

LEON S. AVAKIAN, INC. *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

LEON S. AVAKIAN, PE., P.L.S. (1953-2004)
PETER R. AVAKIAN, PE., P.L.S., P.P.
MEHRYAR SHAFAI, PE., P.P.
GREGORY S. BLASH, PE., P.P., CPWM
GERALD J. FREDI, PE., P.P.
JENNIFER C. BEAHM, P.P., AICP
CHRISTINE L. BELL, PP, AICP, CFM
SAMUEL J. AVAKIAN, PE., P.L.S., P.P.
MICHAEL SHAFAI, PE

March 17, 2026

Borough of Bradley Beach
Land Use Board
701 Main Street
Bradley Beach, NJ 07720

**Re: Christensen Residence
Block 28, Lot 34
324 McCabe Avenue
Borough of Bradley Beach
Use/Bulk Variances
Our File BBPB 25-13**

Dear Chairman and Board Members:

Our office has received an application submitted for Board review in connection with the above-referenced project. Submitted with the application are the following:

- Boundary Survey consisting of one (1) sheet prepared by Paul K. Lynch, P.L.S., of Paul K. Lynch Land Surveyors, dated June 23, 2025, with no revision date.
- Site Plan consisting of eight (8) sheets prepared by Shawn J. Mazur, AIA, dated May 10, 2025, last revised December 1, 2025.

The application has been deemed COMPLETE. Our office has reviewed the plans to determine if they conform with the requirements of the Borough Ordinance and report as follows:

1. **Submission Waivers**

The Applicant is not requesting any waivers from the land development ordinance checklist as outlined below:

Appendix A - Application Checklist and Documents Required To Be Submitted [Amended 7-23-2019 by Ord. No. 2019-18]

2. **Project Description**

- A. The existing lot contains a 2 ½ - story single-family dwelling with a covered front porch, concrete walks, and a 1 – story accessory garage apartment in the rear.

- B. The property is a corner lot located on the east side of Madison Avenue and south side of McCabe Avenue (Lot 34, Block 28) with a total area of 2,500 square feet.
- C. The Applicant is proposing a 58.6 square foot rear addition and front upper porch to the 2 ½ - story single-family dwelling, as well as an increase in the height of both the 2 ½ - story single-family dwelling and the 1 – story accessory garage apartment.

3. **Zoning and Land Use**

- A. The property is located in the R-1 Residential Zone and a single-family dwelling is permitted as a principal use in this zone. Garage apartments are not permitted on undersized lots in the R-1 Residential Zone and as such constitutes a second principal use. **The applicant will require d(1) use variance relief to allow for two (2) principal dwellings in the R-1 Residential Zone.**
- B. The Applicant is requesting Board approval for use and bulk variances with building coverage and others as described in this letter.

4. **Variances and Design Waivers**

- A. The proposed improvements conform with the following requirements in the table below:

Lot	Required	Existing	Proposed
Minimum Lot Area	5,000 sf.	2,500 sf. (NC)	No Change
Minimum Lot Width	50 ft.	25 ft. (NC)	No Change
Minimum Lot Depth	100 ft.	100 ft.	No Change
Principal Building	Required	Existing	Proposed
Minimum Front Yard Setback, McCabe Ave. – <u>Building/Porch</u>	25 ft. or Average *(Average N.G.)	7.92 ft. (NC)	7.92 ft. (V)
Minimum Front Yard Setback, Madison Ave. - <u>Building</u>	15 ft. or Average *(Average N.G.)	3.77 ft. (NC)	3.77 ft. (V)
Minimum Rear Yard Setback	25 ft.	39.79 ft.	No Change
Minimum Side Yard Setback	5 ft.	3.02 ft. (NC)	3.02 ft. (V)
Maximum Building Height	27 ft.	29.3 ft. (NC)	34 ft. (V) - D(6)
Maximum Number of Stories	2 ½ Stories	2 ½ Story	2 ½ Stories
Secondary Principal Building	Required	Existing	Proposed
Minimum Front Yard Setback, Madison Ave. - <u>Building</u>	15 ft. or Average *(Average N.G.)	1.74 ft. (NC)	1.74 ft. (V)
Minimum Accessory Rear Yard Setback	25 ft.	1.68 ft. (NC)	1.68 ft. (V)
Minimum Accessory Side Yard Setback	5 ft.	0 ft. (NC)	0 ft. (V)

Maximum Building Height	27 ft.	17.3 ft.	24 ft.
Maximum Number of Stories	2 ½ Stories	2 Story	2 Stories
Lot Coverage	Required	Existing	Proposed
Maximum Building Coverage	35%	57.31% (NC)	59.66% (V)
Maximum Impervious Coverage	60%	69.2% (NC)	71.5% (V)

(V) Variance

(N.G.)-Not Given

(NC) Existing Non-Conformity

Existing non-conformities -Five (5)

Removing Zero (0)

Proposed Variances – Nine (9)

- B. In accordance with Section 450-26.D.(1)(a) states *the minimum lot area is 5,000 square feet*. The existing lot area is 2,500 square feet, **which is an existing non-conformity**.
- C. In accordance with Section 450-26.D.(1)(b) states *the minimum lot width is 50 feet*. The existing lot width is 25 feet, **which is an existing non-conformity**.
- D. In accordance with Section 450-26.D.(1)(d) states *the minimum front yard setback is 15 feet on north-south streets and 25 feet on east-west streets*. The existing front yard setback along McCabe Avenue (east-west street) is 7.92 feet, **which is an existing non-conformity**. The existing front yard setback along Madison Avenue (north-south street) is 3.77 feet, **which is an existing non-conformity**. The applicant proposes to modify the existing porch and increase the building height; therefore, the existing pre-existing nonconforming setbacks are affected by the proposed improvements, **therefore variances are required**.
- E. In accordance with Section 450-26.D.(1)(e) states *the minimum side yard setback is 5 feet*. The existing side yard setback is 3.02 feet, **which is an existing non-conformity**. The applicant proposes to modify the existing porch and increase the building height; therefore, the existing pre-existing nonconforming setbacks are affected by the proposed improvements, **therefore a variance is required**.
- F. In accordance with Section 450-26.E.(2) states *the living space of single-family dwellings on lots 4,000 square feet or greater and at least 40 feet of frontage may be up to 2 1/2 stories or 35 feet in height, and the living space of single-family dwellings on lots that are either less than 4,000 square feet or less than 40 feet of frontage shall not exceed two stories and 27 feet in height*. The existing dwelling height is 29.3 feet, which is an existing non-conformity. The Applicant is proposing a dwelling height of 34 feet. **A d(6) Use Variance is required**.

- G. In accordance with Section 450-26.B.(1)(a) states *a minimum lot size of 7,500 square feet is required for permitted accessory use garage apartments*. The existing lot area is 2,500 square feet, which does not meet the minimum requirement for accessory garage apartments and is therefore considered to be a second principal dwelling. The Applicant is proposing to increase the garage apartment height to 24 feet. **A Use variance is required to allow for two (2) principal dwellings on one lot.**
- H. In accordance with Section 450-26.D.(1)(d) states *the minimum front yard setback is 15 feet on north-south streets and 25 feet on east-west streets*. The existing front yard setback along Madison Avenue to the second principal dwelling (north-south street) is 1.74 feet, **which is an existing non-conformity**. The applicant proposes to increase the building height; therefore, the existing pre-existing nonconforming setbacks are affected by the proposed improvements, **therefore variances are required.**
- I. In accordance with Section 450-26.D.(1)(e) states *the minimum side yard setback is 5 feet*. The existing side yard setback to the second principal dwelling is 0 feet, **which is an existing non-conformity**. The applicant proposes to increase the building height; therefore, the existing pre-existing nonconforming setbacks are affected by the proposed improvements, **therefore a variance is required.**
- J. In accordance with Section 450-26.D.(1)(f) states *the minimum rear yard setback is 25 feet*. The existing rear yard setback to the second principal dwelling is 1.68 feet, **which is an existing non-conformity**. The applicant proposes to increase the building height; therefore, the existing pre-existing nonconforming setbacks are affected by the proposed improvements, **therefore a variance is required.**
- K. In accordance with Section 450-26.D.(1)(g) states *the maximum building coverage is 35% of the lot area*. The existing building coverage is 57.31%, which is an existing non-conformity. The Applicant is proposing a building coverage of 59.66%. **A Variance is required.**
- L. In accordance with Section 450-26.D.(1)(h) states *the maximum impervious coverage is 60% of the lot area*. The existing building coverage is 69.2%, which is an existing non-conformity. The Applicant is proposing a building coverage of 71.5%. **A Variance is required.**
- M. In accordance with Section 450-13.G. states *Air Conditioners, HVAC and other mechanicals shall not be permitted in the required area setbacks*. The existing HVAC equipment is currently located within the proposed building addition location **which is an existing non-conformity**

- N. In accordance with section 450-41.A.(1) states *Curb cuts shall be a maximum of 12 feet in width. Driveway aprons shall be a maximum of 10 feet in width at the property line and 12 feet in width at the curbline.* The existing driveway has a curb cut of 18 feet and a width of 17 feet **which is an existing non-conformity**
- O. In accordance with section 450-39.E. the applicant is required to have a minimum of 4 off street parking spaces while the property only provides two spaces **which is an existing non-conformity.**

5. **Required Proofs for Variance Relief**

A. *D(1) Use Variance*

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use variance, the Applicant must show that the proposal meets four separate criteria:

1) Positive Criteria

- (a) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.
- (b) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.

2) Negative Criteria

- (a) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principle that municipalities should make zoning decisions by ordinance rather than by variance, and that

the grant of a variance should not represent a complete departure from the enacted policy of the governing body.

- (b) *The variance can be granted without a substantial detriment to the public good.* This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

B. *D(6) Height Variance.* The application requires a d(6) use variance to permit a height of a principal structure which exceeds by 10 ft. or 10% the maximum height permitted in the district for a principal structure.

- 1) To meet the positive criteria for a d(6) variance, the applicant should prove the particular suitability of the site in accommodating the use, despite the increase in height by over 10% of what is permitted in the zone district.
- 2) The negative criteria should focus on the impact of the deviation. The applicant must present evidence that the negative impacts of non-compliance with the permitted height can be mitigated to the extent that the use will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

C. *C Variances.* A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

6. **General Comments**

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The survey and site plan appear to indicate that the existing steps are partially located on the adjoining Lot 33. The applicant should provide testimony regarding this existing condition.
- C. General Note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- D. General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain natural grass.
- E. The Applicant should provide testimony regarding ordinance requirements for the habitable floor area within the proposed half story, which shall not exceed 50% of the floor area below it.
- D. The applicant proposes to increase the impervious coverage beyond the amount permitted by ordinance. Due to existing site constraints, the applicant will not be able to construct a drywell or perforated pipe system to mitigate the additional runoff generated by the proposed improvements.
- E. Applicant to provide testimony with regard to roof leaders for the proposed single-family dwelling and garage apartment.
- F. The Applicant should provide information that taxes are currently paid.
- G. The Applicant shall secure any and all construction permits needed for the project.

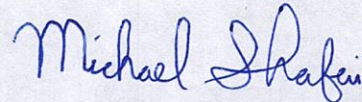
Our office reserves the right to provide additional comments upon receipt of revised plans.

324 McCabe Avenue
March 17, 2026
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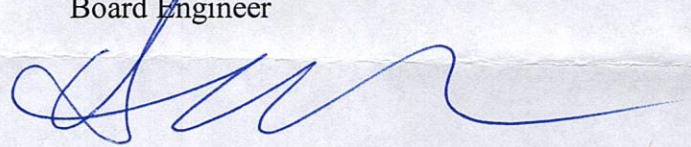
If you have any questions, or require additional information on this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Michael M. Shafai, P.E.,
Board Engineer



Christine Bell, P.P., AICP, CFM
Board Planner

JOG
cc: Kristie Dickert, Board Administrator
Anne Marie Rizzuto, Esq., Board Attorney
Shawn J. Mazur, Architect
David Christensen, Applicant
BB/PB/26/25-13