

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting

November 18, 2015

Minutes

Call to Order: Board Chair called the meeting to order at 7:33pm.

Open Public Meeting Act: read by Board Secretary

Roll Call:

Present: Jay Hughes, James Rambo, Terry Ratzell, Christine Yenner, Jeanne White, Debra Penza

Also present: John C. Eastlack, Esquire, Board Solicitor, Leah Bruder of Bach Associates, Board Planner, Stan Bitgood, Board Engineer

Absent: Dave McCreery, Ed McKeever, Richard Schmidt, Eugene Shoultz, Amber Gonzalez

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.*

General Business:

Approval of Minutes: October 21, 2015

Mr. Shoultz moved to approve the minutes of October 21, 2015, Seconded by Ms. Ratzell. With all members in favor, the motion was carried.

Resolution(s): None

Old Business:

ZB-15-07 - Determination of Pre-existing Non-conforming Use for block 115, lot 2, 223 Buck Road as a Duplex in the Moderate Density Residential Zoning District, applicants Eugene Shoultz & Verbena Percy

Eugene Shoultz stepped down from the board and was sworn in. His application was continued and from the October 21 meeting to November 18, 2015 meeting with no other public notice required.

The board secretary confirmed that Mr. Schmidt and Mr. McCreery had completed certifications stating they had listened to the October 21, 2015 recording and that they are now eligible to vote on the application.

The following testimony was presented at the October 21st meeting:
The use of the home was initially a single family home that was converted into a duplex and rented out as two (2) separate units sometime in the 1950's. The initial owner, Carrieanna Henry, died in 1963 and Mr. Shoultz's mother and brother purchased the house from the Estate. Mr. Shoultz's mother died in 1972 and his brother continued to rent the property until the date of his death in 1994 when Mr. Shoultz and his sister, Verbena Percy, became owners through inheritance. Mr. Shoultz had testified that there are separate tenants occupying the residence now with separate utilities for each unit and had provided copies of the leases as evidence. In addition, the Board Planner had provided a review letter dated September 14, 2015 and provided testimony that the current zoning is MD, (Moderate Density Residential Zone), which does not permit multi-family dwellings. The home is surrounded in all directions by uses which are generally residential and agricultural in nature and that it appears that when the property was constructed, it was an appropriate use. Further, there are no documents available indicating that this was not a permitted use at the time in this particular area. The application was opened to the public and there was no comment.

Mrs. White moved to grant the Certification as a pre-existing non-conforming use - a duplex consisting of one residential unit on the first floor and a second residential unit on the second floor condition upon payment of all fees, completion of a Township Landlord Registration form that confirms adequate parking spaces and further condition upon the applicant's testimony and the items outlined in the Planner's review letter of 9/14/15. Secoded by Ms. Ratzell.

Roll Call:

Voting in favor: Hughes, McCreery, Ratzell, Schmidt, White, Penza

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

Mr. Shoultz returned to the board.

➤New Business:

- 1) #SD-15-03-Minor Subdivision with bulk variances, "completeness hearing" following by a public hearing for block 41, lot 12, 836 Elk Road, applicant Peter Tilden**

The applicant was represented by attorney Dale Taylor.

The Board's professionals, Candace Kanaplue, Planner and Stan Bitgood, Engineer, were sworn as well as the following individuals:

Larry DiVietro, PP, Land Dimensions Engineering, 206 W. High Street, Glassboro

Andrew Hogg, PE, Land Dimensions Engineering, 206 W. High Street, Glassboro

Pete Tilden, 836 Elk Road, Elk Township

Wes Tilden, 175 Railroad Avenue, Elk Township

Pastor Jeff Tilden, 1630 N. Main Street, Williamstown

The applicant proposes to subdivide existing lot 12 to create a total of three lots. The two new lots will be sold. One to Mr. Tilden's brother and the other to his parents. Both lots will be used for future residential dwellings. The remainder lot contains an existing dwelling and accessory structures (3 sheds). The lots are located in the RE zone which permits residential uses. All the lots are substantially larger than what the zone requires. Bulk variances are requested as the subject property is a flag lot. The variances requested relate to the shape and location of the existing lot relative to Elk Road. The two new lots do not have frontage on any public road, have no ability to gain frontage, and instead will be traversed by a private drive for permanent access and utilities to the lots with easements. Each of the lots can meet the intent of the of the RE zone front yard setback, as each is at least 50 feet from the property line parallel to Elk Road.

Board Engineer referred to his letter of November 11, 2015, addressing the following completeness checklist items:

Item 25- plan scale of 1" equals 50 feet
Waiver to permit "1" equals 100 feet

Item 33- Affordable housing compliance
Conditional waiver for completeness

Item 48- distance along right of ways
Waiver recommended

Item 49- location of existing tree masses and data.
Waiver for completeness purposes. Applicant agrees to provide a tree protection plan and to locate and avoid all specimen trees prior to final approval

Item 41- locations of existing well & septic systems on the existing and proposed lots
Partial waiver. Applicant's engineer testified there are no well or septic systems within 100 feet

Item 53- Historic structures within 200 feet of tract
Waiver recommended

Item 58- Soil and sediment control plan.
Waiver as a precondition for review.

Item 66- Written statement from Elk MUA
Waiver

Item 75- Utilities, preliminary plan & profile
Waiver for subdivision but lot grading plans shall show detailed elevations, inverts, plan locations and limits of proposed utilities. Applicant agrees to provide.

Additional waivers needed:

Item 8- Copies of applications & approvals from outside agencies.
Waiver as a precondition of approval. Applicant agrees to provide any and all NJDEP permits and County Health permits prior to final approval of the subdivision. Note: the LOI does not grant permission for disturbances within the access driveway where it cuts through wetlands and/or buffer areas, and it advises that permits are required for access to the footprints of disturbances.

Item 19 - block & lot numbers approved by County Tax Assessor.
Block & lots have been approved, addresses have not been provided yet. Covenants & easements on existing lot-have been submitted the board solicitor. Mr. Taylor explained there is an access & egress easement from Elk Road that runs with the land for the drive isle that will remain in the title and will be included in the deeds for the two new lots.

Item 49, location of all existing trees with sizes and species.
Waiver recommended.

Item 55, Contours at 1 foot intervals for the tract.

Sufficient contours have been shown for the proposed disturbances.

**Note: applicant agrees to add as needed for stormwater and driveway improvements and/or lot grading plans, additional topography will be required.*

Item 67 location and results soil borings for septic systems.

Conditional waiver and the applicant agrees to provide if needed.

Board Planner, Candace Kanaplue, added that all the completeness items outlined in her letter of November 12, 2015 have been addressed and she had no other comments.

Mr. Taylor added the applicant agrees to comply with item #33 regarding all lawfully imposed affordable housing fees in effect at the time building permits are applied for.

Board Engineer added that stormwater maintenance has to be resolved prior to sale of the first lot.

Mr. Taylor agreed and confirmed the deeds will contain cross maintenance easements for the drive isle. There will not be an HOA.

Peter Tilden rehabilitated the existing house on lot 12 and currently resides there with his family.

Ms. Ratzell moved to grant the waivers as recommended by the Board's Professionals as outlined in their letters of November 11, 2015 and November 12, 2015 and further conditioned upon the applicant agreeing to submit the following items: tree preservation plan, individual lot grading plans, NJDEP footprint letter, NJDEP access permit, affordable housing requirements, location of any borings for septic and basement and to deem the application complete. Seconded by Ms. Yenner.

Roll Call:

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

Against: None Abstain: None 8-0-0

Public Hearing, #SD-15-03-Minor Subdivision with bulk variances, for block 41, lot 12, 836 Elk Road, applicant Peter Tilden

Referring to an aerial photograph display, Mr. Hogg provided the following overview of the application:

The proposal is to split the flag lot that leads to 50 acres into 3 lots. The lots will share a common driveway. Mr. Hogg pointed to a specific section of the driveway stating from that point on, there will be a new 12 foot stone driveway to service the two new lots. The driveways will be set so they are outside of the wetlands buffer. There are four culverts along the existing driveway, all corrugated metal pipes and are structurally sound and are approximately 3-4 feet deep.

Pete Tilden testified that several dump trucks, as well as a crane truck, had crossed over the culverts without any problem during the rehabilitation work to the existing home (lumber deliveries, well drilling rig).

Mr. DiVietro added the 50 acres is in the RE zone and all the lots far exceed the minimum 2 acre zoning requirement. The variances requested are: front yard setback, minimum width at the building line and minimum frontage. The two new lots do not have street frontage. The requested variances relate to the shape and location of the existing lot relative to Elk Road. Two of the proposed lots have no opportunity to gain frontage on a public street. There are two existing easements along the "flag pole" portion of the property. One is a gas line easement and the other is a perpetual right-of-way to the adjacent property

owner. These easements will continue to run with the land. The applicant confirmed that no further subdivision is contemplated beyond the three lots proposed and will include a deed restriction stating this.

The board planner reviewed the remainder of her letter for the following items:

The existing driveway will be utilized and extended to service the two new lots and will be constructed of 6" compacted gravel and a turnaround area will be provided on each lot. This design has been approved by the Gloucester County Fire Marshal, Ed Johnson.

School bus pick-up and trash/recycle pick-up will be at the end of the driveway at Elk Road. Applicant is in agreement. Household trash and recyclables will be disposed of properly.

The applicant agrees to submit the access and utility easement to the Board's solicitor for review and approval as a condition of any approval granted. The easements will address maintenance of the shared driveway, including snow removal.

Accessory structures. Presently there are 3 accessory structures where 2 are permitted. The applicant agrees to comply with the ordinance.

Board Engineer referred to the balance of his letter beginning on page 4 for the following items:

The table of proposed values should be corrected to remove the (pre-existing) notes under each of the proposed lots. It will remain only under the existing lot column. The applicant agreed.

The easement shall be increased in width to a minimum of 20 feet and the driveway shall be a minimum 12 feet wide, 6" compacted gravel base. Applicant agreed to amend the plan.

The monuments are shown as "to be set". They must either be guaranteed or installed prior to signatures on the deeds or plan of subdivision by chairman and secretary. Applicant agrees to comply prior to building permits.

Parking. The easement language for the access/egress lane must include a no parking restriction applicable to all users for the full length, including any turn-around areas. Applicant agrees to include no parking in the deed.

Testing of 18" culvert. Applicant agrees that during construction and prior to C.O., a load testing of the culverts will be completed.

Storm water management. Calculations and detailed plans & grading and disturbance plans are needed. Applicant will provide prior to the first lot's grading plan submission and approval.

Should the applicant propose a gate at the end of the access of Elk Road, they would need approval from the Gloucester County Fire Marshal. The applicant agreed.

Ms. Yenner inquired if there was an ordinance about creating flag lots.

Mr. Bitgood responded there is an ordinance about creating a flag lot. However, this parcel is existing so each new lot is not considered a flag lot. The access easements run with the land.

Mr. Hughes inquired about the piles of old railroad ties on the property and of the fire that was on site there many years ago – he had a safety concern of creosote.

Wes Tilden did hear about the fire incident and intends to use a company out of Cherry Hill to complete soil testing and will proceed from there.

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

John Menszak, 533 Fish Pond Road,
Owner of block 42, lot 2 farm.

Mr. Menszak is concerned that approval of the subdivision with variances will impact his hunting rights on his property. He will lose up to 150 yards if the application is approved and is not in favor of approving what is not permitted (the variances).

Mr. Taylor responded that hunters are not permitted to hunt within 150 feet of an occupied home. Pointing to the display map, Mr. Taylor pointed out that possibly one of the lots will impact Mr. Menszak and as to date, there are no measurements available of where the house will be located on that particular lot. This home is not intended to be built for approximately five years.

Mr. Taylor added the law provides that Mr. Menszak may contact the home owner(s) to permit him to hunt in that particular area. The Tildens are also hunters and they would be willing to work with Mr. Menszak whenever he wants to hunt.

Ms. Ratzell moved to close to the public, seconded by Ms. Yenner.

Ms. Ratzell moved to grant the minor subdivision with variances due to the hardship presented by the shape of the lot and the existing configuration of certain structures on the proposed remainder lot 12, conditioned upon the professionals' review letters, the testimony provided and further condition upon all required outside agency approvals. Seconded by Ms. Yenner.

Roll Call:

Voting in favor: Hughes, Ratzell, Schmidt, Shoultz, Yenner, White, Penza

Against: McCreery Abstain: None 6-1-0

2) Completeness Hearing, application #SD-15-10-Minor Subdivision with bulk variances, block 19, lots 9,10,11 & 12, Whig Lane, applicants George & Louise Lucas

Michael Fralinger, attorney for George and Louise Lucas.

The following individuals were sworn in:

Guy DeFabrites, Fralinger Engineering, 629 Shilor Pike, Bridgeton
George Lucas, 462 Elk Road

Mr. Fralinger, referring to a display board, explained the following: the application is for lot line adjustments in the RE zone. No new lots are being created. Variances are required for existing conditions. The site is located along Whig Lane between Elk Road and Hardingville Road. The subject properties contain 60 +/- acres. Lot 12 is Lucas Greenhouses. Lots 9, 10 & 11 are owned by Hardingville Bible Church. Lots 9 & 10 contain the Church, church parking lot and a storage building. Lot 11 contains a residential dwelling utilized by the church as a parsonage and is surrounded by lot 10.

The proposal is to consolidate lots 9 & 10 by deed, creating a new larger lot 9. Lot 10 will be eliminated. In addition, 1.70 acres will be subdivided from lot 10 and added to lot 12, eliminating an encroachment from Lucas Greenhouses onto the church lot 10. In addition, a .17 acre parcel will be subdivided from lot

10 and added to lot 11 to create a more consistent lot line between the three parcels. The surrounding uses in the RE zone are generally residential and agricultural in nature.

Mrs. Kanaplue referred to her review letter of October 28, 2015. The following waivers were requested:

Item 25- plan scale of 1" equals 50 feet
Waiver recommended to permit 1" equals 100 feet

Item 33- Affordable housing compliance
Waiver is recommendation as no improvements are proposed.

Item 38 requires photographs of the site.
Waiver is recommended due to nature of application

Item 43 requires existing and proposed use of all buildings and structures.
Waiver is recommended as no change of use is proposed.

Item 50 provide tree protection management plan
Waiver is recommended due to nature of application

Item 55 provide contours on plan.
Waiver is recommendation as no improvements are proposed.

Item 57 requires grading plan showing existing and proposed spot elevations.
Waiver is recommendation as no improvements are proposed.

Item 58 submit the location of soil borings to determine soil suitability.
Waiver is recommendation as no improvements are proposed.

Item 59 submit location of soil borings to determine soil suitability.
Waiver is recommendation as no improvements are proposed.

Item 67 results of percolation test if serviced by septic.
Waiver is recommended. The site is serviced by septic.

Item 73 submission of an LOI from NJDEP.
Waiver is recommendation as no improvements are proposed.

Item 75 Utility plan submission.
Waiver is recommended due to nature of application

Stan Bitgood referred to his letter of November 3, 2015 and recommended adding waivers for items:

Item 66 Commitment from MUA
Waiver recommended.

Item 68 floor plan & front elevation.
Waiver recommended.

Ms. Ratzell moved to grant the waivers as recommended by the Board's Professionals as outlined in their letters of October, 28, 2015 and November 3, 2015 and to deem the application "complete." Seconded by Ms. Yenner.

Roll Call:

Voting in favor: *Hughes, McCreery, Ratzell, Schmidt, Shoultz, Yenner, White, Penza*

Against: *None* **Abstain:** *None* **8-0-0**

Public Hearing, application #SD-15-10-Minor Subdivision with bulk variances, block 19, lots 9,10,11 & 12, Whig Lane, applicants George & Louise Lucas

George Lucas was sworn in and gave the following testimony:

He and his wife are members of Hardingville Bible Church and he is presently Chairman of the Deacon Committee. It was recently discovered that lots 9 & 10 were never consolidated as the original lot line bisects the church building. Also he is purchasing an adjacent property and correcting an encroachment situation from Lucas greenhouses onto the church property - referring to a display board.

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

With no comment from the public, **Ms. Ratzell moved to close to the public, seconded by Ms. Yenner.**

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

Ms. Ratzell moved to approve the minor subdivision with variances conditioned upon the testimony provided, all the items outlined in the board's professionals' review letters and further condition upon all required outside agency approvals. Seconded by Ms. Yenner

Roll Call:

Voting in favor: *Hughes, McCreery, Ratzell, Schmidt, Shoultz, Yenner, White, Penza*

Against: *None* **Abstain:** *None* **8-0-0**

➤ **General Public Portion**

Ms. Ratzell moved to open the general public portion, seconded by Ms. Yenner.

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

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

➤ **Correspondence:**

Memo of November 18, 2015 from Board Solicitor, John Eastlack regarding Township Committee's resolution R-108-2015 entitled "Area in need of Redevelopment."

Mr. Eastlack explained Township Committee has received a request that the Planning Board undertake a preliminary investigation to determine whether certain properties within the Township of Elk would qualify to be determined as an "Area in Need of Redevelopment."

NJ has a statute (NJSA 40A:12A et seq) which allows the Planning Board, as directed by Township Committee, to prepare a Redevelopment Plan with the assistance of the board planner. The plan must contain an outline for the planning, development, redevelopment or rehabilitation of the project area sufficient to cover the items set forth in NJSA 40A: 12A-7 and briefly went over the process.

Township Committee has passed a resolution, R-108-2015 – the Board's Planner & Town's Code Enforcement Officer would conduct a survey and analysis of the areas identified and would provide a report of their findings which would be presented to the Board at a public hearing to determine whether or

not the property is in fact one that fits under the statutory criteria to be deemed a Redevelopment Area. Notice of this hearing would be provided to all those persons who are interested in or would be affected by this determination. A map of the various parcels would also need to be created so that the public and property owners are provided with the notice of the exact boundaries of the areas in question. Notice of the hearing must be published once a week for two consecutive weeks in our official newspaper with the last publication not less than ten days prior to the date of the hearing. Also specific property owners of the properties in question must receive notice by certified mail at least ten days prior to the date set for the hearing as well, along with certain other procedural steps that would need to be followed.

Board member Ratzell identified one of the areas as the Latham Park project of approximately 1400 homes and had the concern that the area could become affordable housing. The Board Solicitor responded that this would be one of the issues addressed at a public meeting and that just because a developer or a contract purchaser asks for an area to be investigated, doesn't mean the township has to comply with the request.

Mr. Hughes didn't feel the Latham Park section fit any of the criteria as outlined in the statute.

Board Planner added, Township Committee has asked for a study to be completed to see if an area(s) qualify for redevelopment. Board Engineer added it would not only be the Aura lots, but would include other lots within the area. He added, if the redevelopment were to move forward, it becomes an opportunity for existing land owners in the area, it is not a requirement, and the lots are not subject to condemnation.

The developer making this request is responsible to pay for the study and has recently made a presentation to Township Committee of the plan they have for the specific area. More discussion followed.

Board Member Hughes felt it would be more appropriate to defer this request to February of 2016 and the other members agreed. Some members felt they would like to see the presentation that was presented to Township Committee. Chairperson White asked Mr. Eastlack to send a correspondence to Township Committee indicating the matter would be revisited in the New Year.

Subcommittee Volunteers:

A subcommittee was formed to review the resumes received for 2016 planning board professionals. The subcommittee will provide recommendations to the board at December's meeting. The committee will include Ms. Yenner, Chairwoman White and Vice Chair Hughes.

➤ **Adjournment:**

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

Adjournment time: 10:15pm

Respectfully submitted,



Anna Foley
Board Secretary