



MEMORANDUM

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To: Bayonne Zoning Board of Adjustment

From: Brian Slaugh, PP, AICP
Donna Miller, AICP, PP, CFM

Re: **Advent 31, LLC**
Application No. Z-25-003
Use Variance; Preliminary and Final Major Site Plan
Block 159, Lots 26 and 27
34-36 E. 31st Street
R-2 Detached/Attached Residential District

Date: February 16, 2026

1. APPLICATION DESCRIPTION

1.1. Applicant's Proposal. The applicant proposes to demolish an existing multi-family dwelling containing four units in order to construct a new eight-unit multi-family dwelling. The proposed building contains eight, two-bedroom apartments, and is four stories in height. The ground floor contains parking for 10 cars, space for bicycle parking, lobby with mail room and elevator and storage of waste and recyclables. The second and third floors each have four apartments, a lounge area and a covered balcony on the front of the building. The fourth half-floor contains an amenity room, storage and access to a roof deck on the rear of the building with private terraces for each apartment.

1.2. Existing Conditions. The subject property is an existing 9,000 sf. lot located on the south side of E. 31st Street, just west of Avenue E. It contains a two-story building currently used as a four-family dwelling. The property has a driveway along the west side of the lot that leads to a paved parking area in the rear of the property and a one-story garage with room for five cars.

1.3. Neighborhood Context. The property is located in the R-2 Detached/Attached Residential District. Adjoining properties and those in the general vicinity are single- and two-family detached dwellings, although there are larger multi-family and commercial uses on Avenue E. Bayonne Medical Center occupies the block bounded by E. 30th and E. 29th Streets to the south.

John Hatch, FAIA
George Hibbs, AIA
Brian Slaugh, AICP
Michael Sullivan, AICP
Michael Hanrahan, AIA
Mary Beth Lonergan, AICP



Recent Aerial of 34-36 E. 31st Street

NTS



2.0 ZONING

- 2.1. **Permitted Use.** In §35-5.3.a.2, the allowed uses are detached single- and two-family dwellings, home occupations and family day care homes are permitted in the R-2 District. The proposed eight unit multi-family dwelling is not permitted. **A use variance pursuant to N.J.S.A. 40:55D-70.1(d) is required.**
- 2.2. **Required Accessory Use.** Pursuant to §35-5.3.b, off-street parking is a required accessory use in the R-2 District. Each two-bedroom dwelling is required to have 1.25 off-street parking spaces. The proposed eight unit multi-family building requires 10 off-street parking spaces. 10 parking spaces are proposed within the ground floor parking area. **Complies.**
- 2.3. **Bulk Requirements.** The proposed building complies with the R-2 District standards (see §35-5.3.e) for minimum setbacks and maximum permitted



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coverage, but exceeds the maximum permitted building height¹ in stories². The maximum permitted height is 35 feet and 2½ stories. The height of the proposed building is 35 feet and 3½ stories. **A ‘c’ variance is required.**

- 2.4. **Minimum Open Space.** All multiple family dwellings are required to provide at least 250 sf. of open space per two-bedroom unit in order to provide light, air, and recreational space for occupants and other persons visiting the property per §35-5.26.k. The proposed building provides a more than 3,800 sf. roof deck, approximately 800 sf. of landscaped rear yard, for a total of 4,600± sf., or 575± sf. In addition, the applicant proposes an indoor lounge and amenity space for residents and their guests. **The plan complies.**

3.0 CONSIDERATION OF THE USE VARIANCE

- 3.1. **Context for Review.** While this office defers to the Board Attorney in advising the Board on the application of relevant variance criteria, this report identifies the use variance criteria for purposes of establishing a framework for review. The “-d(1)” designation is related to its codification in the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70.d(1). The applicant bears the burden of proof in the justification of the variance.
- 3.2. **Special Reasons.** As the Board is aware, it will need to find special reasons for granting the use variance. The applicant will need to satisfy the positive criteria that the site is peculiarly suited for the use, as well as the negative criteria, that it does not substantially impair the intent and purpose of the master plan and zoning ordinance and map. As a short-hand guide, we have listed for the Board’s consideration several questions that are commonly asked in use variance applications:

SPECIAL REASONS (POSITIVE CRITERIA)

- I. Does the site have characteristics which make it peculiarly (but not uniquely) suited for the proposed use? *As noted in the description of the neighborhood, the property is one among many other similarly situated*

¹ - HEIGHT OF BUILDING The vertical distance measured from mean finished grade along the side(s) of the building facing the street or street line to the highest point of the roof. This shall not include roof appurtenances such as parapets, elevator and stair bulkheads, required mechanical equipment and semipermanent roof coverings such as awnings, pergolas or canopies. For sloping roofs, it will be vertical distance from finished grade to the average distance between eaves and the ridge level for gable, hip and gambrel roofs.

² - STORY Shall mean that portion of a building consisting of a minimum seven feet of vertical height between the surface of any floor and roof/floor above it, that is defined as a habitable space and is counted as a full story. Any space between the floor and roof with less than seven feet and is not habitable space, as defined herein, shall not be considered a story.



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properties in the neighborhood on one of the numbered streets of the City. The R-2 district is intended for lower intensity residential uses and not for four-story apartment buildings. All of the other buildings on the street are two and a half stories. Taller, more intensive residential uses are primarily aligned along the Avenues or in specialized zoning districts associated with transportation hubs, such as the light rail stations on the east side of the City.

2. Are there unusual circumstances regarding the applicant and/ or property which would result in undue hardship if a use variance were not granted? *The existing building appears to be a well-maintained 4-unit building in a double duplex configuration. Nothing about its exterior appearance suggests that the building is obsolete or that its continued use represents any kind of hardship. See Google Street View below:*



3. Does the use promote the purposes of zoning? Typically, the Board would need to find that one of the purpose statements of the municipal land use law applies to the application. *The proposed use would take a non-conforming use of the property – because only single family and two-family dwellings are permitted – and make it even more non-conforming. The law promotes the idea, as one of the fundamental purposes of zoning, to*



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bring non-conforming uses into conformity with the zoning regulations. This application moves in the opposite direction.

NEGATIVE CRITERIA

1. *Would substantial detriment occur to the public health, safety and welfare if a use variance were granted? In general, zoning regulations are adopted precisely to ensure the public health, safety and welfare, but the ZBA exists to allow deviations from zoning regulations to account for situations and conditions that arise to provide relief for property owners. When regulations are drafted, not all scenarios can be envisioned. Here, however, the lot is regular in size and shape and has no environmental constraints. It is already developed at a conforming density of 4 units on the 9,000 sf. Though the R-2 district does not have a density regulation, it requires 4,000 sf. for a two-family dwelling, or 8,000 sf. for 4 units, though on two lots. While the lot does not have the frontage to be subdivided into two lots, it does have the area. So in terms of the intensity of development for the R-2, as the property exists today, it conforms, as proposed it is nearly twice as much.*
2. *Would a substantial impairment of the intent and purpose of the Master Plan or the Zoning Ordinance and Zone Plan (Zoning Map) result if a use variance were granted? Though a single change such as this does not represent a substantial impairment, if such applications are approved regularly, then as a group they would and should be analyzed as part of the next master plan process.*

- 3-3. Particular Suitability.** Decisions by the courts have set out the standards by which use variances are to be judged by the Board. The guiding case is *Medici v. BPR Co.*³ For variances not inherently serving the public good, such as this application, the applicant must prove, and the Board must specifically find, that the use promotes the general welfare because the proposed site is particularly suitable for the proposed use.⁴ To demonstrate that a property is particularly suited for the proposed nonconforming use, an applicant must show the need for the use at that particular location. Peculiar suitability may exist where "the use is one that would fill a need in the general community, where there is no other viable location, and where the property itself is particularly well fitted for the use either in terms of its location, topography or shape."⁴ That the site fits the needs of the applicant is not sufficient; a public benefit must also be generated and one that is not already being addressed in the community at large. The testimony given by

³ - 526 A. 2d 109, 107 NJ 1 (1987)

⁴ - *Funeral Home Mgmt., Inc. v. Basralian*, 319 N.J. Super. 200, 210 (App. Div. 1999).



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the applicants' experts must satisfactorily reconcile the grant of a use variance with the ordinance's continued omission of the proposed use from those permitted in the zone. We note that Bayonne has approved thousands of apartment units over the past decade and added over 10,000 people to its population since 2010. Many opportunities for modern apartments exist in the City in locations identified for higher intensities of development. Secondly, approving the use requires "an enhanced quality of proof, as well as clear and specific findings by the board of adjustment, that the grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance".

- 3.4. Consistency with the Master Plan and Zoning Ordinance.** As noted above, the applicants must also prove not only "that the variance can be granted 'without substantial detriment to the public good,'" but also "must demonstrate through an 'enhanced quality of proof . . . that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance.'" The Reexamination Report of the Master Plan (2017) made specific land use recommendations to be adopted in a revised land use plan element pertaining to existing residential neighborhoods:

- 1.c. Protect and preserve the size, scale and character of existing residential neighborhoods by eliminating the encroachment of commercial and multi-family uses in these areas.*
- i. Recommendation to maintain lower density development regulations in existing residential neighborhoods that do not abut against commercial properties;*
- ii. Recommendation to consider zoning revisions that strengthen the bulk standards for single family residential in existing neighborhoods.*

- 3.5. Negative Criteria.** In addition to satisfying the positive criteria, the applicant must also satisfy the negative criteria. In considering potential detriment to the public good, issues to consider may include, but are not limited to, effects on street parking from visitors, lighting and noise from the roof deck.

4.0 CONSIDERATION OF THE 'C' VARIANCE

- 4.1. Consideration of the Positive Criteria.** To satisfy the positive criteria for a "C" variance, the applicant has two choices. First, known as "-c(1)" variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:



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- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
- Alternatively, and known as “-c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

4.2. Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

4.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

5.0 GENERAL PLAN COMMENTS

5.1. **Mechanical Equipment.** The roof plan depicts AC units within each of the private terraces and adjacent to the amenity room. **The applicant should confirm that all mechanical equipment will be located on the roof.**

5.2. **Utility Meters.** The site plan does not indicate the location of utility meters serving the units. **If utility meters are to be mounted on the exterior of the building they should be restricted to the side walls.**

5.3. **Garage Ventilation.** The plan notes that the garage will have active ventilation through the garage wall at the rear of the building. There is only about three feet of clearance between the top of the garage and the adjacent ground level in this area. **The applicant should confirm that there is adequate area for the fresh air intake and separation from exhaust and whether additional venting may be required on the roof.**

5.4. **Lighting.** The plan depicts lighting at the front of the building over the garage door and at the rear exit stair from the garage. No lighting is depicted at the entry door to the building or on the roof. There also is no detail of the proposed light fixtures. **The plans should be revised to provide fixture details and light levels for**



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all building entry points, balconies and rooftop recreation areas that does not exceed one footcandle at the property line.



Architectural Rendering of Proposed Building

5.5. **Landscaping.** Landscaping is required to be provided as part of a site plan that is designed in a total pattern throughout the site, integrating the various elements of the plan (see §33-10.11). The plan depicts plantings proposed in the rear yard and along the front foundation area. Two street trees are proposed on the E. 31st Street frontage. We note that some of the plant materials are not suited for the site conditions. **If the application is approved, we would be able to provide the applicant with guidance on plant selection.**

6.0 MATERIALS REVIEWED

The following materials were reviewed in the preparation of this report:

- Application and Checklist, dated May 20, 2025.



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- Narrative Statement of Applicant, undated.
- Zoning Officer Letter, dated May 21, 2025.
- Certificate of Completeness Review, dated January 30, 2026.
- Copy of Tax Map Sheet 39 with property highlighted, undated.
- Copy of Property Deed, dated October 17, 2024.
- *New Multiple Dwelling*, prepared by Stephen M. Kawalek, RA, PP, Kawalek and Kawalek Architects, LLC, dated March 28, 2025, consisting of six sheets.
- *Topographic Survey*, prepared by Brad P. Joshnick, PLS, Trew Associates, dated December 9, 2024, consisting of one sheet.

7.0 APPLICANT AND PROFESSIONALS

- **Applicant/Owner.** Advent 31, LLC, 34-36 E. 31st Street, Bayonne, NJ 07002. Tel: 201-339-0924. Email: firm@RMWlawfirm.com.
- **Attorney.** Raff, Masone & Weeks, P.A., 1083 Avenue C, Bayonne, NJ 07002. Tel: 201-339-0924. Email: firm@RMWlawfirm.com.
- **Architect.** Stephen M. Kawalek, RA, PP, Kawalek and Kawalek Architects, LLC, 772 ½ Broadway, Bayonne, NJ 07002. Tel: 201-437-0648.

8.0 LIST OF NECESSARY RELIEF

Based on our initial review, the following variances are required or may be required, depending on the additional information submitted by the applicant. This list is not exhaustive and may be augmented by analysis performed by other Board professionals.

8.1. Variances:

- §35-5.3.a – Non-permitted use variance
- §35-5.3e - Maximum building height (stories)

8.2. Recommended Conditions of Approval:

- The plans should be revised to provide fixture details and light levels for all building entry points, balconies and rooftop recreation areas that does not exceed one footcandle at the property line.
- All mechanical equipment should be located on the roof.
- Utility meters shall be located on building sides, not at the front of the building.



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- Payment of any required affordable housing development fees as required by the City's affordable housing regulations.

We would be pleased to answer any questions concerning this review.

Cc. Alicia Losonczy, Land use Administrator
Richard N. Campisano, Esq., Board Attorney
Greg Valesi, PE, PP, CME, Board Engineer
Suzanne T. Mack, PP, AICP, CTP, FITE, AHP, City Planner
Tracey Tuohy, Zoning Officer