

Resolution No.:2016-20

RESOLUTION OF THE JOINT LAND USE BOARD OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING AN EXTENSION OF TIME IN WHICH TO FILE DEEDS RESULTING FROM A MINOR SUBDIVISION, TO SMITH ORCHARDS, LLP, A/K/A LORING, INC., REGARDING PROPERTY LOCATED AT BLOCK 67, LOTS 23, 25 & 26 ON THE TAX MAPS OF THE TOWNSHIP OF ELK, AND ALSO KNOWN AS 251 UNION STREET, APPLICATION NO.ZB-15-05

WHEREAS, a Letter Application regarding Application No. ZB-15-05 (together, the "Application") was received by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey (the "Board"), by William F. Ziegler, Esquire, Holston, MacDonald, Uzdevinis, Ziegler & Myles, the Attorney for Smith Orchards, LLP, a/k/a Loring Inc. ("Applicant"), requesting an extension of time to file deeds resulting from a previously granted minor subdivision with variances by Board, as set forth in Resolution No. 2015-18, adopted on by the Board on August 19, 2015, regarding property located at 251 Union Street (the "Subject Property"), and being further shown as Block 67, Lots 23, 25 & 26 on the tax maps of the Township of Elk (the "Township"); and

WHEREAS, Mr. Ziegler appeared on behalf of the Applicant at a meeting held by the Board on August 17, 2016, to request an extension of time beyond the statutorily permitted 190 days in which to record deeds of minor subdivision pursuant to N.J.S.A. 40:55D-47.d; and

WHEREAS, the Board reviewed the request of the Applicant and found the following:

1. The Subject Property is located on the north side of Union Street (CR-619), and extends to the Township Line at Glassboro. Lot 25 is smaller than either of the adjoining Lots 23 or 26. Lot 23 was previously consolidated with Lot 24. The area is in zone M-1 but has numerous narrow lots with residential uses. Floodways are mapped as Zone A on the Flood Insurance Rate Map as a relatively narrow band along the stream lines running through Lots 23 & 25 and widening within lot 26. Wetlands are also mapped which include substantial areas within all three lots. Adjacent lots are wooded and farmed with dwellings fronting on Union Street. A prior Application for minor subdivision was granted approval to create 3 lots from the existing 3 lots. Each of the three new lots will exceed 6 acres and is proposed to be used for agricultural purposes and suitable for a residential dwelling in each lot.

2. The subdivision Application was approved by the Elk Township Planning Board on July 15, 2015, and memorialized by Resolution No. 2015-18 dated August 19, 2015.

3. Pursuant to N.J.S.A. 40:55D-47.d, the deeds resulting from the above minor subdivision were to have been recorded within 190 days of the date of the Resolution of approval (August 19, 2015) which would have ended approximately mid-February 2016. Mr. Ziegler, on behalf of the Applicant, set forth that the Applicant had significant difficulties in obtaining all outside agency approvals, particularly with respect to the Gloucester County Planning Board. It is for this reason that the deeds were not able to be recorded within the 190 day period set forth by statute. NJSA 40:55D-47.f.g provides that if an Applicant was unable to get all outside agency approvals in time for deeds to be recorded within the required 190 day period, the Applicant could request an extension of time for which the deeds can be recorded not to exceed 1 year from what would otherwise be the expiration date for such a recording, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental agencies, and that the developer had applied promptly for, and diligently pursued, the required approvals from other governmental agencies.

4. Mr. Ziegler set forth the reasons why it took a longer period of time than anticipated to get approvals from the Gloucester County Planning Board given certain conditions regarding the Subject Property that took longer than usual to address and rectify.

5. The Board considered the request of Mr. Ziegler, on behalf of the Applicant, and found that the request for an extension was compelling, and further agreed that the Applicant should be granted an additional 8 months from the time that the period of recording the deeds expired (estimated to be in mid-February 2016) in which to record the deeds.

5. The Board set a condition upon the Applicant that the deeds shall be amended so that within the deed in which the Chairperson and Secretary of the Board certified that the Application for minor subdivision was approved, shall be amended by adding the following sentence:

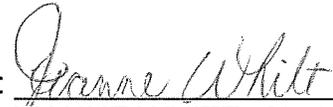
“The Board on August 17, 2016, granted an extension of time in which to record the deeds relating to this subdivision for an additional 8 months, from the period upon which the deeds were to have been recorded 190 days from the original adoption of the Resolution on August 19, 2015. This grant of an additional period of 8 months, based upon a proper showing by the Applicant that it was unable to obtain all outside agency approvals, was approved by the Board by

way of the Board's adoption of Resolution No. 2016-20 on September 21, 2016."

WHEREUPON, a motion was made by Board Member White, which was seconded by Board Member Schmidt, to grant the above extension of time in which to record the subject deeds, subject upon the condition set forth immediately above, with the following Board members voting in favor of the motion to grant approval: Poisker, Clark, Nicholson, Hughes, McKeever, Shoultz, White, Schmidt and Barbaro. Board Members Goss (Alternate Member #1) and Swanson (Alternate Member #2) participated in discussion on the matter before the Board, but did not vote.

THIS RESOLUTION WAS ADOPTED by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, on September 21, 2016 as a memorialization of the approval granted herein as set forth above at the Board's regularly meeting held on August 17, 2016.

**JOINT LAND USE BOARD OF THE
TOWNSHIP OF ELK**

By: 
JEANNE WHITE, Chairperson

ATTEST:

By 
ANNA FOLEY, Secretary

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted at a regularly scheduled meeting of the Elk Township Land Use Board, County of Gloucester, State of New Jersey held on the 21st day of September 2016 at the Township Municipal Building, 680 Whig Lane, Monroeville, N.J. 08343 at 7:30 PM, time prevailing, as a memorialization of the action taken by the Board at the Board's meeting and public hearing held on August 17, 2016 on the above cited Application.


ANNA FOLEY, Secretary