

LEON S. AVAKIAN, INC. *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

LEON S. AVAKIAN, P.E., P.L.S. (1953-2004)  
PETER R. AVAKIAN, P.E., P.L.S., P.P.  
MEHRYAR SHAFAI, P.E., P.P.  
GREGORY S. BLASH, P.E., P.P., CPWM  
LOUIS J. LOBOSCO, P.E., P.P.  
GERALD J. FREDA, P.E., P.P.  
JENNIFER C. BEAHM, P.P., AICP  
CHRISTINE L. BELL, P.P., AICP  
SAMUEL J. AVAKIAN, P.E., P.L.S.

November 14, 2022

Kristie Dickert, Administrative Officer  
Zoning Board of Adjustment  
Neptune Township  
P.O. Box 1125  
Neptune, NJ 07754-1125

**Re: College Achieve Public Schools (ZB#22/14)**  
**3455 W. Bangs Avenue**  
**Block 3101, Lot 2**  
**Use Variance**  
**Our File: NTBA 22-18**

Dear Board Members:

Our office received and reviewed materials that were submitted in support of an application for use variance approval for the above referenced project. The following documents were reviewed:

- Submission Letter from Scott T. Miccio, of Parker McCay PA, dated August 25, 2022.
- Neptune Township Application for Use and/or Bulk Variances and Checklist, dated August 24, 2022.
- Response to Application Question #9
- Zoning Denial dated May 11, 2022.
- Resolution ZBA#20-17 of the Zoning Board of Adjustment of the Township of Neptune, memorialized November 4, 2020.
- College Achieve Greater Asbury Park Charter School Architectural Plans, consisting of one (1) sheet, prepared by Netta Architects, dated April 18, 2022.
- Boundary Survey, consisting of (1) sheet, prepared by Peter P. Bennett, III, of WJH Engineering, dated July 6, 2020.

The applicant is seeking waivers for the requirements to submit a property deed, as the board has recently reviewed an application concerning this property; and to submit a community impact statement as they are requesting to add additional grade levels but requesting an increase in maximum capacity. Based upon the submission, we find the application to be **COMPLETE**, subject to payment of all required application and escrow fees, and verification of taxes paid. Please schedule this application for the next available meeting. We report as follows:

1. **Site Analysis and Project Description**

The subject property, Block 3101, Lot 2, consists of approximately 17.95 acres located on the northwest corner of West Bangs Avenue and Route 33, in the R-1 Very Low-Density Residential Zone District. The site is currently developed with 1-1/2 story church building, a 2 story church and school, a 2 story spiritual center, and a 2 story convent building; as well as associated site improvements. Residential properties are located to the north and east of the subject property. Commercial uses are located to the south, across Route 33, and vacant properties are located to west of the subject property.

In October of 2020, the subject property was granted use variance relief to permit two (2) principal uses on one (1) lot, the existing church and a public charter K-8 school with a capacity of up to 600 students. The applicant is now seeking d(1) use variance approval to expand the charter school use through K-12. The maximum number of students will remain the same.

2. **Consistency with the Zone Plan**

The subject property is located in the R-1 Very Low-Density Residential Zone District. The purpose of the R-1 Zone District is to provide for single-family residential development at a density less than 3.5 units per acre. Permitted uses in the R-1 zone district include community centers, community shelters, detached single-family residences, parks, places of worship, and recreational facilities. Public or private elementary, middle or high schools are permitted conditional uses in the R-1 Zone District. As per §411.05, unless otherwise specified, not more than once principal dwelling or principal building shall be permitted on one lot in any residential zone district.

This application was previously granted **d(1) use variance** relief to permit two (2) principal uses on one lot, the existing church and a public charter K-8 school in October of 2020. The applicant is now seeking **d(1) use variance** relief to permit the existing church and a K-12 charter school use. The maximum number of students is not proposed to increase at this time.

3. **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 principal 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.

6. **Additional Comments**

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The applicant shall provide testimony regarding the school use.
- C. The applicant should indicate if any improvements to the site or the building facades are proposed.
- D. The applicant should indicate if any additional signage is proposed for the site.

- E. **The applicant has indicated that the majority of students will be bussed. However, by expanding the use to K-12, the school will now include students who have the ability to drive themselves. Testimony should be given as to how student parking will be regulated and how student drivers will impact the overall parking demand and traffic impacts of the site.**
- F. **The architectural plan designates three (3) instructional classroom spaces. Testimony should be provided as to how 600 students, spanning grades K-12, will receive educational instruction in three (3) classroom spaces.**
- G. **Testimony should be provided as to the adequacy of the restrooms for all proposed staff and students.**
- H. **Testimony should be provided regarding the operations of the proposed K-12 school. Will grades be separated (for example high school in one space and elementary school in another) or will all students utilize the entire building?**

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.  
Board Engineer



Jennifer C. Beahm, P.P.  
Board Planner

MS:clb/mcs

cc: Monica Kowalski, Esq., Board Attorney  
Michael W. Herbert, Esq., Applicant's Attorney ([mherbert@parkermccay.com](mailto:mherbert@parkermccay.com))  
Scott Miccio, Esq., Applicant's Attorney ([smiccio@parkermccay.com](mailto:smiccio@parkermccay.com))  
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