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March 20, 2024

**VIA EMAIL**

Township of Neptune  
Zoning Board of Adjustment  
2201 Heck Avenue  
Neptune, NJ 07753  
Attn: Kristie Dickert, Administrative Officer

**RE: Extension of Preliminary and Final Major Site Plan Approval with Use Variance,  
Conditional Use Variance, Bulk Variance and Design Waiver Relief (“Application”)  
GSZ Realty, LLC (“Applicant”)  
505, 513 & 515 Highway 35, Neptune, NJ (“Property”)  
Block 808, Lots 5, 6, 7 & 8**

Dear Ms. Dickert,

As you may be aware, this office represents the Applicant in connection with the above Application. In accordance with Resolution 22-11 memorialized by the Township of Neptune Zoning Board of Adjustment (the “Board”) on June 1, 2022 (the “Resolution”), the Board granted the Applicant preliminary and final major site plan approval with use variance, conditional use variance, bulk variance and design waiver relief.

The Municipal Land Use Law N.J.S.A. § 40:55D-52(a) permits an approving board to extend protections to a preliminary approval beyond the date of expiration for a period of one (1) year, but not to exceed three (3) extensions, so long as the standards prescribed for final approval are being appropriately followed. Without prejudice to the rights of the Applicant, Applicant hereby requests its first one- (1) year extension of time on its Resolution. The Applicant seeks an extension due to the size of the project and requires additional time to commence construction.

We request that this Application be heard at the next available meeting of the Board scheduled for April 3, 2024. Thank you for your time and assistance.

Very truly yours,

*Jason R. Tuvel*

Jason R. Tuvel, Esq.  
Attorney for Applicant

JRT:syc  
Enclosures

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**NEPTUNE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
RESOLUTION NO. ZBA#22-12**

**RESOLUTION OF THE NEPTUNE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
GRANTING PREMINARY AND FINAL MAJOR SITE PLAN APPROVAL WITH USE  
VARIANCE TO GSZ REALTY, LLC FOR THE PREMISES LOCATED AT 505, 513  
AND 515 HIGHWAY 35, DESIGNATED AS BLOCK 808 LOTS 5, 6, 7 AND 8 AS  
REFLECTED ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF NEPTUNE**

WHEREAS, the Applicant, GSZ Realty, LLC, made application to the Township of Neptune Zoning Board of Adjustment for preliminary and final major site plan with use variance relief for the premises known as Block 808 Lots 5, 6, 7, and 8 as reflected on the official tax map of the Township of Neptune; and

WHEREAS, such proof of publication of notice of hearing as required by the New Jersey statutes and municipal ordinance requirements has been furnished; and

WHEREAS, public hearings were held concerning the application on February 2, 2022, March 1, 2022, and April 19, 2022, and testimony and exhibits were presented on behalf of the Applicant, the Applicant being represented by Jason R. Tuvell, Esquire, and all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Township of Neptune Zoning Board of Adjustment having considered said application, testimony, reports and exhibits submitted, and listened to the Applicant's testimony, and after having received information from its professional staff, the Township of Neptune Zoning Board of Adjustment does hereby make the following findings of fact and law:

- A. The subject property is known as Lots 5, 6, 7, and 8, Block 808 consisting of approximately 58,667 sq. ft. located on the west side of State Highway 35 between Monroe Avenue and West Bangs Avenue.

- B. The site is located in the B-1 Town Commercial Zone District. Mixed use is permitted as a conditional use within this zone. Properties to the north, south and west along Monroe and West Bands are residential. Properties to the east, across Route 35, are commercial. The site is currently vacant with remnants of an old parking lot and grassy areas.
- C. The Applicant proposes to construct a 4-story, 49,195 sq. ft. mixed use development on the site consisting of 33 residential units and approximately 4,100 sq. ft. of commercial space. The residential component will consist of 18 one-bedroom units and 15 two-bedroom units. The application also proposes 79 parking spaces, lighting, landscaping, stacked bike storage, and stormwater management.
- D. The following use variance is required or requested for this application:
- a. Mixed use developments are permitted as conditional uses within the B-1 Town Commercial Zone, subject to the following conditions:
    - i. A minimum of 15 feet vegetative buffer and fencing has been provided along the eastern boundary of the site
    - ii. Maximum floor area ratio (FAR) is 0.60, whereas the applicant is proposing a FAR of 0.84. **A d(4) variance is required**
    - iii. Parking shall not be in Route 35 front yard area
    - iv. Maximum front yard setback from Route 35 is 20 feet
    - v. Minimum front yard setback from Bangs Avenue is 20 feet
    - vi. Minimum front yard setback from Monroe Avenue is 20 feet
    - vii. Minimum building setback from residential lot line is 40 feet
    - viii. Maximum percent building coverage is 35%

- ix. Maximum impervious coverage is 80%
- x. Maximum building height is 42 feet

E. The following waivers are required or requested for this application:

- a. Parking is prohibited within the front yard setback area. The applicant is proposing one parking space on Monroe Avenue front yard. **A waiver is required.**
- b. In accordance with Section 509H, the base of all sides of a building shall be planted with foundation plantings consisting of evergreen and/or semi-evergreen shrubs and trees. Such plantings shall be a minimum of two feet high at the time of planting and spaced an average of three feet on center. The applicant is not proposing any foundation plantings. **A waiver is required.**
- c. **In accordance with Section 412.17(B), parking space dimensions shall be 12 feet by 18 feet for a handicap space. The Applicant proposes 8 feet by 18 feet. A variance is required.**

F. Mr. Jason Tuvel, Esq. appeared on behalf of the applicant in support of the application.

G. Matthew Seckler, P.E., testified at the February 2, 2022 and March 1, 2022 hearings as an expert in the fields of Engineering, Site and Traffic. Mr. Seckler discussed the existing site conditions and indicated that the site has been vacant for fifteen years. T Mr. Seckler presented the site plan for the proposed project and stated that it meets NJ DEP regulations for drainage, as pervious pavers are underneath the parking field for infiltration. The site also will meet the 100-year storm requirements, as there is a connection from the roof leaders to the infiltration system. With respect to the lighting plan, Mr. Seckler testified that building mounted lights facing Route 35 and spaced 12

feet apart are proposed. The site will be lined with decorative lighting, including “old town” light fixtures placed 12 feet apart around the site.

Mr. Seckler also testified at the February 2, 2022 and March 1, 2022 hearings in his capacity as an expert in the field of traffic engineering and states that the peak trip generations result in 76 trips in the peak hour. There will be an increase of traffic of approximately 2% on roadways. The applicant proposes a dedication of land for the county road widening project on West Bangs Avenue. Mr. Seckler testified that there will be no substantial detriment on the roadway network. In addition, the applicant is eliminating the driveways on Route 35 and placing the driveways on side streets so that the driveways are further back from the intersection. With respect to the 49,195 SF of residential space, Mr. Seckler testified that the peak trips will be approximately 15 in the morning and 18 in the evening. The applicant is proposing 62 parking spaces for residential and 17 parking spaces for retail, all of which comply with RSIS standards. Mr. Seckler stated that the parking spaces under the canopy of the building will be assigned for retail.

At the April 19, 2022, Mr. Seckler testified that proposed application was revised so as to reduce the number of residential units to 33. The proposed application also decreases the overall floor area by 6,500 SF. Mr. Seckler stated that parking will be provided in the rear of the site with parking spaces originally proposed in the residential setback eliminated. There is one parking space in the Monroe Ave front yard setback that will be shielded by landscaping. The applicant proposes 79 parking spaces where 73 are required due to the electric vehicle charging station statute, which includes 4 handicap spaces. Mr. Seckler testified that the impervious coverage has been reduced

by 2,600 SF. With respect to landscaping, Mr. Secker stated that more landscaping has been added to the Route 35 frontage.

- H. John Nastasi, AIA appeared and was affirmed as an expert in the field of architecture. Mr. Nastasi testified at the March 1, 2022 hearing that the applicant is proposing 40 residential units with 2,000 SF of amenity space. The building will be 42 feet in height and will include a dormer, gable and recessed area for mechanical equipment. The proposed siding is painted shingles with jersey shore style covered porches. Mr. Nastasi testified that storage units will be provided in the common corridor as well as dedicated trash rooms for both residential and commercial spaces. With respect to mechanical equipment, Mr. Nastasi stated that the generator will be stored on the roof.

Mr. Nastasi testified that doors will be removed from the proposed design for the den to ensure that the den cannot be converted into an additional bedroom. The applicant requests a waiver for the length of the building.

At the April 19, 2022 hearing, Mr. Nastasi testified that the architectural plans have been revised so as to include 33 residential units, comprised of 18 one-bedroom units and 15 two-bedroom units with an open air breezeway. The building will be painted shades of light blues and sand greys and will be 200 feet long. Mr. Nastasi stated that an acoustic barrier will be placed around the mechanical equipment.

- I. Christine Cofone, P.P., appeared and was affirmed as an expert in the field of Professional Planning. Ms. Cofone testified that the proposed application is a permitted use in the B-1 zone. With respect to the Floor Area Ratio (FAR), the applicant is proposing 0.84 whereas 0.6 is required. The applicant is requested variances for (i) the parking space in the front yard setback, (ii) foundation plantings, (iii) size of the

handicap space and (iv) length of the building. Ms. Cofone stated that the impervious coverage proposed is 28.8% where 35% is allowed and building coverage proposed is 73.7% where 80% is allowed. The proposed application will have a positive impact on the zoning district and promotes a pleasing aesthetic to the surrounding area. In addition, Ms. Cofone also spoke to the positive and negative criteria and testified that the property can accommodate additional FAR. Ms. Cofone concluded that the project can accommodate the additional FAR.

Ms. Cofone found that there would be no substantial detriment to the public good and that there would be no substantial impairment to the zone plan or zone ordinance. As such, the benefits of granting the variances substantially outweigh any detriments.

J. The following exhibits were submitted into evidence:

A-1: Site Plan Rendering Exhibit;

A-2: Design Presentation with Rendering;

A-3: Site Plan Rendering

A-4: Architectural Exhibits

K. No members of the Public testified at the public portion of the hearing.

L. Based upon the foregoing, the Board finds that the requested preliminary and final major site plan approval and requested conditional use variance/approval and FAR variance satisfy the D(4) and D(3) requirements of the Neptune Zoning Ordinance and can be granted without substantial impairment to the intent or purpose of the Neptune Master Plan and Zoning Ordinance and without substantial detriment to the public good. Further, the Board found, based on the evidence presented at hearing, that the subject site can handle the excess Floor Area Ratio proposed by the applicant and that

this site is particularly suited for mixed use development. The Board adopts the findings of Applicant's Planner Ms. Cofone as to the justifications for the FAR variance and the bulk variances. Further, the Board finds that the waivers requested are reasonable under the circumstances.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Township of Neptune, on the 1<sup>st</sup> day of June 2022, that the Applicant's request for preliminary and final major site plan for the construction of a three-story and four-story story mixed use development with conditional use variance approval is hereby approved subject to the conditions set forth below; and

**BE IT FURTHER RESOLVED**, that a copy of the Resolution be forwarded to the Zoning Board Secretary, to the Applicant's attorney, the Township Clerk and the Building Department.

**BE IT FURTHER RESOLVED**, that notification of this favorable approval be published in an official newspaper of the Township of Neptune, by the Applicant.

**BE IT FURTHER RESOLVED**, that this approval is subject to the following conditions:

1. No tractor trailer deliveries shall be permitted.
2. No stopping and delivering shall be permitted for Route 35, Monroe, or West Bangs Ave.
3. The applicant shall submit a stormwater management plan subject to approval by the Board Engineer.
4. The applicant will meet Deal Lake Watershed standards as conditioned by the Board Engineer.
5. The Applicant shall reduce the concrete sidewalk on the sides of the building and will add green space subject to the approval of the Board Engineer.



6. No pass-through signage shall be installed on the site.
7. Police will be permitted to exercise emergency services supervision pursuant to Title 39.
8. The Applicant shall secure a written waiver from BP regarding the current deed restriction. The Limited Waiver of Residential Use Restriction, dated May 18, 2022, is annexed hereto as Exhibit A.
9. The Applicant shall secure any and all NJDOT permits (if deemed required).
10. The Applicant shall comply with all representations made before the Zoning Board of Adjustment by its attorney and its experts.
11. If required, Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the “Soil Erosion and Sediment Control Act”.
12. All materials, methods of construction and detail shall be in conformance with the current engineering and building requirements of the Township of Neptune, which are on file in the office of the Township Engineer.
13. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the Applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the Applicant must reapply to the Township of Neptune Planning Board for approval of that change.
14. Applicant shall resubmit this entire package for re-approval should there be a material deviation from the terms and conditions of this resolution, or the documents submitted

as part of this application, all of which are made a part hereof and shall be binding upon the Applicant.

15. Applicant shall provide a statement from the Township of Neptune Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution. In the event that the Property is exempt from taxation, this condition shall be deemed waived.
16. Prior to the issuance of a construction permit, the Applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.
17. Applicant shall post an inspection bond with the Township Clerk in an amount to be determined by the Board Engineer.
18. No soil shall be removed from the site without the written approval of the Director of Engineering and Planning.
19. If applicable, Applicant must comply with the new COAH ordinance for the building improvements in question.
20. The Applicant shall reimburse the Township of Neptune Zoning Board of Adjustment for all professional fees expended or to be expended with regard to this application.
21. The Applicant shall comply with all provisions of the engineering and planning report of Leon S. Avakian, Inc. dated April 13, 2022.

**ROLL CALL VOTE:**

Offered by: James Gilligan                      Seconded by: Dr. James Brown

THOSE IN FAVOR: Barbara Bascom, Dr. James Brown, Michael Pullano, Naomi Riley,  
Thomas Healy, James Gilligan, and William Frantz

THOSE IN OPPOSITION: None.

THOSE ABSTAINED: None.

THOSE ABSENT: Tanya Pickard

**MEMORIALIZATION VOTE:**

Offered By: Thomas Healy                      Seconded By: Barbara Bascom

THOSE IN FAVOR: Barbara Bascom, Dr. James Brown, Thomas Healy, James Gilligan,  
and William Frantz

THOSE IN OPPOSITION: None.

THOSE ABSTAINED: None.

THOSE ABSENT: Michael Pullano & Naomi Riley

**CERTIFICATION**

I hereby certify that this is a true copy of a resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on April 19, 2022 and memorialized at the meeting held on June 1, 2022.



**Kristie Dickert, Administrative Officer  
Neptune Township Zoning Board of Adjustment**