

Elk Township Combined Planning and Zoning Board

Regular Business Meeting September 21, 2016

Minutes

- **Call to Order:** Board Secretary called the meeting to order at 7:30pm.
- **Roll Call:**
Present: Phil Barbaro, Robert Clark, Jay Hughes (arrived at 7:40 pm), Ed McKeever, Donna Nicholson,
Ed Poisker, Richard Schmidt, Eugene Shoultz, Jeanne White,
Frank Goss (Alt. 1), Wayne Swanson (Alt. 2)

Absent: Ed McKeever

- **Open Public Meeting Act:** was read by the Board Secretary
- **Flag Salute:** Secretary led the flag salute.
- **Swear in Board Professionals:** Board Solicitor
- **Approval of Minutes:**

Mrs. Nicholson moved to approve the minutes of July 20, 2016 & August 17, 2016, Seconded by Mr. Barbaro. With all other members in favor, *the motion was carried.* (Mr. Barbaro abstained from July minutes)

- **Resolution(s):**
2016-20 : resolution granting an extension of time to file deeds for minor subdivision, to Smith Orchards, LLP, a/k/a Loring, Inc., block 67, lots 23, 25 & 26 also known as 251 Union Street.

Mr. Shoultz moved to approve resolution 2016-20, Seconded by Mr. Barbaro.

Roll Call:

Voting in favor: *Barbaro, Clark, Poisker, Nicholson Schmidt, Shoultz, White*

Against: *None* **Abstain:** *7-0-0*

2016-21: resolution granting a limited Administrative Change to a previous approval regarding a major subdivision to Valley del Sol, to allow a supplemental energy source of propane gas or natural gas regarding property located on block 6, lots 14 and 15.

Mr. Schmidt moved to approve resolution 2016-21, Seconded by Mrs. Nicholson.

Roll Call:

Voting in favor: *Clark, Poisker, Nicholson Schmidt, Shoultz, White*

Against: *None* **Abstain:** *6-0-0*

➤ Postponement Announcement:

James Gaglianone - "D(1)" Use Variance & Site Plan waiver request, Block 33, lot 12.01, 719 Whig Lane. Application #ZB-15-09. A new date has not been assigned. When scheduled, notice will be required.

➤ **Old Business:** None

➤ **New Business:**

- 1) **Weona Pond, LLC**, extension of time request to conditions granted in Resolution 2012-12 until January 15, 2017, application #SD-16-08, block 44, lot 1

Attorney Dante Romanini, Tedesco, Gruccio & Reuss, 727 Landis Avenue, Vineland, NJ.

Mr. Romanini gave the following overview: The Board had granted major subdivision approval by resolution 2012-12 that was later modified by a Superior Court. The parcel has existing multiple residences all on one lot which created the need for a subdivision as well as significant wetlands issues and access issues. The resolution approving the preliminary and final major subdivision was the result of a court order dated January 15, 2013 which began the 2 year approval period until January 15, 2015.

During that period of time, the applicant's engineer had pursued getting the wetlands permits from NJDEP. An LOI (Letter of Interpretation) from NJ DEP that was not received until almost two years later (December 9, 2014). Remaining wetland's buffer issues were not resolved until the early fall of 2015, now past the two year time limit. Final verification from NJDEP has now enabled the applicant to finalize their plan and to prepare and submit all legal documents for review (HOA documents, deeds & easement restrictions).

The applicant is requesting two, one year extensions, until January 15, 2017. (the 2yr time is based on the Court's ruling date on January 15, 2013, not on the Board's resolution date of March 21, 2012.)

Board Attorney confirmed that municipal land use law permits extensions based on the inability to obtain all outside agency approvals as long as the applicant diligently pursues them. Mr. Taylor agrees the applicant has done so and is entitled to the extension as a matter of law. The applicant will have one more, one year extension remaining, should they need it.

The Board concluded that the Applicant had promptly and diligently pursued all outside agency approvals and requirements but was unable to perfect the final minor major subdivision approval within the time period permitted by law and the Board finds that the Applicant's request for two one-year extensions until January 15, 2017, should be granted, based on information provided.

Mrs. Nicholson moved to grant the Applicant two one-year extensions to permit finalization of the requirements of the previously granted final major subdivision approval, with the extensions to run until January 15, 2017, Seconded by Mr. Goss.

Roll Call:

Voting in favor: *Barbaro, Clark, Nicholson, Poisker, Schmidt, Shoultz, White, Goss, Swanson*
Against: *None* **Abstain:** *9-0-0*

Board Member Jay Hughes arrived at 7:40pm and a new roll call was completed.

2) **Daniel Haynicz**, Completeness Hearing - minor subdivision with bulk variances, block 175, lot 1, 145 Haynicz Lane (f/k/a Silver Lake Road). Application number SD-16-08

Robert Wiltsee, Esquire, Firm of Hoffman DiMuzzio, Franklinville, NJ
Daniel Haynicz, 1092 Elk Rd, was sworn in.

Mr. Wiltsee gave the following overview:

Mr. Haynicz is the owner of block 175, lot 1 located at 145 Haynicz Lane located in the RE (Residential Environmental) zone. Block 175, lot 1 consists of 30.52 acres and is deed restricted to Farmland Preservation. The applicant wishes to subdivide a 1.15 acre tract (proposed lot 1.01) which contains a two story family dwelling inhabited by Mr. Haynicz's grandson for the purpose of conveying title to his grandson. The remaining portion will continue to be owned by Mr. Haynicz and continued to be farmed pursuant to Farmland Preservation. The 1.15 tract is part of the severable exception of the Farmland Preservation plan and at the time of creation, the severable exception was compliant with Elk Township's minimum acreage requirement. However, due to a change in zoning, the property now requires a variance for an undersized lot. Additionally, it is not possible to expand the size of proposed Lot 1.01 into Lot 1, as Lot 1 has been farmland preserved, and its dimensions and size cannot be altered due to its farmland preservation status. Proposed lot 1.01 is 49,156 sq ft where 80,000 sq ft is required. The applicant seeks a hardship variance for undersized lot.

Board Planner, Steve Bach, reviewed his letter dated August 11, 2016:

Checklist item #19 approved block and lot numbers by Gloucester County Tax Assessor.
Conditional Waiver for completeness. Applicant agrees.

Checklist item #33 statement demonstrating compliance with affordable housing requirements
Waiver is recommended as no new construction is proposed.

Checklist item #34 requires the names and widths of all abutting streets, including the ROW and cartway width.
Waiver is recommended for completeness.

Checklist item #37 submit copies of protective covenants, easements and restrictions of record, including a current title policy.
Applicant agreed to provide a copy of the Farmland Preservation Deed and to also provide the Atlantic City Electric Easement.

Checklist item #42 show structures and wooded areas within 200 ft of the property lines.
Waiver is recommended as applicant confirmed no structures on adjoining lots are within 200 feet of the site.

Checklist item #49 provide the location of all existing tree masses, indicating general sizes and species.
Waiver is recommended as no tree removal is proposed.

Checklist item #50 provide tree protection plan
Waiver is recommended as no tree removal is proposed.

Checklist item #53 applicant to provide information on any structure of historic significance on or within two hundred feet of the tract.

Waiver, as applicant provided testimony regarding the historic significance of any structures.

Checklist item #55 provide contours at 20 ft intervals for the entire tract & within 100 ft and conformance with the grading plan requirements.

Waiver is recommended as no grading or construction is proposed.

Checklist item #57 provide a grading plan

Waiver is recommended as no grading or construction is proposed.

Checklist item #58 provide a soil erosion and sediment control plan

Waiver is recommended as no grading or improvements are proposed.

Checklist item #59 requires soil borings to determine soil suitability.

Waiver is recommended as no improvements are proposed.

Checklist item #66 written commitment from the MUA of sufficient sewer & water service.

Waiver is recommended as the site is served by well and septic system and no new construction is proposed.

Checklist item #67 results and location of all percolation tests and borings for an on-site sewerage disposal system.

Waiver is recommended as the site is served by a private septic system and no new construction is proposed.

Checklist item #75 submission of a Utility Plan.

Waiver is recommended as no changes to the existing utilities are proposed.

Checklist item #83 curb openings

Waiver is recommended as no new construction is proposed.

Board Engineer had no completeness items.

Mr. Hughes moved to grant the waivers as discussed and to deem the application complete. Seconded by Mr. Barbaro.

Roll Call:

Voting in favor: Barbaro, Clark, Hughes, Nicholson, Poisker, Schmidt, Shultz, White, Goss

Against: None Abstain: 9-0-0

Daniel Haynicz, Public Hearing - minor subdivision with bulk variances, block 175, lot 1, 145 Haynicz Lane (f/k/a Silver Lake Road). Application number SD-16-08

Mr. Bach continued with his review letter. The existing agricultural and residential uses on the site are permitted. A bulk variance is required for the proposed 49, 956 sq ft residential lot as 80,000 is required by ordinance in the RE zone. It was determined that variances are not needed for maximum building height and maximum building coverage.

Two other variances are required for:

- 1) number of accessory structures - There are 3 accessory structures where 2 are permitted (2 barns and 1 shed).
- 2) Agricultural Buffer – is required between active farms and residential uses.

Mr. Wiltsee explained the new lot will continue to be affiliated with the farm and that is why they would like to continue the use of all the out buildings.

Mr. Bach recommends a deed notice be in place for any future buyers of the residential lot to ensure they are aware of the farming activities on the adjacent lot. Applicant agreed.

Mr. Bitgood referred to his letter of July 28, 2016.

Bulk Requirements:

- - table of values need to be corrected (rear and side yards)

Plat/Plan Requirements:

- Corner markers to be set or guaranteed at the front corners of the proposed lot.
Applicant agrees.
- Board Engineer recommends the applicant to dedicate the 25 foot strip from centerline to the farmland preserved line to the Township as a street right-of-way.
Applicant agrees to dedicate the ROW as to the one acre parcel only.
- Plan to show approved 911 addresses and block/lot numbers. Also a post identifying the address. *Applicant agrees.*

Lot grading:

- Applicant is advised, and it shall be a condition of approval, that the existing lot 1 and the proposed lot receive runoff from Haynicz Road. Existing runoff shall not be obstructed or increased by any improvements on these lots. Low areas within the lots shall be preserved and enlarged as the Twp. Engineer may require, to ensure that runoff from the rights of way and/or the lots is not redirected to other areas.
Applicant agrees.

Accessory Uses & Structures:

A variance is required to keep all three structures.
Applicant is applying for the variance.

The applicant provided color photos that were marked as exhibits and made part of the board file.

Mr. Hughes moved to open to the public, seconded by Mr. Barbaro.

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

With no comment from the public, ***Mr. Hughes moved to close to the public, seconded by Mr. Shoultz.***

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

Mrs. White moved to grant the minor subdivision with “c” variances condition upon the agreement of the applicant to provide the easement along the subdivided lot and further condition upon the applicant’s testimony, the Board’s professional’s review letters and all required outside agency approvals. Seconded by Mr. Barbaro.

Roll Call:

Voting in favor: *Barbaro, Clark, Hughes, Nicholson, Poisker, Schmidt, Shoultz, White, Goss*
Against: *None* **Abstain:** *9-0-0*

3) **Kevin Eaise-** “Completeness Hearing” , “D” Use Variance to permit a landscaping business, block 175, lots 8 & 9, 1198 Aura Road. Application number ZB-16-09

Mayor Poisker and Committeewoman Nicholson stepped down from the board as this is a Zoning Board of Adjustment matter and a new roll call was completed.

The following members were present: *Barbaro, Clark, Hughes, Schmidt, Shoultz, White, Goss (alt #1), Swanson (Alt. #2)*

The applicant was represented by William Ziegler, Esquire of the firm, Holson MacDonald, Woodbury, NJ

The following were sworn in to provide testimony:

Gary Civalier, PE, PLS, PP of Civalier Engineering & Surveying, Mantua NJ
Kevin Eaise, contract purchaser, Glassboro Rd, Monroeville, NJ

Mr. Ziegler gave a brief overview of the project. The property is located in the RE Zone. The parcel, Block 175, lots 8 & 9 located at 1198 Aura Road, consists of 7.5 acres. The application is to permit a landscaping business in the RE zone. The parcel contains a residential dwelling and three farm buildings. The adjacent property uses are predominantly farmland and there is a commercial property across Aura Road, Rain for Rent.

The applicant is bifurcating the application, meaning that the use variance may be considered first, and if approved, the Applicant would return to the Board for a site plan prior to occupying the Subject Property. The Applicant has provided a “variance plan” to give the Board an idea of the proposal. Some details such as parking, access, lighting, landscaping, signage, etc. could be deferred to site plan review.

Mr. Ziegler provided 40 Color site photos of various aspects and views of the Property that were marked as an exhibit- A-1 through A-40.

Board Planner, Steve Bach, reviewed his letter of August 5, 2016 for completeness:

Item # 1b. copy of completed submission checklist.

Waiver recommended. The planner has reviewed the checklist in accordance with variance requirements and

Item #8- provide copies of applications to and certification of approvals from all outside agencies with jurisdiction.

Waiver is recommend for the “Use” variance review portion, but will need to make application to the GCPB and GC Dept. of health for well and septic approvals.

Item #41-location of existing wells and septic systems and distance between them on adjacent properties.
Waiver is recommend for the “Use” variance review portion. Will be required at time of site plan.

Item #53 location of historic features within 200 feet

Waiver for completeness. The applicant agreed to research further at time of site plan, as the applicant is not the owner.

Item #55- provide contours at 20 ft intervals for the entire tract & within 100 ft and conformance with the grading plan requirements.

Waiver is recommend for the "Use" variance review portion. Will be required at time of site plan.

Item #67- results and location of all percolation tests and borings for an on-site sewerage disposal system.

Waiver is recommend for the "Use" variance review portion. Will be required at time of site plan.

Item #73- requires the applicant to submit a NJDEP LOK for wetlands or a statement/certification from an expert stating that there are no wetlands on or in close proximity to the site.

Complied. A letter was submitted dated August 15, 2016, by Mr. Civalier.

Item #77- Requires the size and location of proposed signs.

Waiver is recommend for the "Use" variance review portion. Will be required at time of site plan.

Board Engineer has nothing to add relating to completeness.

Mr. Hughes moved to grant the waivers as discussed and to deem the application complete.

Seconded by Mr. Schmidt.

Roll Call:

Voting in favor: Barbaro, Clark, Hughes, Schmidt, Shoultz, White, Goss

Against: None Abstain: 7-0-0

Public Hearing- Kevin Eaise- "D" Use Variance to permit a landscaping business, block 175, lots 8 & 9, 1198 Aura Road. Application number ZB-16-09

Board Planner, Steven M. Bach, referred to the balance of his review letter of August 5, 2016 and asked the applicant to provided testimony and for other items to be considered at the time of site plan if the variance is granted:

1. **Use.** The Applicant indicates that the site will be a "quasi-agricultural use", a landscaping business with a small nursery and multiple existing and proposed farm buildings on the Subject Property.

The Applicant should expand on the following:

- a. *The proposed business and operation;*
- b. *The approximate number of landscaping trailers that may be stored on the site;*
- c. *The number of anticipated trips per day (i.e. how many trucks will enter and exit the site each day;*
- d. *Whether this will be a retail nursery and landscaping use or only a contractor use. (The Applicant testified that there would be no "retail");*
- e. *The type and method of materials that will be stored on the site;*
- f. *The hours of operation;*
- g. *The number of on-site and off-site employees.*

2. Trash and Recyclables.

- a. It's recommended that trash management be addressed as part of the site plan approval if the use variance is approved. Dumpsters will not be permitted to be placed on the site out in the open without a trash enclosure. It's recommended that a trash enclosure large enough for containers for trash and recyclables be installed at the Subject Property (6 foot high decorative fence with steel frame gates).
 - b. Indicate what type of trash is anticipated for this use, at the time a site plan is filed.
3. **Agricultural Buffers.** Section 96-47.1 requires vegetated agricultural buffers between different uses, adjacent to farm qualified properties.
 4. **Buffers.** Section 96-47 requires buffers between different uses. Though the adjacent properties appear to be agricultural, Lot 11 to the north contains a dwelling.
 5. **Well and Septic System.** If the use variance is approved the wastewater facilities will need to be reviewed by Gloucester County Health Department.
 6. **Signage.** The Applicant should be prepared at the time a site plan is filed, to discuss any site identification signage that may be proposed. All signage must conform to the Elk Township sign regulations (Section 96-60).
 7. **Site Plan..** Some details such as parking, access, lighting, landscaping, signage, etc. could be deferred to site plan review.

Mr. Civalier testified the existing dwelling, which is very close to the road, will be removed. Existing barns and out buildings will remain. Two additional pole barns and a Pavilion are proposed for the storage of equipment. In addition a separate office building with its own parking area is proposed.

Mr. Eaise testified as to various elements regarding the Application and provided background as to his business which is a landscaping and lawn servicing business. Mr. Eaise testified that the Property was particularly well suited for his needs based on the property size, its location, the availability of open space, and its close proximity to county and state highways, which makes the Property better positioned in his market area than his current site, which is in Pittsgrove Township. Mr. Eaise provided an outline of what he would propose when a site plan application is filed, upon approval of the Use Variance. Further, he testified that his company had approximately 35-40 employees and the normal hours of operation were 7 am to 4-5 pm, and that the number of trucks on the Property would be approximately 20. Mr. Eaise indicated that there would be no significant use of pesticides; a trash dumpster would be supplied to deal with trash issues. Mr. Eaise presently uses local businesses (Webers, Peach Country) & nurseries in the area. The additional buildings proposed will be for uses such as storage of equipment, a workshop, and an office.

Mr. Civalier testified to the "positive" criteria as set forth in the Municipal Land Use Law. The site is particularly well suited for the proposed business given its location, property size, and the topographical features; the proposed use provides sufficient space in an appropriate location for a combination of commercial and agricultural uses; the proposed use is in close proximity to adequate roads and highways which will facilitate the business of the Applicant; and the proposed use on the Property would provide adequate light, air and open space. Mr. Civalier also testified that, in his professional opinion, the proposed use would not impose a substantial detriment to the zone plan, the Township's master plan, the Subject Property, or the surrounding areas if approved. Mr. Civalier testified that there would be appropriate access and egress to the Property pursuant to a site plan which was to be filed with the Board,

and buffers, and landscaping, and other amenities will be shown on the site plan, which will create a use that does not have a substantial detriment to the surrounding properties or to the zone in which the Property is located.

Mr. Hughes was not in favor of the proposed driveway for the office building due to the nature of the existing intersection. The proposed driveway will required approval from Gloucester County Planning Board. Mr. Bach & Mr. Bitgood added this would be further addressed at the time of site plan review.

Mr. Bitgood referred to his letter of August 3, 2016 and provided the following comments:

1. **Zoning Use.**

Part of the intended use can be considered agricultural while the bulk of the use is commercial.

2. **Bulk Requirements.**

If the use is agricultural, agricultural buffers are required, by Code section 96-47.1, along the residential side. The Applicant proposes to construct a landscape buffer along lot 11. The buffer should be shown on the plan and the side yard dimensioned from the interior edge of it.

3. **Traffic.**

The site fronts only on County Routes, the County has jurisdiction over access, traffic, and sight triangles, and street openings

This can be addressed at the time of site plan review.

It is strongly recommended that the two driveways closest to, and within the intersection, be moved north and combined for safety of the motorists in the area and of those using the site. While details can be deferred until a site plan is submitted, the Use Variance Plan should be revised as a condition of approval.

The Applicant agreed to comply.

4. **Drainage.**

Will be considered at Site Plan Review.

5. **Utilities.** No services are shown on the plan. Existing well and septic field are shown.

A. The plan should be revised so the well is at least 10 feet from any parking areas. Final layout can be deferred until site plan submission if this is a condition of approval of the Use Variance.

The Applicant agreed to comply.

B. It is recommended that all utility services be installed underground.

6. **Parking.**

At Site Plan Review, the plans should include a table showing parking requirements and spaces provided and on how these will be screened from the public streets.

7. **Trash.**

Will be considered at Site Plan Review.

8. **Fire Safety.**

The plans should be reviewed by the Fire Chief & Fire Marshal and should be revised to show

any additional clear fire zones, hydrants, safety placards, building numbers, or other safety measures that they may require.
The Applicant agreed to comply.

Mr. Bitgood had no other comments.

Mr. Hughes moved to open to the public, seconded by Mrs. Nicholson.
With all members in favor, *the motion was carried.*

Kathy Haynicz, 1091 Elk Road, questioned the nature of the Use Variance that was being requested and whether or not any retail sales would be held on the Subject Property.
Mr. Eaise confirmed that there would be no retail sales.

Mr. Hughes moved to close to the public, seconded by Mr. Nicholson.
With all members in favor, *the motion was carried.*

Mr. Goss moved to grant the Use Variance, subject to the conditions, representations and agreements made by the Applicant and further condition upon professionals review letters and all required outside agency approvals. Seconded by Mr. Schmidt

Roll Call:

Voting in favor: Barbaro, Clark, Hughes, Shoultz, White, Schmidt, Goss

Against: Abstain: 7-0-0 approved.

➤ **General Public Portion**

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

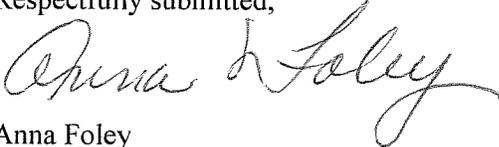
➤ **Correspondence: None**

Adjournment:

Mrs. Nicholson moved to adjourn, Seconded by Mr. Goss.
With all members in favor, *the motion was carried.*

Adjournment time: 9:05pm

Respectfully submitted,


Anna Foley
Board Secretary