

**Borough of Rocky Hill
Planning Board Agenda
September 21, 2017
7:30 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT -
This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was included in a list of meetings transmitted to the Courier News and Somerset Spectator on January 27, 2017. Notice remains continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Borough Clerk.
4. ROLL CALL
5. CHAIRMAN'S COMMENTS
6. APPROVAL OF THE MINUTES
 1. Planning Board - Regular Meeting - Aug 17, 2017 7:30 PM
7. OPEN PUBLIC COMMENT
8. APPLICATIONS
 1. Trinity Church Application
9. UNFINISHED BUSINESS
 1. <St. Elizabeth's Church Resolution>
10. NEW BUSINESS
11. FINAL OPEN PUBLIC COMMENT
12. ADJOURNMENT

Borough of Rocky Hill
 Planning Board
 Minutes of the Regular Meeting
 August 17, 2017

The regular meeting of the Planning Board of the Borough of Rocky Hill was called to order by Chair Michael Goldman at 7:30 PM followed by the salute to the flag.

PLEDGE OF ALLEGIANCE

NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

ROLL CALL

Attendee Name	Title	Status	Arrived
Robert Ashbaugh	Councilman	Present	
Michael Goldman	Chair	Present	
Linda Goldman	Class IV	Present	
Irene Battaglia	Class IV	Absent	
Brian Nolan	Class IV	Present	
Michael Giambra	Mayor's Alternate	Absent	
Dan Kluchinski	Alternate 2	Absent	
Tim Corlis	Alternate 1	Absent	
Robert Ayrey	Class IV	Absent	
Raymond Whitlock	Class IV	Present	
Mark Blasch	Zoning Officer	Present	

Also attending: Attorney Jolanta Maziarz, Planner Tamara Lee, Engineer Bill Tanner, Planning Board Secretary Christine Witt

CHAIRMAN'S COMMENTS

None.

APPROVAL OF THE MINUTES

1. Planning Board - Regular Meeting - Jul 20, 2017 7:30 PM

RESULT:	ACCEPTED [4 TO 0]
MOVER:	Robert Ashbaugh, Councilman
SECONDER:	Brian Nolan, Class IV
AYES:	Robert Ashbaugh, Michael Goldman, Linda Goldman, Brian Nolan
ABSTAIN:	Raymond Whitlock, Mark Blasch
ABSENT:	Irene Battaglia, Michael Giambra, Dan Kluchinski, Tim Corlis, Robert Ayrey

OPEN PUBLIC COMMENT

None.

APPLICATIONS

Minutes Acceptance: Minutes of Aug 17, 2017 7:30 PM (APPROVAL OF THE MINUTES)

38 Washington Street, Application for Development

Chris Costa, attorney for the applicant, introduced the application. The applicant received approval for a preliminary major subdivision subject to conditions in November 2015. The present application is almost identical to the original with the main difference being the configuration of the driveway. The original application had an additional driveway entrance and a new perimeter driveway while the new application has one driveway accessible to all of the four proposed lots.

Richard Brown of Carroll Engineering was sworn in by Attorney Maziarz and accepted by the Board as an engineering expert. Mr. Brown submitted Exhibit A-1 a colorized plan of the preliminary and final subdivision dated 6/29/17 showing the proposed position of the driveway. The new proposed plan has consolidated the driveway entrance to a single location, and the three new proposed lots are slightly increased in size. The proposed driveway was designed after meeting with the Somerset County planner. The new proposed driveway would be gravel like the existing driveway.

Ms. Goldman, referring to the proposed homeowners' association agreement, pointed out that only one single-family dwelling is permitted per lot even though there are two addresses. Ms. Goldman asked if an easement would be granted, and Mr. Costa responded in the affirmative and that the homeowners' association agreement would apply to anything used commonly.

Mr. Ashbaugh asked environmental responsibilities, and Mr. Costa responded that those responsibilities would be on the owner of the big lot.

Ms. Goldman asked for more specifics on what the homeowners' association agreement covers. Mr. Costa replied that each lot will have a separate owner and the overarching rules in the homeowners' agreement gives rights to enforce rules for the common areas. The homeowners' association exists only for maintenance of common areas.

Attorney Maziarz pointed out that the homeowners' association agreement must be approved by the Borough Attorney.

Mr. Ashbaugh asked about the location of the driveway as it parallels the neighboring property. Planner Lee said that it must be 20 feet from the property line.

Mr. Brown submitted Exhibit A-2, a Google Earth picture of the property.

Mr. Whitlock asked if the curve in the driveway would accommodate a fire truck. Mr. Brown answered that he has reached out to the Fire Official regarding the driveway and is awaiting a response.

Ms. Goldman asked about a landscaping buffer between the driveway and the neighboring property. Ms. Lee pointed out that the previous approval had the condition of a tree mitigation preservation plan for the side property.

Mr. Ashbaugh brought up the guest house on the large lot and noted that the original property treats the second dwelling as a residence. The current plan has four lots with four dwellings units as well as a guest house on the large lot. The question was raised of what defines a guest house. Attorney Maziarz said that this is an enforcement issue regarding zoning laws and that the record reflects that the large lot has a home with an accessory guest house.

Ms. Goldman noted that the Board has not received all the documentation to fulfill the conditions of the preliminary approval and that the Board needs to hear from the Fire Official. Mr. Whitlock added that in his capacity as a member of the Fire Department, he would assume that the driveway needs to be widened to 18 feet from the proposed 15 feet.

Borough Engineer Tanner stated that he is uncomfortable granting any approvals at this time. If the Delaware and Raritan Canal Commission (DRCC) declares this is a major subdivision, all drainage must be remediated. More details are needed on the plan, including grading, and the DRCC determination is needed.

Planner Lee also noted that not all of the conditions of the previous approval have been addressed.

Ms. Goldman expressed concerns about the driveway location.

The floor was opened to Public Comment:

Kathleen Cantonese, 22 Montgomery Avenue, asked if additional trees will be planted along the proposed building lot, and the Mr. Brown answered in the affirmative.

- 1. Motion to Carry the Hearing of the Application for 38 Washington Street to the September Meeting

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Linda Goldman, Class IV
SECONDER:	Brian Nolan, Class IV
AYES:	Robert Ashbaugh, Michael Goldman, Linda Goldman, Brian Nolan, Raymond Whitlock, Mark Blasch
ABSENT:	Irene Battaglia, Michael Giambra, Dan Kluchinski, Tim Corlis, Robert Ayrey

- 2. Yver Application Narrative
- 3. 38 Washington Planner's Report
- 4. 38 Washington Street Engineer's Report
- 5. Yver Homeowners Association Agreement
- 6. Yver Resolution 2015-16 Subdivision Approval

Trinity Church Preservation Plan Application: Consideration of Continuance

- 1. Motion to Continue Hearing to September without Further Notice

Minutes Acceptance: Minutes of Aug 17, 2017 7:30 PM (APPROVAL OF THE MINUTES)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robert Ashbaugh, Councilman
SECONDER:	Raymond Whitlock, Class IV
AYES:	Robert Ashbaugh, Michael Goldman, Linda Goldman, Brian Nolan, Raymond Whitlock, Mark Blasch
ABSENT:	Irene Battaglia, Michael Giambra, Dan Kluchinski, Tim Corlis, Robert Ayrey

UNFINISHED BUSINESS

The resolution for St. Elizabeth's Church was not on the agenda for approval because the applicants assert that the draft resolution did not properly represent the testimony that was given during the hearing. The Reverend contends that attendance at the church is higher than stated in the resolution. Attorney Maziarz will listen to the recording to verify the testimony.

NEW BUSINESS

An application for development was received from 99 Princeton Avenue, but has not yet been deemed complete. The applicants for 25 Washington Street are seeking final subdivision approval.

FINAL OPEN PUBLIC COMMENT

None.

EXECUTIVE SESSION

None.

RESULTS OF EXECUTIVE SESSION (IF ANY)

N/A

ADJOURNMENT

1. Motion to Adjourn at 8:55 PM

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Linda Goldman, Class IV
SECONDER:	Raymond Whitlock, Class IV
AYES:	Robert Ashbaugh, Michael Goldman, Linda Goldman, Brian Nolan, Raymond Whitlock, Mark Blasch
ABSENT:	Irene Battaglia, Michael Giambra, Dan Kluchinski, Tim Corlis, Robert Ayrey

Minutes Acceptance: Minutes of Aug 17, 2017 7:30 PM (APPROVAL OF THE MINUTES)

PRESERVATION PLAN APPLICATION

Name of Applicant: Trinity Episcopal Church

Address of Applicant: 1 Park Ave, Rocky Hill, NJ 08553

Mailing Address, if different from above: PO Box 265, Rocky Hill, NJ 08553

Telephone Number(s): 609-921-8971

Fax Number: _____ E-Mail trinity.rockyhill@comcast.net

Name, Address and Contact Information of Applicant's Attorney Vestry member
Doris Hartmann, 7 Tothwane, Rocky Hill, NJ 08553
609-921-9217

Owner of Property, if different from above: _____

Property Address: _____

Block & Lot Number: Block 12 Lot 1-5

Zoning District: _____

If the project involves an existing building, was it built before January 1, 1930?
Yes [] No []

Does the project also require site plan or subdivision review?
Yes [] No []

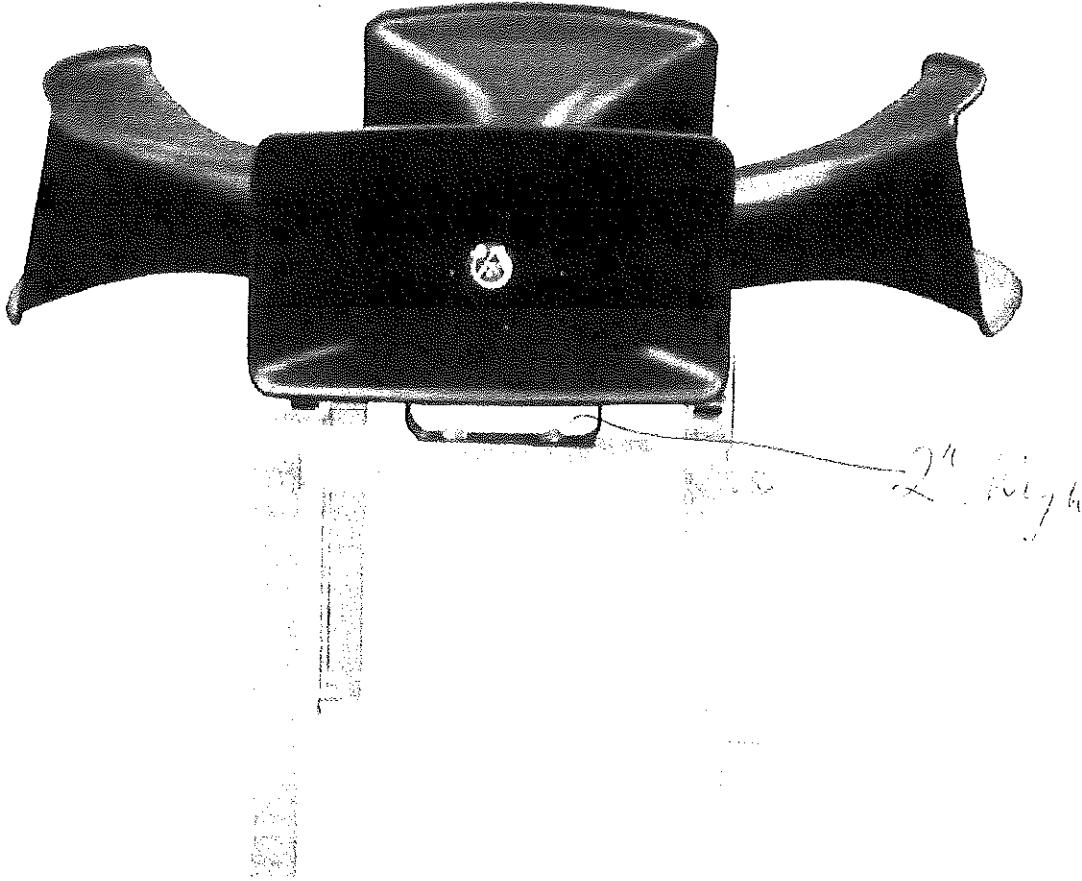
Does the project involve partial or total demolition of existing structures?
Yes [] No []

A checklist of items that must be filed for this application to be deemed complete appears on the next page of this form.

Please provide a brief description of the project below. If more space is needed, please use an additional sheet. State whether the project is restoration, i.e., returning the building to its prior appearance, alteration, addition, demolition or entirely new construction.

DESCRIPTION OF PROJECT: Additional pages may be filed if necessary.
Install speakers for the Digital Carillon on the peak of the roof of the 1900's parish hall. Only three (3) of the four speakers will be installed so that none will directly face Park Ave.
The top of the 20" square bracket for the speakers will be flush with the top of the roof and the 2" wide metal legs will extend down the roof 20". The 3 speakers will be attached each to a side of the stand.

Attachment: Trinity Church (Trinity Church Application)



Attachment: Trinity Church (Trinity Church Application)

PRESERVATION PLAN APPLICATION REQUIRED DOCUMENT CHECKLIST

Minor Preservation Plan Applications (§80-40A(4)):

- 5 copies of this application and supporting documents [✓]
- Color photographs of the property as it now exists and adjacent properties [✓]
- Documentation of how the property will be changed in the form of a detailed description of the existing elements to be changed, including dimensions, and the visually in-kind materials to be used as replacements as well as a sketch and/or illustration of the proposed changes [✓]
- A sample of materials to be used and/or a cut from the manufacturer's catalog with product specifications of materials to be used [✓]

Major Preservation Plan Applications (§80-40A(3)):

- 15 copies of this application and supporting documents. []
- A description of the existing structure and the proposed changes that addresses the design standards set forth in Development Ordinances at §80-95B (2) for structures built after 1930 and §80-95B (3) for structures built before 1930 []
- A site survey showing the existing structure and proposed changes, property lines and lot dimensions, set backs, driveways, adjoining public and private roads. []
- Color photographs of the property as it now exists. []
- Color photographs showing the relationship of the project to adjacent properties. []
- Documentation of the project in the form of well-developed drawings showing all elevations and dimensions at scale of no less than 1/8" = 1' and annotating the materials to be used. []
- A sample of materials to be used and/or a cut from the manufacturer's catalog with product specifications. []
- A copy of the form of notice to be sent to property owners within 200' of the property. Proof of mailing or affidavit of personal delivery must be filed before the hearing. []

CERTIFICATION

Applicant: I certify that all of the above statements and all representations contained in the attached exhibits submitted by me are true:

David Hartmann 7-5-17
 Signature of Applicant Date Signature of Co-Applicant Date

Attachment: Trinity Church (Trinity Church Application)

Hearings are public and members of the public and interested parties have opportunities to address the Board and, at the discretion of the Chair, to question witnesses. Witnesses are sworn before their testimony is presented, and the hearings are recorded. An applicant that is a corporation, partnership, or LLC must be represented by an attorney at hearings before the Board or Subcommittee.

Criteria by which the Planning Board or the Historic Review Sub-Committee will review applications are set forth in the Borough's Development Regulation Ordinance §80-95.

Additional Source Material: The National Register Nomination Form describes by street address the historical and architectural details of most of the houses in the Historic District, and can be found on the Borough website under About Rocky Hill, and selecting the link for the Historic Preservation District or by clicking [here](#). For background and additional guidance, applicants may wish to consult John Murphy, et al, Rocky Hill, New Jersey: Preserving a Nineteenth Century Village, available at the Mary Jacobs Memorial Library. This document and other material are available on the Borough website under About Rocky Hill and at the Rocky Hill Community Group website, a link to which is also found on the Borough website or by clicking [here](#).

The Permit Application: Information about the property and the work proposed, and a checklist of the materials required to be filed with the application, are set forth in the following pages.

APPLICATION FEES AND ESCROWS

The applicant is responsible for all costs related to the Planning Board's review and administration of the application. These costs include review by the Board's professionals, including the Board's Planner, Attorney and Engineer. The initial escrow deposit may not be sufficient to cover these costs.

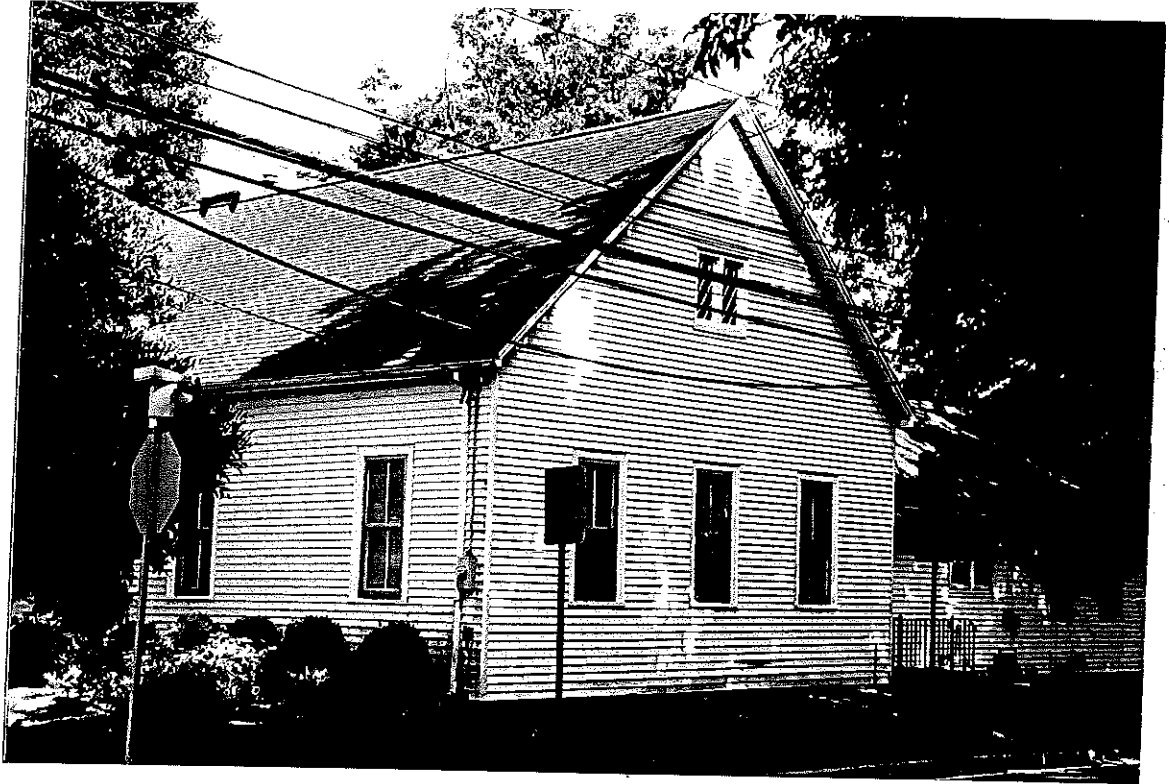
All required fees and the initial escrow deposit must be submitted with the application in accordance with the Borough's Development Regulation Ordinances, §80-7A, §80-40A(4)[c]. If the initial escrow deposit is insufficient to cover any voucher or invoice submitted by the Board's professionals related to the review this application, the applicant shall within 10 calendar days of a notice of deficiency from the Board, deposit with the Board such additional sums as are required to cover any deficit in the escrow account. If at the time of decision, the applicant is in default of any required escrow payments, fees or property taxes on the subject property, the Planning Board shall deny the application. §80-7C, 7D.

The applicant hereby agrees to pay the filing fee, the initial escrow and any additional billings required to pay the full costs of reviewing the application by affixing a signature here:

Doris T. Hartmann 7-5-17
Applicant Date

Co-Applicant Date

Attachment: Trinity Church (Trinity Church Application)



Attachment: Trinity Church (Trinity Church Application)



**BOROUGH OF ROCKY HILL
SOMERSET COUNTY**

<St. Elizabeth's Church Resolution>

<Insert Legislation Here>

ATTEST:

By:

Rebecca P. Newman, RMC
Borough Clerk

By:

Phil Kartsonis, Mayor

CERTIFICATION

I, Rebecca P. Newman, Borough Clerk of the Borough of Rocky Hill do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Borough Council on September 21, 2017.

Rebecca P. Newman, RMC
Borough Clerk

**RESOLUTION OF PLANNING BOARD
BOROUGH OF ROCKY HILL
SOMERSET COUNTY, NEW JERSEY**

**ST. ELIZABETH THE NEW MARTYR ORTHODOX CHURCH
APPLICATION: PB-17-01**

Applicant: St. Elizabeth the New Martyr Orthodox Church
Property: 38 Princeton Avenue
Tax Lot: Block 13, Lot 10
District: R-1, Single-Family Residential
Hearing Date: July 20, 2017

Relief Requested: Recommendation that the Administrator Officer issue a Preservation Permit, preliminary and final major site plan approval with a conditional use variance, a height variance, and bulk variances, as follows:

Recommendation that the Administrator Officer issue a Preservation Permit in accordance with the Development Regulations Ordinance of the Borough of Rocky Hill ("DRO") to permit the expansion and exterior renovation of an existing structure built before 1930.

Preliminary and final major site plan approval in accordance with N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50.

A conditional use variance from the requirements of Section 80-85 of the DRO, in accordance with N.J.S.A. 40:55D-70d(3), as follows:

- Minimum Lot Size
Required: 2 acres; Existing and Proposed: 1.54 acres;
- Front Yard Setback
Required: 50'; Existing and Proposed: 21.47';
- Side Yard Setback
Required: 50'; Existing and Proposed: 18.3';
- Accessory Structure Setback
Required: 25'; Existing and Proposed: 5.9'; and
- Buffer Planting
Required: 15'; Proposed: 5.9'.

Attachment: St. Elizabeth's Church Resolution (St. Elizabeth's Church Resolution)

A height variance from the requirements of Section 80-85 of the DRO in accordance with N.J.S.A. 40:55D-70d(6), as follows:

Maximum Height

Permitted: 35'; Existing: 44'; Proposed: 49'3".

Bulk variances from the requirements of Section 80-85 of the DRO in accordance with N.J.S.A. 40:55D-70c, as follows:

Lot Width

Required: 150'; Existing and Proposed: 119.44'; and

Maximum Impervious Coverage

Permitted: 20%; Existing: 21.58%; Proposed: 22.22%.

Relief Granted: Recommendation that the Administrator Officer issue a Preservation Permit, preliminary and final major site plan approval with a conditional use variance, height variance, and bulk variances, as requested and as stated above, subject to the conditions imposed herein.

Supporting Plans and Documents Submitted:

Architectural Plans, prepared by Paul K. Tiajoloff, Architect, LLC, dated December 6, 2011, consisting of two sheets;

Site Plans, prepared by D. S. Engineering, PC, dated December 26, 2016, consisting of five sheets; and

Letter of Interpretation from NJDEP, dated May 14, 2012.

WHEREAS, Applicant applied to the Rocky Hill Planning Board acting in its capacity as the Zoning Board of Adjustment and as the Historic Preservation Commission (hereinafter, the "Board") for a recommendation that the Administrative Officer issue a Preservation Permit in accordance with Section 80-40 of the DRO; for preliminary and final major site plan approval in accordance with the DRO and N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50; for a conditional use variance from the conditions imposed in Section 80-85 of the DRO and in accordance with N.J.S.A. 40:55D-70d(3); for a height variance from the permitted height standard established in Section 80-85 of the DRO and in accordance with N.J.S.A. 40:55D-70d(6); and for bulk variances for deviations from certain required bulk standards in Section 80-85 of the DRO and in accordance with N.J.S.A. 40:55D-70c; and

WHEREAS, all jurisdictional requirements have been met in connection with the Application; and

WHEREAS, a public hearing on the Application was heard by the Board on the Hearing Date, at which time the Applicant, represented by Attorney Michael Fedun, was given the opportunity to present testimony and legal argument, and the Board's consultants and members of the public were given an opportunity to comment on the Application; and

WHEREAS, the Board reviewed the following reports submitted by its experts and each is hereby incorporated by reference into this Resolution:

Memoranda from the Board's Planner, Tamara L. Lee, PP, dated April 27, 2017; and Memoranda from the Board's Engineer, William C. Tanner, PE, dated July 17, 2017; and

WHEREAS, the following exhibits were submitted during the Hearing:

Exhibit A-1: Colorized Site Plan (previously submitted to the Board) dated June 12, 2017; and

WHEREAS, the Applicant presented testimony to the Board as more fully set forth on the record from the following individual:

1. Reverend Stephanos Bibas;
2. David Schmidt, Applicant's Engineer;
3. Paul Tiajoloff, Applicant's Architect; and
4. Elizabeth Leheny, Applicant's Planner.

WHEREAS, the Applicant's witnesses testified, in part, as follows:

1. Reverend Stephanos Bibas, a deacon with the Applicant Church, addressed the Board regarding the Applicant's congregation and its need for expanded facilities. Reverend Bibas indicated that the Church had been holding services on the Property since 2004. He stated that although the current congregation is small, the Church is hard pressed to accommodate the congregation's needs because there is only one small bathroom and limited seating and standing area. Reverend Bibas testified that the proposed expansion of the sanctuary of the Church will increase the number of seats to approximately 35. Reverend Bibas further testified that the usual attendance at regular services in the sanctuary is between 15 to 20 persons, although major services, such as Palm Sunday, might increase attendance to between 45 and 60 persons. Reverend Bibas indicated that the majority of attendees stand through services. With regard to the basement of the Church, Reverend Bibas asserted that it is of non-standard height and therefore is not habitable. Reverend Bibas testified that the Applicant's proposal

includes excavation of the basement/lower level to a standard ceiling height in order to make the entire lower level usable. With the expansion, a new handicapped-accessible bathroom as well as a handicapped accessible exterior entrance with ramp, and assigned parking spaces will be created; further, the one small existing bathroom will be replaced with a men's and women's bathroom. Reverend Bibas stated the Applicant desires to hold a commemorative celebration in remembrance of the 100th anniversary of the martyrdom of St. Elizabeth in 2018 which is expected to be a large gathering. Until this time, any large church gatherings were held at the firehouse or other churches in Rocky Hill due to the Church's size constraints. Reverend Bibas indicated that the Applicant requires a space large enough to accommodate its regular ritual needs and special events. With regard to questions regarding potential graves and headstones that are located on the Property, Reverend Bibas testified that he observed a headstone and another monument that appeared to have been moved from the actual grave sites closer to the buffer area. Reverend Bibas recalled that he believed the actual graves are about 60 feet away from the proposed parking edge and that the graves appear to have been undisturbed for 100 years and would not be negatively affected by the Applicant's proposal.

2. David Schmidt testified describing his qualifications as a licensed professional engineer. Mr. Schmidt's credentials were accepted by the Board.
3. Mr. Schmidt testified with regard to existing features stating that the Property contains a drainage pipe within a drainage easement that bisects the Property. Mr. Schmidt indicated that two thirds of the Property to the south is an environmentally critical area. Mr. Schmidt stated that the existing parking is currently in the 50 foot wetlands transition buffer and parking in said buffer is not permitted. Since the Applicant's parking is preexisting, a permit will need to be obtained from New Jersey Department of Environmental Protection ("DEP"). Mr. Schmidt indicated that the Applicant has applied to the DEP for approval to pave in the buffer zone and he further indicated that he was confident that such approval would be obtained. Mr. Schmidt stated that he had worked on a similar project in Princeton where DEP approval was needed to pave existing parking spaces in a buffer zone and that such approval was granted. Mr. Schmidt testified that the existing gravel in the parking area has become solidified over time and any further paving will not produce a substantial increase in the runoff. Mr. Schmidt stated that the increase in

impervious surface should not adversely affect the wetlands and acknowledged that the effect of Applicant's proposal on the wetlands is an issue that will require DEP approval. Mr. Schmidt testified describing the Property and the Applicant's proposed building and parking expansion. The Applicant is proposing a 1,960 square foot increase to the Church. With regard to parking, Mr. Schmidt indicated that the Applicant is proposing 28 spaces within the gravel area and is adding a total of 363 square feet of impervious coverage to the Property. Mr. Schmidt testified that water will be contained within a four inch curb and that the drainage direction is not being altered; the Applicant proposes to add an inlet. Mr. Schmidt further testified that handicapped parking will be added in two areas and traffic will flow through the site in a counterclockwise direction. Mr. Schmidt testified that the street curb cut will be reduced to 18 feet and landscaped on either side. Mr. Schmidt indicated that the additional landscaping will shield neighboring property from car headlights. Mr. Schmidt testified that the proposed landscaping will begin on the ingress side after the end of the Church where the Property widens to the end of the parking area, and continue on the left side of the Property around to the Princeton Avenue egress, allowing for an appropriate sight triangle and traffic safety. Mr. Schmidt indicated that vegetation will be installed on the neighbor's property and agreed that the Applicant's landscaping plan will be approved by the Board's Engineer and the Board's Planner. No landscaping will be added in the wetlands buffer area at the rear of the Property. Mr. Schmidt indicated that the existing site triangles comply with State standards and that will not change. Mr. Schmidt testified that the Applicant is exempt from stormwater management requirements in accordance with State guidelines and was informed that it is exempt from Raritan Canal Control Commission review. With regard to lighting, Mr. Schmidt testified that the proposed lighting plan will be in compliance with Borough standards. Mr. Schmidt testified that the proposed light poles will probably be 25 feet high with light shields aiming light away from neighboring properties. Mr. Schmidt further testified that the lights will operate by motion-sensors and that lights will be turned off at 10 p.m. The Applicant agreed to produce a lighting plan to the satisfaction of the Board Engineer. With regard to questions raised regarding the proposed handicapped ramp, Mr. Schmidt indicated that the Applicant will implement provisions to address the concerns raised by the Borough Engineer with regard to the ramp. With regard to questions raised regarding headstones on the Property, Mr. Schmidt stated that the Applicant had hired the Temple Engineering

firm to survey the wetlands and locate any graves that may be located close to the parking area. Mr. Schmidt indicated that the Applicant will comply with the recommendations in the Board Engineer's memorandum.

4. Paul Tiajoloff testified describing his qualifications as a licensed professional architect. Mr. Tiajoloff's credentials were accepted by the Board.
5. Mr. Tiajoloff testified describing the proposed addition to the Church. The proposed two-story addition to the rear of the Church will add 980 square feet to each level. The main level will have 2/3 of the space allotted to the nave and 1/3 to the altar and auxiliary areas. There will be a new bell with manual bells to be rung during services. Mr. Tiajoloff testified that a new elevator will be installed that will have dual stops. The existing lower level of the Church will be excavated to raise the ceiling height to code in order to make the space usable for a new kitchen and the men's and women's bathrooms. Mr. Tiajoloff related that that Board Planner's suggestion with regard to the differing heights of the cupolas was discussed with the rector and that the original heights will be kept in accordance with the Church's preferences and the scope of the renovation. Mr. Tiajoloff testified that the proposed addition will match existing design elements such as siding and roofing materials. With regard to questions about the conformity of the windows, Mr. Tiajoloff indicated that a proposed 9 pane over 6 pane window will be changed to a 9 pane over 9 pane configuration in order that it conform to all of the other large windows in the structure. In response to a question regarding a wrought iron design element in the bell tower, Mr. Tiajoloff testified that the design element is a safety feature. Mr. Tiajoloff opined that domes on Russian Orthodox churches can be more or less elaborate in terms of material and finish depending on project budgets. The Applicant's intention is to have pear-shaped, gold-gilt domes of a fabricated construction to allow economical but durable design element that permits a permanent gilt bond.
6. Elizabeth Leheny testified describing her qualifications as a licensed professional planner. Ms. Leheny's credentials were accepted by the Board.
7. Ms. Leheny addressed individually each variance and standard for approval and how the Application met the standards. Ms. Leheny noted that churches are generally considered inherently beneficial uses. With regard to the positive criteria of the requested conditional use variance

and the height variance, Ms. Leheny testified that the Church is a use that predates the zoning regulations and is therefore a preexisting nonconforming use. Ms. Leheny emphasized the fact that the Applicant is not proposing any changes to the front yard setback, thereby maintaining the appearance of the front of the historic Church that the public and the neighborhood is accustomed to. Ms. Leheny further indicated that the site is generally remaining the same, the acreage is not changing and the basic layout and side yard setback are also being maintained. Ms. Leheny testified that the Applicant is limited by the location of the historic Church, in that it is off center on the Property and the Applicant has no choice but to expand toward the rear. Ms. Leheny indicated that the Applicant's proposal is an improvement over the existing condition of the Property and the proposed mass and bulking of the addition will not overwhelm the site given the site and given the neighborhood. Ms. Leheny reiterated that the Applicant is not seeking to expand its operations or its membership, it requires the proposed improvements in order to accommodate its current congregation. With regard to buffers and landscaping, Ms. Leheny stated that the intended landscaping along Princeton Avenue would improve the appearance of the Property by shielding a sizable parking lot and that the side yard landscaping would mitigate neighbors' concerns about headlight annoyances. With regard to the negative criteria, Ms. Leheny testified that the Applicant's proposal will be compatible with the existing materials, style and colors of the Church. The addition of the cupolas is an important aspect of the Russian Orthodox style and the addition is tasteful and appropriate for the type of congregation. The Applicant will minimize the view from neighboring properties by adding landscaping on the sides of the Church. Ms. Leheny testified that the Applicant's proposal preserves an historic building that has been a church for over 100 years and preserves pedestrian mobility. In response to a question regarding altering the heights of the cupolas, Ms. Leheny indicated that, in order to maintain the function and integrity of the interior of the Church, the cupolas must remain the size proposed by the Applicant. Additionally, Ms. Leheny stated that the cupolas are an appropriate size and height for a church. With regard to the two bulk variances requested by the Applicant, Ms. Leheny testified that the size and configuration of the Property cannot change therefore the strict imposition of the R-1 zoning standards will result in an undue hardship upon the Applicant. Ms. Leheny also opined that bulk variance relief could be granted under the "flexible c"

standard, in that, the Applicant's proposal promotes the purposes of the Municipal Land Use Law.

WHEREAS, a member of the public appeared in support of the Application; and

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Property contains an existing historically significant structure, a Church that was built in 1905, located on a 1.54 acre lot on the south side of Princeton Avenue in the R-1, Single-Family zoning district. The Property also contains a gravel parking area that abuts a wetlands transition buffer area. The Applicant proposes to expand the size of the existing Church by 1,960 square feet, to expand and pave the existing parking area, and to add a bell tower and four new cupolas in a style typical of Russian Orthodox architecture which will raise the height of the existing Church from 44' to 49'3".

2. The Applicant's Church is a conditional use in the R-1 zoning district. The Applicant's proposal deviates from DRO conditional use standards established for churches in Section 80-85, as indicated in the Relief Requested, above. The Applicant's proposal also deviates from the height standard in the R-1 zone which is 35', as stated above. Finally, the Applicant's proposal varies from two bulk standards, indicated in the Relief Requested, and requires preliminary and final major site plan approval for the requested changes to the site, including parking, lighting, and landscaping. Additionally, the Applicant's Church is located in the Historic Preservation District which requires that a preservation permit be obtained from the Borough's Administrative Officer upon the recommendation of the Historic Preservation Commission before any alteration of an historic structure built before 1930 and visible from the public way shall be contemplated, in accordance with Sections 80-22 and 80-40 of the DRO.

3. The Applicant has applied to the Board for a recommendation that the Administrative Officer issue a preservation permit, for preliminary and final major site plan approval, a conditional use variance, a height variance, and for bulk variances, as specified in the Relief Requested, above. Since the Application implicates use variances in accordance with N.J.S.A. 40:55D-70d, the Board took jurisdiction of the Application in its capacity as Zoning Board of Adjustment and the Class I and Class III Planning Board members did not participate in the consideration of the Application. The Board also assumed jurisdiction of the Historic Preservation Plan aspect of the Application as required by Section 80-40 of the DRO which says that "preservation plans associated with a development application, whether major preservation plans

or minor preservation plans, shall be referred to and reviewed by the Planning Board”.

4. In order to satisfy the positive criteria or “special reasons” required for the requisite conditional use variance and the height variance, the Applicant must submit proof “that the site proposed for the conditional use, in the context of the applicant's proposed site plan, continues to be an appropriate site for the use notwithstanding the deviations from one or more conditions imposed by the ordinance.” See, Coventry Square, Inc. v. Westwood Zoning Bd. of Adjustment, 138 N.J. 295, 296 (1994). “Generally, a conditional use is ‘suitable to a zoning district but not to every location within that district.’” Id. at 294. “Conditional uses are uses ordinarily requiring special standards...in order to assure their functional and physical compatibility with the district as a whole and their appropriate integration into the district.” Id.

An applicant for a conditional variance or a height variance must also satisfy the negative criteria; that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the Zoning Ordinance. With regard to the first prong of the negative criteria, that the variance can be granted without substantial detriment to the public good, the focus is on the effect on surrounding properties of the grant of the variance for the specific deviations from the conditions imposed by the ordinance. Coventry Square, 138 N.J. at 299. The proposed conditional use variance and proposed height variance must be evaluated considering whether or not the impact of the variances upon the adjacent properties will cause such damage to the character of the neighborhood as to constitute substantial detriment to the public good. Id. With regard to the second prong, that the variances will not substantially impair the intent and purpose of the zone plan and zoning ordinance, the Board must be satisfied that the grant of the conditional use variance and the height variance for the Applicant’s proposal on the Property is reconcilable with the Borough’s legislative determination that the standards should be imposed on all conditional uses in that zoning district. Id.

5. The Board considered the Applicant’s testimony and evidence and finds that the Applicant has proven that special reasons exist to support the approval of the conditional use variance and the height variance. The Board acknowledges that churches, generally, are considered inherently beneficial uses because they are considered of value to the community and fundamentally serve the public good and promote the general welfare. The existing Church is a use that has been in existence for over 100 years in the present neighborhood and predates the Borough’s zoning regulations. The Board further acknowledges that the Applicant

is significantly constrained by the physical characteristics of the Property and that the Applicant is not seeking to expand operations or its congregation, the proposal is needed to serve its existing congregation. The Board finds that the Applicant's proposal is an improvement to the Property in that it maintains the appearance of the historic Church while enhancing it with new, attractive architectural elements such as the proposed cupolas and improvements to the lighting, parking, and landscaping, as well as the addition of elements serving the public good such as handicapped parking, handicapped access ramps, and appropriate rest facilities. The Church, which otherwise might fall into disrepair and abandonment, is being renovated to accommodate an existing community while providing improved aesthetics, preserving an important historic structure, and promoting the overall general welfare of the neighborhood. In evaluating the negative criteria, the Board finds that an approval of the Relief Requested will not alter the general character of the neighborhood as the Church has existed on the Property for over 100 years. The granting of the Relief Requested, as conditioned in this Resolution, will not cause substantial detriment to the public good or the surrounding properties as the Applicant's use is an historic use that is not changing. The addition of the proposed landscaping and other site improvements will add additional buffer between the Church and its neighbors. The approval of the Relief Requested will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance as the Property and the Church predate the zoning regulations and the proposal to improve and preserve an historic structure is an important goal of the zone plan and the Zoning Ordinance.

6. An applicant requesting a bulk variance under subsection "c" of N.J.S.A. 40:55D-70 must prove that it has satisfied both the positive and negative criteria. The positive criteria in bulk variance cases may be established by the Applicant's showing that it would suffer an undue hardship if a zoning regulation were to be applied strictly because of a peculiar and unique situation relating to the property in accordance with N.J.S.A. 40:55D-70c(1). Under the "c(1)" standard, an applicant must prove that the need for the variance is occasioned by the unique condition of the property that constitutes the basis of the claim of hardship. Lang v. Board of Adjustment of North Caldwell, 160 N.J. 41, 56 (1999).

The positive criteria may also be established by a showing that the application for a bulk variance would advance the purposes of the Municipal Land Use Law and the benefits of the deviation would substantially outweigh any detriment in accordance with N.J.S.A. 40:55D-70c(2). In order to establish the positive criteria for a c(2) variance, an applicant must show that the proposed deviation from the zoning ordinance represents a better zoning alternative and advances the purposes of the Municipal Land

Use Law, as set forth in N.J.S.A. 40:55D-2. Kaufmann v. Planning Board of Warren, 110 N.J. 551, 563 (1988). The focus of a c(2) variance is on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community. Id.

In order to satisfy the negative criteria, an applicant must show that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

7. The Board finds that the Applicant has satisfied the positive criteria under both the "c(1)" and "c(2)" standards. The Property is a preexisting nonconforming lot which is constrained by neighboring properties. Since the size and configuration of the Property cannot change, the strict imposition of the R-1 zoning standards will result in an undue hardship upon the Applicant. With regard to the "c(2)" standard, the Applicant has demonstrated that its proposal is an appropriate use of land which promotes the public health, safety, morals, and general welfare. In addition, the proposal promotes a desirable visual environment and promotes the conservation of an important historic site in the Borough. The Board finds, based upon the foregoing, that Applicant has shown that the bulk variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

8. The Board reviewed the preliminary and final major site plan submitted by the Applicant and finds, subject to compliance with the conditions imposed herein, that the Applicant has demonstrated, through its plans, reports, specifications, and the testimony of its witnesses, memorialized herein and made a part hereof, as well as its agreement to comply with the recommendations of the Board's professionals, that its request for preliminary and final site plan approval conforms to applicable DRO standards.

9. Based upon the foregoing findings, the Application and the testimony presented in support thereof confirm that a Preservation Permit may be issued for the Applicant's proposal, as the proposal will not cause any detriment to the appearance of the Property, as viewed from the public way, subject to the conditions imposed herein.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the evidence presented to it and the foregoing findings of fact and conclusions of law that the Board does hereby RECOMMEND that the Administrative Officer issue the Preservation Permit, subject to the conditions imposed herein.

BE IT FURTHER RESOLVED, on the basis of the evidence presented to it, and the foregoing findings of fact and conclusions of law, that

the Board does hereby GRANT the Relief Granted, as noted above, subject to the following:

1. Applicant is required to comply with the following condition(s):

- a. The Applicant is required to comply with Applicant's representations to and agreements with the Board during the hearing on this Application.
- b. The Applicant shall comply with the recommendations in the Board Planner's report, dated April 27, 2017, as referenced herein, with regard to the comments in Sections 4.2, 4.3 and 4.4.
- c. The Applicant shall comply with all comments in the Board Engineer's report, dated July 17, 2017, as referenced herein.
- d. The Applicant shall ensure that the proposed window on the rear addition on the right elevation be changed to a 9 pane over 9 pane window to match the existing large windows on that elevation.
- e. The Applicant shall submit a landscaping plan and a lighting plan and both plans shall be subject to the review and satisfaction of the Board Engineer and the Board Planner.
- f. The Applicant shall obtain all outside agency approvals including but not limited to approval from the New Jersey Department of Environmental Protection before any construction shall commence or any permit shall issue from the Borough.

2. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the Development Regulations Ordinance of the Borough of Rocky Hill, other Borough Ordinances, or the requirements of any Borough agency, board or authority, except as specifically stated in this Resolution.

3. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.

4. Applicant is required to comply with all recommendations of outside agencies having jurisdiction over the Application including but not limited to the Somerset County Planning Board, the Delaware and Raritan Canal Commission, and the Somerset-Union Soil Conservation District.

5. All fees assessed by the Borough of Rocky Hill for this Application and the hearing shall be paid prior to any construction.

BE IT FURTHER RESOLVED, that this Resolution, adopted on _____, 2017, memorializes the action of the Planning Board taken on the Hearing Date with regard to the recommendation that the Administrative Officer issue a Preservation Permit with the following vote: Yes: Robert Ayrey, Linda Goldman, Michael Goldman, Dan Kluchinski, Brian Nolan; No: None; Abstain: None; Not Eligible: Mayor Kartsonis, Councilman Ashbaugh, Michael Giambra; Absent: Irene Battaglia, Mark Blasch, Tim Corlis.

BE IT FURTHER RESOLVED, that this Resolution also memorializes the action of the Planning Board taken on the Hearing Date with regard to the balance of the Relief Requested with the following vote: Yes: Robert Ayrey, Linda Goldman, Michael Goldman, Dan Kluchinski, Brian Nolan; No: None; Abstain: None; Not Eligible: Mayor Kartsonis, Councilman Ashbaugh, Michael Giambra; Absent: Irene Battaglia, Mark Blasch, Tim Corlis.

RESOLUTION DATE:

ATTEST:

Christine Witt,
Planning Board Secretary

Michael Goldman,
Chairman

VOTE ON RESOLUTION

Attachment: St. Elizabeth's Church Resolution (St. Elizabeth's Church Resolution)

MEMBERS	YES	NO	NOT ELIGIBL E	ABSTAIN E D	ABSENT
CHAIRMAN MICHAEL GOLDMAN					
MAYOR PHILIP KARTSONIS					
COUNCILMAN ROBERT ASHBAUGH					
MARK BLASCH					
IRENE BATTAGLIA					
LINDA GOLDMAN					
ROBERT AYREY					
BRIAN NOLAN					
RAYMOND WHITLOCK					
TIM CORLIS, ALT 1					
DAN KLUCHINSKI, ALT II					
MICHAEL GIAMBRA, MAYOR'S ALTERNATE					

Attachment: St. Elizabeth's Church Resolution (St. Elizabeth's Church Resolution)