

# Elk Township Planning and Zoning Board Meeting

## Regular Business Meeting

August 20, 2014

### Minutes

**Call to Order:** Board Chair called the meeting to order at 7:39pm.

**Open Public Meeting Act:** read by Board Secretary

**Roll Call:**

**Present:** Matt Afflerbach, Jay Hughes, Dave McCreery, Patrick Spring, Jeanne White, Frank Goss

Also present: Joan Adams, Board Solicitor, Leah Bruder of Bach Associates, Board Planner, Stan Bitgood of Federici & Akin, Board Engineer

Absent: Bill Carter, Ed McKeever, Eugene Shultz, Christine Yenner, Gus Rosado

**Flag Salute,** led by Chairperson

**Oath of Office:**

New member, James Rambo, was sworn in by the Board Solicitor. Mr. Rambo is filling the unexpired term of Gus Rosado as First Alternate member, term expiring on December 31, 2015. Mr. Rosado resigned on August 6, 2014.

**Announcements:**

- Notice to Public and Applicants: Board policy is no new business will commence after 10:30 pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session. *An individual's comment will be limited in time to five (5) minutes during these general public comment sessions in order to give as many members of the public as are present, time to speak.*

**General Business:**

➤ **Approval of Minutes:**

- **May 21, 2014** (June & July meetings were cancelled)

*Mr. McCreery moved to approve the minutes of May 21, 2014, Seconded by Mr. Goss.*

With all members in favor, *the motion was carried.*

**Roll Call:**

**Voting in favor:** Afflerbach, Hughes, McCreery, Spring, White, Goss

**Against:**            **Abstain:**                    **6-0-0**

➤ **Resolution(s):**

**2014-09:** resolution memorializing approval of Amended Preliminary Major Subdivision, block 29 lots 28, 29; block 29.01, lot 3; block 31 lots 2.02, 5.01, 7, 22; block 32 lots 1-9 and block 58 lot 1 for project known as Aura II, application #SD-03-03 to applicant, Aura Development Group, LLC.

*Mr. Hughes moved to adopt resolution 2014-09, Seconded by Mr. McCreery.*

**Roll Call:**

**In favor:** Afflerbach, Hughes, McCreery, Spring, White

**Against:** None            **Abstain:** None                    **5-0-0`**

**2014-10:** resolution memorializing Preliminary Major Subdivision approval to create four lots out of lands identified as block 29 lots 28, 29; block 29.01 lot 3; and block 32 lots 1-9, application # SD-14-02, to applicant, Aura Development Group, LLC.

*Mr. Hughes moved to adopt resolution 2014-10, Seconded by Mr. Afflerbach.*

*Roll Call:*

*In favor: Afflerbach, Hughes, McCreery, Spring, White*

*Against: None Abstain: None 5-0-0`*

**2014-11:** resolution memorializing granting Preliminary and Final Minor Site Plan approval and a d(3) variance to permit the construction of a temporary sales office on block 29 lot 24 to serve the subdivision commonly known as Aura I, to applicant, Aura Development Group, LLC.

*Mr. Hughes moved to adopt resolution 2014-09, Seconded by Mr. Afflerbach.*

*Roll Call:*

*In favor: Afflerbach, Hughes, McCreery, Spring, White*

*Against: None Abstain: None 5-0-0`*

➤ **Old Business: None**

➤ **New Business:**

- 1) **Completeness Hearing, followed by Public Hearing application #SD-14-04 -Myra & Kenneth Toms, Minor Subdivision with variance(s) block 18 lot 31 to convey 9.229 acres to adjoining block 18 lot 28 owned by George Lucas.**

The applicant was represented by Attorney John Moustakas, of Donnelly Ritigstein Law Offices, 132 Kings Highway East, Haddonfield, NJ. The applicant proposes a lot line adjustment between existing lots 28 and 31, reducing the size of lot 31 and increasing lot 28. The proposal would not result in any additional lots.

Board Planner, Leah Bruder, referred to her letter dated August 7, 2014

The applicant requested waivers from checklist items, 25,33,43,50,55,57,58,59,67,73,75, and the planner was in favor of the waivers for these items. Checklist items 36 (recorded easements & restrictions, etc.) & 38 (site photos) were provided prior to the meeting and the board solicitor confirmed the documents were sufficient. In addition, the board had received a letter of consent from property owner, George Lucas, for the application.

The engineer, Stan Bitgood, referred to his letter dated August 14, 2014

Item #41 – locations of existing wells and septic systems and the distances between them.

The well for lot 31 is denoted, but no septic system or other well locations.

*The plans should be revised to show these facilities but can be waived for the purpose of completeness and will be a condition of any approval granted. Should the facilities be located outside of the remainder lot, a revised plan would be needed. Applicant agreed.*

Technical review item #3 signature block-change to Planning /Zoning Engineer where it presenting denotes, “Township Engineer”

*Applicant requested it remain as Township Engineer to comply with the present “Map filing” law, and the board engineer agreed.*

Board had no other items and considered the application complete.

Mrs. Adams confirmed with the board planner, that a new lot number (checklist item #19) would not be necessary as the acreage will be consolidated into Mr. Lucas’s existing lot.

*Mayor Spring moved to grant the waivers as discussed and deem the application complete. Seconded by Mr. Afflerbach.*

**Voting in favor: Afflerbach, Hughes, McCreery, Spring, White, Rambo, Goss**  
**Against: Abstain: 7-0-0**

**2) Public Hearing, application #SD-14-04 -Myra & Kenneth Toms, Minor Subdivision with variance(s) block 18 lot 31 to convey 9.229 acres to adjoining block 18 lot 28 owned by George Lucas.**

The following witnesses were sworn in for testimony:  
 Corey Gaskill, PE, Fralinger Engineering, 629 Shiloh Pike, Bridgeton, NJ 08302  
 George Lucas, Lucas Green Houses, 1049 Whig Lane, Monroeville, NJ 08343

Mr. Moustakas has power of attorney for the applicants, Kenneth and Myra Toms.  
 Board Secretary confirmed that proper public notice had been completed for the application.

Mr. Moustakas gave a brief overview of the project explaining the subject property, block 18. Lot 31 consists of 11.753 acres two sheds, workshop building (13,403 sq. ft.), office building (392 sq. ft.), and a nursery stock container field. The applicants, Mr. & Mrs. Toms, operate a seasonal Christmas wreath and evergreen garland business typically from August through late December. The applicant proposes to subdivide off 9.224 acres and convey to Lucas Greenhouses who has farmed this for the past 10 to 15 years and will consolidate with his adjacent lot 28. No development or soil disturbance is proposed. The Toms will retain a remainder lot of 2.524 acres. The subject property is located within the RE (Rural Environmental Residential District) and is surrounded in all directions by other properties in the same zoning district. From an aesthetic standpoint, everything will remain the same, only the lot line will change. The subject property is non-conforming and was granted a Certification of Non-conforming Use in January of 2013. No expansion of the use is contemplated and no new lots will be created, only the legal descriptions and acreage will change.

Bulk Standards, the following are what is required and what is proposed for each lot as outlined in the planners letter:

<b>Ordinance Section</b>	<b>Required</b>	<b>Proposed lot 28</b>	<b>Proposed lot 31</b>	<b>Compliance</b>
96-71D(3) Front Yard Setback	50 feet	50 feet	41.38 feet to existing house	<b>Variance condition</b>
96-71D(4) Rear Yard Setback	40 feet	0 feet, but adjacent lot commonly owned	29.73 feet to metal building	<b>Variance for lot 31</b>
96-71D(7) Lot Depth	200 Feet	1,191 feet	102 feet	<b>Variance for lot 31</b>
96-71D(11) Maximum Building Coverage	15%	35% (42% existing)	13.7%	<b>Variance for lot 28</b>
96-71D(12) Maximum Lot Coverage	20%	47% (52% existing)	37.5%	<b>Variance for lots 28 and 31</b>

The lot lines were drawn to encompass the container fields that Mr. Lucas has farmed for many years. The two sheds on the plan belong to Mr. Lucas.

George Lucas testified there are four tarps, 100 foot wide sections, which annual flowers are grown on. Each is covered with a black removable mat which is a weed barrier and is pervious (allows water to go through but not weeds). The two small portable sheds are irrigation buildings used to protect the equipment. Pipe houses are used for cold protections for about 12 weeks

A series of five (5) color photographs were submitted and marked as Applicants #1. Mr. Lucas explained each photo.

Mr. Lucas testified that in the fall when Evergreen roping is in full operation, the two lots share parking. If the need arises any overflow parking may occur on lot 28. He also testified that this occurs at a time when his season has slowed down.

When his operation is operating at capacity he will have 40-50 workers in the greenhouse. If the need arises, the agreement allows his workers to park on lot 31. They share the parking area year around.

Mrs. Bruder suggested a formal agreement be prepared regarding the parking arrangement and Mrs. Adams agreed it should be made a condition of any approval that this shared parking agreement be reduced to a written easement and be recorded upon the land records. It will be a perpetual easement and shall run with the land. The goal is to make sure both business function safely.

Mr. Moustakas agreed to submit a formalized agreement for review by the board's solicitor. Mr. Lucas was in agreement. Mr. Lucas also pointed to another section on the plan that could accommodate parking and if an existing berm were removed, it could even be enlarged.

Board engineer mentioned that on the plan the existing swale and riprap that flows into the basin will now become part of Mr. Lucas's lot and all the existing runoff will continue to run into that basin and that a recorded agreement affecting both lots, that any increase in water flow must be accepted into the basin, should be a condition of any approval granted. Mr. Lucas agreed.

Board Planner, Leah Bruder, reviewed her letter of August 7, 2014 beginning on page 3.

The variances requested were already outlined by Mr. Moustakas. Mrs. Adams confirmed with the Board Planner that she had reviewed the Evergreen roping approval granted in 2013 and has determined that this lot reduction will not affect the conditions of the prior approval or the operation of the site.

Item #1 - **Overall**- now complies with the letter of consolidation that was submitted by Mr. Lucas, dated August 20, 2014.  
Item #2 – **Variiances**-Six variances, three of the variances represent pre-existing nonconforming conditions which are not exacerbated by the new lot configuration. They are the deviations from the standards for front yard setback, impervious coverage limitations (for lot 28) and building coverage limitations. The other three areas of noncompliance are created by the lot line change. (Impervious coverage, rear yard setback and lot depth)

**Parking** - already discussed and applicant will provide a formalized agreement as a condition of approval.

**Easements** – already discussed regarding stormwater and will be included in an easement.

**Sheds** – already discussed and explained.

Mr. Bitgood finished up his review letter items of August 14, 2014.

Well & Septic locations - Mr. Lucas explained where the two wells were located on the green house property using the plan displayed. Both are on Mr. Lucas's existing property as well as the septic location.

Mr. Lucas also pointed to where the well and septic locations are on the Toms parcel, lot 31.

Applicant had agreed to provide all these location on a revised plan.

Deeds - Subdivision is to be perfected by the filing of deeds within 190 days of resolution memorialization. All deeds, legal descriptions, easements, agreements, etc, must be forwarded to the board professionals for review and approval. Applicant agreed.

Gloucester County Planning Board- approval or a waiver from that board, must be submitted prior to any final signatures.

Lastly, Mr. Bitgood added, if the septic system is behind the metal building, the lot line will have to be adjusted so it stays within lot 31. Mrs. Adams added that two easements that affect this parcel today are, two AT&T easements, Two Atlantic Electric easements and one road widening easement.

**Mr. Goss moved to open to the public, seconded by Mr. Afflerbach.** With all members in favor, ***the motion was carried.***

1) Charles Swiatocha, 1001 Whig Lane (adjacent lot 32)

Had concerns regarding the location of the retention pond. It is adjacent to their lot line. They were concerned that this change not affect the amount of storm flow into the basin. The owners also expressed a concern regarding whether any additional structures (green houses) would be erected. Mr. Swiatocha added he did not have a problem with the current parking on the site and would prefer that parking not be relocated to the area more adjacent to his property line as he is

concerned about an increase in dust, exhaust fumes and trash accumulation particularly if the berm were to be removed on Mr. Toms lot, which he was not in favor of.

2) David Thiele, 472 Elk Road, rose to address the Board and inquired about any increase in impervious coverage.

The planner explained the application is for a subdivision and that no additional impervious coverage would be added by this approval and that only the lot line was being changed. Moving the line changes the proportions of building coverage on each lot, and therefore variances are required. The buildings will remain as they are presently. Further, increasing the size of the Lucas lot, decreases the total amount of impervious coverage. Decreasing the size of the Tom's lot, increases the total amount of impervious coverage. There is no proposal to build anything as a result of this application.

Mr. Hughes requested the road name be changed from "Whig Lane Road", to "Whig Lane."  
Applicant agreed.

***Mayor Spring moved to close to the public, seconded by Mr. McCreery.***

With all members in favor, *the motion was carried.*

***Mrs. White moved to approve the minor subdivision application with variances, condition upon the testimony provided, the items outlined in the professionals' review letter and further conditioned upon all required outside agency approvals. Seconded by Mr. Hughes.***

***Roll Call:***

***Voting in favor: Afflerbach, Hughes, McCreery, Spring, White, Rambo, Goss***

***Against: Abstain: 7-0-0***

- **General Public Portion**

***Mr. Hughes moved to open the general public portion, seconded by Mr. Goss.***

With all members in favor, *the motion was carried.*

Lou Schomber, 457 Ewan Road

Stated he was sad with the decision by previous board members concerning approval of a development across the street from him that allowed the builder to dump all the water onto his property. He has had nothing but problems which have cost him money as well as the loss of trees.

***Mrs. White moved to close the general public portion, seconded by Goss. With all members in favor, the motion was carried.***

➤ **Correspondence:**

Mayor Spring addressed the board on Committee's desire to conduct a partial Master plan re-examination focusing specifically on land use policies relating to the potential for commercial development along Route 77 (Bridgeton Pike), County Route 553 (Buck Road) and to address any other specific land use and planning concerns that have arisen over the last several years, such as the Lake Gilman area.

Mrs. Bruder added that the Lake Gilman area is in a zone which makes none of the lots conforming to the current zoning in place. Therefore anytime anyone wants to do something to their property, they would need a variance, creating a cost burden to all those residents. The idea is to create a special zoning to accommodate this unique area. Well/Septic requirements and approvals are the jurisdiction of the Gloucester County Health Department. Mr. Hughes inquired if the lake lots located on the Harrison side also had issues. Mrs. Adams was the Planning Board Solicitor for Harrison Township for the past 12 years and they did not have issues with these lots that she recalled but would check into it. She did not recall any special zoning in Harrison for these homes.

Mrs. Adams explained the town doesn't have to complete an entire review, but can do it in sections to accommodate budgets. The last Master Plan reexamination was completed in 2009. The State requires it to be done every 10 years.

Mr. Afflerbach asked what has changed in the last five years that would necessitate a Rexam, such as, are water and sewer now available in these areas that would attract businesses?

Mrs. Adams responded that what has changed is that the surrounding communities have developed tremendously in the last five years and brought commercial closer to our borders. In addition, some of the big projects we thought were viable are turning out not to be viable and based on this, we should revisit our development potential. Mrs. Bruder added also, that in the last five years, the economy hasn't been very good so there hasn't been a lot of commercial development interests in Elk.

Mrs. Bruder recited some specific zoning permitted in the LD zone (primarily along CR 77) and the MD zone (along Buck Road) that conditionally permits commercial uses, but isn't shown on the zoning map. The zoning map needs to be updated and properly designate commercial areas on the Zoning Map.

The Mayor asked if the Board was in support of conducting a Master Plan reexamination and to provide a letter to Township Committee to budget the monies. He added the monies are available.

Mr. Afflerbach was in favor of looking at ways to lower taxes, but felt the board should wait to consult with the other board members that were absent this evening. Mrs. Bruder clarified that this evening, the board is not supporting any policies, it is just to say you want to do a reexamination of the master plan.

Mr. Afflerbach still felt the board should wait until the absent members were present before making a recommendation.

Mr. Hughes felt the board should act this evening, in case their next meeting is cancelled, and then that would be another month's delay.

Mrs. Adams commented it never hurts to say to Township committee that the board is willing to undertake a master plan review and to budget the money. Then when the Board is ready, the money is available.

***Mr Hughes moved that the Board is willing to undertake a Master Plan Reexamination if the monies are available within the municipal budget. Seconded by Mrs. White***

Mr. Afflerbach asked if this gave the professionals permission to start. Mrs. Adams explained this allows Township Committee to budget the money. At another meeting, the board will discuss what areas we want the professions to investigate.

With all members in favor, ***the motion was carried.***

Mrs. Adams welcomed Mr. Rambo to the board.

➤ **Adjournment:**

***Mr. Goss moved to adjourn, Seconded by Mr. Afflerbach.***

With all members in favor, ***the motion was carried.***

Adjournment time: 9:14pm

Respectfully submitted,



Anna Foley  
Board Secretary