

RESOLUTION NO. 2015-13

RESOLUTION OF THE ELK TOWNSHIP PLANNING BOARD GRANTING MINOR SUBDIVISION APPROVAL WITH WAIVERS AND VARIANCES FOR A PROPERTY LOCATED ON CHERRY RUN ROAD KNOWN AS BLOCK 23, LOTS 1 AND 23 IN THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY

WHEREAS, Barry Widrick with an address of 11 Palomino Circle, Mantua Township, New Jersey 08051, has applied to the Planning Board of the Township of Elk for minor subdivision approval for a property known as Block 23, Lot 1 on the official tax map of the Township of Elk for the purpose of subdividing a portion of Lot 1, which is owned by Lake Gilman Owners, Inc. and consolidating the same with Applicant's Lot 23, so as to increase the lot area of lot 23 from 11,825 sq. ft., to 13,501 sq. ft. together with certain waivers and variances requested; and

WHEREAS, Lake Gilman Owners, Inc., owner of Lot 1 has consented to the application made by Barry Widrick, owner of Lot 23; and

WHEREAS, the Applicant was represented at the public hearing on this matter by Dale T. Taylor, Esquire, the Law Office of Dale T. Taylor, 95 N. Main Street, Mullica Hill, New Jersey 08062; and

WHEREAS, the Applicant has submitted to the Board and its professionals certain documents and plans which have been relied upon by the Board and its professionals which consist of the following:

- A. Land Development Application for Minor Subdivision (received by Elk Township February 17, 2015); Escrow Agreement of the same date; Affidavit of the Applicant and Ownership; Authorization for Contract Purchaser; Tax Certification; Disclosure Statement; and List of Property Owners 200 ft.
- B. Minor Subdivision Checklist
- C. Title Search listing easements and restrictions dated February 12, 2015
- D. Deed for Block 23, Lot 23
- E. Deed for Block 23, Lot 1
- F. Application for Sewage System Permit
- G. Bylaws of Lake Gilman Owners, Inc.
- H. Plan of Minor Subdivision prepared by Steven Datz, PLS of Datz Engineering and Land Surveying dated December 9, 2014

- I. Letter from Leona Mather, President of Lake Gilman Owners, Inc. authorizing the sale of land to Barry Widrick dated February 16, 2015
- J. Revised Plan of tree species and size dated March 9, 2015

WHEREAS, the Applicant has been granted submission waivers by the Board and has been deemed complete following a completion review hearing which was heard on April 15, 2015; and

WHEREAS, the Board has received a report from its Professional Planner, Ms. Leah Furey Bruder, PP, AICP of the firm of Bach Associates, PC, dated March 3, 2015 and the Applicant’s representatives have testified as to their agreement with comments as set forth in said report which are incorporated herein by reference as if fully set forth herein; and

WHEREAS, the Board has received a report from its Professional Engineers, Stan M. Bitgood, PE, CME of the firm of Federici & Akin, PA, dated February 25, 2015 and the Applicant’s representatives have testified as to their agreement with comments as set forth in said report which are incorporated herein by reference as if fully set forth herein; and

WHEREAS, after carefully considering the evidence presented by the Applicant in support of his application, at public meeting that was held on April 15, 2015 which was open to the public for comments, the Board has made the following findings of fact, and conclusions:

- 1. The subject property is located at the southwest side of Lake Gilman within the original tract known as Cherry Run. The Applicant seeks minor subdivision approval for a property known as Block 23, Lot 1 on the official tax map for the Township of Elk for the purpose of subdividing a portion of Lot 1 which is owned by Lake Gilman Owners, Inc. and consolidating the subdivided portion of Lot 1 with Applicant’s Lot 23, so as to increase the lot area of Lot 23 from 11,825 sq. ft. to 13,501 sq. ft., requiring certain waivers and variances.
- 2. The Applicant was present at the hearing, was sworn, and provided testimony.
- 3. The Board Professionals were sworn and provided testimony at the hearing.
- 4. The Applicant requested the following waivers and variances:

Section	Required	Proposed Lot 23	Compliance
96-71D.(2)(a) Minimum Lot Size	80,000 square feet	13,501 square feet (11,825 existing)	Variance Required (improvement)
96-71D.(3)(a) Minimum Front Yard	50 feet	No street frontage. 52 from lake +/- 36 to Cherry Run Road	Variance Required for existing condition

96-71D.(5)(a) & (b)	20 feet/50 feet aggregate	8.8 feet/24/3 feet	Variance Required for existing condition
96-7D.(6)(a) Minimum Width at Building Line	150 feet	55 feet	Variance Required for existing condition
96-71D.(9)(a) Minimum Lot Frontage	135 feet	55.87 feet on private Cherry Run Road	Variance Required for existing condition
96-80A(6) Accessory structures Setback for structure over 200 sq. feet	20 feet/50 feet aggregate	4.8 feet/34.8 feet for carport	Variance Required for existing condition

5. The Applicant presented testimony as to the necessity for the variances. The Applicant presented evidence as to hardship due to the existing size and configuration of the Applicant's property. The Applicant testified and his attorney, Mr. Taylor, represented that expanding the size of the lot as contemplated in the application was beneficial to the health, safety and public welfare of the community, the Lake Gilman/Cherry Run community specifically. The increase in size of the lot will maintain the overall viability of the community since it will permit the property owner to install a modern septic system. The Applicant provided testimony and representations that the proposed subdivision will not adversely affect the surrounding property and community, nor the Zoning Plan and Ordinance of the Township of Elk.

6. The Applicant provided representations that there are no restrictions as to the use of Lot 1 which would need to be modified to permit the subdivision and allow the installation of a modernized septic system on Lot 23.

7. The Applicant's attorney represented to the Board that the Applicant agreed with the comments of the Board's Planner as contained in the March 3, 2015 report of Bach Associates, PC.

8. The Applicant's attorney made representations as to the Applicant's agreement with the comments of the Board's Engineer as contained in the February 25, 2015 report of Federici & Akin, PA.

9. The Applicant's attorney represented that the Applicant will submit to all required outside agency approvals as conditions of approval of the minor subdivision.

10. The Applicant's attorney represented to the Board that tree protection will be provided to the extent necessary during the installation of the septic system as referenced in the report of the Board's Planner.

11. The Applicant's attorney made representations to the Board that the Applicant will provide "as built" as per the report of the Board's Engineer.

12. The Applicant's attorney represented to the Board that the applicant will provide set back lines on the final plans to be submitted for review and approval by the Board's professionals.

13. The Applicant presented three (3) photographs which were admitted into evidence of Block 23, Lot 23 (consisting of 3 - 8x10 copies of photographs).

14. The Applicant also presented a plan for demonstrative purposes depicting Block 23, Lot 23 and the portion of Lot 1 immediately adjacent to Block 23 which was intended to be subdivided and made part of the subject property.

WHEREAS, the Planning Board, after carefully considering the evidence presented in support of the application and after the meeting was opened to the public, has come to the following conclusions:

1. The application was deemed complete by the Board on April 15, 2015 after the granting of certain submission waivers detailed on pages 2 and 3 of the report of Bach Associates, PC, which were recommended by both the Board Planner and Engineer.

2. The Applicant has satisfied all the requirements imposed upon it by the Planning Board and/or in accordance with the Ordinance except for any conditions that may be herein contained.

3. It is understood and concluded that the Board has given approval to the Applicant's plans as submitted and presented at the April 15, 2015 hearing, but with the required additional submissions and modifications thereto which the Applicant has agreed to supply in accordance with its representations at the hearing on this application, and by further agreement to the comments set forth in the reports of the Board Planner and Engineer.

4. The Applicant's request for variances and submission waivers as heretofore described can be granted without substantial detriment to the Zoning Plan and Ordinance of the Township of Elk. The Applicant has submitted sufficient testimony and other evidence with regard to the basis for the variances requested due to the hardship presented by the existing configuration of the subject property and for the purpose to install a modern septic system (since there is no sanitary sewer to connect to in the Township of Elk) and based upon the conditions agreed to by the Applicant set forth below.

NOW, THEREFORE, be it resolved by the Planning Board of the Township of Elk on this 20th day of May, 2015, that this Board hereby GRANTS to the Applicant minor subdivision approval for a property known as Block 23, Lot 1 owned by Lake Gilman Owners, Inc. and Block 23, Lot 23 owned by the Applicant on Cherry Run Road for the purpose of subdividing Lot 1 and adding that subdivided portion of Lot 1 to Lot 23, in accordance with the plans and specifications submitted by the Applicant (and any addition and amendments thereto agreed to by the Applicant at the hearing and has contained in the Board's Planner and Engineer reports), subject to the following conditions:

1. Subject to any and all other approvals or permits including Gloucester County Planning Board (or a waiver obtained) and any and all other approvals as may be required by law, by other governmental agencies, and by the Township and Planning Board in general.
2. Subject to the condition that all review fees must be paid by the Applicant prior to endorsement of the plans by Township Officials.
3. Subject to the condition that documentation of all outside agency approvals must be provided prior to certification of the plans by Township Officials.
4. Subject to the condition that the Applicant must memorialize said subdivision by way of Deed to be recorded at the County Clerk's Office within one hundred and ninety (190) days of the date of this approval.
5. Subject to the comments contained in a report dated March 3, 2015, of the Board Planner Leah Furey Bruder, PP, AICP of Bach Associates.
6. Subject to the comments contained in a report dated February 25, 2015, of the Board Engineer Stan M. Bitgood, PE, CME of Federici & Akin.
7. Subject to the condition that the plans must be certified by the appropriate public officials including, but not limited to, the Chairman and Secretary of the Planning Board prior to filing any Deeds with the County of Gloucester.
8. Conditioned upon the Applicant submitting to the Board Solicitor for review and approval Deeds reflecting the subdivision approval applied for and granted herein.
9. Subject to the condition that the Applicant will provide tree protection during the installation of a modern septic system.
10. Subject to the condition that the Applicant will provide a legal description of all properties which are the subject of this application to the Township Engineer for review and approval.
11. Subject to the condition that the Applicant will provide "as built" as per the reports of the Planning Board professionals.
12. Subject to the condition that the Applicant will add setback lines to the final plan.

BE IT FURTHER RESOLVED, that this Resolution will be published within ten (10) days of the date of the adoption of this resolution in the South Jersey Times, which is designated as the official newspaper of publication of the Township of Elk Planning Board.

ROLL CALL VOTE

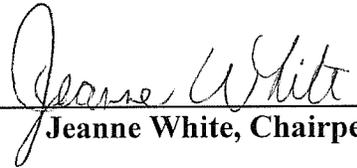
THOSE IN FAVOR: 8
THOSE OPPOSED: 0
THOSE ABSTAINING: 0

Adopted at a regular meeting of the Planning Board of the Township of Elk held on May 20, 2015.

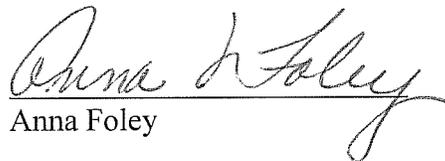
ATTEST

ELK TOWNSHIP PLANNING BOARD

By: 
Anna Foley, Secretary

By: 
Jeanne White, Chairperson

The undersigned, Secretary of the Planning Board of Elk Township, hereby certifies that the above is a true copy of a resolution adopted by said Board on the 20th day of May 2015.


Anna Foley



**FEDERICI & AKIN, P.A.
CONSULTING ENGINEERS**

Joseph P. Federici, Jr., P.E., P.P.
President
Douglas E. Akin, P.L.S., P.P.
Vice President
Bret T. Yates
Director of Marketing

307 Greentree Road
Sewell, New Jersey 08080
(856) 589-1400; Fax (856) 582-7976

RECEIVED

MAR 02 2015

TOWNSHIP OF ELK
CONSTRUCTION OFFICE

February 25, 2015
File# 15042

Township of Elk
Planning/Zoning Board
680 Whig Lane
Monroeville, NJ 08343

**Re: Mr. Barry Widrick & Lake Gilman Association - Minor Subdivision Application
Block 23 Lot 1 & 23 – 1401 Ferrell Road & 26 Cherry Run Road
Review No. 1**

Dear Chairman White & Members of the Board

We received the following items for review as part of the application for Minor Subdivision Approval to enlarge lot 23 to create room for an individual subsurface sewage disposal field. Lot 1 will be reduced by the area to be conveyed.

Plan of Minor Subdivision, by Stephen Datz, P.L.S.	12/9/14
Subdivision Application	2/16/15
Exhibit A – Title Report on Lake Gilman Homestead Title Agency	2/12/15
Exhibit B – Title Insurance – 26 Cherry Run Rd, Elk United Title Ins	11/9/07
Exhibit C – Application for Individual Subsurface Sewage Disposal System, Block 23 Lot 23, Barry Widrick	4/7/14
Letter of consent to convey part of lot 1, Lake Gilman Owners, Inc.	2/16/15

Property Location:

The property is located at the south west side of Lake Gilman within the original tract known as Cherry Run. Cherry Run Road is shown as cutting through lot 23 and the adjacent Right of Way and lots 22 and 24. Cherry Run Road is privately owned and maintained and is shown on the plan as a 10 foot wide bituminous cartway. The adjacent right-of-way is shown as 15 ft wide extending from Block 23 Lot 1 to the edge of Lake Gilman.

The application for approval to construct an individual subsurface sewage disposal (ISD) system indicates that the existing ISD for lot 23, is located within the 15 ft right-of-way and is malfunctioning. This subdivision application requests permission to convey a 30 ft x 55.87 ft rectangular portion of Lot 1, to lot 23 in which a septic disposal field is to be constructed. The terrain in Lot 23 and in the adjacent right of way slope relatively uniformly and smoothly toward the lake. The proposed septic disposal area is down slope approximately 60 to 80 feet from

Valley Road. Neither Cherry Run Road or Valley Road are shown on the tax map. Both are privately held and maintained.

The following comments are provided for your consideration:

Completeness: The applicant requested waivers for the following required items:

1. Showing setback lines due to the size of lot 23. I have no objection to waiving this for completeness, but these lines should be shown as a precondition to final approval.
2. Showing the full survey of the remainder of Lot 1 due to the irregular shape, complicated nature of the property lines, and financial hardship it would cause the applicant. Given that the plans do show over 150 feet out from the proposed lot line, I have no objection to this waiver.
3. Item 8, copies of applications & approvals from outside agencies. I have no objection to these being a condition of approval.
4. Item 34, names and widths of all abutting streets and rights of way. In so far as this applies to streets abutting lot 1, I have no objection to this waiver.
5. Item 38, Photographs of the site are not provided. I have no objection to this waiver.
6. Item 42, Structures within 200 feet of the property line. Upon confirmation that there are none, this item can be waived.
7. Item 43, existing & proposed uses of buildings & improvements. Upon confirmation that no improvements are being used other than as shown for the existing residential use, this item can be waived.
8. Item 44, streets, driveways, etc. This item is not required for a minor subdivision.
9. Item 49, location of all existing trees with sizes and species. I have no objection to this waiver.
10. Item 50, Tree protection plan & limits of clearing. I have no objection to this waiver.
11. Item 55, Contours at 20 ft intervals for the tract and in accordance with 96-66M prior to building permits. As no buildings are proposed, and contour data is included with the submitted application for individual sewage disposal system, I have no objection to this waiver.
12. Item 57, Grading Plan. Same as item 55 above.
13. Item 73. Wetlands L.O.I. or Statement of Certification by P.E. I have no objection to granting this waiver for completeness.
 - A. However, the applicant is advised that this waiver, if granted, would in no way obviate the applicant's responsibility to comply with the New Jersey Freshwater Wetlands Rules and all other applicable environmental rules and regulations that may

apply to the site and/or to the type of improvements or disturbances that may result from the work. If any L.O.I. or any NJDEP permits are issued, all plans must show the permit number and date of issuance and copies of the permit must be submitted to the Board Secretary.

Technical Review

1. Bulk Requirements: The site is in the Rural Environmental (RE) zone. The table of zoning requirements correctly indicates the bulk requirements. Setback lines are not shown on the site plan, due to the substandard existing lot size. No new bulk variances are proposed.
 - A. The remainder of lot 1 will still conform to the zoning requirements. The enlarged lot 23 will still not conform. However, the lot size and dimensions will be consistent with the lots in the neighborhood.
 - B. I defer comments on the proposed size and shape of the resulting lots to the Board's Planner who is developing new zoning and master plan recommendations for the area.
2. Plat/Plan Requirements: The plan of minor subdivision appears to conform to the Map Filing Law. The applicant should advise the Board if the subdivision will be filed by deeds or plan of subdivision.
 - A. Regardless of how the subdivision is recorded at the County Clerks office, monuments are required where property lines intersect rights of way. These shall be shown and shall either be guaranteed or installed prior to signatures on the deeds or plan of subdivision by the Chairman and Secretary.
 - B. Addresses and Lot numbers: The applicant shall provide confirmation of the assigned lot numbers and 911 numbering from the tax assessor and 911 coordinator and shall show these numbers on the plan.
3. Parking: This application will not change existing parking capacity or locations.
4. Curbs & Sidewalks: This application does not include curbs or sidewalks. A waiver seems appropriate for these items.
5. Utilities: Sanitary Sewer and water mains do not exist within 200 feet of the site. All dwellings are served by private wells and sewage disposal systems.
 - A. Note NJAC 7:9 requires separation distances between sewage disposal fields and various improvements and features. While the design appears to address most of these, and is under the jurisdiction of the County Health Department, one dimensional issue should be addressed to this Board. That is, the minimum required distance between sewage disposal fields, is 50 feet. Within Block 23 many lots have widths similar to lot 23 of roughly 55 feet. If adjacent lots need to replace their sewage disposal systems in the future, a similar layout and lot expansion would result in disposal fields being as little as 25 to 35 feet apart. Significantly different

arrangements may be needed for compliance with the State code.

6. Lot grading: No grading is shown on the plan of subdivision. Minor surface grading at the disposal field is proposed and shown on the IDS design plan. An Individual lot grading plans should not be required for this application.
7. Stormwater Management: No significant changes in runoff are anticipated. The disturbances will remain below the thresholds for major projects. Accordingly, stormwater management calculations are not required.
8. Fences: No new fences or modifications are proposed.
9. Street Paving: The existing private driveways should be maintained and cleared regularly to ensure safe access for emergency and fire apparatus.

Recommendations:

1. County Planning Approval or a waiver should be submitted.
2. All taxes, escrow fees and other fees must be paid to the Township prior to signatures by the Chairman and Secretary.
3. The applicant should submit an as-built plan and survey of topography upon completion and stabilization of the disturbances. With that condition, inspections by the Township Engineer should not be required since the County and the Plumbing sub-code official have full authority over sewage disposal systems.
4. The subdivision must be recorded at the County Clerk's office within 190 days of approval.

Very truly yours,

Stan M. Bitgood

Stan M. Bitgood, P.E., C.M.E.
Planning Board Engineer

Email copies:

Anna Foley, Planning/Zoning Board Secretary
Leah Fury Bruder, P.P. Board Planner
John Eastlack, Jr. Esq. Board Solicitor
Stephen Datz, P.L.S., Applicant's Surveyor
Craig Taylor, Esq. Applicant's Attorney

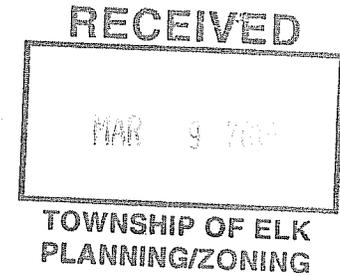


March 3, 2015

Elk Township Planning/Zoning Board
680 Whig Lane
Monroeville, NJ 08343

Attn: Anna Foley, Board Secretary

Re: Barry Widrick
Block 23, Lots 1 & 23
26 Cherry Run Road
Minor Subdivision;
RE Rural Environmental Residential District
Elk Township Application SD-15-01
Bach Associates Proj. # ET2015-2



Dear Chairwoman and Members of the Board:

We have reviewed the application and supporting documents submitted by Barry Widrick for a minor subdivision to increase the size of the above referenced residential lot on Cherry Run Road in the Lake Gilman neighborhood (and thereby reduce the size of lot 1). Currently lot 23 consists of 11,825 square feet and contains a single family dwelling, wood deck, carport and frame shed. Adjacent lot 1 consists of approximately 7.82 acres, is vacant and is owned by Lake Gilman Owners, Inc. The applicant proposes to subdivide 1,676 square feet off of Lot 1, and add the 1,676 square feet to lot 23 in order to increase the lot area to 13,501 square feet to provide sufficient space for the installation of a new septic system on the residential lot. According to the application, the proposed lot line adjustment will permit the applicant to upgrade the septic disposal system, which is currently failing.

The properties are located within the RE Rural Environmental Residential zoning district. The property is surrounded to the north, east, south, and west by properties also in the Rural Environmental Residential zoning district. Properties to the north and south contain similarly developed residential dwellings, Lake Gilman is located to the east and property to the west is common area owned by Lake Gilman Owners, Inc. Lot 23 is currently traversed in a north-south direction by the private road, Cherry Run Road, which provides access to the homes along the west side of Lake Gilman. The additional lot area proposed to be added will be west of the existing residential improvements on lot 23 and west of Cherry Run Road. The application requires variances from the requirements of the RE zoning district for minimum lot size, side yard, lot width, and lot frontage. All of the variances are for existing conditions, since the only improvements proposed are an increase in the lot size and a new septic disposal system.

We have received the following materials in support of this application:

1. Land Development Application for Minor Subdivision (received by Elk Twp February 17, 2015), Escrow Agreement dated February 17, 2015, Affidavit of Applicant and Ownership, Authorization for Contract Purchaser, tax certification, disclosure statement, list of property owners within 200 feet.

2. Minor subdivision checklist.
3. Exhibit A, title search listing easements and restrictions, Dated February 12, 2015.
4. Exhibit B, deed for lot 23 in block 23 and deed for lot 1 in block 23.
5. Exhibit C, Application for sewage system permit
6. Exhibit D bylaws of Lake Gilman Owners, Inc.
7. Plan of Minor Subdivision, prepared by Stephen Datz, PLS of Datz Engineering and Land Surveying, Inc., dated December 9, 2014.
8. Letter from Leona Mather, President of Lake Gilman Owners Inc., authorizing the sale of land to Mr. Barry Wildrick, dated February 16, 2015.

Completeness

The applicant has submitted the land development checklist and has requested a number of submission waivers as outlined below. **The application is incomplete.** Most of the waivers are recommended given the nature of the proposed minor subdivision. The applicant should provide additional information requested for #49 prior to being scheduled for a completeness hearing.

- **#8** requires copies of applications to and certifications from all outside agencies. *The applicant is requesting a waiver. It is recommended that the outside agency approvals be a condition of any approval by the Planning Board.*
- **#11** requires the source and date of current property survey prepared by a licensed New Jersey land Surveyor. The applicant has provided a survey for lot 23, but not for the entirety of lot 1. *The waiver is recommended since the impacted area is shown. It is recommended that Lake Gilman Owners consider obtaining a survey of the common land for future reference, but this is not necessary for this application.*
- **#34** requires the names and widths of all abutting streets. *The applicant has requested a waiver from this requirement. We defer to the Board's engineer to recommend for or against this waiver.*
- **#38** requires the applicant to submit photographs of the site. *The applicant has requested a waiver. It is recommended that the applicant bring a few photos of the site to the hearing insofar as they may be useful to the Land Use Board.*
- **#42** requires structures and wooded areas within 200 feet to be located on the plan. *The applicant has requested a waiver. Considering that the only proposed improvement is a septic system, the waiver is recommended. However it is recommended that all improvements within 125 feet of the proposed septic system be identified.*

- **#43** requires the applicant to provide the existing and proposed use of all buildings and structures. *The applicant has requested a waiver. Given the nature of the application, the waiver is recommended.*
- **#49** requires the applicant to provide the location of all existing tree masses, indicating general sizes and species. *The applicant has requested a waiver. **It is recommended that the applicant indicate how many trees, if any, will need to be removed in order to construct the new septic system, and the species and size of the trees to be removed.***
- **#50** requires the applicant to provide a tree protection plan. *The applicant has requested a waiver. **It is recommended that the applicant take measures to ensure that tree disturbance is minimized, by providing tree protection fencing around the area to be disturbed for the construction of the septic system.***
- **#53** requires the applicant to indicate any historic structures locate within 200 feet of the property. *The applicant has requested a waiver. Due to the nature of the application, we recommend this waiver.*
- **#55** requires the applicant to indicate contours at 20 ft intervals and conformance with the grading plan requirements prior to building permit issuance. *The applicant requests a waiver. We defer to the Board Engineer for waiver recommendation.*
- **#57** requires the applicant to provide a grading plan. *The applicant requests a waiver. We defer to the Board Engineer for waiver recommendation.*
- **#58** requires the applicant to provide a soil erosion and sediment control plan. *The applicant requests a waiver. We defer to the Board Engineer for waiver recommendation.*
- **#73** requires the applicant to submit an LOI from the NJDEP. *The applicant has requested a waiver. Given the nature of the proposed minor subdivision, the waiver is recommended. However, the applicant must comply with all applicable NJDEP regulations in designing and installing the proposed septic system.*
- **#75** requires the applicant to submit a Utility Plan. *The applicant has requested a waiver from this item. The application is for the installation of a utility to serve the existing residence. The waiver is recommended.*

RE Zone Bulk Standards and “C” Variances

The property is within the RE Rural Environmental Zoning District which permits agricultural uses, single-family dwellings, public parks and playgrounds, and accessory uses that are customarily incidental and subordinate to the primary use on site. There are a number of bulk, yard and area variances resulting from the existing conditions. The proposal to increase the lot size by 1,676 square feet will not eliminate the variance conditions. The Lake Gilman

community is a unique lake community in the Township consisting of 77 homes (57 in Elk and 20 in Harrison). The residential lots do not have frontage on any public road, but are traversed by a private drive that provides access. The zoning standards for lot 23 are provided below.

Section	Required	Proposed lot 23	Compliance
96-71D.(2)(a) Minimum Lot Size	80,000 square feet	13,501 square feet (11,825 existing)	Variance Required (improvement)
96-71D.(3)(a) Minimum Front Yard	50 feet	No street frontage. 52 from lake +/-36 to Cherry Run Road	Variance Required for existing condition
96-71D.(5)(a)&(b) Minimum Side Yard	20 feet/ 50 feet aggregate	8.8 feet/ 24.3 feet	Variance Required for existing condition
96-71D.(6)(a) Minimum Width at Building line	150 feet	55 feet	Variance Required for existing condition
96-71D.(9)(a) Minimum Lot Frontage	135 feet	55.87 feet on private Cherry Run Road	Variance Required for existing condition
96-80A(6) Accessory structures Setback for structure over 200 sq feet	20 feet/ 50 feet aggregate	4.8 feet / 34.8 feet for carport	Variance Required for existing condition

Standard of Proof for “C” Variances

The applicant must provide testimony to justify the requested variances. For a C(1) variance, the applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property or the exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property. For a C(2) variance the applicant must show that the proposed variance advances the purposes of municipal land use law and that the benefits of the deviation would substantially outweigh any detriments. The applicant should address whether the proposed variance will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential impacts to the public good.

The following comments are provided for the Board’s consideration:

1. **Proposed Subdivision, Lot Size, and Improvements.** The applicant has proposed to increase the size of the existing residential lot to adequately accommodate a new septic system. The additional lot area is being conveyed from the Lake Gilman Owners Inc., which is the home owners association for the community. The proposed subdivision will make use of the existing unused land owned by the HOA in a manner that will improve the community by protecting public health and welfare. There have been several similar subdivisions proposed and approved within Lake Gilman over the last ten years. Without the additional land it is not possible for the homeowners to install a modern

septic system. From a planning standpoint, the proposal will not significantly alter the existing conditions. One concern is that the continual reduction in lot area of lot 1 may eventually necessitate a lot size variance for lot 1, so the lot area must be monitored.

2. **History and Township Master Plan.** The 2009 Master Plan Reexamination and Recommendations includes a section about Lake Gilman. The 2009 Master Plan identified the zoning and septic system problems at Lake Gilman and supported an overall planning effort for a long term plan to resolve the issues. The Planning Board acknowledged the disconnect between the RE zoning and the existing development pattern (whereby all of the existing residential lots are nonconforming), but was hesitant to recommend zoning revisions absent a comprehensive plan to resolve the various issues associated with the lot sizes.

The need to address the septic system issues arises incrementally as Lake Gilman property owners need to replace the failing septic systems to serve their homes. This is often prompted by a system failure or an impending real estate transfer, where the buyer insists on a new septic system prior to closing. Due to the proximity of the septic systems and potable water wells and the relatively small lot sizes, it is often impossible to meet current codes using the existing lot area. The residential lots in the area generally range from 10,000 to 20,000 square feet. In order to enlarge the size of a lot to accommodate a modern septic system, several home owners have worked with Lake Gilman Owners, Inc. (LGO) to add a piece of the adjacent commonly owned property to the residential lot through a minor subdivision. This has been effective in resolving problems on a case by case basis, as is proposed by Barry Widrick.

In order to create a long term solution and ensure that resolving the wastewater issues on one lot will not be to later detriment of another lot, and with the encouragement of the Township, the Lake Gilman Owners set about establishing a Real Estate Development committee to craft a comprehensive long range plan to address the current and potential future septic issues as they relate to the RE zoning requirements, public health and the water quality of the lake. The intent was that a comprehensive septic management plan would be crafted that establishes a baseline, assesses current and potential health and water quality problems related to septic systems, proposes a strategy to address the problems, considers the potential for additional subdivisions and lot line adjustments, and provides a septic system maintenance plan.

In November 2014 the Township initiated a new Master Plan Reexamination to reconsider the zoning of the Lake Gilman area, and this effort is still underway. The intent is to make recommendations for zoning revisions that acknowledge the existing conditions in the neighborhood so that it becomes possible for some property owners (if not all) to make minor improvements to their homes (such as the addition of a deck or small addition) or minor subdivisions without the need for variances. It is anticipated that the new Master Plan recommendations will be completed and adopted in May 2015.

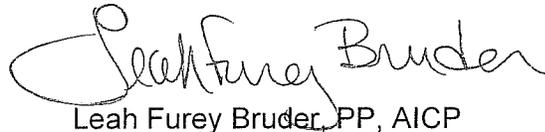
3. **Common property.** For the record, the applicant should indicate the current use of lot 1 and whether there are any restrictions that would need to be modified to permit the subdivision and septic system installation.

4. **Front Yard.** The definition of "front yard" set forth in section 96-5 is "a yard on the same lot with the principal building, extending the full width of the lot and situated between the street line and the front line of a building projected to the side lines of that lot". The Minor Subdivision Plan indicates that the front yard setback on lot 23 is 110 feet. Since the lot does not have frontage on a public street, it technically does not have a front yard. From a practical standpoint, the "front" yard is from Cherry Run Road and the lake.

5. **Trees.** The proposed septic improvements will likely require the removal of trees since lot 1 is wooded. The applicant should identify any trees that are greater than 24" dbh. Tree protection measures should be employed to protect trees more 5 feet from the proposed improvements.

Please call with any questions. We reserve the option to make additional comments as more information becomes available.

Very truly yours,
BACH Associates, PC



Leah Furey Bruder, PP, AICP

cc: John Eastlack, Esq.
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