

DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE : 06.02.2021
TO : Planning Board Commissioners
FROM : Mallory Clark-Sokolov, AICP, Senior Planner
Tanya Marione, PP, AICP, Division Director
CASE : P21-020
PROJECT : 80 & 112 McGovern St
Preliminary + Final Major Site Plan with
Variances

I. DOCUMENTS REVIEWED

- General Development Application Form dated 02.23.2021
- Architectural Plan Set and Visual Assessment by Louis W Vandeloecht, AIA dated 04.06.2021
- Civil Plan set and Engineers Report by Bohler Engineering dated 04.07.2021

II. APPLICATION BACKGROUND + PROPOSAL

- **Existing Conditions:** The property is a 90,000+ SF lot in the Liberty Harbor Redevelopment Area. The lot is located in the Industrial District and is the only developable property on the northern side of Thomas McGovern Drive. The site is surrounded entirely by Park District within the RDP. Currently, the site is entirely impervious coverage and is used as a parking lot / materials storage facility for construction materials and vehicles.



- **Proposed Conditions:** The Applicant is proposing to demolish the existing structures and construct a six (6) story Public Storage facility. The facility will accommodate loading/unloading from standard vehicles internally at the ground floor and will provide four (4) larger loading docks to be accessed from Thomas McGovern Drive.

- **Variances**
 - **Lot Size**
Required/Permitted: 5 Acres (per the Industrial District)
Proposed: Existing 2.07 acres
 - **Building Setback from Parking Lot**
Required/Permitted: 10FT
Proposed: Varies, 5ft-10ft
 - **Street Trees**
Required/Permitted: 28 Trees
Proposed: 23 Trees, Payment in lieu for 5 trees

III. STAFF COMMENTS

- **'c' Variance**
 - The Industrial District of the Liberty Harbor RDP requires a minimum lot size of 5 acres for all uses. The existing lot is roughly 2 acres and does not have any contiguous developable properties, as the site includes the only developable parcels north of Thomas McGovern Drive. The proposed use and configuration utilizes the interior ground floor to accommodate the majority loading/unloading needs and has been designed to mitigate the impacts of the undersized lot in order to maintain traffic flow and minimize disruption to the surrounding properties. Staff sees no substantial detriment in the Self Storage use at the proposed location, and therefore feels the intent of the zone plan is not impaired by the granting of the lot size variance.
 - Regarding the building setback from the parking area, there are three points on the site at which the building has adjacency to parking. Two of the three points comply with the 10ft setback, while one point, which accommodates wider ADA parking spaces, provides only a 5ft setback buffered by sidewalk. Additionally, the drive aisle continues into the interior of the ground floor of the structure to accommodate internal loading/unloading. Staff recognizes that the proposed arrangement of parking and internal traffic flow is responding to the irregular shape and constrained lot depth of the site, and therefore feels the proposal has responded to the existing geometry of the site in the most efficient way, with emphasis on preserving operations and traffic flow within the larger neighborhood by accommodating loading operations onsite and internally in the structure. Staff sees no impairment to the intent of the zone plan in the granting of the setback variance.
 - The applicant's experts shall provide testimony as to why the deficit of 5 trees is necessitated on the site. The deficit shall be offset by payment in lieu as addressed in Conditions of Approval below.

IV. STAFF RECOMMENDED CONDITIONS

All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding. The staff recommends the following conditions to mitigate the negative criteria:

1. All materials and color selections shall be shown on Final Plans. No change to the facade and site design, including materials as well as any changes that may be required by the Office of Construction Code, shall be permitted without consultation with planning staff or approval by planning board.

2. Applicant shall provide an affidavit from the architect of record representing that the constructed project is consistent with final approved plans.
3. All street trees and landscaping shall be installed in accordance with the Jersey City Forestry Standards prior to the issuance of a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO)
4. Any payment in lieu related to street tree requirements shall be provided to the City prior to the issuance of construction permits. Affidavit of payment shall be provided to City Planning for file.
5. No trucks beyond 40ft in length shall be permitted to utilize the loading docks off of Thomas McGovern Drive. At no time may loading operations block the sidewalk or jeopardize the safety of pedestrians along Thomas McGovern Drive.
6. The applicant will continue to coordinate with the Department of Transportation, Traffic, and Engineering to resolve lighting conflicts at the property line. Any changes resulting from said coordination shall be reflected in signature sets.

APPENDIX : REQUIRED PROOFS FOR VARIANCES

▪ 'C' VARIANCE

Required Findings for 'C' Variance Standard/Deviations under N.J.S.A. 40:55D-70(c)(2):

1. The justifications must relate to a specific piece of property;
2. The purposes of the Municipal Land Use Law would be advanced by the deviation from the zoning ordinance requirement;
3. The deviation can be granted without substantial detriment to the public good;
4. The community benefits of the deviation would substantially outweigh any detriment and;
5. The deviation will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

▫ **Negative Criteria**

No relief may ever be granted unless it can be done

1. without substantial detriment to the public good, and

2. without substantially impairing the intent and purpose of the zone plan and zoning ordinance

1) Substantial detriment to the public good – Balancing Requirement.

The focus of this first prong of the negative criteria is on the variance's effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help to mitigate the impact of the variance.

2) Substantial impairment to the intent and purpose of the zone plan and ordinance.

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance