

1. Agenda Packet 7/21/26 - Amended

This packet reflects changes to Resolutions 256 and 257.

Documents:

[AGENDA PACKET 7-21-26 V2.PDF](#)

2. Agenda Update 7/20/26

Township of Berkeley Heights

AGENDA UPDATE

July 21, 2026

PLEASE BE ADVISED, the following Executive Session was originally scheduled to be held after the Conference Session, but prior to the Regular Agenda.

THIS EXECUTIVE SESSION **WILL NOW BE HELD AFTER THE REGULAR AGENDA.**

EXECUTIVE SESSION

1. Contract Negotiations – Shared Services Agreement - Lower Columbia Field
2. Contract Negotiations – 600 Mountain Ave (property formerly known as Nokia)

Documents:

[CHANGE NOTICE - AGENDA - 07-21-26.PDF](#)

3. Agenda Packet 7-21-26

Documents:

[AGENDA PACKET 7-21-26.PDF](#)

Township of Berkeley Heights Union County, New Jersey

Township Council Public Meeting July 21, 2026 6:30 P.M.

Adequate notice of this meeting has been provided by forwarding a copy to the Courier News, Star Ledger and posting on the Township website, at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act.

COUNCIL MEMBERS:

John Foster - President
Margaret Illis
Bill Machado
Alvaro Medeiros
Andrew Moran
Susan Poage – Vice President
Angie Devanney- Mayor

AGENDA FOR PUBLIC MEETING

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. CONFERENCE SESSION**
 - 1. Eagle Scout – Jayden Mann
- V. EXECUTIVE SESSION**
 - 1. Contract Negotiations – Shared Services Agreement - Lower Columbia Field
 - 2. Contract Negotiations – 600 Mountain Ave (property formerly known as Nokia)
- VI. REGULAR AGENDA**
- VII. ORDINANCES FOR PUBLIC HEARING AND FINAL ADOPTION:**

Ordinances Introduced on June 30, 2026

Ordinance 2026-13

AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP

Ordinance 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

Ordinance 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

Ordinance 2026-17

ORDINANCE APPROPRIATING \$135,000.00 FOR ROAD CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

VIII. CITIZENS HEARING - (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council President will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

IX. NEW BUSINESS – RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTIONS

CONSENT AGENDA – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Resolution No. 2026-

- 244. Resolution approving Bill List dated July 21, 2026, in the amount of \$1,919,669.02.
- 245. Resolution authorizing the purchase of a pickup truck for the Wastewater Treatment Plant, through the New Jersey State Cooperative Purchasing Contract #25-FLEET-110661 for the total amount of \$57,010.00.
- 246. Resolution authorizing a Blue Light permit to Sanghoon Nathan Lee, a member of the Volunteer Rescue Squad.
- 247. Resolution waiving municipal construction permit fees for repairs to structures damaged by the July 3-5, 2026 severe weather event.
- 248. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for Recycling Tonnage Grant.
- 249. Resolution authorizing the 100% Disabled Veteran tax exemption to the resident owner of the property located at 22 Arden Court (Block 1714, Lot 4).
- 250. Resolution authorizing a one (1) year extension to the contract with Messercola Excavating Co., Inc. for snow removal services & equipment.

- 251. Resolution authorizing an extension of the tax remittance grace period for the August 2026 property tax bill.
- 252. Resolution authorizing the application of the 2027 New Jersey Department of Transportation Municipal Aid Grant.
- 253. Resolution authorizing the release of a Road Opening Bond in the amount of \$2,000.00, in connection with work performed at 54 Lawrence Drive.
- 254. Resolution authorizing the release of a Road Opening Bond in the amount of \$2,000.00, in connection with work performed at 66 Harrison Drive.
- 255. Resolution authorizing the release of escrow account of Full Circle Properties Springfield Avenue, LLC.
- 256. Resolution authorizing the award of a professional services contract to Connolly & Hickey Historical Architects for non-construction bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littel-Lord Farmhouse.
- 257. Resolution awarding a contract to Dell-Tech, Inc. for the Phase II-Exterior Restoration & Structural Stabilization at the Littell-Lord Farmhouse in the amount not to exceed \$395,900.00.
- 258. Resolution authorizing the execution of a Developer's Agreement with OZ Custom Builders, LLC for the property identified as Block 2006, Lots 32.01 (725 Mountain Avenue), 32.02 (7 Westminster Court), 32.03 (1 Westminster Court), 32.04 (3 Westminster Court) and 32.05 (5 Westminster Court).

X. ORDINANCES FOR INTRODUCTION

Public Hearing and Final Adoption scheduled for August 11, 2026.

Ordinance 2026-18

BOND ORDINANCE PROVIDING FOR VARIOUS SEWER IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

Ordinance 2026-19

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY, NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO ADD THE POSITION OF DEPUTY CHIEF AND TO AUTHORIZE ONE ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL PATROL OFFICERS IN THE BERKELEY HEIGHTS POLICE DEPARTMENT

XI. TOWNSHIP COUNCIL REPORTS

- A. John Foster - President
- B. Margaret Illis
- C. Bill Machado
- D. Alvaro Medeiros
- E. Andrew Moran
- F. Susan Poage – Vice President

ADMINISTRATION REPORTS

Mayor Devanney
Liza Viana

XII. EXECUTIVE SESSION

XIII. ADJOURNMENT

Angela Lazzari, Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A
PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP**

WHEREAS, the Township of Berkeley Heights's Master Plan emphasizes protection of the Township's environmental resources and historic and cultural heritage; and

WHEREAS, data centers present a form of land use that poses harmful effects to both the environment and to residents' health and quality of life, such as excessive and costly electricity consumption, loud noise, air pollution, excessive water use, and water pollution; and

WHEREAS, as of March 2024, there were 5,381 data centers located in the United States, 73 of which were located in New Jersey; and

WHEREAS, on March 27, 2026, Governor Sherrill identified data centers as among the biggest drivers of energy costs in New Jersey; and

WHEREAS, Governor Sherrill, Executive Order No. 2 details that from June 2023 to June 2025 the average residential electricity price in the State rose by well over 33 percent, and the average electricity price for all customers in the State, including commercial customers, rose by nearly 30 percent; and

WHEREAS, preliminary data cited by Members of the New Jersey State Legislature has cautioned that large-scale data centers can use as much as 3 to 5 million gallons of water in a single day between liquid cooling and water consumed to generate the energy that powers them; and

WHEREAS, this extreme volume of water usage negatively impacts homes and businesses within the Township and the surrounding communities; and

WHEREAS, preliminary studies noted by the State Legislature also indicate that some data centers require 300 MW of electricity, which is roughly equivalent to the output of a small modular nuclear reactor; and

WHEREAS, it is well established that data centers bring overdevelopment and overuse of environmental resources negatively impacting subterranean aquifers, potable drinking water and other water resources; and

WHEREAS, the Township is conscious of the hazards of data centers, such as depletion of critical groundwater resources, and the impact to the environmental and natural resources posed by the scope, depth and pervasiveness of large-scale commercial data center operations; and

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

WHEREAS, municipal regulations designed for the preservation of the environment and the protection of ecological values are a well-recognized, legitimate and proper exercise of municipality authority; and

WHEREAS, the construction of data centers often results in the cutting and removal of trees causing increased soil erosion and dust, instability and deterioration in the value of surrounding property, and other adverse environmental and geographical conditions; and

WHEREAS, the environmental hazards, pollution of potable drinking water, and increase electricity costs of certain data center operations on residents, businesses, the environment, and private and public property imposes significant burdens on municipal resources thus creating a need to assess the rights, health and safety, and interests of the residents and the community; and

WHEREAS, the Township Committee has determined it necessary and appropriate to amend and update its ordinances to adequately address data center uses in a manner that best reflects present needs and realities; and

WHEREAS, the Township Committee has determined that it is in the best interest of the health, safety and welfare of its residents and members of the public who visit, travel or conduct business in the Township, to amend the Municipal Code of the Township to prohibit data centers as a land use within the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 6.4.1, "Uses Prohibited to All Zones," of Article 6.4, "Prohibited Uses," of Part 6, "Zoning," of Appendix A, "Municipal Land Use Procedures Ordinance," is hereby amended as follows:

Section 6.4.1 - Uses Prohibited to All Zones

The following uses and activities are specifically prohibited in all zones:

- A. Sales or rentals of new or used motor vehicles or trailers.
- B. Coin-operated dispensers, including mechanical and automatic machines in which a product is returned, except when located in a principal building in other than a residential zone.
- C. Retail laundries, cleaning or dyeing establishments employing more than four (4) persons and all non-retail establishments.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

- D. The storage of crude oil or any volatile products or any highly flammable liquids or gas above ground in tanks having a capacity of more than three hundred (300) gallons.
- E. Drive-through facilities, road stands or refreshment stands.
- F. Pipelines which are not public utilities that distribute services to end users and are unregulated by the State of New Jersey Board of Public Utilities are prohibited within any zone in the Township.
- G. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service located outside of the Township.
- H. Without any way limiting the specific prohibitions, restrictions or limitations contained anywhere else in this Ordinance, in all zones of the Township any uses not specifically permitted in Article 6.3 herein are prohibited.
- I. Vape shops and smoke shops.
- J. Sexually-oriented businesses.
- K. Data centers, which shall include any facility, or portion thereof, primarily used for housing, operating, and maintaining computer servers and associated power distribution and cooling infrastructure, for the purpose of storing, processing, or transmitting digital data for third parties. The term includes co-location, cloud computing, and artificial intelligence training or inference facilities. This prohibited use does not include server rooms or equipment spaces that are incidental and subordinate to a primary permitted use on the same lot.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
		✓				Alvaro Medeiros						
	✓	✓				Andrew Moran						
✓		✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						 Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-13**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED
USE IN ALL ZONES WITHIN THE TOWNSHIP**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-13

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED USE IN ALL ZONES WITHIN
THE TOWNSHIP**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

WHEREAS, the Township of Berkeley Heights (the "Township") Code, §10.08.020, entitled "Stop intersections," lists every stop sign within the Township, in alphabetical order, aside from those stop signs that intersect through streets, which are identified and listed in §10.08.010, entitled "Through streets"; and

WHEREAS, the identification and listing of all stop signs within the Township in the Township Code is imperative for the Township to be able to effectively enforce rules and laws governing vehicles and traffic within the Township; and

WHEREAS, the Township wishes to amend the Code to reflect stop intersections at all approaches of Washington Street and Berkeley Avenue.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Berkeley Heights, County of Union, and State of New Jersey, that:

SECTION I. Section 10.08.020 "Stop intersections," of Chapter 10.08 "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," of the Township Code of the Township of Berkeley Heights shall be and is hereby amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

10.08.020 Stop intersections.

Since main traveled roads are not involved, the following intersections within the township are designated as stop intersections:

1. Angela Way and Cottage Street: stop sign located on Angela Way;
2. Baker Avenue and Honeyman Place: stop sign located on Honeyman Place;
3. Baker Avenue and Kline Place: stop sign located on Kline Place;
4. Baldwin Drive and Farmgate Road: stop sign located on Baldwin Drive;
5. Barnstable Road and Farmgate Road: stop sign located on Barnstable Road;
6. Berkeley Avenue and Scott Avenue: stop sign located on Berkeley Avenue;
7. Brambling Road and Hawfinch Drive: stop sign located on Hawfinch Drive;
8. Brambling Road and Roosevelt Avenue: stop sign located on Brambling Road;
9. Burlington Road and Warren Place: stop sign located at Warren Place;
10. Clover Court and Cottage Street: stop sign located on Clover Court;
11. Columbia Avenue and Bolton Boulevard: stop sign located on Columbia Avenue;
12. Cottage Court and Cottage Street: stop sign located on Cottage Court;
13. Daria Lane and Daisy Road: stop sign located on Daisy Road;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

14. Evergreen Drive and Timber Drive—both ends: stop signs located on Evergreen Drive;
15. Exeter Drive and Timber Drive: stop sign located on Exeter Drive;
16. Fairfax Drive and Exit to Mountain Park School: stop sign located on driveway exit of Mountain Park School;
17. Fairview Avenue and Union Avenue; stop sign located on Fairview Avenue;
18. Farmgate Road and Baldwin Drive: stop sign located on Farmgate Road;
19. Farmgate Road and Union Avenue: stop sign located on Farmgate Road;
20. Fawn Circle and Lawrence Drive: stop sign located on Fawn Circle;
21. Fay Place and Briarwood Drive West: stop sign located on Fay Place;
22. Fern Place and Debbie Place: stop sign located on Fern Place;
23. Fern Place and Hillside Avenue: stop sign located on Hillside Avenue;
24. Ferndale Road and Briarwood Drive West: stop sign located on Ferndale Road;
25. Fickler Place and Fairview Avenue: stop sign located on Fickler Place;
26. Fickler Place and Pearl Street: stop sign located on Pearl Street;
27. Franklin Court and Hamilton Avenue: stop sign located on Franklin Court;
28. Frost Lane and Barnstable Road: stop sign located on Frost Lane;
29. Garfield Street and Berkeley Avenue: stop sign located on Berkeley Avenue;
30. Garfield Street and Passaic Avenue: stop signs located on both approaches on Garfield Street;
31. Garfield Street and Station Street: stop signs located on both approaches on Garfield Street;
32. Garfield Street and Summit Avenue: stop signs located on all four approaches;
33. Grandview and Bolton Boulevard: stop sign located on Grandview Avenue;
34. Grassman Place and Killarney Drive: stop sign located on Grassman Place;
35. Hamilton Avenue and Princeton Avenue: stop sign located on Princeton Avenue;
36. Hamilton Avenue and Roosevelt Avenue: stop sign located on Roosevelt Avenue;
37. Hamilton Avenue and Rutgers Avenue: stop sign located on Rutgers Avenue;
38. Hampshire Road and Baldwin Drive: stop sign located on all four approaches;
39. Hampshire Road and Timber Drive: stop sign located on Hampshire Road;
40. Hawfinch Drive and Hamilton Avenue: stop sign located on Hawfinch Avenue;
41. Hillside Avenue and Timber Drive—both ends: stop signs located at the easterly intersection on Timber Drive, westerly intersection on Hillside Avenue;
42. Hillside Avenue and Wentworth Drive: stop sign located on Wentworth Drive;
43. Holly Glen Lane South and Holly Glen Lane: stop sign located on Holly Glen Lane South;
44. Kingman Road and Old Farm Road: stop sign located on Kingman Road;
45. Kline Boulevard and Union Avenue: stop sign located on Kline Boulevard;
46. Kline Place and Kline Boulevard: stop sign located on Kline Place;
47. Kline Place and Kline Place: stop sign located northbound on Kline Place;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

48. LaGrande Avenue and Berkeley Avenue; stop sign located on LaGrande Avenue;
49. LaGrande Avenue and Columbia Avenue: stop sign located on both approaches of LaGrande Avenue;
50. LaGrand Avenue and Harwood Avenue; stop sign located on LaGrande Avenue;
51. Lawrence Drive and Kline Boulevard: stop signs located on Lawrence Drive on both approaches;
52. Lincoln Street and Berkeley Avenue: stop signs located on all four approaches;
53. Lincoln Street and Plainfield Avenue: stop sign located on Plainfield Avenue;
54. Lincoln Street and River Road: stop sign located on Lincoln Street;
55. Lincoln Street and Passaic Avenue: stop signs located on both approaches on Lincoln Street;
56. Lincoln Street and Station Street: stop signs located on both approaches on Lincoln Street;
57. Lincoln Street and Summit Avenue (Southside of Lincoln Street): stop sign located on all four approaches;
58. Locust Avenue and Timber Drive: stop sign located on Locust Avenue;
59. Lower Columbia Driveway and Hamilton Avenue: stop sign located on Lower Columbia Driveway;
60. Martins Lane and Union Avenue; stop sign located on Martins Lane;
61. Mea Drive and Timber Drive: stop sign located on Mea Drive;
62. Mercer Road and Hunterdon Boulevard: stop sign located on Mercer Road;
63. Mercer Road and Watchung Boulevard: stop sign located on Mercer Road;
64. Old Farm Road, Cedar Green Lane, and Mercier Place: stop signs located on both Cedar Lane and Mercier Place approaches;
65. Peacock Lane and Brambling Road: stop sign located on Peacock Lane;
66. Peacock Lane and Hawfinch Drive: stop sign located on Peacock Lane;
67. Pearl Street and Union Avenue; stop sign located on Pearl Street;
68. Ridgewood Drive and Lawrence Drive: stop sign located on Ridgewood Drive;
69. Robbins Avenue and Lawrence Drive: stop sign located on Robbins Avenue;
70. Russo Place and Locust Avenue: stop sign located on Russo Place;
71. Scott Avenue and Bolton Boulevard: stop sign located on Scott Avenue;
72. Shadow Lane and Riverbend Road: stop sign located on Riverbend Road;
73. Sherman Avenue and South Sherman Avenue: stop sign located on South Sherman Avenue;
74. Somerset Place and Hunterdon Boulevard: stop sign located on Somerset Place;
75. Somerset Place at Watchung Boulevard: stop sign located on Somerset Place;
76. Station Street and Sherman Avenue: stop sign located on Station Street;
77. Station Street and Springfield Avenue; stop signs located on both approaches on Station Street;
78. Station Street and Washington Street: stop signs located on both approaches on Station Street;
79. Summit Avenue and Grant Street: stop signs located on Summit Avenue at both approaches on Summit Avenue;
80. Summit Avenue and Sherman Avenue; stop sign located on Summit Avenue;
81. Ridgewood Drive and Lawrence Drive; stop sign located on Ridgewood Drive;

ORDINANCE 2026-14

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
✓		✓				Margaret Illis						
	✓	✓				Bill Machado						
		✓				Alvaro Medeiros						
		✓				Andrew Moran						
		✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-14**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP
INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE
TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT
WASHINGTON STREET AND BERKELEY AVENUE**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on June 30, 2026 at 6:30 p.m. The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on July 21, 2026 at 6:30 p.m., or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-14

**ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS,
TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP
INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-16

**AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY
HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF
THIS ORDINANCE**

WHEREAS, the Mayor and Council for the Township of Berkeley Heights desire to update the Township Code related to land use regulations; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION 1. Section 3.1.1, "Use Regulations" of Article 3.1, "Application of General Regulations Applicable to All Districts," of Part 3, "Part 3 – General Regulations," of Appendix A, "Municipal Land Use Procedures Ordinance" of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

Section 3.1.1 - Use Regulations

No building shall hereafter be erected and no existing building shall be moved, structurally altered, added to, or enlarged, or rebuilt nor shall any land be designed, used, or intended to be used for any purpose other than those included among the uses listed as permitted in the applicable zone except as may be specifically permitted in Part 8 of this Ordinance. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, building to building dimensions, percentage of impervious coverage, off-street parking space, shared parking provisions, and such other regulations designated in the Schedule of General Regulations and other provisions of this Ordinance for the zone in which such building or space is located.

- A. Permitted principal uses are permitted by the right upon proper application to the Zoning Officer for a zoning permit provided that said use is a use in conformance with the requirements of this Ordinance in the zone district in which the lots is located and for uses so requiring, subject to Part 10 of this Ordinance.
- B. Accessory uses are permitted upon proper application to, and approval by, the Zoning Officer for a zoning permit. The Zoning Officer shall rely on the following for determining the right of the applicant to establish the proposed accessory use:
 - 1. The proposed accessory use shall be customarily associated with or provided with the permitted primary use on the lot.
 - 2. The extent, size, and intensity of such proposed accessory use shall be in keeping with the scale, nature, and characteristics of the permitted primary use on the lot.

ORDINANCE NO. 2026-16

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
✓		✓				Alvaro Medeiros						
		✓				Andrew Moran						
	✓	✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						_____ Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-16**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP
OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS
WELL AS VIOLATIONS OF THIS ORDINANCE**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-16

**AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY
HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF
THIS ORDINANCE**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-17

**ORDINANCE APPROPRIATING \$135,000.00 FOR
ROAD CAPITAL IMPROVEMENTS IN AND BY THE
TOWNSHIP OF BERKELEY HEIGHTS, IN THE
COUNTY OF UNION, NEW JERSEY.**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY AS FOLLOWS:

Section 1. The Township of Berkeley Heights, in the County of Union, New Jersey (the "Township") hereby appropriates the sum of \$135,000.00, consisting of the following amounts from Capital Fund Balance to provide for the following various capital improvements in the following amounts:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

Angie Devanney, Mayor

ORDINANCE 2026-17

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
		✓				Alvaro Medeiros						
✓		✓				Andrew Moran						
	✓	✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						_____ Angela Lazzari, Township Clerk						

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **June 30, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ on **July 21, 2026** at **6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$135,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Appropriation: \$135,000

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE STATEMENT AND SUMMARY

The ordinance, the summary terms of which are included herein, has been finally adopted by the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **July 21, 2026**. Copies of the full ordinance are available at no cost and during regular business hours at the Clerk's office for members of the general public who request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$135,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Appropriation: \$135,000.00

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated **7/21/2026**, in the amount of **\$1,919,669.02** such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29, may by resolution and without advertising for bids, purchase any goods and services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of Berkeley Heights Wastewater Treatment Plant has the need to purchase a pickup truck, specifically a 2027 F-350; and

WHEREAS, Route 23 Auto Mall, LLC 1301 Route 23 South, Butler, NJ 07405 has been awarded Contract # 25-FLEET-110661, T2959 Utility Truck 11,000 lb. GVWR Extended Cab/Super SRW Gas Powered 4WD with 9' Body & Accessories, for a period expiring June 12, 2028; and

WHEREAS, the Township of Berkeley Heights intends to purchase a 2027 F-350 4x4 SO Regular Cab 8' box 142" WB SRW XL (F3B) from Route 23 Auto Mall, LLC, through this resolution, which shall be subject to all the conditions applicable to the current State Cooperative Purchasing contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, does hereby authorize the Director of the Wastewater Treatment Plant to purchase a 2027 F-350 4x4 SO Regular Cab 8' box 142" WB SRW XL (F3B) through the New Jersey State Cooperative Purchasing Contract #25-FLEET-110661 for the total amount of \$57,010.00 pursuant to all conditions of the individual State contracts.

BE IT FURTHER RESOLVED that the Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed \$57,010.00 from account C-04-26-012-C00, Ord 26-12 Sewer Pickup Truck.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, members of the Berkeley Heights Rescue Squad are permitted by law to operate blue emergency lights on their vehicle when responding to an emergency; and

WHEREAS, the Township is required to endorse any application for "blue light" permit; and

WHEREAS, Sanghoon Nathan Lee, is a member of the Berkeley Heights Rescue Squad and has requested that the Township endorse the blue light permit application.

NOW, THEREFORE, BE IT RESOLVED that the appropriate municipal officials are hereby authorized to endorse the application for **Sanghoon Nathan Lee**, for a blue light permit.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Berkeley Heights Rescue Squad.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION WAIVING MUNICIPAL CONSTRUCTION PERMIT
FEES FOR REPAIRS TO STRUCTURES DAMAGED BY THE
JULY 3-5, 2026 SEVERE WEATHER EVENT**

WHEREAS, on the evening of July 3, 2026, a severe line of thunderstorms swept through Union County and the Township of Berkeley Heights, producing straight-line wind gusts reaching 70 mph at Newark Liberty Airport in Essex and Union counties; and

WHEREAS, at its peak, the storm left roughly 249,000 customers without electricity statewide, and by mid-morning Sunday, July 5, 2026, JCP&L reported that 36% of Berkeley Heights customers remained without electrical service; and

WHEREAS, the storm caused widespread destruction of trees, utility poles, and power lines throughout the Township, resulting in the closure of multiple Township roads, damage to JCP&L infrastructure including broken poles and downed primary lines, and damage to the Township's emergency communications system; and

WHEREAS, JCP&L spokesman Chris Hoenig described the event as "an extremely severe line of storms" that "moved through our entire service area" leaving "very few areas of our service area that were not affected," with "extensive damage to trees, broken poles"; and

WHEREAS, the storms caused damage to 240 utility poles and 255 transformers across the region, and a second round of severe weather on Saturday, July 4, 2026, brought additional gusts of up to 65 mph, compounding damage in areas already struck; and

WHEREAS, the storms caused direct structural damage to residential and commercial structures throughout the Township, including damage caused by fallen trees and wind-driven debris to roofs, siding, windows, fencing, and other structural components; and

WHEREAS, residents and property owners are now seeking construction permits to repair such storm-related structural damage, and the imposition of standard municipal construction permit fees would impose additional financial hardship on property owners who have already suffered significant property damage; and

WHEREAS, the Township Council is authorized to waive municipal construction permit fees by resolution, as recognized by the fee waiver framework established in §§ 15.04.025 and 15.04.060 of the Berkeley Heights Code of Ordinances; and

WHEREAS, the Township Council finds that the public health, safety, and welfare of Berkeley Heights residents is served by facilitating prompt repair of storm-damaged structures through temporary waiver of municipal construction permit fees;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

Section 1. Fee Waiver; Scope. Municipal construction permit fees otherwise due and payable under § 15.04.020 of the Township Code (including fees for the building, plumbing,

electrical, fire protection, and mechanical subcodes) shall be waived for any permit issued solely to repair structural damage to a private residential or commercial structure directly caused by the July 3-5, 2026 severe weather event (the "Storm Event").

Section 2. Eligibility Requirements. To qualify for the fee waiver established by this Resolution, an applicant must:

- (a) Submit a permit application to the Township Construction Department on or before **October 21, 2026**;
- (b) Include with the permit application a written statement, supported by photographs or other documentary evidence (such as an insurance claim, contractor assessment, or municipal damage report), attesting that the work to be permitted is necessary to repair damage directly caused by the Storm Event; and
- (c) Limit the scope of the permit application to repair or replacement of storm-damaged components; any construction exceeding the scope of storm-damage repair shall remain subject to standard fees as applied to the non-exempt portion of work.

Section 3. Retroactivity. This Resolution shall be retroactive to **July 4, 2026**. Any applicant who paid municipal construction permit fees between July 4, 2026, and the date of adoption of this Resolution for a permit that would have qualified for waiver under Section 1 may request a refund of those fees by submitting a written request to the Construction Official within sixty (60) days of the date of adoption. The Construction Official shall process and issue approved refunds within thirty (30) days of receipt of a qualifying request.

Section 4. State Surcharge Not Affected. This Resolution waives only municipal fees. The State of New Jersey construction permit surcharge required under N.J.A.C. 5:23-4.19 is not subject to waiver by the Township and remains payable in accordance with state law.

Section 5. Administration. The Construction Official is authorized and directed to administer the fee waiver established by this Resolution, to determine the eligibility of permit applications on a case-by-case basis consistent with the criteria set forth in Section 2, and to promulgate such administrative procedures as may be necessary for implementation.

Section 6. Relationship to Existing Waivers. This Resolution supplements, and does not supersede or limit, the fee waivers established under §§ 15.04.025 and 15.04.060 of the Township Code.

Section 7. Effective Date. This Resolution shall take effect immediately upon adoption.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR RECYCLING TONNAGE GRANT**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$24,683.23 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the
Director of the Division of Local Government Services: State and Federal
Revenues Off-set with Appropriations:

Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that a like sum of \$24,683.23 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the State of New Jersey Department of Military and Veterans Affairs has confirmed that the resident owner of the property located at **22 Arden Court (Block 1714, Lot 4)** was granted a determination of 100% total disability by the United States Department of Veterans Affairs, and

WHEREAS, the resident property owner of **Block 1714, Lot 4** has made an application to the Tax Assessor for an exemption from property taxes on the above address based on their disabled veteran's status under N.J.S.A. 54:4-3.30; and

WHEREAS, it is recommended by the tax assessor, Michael Imbriaco, in an email dated July 10, 2026, to the tax collector that the resident property owner of **Block 1714, Lot 4** be granted full tax exemption from billed property taxes as of **July 7, 2026**.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Berkeley Heights, County of Union, State of New Jersey that the **resident property owner of Block 1714, Lot 4** be granted a full tax exemption from taxes billed to **22 Arden Court, Berkeley Heights, NJ**, as of **July 7, 2026**.

BE IT FURTHER RESOLVED that tax break will only be in effect for as long as the disabled veteran owner owns the property. Should the property be sold to someone other than the disabled veteran and/or if the deed is changed removing the disabled veteran owner that the tax break will no longer be in effect and the property will be subject to conventional taxes.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION AUTHORIZING A ONE (1) YEAR EXTENSION TO THE CONTRACT WITH
MESSERCOLA EXCAVATING CO., INC. FOR SNOW REMOVAL SERVICES & EQUIPMENT**

WHEREAS, the Township accepted bids on September 10, 2025, for the provision of 2025-2026 Snow Removal Services & Equipment; and

WHEREAS, Resolution 2025-296 authorized the award of a (1)-year contract with **Messercola Excavating Co., Inc.**, of 549 E. 3rd Street, Plainfield NJ 07060, to provide Snow Removal Services & Equipment to the Township at a rate of **\$158.00 per hour, per vehicle**, in an amount not to exceed \$65,000.00; and

WHEREAS, the contract amount was amended by Resolution 2026-96, which increased the contract amount to \$200,000.00; and

WHEREAS, as per the contract, after the Initial Term, the Township and the Contractor may elect to renew the Contract for up to two (2) additional twelve (12) month terms ("Optional Term(s)"), during which all terms shall remain in full force and effect; and

WHEREAS, Messercola Excavating Co, Inc. has provided written notice of their intent to extend the aforementioned contract, which expires on October 6, 2026, for an additional year at the current contracted rate of \$158.00 per hour, per vehicle; and

WHEREAS, the Township wishes to extend the existing contract with Messercola Excavating Co, Inc. for the term of October 7, 2026 through October 6, 2027.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Berkeley Heights, County of Union, New Jersey, does hereby authorize a one-year extension to the contract with Messercola Excavating Co, Inc. for the provision of Snow Removal Services & Equipment, at a rate of \$158.00 per hour, per vehicle, for an amount not to exceed **\$80,000.00** for the term October 7, 2026 through October 6, 2027.

BE IT FURTHER RESOLVED, that the Chief Finance Officer of the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$80,000.00** from account # **6-01-26-300-028, SNOW - Professional Services.**, subject to the adoption of the 2026 budget.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY****RESOLUTION****RESOLUTION AUTHORIZING AN EXTENSION OF THE TAX REMITTANCE GRACE PERIOD FOR
THE AUGUST 2026 PROPERTY TAX BILL**

WHEREAS, the printing and mailing of the 2026 property tax bills will be delayed due to the processing requirements and the dependency on the certification of the annual tax rate; and

WHEREAS, the 2026 tax bills will be printed and mailed to the property owners of the Township of Berkeley Heights prior to July 31, 2026; and

WHEREAS, N.J.S.A. 54:4-66.3(d) provides that the current years taxes shall not be subject to interest until the twenty-fifth day after the tax bill for the third installment is mailed and N.J.S.A. 54:4-64 further provides that the property taxpayers shall be given adequate notice of the date when taxes are due before interest is charged on delinquent tax payments.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey that in accordance with State Law, the grace period for the August 2026 property tax bill is extended to August 25, 2026, after which time said payments will be delinquent and subject to interest penalties calculated from August 1, 2026.

BE IT FURTHER RESOLVED that interest will be charged on all tax payments received after August 25, 2026.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION AUTHORIZING THE APPLICATION OF THE 2027 NEW
JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID GRANT**

WHEREAS, the governing body of the Township of Berkeley Heights, County of Union, desires to further the public interest by obtaining a grant from the New Jersey Department of Transportation (NJDOT) for local transportation improvements; and

WHEREAS the funding request is part of the New Jersey Department of Transportation Municipal Aid Grant program for the fiscal year 2027; and

WHEREAS the grant request is in the amount of \$730,240.56 for drainage and road improvements to Longview Avenue, Cedar Green Lane, and Oak Way; and

WHEREAS, there is no Township match required.

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of Berkeley Heights does hereby authorize the Township Administrator and/or Township Engineer to a) make application for such a grant, b) if awarded, to execute a grant agreement with the State of New Jersey for the awarded amount, c) to execute any amendments thereto, and d) to expend the funds pursuant to the grant agreement.

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Berkeley Heights and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Peter T. Richardson was required to post a Road Opening Performance bond in the amount of \$2,000.00 00 in connection with work performed at 54 Lawrence Drive and

WHEREAS, in a letter dated July 6, 2026, the Township Engineer has recommended that the Cash Performance Bond for the work at 54 Lawrence Drive, Edmunds Account RO-2500079, in the amount of \$2,000.00 be released.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to: Peter T. Richardson, 54 Lawrence Drive, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Dina Dario was required to post a Road Opening Performance bond in the amount of \$2,000.00 in connection with work performed at 66 Harrison Drive; and

WHEREAS, in a letter dated July 14, 2026, the Township Engineer has recommended that the Cash Performance Bond in connection with work performed at 66 Harrison Drive, Edmunds Account RO-2500057, in the amount of \$2,000.00 be released, together with any applicable interest.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to: Dina Dario, 66 Harrison Drive, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**AUTHORIZATION TO RELEASE ESCROW ACCOUNT OF FULL CIRCLE PROPERTIES
SPRINGFIELD AVENUE, LLC**

WHEREAS, the Township of Berkeley Heights held an escrow account for the former company, Full Circle Properties Springfield Avenue, LLC, and

WHEREAS, the Township seeks to release the remaining escrow balance of \$1,110.17 in Edmunds Account PREAPP20-2 to the equal and joint owners of the former company, Full Circle Properties Springfield Avenue, LLC; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Mayor and Council hereby approves the release of the remaining escrow account balance of \$1,110.17 in the Edmunds Account PREAPP20-2 to the equal and joint owners of the former company, Full Circle Properties Springfield Avenue, LLC.
2. This resolution shall take effect at the time and in the manner prescribed by law.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO
CONNOLLY & HICKEY HISTORICAL ARCHITECTS FOR NON CONSTRUCTION BIDDING AND
CONTRACT ADMINISTRATION SERVICES FOR EXTERIOR AND INTERIOR RESTORATION AND
REHABILITATION OF THE LITTELL-LORD FARMHOUSE**

WHEREAS, the Township of Berkeley Heights is in need of professional architectural and historic preservation services for the Littell-Lord Farmhouse for **non-construction bidding and contract administration services for the interior restoration and rehabilitation of the Littell-Lord Farmhouse**; and

WHEREAS, Professional Services are exempt from the requirements of public bidding pursuant to the Local Public Contracts Law, more specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, Connolly & Hickey Historical Architects provided an original proposal dated April 11, 2023, which was further updated on July 7, 2025, for bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$18,100.00**; and

WHEREAS, the Township wishes to enter into a Professional Services Contract with **Connolly & Hickey Historical Architects**, P.O. Box 1726, Cranford, New Jersey 07016, to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$18,100.00**; and

WHEREAS, this contract is for an amount over \$17,500.00 and is being awarded pursuant to a "Non-Fair and Open Process" pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS Connolly & Hickey Historical Architects, has completed and submitted a Business Entity Disclosure Certification, which certifies that **Connolly & Hickey Historical Architects** has not made any reportable contributions to a political or a candidate committee in the Township of Berkeley Heights in the previous one (1) year prior to award, and that the contract will prohibit **Connolly & Hickey Historical Architects** from making any reportable contributions through the term of the contract.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berkeley Heights, County of Union, New Jersey, that the Mayor is hereby authorized and directed on behalf of the Township of Berkeley Heights to enter into and execute a contract with **Connolly & Hickey Historical Architects** to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse as per their proposal updated July 7, 2025 for an amount not to exceed **\$18,100.00**.

BE IT FURTHER RESOLVED, that the Chief Finance Officer of the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed \$18,100.00 from account # G-02-20-175-021, NJ HISTORIC PRESERVATION 2021.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, pursuant to the Invitation to Bid provided to all pre-qualified bidders, the Township of Berkeley Heights ("Township") received bids on July 15, 2026, for the "Phase II-Exterior Restoration & Structural Stabilization" project at the Littell-Lord Farmhouse; and

WHEREAS, the Director of Public Works has recommended that the lowest responsible bid be awarded to **Dell-Tech Inc.**, 930 New York Avenue, Trenton, New Jersey; and

WHEREAS, the Township Council has determined that it is in the best interest to accept the bid proposal and execute a contract for the **Phase II-Exterior Restoration & Structural Stabilization** at the Littell-Lord Farmhouse, with the lowest responsible bidder, **Dell-Tech Inc.**, for the amount not to exceed **\$395,900.00**; and

WHEREAS, the public advertisement, the receipt of public bids and the award of the contract to the lowest responsible bidder, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., for the **Phase II-Exterior Restoration & Structural Stabilization**, constitutes a Fair and Open Process pursuant to the Local Pay to Play Law, N.J.S.A. 19:44A:20.5, et seq.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, New Jersey, that:

1. The appropriate municipal officials are hereby authorized to accept the bid submitted and execute a contract with the lowest responsible bidder, **Dell-Tech Inc.**, for the **Phase II-Exterior Restoration & Structural Stabilization** at the Littell-Lord Farmhouse in the amount not to exceed **\$395,900.00**.
2. The Township Clerk shall advertise the award of this contract in accordance with law.
3. The Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$395,900.00** as follows:

Account Number	Amount	Description
G-02-20-175-000	\$ 5,157.72	UC Historic Preservation mixed
G-02-20-175-005	\$ 5,501.67	UC Historic Preservation 2019 – Match
G-02-20-175-017	\$ 10,000.00	Preserve Union County Grant - 2017
G-02-20-175-021	\$ 7,731.90	NJ HISTORIC PRESERVATION 2021
G-02-20-175-025	\$ 20,000.00	Preserve Union County Grant - 2025
G-02-20-175-026	\$ 22,757.15	NJ Historic Grant 2024 (COVID)
G-02-20-175-027	\$ 324,751.56	NJ Historic Grant 2026
	\$395,900.00	

4. This resolution shall take effect upon publication and pursuant to law.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

**RESOLUTION OF THE TOWNSHIP OF BERKELEY
HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY,
AUTHORIZING THE EXECUTION OF A DEVELOPER'S
AGREEMENT WITH OZ CUSTOM BUILDERS, LLC FOR
THE PROPERTY IDENTIFIED AS BLOCK 2006, LOTS
32.01 (725 MOUNTAIN AVENUE), 32.02 (7 WESTMINSTER
COURT), 32.03 (1 WESTMINSTER COURT), 32.04 (3
WESTMINSTER COURT) and 32.05 (5 WESTMINSTER
COURT)**

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") made application (the "**Application**") to the Township Zoning Board of Adjustment (the "**Board**"), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the property into five (5) lots, now known as Block 2006, Lot 32.01 (725 Mountain Avenue, Lot 32.02 (7 Westminster Court), Lot 32.03 (1 Westminster Court), Lot 32.04 (3 Westminster Court) and Lot 32.05 (5 Westminster Court) (Lots 32.02, 32.03, 32.04 and 32.05 collectively, the "**Property**") to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the "**Project**") with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot now known as Lot 32.01 (the "**Church**"); and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the Application, however the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the "**Complaint**"), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (a "**Whispering Woods Hearing**"); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement, wherein the Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project; and

WHEREAS, the Board, after reviewing the evidence submitted, voted five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, with said approvals being memorialized by way of written Resolution adopted by the Board on October 24, 2024 (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024 (the “**Settlement Agreement**”); and

WHEREAS, on November 21, 2024, the Board adopted a memorializing resolution authorizing the Settlement Agreement; and

WHEREAS, the Board approved the application and granted the Approval on the condition that the Developer enter into a developer’s agreement with the Township prior to the commencement of any on-site construction; and

WHEREAS, the Township and the Developer desire to enter into such agreement to establish the terms pursuant to which the Developer shall proceed, together with its obligations pursuant to the Settlement Agreement, with construction of the Project; and

WHEREAS, the developer’s agreement attached hereto as **Exhibit A** (the “**Developer’s Agreement**”) has been prepared by the Township Attorney and has been reviewed and approved by the attorney for the Developer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, in the County of Union, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Mayor is hereby authorized to execute the Developer’s Agreement substantially in the form as attached hereto as **Exhibit A**, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township’s counsel and other Township professionals. The Clerk of the Township is hereby authorized and directed to attest to the Mayor’s signature and affix the seal of the Township to the Developer’s Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Developer’s Agreement to the other parties thereto.

Section 3. This resolution shall take effect immediately.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

EXHIBIT A

Developer's Agreement

Record and Return to:

Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

DEVELOPER'S AGREEMENT

Block 2006, Lots 32.01, 32.02, 32.03,
32.04, 32.05 (Formerly Lot 32) on the
Official Tax Maps of the Township of
Berkeley Heights, Union County

THIS DEVELOPER'S AGREEMENT (this "**Developer's Agreement**") is made and
executed this _____ day of _____, 2026, by and between:

Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, New Jersey 07922

and

Oz Custom Builders, LLC
725 Mountain Avenue
Berkeley Heights, New Jersey 07922

Affecting property known as Block 2006, Lot 32.01 (725 Mountain Avenue), Lot 32.02 (7
Westminster Court), Lot 32.03 (1 Westminster Court), Lot 32.04 (3 Westminster Court), Lot 32.05
(5 Westminster Court) on the Township of Berkeley Heights Tax Map, formerly all one lot known
as Block 2006, Lot 32 (the "**Property**"), as more particularly described on the property description
attached hereto and made a part hereof as **EXHIBIT A**; and

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal
corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") is the owner of the Property;

and

WHEREAS, the Developer made application (the “**Application**”) to the Township of Berkeley Heights Zoning Board of Adjustment (the “**Board**”), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the existing property into five (5) lots to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the “**Project**”) with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot, now known as Lot 32.01 (the “**Church**”); and

WHEREAS, the Board took jurisdiction and conducted public hearings on the Application at its meetings on November 11, 2021; January 27, 2022; April 13, 2022; June 22, 2023; and September 28, 2023, at which time the Board considered the Application materials submitted and plans and reports presented and the Board voted 4 to 3 to approve the Application, however, the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the “**Complaint**”), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow

v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (“**Whispering Woods Hearing**”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement wherein the Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project and the Board voted unanimously in favor of the settlement agreement, which was memorialized on November 21, 2024 via the adoption of a resolution; and

WHEREAS, on September 26, 2024, the Board, after reviewing the evidence submitted, voted in favor of the Application by a vote of five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, and memorialized said approval via the adoption of a Resolution on October 24, 2024 which is attached hereto as **EXHIBIT B** and made a part hereof (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024, which is attached hereto as **EXHIBIT C** and made a part hereof (the “**Settlement Agreement**”); and

WHEREAS, the Developer submitted and the Board approved the following plans subject to such revisions as set forth in the Board Approval:

1. Final Major Subdivision Plan, Westminster Presbyterian Church, Lot 32, Block 2006, Mountain Avenue & Plainfield Avenue, Township of Berkeley Heights, last revised March 19, 2026, prepared by Murphy & Hollows Associates LLC.

(as the same have been and may be further revised and amended, the “**Approved Plans**”) a copy of which is attached as **EXHIBIT D** and is made a part of this Developer’s Agreement; and

WHEREAS, the Board has approved the Application and granted the Board Approval on the condition that the Developer enter into this Developer's Agreement with the Township; and

WHEREAS, the Parties have determined to enter into this Developer's Agreement as required by the Board Approval; and

WHEREAS, on _____, 2026 the Township adopted Resolution _____, a copy of which is attached hereto as **EXHIBIT E** authorizing the execution of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein, the Parties agree as follows:

1. **Application of the Agreement.** The terms and conditions of this Developer's Agreement shall be applicable to the Property and the Project. This Developer's Agreement shall apply only to this Project by the Developer.
2. **Developer Bound.** The Developer agrees to be bound by the Board Approval, and all representations, commitments, matters of fact and matters of law which constitute the file and record of the Board, oral and written, all of which are made a part of this Developer's Agreement by reference hereto as though fully set forth herein, and it will faithfully discharge all of the obligations and commitments thereof.
3. **Construction Subject to Ordinances.** The Developer shall construct and design all improvements in accordance with the specifications of the Township Code, as amended to date, and the Board Approval, in a manner satisfactory to the Township engineer (the "**Township Engineer**") and in accordance with the improvements set forth on the Approved Plans. Except as otherwise approved in the Board Approval, Developer shall perform all work in full compliance and observation of all ordinances of the Township. The Developer shall be responsible for securing any and all permits required by law

including, but not limited to, road opening permits and any and all other permits required by the ordinances of the Township or the Board Approval and to pay the requisite fees called for under the appropriate fee schedules.

4. **Performance Guarantees.** As of the date of this Agreement, and prior to commencing construction and the issuance of the initial construction permit, Developer (in this paragraph only the term “Developer” shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer’s General Contractor) has provided the Township the following:

- a. A Performance Guarantee in the amount of \$69,390.00, of which 10% or \$6,939.00 must be provided in cash, is required to be provided by the Developer to the Township, in accordance with the Township Construction & Inspection Fee Cost Estimate Letter issued by the Township Engineer and dated October 7, 2025, attached hereto as **EXHIBIT F** and made a part hereof.
- b. A deposit for the inspection fees. The amount of the inspection fees is initially \$74,923.80. In accordance with N.J.S.A. 40:55D-53(h), the Developer shall have the option of paying the inspection fees in four installments. The initial amount deposited by the developer shall be 25% of the inspection fees. When the balance of the deposit drops to 10% of the inspection fees because the amount deposited has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

5. **Engineering Escrows and Legal Fees.** The Developer shall deposit with the Township fees in accordance with the Township Code and Paragraph 4(b) hereof prior to the issuance of any building permit. Over and above any costs associated with filing fees,

such escrow deposit is to cover the legal costs for the review and preparation of documents, including, but not limited to any required ordinances, resolutions, easements, and this Developer's Agreement, and any necessary correspondences with Developer, Developer's professionals, the Township and/or its professional personnel, including, but not limited to, the Township Engineer; and to cover the costs associated with services to be rendered by the Township Engineer or his/her authorized representatives or other approving authority in connection with the inspections of the improvements of the Project. The Township Attorney and the Township Engineer will bill the Developer at the same hourly rate and in the same manner as it bills the Township. Said monies will be held and administered in accordance with N.J.S.A. 40:55D-53.1 and -53.2 and its subsections.

Upon completion of all improvements at the Project, should any deposit monies be left over in escrow, the unused balance shall be paid to Developer in accordance with N.J.S.A. 40:55D-53.2(d). Alternatively, should there be a shortage of funds in escrow to cover the legal or engineering inspection costs described herein, the Developer shall pay the additional amount as certified by the Township Chief Financial Officer.

6. **General Provisions.** It is further understood and agreed between the parties hereto as follows:

- a. The Developer shall comply with the Township Code.
- b. Road excavation and grading operations, if any, shall be under the supervision of a licensed professional engineer so that rainfall run-off will not create serious problems or erosion flooding or the deposit of mud and debris on abutting properties. Said engineer shall advise the Township Engineer of the measures to be taken that will afford this protection.

- c. Connections to existing sanitary sewers, if any, shall be plugged at the start of construction and shall not be opened until the line has passed a leakage test and has been inspected and approved by the Township Engineer or her/his authorized agent.
- d. Where required by the Construction Code Official and Township Engineer, a site development plan shall be submitted before issuance of a building permit in order to ensure adequate means of ingress and egress to the Property, as applicable.
- e. No construction vehicles and equipment shall park on existing Township streets. Hours of demolition and construction, including, installation of any improvements, shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. All construction shall comply with applicable provisions of Section 8.44.030, Prohibited Noises, of the Township Code.
- f. The Developer shall obtain all approvals required from any other governmental agencies with jurisdiction relating to the Developer's Project.
- g. The Developer shall construct the Project in accordance with the Approved Plans to reflect the requirements of the Board Approval.
- h. Prior to site disturbance, the Developer shall have a pre-construction meeting with the Township Engineer and submit an Affidavit of Compliance demonstrating compliance with all of the conditions of Board Approval and possession of all necessary governmental approvals. The Affidavit of Compliance shall list the approvals required and obtained and separately identify each condition that is satisfied or is being satisfied.
- i. Developer shall comply with all requirements of all ordinances of the Township

and all proper recommendations of the Township Engineer, Township Planner, the Township Chief of Police, the Township Fire Department, and the Township Board of Health.

- j. Developer shall be responsible for all sewer and water connection fees, as applicable, in accordance with applicable ordinance and regulations as each is due.
- k. Developer shall obtain any permits or approvals required from Soil Conservation District; and shall obtain any approvals or permits required from the New Jersey Department of Environmental Protection, including, but not limited to, sanitary sewer, if required.
- l. Developer shall comply with any and all other Municipal, County, State and Federal regulations, including the New Jersey Department of Environmental Protection (“NJDEP”), if required, and shall obtain all necessary approvals prior to the commencement of construction and shall secure such other approvals or permits required from all agencies, boards or bodies having jurisdiction over the Project or over the Property.

7. **Drainage and Grading.** Drainage and grading shall be as follows:

- a. The Developer will ensure that all areas in the Project will be properly graded and properly drained and will in this regard obey all reasonable instructions of the Township Engineer relating thereto to assure compliance with the grading and drainage provisions approved by the Board.
- b. The Developer shall ensure that no stumps, dead trees or debris related to or resulting from the construction of the Project are deposited on or permitted to remain on any portion of the Property, and that no stumps, dead trees or debris

are deposited below the surface of the earth.

- c. In the event that any drainage problem is created on adjoining properties by the development of this Project, corrective measures shall be taken within the area limits of the Project, at such places and in such manner as the Township Engineer may reasonably require.
- d. Prior to construction the Developer and the Township Engineer shall examine the Township's storm sewers that may be affected by this construction, if any, in order to determine whether there is any additional soil or debris to be removed after the completion of construction. Subsequently, the Developer will remove silt deposited in the Township's storm sewers, brooks and catch basins or other drainage areas resulting from the wash down of soil or debris in the course of the construction. Any reasonable instructions given by the Township Engineer to prevent such wash down shall be promptly carried out.
- e. Sufficient detention facilities and drainage improvements must be constructed and operational in accordance with the soil erosion sediment control plan.

8. **Conditions of Approval.** The Developer shall also comply with the following terms and conditions in connection with the Approval, along with the variances granted by the Board and as set forth in the Approval, including, but not limited to:

- a. All the conditions contained in the Board Approval and in the record or the proceedings before the Board, including any agreements made by the Developer that were essential to the Board's decision to grant the Board Approval. The development of the Property shall be implemented in accordance with the Approved Plans. In the event the Developer shall make or propose any changes to

the Project or structures on the Property from those shown on the Approved Plans, whether such changes are voluntarily undertaken or required by any other regulatory agency, Developer shall resubmit such changes to the Engineer for review and determination. The Township Engineer may, in his/her discretion, approve the change administratively as a "field change" or require the Developer to submit the change to the Board for its review.

- b. This Developer's Agreement is contingent upon the Developer having paid all outstanding taxes, municipal charges, application fees and escrow fees and any such fees as each becomes due after the execution of this Agreement.
- c. Developer shall obtain approvals of any other governmental agency having jurisdiction over the site's approval, including, but not limited to, the Department of Environmental Protection's flood hazard area permits, as required.

9. **Maintenance of Property.** During the course of construction and until the time of final acceptance of improvements, Developer shall:

- a. Except as reasonably necessary during construction, keep the Property reasonably free of dirt, stone, mud and other debris, and further agrees to use every effort to prevent dust from blowing on any neighboring properties in the Township;
- b. Keep any streets or roadways, whether Township, County or State owned, or whether under construction, used by trucks or equipment of the Developer or his agents, reasonably clean, including snow removal; and
- c. Maintain and keep all storm drainage within the Property free from accumulation of debris and leaves. "Final acceptance of improvements" for the purpose of this provision is deemed to be the date upon which the improvements are accepted by

the Township Council and the final maintenance guarantees for same are posted with the Township.

- d. Comply with any reasonable instructions from Township consultants, employees, or agents regarding the maintenance of the Property and land surrounding the Property during the course of construction.

10. **Township Observation, Access and Inspections.** The Township, its consultants, employees and agents, shall be given access to observe construction of the subject Project, including, but not limited to, roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, street lighting, woodland management and appurtenances associated with the Approved Plans, as applicable to the Property, provided the Township shall use reasonable care not to interfere with any construction activities. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Developer's Approved Plans. The Township, or its representatives, consultants, employees or agents shall not supervise, direct or have control over the Developer's work during such observations, nor as a result thereof, shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Developer for safety precautions and programs incident to the work of the Developer or for any failure of the Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders. The Developer is not an agent or employee of the Township.
11. **Stormwater Management System.** The Developer shall construct, manage and maintain all storm water management systems and facilities and shall continue to manage, maintain

and keep in good repair such systems and facilities so long as such systems and facilities are used or exist, and in accordance with the Township Code and applicable NJDEP rules and regulations or similar governmental or quasi-governmental rules and regulations as may be amended from time to time.

12. **Withholding Permits/Certificates of Occupancy.** Developer understands and agrees that in the event it is in violation of any of the terms of this Developer's Agreement, the Township may, in its sole but reasonable discretion, upon written notice to Developer with a reasonable opportunity to cure, withhold the issuance of any permits or certificate(s) of occupancy until the violation has been corrected.
13. **Completion of Improvements.** All improvements contemplated in this Developer's Agreement and in the Board Approval shall be performed and completed to the satisfaction of the Township Engineer and Construction Code Official within a period of two (2) years from the date of the issuance of the first building permit or site disturbance, or such additional periods of time as may be granted by the Township in accordance with N.J.S.A. 40:55D-52, and prior to the issuance of a Certificate of Occupancy, pursuant to the terms and conditions of the Board Approval. In the event the aforesaid improvements are not completed within that period, or the time period as extended hereunder, the Township reserves the right to not issue any certificate(s) of occupancy or building permit(s) for the subject Property. The issuance of a certificate of occupancy by the Township within the two (2) year period shall not be deemed a waiver for defects ascertained during said period or subsequent thereto.
14. **Maintenance Guarantee.** (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer's General

Contractor). Upon completion of the construction of the improvements for which performance guarantees have been posted, including any required landscaping, and prior to the release of the Performance Guarantee, the Developer shall post a maintenance guarantee in the amount of \$10,408.50 with the Township, in accordance with N.J.S.A. 40:55D-53, appropriately secured in form satisfactory to the Township Attorney, conditioned on the Developer maintaining all of such improvements for a period of two (2) years therefrom. Upon posting and acceptance of said maintenance guarantee, the Performance Guarantee shall be released by the Township.

15. **Release of Plans.** Any payments of fees and posting of bonds or other Performance Guarantee required to be performed by the Developer in this Developer's Agreement, unless specifically set forth herein otherwise, shall be done and/or performed prior to the signing of the Approved Plans for release to the Developer for issuance of Building Permits.
16. **Assignment/Sale of Property.** In the event the Property and Approved Plans are sold or otherwise conveyed by this Developer prior to the installation of all improvements, the Developer and the subsequent qualified developer must execute an Assignment and Assumption Agreement, in writing, and in a form which is acceptable to the Township Attorney, with regard to the conditions, covenants and agreements contained in this Developer's Agreement, providing that this Developer shall remain primarily liable for all the obligations created in this Developer's Agreement, until the subsequent developer assumes same and this Developer is released. At such time the term Developer shall be deemed to refer to the subsequent developer.

17. **Records.** The Township Engineer shall keep records of inspections and related reviews and the costs thereof, and, upon the Developer's written request, said records shall be made available for inspection by the Developer or its representatives, not more than quarterly, and upon reasonable notice, during the regular business hours of the Township Engineer.
18. **Record Drawings.** The Developer shall provide record drawings of all improvements and utilities, including, but not limited to, water, sanitary sewer, storm drainage, street lighting and woodland management as implemented and constructed by the Developer both within the Property and off-tract, if required. Said record drawings shall be in conformance with applicable Township standards and shall be both in hard copy and in pdf format. A final survey of the Property must be submitted at the time of request for a Certificate of Occupancy.
19. **Developer's Conveyances.** If the Developer is required by indication on the Approved Plans, Board approval, or as agreed to by both parties hereto to convey to the Township any rights-of-way, drainage, storm sewers, sanitary sewers, sidewalks easements, conservation or trail easements, sight triangle easements and other similar public rights and/or areas, the same shall be accomplished by a written deed or easement. All such deeds or easements, if any, shall be reviewed and approved by the Township Attorney and Township Engineer as to form and content, which approval shall not be unreasonably withheld, and the same shall be recorded in the Clerk's Office of Union County. All recording costs shall be the responsibility of the Developer.
20. **Compliance with Applicable Laws.** The Developer shall comply with all laws and regulations of the State of New Jersey, County of Union and Township of Berkeley Heights. In addition, Developer shall comply with all environmental laws and regulations

of the Federal and State Governments, including, but not limited to, the State Flood Control Facility Act (N.J.S.A. 58:16A-1 et seq.), Flood Hazard Area Control Act (N.J.S.A. 58:16A-51 et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:1023.11 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Worker Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.), the Noise Act of 1971, (N.J.S.A. 13:1G-1 et seq.), the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), the Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Realty Improvement and Sewerage Facilities Act (N.J.S.A. 58:1123 et seq.), and any other environmental acts or regulations adopted by the Federal, State, County or local government. Failure to comply with these laws and any violations thereof shall be deemed to be a breach of this Developer's Agreement. To the extent the Township must bring an action for compliance with this Developer's Agreement, defend or participate in any litigation with regard to said laws or regulations related to the Developer's Property and/or actions, whether purposeful or negligent, any such action shall be subject to the provisions set forth in Paragraph 21 below. In addition and as stated in Paragraph 21 below, the Developer shall indemnify and hold harmless the Township, its officials, officers, agents, servants, representatives, employees harmless for any and all such violations and shall reimburse the Township for any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses of any kind and nature, including, but not limited to court costs and attorneys' fees, entered against the Township as a result of the purposeful or negligent acts of the Developer.

21. **Indemnification and Attorneys' Fees.** Developer agrees to indemnify, defend, and hold harmless the Township, its officials, officers, agents, servants, representatives, and employees from and against any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses arising from the purposeful or negligent acts of Developer or arising out of Developer's failure to perform its obligations pursuant to this Developer's Agreement, including any action or failure to act by the Developer in violation of this Developer's Agreement. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to all costs and expenses of litigation. When requested by the Township, the Developer agrees to aid and/or defend the Township, its officials, officers, agents, servants, representatives and employees, in the event any or all of same are named as a defendant or defendants in any action concerning the performance of work at the development site pursuant to this Developer's Agreement. This paragraph shall not apply to any actions or litigation filed against the Township where the litigation is attributable to and/or alleges wrongful conduct on the part of the Township, its agents or employees.
22. **Reliance of Township.** The Developer further acknowledges and understands all of the conditions contained in this Developer's Agreement and the record of the proceedings in this matter, including any and all agreements made by the Developer with the Board and incorporated in the Board Approval, as well as the Approved Plans, are hereby deemed to be essential to the Township's decision to enter into this Developer's Agreement. In the event of a breach of any such conditions, the failure of the Developer to adhere to the terms of any agreement incorporated within the Approval or this Developer's Agreement or any deviation from the Approved Plans (except for minor or field changes approved by the Township Engineer) the Township through the Township Engineer may within the limits

of his authority under law, and upon written notice reasonable under the circumstances, and opportunity to cure, suspend the right of the Developer to obtain additional construction permits, certificates of occupancy or any and all other governmental authorizations in order to continue developing the Project until such time as the violation has been corrected. If during the course of construction and installation of the Project, it shall be reasonably determined by the Developer and the Township Engineer that minor revisions to the Developer's Approved Plans are necessary and/or appropriate; the Developer will undertake such reasonable design and construction changes as may be approved by the Township Engineer as field changes.

23. **Deeds and Affidavits of Title.** Developer shall provide to the Township such documents, including, but not limited to, Deeds, Certificates, Affidavits of Title and Corporate Resolutions to, as are necessary, convey valid and marketable easements of fee title, as the case may be, to such dedications of Property or easements, if any, as are revealed in the Approved Plans.
24. **Recording of this Agreement.** The Township Attorney may record this Developer's Agreement, without Exhibits, in the Union County Clerk's Office and submit a fully executed recorded copy to the Developer or to the Developer's attorney. All recording costs shall be borne by the Developer. Upon completion of all obligations hereunder as evidenced by expiration of the two (2) year maintenance bond, the Township agrees to provide Developer with a release of this Developer's Agreement in form suitable for recording with the Union County Clerk.
25. **Severability.** If any terms or conditions herein are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

26. **Governing Law, Forum Selection, and Waiver of Jury Trial.** The Parties agree that this Developer's Agreement shall be governed by and interpreted according to the laws of the State of New Jersey, without reference to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the jurisdiction of the Superior Court of New Jersey, Union County, for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Developer's Agreement and the transactions contemplated thereby. Each of the parties hereto irrevocably consents to the jurisdiction of the Superior Court of New Jersey, Union County, in any such suit, action or proceeding and to the laying of venue in such Court. Each party hereto irrevocably waives any objection to the laying of venue of any such action or proceeding brought in said Court and irrevocably waives any claim that any such suit, action or proceeding brought in said Court has been brought in any inconvenient forum. The parties further agree that any claims relating to or arising out of this Developer's Agreement and the transactions contemplated thereby shall be tried before a Judge and without a trial by jury.
27. **Notices.** All notices required or permitted under this Developer's Agreement shall be in writing by certified mail, return receipt requested, to the addresses set forth herein or as otherwise designated by the parties in writing.
28. **Successors.** This Developer's Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and/or assigns. If the Developer hereafter transfers title to the subject lands to the name of any individual or corporation, said new owner shall have the rights and obligations afforded by this Developer's Agreement.
29. **Insurance Coverage.** The Developer (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the

Developer's General Contractor) shall purchase and maintain during the construction of the improvements a Comprehensive General Liability Insurance Policy, or be self-insured, with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and One Million (\$1,000,000.00) Dollars in the aggregate. Said insurance coverage shall be in accordance with the requirements of the Township Attorney. The policy shall indicate the Township as an additional insured with respect to its interest in work performed by the above-named insured at the above-named Project. The coverage shall include endorsements for Broad Form Property Damage; explosion, collapse and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. It shall indemnify the Township, its officials, officers, agents, servants, representatives and employees. All liability coverage shall be on an occurrence basis. Certificates of Insurance evidencing the foregoing coverage shall be provided to the Township before work on the improvements begins and on an on-going basis, as the insurance is reviewed from time to time.

30. **Voluntary Agreement.** Developer herein represents that it has voluntarily entered this Developer's Agreement, and it has not been executed under duress or coercion imposed by the Township or its representatives, and unequivocally states that the agreements, conditions and amounts to be paid as agreed upon in this Developer's Agreement have not been forced upon it by undue influence, coercion and are not being undertaken or paid under protest. Developer has reviewed all calculations and rationale for the agreements and payments set forth herein and is undertaking them voluntarily. Accordingly, Developer herein covenants and agrees that it will not bring any action against the Township with respect to the obligations assumed by Developer under this Developer's Agreement, which

has been mutually negotiated between the parties, unless the Approval giving rise to this Developer's Agreement is hereinafter amended or modified by proper resolution or action of the Board.

31. **Non-Reliance.** Developer acknowledges that it has not relied upon any cost estimates or opinions furnished by the Township, including the Township Engineer or Consulting Engineer(s), if applicable, and the Developer has satisfied itself as to the anticipated construction costs of the improvements set forth herein prior to the execution of this Developer's Agreement.
32. **Entire Agreement.** This instrument contains the entire agreement between the parties hereto and no statement, promise or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference, shall be valid or binding; and this Developer's Agreement may not be enlarged, modified or altered except in writing, signed by the parties and endorsed thereon. Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Approval.
33. **Waiver, Modification, Cancellation.** Any waiver, alteration, or modification of any of the provisions of this Developer's Agreement or cancellation or replacement of this Developer's Agreement shall not be valid unless in writing and signed by the parties.
34. **Execution of Additional Documents and Binding Effect.** This agreement shall be binding not only upon the parties hereto, but also their heirs, executors, administrators, representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, executors, administrators, representatives, successors and assigns to execute

any instruments in writing which may be necessary or proper for the carrying out of the intent and purposes of this agreement.

35. **Gender**. In all references made herein to any parties, person, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the usage may require.
36. **Exhibits**. The following “Exhibits” are attached hereto and made a part of this Developer’s Agreement and the Developer shall comply with all terms and conditions stated therein:

EXHIBIT A: Description of Property

EXHIBIT B: Resolution of the Zoning Board Dated October 24, 2024

EXHIBIT C: Settlement Agreement

EXHIBIT D: Approved Plans

EXHIBIT E: Resolution Approving Developer’s Agreement

EXHIBIT F: Township Construction and Insurance Fee Cost Estimate

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly executed this Developer's Agreement as of the date first above written.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari, Township Clerk

By: _____
Angie D. Devanney, Mayor

WITNESS:

OZ CUSTOM BUILDERS, LLC

Name:
Title:

By: _____
Name:
Title:

STATE OF NEW JERSEY)

) ss.

COUNTY OF UNION)

I CERTIFY THAT ON _____, 2026, Angela Lazzari, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (A) this person is the Municipal Clerk of The Township of Berkeley Heights, the municipal corporation named in this Developer's Agreement;
- (B) this person is the attesting witness to the signing of this Developers Agreement by the proper corporate officer who is Angie D. Devanney, the Mayor of the municipal corporation of Berkeley Heights Township;
- (C) this Developer's Agreement was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Township Council;
- (D) this person knows the proper seal of the corporation which was affixed to this Developer's Agreement;
- (E) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

_____, 2026

Notary Public of the State of New Jersey

COUNTY OF

Notary Public of the State of New Jersey

EXHIBIT A

Description of Property

**EXHIBIT A
LEGAL DESCRIPTION**

Issuing Office File No. 24PPTA-1636-L-AS-WC

ALL THAT CERTAIN LOT, PARCEL OR TRACT OF LAND, SITUATE, LYING AND BEING IN THE Township of Berkeley Heights, IN THE COUNTY OF Union, STATE OF NEW JERSEY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOTS 32.02, 32.03, 32.04 AND 32.05 IN BLOCK 2006, AND INCLUDING WESTMINSTER COURT, AS SET FORTH ON A CERTAIN MAP ENTITLED, "FINAL MAP FOR WESTMINSTER PRESBYTERIAN CHURCH, LOT 32 BLOCK 2006, MOUNTAIN AVENUE & PLAINFIELD AVENUE" SITUATED IN THE Township of Berkeley Heights, COUNTY OF Union, STATE OF NJ BEING MAP NO. 872 FILED IN THE Union COUNTY CLERK'S OFFICE.

THE ABOVE PREMISES BEING FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY MURPHY & HOLLOWES ASSOCIATES, LLC, DATED MAY 28, 2025, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF PLAINFIELD AVENUE WHICH POINT IS DISTANT 116.15 FEET NORTHERLY ALONG SAME FROM THE INTERSECTION OF SAID EASTERLY SIDELINE OF PLAINFIELD AVENUE WITH THE NORTHERLY SIDELINE OF MOUNTAIN AVENUE IF SAID SIDELINES WERE EXTENDED AND FROM THENCE RUNS,

- 1) NORTHERLY ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 415.93 FEET, AN ARC LENGTH OF 200.78 FEET TO A POINT; THENCE
- 2) STILL ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 03 DEGREES 03 MINUTES 40 SECONDS EAST 76.68 FEET TO A POINT; THENCE
- 3) ALONG THE SOUTHERLY LINE OF LOT 33 BLOCK 2006 SOUTH 88 DEGREES 47 MINUTES 30 SECONDS EAST 232.95 FEET TO A POINT; THENCE
- 4) ALONG AN EASTERLY LINE OF LOT 33 IN BLOCK 2006 NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 31.36 FEET TO A POINT; THENCE
- 5) ALONG A NORTHERLY LINE OF LOT 33 BLOCK 2006 NORTH 80 DEGREES 23 MINUTES 40 SECONDS WEST 113.30 FEET TO A POINT; THENCE
- 6) ALONG AN EASTERLY LINE OF LOT 33 BLOCK 2006 NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 11.00 FEET TO A POINT; THENCE
- 7) ALONG THE SOUTHERLY LINE OF LOT 34 BLOCK 2006 SOUTH 80 DEGREES 23 MINUTES 40 SECONDS EAST 29.73 FEET TO A POINT; THENCE
- 8) ALONG THE EASTERLY LINE OF LOT 34 BLOCK 2006 NORTH 09 DEGREES 36 MINUTES 20 SECONDS EAST 98.45 FEET TO A POINT; THENCE
- 9) ALONG THE NORTHERLY LINE OF LOT 34 BLOCK 2006 NORTH 78 DEGREES 59 MINUTES 10 SECONDS WEST 152.09 FEET TO A POINT IN THE EASTERLY SIDELINE OF PLAINFIELD AVENUE; THENCE
- 10) ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 6.00 FEET TO A POINT; THENCE
- 11) NORTH 78 DEGREES 59 MINUTES 10 SECONDS WEST 4.95 FEET TO A POINT; THENCE
- 12) ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 48.08 FEET TO A POINT; THENCE

Exhibit A – Continued
Issuing Office File No. 24PPTA-1636

13) ALONG THE SOUTHERLY LINE OF LOT 35 BLOCK 2006 SOUTH 78 DEGREES 59 MINUTES 10 SECONDS EAST 267.28 FEET TO A POINT; THENCE

14) ALONG THE EASTERLY LINE OF LOT 35 BLOCK 2006 NORTH 13 DEGREES 57 MINUTES 50 SECONDS EAST 60.16 FEET TO A POINT; THENCE

15) ALONG THE SOUTHERLY LINE OF LOT 36 BLOCK 2006 SOUTH 78 DEGREES 59 MINUTES 10 SECONDS EAST 214.22 FEET TO A POINT; THENCE

16) ALONG THE WESTERLY LINE OF LOT 26 BLOCK 2006 SOUTH 02 DEGREES 40 MINUTES 15 SECONDS WEST 268.00 FEET TO A POINT; THENCE

17) THE FOLLOWING SEVEN COURSES ALONG THE REMAINING LANDS OF WESTMINSTER PRESBYTERIAN CHURCH, PROPOSED LOT 32.01 BLOCK 2006 NORTH 87 DEGREES 19 MINUTES 45 SECONDS WEST 136.88 FEET TO A POINT; THENCE

18) NORTH 24 DEGREES 00 MINUTES 20 SECONDS WEST 39.28 FEET TO A POINT; THENCE

19) SOUTH 65 DEGREES 59 MINUTES 40 SECONDS WEST 100.14 FEET TO A POINT OF CURVE; THENCE

20) IN A WESTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 70.86 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 79 DEGREES 31 MINUTES 40 SECONDS WEST 70.20 FEET TO A POINT OF TANGENCY; THENCE

21) NORTH 86 DEGREES 56 MINUTES 20 SECONDS WEST 38.07 FEET TO A POINT; THENCE

22) SOUTH 03 DEGREES 03 MINUTES 40 SECONDS WEST 78.50 FEET TO A POINT; THENCE

23) SOUTH 45 DEGREES 24 MINUTES 13 SECONDS WEST 155.00 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: ALSO BEING KNOWN AS PART OF TAX LOT 32 IN TAX BLOCK 2006 ON THE OFFICIAL TAX MAP OF THE Township of Berkeley Heights, Union COUNTY, STATE OF NEW JERSEY.

PRESTIGE TITLE AGENCY, NOS

Inst.#
48754

END OF DOCUMENT

DEED

Paid
Recording Fee \$95.00
RT Fee \$7,835.00

DB6592-2430

EXHIBIT B

Resolution adopted by the Zoning Board on October 24, 2024

**TOWNSHIP OF BERKELEY HEIGHTS
ZONING BOARD OF ADJUSTMENT**

**Oz Custom Builders, LLC
725 Mountain Avenue**

RESOLUTION

WHEREAS, Oz Custom Builders, LLC (the "Applicant") previously applied to the Township of Berkeley Heights Zoning Board of Adjustment (the "Board") for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto, on property designated as Block 2006, Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue, which is located in the R-15 Residential Zone (the "Property" or the "Site"); and

WHEREAS, public hearings on notice were held on such application on November 11, 2021; January 27 and April 13, 2022; June 22 and September 28, 2023, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the application. However, since the Applicant requested use variance relief pursuant to N.J.S.A. 40:55D-70(d)(2), five (5) affirmative votes were required, resulting in a statutory denial of the application; and

WHEREAS, on January 10, 2024, the Applicant filed a Complaint in Lieu of Prerogative Writ, which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable, and unlawful (the "Complaint"); and

WHEREAS, on February 26, 2024, the Board filed a contesting answer and vigorously defended its decision; and

WHEREAS, the Applicant and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed (by the Applicant) public hearing, consideration of evidence and comments submitted by the public, public vote and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987); Friends of Peapack-Gladstone v. Borough of Peapack-Gladstone Land Use Bd., 407 N.J. Super. 404 (App. Div. 2009); Gandolfi v. Town of Hammonton, 367 N.J. Super. 527, 548 (App. Div. 2004); Warner Co. v. Sutton, 247 N.J. Super. 464 (App. Div. 1994) and their progeny (a “Whispering Woods Hearing”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement (the “Settlement Agreement”), wherein the Applicant sought preliminary and final major subdivision approval and the following variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto:

1. A d(2) variance for the expansion of a pre-existing non-conforming use (church use), because the existing church use is being intensified given the reduction in the size of Lot 32, pursuant to Section 6.3.1 of the Land Use Procedures Ordinance of the Township of Berkeley Heights (the “Ordinance”);
2. Bulk variance relief for a proposed “other” coverage of 27.9% (Proposed Lot 32.01), whereas the existing “other” coverage is 15.5%, and the maximum permitted “other” coverage is 10%, pursuant to Section 6.1.1 of the Ordinance;
3. Bulk variance relief for a proposed impervious coverage of 33.9% (Proposed Lot 32.01), whereas the existing impervious coverage is 19.1%, and the maximum permitted impervious coverage is 25%, pursuant to Section 6.1.1 of the Ordinance;

4. Bulk variance relief for the disturbance of steep slopes of 25% or greater, whereas on slopes of 25% or greater, no development, regarding or stripping of vegetation shall be permitted unless the disturbance is for roadway crossings or utility construction, pursuant to Section 3.1.11.C.1 of the Ordinance; and
5. Design waiver relief for groundwater recharge due to impermeable soils, whereas groundwater recharge is required pursuant to Section 12.3.3. of the Ordinance; and

WHEREAS, as part of the Settlement Agreement, the Applicant proposed a list of terms upon which the application would be conditioned. While the majority of these conditions were previously stipulated to by the Applicant during the various public hearings should the Board act favorably on the Application, the Board did not act favorably on the Application at the conclusion of said hearings. However, the Applicant has agreed to nevertheless comply with said conditions at this time as a result of the Settlement, and the Applicant further stipulated to the following conditions:

1. The Applicant shall reorient the dwelling on Proposed Lot 32.02 to face Plainfield Avenue with a side loaded garage, also obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback of 15 feet; and
2. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant, any objectors and all members of the public, and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

3. The Property is located at 725 Mountain Avenue, Block 2006, Lot 32, in the R-15 Residential Zone. It is at the northeast corner of the Mountain Avenue and Plainfield Avenue intersection. The Site currently consists of the Westminster Presbyterian Church (the "Church"),

the associated parking lot, a 1.5 story residential dwelling, a memory garden, a playground area, and a garage. The Site also contains trees and shrubs and ingress and egress driveways onto Mountain Avenue.

4. The Applicant previously obtained preliminary major subdivision approval for the project in 2016 from the Planning Board. Subsequently, in 2019, the Applicant applied for, and received, an extension of the preliminary approval. This approval has since expired.

5. The Applicant is again seeking preliminary and final major subdivision approval to subdivide the existing property into five (5) lots. The existing Church and associated parking lot will remain on proposed Lot 32.01. While the other four lots (Proposed Lots 32.02, 32.03, 32.04, and 32.05) will be developed with four (4) new detached single-family dwellings, one on each lot. Other than the existing Church and associated parking lot, all other existing site improvements are proposed to be removed in order to facilitate the new construction. The Applicant also proposes to construct a new public right-of-way to provide access for the new dwellings off of Plainfield Avenue.

6. The Applicant's amended proposal still requires variance relief pursuant to N.J.S.A. 40:55D-70(d) and N.J.S.A. 40:55D-70(c).

7. At the Whispering Woods Hearing on September 26, 2024, the Board attorney confirmed that the notice was sufficient and provided an overview of the procedural history of the litigation, the allegations contained in the Complaint, the Board's reasoning for pursuing a settlement, and an overview of the nature of the Whispering Woods Hearing.

8. The Board Planner, Elizabeth Leheny, A.I.C.P, P.P., was duly sworn according to law.

9. August Santore, Esq., entered his appearance on behalf of the Applicant, and provided an overview of the proposed Settlement Agreement. Mr. Santore advised that he would have two witnesses, William Hollows, P.E., and Michael Pessolano, P.P.

10. William Hollows, P.E., having an address of 192 Central Avenue, Stirling, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering.

11. Mr. Hollows testified that he reviewed the Settlement Agreement and advised that it primarily consists of the various agreements reached by the Board and the Applicant during the multiple public hearings on the underlying application.

12. On discussion of the September 25, 2024 Review Memorandum prepared by Elizabeth Leheny, A.I.C.P., P.P., Mr. Hollows confirmed that the Applicant could and would comply with all conditions of approval (originally proposed at the prior hearings if approval was granted) offered at the prior hearings, as well as two additional conditions: 1) the dwelling on Proposed Lot 32.02 would be re-oriented to face Plainfield Avenue. It will now have a side-loaded garage, thereby obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback of 15 feet and 2) left-hand turn movements onto Plainfield Avenue will be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction.

13. On questioning, the Applicant agreed that if the Berkeley Heights Police Department or the Engineering Department believe that a modification of the hours during which the turning restriction is in place is necessary, the Applicant will comply with any such reasonable recommendations. For example, if it is determined to be more appropriate to extend the evening hours to 5:00 pm, the Applicant does not object.

14. Mr. Santore noted that there was a typographical error on page 5, paragraph xi of the Settlement Agreement, in that it should say 'shall comply with the Union County 'sight easement' rather than 'sign easement.'

15. Mr. Hollows testified that the plans that were previously submitted with the prior application remain applicable but will be revised to reflect the terms of the Settlement Agreement as appropriate, and that the Applicant will continue to work with the Board Professionals to address any outstanding items. Mr. Hollows testified that the terms of the Settlement Agreement also address certain concerns raised by the public at the prior hearings. He noted that the application was subject to much more stringent environmental protection requirements than were in place when the Planning Board application was approved. Mr. Hollows contended that his testimony at the prior hearings remained accurate and applicable to the current proposal. He further contended that the proposed modifications to the application constitute a tremendous improvement over what was previously proposed.

16. Michael J. Pessolano, P.P., having an address of 140 Elmwood Avenue, Floor 2, Bogota, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of professional planning. Mr. Pessolano testified that he had reviewed the settlement agreement and the review letter submitted by Ms. Leheny. On questioning as to whether there were any changes to his prior planning testimony, he advised that he had testified previously that the application was worthy of approval and that his position is further supported by the proposed improvements to the plan. He testified that he stands by his prior planning testimony and believes that the application still warrants approval. Mr. Pessolano contended that the application, as amended, satisfies the positive and negative criteria for the requested variance relief for the reasons previously stated.

17. Ms. Leheny explained that her memorandum addressed all of the proposed conditions of approval and reminded the Applicant of its obligation to comply with same. She noted that, based on Mr. Hollows' testimony, it was clear that the plans would be revised as necessary.

18. The following members of the public asked the following questions and made the following comments:

- a. Jerry Barter, 550 Plainfield Avenue, was duly sworn according to law. Mr. Barter expressed disbelief that the Board's decision was being challenged and expressed continued concerns about the safety of the intersection and the proposed stormwater management. He suggested that the turning restriction should be imposed every day of the week, rather than just during the weekdays. Mr. Barter noted that the Police Department had installed a sign regarding merging, but that the sign had been removed. On discussion, Mr. Barter requested that the Applicant commit to installing sidewalks along Plainfield Avenue, rather than allowing the Applicant to make a contribution to the sidewalk fund. The Applicant stipulated to constructing the sidewalk unless there is a legitimate engineering issue that makes it impossible for the sidewalk to be constructed.
- b. York Cook, having an address of 538 Plainfield Avenue, was duly sworn according to law, and advised that this was his first meeting about the application and explained that he had concerns about the magnitude of the variance relief requested. He also expressed concern about the traffic safety because the traffic study had been done before people went back to work after the Covid-19 pandemic. Mr. Cook noted that he has almost had accidents coming out of his own driveway. He requested that the Applicant conduct another traffic study.
- c. Kristin Castillo, 560 Plainfield Avenue, was duly sworn according to law, and explained that she also had concerns about the traffic study because she believed the findings were not accurate given contradictory testimony that was provided. She testified that she had contacted the Police Department regarding the safety of the intersection and the Police Department installed a caution sign, but that the sign had to be removed. She urged the Board to consider the existing traffic safety concerns. As to the proposed turning restriction, she contended that it was insufficient and would force residents of the proposed cul-de-sac to make an inefficient 2.2 mile detour. Ms. Castillo questioned whether the tree removal of the trees within the line of sight was still required and noted that if it is, it will require the removal of significant trees and will diminish her privacy. She noted that there is a reason for the steep slope ordinance and contended that the disturbance of the steep slopes can destabilize the area and

put people and property at risk. She expressed frustration that the financial needs of one developer were outweighing the public safety.

- d. John Leo, 43 Forest Avenue, was duly sworn according to law and suggested that a footpath be added between Proposed Lots 32.04 and 32.05 so that people can access the adjacent school and the neighborhoods behind the Church. On discussion, Mr. Santore explained that a footpath is not possible given the potential liability, maintenance, and privacy issues. Mr. Santore further explained that the Board Professionals suggested the installation of the sidewalk and the Applicant stipulated to same as a condition of approval. He explained that the Applicant is working with the municipality to expand the existing sidewalks in the area. Mr. Leo suggested that the speed limit between the intersection and the proposed cul-de-sac be reduced. However, he was advised that Plainfield Avenue and Mountain Avenue are both County roads and, therefore, the municipality does not have jurisdiction over the speed limit.
- e. Allesandro Maniscalco, 630 Plainfield Avenue, was duly sworn according to law and testified that he just moved to the Township and agreed with all of the comments that had been made. He contended that the sidewalk is absolutely necessary and noted that he has a six (6) year old that walks to school so he is absolutely concerned about the traffic. He expressed concern that the proposed turning restriction may not be enforced. He also expressed disappointment about the proposed tree removal, particularly since he was denied a tree removal permit for his own property. Mr. Maniscalco questioned the hours during which construction could take place and was advised that there is an ordinance that regulates hours of construction. He further questioned whether the construction would require road closures and was advised that road closures were unlikely. He expressed concern about the traffic safety.
- f. Lisa Poris, 546 Plainfield Avenue, was duly sworn according to law and reminded the Board that she had previously spoken about the environmental concerns and the proposed tree removal. Mr. Santore noted that the Applicant is complying with the tree removal and replacement requirements. She questioned why the settlement agreement only provides for landscaping of the rear yard of Proposed Lot 31 and was advised that same was a typographical error and that landscaping would be provided along the rear yards of Proposed Lots 34 and 36. Ms. Poris explained that she is concerned about the traffic and does not trust cars to stop. She requested that the Board impose the most conservative turning restrictions possible to promote safety. She expressed frustration that the Board is settling to avoid costly litigation, which allows the developers to win while the public suffers.
- g. James Coler, 7 Deep Dale Drive, was duly sworn according to law, and testified that he has concerns about the safety of pedestrians crossing Plainfield Avenue and about the removal of mature trees. He concurred with the idea of creating a walking path. Mr. Coler questioned how accepting the proposed settlement would benefit the Township. He suggested that the existing dwelling should

just be renovated and sold. Mr. Coler expressed concern about the proposed stormwater management measures and the tree removal. Mr. Santore explained that there are ordinances regarding tree removal and replacement and the Applicant is complying with same. As to the stormwater management, Mr. Hollows explained that there are five (5) infiltration basins: four for the individual lots and one for the proposed cul-de-sac. Mr. Hollows explained that the proposed stormwater management measures have been reviewed and approved by the Engineering Department. He further explained that the construction of the basins will be in accordance with the plans and the recommendations from the Engineering Department. Mr. Hollows advised that the stormwater basins are maintained by the Homeowners' Association.

- h. Jennifer Hoeffler, 573 Plainfield Avenue, was duly sworn and testified that her driveway is across from the proposed driveway. She noted that there had been 12 traffic incidents involving the police. Ms. Hoeffler explained that she has two small children and the proposal is scary because of the impacts on pedestrian safety. She further explained that she loves all of the existing vegetation and will likely move if the project goes forward. Ms. Hoeffler contended that the project is not appropriate for the size of the parcel and will change the neighborhood in a way that does not feel safe.
- i. Sai Bhargavi Akiri, having an address of 146 Robbins Avenue, was duly sworn according to law and expressed concern about the proposed tree removal and the traffic that would be created. She contended that the traffic study should have considered the impact on the neighboring areas, not just the immediate vicinity of the Property. Ms. Akiri expressed concern that emergency responders would not be able to get through the traffic that would result.
- j. Robert Forst, 447 Long Avenue, Manasquan, was duly sworn according to law and explained that he is a builder in the area. He contended that property owners have certain property rights and these rights should not be unreasonably restricted. He testified that he believes Berkeley Heights has done a nice job creating parks and other open space, but that this parcel should be able to be developed.

19. Mr. Santore provided a summation. He explained that the lawsuit against the Board had nothing to do with greed, but everything to do with the law. He explained that the application was supposed to be an affirmation of the prior plan that was approved by the Planning Board. Mr. Santore reminded the Board that since the time of the Planning Board application, the environmental protection regulations became significantly more stringent, and that the proposal complies with all of the new requirements. He further reminded the Board that the Applicant

presented numerous witnesses, and that no member of the public presented any experts to contradict the Applicant's witnesses. Mr. Santore contended that four additional dwellings will not significantly alter the traffic patterns. As to the comment that the project is too intense for the size of the Property, he reminded the Board that all the proposed lots are significantly oversized. Mr. Santore noted that the Applicant cannot modify or redesign the existing intersection because it consists of two County roads.

20. Mr. Santore reminded the Board that the application was not permitted to proceed until the Applicant received County approval and contended that same would typically be a condition of approval. He further reminded the Board that the Applicant spent approximately 2.5 years presenting the case and at no time were there any experts or Board Professionals that disagreed with the Applicant's expert testimony. Mr. Santore explained that the expansion of the pre-existing non-conforming use requiring the subsection d(2) variance relief was a function of the reduction in the size of the lot on which the existing Church is located. He further explained that the Applicant is not being greedy and is simply seeking approval of a project that should have been approved as required under the Municipal Land Use Law and the current case law. He reminded the Board that the Applicant has always been willing to work with the Board and its professionals to achieve the best possible outcome and design.

DECISION

21. After reviewing the evidence submitted, the Board, by a vote of five (5) in favor of approval, one (1) against, and one (1) abstention, finds that the Applicant has met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief and design exception. Moreover, in accordance with Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny, the

Board approves the Settlement Agreement, which was subject to public notice, a public hearing thereon, a public vote, and the within publicly adopted resolution.

22. In reaching its decision, the Board relied on the prior testimony provided by Mr. Hollow and Mr. Pessolano as supplemented during the Whispering Woods Hearing.

The d(2) Variance Relief – Positive Criteria:

23. As to the positive criteria for the requested subsection d(2) use variance relief for expansion of the pre-existing non-conforming Church use, the Board finds that the Applicant has satisfied its burden of demonstrating “special reasons” sufficient to grant the requested use variance. Here, a d(2) use variance is required because the proposed subdivision results in the reduction in the size of a lot which is occupied by a non-conforming use (here, the Church), and same results in an expansion of the pre-existing non-conforming use pursuant to Razberry’s, Inc. v. Kingwood Tp., 250 N.J. Super. 324 (App. Div. 1991). In Razberry’s the Court explained why a subdivision results in an expansion of a nonconformity:

a reduction in the size of the property occupied by a non-conforming use, with a resulting decrease in the buffers between conforming and non-conforming uses, is just as likely to increase the conflict between a non-conforming use and surrounding conforming uses as an expansion of the facility containing the non-conforming use or an intensification of that use. Therefore, a reduction in the size of the property occupied by a non-conforming use may result in a substantial increase in the nonconformity.

Here, it is solely the reduction in the size of the lot on which the Church is located that creates the need for variance relief associated with the Church. The Church is not expanding its membership or building. Notwithstanding, the Applicant must still demonstrate “special reasons” exist to support the grant of the requested subsection d(2) variance relief.

24. The Board notes that New Jersey courts recognize three circumstances in which the “special reasons” required for such a variance may be found: (1) where the proposed use inherently

serves the public good, such as a school, hospital or public housing facility; (2) where the property owner would suffer “undue hardship” if compelled to use the property in conformity with the permitted uses in the zone; and (3) where the use would serve the general welfare because “the proposed site is particularly suitable for the proposed use.” See, Saddle Brook Realty, LLC v. Twp. of Saddle Brook Zoning Bd. of Adj., 388 N.J. Super. 67, 76 (App. Div. 2006). Here, the Board concurs with the Applicant’s expert testimony that the proposed Church use, along with the daycare services it provides, are considered inherently beneficial uses that would presumptively satisfy the positive criteria. As such, the Board finds that the Applicant has satisfied the positive criteria for the requested subsection d(2) variance relief.

The d(2) Variance Relief – Negative Criteria:

25. As to the negative criteria for the requested subsection d(2) variance relief, the Court in Sica v. Bd. of Adjustment, 127 N.J. 152, set forth the standard the Board must utilize when considering the negative criteria for an inherently beneficial use. First, the Board must identify the public interests served. Second, the Board must identify the detrimental effect that will ensue from the grant of the variance. Third, the Board must consider whether reasonable conditions can be imposed which would reduce the detrimental effect associated with the grant of the variance. Finally, the Board must weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good. Here, the Board finds, that, on balance, the grant of the variance would not cause a substantial detriment to the public good.

26. As to the public interests served, the Board identifies, based on the expert professional planning testimony of Mr. Pessolano, the public good as including the right to practice religion and the provision of childcare facilities. As to the negative consequences of granting the variance, the Board accepts Mr. Pessolano’s professional planning testimony that potential

detriments of the proposal include stormwater management and traffic concerns. As to the conditions that could be imposed to mitigate detriment, Board finds, based on Mr. Pessolano's unrefuted expert testimony, that the Applicant stipulated to numerous conditions regarding stormwater management, tree removal and replacement, soil erosion and sediment control, and turn restrictions and sight distances; all of which will improve the development. The Board accepts the Applicant's testimony that the stormwater management measures had been designed to comply with the updated New Jersey Department of Environmental Protection requirements and that the currently proposed measures are a significant improvement over what was previously proposed as part of the Planning Board application. The Board also accepts Mr. Pessolano's testimony confirming that the Applicant will comply with the tree removal and replacement requirements by submitting lot grading plans and landscaping plans for each individual lot, all of which is subject to the review and approval of the Board professionals. Lastly, as to the balance of the public interest and granting the variance versus the detriment as lessened by any stipulated to conditions, Mr. Pessolano concluded, and the Board concurs, that there would not be a substantial detriment to the public good if the variance relief was granted. In this regard, the Board finds that the proposal includes only three additional dwellings, resulting in a total of four dwellings and that same would not impact the overall traffic patterns or the community in general. Additionally, the Board finds that the left-turn restriction will increase public safety by restricting vehicular activities during peak hours. The Board accepts the unrefuted planning testimony provided by Mr. Pessalano in its entirety and finds same to be credible. The Board concurs that the benefits of the proposal, which include the more efficient use of land, the construction of modern housing that will improve the housing stock, and the significant stormwater management measures and tree replacement, significantly outweigh the modest detriment associated with the proposal. Given the results of the

Sica balancing test, the Board finds that the Applicant has met its burden of satisfying the negative criteria for the requested variance relief pursuant to N.J.S.A. 40:55D-70(d)(2).

27. As such, the Board finds that the Applicant has satisfied both the positive and negative criteria for the requested subsection d(2) variance relief.

The c(2) Variance Relief – Positive Criteria:

28. As to the positive criteria for subsection “c(2)” or “flexible c” variance relief for the proposed excessive coverage and disturbance of steep slopes, the Board finds that the Applicant has met its burden of proving that the purposes of the Municipal Land Use Law (“MUL”) will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh the detriments associated therewith.

29. Here, the Board finds that granting the requested relief will advance the purposes of the MLUL, specifically in that it will promote the general welfare; provide adequate light, air and open space; promote the establishment of appropriate population densities that will contribute to the well-being of persons and the preservation of the environment, provide sufficient space in appropriate locations for a variety of residential uses; promotes a desirable visual environment; and improves the housing stock. The Board also notes that it was the unrefuted expert testimony of Mr. Hollows that the steep slopes were not naturally occurring and were likely created during the construction of the existing Church parking lot and are not an environmentally sensitive feature of the Property that should be protected.

30. The Board further finds that the benefits of granting the requested relief substantially outweigh the detriment associated therewith. Here, the Applicant is providing modern housing designed in accordance with modern standards that are located on conforming lots, allowing the inherently beneficial use to remain on the Property, introducing buffers between residential uses and the non-permitted Church, providing a complex stormwater management

system that will capture the anticipated stormwater runoff associated with the excess coverage, and providing additional landscape buffering to help mitigate the anticipated impacts of the tree removal. The proposal will also eliminate an existing dwelling that is in poor condition, thereby providing an additional benefit to the community. Given the anticipated benefits of the Applicant's proposal, the Board finds that the benefits of granting the requested relief substantially outweigh any modest detriment associated therewith.

31. As such the Board finds that the Applicant has satisfied the positive criteria for the requested bulk variance relief.

The Negative Criteria for "c(2)" Variance Relief:

32. The Board recognizes that the "negative criteria" consist of two elements, both of which a variance applicant must prove; that is, that the proposed development can be accomplished (1) without substantial detriment to the public good and (2) without substantially impairing the intent and purpose of the zone plan and zoning ordinance. See, Medici v. BPR Co., 107 N.J. 1, 4 (1987). The former focuses on balancing the positive and negative aspects of a variance request against the purposes of zoning set forth in N.J.S.A. 40:55D-2, whereas the latter is more concerned with establishing the bounds of zoning board action.

The First Prong (Substantial Detriment) of the Negative Criteria:

33. The Board recognizes that the focus of the "substantial detriment" prong of the negative criteria is on the impact of the variance on nearby properties. In Medici v. BPR Co., 107 N.J. at 22-23 n.12 (emphasis added), the Supreme Court explained the substantial detriment phrase as follows:

The first prong of the negative criteria [requires] that the variance can be granted “without substantial detriment to the public good.” In this respect the statutory focus is on the variance’s effect on the surrounding properties. The board of adjustment must evaluate the impact of the proposed use variance upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good.”

34. Here, the Board finds that granting the requested relief will have a minimal impact on the existing neighborhood. As demonstrated by the unrefuted expert traffic testimony, the proposed increase in the number of trips per day generated by the new residents is minimal and the increase in traffic will be imperceptible. The Board also finds that the proposed stormwater management measures are sufficiently designed so as to accommodate the proposed stormwater runoff, as well as additional runoff that may be created if the future purchasers of the dwellings wish to install a patio as the basins are oversized. The Board accepts the unrefuted expert planning testimony that the introduction of three additional dwellings will not be out of character with the existing neighborhood, which largely consists of other single-family dwellings. The Board notes that all of the proposed residential lots are oversized and will sufficiently accommodate the proposed residential dwellings. The Board further accepts the unrefuted expert testimony of the environmental specialist, David Kruger, that the Property is not part of a wildlife corridor and therefore, wildlife will also not be detrimentally impacted by the proposed development. For these reasons, the Board finds that the Applicant has satisfied the substantial detriment prong of the negative criteria.

The Second (Substantial Impairment) Prong of the Negative Criteria:

35. The Board recognizes that the focus of the “substantial impairment” prong of the negative criteria is the extent to which a grant of the variance would constitute an arrogation of the governing body and planning board authority. The Supreme Court in Medici v. BPR Co., 107 at

5, has made it clear that municipalities should make zoning decisions by ordinance rather than by variance. The Court stated that “[t]he added requirement that boards of adjustment must reconcile a proposed use variance with the provisions of the master plan and zoning ordinance will reinforce the conviction expressed in [*Ward v. Scott*, 11 N.J. 117 (1952)], that the negative criteria constitute an essential ‘safeguard’ to prevent the improper exercise of the variance power.” *Id.* at 22.

36. As to the second prong of the negative criteria, the Board finds that the Applicant has demonstrated that the relief can be granted without substantial impairment of the Master Plan and the Zoning Ordinance. Here, the Board concurs with the expert testimony of the Applicant’s professional planner and finds that the proposal is not substantially inconsistent with the intent of the Master Plan. In this regard, the Board accepts the Applicant’s professional planner’s testimony that the proposal is consistent with the goals set forth in the 2007 Master Plan, all of which were reaffirmed in 2017, 2020 and subsequent Master Plan Re-Examination Reports. The goals of the Master Plan include the maintaining the suburban character of the Township; ensuring development is compatible with single-family residential uses and discouraging flat lots. The Board concurs with the Applicant’s professional planner that these goals are promoted by the grant of the requested relief. The Board further recognizes that the proposed residential uses are permitted in the Zone and, therefore, the Applicant’s proposal does not rise to the level of constituting a rezoning of the Property. As such, the Board finds that the Applicant has satisfied the second prong of the negative criteria and demonstrated that the development proposal would not substantially impair the intent and purpose of the Master Plan or the Zoning Ordinance.

37. Based on the foregoing, the Board finds that the Applicant has satisfied the positive and negative criteria required for the subsection d(2) use and bulk variance relief.

The Design Waiver Relief:

38. The Board also finds that the Applicant has demonstrated an entitlement to the requested design waiver exception. Pursuant to Section 9.4.1.C, the Board, when acting upon an application for subdivision approval or preliminary subdivision approval, shall have the power to grant such exceptions from the requirements for approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this Ordinance, if the literal enforcement of one (1) or more provisions of this Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. Here, the Board finds that the nature of the soil is not subject to change and that the Applicant has little control over same. As such, the Board finds that it is appropriate to grant the requested design waiver relief for limited groundwater recharge due to the impermeable soils as requiring the Applicant to comply with the literal provisions of the Ordinance would exact undue hardship upon the Applicant.

The Preliminary and Final Subdivision and Site Plan Approval:

39. Subdivision approval is governed by Part 9 of the Ordinance. Site Plan approval is governed by Part 10 of the Ordinance. The Board finds that the Applicant has complied with Parts 9 and 10 of the Ordinance and is, therefore, entitled to the requested subdivision and site plan approval.

WHEREAS, the Board took action on this application on September 26, 2024, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g); and

NOW, THEREFORE, be it resolved by the Township of Berkeley Heights Zoning Board of Adjustment, on this 24th day of October 2024, that the application of Oz Custom Builders,

LLC, for the requested relief, as aforesaid, be, and hereby is approved, subject to the following conditions of approval:

1. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);
2. Applicant shall pay the fees of the Board professionals, including, but not limited to, the Board Attorney, Board Engineer, and Board Planner;
3. Applicant shall reorient the dwelling on proposed Lot 32.02 to face Plainfield Avenue with a side loaded garage and shall revise the plans accordingly;
4. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction. If the Berkeley Heights Police Department or Engineering Department reasonably recommends that these hours be extended, the Applicant shall extend such hours and amend the signage as necessary to effectuate the restriction;
5. Applicant shall comply with the review memoranda prepared by the Board Planner, Board Engineer, Environmental Commission, Wastewater Treatment, Fire Department, Zoning Officer, Police Department
6. Applicant shall submit lot grading plans and tree replacement plan for each individual lot, same to be subject to the review and approval of the Township Engineer;
7. Applicant shall submit HOA documents including maintenance requirements for the proposed bioretention basins;
8. Applicant shall submit a Stormwater Management and Operations Manual and same shall be subject to the review and approval of the Township Engineer and, once approved, a copy of same shall be recorded with the County Clerk's Office;
9. Applicant shall comply with the requirements of any outside agency approval including but not limited to the Union County Soil Conservation District;
10. Applicant shall design the interior roadways to comply with the Residential Site Improvement Standards, including 40' wide cartway and 29' radius of cul-de-sac bulb;
11. Applicant shall construct a sidewalk along Plainfield Avenue frontage. If the sidewalk cannot be constructed due to engineering or structural issues as determined by a

licensed engineer, the Applicant shall advise the Engineering Department of same and shall make an appropriate contribution to the sidewalk fund in lieu thereof;

12. Applicant shall submit all Union County drainage reports and approval documents;
13. Applicant shall comply with Union County sight easement requirements at Plainfield Avenue intersection;
14. Applicant shall locate the fire hydrants in accordance with the direction from the Fire Official and same shall provide adequate water pressure for firefighting;
15. Applicant shall relocate/shift underground drainage pipe to the south side of Plainfield Avenue to minimize disturbance to trees;
16. Applicant shall landscape and fence the area around and along the retaining wall adjacent to Lot 33/566 Plainfield Avenue (Ms. Sonnenberg) to soften up its appearance and/or screen it completely;
17. Applicant shall landscape along the rear yards of Lots 34 and 36 with green giants for a length of 31 feet including at least 5-6 trees, 6' to 7' tall at planting, same to be subject to the review and approval of the Township Engineer and Zoning Officer;
18. Applicant shall comply with all Soil Erosion and Sediment Control requirements including, but not limited to, silt fencing during construction process and same shall be subject to the review and approval of the Township Engineer;
19. Applicant shall enter into a Developer's Agreement, same to be subject to the review and approval of the Township Engineer and Township Attorney;
20. Applicant shall comply with height requirements for all of the proposed dwellings and structures;
21. Applicant shall comply with combined side yard setback requirements for all lots;
22. Applicant shall submit tree removal and replacement plan same to be subject to the review and approval of the Township Planner and Environmental Commission;
23. Applicant shall comply with wastewater treatment requirements particularly as to anticipated flow calculations and available capacity for the receiving collection system;
24. Applicant shall ensure sufficient site clearing to provide appropriate sight distances required by Union County and ASHTO (400') for view to the south;
25. Applicant shall replace any trees damaged by construction related activities;
26. Applicant shall ensure that Ms. Sonnenberg is protected against liability resulting from any work on, or immediately adjacent to, her property, including naming her as an additional insured;

27. Applicant shall post all required performance guarantees, engineering, maintenance and inspection fees as may be applicable and required pursuant to the Municipal Land Use Law and the Zoning Ordinance of the Township of Berkeley Heights;
28. Applicant shall construct the proposed improvements in strict compliance with the documentary and testimonial evidence submitted to the Board, including, but not limited to, any plans submitted or presented as part of the application, any exhibits introduced into evidence, and any statement The Applicant shall comply with all Federal, State, County and municipal statutes, ordinances, rules, regulations and requirements affecting development in the Township, County and State; and
29. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.

Roll Call Vote

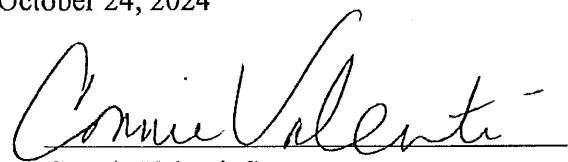
On 9-26-2024: 5 - 1 - 1

Ayes: Mr. Sullivan, Mr Coviello, Mr. Delia, Mr. Ringwood
 and Mr. Sylvester

Nayes: Mr. Pereda

Abstentions: Ms. West-Augustin

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Berkeley Heights at its meeting on October 24, 2024


Connie Valenti, Secretary
BOARD OF ADJUSTMENT
TOWNSHIP OF BERKELEY HEIGHTS,
STATE OF NEW JERSEY

Dated: October 24, 2024

EXHIBIT C

Settlement Agreement

**TOWNSHIP OF BERKELEY HEIGHTS
ZONING BOARD OF ADJUSTMENT**

**Oz Custom Builders, LLC
725 Mountain Avenue**

RESOLUTION AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT

WHEREAS, Oz Custom Builders, LLC (the "Applicant") previously applied to the Township of Berkeley Heights Zoning Board of Adjustment (the "Board") for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto, on property designated as Block 2006, Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue, which is located in the R-15 Residential Zone (the "Property" or the "Site"); and

WHEREAS, public hearings on notice were held on such application on November 11, 2021; January 27 and April 13, 2022; June 22 and September 28, 2023, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the application. However, since the Applicant requested use variance relief pursuant to N.J.S.A. 40:55D-70(d)(2), five (5) affirmative votes were required, resulting in a statutory denial of the application; and

WHEREAS, on January 10, 2024, the Applicant filed a Complaint in Lieu of Prerogative Writ, which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable, and unlawful (the "Complaint"); and

WHEREAS, on February 26, 2024, the Board filed a contesting answer and vigorously defended its decision; and

WHEREAS, the Applicant and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed (by the Applicant) public hearing, consideration of evidence and comments submitted by the public, public vote and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987); Friends of Peapack-Gladstone v. Borough of Peapack-Gladstone Land Use Bd., 407 N.J. Super. 404 (App. Div. 2009); Gandolfi v. Town of Hammonton, 367 N.J. Super. 527, 548 (App. Div. 2004); Warner Co. v. Sutton, 247 N.J. Super. 464 (App. Div. 1994) and their progeny (a “Whispering Woods Hearing”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement (the “Settlement Agreement”), wherein the Applicant sought preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto; and;

WHEREAS, on September 26, 2024, after reviewing the evidence submitted, the Board, by a vote of five (5) in favor of approval, one (1) against, and one (1) abstention, found that the Applicant met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief and design exception. Moreover, in accordance with Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div.

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") dated this 11 day of ~~June~~^{Oct}, 2024 is made by and between Oz Custom Builders, LLC, 725 Mountain Avenue, Berkeley Heights, NJ, Block 2006, Lot 32 (R-15 Zone) (the "Plaintiff" or the "Applicant") and the Township of Berkeley Heights Zoning Board of Adjustment, 25 Park Avenue, Berkeley Heights, NJ (the "Defendant" or "Board"). Plaintiff and Defendant are individually a "Party" and collectively referred to herein as the "Parties".

RECITALS

WHEREAS, Plaintiff submitted an application for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots, with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access for the new dwellings off of Plainfield Avenue (the "Application"), on property designated as Block 2006 Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue which is located in the R-15 Residential Zone (the "Property" or the "Site"); and

WHEREAS, the Site currently consists of the Westminster Presbyterian Church (the "Church"); its associated parking lot; a 1.5 story residential dwelling; a memory garden; a playground area, and a garage; and

WHEREAS, The Plaintiff's proposal is to demolish the existing residential dwelling and garage and subdivide the Property into five lots with the existing church and parking lot to remain on proposed Lot 32.01 and single-family residential dwellings to be constructed on proposed lots 32.02, 32.03, 32.04 and 32.05; and

WHEREAS, preliminary major subdivision approval as contemplated by the Application was previously granted by the Berkeley Heights Planning Board, which has since expired; and

WHEREAS, on September 28, 2023, the Board denied the Application; and

WHEREAS, on November 16, 2023, the Board adopted a resolution memorializing its denial of the Application (the "Resolution");

WHEREAS, on or about January 10, 2024, Plaintiff filed a complaint (the "Complaint") against the Defendant seeking to invalidate the Board's Resolution in the Superior Court of New Jersey captioned Oz Custom Builders, LLC v. Township of Berkeley Heights Zoning Board of Adjustment, Docket No. UNN-L-000131-24 (the "Litigation"); and

WHEREAS, Defendant filed an Answer to the Complaint denying all liability for the claims asserted by the Plaintiff; and

WHEREAS, the Parties desire to resolve the Litigation without further litigation, controversy, and inconvenience related to the subject matter of the Litigation, and desire to settle, fully and finally, all claims among them.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein, and intending to be legally bound, it is hereby AGREED as follows:

1. RECITALS. The above recitals are hereby referred to and incorporated by reference.

2. SCOPE OF AGREEMENT. This Agreement sets forth the terms and conditions under which the Parties mutually agree to resolve and settle all claims as between them in the Litigation as set forth in the Complaint (the "Claims"). For the avoidance of doubt, this Agreement shall also resolve all Claims as between the Parties related to acts or omissions by the Parties (including through their officials, agents, representatives, and employees) with respect to the Application that occurred up until and through the date of the execution of this Agreement, including any and all Claims for reimbursement for costs for Litigation expenses, attorneys' fees and Litigation costs up to and through the date of this Agreement.

3. UNDERSTANDING OF THE PARTIES. In full and final satisfaction and accord of the Claims above, and in consideration for the Release as more fully set forth in Paragraph 4, below, the Parties agree as follows:

a. Plaintiff's Application is approved, including the following relief:

- i. A d(2) variance for the expansion of a pre-existing non-conforming use (church use) because the existing church use is technically being intensified given the reduction in the size of Lot 32, pursuant to Section 6.3.1 of the Land Use Procedures Ordinance of the Township of Berkeley Heights (the "Ordinance");
- ii. Bulk variance relief for a proposed "other" coverage of 27.9% (Proposed Lot 32.01), whereas the existing "other" coverage is 15.5%, and the maximum permitted "other" coverage is 10%, pursuant to Section 6.1.1 of the Ordinance;
- iii. Bulk variance relief for a proposed impervious coverage of 33.9% (Proposed Lot 32.01), whereas the existing impervious coverage is 19.1%, and the maximum permitted impervious coverage is 25%, pursuant to Section 6.1.1 of the Ordinance;
- iv. Bulk variance relief for the disturbance of steep slopes of 25% or greater, whereas on slopes of 25% or greater, no development, re-grading or stripping of vegetation shall be permitted unless the disturbance is for roadway crossings or utility construction, pursuant to Section 3.1.11.C.1 of the Ordinance; and

- v. Design waiver relief for groundwater recharge due to impermeable soils, whereas groundwater recharge is required pursuant to Section 12.3.3. of the Ordinance.
- b. The approval of Plaintiff's Application shall be conditioned on the following:
 - i. The Applicant shall reorient the home on proposed Lot 32.02 to face on Plainfield Avenue with a side loaded garage, also obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback (proposed Lot 32.02) of 15 feet.
 - ii. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 a.m. to 9:00 a.m. and 2:30 p.m. to 4:30 p.m. Monday–Friday, with signage installed to indicate said restriction. If the Berkeley Heights Police Department or Engineering Department reasonably recommends that these hours be extended, the Applicant shall extend such hours and amend the signage as necessary to effectuate the restriction.
 - iii. Applicant shall comply with the review memoranda prepared by the Board Planner, Board Engineer, Environmental Commission, Wastewater Treatment, Fire Department, Zoning Officer, and Police Department.
 - iv. Applicant shall submit lot grading plans and tree replacement plans for each individual lot, same to be subject to the review and approval of the Township Engineer;
 - v. Applicant shall submit HOA documents including maintenance requirements for the proposed bioretention basins;
 - vi. Applicant shall submit a Stormwater Management and Operations Manual and same shall be subject to the review and approval of the Township

Engineer and, once approved, a copy of same shall be recorded with the County Clerk's Office

- vii. Applicant shall comply with the requirements of any outside agency approval including but not limited to the Union County Soil Conservation District;
- viii. Applicant shall design the interior roadways to comply with the Residential Site Improvement Standards, including 40' wide cartway and 29' radius of cul-de-sac bulb;
- ix. Applicant shall construct a sidewalk along Plainfield Avenue frontage. If the sidewalk cannot be constructed due to engineering or structural issues, the Applicant shall advise the Engineering Department of same and shall make an appropriate contribution to the sidewalk fund in lieu thereof;
- x. Applicant shall submit all Union County drainage reports and approval documents;
- xi. Applicant shall comply with Union County sight easement requirements at the Plainfield Avenue intersection;
- xii. Applicant shall locate the fire hydrants in accordance with the direction from the Fire Official and same shall provide adequate water pressure for firefighting;
- xiii. Applicant shall relocate/shift the underground drainage pipe from the north to the south side to Plainfield Avenue to minimize disturbance to trees;
- xiv. Applicant shall landscape and fence the area around and along the retaining wall adjacent to Lot 33/566 Plainfield Avenue (Ms. Sonnenberg) to soften up its appearance and/or screen it completely;

- xv. Applicant shall landscape along the rear yards of Lots 34 and 36 with green giants for a length of 31 feet including at least 5-6 trees, 6' to 7' tall at planting, same to be subject to the review and approval of the Township Engineer and Zoning Officer;
- xvi. Applicant shall comply with all Soil Erosion and Sediment Control requirements including, but not limited to, silt fencing during the construction process and same shall be subject to the review and approval of the Township Engineer;
- xvii. Applicant shall enter into a Developer's Agreement, same to be subject to the review and approval of the Township Engineer and Township Attorney;
- xviii. Applicant shall comply with height requirements for all of the proposed dwellings and structures;
- xix. Applicant shall comply with combined side yard setback requirements for all lots;
- xx. Applicant shall submit tree removal and replacement plans, same to be subject to the review and approval of the Township Planner and Environmental Commission;
- xxi. Applicant shall comply with wastewater treatment requirements, particularly as to anticipated flow calculations and available capacity for the receiving collection system;
- xxii. Applicant shall ensure sufficient site clearing to provide appropriate sight distances required by Union County and ASHTO (400') for view to the south;
- xxiii. Applicant shall replace any trees damaged by construction related activities;

xxiv. Applicant shall ensure that Ms. Sonnenberg is protected against liability resulting from any work on, or immediately adjacent to, her property, including naming her as an additional insured.

- c. No later than 30 days after the Applicant's submission to the Board of any revisions to the Applicant's latest subdivision plan (but only to the extent necessitated by the above-referenced settlement terms and conditions, the Board will convene a duly-noticed special meeting at which it will conduct a hearing regarding the Parties' agreement to settle this Litigation. This special meeting to be held to consider these matters shall be conducted in compliance with the requirements of Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987). No unrelated business will be included in the agenda for the Whispering Woods hearing, which will consist only of a Whispering Woods hearing for purposes of considering any revisions to the Applicant's latest subdivision plan and/or conditions of approval of the Application as may be contemplated by the above settlement terms and conditions. Should the Board vote in favor of the Application at the conclusion of the Whispering Woods hearing, the Board will adopt a resolution memorializing its decision within thirty (30) days of said hearing and publish notice of its decision no later than ten (10) days following the adoption of said memorializing resolution. In the event there is an appeal of the Board's approval of the Application as memorialized by resolution, the Plaintiff has the right to declare this Agreement as null and void, in which case the Litigation would continue.
- d. In connection with the Whispering Woods hearing, the Board will waive any required application fees and request its professionals to review any subdivision

plan revisions necessitated by the above-referenced terms and conditions without the requirement of any escrow fees.

- e. The Court shall retain jurisdiction to enforce the terms of this Agreement. In the event that the Court finds that a Party has breached this Agreement, the Court will have the power to enforce this Agreement at equity, including through the issuance of injunctive relief. The Parties further agree that Plaintiff may seek an order of the Court acknowledging its retention of jurisdiction over this Agreement ("Retention Order"). The Parties preserve all remedies at law, equity or otherwise in connection with any proceeding to enforce the provisions herein. The parties agree that a violation of this Agreement and/or the covenants herein may cause substantial and irreparable harm to the injured Party. Therefore, if any of the Parties and/or their agents, officials, attorneys, successors, or assigns breaches this Agreement, the injured Party may seek with the Court immediate injunctive relief.
- f. Should the Board grant approval of the Application at the Whispering Woods hearing and thereafter adopt and publish a memorializing resolution of approval that is not appealed within 45 days of publication, the Plaintiff agrees to thereafter apply for dismissal of the Litigation with prejudice and with each Party to bear their or its own respective litigation costs and attorneys' fees. Dismissal with prejudice shall not impact the Court's retention of jurisdiction to hear any claim or proceeding brought to enforce this Agreement, including but not limited to the continuation of the Litigation in the event this agreement becomes null and void in accordance with its terms.

4. RELEASE AND EXTINCTION OF ALL CLAIMS.

- a. Plaintiff agrees to and hereby releases and gives up the Claims as against Defendant. This releases all claims or potential claims resulting from any conduct with respect to the Application that occurred up until and through the date of the execution of this Agreement.
- b. Defendant agrees to and hereby releases and gives up any claims as against Plaintiff. This releases all claims or potential claims resulting from any conduct with respect to the Application that occurred up until and through the date of the execution of this Agreement.

5. NO ADMISSION OF LIABILITY.

- a. It is expressly understood and agreed that nothing contained in this Agreement shall be construed as, nor shall be represented by any Party, their attorneys or their agents to be, an admission or determination of liability by such Party.
- b. Additionally, it is further agreed that this Agreement shall not be used by a Party as evidence in any proceeding against the other Party, except for any action arising from the breach of this Agreement.

6. NO RIGHTS CONFERRED UPON NON-PARTIES.

- a. The Parties further agree that they are bound by this Agreement to the end of time. Anyone who succeeds to Plaintiff's rights and responsibilities is also bound in the same manner. This Agreement shall also be binding upon each of Defendant's subsequently elected or appointed officials, agents, employees, representatives and all other successors and/or assigns who succeed to the Defendant's rights and responsibilities hereunder.
- b. Accordingly, this Agreement is intended to confer rights and benefits only upon the Parties (including their respective officials, agents, employees, representatives,

successors and assigns) and is not intended to confer any right or benefit upon any other person or entity. No person or entity other than the Parties shall have any legally enforceable rights under this Agreement. All rights of action to enforce this Agreement are hereby reserved to the Parties.

7. MATERIALITY. The Parties agree that each paragraph and subsection of this Agreement is material. In the event that any portion of this Agreement is determined to be illegal, the Parties agree, in advance, to reform this Agreement in good faith to provide each Party with the full benefit of the settlement memorialized by this Agreement to the extent permitted by law.

8. FULL UNDERSTANDING. This Agreement sets forth the complete understanding and entire Agreement between the Parties and supersedes any and all prior agreements or understandings between the Parties. This Agreement may not be modified, altered, changed, discharged, terminated or waived except upon express written consent of the Parties wherein specific reference is made to this Agreement. By executing this Agreement, the Parties represent and acknowledge that they have not relied upon any representation or statement not set forth in this Agreement with regard to the Claims.

9. SERVICES OF COUNSEL. The Parties certify that they have had the opportunity to discuss this Agreement with counsel. They are fully satisfied with the services of their counsel with respect to both this Agreement and all other aspects of the Litigation and they enter into this Agreement knowingly, willingly and without any coercion or improper inducements.

10. AUTHORITY OF SIGNATORIES. Each signatory represents that she, he or it is a Party or has been duly authorized by the applicable Party to sign on that Party's behalf and that, in the case of the Board, all procedural and/or legal formalities attendant or precedent to the execution of this Agreement have been satisfied. The signatory for the Board further covenants

that she/he is duly empowered by the Board to sign this Agreement and that nothing prevents the Board from completely performing its obligations under this Agreement.

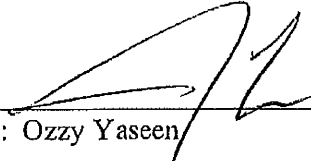
11. LAW GOVERNING. This Agreement shall be governed by the laws of the State of New Jersey without regard to the conflicts of laws principles thereof, and any dispute arising out of this Agreement or action to enforce this Agreement shall be subject to the exclusive jurisdiction of the Superior Court of New Jersey, Union County Vicinage.

12. SEVERABILITY. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Agreement.

13. EXECUTION IN COUNTERPARTS. The Parties agree that this Agreement may be signed in counterparts and that facsimiles or emailed copies of signatures will have the same force and effect as original signatures.

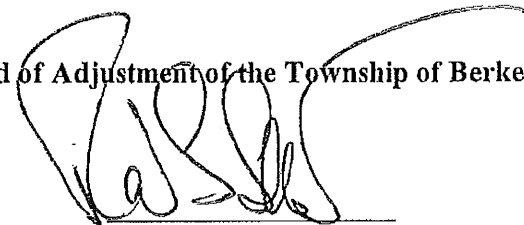
Signatures On Next Page

Oz Custom Builders, LLC


By: Ozzy Yaseen

Dated: ^{Oct}~~June~~ 11, 2024
OZ

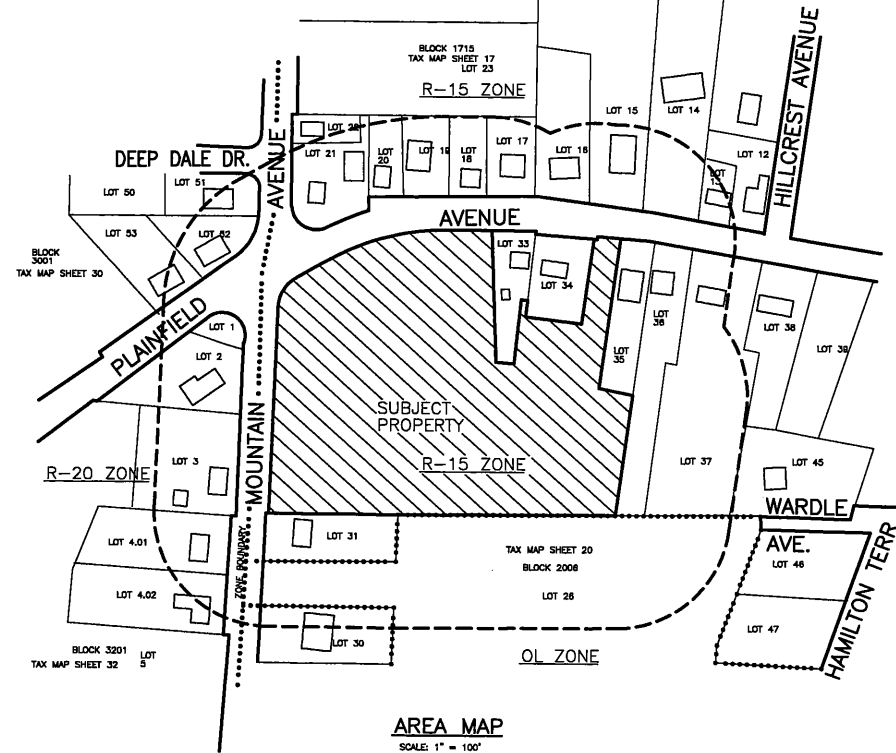
Zoning Board of Adjustment of the Township of Berkeley Heights


By: _____
[NAME/TITLE] Raymond Sullivan / Board Chairman

^{Nov. 21, 2024}
Dated: June _____, 2024

EXHIBIT D

Approved Plans



COVERAGE CALCULATIONS

EXISTING	PROPOSED CHURCH LOT (LOT 32.01)
CHURCH	7737 SF
PORCHES	879 SF
PARKING LOT	32,300 SF
WALKS	2823 SF
HOUSE	889 SF
GARAGE	674 SF
WALKS	595 SF
DRIVE	3795 SF
TOTAL	49,724 SF

ZONING CRITERIA

1) ZONED: R-15 (RESIDENTIAL)

2) ZONING REQUIREMENTS:

	REQUIRED	EXISTING	PROPOSED LOT 32.01	PROPOSED LOT 32.02	PROPOSED LOT 32.03	PROPOSED LOT 32.04	PROPOSED LOT 32.05
MIN. LOT AREA	15,000 SF	259,748 SF	128,372 SF	20,327 SF	143.03 FT	106.0 FT	144.69 FT
MIN. LOT AREA CORNER	18,500 SF						
MIN. LOT WIDTH	100 FT						
MIN. LOT WIDTH CORNER	120 FT						
MIN. LOT DEPTH	130 FT	429.3 FT (PROPOSED)	149.9 FT (PROPOSED)	158.26 FT	185 FT	177 FT	130 FT
MIN. FRONT YARD	50 FT	628.8 FT	331.8 FT	155.0 FT	> 30 FT	> 30 FT	> 30 FT
MIN. SIDE YARD	10 FT	81.0 FT	81.0 FT	> 12 FT	> 12 FT	> 12 FT	> 12 FT
MIN. COMBINED SIDE YARD	30 FT	143.4 FT	143.4 FT	> 12 FT	> 12 FT	> 12 FT	> 12 FT
MIN. REAR YARD	10 FT	NA	NA	NA	NA	NA	NA
ACCESSORY BLDG MIN. REAR YARD	10 FT	64.5 FT	80.5 FT	> 40 FT	> 40 FT	> 40 FT	> 40 FT
MAX. PRINCIPLE BUILDING COVERAGE	15%	3.0%	8.0%	< 15%	< 15%	< 15%	< 15%
MAX. OTHER COVERAGE	10%	15.0%	27.0%	< 10%	< 10%	< 10%	< 10%
MAX. TOTAL IMPERVIOUS COVERAGE	25%	19.1%	33.9%	< 25%	< 25%	< 25%	< 25%

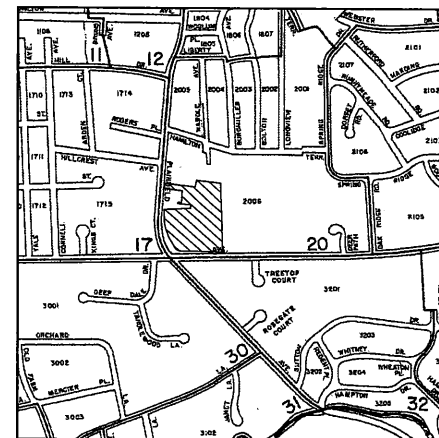
*EXISTING NON-CONFORMING CONDITION
**PROPOSED NON-CONFORMING CONDITION
*HOUSE OF WORSHIP NON-CONFORMING CONDITION

BUILDINGS SHOWN ON PLANS ARE CONCEPTUAL ONLY. PROPOSED BUILDINGS TO BE 3,000 SF AND GREATER, TYPICALLY 2 STORY, MEETING THE HEIGHT ORDINANCE OF BERKELEY HEIGHTS.

PROPERTY OWNERS WITHIN 200 FT.

BLOCK	LOT	OWNER & ADDRESS
1715	13	HARRISON, WILLIAM & DORIS 539 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	14	KINKEAD, ROBERT & RICHARD 543 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	15	BERNARD, CLAY & DORIS 553 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	16	ROPER, PETER A. & JILL 559 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	17	DALE, EDWARD & JILL 565 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	18	WORTHINGTON, JOHN A. & BONNIE GLADE 573 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	19	WORTHINGTON, RICHARD & DIANE 579 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	20	WORTHINGTON, THOMAS 585 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
1715	21	SECRET, MONTGOMERY E. 745 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	26	BOARDS OF EDUCATION PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	28	MARVELL, DONALD ARNOLD 685 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	31	SPENCER, CAROL & CAROL 701 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	33	SONENSHINE, EDWARD & BONNIE 586 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	34	CASTELL, ALBERTO J. & SCHOLAR, MARGARET 588 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	35	BAFFER FAMILY IRREVOCABLE TRUST 590 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	36	WALTERS, BRIAN & PENE, LISA 592 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	37	155 PLAINFIELD AVENUE LLC 155 PLAINFIELD AVENUE, SUITE 175, NEW PROVIDENCE, NJ 07974
2006	40	FRANCO, JIMMY L. 41 HAMILTON TERRACE, BERKELEY HEIGHTS, NJ 07822
2006	51	CHEN, AUGUS L. & CHIE, NATALIE 817 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	52	DEBORD, JOSEPHINE 819 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	53	DAVIS, MARVIN & CLARET 817 PLAINFIELD AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	1	TOWNSHIP OF BERKELEY HEIGHTS 39 PARK AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	2	LUCCI, ARMANDO L. & MARCY C. 39 PARK AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	3	SEIGER, LEONARD L. & ANN L. 34 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	4.01	SCOTTINO, MICHAEL & ROSA 34 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822
2006	4.02	BLOCKSON, CHRISTOPHER H. & DASHAM R. 308 MOUNTAIN AVENUE, BERKELEY HEIGHTS, NJ 07822

FIRST 2 DIGITS IN BLOCK NUMBER DENOTES TAX MAP SHEET NUMBER



KEY MAP

SCALE: 1"=500'

GENERAL NOTES:

- SUBJECT PROPERTY KNOWN AS LOT 32, BLOCK 2006 ON TAX MAP SHEET No. 30
- AREA OF EXISTING LOT 32, BLOCK 2006 = 259,748 S.F.; 5.963 AC.
- OWNER:
WESTMINSTER PRESBYTERIAN CHURCH
725 MOUNTAIN AVENUE
BERKELEY HEIGHTS, NJ 07922
908.451.3131
- PURCHASER UNDER CONTRAT & APPLICANT:
OZ CUSTOM BUILDERS, LLC
364 SPRINGFIELD AVENUE
BERKELEY HEIGHTS, NJ 07922
908.451.3131
- ATTORNEY FOR APPLICANT:
AUGUST N. SANTORE, ESQ.
143 SUMMIT AVENUE
BERKELEY HEIGHTS, NJ 07922
908.665.8004
- CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO BEGINNING CONSTRUCTION.
- BUILDING SHOWN ON AREA MAP ARE TAKEN FROM FIELD OBSERVATION AND ARE SCHEMATIC ONLY.
- SHADE TREES TO BE 2-2 1/2" CAL. RED MAPLE (ACER RUBRUM) OR AS DIRECTED BY THE TOWNSHIP ENVIRONMENTAL COMMISSION, PLANTED 30 FEET ON CENTER.
- AT THE TIME OF BUILDING PERMIT APPLICATION A DETAILED GRADING PLAN IS TO BE SUBMITTED TO THE BUILDING DEPARTMENT WHICH WILL INCLUDE ZONING, GRADING, STORMWATER MANAGEMENT, TREE REMOVAL AND REPLACEMENT, AND SOIL EROSION AND SEDIMENT CONTROL.
- ANY EXISTING UTILITIES TO BE ABANDONED SHALL BE CAPPED OR REMOVED.
- BOUNDARY AND TOPOGRAPHIC SURVEY PERFORMED BY MURPHY & HOLLOWAYS ASSOCIATES LLC ON MAY 2021.
- DEVELOPER SHALL REPLACE ANY TREES DAMAGED BY CONSTRUCTION RELATED ACTIVITIES.

THIS SUBDIVISION PLAN HAS BEEN APPROVED BY THE
ZONING BOARD OF THE TOWNSHIP OF BERKELEY
HEIGHTS ON _____ DATE _____

CHAIRPERSON _____ DATE _____
SECRETARY _____ DATE _____
MUNICIPAL ENGINEER _____ DATE _____

DRAWN BY:	SP	CHECKED BY:	ATM
JOB No.	14-026		
BOOK			
SCALE	1" = 100'		
GRAPHIC SCALE			
DATE	APRIL 30, 2021		
REASONS	OCTOBER 20, 2021 JANUARY 12, 2022 SEPTEMBER 9, 2022 SEPTEMBER 30, 2022 DECEMBER 6, 2022 FEBRUARY 6, 2025 NOVEMBER 15, 2025 DECEMBER 18, 2025 MARCH 19, 2026		

CERTIFICATE OF AUTHORIZATION
No. 24602799700

NOTES

Murphy & Holloways Associates LLC
CIVIL ENGINEERING AND SURVEYING
1000 CENTRAL AVENUE, STEPHENSON, NJ 07081
908.580.1235 | MURPHY@HOLLOWAYS.COM
FINAL MAJOR SUBDIVISION PLAN
WESTMINSTER PRESBYTERIAN CHURCH
LOT 32 BLOCK 2006
MOUNTAIN AVENUE &
PLAINFIELD AVENUE
TOWNSHIP OF
BERKELEY HEIGHTS
UNION COUNTY
NEW JERSEY
AREA MAP

AIDAN T. MURPHY
N.J. LIC. PROFESSIONAL ENGINEER #21319
N.J. PROFESSIONAL PLANNER #2351

William C. Holloways
WILLIAM C. HOLLOWAYS
N.J. LIC. PROFESSIONAL ENGINEER
& LAND SURVEYOR #27472
N.J. PROFESSIONAL PLANNER #2350

FILE _____ SHEET
1
OF
15

DRAWN BY: SP
CHECKED BY: WGH
JOB NO. 14-026

BOOK
SCALE
1" = 30'

GRAPHIC SCALE
DATE: APRIL 30, 2021

REVISIONS
OCTOBER 20, 2021
JANUARY 12, 2022
MAY 10, 2022
SEPTEMBER 30, 2022
DECEMBER 8, 2022
NOVEMBER 13, 2023
MARCH 19, 2024

CERTIFICATE OF AUTHORIZATION
No. 2406789740

NOTES

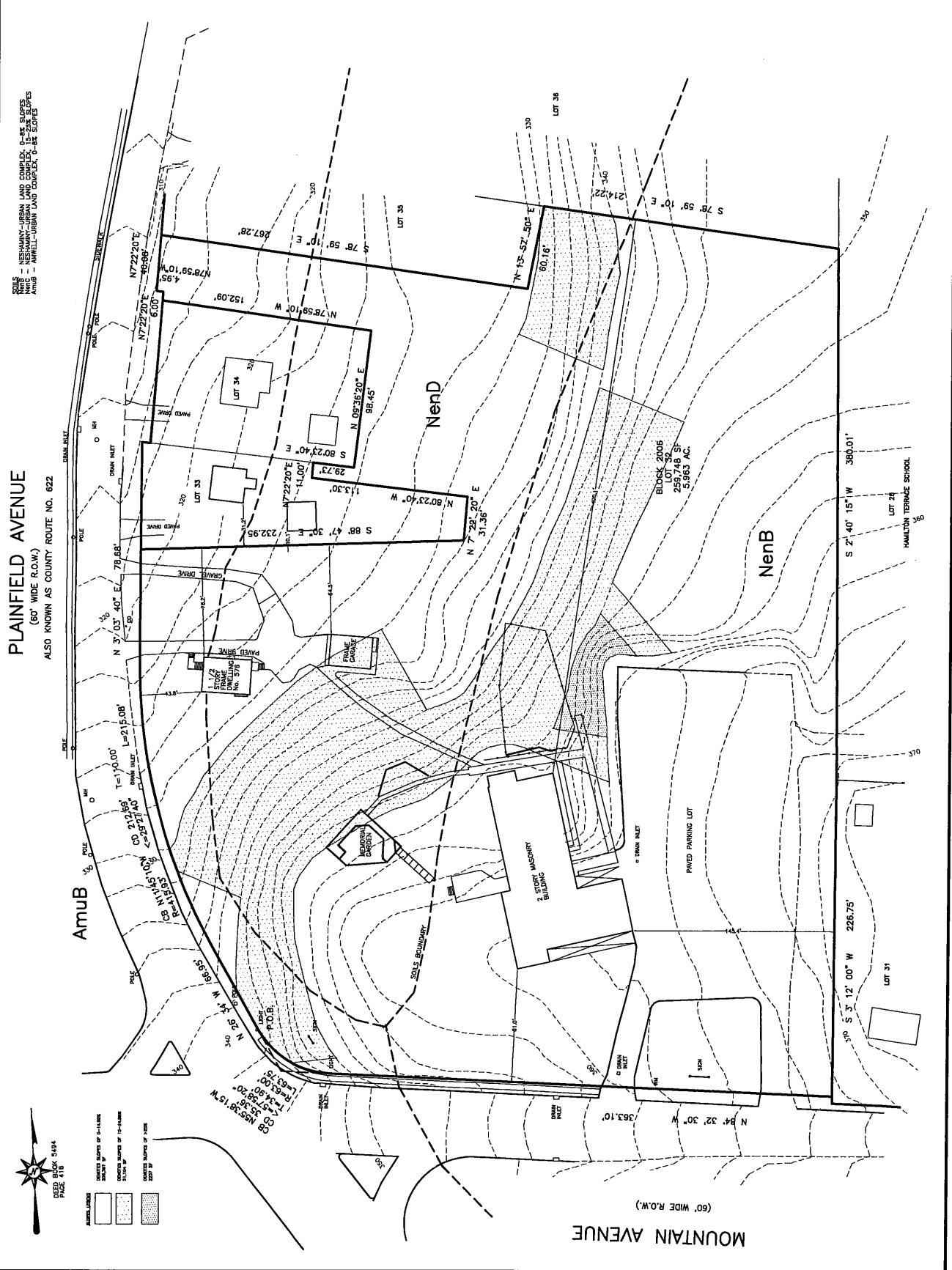
Murphy & Hollows Associates LLC
2000 LEBANON AVENUE, SUITE 200
NEW JERSEY 07033

FINAL MAJOR SUBDIVISION PLAN
WESTMINSTER PRESBYTERIAN CHURCH
LOT 32 BLOCK 2006
MOUNTAIN AVENUE &
PLAINFIELD AVENUE
BERKELEY HEIGHTS
UNION COUNTY
NEW JERSEY
EXISTING CONDITIONS

AIDAN T. MURPHY
N.J. PROFESSIONAL PLANNER #21316
N.J. PROFESSIONAL PLANNER #2333

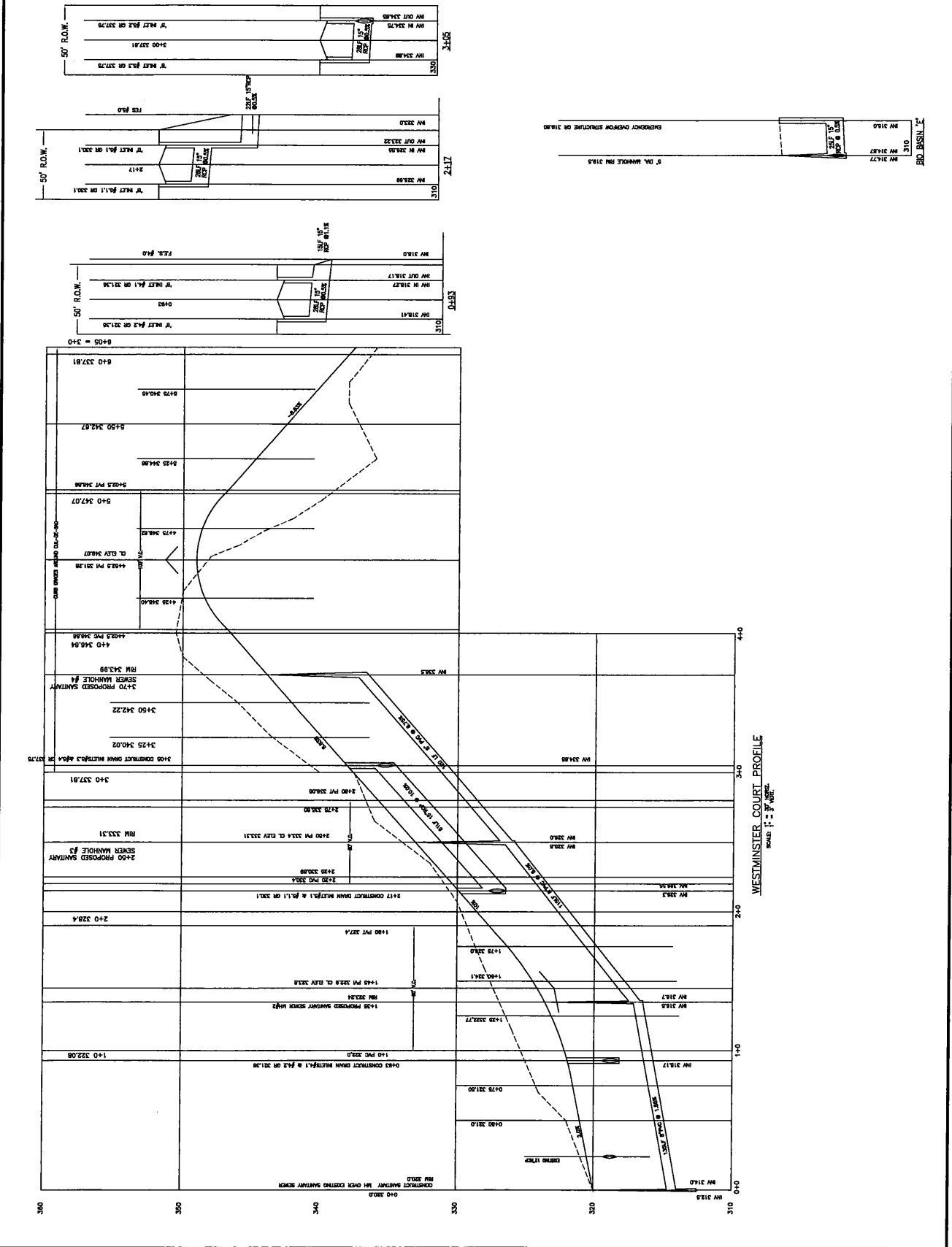
WILLIAM C. HOLLOWES
N.J. PROFESSIONAL PLANNER #21316
N.J. PROFESSIONAL PLANNER #2333

SHEET
2 OF 15
L714-026



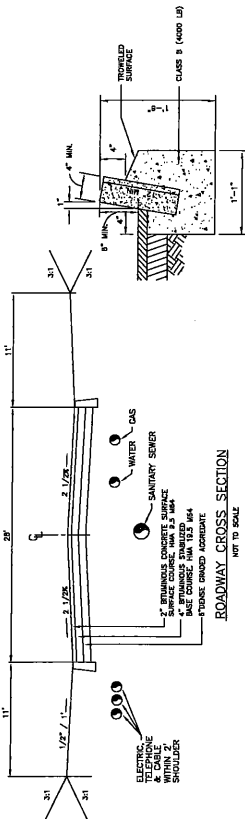
USDA BLOCK 5484
PAGE 418

MOUNTAIN AVENUE
(60' WIDE R.O.W.)

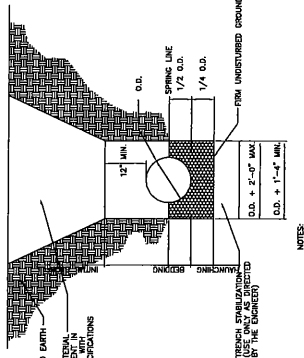
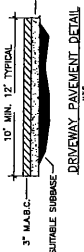
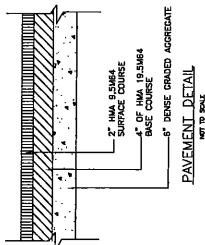


GENERAL NOTES:

- ALL IMPROVEMENTS UNDER THE JURISDICTION OF THE COUNTY OF UNION ARE TO BE CONSTRUCTED IN ACCORDANCE WITH UNION COUNTY SPECIFICATIONS.
- THE OFFICE OF THE COUNTY ENGINEER IS TO BE NOTIFIED SEVENTY-TWO (72) HOURS IN ADVANCE OF COMMENCEMENT OF CONSTRUCTION OF ANY IMPROVEMENTS UNDER THE JURISDICTION OF THE COUNTY OF UNION.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MOST RECENT N.J. DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND SUPPLEMENTS.
- ALL CONCRETE SHALL HAVE A MINIMUM OF 28 DAY COMPRESSIVE STRENGTH OF 4000 PSI AS IN ANY VEHICULAR LOADING LOCATION.
- ALL CONCRETE SHALL BE CLASS "B" AIR ENTRAINMENT, EXCEPT CAST-IN-PLACE BOX CULVERTS AND BRIDGE DECKS WHICH SHALL BE CLASS "A".
- ALL REINFORCING STEEL SHALL BE INTERMEDIATE GRADE, NEW DEFORMED BILLET-STEEL, CONFORMING TO ASTM A615 (LATEST EDITION), GRADE 60 MINIMUM. ALLOWABLE STRESS IN TENSION SHALL BE 25,000 PSI.
- OR
- ALL REINFORCING STEEL SHALL BE NEW DEFORMED BILLET-STEEL CONFORMING TO ASTM A615 (LATEST EDITION), GRADE 60 MINIMUM. ALLOWABLE STRESS IN TENSION SHALL BE 25,000 PSI.
- ALL CONCRETE SHALL BE PLACED ON FIRM UNDISTURBED SOIL OR CLEAN ROCK.
- CONCRETE EDGES SHALL HAVE A 1 INCH, 45 DEGREE CHAMFER UNLESS OTHERWISE NOTED.
- ALL REINFORCEMENT STEEL SPICES SHALL BE A MINIMUM 30 BAR DIAMETERS UNLESS OTHERWISE NOTED.
- ALL REINFORCEMENT SHALL BE SATISFIEDLY SUPPORTED AND SECURELY HELD IN PLACE WHILE PLACING CONCRETE.
- CONCRETE PLACING OPERATIONS SHALL NOT COMMENCE UNTIL FINAL INSPECTION AND APPROVAL OF THE COUNTY ENGINEER HAS BEEN OBTAINED.
- ALL PIPES, STUDS AND/OR FITTINGS ARE TO BE MONOTHICALLY CAST IN THE CONCRETE.
- ALL DETENTION BASINS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MOST RECENT N.J. DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND SUPPLEMENTS.
- THE OUTLET PIPE FOR DETENTION BASINS SHALL BE REINFORCED CONCRETE PIPE CONFORMING TO ASTM C 76 WITH RUBBER GASKETS PURSUANT TO ASTM C 443.
- ALL DETENTION BASINS SHALL BE TOP-SIDED AND SEEDED, INCLUDING THE BOTTOM, SIDE SLOPES AND ALL EXHAUSTS.
- THE DESIGN DIMENSIONS OF THE DETENTION BASIN SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS IT IS TO BE USED AS A DETENTION BASIN DURING CONSTRUCTION FOLLOWING THE COMPLETION OF SUCH CONSTRUCTION.

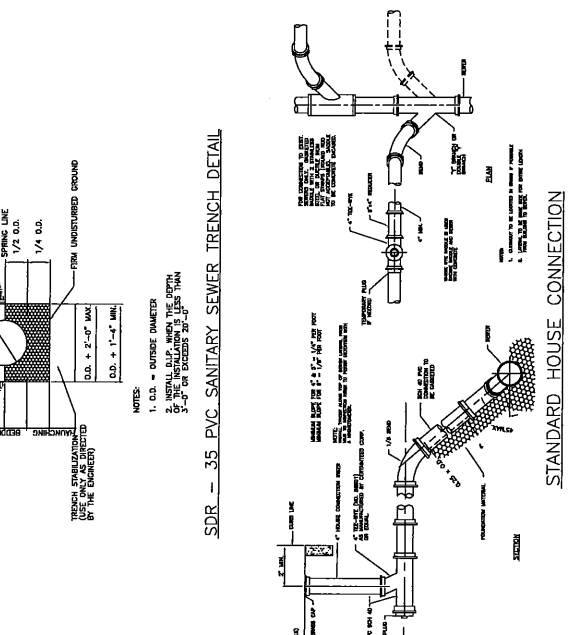


TYPICAL BLOCK CURB
N.T.S.

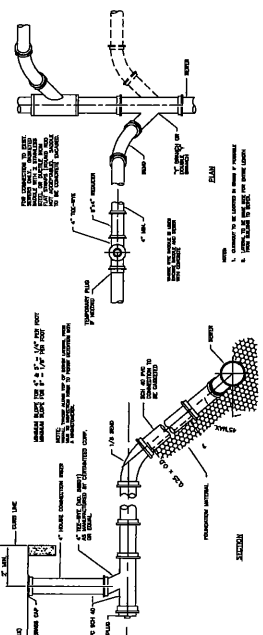


- NOTES:
- O.D. = OUTSIDE DIAMETER
 - INSTALL SLP. WHEN THE DEPTH OF THE TRENCH IS LESS THAN 2'-0\"/>

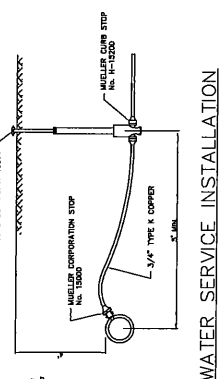
SDR - 35 PVC SANITARY SEWER TRENCH DETAIL



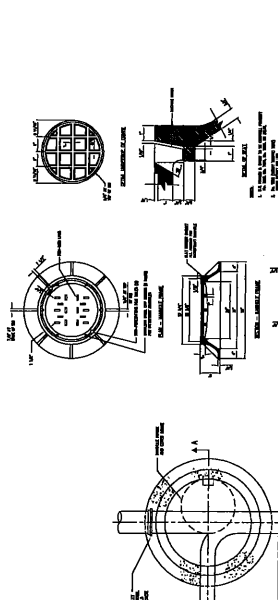
STANDARD HOUSE CONNECTION



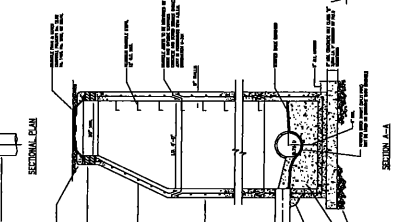
WATER SERVICE INSTALLATION



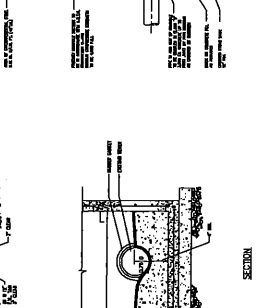
NOTE: SEE DETAIL FOR CURB AND GUTTER INSTALLATION. SEE DETAIL FOR SERVICE SADDLE WITH STANDARDS IN THE STREET.



STANDARD MANHOLE DETAIL



DOGGHOUSE MANHOLE DETAIL



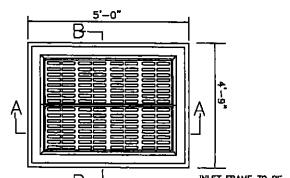
Murphy & Hollows
Associates LLC

FINAL MAJOR SUBDIVISION PLAN
WESTMINSTER PRESBYTERIAN CHURCH
LOT 32 BLOCK 2006
MOUNTAIN AVENUE &
PLAINFIELD AVENUE
TOWNSHIP OF
BERKELEY HEIGHTS
NEW JERSEY
CONSTRUCTION DETAILS

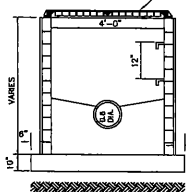
ADIAN T. MURPHY
N.J. PROFESSIONAL ENGINEER
N.J. PROFESSIONAL PLANNER #2319

WILLIAM C. HOLLOWAY
N.J. PROFESSIONAL ENGINEER
N.J. PROFESSIONAL PLANNER #2330

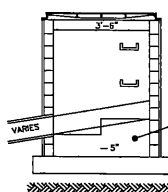
FILE
L714-028
SHEET
11
OF
15



INLET FRAME TO BE CAMPBELL PATTERN NO. 3440, WITH NO. 2817 SAFETY GRATE OR APPROVED EQUAL

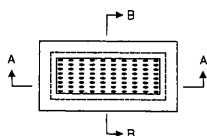


SECTION A - A

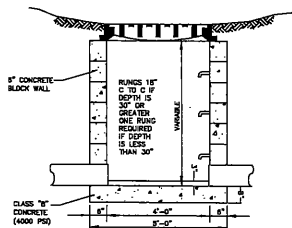


SECTION B - B

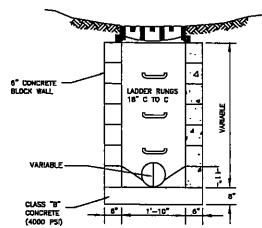
TYPE 'E' INLET
NOT TO SCALE



CAMPBELL #3402 STANDARD GRATE AND FRAME OR APPROVED EQUAL



SECTION A-A

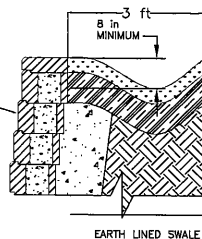


SECTION B-B

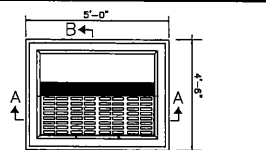
NOTE:
ALL INLETS GREATER THAN 5 FEET IN DEPTH SHALL BE CONSTRUCTED WITH DOUBLE WALLS ON ALL SIDES

INLET TYPE 'A'

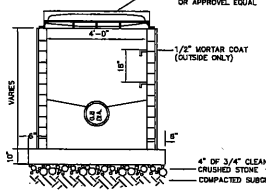
ALLAN BLOCK UNIT



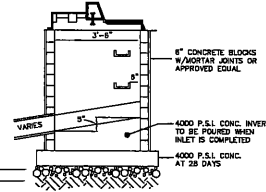
EARTH LINED SWALE



INLET FRAME TO BE CAMPBELL PATTERN NO. 3415 BICYCLE GRATE OR APPROVED EQUAL

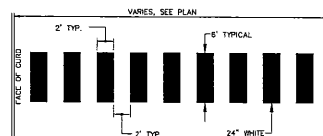


SECTION A - A

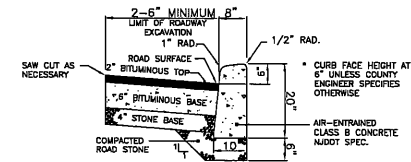


SECTION B - B

'B' INLET DETAIL
NOT TO SCALE



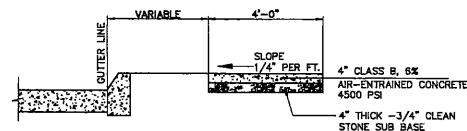
CROSSWALK STRIPING
N.T.S.



NOTE: EXPANSION JOINTS TO BE SET AT 10' INCREMENTS

TYPICAL ROADWAY EXCAVATION
AT CURBS
NOT TO SCALE

2" BITUMINOUS TOP - NJDOT BITUMINOUS CONCRETE SURFACE COURSE, MIX 1-5; FORMERLY NJDOT FA-80-1
4" BITUMINOUS BASE - NJDOT BITUMINOUS-STABILIZED BASE COURSE, MIX 1-2
NOTE: CONSTRUCT IN LAYERS NOT MORE THAN 3" COMPACTED THICKNESS
4" STONE BASE - NJDOT DENSE GRADED AGGREGATE BASE COURSE 4" THICK FORMERLY NJDOT QUARRY PROCESSED STONE
ROAD STONE - NJDOT DENSE GRADED AGGREGATE, VARIABLE THICKNESS



CONCRETE SIDEWALK
N.T.S.

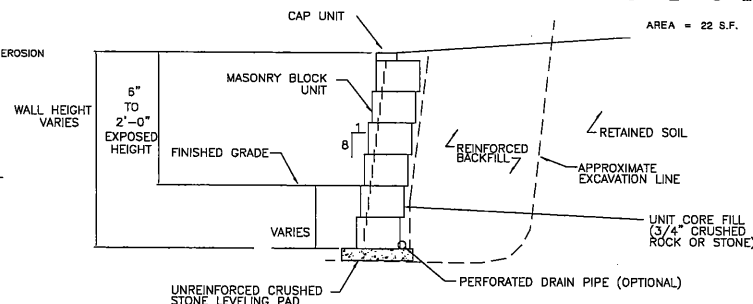
UNION COUNTY R.O.W. DETAILS

NOTES:

1. All number and letter pavement markings are white in color.
2. The space between words should be at least four times the height of the characters for low speed roads, but not more than ten times the height of the characters. The space may be reduced appropriately where there is limited space because of local conditions.
3. If a message consists of more than one word, it should read "UP", i.e., the first word should be nearest the driver.
4. Minor variations in dimensions may be accepted by the Resident Engineer.
5. Portions of a letter, number or symbol may be separated by connecting segments not to exceed 2" in width.
6. Word and Symbol marking should not exceed three lines of information.
7. All Word markings are 6" in height.

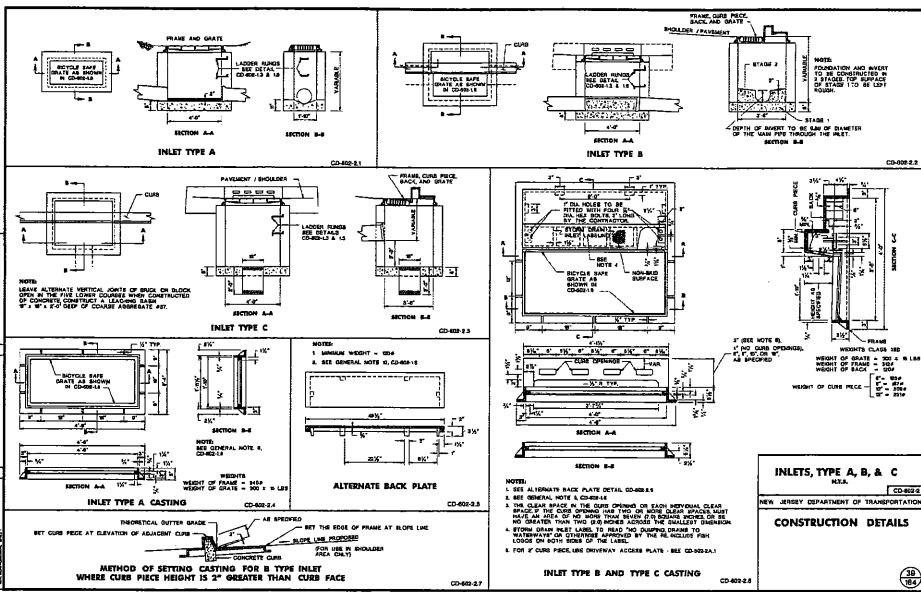
STOP

AREA = 22 S.F.

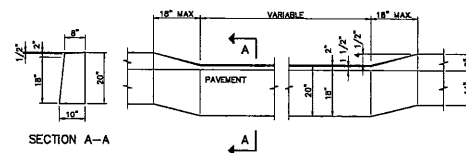
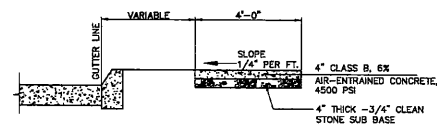


TYPICAL SEGMENTAL RETAINING WALL DETAIL

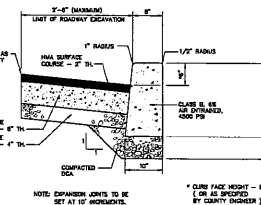
DRAWN BY:	SP	CHECKED BY:	WGH
JOB No.	14-026		
BOOK			
SCALE	N.T.S.		
GRAPHIC SCALE			
DATE	APRIL 30, 2021		
REVISIONS	OCTOBER 20, 2021 JANUARY 12, 2022 SEPTEMBER 3, 2022 DECEMBER 6, 2022 SIGHT LINE FEBRUARY 6, 2023 AUGUST 13, 2023 NOVEMBER 15, 2023 DECEMBER 18, 2023 MARCH 19, 2026		
CERTIFICATE OF AUTHORIZATION	No. 24687958700		
NOTES			
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 331 ELM STREET, STURBRIDGE, MA 01566 508.380.1235 murphyhollows@murphyhollows.com FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS			
AIDAN T. MURPHY N.J. LIC. PROFESSIONAL ENGINEER #21319 N.J. PROFESSIONAL PLANNER #2331			
 WILLIAM G. HOLLOWES N.J. LIC. PROFESSIONAL ENGINEER & LAND SURVEYOR #27473 N.J. PROFESSIONAL PLANNER #2330			
FILE	LF14-026	SHEET	13 OF 15



NOTE:
DETAILS FOR 'B' INLET AND MANHOLE LOCATED IN UNION COUNTY ROADWAY

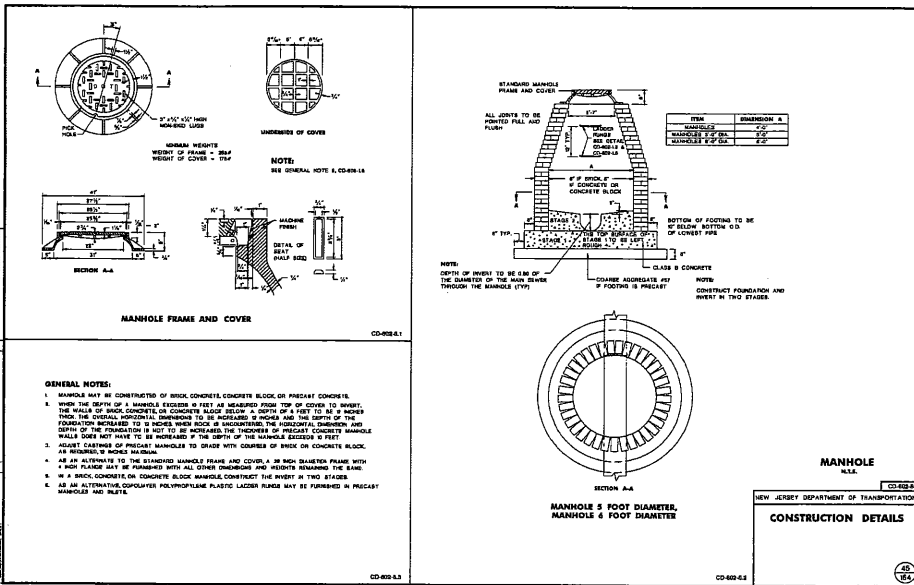


DEPRESSED CURB AT DRIVEWAYS



TYPICAL ROADWAY EXCAVATION & RESTORATION AT CURBS

HMA SURFACE COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT SURFACE COURSE.
HMA BASE COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT BASE COURSE.
HMA SUB-BASE COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT SUB-BASE COURSE.
HMA FILL COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT FILL COURSE.
HMA FILL COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT FILL COURSE.
HMA FILL COURSE - MUST BE ASPHALT OR HOT MIX ASPHALT FILL COURSE.



DRIVEN BY: SP	CHECKED BY: WGH		
JOB No. 14-026			
BOOK			
SCALE N.T.S.			
GRAPHIC SCALE			
DATE APRIL 30, 2021			
REVISIONS OCTOBER 20, 2021 JANUARY 12, 2022 SEPTEMBER 9, 2022 SEPTEMBER 30, 2022 DECEMBER 6, 2022 FEBRUARY 6, 2023 AUGUST 13, 2023 NOVEMBER 15, 2023 DECEMBER 18, 2023 MARCH 19, 2026			
CERTIFICATE OF AUTHORIZATION No. 24C67959700			
NOTES			
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 531, 11th STREET, STERLING, VA 20154 800.580.1233 www.murphyhollows.com FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS AIDAN T. MURPHY N.J. L.C. PROFESSIONAL ENGINEER #21319 N.J. PROFESSIONAL PLANNER #2331 <i>William C. Hollows</i> WILLIAM C. HOLLOWES N.J. L.C. PROFESSIONAL ENGINEER & LAND SURVEYOR #27473 N.J. PROFESSIONAL PLANNER #2330 <table border="1"> <tr> <td>FILE LF14-026</td> <td>SHEET 15 OF 15</td> </tr> </table>		FILE LF14-026	SHEET 15 OF 15
FILE LF14-026	SHEET 15 OF 15		

EXHIBIT E

Resolution Approving Developer's Agreement

EXHIBIT F

Township Construction and Insurance Fee Cost Estimate



EXPERIENCED
DEDICATED
RESPONSIVE

negliagroup.com

VIA E-MAIL cvalenti@bhtwp.com

October 7, 2025

Township of Berkeley Heights
Attn: Conie Valenti – Board Secretary
29 Park Avenue
Berkeley Heights, New Jersey 07922

Re: Performance Bond Estimate
725 Mountain Avenue – Block 2006, Lot 32
Owner: Westminster Presbyterian Church / Applicant: OZ Custom Builders, LLC.
Township of Berkeley Heights, Union County, New Jersey
Neglia File No.: BERKSPL21.013

Dear Ms. Valenti:

As requested, Neglia Group ("Neglia") has reviewed the Final Major Subdivision Plan, Westminster Presbyterian Church, Lot 32, Block 2006, Mountain Avenue & Plainfield Avenue, Township of Berkeley Heights, Union County, New Jersey, prepared by William G. Hollows, P.E. of Murphy & Hollows Associates, LLC, dated April 30, 2021, last revised February 6, 2025. Attached please see the construction cost estimate detailing the necessary bond amounts. The anticipated cost of improvements, including the 120% cost of installation as identified within the Municipal Land Use Law (MLUL) is **One Million Four Hundred Ninety-Eight Thousand Four Hundred Seventy-Six Dollars and Zero Cents (\$1,498,476.00)**.

The anticipated cost of the municipal right-of-way improvements plus a 20% contingency fee is **Sixty-Nine Thousand Three Hundred Ninety Dollars and Zero Cents (\$69,390.00)**. In accordance with the Municipal Land Use Law (MLUL), the Applicant is required to post a Performance Bond for 90% of the total amount identified above or **\$62,451.00**, and the remaining 10% or **\$6,939.00**, to be in the form of cash.

In addition, the Applicant is required to provide inspection fees in the amount of 5% of the total cost of the overall improvements or **\$74,923.80**. Furthermore, the Applicant is also required to post a two (2) year Maintenance Bond in the amount of 15% of the total estimated cost of public improvements equaling **\$10,408.50**, upon construction completion and municipal acceptance of project.

Lastly, if required, and as determined by the municipality, a "safety and stabilization bond" in favor of the municipality shall be provided for disturbed sites, where work has ceased for a period of 60 consecutive days following such commencement for reasons other than force majeure, and work has not recommenced within 30 days of written notice. The amount of a "safety and stabilization bond/guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000. The amount of a "safety and stabilization bond/guarantee" for a development with bonded improvements exceeding \$100,000 will be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000

LYNDHURST

34 Park Avenue
PO Box 426
Lyndhurst, NJ 07071
p. 201.939.8805 f. 201.939.0846

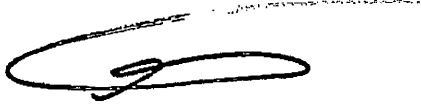
MOUNTAINSIDE

200 Central Avenue
Suite 102
Mountainside, NJ 07092
p. 201.939.8805 f. 732.943.7249

up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000. For the project in question, the "safety and stabilization bond/guarantee" will be \$5,000.00.

We trust you will find the above in order. Should you have any questions or required additional information, please do not hesitate to contact the undersigned.

Very truly yours,
Neglia Group



Thomas R. Solfaro, P.E., C.M.E., C.P.W.M.
Township/Board Engineer
Township of Berkeley Heights

TRS/mjg/gsg

Cc: Amanda C. Wolfe, Esq., Zoning Board Attorney (via e-mail, awolfe@postpolak.com)
OZ Custom Builders, LLC., Applicant (via USPS, 364 Springfield Ave., #393, Berkeley Heights, N.J. 07922)
Westminster Presbyterian Church, Owner (via USPS, 725 Mountain Ave., Berkeley Heights, N.J. 07922)
August N. Santore, Jr., Esq., Applicant's Attorney (via e-mail, santore.law@gmail.com)
William G. Hollows, P.E., P.L.S., P.P., Applicant's Engineer/Surveyor (via e-mail, murphyhollows@gmail.com)

BOND ESTIMATE (ON-SITE IMPROVEMENTS)

725 MOUNTAIN AVENUE (BLOCK: 2006, LOT: 32), TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, NJ 07922

OCTOBER 7, 2025 - NEGLIA FILE No.: BERKSPL21.013

I. SITE WORK

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Site Clearing & Preparation	1	L.S.	\$ 75,000.00	\$ 75,000.00
2	Soil Erosion & Sediment Control	1	L.S.	\$ 15,000.00	\$ 15,000.00
3	Earthwork/Grading	1	L.S.	\$ 150,000.00	\$ 150,000.00
4	Excavation, Unclassified	600	C.Y.	\$ 20.00	\$ 12,000.00
5	Dense Graded Aggregate Base Course, 4" Thick	1,800	S.Y.	\$ 15.00	\$ 27,000.00
6	Hot Mix Asphalt, Base Course, 6" Thick	640	TONS	\$ 110.00	\$ 70,400.00
7	Hot Mix Asphalt, Base Course, 2" Thick	215	TONS	\$ 110.00	\$ 23,650.00
8	Concrete Curb	155	L.F.	\$ 45.00	\$ 6,975.00
9	Granite Block Curb	840	L.F.	\$ 45.00	\$ 37,800.00
10	2' High Retaining Wall	3,280	S.F.	\$ 70.00	\$ 229,600.00
11	Traffic Marking Lines, 12"	20	L.F.	\$ 5.00	\$ 100.00
12	Traffic Markings, Symbols	25	S.F.	\$ 10.00	\$ 250.00
13	Traffic Signs, Complete	2	UNIT	\$ 250.00	\$ 500.00
14	Site Signage, Double-Sided, Complete	1	UNIT	\$ 500.00	\$ 500.00
15	Tree Removal, Over 6" to 12" Diameter	20	UNIT	\$ 1,000.00	\$ 20,000.00
16	Tree Removal, Over 12" to 18" Diameter	10	UNIT	\$ 1,500.00	\$ 15,000.00
17	Tree Removal, Over 18" to 24" Diameter	2	UNIT	\$ 2,000.00	\$ 4,000.00
18	Tree Removal, Over 24" to 30" Diameter	3	UNIT	\$ 2,500.00	\$ 7,500.00
				TOTAL	\$ 695,275.00

II. DRAINAGE

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	8" HDPE Pipe	135	L.F.	\$ 60.00	\$ 8,100.00
2	12" RCP Pipe	55	L.F.	\$ 120.00	\$ 6,600.00
3	15" RCP Pipe	865	L.F.	\$ 130.00	\$ 112,450.00
4	Inlet, Type "B"	6	UNIT	\$ 3,500.00	\$ 21,000.00
5	Inlet, Type "E"	1	UNIT	\$ 4,500.00	\$ 4,500.00
6	Rip-Rap Apron	5	S.Y.	\$ 50.00	\$ 250.00
7	Trench Drain	20	L.F.	\$ 50.00	\$ 1,000.00
8	Storm Manhole	5	UNIT	\$ 6,000.00	\$ 30,000.00
9	Scour Hole	4	UNIT	\$ 1,500.00	\$ 6,000.00
10	Outlet Control Structure	5	UNIT	\$ 10,000.00	\$ 50,000.00
11	Infiltration Basin	5	UNIT	\$ 30,000.00	\$ 150,000.00
				TOTAL	\$ 389,900.00

III. UTILITIES

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	8" PVC Pipe	375	L.F.	\$ 85.00	\$ 31,875.00
2	Sanitary Manhole	3	UNIT	\$ 6,000.00	\$ 18,000.00
3	Fire Hydrant, (Complete)	1	UNIT	\$ 10,000.00	\$ 10,000.00
				TOTAL	\$ 59,875.00

IV. LANDSCAPING					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	White Oak	9	UNIT	\$ 750.00	\$ 6,750.00
2	Scarlet Oak	7	UNIT	\$ 825.00	\$ 5,775.00
3	Green Giant Arborvitae	15	UNIT	\$ 375.00	\$ 5,625.00
4	American Holly	15	UNIT	\$ 475.00	\$ 7,125.00
5	Sweetgum Rotundifolia (Fruitless)	7	UNIT	\$ 750.00	\$ 5,250.00
6	Norway Spruce	19	UNIT	\$ 525.00	\$ 9,975.00
7	American Sycamore	7	UNIT	\$ 765.00	\$ 5,355.00
TOTAL					\$ 45,855.00
Overall Total					\$ 1,190,905.00
20% Contingency					\$ 238,181.00
Total					\$ 1,429,086.00
Initial Inspection Fee (5% of Total)					\$ 71,454.30

BOND ESTIMATE (COUNTY RIGHT-OF-WAY IMPROVEMENTS)

725 MOUNTAIN AVENUE (BLOCK: 2006, LOT: 32), TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, NJ 07922

I. SITE WORK					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Site Clearing	1	L.S.	\$ 5,000.00	\$ 5,000.00
2	Concrete Sidewalk, 4" Thick	160	S.Y.	\$ 100.00	\$ 16,000.00
3	Concrete Sidewalk, 6" Thick, Reinforced	15	S.Y.	\$ 105.00	\$ 1,575.00
TOTAL					\$ 22,575.00
II. DRAINAGE					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	15" RCP Pipe	125	L.F.	\$ 130.00	\$ 16,250.00
2	Inlet, Type "B"	2	UNIT	\$ 3,500.00	\$ 7,000.00
3	Storm Manhole	1	UNIT	\$ 6,000.00	\$ 6,000.00
TOTAL					\$ 29,250.00
III. UTILITIES					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Sanitary Doghouse Manhole	1	UNIT	\$ 6,000.00	\$ 6,000.00
TOTAL					\$ 6,000.00
Overall Total					\$ 57,825.00
20% Contingency					\$ 11,565.00
Total					\$ 69,390.00
Performance Bond (90% of Total)					\$ 62,451.00
Cash (10% of Total)					\$ 6,939.00
Initial Inspection Fee (5% of Total)					\$ 3,469.50

BOND ESTIMATE BREAKDOWN (RIGHT-OF-WAY & ON-SITE IMPROVEMENTS)

	AMOUNT
Total Cost (On-Site Improvements, Without 20% Contingency)	\$ 1,190,905.00
Total Cost (Right-Of-Way Improvements, Without 20% Contingency)	\$ 57,825.00
Total Cost (On-Site & Right-Of-Way Improvements, Without 20% Contingency)	\$ 1,248,730.00
Overall Total Cost (120% of Total Cost for calculation of inspection fees)	\$ 1,498,476.00
Performance Bond (120% of Right-Of-Way Improvements)	\$ 69,390.00
Initial Inspection Fee (Overall Total Cost * 5%)	\$ 74,923.80
Maintenance Guarantee (120% of Right-Of-Way Improvements * 15%)	\$ 10,408.50
Safety/Stabilization Guarantee (When Required)	\$ 5,000.00

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-18

BOND ORDINANCE PROVIDING FOR VARIOUS SEWER
IMPROVEMENTS IN AND BY THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW
JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS
OR NOTES OF THE TOWNSHIP TO FINANCE PART OF
THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY (not less than two-
thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Township of Berkeley Heights, in the County of Union, New Jersey (the "Township"), as general improvements. For the improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$2,505,000, and further including the aggregate sum of \$106,000 as the several down payments for the improvements or purposes described in Section 3(a) and Section 3(c) required by the Local Bond Law. Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the cost of the improvement or purpose described in Section 3(b) since the project is being funded by the New Jersey Infrastructure Bank. The several down

payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,399,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Hampton Drive Force Main project, including all work and materials necessary therefor and incidental thereto.	\$2,000,000	\$1,900,000	40 years
b) Design expenses for switchgear equipment upgrade and electrical transfer, including all related costs and expenditures incidental thereto.	\$390,000	\$390,000	30 years

c) Condition assessment of Hampton Drive and Twin Falls pump stations, including all related costs and expenditures incidental thereto.	<u>\$115,000</u>	<u>\$109,000</u>	30 years
<u>Total:</u>	<u>\$2,505,000</u>	<u>\$2,399,000</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment, as applicable, for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing

body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Township may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 37.91 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local

Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$2,399,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$800,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

Section 7. The Township hereby makes the following covenants and declarations with respect to obligations determined to be issued by the chief financial officer on a tax-exempt basis. The Township hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The chief financial officer is hereby authorized to act on behalf of the Township to deem the obligations authorized herein as bank-qualified for the purposes of Section 265 of the Code, when appropriate. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the

taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: July 21, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date. _____ Angela Lazzari, Township Clerk						
Final Adoption: August 11, 2026												

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **July 21, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **August 11, 2026** at **6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full bond ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR VARIOUS SEWER IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

Purposes:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Hampton Drive Force Main project, including all work and materials necessary therefor and incidental thereto.	\$2,000,000	\$1,900,000	40 years
b) Design expenses for switchgear equipment upgrade and electrical transfer, including all related costs and expenditures incidental thereto.	\$390,000	\$390,000	30 years
c) Condition assessment of Hampton Drive and Twin Falls pump stations, including all related costs and expenditures incidental thereto.	<u>\$115,000</u>	<u>\$109,000</u>	30 years

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

<u>Total:</u>	<u>\$2,505,000</u>	<u>\$2,399,000</u>
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Appropriation: \$2,505,000

Bonds/Notes Authorized: \$2,399,000

Grant Appropriated: N/A

Section 20 Costs: \$800,000

Useful Life: 37.91 years

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

The date of first posting of this Notice is July 22, 2026.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY, NEW JERSEY
AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO ADD THE POSITION OF
DEPUTY CHIEF AND TO AUTHORIZE ONE ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL
PATROL OFFICERS IN THE BERKELEY HEIGHTS POLICE DEPARTMENT**

WHEREAS, Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code for the Township of Berkeley Heights ("Code") establishes within the Department of Public Safety a Division of Police, known as the Township of Berkeley Heights Police Department ("Department"); and

WHEREAS, pursuant to subsection 2.100.010 of the Code, the department shall consist of the following positions: one chief of police, one captain, and not to exceed; two lieutenants, seven sergeants, seventeen patrol officers, and such civilian personnel as the township council may determine necessary for the effective function of the police division; and

WHEREAS, the Mayor and Council wish to add the position of deputy chief, increase the allowable number of lieutenants from two to three, include special law information officers, and increase the allowable number of patrol officers from seventeen to twenty-one;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 2.100.010, "Establishment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.010 Establishment.

There is created in the Department of Public Safety as an executive and enforcement function of the township, pursuant to N.J.S.A. 40A:14-118, a division of police ("police division"), which shall consist of the following positions: one chief of police, **one deputy chief**, one captain, and not to exceed; ~~two~~ **three** lieutenants, seven sergeants, ~~seventeen~~ **twenty-one** ~~(17)~~ **(21)** patrol officers, and such civilian personnel **and special law informant officers** as the township council may determine necessary for the effective function of the police division.

SECTION II. Section 2.100.030, "Line of authority." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.030 Line of authority.

The following shall constitute the line of authority relating to the police function as required by N.J.S.A. 40A:14-118:

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

- A. Chief of Police. The chief of police shall possess those powers and duties set forth at N.J.S.A. 40A:14-118, and shall be the head of the police division and directly responsible to the mayor for the efficiency and routine day-to-day operations thereof. The chief of police shall receive such salary as established by the salary ordinance. The chief of police shall, pursuant to policies established by the mayor:
1. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the police division and its officers and personnel;
 2. Have, exercise and discharge the functions, powers and duties of the police division;
 3. Prescribe the duties and assignments of all subordinates and other personnel;
 4. Delegate such of his or her authority as he or she may deem necessary for the efficient operation of the police division to be exercised under his or her direction and supervision; and
 5. Report at least monthly to the mayor in such form as shall be prescribed by the appropriate authority on the operation of the police division during the preceding month, and make such other reports as may be requested by the mayor.

It is the duty of the chief of police to cause public peace to be preserved and to see that all laws, ordinances, written orders, resolutions and policies of the township council pertaining to the police division are properly complied with. He or she shall faithfully and properly obey and cause all personnel under him or her to obey all rules, regulations, resolutions, orders and policy directives which may from time to time be prescribed by the mayor and township council.

The chief of police shall be available twenty-four (24) hours per day, seven days per week to respond to police emergencies (except when out-side the state of New Jersey on vacation or other authorized occasions). The chief of police shall also be expected to interact with local citizens, taxpayers, the local school district, community organizations or groups, senior citizen organizations, neighborhood groups; to develop a cooperative relationship between the township and commercial operations within the township which have unique or special security needs and to otherwise develop and foster a positive image of the township and police division within the township.

The chief of police shall be entitled to such salary, benefits and emoluments as the township council may determine by further ordinance or resolution.

- B. **The Deputy Chief shall serve as the second-in-command of the Police Department and shall assist the Chief of Police in the administration, operation, and supervision of the Department. The Deputy Chief shall assist in the planning, direction, and coordination of all departmental operations and services; supervise personnel,**

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

ORDINANCE 2026-19

divisions, and special assignments as directed by the Chief of Police. In the absence, or at the direction of the Chief of Police, the Deputy Chief shall act on behalf of the Chief and shall exercise all powers and duties of the Chief of Police.

- C. Captain of Police. Immediately subordinate to the ~~chief of police~~ Deputy Chief in the line of authority is the captain of police, who shall assist the chief and/or deputy chief in the administration of the police division and who shall perform such duties and responsibilities as may be assigned by the chief or as may be set forth in police division rules and regulations or otherwise imposed by law. ~~In the absence of the chief of police, the senior ranking captain shall perform the duties and possess the powers of the chief.~~
- D. Lieutenant of Police. Immediately subordinate to the captain of police in the line of authority is the lieutenant of police, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, or the captain of police or as may be set forth in police division rules and regulations or otherwise imposed by law.
- E. Sergeant of Police. Immediately subordinate to the lieutenant of police in the line of authority is the sergeant of police, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, the captain of police, the lieutenant of police, or as may be set forth in police division rules and regulations or otherwise imposed by law.
- F. Patrol Officer. Immediately subordinate to the sergeant of police in the line of authority is the position of patrol officer, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, the captain of police, the lieutenant of police, the sergeant of police, or as may be set forth in police division rules and regulations or otherwise imposed by law.

SECTION III. Section 2.100.040, "Qualifications for appointment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.040 Qualifications for appointment.

To be eligible for appointment to the police division, an applicant must be a citizen of the United States of America and a resident of the state of New Jersey, must be of good moral character, never be convicted of a crime or offense involving moral turpitude, and meet all other tests and qualifications established by N.J.S.A. 40A:14-122, et seq., this chapter and the rules and regulations of the police division. All such applicants must be in good health, sound in body and mind and certified by the police physician to be physically capable of performing the duties required of a police officer. All applicants must meet the statutory age

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

requirements. No applicant shall be eligible for appointment to the police division unless he or she has earned a bachelor's or higher degree awarded by a bachelor's degree-granting college or university. **Notwithstanding the preceding, a**An applicant who has earned 1) an associate's degree awarded by an associate's degree granting college or university or has completed sixty (60) credits awarded by a bachelor's degree-granting college or university and 2) has successfully completed or is enrolled in the Police Training Commission Alternate Route Program and has, or will be receiving certification therefrom, shall be eligible for appointment. A degree or concentration in criminal justice is preferred. Qualified veterans, as defined by the New Jersey Department of Military and Veterans Affairs, who have not earned a bachelor's or higher degree awarded by a bachelor's degree-granting college or university, can substitute a combination of two years of full-time, active military service and an associate's degree awarded by a degree-granting college or university to satisfy the education requirement. The Chief of Police may waive the education requirement for qualified veterans as defined herein, and applicants certified by the Police Training Commission, **or an applicant who meets the minimum educational requirements established by the New Jersey Police Training Commission for participation in the Alternate Route Program.**

All such appointments shall be made pursuant to applicable laws of the state of New Jersey, including N.J.S.A. 40A:14-122 through 127.

All appointments to the police division shall be made by executive order of the mayor. Each such employee shall receive such salary, benefits and emoluments as may be provided by collective bargaining agreement, ordinance or resolution of the township council.

SECTION IV. Section 2.100.050, "Basis and manner of appointment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.050 Basis and manner of appointment.

- A. Exception for the appointments to chief of police, individuals will initially be appointed to the police division upon the basis of the results of the following competitive examinations process:
1. A written examination administered by the New Jersey State Association of Chiefs of Police. Applicants must achieve a minimum score of eighty (80) to proceed to the second phase of the testing process.
 2. A physical fitness test, designed, administered and scored by the Berkeley Heights Police Department. Applicants will be scored based on standards/scoring set prior to the taking of the test and must achieve a minimum of eighty (80).
 3. An oral examination administered by the New Jersey State Association of Chiefs of Police. Applicants must achieve a minimum score of eighty (80) to proceed to the next phase of the testing process.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

4. Upon completion of the three phases of testing the applicant's scores are averaged to obtain a final score. An eligibility list will be established based on the applicant's final score. The eligibility list will remain in effect for three years from the date of the last oral examination.
 5. When an opening becomes available, the applicant who is first on the eligibility list will have a background investigation completed by a member of the Investigations Division. ~~Upon completion of the background investigation completed by a member of the Investigations Division.~~ Upon completion of the background investigation and recommendation by the investigator, the applicant, **upon approval of the Mayor, who in his or her discretion, will determine whether to make an appointment and whether current staffing and budget levels will allow for such appointment,** will be **given a conditional offer of employment and** sent for a psychological examination.
 6. Upon successful completion of the psychological examination and recommendation for the examining psychologist the applicant will proceed to the medical examination.
 7. Upon successful completion of the medical examination conducted by the police physician and recommendation from the police physician, the chief of police will recommend the applicant for appointment by the mayor.
 8. **Following successful completion of the psychological and medical examination,** ~~t~~The mayor, shall appoint the candidate (which shall be done by Executive Order), consistent with the Faulkner Act ~~in his or her discretion, will determine whether to make such appointment (which shall be done by Executive Order), consistent with the Faulkner Act and current staffing and budget levels.~~
- B. The mayor may appoint, without examination, upon recommendation by the Chief of Police, an applicant who satisfies the qualifications for appointment as set forth above. The applicant selected shall meet all other requirements for appointment, shall be required to successfully complete the following:
1. A physical fitness test, designed, administered and scored as set forth above. Applicants must achieve a minimum score of eighty (80) to proceed to the next phase of testing process.
 2. A background investigation completed by a member of the Investigations Division. Upon completion of the background investigation and recommendation by the investigator, the applicant will be **given a conditional offer of employment and** sent for a psychological examination.
 3. Upon successful completion of the psychological examination and recommendation from the examining psychologist, the applicant will proceed to the medical examination.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

4. Upon successful completion of the medical examination conducted by the police physician and recommendation from the police physician, the applicant will be recommended for appointment by the chief of police.

An application fee will be required for participation in the testing process. The amount of the application fee will be set by resolution of the township council based on the recommendation of the chief of police.

- C. Appointments of the chief of police shall be made by the mayor, with the advise and consent of the township council, consistent with the Faulkner Act, to a qualified individual in accordance with New Jersey law.

SECTION V. Section 2.100.070, "Police trainees." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.070 Police trainees.

The position of police trainee is established in the Berkeley Heights police division. Upon original appointment as prospective officers, with the requirement that they attend and successfully complete a police academy certified by the New Jersey State Training Commission, a police trainee will receive a salary of "~~probationary patrolman~~ **trainee academy pay**" as established by the ~~current salary ordinance~~ **collective negotiations agreement**. Upon graduation and **following successful completion of the one year working test period measured from the date the trainee may begin work as a police officer** ~~one year from the date of appointment~~, the probationary period will cease and, upon recommendation of the chief of police, a police trainee will be appointed as a permanent patrol officer.

SECTION VI. Section 2.100.090, "Promotion to lieutenant/captain." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.090 Promotion to lieutenant/captain/~~deputy chief~~.

All promotions to the positions of lieutenant~~and~~, captain, **and deputy chief** within the police division shall be made by executive order of the mayor, upon the recommendation of the chief of police. All such promotions shall be to qualified members of the police division subject to the provisions of any collective ~~negotiations-bargaining~~ **negotiations** agreement, ordinance or resolution of the township council, and applicable New Jersey law, specifically N.J.S.A. 40A:14-122.6; N.J.S.A. 40A:14-129; and N.J.S.A. 40A:14-130.

SECTION VII. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

SECTION VIII. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IX. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: July 21, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date. _____ Angela Lazzari, Township Clerk						
Final Adoption: August 11, 2026												

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-19**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY,
NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS
TO ADD THE POSITION OF DEPUTY CHIEF AND TO AUTHORIZE ONE
ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL PATROL OFFICERS IN THE
BERKELEY HEIGHTS POLICE DEPARTMENT**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on July 21, 2026 at 6:30 p.m. The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on August 11, 2026 at 6:30 p.m., or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

Township of Berkeley Heights
AGENDA UPDATE
July 21, 2026

PLEASE BE ADVISED, the following Executive Session was originally scheduled to be held after the Conference Session, but prior to the Regular Agenda.

THIS EXECUTIVE SESSION **WILL NOW BE HELD AFTER THE REGULAR AGENDA.**

EXECUTIVE SESSION

1. Contract Negotiations – Shared Services Agreement - Lower Columbia Field
2. Contract Negotiations – 600 Mountain Ave (property formerly known as Nokia)

Township of Berkeley Heights Union County, New Jersey

Township Council Public Meeting July 21, 2026 6:30 P.M.

Adequate notice of this meeting has been provided by forwarding a copy to the Courier News, Star Ledger and posting on the Township website, at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act.

COUNCIL MEMBERS:

John Foster - President
Margaret Illis
Bill Machado
Alvaro Medeiros
Andrew Moran
Susan Poage – Vice President
Angie Devanney- Mayor

AGENDA FOR PUBLIC MEETING

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. CONFERENCE SESSION**
 - 1. Eagle Scout – Jayden Mann
- V. EXECUTIVE SESSION**
 - 1. Contract Negotiations – Shared Services Agreement - Lower Columbia Field
 - 2. Contract Negotiations – 600 Mountain Ave (property formerly known as Nokia)
- VI. REGULAR AGENDA**
- VII. ORDINANCES FOR PUBLIC HEARING AND FINAL ADOPTION:**
 - Ordinances Introduced on June 30, 2026*
 - Ordinance 2026-13**
AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP
 - Ordinance 2026-14**
ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

Ordinance 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

Ordinance 2026-17

ORDINANCE APPROPRIATING \$135,000.00 FOR ROAD CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

VIII. CITIZENS HEARING - (3) minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council President will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

IX. NEW BUSINESS – RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

RESOLUTIONS

CONSENT AGENDA – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Resolution No. 2026-

- 244. Resolution approving Bill List dated July 21, 2026, in the amount of \$1,919,669.02.
- 245. Resolution authorizing the purchase of a pickup truck for the Wastewater Treatment Plant, through the New Jersey State Cooperative Purchasing Contract #25-FLEET-110661 for the total amount of \$57,010.00.
- 246. Resolution authorizing a Blue Light permit to Sanghoon Nathan Lee, a member of the Volunteer Rescue Squad.
- 247. Resolution waiving municipal construction permit fees for repairs to structures damaged by the July 3-5, 2026 severe weather event.
- 248. Resolution amending the adopted budget for additional item of revenue and offsetting appropriation for Recycling Tonnage Grant.
- 249. Resolution authorizing the 100% Disabled Veteran tax exemption to the resident owner of the property located at 22 Arden Court (Block 1714, Lot 4).
- 250. Resolution authorizing a one (1) year extension to the contract with Messercola Excavating Co., Inc. for snow removal services & equipment.

- 251. Resolution authorizing an extension of the tax remittance grace period for the August 2026 property tax bill.
- 252. Resolution authorizing the application of the 2027 New Jersey Department of Transportation Municipal Aid Grant.
- 253. Resolution authorizing the release of a Road Opening Bond in the amount of \$2,000.00, in connection with work performed at 54 Lawrence Drive.
- 254. Resolution authorizing the release of a Road Opening Bond in the amount of \$2,000.00, in connection with work performed at 66 Harrison Drive.
- 255. Resolution authorizing the release of escrow account of Full Circle Properties Springfield Avenue, LLC.
- 256. Resolution authorizing the award of a professional services contract to Connolly & Hickey Historical Architects for non-construction bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littel-Lord Farmhouse.
- 257. Resolution awarding a contract to Dell-Tech, Inc. for the Phase II-Exterior Restoration & Structural Stabilization at the Littell-Lord Farmhouse in the amount not to exceed \$395,900.00.
- 258. Resolution authorizing the execution of a Developer's Agreement with OZ Custom Builders, LLC for the property identified as Block 2006, Lots 32.01 (725 Mountain Avenue), 32.02 (7 Westminster Court), 32.03 (1 Westminster Court), 32.04 (3 Westminster Court) and 32.05 (5 Westminster Court).

X. ORDINANCES FOR INTRODUCTION

Public Hearing and Final Adoption scheduled for August 11, 2026.

Ordinance 2026-18

BOND ORDINANCE PROVIDING FOR VARIOUS SEWER IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

Ordinance 2026-19

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY, NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO ADD THE POSITION OF DEPUTY CHIEF AND TO AUTHORIZE ONE ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL PATROL OFFICERS IN THE BERKELEY HEIGHTS POLICE DEPARTMENT

XI. TOWNSHIP COUNCIL REPORTS

- A. John Foster - President
- B. Margaret Illis
- C. Bill Machado
- D. Alvaro Medeiros
- E. Andrew Moran
- F. Susan Poage – Vice President

ADMINISTRATION REPORTS

Mayor Devanney
Liza Viana

XII. EXECUTIVE SESSION

XIII. ADJOURNMENT

Angela Lazzari, Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A
PROHIBITED USE IN ALL ZONES WITHIN THE TOWNSHIP**

WHEREAS, the Township of Berkeley Heights's Master Plan emphasizes protection of the Township's environmental resources and historic and cultural heritage; and

WHEREAS, data centers present a form of land use that poses harmful effects to both the environment and to residents' health and quality of life, such as excessive and costly electricity consumption, loud noise, air pollution, excessive water use, and water pollution; and

WHEREAS, as of March 2024, there were 5,381 data centers located in the United States, 73 of which were located in New Jersey; and

WHEREAS, on March 27, 2026, Governor Sherrill identified data centers as among the biggest drivers of energy costs in New Jersey; and

WHEREAS, Governor Sherrill, Executive Order No. 2 details that from June 2023 to June 2025 the average residential electricity price in the State rose by well over 33 percent, and the average electricity price for all customers in the State, including commercial customers, rose by nearly 30 percent; and

WHEREAS, preliminary data cited by Members of the New Jersey State Legislature has cautioned that large-scale data centers can use as much as 3 to 5 million gallons of water in a single day between liquid cooling and water consumed to generate the energy that powers them; and

WHEREAS, this extreme volume of water usage negatively impacts homes and businesses within the Township and the surrounding communities; and

WHEREAS, preliminary studies noted by the State Legislature also indicate that some data centers require 300 MW of electricity, which is roughly equivalent to the output of a small modular nuclear reactor; and

WHEREAS, it is well established that data centers bring overdevelopment and overuse of environmental resources negatively impacting subterranean aquifers, potable drinking water and other water resources; and

WHEREAS, the Township is conscious of the hazards of data centers, such as depletion of critical groundwater resources, and the impact to the environmental and natural resources posed by the scope, depth and pervasiveness of large-scale commercial data center operations; and

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

WHEREAS, municipal regulations designed for the preservation of the environment and the protection of ecological values are a well-recognized, legitimate and proper exercise of municipality authority; and

WHEREAS, the construction of data centers often results in the cutting and removal of trees causing increased soil erosion and dust, instability and deterioration in the value of surrounding property, and other adverse environmental and geographical conditions; and

WHEREAS, the environmental hazards, pollution of potable drinking water, and increase electricity costs of certain data center operations on residents, businesses, the environment, and private and public property imposes significant burdens on municipal resources thus creating a need to assess the rights, health and safety, and interests of the residents and the community; and

WHEREAS, the Township Committee has determined it necessary and appropriate to amend and update its ordinances to adequately address data center uses in a manner that best reflects present needs and realities; and

WHEREAS, the Township Committee has determined that it is in the best interest of the health, safety and welfare of its residents and members of the public who visit, travel or conduct business in the Township, to amend the Municipal Code of the Township to prohibit data centers as a land use within the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 6.4.1, "Uses Prohibited to All Zones," of Article 6.4, "Prohibited Uses," of Part 6, "Zoning," of Appendix A, "Municipal Land Use Procedures Ordinance," is hereby amended as follows:

Section 6.4.1 - Uses Prohibited to All Zones

The following uses and activities are specifically prohibited in all zones:

- A. Sales or rentals of new or used motor vehicles or trailers.
- B. Coin-operated dispensers, including mechanical and automatic machines in which a product is returned, except when located in a principal building in other than a residential zone.
- C. Retail laundries, cleaning or dyeing establishments employing more than four (4) persons and all non-retail establishments.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

- D. The storage of crude oil or any volatile products or any highly flammable liquids or gas above ground in tanks having a capacity of more than three hundred (300) gallons.
- E. Drive-through facilities, road stands or refreshment stands.
- F. Pipelines which are not public utilities that distribute services to end users and are unregulated by the State of New Jersey Board of Public Utilities are prohibited within any zone in the Township.
- G. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service located outside of the Township.
- H. Without any way limiting the specific prohibitions, restrictions or limitations contained anywhere else in this Ordinance, in all zones of the Township any uses not specifically permitted in Article 6.3 herein are prohibited.
- I. Vape shops and smoke shops.
- J. Sexually-oriented businesses.
- K. Data centers, which shall include any facility, or portion thereof, primarily used for housing, operating, and maintaining computer servers and associated power distribution and cooling infrastructure, for the purpose of storing, processing, or transmitting digital data for third parties. The term includes co-location, cloud computing, and artificial intelligence training or inference facilities. This prohibited use does not include server rooms or equipment spaces that are incidental and subordinate to a primary permitted use on the same lot.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION V. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-13

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
		✓				Alvaro Medeiros						
	✓	✓				Andrew Moran						
✓		✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: July 21, 2026												
						Angela Lazzari, Township Clerk						

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-13**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED
USE IN ALL ZONES WITHIN THE TOWNSHIP**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-13

**AN ORDINANCE TO DESIGNATE DATA CENTERS AS A PROHIBITED USE IN ALL ZONES WITHIN
THE TOWNSHIP**

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

WHEREAS, the Township of Berkeley Heights (the "Township") Code, §10.08.020, entitled "Stop intersections," lists every stop sign within the Township, in alphabetical order, aside from those stop signs that intersect through streets, which are identified and listed in §10.08.010, entitled "Through streets"; and

WHEREAS, the identification and listing of all stop signs within the Township in the Township Code is imperative for the Township to be able to effectively enforce rules and laws governing vehicles and traffic within the Township; and

WHEREAS, the Township wishes to amend the Code to reflect stop intersections at all approaches of Washington Street and Berkeley Avenue.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Township of Berkeley Heights, County of Union, and State of New Jersey, that:

SECTION I. Section 10.08.020 "Stop intersections," of Chapter 10.08 "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," of the Township Code of the Township of Berkeley Heights shall be and is hereby amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

10.08.020 Stop intersections.

Since main traveled roads are not involved, the following intersections within the township are designated as stop intersections:

1. Angela Way and Cottage Street: stop sign located on Angela Way;
2. Baker Avenue and Honeyman Place: stop sign located on Honeyman Place;
3. Baker Avenue and Kline Place: stop sign located on Kline Place;
4. Baldwin Drive and Farmgate Road: stop sign located on Baldwin Drive;
5. Barnstable Road and Farmgate Road: stop sign located on Barnstable Road;
6. Berkeley Avenue and Scott Avenue: stop sign located on Berkeley Avenue;
7. Brambling Road and Hawfinch Drive: stop sign located on Hawfinch Drive;
8. Brambling Road and Roosevelt Avenue: stop sign located on Brambling Road;
9. Burlington Road and Warren Place: stop sign located at Warren Place;
10. Clover Court and Cottage Street: stop sign located on Clover Court;
11. Columbia Avenue and Bolton Boulevard: stop sign located on Columbia Avenue;
12. Cottage Court and Cottage Street: stop sign located on Cottage Court;
13. Daria Lane and Daisy Road: stop sign located on Daisy Road;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

14. Evergreen Drive and Timber Drive—both ends: stop signs located on Evergreen Drive;
15. Exeter Drive and Timber Drive: stop sign located on Exeter Drive;
16. Fairfax Drive and Exit to Mountain Park School: stop sign located on driveway exit of Mountain Park School;
17. Fairview Avenue and Union Avenue: stop sign located on Fairview Avenue;
18. Farmgate Road and Baldwin Drive: stop sign located on Farmgate Road;
19. Farmgate Road and Union Avenue: stop sign located on Farmgate Road;
20. Fawn Circle and Lawrence Drive: stop sign located on Fawn Circle;
21. Fay Place and Briarwood Drive West: stop sign located on Fay Place;
22. Fern Place and Debbie Place: stop sign located on Fern Place;
23. Fern Place and Hillside Avenue: stop sign located on Hillside Avenue;
24. Ferndale Road and Briarwood Drive West: stop sign located on Ferndale Road;
25. Fickler Place and Fairview Avenue: stop sign located on Fickler Place;
26. Fickler Place and Pearl Street: stop sign located on Pearl Street;
27. Franklin Court and Hamilton Avenue: stop sign located on Franklin Court;
28. Frost Lane and Barnstable Road: stop sign located on Frost Lane;
29. Garfield Street and Berkeley Avenue: stop sign located on Berkeley Avenue;
30. Garfield Street and Passaic Avenue: stop signs located on both approaches on Garfield Street;
31. Garfield Street and Station Street: stop signs located on both approaches on Garfield Street;
32. Garfield Street and Summit Avenue: stop signs located on all four approaches;
33. Grandview and Bolton Boulevard: stop sign located on Grandview Avenue;
34. Grassman Place and Killarney Drive: stop sign located on Grassman Place;
35. Hamilton Avenue and Princeton Avenue: stop sign located on Princeton Avenue;
36. Hamilton Avenue and Roosevelt Avenue: stop sign located on Roosevelt Avenue;
37. Hamilton Avenue and Rutgers Avenue: stop sign located on Rutgers Avenue;
38. Hampshire Road and Baldwin Drive: stop sign located on all four approaches;
39. Hampshire Road and Timber Drive: stop sign located on Hampshire Road;
40. Hawfinch Drive and Hamilton Avenue: stop sign located on Hawfinch Avenue;
41. Hillside Avenue and Timber Drive—both ends: stop signs located at the easterly intersection on Timber Drive, westerly intersection on Hillside Avenue;
42. Hillside Avenue and Wentworth Drive: stop sign located on Wentworth Drive;
43. Holly Glen Lane South and Holly Glen Lane: stop sign located on Holly Glen Lane South;
44. Kingman Road and Old Farm Road: stop sign located on Kingman Road;
45. Kline Boulevard and Union Avenue: stop sign located on Kline Boulevard;
46. Kline Place and Kline Boulevard: stop sign located on Kline Place;
47. Kline Place and Kline Place: stop sign located northbound on Kline Place;

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-14

48. LaGrande Avenue and Berkeley Avenue; stop sign located on LaGrande Avenue;
49. LaGrande Avenue and Columbia Avenue; stop sign located on both approaches of LaGrande Avenue;
50. LaGrand Avenue and Harwood Avenue; stop sign located on LaGrande Avenue;
51. Lawrence Drive and Kline Boulevard; stop signs located on Lawrence Drive on both approaches;
52. Lincoln Street and Berkeley Avenue; stop signs located on all four approaches;
53. Lincoln Street and Plainfield Avenue; stop sign located on Plainfield Avenue;
54. Lincoln Street and River Road; stop sign located on Lincoln Street;
55. Lincoln Street and Passaic Avenue; stop signs located on both approaches on Lincoln Street;
56. Lincoln Street and Station Street; stop signs located on both approaches on Lincoln Street;
57. Lincoln Street and Summit Avenue (Southside of Lincoln Street); stop sign located on all four approaches;
58. Locust Avenue and Timber Drive; stop sign located on Locust Avenue;
59. Lower Columbia Driveway and Hamilton Avenue; stop sign located on Lower Columbia Driveway;
60. Martins Lane and Union Avenue; stop sign located on Martins Lane;
61. Mea Drive and Timber Drive; stop sign located on Mea Drive;
62. Mercer Road and Hunterdon Boulevard; stop sign located on Mercer Road;
63. Mercer Road and Watchung Boulevard; stop sign located on Mercer Road;
64. Old Farm Road, Cedar Green Lane, and Mercier Place; stop signs located on both Cedar Lane and Mercier Place approaches;
65. Peacock Lane and Brambling Road; stop sign located on Peacock Lane;
66. Peacock Lane and Hawfinch Drive; stop sign located on Peacock Lane;
67. Pearl Street and Union Avenue; stop sign located on Pearl Street;
68. Ridgewood Drive and Lawrence Drive; stop sign located on Ridgewood Drive;
69. Robbins Avenue and Lawrence Drive; stop sign located on Robbins Avenue;
70. Russo Place and Locust Avenue; stop sign located on Russo Place;
71. Scott Avenue and Bolton Boulevard; stop sign located on Scott Avenue;
72. Shadow Lane and Riverbend Road; stop sign located on Riverbend Road;
73. Sherman Avenue and South Sherman Avenue; stop sign located on South Sherman Avenue;
74. Somerset Place and Hunterdon Boulevard; stop sign located on Somerset Place;
75. Somerset Place at Watchung Boulevard; stop sign located on Somerset Place;
76. Station Street and Sherman Avenue; stop sign located on Station Street;
77. Station Street and Springfield Avenue; stop signs located on both approaches on Station Street;
78. Station Street and Washington Street; stop signs located on both approaches on Station Street;
79. Summit Avenue and Grant Street; stop signs located on Summit Avenue at both approaches on Summit Avenue;
80. Summit Avenue and Sherman Avenue; stop sign located on Summit Avenue;
81. Ridgewood Drive and Lawrence Drive; stop sign located on Ridgewood Drive;

ORDINANCE 2026-14

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
✓		✓				Margaret Illis						
	✓	✓				Bill Machado						
		✓				Alvaro Medeiros						
		✓				Andrew Moran						
		✓				Susan Poage						
Introduced:					I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.							
June 30, 2026												
Final Adoption:												
July 21, 2026					_____ Angela Lazzari, Township Clerk							

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-14**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP
INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE
TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT
WASHINGTON STREET AND BERKELEY AVENUE**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-14

ORDINANCE AMENDING CHAPTER 10.08, "THROUGH STREETS, STOP INTERSECTIONS, TRAFFIC CONTROL SIGNALS AND CROSSWALKS," OF THE TOWNSHIP CODE TO REFLECT STOP INTERSECTIONS AT ALL APPROACHES AT WASHINGTON STREET AND BERKELEY AVENUE

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

WHEREAS, the Mayor and Council for the Township of Berkeley Heights desire to update the Township Code related to land use regulations; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 3.1.1, "Use Regulations" of Article 3.1, "Application of General Regulations Applicable to All Districts," of Part 3, "Part 3 – General Regulations," of Appendix A, "Municipal Land Use Procedures Ordinance" of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

Section 3.1.1 - Use Regulations

No building shall hereafter be erected and no existing building shall be moved, structurally altered, added to, or enlarged, or rebuilt nor shall any land be designed, used, or intended to be used for any purpose other than those included among the uses listed as permitted in the applicable zone except as may be specifically permitted in Part 8 of this Ordinance. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, building to building dimensions, percentage of impervious coverage, off-street parking space, shared parking provisions, and such other regulations designated in the Schedule of General Regulations and other provisions of this Ordinance for the zone in which such building or space is located.

- A. Permitted principal uses are permitted by the right upon proper application to the Zoning Officer for a zoning permit provided that said use is a use in conformance with the requirements of this Ordinance in the zone district in which the lots is located and for uses so requiring, subject to Part 10 of this Ordinance.
- B. Accessory uses are permitted upon proper application to, and approval by, the Zoning Officer for a zoning permit. The Zoning Officer shall rely on the following for determining the right of the applicant to establish the proposed accessory use:
 - 1. The proposed accessory use shall be customarily associated with or provided with the permitted primary use on the lot.
 - 2. The extent, size, and intensity of such proposed accessory use shall be in keeping with the scale, nature, and characteristics of the permitted primary use on the lot.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-16

3. Any proposed accessory use or structure which is contrary to the intent of the zone district in which the lot is located shall be prohibited.

4. Accessory buildings or structures front yard, exclusive fences and walls and swimming pools associated with Hotel and/or Fitness Center uses in the OR-B Zone, shall be prohibited.

C. In the event of unlawful encroachment or reduction, a building or structure shall be deemed to be in violation of the provisions of this Ordinance.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
✓		✓				Alvaro Medeiros						
		✓				Andrew Moran						
	✓	✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date. _____ Angela Lazzari, Township Clerk						
Final Adoption: July 21, 2026												

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-16**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP
OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS
WELL AS VIOLATIONS OF THIS ORDINANCE**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **June 30, 2026 at 6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **July 21, 2026 at 6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**

TOWNSHIP OF BERKELEY HEIGHTS

NOTICE OF FINAL ADOPTION

ORDINANCE 2026-16

AN ORDINANCE CLARIFYING THE LAND USE PROCEDURES OF THE TOWNSHIP OF BERKELEY HEIGHTS AS IT RELATES TO PERMITTED AND ACCESSORY USES AS WELL AS VIOLATIONS OF THIS ORDINANCE

I, Angela Lazzari, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above titled Ordinance was adopted on Final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on July 21, 2026.

**Angela Lazzari, RMC
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-17

**ORDINANCE APPROPRIATING \$135,000.00 FOR
ROAD CAPITAL IMPROVEMENTS IN AND BY THE
TOWNSHIP OF BERKELEY HEIGHTS, IN THE
COUNTY OF UNION, NEW JERSEY.**

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY AS FOLLOWS:

Section 1. The Township of Berkeley Heights, in the County of Union, New Jersey (the "Township") hereby appropriates the sum of \$135,000.00, consisting of the following amounts from Capital Fund Balance to provide for the following various capital improvements in the following amounts:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Section 2. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

Angie Devanney, Mayor

ORDINANCE 2026-17

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		✓				John Foster						
		✓				Margaret Illis						
		✓				Bill Machado						
		✓				Alvaro Medeiros						
✓		✓				Andrew Moran						
	✓	✓				Susan Poage						
Introduced: June 30, 2026						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date. _____ Angela Lazzari, Township Clerk						
Final Adoption: July 21, 2026												

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **June 30, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ on **July 21, 2026 at 6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$135,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Appropriation: \$135,000

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE STATEMENT AND SUMMARY

The ordinance, the summary terms of which are included herein, has been finally adopted by the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **July 21, 2026**. Copies of the full ordinance are available at no cost and during regular business hours at the Clerk's office for members of the general public who request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE APPROPRIATING \$135,000.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY

Purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Undertaking of various road, curb, sidewalk, pedestrian safety, traffic signal, signage and street lighting improvements, including work in the right-of-way and drainage work, as required. It is hereby determined and stated that the roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").	\$135,000.00

Appropriation: \$135,000.00

Bonds/Notes Authorized: \$0

Grants (if any) Appropriated: \$0

Section 20 Costs: N/A

Useful Life: N/A

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated **7/21/2026**, in the amount of **\$1,919,669.02** such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29, may by resolution and without advertising for bids, purchase any goods and services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of Berkeley Heights Wastewater Treatment Plant has the need to purchase a pickup truck, specifically a 2027 F-350; and

WHEREAS, Route 23 Auto Mall, LLC 1301 Route 23 South, Butler, NJ 07405 has been awarded Contract # 25-FLEET-110661, T2959 Utility Truck 11,000 lb. GVWR Extended Cab/Super SRW Gas Powered 4WD with 9' Body & Accessories, for a period expiring June 12, 2028; and

WHEREAS, the Township of Berkeley Heights intends to purchase a 2027 F-350 4x4 SO Regular Cab 8' box 142" WB SRW XL (F3B) from Route 23 Auto Mall, LLC, through this resolution, which shall be subject to all the conditions applicable to the current State Cooperative Purchasing contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, does hereby authorize the Director of the Wastewater Treatment Plant to purchase a 2027 F-350 4x4 SO Regular Cab 8' box 142" WB SRW XL (F3B) through the New Jersey State Cooperative Purchasing Contract **#25-FLEET-110661** for the total amount of **\$57,010.00** pursuant to all conditions of the individual State contracts.

BE IT FURTHER RESOLVED that the Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$57,010.00** from account **C-04-26-012-C00, Ord 26-12 Sewer Pickup Truck**.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, members of the Berkeley Heights Rescue Squad are permitted by law to operate blue emergency lights on their vehicle when responding to an emergency; and

WHEREAS, the Township is required to endorse any application for "blue light" permit; and

WHEREAS, Sanghoon Nathan Lee, is a member of the Berkeley Heights Rescue Squad and has requested that the Township endorse the blue light permit application.

NOW, THEREFORE, BE IT RESOLVED that the appropriate municipal officials are hereby authorized to endorse the application for **Sanghoon Nathan Lee**, for a blue light permit.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Berkeley Heights Rescue Squad.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION WAIVING MUNICIPAL CONSTRUCTION PERMIT
FEES FOR REPAIRS TO STRUCTURES DAMAGED BY THE
JULY 3-5, 2026 SEVERE WEATHER EVENT**

WHEREAS, on the evening of July 3, 2026, a severe line of thunderstorms swept through Union County and the Township of Berkeley Heights, producing straight-line wind gusts reaching 70 mph at Newark Liberty Airport in Essex and Union counties; and

WHEREAS, at its peak, the storm left roughly 249,000 customers without electricity statewide, and by mid-morning Sunday, July 5, 2026, JCP&L reported that 36% of Berkeley Heights customers remained without electrical service; and

WHEREAS, the storm caused widespread destruction of trees, utility poles, and power lines throughout the Township, resulting in the closure of multiple Township roads, damage to JCP&L infrastructure including broken poles and downed primary lines, and damage to the Township's emergency communications system; and

WHEREAS, JCP&L spokesman Chris Hoenig described the event as "an extremely severe line of storms" that "moved through our entire service area" leaving "very few areas of our service area that were not affected," with "extensive damage to trees, broken poles"; and

WHEREAS, the storms caused damage to 240 utility poles and 255 transformers across the region, and a second round of severe weather on Saturday, July 4, 2026, brought additional gusts of up to 65 mph, compounding damage in areas already struck; and

WHEREAS, the storms caused direct structural damage to residential and commercial structures throughout the Township, including damage caused by fallen trees and wind-driven debris to roofs, siding, windows, fencing, and other structural components; and

WHEREAS, residents and property owners are now seeking construction permits to repair such storm-related structural damage, and the imposition of standard municipal construction permit fees would impose additional financial hardship on property owners who have already suffered significant property damage; and

WHEREAS, the Township Council is authorized to waive municipal construction permit fees by resolution, as recognized by the fee waiver framework established in §§ 15.04.025 and 15.04.060 of the Berkeley Heights Code of Ordinances; and

WHEREAS, the Township Council finds that the public health, safety, and welfare of Berkeley Heights residents is served by facilitating prompt repair of storm-damaged structures through temporary waiver of municipal construction permit fees;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

Section 1. Fee Waiver; Scope. Municipal construction permit fees otherwise due and payable under § 15.04.020 of the Township Code (including fees for the building, plumbing,

electrical, fire protection, and mechanical subcodes) shall be waived for any permit issued solely to repair structural damage to a private residential or commercial structure directly caused by the July 3-5, 2026 severe weather event (the "Storm Event").

Section 2. Eligibility Requirements. To qualify for the fee waiver established by this Resolution, an applicant must:

- (a) Submit a permit application to the Township Construction Department on or before **October 21, 2026**;
- (b) Include with the permit application a written statement, supported by photographs or other documentary evidence (such as an insurance claim, contractor assessment, or municipal damage report), attesting that the work to be permitted is necessary to repair damage directly caused by the Storm Event; and
- (c) Limit the scope of the permit application to repair or replacement of storm-damaged components; any construction exceeding the scope of storm-damage repair shall remain subject to standard fees as applied to the non-exempt portion of work.

Section 3. Retroactivity. This Resolution shall be retroactive to **July 4, 2026**. Any applicant who paid municipal construction permit fees between July 4, 2026, and the date of adoption of this Resolution for a permit that would have qualified for waiver under Section 1 may request a refund of those fees by submitting a written request to the Construction Official within sixty (60) days of the date of adoption. The Construction Official shall process and issue approved refunds within thirty (30) days of receipt of a qualifying request.

Section 4. State Surcharge Not Affected. This Resolution waives only municipal fees. The State of New Jersey construction permit surcharge required under N.J.A.C. 5:23-4.19 is not subject to waiver by the Township and remains payable in accordance with state law.

Section 5. Administration. The Construction Official is authorized and directed to administer the fee waiver established by this Resolution, to determine the eligibility of permit applications on a case-by-case basis consistent with the criteria set forth in Section 2, and to promulgate such administrative procedures as may be necessary for implementation.

Section 6. Relationship to Existing Waivers. This Resolution supplements, and does not supersede or limit, the fee waivers established under §§ 15.04.025 and 15.04.060 of the Township Code.

Section 7. Effective Date. This Resolution shall take effect immediately upon adoption.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**A RESOLUTION AMENDING THE ADOPTED BUDGET FOR ADDITIONAL ITEM OF REVENUE
AND OFFSETTING APPROPRIATION FOR RECYCLING TONNAGE GRANT**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township of Berkeley Heights hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget for the year 2026 in the sum \$24,683.23 of which items are now available as a revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written Consent of the
Director of the Division of Local Government Services: State and Federal
Revenues Off-set with Appropriations:

Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that a like sum of \$24,683.23 is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from CAPS
State and Federal Programs Off-Set by Revenues

Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that the Chief Financial Officer shall file an electronic copy of this resolution with the Division of Local Government Services for approval.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the State of New Jersey Department of Military and Veterans Affairs has confirmed that the resident owner of the property located at **22 Arden Court (Block 1714, Lot 4)** was granted a determination of 100% total disability by the United States Department of Veterans Affairs, and

WHEREAS, the resident property owner of **Block 1714, Lot 4** has made an application to the Tax Assessor for an exemption from property taxes on the above address based on their disabled veteran's status under N.J.S.A. 54:4-3.30; and

WHEREAS, it is recommended by the tax assessor, Michael Imbriaco, in an email dated July 10, 2026, to the tax collector that the resident property owner of **Block 1714, Lot 4** be granted full tax exemption from billed property taxes as of **July 7, 2026**.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Berkeley Heights, County of Union, State of New Jersey that the **resident property owner of Block 1714, Lot 4** be granted a full tax exemption from taxes billed to **22 Arden Court, Berkeley Heights, NJ**, as of **July 7, 2026**.

BE IT FURTHER RESOLVED that tax break will only be in effect for as long as the disabled veteran owner owns the property. Should the property be sold to someone other than the disabled veteran and/or if the deed is changed removing the disabled veteran owner that the tax break will no longer be in effect and the property will be subject to conventional taxes.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION AUTHORIZING A ONE (1) YEAR EXTENSION TO THE CONTRACT WITH
MESSERCOLA EXCAVATING CO., INC. FOR SNOW REMOVAL SERVICES & EQUIPMENT**

WHEREAS, the Township accepted bids on September 10, 2025, for the provision of 2025-2026 Snow Removal Services & Equipment; and

WHEREAS, Resolution 2025-296 authorized the award of a (1)-year contract with **Messercola Excavating Co., Inc.**, of 549 E. 3rd Street, Plainfield NJ 07060, to provide Snow Removal Services & Equipment to the Township at a rate of **\$158.00 per hour, per vehicle**, in an amount not to exceed \$65,000.00; and

WHEREAS, the contract amount was amended by Resolution 2026-96, which increased the contract amount to \$200,000.00; and

WHEREAS, as per the contract, after the Initial Term, the Township and the Contractor may elect to renew the Contract for up to two (2) additional twelve (12) month terms ("Optional Term(s)"), during which all terms shall remain in full force and effect; and

WHEREAS, Messercola Excavating Co, Inc. has provided written notice of their intent to extend the aforementioned contract, which expires on October 6, 2026, for an additional year at the current contracted rate of \$158.00 per hour, per vehicle; and

WHEREAS, the Township wishes to extend the existing contract with Messercola Excavating Co, Inc. for the term of October 7, 2026 through October 6, 2027.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Berkeley Heights, County of Union, New Jersey, does hereby authorize a one-year extension to the contract with Messercola Excavating Co, Inc. for the provision of Snow Removal Services & Equipment, at a rate of \$158.00 per hour, per vehicle, for an amount not to exceed **\$80,000.00** for the term October 7, 2026 through October 6, 2027.

BE IT FURTHER RESOLVED, that the Chief Finance Officer of the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$80,000.00** from account # **6-01-26-300-028, SNOW - Professional Services.**, subject to the adoption of the 2026 budget.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY****RESOLUTION****RESOLUTION AUTHORIZING AN EXTENSION OF THE TAX REMITTANCE GRACE PERIOD FOR
THE AUGUST 2026 PROPERTY TAX BILL**

WHEREAS, the printing and mailing of the 2026 property tax bills will be delayed due to the processing requirements and the dependency on the certification of the annual tax rate; and

WHEREAS, the 2026 tax bills will be printed and mailed to the property owners of the Township of Berkeley Heights prior to July 31, 2026; and

WHEREAS, N.J.S.A. 54:4-66.3(d) provides that the current years taxes shall not be subject to interest until the twenty-fifth day after the tax bill for the third installment is mailed and N.J.S.A. 54:4-64 further provides that the property taxpayers shall be given adequate notice of the date when taxes are due before interest is charged on delinquent tax payments.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey that in accordance with State Law, the grace period for the August 2026 property tax bill is extended to August 25, 2026, after which time said payments will be delinquent and subject to interest penalties calculated from August 1, 2026.

BE IT FURTHER RESOLVED that interest will be charged on all tax payments received after August 25, 2026.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**RESOLUTION AUTHORIZING THE APPLICATION OF THE 2027 NEW
JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID GRANT**

WHEREAS, the governing body of the Township of Berkeley Heights, County of Union, desires to further the public interest by obtaining a grant from the New Jersey Department of Transportation (NJDOT) for local transportation improvements; and

WHEREAS the funding request is part of the New Jersey Department of Transportation Municipal Aid Grant program for the fiscal year 2027; and

WHEREAS the grant request is in the amount of \$730,240.56 for drainage and road improvements to Longview Avenue, Cedar Green Lane, and Oak Way; and

WHEREAS, there is no Township match required.

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of Berkeley Heights does hereby authorize the Township Administrator and/or Township Engineer to a) make application for such a grant, b) if awarded, to execute a grant agreement with the State of New Jersey for the awarded amount, c) to execute any amendments thereto, and d) to expend the funds pursuant to the grant agreement.

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Berkeley Heights and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Peter T. Richardson was required to post a Road Opening Performance bond in the amount of \$2,000.00 00 in connection with work performed at 54 Lawrence Drive and

WHEREAS, in a letter dated July 6, 2026, the Township Engineer has recommended that the Cash Performance Bond for the work at 54 Lawrence Drive, Edmunds Account RO-2500079, in the amount of \$2,000.00 be released.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to: Peter T. Richardson, 54 Lawrence Drive, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Dina Dario was required to post a Road Opening Performance bond in the amount of \$2,000.00 in connection with work performed at 66 Harrison Drive; and

WHEREAS, in a letter dated July 14, 2026, the Township Engineer has recommended that the Cash Performance Bond in connection with work performed at 66 Harrison Drive, Edmunds Account RO-2500057, in the amount of \$2,000.00 be released, together with any applicable interest.

NOW, THEREFORE BE IT RESOLVED, by the Township Council, Township of Berkeley Heights, County of Union, hereby authorizes the Township Treasurer to release and return the forementioned cash performance bond, together with any applicable interest, to: Dina Dario, 66 Harrison Drive, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to the Township Engineer.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**AUTHORIZATION TO RELEASE ESCROW ACCOUNT OF FULL CIRCLE PROPERTIES
SPRINGFIELD AVENUE, LLC**

WHEREAS, the Township of Berkeley Heights held an escrow account for the former company, Full Circle Properties Springfield Avenue, LLC, and

WHEREAS, the Township seeks to release the remaining escrow balance of \$1,110.17 in Edmunds Account PREAPP20-2 to the equal and joint owners of the former company, Full Circle Properties Springfield Avenue, LLC; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Mayor and Council hereby approves the release of the remaining escrow account balance of \$1,110.17 in the Edmunds Account PREAPP20-2 to the equal and joint owners of the former company, Full Circle Properties Springfield Avenue, LLC.
2. This resolution shall take effect at the time and in the manner prescribed by law.

Approved this 21st day of July, 2026.

ATTEST:

**Angela Lazzari, RMC
Township Clerk**

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY

RESOLUTION

**RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT TO
CONNOLLY & HICKEY HISTORICAL ARCHITECTS FOR BIDDING AND CONTRACT
ADMINISTRATION SERVICES FOR EXTERIOR AND INTERIOR RESTORATION AND
REHABILITATION OF THE LITTELL-LORD FARMHOUSE**

WHEREAS, the Township of Berkeley Heights is in need of professional architectural and historic preservation services for the Littell-Lord Farmhouse for bidding and contract administration services for the interior restoration and rehabilitation of the Littell-Lord Farmhouse; and

WHEREAS, Professional Services are exempt from the requirements of public bidding pursuant to the Local Public Contracts Law, more specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, Connolly & Hickey Historical Architects provided an original proposal dated April 11, 2023, which was further updated on July 7, 2025, for bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$18,100.00**; and

WHEREAS, the Township wishes to enter into a Professional Services Contract with **Connolly & Hickey Historical Architects**, P.O. Box 1726, Cranford, New Jersey 07016, to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse for the amount not to exceed **\$18,100.00**; and

WHEREAS, this contract is for an amount over \$17,500.00 and is being awarded pursuant to a "Non-Fair and Open Process" pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS Connolly & Hickey Historical Architects, has completed and submitted a Business Entity Disclosure Certification, which certifies that **Connolly & Hickey Historical Architects** has not made any reportable contributions to a political or a candidate committee in the Township of Berkeley Heights in the previous one (1) year prior to award, and that the contract will prohibit **Connolly & Hickey Historical Architects** from making any reportable contributions through the term of the contract.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Berkeley Heights, County of Union, New Jersey, that the Mayor is hereby authorized and directed on behalf of the Township of Berkeley Heights to enter into and execute a contract with **Connolly & Hickey Historical Architects** to provide bidding and contract administration services for the exterior and interior restoration and rehabilitation of the Littell-Lord Farmhouse as per their proposal updated July 7, 2025 for an amount not to exceed **\$18,100.00**.

BE IT FURTHER RESOLVED, that the Chief Finance Officer of the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$18,100.00** as follows:

Account Number	Amount	Description
-----------------------	---------------	--------------------

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, pursuant to the Invitation to Bid provided to all pre-qualified bidders, the Township of Berkeley Heights ("Township") received bids on July 15, 2026, for the "Phase II-Exterior Restoration & Structural Stabilization" project at the Littell-Lord Farmhouse; and

WHEREAS, the Director of Public Works has recommended that the lowest responsible bid be awarded to **Dell-Tech Inc.**, 930 New York Avenue, Trenton, New Jersey; and

WHEREAS, the Township Council has determined that it is in the best interest to accept the bid proposal and execute a contract for the **Phase II-Exterior Restoration & Structural Stabilization** at the Littell-Lord Farmhouse, with the lowest responsible bidder, **Dell-Tech Inc.**, for the amount not to exceed **\$395,900.00**; and

WHEREAS, the public advertisement, the receipt of public bids and the award of the contract to the lowest responsible bidder, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., for the **Phase II-Exterior Restoration & Structural Stabilization**, constitutes a Fair and Open Process pursuant to the Local Pay to Play Law, N.J.S.A. 19:44A:20.5, et seq.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, New Jersey, that:

1. The appropriate municipal officials are hereby authorized to accept the bid submitted and execute a contract with the lowest responsible bidder, **Dell-Tech Inc.**, for the **Phase II-Exterior Restoration & Structural Stabilization** at the Littell-Lord Farmhouse in the amount not to exceed **\$395,900.00**.
2. The Township Clerk shall advertise the award of this contract in accordance with law.
3. The Chief Finance Officer for the Township of Berkeley Heights has certified that sufficient uncommitted funds are available in an amount not to exceed **\$395,900.00** as follows:

Account Number	Amount	Description
G-02-20-175-000	\$ 1,833.00	UC Historic Preservation mixed
G-02-20-175-017	\$ 10,000.00	Preserve union county Grant - 2017
G-02-20-175-027	\$ 384,067.00	NJ Historic Grant 2026

4. This resolution shall take effect upon publication and pursuant to law.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

**RESOLUTION OF THE TOWNSHIP OF BERKELEY
HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY,
AUTHORIZING THE EXECUTION OF A DEVELOPER'S
AGREEMENT WITH OZ CUSTOM BUILDERS, LLC FOR
THE PROPERTY IDENTIFIED AS BLOCK 2006, LOTS
32.01 (725 MOUNTAIN AVENUE), 32.02 (7 WESTMINSTER
COURT), 32.03 (1 WESTMINSTER COURT), 32.04 (3
WESTMINSTER COURT) and 32.05 (5 WESTMINSTER
COURT)**

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") made application (the "**Application**") to the Township Zoning Board of Adjustment (the "**Board**"), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the property into five (5) lots, now known as Block 2006, Lot 32.01 (725 Mountain Avenue, Lot 32.02 (7 Westminster Court), Lot 32.03 (1 Westminister Court), Lot 32.04 (3 Westminister Court) and Lot 32.05 (5 Westminister Court) (Lots 32.02, 32.03, 32.04 and 32.05 collectively, the "**Property**") to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the "**Project**") with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot now known as Lot 32.01 (the "**Church**"); and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the Application, however the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the "**Complaint**"), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (a "**Whispering Woods Hearing**"); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement, wherein the Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project; and

WHEREAS, the Board, after reviewing the evidence submitted, voted five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, with said approvals being memorialized by way of written Resolution adopted by the Board on October 24, 2024 (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024 (the “**Settlement Agreement**”); and

WHEREAS, on November 21, 2024, the Board adopted a memorializing resolution authorizing the Settlement Agreement; and

WHEREAS, the Board approved the application and granted the Approval on the condition that the Developer enter into a developer’s agreement with the Township prior to the commencement of any on-site construction; and

WHEREAS, the Township and the Developer desire to enter into such agreement to establish the terms pursuant to which the Developer shall proceed, together with its obligations pursuant to the Settlement Agreement, with construction of the Project; and

WHEREAS, the developer’s agreement attached hereto as **Exhibit A** (the “**Developer’s Agreement**”) has been prepared by the Township Attorney and has been reviewed and approved by the attorney for the Developer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights, in the County of Union, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Mayor is hereby authorized to execute the Developer’s Agreement substantially in the form as attached hereto as **Exhibit A**, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Township’s counsel and other Township professionals. The Clerk of the Township is hereby authorized and directed to attest to the Mayor’s signature and affix the seal of the Township to the Developer’s Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Developer’s Agreement to the other parties thereto.

Section 3. This resolution shall take effect immediately.

Approved this 21st day of July, 2026.

ATTEST:

Angela Lazzari, RMC
Township Clerk

ROLL CALL	Aye	Nay	Abstain	Absent
FOSTER				
ILLIS				
MACHADO				
MEDEIROS				
MORAN				
POAGE				
TIE:				
MAYOR DEVANNEY				

EXHIBIT A

Developer's Agreement

Record and Return to:

Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

DEVELOPER'S AGREEMENT

Block 2006, Lots 32.01, 32.02, 32.03,
32.04, 32.05 (Formerly Lot 32) on the
Official Tax Maps of the Township of
Berkeley Heights, Union County

THIS DEVELOPER'S AGREEMENT (this "**Developer's Agreement**") is made and
executed this _____ day of _____, 2026, by and between:

Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, New Jersey 07922

and

Oz Custom Builders, LLC
725 Mountain Avenue
Berkeley Heights, New Jersey 07922

Affecting property known as Block 2006, Lot 32.01 (725 Mountain Avenue), Lot 32.02 (7
Westminster Court), Lot 32.03 (1 Westminster Court), Lot 32.04 (3 Westminster Court), Lot 32.05
(5 Westminster Court) on the Township of Berkeley Heights Tax Map, formerly all one lot known
as Block 2006, Lot 32 (the "**Property**"), as more particularly described on the property description
attached hereto and made a part hereof as **EXHIBIT A**; and

WHEREAS, the Township of Berkeley Heights (the "**Township**") is a municipal
corporation of the State of New Jersey; and

WHEREAS, Oz Custom Builders, LLC (the "**Developer**") is the owner of the Property;

and

WHEREAS, the Developer made application (the “**Application**”) to the Township of Berkeley Heights Zoning Board of Adjustment (the “**Board**”), requesting preliminary and final major subdivision approval and bulk variance and design waiver relief pursuant to N.J.S.A. 40:55D-70(c) and (d) to permit the subdivision of the existing property into five (5) lots to be developed with four (4) detached single-family dwellings and a new public right of way to provide access thereto (the “**Project**”) with the existing Westminster Presbyterian Church, associated parking lot, 1.5 story residential dwelling, memory garden, playground area and garage to remain on the fifth lot, now known as Lot 32.01 (the “**Church**”); and

WHEREAS, the Board took jurisdiction and conducted public hearings on the Application at its meetings on November 11, 2021; January 27, 2022; April 13, 2022; June 22, 2023; and September 28, 2023, at which time the Board considered the Application materials submitted and plans and reports presented and the Board voted 4 to 3 to approve the Application, however, the Application was statutorily denied under N.J.S.A. 40:55D-70(d)(2), due to five (5) affirmative votes being required since the Developer requested use variance relief; and

WHEREAS, on January 10, 2024, the Developer filed a Complaint in Lieu of Prerogative Writ (the “**Complaint**”), which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable and unlawful; and

WHEREAS, the Developer and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed public hearing, consideration of evidence and comments submitted by the public, public vote, and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow

v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny (“**Whispering Woods Hearing**”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement wherein the Developer sought preliminary and final major subdivision approval and variance and design waiver relief relating to the Project and the Board voted unanimously in favor of the settlement agreement, which was memorialized on November 21, 2024 via the adoption of a resolution; and

WHEREAS, on September 26, 2024, the Board, after reviewing the evidence submitted, voted in favor of the Application by a vote of five (5) in favor, one (1) against, and one (1) abstention that the Developer met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief, and design exception, and memorialized said approval via the adoption of a Resolution on October 24, 2024 which is attached hereto as **EXHIBIT B** and made a part hereof (the “**Board Approval**”); and

WHEREAS, the Board and the Developer executed a settlement agreement dated October 11, 2024, which is attached hereto as **EXHIBIT C** and made a part hereof (the “**Settlement Agreement**”); and

WHEREAS, the Developer submitted and the Board approved the following plans subject to such revisions as set forth in the Board Approval:

1. Final Major Subdivision Plan, Westminster Presbyterian Church, Lot 32, Block 2006, Mountain Avenue & Plainfield Avenue, Township of Berkeley Heights, last revised March 19, 2026, prepared by Murphy & Hollows Associates LLC.

(as the same have been and may be further revised and amended, the “**Approved Plans**”) a copy of which is attached as **EXHIBIT D** and is made a part of this Developer’s Agreement; and

WHEREAS, the Board has approved the Application and granted the Board Approval on the condition that the Developer enter into this Developer's Agreement with the Township; and

WHEREAS, the Parties have determined to enter into this Developer's Agreement as required by the Board Approval; and

WHEREAS, on _____, 2026 the Township adopted Resolution _____, a copy of which is attached hereto as **EXHIBIT E** authorizing the execution of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained herein, the Parties agree as follows:

1. **Application of the Agreement.** The terms and conditions of this Developer's Agreement shall be applicable to the Property and the Project. This Developer's Agreement shall apply only to this Project by the Developer.
2. **Developer Bound.** The Developer agrees to be bound by the Board Approval, and all representations, commitments, matters of fact and matters of law which constitute the file and record of the Board, oral and written, all of which are made a part of this Developer's Agreement by reference hereto as though fully set forth herein, and it will faithfully discharge all of the obligations and commitments thereof.
3. **Construction Subject to Ordinances.** The Developer shall construct and design all improvements in accordance with the specifications of the Township Code, as amended to date, and the Board Approval, in a manner satisfactory to the Township engineer (the "**Township Engineer**") and in accordance with the improvements set forth on the Approved Plans. Except as otherwise approved in the Board Approval, Developer shall perform all work in full compliance and observation of all ordinances of the Township. The Developer shall be responsible for securing any and all permits required by law

including, but not limited to, road opening permits and any and all other permits required by the ordinances of the Township or the Board Approval and to pay the requisite fees called for under the appropriate fee schedules.

4. **Performance Guarantees.** As of the date of this Agreement, and prior to commencing construction and the issuance of the initial construction permit, Developer (in this paragraph only the term “Developer” shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer’s General Contractor) has provided the Township the following:

- a. A Performance Guarantee in the amount of \$69,390.00, of which 10% or \$6,939.00 must be provided in cash, is required to be provided by the Developer to the Township, in accordance with the Township Construction & Inspection Fee Cost Estimate Letter issued by the Township Engineer and dated October 7, 2025, attached hereto as **EXHIBIT F** and made a part hereof.
- b. A deposit for the inspection fees. The amount of the inspection fees is initially \$74,923.80. In accordance with N.J.S.A. 40:55D-53(h), the Developer shall have the option of paying the inspection fees in four installments. The initial amount deposited by the developer shall be 25% of the inspection fees. When the balance of the deposit drops to 10% of the inspection fees because the amount deposited has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees.

5. **Engineering Escrows and Legal Fees.** The Developer shall deposit with the Township fees in accordance with the Township Code and Paragraph 4(b) hereof prior to the issuance of any building permit. Over and above any costs associated with filing fees,

such escrow deposit is to cover the legal costs for the review and preparation of documents, including, but not limited to any required ordinances, resolutions, easements, and this Developer's Agreement, and any necessary correspondences with Developer, Developer's professionals, the Township and/or its professional personnel, including, but not limited to, the Township Engineer; and to cover the costs associated with services to be rendered by the Township Engineer or his/her authorized representatives or other approving authority in connection with the inspections of the improvements of the Project. The Township Attorney and the Township Engineer will bill the Developer at the same hourly rate and in the same manner as it bills the Township. Said monies will be held and administered in accordance with N.J.S.A. 40:55D-53.1 and -53.2 and its subsections.

Upon completion of all improvements at the Project, should any deposit monies be left over in escrow, the unused balance shall be paid to Developer in accordance with N.J.S.A. 40:55D-53.2(d). Alternatively, should there be a shortage of funds in escrow to cover the legal or engineering inspection costs described herein, the Developer shall pay the additional amount as certified by the Township Chief Financial Officer.

6. **General Provisions.** It is further understood and agreed between the parties hereto as follows:

- a. The Developer shall comply with the Township Code.
- b. Road excavation and grading operations, if any, shall be under the supervision of a licensed professional engineer so that rainfall run-off will not create serious problems or erosion flooding or the deposit of mud and debris on abutting properties. Said engineer shall advise the Township Engineer of the measures to be taken that will afford this protection.

- c. Connections to existing sanitary sewers, if any, shall be plugged at the start of construction and shall not be opened until the line has passed a leakage test and has been inspected and approved by the Township Engineer or her/his authorized agent.
- d. Where required by the Construction Code Official and Township Engineer, a site development plan shall be submitted before issuance of a building permit in order to ensure adequate means of ingress and egress to the Property, as applicable.
- e. No construction vehicles and equipment shall park on existing Township streets. Hours of demolition and construction, including, installation of any improvements, shall be 7:00 a.m. to 7:00 p.m., Monday through Saturday. All construction shall comply with applicable provisions of Section 8.44.030, Prohibited Noises, of the Township Code.
- f. The Developer shall obtain all approvals required from any other governmental agencies with jurisdiction relating to the Developer's Project.
- g. The Developer shall construct the Project in accordance with the Approved Plans to reflect the requirements of the Board Approval.
- h. Prior to site disturbance, the Developer shall have a pre-construction meeting with the Township Engineer and submit an Affidavit of Compliance demonstrating compliance with all of the conditions of Board Approval and possession of all necessary governmental approvals. The Affidavit of Compliance shall list the approvals required and obtained and separately identify each condition that is satisfied or is being satisfied.
- i. Developer shall comply with all requirements of all ordinances of the Township

and all proper recommendations of the Township Engineer, Township Planner, the Township Chief of Police, the Township Fire Department, and the Township Board of Health.

- j. Developer shall be responsible for all sewer and water connection fees, as applicable, in accordance with applicable ordinance and regulations as each is due.
- k. Developer shall obtain any permits or approvals required from Soil Conservation District; and shall obtain any approvals or permits required from the New Jersey Department of Environmental Protection, including, but not limited to, sanitary sewer, if required.
- l. Developer shall comply with any and all other Municipal, County, State and Federal regulations, including the New Jersey Department of Environmental Protection (“NJDEP”), if required, and shall obtain all necessary approvals prior to the commencement of construction and shall secure such other approvals or permits required from all agencies, boards or bodies having jurisdiction over the Project or over the Property.

7. **Drainage and Grading.** Drainage and grading shall be as follows:

- a. The Developer will ensure that all areas in the Project will be properly graded and properly drained and will in this regard obey all reasonable instructions of the Township Engineer relating thereto to assure compliance with the grading and drainage provisions approved by the Board.
- b. The Developer shall ensure that no stumps, dead trees or debris related to or resulting from the construction of the Project are deposited on or permitted to remain on any portion of the Property, and that no stumps, dead trees or debris

are deposited below the surface of the earth.

- c. In the event that any drainage problem is created on adjoining properties by the development of this Project, corrective measures shall be taken within the area limits of the Project, at such places and in such manner as the Township Engineer may reasonably require.
- d. Prior to construction the Developer and the Township Engineer shall examine the Township's storm sewers that may be affected by this construction, if any, in order to determine whether there is any additional soil or debris to be removed after the completion of construction. Subsequently, the Developer will remove silt deposited in the Township's storm sewers, brooks and catch basins or other drainage areas resulting from the wash down of soil or debris in the course of the construction. Any reasonable instructions given by the Township Engineer to prevent such wash down shall be promptly carried out.
- e. Sufficient detention facilities and drainage improvements must be constructed and operational in accordance with the soil erosion sediment control plan.

8. **Conditions of Approval.** The Developer shall also comply with the following terms and conditions in connection with the Approval, along with the variances granted by the Board and as set forth in the Approval, including, but not limited to:

- a. All the conditions contained in the Board Approval and in the record or the proceedings before the Board, including any agreements made by the Developer that were essential to the Board's decision to grant the Board Approval. The development of the Property shall be implemented in accordance with the Approved Plans. In the event the Developer shall make or propose any changes to

the Project or structures on the Property from those shown on the Approved Plans, whether such changes are voluntarily undertaken or required by any other regulatory agency, Developer shall resubmit such changes to the Engineer for review and determination. The Township Engineer may, in his/her discretion, approve the change administratively as a "field change" or require the Developer to submit the change to the Board for its review.

- b. This Developer's Agreement is contingent upon the Developer having paid all outstanding taxes, municipal charges, application fees and escrow fees and any such fees as each becomes due after the execution of this Agreement.
- c. Developer shall obtain approvals of any other governmental agency having jurisdiction over the site's approval, including, but not limited to, the Department of Environmental Protection's flood hazard area permits, as required.

9. **Maintenance of Property.** During the course of construction and until the time of final acceptance of improvements, Developer shall:

- a. Except as reasonably necessary during construction, keep the Property reasonably free of dirt, stone, mud and other debris, and further agrees to use every effort to prevent dust from blowing on any neighboring properties in the Township;
- b. Keep any streets or roadways, whether Township, County or State owned, or whether under construction, used by trucks or equipment of the Developer or his agents, reasonably clean, including snow removal; and
- c. Maintain and keep all storm drainage within the Property free from accumulation of debris and leaves. "Final acceptance of improvements" for the purpose of this provision is deemed to be the date upon which the improvements are accepted by

the Township Council and the final maintenance guarantees for same are posted with the Township.

- d. Comply with any reasonable instructions from Township consultants, employees, or agents regarding the maintenance of the Property and land surrounding the Property during the course of construction.

10. **Township Observation, Access and Inspections.** The Township, its consultants, employees and agents, shall be given access to observe construction of the subject Project, including, but not limited to, roadways, sanitary sewers/septics, water mains/wells, storm sewers, landscaping for buffer areas, street lighting, woodland management and appurtenances associated with the Approved Plans, as applicable to the Property, provided the Township shall use reasonable care not to interfere with any construction activities. The purpose of such observations shall be limited to providing the Township with a greater degree of confidence that such improvements will be constructed in accordance with the Developer's Approved Plans. The Township, or its representatives, consultants, employees or agents shall not supervise, direct or have control over the Developer's work during such observations, nor as a result thereof, shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Developer for safety precautions and programs incident to the work of the Developer or for any failure of the Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders. The Developer is not an agent or employee of the Township.
11. **Stormwater Management System.** The Developer shall construct, manage and maintain all storm water management systems and facilities and shall continue to manage, maintain

and keep in good repair such systems and facilities so long as such systems and facilities are used or exist, and in accordance with the Township Code and applicable NJDEP rules and regulations or similar governmental or quasi-governmental rules and regulations as may be amended from time to time.

12. **Withholding Permits/Certificates of Occupancy.** Developer understands and agrees that in the event it is in violation of any of the terms of this Developer's Agreement, the Township may, in its sole but reasonable discretion, upon written notice to Developer with a reasonable opportunity to cure, withhold the issuance of any permits or certificate(s) of occupancy until the violation has been corrected.
13. **Completion of Improvements.** All improvements contemplated in this Developer's Agreement and in the Board Approval shall be performed and completed to the satisfaction of the Township Engineer and Construction Code Official within a period of two (2) years from the date of the issuance of the first building permit or site disturbance, or such additional periods of time as may be granted by the Township in accordance with N.J.S.A. 40:55D-52, and prior to the issuance of a Certificate of Occupancy, pursuant to the terms and conditions of the Board Approval. In the event the aforesaid improvements are not completed within that period, or the time period as extended hereunder, the Township reserves the right to not issue any certificate(s) of occupancy or building permit(s) for the subject Property. The issuance of a certificate of occupancy by the Township within the two (2) year period shall not be deemed a waiver for defects ascertained during said period or subsequent thereto.
14. **Maintenance Guarantee.** (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the Developer's General

Contractor). Upon completion of the construction of the improvements for which performance guarantees have been posted, including any required landscaping, and prior to the release of the Performance Guarantee, the Developer shall post a maintenance guarantee in the amount of \$10,408.50 with the Township, in accordance with N.J.S.A. 40:55D-53, appropriately secured in form satisfactory to the Township Attorney, conditioned on the Developer maintaining all of such improvements for a period of two (2) years therefrom. Upon posting and acceptance of said maintenance guarantee, the Performance Guarantee shall be released by the Township.

15. **Release of Plans.** Any payments of fees and posting of bonds or other Performance Guarantee required to be performed by the Developer in this Developer's Agreement, unless specifically set forth herein otherwise, shall be done and/or performed prior to the signing of the Approved Plans for release to the Developer for issuance of Building Permits.
16. **Assignment/Sale of Property.** In the event the Property and Approved Plans are sold or otherwise conveyed by this Developer prior to the installation of all improvements, the Developer and the subsequent qualified developer must execute an Assignment and Assumption Agreement, in writing, and in a form which is acceptable to the Township Attorney, with regard to the conditions, covenants and agreements contained in this Developer's Agreement, providing that this Developer shall remain primarily liable for all the obligations created in this Developer's Agreement, until the subsequent developer assumes same and this Developer is released. At such time the term Developer shall be deemed to refer to the subsequent developer.

17. **Records.** The Township Engineer shall keep records of inspections and related reviews and the costs thereof, and, upon the Developer's written request, said records shall be made available for inspection by the Developer or its representatives, not more than quarterly, and upon reasonable notice, during the regular business hours of the Township Engineer.
18. **Record Drawings.** The Developer shall provide record drawings of all improvements and utilities, including, but not limited to, water, sanitary sewer, storm drainage, street lighting and woodland management as implemented and constructed by the Developer both within the Property and off-tract, if required. Said record drawings shall be in conformance with applicable Township standards and shall be both in hard copy and in pdf format. A final survey of the Property must be submitted at the time of request for a Certificate of Occupancy.
19. **Developer's Conveyances.** If the Developer is required by indication on the Approved Plans, Board approval, or as agreed to by both parties hereto to convey to the Township any rights-of-way, drainage, storm sewers, sanitary sewers, sidewalks easements, conservation or trail easements, sight triangle easements and other similar public rights and/or areas, the same shall be accomplished by a written deed or easement. All such deeds or easements, if any, shall be reviewed and approved by the Township Attorney and Township Engineer as to form and content, which approval shall not be unreasonably withheld, and the same shall be recorded in the Clerk's Office of Union County. All recording costs shall be the responsibility of the Developer.
20. **Compliance with Applicable Laws.** The Developer shall comply with all laws and regulations of the State of New Jersey, County of Union and Township of Berkeley Heights. In addition, Developer shall comply with all environmental laws and regulations

of the Federal and State Governments, including, but not limited to, the State Flood Control Facility Act (N.J.S.A. 58:16A-1 et seq.), Flood Hazard Area Control Act (N.J.S.A. 58:16A-51 et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:1023.11 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Worker Community Right to Know Act (N.J.S.A. 34:5A-1 et seq.), the Noise Act of 1971, (N.J.S.A. 13:1G-1 et seq.), the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), the Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Realty Improvement and Sewerage Facilities Act (N.J.S.A. 58:1123 et seq.), and any other environmental acts or regulations adopted by the Federal, State, County or local government. Failure to comply with these laws and any violations thereof shall be deemed to be a breach of this Developer's Agreement. To the extent the Township must bring an action for compliance with this Developer's Agreement, defend or participate in any litigation with regard to said laws or regulations related to the Developer's Property and/or actions, whether purposeful or negligent, any such action shall be subject to the provisions set forth in Paragraph 21 below. In addition and as stated in Paragraph 21 below, the Developer shall indemnify and hold harmless the Township, its officials, officers, agents, servants, representatives, employees harmless for any and all such violations and shall reimburse the Township for any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses of any kind and nature, including, but not limited to court costs and attorneys' fees, entered against the Township as a result of the purposeful or negligent acts of the Developer.

21. **Indemnification and Attorneys' Fees.** Developer agrees to indemnify, defend, and hold harmless the Township, its officials, officers, agents, servants, representatives, and employees from and against any and all claims, liabilities, fees, damages, judgments, penalties, costs or expenses arising from the purposeful or negligent acts of Developer or arising out of Developer's failure to perform its obligations pursuant to this Developer's Agreement, including any action or failure to act by the Developer in violation of this Developer's Agreement. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to all costs and expenses of litigation. When requested by the Township, the Developer agrees to aid and/or defend the Township, its officials, officers, agents, servants, representatives and employees, in the event any or all of same are named as a defendant or defendants in any action concerning the performance of work at the development site pursuant to this Developer's Agreement. This paragraph shall not apply to any actions or litigation filed against the Township where the litigation is attributable to and/or alleges wrongful conduct on the part of the Township, its agents or employees.
22. **Reliance of Township.** The Developer further acknowledges and understands all of the conditions contained in this Developer's Agreement and the record of the proceedings in this matter, including any and all agreements made by the Developer with the Board and incorporated in the Board Approval, as well as the Approved Plans, are hereby deemed to be essential to the Township's decision to enter into this Developer's Agreement. In the event of a breach of any such conditions, the failure of the Developer to adhere to the terms of any agreement incorporated within the Approval or this Developer's Agreement or any deviation from the Approved Plans (except for minor or field changes approved by the Township Engineer) the Township through the Township Engineer may within the limits

of his authority under law, and upon written notice reasonable under the circumstances, and opportunity to cure, suspend the right of the Developer to obtain additional construction permits, certificates of occupancy or any and all other governmental authorizations in order to continue developing the Project until such time as the violation has been corrected. If during the course of construction and installation of the Project, it shall be reasonably determined by the Developer and the Township Engineer that minor revisions to the Developer's Approved Plans are necessary and/or appropriate; the Developer will undertake such reasonable design and construction changes as may be approved by the Township Engineer as field changes.

23. **Deeds and Affidavits of Title.** Developer shall provide to the Township such documents, including, but not limited to, Deeds, Certificates, Affidavits of Title and Corporate Resolutions to, as are necessary, convey valid and marketable easements of fee title, as the case may be, to such dedications of Property or easements, if any, as are revealed in the Approved Plans.
24. **Recording of this Agreement.** The Township Attorney may record this Developer's Agreement, without Exhibits, in the Union County Clerk's Office and submit a fully executed recorded copy to the Developer or to the Developer's attorney. All recording costs shall be borne by the Developer. Upon completion of all obligations hereunder as evidenced by expiration of the two (2) year maintenance bond, the Township agrees to provide Developer with a release of this Developer's Agreement in form suitable for recording with the Union County Clerk.
25. **Severability.** If any terms or conditions herein are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

26. **Governing Law, Forum Selection, and Waiver of Jury Trial.** The Parties agree that this Developer's Agreement shall be governed by and interpreted according to the laws of the State of New Jersey, without reference to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the jurisdiction of the Superior Court of New Jersey, Union County, for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Developer's Agreement and the transactions contemplated thereby. Each of the parties hereto irrevocably consents to the jurisdiction of the Superior Court of New Jersey, Union County, in any such suit, action or proceeding and to the laying of venue in such Court. Each party hereto irrevocably waives any objection to the laying of venue of any such action or proceeding brought in said Court and irrevocably waives any claim that any such suit, action or proceeding brought in said Court has been brought in any inconvenient forum. The parties further agree that any claims relating to or arising out of this Developer's Agreement and the transactions contemplated thereby shall be tried before a Judge and without a trial by jury.
27. **Notices.** All notices required or permitted under this Developer's Agreement shall be in writing by certified mail, return receipt requested, to the addresses set forth herein or as otherwise designated by the parties in writing.
28. **Successors.** This Developer's Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and/or assigns. If the Developer hereafter transfers title to the subject lands to the name of any individual or corporation, said new owner shall have the rights and obligations afforded by this Developer's Agreement.
29. **Insurance Coverage.** The Developer (In this paragraph only the term "Developer" shall mean the Developer and/or third parties on behalf of the Developer, such as the

Developer's General Contractor) shall purchase and maintain during the construction of the improvements a Comprehensive General Liability Insurance Policy, or be self-insured, with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and One Million (\$1,000,000.00) Dollars in the aggregate. Said insurance coverage shall be in accordance with the requirements of the Township Attorney. The policy shall indicate the Township as an additional insured with respect to its interest in work performed by the above-named insured at the above-named Project. The coverage shall include endorsements for Broad Form Property Damage; explosion, collapse and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. It shall indemnify the Township, its officials, officers, agents, servants, representatives and employees. All liability coverage shall be on an occurrence basis. Certificates of Insurance evidencing the foregoing coverage shall be provided to the Township before work on the improvements begins and on an on-going basis, as the insurance is reviewed from time to time.

30. **Voluntary Agreement.** Developer herein represents that it has voluntarily entered this Developer's Agreement, and it has not been executed under duress or coercion imposed by the Township or its representatives, and unequivocally states that the agreements, conditions and amounts to be paid as agreed upon in this Developer's Agreement have not been forced upon it by undue influence, coercion and are not being undertaken or paid under protest. Developer has reviewed all calculations and rationale for the agreements and payments set forth herein and is undertaking them voluntarily. Accordingly, Developer herein covenants and agrees that it will not bring any action against the Township with respect to the obligations assumed by Developer under this Developer's Agreement, which

has been mutually negotiated between the parties, unless the Approval giving rise to this Developer's Agreement is hereinafter amended or modified by proper resolution or action of the Board.

31. **Non-Reliance.** Developer acknowledges that it has not relied upon any cost estimates or opinions furnished by the Township, including the Township Engineer or Consulting Engineer(s), if applicable, and the Developer has satisfied itself as to the anticipated construction costs of the improvements set forth herein prior to the execution of this Developer's Agreement.
32. **Entire Agreement.** This instrument contains the entire agreement between the parties hereto and no statement, promise or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference, shall be valid or binding; and this Developer's Agreement may not be enlarged, modified or altered except in writing, signed by the parties and endorsed thereon. Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Approval.
33. **Waiver, Modification, Cancellation.** Any waiver, alteration, or modification of any of the provisions of this Developer's Agreement or cancellation or replacement of this Developer's Agreement shall not be valid unless in writing and signed by the parties.
34. **Execution of Additional Documents and Binding Effect.** This agreement shall be binding not only upon the parties hereto, but also their heirs, executors, administrators, representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, executors, administrators, representatives, successors and assigns to execute

any instruments in writing which may be necessary or proper for the carrying out of the intent and purposes of this agreement.

35. **Gender**. In all references made herein to any parties, person, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the usage may require.
36. **Exhibits**. The following “Exhibits” are attached hereto and made a part of this Developer’s Agreement and the Developer shall comply with all terms and conditions stated therein:

EXHIBIT A: Description of Property

EXHIBIT B: Resolution of the Zoning Board Dated October 24, 2024

EXHIBIT C: Settlement Agreement

EXHIBIT D: Approved Plans

EXHIBIT E: Resolution Approving Developer’s Agreement

EXHIBIT F: Township Construction and Insurance Fee Cost Estimate

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly executed this Developer's Agreement as of the date first above written.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS

Angela Lazzari, Township Clerk

By: _____
Angie D. Devanney, Mayor

WITNESS:

OZ CUSTOM BUILDERS, LLC

Name:
Title:

By: _____
Name:
Title:

[illegible]

I CERTIFY THAT ON , _____, 2026, Angela Lazzari, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (A) this person is the Municipal Clerk of The Township of Berkeley Heights, the municipal corporation named in this Developer's Agreement;
- (B) this person is the attesting witness to the signing of this Developers Agreement by the proper corporate officer who is Angie D. Devanney, the Mayor of the municipal corporation of Berkeley Heights Township;
- (C) this Developer's Agreement was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Township Council;
- (D) this person knows the proper seal of the corporation which was affixed to this Developer's Agreement;
- (E) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

_____, 2026

Notary Public of the State of New Jersey

[illegible]

I CERTIFY THAT ON, _____, 2026, _____

personally came before me and acknowledged under oath, to my satisfaction, that:

- (A) this person is _____ of Oz Custom Builders, LLC, named in this document;
- (B) this document was signed and delivered by an authorized representative of Oz Custom Builders, LLC, as its voluntary act and was duly authorized;
- (C) this person signed this proof to attest to the truth of these facts;
- (D) this person knows the proper seal of the limited liability company which was affixed to this Developer's Agreement;
- (E) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

_____, 2026

Notary Public of the State of New Jersey

EXHIBIT A

Description of Property

**EXHIBIT A
LEGAL DESCRIPTION**

Issuing Office File No. 24PPTA-1636-L-AS-WC

ALL THAT CERTAIN LOT, PARCEL OR TRACT OF LAND, SITUATE, LYING AND BEING IN THE Township of Berkeley Heights, IN THE COUNTY OF Union, STATE OF NEW JERSEY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOTS 32.02, 32.03, 32.04 AND 32.05 IN BLOCK 2006, AND INCLUDING WESTMINSTER COURT, AS SET FORTH ON A CERTAIN MAP ENTITLED, "FINAL MAP FOR WESTMINSTER PRESBYTERIAN CHURCH, LOT 32 BLOCK 2006, MOUNTAIN AVENUE & PLAINFIELD AVENUE" SITUATED IN THE Township of Berkeley Heights, COUNTY OF Union, STATE OF NJ BEING MAP NO. 872 FILED IN THE Union COUNTY CLERK'S OFFICE.

THE ABOVE PREMISES BEING FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY MURPHY & HOLLOWES ASSOCIATES, LLC, DATED MAY 28, 2025, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF PLAINFIELD AVENUE WHICH POINT IS DISTANT 116.15 FEET NORTHERLY ALONG SAME FROM THE INTERSECTION OF SAID EASTERLY SIDELINE OF PLAINFIELD AVENUE WITH THE NORTHERLY SIDELINE OF MOUNTAIN AVENUE IF SAID SIDELINES WERE EXTENDED AND FROM THENCE RUNS,

- 1) NORTHERLY ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 415.93 FEET, AN ARC LENGTH OF 200.78 FEET TO A POINT; THENCE
- 2) STILL ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 03 DEGREES 03 MINUTES 40 SECONDS EAST 76.68 FEET TO A POINT; THENCE
- 3) ALONG THE SOUTHERLY LINE OF LOT 33 BLOCK 2006 SOUTH 88 DEGREES 47 MINUTES 30 SECONDS EAST 232.95 FEET TO A POINT; THENCE
- 4) ALONG AN EASTERLY LINE OF LOT 33 IN BLOCK 2006 NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 31.36 FEET TO A POINT; THENCE
- 5) ALONG A NORTHERLY LINE OF LOT 33 BLOCK 2006 NORTH 80 DEGREES 23 MINUTES 40 SECONDS WEST 113.30 FEET TO A POINT; THENCE
- 6) ALONG AN EASTERLY LINE OF LOT 33 BLOCK 2006 NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 11.00 FEET TO A POINT; THENCE
- 7) ALONG THE SOUTHERLY LINE OF LOT 34 BLOCK 2006 SOUTH 80 DEGREES 23 MINUTES 40 SECONDS EAST 29.73 FEET TO A POINT; THENCE
- 8) ALONG THE EASTERLY LINE OF LOT 34 BLOCK 2006 NORTH 09 DEGREES 36 MINUTES 20 SECONDS EAST 98.45 FEET TO A POINT; THENCE
- 9) ALONG THE NORTHERLY LINE OF LOT 34 BLOCK 2006 NORTH 78 DEGREES 59 MINUTES 10 SECONDS WEST 152.09 FEET TO A POINT IN THE EASTERLY SIDELINE OF PLAINFIELD AVENUE; THENCE
- 10) ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 6.00 FEET TO A POINT; THENCE
- 11) NORTH 78 DEGREES 59 MINUTES 10 SECONDS WEST 4.95 FEET TO A POINT; THENCE
- 12) ALONG THE EASTERLY SIDELINE OF PLAINFIELD AVENUE NORTH 07 DEGREES 22 MINUTES 20 SECONDS EAST 48.08 FEET TO A POINT; THENCE

Exhibit A – Continued
Issuing Office File No. 24PPTA-1636

13) ALONG THE SOUTHERLY LINE OF LOT 35 BLOCK 2006 SOUTH 78 DEGREES 59 MINUTES 10 SECONDS EAST 267.28 FEET TO A POINT; THENCE

14) ALONG THE EASTERLY LINE OF LOT 35 BLOCK 2006 NORTH 13 DEGREES 57 MINUTES 50 SECONDS EAST 60.16 FEET TO A POINT; THENCE

15) ALONG THE SOUTHERLY LINE OF LOT 36 BLOCK 2006 SOUTH 78 DEGREES 59 MINUTES 10 SECONDS EAST 214.22 FEET TO A POINT; THENCE

16) ALONG THE WESTERLY LINE OF LOT 26 BLOCK 2006 SOUTH 02 DEGREES 40 MINUTES 15 SECONDS WEST 268.00 FEET TO A POINT; THENCE

17) THE FOLLOWING SEVEN COURSES ALONG THE REMAINING LANDS OF WESTMINSTER PRESBYTERIAN CHURCH, PROPOSED LOT 32.01 BLOCK 2006 NORTH 87 DEGREES 19 MINUTES 45 SECONDS WEST 136.88 FEET TO A POINT; THENCE

18) NORTH 24 DEGREES 00 MINUTES 20 SECONDS WEST 39.28 FEET TO A POINT; THENCE

19) SOUTH 65 DEGREES 59 MINUTES 40 SECONDS WEST 100.14 FEET TO A POINT OF CURVE; THENCE

20) IN A WESTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 70.86 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 79 DEGREES 31 MINUTES 40 SECONDS WEST 70.20 FEET TO A POINT OF TANGENCY; THENCE

21) NORTH 86 DEGREES 56 MINUTES 20 SECONDS WEST 38.07 FEET TO A POINT; THENCE

22) SOUTH 03 DEGREES 03 MINUTES 40 SECONDS WEST 78.50 FEET TO A POINT; THENCE

23) SOUTH 45 DEGREES 24 MINUTES 13 SECONDS WEST 155.00 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY: ALSO BEING KNOWN AS PART OF TAX LOT 32 IN TAX BLOCK 2006 ON THE OFFICIAL TAX MAP OF THE Township of Berkeley Heights, Union COUNTY, STATE OF NEW JERSEY.

PRESTIGE TITLE AGENCY, NOS

Inst.#
48754

END OF DOCUMENT

DEED

Paid
Recording Fee \$95.00
RT Fee \$7,835.00

DB6592-2430

EXHIBIT B

Resolution adopted by the Zoning Board on October 24, 2024

**TOWNSHIP OF BERKELEY HEIGHTS
ZONING BOARD OF ADJUSTMENT**

**Oz Custom Builders, LLC
725 Mountain Avenue**

RESOLUTION

WHEREAS, Oz Custom Builders, LLC (the “Applicant”) previously applied to the Township of Berkeley Heights Zoning Board of Adjustment (the “Board”) for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto, on property designated as Block 2006, Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue, which is located in the R-15 Residential Zone (the “Property” or the “Site”); and

WHEREAS, public hearings on notice were held on such application on November 11, 2021; January 27 and April 13, 2022; June 22 and September 28, 2023, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the application. However, since the Applicant requested use variance relief pursuant to N.J.S.A. 40:55D-70(d)(2), five (5) affirmative votes were required, resulting in a statutory denial of the application; and

WHEREAS, on January 10, 2024, the Applicant filed a Complaint in Lieu of Prerogative Writ, which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable, and unlawful (the “Complaint”); and

WHEREAS, on February 26, 2024, the Board filed a contesting answer and vigorously defended its decision; and

WHEREAS, the Applicant and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed (by the Applicant) public hearing, consideration of evidence and comments submitted by the public, public vote and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987); Friends of Peapack-Gladstone v. Borough of Peapack-Gladstone Land Use Bd., 407 N.J. Super. 404 (App. Div. 2009); Gandolfi v. Town of Hammonton, 367 N.J. Super. 527, 548 (App. Div. 2004); Warner Co. v. Sutton, 247 N.J. Super. 464 (App. Div. 1994) and their progeny (a “Whispering Woods Hearing”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement (the “Settlement Agreement”), wherein the Applicant sought preliminary and final major subdivision approval and the following variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto:

1. A d(2) variance for the expansion of a pre-existing non-conforming use (church use), because the existing church use is being intensified given the reduction in the size of Lot 32, pursuant to Section 6.3.1 of the Land Use Procedures Ordinance of the Township of Berkeley Heights (the “Ordinance”);
2. Bulk variance relief for a proposed “other” coverage of 27.9% (Proposed Lot 32.01), whereas the existing “other” coverage is 15.5%, and the maximum permitted “other” coverage is 10%, pursuant to Section 6.1.1 of the Ordinance;
3. Bulk variance relief for a proposed impervious coverage of 33.9% (Proposed Lot 32.01), whereas the existing impervious coverage is 19.1%, and the maximum permitted impervious coverage is 25%, pursuant to Section 6.1.1 of the Ordinance;

4. Bulk variance relief for the disturbance of steep slopes of 25% or greater, whereas on slopes of 25% or greater, no development, regarding or stripping of vegetation shall be permitted unless the disturbance is for roadway crossings or utility construction, pursuant to Section 3.1.11.C.1 of the Ordinance; and
5. Design waiver relief for groundwater recharge due to impermeable soils, whereas groundwater recharge is required pursuant to Section 12.3.3. of the Ordinance; and

WHEREAS, as part of the Settlement Agreement, the Applicant proposed a list of terms upon which the application would be conditioned. While the majority of these conditions were previously stipulated to by the Applicant during the various public hearings should the Board act favorably on the Application, the Board did not act favorably on the Application at the conclusion of said hearings. However, the Applicant has agreed to nevertheless comply with said conditions at this time as a result of the Settlement, and the Applicant further stipulated to the following conditions:

1. The Applicant shall reorient the dwelling on Proposed Lot 32.02 to face Plainfield Avenue with a side loaded garage, also obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback of 15 feet; and
2. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant, any objectors and all members of the public, and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

3. The Property is located at 725 Mountain Avenue, Block 2006, Lot 32, in the R-15 Residential Zone. It is at the northeast corner of the Mountain Avenue and Plainfield Avenue intersection. The Site currently consists of the Westminster Presbyterian Church (the "Church"),

the associated parking lot, a 1.5 story residential dwelling, a memory garden, a playground area, and a garage. The Site also contains trees and shrubs and ingress and egress driveways onto Mountain Avenue.

4. The Applicant previously obtained preliminary major subdivision approval for the project in 2016 from the Planning Board. Subsequently, in 2019, the Applicant applied for, and received, an extension of the preliminary approval. This approval has since expired.

5. The Applicant is again seeking preliminary and final major subdivision approval to subdivide the existing property into five (5) lots. The existing Church and associated parking lot will remain on proposed Lot 32.01. While the other four lots (Proposed Lots 32.02, 32.03, 32.04, and 32.05) will be developed with four (4) new detached single-family dwellings, one on each lot. Other than the existing Church and associated parking lot, all other existing site improvements are proposed to be removed in order to facilitate the new construction. The Applicant also proposes to construct a new public right-of-way to provide access for the new dwellings off of Plainfield Avenue.

6. The Applicant's amended proposal still requires variance relief pursuant to N.J.S.A. 40:55D-70(d) and N.J.S.A. 40:55D-70(c).

7. At the Whispering Woods Hearing on September 26, 2024, the Board attorney confirmed that the notice was sufficient and provided an overview of the procedural history of the litigation, the allegations contained in the Complaint, the Board's reasoning for pursuing a settlement, and an overview of the nature of the Whispering Woods Hearing.

8. The Board Planner, Elizabeth Leheny, A.I.C.P, P.P., was duly sworn according to law.

9. August Santore, Esq., entered his appearance on behalf of the Applicant, and provided an overview of the proposed Settlement Agreement. Mr. Santore advised that he would have two witnesses, William Hollows, P.E., and Michael Pessolano, P.P.

10. William Hollows, P.E., having an address of 192 Central Avenue, Stirling, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering.

11. Mr. Hollows testified that he reviewed the Settlement Agreement and advised that it primarily consists of the various agreements reached by the Board and the Applicant during the multiple public hearings on the underlying application.

12. On discussion of the September 25, 2024 Review Memorandum prepared by Elizabeth Leheny, A.I.C.P., P.P., Mr. Hollows confirmed that the Applicant could and would comply with all conditions of approval (originally proposed at the prior hearings if approval was granted) offered at the prior hearings, as well as two additional conditions: 1) the dwelling on Proposed Lot 32.02 would be re-oriented to face Plainfield Avenue. It will now have a side-loaded garage, thereby obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback of 15 feet and 2) left-hand turn movements onto Plainfield Avenue will be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction.

13. On questioning, the Applicant agreed that if the Berkeley Heights Police Department or the Engineering Department believe that a modification of the hours during which the turning restriction is in place is necessary, the Applicant will comply with any such reasonable recommendations. For example, if it is determined to be more appropriate to extend the evening hours to 5:00 pm, the Applicant does not object.

14. Mr. Santore noted that there was a typographical error on page 5, paragraph xi of the Settlement Agreement, in that it should say 'shall comply with the Union County 'sight easement' rather than 'sign easement.'

15. Mr. Hollows testified that the plans that were previously submitted with the prior application remain applicable but will be revised to reflect the terms of the Settlement Agreement as appropriate, and that the Applicant will continue to work with the Board Professionals to address any outstanding items. Mr. Hollows testified that the terms of the Settlement Agreement also address certain concerns raised by the public at the prior hearings. He noted that the application was subject to much more stringent environmental protection requirements than were in place when the Planning Board application was approved. Mr. Hollows contended that his testimony at the prior hearings remained accurate and applicable to the current proposal. He further contended that the proposed modifications to the application constitute a tremendous improvement over what was previously proposed.

16. Michael J. Pessolano, P.P., having an address of 140 Elmwood Avenue, Floor 2, Bogota, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of professional planning. Mr. Pessolano testified that he had reviewed the settlement agreement and the review letter submitted by Ms. Leheny. On questioning as to whether there were any changes to his prior planning testimony, he advised that he had testified previously that the application was worthy of approval and that his position is further supported by the proposed improvements to the plan. He testified that he stands by his prior planning testimony and believes that the application still warrants approval. Mr. Pessolano contended that the application, as amended, satisfies the positive and negative criteria for the requested variance relief for the reasons previously stated.

17. Ms. Leheny explained that her memorandum addressed all of the proposed conditions of approval and reminded the Applicant of its obligation to comply with same. She noted that, based on Mr. Hollows' testimony, it was clear that the plans would be revised as necessary.

18. The following members of the public asked the following questions and made the following comments:

- a. Jerry Barter, 550 Plainfield Avenue, was duly sworn according to law. Mr. Barter expressed disbelief that the Board's decision was being challenged and expressed continued concerns about the safety of the intersection and the proposed stormwater management. He suggested that the turning restriction should be imposed every day of the week, rather than just during the weekdays. Mr. Barter noted that the Police Department had installed a sign regarding merging, but that the sign had been removed. On discussion, Mr. Barter requested that the Applicant commit to installing sidewalks along Plainfield Avenue, rather than allowing the Applicant to make a contribution to the sidewalk fund. The Applicant stipulated to constructing the sidewalk unless there is a legitimate engineering issue that makes it impossible for the sidewalk to be constructed.
- b. York Cook, having an address of 538 Plainfield Avenue, was duly sworn according to law, and advised that this was his first meeting about the application and explained that he had concerns about the magnitude of the variance relief requested. He also expressed concern about the traffic safety because the traffic study had been done before people went back to work after the Covid-19 pandemic. Mr. Cook noted that he has almost had accidents coming out of his own driveway. He requested that the Applicant conduct another traffic study.
- c. Kristin Castillo, 560 Plainfield Avenue, was duly sworn according to law, and explained that she also had concerns about the traffic study because she believed the findings were not accurate given contradictory testimony that was provided. She testified that she had contacted the Police Department regarding the safety of the intersection and the Police Department installed a caution sign, but that the sign had to be removed. She urged the Board to consider the existing traffic safety concerns. As to the proposed turning restriction, she contended that it was insufficient and would force residents of the proposed cul-de-sac to make an inefficient 2.2 mile detour. Ms. Castillo questioned whether the tree removal of the trees within the line of sight was still required and noted that if it is, it will require the removal of significant trees and will diminish her privacy. She noted that there is a reason for the steep slope ordinance and contended that the disturbance of the steep slopes can destabilize the area and

put people and property at risk. She expressed frustration that the financial needs of one developer were outweighing the public safety.

- d. John Leo, 43 Forest Avenue, was duly sworn according to law and suggested that a footpath be added between Proposed Lots 32.04 and 32.05 so that people can access the adjacent school and the neighborhoods behind the Church. On discussion, Mr. Santore explained that a footpath is not possible given the potential liability, maintenance, and privacy issues. Mr. Santore further explained that the Board Professionals suggested the installation of the sidewalk and the Applicant stipulated to same as a condition of approval. He explained that the Applicant is working with the municipality to expand the existing sidewalks in the area. Mr. Leo suggested that the speed limit between the intersection and the proposed cul-de-sac be reduced. However, he was advised that Plainfield Avenue and Mountain Avenue are both County roads and, therefore, the municipality does not have jurisdiction over the speed limit.
- e. Allesandro Maniscalco, 630 Plainfield Avenue, was duly sworn according to law and testified that he just moved to the Township and agreed with all of the comments that had been made. He contended that the sidewalk is absolutely necessary and noted that he has a six (6) year old that walks to school so he is absolutely concerned about the traffic. He expressed concern that the proposed turning restriction may not be enforced. He also expressed disappointment about the proposed tree removal, particularly since he was denied a tree removal permit for his own property. Mr. Maniscalco questioned the hours during which construction could take place and was advised that there is an ordinance that regulates hours of construction. He further questioned whether the construction would require road closures and was advised that road closures were unlikely. He expressed concern about the traffic safety.
- f. Lisa Poris, 546 Plainfield Avenue, was duly sworn according to law and reminded the Board that she had previously spoken about the environmental concerns and the proposed tree removal. Mr. Santore noted that the Applicant is complying with the tree removal and replacement requirements. She questioned why the settlement agreement only provides for landscaping of the rear yard of Proposed Lot 31 and was advised that same was a typographical error and that landscaping would be provided along the rear yards of Proposed Lots 34 and 36. Ms. Poris explained that she is concerned about the traffic and does not trust cars to stop. She requested that the Board impose the most conservative turning restrictions possible to promote safety. She expressed frustration that the Board is settling to avoid costly litigation, which allows the developers to win while the public suffers.
- g. James Coler, 7 Deep Dale Drive, was duly sworn according to law, and testified that he has concerns about the safety of pedestrians crossing Plainfield Avenue and about the removal of mature trees. He concurred with the idea of creating a walking path. Mr. Coler questioned how accepting the proposed settlement would benefit the Township. He suggested that the existing dwelling should

just be renovated and sold. Mr. Coler expressed concern about the proposed stormwater management measures and the tree removal. Mr. Santore explained that there are ordinances regarding tree removal and replacement and the Applicant is complying with same. As to the stormwater management, Mr. Hollows explained that there are five (5) infiltration basins: four for the individual lots and one for the proposed cul-de-sac. Mr. Hollows explained that the proposed stormwater management measures have been reviewed and approved by the Engineering Department. He further explained that the construction of the basins will be in accordance with the plans and the recommendations from the Engineering Department. Mr. Hollows advised that the stormwater basins are maintained by the Homeowners' Association.

- h. Jennifer Hoeffler, 573 Plainfield Avenue, was duly sworn and testified that her driveway is across from the proposed driveway. She noted that there had been 12 traffic incidents involving the police. Ms. Hoeffler explained that she has two small children and the proposal is scary because of the impacts on pedestrian safety. She further explained that she loves all of the existing vegetation and will likely move if the project goes forward. Ms. Hoeffler contended that the project is not appropriate for the size of the parcel and will change the neighborhood in a way that does not feel safe.
- i. Sai Bhargavi Akiri, having an address of 146 Robbins Avenue, was duly sworn according to law and expressed concern about the proposed tree removal and the traffic that would be created. She contended that the traffic study should have considered the impact on the neighboring areas, not just the immediate vicinity of the Property. Ms. Akiri expressed concern that emergency responders would not be able to get through the traffic that would result.
- j. Robert Forst, 447 Long Avenue, Manasquan, was duly sworn according to law and explained that he is a builder in the area. He contended that property owners have certain property rights and these rights should not be unreasonably restricted. He testified that he believes Berkeley Heights has done a nice job creating parks and other open space, but that this parcel should be able to be developed.

19. Mr. Santore provided a summation. He explained that the lawsuit against the Board had nothing to do with greed, but everything to do with the law. He explained that the application was supposed to be an affirmation of the prior plan that was approved by the Planning Board. Mr. Santore reminded the Board that since the time of the Planning Board application, the environmental protection regulations became significantly more stringent, and that the proposal complies with all of the new requirements. He further reminded the Board that the Applicant

presented numerous witnesses, and that no member of the public presented any experts to contradict the Applicant's witnesses. Mr. Santore contended that four additional dwellings will not significantly alter the traffic patterns. As to the comment that the project is too intense for the size of the Property, he reminded the Board that all the proposed lots are significantly oversized. Mr. Santore noted that the Applicant cannot modify or redesign the existing intersection because it consists of two County roads.

20. Mr. Santore reminded the Board that the application was not permitted to proceed until the Applicant received County approval and contended that same would typically be a condition of approval. He further reminded the Board that the Applicant spent approximately 2.5 years presenting the case and at no time were there any experts or Board Professionals that disagreed with the Applicant's expert testimony. Mr. Santore explained that the expansion of the pre-existing non-conforming use requiring the subsection d(2) variance relief was a function of the reduction in the size of the lot on which the existing Church is located. He further explained that the Applicant is not being greedy and is simply seeking approval of a project that should have been approved as required under the Municipal Land Use Law and the current case law. He reminded the Board that the Applicant has always been willing to work with the Board and its professionals to achieve the best possible outcome and design.

DECISION

21. After reviewing the evidence submitted, the Board, by a vote of five (5) in favor of approval, one (1) against, and one (1) abstention, finds that the Applicant has met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief and design exception. Moreover, in accordance with Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987) and its progeny, the

Board approves the Settlement Agreement, which was subject to public notice, a public hearing thereon, a public vote, and the within publicly adopted resolution.

22. In reaching its decision, the Board relied on the prior testimony provided by Mr. Hollow and Mr. Pessolano as supplemented during the Whispering Woods Hearing.

The d(2) Variance Relief – Positive Criteria:

23. As to the positive criteria for the requested subsection d(2) use variance relief for expansion of the pre-existing non-conforming Church use, the Board finds that the Applicant has satisfied its burden of demonstrating “special reasons” sufficient to grant the requested use variance. Here, a d(2) use variance is required because the proposed subdivision results in the reduction in the size of a lot which is occupied by a non-conforming use (here, the Church), and same results in an expansion of the pre-existing non-conforming use pursuant to Razberry’s, Inc. v. Kingwood Tp., 250 N.J. Super. 324 (App. Div. 1991). In Razberry’s the Court explained why a subdivision results in an expansion of a nonconformity:

a reduction in the size of the property occupied by a non-conforming use, with a resulting decrease in the buffers between conforming and non-conforming uses, is just as likely to increase the conflict between a non-conforming use and surrounding conforming uses as an expansion of the facility containing the non-conforming use or an intensification of that use. Therefore, a reduction in the size of the property occupied by a non-conforming use may result in a substantial increase in the nonconformity.

Here, it is solely the reduction in the size of the lot on which the Church is located that creates the need for variance relief associated with the Church. The Church is not expanding its membership or building. Notwithstanding, the Applicant must still demonstrate “special reasons” exist to support the grant of the requested subsection d(2) variance relief.

24. The Board notes that New Jersey courts recognize three circumstances in which the “special reasons” required for such a variance may be found: (1) where the proposed use inherently

serves the public good, such as a school, hospital or public housing facility; (2) where the property owner would suffer “undue hardship” if compelled to use the property in conformity with the permitted uses in the zone; and (3) where the use would serve the general welfare because “the proposed site is particularly suitable for the proposed use.” See, Saddle Brook Realty, LLC v. Twp. of Saddle Brook Zoning Bd. of Adj., 388 N.J. Super. 67, 76 (App. Div. 2006). Here, the Board concurs with the Applicant’s expert testimony that the proposed Church use, along with the daycare services it provides, are considered inherently beneficial uses that would presumptively satisfy the positive criteria. As such, the Board finds that the Applicant has satisfied the positive criteria for the requested subsection d(2) variance relief.

The d(2) Variance Relief – Negative Criteria:

25. As to the negative criteria for the requested subsection d(2) variance relief, the Court in Sica v. Bd. of Adjustment, 127 N.J. 152, set forth the standard the Board must utilize when considering the negative criteria for an inherently beneficial use. First, the Board must identify the public interests served. Second, the Board must identify the detrimental effect that will ensue from the grant of the variance. Third, the Board must consider whether reasonable conditions can be imposed which would reduce the detrimental effect associated with the grant of the variance. Finally, the Board must weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good. Here, the Board finds, that, on balance, the grant of the variance would not cause a substantial detriment to the public good.

26. As to the public interests served, the Board identifies, based on the expert professional planning testimony of Mr. Pessolano, the public good as including the right to practice religion and the provision of childcare facilities. As to the negative consequences of granting the variance, the Board accepts Mr. Pessolano’s professional planning testimony that potential

detriments of the proposal include stormwater management and traffic concerns. As to the conditions that could be imposed to mitigate detriment, Board finds, based on Mr. Pessolano's unrefuted expert testimony, that the Applicant stipulated to numerous conditions regarding stormwater management, tree removal and replacement, soil erosion and sediment control, and turn restrictions and sight distances; all of which will improve the development. The Board accepts the Applicant's testimony that the stormwater management measures had been designed to comply with the updated New Jersey Department of Environmental Protection requirements and that the currently proposed measures are a significant improvement over what was previously proposed as part of the Planning Board application. The Board also accepts Mr. Pessolano's testimony confirming that the Applicant will comply with the tree removal and replacement requirements by submitting lot grading plans and landscaping plans for each individual lot, all of which is subject to the review and approval of the Board professionals. Lastly, as to the balance of the public interest and granting the variance versus the detriment as lessened by any stipulated to conditions, Mr. Pessolano concluded, and the Board concurs, that there would not be a substantial detriment to the public good if the variance relief was granted. In this regard, the Board finds that the proposal includes only three additional dwellings, resulting in a total of four dwellings and that same would not impact the overall traffic patterns or the community in general. Additionally, the Board finds that the left-turn restriction will increase public safety by restricting vehicular activities during peak hours. The Board accepts the unrefuted planning testimony provided by Mr. Pessalano in its entirety and finds same to be credible. The Board concurs that the benefits of the proposal, which include the more efficient use of land, the construction of modern housing that will improve the housing stock, and the significant stormwater management measures and tree replacement, significantly outweigh the modest detriment associated with the proposal. Given the results of the

Sica balancing test, the Board finds that the Applicant has met its burden of satisfying the negative criteria for the requested variance relief pursuant to N.J.S.A. 40:55D-70(d)(2).

27. As such, the Board finds that the Applicant has satisfied both the positive and negative criteria for the requested subsection d(2) variance relief.

The c(2) Variance Relief – Positive Criteria:

28. As to the positive criteria for subsection “c(2)” or “flexible c” variance relief for the proposed excessive coverage and disturbance of steep slopes, the Board finds that the Applicant has met its burden of proving that the purposes of the Municipal Land Use Law (“MUL”) will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh the detriments associated therewith.

29. Here, the Board finds that granting the requested relief will advance the purposes of the MLUL, specifically in that it will promote the general welfare; provide adequate light, air and open space; promote the establishment of appropriate population densities that will contribute to the well-being of persons and the preservation of the environment, provide sufficient space in appropriate locations for a variety of residential uses; promotes a desirable visual environment; and improves the housing stock. The Board also notes that it was the unrefuted expert testimony of Mr. Hollows that the steep slopes were not naturally occurring and were likely created during the construction of the existing Church parking lot and are not an environmentally sensitive feature of the Property that should be protected.

30. The Board further finds that the benefits of granting the requested relief substantially outweigh the detriment associated therewith. Here, the Applicant is providing modern housing designed in accordance with modern standards that are located on conforming lots, allowing the inherently beneficial use to remain on the Property, introducing buffers between residential uses and the non-permitted Church, providing a complex stormwater management

system that will capture the anticipated stormwater runoff associated with the excess coverage, and providing additional landscape buffering to help mitigate the anticipated impacts of the tree removal. The proposal will also eliminate an existing dwelling that is in poor condition, thereby providing an additional benefit to the community. Given the anticipated benefits of the Applicant's proposal, the Board finds that the benefits of granting the requested relief substantially outweigh any modest detriment associated therewith.

31. As such the Board finds that the Applicant has satisfied the positive criteria for the requested bulk variance relief.

The Negative Criteria for "c(2)" Variance Relief:

32. The Board recognizes that the "negative criteria" consist of two elements, both of which a variance applicant must prove; that is, that the proposed development can be accomplished (1) without substantial detriment to the public good and (2) without substantially impairing the intent and purpose of the zone plan and zoning ordinance. See, Medici v. BPR Co., 107 N.J. 1, 4 (1987). The former focuses on balancing the positive and negative aspects of a variance request against the purposes of zoning set forth in N.J.S.A. 40:55D-2, whereas the latter is more concerned with establishing the bounds of zoning board action.

The First Prong (Substantial Detriment) of the Negative Criteria:

33. The Board recognizes that the focus of the "substantial detriment" prong of the negative criteria is on the impact of the variance on nearby properties. In Medici v. BPR Co., 107 N.J. at 22-23 n.12 (emphasis added), the Supreme Court explained the substantial detriment phrase as follows:

The first prong of the negative criteria [requires] that the variance can be granted “without substantial detriment to the public good.” In this respect the statutory focus is on the variance’s effect on the surrounding properties. The board of adjustment must evaluate the impact of the proposed use variance upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good.”

34. Here, the Board finds that granting the requested relief will have a minimal impact on the existing neighborhood. As demonstrated by the unrefuted expert traffic testimony, the proposed increase in the number of trips per day generated by the new residents is minimal and the increase in traffic will be imperceptible. The Board also finds that the proposed stormwater management measures are sufficiently designed so as to accommodate the proposed stormwater runoff, as well as additional runoff that may be created if the future purchasers of the dwellings wish to install a patio as the basins are oversized. The Board accepts the unrefuted expert planning testimony that the introduction of three additional dwellings will not be out of character with the existing neighborhood, which largely consists of other single-family dwellings. The Board notes that all of the proposed residential lots are oversized and will sufficiently accommodate the proposed residential dwellings. The Board further accepts the unrefuted expert testimony of the environmental specialist, David Kruger, that the Property is not part of a wildlife corridor and therefore, wildlife will also not be detrimentally impacted by the proposed development. For these reasons, the Board finds that the Applicant has satisfied the substantial detriment prong of the negative criteria.

The Second (Substantial Impairment) Prong of the Negative Criteria:

35. The Board recognizes that the focus of the “substantial impairment” prong of the negative criteria is the extent to which a grant of the variance would constitute an arrogation of the governing body and planning board authority. The Supreme Court in Medici v. BPR Co., 107 at

5, has made it clear that municipalities should make zoning decisions by ordinance rather than by variance. The Court stated that “[t]he added requirement that boards of adjustment must reconcile a proposed use variance with the provisions of the master plan and zoning ordinance will reinforce the conviction expressed in [*Ward v. Scott*, 11 N.J. 117 (1952)], that the negative criteria constitute an essential ‘safeguard’ to prevent the improper exercise of the variance power.” *Id.* at 22.

36. As to the second prong of the negative criteria, the Board finds that the Applicant has demonstrated that the relief can be granted without substantial impairment of the Master Plan and the Zoning Ordinance. Here, the Board concurs with the expert testimony of the Applicant’s professional planner and finds that the proposal is not substantially inconsistent with the intent of the Master Plan. In this regard, the Board accepts the Applicant’s professional planner’s testimony that the proposal is consistent with the goals set forth in the 2007 Master Plan, all of which were reaffirmed in 2017, 2020 and subsequent Master Plan Re-Examination Reports. The goals of the Master Plan include the maintaining the suburban character of the Township; ensuring development is compatible with single-family residential uses and discouraging flat lots. The Board concurs with the Applicant’s professional planner that these goals are promoted by the grant of the requested relief. The Board further recognizes that the proposed residential uses are permitted in the Zone and, therefore, the Applicant’s proposal does not rise to the level of constituting a rezoning of the Property. As such, the Board finds that the Applicant has satisfied the second prong of the negative criteria and demonstrated that the development proposal would not substantially impair the intent and purpose of the Master Plan or the Zoning Ordinance.

37. Based on the foregoing, the Board finds that the Applicant has satisfied the positive and negative criteria required for the subsection d(2) use and bulk variance relief.

The Design Waiver Relief:

38. The Board also finds that the Applicant has demonstrated an entitlement to the requested design waiver exception. Pursuant to Section 9.4.1.C, the Board, when acting upon an application for subdivision approval or preliminary subdivision approval, shall have the power to grant such exceptions from the requirements for approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this Ordinance, if the literal enforcement of one (1) or more provisions of this Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. Here, the Board finds that the nature of the soil is not subject to change and that the Applicant has little control over same. As such, the Board finds that it is appropriate to grant the requested design waiver relief for limited groundwater recharge due to the impermeable soils as requiring the Applicant to comply with the literal provisions of the Ordinance would exact undue hardship upon the Applicant.

The Preliminary and Final Subdivision and Site Plan Approval:

39. Subdivision approval is governed by Part 9 of the Ordinance. Site Plan approval is governed by Part 10 of the Ordinance. The Board finds that the Applicant has complied with Parts 9 and 10 of the Ordinance and is, therefore, entitled to the requested subdivision and site plan approval.

WHEREAS, the Board took action on this application on September 26, 2024, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g); and

NOW, THEREFORE, be it resolved by the Township of Berkeley Heights Zoning Board of Adjustment, on this 24th day of October 2024, that the application of Oz Custom Builders,

LLC, for the requested relief, as aforesaid, be, and hereby is approved, subject to the following conditions of approval:

1. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);
2. Applicant shall pay the fees of the Board professionals, including, but not limited to, the Board Attorney, Board Engineer, and Board Planner;
3. Applicant shall reorient the dwelling on proposed Lot 32.02 to face Plainfield Avenue with a side loaded garage and shall revise the plans accordingly;
4. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 am and 9:00 am and 2:30 pm to 4:30 pm, Monday through Friday, with signage installed to indicate said restriction. If the Berkeley Heights Police Department or Engineering Department reasonably recommends that these hours be extended, the Applicant shall extend such hours and amend the signage as necessary to effectuate the restriction;
5. Applicant shall comply with the review memoranda prepared by the Board Planner, Board Engineer, Environmental Commission, Wastewater Treatment, Fire Department, Zoning Officer, Police Department
6. Applicant shall submit lot grading plans and tree replacement plan for each individual lot, same to be subject to the review and approval of the Township Engineer;
7. Applicant shall submit HOA documents including maintenance requirements for the proposed bioretention basins;
8. Applicant shall submit a Stormwater Management and Operations Manual and same shall be subject to the review and approval of the Township Engineer and, once approved, a copy of same shall be recorded with the County Clerk's Office;
9. Applicant shall comply with the requirements of any outside agency approval including but not limited to the Union County Soil Conservation District;
10. Applicant shall design the interior roadways to comply with the Residential Site Improvement Standards, including 40' wide cartway and 29' radius of cul-de-sac bulb;
11. Applicant shall construct a sidewalk along Plainfield Avenue frontage. If the sidewalk cannot be constructed due to engineering or structural issues as determined by a

licensed engineer, the Applicant shall advise the Engineering Department of same and shall make an appropriate contribution to the sidewalk fund in lieu thereof;

12. Applicant shall submit all Union County drainage reports and approval documents;
13. Applicant shall comply with Union County sight easement requirements at Plainfield Avenue intersection;
14. Applicant shall locate the fire hydrants in accordance with the direction from the Fire Official and same shall provide adequate water pressure for firefighting;
15. Applicant shall relocate/shift underground drainage pipe to the south side of Plainfield Avenue to minimize disturbance to trees;
16. Applicant shall landscape and fence the area around and along the retaining wall adjacent to Lot 33/566 Plainfield Avenue (Ms. Sonnenberg) to soften up its appearance and/or screen it completely;
17. Applicant shall landscape along the rear yards of Lots 34 and 36 with green giants for a length of 31 feet including at least 5-6 trees, 6' to 7' tall at planting, same to be subject to the review and approval of the Township Engineer and Zoning Officer;
18. Applicant shall comply with all Soil Erosion and Sediment Control requirements including, but not limited to, silt fencing during construction process and same shall be subject to the review and approval of the Township Engineer;
19. Applicant shall enter into a Developer's Agreement, same to be subject to the review and approval of the Township Engineer and Township Attorney;
20. Applicant shall comply with height requirements for all of the proposed dwellings and structures;
21. Applicant shall comply with combined side yard setback requirements for all lots;
22. Applicant shall submit tree removal and replacement plan same to be subject to the review and approval of the Township Planner and Environmental Commission;
23. Applicant shall comply with wastewater treatment requirements particularly as to anticipated flow calculations and available capacity for the receiving collection system;
24. Applicant shall ensure sufficient site clearing to provide appropriate sight distances required by Union County and ASHTO (400') for view to the south;
25. Applicant shall replace any trees damaged by construction related activities;
26. Applicant shall ensure that Ms. Sonnenberg is protected against liability resulting from any work on, or immediately adjacent to, her property, including naming her as an additional insured;

27. Applicant shall post all required performance guarantees, engineering, maintenance and inspection fees as may be applicable and required pursuant to the Municipal Land Use Law and the Zoning Ordinance of the Township of Berkeley Heights;
28. Applicant shall construct the proposed improvements in strict compliance with the documentary and testimonial evidence submitted to the Board, including, but not limited to, any plans submitted or presented as part of the application, any exhibits introduced into evidence, and any statement The Applicant shall comply with all Federal, State, County and municipal statutes, ordinances, rules, regulations and requirements affecting development in the Township, County and State; and
29. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.

Roll Call Vote

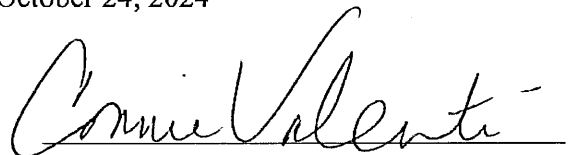
On 9-26-2024: 5 - 1 - 1

Ayes: Mr. Sullivan, Mr Coviello, Mr. Delia, Mr. Ringwood
 and Mr. Sylvester

Nayes: Mr. Pereda

Abstentions: Ms. West-Augustin

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Berkeley Heights at its meeting on October 24, 2024


Connie Valenti, Secretary
BOARD OF ADJUSTMENT
TOWNSHIP OF BERKELEY HEIGHTS,
STATE OF NEW JERSEY

Dated: October 24, 2024

EXHIBIT C

Settlement Agreement

**TOWNSHIP OF BERKELEY HEIGHTS
ZONING BOARD OF ADJUSTMENT**

**Oz Custom Builders, LLC
725 Mountain Avenue**

RESOLUTION AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT

WHEREAS, Oz Custom Builders, LLC (the “Applicant”) previously applied to the Township of Berkeley Heights Zoning Board of Adjustment (the “Board”) for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto, on property designated as Block 2006, Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue, which is located in the R-15 Residential Zone (the “Property” or the “Site”); and

WHEREAS, public hearings on notice were held on such application on November 11, 2021; January 27 and April 13, 2022; June 22 and September 28, 2023, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, on September 28, 2023, the Board voted 4 to 3 to approve the application. However, since the Applicant requested use variance relief pursuant to N.J.S.A. 40:55D-70(d)(2), five (5) affirmative votes were required, resulting in a statutory denial of the application; and

WHEREAS, on January 10, 2024, the Applicant filed a Complaint in Lieu of Prerogative Writ, which was docketed as UNN-L-131-24 in the Superior Court of New Jersey, Law Division, Union County, alleging that the denial of the application was arbitrary, capricious, unreasonable, and unlawful (the “Complaint”); and

WHEREAS, on February 26, 2024, the Board filed a contesting answer and vigorously defended its decision; and

WHEREAS, the Applicant and the Board reached an agreement as to the terms of a settlement contingent on a properly noticed (by the Applicant) public hearing, consideration of evidence and comments submitted by the public, public vote and written Resolution, compliant with the statutory safeguards in settling land use litigation set forth in Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987); Friends of Peapack-Gladstone v. Borough of Peapack-Gladstone Land Use Bd., 407 N.J. Super. 404 (App. Div. 2009); Gandolfi v. Town of Hammonton, 367 N.J. Super. 527, 548 (App. Div. 2004); Warner Co. v. Sutton, 247 N.J. Super. 464 (App. Div. 1994) and their progeny (a “Whispering Woods Hearing”); and

WHEREAS, on September 26, 2024, a duly noticed Whispering Woods Hearing took place during which the Board considered the proposed settlement agreement (the “Settlement Agreement”), wherein the Applicant sought preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access thereto; and;

WHEREAS, on September 26, 2024, after reviewing the evidence submitted, the Board, by a vote of five (5) in favor of approval, one (1) against, and one (1) abstention, found that the Applicant met its burden of proof for the requested preliminary and final subdivision and site plan approval, use and bulk variance relief and design exception. Moreover, in accordance with Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div.

1987) and its progeny, the Board approved the Settlement Agreement, which was subject to public notice, a public hearing thereon, a public vote, and the within publicly adopted resolution; and

WHEREAS, the Applicant, Ozzy Yaseen, Oz Custom Builders, LLC, has executed the Settlement Agreement; and

WHEREAS, the Board is now required to execute the Settlement Agreement to effectuate the settlement; and

IT IS THEREFORE RESOLVED THAT, the Board, by a vote of 5 to 0 hereby authorizes the Board Chairman, Raymond Sullivan, to execute the Settlement Agreement, as amended during the hearing on September 26, 2024, and attached hereto for refence.

Roll Call Vote
on 11/21/2024:

5 – 0

Those in Favor:

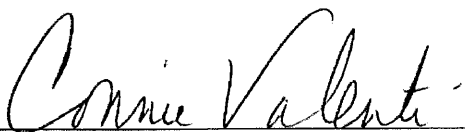
Mr. Sullivan, Mr. Coviello, Mr. Delia,

Mr. Ringwood, and Mr. Sylvester

Those Opposed:

None

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



Connie Valenti, Secretary
BOARD OF ADJUSTMENT
TOWNSHIP OF BERKELEY HEIGHTS,
STATE OF NEW JERSEY

Dated: November 21, 2024

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") dated this 11 day of ~~June~~^{Oct}, 2024 is made by and between Oz Custom Builders, LLC, 725 Mountain Avenue, Berkeley Heights, NJ, Block 2006, Lot 32 (R-15 Zone) (the "Plaintiff" or the "Applicant") and the Township of Berkeley Heights Zoning Board of Adjustment, 25 Park Avenue, Berkeley Heights, NJ (the "Defendant" or "Board"). Plaintiff and Defendant are individually a "Party" and collectively referred to herein as the "Parties".

RECITALS

WHEREAS, Plaintiff submitted an application for preliminary and final major subdivision approval and variance and design waiver relief relating to the proposed subdivision of the existing property into five (5) lots, with four (4) of the lots to be developed with four (4) new detached single-family dwellings and a new public right of way to provide access for the new dwellings off of Plainfield Avenue (the "Application"), on property designated as Block 2006 Lot 32 on the Township Tax Map and more commonly known as 725 Mountain Avenue which is located in the R-15 Residential Zone (the "Property" or the "Site"); and

WHEREAS, the Site currently consists of the Westminster Presbyterian Church (the "Church"); its associated parking lot; a 1.5 story residential dwelling; a memory garden; a playground area, and a garage; and

WHEREAS, The Plaintiff's proposal is to demolish the existing residential dwelling and garage and subdivide the Property into five lots with the existing church and parking lot to remain on proposed Lot 32.01 and single-family residential dwellings to be constructed on proposed lots 32.02, 32.03, 32.04 and 32.05; and

WHEREAS, preliminary major subdivision approval as contemplated by the Application was previously granted by the Berkeley Heights Planning Board, which has since expired; and

WHEREAS, on September 28, 2023, the Board denied the Application; and

WHEREAS, on November 16, 2023, the Board adopted a resolution memorializing its denial of the Application (the "Resolution");

WHEREAS, on or about January 10, 2024, Plaintiff filed a complaint (the "Complaint") against the Defendant seeking to invalidate the Board's Resolution in the Superior Court of New Jersey captioned Oz Custom Builders, LLC v. Township of Berkeley Heights Zoning Board of Adjustment, Docket No. UNN-L-000131-24 (the "Litigation"); and

WHEREAS, Defendant filed an Answer to the Complaint denying all liability for the claims asserted by the Plaintiff; and

WHEREAS, the Parties desire to resolve the Litigation without further litigation, controversy, and inconvenience related to the subject matter of the Litigation, and desire to settle, fully and finally, all claims among them.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein, and intending to be legally bound, it is hereby AGREED as follows:

1. RECITALS. The above recitals are hereby referred to and incorporated by reference.
2. SCOPE OF AGREEMENT. This Agreement sets forth the terms and conditions under which the Parties mutually agree to resolve and settle all claims as between them in the Litigation as set forth in the Complaint (the "Claims"). For the avoidance of doubt, this Agreement shall also resolve all Claims as between the Parties related to acts or omissions by the Parties (including through their officials, agents, representatives, and employees) with respect to the Application that occurred up until and through the date of the execution of this Agreement, including any and all Claims for reimbursement for costs for Litigation expenses, attorneys' fees and Litigation costs up to and through the date of this Agreement.

3. UNDERSTANDING OF THE PARTIES. In full and final satisfaction and accord of the Claims above, and in consideration for the Release as more fully set forth in Paragraph 4, below, the Parties agree as follows:

a. Plaintiff's Application is approved, including the following relief:

- i. A d(2) variance for the expansion of a pre-existing non-conforming use (church use) because the existing church use is technically being intensified given the reduction in the size of Lot 32, pursuant to Section 6.3.1 of the Land Use Procedures Ordinance of the Township of Berkeley Heights (the "Ordinance");
- ii. Bulk variance relief for a proposed "other" coverage of 27.9% (Proposed Lot 32.01), whereas the existing "other" coverage is 15.5%, and the maximum permitted "other" coverage is 10%, pursuant to Section 6.1.1 of the Ordinance;
- iii. Bulk variance relief for a proposed impervious coverage of 33.9% (Proposed Lot 32.01), whereas the existing impervious coverage is 19.1%, and the maximum permitted impervious coverage is 25%, pursuant to Section 6.1.1 of the Ordinance;
- iv. Bulk variance relief for the disturbance of steep slopes of 25% or greater, whereas on slopes of 25% or greater, no development, re-grading or stripping of vegetation shall be permitted unless the disturbance is for roadway crossings or utility construction, pursuant to Section 3.1.11.C.1 of the Ordinance; and

- v. Design waiver relief for groundwater recharge due to impermeable soils, whereas groundwater recharge is required pursuant to Section 12.3.3. of the Ordinance.

b. The approval of Plaintiff's Application shall be conditioned on the following:

- i. The Applicant shall reorient the home on proposed Lot 32.02 to face on Plainfield Avenue with a side loaded garage, also obviating the need for the previously requested bulk variance relief for a proposed rear-yard setback (proposed Lot 32.02) of 15 feet.
- ii. Left-hand turn movements onto Plainfield Avenue shall be restricted between 7:00 a.m. to 9:00 a.m. and 2:30 p.m. to 4:30 p.m. Monday – Friday, with signage installed to indicate said restriction. If the Berkeley Heights Police Department or Engineering Department reasonably recommends that these hours be extended, the Applicant shall extend such hours and amend the signage as necessary to effectuate the restriction.
- iii. Applicant shall comply with the review memoranda prepared by the Board Planner, Board Engineer, Environmental Commission, Wastewater Treatment, Fire Department, Zoning Officer, and Police Department.
- iv. Applicant shall submit lot grading plans and tree replacement plans for each individual lot, same to be subject to the review and approval of the Township Engineer;
- v. Applicant shall submit HOA documents including maintenance requirements for the proposed bioretention basins;
- vi. Applicant shall submit a Stormwater Management and Operations Manual and same shall be subject to the review and approval of the Township

Engineer and, once approved, a copy of same shall be recorded with the County Clerk's Office

- vii. Applicant shall comply with the requirements of any outside agency approval including but not limited to the Union County Soil Conservation District;
- viii. Applicant shall design the interior roadways to comply with the Residential Site Improvement Standards, including 40' wide cartway and 29' radius of cul-de-sac bulb;
- ix. Applicant shall construct a sidewalk along Plainfield Avenue frontage. If the sidewalk cannot be constructed due to engineering or structural issues, the Applicant shall advise the Engineering Department of same and shall make an appropriate contribution to the sidewalk fund in lieu thereof;
- x. Applicant shall submit all Union County drainage reports and approval documents;
- xi. Applicant shall comply with Union County sight easement requirements at the Plainfield Avenue intersection;
- xii. Applicant shall locate the fire hydrants in accordance with the direction from the Fire Official and same shall provide adequate water pressure for firefighting;
- xiii. Applicant shall relocate/shift the underground drainage pipe from the north to the south side to Plainfield Avenue to minimize disturbance to trees;
- xiv. Applicant shall landscape and fence the area around and along the retaining wall adjacent to Lot 33/566 Plainfield Avenue (Ms. Sonnenberg) to soften up its appearance and/or screen it completely;

- xv. Applicant shall landscape along the rear yards of Lots 34 and 36 with green giants for a length of 31 feet including at least 5-6 trees, 6' to 7' tall at planting, same to be subject to the review and approval of the Township Engineer and Zoning Officer;
- xvi. Applicant shall comply with all Soil Erosion and Sediment Control requirements including, but not limited to, silt fencing during the construction process and same shall be subject to the review and approval of the Township Engineer;
- xvii. Applicant shall enter into a Developer's Agreement, same to be subject to the review and approval of the Township Engineer and Township Attorney;
- xviii. Applicant shall comply with height requirements for all of the proposed dwellings and structures;
- xix. Applicant shall comply with combined side yard setback requirements for all lots;
- xx. Applicant shall submit tree removal and replacement plans, same to be subject to the review and approval of the Township Planner and Environmental Commission;
- xxi. Applicant shall comply with wastewater treatment requirements, particularly as to anticipated flow calculations and available capacity for the receiving collection system;
- xxii. Applicant shall ensure sufficient site clearing to provide appropriate sight distances required by Union County and ASHTO (400') for view to the south;
- xxiii. Applicant shall replace any trees damaged by construction related activities;

xxiv. Applicant shall ensure that Ms. Sonnenberg is protected against liability resulting from any work on, or immediately adjacent to, her property, including naming her as an additional insured.

c. No later than 30 days after the Applicant's submission to the Board of any revisions to the Applicant's latest subdivision plan (but only to the extent necessitated by the above-referenced settlement terms and conditions, the Board will convene a duly-noticed special meeting at which it will conduct a hearing regarding the Parties' agreement to settle this Litigation. This special meeting to be held to consider these matters shall be conducted in compliance with the requirements of Whispering Woods at Bamm Hollow v. Middletown Planning Bd., 220 N.J. Super. 161 (Law Div. 1987). No unrelated business will be included in the agenda for the Whispering Woods hearing, which will consist only of a Whispering Woods hearing for purposes of considering any revisions to the Applicant's latest subdivision plan and/or conditions of approval of the Application as may be contemplated by the above settlement terms and conditions. Should the Board vote in favor of the Application at the conclusion of the Whispering Woods hearing, the Board will adopt a resolution memorializing its decision within thirty (30) days of said hearing and publish notice of its decision no later than ten (10) days following the adoption of said memorializing resolution. In the event there is an appeal of the Board's approval of the Application as memorialized by resolution, the Plaintiff has the right to declare this Agreement as null and void, in which case the Litigation would continue.

d. In connection with the Whispering Woods hearing, the Board will waive any required application fees and request its professionals to review any subdivision

plan revisions necessitated by the above-referenced terms and conditions without the requirement of any escrow fees.

- e. The Court shall retain jurisdiction to enforce the terms of this Agreement. In the event that the Court finds that a Party has breached this Agreement, the Court will have the power to enforce this Agreement at equity, including through the issuance of injunctive relief. The Parties further agree that Plaintiff may seek an order of the Court acknowledging its retention of jurisdiction over this Agreement ("Retention Order"). The Parties preserve all remedies at law, equity or otherwise in connection with any proceeding to enforce the provisions herein. The parties agree that a violation of this Agreement and/or the covenants herein may cause substantial and irreparable harm to the injured Party. Therefore, if any of the Parties and/or their agents, officials, attorneys, successors, or assigns breaches this Agreement, the injured Party may seek with the Court immediate injunctive relief.
- f. Should the Board grant approval of the Application at the Whispering Woods hearing and thereafter adopt and publish a memorializing resolution of approval that is not appealed within 45 days of publication, the Plaintiff agrees to thereafter apply for dismissal of the Litigation with prejudice and with each Party to bear their or its own respective litigation costs and attorneys' fees. Dismissal with prejudice shall not impact the Court's retention of jurisdiction to hear any claim or proceeding brought to enforce this Agreement, including but not limited to the continuation of the Litigation in the event this agreement becomes null and void in accordance with its terms.

4. RELEASE AND EXTINCTION OF ALL CLAIMS.

- a. Plaintiff agrees to and hereby releases and gives up the Claims as against Defendant. This releases all claims or potential claims resulting from any conduct with respect to the Application that occurred up until and through the date of the execution of this Agreement.
- b. Defendant agrees to and hereby releases and gives up any claims as against Plaintiff. This releases all claims or potential claims resulting from any conduct with respect to the Application that occurred up until and through the date of the execution of this Agreement.

5. NO ADMISSION OF LIABILITY.

- a. It is expressly understood and agreed that nothing contained in this Agreement shall be construed as, nor shall be represented by any Party, their attorneys or their agents to be, an admission or determination of liability by such Party.
- b. Additionally, it is further agreed that this Agreement shall not be used by a Party as evidence in any proceeding against the other Party, except for any action arising from the breach of this Agreement.

6. NO RIGHTS CONFERRED UPON NON-PARTIES.

- a. The Parties further agree that they are bound by this Agreement to the end of time. Anyone who succeeds to Plaintiff's rights and responsibilities is also bound in the same manner. This Agreement shall also be binding upon each of Defendant's subsequently elected or appointed officials, agents, employees, representatives and all other successors and/or assigns who succeed to the Defendant's rights and responsibilities hereunder.
- b. Accordingly, this Agreement is intended to confer rights and benefits only upon the Parties (including their respective officials, agents, employees, representatives,

successors and assigns) and is not intended to confer any right or benefit upon any other person or entity. No person or entity other than the Parties shall have any legally enforceable rights under this Agreement. All rights of action to enforce this Agreement are hereby reserved to the Parties.

7. MATERIALITY. The Parties agree that each paragraph and subsection of this Agreement is material. In the event that any portion of this Agreement is determined to be illegal, the Parties agree, in advance, to reform this Agreement in good faith to provide each Party with the full benefit of the settlement memorialized by this Agreement to the extent permitted by law.

8. FULL UNDERSTANDING. This Agreement sets forth the complete understanding and entire Agreement between the Parties and supersedes any and all prior agreements or understandings between the Parties. This Agreement may not be modified, altered, changed, discharged, terminated or waived except upon express written consent of the Parties wherein specific reference is made to this Agreement. By executing this Agreement, the Parties represent and acknowledge that they have not relied upon any representation or statement not set forth in this Agreement with regard to the Claims.

9. SERVICES OF COUNSEL. The Parties certify that they have had the opportunity to discuss this Agreement with counsel. They are fully satisfied with the services of their counsel with respect to both this Agreement and all other aspects of the Litigation and they enter into this Agreement knowingly, willingly and without any coercion or improper inducements.

10. AUTHORITY OF SIGNATORIES. Each signatory represents that she, he or it is a Party or has been duly authorized by the applicable Party to sign on that Party's behalf and that, in the case of the Board, all procedural and/or legal formalities attendant or precedent to the execution of this Agreement have been satisfied. The signatory for the Board further covenants

that she/he is duly empowered by the Board to sign this Agreement and that nothing prevents the Board from completely performing its obligations under this Agreement.

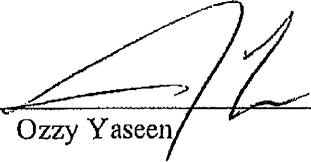
11. LAW GOVERNING. This Agreement shall be governed by the laws of the State of New Jersey without regard to the conflicts of laws principles thereof, and any dispute arising out of this Agreement or action to enforce this Agreement shall be subject to the exclusive jurisdiction of the Superior Court of New Jersey, Union County Vicinage.

12. SEVERABILITY. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Agreement.

13. EXECUTION IN COUNTERPARTS. The Parties agree that this Agreement may be signed in counterparts and that facsimiles or emailed copies of signatures will have the same force and effect as original signatures.

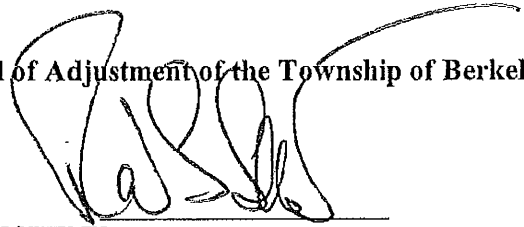
Signatures On Next Page

Oz Custom Builders, LLC


By: Ozzy Yaseen

Dated: ~~June~~ ^{OCT} 11, 2024
Oh

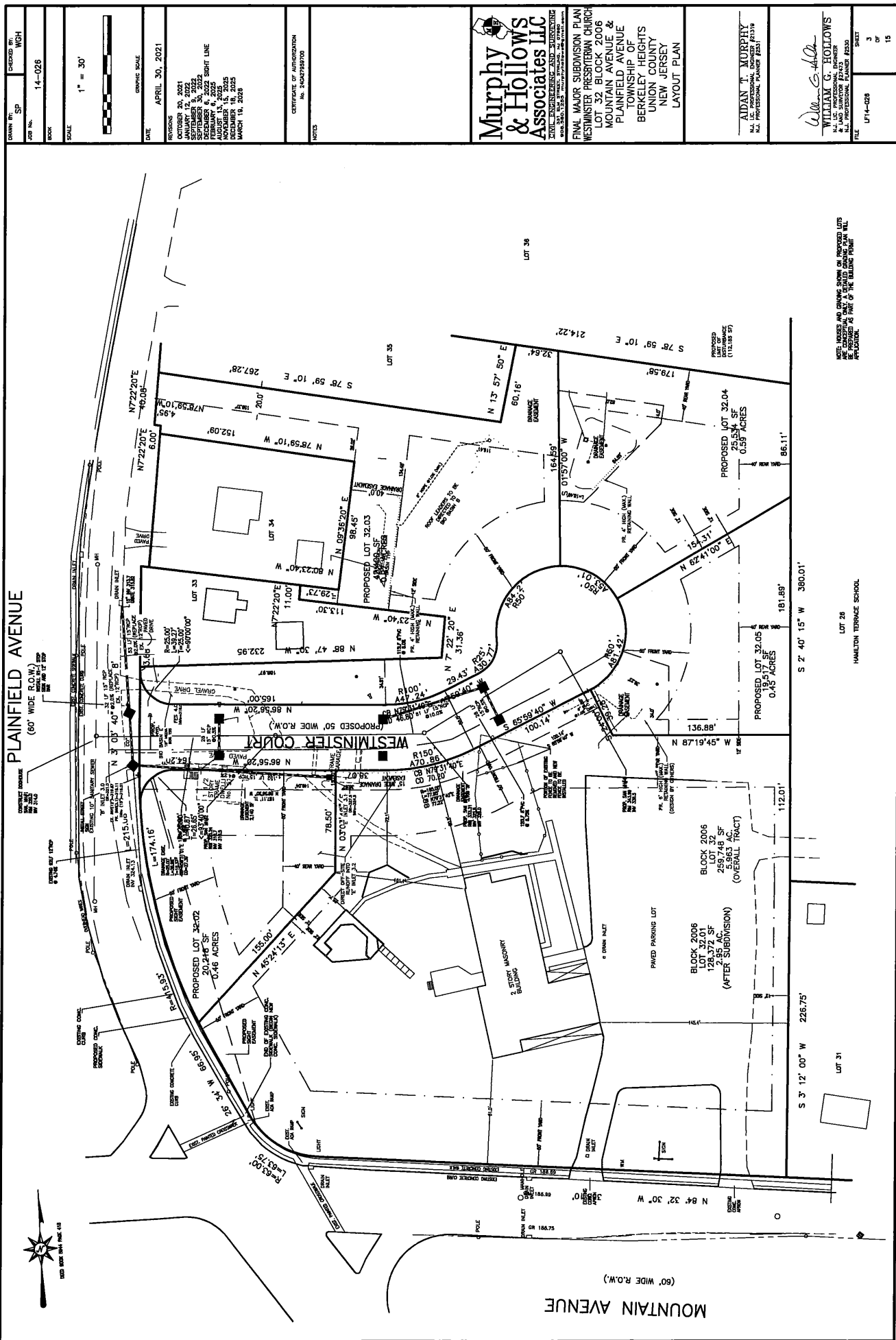
Zoning Board of Adjustment of the Township of Berkeley Heights


By: _____
[NAME/TITLE] Raymond Sullivan / Board Chairman

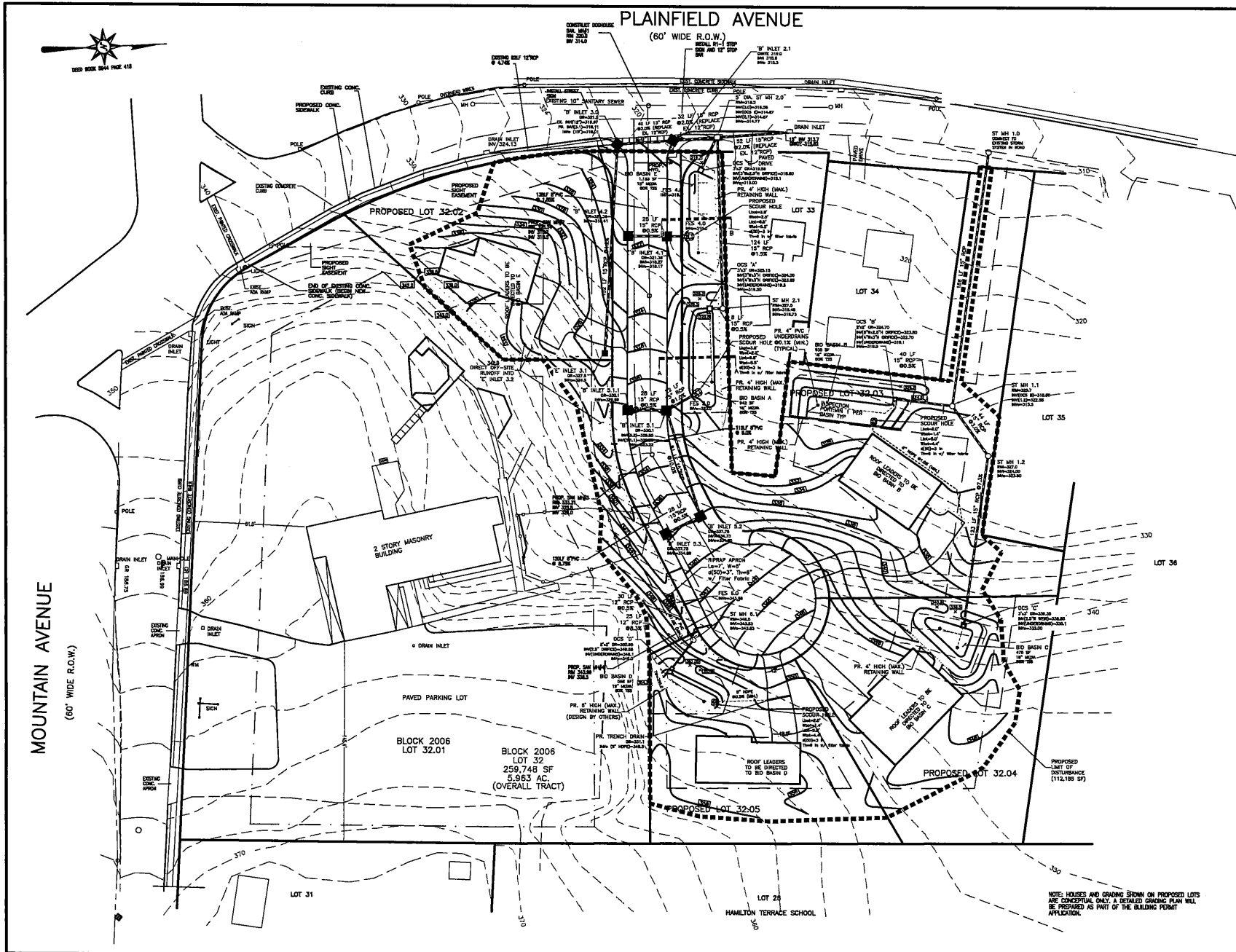
Nov. 21, 2024
Dated: June _____, 2024

EXHIBIT D

Approved Plans







DRAWN BY: SP		CHECKED BY: WGH	
JOB No.		14-026	
BOOK			
SCALE		1" = 30'	
		GRAPHIC SCALE	
DATE		APRIL 30, 2021	
REVISIONS			
OCTOBER 20, 2021			
JANUARY 12, 2022			
SEPTEMBER 8, 2022			
SEPTEMBER 30, 2022			
DECEMBER 6, 2022 SIGHT LINE			
FEBRUARY 8, 2023			
AUGUST 13, 2023			
NOVEMBER 15, 2023			
DECEMBER 18, 2023			
MARCH 19, 2026			
CERTIFICATE OF AUTHORIZATION No. 24042769700			
NOTES			

NOTE: HOUSES AND GRADING SHOWN ON PROPOSED LOTS ARE CONCEPTUAL ONLY. A DETAILED GRADING PLAN WILL BE PROVIDED AS PART OF THE BUILDING PERMIT APPLICATION.

PLAINFIELD AVENUE (60' WIDE R.O.W.)



NOTE: STREET NAMES TO BE APPROVED
BY THE MUNICIPAL TAX ASSESSOR

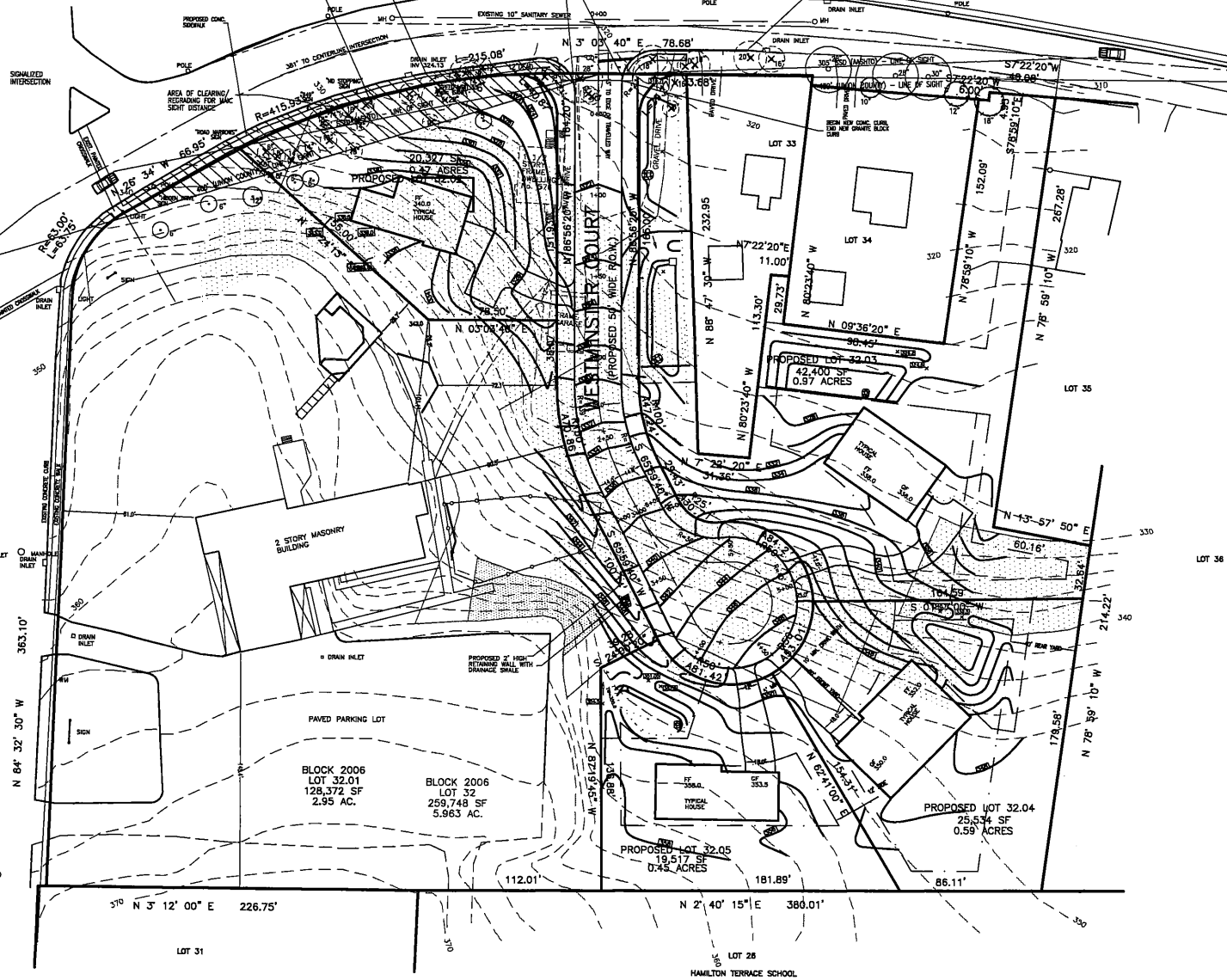
ALL VEGETATION IN THE PROPOSED
ROAD RIGHT-OF-WAY IS TO BE REMOVED AND
THE AREA IS TO BE PLANTED WITH TREES

EXISTING CURB
NEW CONCRETE
CURB

PROPOSED
THROAT MAP

EXISTING CURB
NEW CONCRETE
CURB

MOUNTAIN AVENUE
(60' WIDE R.O.W.)



DRAWN BY: SP	CHECKED BY: WGH
JOB No. 14-026	
BOOK	
SCALE 1" = 30'	
GRAPHIC SCALE	
DATE APRIL 30, 2021	
REVISIONS OCTOBER 30, 2021 JANUARY 9, 2022 SEPTEMBER 9, 2022 SEPTEMBER 30, 2022 DECEMBER 6, 2022 SIGHT LINE FEBRUARY 4, 2023 NOVEMBER 15, 2023 DECEMBER 18, 2023 MARCH 19, 2024	
CERTIFICATE OF AUTHORIZATION No. 24627859700	
NOTES	
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 231 E. 14th STREET, STERLING, NJ 07979 908.580.1240 murphy@murphyhollows.com	
FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY SIGHT LINE PLAN	
AIDAN T. MURPHY N.J. LIC. PROFESSIONAL ENGINEER #21316 N.J. PROFESSIONAL PLANNER #2231	
 WILLIAM G. HOLLOWES N.J. LIC. PROFESSIONAL ENGINEER & LAND SURVEYOR #27473 N.J. PROFESSIONAL PLANNER #2330	
FILE LF14-026	SHEET 7 OF 15

DRAWN BY: SP
CHECKED BY: WGH
JOB NO. 14-026
BOOK
SCALE 1" = 30'

DATE: APRIL 30, 2021
REVISIONS:
NO. 1: JANUARY 12, 2022
NO. 2: SEPTEMBER 9, 2022
NO. 3: DECEMBER 6, 2022
NO. 4: DECEMBER 13, 2022
NO. 5: NOVEMBER 15, 2023
NO. 6: MARCH 15, 2023
NO. 7: MARCH 15, 2023

CERTIFICATE OF AUTHORIZATION
No. 2404299700
NOTES

ANNE HOLLOWAY
NJ Landscaper
License No. AS00055501

Murphy & Holloway Associates LLC
20000 ROUTE 100, SUITE 200, HANOVER, NJ 07930
TEL: 609.261.1234 FAX: 609.261.1235
WWW.MURPHYHOLLOWAY.COM

FINAL MAJOR SUBDIVISION PLAN
WESTMINSTER PRESBYTERIAN CHURCH
LOT 32 BLOCK 2006
MOUNTAIN AVENUE &
PLAINFIELD AVENUE
BERKELEY HEIGHTS
UNION COUNTY
NEW JERSEY
TREE PLAN

AIDAN T. MURPHY
NJ Professional Engineer
No. PE000000000
PE000000000

WILLIAM G. HOLLOWAY
NJ Professional Engineer
No. PE000000000
PE000000000
FILE LF14-026
10 OF 15

PLANT LIST

QTY	LOT	SYMBOL	NAME	COMMON NAME	HEIGHT	SPACING
7	15	LA	LARIX LARicina	SWEDISH SPRUCE	12-15'	8' x 8' @ 12-15'
19	15	PA	PRUNUS AEROLIA	AMERICAN PRUNELLA	5-6'	8' x 8' @ 12-15'
7	15	PL	PLATANUS OCCIDENTALIS	AMERICAN STAMINEE	11-17'	8' x 8' @ 12-15'
9	15	QA	QUERCUS ALBA	WHITE OAK	11-17'	8' x 8' @ 12-15'
7	15	QO	QUERCUS COCAINAE	SCALLET OAK	11-17'	8' x 8' @ 12-15'
15	15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'

TO BE REMOVED

LOT	SYMBOL	NAME	COMMON NAME	HEIGHT	SPACING
15	LA	LARIX LARicina	SWEDISH SPRUCE	12-15'	8' x 8' @ 12-15'
15	PA	PRUNUS AEROLIA	AMERICAN PRUNELLA	5-6'	8' x 8' @ 12-15'
15	PL	PLATANUS OCCIDENTALIS	AMERICAN STAMINEE	11-17'	8' x 8' @ 12-15'
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15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'

DECIDUOUS TREE REPLACEMENT

LOT	SYMBOL	NAME	COMMON NAME	HEIGHT	SPACING
15	LA	LARIX LARicina	SWEDISH SPRUCE	12-15'	8' x 8' @ 12-15'
15	PA	PRUNUS AEROLIA	AMERICAN PRUNELLA	5-6'	8' x 8' @ 12-15'
15	PL	PLATANUS OCCIDENTALIS	AMERICAN STAMINEE	11-17'	8' x 8' @ 12-15'
15	QA	QUERCUS ALBA	WHITE OAK	11-17'	8' x 8' @ 12-15'
15	QO	QUERCUS COCAINAE	SCALLET OAK	11-17'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'

EVERGREEN TREE REPLACEMENT

LOT	SYMBOL	NAME	COMMON NAME	HEIGHT	SPACING
15	LA	LARIX LARicina	SWEDISH SPRUCE	12-15'	8' x 8' @ 12-15'
15	PA	PRUNUS AEROLIA	AMERICAN PRUNELLA	5-6'	8' x 8' @ 12-15'
15	PL	PLATANUS OCCIDENTALIS	AMERICAN STAMINEE	11-17'	8' x 8' @ 12-15'
15	QA	QUERCUS ALBA	WHITE OAK	11-17'	8' x 8' @ 12-15'
15	QO	QUERCUS COCAINAE	SCALLET OAK	11-17'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'
15	QD	QUERCUS DUMETORUM	SPRING PINE	5-6'	8' x 8' @ 12-15'

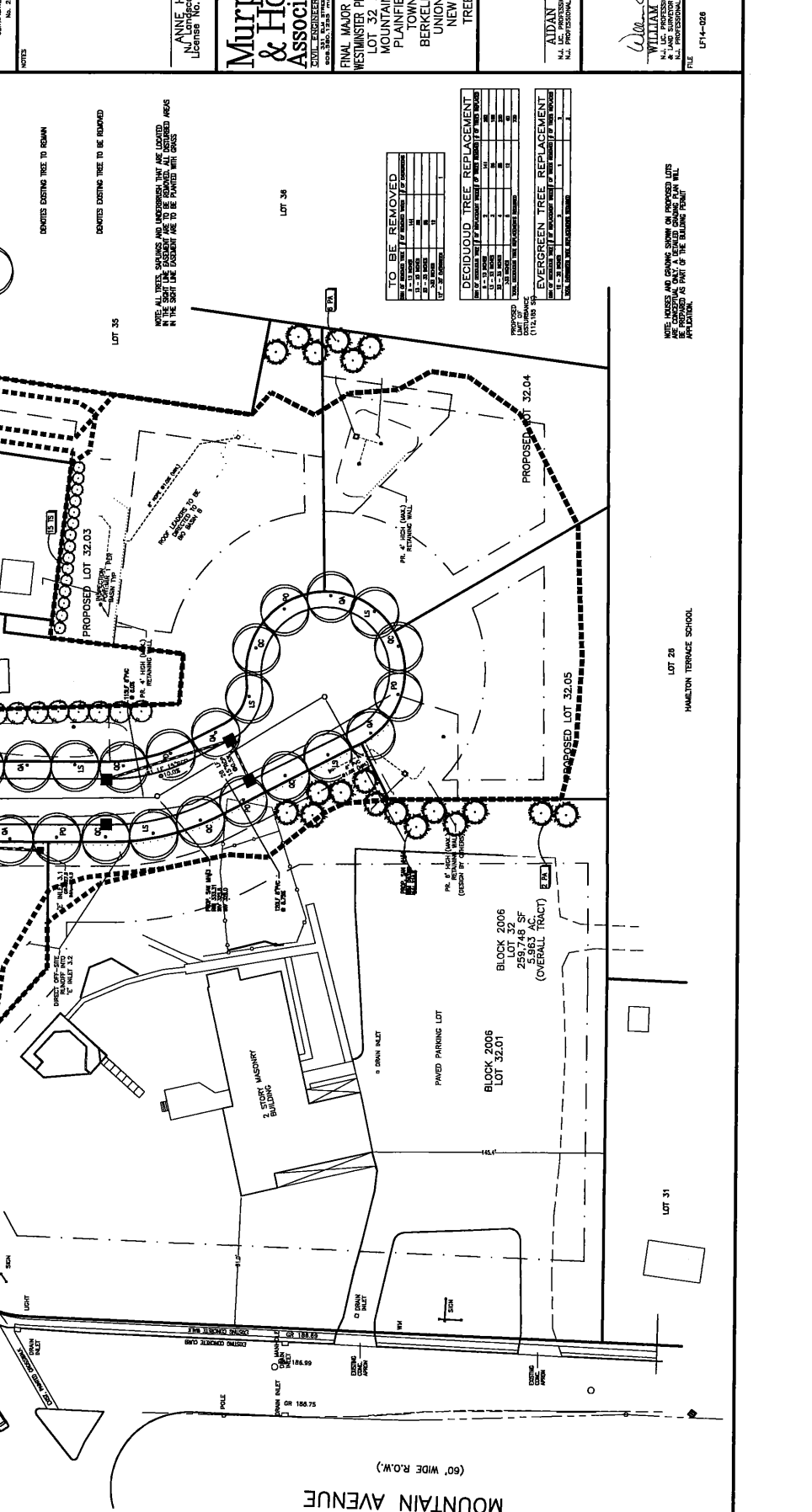
NOTES:
1. ALL TREES SHOWN AND UNDERSTANDING THAT ARE LOCATED IN THE SHOT LINE EXISTENCE ARE TO BE PLANTED WITHIN THE SHOT LINE EXISTENCE.
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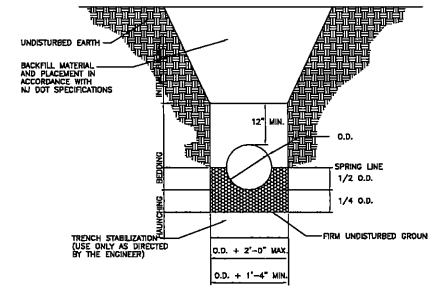
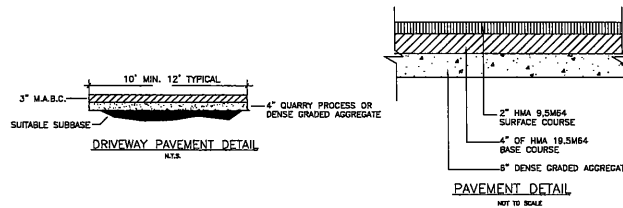
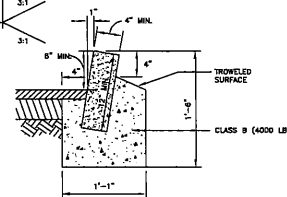
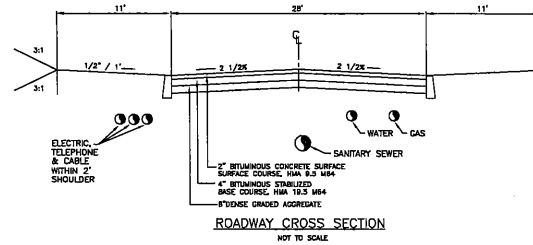
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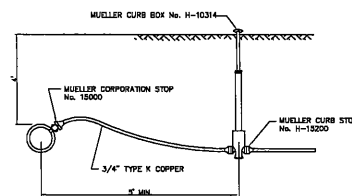
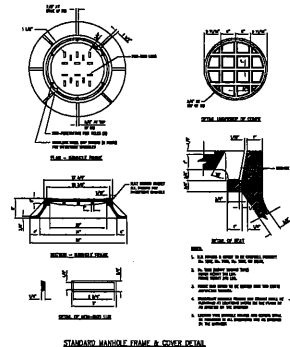
GENERAL NOTES:

- ALL IMPROVEMENTS UNDER THE JURISDICTION OF THE COUNTY OF UNION ARE TO BE CONSTRUCTED IN ACCORDANCE WITH UNION COUNTY SPECIFICATIONS.
 - THE OFFICE OF THE COUNTY ENGINEER IS TO BE NOTIFIED SEVENTY-TWO (72) HOURS IN ADVANCE OF COMMENCEMENT OF CONSTRUCTION OF ANY IMPROVEMENTS UNDER THE JURISDICTION OF THE COUNTY OF UNION.
 - ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MOST RECENT N.J. DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND SUPPLEMENTS.
 - ALL CONCRETE SHALL HAVE A MINIMUM OF 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI AND THE ABILITY TO WITHSTAND H-20 LOADING, FOR ALL CONCRETE IN THE R.O.W. AS WELL AS IN ANY VERTICAL LOADING LOCATION.
 - ALL CONCRETE SHALL BE CLASS "B" AIR ENTRAINED, EXCEPT CAST-IN-PLACE BOX CULVERTS AND BRIDGE DECKS WHICH SHALL BE CLASS "A".
 - ALL REINFORCING STEEL SHALL BE INTERMEDIATE GRADE, NEW DEFORMED BILLET-STEEL CONFORMING TO ASTM A615 (LATEST EDITION), GRADE 40 MINIMUM. ALLOWABLE STRESS IN TENSION SHALL BE 20,000 PSI.
- OR
- ALL REINFORCING STEEL SHALL BE NEW DEFORMED BILLET-STEEL CONFORMING TO ASTM A615 (LATEST EDITION), GRADE 60 MINIMUM. ALLOWABLE STRESS IN TENSION SHALL BE 24,000 PSI.
- ALL CONCRETE SHALL BE PLACED ON FIRM UNDISTURBED SOIL OR CLEAN ROCK.
 - ALL EXPOSED CONCRETE EDGES SHALL HAVE A 1 INCH, 45 DEGREE CHAMFER UNLESS OTHERWISE NOTED.
 - ALL REINFORCEMENT STEEL SPLICES SHALL BE A MINIMUM 30 BAR DIAMETERS UNLESS OTHERWISE NOTED.
 - ALL REINFORCEMENT SHALL BE SUITABLY SUPPORTED AND SECURELY HELD IN PLACE WHILE PLACING CONCRETE.
 - CONCRETE PLACING OPERATIONS SHALL NOT COMMENCE UNTIL FINAL INSPECTION AND APPROVAL OF ALL REINFORCEMENT HAS BEEN PERFORMED.
 - ALL PIPES, STUBS AND/OR FITTINGS ARE TO BE MONOLITHICALLY CAST IN THE CONCRETE.
 - THE SURFACE OF ALUMINUM PLATES AND FIXTURES IN CONTACT WITH CONCRETE SHALL BE PAINTED WITH A HEAVY COAT OF ALUMINUM PIGMENTED ALKALINE RESISTANT BITUMINOUS PAINT EQUAL TO MILITARY SPECIFICATION MIL-PR-5583.
 - THE OUTLET PIPE FOR DETENTION BASINS SHALL BE REINFORCED CONCRETE PIPE CONFORMING TO ASTM C 76 WITH RUBBER GASKETS PURSUANT TO ASTM C 443.
 - THE BASIN IS TO BE SLODED OR TOPSLOED AND SEEDED, INCLUDING THE BOTTOM, SIDE SLOPES, AND ALL EMBANKMENTS.
 - THE DESIGN DIMENSIONS OF THE DETENTION BASIN SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION UNLESS IT IS TO BE USED AS A SITUATION BASIN DURING CONSTRUCTION IN THE WATERSHED. IF SO, IT SHALL BE IMMEDIATELY RETURNED TO DESIGN DIMENSIONS FOLLOWING THE COMPLETION OF SUCH CONSTRUCTION.



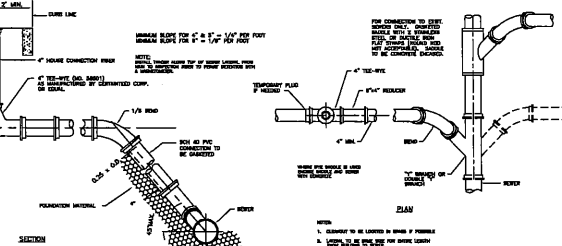
- NOTES:
- O.D. = OUTSIDE DIAMETER
 - INSTALL D.I.P. WHEN THE DEPTH OF THE INSTALLATION IS LESS THAN 3'-0" OR EXCEEDS 20'-0"

SDR - 35 PVC SANITARY SEWER TRENCH DETAIL



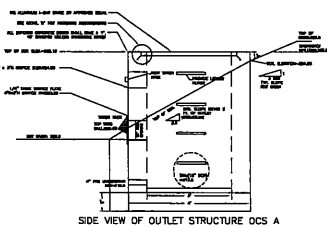
WATER SERVICE INSTALLATION

NOTE: NEW TAPS LARGER THAN 1" INTO DUCTILE IRON COUNTY LINED OR CAST IRON COUNTY LINED WATER MAIN REQUIRE A SERVICE SADDLE WITH STAINLESS STEEL STRAPS

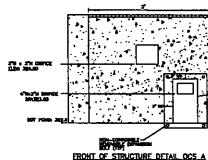


STANDARD HOUSE CONNECTION

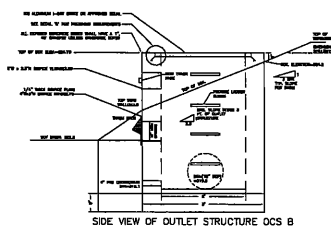
DRAWN BY:	CHECKED BY:
SP	WGH
JOB No.	14-026
BOOK	
SCALE	N.T.S.
GRAPHIC SCALE	
DATE	APRIL 30, 2021
REVISIONS	
OCTOBER 20, 2021	
JANUARY 12, 2022	
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NOVEMBER 15, 2025	
DECEMBER 18, 2025	
MARCH 19, 2026	
CERTIFICATE OF AUTHORIZATION	No. 2404278970
NOTES	
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 1001 E. 10TH STREET, STURGEON, MT 59083 BOB 206.226.1234 www.murphyhollows.com	
FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS	
AIDAN T. MURPHY N.J. L.C. PROFESSIONAL ENGINEER #013118 N.J. PROFESSIONAL PLANNER #2331	
 WILLIAM G. HOLLOWES N.J. L.C. PROFESSIONAL ENGINEER & LAND SURVEYOR #24713 N.J. PROFESSIONAL PLANNER #2330	
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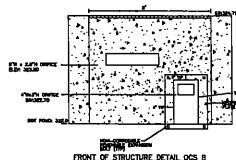
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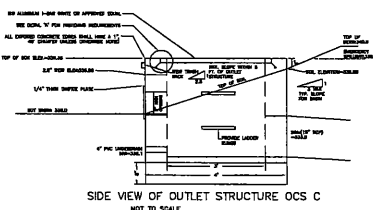
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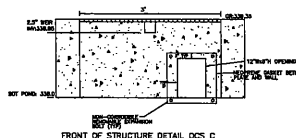
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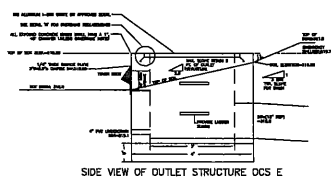
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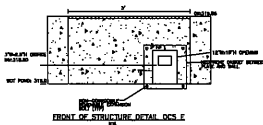
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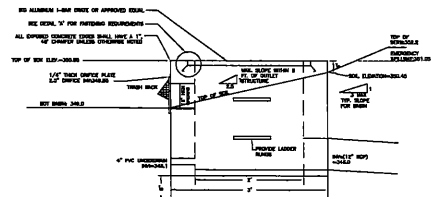
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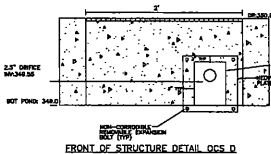
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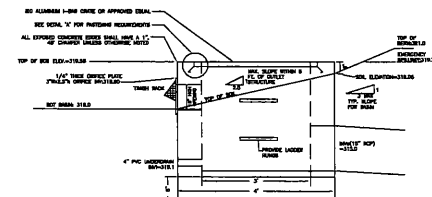
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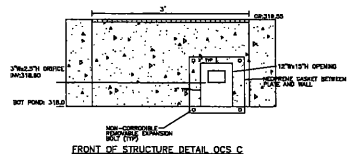
SIDE VIEW OF OUTLET STRUCTURE OCS D
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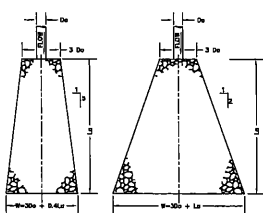
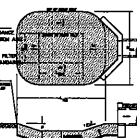
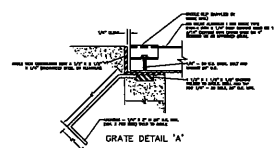
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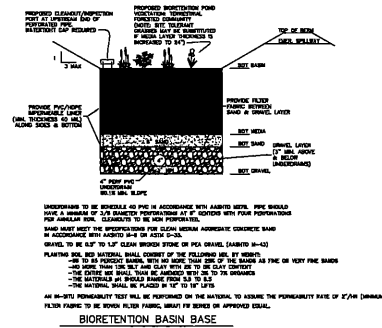
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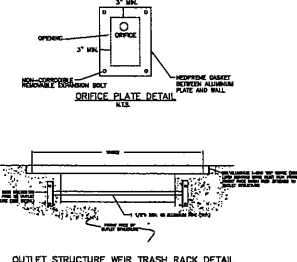
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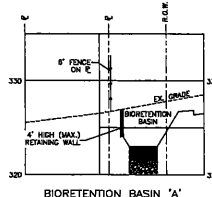
RIP RAP CONDUIT OUTLET PROTECTION
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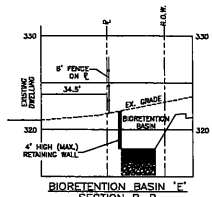
BIORETENTION BASIN BASE
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OUTLET STRUCTURE WEIR TRASH RACK DETAIL
NOT TO SCALE

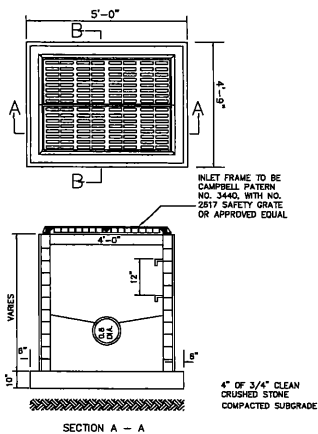


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SECTION A-A
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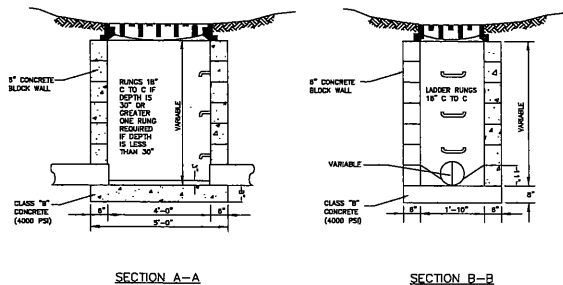
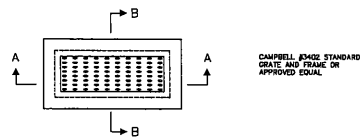


BIORETENTION BASIN 'C'
SECTION B-B
SCALE: 1\"/>

DESIGNED BY:	CHECKED BY:
SP	WGH
JOB No.	14-026
BOOK	
SCALE	N.T.S.
GRAPHIC SCALE	
DATE	APRIL 30, 2021
REVISIONS	
OCTOBER 20, 2021	
JANUARY 12, 2022	
SEPTEMBER 8, 2022	
SEPTEMBER 30, 2022	
DECEMBER 8, 2022	SIGHT LINE
FEBRUARY 8, 2023	
AUGUST 13, 2023	
NOVEMBER 15, 2025	
DECEMBER 18, 2025	
MARCH 19, 2026	
CERTIFICATE OF AUTHORIZATION	
No. 3402755970	
NOTES	
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 1001 WEST 10TH STREET, STE. 100 WESTMINSTER, CO 80057 PHONE: 303.440.1234 FAX: 303.440.1235 WWW.MURPHYHOLLOWS.COM	
FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS	
AIDAN T. MURPHY N.J. L.C. PROFESSIONAL ENGINEER #21018 N.J. PROFESSIONAL PLANNER #2331	
<i>William C. Hollows</i> WILLIAM C. HOLLOWES N.J. L.C. PROFESSIONAL ENGINEER & LAND SURVEYOR #23412 N.J. PROFESSIONAL PLANNER #2330	
FILE	SHEET
LF14-026	12 OF 15

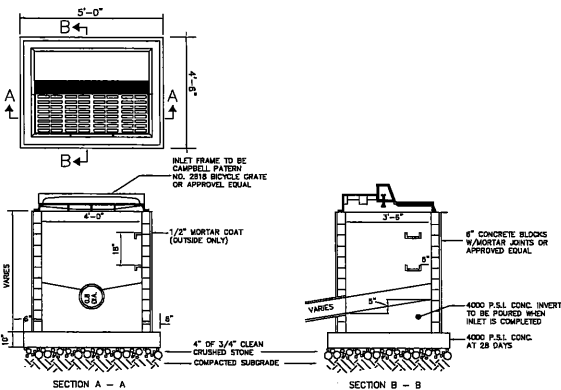
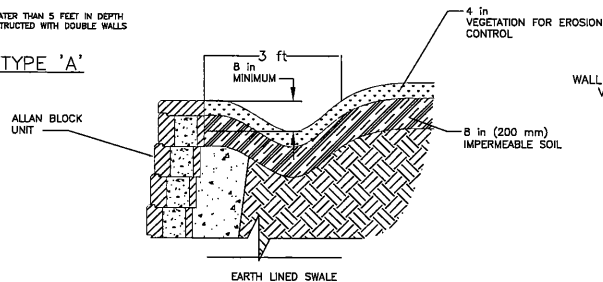


TYPE 'E' INLET
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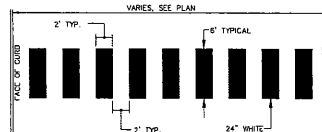


NOTE:
ALL INLETS GREATER THAN 5 FEET IN DEPTH SHALL BE CONSTRUCTED WITH DOUBLE WALLS ON ALL SIDES

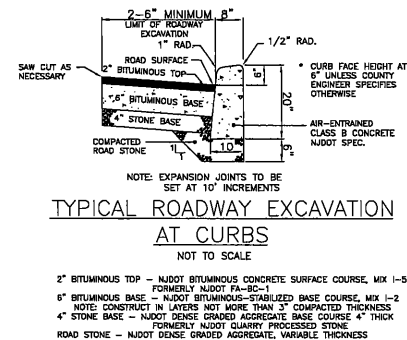
INLET TYPE 'A'



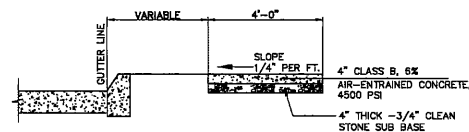
'B' INLET DETAIL
NOT TO SCALE



CROSSWALK STRIPING
N.T.S.



TYPICAL ROADWAY EXCAVATION
AT CURBS
NOT TO SCALE



CONCRETE SIDEWALK
N.T.S.

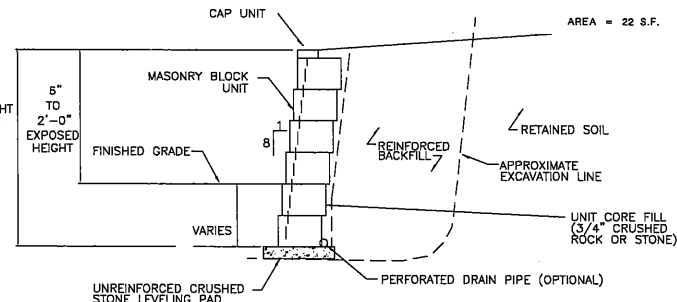
UNION COUNTY R.O.W. DETAILS

NOTES:

1. All number and letter pavement markings are white in color.
2. The space between words should be at least four times the height of the characters for low speed roads, but not more than ten times the height of the characters. The space may be reduced appropriately where there is limited space because of local conditions.
3. If a message consists of more than one word, it should read "UP", i.e., the first word should be nearest the driver.
4. Minor variations in dimensions may be accepted by the Resident Engineer.
5. Portions of a letter, number or symbol may be separated by connecting segments not to exceed 2" in width.
6. Word and Symbol marking should not exceed three times of information.
7. All Word markings are 8' in height.

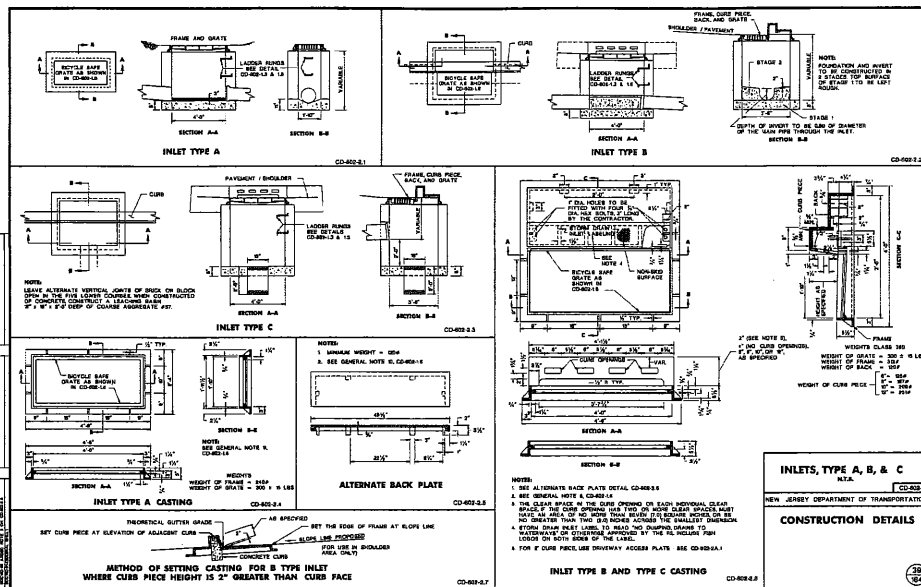
STOP

AREA = 22 S.F.

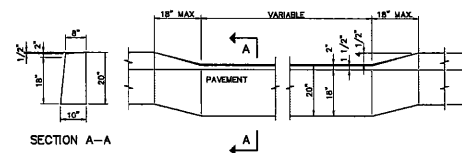
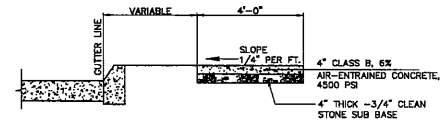


TYPICAL SEGMENTAL RETAINING WALL DETAIL

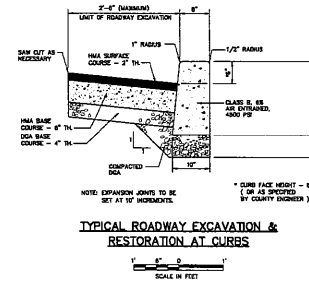
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JOB No. 14-026			
BOOK			
SCALE N.T.S.			
			
GRAPHIC SCALE			
DATE APRIL 30, 2021			
REVISIONS OCTOBER 20, 2021 JANUARY 12, 2022 SEPTEMBER 30, 2022 OCTOBER 20, 2022 DECEMBER 8, 2022 SIGHT LINE FEBRUARY 6, 2023 AUGUST 13, 2023 NOVEMBER 15, 2023 DECEMBER 18, 2023 MARCH 19, 2026			
CERTIFICATE OF AUTHORIZATION No. 24042798700			
NOTES			
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 531 ELM STREET, BETHLEHEM, NJ 07804 610.880.1282 murphyhollows@earthlink.net FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS			
AIDAN T. MURPHY N.J. L.C. PROFESSIONAL ENGINEER #21318 N.J. PROFESSIONAL PLANNER #2321			
 WILLIAM G. HOLLOWES N.J. L.C. PROFESSIONAL ENGINEER & LAND SURVEYOR #27473 N.J. PROFESSIONAL PLANNER #2320			
FILE	LF14-026	SHEET	13 OF 15



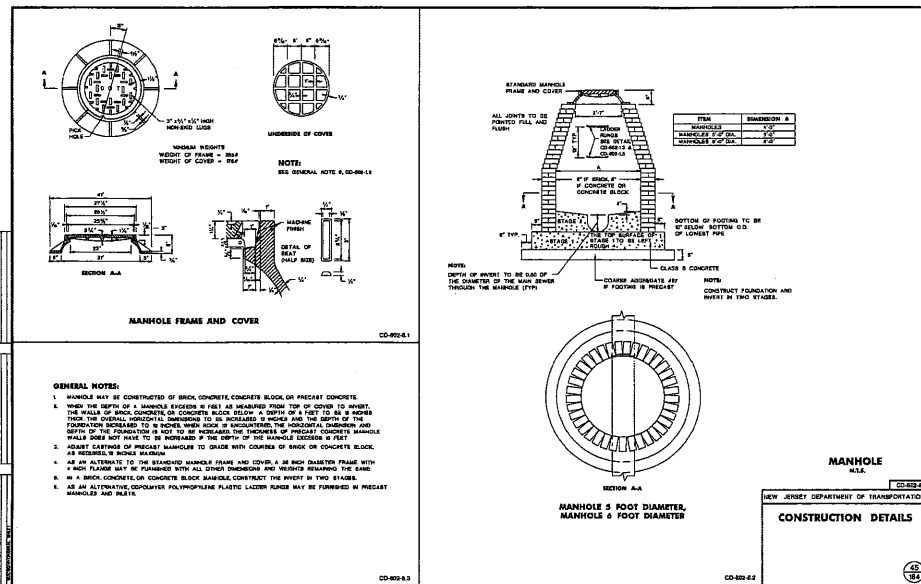
NOTE:
DETAILS FOR 'B' INLET AND MANHOLE LOCATED IN UNION COUNTY ROADWAY



DEPRESSED CURB AT DRIVEWAYS



MANHOLE SURFACE COURSE - MUST SUPERPAVE HOT MIX ASPHALT SURFACE COURSE.
(AS PER COUNTY SPECIFICATIONS)
MANHOLE SURFACE COURSE - MUST SUPERPAVE HOT MIX ASPHALT 1.5 IN. MANHOLE SURFACE COURSE.
NOTE: SURFACE COURSE LAYERS NOT HAVE MANHOLE SURFACE COURSE.
MANHOLE SURFACE COURSE - MUST SUPERPAVE HOT MIX ASPHALT 1.5 IN. MANHOLE SURFACE COURSE.
(FORMERLY HART QUARRY PROCESSING STONE)



DRAWN BY:	SP	CHECKED BY:	WGH
JOB NO.	14-026		
BOOK			
SCALE	N.T.S.		
GRAPHIC SCALE			
DATE	APRIL 30, 2021		
REVISIONS	OCTOBER 20, 2021 JANUARY 12, 2022 SEPTEMBER 9, 2022 SEPTEMBER 30, 2022 DECEMBER 5, 2022 DECEMBER 15, 2022 DECEMBER 18, 2022 MARCH 19, 2026		
CERTIFICATE OF AUTHORIZATION	No. 240427959700		
NOTES			
Murphy & Hollows Associates LLC CIVIL ENGINEERING AND SURVEYING 301 ELM STREET, STIRLING, NJ 07980 908.380.1233 murphyhollows@murphyhollows.com FINAL MAJOR SUBDIVISION PLAN WESTMINSTER PRESBYTERIAN CHURCH LOT 32 BLOCK 2006 MOUNTAIN AVENUE & PLAINFIELD AVENUE TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY CONSTRUCTION DETAILS			
AIDAN T. MURPHY N.J. LIC. PROFESSIONAL ENGINEER #21319 N.J. PROFESSIONAL PLANNER #2251			
WILLIAM G. HOLLOWES N.J. LIC. PROFESSIONAL ENGINEER #27473 N.J. PROFESSIONAL PLANNER #2330			
FILE	SHEET		
LF14-026	15		
	OF		
	15		

EXHIBIT E

Resolution Approving Developer's Agreement

EXHIBIT F

Township Construction and Insurance Fee Cost Estimate



EXPERIENCED
DEDICATED
RESPONSIVE

negliagroup.com

VIA E-MAIL cvalenti@bhtwp.com

October 7, 2025

Township of Berkeley Heights
Attn: Conie Valenti – Board Secretary
29 Park Avenue
Berkeley Heights, New Jersey 07922

Re: Performance Bond Estimate
725 Mountain Avenue – Block 2006, Lot 32
Owner: Westminster Presbyterian Church / Applicant: OZ Custom Builders, LLC.
Township of Berkeley Heights, Union County, New Jersey
Neglia File No.: BERKSPL21.013

Dear Ms. Valenti:

As requested, Neglia Group ("Neglia") has reviewed the Final Major Subdivision Plan, Westminster Presbyterian Church, Lot 32, Block 2006, Mountain Avenue & Plainfield Avenue, Township of Berkeley Heights, Union County, New Jersey, prepared by William G. Hollows, P.E. of Murphy & Hollows Associates, LLC, dated April 30, 2021, last revised February 6, 2025. Attached please see the construction cost estimate detailing the necessary bond amounts. The anticipated cost of improvements, including the 120% cost of installation as identified within the Municipal Land Use Law (MLUL) is **One Million Four Hundred Ninety-Eight Thousand Four Hundred Seventy-Six Dollars and Zero Cents (\$1,498,476.00)**.

The anticipated cost of the municipal right-of-way improvements plus a 20% contingency fee is **Sixty-Nine Thousand Three Hundred Ninety Dollars and Zero Cents (\$69,390.00)**. In accordance with the Municipal Land Use Law (MLUL), the Applicant is required to post a Performance Bond for 90% of the total amount identified above or **\$62,451.00**, and the remaining 10% or **\$6,939.00**, to be in the form of cash.

In addition, the Applicant is required to provide inspection fees in the amount of 5% of the total cost of the overall improvements or **\$74,923.80**. Furthermore, the Applicant is also required to post a two (2) year Maintenance Bond in the amount of 15% of the total estimated cost of public improvements equaling **\$10,408.50**, upon construction completion and municipal acceptance of project.

Lastly, if required, and as determined by the municipality, a "safety and stabilization bond" in favor of the municipality shall be provided for disturbed sites, where work has ceased for a period of 60 consecutive days following such commencement for reasons other than force majeure, and work has not recommenced within 30 days of written notice. The amount of a "safety and stabilization bond/guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000. The amount of a "safety and stabilization bond/guarantee" for a development with bonded improvements exceeding \$100,000 will be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000

LYNDHURST

34 Park Avenue
PO Box 426
Lyndhurst, NJ 07071
p. 201.939.8805 f. 201.939.0846

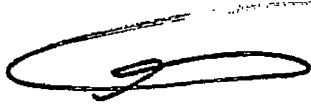
MOUNTAINSIDE

200 Central Avenue
Suite 102
MountainSide, NJ 07092
p. 201.939.8805 f. 732.943.7249

up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000. For the project in question, the "safety and stabilization bond/guarantee" will be \$5,000.00.

We trust you will find the above in order. Should you have any questions or required additional information, please do not hesitate to contact the undersigned.

Very truly yours,
Neglia Group



Thomas R. Solfaro, P.E., C.M.E., C.P.W.M.
Township/Board Engineer
Township of Berkeley Heights

TRS/mjg/gsg

Cc: Amanda C. Wolfe, Esq., Zoning Board Attorney (via e-mail, awolfe@postpolak.com)
OZ Custom Builders, LLC., Applicant (via USPS, 364 Springfield Ave., #393, Berkeley Heights, N.J. 07922)
Westminster Presbyterian Church, Owner (via USPS, 725 Mountain Ave., Berkeley Heights, N.J. 07922)
August N. Santore, Jr., Esq., Applicant's Attorney (via e-mail, santore.law@gmail.com)
William G. Hollows, P.E., P.L.S., P.P., Applicant's Engineer/Surveyor (via e-mail, murphyhollows@gmail.com)

BOND ESTIMATE (ON-SITE IMPROVEMENTS)

725 MOUNTAIN AVENUE (BLOCK: 2006, LOT: 32), TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, NJ 07922

OCTOBER 7, 2025 - NEGLIA FILE No.: BERKSPL21.013

I. SITE WORK

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Site Clearing & Preparation	1	L.S.	\$ 75,000.00	\$ 75,000.00
2	Soil Erosion & Sediment Control	1	L.S.	\$ 15,000.00	\$ 15,000.00
3	Earthwork/Grading	1	L.S.	\$ 150,000.00	\$ 150,000.00
4	Excavation, Unclassified	600	C.Y.	\$ 20.00	\$ 12,000.00
5	Dense Graded Aggregate Base Course, 4" Thick	1,800	S.Y.	\$ 15.00	\$ 27,000.00
6	Hot Mix Asphalt, Base Course, 6" Thick	640	TONS	\$ 110.00	\$ 70,400.00
7	Hot Mix Asphalt, Base Course, 2" Thick	215	TONS	\$ 110.00	\$ 23,650.00
8	Concrete Curb	155	L.F.	\$ 45.00	\$ 6,975.00
9	Granite Block Curb	840	L.F.	\$ 45.00	\$ 37,800.00
10	2' High Retaining Wall	3,280	S.F.	\$ 70.00	\$ 229,600.00
11	Traffic Marking Lines, 12"	20	L.F.	\$ 5.00	\$ 100.00
12	Traffic Markings, Symbols	25	S.F.	\$ 10.00	\$ 250.00
13	Traffic Signs, Complete	2	UNIT	\$ 250.00	\$ 500.00
14	Site Signage, Double-Sided, Complete	1	UNIT	\$ 500.00	\$ 500.00
15	Tree Removal, Over 6" to 12" Diameter	20	UNIT	\$ 1,000.00	\$ 20,000.00
16	Tree Removal, Over 12" to 18" Diameter	10	UNIT	\$ 1,500.00	\$ 15,000.00
17	Tree Removal, Over 18" to 24" Diameter	2	UNIT	\$ 2,000.00	\$ 4,000.00
18	Tree Removal, Over 24" to 30" Diameter	3	UNIT	\$ 2,500.00	\$ 7,500.00
				TOTAL	\$ 695,275.00

II. DRAINAGE

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	8" HDPE Pipe	135	L.F.	\$ 60.00	\$ 8,100.00
2	12" RCP Pipe	55	L.F.	\$ 120.00	\$ 6,600.00
3	15" RCP Pipe	865	L.F.	\$ 130.00	\$ 112,450.00
4	Inlet, Type "B"	6	UNIT	\$ 3,500.00	\$ 21,000.00
5	Inlet, Type "E"	1	UNIT	\$ 4,500.00	\$ 4,500.00
6	Rip-Rap Apron	5	S.Y.	\$ 50.00	\$ 250.00
7	Trench Drain	20	L.F.	\$ 50.00	\$ 1,000.00
8	Storm Manhole	5	UNIT	\$ 6,000.00	\$ 30,000.00
9	Scour Hole	4	UNIT	\$ 1,500.00	\$ 6,000.00
10	Outlet Control Structure	5	UNIT	\$ 10,000.00	\$ 50,000.00
11	Infiltration Basin	5	UNIT	\$ 30,000.00	\$ 150,000.00
				TOTAL	\$ 389,900.00

III. UTILITIES

Item No.	Description	Quantity	Unit	Cost	Total Cost
1	8" PVC Pipe	375	L.F.	\$ 85.00	\$ 31,875.00
2	Sanitary Manhole	3	UNIT	\$ 6,000.00	\$ 18,000.00
3	Fire Hydrant, (Complete)	1	UNIT	\$ 10,000.00	\$ 10,000.00
				TOTAL	\$ 59,875.00

IV. LANDSCAPING					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	White Oak	9	UNIT	\$ 750.00	\$ 6,750.00
2	Scarlet Oak	7	UNIT	\$ 825.00	\$ 5,775.00
3	Green Giant Arborvitae	15	UNIT	\$ 375.00	\$ 5,625.00
4	American Holly	15	UNIT	\$ 475.00	\$ 7,125.00
5	Sweetgum Rotundifolia (Fruitless)	7	UNIT	\$ 750.00	\$ 5,250.00
6	Norway Spruce	19	UNIT	\$ 525.00	\$ 9,975.00
7	American Sycamore	7	UNIT	\$ 765.00	\$ 5,355.00
				TOTAL	\$ 45,855.00
				Overall Total	\$ 1,190,905.00
				20% Contingency	\$ 238,181.00
				Total	\$ 1,429,086.00
				Initial Inspection Fee (5% of Total)	\$ 71,454.30

BOND ESTIMATE (COUNTY RIGHT-OF-WAY IMPROVEMENTS)					
725 MOUNTAIN AVENUE (BLOCK: 2006, LOT: 32), TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, NJ 07922					
I. SITE WORK					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Site Clearing	1	L.S.	\$ 5,000.00	\$ 5,000.00
2	Concrete Sidewalk, 4" Thick	160	S.Y.	\$ 100.00	\$ 16,000.00
3	Concrete Sidewalk, 6" Thick, Reinforced	15	S.Y.	\$ 105.00	\$ 1,575.00
				TOTAL	\$ 22,575.00
II. DRAINAGE					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	15" RCP Pipe	125	L.F.	\$ 130.00	\$ 16,250.00
2	Inlet, Type "B"	2	UNIT	\$ 3,500.00	\$ 7,000.00
3	Storm Manhole	1	UNIT	\$ 6,000.00	\$ 6,000.00
				TOTAL	\$ 29,250.00
III. UTILITIES					
Item No.	Description	Quantity	Unit	Cost	Total Cost
1	Sanitary Doghouse Manhole	1	UNIT	\$ 6,000.00	\$ 6,000.00
				TOTAL	\$ 6,000.00
				Overall Total	\$ 57,825.00
				20% Contingency	\$ 11,565.00
				Total	\$ 69,390.00
				Performance Bond (90% of Total)	\$ 62,451.00
				Cash (10% of Total)	\$ 6,939.00
				Initial Inspection Fee (5% of Total)	\$ 3,469.50

BOND ESTIMATE BREAKDOWN (RIGHT-OF-WAY & ON-SITE IMPROVEMENTS)	
	AMOUNT
Total Cost (On-Site Improvements, Without 20% Contingency)	\$ 1,190,905.00
Total Cost (Right-Of-Way Improvements, Without 20% Contingency)	\$ 57,825.00
Total Cost (On-Site & Right-Of-Way Improvements, Without 20% Contingency)	\$ 1,248,730.00
Overall Total Cost (120% of Total Cost for calculation of inspection fees)	\$ 1,498,476.00
Performance Bond (120% of Right-Of-Way Improvements)	\$ 69,390.00
Initial Inspection Fee (Overall Total Cost * 5%)	\$ 74,923.80
Maintenance Guarantee (120% of Right-Of-Way Improvements * 15%)	\$ 10,408.50
Safety/Stabilization Guarantee (When Required)	\$ 5,000.00

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE NO. 2026-18

BOND ORDINANCE PROVIDING FOR VARIOUS SEWER
IMPROVEMENTS IN AND BY THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW
JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS
OR NOTES OF THE TOWNSHIP TO FINANCE PART OF
THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY (not less than two-
thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Township of Berkeley Heights, in the County of Union, New Jersey (the "Township"), as general improvements. For the improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$2,505,000, and further including the aggregate sum of \$106,000 as the several down payments for the improvements or purposes described in Section 3(a) and Section 3(c) required by the Local Bond Law. Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the cost of the improvement or purpose described in Section 3(b) since the project is being funded by the New Jersey Infrastructure Bank. The several down

payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,399,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Hampton Drive Force Main project, including all work and materials necessary therefor and incidental thereto.	\$2,000,000	\$1,900,000	40 years
b) Design expenses for switchgear equipment upgrade and electrical transfer, including all related costs and expenditures incidental thereto.	\$390,000	\$390,000	30 years

c) Condition assessment of Hampton Drive and Twin Falls pump stations, including all related costs and expenditures incidental thereto.	<u>\$115,000</u>	<u>\$109,000</u>	30 years
<u>Total:</u>	<u>\$2,505,000</u>	<u>\$2,399,000</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment, as applicable, for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing

body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Township may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 37.91 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local

Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$2,399,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$800,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

Section 7. The Township hereby makes the following covenants and declarations with respect to obligations determined to be issued by the chief financial officer on a tax-exempt basis. The Township hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The chief financial officer is hereby authorized to act on behalf of the Township to deem the obligations authorized herein as bank-qualified for the purposes of Section 265 of the Code, when appropriate. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the

taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Angie Devanney, Mayor

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced:						I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.						
July 21, 2026												
Final Adoption:						Angela Lazzari, Township Clerk						
August 11, 2026												

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Berkeley Heights, in the County of Union, State of New Jersey, on **July 21, 2026**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **August 11, 2026** at **6:30 p.m.** During the week prior to and up to and including the date of such meeting, copies of the full bond ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR VARIOUS SEWER IMPROVEMENTS IN AND BY THE TOWNSHIP OF BERKELEY HEIGHTS, IN THE COUNTY OF UNION, NEW JERSEY, APPROPRIATING \$2,505,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,399,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

Purposes:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Hampton Drive Force Main project, including all work and materials necessary therefor and incidental thereto.	\$2,000,000	\$1,900,000	40 years
b) Design expenses for switchgear equipment upgrade and electrical transfer, including all related costs and expenditures incidental thereto.	\$390,000	\$390,000	30 years
c) Condition assessment of Hampton Drive and Twin Falls pump stations, including all related costs and expenditures incidental thereto.	<u>\$115,000</u>	<u>\$109,000</u>	30 years

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

<u>Total:</u>	<u>\$2,505,000</u>	<u>\$2,399,000</u>
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Appropriation: \$2,505,000

Bonds/Notes Authorized: \$2,399,000

Grant Appropriated: N/A

Section 20 Costs: \$800,000

Useful Life: 37.91 years

Angela Lazzari, Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

The date of first posting of this Notice is July 22, 2026.

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

ORDINANCE 2026-19

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY, NEW JERSEY
AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO ADD THE POSITION OF
DEPUTY CHIEF AND TO AUTHORIZE ONE ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL
PATROL OFFICERS IN THE BERKELEY HEIGHTS POLICE DEPARTMENT**

WHEREAS, Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code for the Township of Berkeley Heights ("Code") establishes within the Department of Public Safety a Division of Police, known as the Township of Berkeley Heights Police Department ("Department"); and

WHEREAS, pursuant to subsection 2.100.010 of the Code, the department shall consist of the following positions: one chief of police, one captain, and not to exceed; two lieutenants, seven sergeants, seventeen patrol officers, and such civilian personnel as the township council may determine necessary for the effective function of the police division; and

WHEREAS, the Mayor and Council wish to add the position of deputy chief, increase the allowable number of lieutenants from two to three, include special law information officers, and increase the allowable number of patrol officers from seventeen to twenty-one;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Berkeley Heights, County of Union, State of New Jersey as follows:

SECTION I. Section 2.100.010, "Establishment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.010 Establishment.

There is created in the Department of Public Safety as an executive and enforcement function of the township, pursuant to N.J.S.A. 40A:14-118, a division of police ("police division"), which shall consist of the following positions: one chief of police, **one deputy chief**, one captain, and not to exceed; ~~two~~ **three** lieutenants, seven sergeants, ~~seventeen~~ **twenty-one** ~~(17)~~ **(21)** patrol officers, and such civilian personnel **and special law informant officers** as the township council may determine necessary for the effective function of the police division.

SECTION II. Section 2.100.030, "Line of authority." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.030 Line of authority.

The following shall constitute the line of authority relating to the police function as required by N.J.S.A. 40A:14-118:

**TOWNSHIP OF BERKELEY HEIGHTS
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- A. Chief of Police. The chief of police shall possess those powers and duties set forth at N.J.S.A. 40A:14-118, and shall be the head of the police division and directly responsible to the mayor for the efficiency and routine day-to-day operations thereof. The chief of police shall receive such salary as established by the salary ordinance. The chief of police shall, pursuant to policies established by the mayor:
1. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the police division and its officers and personnel;
 2. Have, exercise and discharge the functions, powers and duties of the police division;
 3. Prescribe the duties and assignments of all subordinates and other personnel;
 4. Delegate such of his or her authority as he or she may deem necessary for the efficient operation of the police division to be exercised under his or her direction and supervision; and
 5. Report at least monthly to the mayor in such form as shall be prescribed by the appropriate authority on the operation of the police division during the preceding month, and make such other reports as may be requested by the mayor.

It is the duty of the chief of police to cause public peace to be preserved and to see that all laws, ordinances, written orders, resolutions and policies of the township council pertaining to the police division are properly complied with. He or she shall faithfully and properly obey and cause all personnel under him or her to obey all rules, regulations, resolutions, orders and policy directives which may from time to time be prescribed by the mayor and township council.

The chief of police shall be available twenty-four (24) hours per day, seven days per week to respond to police emergencies (except when out-side the state of New Jersey on vacation or other authorized occasions). The chief of police shall also be expected to interact with local citizens, taxpayers, the local school district, community organizations or groups, senior citizen organizations, neighborhood groups; to develop a cooperative relationship between the township and commercial operations within the township which have unique or special security needs and to otherwise develop and foster a positive image of the township and police division within the township.

The chief of police shall be entitled to such salary, benefits and emoluments as the township council may determine by further ordinance or resolution.

- B. **The Deputy Chief shall serve as the second-in-command of the Police Department and shall assist the Chief of Police in the administration, operation, and supervision of the Department. The Deputy Chief shall assist in the planning, direction, and coordination of all departmental operations and services; supervise personnel,**

TOWNSHIP OF BERKELEY HEIGHTS
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divisions, and special assignments as directed by the Chief of Police. In the absence, or at the direction of the Chief of Police, the Deputy Chief shall act on behalf of the Chief and shall exercise all powers and duties of the Chief of Police.

- C. Captain of Police. Immediately subordinate to the ~~chief of police~~ Deputy Chief in the line of authority is the captain of police, who shall assist the chief and/or deputy chief in the administration of the police division and who shall perform such duties and responsibilities as may be assigned by the chief or as may be set forth in police division rules and regulations or otherwise imposed by law. ~~In the absence of the chief of police, the senior ranking captain shall perform the duties and possess the powers of the chief.~~
- D. Lieutenant of Police. Immediately subordinate to the captain of police in the line of authority is the lieutenant of police, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, or the captain of police or as may be set forth in police division rules and regulations or otherwise imposed by law.
- E. Sergeant of Police. Immediately subordinate to the lieutenant of police in the line of authority is the sergeant of police, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, the captain of police, the lieutenant of police, or as may be set forth in police division rules and regulations or otherwise imposed by law.
- F. Patrol Officer. Immediately subordinate to the sergeant of police in the line of authority is the position of patrol officer, who shall perform such duties and responsibilities as may be assigned through the chain of command by the chief of police, the deputy chief, the captain of police, the lieutenant of police, the sergeant of police, or as may be set forth in police division rules and regulations or otherwise imposed by law.

SECTION III. Section 2.100.040, "Qualifications for appointment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.040 Qualifications for appointment.

To be eligible for appointment to the police division, an applicant must be a citizen of the United States of America and a resident of the state of New Jersey, must be of good moral character, never be convicted of a crime or offense involving moral turpitude, and meet all other tests and qualifications established by N.J.S.A. 40A:14-122, et seq., this chapter and the rules and regulations of the police division. All such applicants must be in good health, sound in body and mind and certified by the police physician to be physically capable of performing the duties required of a police officer. All applicants must meet the statutory age

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requirements. No applicant shall be eligible for appointment to the police division unless he or she has earned a bachelor's or higher degree awarded by a bachelor's degree-granting college or university. **Notwithstanding the preceding, a**An applicant who has earned 1) an associate's degree awarded by an associate's degree granting college or university or has completed sixty (60) credits awarded by a bachelor's degree-granting college or university and 2) has successfully completed or is enrolled in the Police Training Commission Alternate Route Program and has, or will be receiving certification therefrom, shall be eligible for appointment. A degree or concentration in criminal justice is preferred. Qualified veterans, as defined by the New Jersey Department of Military and Veterans Affairs, who have not earned a bachelor's or higher degree awarded by a bachelor's degree-granting college or university, can substitute a combination of two years of full-time, active military service and an associate's degree awarded by a degree-granting college or university to satisfy the education requirement. The Chief of Police may waive the education requirement for qualified veterans as defined herein, and applicants certified by the Police Training Commission, **or an applicant who meets the minimum educational requirements established by the New Jersey Police Training Commission for participation in the Alternate Route Program.**

All such appointments shall be made pursuant to applicable laws of the state of New Jersey, including N.J.S.A. 40A:14-122 through 127.

All appointments to the police division shall be made by executive order of the mayor. Each such employee shall receive such salary, benefits and emoluments as may be provided by collective bargaining agreement, ordinance or resolution of the township council.

SECTION IV. Section 2.100.050, "Basis and manner of appointment." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.050 Basis and manner of appointment.

- A. Exception for the appointments to chief of police, individuals will initially be appointed to the police division upon the basis of the results of the following competitive examinations process:
1. A written examination administered by the New Jersey State Association of Chiefs of Police. Applicants must achieve a minimum score of eighty (80) to proceed to the second phase of the testing process.
 2. A physical fitness test, designed, administered and scored by the Berkeley Heights Police Department. Applicants will be scored based on standards/scoring set prior to the taking of the test and must achieve a minimum of eighty (80).
 3. An oral examination administered by the New Jersey State Association of Chiefs of Police. Applicants must achieve a minimum score of eighty (80) to proceed to the next phase of the testing process.

**TOWNSHIP OF BERKELEY HEIGHTS
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4. Upon completion of the three phases of testing the applicant's scores are averaged to obtain a final score. An eligibility list will be established based on the applicant's final score. The eligibility list will remain in effect for three years from the date of the last oral examination.
 5. When an opening becomes available, the applicant who is first on the eligibility list will have a background investigation completed by a member of the Investigations Division. ~~Upon completion of the background investigation completed by a member of the Investigations Division.~~ Upon completion of the background investigation and recommendation by the investigator, the applicant, **upon approval of the Mayor, who in his or her discretion, will determine whether to make an appointment and whether current staffing and budget levels will allow for such appointment,** will be **given a conditional offer of employment and** sent for a psychological examination.
 6. Upon successful completion of the psychological examination and recommendation for the examining psychologist the applicant will proceed to the medical examination.
 7. Upon successful completion of the medical examination conducted by the police physician and recommendation from the police physician, the chief of police will recommend the applicant for appointment by the mayor.
 8. **Following successful completion of the psychological and medical examination,** ~~t~~The mayor, shall appoint the candidate (which shall be done by Executive Order), consistent with the Faulkner Act ~~in his or her discretion, will determine whether to make such appointment (which shall be done by Executive Order), consistent with the Faulkner Act and current staffing and budget levels..~~
- B. The mayor may appoint, without examination, upon recommendation by the Chief of Police, an applicant who satisfies the qualifications for appointment as set forth above. The applicant selected shall meet all other requirements for appointment, shall be required to successfully complete the following:
1. A physical fitness test, designed, administered and scored as set forth above. Applicants must achieve a minimum score of eighty (80) to proceed to the next phase of testing process.
 2. A background investigation completed by a member of the Investigations Division. Upon completion of the background investigation and recommendation by the investigator, the applicant will be **given a conditional offer of employment and** sent for a psychological examination.
 3. Upon successful completion of the psychological examination and recommendation from the examining psychologist, the applicant will proceed to the medical examination.

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4. Upon successful completion of the medical examination conducted by the police physician and recommendation from the police physician, the applicant will be recommended for appointment by the chief of police.

An application fee will be required for participation in the testing process. The amount of the application fee will be set by resolution of the township council based on the recommendation of the chief of police.

- C. Appointments of the chief of police shall be made by the mayor, with the advise and consent of the township council, consistent with the Faulkner Act, to a qualified individual in accordance with New Jersey law.

SECTION V. Section 2.100.070, "Police trainees." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.070 Police trainees.

The position of police trainee is established in the Berkeley Heights police division. Upon original appointment as prospective officers, with the requirement that they attend and successfully complete a police academy certified by the New Jersey State Training Commission, a police trainee will receive a salary of "~~probationary patrolman~~ **trainee academy pay**" as established by the ~~current salary ordinance~~ **collective negotiations agreement**. Upon graduation and **following successful completion of the one year working test period measured from the date the trainee may begin work as a police officer** ~~one year from the date of appointment~~, the probationary period will cease and, upon recommendation of the chief of police, a police trainee will be appointed as a permanent patrol officer.

SECTION VI. Section 2.100.090, "Promotion to lieutenant/captain." of Chapter 2.100, "POLICE DIVISION," of Title 2, "ADMINISTRATION AND PERSONNEL," of the Township Code shall be amended as follows: [New language **bold and underlined**; deletions ~~stricken through~~.]

2.100.090 Promotion to lieutenant/captain/deputy chief.

All promotions to the positions of lieutenant ~~and~~, captain, **and deputy chief** within the police division shall be made by executive order of the mayor, upon the recommendation of the chief of police. All such promotions shall be to qualified members of the police division subject to the provisions of any collective **negotiations** ~~bargaining~~ agreement, ordinance or resolution of the township council, and applicable New Jersey law, specifically N.J.S.A. 40A:14-122.6; N.J.S.A. 40A:14-129; and N.J.S.A. 40A:14-130.

SECTION VII. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

Introduction						Councilperson	Final Adoption					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
						John Foster						
						Margaret Illis						
						Bill Machado						
						Alvaro Medeiros						
						Andrew Moran						
						Susan Poage						
Introduced: July 21, 2026				I hereby certify the above ordinance was adopted by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey on the aforementioned date.								
Final Adoption: August 11, 2026												
_____ Angela Lazzari, Township Clerk												

TOWNSHIP OF BERKELEY HEIGHTS

**NOTICE OF INTRODUCTION
ORDINANCE 2026-19**

PUBLIC NOTICE is hereby given that the Ordinance entitled

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS IN UNION COUNTY,
NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS
TO ADD THE POSITION OF DEPUTY CHIEF AND TO AUTHORIZE ONE
ADDITIONAL LIEUTENANT AND FOUR ADDITIONAL PATROL OFFICERS IN THE
BERKELEY HEIGHTS POLICE DEPARTMENT**

was introduced and passed on First Reading at the Regular Meeting of the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, held on **July 21, 2026** at **6:30 p.m.** The within Ordinance will be further considered for Final Passage, after public hearing thereon, at the Regular Meeting of the Township Council to be held in the Council Chamber at the Berkeley Heights Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ, on **August 11, 2026** at **6:30 p.m.**, or as soon thereafter, as said matter can be reached. At which time and place, all persons who are interested therein will be given an opportunity to be heard and ask questions concerning the same.

During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available at no cost in the Municipal Clerk's office in said Municipal Complex, 29 Park Avenue, Berkeley Heights, NJ 07974, and to the members of the general public who shall request the same.

**Angela Lazzari
Township Clerk**