



ZB / PB ~ STAFF COMMENTS TRACKING WORKSHEET

Address:	27 Edgar Street
Application #:	ZB-24-2260
Description/Variances:	The applicant is proposing 3 townhouse style dwellings, and seeks the following variances: Max lot area, minimum front yard, minimum rear yard, minimum side yard, left & right, max unit density
Sent to Staff for Comments:	October 29, 2024
Due Date:	November 18, 2024

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

AT DUE DATE / UPON RECEIPT FROM ALL STAFF:

Sent to Applicant:	_____ / _____ / _____
Sent to Attorney:	_____ / _____ / _____



Community Services Department of Zoning

TO: Zoning Board
FROM: Roger Dornbierer, Zoning Officer
DATE: November 18, 2024
SUBJECT: Zoning Board Application #ZB-24-2260
Block 1302, Lot 58
27 Edgar Street

COPY TO: File

General Comments

Property is located in the MF Zone whose purpose permits the construction of multi-family residential uses at appropriate densities at locations accessible to commercial services and public facilities.

Principal residential uses within the zone include detached single-family dwellings, twin house and two-family dwellings, townhouses, apartments, and condominiums.

Application Specifics

The applicant seeks to demolish an existing one (1) story dwelling and construct a three (3) townhouse-style dwelling on a pre-existing non-conforming lot which is only 19% of the total required lot size of two (2) acres and whose minimum lot width of 150' has a pre-existing non-conforming width of twenty (20) feet.

The applicant requests relief from the following requirements:

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



Community Services Department of Zoning

Points of discussion

Applicant should be prepared to discuss the following:

- What floors of the proposed development were included in the FAR calculation
- How the project shall be harmonious in architectural style, scale and materials with other buildings in the surrounding neighborhood.
- How the overall development shall have a compatible architectural and landscaping theme.
- How the design of the townhouse structures and overall site plan shall be compatible with the physical characteristics of the site, with buildings adjacent to the site and with the character of the surrounding neighborhood.
- How the project conforms to the attached single-family (townhouse) development requirements of section 35-14.3 of the Development Regulations Ordinance where townhouse parking areas and driveways to individual dwelling units shall be prohibited in the front yard.
- Does the project impact existing shielding around the site and if there is any proposed shielding from adjoining lots.

Concern

The pre-existing non-conforming lot configuration presents challenges to any new development. However, the proposed development is exacerbating conditions to an already severely undersized lot.

wsa

Should this application be approved, the applicant is advised to read the resolution of approval making note of all conditions to be met. It is the applicant's responsibility to take action necessary to meet the stated conditions prior to submitting a construction permit application. Failure to meet all of the memorialized conditions of approval will unnecessarily delay approval of the construction permit.



STAFF COMMENTS REPORT

DATE: October 29, 2024

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: *Fire Chief*

FLOOD ZONE

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

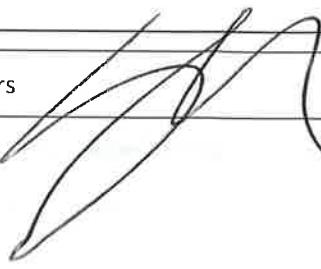
<input type="checkbox"/>	John Linson	City Forester
<input type="checkbox"/>	Health Dept.	Westfield
<input type="checkbox"/>	Caroline King	Chair, HPC
<input type="checkbox"/>	Planner	Burgis Assoc.
<input type="checkbox"/>	TBD	Environmental Commission

Property Address	27 Edgar Street	Block: 1302	Lot: 58
Application #:	ZB-24-2260	Applicant Names: 27 Edgar LLC	
Description/Variances:	The applicant is proposing 3 townhouses style dwellings, and seeks the following variances: Max lot area, minimum front yard, minimum rear yard, minimum side yard, left & right, max unit density.		

Comments Due Date:	November 18, 2024	Please email landuse@cityofsummit.org if you are unable to meet this date.
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COMMENTS: Hutch, Tough access for FD – will need sprinklers. No connections shown.

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

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary
TO: Police Chief

FLOOD ZONE

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

<input type="checkbox"/>	John Linson	City Forester
<input type="checkbox"/>	Health Dept.	Westfield
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COMMENTS: No objections

isctt

Memorandum

To: Zoning Board
From: Marie Raffay, P.E.
Date: November 12, 2024
Subject: 27 Edgar Street
Block 58, Lot 1302
Summit, Union County, NJ

Summit File No.: ZB-24-2260

We have reviewed the application and associated submissions prepared by 27 Edgar LLC, the Applicant, for the subject property as referenced below:

- a. Application to Zoning Board of Adjustment with Zoning Board Application Checklist, signed and dated July 12, 2024;
- b. Certified List of Property Owners within 200 feet;
- c. Architectural Drawings for the Edgar Residence, 27 Edgar Street, Summit, NJ 07901, consisting of six (6) sheets, prepared by Hayk Ekshian, RA, signed, dated 5/7/2024, last revised 9/4/2024;
- d. Site Plan Prepared for 27 Edgar LLC, 27 Edgar Street, Tax Lot 58 in Block 1302, City of Summit, Union County, New Jersey, consisting of three (3) sheets, prepared by Andrew B. Clarke, PLS, PE, of ABC Surveys, LLC, signed, dated 7/10/24, last revised 9/4/2024;
- e. Application for Development Worksheet, signed and dated 7/12/24;
- f. Certified Tax Statement, signed and dated 7/11/24;
- g. Notice of Hearing, signed; and
- h. Affidavit of Proof of Service, signed and dated 7/12/24.

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

1. The 16,518-square foot (0.3792-acre) property is located on the northern side of Edgar Street.
2. The property is in the Multi-Family (MF) Residential Zone, with properties to the west zoned as R-15, and properties to the north, east, and south zoned as MF.
3. The Applicant has provided topographic information from a survey prepared by ABC Surveys, LLC dated July 10, 2024. The property slopes down from the southwest corner at elevation 200 to the northeast corner at elevation 194.

4. The property is irregularly shaped flag lot with an average width of approximately 135 feet and an average depth of approximately 100 feet.
5. The property is improved with a one-story dwelling with attached garage, patio, walkways, driveway, and related features.
6. The Applicant is proposing to demolish the existing dwelling and construct three multistory attached dwellings units, parking area, drywells, landscape walls, fencing and related features.
7. The Applicant is requesting the following variances:
 - a. ~~Variance for minimum front yard setback; The Applicant is proposing 40.6 feet where minimum is 50 feet is permitted.~~
 - b. Variance for minimum rear yard setback; The Applicant is proposing 10.0 feet where minimum is 35 feet is permitted.
 - c. Variance for minimum side yard (left) setback; The Applicant is proposing 21.6 feet where minimum is 25 feet is permitted.
 - d. Variance for minimum side yard (right) setback; The Applicant is proposing 15.0 feet where minimum is 25 feet is permitted.
 - e. Variance for max unit density; The Applicant is proposing 7.91 units/acre where max of 2.64 units/acre is permitted.
8. The Applicant has neither provided limit of disturbance nor a soil erosion and sediment control plan with details. If proposed disturbance will be greater than 5,000 SF, the Applicant should require certification from the Somerset-Union Soil Conservation District.
9. The Applicant notes they are proposing to disturb 950 +/- square feet of steep slopes. The actual steep slope area should be confirmed. The Applicant should also clearly indicate if the steep slope percentage is 15% or greater. The Applicant may be required to request a variance for the disturbance of steep slopes as indicated in the City Ordinance. The Applicant should confirm in testimony the need for the disturbance of steep slopes as it relates to the proposed improvements.
10. The Applicant is proposing to increase the impervious coverage from 6,416-square feet (38.8%) to 10,089-square feet (61.1%), for an increase of 3,673-square feet of where the maximum permitted in the MF Zone is 70% (11,562 square feet).
11. The Applicant is proposing a stormwater system for the increase in impervious coverage. We offer the following comments regarding the proposed stormwater design:
 - a. The Applicant is proposing a seepage pit consisting of four tanks surrounded by stone that has a total storage capacity of 2,325 CF. The tank is connected to roof leaders from the proposed buildings and a proposed inlet installed in the paved driveway and parking area. The Applicant should confirm in testimony.
 - b. The Applicant provides a drainage area for the seepage pit of 9,300 SF that consists of the captured roof and pavement area. The Applicant should provide a calculation of

drainage area to ensure the adequacy of the proposed seepage pit. The Applicant should also confirm in testimony.

- c. A depressed curb is proposed near the drainage inlet in the paved parking area to allow discharge from seepage pit overflow. The Applicant should demonstrate that overland flow will not impact adjacent properties.
- d. The Applicant should consider providing a water quality unit for the driveway water collection to ensure the longevity of the system and reduce excessive maintenance.

12. The Applicant is proposing an interlocking wall in the northeastern corner of the property that appears to vary in height from one (1) foot to 2.7 feet. The provided detail shows the wall with a maximum height of 3.5 feet. In addition, the Applicant should provide appropriate drainage features through the wall to prevent damage from stormwater runoff. The Applicant should confirm in testimony the height of wall and the proposed drainage features.

13. Adjacent Lot 57 to the east, has a driveway that encroaches onto the property in question. The Applicant is proposing a driveway width of 18 feet which includes the encroachment from Lot 57. The Applicant should provide documentation of any driveway easements that exist and how access is maintained when vehicles park in the driveway on Lot 57.

14. The Applicant should provide testimony on the site circulation for emergency vehicles, delivery vehicles and other larger vehicles while addressing the driveway encroachment from Lot 57. We defer to the Fire Official for review of the emergency access on the 18-foot driveway.

15. It is unclear how the Applicant will address snow removal on the property, The Applicant should provide testimony regarding snow removal and staging operations.

16. It appears the Applicant will be installing fencing between the lots. The proposed fencing should be labeled on the site plans. In addition, a fencing detail should be provided clearly indicating the height of the proposed fencing.

17. The location of the proposed ADA parking sign should be shown on the site plan.

18. The Applicant appears to show a garbage/recycling enclosure storage area on the property. The enclosure is accessed by a double swinging gate. It is unclear how the swinging gates will be prevented from impacting cars parked in the adjacent parking space. In addition, there appears to be adjacent trees to the enclosure which may limit the swinging arc of the access gate. The Applicant should confirm if garbage and recycling will be using cans brought to the street or if dumpsters will be used. Testimony should be provided.

19. The Applicant should ensure the proposed configuration of parking lot striping conforms to City Ordinance.

20. The Applicant should update the site plans to provide length dimensions of the proposed parking stalls.

21. No lighting information has been provided on the site plan. The Architectural plans indicate lights at all front doors, garages and rear doors. The Applicant should confirm if other site

lighting is proposed. The Applicant should provide details for lighting and ensure there is no light spillage onto adjacent properties.

22. No landscaping plan has been provided for review. Will landscaping and/or fencing be provided for the single-family homes at the front of the property or will existing vegetation be preserved to provide screening? The Applicant should confirm in testimony.
23. The property appears to have multiple trees to be removed. We defer to the City Forester for review and approval of proposed tree removal.
24. The Applicant does not appear to show any proposed utilities on site. The Applicant should provide testimony regarding use of existing or proposed utilities.
25. The Applicant shall properly remove all construction and demolition (C&D) debris per the Ordinance requirements.
26. The Applicant shall be aware of their responsibility to repair any damage to improvements within the City right-of-way including, but not limited to, curb and asphalt caused by construction activities associated with the installation of the improvements on the subject lot.
27. The Applicant shall remove all excavated and excess soil from the site and shall not use excavated soils elsewhere on site without written permission from the City.
28. The Applicant shall be aware that if stormwater runoff drainage problems occur on their property and/or neighboring properties as a result of the construction of the proposed improvements, it is the Applicant's responsibility to remedy that drainage issue.
29. As a condition of approval, signed digital plans shall be transferred to the City of Summit for use in updating the GIS database for the property. Coordination with the City's Engineering Department shall be the responsibility of the Applicant after the application is approved by the City and prior to the issuance of a Certificate of Occupancy.

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

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

MKR/tc/mt

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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: Construction Official

FLOOD ZONE

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

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

Property Address:	27 Edgar Street	Block: 1302	Lot: 58
Application #:	ZB-24-2260	Applicant Names: 27 Edgar LLC	
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Comments Due Date:	November 18, 2024	Please email landuse@cityofsummit.org if you are unable to meet this date.
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COMMENTS: _____

Plans must include all required fire ratings, fire separations, smoke detectors, carbon monoxide, and any other fire requirements per code.

Plans must include detailed information on all structural elements, fire ratings, fire separations, and other fire safety requirements. Additionally, the plans must adhere to all current building codes.

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

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

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

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

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

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: **City Forester**

FLOOD ZONE

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

<input checked="" type="checkbox"/>	John Linson	City Forester
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COMMENTS: *The existing perimeter screening (mostly provided by off-site) appears to be adequate.*
There are two large, dead ash trees on the east side of the property that need to be removed.
No additional tree removal is necessary.
The provision of a landscape plan would be helpful.
No objection.

John Linson

Forestar

11/1/24

Print Name:		Print Title:		Date:	
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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary
TO: *Health Department*

FLOOD ZONE

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

<input type="checkbox"/>	John Linson	City Forester
<input checked="" type="checkbox"/>	Health Dept.	Westfield
<input type="checkbox"/>	Caroline King	Chair, HPC
<input type="checkbox"/>	Planner	Burgis Assoc.
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COMMENTS: *No Comments*

Print Name:	CELESTE HOBBS	Print Title:	REHO	Date:	10/31/24
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STAFF COMMENTS REPORT

DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary
TO: *HPC*

FLOOD ZONE

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

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

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COMMENTS:

The existing home at 27 Edgar is not historic nor does it contribute to any district or the streetscape. The HPC has no objections to the application.

Print Name:	Mike DiGeronimo	Print Title:	HPC Member	Date:	11/16/24
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DATE: 10.29.24

FROM: Stephanie Soulios, Land Use Assistant / Board Secretary

TO: Environmental Comm.

FLOOD ZONE

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

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

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COMMENTS:

This application is for three townhouse style dwellings. On behalf of the Environmental Commission, I do not object to the requested variance.

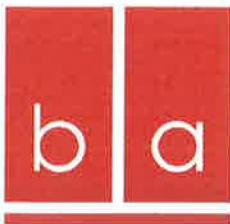
The Environmental Commission recommends the following, especially given the lot coverage:

1. Landscape with native trees and plants (and avoid invasive plants). Native species are beautiful, provide habitat for birds and butterflies, and require far fewer inputs than nonnatives (water, fertilizer, and pesticides), reducing costs and protecting waterways. (See also: [Guide to Landscaping with Native Plants](#) and plant list below.)
2. Planting native shade trees on the open space of the property to assist with site hydrology. A tree canopy is an asset to the home and neighborhood, and should be maintained and enhanced to the greatest extent possible.

3. Minimizing the size of paved surfaces as well as using [green infrastructure](#) (eg, [rain gardens](#)) for patios and parking areas, such as [permeable hardscape materials](#), to assist with drainage, reduce stormwater runoff, mitigate heat island effects, and decrease VOC (Volatile organic compounds) emissions from asphalt paving and markings.
4. Using Energy Star building techniques to reduce energy use (see: [NJ Clean Energy](#)), and
5. Installing roof-top solar (see: [US Department of Energy](#)).

Native Deciduous Trees	Native Evergreen Shrubs
Allegheny Serviceberry (Amelanchier laevis) White Fringetree (Chionanthus virginicus) Flowering Dogwood (Cornus florida) Eastern Redbud (Cercis canadensis) Sassafras (Sassafras albidum) Alternate Leaf Dogwood (Cornus alternifolia) Red maple (Acer rubrum)	Inkberry Holly (Ilex glabra)
White Oak (Quercus alba) Willow Oak (Quercus phellos) Ironwood/American Hornbeam (Carpinus carolina) Blackgum/Tupelo (Nyssa sylvatica)	Native Perennials
Native Evergreen Trees	Beardtongue (Penstemon digitalis or hirsutus) Cinnamon Fern (Osmunda cinnamomea)
Native Deciduous Shrubs	Native Groundcovers
Arrowwood (Viburnum dentatum) Blackhaw (Viburnum prunifolium) Black Chokeberry (Photinia melanocarpa) Groundsel Bush (Baccharis halimifolia) New Jersey Tea (Ceanothus americanus) Northern Bayberry (Morella pensylvanica) Pinxterbloom Azalea (Rhododendron periclymenoides) Spicebush (Lindera benzoin) Steeplebush (Spirea tomentosa) Summersweet (Clethra alnifolia) Swamp Azalea (Rhododendron viscosum) Sweetspire (Itea virginica) Viburnum (Viburnum dentatum) Virginia Rose (Rosa virginiana) Winterberry Holly (Ilex verticillata)	Native Grasses

Print Name:	Lara Mendenhall	Print Title:	Environmental Commission	Date:	Nov 15, 2024
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COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

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

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

MEMORANDUM

To: City of Summit Zoning Board of Adjustment
From: Ed Snieckus, Jr. PP, LLA and Tom Behrens, PP, AICP
Subject: 27 Edgar, LLC (ZB-24-2260)
27 Edgar Street
Block 58 Lot 1302
Preliminary/Final Site Plan Application w/ 'd'(5) Density & 'c' Bulk Variance Requests
Date: November 21, 2024
BA#: 4167.24

I. INTRODUCTION

The Applicant, 27 Edgar, LLC, is requesting preliminary and final site plan approval as well as 'd'(5) density and 'c' variance relief to develop the above-referenced site with 3 townhouse (single-family attached) units in a single building with associated site improvements. The site is located in the MF Multifamily Zone wherein the proposed townhouse use is permitted. The extent of proposed site improvements and required variance relief are detailed herein.

II. DOCUMENTS SUBMITTED

Our office has received and reviewed the following revised documents:

1. Application forms and accompanying materials.
2. Site plans (3 sheets) prepared by ABC Surveys, LLC last revised September 4, 2024.
3. Architectural plans (6 sheets) prepared by Space and Mark Architecture last revised September 4, 2024.

III. PROPERTY DESCRIPTION

The site, identified as Block 58 Lots 1302 in City tax records, is an irregularly shaped 0.3792-acre parcel developed with a single-family dwelling and associated site improvements. Development surrounding the site consist of Summit High School to the north, garden apartments to the north, south and east and single-family development to the east and west. The following aerial image provides an overview of the existing site conditions and surrounding development pattern.

Image 1 – Site Aerial Map



Source: Parcel Explorer, Rowan University.

IV. PROPOSED DEVELOPMENT

The Applicant proposes to develop the site with a single building containing 3 townhouse units with associated site improvements, including a paved driveway and parking area, stormwater management, patios, fencing, retaining wall and garbage enclosure.

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

1. Buildings. Each townhouse unit will feature 3 bedrooms and 2.5 bathrooms with full basements, habitable attic spaces and a one-car garage. The Applicant shall confirm the proposed exterior building materials and colors. In addition, the Applicant shall address compliance with the City's townhouse design requirements contained in Section 35-14.3 of the DRO and the Development Design Guidelines contained in Attachment 1 of the DRO.
2. Parking and Circulation. The site will maintain its existing driveway access on Edgar Street where the paved driveway will be widened to 18 feet for a length of approximately 100 feet between the street and developed area of the site. We defer to the Board Engineer with respect to the functionality of the proposed driveway. The site's parking will include 3 garage spaces and 5 surface parking spaces, including 1 handicap stall, for a total of 8 spaces where a minimum of 7 spaces is required. The Applicant shall address any electric vehicle (EV) parking requirement.

3. Lighting. No landscaping details have been provided. The Applicant shall address the applicable buffer requirements for the proposed parking area. The Applicant shall also confirm the extent of any proposed tree removal and replacement.
4. Landscaping. No lighting details have been provided. The architectural elevations depict wall mounted lighting fixtures above the exterior doors and garage openings. The Applicant shall confirm the locations and types of all proposed freestanding and wall mounted exterior lighting fixtures, demonstrate compliance of same and confirm measures to mitigate impacts to surrounding uses. All exterior lighting should be capped at a maximum color temperature of 3,500 Kelvin.
5. Fencing. Fencing is proposed around the rear perimeter of the site and to divide the rear yard areas of the individual townhouse units. The Applicant shall confirm the type of proposed fencing and provide a detail of same on the plans.
6. Steep Slopes. A maximum 3.5 feet high retaining wall is proposed in the northeast corner of the site where 950 square feet of existing steep slopes will be regraded to level this area of the rear yard.
7. Stormwater Management. A new stormwater management system is proposed, including 4 dry wells to be installed in the parking area. We defer to the Board Engineer with respect to the adequacy of the proposed system.
8. Equipment. A/C units are depicted in the site plan in compliant locations. All units shall be sufficiently screened in accordance with the applicable DRO requirements.
9. Garbage and Recycling. A garbage enclosure composed of 5 feet high solid vinyl fencing is proposed in the southwest corner of the parking area.

III. MASTER PLAN

Summit's adopted 2000 Master Plan contains the following relevant land use goals, objectives and policies which the Applicant should be prepared to address:

1. Preserve existing residential neighborhoods and offer a diversity of housing types.
2. Balance growth and development opportunities with the established pattern of development and existing infrastructure.
3. To promote a desirable visual environment through creative and flexible development techniques with respect to environmental assets and constraints of the City.
4. To continue Summit's tradition of providing for a variety of housing types designed to support and address the housing needs of a diverse population representing a variety of income groups.

IV. ZONING

The site is located in the MF Multifamily Zone wherein the proposed townhouse development is a permitted principal use. In addition, the MF Zone permits a variety of residential uses, including detached single-family dwelling, two-family dwellings and apartments. The stated purpose of the MF Zone is to permit multifamily residential uses at appropriate densities at locations accessible to commercial services and public facilities. The zoning table below illustrates the MF Zone bulk requirements as compared to the existing and proposed development conditions.

The existing irregular lot shape creates an unusual lot width dimension of 20 feet which is measured at the required front yard setback line and results in a technically compliant combined side yard setback requirement. The width of the developed area of the site is approximately 140 feet which results in an effective combined side yard setback of 26.1%.

Table 1: MF Zone Requirements

Requirement	MF Zone	Existing	Proposed
Min. Lot Area	2 ac	0.3792 ac (E)	No Change
Max. Density	6 du/ac	2.64 du/ac	7.91 du/ac (V)
Min. Lot Width	150 ft	20 ft (E)	No Change
Min. Front Yard	50 ft	>50 ft ⁽¹⁾	>50 ft ⁽¹⁾
Min. Side Yard	25 ft	25.5 ft, 25.3 ft	21.6 ft, 15.0 ft (V)
Min. Combined Side Yard	30%	100%+ ⁽²⁾	100%+ ⁽²⁾
Min. Rear Yard	35 ft	17.6 ft (E)	10.0 ft (V)
Max. Lot Coverage	70%	38.8%	61.1%
Max. Building Coverage	20%	14.4%	19.8%
Max. Building Height	35 ft/2 sty	16 ft/1 sty	33.8 ft/2 sty
Max. Floor Area (FAR)	40%	11.3%	39.8%

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

(1) The front lot line is technically the lot line adjacent and parallel to the Edgar Street right-of-way. As such the existing and proposed front yard setbacks technically appear to comply with the MF Zone's required front yard setback of 50 feet.

(2) The existing irregular lot shape creates an unusual lot width dimension of 20 feet which is measured at the required front yard setback line and results in a technically compliant combined side yard setback requirement. The width of the developed area of the site is approximately 140 feet which results in an effective combined side yard setback of 26.1%.

Require Variance Relief

The development application requires the following variance relief:

1. **'d'(5) Density Variance.** The proposal includes the development of 3 townhouse units on a lot that is 16,517.95 square feet which translates to a proposed density of 7.91 du/ac where the MF Zone permits a maximum townhouse density of 6 du/ac. In addition to addressing the statutory criteria summarized below for the required 'd'(5) density variance, the Applicant shall demonstrate the lot can accommodate the proposed development and whether the proposal represents a better planning alternative to other permitted uses and development configurations of the lot.

2. 'c' Minimum Lot Area. The property has an existing nonconforming lot area of 0.3792 acres where the MF Zone requires a minimum lot area of 2 acres. This is an existing condition which may technically require variance relief.
3. 'c' Minimum Side Yard Setbacks. The MF Zone requires a minimum side yard setback of 25 feet where the proposed side yard setbacks are nonconforming at 15.0 feet and 21.6 feet.
4. 'c' Minimum Rear Yard Setback. The MF Zone requires a minimum rear yard setback of 35 feet where the proposed building will have a nonconforming rear yard setback of 10.0 feet.
5. 'c' Interior Garage Dimensions. Section 35-14.3.F.2 requires interior garage dimensions of 10 feet by 20 feet where the proposed garages will have nonconforming dimensions of 10.25 feet by 19.5 feet where stairs may impact the functional depth of the garages.
6. 'c' Driveway and parking Area in Front Yard. Section 35-14.3.F.1. and 35-14.1.P.5.a. prohibit parking areas and driveways in the front yard area.
7. 'c' Minimum Patio Side and Rear Yard Setbacks. The proposed patios are technically "attached" to the principal structure and must therefore comply with the principal building setbacks. The MF Zone requires a minimum principal building side yard setback of 25 feet and rear yard setback of 35 feet where the proposed patios have a nonconforming side yard setback of 6.6 feet and nonconforming rear yard setbacks of 8.9 feet and 8.7 feet.
8. 'c' Minimum Driveway Setback. The proposed driveway will be less than 2 feet from the side lot lines as required in Section 25-14.1.P.2.g.

V. STATUTORY CRITERIA

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

'd'(5) Density Variance

The application requires variance relief pursuant to N.J.S.A. 40:55D-70d(5) for the proposed density which exceeds the maximum permitted density of 6 dwelling units per acre. An applicant requesting 'd' variance relief must address the positive criteria by demonstrating that special reasons exist for the granting of the variance and the granting of the variance will further the purposes of the MLUL. The negative criteria must also be addressed by proving there will be no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Ordinance.

Similar to the rationale and criteria established for 'd'(3) conditional use and '4'(4) FAR variances, the court determined in *Grubbs v. Slowthower*, 389 N.J. Super. 377, 386-388 (App. Div. 2007) that applicants requesting 'd'(5) variance relief must demonstrate that the site can accommodate the problems associated with the proposed density in excess of that permitted by ordinance for a permitted use. The court held that 'd'(5) variance applicants must "demonstrate that the increase in density would not have a more detrimental effect on the neighborhood than construction of the project in a manner consistent with the zone's density restrictions."

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

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

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

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