

April 2, 2024

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

**Re: Ryal Holdings, LLC (ZB#22/22)  
3324 Highway 33  
Block 3001, Lot 6  
Use Variance & Site Plan  
Our File: NTBA 22-28**

Dear Mrs. Dickert:

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

1. **Documents Reviewed:**

- Neptune Township Application for Use and/or Bulk Variances and Completeness Checklist, dated December 19, 2022.
- Topographic Survey of Property consisting of one (1) sheet, prepared by Marc J. Cifone, PLS and Jeffrey S. Grunn, PLS of Lakeland Surveying, dated October 13, 2022.
- Traffic Circulation Report prepared by Matthew R. DuBois, PE of Nelson Engineering Associates, Inc., dated October 17, 2023.
- Community Impact Statement prepared by Allison Coffin, PP, AICP of James W. Higgins Associates, dated September 18, 2023.
- Drywell Sizing Report prepared by Matthew R. DuBois, PE of Nelson Engineering Associates, Inc., dated November 3, 2023.
- Environmental Impact Statement prepared by Environmental Management Group Inc., dated May 2023.
- Copy of Deed dated February 18, 2005.
- Zoning Permit Denial, undated.
- Copy of Prior Planning Board Resolution granting major site plan approval for Ryal Holdings, LLC, Resolution No. 07-28, dated July 25, 2007.

- Copy of Prior Zoning Board Resolution granting use variance approval, Resolution No. 97-26, dated July 3, 1997.
- Plans titled “Use Variance Site Plan” consisting of three (3) sheets, prepared by Matthew R. DuBois, PE of Nelson Engineering Associates, Inc., dated October 31, 2023.

## 2. **Site Analysis and Project Description**

The subject property consists of Block 3001, Lot 6, a 1.41-acre site located along Route 33 in the C-5 Route 33W Commercial Zone District and the Hospital Support Overlay District. The site is currently developed with a lawn care / contractor yard company including a 1-story, 1,698 sq. ft. frame building, a 1,492 sq. ft. fabric covered pole barn, 910 sq. ft., 2 bay garage, storage trailers and spaces, a shed, a cloth covered frame structure, gravel contractors yard areas, gravel, stone, and paver parking areas, fencing, and other site improvements. The rear of the property is constrained by wetlands. Access to the site is provided via two (2) asphalt driveways to Route 33. A vacant commercial use and a graveyard are located to the north across Route 33, residential uses are located to the east and west, and public land is located to the south.

The applicant was previously before the Zoning Board in 1997 (Resolution No. 97-26) and was granted use variance approval to permit the operation of a single family residence and an accessory lawn care company. A 900 sq. ft. garage for equipment storage was also approved.

The applicant was also before the Planning Board in 2007 (Resolution No. 07-28) and was granted major site plan and variance approval to demolish an existing structure and construct a 2-story, 13,500 sq. ft. medical office building, 50 parking spaces, and stormwater management facilities. The approved medical office building and associated improvements were not constructed.

The previously approved residential use has since been abandoned, and the previously approved accessory lawn care company has expanded to a principal use without additional zoning approval. Additional site improvements have also been constructed on the property without approval, including improvements within wetland areas along the rear of the site.

The applicant is now seeking use variance and site plan approval to continue operating the existing lawn care / contractor yard use as a principal use, and to legalize the existing structures and associated site improvements. The applicant is also proposing an infiltration basin to the southeast, landscaping along the eastern property line, and fencing throughout. The existing cloth covered frame structure along the western property line and the bin blocks along the eastern property line are proposed to be removed.

3. **Consistency with the Zone Plan**

The subject property is located in the C-5 Route 33W Commercial Zone District. The C-5 Zone District is intended to provide for business uses appropriate to the Route 33 highway corridor situated west of Route 18. The property is also located in the Hospital Support Overlay Zone District. **The subject application will require d(1) use variance relief to legalize the existing lawn care / contractor yard use, which is not a permitted use in the C-5 Zone District or the Hospital Support Zone.**

4. **Ordinance Requirements**

A. ***Parking Areas***

- 1) As per §509I.1, the perimeter of all parking lots shall be setback from all rear and side lot lines by a minimum of ten (10) feet, whereas the five (5) gravel parking spaces are set back approximately five (5) feet from the eastern property line. **A waiver is needed.**

B. ***Refuse and Recycling Areas***

- 1) As per §515A.1, all non-residential refuse and recyclable disposal collection areas shall be suitably buffered and screened to minimize the impacts of noise, odors, disposal and collection activities and views of collection bins and dumpsters. The applicant indicates trailer and dumpster storage spaces along the southeastern portion of the site overlapping with the proposed infiltration basin. The plans should be revised to depict the exact location of such spaces and indicate if any screening is proposed. **A waiver may be needed.**
- 2) As per §515A.2, no refuse and recycling area may be located within a required principal building setback area. The applicant should clarify the location of the proposed trailer and dumpster storage spaces. **A waiver may be needed.**

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 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. ***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.

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 should provide testimony regarding the proposed lawn care / contractor yard use, including the typical hours of operation, the maximum number of employees and visitors to the site, the anticipated traffic mix, outdoor storage

and the type of materials being stored on site, any overnight storage of vehicles, and the frequency, time and types of deliveries that will be made to the site.

- C. The Environmental Impact Statement indicates one (1) of the on-site garage structures is dedicated to the maintenance and repair of equipment. The applicant should provide testimony regarding the proposed maintenance and repair activities, including the designated areas on site for such.
- D. Testimony should be provided regarding the conditions of the existing parking areas and fencing throughout the site.
- E. The plans show a “silt fence” separating the 18 vehicle/equipment storage area from sloped and possible wetlands buffer area. We recommend a more permanent and solid fence.
- F. The applicant should provide testimony as to the proposed use of each building and structure on the site, including all proposed storage container units and the access to each.
- G. The applicant should address street tree and lighting required by the Ordinance.
- H. Testimony should be provided as to the trash and recycling that will be generated on site and the frequency and manner of refuse pickup.
- I. The applicant should provide testimony on any proposed security lighting or other proposed security features.
- J. The applicant should provide testimony regarding whether any building signage or other signage is proposed and provide details of such.
- K. Additional landscaping on “previously disturbed area” on the south side of the property is recommended.
- L. Copies of aerial and wetlands maps of the site are attached for the Board’s information.

7. **Conditions of Approval**

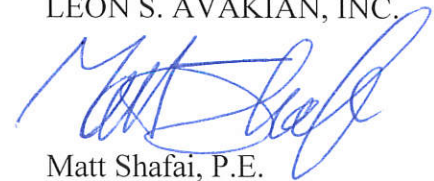
- A. Monmouth County Planning Board approval or exemption
- B. Freehold Soil Conservation District
- C. NJDEP Wetland delineation and approvals
- D. NJDEP General Permit, if required

- E. Stormwater Management Operation & Maintenance Manual submission and approval by the Township
- F. Posting of a Performance Bond and Inspection Fees
- G. Developer's Agreement

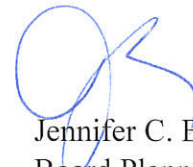
Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.  
Board Engineer



Jennifer C. Beahm, P.P.  
Board Planner

MS:ir/clb/mcs  
Attachment

cc: All Board Members  
Monica Kowalski, Esq., Board Attorney  
Jennifer Beahm, P.P., Board Planner  
Jennifer S. Krimko, Esq., Applicant's Attorney  
Matthew R. DuBois, P.E., Applicant's Engineer  
NTBA/22/22-28



April, 2021 aerial

**Legend**

- 3324 NJ-33
- Temple Beth El Cemetery



Google Earth

Brook



100 ft





Legend	
Wetlands	
	Marine
	Estuary
	Marsh, Swamp, Bog, Prairie
	River
	Lake, Reservoir



**2020 Aerial**  
**Block 3001, Lot 6**  
**Neptune Township, NJ**

**LEON S. AVAKIAN, Inc.**  
 Consulting Engineers

Service Layer Credits: Project definition, funding requests, and data distribution by NJ Office of Information Technology, Office of GIS. Funding provided by: -NJ Department of Environmental Protection-NJ Office of Information Technology-NJ Department of Military and Veterans Affairs-NJ Office of Homeland Security and Preparedness-NJ Department of Transportation-Project