

August 9, 2021

VIA UPS GROUND

Shurlana Stewart, Planning/Zoning Board Secretary
City of Pleasantville
18 N. First Street
Pleasantville, NJ 08232

RE: Application of Teen Challenge New Jersey
5 N. Second Street
Block 100, Lot 24
Pleasantville, New Jersey
Our File No. 12521-1

Dear Ms. Stewart:

As you are aware, this firm represents Teen Challenge New Jersey (the "Applicant") with respect to this application for use variance relief pursuant to N.J.S.A. 40:55D-70d(1) in connection with the proposed conversion of the existing non-conforming mixed use residence/funeral parlor into a six bedroom residence for women recovering from drugs, alcohol and other life controlling issues at the above property. The Applicant offers the following comments and documents in response to your July 16, 2021 Completeness Review Letter:

A. Clarify Compliance with Requirement of Obtaining Site Plan Review in Accordance with Pleasantville's Land Use Code; Chapter No. 300-36a(1)(c)

RESPONSE: Section 300-36(a) of the Pleasantville Land Use Code requires submittal of a site plan for "all changes in use that increases the intensity of the use of the property." The Applicant is proposing a change-in-use from a mixed-use funeral parlor/residence to a residential treatment facility for women in recovery. This proposed change-in-use will not result in a more intensive use of the property and therefore site plan review is not required.

A funeral parlor is a particularly intensive use as it requires the frequent gathering of numerous individuals for viewings and memorials during days, nights and weekends. The proposed residential treatment facility will have a far less intense impact than the recently operating funeral home. There will also be no negative traffic impacts associated with the proposed use as most, if not all, residents will be driven by resident counselors and will not have their own vehicles parked onsite.

In the alternative, if the Board determines that the proposed use will be more intensive than the mixed-use funeral parlor/residence, a waiver of site plan review is requested.

B. Provide a 200' List Certified by the Pleasantville Tax Assessor (this shall also be included on the submitted plans)

Enclosed herein please find a 200' List certified by the Pleasantville Tax Assessor. A copy of the 200' List was included on the Variance Plans submitted as part of this application.

C. Submit a Completed Checklist I and Checklist H

The Applicant is not proposing any changes to the existing building which would result in an exacerbation of existing nonconforming conditions or the need for new "c" variance relief. As all existing non-conforming conditions will remain and no additional variance relief is requested, the Applicant seeks a waiver from Checklist H.

A copy of Checklist I with the Applicant's Project Narrative and Variance Justification is attached hereto.

D. Submit a Certification of Understanding (Escrow Fee's)

A Certificate of Understanding executed by the Applicant is attached hereto.

Please do not hesitate to contact me if you should require any additional documents or information in order to deem this application complete. Once deemed complete, please notify me as to the date that the Board will consider this application and our firm will, of course, provide the required public notice in advance of that date.

Thank you, as always, for your kind attention and usual courtesies.

Very truly yours,

NEHMAD DAVIS & GOLDSTEIN, P.C.

BY: _____

KEITH A. DAVIS

KAD:ch:lm

Enclosures

- c. Todd Sheehan, Director (Via E-mail: tsheehan@tcnewjersey.org) w/encls.
Marc DeBlasio, PE, PP, CME (Via E-mail: marc@deblasioassoc.com) w/encls.
Matthew W. Abrams (Via E-mail: Abrams.Matt@deblasioassoc.com) w/encls.
Michael J. Lario, Jr., Esquire (Via E-mail: mlario@ndglegal.com) w/encls.



Richard L. Buscemi, CTA
Tax Assessor
taxassessor@pleasantvillenj.us
Phone 609.484.3634

RECEIVED
MAY 20 2021
NDG LEGAL

May 17, 2021

Nehmad Davis & Goldstein
4060 Ocean Heights Avenue
Egg Harbor Twp., NJ 08234

RE: Certified Owner List: Block 100 Lot 24

Dear Applicant:

Per your request, enclosed is a Certified List of Pleasantville City Property Owners within 200' of the above referenced property.

Notifications must be sent in accordance with the State of New Jersey Municipal Land Use Law and any other State, County rules or Local Ordinances and statues as it pertains to Property Owner Notification.

If you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Richard L. Buscemi, CTA
Assessor

ANDREW, STEPHEN & EZRA
222 W WASHINGTON AVE
PLEASANTVILLE, NJ 08232

6 N BRIGHTON LLC % H BASSFORD
6101 MONMOUTH AVE #810
VENTNOR, NJ 08406

VICTORIA, MORELIA
208 W WASHINGTON AVE
PLEASANTVILLE, NJ 08232

GRACEUSE, ELIE
206 W WASHINGTON AVE
PLEASANTVILLE, NJ 08232

DEMPS, MAE BELL EST & TAMMY DE
204 W WASHINGTON AVE
PLEASANTVILLE, NJ 08232

MAAN, RAJINDER
200 W WASHINGTON AVE
PLEASANTVILLE, NJ 08232

PRATT, NOAH
211 ABBEY LN
PLEASANTVILLE, NJ 08232

APARICIO, PRIMITVO & NAZARIO, FL
209 ABBEY LANE
PLEASANTVILLE, NJ 08232

ELYAKOUBI, RIAHI
10 EAGLE DR
EHT, NJ 08234

CHOUDHURY, DELOWAR
45 N DELANCY PL
ATLANTIC CITY, NJ 08401

TEEN CHALLENGE NEW ENGLAND INC
1311 MAIN ST
BROCKTON, MA 02301

PAUL, PROSENJIT
2474 SOMERSET BLVD #203
TROY, MI 480844210

LONGVILLE, MADGE
15 N SECOND ST
PLEASANTVILLE, NJ 08232

BANDI PROPERTY MGMT LLC
1202 TILTON RD #1
NORTHFIELD, NJ 08225

ALICEA, JUAN & EDWIN
212 ABBEY LANE
PLEASANTVILLE, NJ 08232

MAXIMUS PROPERTIES LLC
1500 NEW ROAD
NORTHFIELD, NJ 08225

MAXIMUS PROPERTIES LLC
1500 NEW ROAD
NORTHFIELD, NJ 08225

MOORE, JOHNNY
1301 PROVIDENCE ST APT 1
STAFFORD, VA 22554

PEREZ, EDWIN; SANTIAGO, A & PEREZ-D
23 N SECOND ST
PLEASANTVILLE, NJ 08232

JONES, SHIRENA D
6 VOLA LANE
PLEASANTVILLE, NJ 08232

GERALD, WALTER & EVANS, LAKISH
219 ABBEY LN
PLEASANTVILLE, NJ 08232

BANDI PROPERTY MGMT LLC
1202 TILTON RD #1
NORTHFIELD, NJ 08225

SILVERIO, FRANCIS & FERRER, RO
215 ABBEY LN
PLEASANTVILLE, NJ 08232

BATISTA, MARIA & BENETEZ, V ES
4 VOLA LANE
PLEASANTVILLE, NJ 08232

CITY OF PLEASANTVILLE
CITY HALL
PLEASANTVILLE, NJ 08232

WILLIAMS, ESTELLE
8 N SECOND ST
PLEASANTVILLE, NJ 08232

FREDERIQUE, JEAN
10 N SECOND ST
PLEASANTVILLE, NJ 08232

ARISTIZABAL, DAVID & JULIA
6827 MILL RD
EHT, NJ 08234

HERNANDEZ, VICTOR & ADELIZ
18 ROLLING STONE DR APT 2
ABSECON, NJ 08201

FREEMAN, LILLIE B
22 N SECOND ST
PLEASANTVILLE, NJ 08232

_____	South Jersey Gas Co. 1 South Jersey Plaza, Folsom NJ 08037	Gas
_____	Atlantic City Electric Co, Real Estate 5100 Harding Hwy #339, Mays Landing, NJ 08330-9902	Electric
_____	Comcast Cable 901 W Leeds Ave, Absecon, NJ 08201	Cable
_____	Verizon—NJ 540 Broad St., Newark, NJ 07102	Telephone
_____	New Jersey Transit 1 Penn Plaza East, Newark, NJ 07105	Public Transit
_____	New Jersey DOT Rte 70 & NJ Tpk, Cherry Hill, NJ 08034	
_____	Atlantic County Engineering Dept. P O Box 719, Northfield, NJ 08225	
_____	Commissioner, NJ DEP P O Box 412, Trenton, NJ 08625-0412	Lakes Bay and/or Tunnis Basin
_____	City of Pleasantville, Davinna King-Ali, City Clerk 18 N First St, Pleasantville, NJ 08232	
_____	Northfield City Clerk 1600 Shore Rd., Northfield NJ 08225	City of Northfield
_____	Egg Harbor Twp. Clerk 3515 Bargintown Rd., Egg Harbor Twp., NJ 08234	Egg Harbor Township
_____	Absecon City Clerk 500 Mill Rd., Absecon, NJ 08201	City of Absecon



PLEASANTVILLE LAND MANAGEMENT CODE

CHECKLIST I.

'd' Variances

Pursuant to N.J.S.A. 40:55d-70d

See §300-26, 27 & 37 D. for further details regarding submission requirements and procedures.

Each page of this Checklist must be signed and dated by the Applicant.

PLEASE READ THE FOLLOWING CAREFULLY BEFORE COMPLETING THE VARIANCE JUSTIFICATION NARRATIVE

Under N.J.S.A. 40:55D-70 (d), 'd' variance relief is required to permit (1) the use of lands or buildings in areas of the City (Zoning Districts) where such use is not permitted, (2) to expand an existing non-permitted use, (3) to deviate from a conditional use standard as defined in the City's Land Management Code, (4) to develop beyond the floor area ratio permitted in a Zoning District, (5) to develop beyond the density permitted in a Zoning District, and (6) to develop at a building height 10' or 10% beyond that which is permitted in a Zoning District.

Generally, in order for the Zoning Board of Adjustment⁶⁵ to grant a 'd' variance request, an Applicant must demonstrate, to the Board's satisfaction, that special reasons (broadly defined as relieving an undue hardship on the Applicant OR advancing the purposes of the Municipal Land Use Law) exist. This is known as the Positive Criteria. The Applicant must also demonstrate that granting such relief will not substantially impair the purpose and intent of the City's Zone Plan or Zoning Ordinance, and that the relief requested will not be a substantial detriment to the public good. This is known as the Negative Criteria.


Both the Positive Criteria and the Negative Criteria must be satisfied in order for the Board to grant a 'd' variance request.

The grant of a 'd' variance requires an affirmative vote by five (5) Board members, regardless of how many members may be attending the meeting.

In order to satisfy the Positive Criteria for 'd' variances, the applicant must prove that:

- (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and

⁶⁵ Only a Zoning Board may grant 'd' variance relief


Signature of Applicant

7/31/21
Date



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Pursuant to N.J.S.A. 40:55d-70d

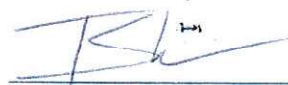
See §300-26, 27 & 37 D. for further details regarding submission requirements and procedures.

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exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property..."

OR, the applicant must prove that the proposed development will achieve at least one (1) of the following Purposes of the Municipal Land Use Law:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;
- d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey's citizens;
- h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;


Signature of Applicant

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- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
- k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;
- l. To encourage senior citizen community housing construction;
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- n. To promote utilization of renewable energy resources;
- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.

Applicants requesting 'd' variance relief must complete the following **Checklist H.**, along with the accompanying **Schedule of Requested 'd' Variance(s)** and **'d' Variance Justification Narrative** setting forth and describing the specific requirements of the Pleasantville Land Management Code from which relief is being sought. Applicants must also address the reasons why such relief is justified.

Applicants MUST submit variance justifications for all requested variances as part of this application process. Applications not containing the aforementioned detailed written narrative, addressing both the Positive Criteria and Negative Criteria required for 'd' variance relief, shall be deemed INCOMPLETE.



Signature of Applicant

7/31/21

Date



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Each page of this Checklist must be signed and dated by the Applicant.

X

1. All General Checklist Requirements in such number as indicated in Checklist A.

X

2. Plats, plans drawings of the proposed project at a scale specified under Checklist A., item 3. A. Plats, plans or drawings prepared by a New Jersey Licensed Land Surveyor, Professional Engineer, Professional Planner or Architect shall be submitted on a paper size specified under Checklist A., item 3. B. Plats or plans prepared by the Applicant may be submitted on a sheet no smaller than 11"x17".

X

3. Topographical Outbound Survey of the Subject Property, at a scale of not less than 1"=50', prepared by a New Jersey Licensed Land Surveyor. If Survey is dated more than 2 years prior to the date of submission of the Subject Application, an Affidavit of No Change, prepared by a New Jersey Licensed Land Surveyor, certifying that the submitted survey depicts the true existing conditions on the subject property, shall also be required. The Survey shall include the distances between the proposed building(s) and any other buildings on adjacent lots (on both sides and the rear of the Subject Property).

X

4. Lot area expressed both in acreage and square feet, to the nearest tenth of an acre, both with and without any area(s) located within any existing or proposed public rights-of-way.

X

5. Development boundary lines (heavy solid line).

X

6. Variance requests under N.J.S.A. 40:55d-70d(3), (4) & (6) only:

— A. detailed site drawings, drawn to scale and fully dimensioned, depicting the size and location of all existing and proposed structures, signs and lighting, with height noted, and indicating if existing structures and uses will be retained or removed.

— B. detailed architectural and elevation drawings, drawn to scale and fully dimensioned, depicting all four (4) building elevations (labeled north, south, east and west, with street names as applicable), with colors and materials indicated on the plans.

X

7. Completed **Schedule of Requested 'd' Variances** attached to this Checklist.

X

8. Detailed justification for the relief requested, including statement addressing the Positive Criteria and Negative Criteria required for 'd' Variance relief.


Signature of Applicant

7/31/21
Date



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Pursuant to N.J.S.A. 40:55d-70d

See §300-26, 27 & 37 D. for further details regarding submission requirements and procedures.

Each page of this Checklist must be signed and dated by the Applicant.

APPLICANTS MAY UTILIZE THIS FORM OR MAY CREATE THEIR OWN SCHEDULE AS LONG AS THE REQUIRED INFORMATION IS INCLUDED.

SCHEDULE OF REQUESTED 'd' VARIANCES			
Variance Number	Ordinance Reference (§300-)	Regulation / Requirement	Existing / Proposed Condition
1.	300-22	Permitted Principal Structures	Residence for Women in Recovery
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

(use additional pages if necessary)


Signature of Applicant

7/31/21
Date

(insert revision date)



PLEASANTVILLE LAND MANAGEMENT CODE

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Each page of this Checklist must be signed and dated by the Applicant.

APPLICANTS MAY UTILIZE THIS FORM OR MAY CREATE THEIR OWN SCHEDULE AS LONG AS THE REQUIRED INFORMATION IS INCLUDED.

'd' VARIANCE JUSTIFICATION NARRATIVE	
Variance Number (from Schedule of Requested 'c' Variances)	Detailed Justification for Variance Request
1.	Please See Attached Variance Justification Report.
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

(use additional pages if necessary)


Signature of Applicant

7/31/21
Date

(insert revision date)

CERTIFICATION OF UNDERSTANDING

Teen Challenge New Jersey

I, _____, Applicant, applying to appear
before the Pleasantville Planning and/or Zoning Board, do hereby

CERTIFY that I understand that:

- a. The original amount posted into my escrow account may NOT be adequate to cover any bills presented against it by the Board professionals;
- b. If said original escrow is depleted, I will be required to post additional funds into the account;
- c. Until such additional funds are deposited, all work on the part of any of the Board professionals will cease until said funds are posted; and
- d. In the event of a dispute as to any bill or bills submitted, I, as the Applicant, have the option of applying to the Atlantic County Board of Construction Appeals, whose telephone number is 609-645-5971, for a fair resolution of the dispute.

Teen Challenge New Jersey

DATED: 7/31/21

NAME: JBH

Applicant

PROJECT NARRATIVE
For: Teen Challenge New Jersey
5 N. Second Street
Pleasantville, New Jersey
Block 100, Lot 24

Teen Challenge New Jersey ("Applicant") seeks use variance relief pursuant to N.J.S.A. 40:55D-70d(1) in order to establish a residential recovery program for women recovering from drugs, alcohol and other life controlling issues at the above property. The philosophy and curriculum of the program is based on the Bible and assists participants in transition from alcoholism and substance abuse to a life of hope and freedom in Christ.

The subject property is located in the R50 Single-Family Residential Zoning District and is currently utilized as a nonconforming mixed-use funeral home/residential building. As part of the overall plan of development, the Applicant seeks to convert the nonconforming mixed-use structure into a 6-bedroom residence for individuals in recovery from drug and alcohol abuse.

Without waiving our client's right to assert that the subject use is permitted, use variance relief pursuant to N.J.S.A. 40:55D-70d(1) is sought. As the proposed use of the building will serve disabled individuals in recovery from drug and alcohol abuse, it is an inherently beneficial use that satisfies the positive criteria of N.J.S.A. 40:55D-70d. John Giercyk v. City of Estell Manor Planning/Zoning Board, et al., No. A-2729-15T2, 2017 WL 6421047, at *2 (N.J. Super. Ct. App. Div. Dec. 18, 2017), a copy of which is attached hereto.

In addition to the use being inherently beneficial, multiple purposes of zoning are also advanced through this project. The Applicant is however only required to satisfy the negative criteria for an inherently beneficial use in order to justify the use variance relief pursuant to the New Jersey Supreme Court's direction in Medici v. BPR Co, 107 N.J. 1, 4-5 (1987). The proposed use will not substantially impair the intent and purpose of the zone plan and/or zoning ordinance, thus satisfying the negative criteria.

INHERENTLY BENEFICIAL USE

Individuals who suffer from substance abuse are recognized under the law as "handicapped" and also as "qualified persons with disabilities" within the meaning of the Americans with Disabilities Act, 42 U.S.C. § 12101(2) and 28 C.F.R. 35, 103. Additionally, the New Jersey Supreme Court has found that recovering alcoholics and addicts are handicapped individuals under other applicable federal statutes, as well as the New Jersey Law Against Discrimination. Cherry Hill Twp. v. Oxford House, Inc., 263 N.J. Super. 25, 52 (App.Div.1993).

With this application, the Applicant proposes to operate a residential treatment program to serve the needs of women in recovery from drug and alcohol abuse. As this use will serve the needs of handicapped individuals, the proposed use falls within the definition of "inherently beneficial use" under the New Jersey Municipal Land Use Law, which defines such use as one that is "universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare." N.J.S.A. 40:55D-5. Group homes, for example, are listed as an specific inherently beneficial uses. Id.

Inherently beneficial uses still must satisfy the so-called negative criteria that they would not create a substantial detriment to the public good or substantial impairment to the intent and purpose of the zoning plan and the zoning ordinance. Nevertheless, the leading treatise on land use law concludes that "...uses denominated 'inherently beneficial' will have to inflict a greater detriment than would a purely private use for the detriment to be considered substantial" within the context of the negative criteria. See *Cox & Koenig, New Jersey Zoning and Land Use Administration* (GANN 2014) Section 8-2.1. Even in the context of a use which is not inherently beneficial our courts have held that the Municipal Land Use Law requires a "substantial detriment." See N.J.S.A. 40:55D-2; Yahnel v. Board of Adj. of Jamesburg, 79 N.J. Super. 509, 519 (App.Div.) cert. denied 41 N.J. 116 (1963).

The Court in Sica, supra spelled out the considerations a Board can take into account in evaluating the negative criteria but cautioning Boards not to apply a "too strict" standard. The Sica considerations include whether the proposed use will substantially increase traffic, which is not the case with the present application.

Moreover, the residents of the proposed residential program are expressly protected under the federal Fair Housing Act from discriminatory zoning practices that deny them the right to fair housing opportunities. 42 U.S.C. 3601, et seq. The federal Fair Housing Act specifically prohibits municipalities and their agents to "coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of" protected rights. 42 U.S.C. 3617; Kessler Institute for Rehabilitation, Inc. v. Mayor & Council of Borough of Essex Fells, 876 F.Supp. 641 (D.N.J. 1995) (holding that a property owner was "aggrieved" and had standing under Federal Fair Housing Act to protest a borough's alleged discriminatory conduct in passing ordinance authorizing initiation of condemnation proceedings with respect to property on which owner was planning to build treatment facility for disabled adults, where property owner claimed that borough's discriminatory housing practice deprived it of important social, professional, business and economic, political and aesthetic benefits of associating with disabled persons). Note that the prevailing party in a fair housing lawsuit is allowed reasonable attorney's fees under Section 3613(c).

For all of these reasons, the Applicant's proposed residential treatment center should be deemed an inherently beneficial use, thus satisfying the positive criteria for use variance relief.

POSITIVE CRITERIA

Although this is clearly an inherently beneficial use, several purposes of the Municipal Land Use Law are also advanced through this application. The proposed use will utilize the existing building footprint, thus preserving the existing open space at the property. Thus, the Applicant's use preserves adequate light, air and open space. N.J.S.A. 40:55D-2c. The Applicant's use further provides sufficient space in an appropriate location for a residential use in order to meet the needs of all New Jersey citizens, particularly as the Applicant is proposing to convert the nonconforming mixed use funeral home/residential building into only a residential use. N.J.S.A. 40:55D-2g. Further, for the reasons detailed above, the proposed use will most certainly "promote the public health, safety, morals, and general welfare". See N.J.S.A. 40:55D-2(a).

NEGATIVE CRITERIA

The Applicant also satisfies the required negative criteria; mainly that the use variance will not substantially impair the intent and purpose of the City of Pleasantville Zone Plan and Zoning

Ordinance. As indicated above, the subject property is located in the R50 “single-family” residential zoning district which permits residential uses. The proposed use will operate like a traditional single-family residence as the residents will eat meals together, cook for each other, share chores, and support each other, which are hallmarks of a single housekeeping unit according to longstanding New Jersey Supreme Court precedent See Borough of Glassboro v. Vallorosi, 117 N.J. 421 (1990). Also, there are no negative traffic impacts associated with the Applicant’s proposed use as most, if not all, residents will be driven by resident counselors and will not have their own vehicles parked on site. Finally, the existing non-conforming funeral home use will be eliminated if approval is granted.

For the above reasons, we submit that “d” use variance relief is eminently warranted under these circumstances.

THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT (“RLUIPA”)

The Religious Land Use and Institutionalized Persons Act (“RLUIPA”) 42 U.S.C. § 2000cc, et seq., is a federal law that, among other things, protects religious institutions from unduly burdensome or discriminatory land use regulations. Under RLUIPA, government entities are prohibited from enacting land use/zoning restrictions that impose a “substantial burden” on the religious exercise of a person or institution unless the government can show it has a compelling interest and the restriction is the least restrictive way to further that interest.

As discussed above, Teen Challenge New Jersey is a Christian organization that works to introduce people in addiction to a personal relationship with Jesus Christ, through discipleship & by applying Biblical principles. Frequent prayer services and Bible study help participants overcome addiction and life challenges through the power of Jesus Christ. Under the numerous protections offered by RLUIPA, the proposed Christian based recovery program is protected from unduly burdensome or discriminatory land use regulations, including regulations which place a substantial burden on the religious exercise of the Applicant and protection against unreasonable limitation of religious assemblies including the proposed residents. 42 U.S.C. § 2000cc(a) and § 2000(b)(3)(B). Note that the prevailing party in RLUIPA litigation is allowed reasonable attorney’s fees under 42 U.S. Code § 1988.

CONCLUSION

Granting the requested use variance will allow the Applicant to establish the proposed residential program for women in drug and alcohol recovery in a way that advances the purposes of the MLUL and which do not substantially impair the intent and purpose of the City’s Zone Plan and zoning ordinance.

The Applicant shall supplement this Variance Justification Report with the testimony at the time of hearing.

Prepared by: NEHMAD, DAVIS, & GOLDSTEIN, P.C.
Date: May 24, 2021