

LOWER NAZARETH TOWNSHIP
Board of Supervisors

Resolution #LNT-13-24

RE: Expansion of Self Storage Facility, 173 Nazareth Pike

WHEREAS, the Lower Nazareth Township Board of Supervisors are in receipt of a Preliminary Land Development Plan entitled “Preliminary Land Development Plans for Nazareth Storage, LLC, 173 Nazareth Self Storage”, prepared by Renew Design Group of Souderton, Pennsylvania, consisting of (12) sheets, dated August 4, 2023 and last revised December 18, 2023; and

WHEREAS, the intent of the Plan is to demolish an existing single family dwelling, remove the existing septic system and construct an additional (33) unit self-storage facility on the 3.41-acre Parcel #L7-8-5 at 173 Nazareth Pike, Bethlehem, PA 18020; and

WHEREAS, the project was reviewed under the 2001 Zoning Ordinance, last revised February 8, 2023, where the project was located in the Light Industrial Campus (LI) zoning district; and

WHEREAS, the Lower Nazareth Township Zoning Hearing Board granted variances related to this site as outlined in Zoning Appeal #ZA2023-08 Order and Opinion (Exhibit A);

WHEREAS, the Lower Nazareth Township Planning Commission recommended approval of the plan at its September 18, 2023 meeting; and

WHEREAS, the Township Zoning Administrator has reviewed the Preliminary Plan against the provisions of the 2001 Lower Nazareth Township Zoning Ordinance, last amended February 8, 2023; and

WHEREAS, the Township Engineer has reviewed the Preliminary Plan against the provisions of the 2005 Lower Nazareth Township Subdivision and Land Development Ordinance and has offered comments in his letter dated January 29, 2024; and

WHEREAS, the Lower Nazareth Township Board of Supervisors desire to take action on this plan.


NOW THEREFORE, BE IT RESOLVED that the Lower Nazareth Township Board of Supervisors approve the Preliminary Plan as referenced above, subject to the following conditions:

1. The comments in the Township Engineer’s letter dated January 29, 2024 shall be adequately addressed.
2. Submission and approval of a Final Land Development is required pursuant to the Lower Nazareth Township Subdivision and Development Ordinance.
3. The applicant shall accept these conditions in writing, within five days of receipt of the finalized Board of Supervisors resolution, otherwise the application is denied for failure to comply with the express conditions that are contained in this Resolution.

ADOPTED AND APPROVED this 14th day of February 2024 at a regular public meeting. Motion made by Martin Boucher and seconded by Nancy Teague. The motion carried unanimously.

ATTEST:

BOARD OF SUPERVISORS



Tammi Dravec, Secretary/Treasurer



James Pennington, Chairman



LOWER NAZARETH TOWNSHIP
PLANNING & ZONING OFFICE

623 MUNICIPAL DRIVE
NAZARETH, PA 18064
TELEPHONE: 610-759-7434
FAX: 610-746-3317

July 7, 2023

Nazareth Storage, LLC
P.O. Box 16281
Columbus, OH 43216-6281

Reference: Final Written Decision for Zoning Appeal 2023-08
173 Nazareth Pike – Tax Parcel #L7-8-5

To Whom It May Concern:

Enclosed is a copy of the signed written final decision from the Lower Nazareth Township Zoning Hearing Board, served to you within 45 days of the last zoning hearing meeting for your zoning appeal as stipulated by the PA Municipalities Planning Code, Section 908.

Please be advised that pursuant to the PA Municipalities Planning Code, an appeal of this decision can be filed within 30 days of the date of this decision, or by August 6, 2023. If no appeal has been filed by this date, this decision is deemed final.

Please also note that this appeal is subject to the requirements of Article I, Section 111.I, *Time Limitations on Permits and Variances*, of the Lower Nazareth Township Zoning Ordinance. An excerpt of that section is enclosed with this letter.

Please feel free to contact me if you require any additional assistance relative to this appeal.

Respectfully,

Lori B. Seese
Planning & Zoning Administrator

/lbs
Enclosure

cc: Lori A. Stauffer, Esq., Township Manager
Gary Asteak, Esq.
April Cordts, Esq.
Timothy Charlesworth, Esq.
Keystone Consulting Engineers

Time Limitations on Permits and Variances

Excerpted from: Lower Nazareth Township Zoning Ordinance, last amended November 14, 2018, Article I, General Provisions and Administration, Section 111.I.

1. If the variance is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured by the applicant within 9 months after the date when the variance is finally granted or the issuance of a permit is finally approved or the other action by the appellant is authorized; and the building or alteration, as the case may be, shall be begun within 12 months of the issuance of the permit.
2. If the applicant submits complete plans for a required site plan review or subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this ordinance within the 9 month period, the 12 month requirement of this subsection shall begin after such site plan review is completed or approval is granted, as applicable, by the Township. For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend to 18 months the 9-month application period.
3. Should the appellant or applicant fail to obtain the necessary permits within the above time month period, or having obtained the permit should he/she fail to diligently commence substantial construction (as defined by the Township Building Code) there under within such time period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and all provisions, variances and permits granted to him by the Board and/or Township staff shall be deemed automatically rescinded.
4. The work authorized by the Building and Zoning Permits shall begin within 180 days of issuance of the permit. Construction of a building shall be completed within 12 months after the beginning of construction of such building. Upon written request to the Zoning Administrator, this may be extended to 18 months by the Zoning Administrator upon just cause. If an applicant fails to obtain the necessary permits or begin construction within the above time periods, or allows interruptions in substantial construction of longer than 45 days (or up to 180 days upon approval of a written request for extension by the Zoning Administrator upon just cause), the Zoning Administrator may conclusively presume that the applicant has waived, withdrawn or abandoned approvals and permits under this Ordinance and may consider all such approvals and permits to have become null and void. The permittee must then re-apply for a new permit and pay all fees at the current fee schedule at the time of application as required by Lower Nazareth Township.

ZONING HEARING BOARD
LOWER NAZARETH TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA

APPEAL NO.: 2023-08
APPLICANT: Nazareth Storage, LLC
PROPERTY LOCATION: 173 Nazareth Pike
Tax Parcel Identifier L7-8-5
Light Industrial
OWNERS: Nazareth Storage LLC
SUBJECT MATTER: Request for special exception per Sections 1409.C.(3); request for special permit per No. 212-06-14 of the Floodplain Ordinance; request for favorable interpretation or in the alternative a variance from Section 1702.C. and Table 17.1.F.; favorable interpretation of Section 1409.C.(3)(d) or in the alternative a variance from Section 1605.B.; favorable interpretation that the pre-existing nonconformity of the side yard setback is permitted by the Zoning Ordinance or in the alternative a variance from Section 1108.H.; favorable interpretation that the pre-existing residential buffer on the southern border is permitted or in the alternative a variance from Section 1404.D(1); favorable interpretation that the existing building separation of 20 feet is permitted or in the alternative a variance from Section 1502.A.(61)(i); favorable interpretation that the existing nonconformity of lot width is permitted by Section 1409.C.(3)(d) or in the alternative a dimensional variance from Section 1108.C(1).

The Board finds that:

1. Pursuant to proper legal notice and documents introduced into evidence, a public hearing in connection with this Application was scheduled and advertised to be held on May 23, 2023 at 6:30 p.m. at the Lower Nazareth Township Municipal Building, 623 Municipal Drive, Nazareth, Pennsylvania.
2. At the time of the public hearing held on May 23, 2023 the Board members present

were Steven Nordahl, Chairperson, Brian Fenstermaker and Manouel Changalis, alternate board member.

3. The Zoning Administrator, Lori Seese, and the Solicitor for the Zoning Hearing Board, April L. Cordts, Esquire were present at the hearing held on May 23, 2023.

4. The Zoning Administrator, Lori Seese, verified that the notice of hearing was properly advertised and proper notification was provided to surrounding neighbors with the property properly posted for the hearing initially scheduled for May 23, 2023.

5. Applicant's Petition and supporting documents were introduced and identified by the Zoning Administrator, Lori Seese, marked as Exhibit "Z-1", and made a part of the record.

6. The Applicant was represented by Timothy D. Charlesworth, Esquire.

7. Atty. Charlesworth offered Exhibit A-1 and identified it as a copy of zoning opinion and order entered by this Board in 1989.

8. Referring to Exhibit A-1 Atty. Charlesworth stated that it is the Applicant's position that the Order granted a variance allowing for the self storage use on the property.

9. Atty. Charlesworth, referring to Exhibit A-1, stated that it is the Applicant's position that the self storage use is not non-conforming and therefore the Applicant is withdrawing its request for relief pertaining to a non-conforming use.

10. Atty. Charlesworth stated that the Applicant seeks approvals to allow the construction of additional self-storage units on the property.

11. Atty. Charlesworth offered the testimony of Tom Knabb, R.L.A. of Renew Design Group.

12. Mr. Knabb stated that he is a registered architect and also serves as a project manager for zoning and land development matters.

13. Mr. Knabb stated that for the purposes of the subject application he serves as design and project manager.

14. Mr. Knabb stated that the property currently contains six one story buildings utilized for self-storage and one building used for residential use.

15. Mr. Knabb stated that the buildings utilized for self-storage contain 396 rental units and no parking is located on the property because tenants typically park by their units.

16. Mr. Knabb identified Ex. A-2, consisting of 7 pages, as the plans which he prepared for the Applicant's proposed project.

17. Mr. Knabb, referring to page 3 of Ex. A-2, stated that an additional 33 climate-controlled self-storage units (half of which will be exterior and climate controlled) and 3 parking spaces will be constructed.

18. Mr. Knabb stated that Page 2 of Ex. A-2 displays the location of an existing residential structure and shed on the property.

19. Mr. Knabb stated that the residential structure, septic, concrete and macadam displayed on page 2 of Ex. A-2 will be removed to allow the location to be the site of the new climate-controlled self-storage units.

20. Mr. Knabb stated there is also a shed on the property which will be removed as part of the development process.

21. Mr. Knabb identified a March 22, 2023 email he received from Fire Chief Jeffrey Seip stating that he had reviewed the Applicant's plans and did not have any objections at the time subject to review by the zoning officer and the township engineer.

22. Attorney Charlesworth also noted that Ex. A-2 contains a copy of the email from Jeffrey Seip, Fire Chief, confirming that his review of the drawings confirmed that fire apparatus access is adequate to meet the needs of the Hecktown Volunteer Fire Company.

23. Mr. Knabb stated that they have already received sketch plan approval from the township planning commission and will have to proceed thru the land development process.

24. Mr. Knabb, referring to Ex. A-2, stated that they want to remove pavement, currently located in a flood plain that will be replaced with approximately 100 square feet of grass.

25. Mr. Knabb stated that the removal of the pavement will reduce impervious coverage by 783 square feet.

26. Mr. Knabb stated that the Applicant requires the ability to obtain a special permit for 100 square feet of flood plain disturbance.

27. Mr. Knabb stated that all proposed structures will be outside of the flood plain.

28. Mr. Knabb stated that removal of pavement is consistent with flood plain requirements.

29. Mr. Knabb stated that all existing elevations will be maintained and there will not be any impact on drainage conditions.

30. Mr. Knabb stated that the self-storage units currently face a waterfront, i.e. the Monocacy Creek.

31. Mr. Knabb stated that the Applicant's proposed plan will not hinder access for emergency vehicles.
32. Mr. Knabb stated that the Applicant's proposed plan will not result in any changes in velocity or depth of the Monocacy Creek.
33. Mr. Knabb stated that the Applicant seeks relief from requirements of section 1701.c and Table 17.1.f. regarding the number of parking spaces.
34. Mr. Knabb stated that the ordinance requires one space for 15 units and 1 space per employee.
35. Mr. Knabb stated that currently there are 396 units and 0 dedicated parking spaces.
36. Mr. Knabb stated that 33 new storage units and 3 parking spaces are proposed.
37. Mr. Knabb stated that people generally park in front of their storage unit.
38. Mr. Knabb stated that people stay at their storage unit location for short periods of time, generally under an hour.
39. Mr. Knabb stated that 29 parking spaces are required by the zoning ordinance.
40. Mr. Knabb stated that 29 parking spaces are not necessary for the use and would only result in additional impervious coverage.
41. Mr. Knabb stated that the Applicant seeks interpretation or a variance from the Service water setback provisions of Section 1605.b.
42. Mr. Knabb stated that the ordinance requires 100 feet from the top of the bank.
43. Mr. Knabb stated that currently the setback is 47 feet from the top of the bank.
44. Mr. Knabb stated that the Applicant proposes to maintain the setback at 47 feet.
45. Mr. Knabb stated that the Applicant seeks relief from the 75 feet side yard setback requirements of Section 1108.h.
46. Mr. Knabb stated that at one point on the northeast side of the site at its most extreme the existing side yard is 14 feet.
47. Mr. Knabb stated that 35 feet is the dimension of the side yard buffer on the majority of the site.
48. Mr. Knabb stated that the Applicant proposes to leave the side yards in their current condition.
49. Mr. Knabb stated that the Applicant seeks relief from the minimum building separation requirements of Section 1502.A.(61)(i).

50. Mr. Knabb stated that the ordinance requires 25 feet while the existing width is 20 feet.

51. Mr. Knabb stated that the Applicant will maintain the existing 20 feet width between the existing structure and their proposed structure.

52. Mr. Knabb stated that the minimum lot width is 265 feet as opposed to the 350 feet which is required by Section 1108.C.1.

53. Mr. Knabb stated that the Applicant requests a favorable interpretation of Section 1108.C.1. or in the alternative a variance from this section.

54. Mr. Knabb stated that he believes that the grant of the requested relief is the least intrusive solution to allow the modifications of the structures on the property.

55. Mr. Knabb stated that the grant of the requested relief will not have any adverse impact on surrounding properties.

56. The Board questioned the Applicant's request for a 47 feet water setback versus the ordinance requirement of 100 feet.

57. The Applicant stated that all parking spaces will be outside of the setback.

58. Attorney Charlesworth offered the remote testimony of Cory Bonda, a representative of Prestige Storage, which is the owner and operator of the storage unit facility.

59. Mr. Bonda stated that the house which currently exists on the property will be torn down.

60. Mr. Bonda stated that the local police have been utilizing the house for canine training.

61. Mr. Bonda stated that the local police will be removing the gazebo which is also located on the property.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

62. The subject premises is located at 173 Nazareth Pike and has a tax parcel identifier of L7-8-5.

63. The subject premises is located in a Light Industrial (LI) zoning district.

64. The property currently contains a self-storage facility, a small office and a residential dwelling.

65. The Applicant will remove the residential building and abandon the onlot sewage

system.

66. The Applicant proposes to expand the storage facility by adding 33 units which will remain the sole use on the property.

67. The Applicant's development will reduce the impervious coverage by 787 square feet.

68. The Applicant's use is a legally existing, nonconforming use.

69. Section 1409.C.3. of the zoning ordinance provides for the expansion of a nonconforming use:

1409. NONCONFORMITIES.

,.....C. Alteration or Expansion of Nonconformities.

3. Expansion of a Nonconforming Use. A nonconforming use or a building used by a nonconforming use shall not be expanded or enlarged, except in accordance with the following provisions:

a. Such expansion or enlargement shall be permitted only by special exception from the Zoning Hearing Board under the provisions of Article I.

b. Such alteration, reconstruction, extension or enlargement shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.

c. A nonconforming use shall not be increased in total floor area of buildings, total area covered by impervious surfaces or total number of dwelling units by greater than 50 percent beyond each such measurement that existed in such use at the time such use becomes nonconforming. Whichever of these limitations is most restrictive shall apply. This maximum increase shall be measured in aggregate over the entire life of the nonconformity.

d. Any expansion of a nonconforming use shall meet the required setbacks, unless a variance is granted by the Zoning Hearing Board.

70. Section 119.C.1. provides:

C. Approval of Special Exception Uses.

1. The Zoning Hearing Board shall approve any proposed special exception use if they find adequate evidence that any proposed use will meet:

a. All of the standards listed in Section 118.D.

b. All of the specific standards for the proposed use listed in Article XIV.

c. All other applicable requirements of this Ordinance.

2. In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines is necessary to implement the purposes of this Ordinance.

71. The expansion of the nonconforming use will not be in conflict with other township ordinances or State or Federal laws or regulations known to the Township.

72. The expansion is not significantly incompatible with the adopted Comprehensive Plan, as amended.

73. The expansion will not result in or significantly add to a significant traffic hazard or significant traffic congestion.

74. The expansion will not create a significant public safety hazard, including fire, toxic or explosive hazards.

75. The Applicant provided a turning analysis pertaining to fire and emergency access with their site plan which was positively reviewed by the Fire Marshal for the Hecktown Fire Company.

76. The Applicant, through its submitted engineering plans, has demonstrated adequate ability to manage stormwater.

77. It is further noted that the Applicant is removing a septic system and impervious coverage which will also assist with storm management.

78. The Applicant's expansion will not significantly negatively affect the desirable character of any existing residential neighborhood.

79. The Applicant's expansion plan demonstrates that it will not present significant negative influences on adjacent uses.

80. The Applicant seeks a Special Permit for construction within a Floodplain pursuant to Article V. of the Lower Nazareth Township Floodplain Management Ordinance.

81. The Applicant's proposed plan will involve the removal of an approximately 100 square feet of pavement located within the floodplain.

82. The Applicant proposes to remove the pavement and return the area to grass.

83. Section 5.02 of the Flood Plain Ordinance sets forth the Standards and Criteria for Special Permits in Section A. thru N.

84. The Board finds that the Applicant's request for relief will actually create a benefit to life and property since the removal of pavement followed by the placement of grass will only increase the pervious coverage.

85. The Board finds that the grant of the permit will not create increased flood elevation and in fact may decrease flood elevation.

86. The Board finds that the grant of the permit will not create any additional threats to public safety.

87. The Board finds that the grant of the permit will not cause any extraordinary public expense.
88. The Board finds that the grant of the permit will not create a nuisance.
89. The Board finds that the grant of the permit will not defraud or victimize the public.
90. The Board finds that the grant of the permit will not conflict with local laws or ordinances.
91. The Applicant seeks an interpretation that only 3 parking spaces are required for the use.
92. The Board finds that the parking for the existing storage units is the continuation of the pre-existing non-conforming use.
93. The Board has confirmed that the existing use is a pre-existing nonconforming use.
94. The Board finds that the storage facility pre-existing use has operated successfully for many years without any parking spaces.
95. The Board finds credible the Applicant's testimony regarding storage facility tenants who park directly in front of their storage units.
96. The Board finds that the Applicant's proposed 3 spaces will be more than sufficient to accommodate the new storage units.
97. The Applicant seeks a favorable interpretation of Section 1409.C.(3)(d).
98. Section 1409.C.3.(d) provides:

"1409. NONCONFORMITIES

.....C. Alteration or Expansion of Nonconformities.

.....3. Expansion of A Nonconforming Use. A nonconforming use or a building used by a nonconforming use shall not be expanded or enlarged, except in accordance with the following provisions:

....(d) Any expansion of a nonconforming use shall meet the required setbacks, unless a variance is granted by the Zoning Hearing Board.
99. The Applicant stated that the existing surface waters setback is forty-seven (47) feet, whereas the Ordinance now requires a setback of 100 feet.
100. The Applicant stated that the project will not extend beyond the existing non-conforming surface waters setback.
101. The Board finds the Applicant's testimony credible that the development will not exceed the existing nonconforming surface waters setback and will not have any impact on the

setback.

102. The Board finds that the Applicant did not create the hardship.

103. The Board finds the Applicant's testimony credible that the project will not have any impact on the existing nonconforming surface waters setback.

104. The Applicant seeks a favorable interpretation of Section 1409.C.(3)(d) (text of section stated in paragraph 96).

105. The Applicant stated that the property contains an existing nonconformity regarding a side yard setback along the northeastern border of the property.

106. The Applicant stated that an existing building side yard is 14 feet as opposed to the ordinance requirement of 30 feet.

107. The Applicant stated that the existing building side yard will remain and will not expand beyond any existing non-conforming setbacks.

108. The Applicant requests that the pre-existing setback be permitted.

109. The Board finds that the pre-existing building is permitted provided it does not extend any further into the existing setback.

110. The Applicant seeks a favorable interpretation or a variance from Section 1409.C.(3)(d). (text of section stated in paragraph 96).

111. The Applicant seeks relief for the buffer line along the southern border of the property.

112. The existing buffer line is 35 feet whereas the Ordinance requires a buffer of 75 feet.

113. The Applicant asserts that their proposed project will not reduce the existing buffer line and therefore will not have any impact on the existing residential buffer yard and therefore is permitted by the zoning ordinance.

114. The Board agrees with the Applicant that the existing buffer line will not have any impact on the Applicant's project and therefore is permitted.

115. The Applicant requests relief from Section 1502.A.(61)(i) which states:

1502. ADDITIONAL REQUIREMENTS FOR SPECIFIC PRINCIPAL USES.

A. Each of the following uses shall meet all of the following requirements for that use:

61. Self Storage Development

....i. Minimum separation between building – 25 feet

116. The existing building separation is 20 feet.

117. The existing building separation will not have any impact on the Applicant's proposal for expansion.

118. The Board agrees that the existing building separation of 20 feet will not have any impact on the Applicant's expansion plans and therefore there is no need for relief from the requirements of Section 1502.A.61.

119. The Applicant requests relief from Section 1409.C.(3)(d) of the Ordinance. (text of section stated in paragraph 96).

120. The existing lot width of the property is 265 feet.

121. Section 1108.C.(1) provides: 200 feet, except:

1. 350 feet at the future right-of-way line of any arterial street which an individual lot will have a driveway entering directly onto.

122. The Board finds that the lot width of 265 feet is existing and is not a change related to the Applicant's proposed expansion.

123. The Board finds that the lot width is permitted by the Ordinance since the Applicant's proposed expansion has no impact on the existing lot width.

3. The Board grants the Applicant's request for a favorable interpretation of Section 1702.C. and Table 17.1.F. to require only three (3) parking spaces.
4. The Board grants the Applicant's request for a favorable interpretation of Section 1409.C.(3)(d) as follows:
 - a. to allow the existing 47-foot surface water setback per the existing non-conforming use.
 - b. to allow the existing 14-foot side yard setback along the northeastern border per the existing non-conforming use.
 - c. to allow the existing 35-foot residential buffer yard along the southern border per the existing non-conforming use.
 - d. to allow the 20-foot building separation with respect to the current structures per the existing non-conforming use; noting that the Applicant's proposed expansion will comply with the minimum required setback of 25-feet per the Ordinance.
 - e. to allow the existing non-conformity of a minimum lot width of 265 feet as the proposed expansion will have no impact on the existing lot width.

The relief granted herein is conditioned upon the size, construction and location of the new storage units and parking as set forth in the Applicant's appeal, documentation, testimony and exhibits submitted at the hearing held on May 23, 2023.

LOWER NAZARETH TOWNSHIP
ZONING HEARING BOARD



STEPHEN NORDAHL, CHAIR



BRIAN FENSTERMAKER



MANOUEL CHANGALIS

Date: 7/7/2023