

***RESOLUTION NO. 2015-20**

RESOLUTION OF THE ELK TOWNSHIP PLANNING/ZONING BOARD GRANTING AN EXTENSION OF TIME TO PERFECT THE MINOR SUBDIVISION, LOT LINE ADJUSTMENT AND VARIANCES FOR LANDS IDENTIFIED AS BLOCK 46 LOT 7 COMMONLY KNOWN AS 610 MONROEVILLE ROAD

WHEREAS, Karen Roberts, the Executrix of the Estate of Malcolm and Margaret Roberts with address of 216 Glenmore Avenue Catonsville, MD 21228 is the owner of lands identified as Block 46, Lot 7 and has made application for Minor Subdivision, lot line adjustments with Lots 3 and 2.02, dimensional variances and a variance from the agricultural buffer; on February 18, 2015 and memorialized by resolution number 2015-11 dated March 18, 2015, and

WHEREAS, the Applicant has requested an extension of time to perfect the minor subdivision, which is required deeds to be filed with the County within 190 days of approval and is a condition of approval set forth in Board Resolution No. 2015-11 (which expires on September 24, 2015); and

WHEREAS, the Planning Board of Elk Township met at its regular meeting on August 19, 2015 to consider the application for an extension of the time permitted; and

WHEREAS, the Applicant has followed all proper procedures necessary to date of this application on for public hearing by the Planning Board of the Township of Elk; and

WHEREAS, no public notice was required pursuant to Township ordinances; and

WHEREAS, the Board after consideration of the written requested dated August 17, 2015 by the Applicant's Attorney, Timothy M. Prime, made the following findings:

1. The reason for delay in the filing of the Deeds is due to delays in obtaining certain County approvals.
2. There is no detriment to the public good which would result from the extension of the time to file said deed(s).
3. There has been no change to the land use ordinances applicable to this parcel, which would affect the original approval.
4. The Board finds there is good cause to grant an extension of time in this instance.
6. The Applicant has requested an extension of at least 90 days and the Board finds that an extension of 90 days is reasonable under the circumstances.

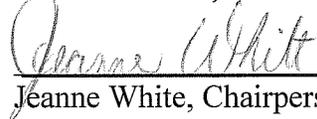
NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Elk that the time period to file the appropriate deed(s) to perfect the approval of a minor subdivision, lot line adjustment for lands identified as block 46 lot 7 is extended for a total period of 90 days or until December 23, 2015, subject to the following condition:

- a. Applicant shall satisfy all conditions of the minor subdivision, lot line adjustment approval set forth in Resolution Number 2015-11, attached, exhibit "A".
- b. The Applicant must pay all outstanding review fees associated with this application within 7 days of notice of an escrow deficiency or amount due.

ATTEST


Anna Foley, Secretary

PLANNING BOARD, TOWNSHIP OF ELK

By: 
Jeanne White, Chairperson

Certification

The undersigned, Secretary of the Planning Board of Elk Township, hereby certifies that the above is a true copy of a resolution Adopted and Memorialized by said Board on the 19th day of August, 2015.


Anna Foley, Secretary

***RESOLUTION NO. 2015-11**

**RESOLUTION OF THE ELK TOWNSHIP PLANNING BOARD GRANTING MINOR
SUBDIVISION, LOT LINE ADJUSTMENT AND VARIANCES FOR LANDS
IDENTIFIED AS BLOCK 46 LOT 7 COMMONLY KNOWN AS 610 MONROEVILLE
ROAD,**

WHEREAS, Karen Roberts, the Executrix of the Estate of Malcolm and Margaret Roberts with address of 216 Glenmore Avenue Catonsville, MD 21228 is the owner of lands identified as Block 46, Lot 7 and has made application for Minor Subdivision, lot line adjustments with Lots 3 and 2.02, dimensional variances and a variance from the agricultural buffer; and

WHEREAS, Mr. and Mrs. James Corsey, III of 629 Monroeville Road, Monroeville NJ are the owners of Block 46 Lot 3 and they have consented to this application; and

WHEREAS, Mr. and Mrs. Fernando N. Veiga of 634 Monroeville Road, Monroeville NJ are the owners of Block 46 Lot 2.02 and they have consented to this application; and

WHEREAS, the Estate of Malcolm Roberts and Ms. Roberts has been represented by Duncan M. Prime, Esq. and Timothy Prime, Esq., of the Prime Law firm, 307 Fellowship Road, Mount Laurel NJ 08054 and

WHEREAS, the Applicant has submitted the following for review by the Board and its professionals:

- A. Land Development Application for Minor Subdivision (received by Elk Twp October 14, 2014, variance list from Land Dimensions Engineering dated October 8, 2014; Certification of Real Estate Taxes Paid, Escrow Agreement, Affidavit of Applicant and Ownership, Disclosure Statement, certified list of property owners within 200 feet for Elk Township, W-9.
- B. certified list of property owners within 200 feet for Upper Pittsgrove Township and Franklin Township.
- C. Title report from Title America showing all easements and restrictions of record dated December 28, 2011.
- D. Subdivision application to the Gloucester County Planning Board for Block 46, lot 7.
- E. Land Development Checklist, dated October 14, 2014.
- F. Site Photographs
- G. Deed, dated 1973

- H. Plan of Subdivision, prepared by Lawrence M DiVietro, Jr, PLS, last revised September 22, 2014 and signed October 6, 2014 (PROPOSED)
- I. Conforming Plan of Subdivision prepared by Lawrence M DiVietro, Jr, PLS, last revised September 22, 2014.
- J. Cover letter from Duncan M. Prime, Esq. Dated October 9, 2014
- K. Copy of Subdivision Filing and Processing Application Requirements
- L. Subdivision Application to Gloucester County Planning Board Dated September 19, 2014
- M. Letter listing variances requested (from Land Dimensions Engineering) Dated October 8, 2014
- N. App-1 Septic Permit
- O. App-2 Design approval
- P. Board-1 Report of the Township Environmental Commission.
- Q. Legal descriptions for the lots from Land Dimensions Engineering dated January 21, 2015

WHEREAS, the Applicant has been granted submission waivers by the Board and has been deemed complete; and

WHEREAS, the Board has received the report of its Professional Planner, Mrs. Leah Furey Bruder, PP, AICP dated February 3, 2015 and the report of its Professional Engineers, Mr. Stan Bitgood, PE and Mr. James Spratt, PE dated January 11 (corrected at the hearing to the correct date, February 11, 2015) attached hereto as Exhibit "A" and incorporated herein by reference as if fully set forth; and

WHEREAS, the Board met at public hearing on February 18, 2015 to consider the evidence presented; and

WHEREAS, after carefully considering the evidence presented by the Applicant in support of her application, the testimony of the Board's professionals and the public comments, the Board has made the following findings of fact, and conclusions of law:

1. The site is on the south side of Monroeville (Pole Tavern) Road and on the west side of Dutch Row Road. The subject property consists of 33.257 acres and contains three single family residential dwellings, an 8,000 square foot (+/-) garage, and a metal barn, as well as three small buildings, a hay shelter and a trailer. The property is located within the RE Rural Environmental Residential District and is farmed. The Applicant also owns 8.61 adjacent acres in neighboring

Upper Pittsgrove. The Applicant requests a subdivision of Lot 7 to create three lots, one new lot containing 1.109 acres, one remainder lot containing 31.4 acres and one which will formalize the parcel known as Lot 3 on the tax map of the Township of Elk. The smaller new lot will contain only a residential dwelling and the 31.4 acre remainder lot will contain all of the other structures and farm field. An additional smaller parcel will also be created and consolidated with adjacent lot 2.02 to correct long suffered title defect. The proposed subdivision requires dimensional variances as outlined below.

2. The application meets the definition of a minor subdivision in that the Applicant has testified that there have been no subdivisions from this tract within the last five years nor to the best of the Applicant’s knowledge does this parcel originate from a parcel subdivided subsequent to 1956.

3. Adjacent Lots 2.02 and lot 3 are owned by others and were conveyed from this parcel sometime in the past without a proper subdivision. This subdivision will correct this issue now. Lot 2.02 will receive a parcel which has already been consolidated with lot 2.02 owned by Mr. and Mrs. Veiga. Lot 3 was conveyed long ago without a proper subdivision and is currently owned by James and Elizabeth Corsey. The last deed in the chain of title giving ownership to Mr. and Mrs. Corsey was recorded on the land records of the County of Gloucester in Deed book 2330 page 279 et seq. This subdivision will not change the configuration of that nonconforming parcel but will clear the title in the name of the Corsey family.

4. The application requires dimensional variances for the lands to be retained pursuant to NJSA 40:55D-70(c) (1) or (c) (2). Some of the variances address pre-existing conditions that have existed for many decades. The subdivision will not exacerbate the pre-existing nonconformities. Some are new dimensional variances created by the subdivision. They are outlined below:

Section	Required	Proposed lot A	Remainder lot 7	Compliance
96-71D(2) Minimum Lot size	80,000 sf	48,318.4 sf	31.4 acres	Variance lot A
96-47.1 Agricultural Buffer	50 feet side 100 feet rear	None	n/a	Variance for lot A
96-71D(2) Minimum Lot size	80,000 sf	Lot 3		Variance for Lot 3

5. The RE zone or rural environmental zone is impacted by wetlands and other environmental constraints and among the planning reasons for the 80,000 square foot minimum lot size in the RE zone is to address these issues and ensure consistency with environmental constraints in the area.

6. The boarded residential dwelling on the proposed remainder lot is in poor condition and is boarded up. The Applicant has agreed to demolish this structure. It shall be removed within 1 year of the date this resolution is memorialized and published. Township Ordinance Section 96-66L provides that “no lot in any residential district shall have erected upon it more than one principal residential building”. The proposed remainder lot contains the above residential dwelling, as well

as numerous garages and farm buildings. Since the one residential dwelling on the lot is to be demolished no variance is required.

7. There is also a 360 square foot accessory structure on the remainder lot which the Applicant agrees shall be demolished. Demolition of this structure must occur within 1 year of the date of this resolution..

8. The Applicant testified that it would remove the driveway connection between the two new parcels. There are no proposed grading changes to the topography and the Applicant testified that there will be no increase or change in the storm runoff as a result of the action by the Applicant on the site.

9. The Applicant has agreed to comply with the requirements set forth in the review letters of the Planning Board Professionals as modified herein and to revise the plans to comport with the requirements outlined in the review letters of the Planning Board Professionals. As the Applicant has acknowledge that certain technical aspects of the plans will be modified to comply with the requirements of the Township ordinances and the review letters, these findings will not be repeated in this resolution of approval.

10. Section 96-47.1 requires agricultural buffers to ensure the protection of continued farm operations in the Township. The ordinance requires that a deed notice be provided to alert potential purchasers of the adjacent farm activities as set forth in section 96-47.1B(1). Further a the ordinance requires that minor subdivisions provide a vegetated buffer strip of 50 feet in width in side yard areas and 100 feet in width in rear yard areas along any boundary with land that is qualified farmland. The Applicant has requested a variance from the installation of the agricultural buffers for proposed Lot A.

11. The Applicant has agreed to prepare the deed notice and the Board solicitor will provide the Applicant with language that has already been approved by the Board for this purpose. The form of deed shall be reviewed and approved by the Board solicitor and filed upon the title of proposed Lot A land records simultaneously with the perfection of the minor subdivision.

12. For "C(1)" variances 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 exceptional circumstances affecting the properties or structures lawfully existing on the property. For a "C (2) variance the Applicant must demonstrate a greater public purpose to be achieved by the variance.

13. The Applicant has submitted a plan that indicates how compliance with the minimum lot area requirement can be achieved, but argued that a variance would be better planning as the configuration of the conforming lot would be odd because of the legally existing structures on the land and may interfere with the agricultural till of the remaining parcel. A variance would permit a more regularly shaped lot.

14. The Applicant testified that the structures are of frame construction and have been in place for many years. Other homes in this area are situate in a similar fashion and with similar

front yard setbacks. Moving the structures would cause damage to them and would impose a substantial financial hardship on the Applicant.

15. The meeting was opened to the public. The following testimony was presented:

- a) Mr. Robert Knorr addressed the board and requested that the Applicant be compelled to use the conforming plan and create full sized lots. He felt although the configuration was long and narrow, the land could be used as a garden area or simply rented back to the adjacent farmer and kept under till. Mr. Knorr, felt the Applicant had not demonstrated the requisite hardship to meet the positive criteria required for the variance.
- b) Mr. Charles Unger testified that he was pleased the family was going to remove the dilapidated home. He would prefer to see a full sized lot. He described his most recent appearance on a minor subdivision before the board where he asked to subdivide land for his children. He did not believe the Applicant had presented sufficient hardship to justify the varainace especially when the Applicant could create a conforming lot.
- c) Michael Foote appeared and testified that he is the future Buyer of the farmland and intends to keep it under till. Mr. Foote said it is his plan to place the land into permanent farmland preservation. He currently farms the land and it is planted in grains.

16. The Board found that the deviation from the lot area requirements and the required yard setbacks were significant, but not so much so, that it created lots which were inconsistent with the other older already developed lots in this neighborhood. Creating a lot with a long narrow strip of land in the rear would not create a very useful rear yard for the owner. The irregular shape would not enhance the planning goal of rectangular residential lots and carving that long piece out of the farmland would not enhance or promote the agricultural use. The Board found that better planning would be achieved by avoiding the odd lot and that satisfied a greater public benefit in this specific circumstance. The Board further found that this variance could be granted without the creation of a substantial detriment to the public good or the zone plan for this area provided that the conditions of approval set forth in this resolution are met. The Board granted the variances.

17. The Applicant testified that the septic on Proposed Lot A was installed in 2009. The Applicant provided a certification to the Board that the existing septic system serving proposed lot A was installed properly and is satisfactory to serve the existing dwelling.

18. The plan should be revised to indicate the lot number of the new lot, which should be assigned by the Tax Assessor. .

19. Closure calculations for the lots shall be submitted to the Board engineer.

20. The Applicant must contact the Planning Board office to settle any outstanding review escrow accounts prior to the issuance of building permits. The Applicant must pay any and all required fees that are due or may become due to the Township within seven (7) days notice thereof, including but not limited to settlement of any outstanding review escrow accounts.

21. Under no circumstances shall any soil or earth be sold, used as spoil or otherwise removed from the site unless application is made and approval granted by the Township of Elk. Topsoil moved during demolition shall be redistributed so as to provide at least 4 inches of cover to all areas of the Site Plan.

22. The Applicant's engineer must make appropriate revisions to the Plan pursuant to the Planning Board action. Prior to the signing of the subdivision deeds the Applicant must obtain the certification of the Planning Board engineer that all improvements as indicated upon the final plans are in conformance with the requirements of the approval granted by the Planning Board.

23. The Applicant shall indemnify and hold the Board and the Township of Elk harmless from any claim of any kind which may be made as a result of any deficiency in the Application.

24. During the demolition, the Applicant shall employ measures designed to limit and control dust and soil erosion and shall correct any condition causing excessive dust or soil erosion or any other deleterious effect upon the community within three days notice or any lesser time deemed required from or by the Township Engineer.

25. At the time of application for the demolition permit, the Applicant must show on the plan the location of all existing wells and septics. The cesspool or septic system for the home to be demolished will be abandoned pursuant to all applicable Ordinances and state or county regulations.

26. The subdivision shall be perfected by the filing of deeds, which shall be in full conformity with this approval granted by the Planning Board of Elk Township. Prior to signature, the subdivision deeds shall be submitted to the Solicitor of the Planning Board for her review and approval as to form. The legal descriptions for all lots have been submitted to the Planning Board Engineer who has approved same as set forth in the February 11, 2015 review letter, subject to signed, sealed and dated descriptions being submitted. The deeds shall be filed within 190 days of the adoption of this Resolution approving the minor subdivision and shall be signed by the Chairman and Secretary of the Planning Board of the Township of Elk. The deeds shall contain the following sentence: "We, the undersigned Chairperson and Secretary of the Elk Township be filed within 190 days of the Resolution approving the minor subdivision and shall be signed by the Chairman and Secretary of the Planning Board of the Township of Elk. The deeds shall contain the following sentence: "We, the, undersigned Chairperson and Secretary of Elk Township, hereby certify pursuant to N.J.S. 40:55D-47 that subdivision application for the within parcel of land was approved by the Elk Township Planning Board on February 18, 2015, and memorialized by Resolution No. (Insert number) dated (Insert date)."

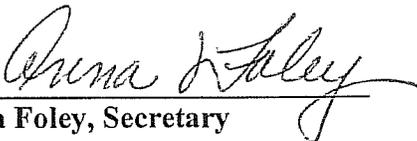
27. The Applicant must receive the approval of the Gloucester County Planning Board and all interested state, county and municipal agencies, and said approvals must be final and non-

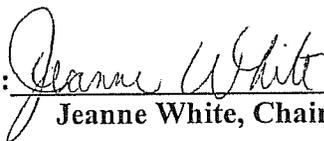
appealable and proof of same must be provided to the Planning Board prior to the signature of the deeds perfecting this minor subdivision. The Applicant's engineer shall certify, utilizing language similar to the following, that any and all other approvals necessary to complete the project have been obtained: I hereby certify, to the best of my knowledge, all permits required by any governmental law and/or regulatory body have been applied for and obtained and the within plan accurately depicts that which was submitted to and approved by all other such agencies.

NOW, THEREFORE, be it resolved by the Planning Board of the Township of Elk that the application for minor subdivision of Block 46 Lot 7 to create two new lots (one of which is currently known as Lot 3 on the tax map) and a remainder lot, a lot line adjustment with Block 46 Lot 2.02 and all requested variances outline above is **GRANTED** subject to the conditions outlined herein.

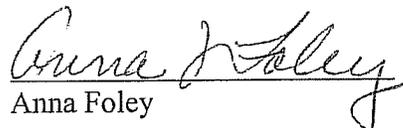
ATTEST

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 18th day of March, 2015, its decision of February 18, 2015.


Anna Foley

voting in favor: *Hughes, McCreery, McKeever, Ratzell, Schmidt, Shoultz, White, Gonzalez*

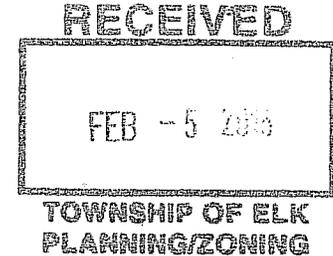


February 3, 2015

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

Attn: Anna Foley, Board Secretary

Re: Karen Roberts
Block 46, Lot 7
610 Monroeville Rd
Minor Subdivision with variance;
RE Rural Environmental Residential District
Elk Township Application SD-14-06
Bach Associates Proj. # ET2014-7



Dear Chairwoman and Members of the Board:

We have reviewed the application and supporting documents submitted by Karen Roberts for a minor subdivision at the above referenced site on the south side of Monroeville (Pole Tavern) Road and on the west side of Dutch Row Road. This planning review letter has been updated to account for the additional information submitted by the applicant on January 30, 2015; and should supersede our November 17, 2014 review letter.

The subject property consists of 33.257 acres and contains three single family residential dwellings, an 8,000 square foot (+/-) garage, and a metal barn, as well as three small buildings, a hay shelter and a trailer. The lot is farmed and is farmland assessed. The applicant also owns 8.61 adjacent acres in neighboring Upper Pittsgrove and lot 1 in Block 47 across Dutch Row Road in Elk. The proposal is to subdivide the property to create two lots in Elk, one containing 1.109 acres and one containing 31.4 acres. The smaller lot will contain only a residential dwelling and the 31.4 acre lot will contain all of the other structures and farm field. The proposed subdivision requires variances as outlined below.

The property is located within the RE Rural Environmental Residential District and is surrounded to the north, east and west by other properties in the same zoning district, and to the south by property in Upper Pittsgrove Township. The surrounding uses are generally residential and agricultural in nature. The location is near the borders with both Franklin and Upper Pittsgrove Townships. The RE zone (section 96-71) permits agricultural uses, single family dwellings, public parks and playgrounds, along with a number of conditional uses.

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

1. Land Development Application for Minor Subdivision (received by Elk Twp October 14, 2014), Letter to the Board from Duncan Prime, Esq. dated October 9, 2014, variance list from Land Dimensions Engineering dated October 8, 2014; Certification of Real Estate Taxes Paid, Escrow Agreement, Affidavit of Applicant and Ownership, Disclosure Statement, certified list of property owners within 200 feet (not including Upper Pittsgrove), W-9.

2. Subdivision application to the Gloucester County Planning Board for Block 46, lot 7.
3. Land Development Checklist, dated October 14, 2014.
4. Site Photographs
5. Deed, dated 1973
6. Closure reports for Remainder Lot 7 and proposed subdivided lot.
7. Legal Description for proposed Lot A dated January 20, 2015 and prepared by Lawrence DiVietro, PLS of Land Dimensions Engineering.
8. Legal Description for Remainder lot 7 dated January 20, 2015 and prepared by Lawrence DiVietro, PLS of Land Dimensions Engineering.
9. Plan of Subdivision Non-conforming, prepared by Lawrence M DiVietro, Jr, PLS of Land Dimensions Engineering, last revised January 20, 2015 (PROPOSED)
10. Conforming Plan of Subdivision prepared by Lawrence M DiVietro, Jr, PLS, last revised September 22, 2014. (FOR COMPARISON)

Completeness

The application is presently incomplete. Due to the nature of the minor subdivision with no construction proposed, the applicant has requested a number of waivers. Most of the waivers are recommended. The applicant should provide a response to items 20, 36, and 41, and any items required by the Board's engineer prior to the hearing. Once the applicant provides these items we would recommend that the application be scheduled for a completeness hearing. If the application is deemed complete by the Board, and if notice is properly provided, the applicant may proceed with the minor subdivision application at the same meeting.

- **#13** requires the metes and bounds description for all lots. *The applicant has indicated this is pending. We defer to the Board's engineer for comment.*
- **#19** requires that the new lot number be submitted and approved by the tax assessor. *The applicant must confirm that the proposed lot numbers are acceptable. This may be provided as a condition of approval.*
- **#33** requires the applicant to include a statement and demonstration of compliance with affordable housing requirements. *Due to the nature of this application, we recommend the waiver.*
- **#36** requires that copies of any protective covenants, easements and restrictions of record be provided, including a title policy. *The applicant has provided a copy of the Title Report. We defer to the Board solicitor to determine whether the information provided satisfactorily addresses the "area of clouded deed".*

- #41 requires the location of existing wells and septic systems and distances between them. *The location of the well and septic field serving the house on proposed lot A is shown. Note 10 indicates that the location of the septic field is based on a 2009 plan for a proposed sewage disposal system. The applicant should confirm that this system was permitted and installed. It is also recommended that the applicant show the location of the septic field on the remainder lot to ensure that it is within the property line.*
- #49 requires the location of all existing trees including size and species. *The applicant requests a waiver, as no changes to existing conditions are proposed. The waiver is recommended due to the nature of this application.*
- #50 requires a Tree Protection Management Plan and limits of clearing. *The applicant requests a waiver from this requirement because no alterations to the site or tree removal are proposed. We recommend this waiver due to the nature of the application.*
- #55 requires contours at 20 foot intervals for the entire tract and within 100 feet. *Contours are not provided. We defer to the Board's engineer to recommend for or against this waiver.*
- #57 requires a grading plan showing existing and proposed spot elevations and in accordance with section 96-66M. *The applicant requests a waiver as no new construction or grading is proposed. A waiver is recommended. However the applicant should be aware that a grading plan will be required prior to the issuance of any building permits.*
- #58 requires a soil erosion and sediment control plan. *The applicant requests a waiver as no new construction or grading is proposed. A waiver is recommended for the minor subdivision. This will be required if any new construction is proposed in the future.*
- #59 requires the applicant to submit the location of soil borings to determine soil suitability. *The applicant requests a waiver as no new construction is proposed. A waiver is recommended.*
- #67 requires the applicant to submit all the results of the percolation test if the site is served by septic. *The applicant requests a waiver. Percolation tests may not be needed since the applicant is not proposing any new construction. However, the applicant should indicate the intent for the homes on the remainder lot. Functioning septic systems would be required prior to occupancy.*
- #73 requires the applicant to submit an LOI from the NJDEP. *Though no clearing, grading or construction are proposed as part of this application, the applicant has included a statement from Land Dimensions Engineering, dated October 8, 2014, stating that there are no wetlands on the parcel.*
- #75 requires the applicant to submit a Utility Plan. *The applicant requests a waiver as no new construction is proposed. We recommend this waiver due to the nature of the application. Prior to the issuance of building or demolition permits, all utility issues will need to be addressed.*

RE Zone Bulk Standards and 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. The proposed subdivision requires variances as set forth below.

Section	Required	Proposed lot A	Remainder lot 7	Compliance
96-71D(2) Minimum Lot size	80,000 sf	48,318.4 sf	31.4 acres	Variance lot A
96-71D(3) Front Yard Setback	50 feet	82.28 feet	40.4 feet to existing house	Variance, existing condition Lot 7 see comments 3b and 5
96-71D(4) Rear Yard Setback	40 feet	> 40 feet	20 feet	Variance existing condition Lot 7
96-80 Accessory structure setback	20 feet side yard for bldg. over 200 sq ft	n/a	4.87 feet for 360 sq ft building	Variance Lot A if structure is not demolished
96-47.1 Agricultural Buffer	50 feet side 100 feet rear	None	n/a	Variance for lot A See comment 4
96-66L Principal residential structures	1 per lot	1	2	Variance for lot 7 See comment 5

Standard of Proof for "C" Variance

The applicant must provide testimony to justify the requested variances. For "C(1)" variances 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 exceptional circumstances affecting the properties or structures lawfully existing on the property. For "C(2)" variances the applicant must demonstrate that the deviation from the zoning ordinance requirements will advance the purposes of the Municipal Land Use Law, that the benefits of the proposed deviation will substantially outweigh any detriment, and that the proposal will not have a negative impact on the public good.

The following comments are provided for the Applicant's and the Board's consideration:

1. **Overall.** The applicant indicates that the purpose of this subdivision is to create a lot for an existing residential home on a 1.1 acre portion of lot 7. The applicant indicates that none of the existing structures or uses of the land will be altered as a result of the proposed subdivision. The applicant has submitted an alternate plan that would meet the minimum lot size requirement for the RE zone (80,000 square feet), but indicates that the plan requiring a lot size variance is preferred. The applicant should indicate the reasoning for the proposed lot configuration, and provide testimony in support of the variance request.

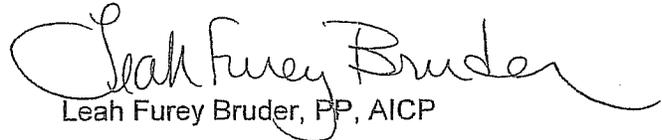
2. **There is a discrepancy in the lot size indicated on the plan.** Note number 2 indicates that the lot area is 35.67 acres, and "Tract Area" on the right side of the plan indicates that the lot is 33.26 acres. This should be clarified.
3. **Variances.** Though six variances are listed in the table above, two of them (front yard setback and rear yard setback on lot 7) are existing conditions. The applicant should clarify the location of the rear yard setback encroachment/variance.
 - a. **Lot size.** The applicant has submitted a plan that indicates how compliance with lot size can be achieved, however the applicant requests a lot size variance for their preferred configuration. The applicant should explain the reason for the variance request. The conforming size would create an odd shaped lot, but would also provide more lot area in the event that the existing house is expanded or replaced. It is recommended that the applicant obtain certification that the existing septic system serving proposed lot A is satisfactory to serve the existing dwelling and if not, a professional opinion as to whether there is ample space on the lot for the installation of a conforming septic system. One of the reasons for the 80,000 square foot minimum lot size in the RE zone is to ensure consistency with environmental constraints in the area (the applicant proposes a 48, 318 square foot lot). In order for the Board to consider authorizing an undersized lot, the applicant should provide assurance that it is a viable residential lot, and describe the intended future use of the remainder lot.
 - b. **Front Yard Setback.** The front yard setback variance (40.9 feet where 50 feet are required) is for an existing condition. This residential dwelling along the property frontage on the proposed remainder lot is in poor condition and is boarded up. A variance for the continuation of this condition is not recommended. The applicant should discuss the intent for this house and the remainder lot overall, and whether any of the dilapidated/abandoned buildings will be demolished or rehabilitated.
 - c. **Rear Yard Setback.** The applicant indicates on the bulk chart on the plan that a rear yard variance for existing condition on Lot 7 is required. However, it does not appear that this nonconformity exists on the plan. The applicant should clarify.
 - d. **Accessory Structure Setback.** The proposed subdivision will create a variance condition for the side yard setback for a 360 square foot accessory structure on the remainder lot. The plan indicates that this structure will be demolished. Demolition of the structure and removal of debris should be a condition of any approval.
4. **Agricultural Buffers.** Section 96-47.1 requires agricultural buffers to ensure the protection of continued farm operations in the Township. The ordinance requires that a deed notice be provided to alert potential purchasers of the adjacent farm activities as set forth in section 96-47.1B(1). Further the ordinance requires that minor subdivisions provide a vegetated buffer strip of 50 feet in width in side yard areas and 100 feet in width in rear yard areas along any boundary with land that is qualified farmland. This should

be addressed. The applicant should agree to the deed notice provisions to advise future purchasers of the proximity of agricultural operations.

5. **Residential Structures.** Section 96-66L provides that "no lot in any residential district shall have erected upon it more than one principal residential building". The proposed remainder lot contains two residential dwellings as well as numerous garages and farm buildings. A variance is required to have two residential units on one lot. Since at least one of the houses is dilapidated and boarded up, it is recommended that the house within the front yard setback be demolished as a condition of approval. The applicant should address this issue.

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: Joan Adams, Esq
Stan Bitgood, PE
James Spratt, PE
Karen Roberts, Applicant
Larry DeVietro, Jr., PE
Duncan Prime, Esq



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sl B Feb
January 11, 2015
File No. 14191

Township of Elk
Planning & Zoning Board
680 Whig Lane Road
Monroeville, New Jersey 08343-2826

RE: Karen L. Roberts
Block 46, Lot 7
610 Monroeville Road
Application for Minor Subdivision Approval
Review No. 2

Dear Chairman White and Members of the Board:

We received the following items submitted in support of an application for minor subdivision approval with respect to the above-referenced property.

- ◇ Cover letter from Duncan M. Prime, Esq. (applicant's attorney) Dated October 9, 2014
- ◇ Completed Land Development Application Dated October 14, 2014
- ◇ Completed Land Development Checklist Dated October 14, 2014
- ◇ Copy of property deed Dated February 23, 1973
- ◇ Copy of Subdivision Filing and Processing Application Requirements
- ◇ Escrow Agreement Dated October 14, 2014
- ◇ Affidavit of Applicant/Ownership Dated September 17, 2014
- ◇ Disclosure Statement Undated
- ◇ Tax Certification Dated October 3, 2014
- ◇ Subdivision Application to Gloucester County Planning Board Dated September 19, 2014
- ◇ Copies site photographs Undated
- ◇ Letter listing variances requested (from Land Dimensions Engineering) Dated October 8, 2014
- ◇ Plan of Subdivision (without variances – reference only) Revised September 22, 2014
- ◇ Plan of Subdivision (with variances) Revised January 20, 2015
- ◇ Legal Descriptions & Closure Calc.- Proposed lot A and Remainder unsigned undated

Introduction

The subject property fronts on the southerly side of Pole Tavern Road (County Route 604) approximately 230± feet west of its intersection with Dutch Row Road (CR 611). The overall tract also has over 800+ feet of frontage along Dutch Row Road about 750± southwest of the intersection. The property comprises a total area of 33.257 acres and lies within the Rural Environmental Residential District (RE). The site is presently occupied by a farmstead including a single-family home and several outbuildings, as well as an abandoned house. The applicant

proposes to subdivide the property, so that the home would be situated on a separate lot from the rest of the farm. Our comments pertaining to the subdivision application follow below.

Completeness Review

1. Checklist Item 13 calls for submission of legal descriptions, which were submitted and are acceptable. (Signed, sealed & dated versions should be provided.)
2. Checklist Item 19 stipulates that new lot numbers must be approved by the Tax Assessor. That approval should be a condition of any approval granted by the Board.
3. The applicant has requested a waiver from Checklist Item 57, which requires a grading plan. Since no construction or grading is proposed, we would have no objection to granting this waiver.
4. We defer to the Board Planner for all remaining items relating to completeness.

Technical Review

1. The proposed new lot to be subdivided from the overall tract would occupy 48,318 sf, or 1,109± acres, where the minimum allowable lot size in the Rural Environmental Residential District is 80,000 square feet. This would require approval of a variance from the zoning requirement for lot size, which the applicant has requested. The applicant must provide supportive reasoning for the variance as required by the Land Use Law.
2. The submission included two subdivision plans: one with the undersized lot described above, and one with a conforming lot submitted for reference only. At the hearing the exhibit should be marked differently from the Plan of Subdivision. Should the Board approve the subdivision, the resolution should explicitly reflect the Plan of Subdivision by date and revision date on which the approval is granted, so as to prevent future confusion.
3. The plan should be revised to indicate the lot number of the new lot, which should be assigned by the Tax Assessor.
4. The plan does not indicate whether the subdivision is to be filed by deed or plan. If by deed, legal descriptions submitted with the revised plan are acceptable. The deeds should be reviewed and approved by the Board Solicitor. If the subdivision is to be filed by plat, the plan must meet the requirements of the Map Filing Law.
5. The plan calls for a monument to be set where the subdivision line intersects the right-of-way line of County Route 604. A performance guarantee should be posted with the Township to ensure the monument would be set as required. The plan includes a signature space for the Township Clerk to verify posting of the guarantee.
6. The applicant must provide documentation of approval by the Gloucester County Planning Board or of a waiver from that approval prior to plan certification by the Board officials.
7. The applicant should be advised that approval of a minor subdivision would expire 190 days from the date on which the resolution of approval is adopted unless the subdivision is filed with the County recording officer.

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If you have any questions, please contact me at your convenience.

Very truly yours,

FEDERICI & AKIN, P.A.

Stan M. Bitgood

Stan M. Bitgood, P.E., C.M.E.
Land Use Board Engineer

E-mail copies:

Joan Adams, Esq.; Board Solicitor

Anna Foley, Planning/Zoning Secretary

Leah Furey-Bruder, P.P.; Board Planner

Duncan M. Prime, Esq.; Applicant's Attorney

Lawrence M. DeVietro, Jr., P.L.S.; Applicant's Land Surveyor