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June 18, 2020

Zoning Board of Adjustment  
Neptune Township  
P.O. Box 1125  
Neptune, NJ 07754-1125

**Re: PSI Atlantic Neptune NJ, LLC (ZB#20/06)**  
**2419 Highway 33**  
**Block 1709, Lot 1**  
**Use Variance & Prelim/ Final Major Site Plan**  
**Our File: NTBA 20-06**

Dear Board Members:

Our office received and reviewed materials that were submitted in support of an application for use variance and preliminary and final major site plan approval for the above referenced project and reports as follows:

**1. Documents Received**

- A. Submittal Letter prepared by Jennifer S. Krimko, Esq., of Ansell Grimm & Aaron, PC, dated March 17, 2020.
- B. Preliminary and Final Major Site Plan, consisting of 16 pages, Jason L. Fichter, PE, PP, CFM, CME, of Insite Engineering, LLC, dated February 7, 2020.
- C. Traffic Impact Analysis, prepared by Gary W. Dean, PE, PP, of Dolan & Dean Consulting Engineers, LLC, dated February 19, 2020.
- D. Community Impact Statement for Proposed Self Storage Facility, prepared by Jason L. Fichter, PE, PP, of Insite Engineering, LLC, dated February 7, 2020.
- E. Stormwater Management Report for Proposed Self-Storage Facility, prepared by Jason L. Fichter, PE, PP, of Insite Engineering, LLC, dated February 7, 2020.
- F. Operation and Maintenance Manual Stormwater Management Facilities, prepared by Jason L. Fichter, PE, PP, of Insite Engineering, LLC, dated February 7, 2020.

- G. Environmental Impact Statement for Proposed Self Storage Facility, prepared by Jason L. Fichter, PE, PP of Insite Engineering, LLC, dated February 7, 2020.
- H. Alta/NSPS Land Title Survey, consisting of one (1) sheet, prepared by Justin J. Hedges, PLS, of Insite Surveying, dated May 14, 2019, last revised on October 1, 2019.
- I. Architectural Plans for PSI Atlantic Neptune NJ, LLC, consisting of four (4) sheets, prepared by Eric Parker Lowder, RA, of Parker Studios, dated March 2, 2020.
- J. Phase One Environmental Site Assessment, prepared by EMG, dated May 24, 2019.
- K. Phase II Environmental Site Assessment, prepared by EMG, dated October 1, 2019.
- L. Neptune Township Tree Removal Permit Application, prepared by Jason Fichter, PE, of Insite Engineering, LLC, dated March 5, 2020.
- M. CubeSmart Self Storage Sign Plan, consisting of 11 sheets, prepared by Elro Signs, dated February 3, 2020.

**2. Site Analysis and Project Description**

The subject property, Block 1709, Lot 1, consists of approximately 3.75 located on Route 33 just west of Route 18, in the C-5 Route 33 West Commercial Zone District and Hospital Support Overlay Zones. The site is currently developed with a single-family home, storage buildings, multiple greenhouses, and a cell tower with maintenance building. The subject property is bounded by Route 18 entrance ramps to the north, east, and west. An entrance ramp for Route 18 is also located to the south of the property, across Route 33. Surrounding uses consist of highways and commercial uses.

The Applicant is proposing to construct a three (3) story, 35,516 sq. ft. self-storage facility and 24 leasable parking spaces for RVs, trailers, and automobiles. Additional proposed site improvements include site lighting, landscaping, and utility connections. The cell tower is proposed to remain.

**3. Consistency with the Zone Plan**

The subject property is located in the C-5 Route 33 West Commercial Zone District. The purpose of the C-5 Zone District is to provide for business uses appropriate to the Route 33 highway corridor situated west of Route 18. Permitted uses in the C-5 Zone District include furniture stores; floor covering stores; home furnishings stores; radio, television, & other electronics stores; computer & software stores;

musical instrument stores; music stores (CDs, cassettes, videos, records); hardware stores; retail bakeries; garden centers/ nurseries; commercial banking; savings institutions; banks; credit unions; consumer lending; real estate credit; all other non-depository credit intermediation; financial clearinghouse & reserve activities; investment banking & securities dealing; securities brokerage; direct life insurance carriers; direct health & medical insurance carriers; insurance agencies & brokerage; claims adjusting; all other insurance related activities; offices of real estate agents; offices of real estate appraisers; other activities related to real estate; computer training facility; apprenticeship training; other technical & trade schools; sports & recreation instruction; art, music, dance & martial-arts instruction; offices of physicians (exc mental health); offices of physicians, mental health; offices of dentists; offices of chiropractors; offices of optometrists; offices of physical, occupational and speech therapists, and audiologists; offices of podiatrists; all other outpatient care centers; diagnostic Imaging centers; home health care services; child care center; agents, managers for artists & other public entertainers; independent artists, writers & performers; health and fitness clubs; indoor recreational facility; public parks and recreational facilities; places of Worship; civic & social organizations; professional organizations; labor unions & similar labor organizations; full-service restaurants; restaurants; other computer related services; administration & general management consulting services; other scientific & technical consulting services; advertising agencies; other services related to advertising; veterinary services / animal hospital; photography studios & videography services; corporate, subsidiary & regional managing office; office administrative services; private mail centers; municipal facilities; fire department facilities; public safety facilities; first aid facilities; Board of Education facilities; newspaper publishers; book publishers; software publishers; and film & sound recording studios. Self-storage facilities and outdoor vehicle storage are not permitted uses in the C-5 Zone District.

The property is also located in the Hospital Support Overlay Zone District. Permitted uses in the Hospital Support Overlay Zone District include hospitals; physicians and other professional offices; clinics and other therapeutic and rehabilitation facilities; medical and Dental diagnostic offices and laboratories; sale of surgical and hospital supplies, orthopedic braces, appliances and shoes; emergency medical service facilities; pharmacies and other retail establishments for the sale of medical surgical supplies, equipment and clothes or goods and prescription eyeglasses; nursing homes, life-care facilities and extended-care facilities; restaurants; adult Care Centers; assisted Living Residences; public or quasi-public facilities; light industrial and manufacturing uses related to medical and dental uses including: sports & recreation instruction, health and Fitness Club, testing laboratories, computer programming services, computer systems design services, computer facilities management services, other computer related services, frozen specialty food manufacturing, commercial wholesale bakeries, commercial

Lithographic Printing, Other Commercial Printing, Prepress Services, Medicinal and Botanical Manufacturing, Research Laboratory, Preparation Manufacturing, All other miscellaneous chemical product and prep manufacturing, Radio, TV Broadcast & Wireless Communications Equipment Manufacturing, Other Electronic Component Manufacturing, Automatic Environmental Control Manufacturing, surgical and Medical Instrument Manufacturing, Dental Laboratories, Film and Sound Recording Studios and Data Centers. Self-storage facilities and outdoor vehicle storage are not permitted uses in the Hospital Support Overlay Zone District.

This application will require **d(1) use variance** relief to allow a self-storage facility and outdoor storage, uses which are not permitted in the C-5 Zone District or the Hospital Support Zone.

**4. Bulk Requirements**

- A. The minimum side yard setback in C-5 zone district is 30 ft, whereas the existing cell tower is 23.82 ft. **Existing variance condition.**
- B. The Applicant is proposing a building height of three (3) stories, whereas the maximum permitted in the zone district is two (2) stories. **A variance is required.**
- C. The maximum permitted building height in the C-5 zone district is 30 feet, whereas the Applicant is proposing a building height of 32.9 ft. with a parapet reaching 34 ft. **A variance is required.**

**5. Other Ordinance Requirements**

- A. Parking and Loading
  - 1) As per §411.09.B, all trailers, boats or boat trailers shall be stored in side or rear yard areas only; no trailer, boat, or boat trailer shall be parked or stored in the front yard area of a lot. **The Applicant shall confirm compliance with this ordinance section.**
  - 2) As per §412.12.B, loading spaces shall measure at least 15' wide by 45' long, with a height clearance of not less than 15'. The Applicant is proposing a loading space area of 12.33' wide, by 30' in length, with a height clearance of 14'. **A variance is required.**
  - 3) As per §412.18, parking spaces are prohibited in any front yard setback area, whereas the Applicant is proposing parking within the front yard setback. **A variance is required.**

- 4) As per §505.B.4, the maximum width permitted of a two-way driveway for nonresidential uses is 24 ft., whereas the Applicant is proposing a width of 25 ft. **A waiver is required.**

B. Fences and Walls

- 1) As per §412.07.B.1(b)(i), When such fences and walls are located within fifteen (15) feet of a street line they shall not exceed four (4) feet in height, as measured from the ground level. Fence posts, corners, gateways, and wall piers and entryways shall not exceed five (5) feet in height. The proposed 6' black vinyl chain link fence along the eastern property line is located within 6 ft. of Route 18 in the front yard setback. The Applicant is also proposing a retaining wall within the front yard setback along the eastern property line. Testimony should be provided as to the proposed height of the retaining wall. **A variance is required.**
- 2) As per §412.07.B.1(c), Chain link fences shall be prohibited in front yards in all zone districts. **We recommend this fence type be changed to white vinyl or something similar.**

C. Landscaping

- 1) The Applicant should provide additional landscaping conforming to the requirements of §509, including street shade trees.
- 2) The Applicant is requesting the following waivers:
  - Foundation plantings at the base of all sides of building (509, H).
  - Side and rear yards evergreen and deciduous tree landscaping (509, L, 1, a).
  - Front yard evergreen and deciduous tree landscaping (509, L, 1, b)
  - Minimum 6' width of planting islands (509, L, 3, a)
  - Detention Basin Embankment Landscaping (509, K)

D. Lighting

The Applicant should provide calculations indicating compliance with all requirements of §511.

The Ordinance Section 511.B.2 (d) requires ornamental street lighting at 75' spacing. None proposed.

E. Refuse and Recycling

As per §515.A.2, No refuse and recycling area may be located within a required principal building setback area, whereas the proposed trash enclosure is located within the front yard setback. **A waiver is required.**

F. Signage

- 1) The Applicant is proposing two (2) wall mounted signs, whereas one (1) is permitted. **A variance is required.**
- 2) The maximum area permitted for wall mounted signs is 48 sq. ft., whereas the Applicant is proposing an area of 313.6 sq. ft. and 106.3 sq. ft. **Variances are needed.**
- 3) The maximum mounting height permitted for wall mounted signs is 8 ft., whereas the Applicant is proposing a mounting height of 25.33 ft. and 28.21 ft. **Variances are needed.**
- 4) The maximum horizontal dimension permitted is 75% of the wall face. The Applicant is proposing a horizontal dimension of 25 ft. for the second wall mounted sign, whereas 21.3 ft. is permitted. **A variance is required.**
- 5) Freestanding Signs Type C are permitted for self-storage facilities, the maximum size of which is 24 sq. ft., whereas the Applicant is proposing freestanding signs with sizes of 51.7 sq. ft. and 166.5 sq. ft. **Variances are needed.**
- 6) The maximum height permitted for Type C freestanding signs is 6 ft., whereas the Applicant is proposing heights of 7.42 ft. and 20 ft. **Variances are needed.**



- 7) The minimum setback for Type C freestanding signs is 8 ft., whereas the Applicant is proposing a setback of 5.56 ft. **A variance is needed.**
- 8) The Applicant is proposing an awning sign, whereas awning signs are not permitted for self-storage facilities. **A variance is needed.**
- 9) **The Applicant should provide a detailed sign plan to indicate conformance with all other requirements of the ordinance and/or any additional variances that may be needed.**

G. Architectural Design Standards

- 1) As per 502.B.1.(a), no building shall be permitted to have a total measurement greater than 150 feet in length along any wall, roof or footprint plane. Building wall offsets, including both projections and recesses, shall be provided along any building wall measuring greater than fifty (50) feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall. The total measurement of such offsets shall equal a minimum of ten (10) percent of the building wall length. The maximum spacing between such offsets shall be forty (40) feet. The minimum projection or depth of any individual offset shall not be less than two feet. Roofline offsets shall be provided along any roof measuring longer than seventy-five (75) feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long roof. **The Applicant shall comply with this ordinance section to the best of their ability.**
- 2) As per 502.B.2., All visibly exposed sides of a building shall have an articulated base course and cornice the base course shall be traditionally proportionate to the overall horizontal and vertical dimensions of a facade and shall align with either the kickplate or sill level of the first story. The cornice shall terminate the top of a building wall, may project out horizontally from the vertical building wall plane and shall be ornamented with moldings, brackets and other details that shall be appropriate to the architectural style of a building. The middle section of a building may be horizontally divided at floor, lintel or sill levels with belt courses. Building courses shall be considered an integral part of the design of a building and shall be architecturally compatible with the style,

materials, colors and details of the building. **The Applicant shall comply with this ordinance section to the best of their ability.**

6. **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.

B. 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.

C. *A number of design waivers are required.* The Board has the power to grant design waivers as “exceptions” from the requirements of the Township’s Land Use Ordinance as part of site plan review under N.J.S.A. 40:55D-51(b), so long as the exceptions are reasonable and within the general purpose and intent of the provisions for site plan review and approval, if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of the peculiar conditions pertaining to the land in question.

7. **Environmental Reports Review Comments**

- A. The Phases 1 and 2 Environmental Site Assessment Reports concludes that there are as many as six (6) underground storage tanks on this site.
- B. Groundwater and soils were tested, and they identified arsenic, chromium and lead concentrations that exceed applicable clean-up standards.
- C. However, the reports conclude the metal exceedings are naturally occurring.

- D. The NJDEP and/or Licensed Soil Remediation Professional's (LSRP) review and approval of these findings are required.

**8. 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 intended self-storage facility use including the total number of employees and anticipated visitors to the site, anticipated traffic mix, and anticipated hours of operation.
- C. The Applicant is proposing a trash enclosure along the eastern property line. We recommend this be constructed out of masonry block. A detail of such should be provided.
- D. The Applicant shall clarify the loading area. The architectural plans indicate this area is 1,800 sq. ft., whereas the site plan indicates 2,765 sq. ft.
- E. The sheet numbers of the site plan should be revised to indicate "1 of 16, 2 of 16, etc."
- F. A note shall be added stating that "All service utilities shall be underground."
- G. The Applicant should address if any easements are existing or proposed on this site.
- H. The "Turning Movement Plan" shows turning movements going over the proposed curbs in the rear and movements at the site entrance are not shown.
- I. Removal of existing greenhouse on adjoining Lot 2.
- J. The site triangle easement at the entrance should be addressed.
- K. The Applicant is proposing an "Infiltration Basin" to address the NJDEP stormwater quantity, quality and groundwater recharge requirements.
- L. The Applicant should address if any soil is being removed or imported

**9. Conditions of Approval**

- A. NJDEP – LOI Permit
- B. NJDEP – Flood Hazard Verification
- C. NJDOT – Access Permit

- D. NJDEP – Approval of Soil Contamination/ Clean-up
- E. Freehold Soil Conservation District
- F. Monmouth County Planning Board
- G. Monmouth County Board of Health Approval of Septic Field
- H. Tree Removal Permit
- I. Soil Removal Permit, if required
- J. Neptune Township Fire Department, if required
- K. Performance Guarantees and Engineering Inspection
- L. Neptune Township Developers Agreement
- M. Payment of Affordable Housing Contribution in accordance with Ordinance Section 1001
- N. Filing of Deed for Sight Triangles Drainage Easements, or other easements if required.

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.É.  
Board Engineer



Jennifer C. Beahm, P.P.  
Board Planner

MS:clb/mcs

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