

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting

February 18, 2015

Minutes

Call to Order: Board Chair called the meeting to order at 7:36pm.

Open Public Meeting Act: read by Board Secretary

Roll Call:

Present: Jay Hughes, Dave McCreery, Ed McKeever, Terry Ratzell, Richard Schmidt, Eugene Shoultz, Jeanne White, Christine Yenner, Amber Gonzales, Deborah Penza

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

Absent: James Rambo

Moment of Silence: a moment of silence was observed in remembrance of former board member, Vernon "Chuck" Nicholson. Mr. Nicholson served on the board for 17 years.

Flag Salute, led by Chairperson

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.*

Ms. Yenner moved to nominate & appoint John Eastlack of the firm Weir & Partners for Solicitor. Seconded by Mr. Schmidt.

Discussion followed as to whether or not the motion should be recognized at this moment, as the nomination item is scheduled for later on the agenda following a closed session to discuss a personnel matter. Madam Chair confirmed the closed session was to discuss the position of a Board Solicitor. Additional discussion followed about circumventing the agenda and the proper procedure according to Robert's Rules of Order.

Member McKeever asked what the point of not following the agenda was. Ms. Yenner responded that she did not feel Mrs. Adams had submitted a valid RFQ (Request for Professional Qualifications) for the position and that Mr. Eastlack would be the Board Solicitor for the rest of the year and should start right away. Further discussion followed regarding valid submissions of RFQ's and that they were covered under the public contracting law. Madam Chair confirmed the board's subcommittee considered all submissions from both advertisements for the position. Additional discussion continued regarding the qualifications of both Mrs. Adams and Mr. Eastlack.

Member Hughes moved to temporarily set aside the motion on the floor, until after the closed session, to attend to the other business on the agenda (as applicants are paying professionals for their services and for consideration of the public that came to hear the scheduled applications). Seconded by Chairperson White.

Roll Call:

In favor: Hughes, McKeever, Shoultz, White, Penza

Against: Ratzell, Schmidt, Yenner, Gonzalez
Abstain: McCreery 5-4-1`

General Business:

➤ **Approval of Minutes:**

1) November 12, 2014

Mr. Shoultz moved to approve the minutes of November 12, 2014, Seconded by Mr. McCreery.
With all members in favor, *the motion was carried.*

2) December 17, 2014

Madam Chair asked for a correction on page 2 concerning the year Mr. Canuso had meet with the School Board. Mr. Hughes confirmed the correct year should be 2013, not 2014. Board Secretary would double check the recording and make the correction.

Mr. Shoultz moved to approve the minutes of December 17, 2014, with the correction, Seconded by Mr. Hughes. With all members in favor, *the motion was carried.*

3) January 21, 2015

Mr. Shoultz moved to approve the minutes of January 21, 2015, Seconded by Mr. Hughes.
With all members in favor, *the motion was carried.*

➤ **Resolution(s):**

2015-09- Resolution of the Combined Planning/Zoning Board establishing a closed session meeting pursuant to the New Jersey Statutes, Revised, pertaining to the Open Public Meetings Act – discussion of personnel

Mr. Hughes moved to adopt resolution 2015-09 listed as item number 8 on the agenda. Seconded by Mr. McKeever. With all members in favor, *the motion was carried.*

➤ **Old Business:** None

➤ **New Business:**

1) **“Completeness Hearing” – Minor Subdivision with variances, block 46, lot 7, 610 Monroeville Road, Application #SD-14-06, applicant Karen Roberts, Executrix**

Timothy Prime, Attorney representing Karen Roberts & The Estate of Malcom and Margaret Roberts.

Board Solicitor swore in the following individuals:

Leah Bruder, Board Planner was sworn in for the year.

Larry DeVietro, P.L.S., Land Dimensions Engineering, 6 East High Street, Glassboro, NJ
Karen Roberts, 216 Glenmore Avenue, Catonsville, MD

Mr. Prime gave a brief overview of the application. The subject parcel consists of approximately 33 acres. The purpose of the subdivision is to create a lot for an existing residential home on approximately one acre and the remaining 31 acre lot will contain all the other structures and farm field.

In addition there is a clouded title matter to address. Years ago Karen’s father conveyed property to lots 3 and 2.02 without a proper subdivision approval from Elk Township. This submission will also include lot line adjustments for adjacent lots 3 and 2.02. Lot 2.02 will receive a parcel which will be consolidated with lot 2.02 owned by Mr. & Mrs. Veiga. Lot 3 was deeded off long ago without a proper subdivision and is currently owned by James and Elizabeth Corsey. The last deed in the chain of title giving ownership to Mr. and Mrs. Corsey was recorded on the land

records of Gloucester County. This subdivision will not change the configuration of this nonconforming parcel but will clear the title in the name of the Corsey family.

Mr. Prime provided the following exhibits for the file:

- 1) "License to Operate" septic system from Gloucester County Department of Health, was labeled as Applicants #1 (septic is for the proposed new lot with the house).
- 2) Sewage Disposal Design System, Application of Permit 2009, was labeled as Applicants #2.
- 3) Board 1- report of Elk Twp Environmental Commission

Mr. Prime added that to the applicant's knowledge, there are no wells or septic systems to be decommissioned on the remainder parcel. There is a dilapidated boarded residential dwelling on the proposed remainder lot that will be demolished. There are also as numerous garages and farm buildings.

Mrs. Bruder referred to her review letter of February 3, 2015 for completeness. She added the applicant proposes to subdivide but not build, so there are several waivers being requested.

Item # 13 metes and bounds description
Complies- has been provided

Item #19 requires the new lot number to be approved by the Gloucester County Tax Assessor.
Condition of any approval granted

Item #33 requires the applicant to include a statement and demonstration of compliance with affordable housing.
Waiver is recommended as no new construction is proposed

Item #36 requires copies of any protective covenants, easements and restrictions of record be provided, including title policy.
Complies- has been provided

Item #41 requires the location of existing wells & septic systems and distances between them.
Waiver is recommended, per applicant's testimony and submission of exhibits 1 and 2.

Item #49 requires location of all existing trees including size and species.
Waiver is recommended as no new construction is proposed

Item #50 requires a Tree Protection Management Plan and limits of clearing.
Waiver is recommended as no new construction is proposed

Item #55 requires contours at 20 foot intervals for the entire tract and within 100 feet
Waiver is recommended as no new construction is proposed

Item #57 requires a grading plan showing existing and proposed spot elevations.
Waiver is recommended as no new construction is proposed

Item #58 requires a soil erosion and sediment control plan.
Waiver is recommended as no new construction is proposed

Item #59 requires the applicant to submit the location of soil borings for soil suitability
Waiver is recommended as no new construction is proposed

Item #67 submit all results of percolation test if site is served by septic
Waiver is recommended as no new construction is proposed

Item #73 requires the applicant to submit an LOI (Letter of Interpretation) from NJDEP

Complies- a statement from the applicant's engineer has been provided.

Item #75 requires the applicant to submit a Utility Plan.

Waiver is recommended as no new construction is proposed

Board Planner recommends deeming the application "complete."

Mr. Bitgood referred to his letter of February 11, 2015 (mistakenly dated January 11, 2015)

Checklist items 19 and 57- agrees with Planners recommendations.

Checklist item #13- signed, sealed legal descriptions need to be provided and *recommends a waiver as a conditional of any approval.*

Mr. Hughes asked if Gloucester County Planning Board approval had been received. Mr. DiVietro responded "no" and that subject to the board's approval, they will resubmit to the County and this could be a conditional of any approval granted.

Mrs. White moved to grant the waivers as discussed and checklist items #13 and #19 as conditional waivers and deem the application "Complete." Seconded by Mr. Hughes.

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Ratzell, Schmidt, Shoultz, White, Yenner, Gonzalez

Against: **Abstain:** **9-0-0**

2) "Public Hearing" – Minor Subdivision with variances, block 46, lot 7, 610 Monroeville Road, Application #SD-14-06, applicant Karen Roberts

The Board Solicitor confirmed with the Board Secretary that proper public notice had been completed and the Board had jurisdiction to proceed with the public hearing.

Mr. Prime explained a lot size variance is requested for the new proposed lot. The applicant has submitted an alternate plan, for reference, that demonstrates they can meet the minimum lot size requirement of the RE zone of 80,000 sq ft, but the lot shape is irregular. The conforming lot shape would be odd because of the legally existing structures on the land and may interfere with the agricultural till of the remaining parcel. The proposed plan requiring a lot size variance is preferred as it provides a better planning configuration and would permit a more regularly shaped lot.

The large lot is under an agreement of sale and will continue to be farmed. The small lot will be sold as a single family residential home. The applicant is requesting a variance from the installation of an agricultural buffer on this lot.

Mrs. Bruder added that the testimony provided clarifies that the remainder lot will be used for agricultural use, which is consistent with the town's intentions for this area of the township, and the one acre lot size for the home is sensible from a planning standpoint. If it was the intention of the 30 acre remainder lot to be subdivided for more homes, then the applicant should have to conform to the minimum lot size of the zone.

The intent of the agricultural buffer is to protect the farm. A new resident moving into that house may not be accustomed to living next to a farm so the idea is to provide a buffer on the residential lot adequately buffering them from farming activities, such as noise, dust, pesticide use, etc. Given the situation, where there are already buildings on the lot preventing the applicant from providing that buffer, the deed notice would be sufficient. The applicant agrees to a deed notice alerting potential purchasers of the adjacent farm activities.

Mr. Prime stated the buyer of the farm parcel is present and was sworn in.

Michael Foote, 87 Dutch Row Road

Mr. Foote testified he is the future Buyer of the farmland and farms the land now, soy beans, rye, and wheat. Presently Mr. Foote has an application in with Gloucester County for permanent farmland preservation of this parcel. Once he receives farmland preservation approval, the house will be removed.

Mrs. Adams recommended the demolition be completed within one year's time, of the subdivision approval, not the farmland preservation approval. Mr. Foote agreed.

Mr. Bitgood referred to the technical section of his review letter dated February 11, 2015. Item #4 filed by deed or plan. The applicant stated it would be filed by deed. Item #5 monuments to be set. The applicant agreed to revise the plan setting the monuments rather than posting a bond. Mr. Bitgood was in agreement.

Mr. Hughes moved to open to the public, Seconded by Mr. Shultz.
With all members in favor, *the motion was carried.*

Charles Unger, 106 Dutch Row Road

Mr. Unger testified he was pleased the dilapidated home was going to be removed. He preferred to see a full sized lot as he had subdivided land for his children and had to provide the required lot sizes. Further, he did not believe the Applicant had presented a sufficient hardship to justify the lot size variance especially when the applicant has the ability to create a conforming lot.

Attorney for the applicant, Mr. Duncan, responded that they are not requesting a "hardship" variance, but rather a C1 planning variance. The non-conforming proposal is a better plan because it includes the long finger shaped portion (which is approximately 85 ft wide) as part of the farm parcel and is currently being farmed.

Robert Knorr, 619 Monroeville Road

Mr. Knorr also felt the applicant should be compelled to use the conforming plan and create full sized lots as he had to do when he applied for a subdivision. He added the long, narrow, strip of land wasn't useless and could be used as a garden area.

Mr. Shultz moved to open to the public, Seconded by Mr. Hughes.
With all members in favor, *the motion was carried.*

Board member Yenner commented she tended to agree with the two residents that spoke. The lot size requirement is there for a reason and they have the ability to comply. The "finger" strip of land could be used for a garden or play area.

Mr. Hughes added, if the applicant met the required lot size, the new owner of that property could always make an agreement to rent that portion to the farmer. However, he agreed the non-conforming plan was a nicer plan for the use of this parcel. Regarding the agricultural buffer, he reminded everyone of the "right to farm" act and is glad Mr. Foote will be putting the parcel into farmland preservation.

Chairperson White moved to approve the application for minor subdivision with variances, condition upon all the affirmative representations made by the applicant, testimony provided, and all recommendations made by the Board's Professionals and agreed to by the applicant, and further condition upon all required outside agency approvals. Seconded by Ms. Ratzell.

Ms. Yenner confirmed the motion made was for the plan requiring a lot size variance.

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Ratzell, Schmidt, Shultz, White, Gonzalez
Against: Yenner **Abstain:** 8-1-0 **Approved**

➤ **General Public Portion**

Ms. Ratzell moved to open the general public portion, seconded by Mr. Shultz.
With all members in favor, *the motion was carried.*

With no comment from the public, *Mr. Shoultz moved to close the general public portion, seconded by Ms. Ratzell.* With all members in favor, *the motion was carried.*

➤ **Correspondence:**

2014 Resolution Review Memo (Annual Resolution Report) - The memo was prepared by the Board Secretary outlining all the resolutions memorialized for the year. Township Committee will review the list and determine if any ordinance changes should be considered.

Ms. Ratzell moved to forward the memo to Township Committee with a revision of only including resolutions that pertain to variance applications. Seconded by Mr. Hughes. With all members in favor, *the motion was carried.*

Board Planner, Leah Bruder, gave an update on the Master Plan Re-examination report that she began working on this past November. Mrs. Bruder will refresh her latest memo for the benefit of new Board members and review it at the March meeting.

The professionals were excused from the remainder of the meeting.

➤ **Closed Session - Personnel Matter**

Ms. Yenner moved to go into closed session at 9:06pm, to discuss a personnel matter per resolution number 2015-09, Seconded by Mr. Schmidt. With all members in favor, *the motion was carried.*

Ms. Ratzell moved to come out of closed session and return to regular open session at 10.01pm, Seconded by Mr. McCreery. With all members in favor, *the motion was carried.*

Mr. Hughes moved to reconsider the motion previously on the floor, (nominate & appoint, by resolution 2015-10, John Eastlack Jr., of the firm Weir & Partners for Board Solicitor), Seconded by Chairperson White.

Voting in favor: Hughes, Ratzell, Schmidt, Yenner, Gonzalez

Against: McKeever, Shoultz, White,

Abstain: McCreery

5-3-1

Approved

➤ **Adjournment:**

Ms. Ratzell moved to adjourn, Seconded by Mr. McKeever. With all members in favor, *the motion was carried.*

Adjournment time: 10:06pm

Respectfully submitted,



Anna Foley
Board Secretary