

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF
ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY, GRANTING TWO ONE-YEAR EXTENSIONS OF
TIME IN WHICH TO PERFECT A PREVIOUSLY GRANTED FINAL MAJOR
SUBDIVISION APPROVAL, REGARDING PROPERTY LOCATED AT HUGHES
DRIVE AND VIVIAN LANE OFF OF BUCK ROAD (CR 553), TO WEONA POND,
LLC, REGARDING PROPERTY BEING FURTHER SHOWN ON THE TAX
MAPS OF THE TOWNSHIP OF ELK AS BLOCK 44, LOT 1,
APPLICATION NO.: SD-10-01**

WHEREAS, Application No.: SD-10-01 (the "Application") had been filed with the Combined Planning/Zoning Board Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the "Board") by Weona Pond, LLC (the "Applicant") regarding a request for the Board to grant two one-year extensions to perfect a previously approved Final Major Subdivision approval regarding property located on Hughes Drive and Vivian Lane off of Buck Road (CR 553), (the "Subject Property"), and being further shown as Block 44, Lot 1 on the Tax Maps of the Township of Elk (the "Township"); and

WHEREAS, the Applicant was represented at a meeting and public hearing held by the Board on the Applicant's request for two one-year extensions of time in which to perfect a previously granted final major subdivision approval, on September 21, 2016 at 7:30 P.M., time prevailing, at which was Dante J. Romanini, Esquire, Tedesco, Gruccio & Reuss, 727 Landis Avenue, PO Box 1327, Vineland, NJ 08362 (the Applicant's Attorney) present on behalf of the Applicant;

NOW, THEREFORE, BE IT RESOLVED by the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, as follows:

FINDINGS OF FACT

1. The Applicant's request for an extension of time in which to perfect a previously approved final major subdivision was complete and properly before the Board. As such, the Board had jurisdiction to act on the Application.

2. The Applicant entered into the record a letter dated March 17, 2016 from its attorney, Dante Romanini, Esquire, Tedesco, Gruccio & Reuss, Vineland, N.J., as to the Applicant's request.

3. Mr. Romanini, on behalf of the Applicant, provided information to the Board as to the reasons for the requested extension of time in order to perfect the previously granted final major subdivision approval, both by representations made at the hearing, as an in reliance on Mr. Romanini's letter to the Board of March 17, 2016. In particular, Mr. Romanini represented that Final Major Subdivision approval was granted by the Elk Township Planning/Zoning Board of Adjustment under Resolution No. 2012-12, which approval was thereafter modified and finalized by Superior Court Order dated January 15, 2013. The Applicant now requests an extension of time to perfect the conditions granted in that Resolution and Order.

3. Mr. Romanini stated that the Applicant's request is made under N.J.S.A. 40:55D-52(a), which grants the Applicant a period of two (2) years of protection of rights granted in the approval, and permits three one-year extensions of that protection on application to the Planning Board. In accordance with that authority, the time period for the running of the protections afforded by the statute began to run on January 13, 2013 when the Superior Court entered the above referenced Order modifying the terms of the approval contained in resolution 2012-12. Under Darst v. Blaristown Twp. Zoning Board of Adjustment, 410 N.J. Super. 314, 339 (App. Div. 2009) the action in court tolled the running of the approval time until the entry of that order on January 15, 2013, which modified and finalized the resolution.

4. Mr. Romanini stated given that date as the beginning of the two year period, the two years extended to January 15, 2015. The Applicant herein requests that the Board grant a period of two one-year extensions to allow finalization of the requirement of the Final Subdivision approval. This would extend the period of statutory protection of the approval until January 15, 2017. The granting of these approvals is authorized by N.J.S.A. 40:55D-52(c), which permits the Board to grant the extension after the expiration of the original approval. (See also: Friends of Peapack-Gladston v. Borough, 407 N.J. Super. 404,427 (App. Div. 2009)).

5. Mr. Romanini stated that the Applicant has been diligently pursuing the finalization of this subdivision but has been unable to conclude the required documentation due to the uncertainty arising from the designation of wetlands and wetlands buffers, which, as the Board may recall, significantly impacted the Subject Property. It wasn't until the Fall of 2015 that the Applicant received final verification of these issues from NJDEP, which then enabled the Applicant to finalize the plan and proceed to work on the Subject Property.

6. Mr. Romanini stated that in furtherance of this goal, and after receiving finality on the wetlands issues, the Applicant has prepared the documents (homeowners association documents, easements and deed restrictions) required by the approval and will be submitting them to the Board Solicitor shortly for review. Assuming that they are approved, the Applicant will be in a position to finalize this approval in the very near future. In conjunction with this effort, the Applicant has already begun certain of the site work at the Subject Property to comply with the approval requirements.

7. The hearing on the Application was open to the public, at which time no member of the public present spoke either in favor of or opposed to the request.

CONCLUSIONS

The Board concluded that based on the representations made by Counsel for the Applicant and based on the information previously received by the Board regarding the past approvals granted, it is apparent that the Applicant had promptly and diligently pursued all outside agency approvals and requirements, but was unable to perfect the final major subdivision approval within the time period permitted by law despite its diligent efforts to do so, pursued in a timely manner. Accordingly, the Board finds that the Applicant's request for two one-year extensions until January 15, 2017, should be granted, based on information before the Board, and the representations made by Counsel by the Applicant.

CONDITIONS

The Applicant shall remain obligated for any and all other conditions, understandings, approvals, agreements, and stipulations made by the Board, as were previously set forth in any and all prior resolutions of approval granted with respect to the Applicant and the development proposed on the Subject Property, that are not otherwise inconsistent with the approval granted herein.

WHEREUPON, a motion was made by Board member Nicholson, which was seconded by Board member Goss (Alternate # 1), to grant the Applicant two one-year extensions to permit finalization of the requirements of the previously granted final major subdivision approval, said extensions to run until January 15, 2017, at a meeting following a public hearing held on the Applicant's request on September 21, 2016 at 7:30 PM, time prevailing, with the following Board members voting in favor of the motion to grant approval: Poisker, Clark, Nicholson, Shoultz, White, Schmidt, Barbaro, Goss (Alternate # 1) and Swanson (Alternate # 2). There were no votes in the negative, and no abstentions or recusals. Board Members Hughes and McKeever were absent.

THIS RESOLUTION WAS ADOPTED at a regularly scheduled meeting of the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, on October 19, 2016 as a memorialization of the approval granted in the above referenced matter by the Board at the Board's regularly scheduled meeting held on September 21, 2016 on the above referenced Application.

**COMBINED PLANNING/ZONING
BOARD OF ADJUSTMENT 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 Combined Planning/Zoning Board of Adjustment, County of Gloucester, State of New Jersey held on the 19th day of October 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 September 21, 2016 on the above cited Application.


ANNA FOLEY, Secretary