

Resolution No.: 2018-11

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF
ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY, GRANTING AN ADMINISTRATIVE DESIGN
CHANGE AS TO CONSTRUCTION PHASING TO KEVIN EASE, 28
GLASSBORO ROAD, MONROEVILLE, NJ 08343 REGARDING PROPERTY
LOCATED AT 1198 AURA ROAD (COUNTY ROUTE 667), AND BEING
FURTHER SHOWN AS BLOCK 175, LOTS 8 & 9 ON THE TAX MAPS OF THE
TOWNSHIP OF ELK, APPLICATION NO.: AD-18-05**

WHEREAS, Application No.: SP-17-02 (the “Application”) was submitted before the Combined Planning/Zoning Board Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the “Board”) by Kevin Eaise, 28 Glassboro Road, Monroeville, NJ 08343 (the “Applicant”) for Preliminary and Final Site Plan approval, and bulk variances, to operate a landscaping and snow removal business on property located at 1198 Aura Road (County Route 667), (the “Subject Property”) and being further shown as Block 175, Lots 8 & 9 on the Tax Maps of the Township of Elk (the “Township”); and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on March 15, 2017 at 7:30 P.M., time prevailing, at which time was the Applicant represented by counsel, as well as Michael Eaise, (on behalf of the Applicant); and Gary R. Civalier, P.E., P.P., P.L.S., Civalier Engineering & Surveying, Inc., 12 West Mantua Avenue, Wenonah, NJ 08090 (the Applicant’s Professional Engineer, Professional Planner, and Professional Land Surveyor), who was stipulated by the Board as an expert in the fields of Engineering, Land Surveying and Planning as to any testimony that he would give on behalf of the Applicant for the purposes of the Application, and did also appear was the owner of the Subject Property, and at said time was Mr. Eaise, Mr. Civalier and the owner of the subject property sworn as to any testimony that they would give in support of the Application; and

WHEREAS, the Application was approved by the Board at said meeting and public hearing held on March 15, 2017, and thereafter did the Board memorialize its approval by way of the adoption of Resolution # 2017-13 on April 19, 2017; and

WHEREAS, did the Applicant appear once again before the Board at a meeting and public hearing held on October 18, 2017, at which time did the Applicant request an administrative design change by way of Application # AD-17-08, as to the previously approved Application, so as to permit a Pre-Phase I construction of a pole barn and stone driveway, and did the Board at that time, in reliance on the testimony of the Applicant

and the representations made in a letter from the Applicant's Engineer and Professional Land Surveyor, Gary Civalier, P.E., P.L.S., P.P., dated October 4, 2017, grant said administrative design change, after which on November 15, 2017 did the Board memorialize its approval by way of the adoption of Resolution #2017-16; and

WHEREAS, does the Applicant now appear before the Board as to the present Application # AD-18-05, for an Administrative Design Phase as to construction phasing;

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

FINDINGS OF FACT

1. The Application was deemed to be complete. Pursuant to the New Jersey Municipal Land Use Law, the Board had to reconfigure itself into a seven-member Zoning Board of Adjustment, as the Application emanates from a prior application (ZB-16-09) in 2016, for a Use Variance, which was approved by the Board. Insofar as the herein application for relief involves the same Subject Property and the prior use variance granted by the Board, the Board must constitute itself as a Zoning Board of Adjustment once again. Therefore, Mayor Poisker, and Township Committeewoman Nicholson recused themselves, and did not appear at the hearing. Accordingly, the Board thereafter had jurisdiction to act on the Application.

2. The Board's professional planner, Candace Kanaplue, PE, RA, PP, CME, Bach Associates, PC, 304 White Horse Pike, Haddon Heights, NJ 08035 and the Board's professional engineer, Stan Bitgood, P.E., C.M.E., Federici and Akin, P.A., 307 Greentree Road, Sewell, NJ 08080, were both sworn as to any testimony that they would give on behalf of the Board for the purposes of the Application.

3. The Applicant submitted and the Board entered into the record the following:

A. Revised Phase plan dated 3/19/18 prepared signed and sealed by Gary R. Civalier, P.E., P.L.S., Civalier Engineering & Surveying, Inc., 12 West Mantua Avenue, Wenonah, N.J. 08090.

B. Letter dated March 21, 2018 from Mr. Civalier to the Board regarding the Applicant's request for an administrative design change.

C. Letter dated April 9, 2018 from the Board's engineer, Stan Bitgood, P.E., Federici & Akin, P.A., Consulting Engineers, 307 Greentree Road, Sewell, N.J. 08080.

4. The 7.5 acre Subject Property is comprised of two lots. Lot 8 currently contains a residential dwelling and three farm buildings. Lot 9 is currently farmland. The Subject

Property is located on the west side of Aura Road (County Route 667) within the RE Rural Environmental Residential zone district. The Subject Property is surrounded to the north and west by other properties also in the RE zoning district, to the south (across Buck Road) southeast east by C2 Commercial zoning, and to the east (across Aura Road) by R Rural Residential zoning district. The adjacent uses are predominantly comprised of farmland. There is a commercial property across Aura Road to the north of the Subject Property. The Applicant had previously received approval from the Board to operate a landscaping and snow removal business. The Applicant intends to demolish the existing dwelling and construct a new 2,160 Sq. Ft. office building, two pole barns consisting of 7,400 Sq. Ft., a 2,400 Sq. Ft. pavilion, and associated site improvements. The Applicant proposes two ingress/egress drives onto Richwood-Aura Road.

5. Mr. Civalier's letter of March 21, 2018 stated that Phase 1 will incorporate all site work for the proposed basins and a majority of the stone area, exclusive of the employee parking lot at the North end of the Subject Property. Construction of the second Pole Barn will also be carried out in Phase I, and the second pole barn will be used for storage only until the Phase 2 office building is constructed and occupied by the Applicant's landscape business. Mr. Eaise, through direct testimony, confirmed the same.

5. The Board's Professional Engineer, Stan M. Bitgood, P.E., C.M.E., Federici & Akin, P.A., reviewed with the Board and the Application his letter of April 9, 2018, in which he had no objection to the proposed phasing changes, subject to direct testimony from the Applicant, as just given, that the buildings in Phase 1 be used only for seasonal storage and not day-to-day use.

6. The hearing on the Application was opened to the public, at which time no member of the public present testified for or against the Application. There being no member of the public wishing to give testimony, the public portion was closed.

CONCLUSIONS

The Board concluded that the Administrative Design change as to the particular construction to occur on the Subject property during Phase I and Phase 2 be approved, insofar as no detriments to the Subject Property, the zone district, or the immediate neighborhood, would occur, based on the representations made by the Applicant, which shall serve as a condition of approval – said condition being acknowledged and agreed to by the Applicant..

CONDITIONS

1. The Board presumes that the Applicant's Application, all maps, Exhibits, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for relief. In the event that it appears to the Board, on reasonable grounds, that the Application, exhibits,

maps, and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied on by the Board as they bear on facts that were essential in the granting of the relief requested by the Applicant, the Board may rescind its approval and rehear the Application, either upon the request or application of an interested party, or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

2. At any time after the adoption of this resolution of memorialization, should a party on interest appeal to the Board for an order vacating or modifying any term or conditions as set forth herein, upon the proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the fact(s) at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems to be appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action, as appropriate.

3. The Applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to N.J.S.A. 40:55D-12.c., and publication of the notice of public hearing in this matter in accordance with law.

4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

5. The Applicant must obtain all approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Attorney, Engineer and Planner.

6. The Applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on this Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The Applicant's escrow account must be current prior to any permits being issued, or

constructions or other activity commencing on the approved project, or any certificate of occupancy being issued.

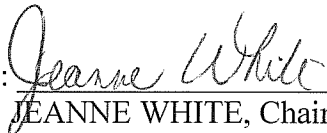
7. The Applicant must obtain any and all other construction or municipal permits, inspections, etc., required with respect to the relief as granted herein.

8. The approval granted herein is subject to the Applicant making amendments to the plans as requested by the Board's professionals, as well as submitting such additional information as requested by the Board's professionals, and compliance with all representations, agreements and consents by the Applicant's professionals, the same being set forth under Findings of Fact and Conclusions above. In addition, the Applicant must comply with all conditions, representations, and agreements that were a part of all prior approvals granted as to the Subject Property that are not otherwise inconsistent with the approvals being granted herein.

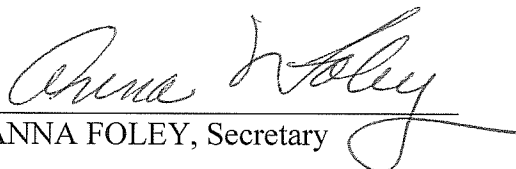
9. **WHEREUPON**, a motion was made by Board member Swanson, which was seconded by Board member Shoultz, to grant approval of the above referenced Administrative Design Change, following a public hearing held on the Application on April 18, 2018, with the following Board members voting in favor of the motion to grant approval: White, McKeever, Shoultz, Hughes, Clark, Schmidt and Swanson. The following Board Members had recused themselves since the Board had configured itself into a seven-member Zoning Board of Adjustment: Poisker, and Nicholson. The following Board Members were absent: Goss (Alternate # 1) and Afflerbach.

THIS RESOLUTION WAS ADOPTED at a regularly scheduled meeting of the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, on May 16, 2018 as a memorialization of the approval granted by the Board in the above referenced matter at the Board's regularly scheduled meeting and public hearing held on April 18, 2018 on the above referenced Application.

**COMBINED PLANNING/ZONING
BOARD OF ADJUSTMENT OF THE
TOWNSHIP OF ELK**

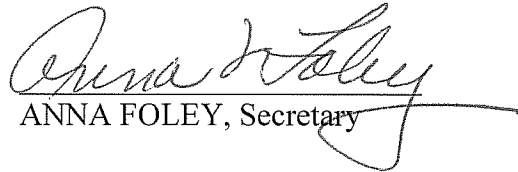
By: 
JEANNE WHITE, Chairperson

ATTEST:

By: 
ANNA FOLEY, Secretary

CERTIFICATION

I hereby certify that the foregoing resolution is a true copy of a resolution adopted at a regularly scheduled meeting of the Elk Township Combined Planning/Zoning Board of Adjustment, County of Gloucester, State of New Jersey held on the 16th day of May 2018 at the Township Municipal Building, 680 Whig Lane, Monroeville, N.J. 08343 at 7:30 PM, time prevailing, as a memorialization of the action taken by the Board at the Board's meeting and public hearing held on April 18, 2018 on the above cited Application.


ANNA FOLEY, Secretary