagen Jasinski, One Upton Court, Morganville, NJ, came forward. Mr. Jasinski again asked why the Applicant chose the property to build a warehouse and displace people in the Ukrainian Orthodox Church.
36. Mr. Michael Werthmuller, 5 Pollbrook Road, Jackson, NJ, came forward. Mr. Werthmuller asked how long they were prepared to fund the project before they got a tenant for it and Mr. Zemon stated that they were prepared to fund the project for as long as it took to obtain a tenant(s).
37. Mr. Alexander Lazurka, 2536 Bush Street, East Meadow, New York, came forward. Mr. Lazurka asked for financial liquidity and Mr. Zemon's company's ability to complete the project and his previous experiences. Mr. Zemon indicated that they have completed every project they have started in the past five (5) years he has worked with the company.
38. Seeing no one further coming forward, the meeting was closed to the public by Chairman Thomas.
39. Mr. Daniel Miola, Civil Engineer, employed by Langan Engineering and Environmental Services, LLC, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials.
40. Mr. Miola testified that his firm prepared the subdivision plan that was before the BOARD that evening, as well as the site plans that were going to be heard, under his direction. Mr. Miola then described to the BOARD the property that was being subdivided in its current state. He pulled up the subdivision plat that was submitted to the Township in connection with the subdivision Application. The subdivision plat was marked into evidence as Exhibit A-2, prepared by Langan Engineering by a professional and licensed surveyor within Langan Engineering (Tom Reeves), dated October 23, 2024 and last revised January 23, 2025.
41. Mr. Miola indicated that the tract of land included one (1) lot with a total of thirty two point sixty (32.60) acres. He added that they were proposing to subdivide this lot into two (2) lots. The first lot he spoke about was the northerly lot and would have frontage on both Easton Avenue and Davidson Avenue and was called proposed Lot 1.09 with approximately fourteen point nine (14.9) acres. He noted that the second lot that he was referring to was the southern lot and proposed as Lot 1.08. He noted that it would encompass approximately seventeen point seven (17.7) acres and would have frontage on Davidson Avenue and Executive Drive that bordered the southern lot. Mr. Miola noted that the minimum lot size in the zone was two (2) acres so both lots exceed the minimum lot size of the zone. He then told the BOARD that the minimum frontage size in the zone was one hundred fifty (150) ft. and both lots met the requirements of the zone on Easton Avenue, Davidson Avenue and Executive Drive. He stated that the

- two (2) lots were fully conforming with all bulk requirements, including lot area, lot frontage, building setbacks, lot coverage, and floor area ratio as well as impervious coverage. He told the BOARD that the southerly lot, Lot 1.08, was the proposed warehouse lot.
42. Mr. Miola then discussed that there were currently structures on both lots, but when the one (1) structure was removed from the one (1) lot, the remaining structure on the church site met the side-yard setback requirement. He added that there were no bulk variances that were created by the subdivision.
 43. Mr. Miola then addressed the staff reports and indicated he was in receipt of both the staff Planner (Technical Review Committee (TRC) report, dated July 8, 2025) and could comply with all of the comments in the subdivision component of the Application and staff Engineer and agreed to address all remaining comments with respect to the subdivision component of the Application. Mr. Miola added that complying with all staff comments would not in any way alter or change what the BOARD was looking at that evening.
 44. Mr. Mazzei, Township Engineer asked about item #2 in his report and whether there was going to be an access easement granted between the subdivision. Mr. Lanfrit stated that there would be an easement, but that it would be part of the site plan testimony.
 45. Chairman Thomas then made a motion to open the meeting to the public for questions for the Site Engineer.
 46. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked a question regarding the Use Variances for the two (2) lots and Mr. Healey explained that that question would be for the Planner during the site plan portion of the Application.
 47. Mr. Matviyshyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Matviyshyn asked what would happen if the subdivision were approved, but there were issues with other components with the Application, and it was left as just two (2) lots. Mr. Healey explained that there would be easements between the properties, so you can drive across the property and there might be utilities that cross the property and the Applicant would have to address those easements that would be necessary so that the site would continue to function as it did now, notwithstanding the fact that there was an invisible lot line now that existed. He added that the easements would have to happen at the time the subdivision was filed. Mr. Lanfrit stated that ownership could not change unless the subdivision was granted.
 48. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. He asked if the subdivision would proceed, what would occur to the current existing structures that were in place and did the subdivision line go through them. Mr. Miola stated that the subdivision line did not go through any structure and all required setbacks from buildings were being adhered to with the introduction of the subdivision line.

49. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc asked that the copy of the slide presentation of Mr. Zemon be made available to the public as most people could not see it from the seating area. Mr. Bernstein indicated that all copies of all documents submitted to the BOARD were or would be accessible online on the BOARD/Township's website.
50. Ms. Pylypovyc asked Mr. Miola to explain the changes to the site in relation to the subdivision. Mr. Miola indicated that there would be no physical changes happening on the site due to the subdivision.
51. Mr. Lanfrit explained what would happen if the subdivision was approved, but the warehouse was not approved for some reason.
52. Ms. Svitlana, 16 Dorsey Drive, Manalapan, NJ, came forward. Ms. Svitlana asked what the required distance would be between the buildings on each side of the subdivision line. Mr. Miola stated that the required side-yard setback was ten (10) ft., but the cultural center was sixty (60) ft. from the subdivision line and the chapel on the other lot was about thirty five (35) ft. from the subdivision line.
53. Mr. Alexander Turon, 1353 East 14th Street, Brooklyn, NY, came forward. Mr. Turon asked how the seminary would be accessed with someone else owning the separated lot. Mr. Lanfrit stated that that would be presented during site plan testimony and, as he stated he already indicated, they have reconfigured the parking around the chapel and there was access easements located on the church lot which would be heard during the site plan testimony.
54. Ms. Olga Pylypovyc, 15 Holt Court, Glen Rock, NJ, came forward. Ms. Pylypovyc thought that the subdivision was not being considered along with the site plan for the warehouse and she didn't think that the subdivision could stand on its own. Mr. Bernstein once again explained that it was the Applicant's right to present an application in the order that they wanted to and it was the BOARD's responsibility to put the pieces together to determine if some or all pieces fit or do not and are acceptable.
55. Mr. Lanfrit explained again to Ms. Pylypovyc that the setbacks all comply and the distance between the buildings on both created lots were more than necessary.
56. Mr. Yuri Wolk, 66 Cedar Grove Lane, Somerset, NJ, came forward. Mr. Wolk asked how far away the project is from the cemetery of St. Andrews. Mr. Miola stated that the property bordered the cemetery of St. Andrews and subdividing the lot would not change the distance from the cemetery of St. Andrew lot. Mr. Lanfrit explained that the cemetery was on a different lot in a different municipality.
57. Chairman Thomas closed the meeting to the public, seeing no one further coming forward.

58. Mr. Healey reminded the public that since future testimony was going to be presented and related to the physical development of the project, the plans are on the Township website at franklintwpnj.org, and then go to Committees/Commissions and under Zoning BOARD of Adjustment there was an area for application materials that included all of the plans, the traffic studies, the storm water management reports are all there for the public's review. He added that new material submitted to the BOARD, those would be updated on the Township website. He also added that the Township/BOARD professional reports were included on the agenda for the upcoming meeting.
59. Mr. Lanfrit indicated that his next witness would take longer than the time left that evening and should be carried to the next meeting. He also suggested that the next hearing should be held at the Board of Education Building to accommodate a larger crowd. He then asked if they could start the meeting a little earlier so they could get through the bulk of the testimony at the next meeting.
60. The hearings on all three (3) applications were carried to November 6, 2025, with no further notification required.
61. At the hearing held on November 6, 2025, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00008, in which the Applicant is seeking a d(2) variance and Minor Subdivision approval to subdivide the existing lot into two (2) new parcels at 135 Davidson Avenue.
62. Peter MacArthur, Esq., 75 Lane Road, Fairfield, NJ, appeared before the BOARD on behalf of Spidok NYC, Inc. and was representing Alexander Taran, Merrila Havliok, Leon Gristok, Svetlana Maleanova, Makita Stayachenko and Yuri Welk. Mr. MacArthur told the BOARD and the public that he was representing the interests of those people whose names he just read and were doing so as an objector. He agreed with Mr. Bernstein that those listed people would not be permitted to speak or question witnesses during that process because Mr. MacArthur was representing their interests.
63. Mr. Bernstein then discussed some of the ground rules for the evening's proceedings. He proceeded to state that it was his understanding that Mr. Lanfrit was going to call his various professional witnesses, one (1) witness at a time, covering all the applications that the Chairman had just discussed to the extent that their testimony applied to the specific application. He instructed Mr. Lanfrit to indicate during the testimony where they would stop on one application and start on another. Mr. Lanfrit agreed. He went on to state that once the testimony of the witness was concluded, it would then be the BOARD's opportunity to question the witness, then Mr. MacArthur's opportunity to question the witness and, finally, anyone not represented by Mr. MacArthur would have the opportunity to question the witness. Mr. Bernstein then made it clear that it was not the time to question the propriety or impropriety of the Application as that would come at the end of the hearing, whenever that would be. He went on to state that once all of Mr. Lanfrit's witnesses have concluded their

- testimony, then it would be Mr. MacArthur's opportunity to make his presentations, present any witnesses and would be required to submit any reports at least ten (10) calendar days in advance to the Township if presenting professionals as witnesses. Mr. Bernstein then addressed the public, giving them instructions for asking questions of witnesses, limiting them to the witness and the testimony just given.
64. Mr. Healey gave instructions to the BOARD and witnesses regarding the use of the microphones.
65. Mr. Lanfrit then noted that, at that time, they were only seeking Preliminary Site Plan approval and not Final Site Plan approval for the warehouse. He then stated the other applications that they were seeking were the Site Plan approval for the church on the remaining thirteen (13) acres of the church property and subdivision approval for which they presented testimony at the last hearing. For the record, Mr. Lanfrit stated that Mr. Miola, the Project Engineer, testified to the subdivision where he stated that it was a fully compliant subdivision at the last hearing. He then added that Mr. Zemon testified as a representative of the Applicant on the warehouse project, giving a history of their company. Mr. Lanfrit then stated that he had intended to call Archbishop Anthony to testify. After the prior meeting was over, outside of the municipal building in the parking lot, the members of the clergy that were at the meeting were, in fact, assaulted, spat upon and cursed at by certain people who were sitting in the audience and the police had to be called. He then noted that the Archbishop is 78 years old and has a bad heart and elected, after discussion with him, not to bring him there that evening to testify. Mr. Lanfrit then told the BOARD that he was going to call as his first witness, Mr. David Lonski.
66. Mr. David Lonski, Esq., licensed to practice in the State of New Jersey, representing the Ukrainian Orthodox Church. Mr. Lonski then detailed the history of the property as he was familiar with it based on conversations with the members of the clergy. He then indicated that he had a brief statement that included that information that he thought would be informative for the BOARD and for the members of the public that were in attendance.
67. Vice Chair Shepherd then asked if anyone else had been given a copy of the statement he was about to read. Mr. Lonski indicated that no copy was given to anyone, but that it was his statement. He read his statement, as follows:
68. The Ukrainian Orthodox Church of the United States of America was incorporated in New Jersey on September 7th, 1951, as a not-for-profit religious corporation. He added that its stated purposes are and were to erect and maintain a church and to carry out other religious works in accordance with the religious doctrines espoused and maintained by the Ukrainian Orthodox Church of the United States of America and to acquire, hold and dispose of real property. Its governance of the corporation rests in 19 trustees and Archbishop Antony served as the Chairman of the Board of Trustees, and Archbishop Daniel as the Vice Chairman of the Board. Mr. Lonski then stated that, with respect to this Application and the sale of the property, there were formal

actions that were taken. He noted that all 19 members of the Board of Trustees were comprised of the council of Metropolia, in essence, the cardinals of the church for those that were familiar with that analogy to the Roman Catholic Church. He then stated that the Metropolia of the church, all 19 Board of Trustees voted unanimously at a meeting on May 25, 2024, to enter into an agreement to sell approximately 17.6 acres of land. He added that that decision was recently ratified unanimously in October of 2025, just last month not just before that council of Metropolia, but all the Orthodox diaspora and all of the clergy of the church that met last month in a big formal meeting/setting and were all ratified unanimously by every member present. Mr. Lonski then told the BOARD and public that the officers of the corporation were constitutionally and now specifically authorized to execute all necessary documents to effectuate this sale.

69. He went on to state that the history of the Ukrainian Orthodox Church of the United States of America in Franklin Township, parcel #1 (or the first parcel) purchased 50.2 acres of land from the former Fisher estate in 1951, with the entire purchase price paid by the church through the Ukrainian Orthodox Church parishes. He went on to explain that in the 1960's, approximately 14 acres of land from that parcel was condemned for the construction of Interstate 287 and added that 18 acres were orphaned on the other side of Interstate 287 across from Easton Avenue. Additionally, he went on by saying that on the side remaining nearest Easton Avenue, construction of the St. Andrew Memorial Church was initiated with the condemnation proceeds from Interstate 287 and the project took ten (10) years to complete. Mr. Lonski then told the BOARD that the other improvements on that property were the original Fisher family residence, which was said to be the oldest existing structure in Somerset County and was presently the residence of the church hierarchy. He added that the Pakova Social Center and another small residence for the property manager also rest on that site. He then told the BOARD and public that the balance of the parcel was a cemetery with approximately 11,000 burial plots.
70. Mr. Lonski then drew the BOARD's and the public's attention to parcel #2, which is the parcel of land that they were talking about. He stated that, in 1972, the Board of Trustees and sober clergy, a leity congress of all the clergies with approximately 100 members approved the purchase of 50.5 acres in Franklin Township from the Heathering estate. He added that aside from a garage building, the only improvement was the actual Heathering home on that property. He went on to explain that, in 1974, that house was converted into the St. Sophia Ukrainian Orthodox Theological Seminary, which opened in November 1975, coincidentally 50 years ago this month. He noted that a small chapel was located in that seminary building and, in 1978, plans were developed to construct a church hall for religious gatherings such as wedding receptions and banquets for parishioners. He added that while budgets were being finalized, a developer came forth seeking to purchase approximately 16 acres of the property at the Heathering estate, which was the land that bordered Interstate 287 and Davidson Avenue. He then indicated that the sale was approved and the proceeds were used to cover most of the construction costs for that church hall, also known as the cultural center.

71. Mr. Lonski explained that the balance of the funds needed to construct the church hall (aka the cultural center) was paid for by the Orthodox parishes and the Ukrainian Orthodox Diaspora. In 1988, Mr. Lonski stated that plans were developed to construct a new administration consistory building, along with a library, funded primarily with the proceeds of the sale of the 18 acres that were then orphaned on the other side of Interstate 287 to the Roto Clip Corporation. He then spoke about the church hall (aka the cultural center) even though construction began in 1980, it suffered various construction related issues in that the building did not meet building code requirements, and the C.O. was not issued until almost three (3) years later. Once that was completed, Mr. Lonski indicated that a church library was initially moved from the seminary building into a conference room in the cultural center; however, due to inadequate moisture control and persistent roof leaks, the library books and records were being compromised and were moved and housed in the new library building that was constructed in about 1988.
72. He then told the BOARD that a museum was initially designed and approved in a museum that was constructed in the basement of the St. Andrew Memorial Church, however, humidity control conditions proved detrimental to those historical literary collections, so they were moved to a mezzanine section of the cultural center where church archives were also stored. He noted that the space proved to be inadequate and too small for all of the collections and records, so in 2002, construction began and was approved on the Ukrainian History and Education building on the front portion nearest Easton Avenue on the property. He told the BOARD and public that a plan was developed to relocate the museum and archives from the church hall (aka cultural center) into a new, modern building that would also house a new education complex. He noted that it was a state-of-the-art facility located adjacent to the administration consistory building and the library complex that were now there.
73. Mr. Lonski stated that the church went through a government approval process to have the new building approval with facilities for religious archives, museum collections, exhibition galleries, a gift shop, educational space and more, all to be housed in this modern facility. Although the plans were approved and construction began almost 20 years ago, the interior construction had still not been completed for financial reasons. Upon the sale of the now obsolete cultural center property, funds have already been earmarked to complete those facilities to house the museum, art exhibits, education program and other missions of the church. He told the BOARD and public that all cultural materials, educational programs and events now at the cultural center building would continue on the site once it was completed. The Ukrainian Church, which formerly used the cultural center, has already relocated to another New Jersey community where most of the students and their families live. As the financial issues arose for the completion of the new state-of-the-art buildings, the church decided to entertain the sale of the church hall (aka cultural center) so funds could be made available to complete the construction of the new museum building. He then noted that the sale of the property to construct this building that served the religious corporation's purposes was repeated throughout history. New sales proceeds, like in this case, were earmarked for completion of the new history and education complex, repairs to the St.

Sophia Seminary building, repairs to the consistory administration building, the museum and library buildings, along with several other smaller projects and also to expand the Pakova Social Center on the memorial church parcel. He stated that there was clearly no intent here to remove this church's history and culture, but only to preserve it for future generations.

74. Vice Chair Shepherd indicated that it sounded like a lot of the money that was used to purchase property or facilities was raised by the church. He then spoke of the diaspora and also the many priests that were involved. He asked if any promises were made to the people who were contributing any money. Mr. Lonski indicated that there was none that he was aware of or that he had been informed of. When the purchases of the property in question were made, the Vice Chair asked if he represented the church at that point. Mr. Lonski stated that he did not represent the church then, and that the first purchase was made in 1951 and the second was in 1972, and he was not an attorney during these purchases.
75. Mr. Lakhia indicated that he was just trying to understand if the land and everything there was brought with the money from the people who go and worship there. He asked if they had any ownership in those facilities there at all. Mr. Lonski stated that they do not have any ownership as the corporation was the owner. Mr. Lanfrit indicated that his testimony was that part of the land that was purchased was a result of the monies they obtained from the condemnation of Interstate 287, not necessarily from the funds of the parishioners.
76. Mr. Dougherty stated that it seemed that the Metropolia that Mr. Lonski spoke of seemed to be made up of church leadership (ordained members) and wanted to know if that were true. Mr. Lonski answered in the affirmative. He then asked if there were some non-ordained lay people for the Ukrainian Church that had any input or any representation in this body. Mr. Lonski indicated that they did not in the Board of Trustees of the church, but the Board of trustees of the church had conferences with additional priests and members of the public. He added that that one (1) of those took place last month at which the sale was unanimously ratified by that entire group.
77. Regarding the development of the property that was part of the application where the warehouse would go and sold to an outside group, Chairman Thomas asked if the same procedure was followed for this as for all of the other historical purchases that were made. Mr. Lonski explained that it was as far as he understood it but was not involved at that time and could not speak from personal knowledge. He then stated that it was his understanding that it was the same process which was governed by their corporate documents. Mr. Lanfrit stated that, in 1979, the church sold the 16 acres on the other side of Executive Drive, between Executive Drive and Interstate 287, to a company in Maryland who he happened to represent at that time. At that time, Mr. Lanfrit indicated that he knew that the church went through the same procedures and that they all met, got authorization to sell the property and then the closing took place. He noted that that this was the IDIL site which the Zoning Board heard a few months ago.

78. Mr. Rich then asked to confirm that a corporation oversaw the sale, so there would also then be corporation bylaws and articles of incorporation. Mr. Lonski answered in the affirmative and Mr. Rich then asked when they were last updated. Mr. Lonski indicated that he did not know because he was not their general counsel, but that he did the real estate work and could tell the BOARD that he has seen the minutes approving the sale and had been supplied to the purchaser and the title company and they feel comfortable that all the appropriate procedures were followed to execute the contract and to consummate the sale.
79. Mr. MacArthur, Esq., attorney for the objectors, asked whether there were any formal actions taken in connection with the sale and memorialized in resolutions pursuant to the bylaws. Mr. Lonski answered in the affirmative. Mr. MacArthur then asked Mr. Lanfrit if he could produce the bylaws of the corporation, as well as the resolutions that authorize the sale. Mr. Lanfrit indicated that he did not think it was relevant to the Application. He added that the church signed the Application as the owner of the property and did not think the BOARD did not need and had never requested anything other than the church signing the application to indicate that the seller had the authority or needs approvals in order to sign those applications.
80. Mr. MacArthur then addressed Mr. Bernstein, BOARD Attorney, and Chairman Thomas to make a proffer because he indicated that the number of people that were there that evening from the public have only had this transparency ever since the saga began for them and have been left in the dark. He stated that he reviewed the Traffic Report last evening and he sent an excerpt of the Executive Summary which described what was going to happen to the property. He then stated that he asked if they ever heard of the plans before and she answered in the negative. As a result, Mr. MacArthur stated that he thought his clients were entitled even though it is a BOARD issue in terms of standing because he thought as BOARD members that you would want to ensure that the Applicant had standing to bring the application. He asked if there was a problem in the process of authorizing the person to sign the contract and then asked who signed the contract. Mr. Lonski indicated that he believed it was Archbishop Anthony who signed the contract. Mr. MacArthur then stated that there would then be a resolution that authorized him to do so. Mr. Lonski indicated that the resolution authorizing the sale was dated May 25, 2024, which authorized him to execute documents necessary to effectuate the transaction. Mr. MacArthur then requested, to ensure that the Applicant had “standing”, that the BOARD review the documents and see that and went back to the definitions of what was in the Municipal Land Use Law (MLUL). He added that when you look at sections 3 and 4, the definitions of applicant and developer were shown, with a developer defined as someone who was a contract purchaser and what they would consider Mr. Zemon and his company to be. He added that if there were no proper authorization for Archbishop Anthony to sign the contract, then they did not have a contract and meant that they did not have an applicant or developer and also did not have an application, so it was a matter of standing. Mr. MacArthur stated that his clients and the public should have transparency and let them see the documents because he thought they were highly relevant to the proceedings that evening.

81. Mr. Bernstein, BOARD Attorney indicated that the issue of whether the church had the authority or not to sell the property was not in the purview of the Zoning Board. He then stated that the application was submitted with an affidavit that, in fact, the party had the right to bring the application before the BOARD. He then added that Mr. Lonski testified before the BOARD as to certain actions taken by the church related to the subject application. He then stated that he believed that at least two (2) resolutions were made and requested that copies be sent to the BOARD for purposes of the record. Mr. Bernstein then added that the standing issue may end up being litigated or dealt with separately. He did state, however, that that would not necessarily be here before the BOARD, but for the purposes of the subject application, he stated that he felt that those two (2) items should be in the record. Mr. MacArthur then stated that he would appreciate it if the BOARD would share those with him. Mr. Bernstein indicated that Mr. Lanfrit would share them with Ms. Woodbury, the BOARD Secretary, and she would distribute those with Mr. MacArthur being copied.
82. Chairman Thomas then opened the meeting to the public for questions related to Mr. Lonski's testimony.
83. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk then addressed the testimony given by Mr. Lonski about the Ukrainian history. He added that Ukrainians have a long history in education and the first book of ABC's was done in 1574. He then added that the church played a big role in educating people, supporting book printing and a lot of different activities. Mr. Khreptyk asked what was done to save buildings or areas without selling property. Mr. Lanfrit indicated that it was not the determination of the BOARD as to what process the church took. Mr. Bernstein indicated that he had the right to see what was part of the public record, but the question he raised was an issue he was going to have to bring up with the church. Mr. Lanfrit stated that Mr. Lonski spoke about the steps that were taken by the church to get to where they were today. Mr. Lanfrit indicated that he felt it went beyond Mr. Lonski's testimony, which were the procedures that the church took over the past few years to get them to where they were today. He added that the reasons behind the church's decisions were irrelevant to the BOARD, and that he was asking Mr. Lonski not to answer the question.
84. Yuri Wedid, 1890 Woodland Terrance, Bound Brook, NJ, came forward. Mr. Wedid stated that someone on the BOARD asked a question regarding where the monies raised for the building of this cultural center came from and what promises were made. He added that the promises made were to uphold the culture of the Ukrainian culture in America and someone said that it was not important, but Mr. Wedid thought it was. He then reiterated the construction and purchases of land timeline over the years that was discussed by Mr. Lonski and then Mr. Wedid asked if anyone put together a history of what the cultural events that occurred in the particular location over the past 40 years. Chairman Thomas agreed that Mr. Lonski gave a timeline of construction/purchases of land, as well as the development of the property over the years. The Chairman told Mr. Wedid that that was what his question needed to deal with. Mr. Wedid indicated that

Mr. Lonski came to conclusion that efforts were made to move things from one location to another and whatever was required to maintain the integrity of the cultural events that occurred there. Mr. Wedid stated that he disagreed that the continuation of the cultural events was not being upheld. The Chairman again reiterated that they were not discussing what was continued or not, but that they were dealing with three (3) applications for development. Mr. Wedid asked if the closing comments of Mr. Lonski should be stricken from the record since it is not a matter of discussion that evening. Mr. Bernstein indicated that the BOARD would take the public's comments into consideration accordingly.

85. Mr. Victor Boranenko, 11 Sherbourne Street, Somerset, NJ. Mr. Boranenko questioned Mr. Lonski regarding the year that he stated the church was built, 1952. He then added that Mr. Lonski mentioned that the Board of Trustees consisting of 19 members approved all of the requests which were a matter of consideration today. He asked if Mr. Lonski considered that most of the members/trustees were about 4 years old at that time in 1952. He also questioned his statement that the parishioners all took part in what he called "diaspora", but that the parishioners took part in collecting money to build the church and all other properties on the land. He wanted to know if the Board of Trustees really represented the owners of the property. Mr. Lonski stated that he did not have all their names but, in essence, the Board of Trustees were the Metropolia of the church, in essence like the cardinals of the Roman Catholic Church. Mr. Boranenko asked whether the parishioners were represented and Mr. Lanfrit objected, once again, to the relevance of the question to the proceedings that evening. Mr. Boranenko asked if the applicants really had the right to submit the request. Mr. Bernstein once again explained that the BOARD was not empowered to determine whether or not the parishioners or the Board of Trustees are the applicants and not within the purview of the BOARD. He went on to state that if the parties believe that the applicant was not "legitimate" or that it did not represent the interests of the parishioners, again, it was not the BOARD's situation to deal with, but through another venue. A discussion ensued between Mr. Bernstein and Mr. Boranenko regarding the engagement of anticipatory actions related to whether the applicant had a right to make the application and represent parishioners. In the absence of proof, any anticipatory action would not be engaged by the BOARD. Mr. Boranenko indicated that they will read through the by-laws of the church, with anticipation that their attorney would discuss this topic in the future.
86. Mr. Boranenko then asked Mr. Bernstein what the basis would be to reject the applications brought before the BOARD related to the Ukrainian Church of the United States. Mr. Bernstein then explained that the BOARD's determinations were based upon its review of the applications in accordance with the Municipal Land use Law (MLUL). He added that the BOARD is quasi-judicial because it is making determinations based upon evidence and testimony of the proof that was placed before this BOARD into evidence but did not make it a court of law. Mr. Bernstein again stated that he and others from the public had questioned the standing issue of the application, but that issue did not get addressed before the BOARD. He added again

that the standing issue may get addressed in another location, but he was not going to give legal advice.

87. Ms. Valeria Balakiryeva, a Dunellen, NJ resident, asked Mr. Lonski if he knew that the educational school and dance school left the cultural center. Mr. Lonski stated that the educational school left, but was not sure of the dance school. She asked Mr. Lonski to provide the addresses of the new locations of those schools and he testified that he did not have the current addresses of these educational schools that he stated were located where many parishioners live. Ms. Balakiryeva then asked questions about who said the schools wanted to move and gave Mr. Lonski that information. Mr. Lanfrit indicated that Mr. Lonski's testimony was that the school was being relocated and was not a question about who wanted to relocate it or who decided. Ms. Balakiryeva then asked where the other cultural events such as weddings, etc., will be occurring if the cultural center is removed. Mr. Lonski stated that it was his understanding that the cultural material and museum artifacts were being relocated to the building that was already built, but not finished, in the front portion of the property closer to Easton Avenue. Mr. Lonski then stated that the rest of the property which was the subject of the application was for extra parking and some of the exterior site improvements so that the public could access the museum and the various other facilities. As far as the cultural events, weddings, etc., he can only say that the building that has the museum and library also has open space for gatherings. He added that he did not know what events that may take place there in the future. Mr. Bernstein, once again, had to remind the public what the BOARD's purview was related to the application.
88. Ms. Balakiryeva then asked Mr. Lonski whether they had proof/documentation that the leaking roof of the cultural center was beyond repair. Mr. Lanfrit stated that they have information concerning the status of the building, but that it was irrelevant to the application before the BOARD.
89. Ms. Arena Chikerinets, 26 Northfield Avenue, East Brunswick, NJ, asked what notice the members of the public have prior to the May 2024 and October 2025 meetings in order to attend. Mr. Lonski indicated that members of the public who had titles, like priests and bishops, were notified and who attended as leaders of the church the previous month in October 2025 in which the prior action in May of 2024 was ratified. He added that he was waiting on the formalization of what happened in October 2025. Mr. Lanfrit stated that counsel for some of the objectors asked and Mr. Bernstein required them to provide both resolutions which would answer those questions. Mr. Lanfrit indicated that they would provide them before the next meeting. Ms. Chikerinets asked that Mr. Lonski have his client be present because the public/parishioners have questions of the person who was putting forth the application.
90. Mr. Mark Bukachevsky, Edison, NJ resident, came forward. He asked how ownership of the subject property was verified before the application came before the BOARD and who was the person who explained that they have the authority to sell the property. Mr. Lanfrit stated that they had a deed to the property and a title search of the property which he said that he would be happy to provide to the BOARD. Mr. Bukachevsky

asked again who had the authority to sign for the sale of the property. Mr. Lanfrit indicated that there was no deed signed by anyone, but a contract that had been signed on behalf of the church and believed that Archbishop Anthony signed the contract. Mr. Bukachevsky asked when he would be able to see the title for the property and asked when it would be available. Mr. Lanfrit indicated that it would most likely be by the following week and Mr. Bernstein stated that it would be made available by the BOARD Secretary, Ms. Woodbury, who would then place it on the BOARD website.

91. Mr. Healey, Director of Planning, made a statement regarding what Mr. Lanfrit had been asked and promised to provide. Mr. Healey reminded Mr. Lanfrit and Mr. Bernstein that Mr. Lanfrit needed to make sure to redact necessary information that might include dollar amounts, social security numbers, etc. if the document would be placed on the public website.
92. Mr. Olak Matviyhyn, 15 Yates Avenue, South River, NJ, came forward. Mr. Matviyhyn asked what specific documents would be provided on the Township/BOARD website. Mr. Lonski stated that they would provide the two (2) resolutions, the deed and the title. Mr. Bernstein indicated that if the desire was to obtain the bylaws, he stated that it would be the church upon whom the bylaws would be obtained because the bylaws had no bearing on the application. Mr. Matviyhyn indicated that the parishioners have been trying to ask questions of the church and they had always avoided the questions and all they wanted was the church's transparency.
93. Mr. Mquala Kovaleav, parishioner, asked Mr. Lonski how many members of the Board of Trustees were clergy and otherwise. Mr. Lonski indicated that his understanding is that the Board of Trustees consisted of the clergy of the church. Mr. Kovaleav then asked the BOARD to postpone the action and take a poll of who had the authority or did not have the authority. Mr. Bernstein had to once again reiterate that the Zoning BOARD meeting was not the place to discuss the standing issue. He also added that the BOARD was also not going to postpone a pending land use application on that issue.
94. Mr. Nazruck, 16 Dortmunder, Manalapan, NJ, came forward. Mr. Nazruck asked for clarification regarding promises. Mr. Lonski stated that he said he did not know. He then drew the BOARD's attention to the testimony given by Mr. Lonski regarding the funding that came from the 1-287 construction and the funds obtained from that and how much money was raised by the community. Mr. Lanfrit stated that it had no relevance to the pending application. Mr. Lonski indicated that he did not have the exact numbers.
95. The Chairman then closed the meeting to the public.
96. A motion was made to carry ZBA-25-00008 to January 22, 2026, with no further notification required, which was approved unanimously.

97. On January 22, 2026, Peter U. Lanfrit, Esq. appeared before the BOARD on behalf of the Applicant, Ukrainian Orthodox Church of U.S.A. with respect to ZBA-25-00007, in which the Applicant seeks a “d(2)” variance and Preliminary & Final Site Plan approval regarding site modifications associated with the retention of certain existing (church and seminary) facilities at 135 Davidson Avenue.
98. Mr. Daniel Miola, Engineer, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The BOARD accepted his qualifications. Mr. Miola stated that he testified to the minor subdivision at the last hearing that they were seeking. He then entered into the record as Exhibit A, entitled Minor Subdivision Plot, drawing #CB102, that was submitted as part of the subdivision application. He stated that the exhibit being shown on the screen showed two (2) parcels that were being subdivided. He then described the parcel to the right of the screen that was being retained by the Ukrainian Church and would continue to front on Easton Avenue and contain fifteen (15) acres. He went on to describe the second lot, which he stated would front on Davidson Avenue and the parcel shown on the left side of the screen, which consisted of approximately seventeen point seven (17.7) acres and it was proposed to be sold to the applicant for the warehouse. He then noted that just south of the lot to the left side of the property to be subdivided was Executive Drive, which was a public right-of-way and the property to the left of Executive Drive was the property that was the subject of the IDII application that the BOARD heard a few months ago and approved a few months ago. He noted that the property to the left of Executive Drive was formerly owned by the church and sold in approximately 1979.
99. Mr. Lanfrit then stated that they were there that evening to review two (2) site plans, one site plan for the remainder parcel of the existing church and the other site plan for the proposed warehouse.
100. Mr. Miola then brought up was a colorized version of the site plan for the improvements proposed on the lot to be retained by the church that had previously been provided to the BOARD. He added that it was part of the slide deck that was introduced as part of the Zemon testimony from the last hearing. Mr. Miola then described the site plan application on the lot to be retained by the church just to indicate the two (2) existing buildings on the church property that included the existing seminary building to the north and the administrative church office that was located to the south of that. He then added that there was also a chapel there and a museum. Mr. Miola then told the BOARD and public that the second building to the south currently had twenty (20) parking spaces; and, the church had indicated that that building would need a total of eighty (80) parking spaces after the property was subdivided. He went on to state that they propose to add to those twenty (20) parking spaces an additional sixty two (62) spaces, which would bring the parking total up to eighty two (82) parking spaces.
101. Mr. Miola then stated that part of the building was a museum use, which had no parking requirements in the Township Code, and in the absence of a requirement, the Code allowed for the submittal of documentation that confirmed that the number of

spaces was adequate. He then informed the BOARD that the Applicant's Traffic Engineer, Mr. Lothian, had submitted a parking evaluation that did just that and it confirmed that the eighty two (82) parking spaces were an adequate number based on the parking demands of the building. Mr. Miola then added that the 82 spaces would include four (4) ADA accessible spaces, as well as three (3) electric vehicle make ready spaces, both in compliance with State statutes. Parking space dimensions would be nine (9) ft. wide by eighteen (18) ft. long, which would meet the minimum space size requirements of the Township ordinance. He then indicated that the drive aisles would be twenty six (26) ft. wide, which also met ordinance requirements, with parking setbacks also compliant. He then added that five (5) ft. sidewalks were proposed approximate to the parking areas that would connect to the building's doors, and the sidewalk was also proposed from the intersection of Easton Avenue to the south along the entire Davidson Avenue frontage, a new sidewalk that would ultimately connect to the sidewalk that was proposed for the warehouse application. Mr. Miola then indicated that the eighty two (82) space lot would be accessed by two (2) driveways that would connect to the parking lot of the warehouse. The access was previously proposed through the existing driveway down to Davidson Avenue but, in response to comments from the Township's professionals, they removed that access and revised it to be through the warehouse parking lot, therefore, the vehicles accessing that parking lot would all come through the warehouse parking lot. Mr. Miola then added that they were proposing a gate at the existing driveway by the seminary to restrict access to that parking area from Easton Avenue. He then testified that that gate would be operable for emergency vehicles, but would not be open for regular traffic. He then informed the BOARD that that driveway that connected the cemetery would be increased to twelve (12) ft. wide in order to comply with Township standards and a circulation plan would be provided that confirmed that Township emergency vehicles could now navigate that connecting driveway.

102. In connection with the increase in impervious coverage proposed for the parking spaces, he indicated that they performed a storm water management design that would consist of two (2) above-ground basins to the north of the parking lot that would provide the required water quantity, water quality and groundwater recharge management for the parking lot. He then added that the landscape plan proposed trees around the parking area, as well as along the driveway down to Easton Avenue and along the entire frontage of Easton Avenue. Mr. Miola then stated that those additional trees that were indicated on the subject rendering mainly flanked the Easton Avenue frontage as well as the driveway off of Easton Avenue. He then added that additional trees and landscaping were provided around the new parking area as well. In total, Mr. Miola stated that there would be twenty nine (29) shade trees, thirty eight (38) ornamental trees, and one hundred ten (110) evergreen trees were proposed for the church lot, as well as approximately two hundred (200) shrubs and various grasses and perennials to round out the landscape design. He then noted that a tree removal and replacement plan had also been provided that showed that the required amount of replacement trees was being provided on the Site.

103. Additionally, Mr. Miola indicated that a lighting design was performed for the eighty two (82) parking space lot and included nineteen (19) pole-mounted, LED lights at fourteen (14) ft. heights which fully complied with Township requirements.
104. Mr. Miola stated that he was in receipt of the Township Planner and Engineer comment letters and, overall, could agree to comply with the comments provided in those letters. He then discussed one of the items required in the letters that asked for testimony regarding trash collection. He then told the BOARD that a dumpster pad and screen fence were proposed along the west side of the parking lot and that dumpster would be serviced by a private waste hauler. He testified that in complying with the staff comments, they do not significantly alter what was being reviewed by the BOARD that evening or viewed on the exhibit being shown.
105. Mr. Miola then drew the BOARD's attention to the fact that the application had been reviewed by the Franklin Township Historic Commission and were before them on three (3) separate occasions. He added that much of the landscape design was based upon their comments and they were particularly sensitive to the view of the site from the towpath along the Raritan River and the reason for the landscaping along the Easton Avenue frontage.
106. Mr. Miola then stated that the only improvements to the site were landscaping, parking and stormwater management and no new buildings were being proposed and no new construction being proposed. He added, however, that there were some utility improvements/connections proposed as well to separate the Site from the site to the south, which was the warehouse application. He also added that there were no variances associated with the site plan application.
107. A motion was made to carry all three (3) applications to January 22, 2026, with no further notice required.
108. Peter U. Lanfrit, Esq., also appeared before the BOARD on behalf of the Applicant, Syracuse 1950 Easton Avenue Owner LLC with respect to ZBA-25-00009 in which the Applicant seeks a "d(1)" use variance, Preliminary & Final Site Plan approval and associated "c" variances to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse at 135 Davidson Avenue.
109. Mr. Daniel Miola, PE, employed with Langan Engineering, 300 Kimball Drive, Parsippany, NJ, came forward and continued to be sworn in from the last hearing. The BOARD accepted his qualifications. Mr. Miola then showed a slide that was a colorized version of the site plan that was submitted in the application package for the proposed warehouse. He noted that the building will have a footprint totaling 258,150 sq. ft., with ancillary office space, which was shown in the three separate pods of the building, to the northwest, to the center and to the northeast. He indicated that the office component of the building would total 10,500 sq. ft., with the remainder being all warehouse space. He then told the BOARD that the building would have one (1) car parking lot to the north side of the and used the cursor to point out the location of

the museum building of the church as well as the location of Executive Drive, which was shown to the south of the proposed warehouse building. He then went on to describe the location of the IDIL site that was recently approved that included three (3) office components to the south of Executive Drive and shown with his pointer. He then told the BOARD that the three (3) office components of the proposed warehouse building were proposed for the side of the building that would face the museum building. Mr. Miola then stated that the cemetery for the church was located to the west on the other side of the tributary located along the property line.

110. Mr. Miola testified that the car parking lot would have one hundred fifty one (151) spaces and that the thirty five (35) loading docks would be on the part of the warehouse building facing Executive Drive to the west and the IDIL site. Additionally, Mr. Miola stated that they were proposing a total of seventeen (17) trailer parking spaces, which would also be located to the west of the warehouse building. He then told the BOARD and the public that the warehouse was being designed on “spec”, which meant that there were no tenants that were identified at that time. While there was a use variance that was required, he noted that the project was compliant with most of the bulk standards set forth in the B-I Zone, including building setbacks, building height, lot coverage, impervious coverage, and floor area ratio. He stated that three (3) “c” variances were required that he stated he would touch upon throughout his testimony, with the Planner also providing proofs.
111. Mr. Miola then drew the BOARD’s and public’s attention to the topic of circulation, where two (2) driveways were proposed. He indicated that the first driveway would be out to Davidson Avenue for the car parking lot and that driveway would be twenty six (26) ft. wide and utilized by passenger vehicles. He added that there would be a second driveway proposed off Executive Drive, which would connect to the loading part of the building and used primarily by trucks. He testified that the width of that driveway would be sixty six (66) ft. wide and required a variance from the Township’s maximum driveway width requirement, which was thirty six (36) ft. wide. Mr. Miola then explained that the sixty six (66) ft. width at the mouth of that driveway was the minimum width necessary to accommodate truck turning movements into and out of the driveway. For that reason, he stated that they would be requesting relief for that driveway width. He then moved on to speaking about the loading area depth, which was the dimension from the loading docks to the opposite curb and proposed at one hundred thirty (130) ft. Mr. Miola then testified that they also required a variance from the Township ordinance which required a minimum dimension of one hundred forty seven (147) ft. He added that they had provided truck turning templates and submitted those with the application package that show how vehicles would access the docks and that those templates show that 130 ft. was enough room. Based on his experience laying out warehouse sites, Mr. Miola indicated that one hundred thirty (130) ft. was an industry standard. He then told the BOARD that they would also require a variance for front yard loading as the pavement for the truck court was within the required front setback of Executive Drive. He then discussed the fact that both the driveway width and the front yard pavement setback were required relative to Executive Drive; however, they were of the understanding that Executive Drive was proposed to be

vacated by the Township and, if that occurred, both of those variances would not be required.

112. Mr. Lanfrit then clarified the last statement made by Mr. Miola by stating that the Township Council introduced an ordinance the previous week to vacate Executive Drive. He added that the ordinance was introduced because of the actions of the Zoning Board in the IDIL application, wherein the BOARD requested that IDIL request the vacation of Executive Drive. In compliance with the BOARD's request, IDIL has done that. He then explained that part of the resolution of the IDIL application was that once Executive Drive was vacated, that they would have to provide the applicant with an access easement so that they would gain access to their property. Mr. Lanfrit indicated that they were in discussions with IDIL as far as the language of that easement, but that is being accomplished. He added that Mr. Miola's testimony was based upon the application that they submitted, at which time Executive Drive was a public right-of-way. He added that the reality is that if the resolution of the Council to vacate is adopted, which should be within the next few weeks, the variances for driveway width and front yard pavement setback would go away.
113. Mr. Miola then indicated he wanted to explain some other aspects of the site plan. As he had stated before introducing the church application, they were proposing a sidewalk along Davidson Avenue. He wanted the BOARD to know that the subject application they were discussing proposed to pick up that sidewalk and carry it along the frontage of Davidson Avenue, ultimately terminating at the Executive Drive/Davidson Avenue intersection. He also added that the Executive Drive/Davidson Avenue intersection would be upgraded and the intersection improvements would include widening the curb radius to better facilitate turning movements as well as including ADA ramps, crosswalks, signage, signals, controls, and new striping. Additionally, Mr. Miola stated that several retaining walls were proposed on the Site to support the grading plan. Firstly, an eight (8) ft. high wall was proposed to screen the truck court from Davidson Avenue. In addition, four (4) ft. high walls were proposed around some of the basins for storm water management as well as between the car parking lot and church. He noted that two (2) monument signs were also proposed, one (1) by the car driveway out to Davidson Avenue and the other by the truck driveway at Executive Drive as well as wall signs that were proposed on the building. To identify the building's tenants. He testified that the monument signs and the wall signs would be fully compliant with Township requirements with respect to their number, their setbacks and their sizes.
114. Other components of the site plan included waste management, which Mr. Miola expected would be done using a waste compactor that would be in one (1) of the loading dock positions, with the exact location of the compactor to be determined by the tenant and serviced by a private waste hauler.
115. Mr. Miola stated that stormwater management had been designed to meet the water quantity, water quality and storm groundwater re-charge requirements of the Township. He added that the site would include eight (8) storm water management facilities which included three (3) pervious pavement systems and five (5) bio-retention above ground

basins. He went on to explain that these facilities, after providing water treatment, would ultimately discharge runoff to the ditch on the west side of the site, which was a tributary to the Raritan River. He wanted the BOARD to know that the storm water management design was done under and in compliance with the Township, Delaware & Raritan Canal Commission (DRCC) and NJDEP permits. He then noted that the NJDEP had, in fact, issued their permit for the project and the DRCC had indicated that they have no more technical comments to that design and that they would be issuing their permit once all other approvals were received by the Township and the County. He then went on to explain that the outfall into the Raritan River or into the Raritan River tributary required relief or a hardship waiver from Section 112-228.B of the Township Code due to its presence within the stream corridor to justify that waiver. Mr. Miola then stated that most of the disturbance to the outfall was within previously disturbed lawn areas and that there would only be a small section of the installation, the area that was most downstream part closer to the riverbank that would require some clearing. He noted that the clearing had been approved by NJDEP and the area would be restored with indigenous, non-invasive vegetation.

116. Mr. Miola then touched on landscaping next, showing in the exhibit that the site design included a landscape plan that focused landscaping around the perimeter of the site, in particular, the street frontages of Davidson Avenue and Executive Drive. In total, he stated that there would be fifty four (54) shade trees, fifty three (53) ornamental trees, and one hundred twenty six (126) evergreen trees proposed, which totaled two hundred thirty three (233) trees. In addition, he stated that two hundred forty one (241) shrubs were proposed as well as ornamental grasses and perennial plantings. He then discussed their locations, noting that most of the shrubs would go directly next to the pavement areas, with most of the trees going along the street frontages as well as the rest of the perimeter of the site. He then testified that the landscape plan met the tree planting requirement of one (1) tree for every two thousand (2,000) sq. ft. of pavement. Mr. Miola did state that they received a comment from the Township Planner who asked that they add more trees to every island throughout the car parking area and stated that they agreed to do that. He then stated that a tree removal plan was prepared as required by the Township, but not all the required replacement trees were proposed on the Site and, therefore, the applicant agreed to contribute to the Township's Tree Fund for the remaining required plantings as allowed for by ordinance.
117. Mr. Miola then discussed the lighting plan, noting that LED lights would be mounted on the building. For the north side, the side that faced the church retained property in the car parking lot, the lights would be mounted on the building at twenty (20) ft. heights. He added that the other building-mounted lights on the opposite side would be mounted at a taller height of thirty (30) ft., and in addition, some pole-mounted lights were proposed which would also be mounted at thirty (30) ft. He then noted that the lighting design fully complied with ordinance requirements with respect to light levels for parking lots, property line spillover and other requirements.
118. Mr. Miola then discussed the Buckeye Pipeline that was located to the west of the site along the ditch on that western side. He added that Buckeye had a thirty (30) ft.

easement over the pipe and he stated that they have had multiple discussions with them regarding the work that impacted their easement which really consisted of that storm pipe crossing. He testified that they would ultimately provide appropriate documentation from Buckeye to the Township that allowed for their proposed storm crossing. In addition, Mr. Miola indicated that they had three (3) meetings with the Township's Historic Preservation Advisory Commission and made several design revisions that they recommended to ultimately issue letters supporting both applications.

119. Lastly, Mr. Miola stated that they were in receipt of the comment letters from the BOARD professionals, including the BOARD Planner and the BOARD Engineer and can agree with all the comments.
120. Since Mr. Miola had received a question related to the cemetery, he pointed out in the exhibit the location of the cemetery. He noted that the cemetery property, which bordered both the church parcel and the proposed warehouse parcel entirely and extended from I-287 to Easton Avenue. He noted that there was no connection between the warehouse parcel and the cemetery, but that there was a connection between the church parcel and the cemetery by way of a pedestrian foot bridge that crossed the stream that divided the cemetery from the church site.
121. Mr. Miola then discussed the fact that there were wetlands on the site, along the tributary bank, but they have accounted for those and were doing work within the buffers of the wetlands, but stated that they received a permit from the NJDEP in order to perform that work that they were requesting a waiver from the Township for that stream corridor ordinance.
122. Vice Chair Shepherd asked what kind of vegetative buffer was on the side of the warehouse that can be seen from the Delta Hotel that was across the street. Mr. Miola stated that they had tree plantings along Davidson Avenue on their side of the roadway between the warehouse and the curb, providing two (2) rows of trees with one (1) row pretty close to the Davidson Avenue curb and the other pretty close to the warehouse wall. Mr. Miola then zoomed in to show the landscaping plan in the exhibit.
123. Mr. Lakhia then asked how the museum building that was on the property that would stay with the church would access that and asked if they had to use that common driveway to get there. Mr. Miola indicated that cars that want to access the 82-space parking lot that wraps around the museum building would have to utilize the Davidson Avenue driveway for the warehouse and then turn into that parking lot. Mr. Lakhia then asked under whose ownership that driveway would be. Mr. Miola stated that the ownership would be dependent on the subdivision line and there would be an access easement executive between the parties that would allow access. Mr. Lanfrit stated that it would be a recorded permanent easement which would be binding on all future owners.

124. Mr. Thomas then asked if all the traffic had the benefit of the traffic signal remaining as part of the Executive Drive improvements. Mr. Lanfrit stated that the traffic signal would remain even though Executive Drive would be vacated, but the light would stay.
125. Mr. Healey then asked if they had submitted to the DRCC and Mr. Miola answered in the affirmative. Mr. Healey then asked what the Applicant's overall status was with their review. Mr. Miola testified that the DRCC had indicated via letters for both the improvements and the church site, as well as the improvement at the warehouse site that they have no further technical comments. He added that the DRCC indicated that as soon as they give evidence of County and Township approvals, that they would be in a position to grant their approval. Mr. Healey then drew Mr. Miola's attention to Fig. 5 on Page 9 where he had provided a comparison of the site to the IDI Logistics warehouse application that was on the south side of Executive Drive and basically showed that, on that application, there was a much wider landscaped front lawn. He continued by saying that, if the BOARD recalled, that that plan had a very robust landscape plan between Davidson and the warehouse proposed for that site. He further indicated that with the subject site, the building was basically right up to the fifty (50) ft. required front yard with far less landscaping and wondered if there was a reason for that. Mr. Lanfrit explained that they were complying with the Code, but Mr. Healey reminded him that the Applicant was seeking a use variance, as well as your site application, and the BOARD felt it appropriate to grant the use variance for IDIL. He added that some of the discussions that were held before the BOARD on that application was the buffer that was provided. In answer to Mr. Healey's question, Mr. Miola indicated the difference between our application and the IDIL application and why they have a greater setback. Mr. Miola indicated that the IDIL application had a different lot configuration and he went to a slide they had that would help explain the situation between the two (2) applications. He showed that the IDIL lot had the benefit of their long access on the I-287 side of the property, which allowed them to use that access for the building in the layout shown. He added that the IDIL building proposed a driveway within the area between the building and Davidson Avenue for their car parking lot. So, while they do have a buffer between the buildings, they both had a detention basin as well as that driveway proposed for the circulation. He then explained that it was really a function of the lot area that the two (2) developers must work with and the layouts that they have advanced for approval.
126. Vice Chair Shepherd then asked if they could just make their building a little bit smaller and then match up with the buffering that has been done by IDI Logistics. Mr. Miola indicated that IDI Logistics' basin was as close to Davidson Avenue as our building, so it was not like they had a landscape planted berm buffer because they were doing their storm water management there for their project. In addition, Mr. Miola added that just to the west of that, they had a drive aisle for circulation, so he believed that if you match up how close their basin is to the Davidson Avenue curb, that looks about the same distance as our building is to the Davidson Avenue curb.
127. Mr. Healey stated he did not want to argue the point, however, that basin on IDIL's property was landscaped with trees and shrubs and that is what was on their plan and

did not want the BOARD to think it was just hardscaped because it was a landscaped retention basin with trees and shrubs.

128. BOARD Engineer, Mr. Darren Mazzei, CME, noted that the sidewalk along Davidson Avenue had portions of it get out of the right-of-way, so he just wanted to make sure that they would be granting an access easement, in perpetuity, for the public. Mr. Miola stated that they would agree to that. Secondly, he noted that the one (1) retention basin let us say on the IDIL side, there were some comments in his letter regarding raising the top of the wall. He stated that he just wanted to make sure that they knew that they had to address that with the BOARD because that section almost ended up being a bowl so we want to flatten it up so it was going to be more than a four (4) ft. wall there in order to flatten out the grates. Mr. Miola stated that the basin Mr. Mazzei referred to was the basin near the Davidson Avenue/Executive Drive intersection that they have a four (4) ft. retaining wall for, but he indicated that they also have a five (5) ft. vertical slope down to the top of that wall. Mr. Miola then addressed Mr. Mazzei's comment of asking for just a wall for the entire nine (9) ft., which he indicated that they could agree to do.
129. Chairman Thomas then opened the meeting to the public for questions of Mr. Miola, the Applicant's engineer.
130. Mr. MacArthur, Attorney for the objectors, came forward. He asked Mr. Miola to confirm that the testimony he gave related to the parcel that was being retained by the church had no variances required on that lot. Mr. Miola confirmed that that was what he testified to, however, as everyone would hear from their planner because they were subdividing the property and that there was an existing church, he asked if that was a technical "D" variance. Mr. Lanfrit indicated that they would present testimony and there is a "D" variance required for that site, but there were no bulk variances that were required and that they would present planning testimony to that effect.
131. Mr. MacArthur then asked Mr. Miola if he was familiar with the zoning ordinance of Franklin Township and he answered in the affirmative. Mr. MacArthur then pointed out Section 112- 37E of the Township Code that stated that most of the parking should be located at the rear of the main structure for the church, as it is a place of worship, with no more than ten (10%) percent of the total parking located at the front entrance for handicapped accessibility, weddings and funeral services. Mr. MacArthur believed that the application would require a variance for that and pointed out that the plan for the church had most of the parking in the front of the building and it was kind of wrapping around the whole property. Mr. Miola then asked for the Code section to be read again to him for his understanding, and Mr. MacArthur did so.
132. Mr. Miola then indicated that while the building had a chapel, it also had administrative offices, as well as a museum, so he was not sure that the Township Code Section applies. He added that St. Andrews Church was not on the property in question. A discussion ensued and Mr. Miola indicated that he would have to review the Township Code for more clarity. Mr. MacArthur then asked Mr. Miola about the easement

- between the church property and the proposed warehouse property on the other side of the subdivision line. Mr. Miola explained that the easement would have to cover access to both driveways into the parking lot for the museum, so it would go from the property line down the driveway in front of the warehouse and out to Davidson Avenue. He then further explained that the cross easement was not for parking, but for access only.
133. Mr. MacArthur then directed a question to Mr. Miola regarding the landscaping that was to be provided and asked to confirm that there was going to be a five hundred seventy seven (577) tree shortfall of what was being provided. Mr. Miola indicated that he was referring to the tree replacement plan and the total replacement trees required was five hundred seventy seven and of that, he stated that they were proposing two hundred thirty two (232) trees, which makes the shortfall only three hundred forty five (345) trees, not five hundred seventy seven (577).
 134. Mr. MacArthur then drew Mr. Miola's attention to the darkened area on the site plan indicated a Township of Franklin stream corridor preservation area. Mr. Miola stated the darkened area was with respect to a conservation restriction area proposed for that western part of the site where the river corridor is and that they have the storm sewer improvements that he said he testified to earlier. Mr. MacArthur then asked if there were wetlands associated with the tributary that was north of the site. Mr. Miola answered by stating that the tributary was located west of the site and, yes, there were wetlands, which were considered in the category of "exceptional" which would mean that there was a one hundred fifty (150) ft. buffer from the wetland limit. They then discussed why there was the term "anticipated" related to the wetlands and Mr. Miola indicated that at the time of the submittal they were not confirmed, but has subsequently been confirmed by the NJDEP as exceptional. Mr. MacArthur then noted that it appeared that many items were cutting through certain improvements shown on the site plan, through a basin, a sliver of impervious coverage, a second basin and related infrastructure, three (3) parking spaces and a third basin. Mr. Miola confirmed that information and stated that they could build in a wetland buffer due to a policy at the NJDEP known as transition area waiver or transition area averaging which he indicated they received via permit from the NJDEP. He then confirmed that all improvements proposed on the plan with respect to the wetlands and the wetlands buffer had been approved by the State. Mr. MacArthur then asked them to provide a copy of that transition area waiver, and Mr. Miola said that they could.
 135. Mr. MacArthur then asked if the tributary had any other environmental designations and was it a C1, C2 or C3 stream. Mr. Miola stated that the tributary had been assigned a fifty (50) ft. riparian zone, which meant that it was not a C1 stream and was not sure if it was deemed a C2 or C3 stream but agreed to find out for them.
 136. Mr. Healey then asked if the fifty (50) ft. riparian zone part of a submittal to the NJDEP and did they confirm that. Mr. Miola stated that the NJDEP confirmed a fifty (50) ft. riparian zone off that stream and would confirm whether it was a C2 or C3 stream.

137. Mr. MacArthur then referred to the landscape plan, LP-101 and asked if any plants on the schedule considered non-native. Mr. Miola stated that the species that they selected were always either native or adaptive and he explained the difference between an adaptive species or one that was non-native was that adaptive species were not originally native, but had been in the region and had adapted to the climate and the conditions and, therefore, would thrive.
138. Mr. MacArthur asked if the lighting proposed for the warehouse spilled over more than 0.1 of a foot candle along the boundary lines of the parcel. Mr. Miola stated that it was more than 0.1 of a footcandle, but less than 1 footcandle. He stated that he could see 0.4 footcandles where it spills over to the driveways that were located for the eighty two (82) space parking lot. Mr. Miola indicated that he believed the Township Code stated that lighting fixtures shall not exceed 0.1 footcandles at the property adjoining residentially zoned property.
139. Mr. MacArthur then asked how big of a truck would fit in one of the truck bays and Mr. Miola stated that they did circulation plans that were included in the submittal package that show that a New Jersey Title 39 tractor trailer could access that truck yard, more akin to a WB67 and it did represent the largest truck that was permissible in New Jersey.
140. Mr. Igor Kreptik, 17 Majestic Drive, Freehold, NJ, came forward. He asked Mr. Miola how he came to the required number of parking spots as eighty two (82) were needed for the application. Mr. Miola stated that a parking evaluation was undertaken for that existing building, which confirmed that eighty two (82) parking spaces was an adequate number based on the number of people expected in that building as authored by their traffic engineer and he would provide more testimony on it later in the proceedings. Mr. Kreptik then asked about the illumination levels of the lighting and Mr. Miola stated that the parking design or the illumination design was done in order to disperse light so that it was in accordance with standards that were applicable to parking lot design, so that their design was in accordance with those levels. He told Mr. Kreptik that the Lighting Plan was part of the original submission to the Township.
141. Mr. Mark Bukachevski, Edison, NJ resident. Mr. Bukachevski asked what the dimensions of the warehouse building were and Mr. Miola stated that, end to end, the length was eight hundred eighteen (818) ft., and the depth was about three hundred sixty (360) ft. He then indicated that the height of the building complied with the fifty (50) ft. height requirement, with the height of the building along Davidson Avenue was reported to be forty four (44) ft. and the height of the building along Executive Drive was reported to be forty six point seventy six (46.76) ft. Mr. Bukachevski asked what the word "spec" entailed and Mr. Miola explained that it means 'speculative' where there was no tenant yet for the building. Mr. Bukachevski asked when they might have a specific tenant for the building and Mr. Lanfrit indicated that until the building was approved and construction was underway, they probably would not have a client.

142. Mr. Nazruck, 16 Dortmund Drive, Manalapan, NJ resident came forward. He asked about how the easement worked and Mr. Lanfrit and Mr. Miola both explained that the easement was for the driveway that would allow access to the parking lot by the chapel/museum building. A discussion ensued as to where they could park and if parking on the other side of warehouse near Executive Drive would be considered trespassing. Mr. Bernstein indicated that nothing had been decided other than there was an easement to allow access from the warehouse property to the eighty two (82) parking lot for the chapel/library/museum building.
143. Thereafter, all three (3) applications were carried until March 5, 2026, which was approved unanimously.
144. At the hearing held on March 5, 2026, Mr. Lanfrit explained that the testimony given that evening would be inclusive of all three (3) Applications that were being heard simultaneously.
145. Mr. Lanfrit asked if all the BOARD members in attendance that evening had been to both previous meetings or listened to the tapes of the hearings so that they have seven (7) members. Ms. Woodbury confirmed that all members present that evening had either been to both hearings or had viewed the videotape of the hearings.
146. Mr. Lanfrit then asked Mr. Bernstein who the person was in the back of the room recording the proceedings that evening. The person who was recording from the back of the room came forward and stated that he was with Portrait of Freedom, New York, NY, which was a public organization.
147. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.
148. Mr. Lanfrit then explained that they had had three (3) previous meetings in the past, September 18, 2025, November 6, 2025 and January 22, 2026. On September 18, 2025, he noted that they presented the testimony of Josh Zemon who was a representative of the warehouse developer who indicated his background and his company's background in the warehouse industry. He went on to state that Mr. Zemon presented photographs of projects that his company had developed. Mr. Lanfrit then added that they presented testimony of Dan Miola, who was their Site Engineer, and that testimony was mostly focused on church property. He went on to state that at the November 6, 2025 meeting, Mr. David Lonski, Esq., Attorney, appeared on behalf of the church and presented testimony concerning the church's right to sell the property, the contract that was entered into, and a little bit of history of the church. Mr. Lanfrit went on to state that they went back to Mr. Miola on January 22, 2026, who presented the rest of the Site Plan testimony concerning the warehouse that evening.
149. Mr. Lanfrit then indicated that he intended to call three (3) witnesses, including Scott Winger, their architect, Mr. Alan Lothian, their traffic consultant, and Shawn

- Moronski, who was their planner. In addition, Mr. Lanfrit indicated when they had the first meeting, he had informed the BOARD that, based on the staff reports that were issued, that they would not be seeking Final Site Plan approval because the Township Engineer had requested additional topographical information and additional soil testing. Since it had been five (5) months, they were able to accomplish all of that testing and had submitted all of the paperwork to the Township Engineer and he thought that if the BOARD were to act favorably on these applications, they would be in a position to grant not only Preliminary Site Plan approval but also Final Site Plan approval, but the BOARD could confirm that with the Township Engineer.
150. Secondly, since the last hearing, Mr. Lanfrit indicated that he has provided to the BOARD, by way of submission, documents concerning the Church's authority to sell the property and were now part of the record since he submitted them consistently outside the ten (10) day submission timeline in advance of the hearing.
 151. Lastly, if the BOARD recalled the IDIL hearing which was a warehouse on the other side of Executive Drive, that the BOARD imposed a condition upon them to seek vacation of Executive Drive from the Township Council and were supposed to provide an easement to Mr. Lanfrit's client for access to our site through their property. He went on to state that at that time, they had put that report Mr. Lanfrit stated that the Township introduced an ordinance last year to vacate Executive Drive. He added that they put that on hold since they had not reached an easement agreement with IDIL. Mr. Lanfrit stated that he was happy to report that they had reached that agreement with IDIL, so they would have an easement through their property to gain access and so that Executive Drive will be vacated. At the present time, they have two (2) variances they were requesting because of Executive Drive. Mr. Lanfrit then stated that since Executive Drive would be vacated, those variances would go away but, as of that evening, they still exist and Mr. Lanfrit stated he would provide testimony concerning those variances, but as soon as he would be notified that the Council vacated Executive Drive, those variances would no longer exist.
 152. Mr. Wayne Scott Winger, RA, Regional Technical Director, employed with Nelson Architecture Interiors, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Winger indicated that he and his firm prepared the floor plans and architectural plans. Mr. Winger then showed the larger scale overall plans prepared by Langan for the site plan by the Site Engineer, marked into the record as Exhibit A-1, and noting that it was comprised of two hundred fifty eight thousand one hundred and fifty (258,150 sq. ft., seven hundred ninety point fifty (790.50) feet long and approximately three hundred thirty (330) ft. eight (8) inches in its depth, with one hundred fifty eight (158) car parking spaces, seventeen (17) trailer positions, thirty four (34) exterior docks and the building will be made solar ready. He then showed an exhibit showing the four (4) building façade elevations of the proposed building and an enlarged version of what would be indicative of what the façade would look like along Davidson Avenue. This exhibit was marked into evidence as Exhibit A-2, noting the insulated pre-cast panels with vertical reveals (+/- forty four (44) ft. above grade) that would be the product covering the outside of the building, with them stepping down

about a foot at the corners of the building for office zones and a canopy over the front entrance being twenty four (24) ft. above grade. Mr. Winger then added that clearance side space was about thirty five (35) to thirty eight (38) ft. clear for the facility and several water detention areas proposed for around the site. He then noted that the building was set back about fifty (50) ft. from Davidson Avenue, allowing for a buffer of shrubs and trees, meeting the request of the Historic Commission, while softening the eastern edge of the property. He explained that the use of color and varying panel sizes break down the façades in a rhythmic fashion, allowing the building façade to be viewed as segments, and lessening the impact of the length of the facades. The rhythmic patterning of the façades was similar to that of a piano keyboard in a vertical orientation. He added that the elevations included also incorporated vertical shading devices at the windows, which enhanced the elevations throughout the day and casting varying degrees of shadow about the façade. He then noted that the corners consisted of metal panels and lots of glass. He described the lighting mounted to the façade of the building would be strategically shrouded to control the impact of the illumination of the site. He then discussed the wall near Davidson Avenue by the truck bays to help shield the trucks from view. Mr. Winger then stated that rooftop mechanicals would be set back to the center of the building for less impact to the street view, and they would have one bay dedicated for refuse from the facility.

153. Mr. Winger then stated that the building was planned to be a multiple user, with the four (4) corners being able to be used as office areas for different tenants.
154. Mr. Alan Lothian, PE, Associate Principal and specializing as a Traffic Engineer, employed by Langan Engineering, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Lothian was tasked with analyzing the changes to the parking layout on the site that would be retained by the church, which was one (1) parking space for every seat in the church and there were no requirements in the Township Code for the other uses on the site, including St. Sophia Seminary, the chapel and the history and education center and the museum. He indicated that they were looking to the BOARD to decide on what was required based on what they already submitted and his testimony that evening. In undertaking the analysis, Mr. Lothian stated that he discussed the anticipated and current operations of the site with church leadership as well as visiting the Site numerous times. He went on to discuss the current parking of the church, including twenty (20) spaces, with the cultural center included was three hundred seventy five (375) and just under four hundred (400) parking spaces in total. Mr. Lothian then added that the twenty (20) spaces currently serve the employees and visitors coming to the facilities that included the history and education center and chapel. In the future, he stated that the anticipated demand for the site was for the office/museum employees (ten (10), with six (6) on-site at any given time). Mr. Lothian then indicated that the parking for the chapel visitors included the residents of the seminary who did not have vehicles for themselves and were already on-site and up to five (5) visitors per day for the chapel, with five (5) parking spaces provided. He did mention that on holy days, four (4) times per year, there were likely to attract up to fifty (50) visitors in the chapel, assuming two to three (2-3) people per car would require fifteen to twenty (15-20) occupied spaces for a total of twenty five (25) spaces

- provided. Mr. Lothian then discussed the parking for the museum, which he indicated operated 9AM to 5PM and anticipated approximately ten (10) visitors on a typical day, to include ten (10) parking spaces. He did note that the museum operated when there were no services at the chapel because they were conducted earlier in the day. During special events that occur a few times throughout the year and on Saturdays, when there was no other activity on the site, it would include forty to fifty (40-50) guests at those events and up to one hundred (100) guests at larger events that would require thirty to fifty (30-50) parking spaces required. On a typical day, Mr. Lothian testified that they were looking at twenty five (25) occupied spaces. He then discussed that they were providing eighty two (82) parking spaces and that it would be more than enough to provide enough parking for the typical demands and to accommodate the larger events at the museum.
155. Mr. Lothian then had a discussion regarding the parking circulation on-site and operation for the proposed warehouse. He indicated that Mr. Miola, the Applicants' Engineer, went over access and circulation and was very detailed relating to the site plan, so he would discuss these very generally. He went on to state that access to the site was currently via one (1) signalized driveway on Davidson Avenue and one (1) very infrequently utilized driveway on Easton Avenue. He added that they were proposing one (1) unsignalized access on Davidson Avenue to serve passenger vehicles for the warehouse and the activity on the church site. He noted that that driveway was generally in the same location it was currently in, but that they just shifted it a little bit further away from the Easton Avenue intersection. He then spoke of the access that was currently out to Easton Avenue would be closed off and used for emergency vehicles only. Mr. Lothian added that they would have access to Executive Drive, which currently was a Township roadway but would be vacated and be a private access road for the trucks and come into the warehouse site at the signal and would not utilize the unsignalized entrance. He then stated that they had proposed improvements at the signalized intersections to facilitate turning movements of the trucks, to upgrade the signal to provide pedestrian accommodations that do not exist today. Mr. Lothian testified that they had designed those improvements and were part of the packet submitted to the Township. He then stated that those improvements would maintain operations as they were today with their access out to Executive Drive and the IDI traffic next door.
156. Mr. Lothian then discussed the site circulation, including truck movements on the property and vehicle movements to avoid any conflicts between them. He indicated that the site had been designed to accommodate all vehicles specifically for the Davidson Avenue driveway and the parking lot in the front and the church parking lot was designed to accommodate passenger vehicles, emergency vehicles, refuse trucks and smaller delivery vehicles. He then indicated that the Executive Drive access was designed to accommodate any of those vehicles as well in addition to the tractor trailers. He then told the BOARD that there were one hundred fifty (150) parking spaces required, based on the Township Code, on the warehouse site and one hundred fifty (150) were provided.

157. Mr. Lothian then explained that they did a Traffic Impact Study for both sites combined because they do share access. He noted that they did traffic counts in October 2025 and looked at extended peak hours (6-9 a.m. peak hours and 3-6 p.m. peak hours), as well as collecting a week's worth of data with ATRs to see what was happening along Davidson Avenue and to identify the peak hours. He indicated that the a.m. peak hours were between 7:45 a.m. and 8:45 a.m. and between 5:00 p.m. and 6:00 p.m. Mr. Lothian then told the BOARD that they then projected "no-build" volumes by including a background growth rate and the IDI trip generation from the site next door based upon their approved Traffic Impact Study. He then added that they generated trips for the warehouse based on language code 150 (warehousing) from the Institute of Traffic Engineers (ITE) Trip Generation Manual (11th Edition). He noted that their calculations were fifty seven (57) a.m. trips and fifty nine (59) p.m. trips, which were significantly less than one hundred (100) trips, which was considered by the NJ Dept. of Transportation and ITE as a significant increase in trips from a site. He noted that the 12th Edition of the ITE Trip Generation Manual actually had a lower rate for this size warehousing. Using the background growth of the development, their conservative trip generation, looked at the Easton Avenue and Davidson Avenue intersection and looked at the "build" and "no-build" scenarios and noted that they used a conservative estimate, showing that there was no significant impact and would operate at a level "C". He then added that the Davidson Avenue and Executive Drive intersection would operate at level service "B", utilizing the "build" and "no-build" scenarios, with no change. He noted that the site driveway had a little bit more constrained operations exiting the site and had a level service "E" in the a.m. and an "F" in the p.m., but explained that it was low delays with the higher trip generation that they estimated and equated to a queue of about two (2) vehicles exiting the site and would not affect the traffic flow along Davidson Avenue. He added that it was just people waiting on-site to make a left or a right out of the driveway. He noted that there were signals on both sides that created gaps to help facilitate movements.
158. Mr. Sean Moronski, PP, Senior Project Planner, employed with Langan Engineering and Environmental Services, 300 Kimball Drive, Parsippany, NJ, came forward and was sworn in. The BOARD accepted his credentials. Mr. Moronski entered into the record Exhibit 3A, Creation Partial Site Plan, a colorized rendering of the warehouse lot that showed the layout of the proposed warehouse to include the building, the parking, the loading areas, the landscaping, along with the lot lines. He discussed the history of the site, speaking of various approvals in the past that included a Use Variance for the cemetery in 1999, a variance extension and site approval in 2000. He then discussed the approved uses in the Business & Industry (B-I) Zone and noted that they were requesting a "d(1)" Use Variance for the warehouse. He then discussed the surrounding land uses to include the Delaware & Raritan Canal State Park and Raritan River, office buildings, hotels and a previously approved warehouse site, Rte. 287, light industrial and office uses as well as the St. Andrew Ukrainian Orthodox Cemetery and an R-10 residential zone beyond that. He noted that the rear of the proposed warehouse was at least eight hundred (800) feet away from the residential area. He then discussed the request for the Minor Subdivision to create two (2) lots, with no variances related to that and stated that they were also requesting a "d(2)" variance for the proposed

- church area lot because they were reducing the size of the lot, they were technically expanding the non-conforming use with the use now being on a smaller lot than was previously permitted. He then indicated that they were requesting a “d(1)” variance for the proposed warehouse site because it was not permitted in the B-I Zone. Additionally, he stated that they were requesting several “c” variances, two (2) of which involve Executive Drive in which the front yard did not permit any loading area and was within the twenty (20) ft. front yard setback. Mr. Moronski stated that they were also requesting a “c” variance for maximum driveway width and a minimum loading depth.
159. He then started the discussion with the “d(2)” variance for the church, speaking toward the fact that a church was an inherently beneficial use. He then discussed the “Sica balancing” test and the four (4) related uses, noting that reducing the site size would allow the church to continue its use and removing the cultural center and parking lot did not change the inherently beneficial use of the site as the core functions would remain. He then discussed the potential detrimental effects of the use, to include reducing the parking space would limit the church’s ability to address demand and referred to Mr. Lothian’s testimony as to the people who would be coming to the site, including employees, visitors to the chapel and the museum/library, the holy day observance increase in visitors, as well as such regarding a few events throughout the year. He noted that the parking would be able to accommodate those uses on-site. He then discussed reasonable conditions to mitigate the effects and he noted that the easement on the warehouse lot would provide access between the buildings to remain and Davidson Avenue. He added that since visitors would be able to use the driveway along Davidson Avenue, they would be able to limit the driveway use on Easton Avenue for emergency use only and have it gated as such. He added that when the Cultural Center building was removed, the events would be relocated to the social building next to St. Andrews Church, northwest of the site and non-church activities would no longer be offered on the site. Mr. Moronski said that the final test was to weigh the positive and negative criteria to see if granting the variance would cause substantial detriment. He then stated that the Applicant was providing eighty two (82) parking spaces with sufficient circulation and capacity to address the parking needs and that reducing the lot size did not intensify the use. He added that removing the larger Cultural Center building and ending non-church activities was appropriate for the new lot area because it did not affect the core functions of the church site.
160. With regards to the “d(1)” use variance for the warehouse, Mr. Moronski testified that the site was particularly suited with convenient access to Interstate 287 and the highway network without travelling through residential areas. The uses along Davidson Avenue included light industrial, warehouse and office uses. He noted that adjacent to the church site, Executive Drive provided access for trucks, was not a through road and will only have warehouse uses on it. He added that a substantial portion of the church property had already been developed with the Cultural Center and the parking lot. Mr. Moronski then discussed several purposes of the MLUL at N.J.S.A. 40:55-2, purpose A, purpose G, purpose H and purpose I. He then stated that he did not believe there was any substantial detriment to the public good as was reviewed by the Delaware &

Raritan Canal Commission (DRCC), with their comments being administrative in nature, and the approval by the Township Historic Commission. He added that the new site had less impervious coverage while still addressing parking needs and that the traffic counts during peak hours fell well below the level that NJ DOT would consider the need for further review. He then noted that the intersection improvements were positive at the intersection of Davidson Avenue and Executive Drive, as well as the landscaping along Davidson Avenue and the building meeting the setback requirements, as well as being a significant distance away from residential areas and screening the loading area from Davidson Avenue. Mr. Moronski then indicated that the development would assist the church in continuing their core functions. He then added that there was no substantial detriment to the Township Zoning Code or zone plan and then summarized the B-I Zone's purpose. Mr. Moronski stated that the project addressed the standards as noted in the Master Plan and Land Use goal #2 was carried forward from the 2016 Re-Examination report to encourage commercial and industrial development areas with access to major regional highways in established areas with language related to warehouses.

161. With regard to the "c" variances, Mr. Moronski felt that they could all be granted under the "c(2)" criteria, where the overall benefits of the project outweigh any potential detriments. The first (1st) one was the front yard along Executive Drive, which as of that day, still existed where part of the loading area was within the front yard setback. He noted that the warehouse building was within twenty (20) ft. of the Executive Drive lot line, without specifically the loading that was proposed. He noted that Executive Drive was not a through street and would only be used by warehouses. He then stated that the twenty (20) ft. they were providing included landscaping along the lot line while placing the loading in the appropriate location to include a screen to block the views of the loading area from Davidson Avenue and surrounding uses. He then addressed the maximum driveway width was thirty six (36) ft. and they were proposing sixty six (66) ft. to allow for sufficient turning radius between the site and Executive Drive and noted that the turning templates in the plans do show that. He stated that he felt that the thirty six (36) ft. maximum was too low for the type of truck traffic that would be utilizing the driveway and that sixty six (66) ft. width was more appropriate. Mr. Moronski then addressed the minimum loading area depth, where the Township required 2x the maximum truck length and, in this case, it would be seventy three and one half (73.50) ft. which would translate to one hundred forty seven (147) ft. and they were proposing one hundred thirty (130) ft. He explained that the truck circulation plan allowed that the largest truck was able to circulate in and out of the loading spaces. He then stated that the loading spaces were sixty (60) ft. deep and that gave seventy (70) ft. for circulation. Mr. Moronski indicated that he believed that the variances further the purposes of zoning that he had outlined in the "d (1)" Use Variance, which was appropriate since the "C" variances were related to the warehouse development. In terms of the negative criteria, he stated that there would be no substantial detriment to the public good because the circulation design allowed for more efficient movement of vehicles and parking. He added that the twenty (20) ft. front yard setback along Executive Drive allowed for a substantial landscaped area and it was not a through road so concerns of mitigating any activity from a lower intensity use could be allayed. Mr.

Moronski indicated that there was no substantial impairment to the zoning ordinance or zone plan. He noted that buffering and screening was defined as natural and man-made elements to shield lower intensity uses from higher ones. Mr. Moronski then stated that he believed that the landscaping was effective in terms of providing an adequate buffer screen from viewing the loading area.

162. Mr. Lanfrit then spoke with Mr. Moronski relating to the history of the inclusion of warehouses in the B-I Zone, then recent action by the Council removed them from that zone. He referenced Mr. Moronski's statement that, recently, that the recommendation to Council was to amend the Master Plan to now call for warehousing to be put back into the zone based on some of the conditions that he testified to in his testimony that evening. They discussed that should the zoning be amended and be consistent with the Master Plan, the proposed warehouse would be a conforming facility and Mr. Moronski agreed with that statement.
163. Mr. Moronski then stated that the variance for the loading area being within fifty (50) ft. of the front yard would not be needed once Executive Drive was vacated, the twenty (20) ft. setback variance would disappear because it would become a side yard.
164. Mr. Darren Mazzei, CME, BOARD Engineer, asked Mr. Lothian if while the Davidson Avenue driveway would also be the entrance to the church, would there be an easement put in place there for church access. Mr. Lanfrit stated that there would be permanent easements put in place, as a condition of approval, which was recommended in both Mr. Mazzei's report, as well as Mr. Healey's Planning report. Mr. Mazzei stated that, with that easement, was there any intention for the church to use the warehouse area parking for overflow. Mr. Lanfrit indicated that, in discussing this with his client, there was no formal agreement for the church to use the warehouse parking, but if there was available space, it would accommodate the church to provide that parking if it became necessary.
165. Mr. Dougherty then asked about peak travel time in the morning hours asking whether they approximate how many trucks would be entering and leaving during that peak hour of 7:45 a.m. to 8:45 a.m. Mr. Lothian indicated that they looked at it based upon conservative estimates and looked at five (5) trucks entering and eleven (11) trucks exiting the warehouse site during the peak morning hour, for a total of sixteen (16) truck trips. Mr. Lothian indicated that they did take a conservative approach and the numbers he just quoted typically occur during the middle of the day and truck trips during the peak hours, it was more like four (4) trucks entering and four (4) trucks exiting.
166. Mr. Rosenthal then asked whether they took into consideration the inclusion of handicap parking. Mr. Lothian stated that ADA accessible parking spaces were included in the calculations.
167. Mr. Healey then stated that he had a question for the Planner. He referred Mr. Moronski to his comment regarding the Master Plan Re-Examination regarding the B-I Zone,

- which had been adopted, but in the Appendix there was a draft ordinance that was proposed. He reminded Mr. Moronski that he had indicated in his direct testimony in response to Mr. Lanfrit that the proposal would be entirely compliant with the standards that were in there. For the record, Mr. Healey stated he wanted to correct Mr. Moronski's testimony by stating that, for medium intensity uses, they had to be within one (1) road mile of Rte. 287, which the proposed warehouse clearly was, but said that the second part of that stated that "it shall not abut a residential zone". Mr. Healey reminded Mr. Moronski that the proposed warehouse abutted a residential zone and would not be consistent with the proposed ordinance. Mr. Moronski replied that he would reconcile his testimony with that statement by saying the location of the proposed warehouse was a rather large site and mentioned earlier in his testimony that the rear of the property was over 800 ft. away from any residential zone. He added that none of the traffic was going to be using residential streets. He added that every other standard set was met by the Applicant. Mr. Lanfrit also brought up the fact that even though the closest "residential zone" property was a cemetery and that the property could not be used as a residential property as such. He added that the cemetery property was between the first actual residential property that was over 800 ft. away.
168. Mr. Bernstein then asked Mr. Healey what the status was of the proposed ordinance that they were speaking of. Mr. Healey replied that the Planning Board had adopted the Master Plan Re-Examination and in it was an Appendix with the draft ordinance that was currently been forwarded to Council for their consideration. He added that the Council had not taken any action or adopted it at that time.
169. Mr. Healey addressed the Applicant's Architect, confirming that they went through the Township's Historic Commission and the DRCC and asked whether he was present at those meetings. The architect indicated that he was not present at those meetings. Mr. Healey then asked if he was aware of what comments either of those bodies offered regarding the architecture. He indicated that he was aware of some of the comments related to landscaping. Mr. Healey then asked if either body made any comments on the architecture of the warehouse. Mr. Lanfrit indicated that his office was at those meetings and there were three (3) comments from the Historic Commission, but none about the architecture. He also confirmed that the biggest discussion was about landscaping and screening and approved the landscaping plan at the last meeting with them. He explained that there were some extensive plantings along Davidson Avenue on the church site which would further block the view of the warehouse from the canal. Mr. Healey then asked if the comments made by either body were incorporated into the plans that the BOARD was reviewing that evening. Mr. Lanfrit answered in the affirmative and that the DRCC was now waiting for approval from Franklin Township and Somerset County in order to approve the project. He stated that they had satisfied all their comments.
170. Peter MacArthur, Esq., Attorney with Peter MacArthur Law, 75 Layne Road, Suite 204, Fairfield, NJ, and representing the objectors, came forward stating that he was there that evening on behalf of Svitanok NYC, Inc.

171. Mr. MacArthur asked the Architect what the height was of the warehouse, in terms of feet and stories. Mr. Winger replied that he believed he stated that it was +/- forty four (44) ft. tall in a single-story building. Mr. MacArthur asked if the air conditioning unit being proposed on the roof was going to be behind a parapet. Mr. Winger stated that the parapet was intended to be low and the equipment was proposed to be located central to the building footprint, which would allow minimal to no sight lines from Davidson Avenue. They then discussed how far away from Davidson Avenue the air conditioning unit would be situated and Mr. Winger explained that should the units be visible from Davidson Avenue that they would shield those, both from a visual aspect and from a noise aspect.
172. Mr. MacArthur then asked questions of the Traffic Engineer, Mr. Lothian. Mr. MacArthur then referred to Mr. Lothian's Executive Summary on page 1 and used the 11th Edition of the ITE Trip Generation Manual. Mr. MacArthur asked about whether what previously took place at the Cultural Center would now take place at a social building by St. Andrew's Church. Mr. Lothian stated that the church activities would relocate to a social building by St. Andrew's Church. He then added that there would be no external activities on the site as there were today, noting that the Cultural Center could be rented out currently. They had a discussion regarding the square footage of both of those buildings, with Mr. Lothian stating that he had not been inside either building and was not aware of their layouts. Mr. Lothian also stated that it was the intention, as he knew of it, that the social building would now be utilized for church activities, but did not know if it were a suitable replacement. Mr. MacArthur then asked, to his knowledge, if the museum inside the chapel building on Lot 106 would close if the Application were granted. Mr. Lothian indicated that the museum would remain open in the chapel building. A discussion ensued about the width of the emergency driveway at Easton Avenue and Mr. Lothian indicated that it was approximately twenty four (24) ft. wide internal to the site and possibly a bit wider up to thirty (30) ft. He then indicated that that driveway would be gated and used for emergency purposes only and accessed possibly by a knox box. Referring to the Land Use Code 150, Mr. MacArthur asked if the 12th edition of the ITE Trip Generation Manual considered the site as less trip generated than the previous edition (11th edition) and Mr. Lothian agreed. A discussion ensued, with Mr. Lothian explaining that it was based on different data sets that were provided to the ITE and incorporated them into their model, whereby the numbers could go up or go down depending on what the trends were.
173. Mr. MacArthur then brought up Mr. Zemon's testimony at a previous hearing about there being four (4) other warehouse developments that he had in the NY/NJ area and asked Mr. Lothian if he was aware of those other locations. Mr. Lothian answered in the negative. A discussion ensued regarding Mr. Lothian or one of his colleagues being involved in those other warehouse developments. Mr. Lothian stated he did not recall if he was involved and that there was a possibility that one of his colleagues might possibly have been involved. He stated that he evaluated the proposed warehouse development based on what traffic a warehouse of similar size would generate based on ITE, which he indicated was the standard of his profession. He added that the ITE

data was based upon actual warehouse traffic counts. He added that he relied upon ITE data because there was no specific data to utilize as the proposed warehouse was not operating and that there was not a specific tenant in mind as yet.

174. Mr. MacArthur then asked that utilizing Land Use Code 150, were they speaking of a long-term storage facility. Mr. Lothian stated that there was a wide variety of uses that went into Land Use Code 150, which was typical warehouse and distribution activities. Mr. MacArthur then asked if he had considered using Land Use Code 154, which was high cube transload short-term storage warehouse. Mr. Lothian stated that the trip generation for Land Use 154 was typically less than Land Use Code 150. They then discussed Land Use Code 155, the fulfillment center warehouse, with Mr. Lothian indicating that that was not the type of warehouse they were looking at here and a discussion ensued regarding their larger size, higher parking demands and more loading dock doors. Mr. MacArthur then discussed Land Use Code 156 warehouse types and Mr. Lothian stated it was not appropriate for the proposed warehouse and that the site would have to be designed differently because that warehouse type was for FEDEX, UPS, etc. utilizing that type of van coming in and out of the facility to deliver to homes and would have higher trip generation numbers, but not what was anticipated for the subject site. They then discussed Land Use Code 157 and Mr. Lothian explained that that type of warehouse was not anticipated to be considered with the proposed warehouse. They then spoke of the previous testimony regarding the a.m. and p.m. peak hours and coinciding with the a.m. and p.m. commuting hours. Mr. Lothian then stated again that the truck traffic typically would occur during off-peak hours, with the warehouse having thirty five (35) truck bays. Mr. Lothian could speak to Mr. MacArthur's question related to how many trucks would be on-site at one (1) time utilizing trip generation numbers, specifically about fifty five (55) trucks coming in and out of the site in one (1) day. They then discussed the need for thirty five (35) truck bays, with Mr. Lothian indicating that each bay could be turned over multiple times per day. Mr. Lothian indicated that WB-67, Title 39 sized trucks were anticipated to be the size truck coming to the site, which he indicated were the largest trucks that were legally allowed in New Jersey with the truck bays designed to accommodate them. They then discussed Land Use Code 150 that incorporated office space into the square footage of the building in their trip generation analysis. He added that they utilized the data of activity coming into and out of the site related to Land Use Code 150 that incorporated office space into the overall square footage calculations. He then spoke of the trip generations for a church for the report and Mr. Lothian testified that they continued to utilize the activity that was entering and exiting the site today during the peak hours. He noted that the Seminary did not generate any traffic related to the church and all the uses for the church were incorporated into the analysis. He and Mr. MacArthur then discussed utilizing a 1.0 growth factor to incorporate into the analysis for Easton Avenue and a 1.75 growth factor was used on Davidson Avenue consistent with the NJ Dept. of Transportation Background Growth Rates for Somerset County. Mr. MacArthur then drew Mr. Lothian's attention to the intersection of Easton Avenue and Davidson Avenue, asking if a W67, in the exclusive left-hand turn lane on Easton Avenue heading down Davidson Avenue, would be able to turn into Davidson Avenue in the left hand lane on Davidson Avenue, sitting at the light, without encroaching on

traffic for eastbound Davidson Avenue sitting at the light in the dedicated left-hand turn lane. Mr. Lothian indicated that they did not evaluate truck turns at the County controlled Davidson Avenue/Easton Avenue intersection, but that trucks are currently utilizing that intersection on a daily basis. Mr. MacArthur noted that there would be even more trucks with the new warehouse site, but Mr. Lothian indicated that there would be slightly more trucks because of the new warehouse activity. Mr. MacArthur then asked if Mr. Lothian looked at whether there would be any encroachment of traffic stopped at a light with a WB67. Mr. Lothian explained that part of the reason they were doing the improvements at the signalized intersection of Davidson Avenue and Executive Drive was to facilitate truck turning movements because, in the existing condition, trucks did not have enough room to turn into and out of the site. He stated that they were opening the radii to allow that to occur without conflict. They then spoke about a traffic impact statement for Executive Drive prepared by Dolan & Dean related to the IDIL matter, recognizing that their statement would include traffic from an already existing 200,000+ warehouse development. Mr. MacArthur then spoke about their Traffic Capacity analysis on Table 3, page 9, related to Davidson Avenue and the site driveway, specifically a southbound left right turn during a evening weekday hour and seeing a 23.1 second delay in a no build scenario (level of service C). He added that it increased to a 61.2 second delay on that turning movement. Mr. Lothian agreed with that statement when trucks were exiting the site. He also stated that his testimony was that the exiting traffic would have an anticipated queue of approximately two (2) vehicles where there was room for three (3) vehicles worth of storage before you would get to the first parking space. He added that with the inclusion of the conservatively higher trip generation they used on the intersection, they would not have a significant impact on-site and would not impede traffic on the free flow on Davidson Avenue. He explained that going from a level C of service to an E would be internal to the site and not on Davidson Avenue.

175. Chairman Thomas then stated that they would take a five (5) minute break for Mr. MacArthur to speak with one (1) of his experts.
176. Mr. MacArthur then directed his questioning to Mr. Moronski, the Applicant's Planner. He asked him if he looked at the 2006 Master Plan, 2007 amendment and two (2) amendments in 2008. Mr. Moronski testified that he looked at the 2006 Master Plan, the 2016 Re-Examination report and the 2026 Re-Examination report that was under review at the time and had since been adopted by the Planning Board per Mr. Healey. He added that he also looked at the 2023 amendment regarding the prohibition of warehouses, as well as the zoning ordinance and checked all the schedules, parking requirements, landscape buffer and land use table. Mr. MacArthur then asked if his testimony was that the property planned for warehouse could not be adopted for any of the permitted uses in the zone. Mr. Lothian answered in the negative and repeated his testimony of the particular suitability of the warehouse for the proposed site. Mr. Moronski also repeated his testimony of the surrounding uses in the area to include office use, including the office building on the corner of Davidson Avenue and Easton Avenue. Mr. MacArthur asked if the alleviation of economic hardship is not by itself a special reason and Mr. Moronski stated that he questioned the relevance of that

statement as it was not brought up in his testimony. Mr. Moronski went on to state that his testimony was that the removal of the cultural center and the parking lot did not take away from the core functions of the church use. Mr. MacArthur asked if wedding celebrations, concerts, storage of historic artifacts from the USSR and books going back in history regarding the church were not core values. Mr. Moronski indicated that the remaining aspects of the church, i.e., the chapel, museum, and seminary, were still remaining and that the removal of the Cultural Center meant that there would not be any non-church related events on the site. A discussion ensued related to the size of the Cultural Center and associated parking area versus the warehouse, which was much larger in size. They then discussed the definition of an inherently beneficial use, which Mr. Moronski stated was that it was a use that served a greater purpose than most uses and promoted the general welfare that he included in his previous testimony. Mr. MacArthur then read the definition of an inherently beneficial use from the Municipal Land Use Law and that the BOARD should consider the effect the proposed warehouse would have on the area. Mr. Moronski agreed and indicated that he included in that his testimony. They then discussed all the uses that were permitted in the zone, including warehouses, prior to 2023. Mr. MacArthur brought up open space in the area and Mr. Moronski stated that the warehouse was not affecting anything surrounding the property that included a stream, a cemetery and the land that they were proposing for a warehouse was not currently open space. He answered Mr. MacArthur's question about the acreage the subdivision would provide for the warehouse to include seventeen point seventy (17.70) acres that would accommodate the 258,000 sq. ft. for the footprint of the warehouse and impervious coverage of fifty five point ninety nine percent (55.99%), roughly nine (9) acres. He added that they were meeting the impervious coverage requirement for the zone for what they were proposing. Mr. MacArthur then asked if the change in the proposed use of that land changed the character of the neighborhood. Mr. Moronski answered in the negative because the character was not just the space it occupied, but the type of use and the design of the site related to Mr. Miola's testimony about the measures that were taken to deal with storm water and drainage and that there was less impervious coverage on the church site. Mr. Moronski stated that the subdivision did not create any variances and that they were able to go up to sixty percent (60%) lot coverage on that lot.

177. Mr. MacArthur brought up the fact that the completed Application was submitted after the effective date of Ordinance #4391-22 which eliminated warehouse use as a conditionally permitted use in the B-I Zone where a "d(1)" use variance was now required. He added that the Applicant must now show an enhanced quality of proof by clear and specific rulings where the Applicant's proof and the BOARD's findings must reconcile the proposed use variance with the zoning ordinance's omission of the use permitted in the zoning district. Mr. MacArthur then drew the BOARD's attention to the purpose of the B-I Zone as listed in the Planner's report, indicating that it was updated in 2023. Mr. Moronski stated that what Mr. MacArthur was reading regarding the exponential addition of warehouses between 2018 and 2023 was included in his report. Mr. Moronski then added that what Mr. MacArthur failed to mention was the requirement for Applicants to achieve proper site design, which they believe they have addressed in testimony from their witnesses. He also added that the 2026 Re-

Examination of the Master Plan, which was adopted, included the reconsideration of recommending warehouses as a permitted use under certain criteria most of which they were consistent with except one (1) standard, but believed that they could reconcile that with the warehouse at that location. Mr. Healey then confirmed that the 2026 Re-Examination was adopted. Mr. MacArthur stated that it was not an amendment to the Master Plan, just a re-examination and did not change what the Township did in 2023 in which they removed any reference of warehouses in the B-I Zone. Mr. Healey stated that it was an ordinance that was approved in 2023 and remained on the books, however, the Planning Board adopted a Master Plan Re-Examination about a month ago which made recommendations to amend the ordinance again.

178. A discussion ensued regarding the use of the neighboring property to the south to remove the existing three (3) office buildings and replace it with a warehouse (IDIL site). Mr. Moronski agreed with Mr. MacArthur's discussion of the 2023 ordinance to not allow warehouses, but he believed that one would also have to include the recent recommendation by the Planning Board to amend the ordinance again to include them with a "d(1)" use variance to prove why the subject site was particularly suited. They then discussed some of the language in Mr. Moronski's Planning Report to include the cessation of events that had been occurring at the Cultural Center that included outside parties renting the space gained during discussions with the Applicant and their team, while preparing his testimony. Mr. MacArthur then moved on to the justification for particular suitability for the warehouse lot that included convenient access to Rte. 287 and that trucks did not have to travel through residential zones. A discussion ensued about other uses in the zone. He then drew the BOARD's attention to Mr. Moronski's discussion in his report regarding a more efficient design and asked how it would be a more efficient design when there was more lot coverage on-site. Mr. Moronski stated that it would be more efficient in the site circulation and were meeting the imperious coverage standard for the district. Mr. Moronski also added that the new storm water design improved the storm water management situation on the site from its current state. Mr. MacArthur reminded Mr. Moronski that he mentioned a desirable visual environment as a land use purpose in his testimony and asked if he thought that a forty four (44) ft. high building was an aesthetic improvement over what was there now. Mr. Moronski replied by saying that he believed a building that met the standards, in terms of height and design for the type of use that was intended in that area was certainly an improvement over a decaying parking lot that had no defined spaces and a building several hundred feet set back from the street. Mr. MacArthur mentioned that Mr. Moronski made reference to that in the 2016 re-examination but asked if that had been overridden with the 2023 amendment. Mr. Moronski stated that with the warehouse, it was overridden, but that the general theme about encouraging commercial and industrial development in areas with access to major regional highways remained the same. He then mentioned the B-I (Business & Industry zone) purpose where it spoke to appropriate locations, included light industrial uses such as manufacturing, office, laboratory, hotel, etc. and described the general theme he was speaking about. He then spoke about the warehouses that were removed from the B-I Zone as a permitted use and expanded on the need to have proper attention to site design, proper ingress and egress, architectural design, etc. Mr. MacArthur then asked Mr. Moronski if they were

- applying for a variance for the maximum driveway width, and he answered in the affirmative. Mr. MacArthur asked to confirm that thirty six (36) ft. width was the maximum allowable and sixty six (66) ft. was proposed, and Mr. Moronski answered again in the affirmative as that larger width was needed to allow the trucks to enter the site. Mr. MacArthur then cited Kaufman case law related to bulk variances of which Mr. Moronski stated he was aware. Mr. MacArthur indicated that the Kaufman case spoke to the need for a better zoning alternative to grant the variance and Mr. Moronski agreed that there needed to be a public benefit. They spoke about it being only for the benefit of the Applicant so that they could get the biggest truck into their site, but Mr. Moronski stated that what it actually did was to allow for more efficient circulation and to be able to make the turns to avoid having situations where you may have more accidents. He noted that having a 66 ft. wide driveway allowed for these truck movements.
179. Mr. MacArthur stated that he had at least two (2) witnesses to put forward, with one providing planning testimony. The other witness would be speaking about the Cultural Center, what it has been used for and its importance to the community. Mr. Lanfrit indicated that he would object to Mr. MacArthur providing any planning testimony because Mr. Bernstein, BOARD Counsel, clearly stated at a prior hearing to counsel that any planning testimony being provided would have to have written report provided to the BOARD. He then told the BOARD and Mr. MacArthur that it was his understanding that no report had been provided and asked that no testimony of any kind by a planner should be allowed.
180. Chairman Thomas stated that since they had a policy of no new testimony being presented after 10:00 p.m., they would like to put Mr. MacArthur's witnesses off until the next hearing and would be open to the public for the remainder of the meeting to ask questions concerning the testimony that was presented that evening. The Chairman then gave the public the guidelines and parameters that needed to be followed, including only asking questions of the Architect, the Traffic Engineer or the Planner that provided testimony that evening. The Chairman also stated that they would only hearing public questions up until 10:00 p.m. and would continue with public questioning at the next hearing.
181. Mr. Bernstein also instructed the public that they would be asked a question as to whether or not they were already being represented by the objector's counsel or not. If anyone was already represented by the objector's counsel, then you will not be able to also get up and ask your own questions since you were already represented by the objector's attorney.
182. Mr. MacArthur then asked whether they would have to provide a planner's report and whether he could get a future date for the next hearing so that he can make sure his planner would be available. Mr. Bernstein stated that the planner did have to provide a report and that it had to be no later than ten (10) calendar days prior to the next scheduled hearing. Mr. Bernstein also indicated that before the evening ended, the next future date for the next hearing would be determined.

183. Mr. Igor Khreptyk, 17 Majestic Drive, Freehold, NJ, came forward. Mr. Khreptyk had questions for the Traffic Engineer. He wanted to know if Mr. Lothian had personally seen the traffic in the area around the subject property daily. Mr. Lothian testified that he was very familiar with the area and had been to the site multiple times during different times of day, including the weekends. Additionally, Mr. Lothian stated that they did traffic counts on Davidson Avenue for a week straight and have those counts for each of the seven (7) days of the week. Mr. Lothian answered Mr. Khreptyk's concern regarding the additional traffic that would be brought to the area with the IDIL warehouse by stating that they did account for the traffic from the IDIL approved development from their approved study in their analysis for their no-build condition.
184. Mr. Mark Anthony Datz, 4 Fairview Drive, North Caldwell, NJ, came forward. Mr. Datz spoke to Mr. Lothian, the Traffic Engineer, stating that he did not include a large event that occurred on the church property since the cemetery had been open related to parking. He noted that about a week after the Orthodox Easter, which could vary from the Roman Catholic Easter, the faithful who have their departed family members in the cemetery gather at St. Andrews, so the Cultural Center parking lot was very important for that because there was probably close to one thousand (1,000) people come through there. He added that the buses picked people up from the parking lot by the Cultural Center, which was stated could hold up to four hundred (400) cars, with the people being driven across the road down Davidson Avenue onto Easton Avenue and into the cemetery proper to visit the graves. He then noted that the cemetery could not handle that number of cars and he stated that he noticed that that was not in the Traffic Study and thought that needed to be added. Mr. Lothian stated that they were not in the study and there were discussions regarding extremely large events that happen once per year. He went on to state that they were told that, similar to today, if there was a need, they would coordinate with local businesses to find parking and use shuttles as Mr. Datz described.
185. Ms. Olana Sharvan, 14 South Locust Avenue, Edison, NJ, came forward. Ms. Sharvan state, for the record, that she had parents who reside in Franklin Township at 66 Grough Avenue, Somerset, NJ so she had an interest in this community and the impact the development would have. Ms. Sharvan asked Mr. Lothian how they collected the data for the Traffic Study and Mr. Lothian explained that they contracted a company to go out and collect the data that included turning counts using video and the week-long data was collected using pneumatic tubes across the roadway. She then asked how parking requirements were calculated and Mr. Lothian indicated that the parking requirements were based upon the anticipated operations provided by the church ownership/leadership. Ms. Sharvan then asked if he had considered any other source for information related to parking. She asked Mr. Lothian if he did not utilize any other source of information that was based on verified facts, did it make his study incomplete. Mr. Lothian indicated that he based his calculations on the information that was provided. She then discussed the different elements of the remaining church property that would include the library, museum and chapel, referring to Mr. Lothian's earlier testimony that the parking provided met the requirements and that there would be

employees, visitors to the library, museum and existing chapel would be utilizing the parking spaces. She then focused on Mr. Lothian's testimony regarding the number of people visiting the museum being five to ten (5-10) on a typical day. Mr. Lothian stated that they are looking at the library and museum as one (1) facility. Ms. Sharvan then spoke about another museum space that was being renovated on the property, with Mr. Lothian indicated that it was part of the Site, as a whole. Mr. Lothian indicated that it was his understanding that the museum was to incorporate things that were presently in the Cultural Center. Ms. Sharvan then asked Mr. Lothian if the larger museum space having more artifacts would have more visitors than five to ten (5-10) per day, and he answered that it was not necessarily so. Mr. Lothian indicated that they had a surplus of thirty-five (35) parking spaces for larger events. Mr. Lothian explained that they anticipated the use of twenty-five (25) of the thirty-five (35) surplus parking spaces would fulfill the parking needs even if everyone was on the site at the same time. Mr. Lothian stated that even if there was double the amount of parking needed, there would still be enough parking for the site as a whole. Ms. Sharvan then asked what data was used to calculate how many trucks would be on the site on a given day. Mr. Lothian stated that the trips were calculated by data contained in the Institute of Traffic Engineers Trip Generation Manual, where it broke down total vehicles and trucks. Mr. Lanfrit interjected that Ms. Sharvan knows nothing of how long trucks stay in bays and other information related to the data surrounding their activity, so her questioning was making assumptions.

186. Ms. Sharvan then had questions for the Planner. Ms. Sharvan asked where his information came from about the core functions of the church and Mr. Moronski stated that it came from church leadership. Ms. Sharvan asked Mr. Moronski if he was aware that there was a functioning Saturday school as a part of the Cultural Center that was occurring up until October 2025. Mr. Moronski stated that he did not remember if that was mentioned, specifically or not, as he was working on this project for well over a year now. He added that he asked what functions were going on at the property and utilized that information in his report.
187. The Applicant and BOARD agreed that the meeting would be carried to May 7, 2026, with no further notification required. The public portion would continue at the next meeting.
188. At the hearing held on May 7, 2026, Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC and presented testimony related to all three (3) applications at the same time. Mr. Lanfrit indicated that the Applicants had completed their presentation; however, at the last meeting, three (3) of the witnesses who testified were being cross-examined by members of the public and that cross examination had not been completed. He then indicated that they had to complete the cross-examination that evening with the public related to the testimony of Mr. Moronski, the Applicants' Planner, and Mr. Lothian, their Traffic Consultant, as well as Mr. Winger, who was their Architect.

189. At the last hearing, Chairman Thomas stated that they were in the middle of being open to the public to question those three (3) witnesses mentioned by Mr. Lanfrit based on their testimony and, therefore, he stated that that was where they would begin that evening. Mr. Bernstein indicated that they would start off the evening listening to the questioning of members of the public who did not have an opportunity to ask any questions of these three (3) witnesses.
190. Peter MacArthur, Esq., Objectors' Attorney, made his appearance known to the BOARD and the public for the evening. Seeing no further public wishing to ask questions of the previously stated witnesses who presented testimony at the last hearing, Chairman Thomas then closed the meeting to the public. Chairman Thomas then introduced the objectors' attorney, Mr. Peter MacArthur, Esq. He appeared before the BOARD on behalf of Svitanak, NYC to raise procedural objections that have gone on so far. He added that a couple of days ago he wrote to Mr. Bernstein and contacted the BOARD Secretary as he was trying to raise an issue with the Open Public Meetings Act. He stated that he was having some conversations via email with the BOARD Secretary that same day and did receive the second newspaper notice for both 2025 and 2026. As a result of that, he indicated that there was an additional issue that came up with respect to the meeting being held that night. He stated that the notice for 2026 listed the location of the meeting as being at the Township offices and not there at the Board of Education building on Rt 27. Mr. MacArthur then told the BOARD that he had written to Ms. Woodbury and he did not know if she saw the e-mail as it was late in the day. He explained that he had said that for the March 2, 2026 hearing she had provided a Sunshine notice which changed the location of that meeting to the Board of Education building where they were that evening. He then added that he was curious as to whether she had a similar notice for today's hearing.
191. Ms. Woodbury stated that she did see that he sent an e-mail to her at 2:36 p.m. that day but told Mr. MacArthur that she was already out of the office and did not answer that e-mail. As far as the notice for this evening, it was done digitally because in March 2026, they changed the way that the Township was doing business as to public notice. Ms. Woodbury asked Mr. MacArthur if he needed her to send that to him only because she did not see his e-mail that afternoon. She then told Mr. MacArthur that she would look to see if she had that available to her that evening, but if she did not, she stated she could scan it and get to him tomorrow. Mr. MacArthur agreed to that but wanted to raise that as well.
192. Mr. Bernstein asked Mr. MacArthur if, other than that issue, were the Open Public Meetings Act issues now resolved and Mr. MacArthur stated that he could not say that they were resolved because he had not seen it yet. Mr. Bernstein then reminded Mr. MacArthur that he raised the issue of the annual notice and compliance in two (2) official newspapers and again asked if he had been provided with the paperwork. Mr. MacArthur then agreed that he had been provided with the paperwork for 2025 and 2026, which were the annual notice of meetings which he thought would seem to comply with Section 10:4-6 of the Open Public Meetings Act. He stated that he had not looked at any case law on that subject but would seem to take care of it because it

took care of day, time, location and all of the other relevant requirements of that section. Mr. MacArthur asked if there were to be a future proceedings in this matter, barring the fact that he had not had the chance to look at case law, that it would seem to be resolved.

193. Mr. MacArthur moved on and told the BOARD that more than ten (10) calendar days before this hearing, that they had asked for all expert reports and Mr. Steck, his Planner, submitted his report. He drew the BOARD's attention to the bottom of Page 4 and the top of Page 5 of that report, he indicated that there were some notice issues in his mind. He added that this time it was not with the Open Public Meetings Act, but with the Municipal Land Use Law (MLUL), Mr. MacArthur stated that the MLUL indicated that the date, time, place of the hearing and the matter to be considered and identification of the property by street address, etc., have to be made ten (10) calendar days ahead of time of the first hearing and the excerpt from Mr. Steck's report, beginning at the bottom of Page 4 indicated that the cemetery required a use variance. He then added that no testimony had been provided regarding approval of the cemetery use on proposed Lot 1.09 as indicated in the Zoning Board of Adjustment's Resolutions appended to the Applicant's January 5, 2026 Planning Report. Mr. Lanfrit then asked why Mr. Steck did not give testimony and conclusions about what was included in the report he wrote. Mr. MacArthur stated that it was a legal issue and Mr. Bernstein then indicated that begged the question that they were getting a legal opinion from a planner. Mr. Bernstein then stated that he would concur with Mr. Lanfrit as to the issue of having Mr. Steck testify. He went on to state that if Mr. MacArthur wanted to raise the legal issues that Mr. Steck raised in his report, then maybe thereafter they could have that conversation. Mr. MacArthur then asked for clarification, repeating Mr. Bernstein's comment that he should hold this objection in abeyance pending Mr. Steck's testimony and could raise it again, which he said he would.
194. Mr. MacArthur then brought up the other procedural issues that he had related to something that came up a few hearings ago when he raised issues concerning whether or not they had authorized contracts, contract purchases, etc. under the definitions of the MLUL and believed that went back to November 2025. In response, Mr. Lanfrit produced a constitution for the Ukrainian Orthodox Church of the USA to see if the documentation submitted with that followed the constitution provided. Mr. MacArthur added that he had serious doubts that it does. He then noted that the "so-called" minutes that were provided really were not minutes, but summaries, which he felt glossed over, in his opinion, multiple nuts and bolts requirements in the constitution concerning notices of publications and things of that nature. Mr. MacArthur noted that to begin with, in Roman Numeral 2 (II), the church Sobor, Section 3C and asked if the lay delegates were properly authorized. He then stated that the next issue at hand was if the Sober agenda, published in the Ukrainian Orthodox Word, was published in the UOC of USA website and if it was done 60 days prior to the Sober. In Section 5, Mr. MacArthur asked if a draft resolution for this transaction was received by pre-Sober resolutions thirty (30) days prior to the Sober. He then went on to ask if a resolution was approved in Section 6 and was the resolution that was approved published in the Ukrainian Orthodox Word and/or the UOC of the USA within sixty (60) days of the

Sober. He then stated that there did not appear to be any indication that the Consistory received the Sober minutes and whether they were printed or distributed to the Council of the Metropolia or the parish priests and the parish Board of Administration in Section 10 of Roman numeral 2 (II). Mr. MacArthur then stated that, in Section 11, there was no indication of a quorum being present either.

195. Next, Mr. MacArthur stated that he looked at Roman numeral 5 (V) of said constitution, the Council of the Metropolia, and looked to see if there was a quorum present with a majority of the members from the Metropolia, the metropolitan or the Vice Chair of the Council of the Bishops. Looking at Section 9, he looked to see if the minutes were printed and distributed to Council members for additions, corrections, or deletions within sixty (60) days. He then also posed the question as to whether there was a summary of the session published in the Ukrainian Orthodox Word and the UOC of the USA website. He then added that there, likewise, did not seem to be or seem to appear to be mention of their Consistory actions when it was their responsibility to administer a sale such as this. He then spoke of whether the parishes were involved and under their jurisdiction, all of which was mentioned in Section 10. Mr. MacArthur added that it said that it should be under the parish Board of Administrators and appears to have been left out. He then went on to state that there was no mentioned of summary documents from the summaries that were provided and appeared that this was pushed through. Mr. MacArthur then stated that reading the constitution and its mandatory language, it did not appear that all constitutional requirements followed here. He also stated that the action taken by the Sober in the Metropolia did not authorize the contract. He then stated that if it was not properly authorized, there was no contract, no contract purchaser, which means that there was no Applicant or Application.
196. Mr. MacArthur stated that, according to the definitional sections of 3 and 4 of the MLUL, and the Township's own definitions in the ordinance, of which the ordinance had the same terms as the MLUL. He then explained that he was not there to argue that the actions of the Sober or the Council of the Metropolia should be overturned and stated that he understood the BOARD did not have that power. He then indicated that what he did ask was that the BOARD interpret the definitions of the Township's zoning ordinances, which he stated that they had the inherit right to do and find under these facts that there was no contract purchaser. He then reminded the BOARD as well as Mr. MacArthur that the BOARD did not interpret contracts.
197. Mr. Lanfrit then stated, this BOARD had the authority to hear site plan applications, use variance applications, bulk variance applications, and subdivisions. He went on to explain that the BOARD did not review contracts. He then stated that he then provided all of the paperwork that the church had provided to his office, indicating that they did have the authority to sign the contract. Mr. Lanfrit reminded the BOARD that Mr. Lonsky testified at one (1) of the prior hearings and he was the attorney for the church and that the church had the authority to sign the contract. He did, however, indicate that the last statement made by Mr. MacArthur was accurate. He then told the BOARD that they had documentation that the church had the authority to sign the application, but that they needed to hear all the Application. Mr. Lanfrit then indicated that if Mr.

MacArthur believed that his clients thought that the contract was either void or voidable, there was a courthouse up in Somerville, NJ where he could litigate that issue, but it was not to be litigated there at the BOARD meeting.

198. Mr. MacArthur believed that they were dealing with a limited Municipal Land Use Law issue because they were dealing with the definitional sections of not only the MLUL, but the Township Zoning Code.
199. Mr. Bernstein then asked Mr. Lanfrit when the documents were provided to the BOARD. Mr. Lanfrit stated that they were provided by a submission after the second hearing, sometime in January of 2026. They then had a discussion regarding whether the Applicant had a right to be before the BOARD between the adequate notice issue that was on Mr. MacArthur's agenda for the past two (2) months and now the issue of the Applicant having authorization to sell, which seemed to be on Mr. MacArthur's mind for the past four (4) months. Mr. Bernstein told Mr. MacArthur if he was interested in his office providing legal interpretation, assuming the BOARD was even interested in his legal interpretation, he would have to put it in writing and allow Mr. Lanfrit to respond and then and, only then, would he issue an opinion. He included that short of that, he was not going to advise this client to suspend the hearing on the allegations that Mr. MacArthur had placed before relating to contracts that were in his hands for four (4) months and using those issues to now apparently trying to stop the hearing from either continuing or finishing that evening.
200. Mr. MacArthur stated that he had asked back at the November 2025 hearing whether it was time to lodge objections to procedural issues. He went on to state that he was told it was not the time to do so, so he added that he was respectful of the hearing process at that time. Mr. Bernstein indicated that if there was information in Mr. Steck's report that he wanted to provide the BOARD, he needed to put Mr. Steck under oath to provide that. Mr. MacArthur then called Mr. Steck to provide testimony.
201. Mr. Peter Steck, Planner, 80 Maplewood Avenue, Maplewood, NJ, came forward and was sworn in. The BOARD accepted his qualifications. Mr. Steck then described what he did in preparation for his testimony that evening, what he reviewed and what other actions he took in order to testify that evening. He stated that he reviewed the Application materials that had been submitted. He did state that he was present at the last hearing (March 5, 2026) and listened to the You Tube videos of the September 18, 2025 meeting as well as the November 6, 2025 meeting, toured the property on at least two (2) occasions and reviewed the Master Plan and Re-Examination reports. He also noted that he was present at the last hearing and present earlier that evening when there was a discussion on procedures. As a result of his preparation, Mr. Steck indicated that he produced a report, titled Planning Evaluation of Three (3) Applications, dated April 24, 2026. He told the BOARD that that report was delivered to the municipality on that same date. He then proceeded to go through his report for the BOARD's edification and examined carefully the planning testimony that was presented by Mr. Moronski. In his opinion, Mr. Steck stated that there had not been substantial credible evidence that would justify the relief sought and stated that he felt that there were

procedural issues having to do with what was in the public notice and what the extent of the property was. He referred the BOARD to the bottom of Page 1 of his report where he understood that the Applicant was phrasing this as three (3) separate applications. He noted that it was alleged that the first application was a two (2) lot minor subdivision was phrased as an as of right subdivision. Mr. Steck indicated that he did not agree that it was an as of right subdivision because what it did was lessen the amount of land that was associated with the church facility. He added that since it was a non-conforming use, that non-conforming use was being intensified because the land was being diminished. He noted that the subdivision was being phrased as a separate application, unrelated to anything else and fully conforming. Mr. Steck testified that it was not fully conforming because it triggered a “d(2)” variance. He added that it was being treated as a separate application, and if so, it would be heard by the Planning Board. He noted that the reason it was before the BOARD was because it was connected to, at least as a minimum, the “d(2)” variance for the smaller lot that was housing the church facilities as well as the cemetery. He then stated that the second Application was the one that was the intensification of the Ukrainian Orthodox Church because the land area was being reduced, with the Applicant acknowledging that that was a “d(2)” variance. He then spoke of the third application that was for the warehouse use that was on one (1) of the subdivided lots. He added that it was not exclusively a warehouse use because there was an access driveway through the warehouse lot to get to the church facilities as proposed in the subdivision. Mr. Steck stated that that part of the Application was the “d(1)” Medici case.

202. Mr. Steck stated that he did listen carefully to the testimony of the Applicant’s Planner, which followed his January 5, 2026 Planning Report. Mr. Steck then summarized what he heard him testify, referencing past resolutions affecting the subject property. He added that those resolutions that were in the Appendix to his report essentially talked about the cemetery that was proposed for the subject property. He added that those resolutions indicated that there was an approval of a cemetery that was proposed and because of the lapse of time, had to be extended, with two (2) extensions being utilized already and the approval for a cemetery had lapsed. Mr. Steck stated that because that was a non-conforming use in the zone; to re-establish a cemetery on the subject property or part of the subject property, it involved testimony and a use variance for the cemetery. He went on to state that the Applicant’s Planner talked about the subdivision being fully conforming, but that was only on the dimensional standards. He reiterated that that would not be before the BOARD, but for the fact that it triggers a “d(2)” variance for the expansion of a non-conforming use.
203. Vice Chair Shepherd then opened a discussion regarding what was triggering the “d(2)” variance – the intensification of the church facility or was it the cemetery. Mr. Steck indicated that there were two (2) separate issues that the Applicant has not really presented any testimony about the cemetery and Mr. Steck stated that he believed the Applicant needed to apply for a cemetery because that approval seemed to have lapsed. The Vice Chair stated that that was fine, but wondered why it needed to be part of the current case and Mr. Steck replied that there was a cemetery on the plans that the BOARD was asking their approval from. Mr. Steck then described a case of a property

- that had a non-conforming use on it and the Applicant wanted to subdivide some of the property from a two (2)-family house. He explained that it was an oversized lot but was not touching the house and wanted to subdivide some of the vacant land off the house. He continued by stating that the Court ruled that because that house was non-conforming, to take property away from it was the same as expanding the two (2) family house because they would be taking away the buffers and the setbacks that were surrounding it. He stated that there were two (2) “d” variances that were associated with the Application. One was the cemetery that no one had talked about so far and the other was the “d(2)” variance, which was, in effect, the intensification of the church use.
204. Mr. Steck indicated that one of the other issues was when Mr. Moronski testified he stated that the core activities of the church, even though the property was being reduced, would be accommodated because they were going to use an adjacent lot across the river and putting some of the activity that was happening on the subject property related to the church on the other property. He added that that now affects the other property by adding uses across the stream. He then told the BOARD that, two (2) hearings ago, the Applicant testified that there was a foot bridge across the river that connected the two (2) properties so one could get there without going on the street. Mr. Steck then spoke about the cemetery that was proposed on the subject property and seems to be intimately related to the cemetery across the stream. Mr. Moronski, in his testimony, indicated that the warehouse use was particularly suited because the property was close to Route 287, no residential uses in the area and would use Executive Drive for truck generated traffic, citing certain purposes of the MLUL. Mr. Steck testified that the Applicant did have to show that the property was particularly suited for a warehouse and proximity to Rte. 287. Chairman Thomas then asked if the property was less suited for a warehouse because it is generic in nature to the many other properties in that area. The Chairman then asked how it would be more suited to the property by rezoning the area. Mr. Steck replied that it would be more suited if it supported the Master Plan and if the zoning permitted the use and then he would not be there that evening. Mr. Steck stated if it was generic, the solution should be to re-zone it. He stated that the subdivision was encouraging a non-permitted use (a warehouse) and encouraging intensification of the church, neither of which were permitted under the zoning. The Chairman stated that that was why the Applicant came to the Zoning Board to get a variance and, ultimately, they have provided the proof that they were suitable sites for those uses. A discussion ensued regarding a Master Plan Re-Examination and update that the Planning Board adopted in January that made recommendations to allow warehouses in different areas of the town.
205. Mr. Steck then circled back to Mr. Moronski’s testimony about having front yard loading that was substandard in area and the driveways to the loading area were in the front yard, but Executive Drive may be vacated and suggesting that then those variances would disappear. Mr. Steck then stated that it was not yet vacated as of that evening, as far as he knows. He also told the BOARD that it was his understanding that when a public road was vacated, each side gets half of the right-of-way. He then discussed the law changing regarding the B-I Zone and no longer allowing

warehousing, as well as the Master Plan changing. He then stated that Mr. Moronski failed to refer to the Master Plan Amendment that stated that the Township did not want new warehouses anywhere in the B-I Zone.

206. Mr. Steck then gave his planning conclusions related to the bottom of Page 4 of his report. He reiterated his statement that the cemetery use on the subject property had lapsed, having already asked for two (2) extensions. He added that the Site Plan showed a substantial portion of the new northerly lot (Lot 1.06) to be in cemetery use. It was determined by Mr. Steck that the Applicant should have said in the public notice that they were reapplying for a cemetery and the Applicant should have provided evidence that that could meet the statutory criteria for a use variance. He then referred to his second point on Page 5 of his report that he believed that Lot 2.01 had to be part of the Application because in the testimony, the Applicant said “not to worry, I’m going to put some of these church functions across the stream. He added that they did not have any idea or evidence about how big that social building was, how many parking spaces there were associated with the social building, where traffic circulated to serve the social building. He noted that the cemetery on the subject property was essentially part of the larger cemetery across the stream, with a pedestrian bridge referenced by the Applicant that connected the properties. Mr. Steck indicated that the Applicant had not referenced the extent of the Application, which involved both properties, it was not put in the notice that told the public what was about to be reviewed, and the Applicant did not draw the 200 ft. notice line from both properties. Mr. Steck then referenced the adoption of a new Plan Re-Examination Report recommending that the governing body make three (3) categories of land use, make warehouses again permitted, conditional uses in the B-I Zone. He indicated that they did not know that the governing body was going to adopt that and that the Re-Examination Report was not the Master Plan, which still did not allow warehouses in the B-I Zone as of that evening. He stated that the Re-Examination Report was a separate section of the MLUL and did not even require a public hearing as the Master Plan did. The fact that some changes were being recommended was not the law currently and it was not the test of whether the negative criteria were satisfied. Mr. Steck noted that Mr. Moronski did not mention that the Planning Board, on January 18, 2023 updated its Master Plan, but that it amended it to state that the Township wanted to prohibit future warehouses and a fundamental defect or flaw, in his opinion, in his testimony.
207. Mr. Steck then noted that the Applicant’s Planner indicated that no residential homes were in the area that would be affected; however, if both lots were included as they should be, there was a whole row of single-family homes that abut that property to the northwest, but there were also residential components to the church facility that include seminarians, retired priests, etc.
208. Mr. Steck then drew the BOARD’s attention to his reading the Resolution of the IDIL approval on Executive Drive, it assumed that across Executive Drive was this church area, which was the fact at that time, and that the Applicant should use its best efforts to have Executive Drive vacated. He spoke about motorists entering the church

- property would be utilizing Executive Drive utilizing the signalized traffic light to traverse around trucks and truck bays.
209. Mr. Steck then discussed the fact that the church building is supposed to have most of its parking to the rear of the building and the new parking arrangement for the church did not have that. The ordinance also says, according to Mr. Steck, that they need to have no more than ten percent (10%) of the parking to be in front of a building and that was not the case. He added that there was no testimony given by the Applicant to justify those variances.
 210. Mr. Steck then discussed the lack of landscaping close to the subject's side of Executive Drive where they would be able to see into the truck bays and truck movements and not an aesthetic improvement over what was there today.
 211. In summary, Mr. Steck indicated that he did not think that the Applicant had met the burden of proof for the warehouse and did not think the site was particularly suited just because they said that they comply with environmental regulations and they were close to Rte. 287. Mr. Steck also indicated that both subject property lots (Lot 1.06 and Lot 2.01) were inherently part of the Application and should be referenced as well as informing the public about that and drawing your 200 ft. notice list from these properties. Additionally, you would need a "d(1)" approval for a cemetery on the record because the approval had elapsed. Mr. Steck stated that, in his opinion, there had not been substantial credible evidence that would justify any of the variances and jurisdictional defects.
 212. Mr. MacArthur then asked some follow-up questions, drawing the BOARD's attention to the last paragraph in Mr. Steck's report on Page 7. He then mentioned that Mr. Steck's report indicated that the property was, in fact, particularly unsuitable for the proposed use. Mr. Steck then discussed his reasons for believing the property was particularly unsuitable, included the fact that there was a lot of open space land to the rear of the proposed warehouse building that the public did not even see. He added that, because of the size of the proposed building, there was insufficient loading space, the loading maneuvering area was in the front yard and highly visible and why the Applicant needed to use the driveway for some of the truck maneuvering. Additionally, the church users also have the right to go through that industrial property, which allows them to be intermingling with truck maneuvering.
 213. Mr. Steck then disagreed with Mr. Moronski's statement that the Application satisfied the first (1st) prong of the negative criteria, which is not detrimental to the public good. He noted that there would be a level of service E, with a deterioration of traffic at the intersection with a back-up on the property. He also indicated that the hotel/conference center would have a direct view of the truck traffic coming in and out of Executive Drive, with a lack of sufficient landscaping for shielding that view.
 214. Mr. Steck then discussed the Kaufman case and applied a broader view of "c" variances, where the "c2" variances include the language that the benefits substantially

- outweigh the detriments, with the benefits going to the public and not the developer. He also reiterated that much of the truck activity on the site was proposed in the front yard within public view due to not having enough room for adequate landscape buffering due to the size of the warehouse. Being in close proximity to Rte. 287 gives it regional accessibility, but did not mean it had to be warehouse use. He then discussed again the need for a wider driveway to accommodate for better truck maneuverability.
215. Mr. Procanik asked about what Mr. Steck meant by not being able to have an enhanced visual improvement. Mr. Steck indicated that he was relating that to Mr. Moronski's testimony that they would be including landscaping to shield the building from view and indicating that it would be a nice- looking building and an improved aesthetic look. Mr. Steck spoke about the tall and wide wall and would not be aesthetically pleasing. They also discussed access to Rte. 287.
216. Mr. Healey brought up Mr. Steck's statement of the use for adjoining Lot 2.01 and he questioned the types of activities they would have there and if there would be an impact. Mr. MacArthur told Mr. Healey he had another witness to come forward to answer some of those types of questioning.
217. Mr. Healey then asked the relevance of things having to do with the cemetery and Mr. Steck mentioned that Mr. Moronski noted past resolutions having to do with the cemetery and the fact that the extensions had lapsed and that the Applicant would have to reapply if they were going to leave them on the plans.
218. Mr. Healey then mentioned to Mr. Steck that the Township Council did end up vacating the plans and approved the ordinance. He added that when Executive Drive was created, it was carved out of the Lots 1, 2, and 3 and would go back to the previous parent parcel and not to the adjoining property owner.
219. Mr. Healey corrected Mr. Steck's characterization of the January 2026's Master Plan Re-examination and Update regarding the B-I Zone. Mr. Healey clarified that it was both a Master Plan re-examination and a Master Plan update. Mr. Healey added that it was titled as such and described as such in the document, noticed as such, heard as such, and adopted as both a Master Plan Re-examination and a Master Plan Update, with the document making that clear. Mr. Healey then informed Mr. Steck that he authored the 2023 Master Plan Update and intimately involved in the recently adopted update to the Master Plan regarding the B-I Zone that was a two (2)-year process involving multiple hearings well beyond the Municipal Land Use Law with community hearings, a dedicated webpage and a community input section on the website. He added that they videotaped all the meetings, put it on the website, etc.
220. Mr. Lanfrit then entered into the record as Exhibit A1 – May 7, 2026, which was Ordinance Number 451-26, an Ordinance releasing, extinguishing and vacating the rights of the public to a portion of a street known as Executive Drive in the Township of Franklin, County of Somerset, State of New Jersey, adopted and introduced on March 24, 2026 and finally adopted on April 14, 2026.

221. Mr. Steck conceded that, the road vacation of Executive Drive was vacated and adopted on April 14, 2026. Mr. Lanfrit stated that because the road was vacated, the warehouse did not have frontage on Executive Drive because that road did not exist. Mr. Steck agreed. Mr. Lanfrit indicated that because of that, the bulk variances the Applicant was seeking with respect to Executive Drive also go away. Mr. Steck also agreed that there was no longer a front yard requirement there and the road went back to IDI Logistics. Mr. Steck stated that the question then arose that if it was now private property, can there be an accessory use that was not on the same site as the principal use? Mr. Lanfrit stated that that was assumed during the IDIL Application when it was requested that they vacate Executive Drive. Mr. Lanfrit and Mr. Steck discussed the use of the private drive by the church congregation and Mr. Lanfrit indicated that the church congregation would be utilizing the closest driveway off Davidson Avenue for access. Mr. Steck indicated that there was testimony stating that there would be an easement for the church congregation to utilize the private driveway at Executive Drive. Mr. Lanfrit stated that the testimony was for the church congregation to use the driveway closest to the church.
222. Mr. Lanfrit then opened a discussion regarding Lot 2.01. They spoke about any improvements included for Lot 2.01 in the plans. Mr. Steck said the only thing noted on the plans was a reference by the Applicant's engineer to a pedestrian bridge across the stream, an existing condition that would be replaced.
223. Mr. Lanfrit then stated that there is no request for approval for the cemetery on Lot 1.06 at the present time since same had been previously approved. The hash mark area listed as cemetery should be on the site plan, and whether said approval has expired is not in the purview of the board.
224. Mr. Lanfrit then opened a discussion regarding the Master Plan Re-examination and Update. Mr. Steck stated his understanding now was that the 2026 Master Plan Re-examination and Update adopted in January 2026 recommended that warehouses be made a conditional use.
225. Mr. Lanfrit then opened a questioning/discussion regarding the Applicant hearing appeared before the Historic Commission three (3) times and recommended changes to improve the aesthetics along the entire frontage of Davidson Avenue, both on the warehouse site and the church site Mr. Steck saw those recommendations and agreed it okayed the demolition of the Cultural Center.
226. They then discussed the fact that the demolition of the Cultural Center had nothing to do with it remaining or not and was totally up to the Applicant and not subject to the BOARD's approval. Mr. Steck agreed and indicated that the Applicant's Planner was saying that the fundamental operations of the church would not be intensified and stated that the Applicant was shifting some unknown and undefined functions across the stream to Lot 1.02 with no description of what functions would be shifted and those

that might be abandoned. He added that there did not seem to state how big the building was, how much parking there is and where the traffic is going.

227. Mr. Lanfrit then opened a discussion about Mr. Steck's opinion that the site was not particularly suited for a warehouse. He asked Mr. Steck if he had reviewed the BOARD's decision regarding the IDIL Application just next door, with Mr. Steck answering in the affirmative. A discussion ensued related to the decision by the governing body to vacate Executive Drive as part of upcoming decisions, with the BOARD relying upon that thought process to approve the IDIL Application.
228. Mr. Lanfrit opened a discussion regarding the proposed warehouse development having no impact on Lot 2.01, with no improvements. Mr. Steck agreed with that statement for the warehouse project, but stated he anticipated the bridge replacement over the stream on that lot. He added that there was no description or testimony to describe what uses would be moving from the Cultural Center to Lot 2.01. They then discussed the small parking lot for the Social Center and for the Church.
229. Vice Chair Shepherd then asked what the Social Building houses on Lot 2.01 and Mr. Steck stated that there was no testimony regarding that just that some functions might be moved there from the Cultural Center.
230. Mr. Steck indicated that the Applicant was saying that there were three (3) different applications, the subdivision cannot be separated from the "d(2)" church application because you need that due to the subdivision. He then stated that, in his opinion, none of the applications warrant approval. He stated that he believed that the use variance for the warehouse should be denied and, if it were denied, the Cultural Center did not have to be demolished. Mr. Steck stated that one of themes of the Medici case was that the municipality kept on giving variances for hotels and the Court said, although you are granting subsequent variances for hotels, the fact that the governing body had not changed the ordinance to permit hotels was important and was the basis for saying there is an enhanced burden of proof to grant approvals.
231. Mr. Steck then stated that the impervious coverage was being increased substantially to more than there is today.
232. Mr. MacArthur asked if Medici stated that the applicant had to prove a substantial impairment to the Re-examination Plan or to the Master Plan. Mr. Steck stated that the Medici Case referred to the traditional negative criteria in the MLUL and says that no detriment to the zone plan, with the zone plan being the Master Plan and not the Re-examination report.
233. Mr. Lanfrit then asked if the Cultural Center could be demolished even if the warehouse does not get approved. Mr. Steck stated that the Applicant needed certain municipal approvals and Historic Preservation approvals to demolish the Cultural Center, which were all procedural approvals. Mr. Steck then indicated that the Historic Commission had already given approval to knock down the Cultural Center.

234. Mr. Lanfrit asked Mr. Steck if the warehouse building meets the impervious coverage for the zone. Mr. Steck answered in the affirmative.
235. Mr. MacArthur then asked Mr. Steck whether impervious coverage have an effect on light, air and open space. Mr. Steck answered in the affirmative. They then discussed paying into the Tree Fund instead of planting on site and how that would help the negative criteria, i.e., buffering issues.
236. Mr. Steck stated that he was not advocating for the Cultural Center to be demolished, but he stated that the Applicant had not adequately explained how the core functions of the church were going to be maintained on a lot substantially reduced in size.
237. Chairman Thomas then opened the meeting to the public.
238. Ms. Valeria Varnichenko, 265 Maple Avenue, Dunellen, NJ, came forward and was sworn in. Ms. Varnichenko asked if the Environmental Commission approved the project and Mr. Healey stated that they do not have approval authority. Mr. Healey did state that they did issue a report and the report is advisory to the BOARD.
239. Ms. Varnichenko asked Mr. Steck whether he reviewed the project with regards to the possibility of a proposed warehouse being used as a data center. Mr. Healey answered the question, stating that warehouses and data centers were different uses under the Township's ordinances. A discussion ensued regarding the different uses in the B-I Zone, with a concern that a warehouse could be converted to a data center. Mr. Healey explained that they could not build a data center because that is not what they applied for.
240. Mr. Vsevolod Myrnyi, 2833 Harway Avenue, Brooklyn, NY 11214, came forward. Mr. Myrnyi asked Mr. Steck if this might be a way from the warehouse to become a data center. Mr. Steck stated that the Applicant was not requesting approval for a data center and the Application was for a warehouse. He added that his experience is that the property was too small for a data center.
241. Mr. Bogdan Jasinski, One Operative Court, Morganville, NJ, came forward and was sworn in. Mr. Jasinski started to explain what the Cultural Center is and what it stood for. Chairman Thomas stated that the activities in the Cultural Center and if they keep any of them or are moved to another building was not relevant to the decision-making for a Use Variance before the BOARD.
242. Mr. Lanfrit stated that even though the people at the meetings are referred to as members of the congregation or parishioners, he wanted it on the record to say that none of the people here are members of the congregation of this church.
243. Mr. Jasinski indicated that his experience with the Cultural Center went back to 1976/77, with his children attending school there in the 1980's, as well as his

- grandchildren until very recently. Children were schooled there until the priests decided to eliminate the education component. He also stated that the Cultural Center had been driven to a dilapidated condition and thought it might have been intentional. He stated that he had met with Bishop Daniel who said they had no money to fix it. Mr. Jasinski offered to organize the fundraising of money and he agreed to talk about it, but the meeting never happened. He also spoke to Bishop Anthony who shut down any conversation and said that it was church business.
244. Mr. Jasinski then detailed the type of events and activities that occur at the center to include festivals, christenings, weddings, All Saints Day, ethnic food, crafts, sales, etc. He added that there were about 10-12 classrooms for schools of culture, language, dancing, music, history, etc., storage of artifacts, library, etc. Mr. Bernstein stated that Mr. Jasinski was not qualified to compare the spaces between the Cultural Center and the other buildings to show that these activities would not be able to be accommodated in the smaller space. Mr. Jasinski indicated that he had pictures that had been taken at various events in the Cultural Center. Mr. Jasinski had photos of the exterior of the building showing that the building was not in disrepair.
245. Mr. MacArthur was discussing with the Chairman that Mr. Jasinski's testimony was important to the hearing but Mr. Jasinski had no professional qualifications to testify what was beyond his earlier testimony.
246. Chairman Thomas opened the meeting to the public. Seeing no one come forward, they closed the meeting to the public.
247. The BOARD and Applicant/Objector's attorneys all agreed to carry the hearing to June 18, 2026, with no further notification required.
248. At the hearing held on June 18, 2026, Chairman Thomas stated that the applications were at the point where the hearing would be opened for public discussion and there would be closing statements.
249. Peter U. Lanfrit, Esq., appeared before the BOARD on behalf of the Applicants, Ukrainian Orthodox Church of U.S.A. and Syracuse 1950 Easton Avenue Owner, LLC, stated that he had reviewed additional staff reports that were issued from Mr. Healey, dated June 11, 2026, and from the municipal engineer, dated June 11, 2026, with his client and professionals and indicated that the Applicants would comply with everything contained in those reports and that they did not intend to call any witnesses.
250. Peter MacArthur, Esq. from Peter MacArthur Law, 75 Lane Road, Suite 204, Fairfield, New Jersey also placed his appearance on the record on behalf of the objectors, Svitanok NYC.
251. Mr. Bernstein indicated that all BOARD members who were on the dais were eligible to participate and vote on all three (3) applications.

252. The hearing was then opened to the public.
253. Vadym Nazarchuk, 16 Dortmunder Drive, Manalapan, New Jersey, raised two (2) issues as follows: (1) the application does not explain what is going to happen between new facility and remaining seminary building with respect to the shared parking; and, (2) that new warehouse facility is very close to existing remaining seminary building.
254. Jim Johnston at 34 Norwich Place, Somerset, New Jersey, had one (1) question, whether the warehouse could ever be used as a data center. Vice Chair Shepard and Chairman Thomas indicated that the Applicant would have to come back before the BOARD with a new application if that was to be the case.
255. The public comment portion of the hearing was then closed.
256. Mr. MacArthur and Mr. Lanfrit both gave their closing summations.
257. Vice Chair Shepherd made a motion to grant the d(1) use variance, Preliminary and Final Site Plan with c variances, in which the applicant intends to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse at 135 Davidson Avenue, Somerset, Block 469, Lot 1.06 in the B-I Zone, subject to the condition that the property will not at any point be used as a data center or a place of detention for people, citizens and/or non-citizens. Mr. Rich seconded the motion.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN the BOARD makes the following findings of fact and conclusions of law:

1. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70d, provides the BOARD with the power, in particular cases for special reasons, to grant a variance to allow departure from zoning regulations when the applicant satisfies certain proofs, which are enunciated in the statute. N.J.S.A. 40:55D-70d(2) permits the BOARD to grant a variance to permit the expansion of a non-conforming use. A “d” variance may be granted only “in particular cases for special reasons.” These “special reasons” for a use variance may include: (1) a use that is inherently beneficial; (2) an undue hardship that would be suffered by the property owner if forced to use the property in conformance with the permitted uses in the zone; or, (3) a site that is particularly suited for a proposed use so as to promote the general welfare. This is the “positive criteria”.
2. In addition, the Applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. These are the negative criteria. An “enhanced quality of proof” is required for a “d(1)” variance to be granted, in accordance with Medici v. BPR Co., 107 N.J. 1 (1987), which requires a showing that the “grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance.”

3. An applicant seeking a “d” variance must also address the “negative criteria” associated with the proposal and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and the zoning ordinance” of the Township.
4. It is only in those instances when an Applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the applicant to establish these criteria.
5. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c, also provides the BOARD with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain proofs which are enunciated in the statute. Specifically, an applicant may be entitled to relief if this specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic or physical features exist that uniquely affect a specific piece of property. Further, the applicant may also provide evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Those categories specifically enumerated above constitute the positive criteria necessary in order to obtain “bulk” or c variance relief.
6. Moreover, the Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c(2), further provides the BOARD with the power to grant variances based on whether the Applicant’s proofs advance the purposed of the MLUL by the deviation from the zoning ordinance requirements and if the benefits of the deviation from the zoning ordinance requirements substantially outweigh any detriment.
7. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. See Jacoby v Englewood Cliffs Zon. Bd. Of Adjustment, 442 N.J. Super. 450, 471 (App. Div. 2015). This is the negative criteria. It is only in those instances when an applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the Applicant to establish these criteria.
8. After a review of the record evidence, presentation of testimony and public comment, the BOARD finds the strict application of the Township Zoning Code would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the Applicant. The Applicant has also satisfied its burden of proof establishing that the positive criteria for granting the variance relief outweighs the negative criteria. The BOARD finds the required variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance.

9. The BOARD finds that the Site is particularly suitable for a warehouse use due to its close proximity to Route 287, the existence of other warehouses in the immediate area, and it is consistent with the Master Plan, which encourages warehouse development close to Route 287.
10. The BOARD finds the testimony of Josh Zemon, a representative of the warehouse developer, to be credible, persuasive and uncontroverted.
11. The BOARD finds the testimony of David Lonski, Esq., an attorney who represents the church, to be credible, persuasive and uncontroverted.
12. The BOARD finds the testimony of Daniel Miola, PE, a licensed professional engineer to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that what is being proposed for the church property and what is being proposed for the warehouse property meets the ordinance requirements and that the warehouse development will not impact surrounding residential uses.
13. The BOARD finds the testimony of Wayne Scott Winger, AIA, a licensed professional architect to be credible, persuasive and uncontroverted, including, but not limited to, his opinions regarding the appropriateness of the architectural design.
14. The BOARD finds the testimony of Alan Lothian, PE, a licensed professional traffic engineer, to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that there would not be any negative traffic impact from the proposed development.
15. The BOARD finds the testimony of Sean Moronski, PP, a licensed professional planner to be credible, persuasive and uncontroverted, including, but not limited to, his opinion that the development of the Site would serve various purposes of the Municipal Land Use Law, that the Site is particularly suited to the proposed use and could accommodate the project, that the benefits outweighed any detriments, that there would be no substantial detriment to the public good, and that there would be no detriment to the zoning ordinance or zone plan.
16. The BOARD finds the testimony of Peter Steck, PP, a licensed professional planner who testified on behalf objectors, Svitanok NYC, **not** to be credible, persuasive and uncontroverted regarding the suitability of the Site for warehouse development.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment on the 24th day of September 2026, on the basis of the evidence and testimony presented, the BOARD does hereby grant Preliminary & Final Major Site Plan approval, “d(1)” use variance, and related “c” variances in which the Applicant intends to build a two hundred fifty eight thousand one hundred fifty (258,150) square foot warehouse, subject to the following conditions:

1. The granting of this relief shall not be construed or eliminate the satisfaction of any other requirements of the zoning ordinance or requirements of the agencies, boards, or authorities of the Township of Franklin, County of Somerset, State of New Jersey.
2. The BOARD specifically grants approval to the latest set of application materials submitted by the Applicant.
3. The Applicant shall comply with any recommendations made in reports of Township staff, consultants, and/or in any reports from the Boards/Commissions who have sent recommendations, except waived or modified herein,
4. The property will not at any point be used as a data center or a place of detention for people, citizens and/or non-citizens.
5. There shall be a permanent easement for the church to use the Davidson Avenue driveway.
6. The Applicant shall obtain all other applicable permits and approvals from all applicable governmental boards and agencies prior to any construction.
7. The Applicant shall provide appropriate documentation from Buckeye to the Township that allowed for their proposed storm crossing.
8. The Applicant will add more trees to every island throughout the car parking area.
9. The Applicant shall pay the applicable contribution to the Township's Tree Fund for the remaining required plantings as allowed for by ordinance.
10. The development will be subject to the collection of Non-Residential Development Fees equal to 2.5% of any increase in equalized assessed value due prior to issuance of a C/O.
11. Applicant shall amend the retaining wall as agreed to in paragraph #128 above,
12. Subject to the review of Township professionals, the site plan shall be revised as necessary to be properly coordinated (as to Executive Drive and the Executive Drive/Davidson Avenue intersection improvements) with the warehouse application approved on the south side of Executive Drive. The cost of necessary modifications to Executive Drive to accommodate the truck traffic associated with the warehouse use(s) shall be the full responsibility of the applicant(s).
13. This approval is subject to the Applicant's continuing obligation to pay all professional fees generated by this application prior to issuance of a building permit and/or the issuance of the Certificate of Occupancy, as applicable.

14. Any ambiguities regarding the interpretation of this Resolution shall be resolved by the BOARD upon due notice to the public.

CHRISTINE WOODBURY
Board Secretary

VOTE ON MOTION: 06/18/2026

FOR:

Chairman Robert Thomas
Vice Chair Robert Shepard
Cheryl Bethea
Richard Procanik
Alan Rich
Gary Rosenthal

AGAINST:

Vaseem Firdaus

ABSTENTIONS:

NONE

VOTE ON RESOLUTION: 09/24/2026

FOR:

AGAINST:

ABSTENTIONS:

**THE TOWNSHIP OF FRANKLIN BOARD OF ADJUSTMENT
SOMERSET COUNTY, NEW JERSEY
RARITAN VALLEY HABITAT FOR HUMANITY (ZBA-26-00007)
56-58 MAIN STREET**

WHEREAS, RARITAN VALLEY HABITAT FOR HUMANITY (hereinafter referred to as “Applicant”), being the contract purchaser pursuant to a Developer’s Agreement with the Township of Franklin of the property located at 56-58 Main Street, in the Township of Franklin, County of Somerset, State of New Jersey, said premises also being known as, Block 173, Lots 9-10, (hereinafter referred to as the “Site”), as is indicated on the Tax Assessment Map for the Township of Franklin (hereinafter referred to as the “Township”) has applied to the Township of Franklin Board of Adjustment (hereinafter referred to as the “BOARD”) seeking variances for minimum lot area (existing), minimum lot frontage (existing), maximum building (lot) coverage and maximum impervious coverage to permit the construction of a single-family home on the Site.

WHEREAS, the Applicant submitted an application packet with attachments, which were considered by BOARD, which included the following:

1. Application packet for variance relief with attachments, signed by the Applicant, dated March 24, 2026, consisting of eight (8) pages;
2. Variance Plan, prepared by Carroll Engineering, dated March 4, 2026, consisting of three (3) sheets; and,
3. Architectural Drawings, prepared by JCB Architectural, LLC, dated February 18, 2026, last revised March 5, 2026, consisting of one (1) sheet.

WHEREAS, the Township officials submitted memos, which were considered by the BOARD, which included the following:

1. Memorandum from the Technical Review Committee (TRC), dated May 19, 2026, consisting of three (3) pages; and,
2. Memorandum from Tara Kenyon, AICP/PP, Sustainability Coordinator, Township Environmental Commission, dated June 2, 2026, consisting of one (1) page.

WHEREAS, the Applicant introduced, and the Board admitted, various Exhibits as follows:

- a. A-1 – Aerial image of the subject property, prepared by Carroll Engineering, dated March 5, 2026, consisting of one (1) page.
- b. A-2 – Colorized version of Site Plan, prepared by Carroll Engineering, dated March 5, 2026, consisting of one (1) sheet.

WHEREAS, at the conclusion of the hearing, the Applicant seeks variance relief from the Township's ordinance as follows:

1. Section 112, Schedule 2 – To permit a lot area of 5,000 square feet (existing), where a minimum lot area of 7,500 square feet is required.
2. Section 112, Schedule 2 – To permit a lot frontage of fifty (50) feet (existing), where a minimum frontage of seventy-five (75) feet is required.
3. Section 112, Schedule 3 – To permit a building (lot) coverage of 27.7%, where a maximum coverage of 20% is permitted.
4. Section 112, Schedule 3 – To permit an impervious coverage of 38.8% percent, where a maximum impervious coverage of 30% percent is permitted.

WHEREAS, the BOARD determined it had jurisdiction and upon due notice as required by law, a public hearing was conducted on July 16, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN, the BOARD hereby makes the following findings of fact:

1. The Site is located in the R-7 Residential Zoning District. The Applicant seeks variances for minimum lot area (existing), minimum lot frontage (existing), maximum building (lot) coverage and maximum impervious coverage to permit the construction of a single-family home on the Site.
2. Luke Pontier, Esq., Attorney, appeared before the Board on behalf of the Applicant, Raritan Valley Habitat For Humanity. Mr. Pontier indicated that the applicant was seeking a "c" variance in which the Applicant was proposing the construction of a 100% affordable single-family home at 56-58 Main Street, Somerset; Block 173, Lots 9-10, in an R-7 Zone. Mr. Pontier also stated that the Applicant also intended to consolidate the existing two (2) lots into one (1) single lot which would bring existing non-conformities closer into compliance with the Township's zoning requirements. He noted that the subject lot was currently vacant, with minimal existing improvements and a little bit of gravel from the adjacent property that encroached onto the subject lot. He then noted that the property was currently owned by Franklin Township, and that the Applicant entered into a development agreement with the Township governing the Applicant's acquisition and development of the property for affordable housing purposes.
3. Mr. Pontier then explained that the property has two (2) pre-existing non-conformities from the Township code which the Applicant sought variance approval for as part of the Application.
4. He then noted that the first variance was related to lot area, where 5,000 sq. ft. existed for the combined two (2) lots, and the minimum required is 7,500 sq. ft. The second

was for lot frontage to permit a frontage of 50 ft. for both lots combined, where the minimum required is 75 ft. Mr. Pontier then added that the Applicant was also asking for relief in connection with the construction of the residence to permit lot coverage in the amount of 27.7%, where the maximum permitted is 20% and to permit impervious coverage in the amount of 38.8%, where the maximum permitted is 30%.

5. As part of the Application, they did receive two (2) reviews, one (1) from the Technical Review Committee (TRC) report, dated May 19, 2026, and the second from the Environmental Commission, dated June 2, 2026.
6. Mr. Thomas Fik, Project Engineer, employed with Carroll Engineering in Hillsborough, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Fik planned to give a brief overview of the property's existing conditions, orientation to the area and discussed the improvements proposed. He entered into the record as Exhibit A-1, which was an aerial image of the subject property in relation to the neighborhood that was on the cover sheet of the plans submitted to the Board, prepared by himself, dated March 5, 2026. He indicated that it showed both Lots 9 and 10, which are 50 ft. wide together where the required frontage is 75 ft., and 100 ft. deep, with a total area of 5,000 sq. ft., where 7,500 sq. ft. is the minimum lot area, and is an existing non-conforming condition.
7. Chairman Thomas then asked if they had offered the property for sale to adjacent property owners or offered to purchase land from existing homes to make the subject property more conforming. Mr. Fik indicated that that all the properties along the road were developed with single-family homes and, therefore, there was no additional land to acquire. Mr. Healey indicated that they could address the option of selling land to adjacent property owners as the testimony was given.
8. Mr. Fik then entered into the record as Exhibit A-2, which was a colorized exhibit based on the site plan that was submitted to the Board, dated March 5, 2026, stating that he was the preparer. He noted that the left-hand side was the existing conditions and the right-hand side was the proposed conditions. Mr. Fik indicated again that the lot was vacant, covered predominantly with grass with some trees along its left side, fronting on Main Street with existing sidewalk along the front of the property. Mr. Fik then drew the Board's attention to the right side of the exhibit showing the proposed condition of a single-family ranch-style home, with three (3) bedrooms, no basement and built on a slab, sized as approximately 25.5 ft. x 48 ft. He then noted that the home would have a porch in the front of it, a deck off to the side, and a patio in the rear of the home. Mr. Fik then indicated that the Applicant was proposing a shed, 8 ft. x 10 ft. at the rear of the property for storage of anything from bicycles to a lawn mower. He then added that there was no garage proposed as part of the Application, but two (2) parking spaces proposed in the front of the property connected between the driveway and the home by a walkway. He then noted that the home would be served by public water and public sewer and that the dwelling did comply with the front yard, side yard and rear yard setbacks required in the zone. Mr. Fik then told the Board that the coverage variances were driven largely by the size of the lot and that the project was a

pretty typical project for Habitat for Humanity for a family that included three (3) bedrooms. He then stated that the coverage variance was fairly minimal, consisting of a few hundred sq. ft.

9. Mr. Fik then discussed the comments of the Environmental Commission and specifically spoke about considering pervious pavement as part of the driveway. Mr. Fik then explained that pervious pavement tended to be more of an expensive product and that the project was for Habitat for Humanity and non-profit, they were proposing a gravel driveway that also allowed water to infiltrate through as opposed to pavement. He noted that the area did not have great soils so that the ability to infiltrate was going to be very minimal anyway.
10. Mr. March then asked if there was any explicit objection to the project by the neighbors, and Mr. Fik stated that he was not aware of any. Mr. Pontier then stated that the residents within 200 ft. of the property were provided with notice of the hearing, the extent of the improvements proposed and the variance relief. He also added that he did not believe that there were any neighbors in attendance that evening.
11. Chairman Thomas then asked how the proposed home fit into the neighborhood, size-wise and appropriateness for the neighborhood. Mr. Fik then drew the Board's attention to the aerial exhibit, noting that the product they were proposing for the home was very similar to other homes in the neighborhood. He added that there were other small, narrow lots with some small types of homes on those lots in the neighborhood as well and felt that it would blend in really well with the neighborhood. The Chairman indicated that it was his thought that the home was properly sized, but that the lot was undersized that was causing the need for variances and the basis for the hardship variance they were requesting. Mr. Fik concurred, indicating that the bedrooms needed to be of an appropriate size to accommodate a family of three (3) or four (4) and that there was no proposal to add a second floor, so all living space would be on the first floor.
12. Mr. Healey interjected that the neighborhood did vary significantly since it was an older neighborhood, having a mixture of complying lots and lots that were narrower. He noted other homes across the street that were only comprised of the same 50 ft. wide x 100 ft. deep and not out of character with the pattern of the immediate street.
13. Mr. Bernstein, Board Attorney, then asked to view Exhibit A-2 again, and brought up the fact that they were proposing a gravel driveway. He wanted to know what the Applicant was proposing to do to ensure or minimize the amount of gravel getting into the street. Mr. Fik stated that there was a concrete apron at the end of the driveway along with a sidewalk there. He added that it could also help with that issue by putting a larger type of gravel, $\frac{3}{4}$ inch clean stone, to prevent smaller fine or smaller aggregate getting into tires.
14. Mr. Rich then noted that there did not seem to be any other gravel driveways in the area, and Mr. Fik concurred that there were not any other graveled surfaces in the area.

15. Mr. Bernstein then asked if the inclusion of a shed was part of a normal Habitat for Humanity application for a house of this size. Mr. Fik stated that they usually do include sheds because they do not have garages or basements to help with storage.
16. Ms. Bethea asked if a homeowner wanted to change the driveway from gravel to asphalt pavement, would they have to come back before the Board for approval. Mr. Fik indicated that they included the graveled driveway as part of the coverage on the property, so the coverage would not change. Mr. Fik stated that they chose a graveled driveway because that was the typical driveway for Habitat properties and less expensive and provided some reduction of runoff because it would allow some water to infiltrate. Mr. Healey concurred with Mr. Fik's description.
17. Mr. Mark Remsa, Project Planner and self-employed, 10 Dewberry Court, Mount Laurel, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Remsa went through the variance relief and the proofs associated with each of the variances they were requesting. First, Mr. Remsa spoke about the surrounding land uses, utilizing Exhibit A-1. He then indicated that the subject property was surrounded by single-family, residential dwellings, with both properties that straddle the subject property were both compliant at 7,500 sq. ft. lots. He then explained that any taking away of land from those two (2) adjoining neighbors would bring the properties out of compliance. Vice Chair Shepherd indicated that the Applicant should have also gone to the adjacent owners to see if they would be interested in purchasing the subject property. Mr. Healey agreed with the Vice Chair that this situation was unique and that typically the Board wants to see that the Applicant has sent buy/sell letters to adjacent homeowners in order to either buy the adjoining property or they have to try to sell their property to the adjoining property owners. Mr. Healey went on to state that these were Township-owned properties and the Township did not sell properties other than for affordable housing to meet their affordable housing obligations. Mr. Remsa then added that he was familiar with the Fair Share Plan and testified that the subject property was part of the Township's Round Four obligation and the plan had already been approved by the courts.
18. Mr. Bernstein then asked, for the purposes of the approval in the Township's plan, what the size of the bedrooms and number of bedrooms for the subject property approved for. Mr. Remsa indicated that the project was approved for three (3) bedrooms and the proposed make-up was in conformance with the housing element Fair Share Plan.
19. Mr. Remsa went on to state, regarding the lot size and lot frontage, it was essentially a classic hardship because of the unique shape and size of the lot. He also added that they had touched upon the uniqueness of the conditions. On Exhibit A-2, Mr. Remsa stated that it showed another variance where the proposed deck had a side yard setback of 6.92 ft. and the ordinance indicated that any attached accessory structure had to comply with the principal setback, which is 8 ft. He then noted that they were going to adjust that so that it was compliant and there would not be any side yard setback variance required for the deck and needed to increase the setback by 1.08 ft. He added

that they would adjust the drawing accordingly as well. Mr. Remsa then focused on the other two (2) variances that were required, the maximum lot coverage where 20% was permitted and where 27.7% was proposed as well as the maximum impervious coverage of 30% where 38.8% was proposed. He noted that both of these variances were a function of the smaller size of the lot, but that it could also be considered as a c(2) variance, but they would have to make the house very small to do so and well under the 1,200 sq. ft. which would not be a usable house and would not be able to provide the three (3) bedrooms. He then added that by increasing the size of the home, they were improving the zoning, which was one (1) of the requirements under the c(2). Mr. Remsa then stated that in order to increase the building size and also the related impervious coverage, they would require variances. He added that at the same time they would be promoting certain purposes of the Municipal Land Use Law (MLUL). He indicated that they would be providing adequate light, air, and open space, to provide sufficient space and appropriate locations for a variety of land uses, one (1) of which was residential, specifically in this case affordable residential as well as the Master Plan and court approved housing plan element Fair Share Plan. He added that they would be promoting a desirable visual environment and that the variance would allow them to have a house that was similar in character in the neighborhood as well as preventing urban sprawl by having this in-fill development within an already established neighborhood and allowing for a reasonably sized home. Mr. Remsa then spoke about the ability to provide the more efficient use of land and to promote the public health, safety, morals and general welfare. Mr. Remsa then stated that he did not see any substantial detriment to the surrounding properties and did not harm to the zone plan and zoning ordinance. In summary, Mr. Remsa stated that he believed that the undersized lot and lot frontage and two (2) coverage variances could be granted.

20. Mr. Healey then confirmed that this Application and the next one on the agenda were one (1) story homes, and Mr. Remsa confirmed that they were. Mr. Healey then asked if the one (1) story design related to the fact that these were Habitat for Humanity homes and pointed to the affordability of the home. He then asked if it would be more expensive to build a (2) family home. He also asked that by making it a ranch-style home, did that result in the higher building coverage and impervious coverage. Mr. Remsa replied by stating that under the Fair Housing Act, it was important to make sure that costs were kept in check, so Habitat for Humanity had an approach to provide reasonably affordable housing at reasonable costs. He then noted that the ranch-style home was the solution that they had found, but that that style home was driving a little bit of the coverage issue as well.
21. Mr. Bernstein then asked, for the purposes of the record, if they could have the letters associated with the purposes of the MLUL that he discussed earlier. Mr. Remsa stated that he included purposes a, c, g, i, j, and m in his discussion. He also confirmed for Mr. Bernstein that this was going to be a “for sale” property.
22. Chairman Thomas then opened the meeting to the public for questions. Seeing no one coming forward, the Chairman closed the meeting to the public.

23. Chairman Thomas then stated that the owner of the proposed home should be informed clearly that there was no room on the property for another shed, for example, without coming back before the Board. He felt that some process needed to be put in place to ensure that the potential owner gets that information. Mr. Bernstein asked Mr. Pontier if the deed could clearly indicate that there could be no other structures placed on the property without applicable Board approval since it was a “for sale” home.
24. Ms. Jessica Abbott, Executive Director of Habitat for Humanity, came forward to discuss the options of a deed restriction or, alternatively, to agree as a condition of this approval, to provide the buyer of the property with a copy of the Resolution. Mr. Bernstein then stated that he thought it would be preferable to be in the deed because people do not always find things, but deeds do not disappear. Ms. Abbott indicated that she would not have a problem with the restriction being a part of the deed because all of their deeds go through affordable housing. She then added that any upgrades to the property could only be completed anyway with written approval of the affordable housing administrative agent. Mr. Bernstein then replied that he felt it would be more effective by including it on the deed, and Ms. Abbott stated that they would be able to put that on the deed.¹
25. Vice Chair Shepherd made a motion to approve the “c” variances necessary to allow to build a house and shed on property located at 56-58 Main Street, Somerset, NJ, with all conditions previously agreed upon. Ms. Bethea seconded the motion.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN the BOARD makes the following findings of fact and conclusions of law:

1. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c provides the Board with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain proofs which are enunciated in the statute. Specifically, an applicant may be entitled to relief if this specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic or physical features exist that uniquely affect a specific piece of property. Further, the applicant may also provide evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Those categories specifically enumerated above constitute the positive criteria necessary in order to obtain “bulk” or c(1) variance relief.
2. Moreover, the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c(2) further provides the Board with the power to grant variances based on whether the Applicant’s proofs advance the purposed of the MLUL by the deviation from the zoning ordinance

¹ During a subsequent hearing at the same meeting with respect to 29 Kossuth Street (ZBA-26-00011), the Applicant also agreed to install an asphalt driveway as a further condition of approval with respect to this Application.

requirements and if the benefits of the deviation from the zoning ordinance requirements substantially outweigh any detriment.

3. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. See Jacoby v Englewood Cliffs Zon. Bd. Of Adjustment, 442 N.J. Super. 450, 471 (App. Div. 2015). This is the negative criteria. It is only in those instances when an applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the Applicant to establish these criteria.
4. After a review of the record evidence, presentation of testimony and public comment, the BOARD finds the strict application of the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the Applicant.
5. The BOARD finds the testimony of Thomas Fik, the Applicant's project engineer, to be credible, persuasive and uncontroverted including, but not limited to, his opinions that the coverage variances were necessitated by the size of the lot and that the proposed home would fit well with the neighborhood.
6. The BOARD finds the testimony of Mark Remsa, the Applicant's project planner, to be credible, persuasive and uncontroverted including, but not limited to, his opinions that the requested variances could be granted under either the c(1) or c(2) criteria, that the proposed development would promote various purposes of the MLUL, that the proposed development would promote the public health, safety, morals and general welfare, and that there would not be any substantial detriment to the surrounding properties or harm to the zone plan and zoning ordinance.
7. The BOARD finds the testimony of Jessica Abbott, Executive Director of Habitat for Humanity, to be credible, persuasive and uncontroverted.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment on the 24th day of September 2026, on the basis of the evidence and testimony presented, the BOARD does hereby grant the "c" variance relief requested, subject to the following conditions:

1. The granting of this relief shall not be construed or eliminate the satisfaction of any other requirements of the zoning ordinance or requirements of the agencies, boards, or authorities of the Township of Franklin, County of Somerset or State of New Jersey.
2. The Board specifically grants approval to the latest set of application materials submitted by the Applicant.
3. The Applicant shall comply with any recommendations made in Mr. Healey's Planning Report or in any reports from the Boards/Commissions who have sent in recommendations.

4. The Applicant shall provide for a deed restriction clearly indicating that there can be no other structures placed on the property without subsequent Board approval.
5. The Applicant shall install an asphalt driveway rather than a gravel driveway as initially proposed. See comments placed on the record with respect to the Applicant's application for 29 Kossuth Street (ZBA-26-00011).
6. The Applicant shall revise the plans to show that there will not be a side yard setback variance required for the deck.
7. The Applicant shall obtain all other applicable permits and approvals from all applicable governmental boards and agencies prior to any construction.
8. This approval is subject to the Applicant's continuing obligation to pay all professional fees generated by this application prior to issuance of a building permit and/or the issuance of the Certificate of Occupancy, as applicable.
9. Any ambiguities regarding the interpretation of this Resolution shall be resolved by the BOARD upon due notice to the public.

CHRISTINE WOODBURY
Board Secretary

VOTE ON MOTION: 07/16/2026

FOR:

Chairman Robert Thomas
Vice Chair Robert Shepard
Cheryl Bethea
Vaseem Firdaus
Alan Rich
Gary Rosenthal
Peter March

AGAINST:

ABSTENTIONS:

NONE

VOTE ON RESOLUTION: 09/24/2026

FOR:

AGAINST:

ABSTENTIONS:

**THE TOWNSHIP OF FRANKLIN BOARD OF ADJUSTMENT
SOMERSET COUNTY, NEW JERSEY
RARITAN VALLEY HABITAT FOR HUMANITY (ZBA-26-00011)
29 KOSSUTH STREET**

WHEREAS, RARITAN VALLEY HABITAT FOR HUMANITY (hereinafter referred to as “Applicant”), being the contract purchaser pursuant to a Developer’s Agreement with the Township of Franklin of the property located at 29 Kossuth Street, in the Township of Franklin, County of Somerset, State of New Jersey, said premises also being known as, Block 180, Lots 111-112, (hereinafter referred to as the “Site”), as is indicated on the Tax Assessment Map for the Township of Franklin (hereinafter referred to as the “Township”) has applied to the Township of Franklin Board of Adjustment (hereinafter referred to as the “BOARD”) seeking variances for minimum lot area (existing), minimum lot frontage (existing), minimum front yard setback, maximum building (lot) coverage and maximum impervious coverage to permit the construction of a single-family home on the Site.

WHEREAS, the Applicant submitted an application packet with attachments, which were considered by BOARD, which included the following:

1. Application packet for variance relief with attachments, signed by the Applicant, dated April 23, 2026, consisting of eight (8) pages;
2. Variance Plan, prepared by Carroll Engineering, dated April 3, 2026, consisting of three (3) sheets; and,
3. Architectural Drawings, prepared by JCB Architectural, LLC, dated January 27, 2026, last revised April 17, 2026, consisting of one (1) sheet.

WHEREAS, the Township officials submitted memos, which were considered by the BOARD, which included the following:

1. Memorandum from the Technical Review Committee (TRC), dated May 19, 2026, consisting of three (3) pages; and,
2. Memorandum from Tara Kenyon, AICP/PP, Sustainability Coordinator, Township Environmental Commission, dated May 19, 2026, consisting of one (1) page.

WHEREAS, the Applicant introduced, and the Board admitted, various Exhibits as follows:

- a. A-1 – Colorized version of Site Plan, prepared by Carroll Engineering, dated April 3, 2026, consisting of one (1) sheet.
- b. A-2 – Exhibit showing the existing and proposed conditions.

WHEREAS, at the conclusion of the hearing, the Applicant seeks variance relief from the Township's ordinance as follows:

1. Section 112, Schedule 2 – To permit a lot area of 5,000 square feet (existing), where a minimum lot area of 9,000 square feet is required for a corner lot.
2. Section 112, Schedule 2 – To permit a lot frontage of fifty (50) feet (existing), where a minimum frontage of ninety (90) feet is required for a corner lot.
3. Section 112, Schedule 2 – To permit a front yard setback of 15.9 feet (Kent Street), where a minimum of 25 feet is required.
4. Section 112, Schedule 3 – To permit a building (lot) coverage of 27.7%, where a maximum coverage of 20% is permitted.
5. Section 112, Schedule 3 – To permit an impervious coverage of 38.8% percent, where a maximum impervious coverage of 30% percent is permitted.

WHEREAS, the BOARD determined it had jurisdiction and upon due notice as required by law, a public hearing was conducted on July 16, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN, the BOARD hereby makes the following findings of fact:

1. The Site is located in the R-7 Residential Zoning District. The Applicant seeks variances for minimum lot area (existing), minimum lot frontage (existing), minimum front yard setback (Kent Street), maximum building (lot) coverage and maximum impervious coverage to permit the construction of a single-family home on the Site.
2. Luke Pontier, Esq., Attorney, appeared before the Board on behalf of the Applicant, Raritan Valley Habitat for Humanity. The Applicant is requesting "c" variances in which the Applicant is proposing the construction of a single-family home at 29 Kossuth Street, Somerset; Block 180. Lots 111-112, in an R-7 Zone. He indicated that the Applicant sought approval in connection with the construction of a 100% affordable single-family home on the property. As part of the Application, the Applicant also intended to consolidate the two (2) lots into one (1) lot, which would help to bring the existing non-conformities closer into compliance with the Township's zoning requirements. The lot that was subject to this Application was currently vacant. He noted that the property was currently owned by Franklin Township, with the Applicant entering into a development agreement with the Township to govern the Applicant's acquisition and development of the property for affordable housing purposes. Mr. Pontier also indicated that the project was included in the Township's fourth round housing element and Fair Share Plan. He added that as part of the agreement, the Township would convey the property to Habitat for Humanity for the construction of affordable housing.

3. Mr. Pontier stated that the property had two (2) pre-existing nonconformities from the Township of Franklin code, including for minimum lot area, where the two properties combined have a lot area of 5,000 sq. ft. and the minimum lot area that is required is 9,000 sq. ft. because it is a corner lot at the corner of Kossuth and Kent. He then discussed the second pre-existing variance for lot frontage, stating that the two (2) lots combined have a lot frontage of 50 ft. and because it is a corner lot, a minimum of 90 ft. is required. Mr. Pontier again explained that they were bringing the Site closer into compliance by consolidating the two (2) lots. Mr. Pontier then discussed the three (3) variances that were required in connection with the construction of the home, including lot coverage, where 27.7% is proposed and a maximum of 20% is permitted. Additionally, impervious coverage of 36.9% is proposed where 30% is permitted as well as a 15.9 ft. front yard setback proposed along Kent Street, where a minimum front yard setback of 25 ft. is required. He then added that they complied with the front yard setback along Kossuth Street.
4. Mr. Pontier acknowledged receiving the Technical Review Committee (TRC) report, dated May 19, 2026, as well as the Environmental Commission memorandum, also dated May 19, 2026.
5. Mr. Spencer Lyons, Project Manager (Engineer) at Carroll Engineering, Hillsborough, NJ came forward and was sworn in. The Board accepted his credentials. Mr. Lyons stated that his office prepared the variance plans that were submitted to the Board for the Application. He then marked into evidence as Exhibit A-1, an exhibit consisting of a colorized version of a blown-up of the cover sheet to the site plans and stated that he was the author of such, dated April 16, 2026. Mr. Lyons then gave an overview of the property and its existing conditions, noting that both of the lots were 25 ft. x 100 ft. in size with the total area of the Site being 5,000 sq. ft., which was an existing non-conformance for corner lots where 9,000 sq. ft. is the requirement for total area. Mr. Lyons then stated that the Site was located along Kossuth Street and Kent Street and had two (2) frontages, with 100 ft. along Kent Street and the frontage along Kossuth Street is 50 ft., which is another existing non-conformance as the requirement for frontage of a corner lot is 90 ft. He noted that the surrounding area shown in the aerial photo showed residential development.
6. Vice Chair Shepherd then asked if the houses in the surrounding area are similar in size and appearance to what is being proposed. Mr. Lyons stated that there are similar narrow ranch homes located in the area. He then noted that the adjacent lot along Kossuth Street was fully developed.
7. Mr. Lyons then entered into the record as Exhibit A-2, an exhibit showing the existing and proposed conditions. He added that the exhibit was prepared by Carroll Engineering and was dated April 16, 2026, and indicated that it was similar to what was submitted as part of the Application, but was colorized for the night's presentation. Mr. Pontier stated that they can send all the exhibits electronically to the Township and also do have 11" x 17" hard copies with them that evening. Mr. Healey stated that one (1) 11' x 17" copy for the file would be fine.

8. Mr. Lyons then went on to describe the existing and proposed conditions and drew the Board's attention to the left-hand side of the exhibit that showed existing conditions on the property. He indicated that the existing lot was currently vacant with grass and a few trees and a gravel area in the bottom right-hand corner. He then stated that there was a sidewalk along Kossuth Street. Mr. Lyons drew the Board's attention to the right-hand side of the exhibit that showed the proposed conditions that included a one (1) story ranch-style home that was affordable, measuring 25.5 ft. x 48 ft., for a total square footage of approximately 1,224 sq. ft. Also included on the property was a patio and shed in the rear with a porch in the front, a gravel driveway in the front that would accommodate two (2) car parking spaces off Kossuth Street with a walkway from the porch to the driveway.
9. Vice Chair Shepherd then asked about the big tree on the property, noting the comments from Tara Kenyon in the Environmental report that said the Environmental Commission strongly urged the Applicant to protect the large tree in the central eastern portion of the property, including its root structure and canopy during construction. Mr. Lyons stated that the Applicant was fully aware of the large tree on the property and was going to do their best to protect and preserve the tree and it was proposed to remain. He then pointed out on Exhibit A-2 where that tree was located, noting that is why there was no deck proposed. Mr. Lyons then noted that the new home would be serviced by public water and public sewer. He then spoke about the front yard setback variance that is required along Kent Street due to the property being a corner lot.
10. Ms. Bethea asked whether there was a two (2) car garage as well as a shed on the property. Mr. Lyons indicated that there were no garages, but that they were providing a two (2) car gravel driveway and the home did not have a basement.
11. Vice Chair Shepherd then asked if the two (2) car gravel driveway was for two (2) cars stacked or side by side. Mr. Lyons testified that they were being provided side by side. He added that the provision of a gravel driveway also helped to facilitate some drainage as opposed to an asphalt driveway.
12. Mr. Lyons indicated that he had reviewed the memorandum from the Environmental Commission and noted that there was also a request for pervious pavers to be provided in lieu of a gravel driveway. He indicated that pervious pavement was more costly and does require high maintenance. He then added that the Applicant was a non-profit organization and that the gravel driveway that was proposed would provide for infiltration and would have similar functionality.
13. Chairman Thomas then asked if the gravel driveway was part of the impervious coverage calculations. Mr. Lyons answered in the affirmative. The Chairman then asked why they did not consider an asphalt driveway since the plowing of one (1) snowfall would render the driveway with no gravel left and nothing but mud. Mr. Lyons indicated that the gravel provided a better drainage alternative. The Chairman then asked how much would one (1) driveway affect the drainage. Mr. Pontier stated

that if it were the Board's pleasure, the Applicant would be willing to pave the driveway.

14. Mr. Healey then noted that the setback from the front property line was 15.9 ft. but also wanted to know what the distance was from the house to the curb along Kent Street. Mr. Lyons indicated he did not have the exact distance, but it was about another 10 ft. or so.
15. Mr. Bernstein, Board Attorney, asked if the home was a "for sale" property and how many bedrooms were included. Mr. Lyons stated that it was a "for sale" property with three (3) bedrooms and was a low-income home.
16. Ms. Bethea stated that she agreed with the Chairman's comment regarding sustainability of an asphalt driveway as opposed to a gravel driveway.
17. Mr. Mark Remsa, Project Planner and self-employed, 10 Dewberry Court, Mount Laurel, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Remsa reviewed the variance relief and proofs associated with that relief. He stated that the corner lot contributed to the hardship for the size of the lot and the lot frontage. Mr. Remsa referred back to Exhibit A-1, and noted that the adjacent home on Kossuth Street is a very similar home, a ranch-style, to what is being proposed with the Application. He also added that all around the existing property were single-family detached homes. He then noted that the deficient lot area and lot frontage were all related to the size and shape of the property and typically related to the c(1) "hardship" type of variance. Mr. Remsa also mentioned that the property was owned by the Township for the purpose of producing an affordable housing unit. With regard to the front yard setback from Kent Street, where 25 ft. is required and 15.9 ft. is proposed, Mr. Remsa referred to Exhibit A-2.
18. Mr. Bernstein asked Mr. Remsa how close the house on Kossuth Street was to the neighboring house on the same street as well as the same question from the house on Kent Street. Mr. Remsa indicated that the house on Kossuth was roughly 25 ft. from the property line and what separated the two (2) properties is the driveway on the neighboring property. He went on to state that to the north, on Kent Street, the home was approximately 20 ft. from the property line.
19. Mr. Remsa stated that the proposed home was designed to be a single-story ranch-style home with 1,224 sq. ft. and the side yard setback from the adjoining property on Kossuth Street was compliant. He then testified that there was really no way to shift the house any farther away from Kent Street to increase the setback from Kent Street without creating a new variance. He stated that, in his opinion, that the house's location was a good balancing of locating it between the two property lines. He noted that it provided the sufficient side yard setback from the one (1) neighbor and had reasonable setback from Kent Street. Mr. Remsa then discussed the coverage requirements where 20% is the maximum for lot coverage and they were proposing 27.7%. He stated that the maximum impervious coverage that is permitted is 30%, and they were proposing

36.9%. He added that that was also a function of the fact that the property was undersized, but in order to have a reasonably sized three (3)-bedroom affordable unit (roughly 1,200 sq. ft.) that was about as small of a house that they could possibly locate there. He then stated that they could consider it a c(2) variance for the front yard set back as well as the two (2) coverage variances.

20. Mr. Remsa then spoke about the purposes of the Municipal Land Use Law (MLUL) that were being promoted by the Application including purpose c, by providing adequate light, air and open space, purpose g, by providing sufficient space in appropriate locations for a variety of land uses and also carrying out the purposes of the Housing Element and Fair Share Plan of the Master Plan, purpose i, by promoting a desirable visual environment, purpose j, by preventing urban sprawl (providing in-fill development), purpose m, by providing for more efficient use of the land and, purpose a, by promoting the public health, morals and general welfare.
21. Mr. Remsa then indicated that looking at the surrounding land uses, he stated that he saw no substantial detriment to any of the surrounding dwellings and is compatible to what is already existing in the neighborhood. Additionally, he stated that it did not cause any substantial impairment to the zone plan and zoning ordinance. In summary, Mr. Remsa stated that he believed that the variances could be granted without any substantial detriment.
22. Mr. Healey indicated that he had some facts to support the planning testimony. He stated that 25 Kossuth and 6 Kent, the immediately adjoining properties, were both undersized at 5,000 sq. ft. and would address the issue of the consistency with the neighborhood. Mr. Healey added that the other corner properties along Kossuth to the north, including 6 Lee Street, is also 5,000 sq. ft. He added that the front set back along Lee Street was definitely not the required 25 ft. and a consistent setback with what the applicant is proposing. He then pointed out that 61 Kossuth, with a ranch-style home and 5,000 sq. ft. lot size on a corner lot with Lee Street, also did not have a 25 ft. setback for the same reasons.
23. Chairman Thomas then opened the meeting to the public. Seeing no one coming forward, the meeting was closed to the public.
24. The Chairman also stated that the same condition with the deed restriction for the property as they did with the previous hearing should apply. Mr. Pontier stated that they could agree to that condition.
25. Mr. Bernstein brought up the issue of the asphalt versus the gravel driveway and was considered among the Board. A poll was taken of the Board related to this issue, and a majority voted for an asphalt driveway.
26. Vice Chair Shepherd made a motion to approve the Application with c variances, subject to the conditions that the deed include a statement that no further construction could be added to the property without the Applicant returning to the Board and that

the driveway shall not be constructed of gravel, but of asphalt paving and all other conditions agreed upon during the hearing and those in the TRC report and Environmental Commission memorandum. Ms. Bethea seconded the motion.

27. Mr. Bernstein then opened a discussion with the Applicant regarding the asphalt driveway.
28. Ms. Jessica Abbott, Executive Director of Habitat for Humanity, came forward and continued to be sworn in. He asked Ms. Abbott whether the previous application at 56-58 Main Street might also reconsider the driveway portion be changed from gravel to asphalt (macadam). He indicated that the Board approved the other application with a gravel driveway, but would the applicant agree to have an asphalt driveway for the previous property discussed that evening. Ms. Abbot stated that they could agree with that condition.
29. Mr. Bernstein stated, for the record, that the Resolution for approval would contain an asphalt (macadam) driveway for the Main Street property, along with the same conditions they put on for the Kossuth Street property.
30. Vice Chair Shepherd made a motion to approve the “c” variances necessary to allow to build a house and shed on property located at 56-58 Main Street, Somerset, NJ, with all conditions previously agreed upon. Ms. Bethea seconded the motion.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF FRANKLIN the BOARD makes the following findings of fact and conclusions of law:

1. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c provides the Board with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain proofs which are enunciated in the statute. Specifically, an applicant may be entitled to relief if this specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic or physical features exist that uniquely affect a specific piece of property. Further, the applicant may also provide evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Those categories specifically enumerated above constitute the positive criteria necessary in order to obtain “bulk” or c(1) variance relief.
2. Moreover, the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c(2) further provides the Board with the power to grant variances based on whether the Applicant’s proofs advance the purposed of the MLUL by the deviation from the zoning ordinance requirements and if the benefits of the deviation from the zoning ordinance requirements substantially outweigh any detriment.

3. In addition, the applicant must show that the proposed variance relief sought will not have a substantial detriment to the public good and further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. See Jacoby v Englewood Cliffs Zon. Bd. Of Adjustment, 442 N.J. Super. 450, 471 (App. Div. 2015). This is the negative criteria. It is only in those instances when an applicant has satisfied both tests that a Board, acting pursuant to the statute and case law, can grant relief. The burden of proof rests upon the Applicant to establish these criteria.
4. After a review of the record evidence, presentation of testimony and public comment, the BOARD finds the strict application of the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the Applicant.
5. The BOARD finds the testimony of Spencer Lyons, the Applicant's project engineer, to be credible, persuasive and uncontroverted including, but not limited to, his opinions that the coverage variances were necessitated by the size of the lot and that the proposed home would fit well with the neighborhood.
6. The BOARD finds the testimony of Mark Remsa, the Applicant's project planner, to be credible, persuasive and uncontroverted including, but not limited to, his opinions that the requested variances could be granted under either the c(1) or c(2) criteria, that the proposed development would promote various purposes of the MLUL, that the proposed development would promote the public health, safety, morals and general welfare, and that there would not be any substantial detriment to the surrounding properties or harm to the zone plan and zoning ordinance.
7. The BOARD finds the testimony of Jessica Abbott, Executive Director of Habitat for Humanity, to be credible, persuasive and uncontroverted.

NOW, THEREFORE BE IT RESOLVED by the Board of Adjustment on the 24th day of September 2026, on the basis of the evidence and testimony presented, the BOARD does hereby grant the "c" variance relief requested, subject to the following conditions:

1. The granting of this relief shall not be construed or eliminate the satisfaction of any other requirements of the zoning ordinance or requirements of the agencies, boards, or authorities of the Township of Franklin, County of Somerset or State of New Jersey.
2. The Board specifically grants approval to the latest set of application materials submitted by the Applicant.
3. The Applicant shall comply with any recommendations made in Mr. Healey's Planning Report or in any reports from the Boards/Commissions who have sent in recommendations.

4. The Applicant shall provide for a deed restriction clearly indicating that there can be no other structures placed on the property without subsequent Board approval.
5. The Applicant shall install an asphalt driveway instead of a gravel driveway as initially proposed.
6. The Applicant shall obtain all other applicable permits and approvals from all applicable governmental boards and agencies prior to any construction.
7. This approval is subject to the Applicant's continuing obligation to pay all professional fees generated by this application prior to issuance of a building permit and/or the issuance of the Certificate of Occupancy, as applicable.
8. Any ambiguities regarding the interpretation of this Resolution shall be resolved by the BOARD upon due notice to the public.

CHRISTINE WOODBURY
Board Secretary

VOTE ON MOTION: 07/16/2026

FOR:

Chairman Robert Thomas
Vice Chair Robert Shepard
Cheryl Bethea
Vaseem Firdaus
Alan Rich
Gary Rosenthal
Peter March

AGAINST:

ABSTENTIONS:

NONE

VOTE ON RESOLUTION: 09/24/2026

FOR:

AGAINST:

ABSTENTIONS:

Franklin Township

Somerset County, New Jersey

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Township Technical Review Committee (TRC)

MEMORANDUM

To: Zoning Board of Adjustment

From: Technical Review Committee (TRC)

Date: **September 10, 2026**

Re: Tawheed Dahwah Center – Amended Preliminary and Final Site Plan + Relief of Condition (ZBA-24-00017)¹
630 South Middlebush Road (B 37.02,0 Lot 46.03)

Site and Project History/ Description

The site is currently occupied by a single-family dwelling and is located within the A (Agricultural) zoning district. The southerly two-thirds of the site is forested while the northerly one-third of the site is open field. A wetlands area exists in the far southeasterly portion of the site. Surrounding land uses consist of preserved farmland to the north and east, single-family homes to the west fronting South Middlebush Road and Township open space to the south.

The 15.96-acre subject site is the location of an approval for *Dada Bhagwan Vignan Institute* (Docket ZBA-19-00040) for construction of a 21,083 square feet house of worship. By resolution memorialized on 1/20/2022 the application received “d(3)” Conditional Use and “c” Variance Relief along with Preliminary Site Plan Approval subject to a total of 39 conditions of approval. The approved application consists of the following:

¹ Applicants represented by attorneys, engineers and/or architects (or other such professionals) are expected to use the video display system available in Council Chambers to project hearing exhibits. Use of the video display systems greatly improves visibility of these exhibits for the Board, the public and the Township’s video broadcast of the hearing. In order to use the video display system, please bring a computing device capable of utilizing a HDMI connection. A cable is provided, however adapters are not so please make sure you have the required adaptors to connect to HDMI if necessary.

- Construction of a 21,083 square foot place of worship including a 6,864 square foot worship area (as well as ancillary areas such as a warming kitchen, rest room, storage, 2,533 square foot basement, etc.).
- 157 parking spaces provided in two parking areas
- Access to South Middlebush Road is proposed via a proposed driveway (which was required to be re-located further north and away from a residential neighbor).
- Associated site modifications include utility extensions, grading and drainage modifications, and site lighting and perimeter site landscaping/ fencing.
- A 5-foot tall monument sign is proposed near the site's entrance on South Middlebush Road.
- The existing 2-1/2 story dwelling is proposed to remain.
- The development would be served by on-site well and septic

Places of worship are a permitted conditional use in the A zone. Applicable conditional use requirements are found in Section 112-37.

South Middlebush Road is a Township-designated Scenic Corridor.² The site is located within the Six Mile Run State and National Register historic district.³

The Board's 2022 resolution granted Preliminary Site Plan approval (i.e., which requires the applicant to return to the Board for Final Site Plan approval) along with the following variances:

- Section 112-37.D(1) - Number of Parking Spaces / 457 parking spaces required and 157 approved
- Section 112-37.E - Parking location / The majority of the parking shall be located at the rear of the main structure, with no more than 10% of the total parking located at the front entrance for handicapped accessibility, weddings and funeral services and parking is proposed to be located in front of the building
- Section 112-37.G - Building Setback-Rear / 200 feet is required - 130 feet approved
- Section 112-37.K(1) and (2) - Buffer / 15 feet of heavily landscaped buffer with six foot high board-on-board fence or 25 feet of heavily landscaped buffer or approved equivalent and buffer requirements not fully satisfied in certain areas including along rear property line.
- Section 112, Attachment 5:1 - Signage / Area of 25 square feet permitted and 67.5 feet proposed.

² Per Section 112-37.C, places of worship are limited to 5,000 square feet when located along a Township-designated scenic roadway unless such roadway is under state or county jurisdiction (i.e., a larger roadway). Since South Middlebush Road is under County jurisdiction, this application is not subject to the 5,000 square foot limitation.

³ The site is not within a Township historic district thus the application is not subject to review by the Township Historic Preservation Advisory Commission.

The figures below show the location of the site as well as the surrounding area:



Amended Application

The revised submittal from Tahweed Dahwah Center, the current owner of the site, is described below:

- The building is in the same general location as the previous application (revised as required by the Board's resolution).
- The overall square footage of the building would be reduced from 21,082 square feet to 19,350 square feet, however the worship area would be increased in size from 6,864 square feet to 7,981 square feet worship area (which increases the proposed occupancy in the worship area and the required parking)
- The site plan has been updated in various respects to address conditions imposed by the Board including certain building setbacks required by the Board, alignment of the driveway and perimeter buffering.
- The building architecture has been modified to accommodate a different religious practice.

The applicant is applying for the following approvals from the Board:

- **Final Site Plan Approval** - See section of this report entitled "*Status - Conditions of Current Approval*" which addresses site plan related conditions of approvals as well as the report of the Board engineer.

- **Relief of Conditions** - See section of this report entitled “*Status - Conditions of Current Approval*” which addresses conditions of approval related to site operations, number of congregants, etc.
- **“C” Variance(s)** – see section of this report entitled “*C’ Variances*”

“C” Variances

Part D of the Site Plan Application indicates that “C” variances are being sought in association with the application for Final Site Plan approval. An attachment to that form appears to indicate required variances for: parking; size of the sign and rear yard setback. However, variances are *not* required for size of the sign and rear yard setback as these variances were granted in association with the Preliminary Site Plan approval. **A new variance, however, is required for parking due to the increase in the size of the worship area (and the resulting increase in required parking):**

As part of Ordinance No. 4509-26 (effective August 6, 2026) the Township updated the parking requirements for places of worship as shown below

One parking space per every three seats. One seat shall be considered 22 inches in calculating the capacity of pews or benches. In the event there is no fixed seating provided, parking shall be provided at one parking space for every three persons of permissible occupancy, per applicable code, of all proposed assembly areas (e.g., worship area, fellowship room, etc.). at the largest anticipated gathering or a minimum of one parking space for every 15 square feet of worship area. ~~at the largest anticipated gathering or a minimum of one parking space for every 15 square feet of worship area.~~

The ordinance explains the reason for this update as follows:

The parking requirement for places of worship is proposed to provide a more consistent requirement of 1 parking space for every 3 persons in proposed assembly areas. This is the standard parking requirement for places of worship in municipal zoning ordinances. The existing parking requirement of 1 parking space for every 15 square feet essentially equates to an occupancy level of 1 person for every 5 square feet where occupancy limits, per code, range from 1 person for every 15 square feet to 1 person for every 45 square feet (depending on the circumstances/ layout). In summary, the existing parking requirement of 1 parking spaces per 15 square feet is not in-line with occupancy codes and assumes occupancy levels many times more than permitted by code.

Based on the *prior* parking requirement, the Preliminary Site Plan received a parking variance of 457 parking spaces required where 157 parking spaces were proposed based on a worship area of 6,864 square feet. Based on an increased worship area size of 7,891 square feet the *current* application for Final Site Plan Approval *originally* required a parking variance of 532 parking spaces where 157 parking spaces are proposed.

However, these figures change under the new ordinance as shown in the table below which shows

the required number of parking spaces under both the prior and current parking requirements for both the Preliminary Site Plan (with a 6,824 square foot worship area) and the Final Site Plan (with a 7,891 square foot worship area).

As shown in the table, under the *updated* parking requirements, the Preliminary Site Plan application would have complied with the new parking requirement (153 spaces required where 157 were proposed), while a variance is still required for the Final Site Plan application (177 spaces required where 157 are proposed). The variance for the Final Site Plan application is triggered solely by the increase in the size of the worship area from 6,864 square feet to 7,891 square feet.

	Worship Area (square feet)	Permitted Occupancy per Code (1 person/ 15 square feet)	Required Parking		Proposed Parking
			Previous Ordinance (1 space/ 15 SF)	Revised Ordinance (1 space per 3 people of permitted occupancy)	
Preliminary Approval	6,864	458	457	153	157
Current Proposal	7,981	532	532	177	157

While the updated parking requirement provides a more appropriate parking requirement (based on applicable occupancy codes for the assembly area), consistent with parking requirements for places of worship commonly found in municipal zoning ordinances, there remain a number of occupancy- and parking-related issues that the Board may wish to have resolved to their satisfaction:

- As indicated above, the proposed increase in the size of the worship (from 6,864 to 7,891 square feet) actually triggers the need for a parking variance under the updated parking requirement (177 required – 157 proposed)
- The applicant has presented widely varying figures on the intended occupancy of the worship area – an early exhibit showed boxed-out areas representing occupancy totaling 458 (same as in the Preliminary application despite the now proposed increase in the size of the worship area) while a later exhibit showed only “150 rugs” in that same space.
- The larger place of worship, by Code, would permit a larger occupancy (532) at any one time than is permitted by the limits of the septic system (458 throughout the course of a day).
- The permitted occupancy of the worship area remains much larger than their stated congregation size.
- There remains the concern that if the applicant where to hold multiple services during the course of the day they could significantly exceed the limits of the septic (again - the limit is *not* 458 at any one time – it is no more than 458 *through the course of the day*).

NOTE: Based upon staff review of prior places of worship, the parking requirement is calculated based upon on an understood occupancy limit of 1 person per 15 square feet in the worship area, per code. If the Applicant and/or the Objector wish to dispute this occupancy limit they would need to present information from a qualified professional. If so, they would need to do so in advance of the hearing

on 10/24/26 to provide staff the time/opportunity for review.

Status - Conditions of Current Approval

The condition of the Board's approval are identified in *italics*. Staff evaluation of the status of each condition is identified in **bold**. (Note: Conditions 1, 2, 3, 36, 37 and 39 are general conditions of approval required of all applications and thus need not be addressed in this report.)

4. *Compliance with the staff and consultant reports which includes conditions of the approval granted by the BOARD herein, except as specifically modified or waived herein. Refer to separate reports from the Board engineer and the County Health Dept.. Compliance with other staff reports previously satisfied or addressed herein.*
5. *The plan shall incorporate the changes reflected in Exhibit A-7, Exhibit Overall Plan Option A, last revised 02/02/21 prepared by The Reynolds group, Inc, Exhibit A-9, "Colorized Dimension Plan Sheet 4 of Site Plan" prepared by The Reynolds Group Inc. dated October 21, 2021 and Exhibit A-10, Colorized rendering of the Landscape Plan Sheet 6 of the Site Plan, prepared by The Reynolds Group Inc. dated October 21, 2021. Satisfied. Submitted plans incorporate the changes reflected in the cited exhibits. For the Board's reference the exhibit provided at the end of this memo reflects the site layout and buffering conditions required by the Board.*
6. *The House of worship shall be shifted to be 130 feet from the rear property line. In that setback area shall be provided a 10-foot high berm with twenty-eight (28) 8-foot evergreen trees (in 2 staggered rows). Partially satisfied. Plans revised to comply. The grading of the berm should be revised per the engineer report.*
7. *The House of worship shall meet the 75-foot side yard setback requirement. The trees shall remain in the area specified at the house of worship/ Snyder property line with the tree removal plan updated accordingly. Additional evergreens shall be added where practicable to supplement the existing vegetation to remain. Satisfied. Plans revised to comply.*
8. *The site plan shall provide 6-foot high (deer fence style) fence along rear property line on two sides adjoining the building. The fence shall start along the rear property line at the edge of the wetlands buffer and extend along the side property line in the area of the building and parking lot (i.e., it would extend up to the location where the side property line makes a 90-degree bend to the north) Satisfied.*
9. *The proposed parking lot closest to the Warwick's property shall be relocated to be at least 100 feet from their property line. Further, the site plan shall provide planted evergreen hedge at parking lot towards front neighbor on South Middlebush Road to further block the view of the cars and any headlight impact. All existing trees along the Warwick's property line shall be preserved and 6-8 foot tall evergreens shall be planted where there are gaps in between the existing trees which that the buffer would comply fully with the ordinance. Satisfied.*

Plans modified to comply.

10. *The site plan shall propose to remove the current driveway to the property along with the pipe at the street. The driveway shall be over 300 feet from the Warwick's property line. The relocated driveway shall be posted for no parking. Satisfied. Plans modified to comply. Plans modified to comply.*
11. *Lighting along the re-located driveway shall be limited to the area of the curb cut at South Middlebush Road and at the internal intersections which provide access to the parking lots. Satisfied. However, one (1) light is also proposed in the bend in the access drive (which the staff would recommend).*
12. *Site lighting shall be revised to comply with the 15-foot height limitation and shall be LED. Satisfied.*
13. *The site plan shall identify the additional plantings (6-foot high evergreens) to be placed where the existing driveway will be removed. Satisfied. Plans modified to comply.*
14. *Proposed street trees shall be setback to ensure adequate sight distance along South Middlebush Road at proposed driveway. Satisfied.*
15. *The relocated driveway, only, shall be used as the construction entrance. The existing driveway shall never be used for construction access. Appropriate modifications to the plan shall demonstrate how this would be accomplished. Partially satisfied. Notes to this effect added to the plans. Condition should be repeated in any subsequent resolution of Board approval. The Soil Erosion & Sediment Control Plan should be revised to include notes demonstrating compliance with this condition.*
16. *The proposed parking lot lights shall be on a timer and separate circuits so that they will be lit only when necessary. Further, the parking lot and driveway lights shall not be used when the facility is not in use. When not in use, site lighting shall be limited to minimal necessary security lights. Appropriate details and notes shall be added to the plans. Notes to this effect added to lighting plan. Condition should be repeated in any subsequent resolution of Board approval.*
17. *Sign lighting shall be LED and shall only be lit when the facility is in use. Note to this effect added to lighting plan. Condition should be repeated in any subsequent resolution of Board approval.*
18. *The sign shall comply with the applicable setback. Satisfied.*
19. *Access to the existing house shall be from the proposed parking area closest to the house of worship. Satisfied.*

20. *Applicant shall abide by any standards imposed by the NJDEP regarding tree clearing limitations for time of year as they may apply to this site. **Note to this effect added to plan. Condition should be repeated in any subsequent resolution of Board approval.***
21. *The applicant agrees to maintain the trees and buffer screening to ensure their long-term health and survival for at least five years and notwithstanding the expiration of any required bond for such maintenance. **Note added to this effect added to the plan. Condition should be repeated in any subsequent resolution of Board approval.***
22. *The 30-space bank of spaces closest to the Warwicks shall be landbanked. We offer the following comments:*
- **Based on the result of the traffic and parking testimony, the Board may wish to re-visit whether these spaces should continue to be landbanked.**
 - **If landbanking continues to be proposed, the site plan should be revised to delineate both the land banked condition (curb line should be revised, grading should be revised, and final material in the land banked condition should be provided) and full build out of the proposed improvements if the land banked parking is constructed including but not limited to striping and signage, grading, landscaping and lighting. In addition, the following note must be added to the plan, “The spaces identified as “prop. banked spaces” shall not be constructed unless authorization for such improvement is provided from the Township Zoning Officer, or unless the Township Zoning Officer requires that such spaces be constructed should conditions warrant, or by the Township’s approval through the change of tenant. In the event that the Zoning Officer determines that conditions require improvement of all or a portion of these spaces, such spaces shall be constructed within 6 months of the Zoning Officer’s determination weather permitting. In such an event, the Zoning Officer may consult with the appropriate Township staff with respect to related plan amendments.”**
23. *All utilities will be underground (no poles). **Note to this effect added to the site plan. Condition should be repeated in any subsequent resolution of Board approval.***
24. *The plans shall be revised to comply with the reports of the Township staff and engineering consultant. **Duplicative with condition #4 above.***
25. *Applicant shall agree to Title 39 to allow Township enforcement of “no parking” along the site driveway and other areas outside of delineated parking spaces. **Applicant should be required to make application, upon full build-out, for a Subtitle 1 Chapter 5 Title 39 enforcement ordinance to allow the Police Department to enforce chapter 4 of the State Motor Vehicle Code (moving violations). Condition should be repeated in any subsequent resolution of Board approval.***
26. *Use and occupancy of the facility shall be consistent with that testified to by the applicant and as indicated in Exhibit A-8, “Schedule and attendee report”:*

- Saturdays – 3 times/ month – 11a-8p – 75 to 100 attendees
- Sunday – once/ month – 10a-2p – 50 to 75 attendees
- Saturday – once/ month – 9a-9p – 125 to 140 attendees

High holy days – twice a year spring/ summer

- Friday – 6p-10p – 150 to 175 attendees
- Sunday – 9a-9p – 225 to 250 attendees
- Saturday – 9a-9p – 225 to 250 attendees.

The submittals indicate that there will be five (5) daily sessions with between 50-60 people during typical services, up to 70-80 people during Ramadan) and up to 150 people during special events.

Staff questions these figures (particularly the number during the services): if no more than 80 people will attend services (even on Ramadan) – why does the proposed worship area have a proposed occupancy of 458 people? This needs to be explained in the impacts of the proposal (including septic and traffic) may change significantly based on the actual number of congregants. See comments on condition #27, as well.

27. *No more than 458 people may occupy the building throughout the course of a day (consistent with the limitation imposed by the site's septic system approval).*
 - Staff offers the same caution offered with respect to condition #26, above – if only 80 congregants are expected why does the worship area have an occupancy of 458 people? As indicated, the 458-person capacity is not just the capacity at any one time – it is the total number of people who may be in the building throughout the course of the day. With up to five (5) services a day and a proposed occupancy in the worship area of 458 people, staff has significant concerns that the building is being designed in a manner that would allow the 458-person daily occupancy to be significantly exceeded (which would exceed the design capacity of the septic system).
 - Further, the architectural plans have been revised to add two (2) classrooms (that were not on the prior approval). What are these classes for and when would they be used? For example, if these classes are intended to be used for religious education for children while the adults are praying how might that affect the occupancy limit?
28. *No renting of the facility to member or outside parties may occur. The applicant has not requested any modification to this condition and the “Statement of Proposed Use of Property” reiterates that the facility “will not be rented out or used by outside organizations.” Condition should be repeated in any subsequent resolution of Board approval.*
29. *No conduct of wedding, funerals, etc. may occur. The site plan notes that this condition*

“is to be reviewed with Board” and the “Statement of Proposed Use of Property” indicates that weddings and funerals would take place on site.

30. *There shall be no use of outside speakers or other amplified sound.* **The applicant has not requested any modification to this condition. The “Statement of Proposed Use of Property” indicates that “there will be no outdoor activities that will involve loud music, loud noise or a large congregation of people.” The applicant should clarify whether that statement includes no use of outside speakers or other amplified sound.**
31. *The applicant shall submit for a Special Event Permit for each of the high holy days events for review by Township events including a determination of whether traffic safety would need to be provided by the Township Police.* **The applicant has not requested any modification to this condition. Condition should be repeated in any subsequent resolution of Board approval.**
32. *There shall be no outside events, festivals, etc. with the exception of the procession during the two (2) high holy days events.* **The “Statement of Proposed Use of Property” indicates that the applicant will “apply for a Special Event Permit for high holy days... that will draw a larger than normal crowd” but provides no further clarification.**
33. *The spiritual leader of [the house of worship] shall be allowed to stay at the house on the Site when he visits the country and house of worship, but no one else shall be permitted to stay there.* **The applicant has not requested any modification to this condition. The “Statement of Proposed Use of Property” indicates that the spiritual leader (Imam) will be the only person to reside in the house. Condition should be repeated in any subsequent resolution of Board approval.**
34. **No parking shall be permitted anywhere on the Site except in the parking lot provided. Staff further recommends that fire lane striping be added to the plan supplementing the proposed ‘No Parking Lane Signage’. Condition should be repeated (as amended) in any subsequent resolution of Board approval.**
35. *The color of the building for the house of worship should be painted in earth tones on all four sides of the façade.* **The following comments are offered with respect to the new architectural plans:**
 - **Architectural plans do not identify building colors so compliance with condition #35 (use of earth tone colors) cannot be confirmed. The applicant needs to address in testimony and revise the plans accordingly.**
 - **The applicant should present testimony and exhibits (at a minimum color rendered building elevations but preferably 3D renderings) demonstrating the appearance of the building and should address consistency with the intent of the Scenic Corridor Ordinance.**

- The applicant needs to address the use of the large glass fiber reinforced concrete (GFRC) element on the top of the building (on the front and sides). Internet research suggests that this material is used to allow backlighting and/or ambient glow from internal lights to shine outward from the building. It is noted that the Board imposed the condition for earth tone colors in order to have the building blend with its environs (as per the Scenic Corridor Ordinance). Use of this element could work against that intent.



38. *Applicant shall obtain final site plan approval from the BOARD prior to any construction. Applicant has applied for Final Site Plan approval in this submittal.*

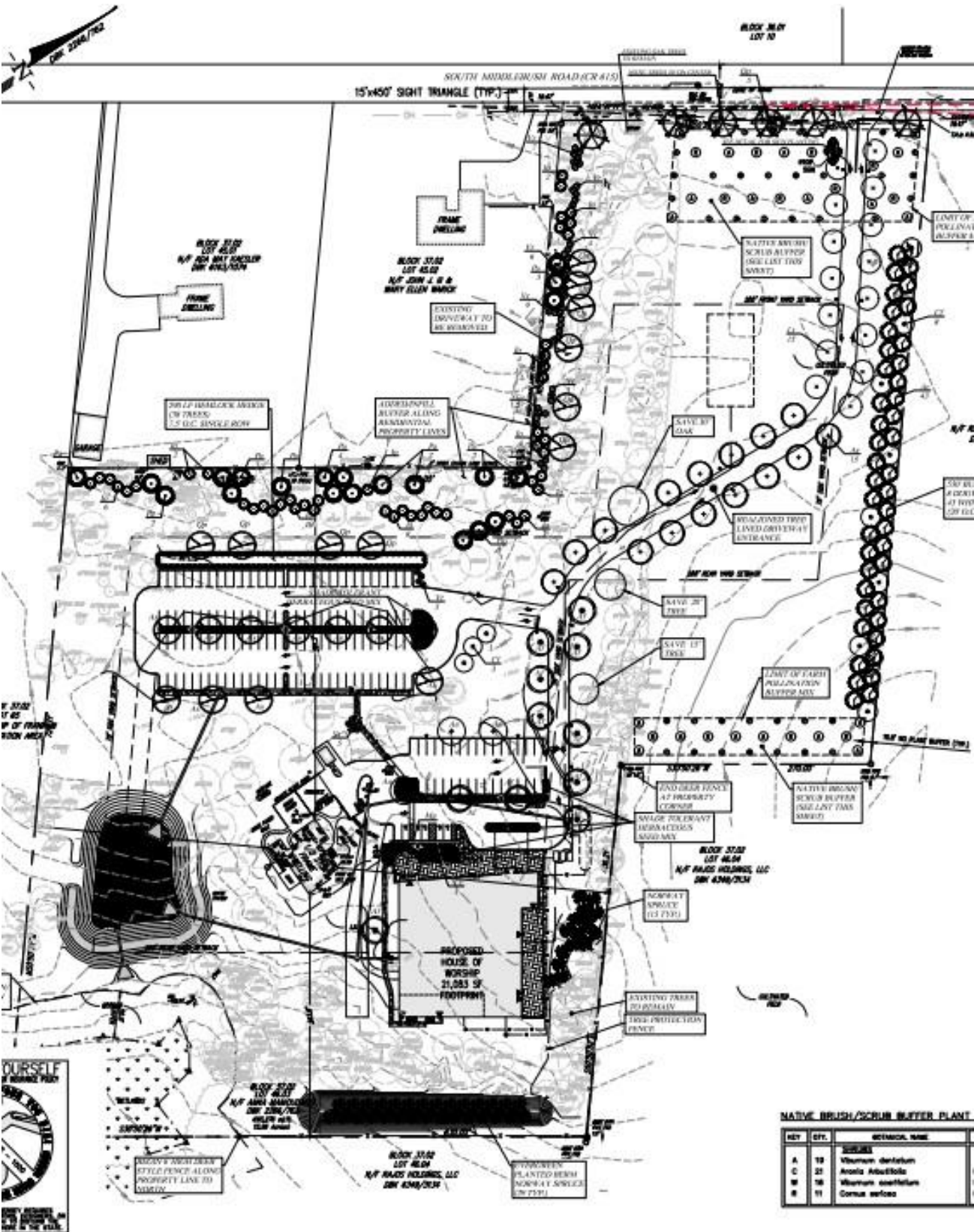
Additional Comments

- Staff recommends that the applicant consult with the Board Attorney with respect to the notice – specifically the degree to which the proposed relief of conditions should be addressed in the notice.
- South Middlebush Road is under County jurisdiction. In our opinion, it is imperative to receive the County review letter prior to the hearing.
- Per Chapter 222, Trees, the plans indicate a shortfall of 192 replacement trees. The payment-in-lieu will need to be provided prior to site plan sign off.
- The plan needs to demonstrate how building height was measured. Per the ordinance, “building height” is measured as the “vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof” and per Section 112-28.A building height does not include parapets extending above the roof that are 5 feet or less in height. Provide necessary

calculations on the plan

- **As a place of worship, the development is exempt from payment of the affordable housing development fee.**

Exhibit referenced in Resolution:





COUNTY OF SOMERSET PLANNING BOARD

County Administration Building
20 Grove Street, P.O. Box 3000
Somerville, New Jersey 08876-1262
(908) 231-7021 • Fax (908) 707-1749
PlanningBd@somersetcountynj.gov
SomersetCountyNJ.gov



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Chairman

Ron Yoder
Vice Chairman

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Department of
Engineering and Planning
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Wilhemina Kamara
1st Alternate

Vacant
2nd Alternate

Adam Slutsky
County Engineer Alternate

STAFF

Samantha De Andrea
Director of Planning

Joseph DeMarco, Esq.
County Counsel

Sheli Daniels
Office Manager

September 8, 2026

Mr. Robert Thomas, Chairman
Franklin Township Zoning Board of Adjustment
475 DeMott Lane
Somerset, NJ 08873

**RE: TAHWEED DAHWAH CENTER
BLOCK 37.02 – LOT 46.03
FL 1128:005-25S
FL 1128:006-25S
630 SOUTH MIDDLEBUSH ROAD, CR#615**

Dear Mr. Thomas:

This office and the office of the County Engineer have reviewed the information submitted for the above referenced project. The 15.6 acre tract is located on South Middlebush Road, County Route #615. The reviewed information consists of the following documents:

- “Amended Preliminary/Final Site Plan for Proposed House of Worship, Block 37.02, Lot 46.03, 630 South Middlebush Road (CR 615), Township of Franklin, Somerset County, NJ” dated October 17, 2019 and last revised January 6, 2025, prepared by Reynolds Group.
- Cover letter entitled “Re: Tahweed Dahwah Center (TDC) (Formerly DBVI), Site Plan application, South Middlebush Road, County #FL 1128:004-21S, TRG #14-001-5” dated August 28, 2025, and prepared by Reynolds Group.
- “Traffic Impact Study for Tawheed Dahwah Center, Block 37.02, Lot 46.03, 630 South Middlebush Road (CR 615), Township of Franklin, Somerset County, NJ” dated August 11, 2025 and prepared by Dolan & Dean.

The project proposes a 19,350 square foot house of worship on a 15.96 acre tract on South Middlebush Road (CR 615) adjacent to the Snyder Farm. The previously proposed project consisted of the construction of a 21,083 square foot house of worship, known as the Dada Bhagwan Vignan Institute (DBVI). The hours of worship have changed, and the proposed driveway location has changed.

The Somerset County Planning Board deems this application incomplete until the following requirements have been satisfactorily addressed:

- Mission Statement -

The County of Somerset is committed to excellence and innovation in public service, promoting the well-being of all residents and communities by providing effective, efficient and responsive leadership.

Traffic Impacts

The County Planning Board is currently awaiting a report from the County Engineer's office to determine if the proposed project will have any impact on traffic and site access along South Middlebush Road (CR 615); such report including any requirements pertaining thereto to offset the project's impact on the traffic and site access will be forthcoming as a supplemental County Planning Board report.

Title Sheet and Plan Requirements

The phone numbers of all applicable utility companies shall be added to the title sheet.

Access and Frontage Requirements

1. The plans shall include a detailed intersection-grading plan for the proposed driveway at the intersection of South Middlebush Road (CR 615). The grading plan shall be drawn at 1"=20'. The intersection grading plan shall include the following information:
 - a) Bottom of curb elevations at the PC, PT, and midpoint of the curb return. A minimum cross slope of 2 percent is to be held between the existing edge of pavement and the PC of the curb return.
 - b) Additional spot elevations shall be shown in the intersection area to ensure proper drainage of the intersection.
 - c) Elevations are to be shown on the plan to illustrate the profile of the County road in the area of the proposed intersection. The elevations are to be used in conjunction with the profile of the proposed access road to ensure a smooth profile for the proposed curb returns.
 - d) Bottom of curb elevations shall be provided at the midpoints of the curb returns of the proposed site driveway and at the right of way line in order to confirm that the slope of the driveway is less than 6% for the entire driveway apron for the portion within the County right-of-way.
2. A vehicle circulation plan must be submitted that shows a truck safely entering and exiting the site without hitting the curb or crossing into the opposing lane of traffic. The truck size for this analysis should be determined based on the maximum truck size that is anticipated at the proposed development. Please note that the minimum truck size that the access driveway must accommodate shall be a "Single Unit Truck" (SU-30) as defined in *AASHTO A Policy on Geometric Design of Highways and Streets*.
3. The following Somerset County construction details shall be added to the plans: Standard Construction Notes for Road Improvements, Square Tube Sign Support, Signage & Striping Notes.

4. Somerset County's Road Widening with Curb detail shall be added to the plans and a note shall be added indicating that the pavement specifications shown are to be used for the driveway in the County right-of-way.

Once the review of the Traffic Impacts is complete, additional Access & Frontage requirements may be set forth.

Clear Sight Requirements

1. The line of sight from the proposed access drive shown on Sheets 2 and 4 of the plans is inconsistent with the criteria presented in the County's *Public Works Handbook*. The length of the line of sight shall be revised to be shown for a minimum distance of 10 times the design speed. The speed limit on South Middlebush Road (CR 615) is indicated to be 45 MPH as per installed signage on the road. The design speed is typically 5 MPH greater than the posted speed limit. Therefore, the plans shall be revised to show a sight distance of 500 feet looking in both directions from the site driveway and to note that all sight obstructions shall be cleared.
2. The line of sight shall be determined by establishing a line between the following two points. The first point represents the location of the driver's eye for a vehicle stopped 15 feet from the edge of the traveled way within the egress lane of the proposed driveway. The traveled way is defined as the white edge line, curb line, or the edge of pavement. The second point is the center of the front bumper of an approaching vehicle on South Middlebush Road (CR 615) from the northbound and southbound directions.
3. If the lines of sight encroach onto an adjoining property, the applicant shall acquire the necessary easement(s). All property lines shall be shown within the area of the sight areas. The procedures presented in the County's Land Development Review Resolution are to be followed in the acquisition process.
4. The plans shall be revised to show all existing and proposed vegetation along South Middlebush Road (CR 615).

Right-of-Way Requirements

The plans shall be revised to show the physical centerline of South Middlebush Road (CR 615). South Middlebush Road (CR 615) is classified as a Minor Arterial in the County Master Plan with a right-of-way width of 66 feet. A right-of-way dedication of 33 feet from the physical centerline of the road is to be shown along the entire frontage of the subject site. The area that is being dedicated must be clearly identified on the plan as "Area Dedicated to Somerset County for Roadway Purposes". The right-of-way dedication shall be recorded separately by deed in the County Clerk's Office as well as being shown on the Filed Map.

A metes and bounds description of the dedication that is signed and sealed by a Professional Land Surveyor shall be submitted for review and acceptance to the Office of the County Engineer. The metes and bounds description must describe the dedicated area to the centerline

of the County Road. Once accepted, the signed and sealed original metes and bounds description shall be incorporated into the executed deed that transfers the right-of-way to Somerset County. The original copy of the executed deed shall be returned to this office for filing with the County Clerk. All executed deeds shall be submitted with the applicable executed resident/nonresident tax forms and tax payment as required. Specifically, P.L. 2004 c.55 requires nonresident individuals, estates and trusts that sell New Jersey real property to make an estimated New Jersey gross income tax payment on the gain from such sale. Additional information and forms are available from the Division of Taxation's website at www.state.nj.us/treasury/taxation.

The plans shall be revised to show monuments to be set along the new right-of-way line.

Historic Impact Review

The site is listed within the National and New Jersey Registers of Historic Places Six Mile Run Historic District. Details and requirements for the Historic Impact Review can be found in the County's Land Development Review Resolution.

The site is also located within the boundary of the Millstone Valley Scenic Corridor Byway.

Stormwater Management Requirements

Since the outfall pipe from the proposed infiltration / detention basin discharges toward the rear of the subject property near a wetlands area, it is requested that the Township handle the review of the stormwater management plans and the bonding and inspection of the stormwater management facility for this proposal.

Performance Guarantee and Inspection Fee

Pending the finalization of the plans, the applicant's engineer shall submit a cost estimate for all work to be performed within the County right-of-way. The estimate must reflect the County's unit price list. The performance guarantee and inspection fee will be calculated from the estimate.

Pre-construction Requirements

Prior to the commencement of any construction or disturbance in the County right-of-way, the following issues must be addressed.

1. The performance guarantee and inspection fee for the improvements under County jurisdiction must be submitted.
2. Two complete sets of construction plans that have been embossed with the County's acceptance stamp must be on file in the County Engineer's Office. The County's acceptance stamp must be on the title page.

3. The contractor must be in possession of a Road Opening Permit issued by the County Department of Public Works. In the event that the County road in the area of the proposed improvements has been resurfaced and/or reconstructed, the applicable moratorium for road openings will be enforced by Somerset County. It is solely the applicant's responsibility to properly coordinate the installation of utilities, roadway improvements and road closures with any pending County projects.
4. A separate road-opening permit is required for the utility connections in the County right-of-way.
5. A pre-construction meeting must be arranged with the County Department of Public Works.
6. The acceptance of traffic control plans and detour plans is not included as part of the County Planning Board processing of this application. All traffic control measures to be implemented in connection with improvements under County jurisdiction must be reviewed and accepted by the appropriate entities prior to construction.

This report reflects comments from the County Planning Board and the office of the County Engineer (908) 231-7024. Should you have any questions, please contact the appropriate individual listed below.

Sincerely,



Nora Fekete
Supervising Planner



Philip Kao
Principal Engineer, Land Development Section

cc: Christine Woodbury, Franklin Township Board Secretary
Tahweed Dahwah Center via email
Brian D. Schwartz, Esq. via email
Dolan and Dean Consulting Engineers, LLC, via email
F. Mitchel Ardman, PE, The Reynolds Group via email
State Historic Preservation Office, Mail Code 501-04B, State of New Jersey, Dept. of Env. Protection, PO Box 420, Trenton, NJ 08625-0420 via US mail
Millstone Valley Preservation Coalition, PO Box 96, Rocky Hill, New Jersey 08553 via US mail
Raritan Millstone Heritage Alliance, Inc., PO Box 5583, Somerset, NJ 08875-5583 via US mail
DRCC via email

STAFF REPORT

PLEASE REFER TO DRCC # WHEN SUBMITTING
ADDITIONAL DOCUMENTS



DRCC #: 25-5486A

DATE: March 17, 2025

PROJECT NAME: 630 South Middlebush Avenue -- Tawheed Dawah Center

Latest Submission Received: March 5, 2025

Applicant:

Tawheed Dawah Center
630 South Middlebush Road
Somerset, NJ 08873
raj_memon2003@yahoo.com

Engineer:

F. Mitchel Ardman, P.E.
The Reynolds Group, Inc.
575 Route 28
Raritan, NJ 08869
mardman@reynoldsgroup.com

Project Location:

Road	Municipality	County	Block(s)	Lot(s)
630 South Middlebush Road (Somerset County Route No. 615)	Franklin Township	Somerset	37.02	46.03

Jurisdictional Determination:

Zone B	Major	Nongovernmental
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Subject to Review for:

Drainage	Visual	Traffic	Stream Corridors
X			

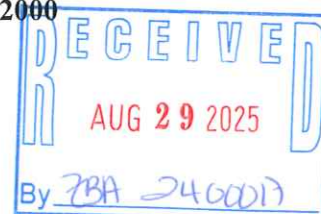
THIS STAFF REPORT IS ISSUED AS A GUIDE TO APPLICANTS IN
COMPLYING WITH DRCC REGULATIONS. IT IS NOT AN APPROVAL. NO

PO BOX 539

STOCKTON, NJ 08559

609-397-2000

www.nj.gov/dep/drcc/



DRCC#: 25-5486A

2

DATE: March 17, 2025

PROJECT NAME: 630 South Middlebush Road -- Tawheed Dawah Center

CONSTRUCTION SHALL BEGIN UNTIL A CERTIFICATE OF APPROVAL HAS BEEN ISSUED.

Documents Received: Site Plans (15 sheets) dated October 17, 2019, revised January 6, 2025; Stormwater Impact Report dated October 2019, last revised March 2025, prepared by The Reynolds Group, Inc.

Staff comments continued below.

The application is incomplete. It is staff's opinion that the proposed project has been designed in compliance with the Commission's technical requirements. However, notice of county and municipal approvals must be submitted before the application can be deemed complete and presented to the Commission for their decision.

Existing Conditions: The project site is a 15.96-acre lot located on the easterly side of South Middlebush Road in the Township of Franklin, Somerset County, approximately 1.93 miles east of the Delaware and Raritan Canal and within Commission Review Zone B.



The site is surrounded by farmland to the north, east, and west, as well as residential development to the south. In the existing condition, much of the site is forested with some cultivated areas. The site also contains an existing single-family residential dwelling, a shed, a gravel driveway, and a parking area, including 0.57 acres of impervious surface coverage.

Proposed Project: The applicant proposes to construct a 19,350 square-foot House of Worship, a septic system, an access drive, two parking areas, a stormwater management system, and associated infrastructure. The existing single-family dwelling and a small portion of the existing driveway will remain. The project will result in 2.88 acres of impervious surface coverage in the proposed condition and the disturbance of approximately 6.21 acres of land on the site.

DRCC#: 25-5486A

3

DATE: March 17, 2025

PROJECT NAME: 630 South Middlebush Road -- Tawheed Dawah Center

Stream Corridor: The project site is located within the Millstone River (below Carnegie Lake) watershed area. Nine Mile Run is located approximately 1,624 feet east of the property line, and Cross Brook is located approximately 2,430 feet to the east. Both streams are tributary to Six Mile Run. Six Mile Run does not flow into the Delaware and Raritan Canal. Commission staff finds that the site is not located within 100 feet of a 100-year floodplain associated with a watercourse that drains more than 50 acres. Therefore, the project is not subject to a stream corridor review pursuant to N.J.A.C. 7:45-9.1.

Stormwater Quantity Runoff: Runoff from the developed portions of the site has been divided into three separate points of analysis:

- Drainage area 1: A 7.16-acre parcel and this area currently drains toward the southeast corner of the site and toward existing wetlands.
- Drainage area 2: A 4.70-acre parcel and this area drains northeast; and
- Drainage area 3: A 4.10-acre parcel and this area drains west toward South Middlebush Road.

Drainage area 1 will drain developed portions of the site (2.95 acres) toward a surface infiltration basin. The proposed system is designed to attenuate all storm events up to and including the 100-year storm event. This system and undeveloped portions of the 7.91-acre drainage area discharge toward the existing point of analysis.

Drainage area 2 will drain developed (1.03 acres) and undeveloped portions (3.58 acres) of the site toward the existing point of analysis. The applicant is proposing to revegetate portions of the cultivated land with native deciduous shrubs and grasses within the drainage area.

Drainage area 3 will drain developed (0.45 acres) and undeveloped portions (3.5 acres) of the site toward the existing point of analysis. The proposed system is designed to attenuate all storm events up to and including the 100-year storm. The applicant is proposing to revegetate portions of the cultivated land with native deciduous shrubs and grasses within the drainage area.

The applicant has provided engineering calculations verifying that for stormwater leaving the site within each drainage area, the post-construction peak runoff rates for the 2-, 10-, and 100-year storm events will be no greater than 50, 75, and 80 percent (%), respectively, of the pre-construction peak runoff rates. The submitted calculations utilized the Natural Resource Conservation Service (NRCS) Technical Release No. 55 (TR-55) hydrologic methodology, standard unit hydrograph, Type C rainfall distribution and current New Jersey 24-hour rainfall frequency data for Somerset County to compute peak runoff flow rates and volumes. The hydrology calculations include U.S. Department of Agriculture National Engineering Handbook methodology. Therefore, the Commission has determined this application is compliant with the specific stormwater runoff quantity standards of N.J.A.C. 7:45-8.

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Water Quality: The Commission requires that all proposed impervious surfaces, both gravel and paved areas intended to carry vehicle traffic, shall comply with water quality standards in accordance with Commission regulations at N.J.A.C. 7:45-8.7. This includes reduction of the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm by a rate of 80% of the anticipated load from the developed site, expressed as an annual average.

Based upon the submitted application, approximately 1.59 acres of new and reconstructed pavement area will be created on site. Most of the pavement areas will be directed to a surface infiltration basin. The basin can provide a maximum of 80% TSS removal by completely infiltrating the volume of water generated during the water quality design storm through 6.0 inches of K-5 sand. The remaining pavement areas will be graded to sheet flow over existing wooded areas. This forested filter strip is classified to provide 80% TSS removal. As a result, the applicant is proposing to provide 80% TSS removal for all pavement areas.

Commission staff has confirmed the proposed basin is designed to the guidelines listed within the New Jersey Stormwater Best Management Practice (BMP) Manual, since the applicant has provided a groundwater mounding analysis for the basin that justifies the basin will infiltrate the water quality design storm volume within 72 hours. Therefore, Commission staff has determined this application is compliant with the specific water quality standards at N.J.A.C. 7:45-8.7.

Groundwater Recharge: The Commission's regulations require that stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site, or that any increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.

A groundwater recharge analysis calculation (NJDEP GSR-32 spreadsheet) has been submitted, which demonstrates that the annual groundwater recharge deficit for the entire site is 107,463 cubic feet. To infiltrate the post-development recharge deficit, a surface infiltration basin is proposed. According to the spreadsheet, a BMP effective depth of 3.3 inches is required for the basin's 9,429 square-foot surface area. The proposed effective BMP depth is 10 inches. Therefore, the project is in compliance with the groundwater recharge requirements at N.J.A.C. 7:45-8.5.

Non-Structural Methods: The Commission requires that non-structural stormwater management strategies be incorporated into the stormwater design of a development project.

To assist in determining that sufficient non-structural stormwater management strategies have been incorporated into the project site design "to the maximum extent practical," a NJDEP Nonstructural Strategies Point System (NSPS) spreadsheet has been completed for this project. The NSPS results indicate that the ratio of proposed to existing site points (107%) is greater than the required site points ratio (104%). Therefore, based upon the results of the NSPS spreadsheet analysis, the project has proposed non-structural measures that are adequate, and the project is designed in accordance with N.J.A.C. 7:45-8.4.

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Stormwater Management Maintenance Plan: The applicant has submitted a stormwater management maintenance plan for the site. The submitted plan has been prepared in accordance with the specific requirements of N.J.A.C. 7:45-8.8.

Additional Information Required:

1. Staff notes that the applicant is required to submit two copies of the Commission's Conservation and Maintenance Agreement, with original signatures on both copies. This document is available on the Commission website:
[https://www.nj.gov/dep/drcc/pdf/DRCC%20C&M%20Agreement%20\(2020\).pdf](https://www.nj.gov/dep/drcc/pdf/DRCC%20C&M%20Agreement%20(2020).pdf)
2. The Commission requires notice of municipal and county approvals.

Staff Recommendation: Staff does not recommend approval at this time.

Sincerely,



John Hutchison
Executive Director

- c. Somerset County Planning Board
Franklin Township Planning Board
Brian D. Schwartz, Esq. (bschwartz@shotlaw.com)

memo



TO: Christine Woodbury – Secretary to Franklin Township Planning and Zoning Boards

FROM: Tara Kenyon, AICP/PP – Sustainability Coordinator, Franklin Township

DATE: February 17, 2026

RE: Comments from Franklin Township Environmental Commission
Tawheed Dahwah Center
630 South Middlebush Road, Somerset
(Block 37.02 – Lot 46.03)
File #: ZBA-24-00017

At its regularly scheduled meeting of October 8, 2025, the Franklin Township Environmental Commission (“EC”) reviewed the resubmission of the above-referenced project. The following comments are submitted for consideration by the Franklin Township Zoning Board of Adjustment:

- According to P.L. 2021, c.171 (“The Electric Vehicle Charging Station Act”), the EC finds that 7 EV Make-Ready parking spaces are required by the applicant for the proposed 158 parking spaces. Completed Electric Vehicle charging stations must be installed over a six-year period (1/3 at time completion of construction, 1/3 within 3 years of completion of construction, and the remaining 1/3 at within 6 years of completion of construction).

It is further recommended that EV Charging Stations and Make-Ready parking spaces alternate by one parking space throughout the parking lot (example: parking space #1, #3, and #5 are prepared as Make-Ready parking spaces, or have an EV Charging Station installed. Parking spaces #2, #4, and #6 are not prepared for EV charging). This will allow multiple users to easily use the chargers without having to wait for a long period of time.

- Cool Roof technology or implementation of a Green Roof should be investigated by the developer. Large roof spaces are ideal for this type of green infrastructure, which significantly reduces indoor temperatures and peak electricity demands, slows the formation of smog and air pollution, and lessens the effects of urban heat islands.
- 88 trees onsite are proposed for removal, producing the requirement of 430 trees for replacement. The applicant proposed to replace 238 of those replacement trees onsite. The EC recommends that more of the existing trees be preserved, or that more replacement trees be replanted, onsite. Any trees replaced onsite should be replaced with tree species that are native to New Jersey.
- Pervious pavement is recommended for the parking areas and interior accessways. Pervious pavement allows rainwater to infiltrate through the surface to underlying soil, stone, and gravel. Additionally, pervious pavement melts now quickly, meaning that less intervention (salt, brine) is needed.
- Anti-idling signs should be placed at various locations around the site, specifically in consistent increments across the parking lot, and on the door and/or window of the office.

- The EC requests that the applicant provide a list of amendments made to plans and supporting documents with all future resubmissions. This will assist the EC's Site Plan Committee in its required review.

Please contact me with any questions at Tara.Kenyon@franklinnj.gov or 848-203.1857. Thank you!