

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF  
ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,  
STATE OF NEW JERSEY, GRANTING A MINOR SUBDIVISION WITH BULK  
VARIANCES TO ROBERT AND SANDRA MCCRACKEN (H/W) REGARDING  
PROPERTY LOCATED AT MONROEVILLE ROAD, AND BEING FURTHER  
SHOWN AS BLOCK 43, LOT 11 ON THE TAX MAPS OF THE TOWNSHIP OF  
ELK, APPLICATION NO.: SD-18-06**

**WHEREAS**, Application No.: SD-18-06 (the “Application”) was submitted to the Combined Planning/Zoning Board Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the “Board”) by Robert and Sandra McCracken (H/W), 522 Monroeville Road, Monroeville, N.J. 08343 (together, the “Applicant”) for a Minor Subdivision with Bulk Variances regarding property located on Monroeville Road (the “Subject Property”) and being further shown as Block 43, Lot 11 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 June 20, 2018 at 7:30 P.M., time prevailing, at which time was the Applicant present and sworn, and testified that they were not represented at the hearing by an attorney, or an engineer, or a professional planner, and that they did not wish to have the Board carry the hearing on the Application to another date so that they could have the opportunity to retain such experts to represent them;

**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, subject to the Board acting on certain requests for waivers from submission requirements. As such, the Board had jurisdiction to act on the Application.

2. The Board’s professional planner, Steven M. Bach, 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, the Board’s Professional Engineer, 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. Application, Application Fee, Escrow Agreement, Escrow Deposit, Notice of Hearing, Affidavit of Service, Affidavit of Publication, Certification of Taxes Paid on the Subject Property, and Certified List of Property Owners within 200 ft. of the Subject Property.

B. Submission checklist.

C. Minor Subdivision Plan dated 1/24/18 and revised through 5/31/18 by Vargo Associates, and signed and sealed by Edward J. Constantine, Jr.

D. Six 5" X 7 " color photographs entered into evidence as Exhibit A-1, said photographs showing various views of the Subject Property.

E. Letter dated May 29, 2018, from Steven M. Bach, PE, RA, PP, CME, Bach Associates, PC, the Board's professional planner, to the Board regarding Mr. Bach's review of the Application.

H. Letter dated May 17, 2018 from Stan M. Bitgood, P.E., C.M.E., Federici & Akin, P.A., the Board's professional Engineer, regarding his review of the Application to the Board.

I. Copy of letter sent to the Applicant by Site Civil Engineering, dated June 15, 2018, regarding Wetlands Presence / Absence Evaluation of the Subject Property, signed by William P. Gilmore, P.E., C.M.E.

J. Legal descriptions regarding Block 43, proposed Lots 11.01 and 11, prepared and signed by Edward J. Constantine, Jr., P.L.S., Vargo Associates.

K. Deed dated June 23, 1989 by and between Horace Jack McCracken and Carole McCracken (H/W) with the same, regarding Block 270, part of Lot 42 in Elk Township.

L. Copy of Tax map, Elk Township, showing the Subject Property.

4. Currently, Block 43 Lot 11 consists of 1.52 acres with an existing greenhouse in disrepair, trailer, and is otherwise undeveloped. The Subject Property is landlocked, is triangular in shape, and exists along the border with Upper Pittsgrove Township, Salem County. The parcel is part of an estate that is being divided between two siblings and their properties, each containing their dwellings. The requested subdivision will result in two small lots that will include the dwellings in the Upper Pittsgrove Township portion. The Applicant proposes to divide the two properties so that they can be put into joint ownership with an adjoining property in Upper Pittsgrove Township. Proposed Lot 11

will be 48,349 sf (1.1 acres) and proposed Lot 11.01 will be approximately 17,501 sf (.402 acres).

5. The Subject Property consists of predominantly agricultural fields with a greenhouse in disrepair and a trailer with an overhang. The Subject Property is located within the RE Rural Environmental Residential zoning district and is surrounded in all directions (in Elk Township) by properties also in the Rural Environmental Residential zoning district.

**Zone Bulk Standards and “C” Variances**

6. The Subject 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 existing agricultural and residential uses on the site are permitted. Variances are requested for the proposed minor subdivision. The zoning standards are provided below.

<u>Section</u>	<u>Required</u>	<u>Proposed Lot 11</u>	<u>Proposed Lot 11.01</u>	<u>Compliance</u>
96-71D(2) Minimum Lot size	80,000 sf	48,349 sq ft	17,501 sq ft	No
96-71D(3) Front Yard Setback	50 feet	50 feet	50 feet	Complies
96-71D(4) Rear Yard Setback	40 feet	40 feet	40 feet	Complies
96-71D.(5) Minimum Side Yard	20 feet/50 feet aggregate	20 feet/50 feet	20 feet/50 feet	Complies
96-71D.(6)(a) Minimum Width at Building line	150 feet	201.55 feet	61.47 feet*	No
96-71D(7) Minimum Lot depth	200 feet	132.71 feet*	132.71 feet*	No
96-71D.(9)(a) Minimum Lot Frontage	135 feet	247.61 feet	279.99 feet	Complies

96-71D.(11)(a) Maximum Coverage	<15%	<15%	<15%	Complies
96-71D(12)				

Impervious	<20% max	<20% max	<20% max	Complies
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\* Variance Required

6. The Applicant requested waivers from certain submission requirements as follows:

**#8** requires copies of applications to and certification of approvals from outside agencies. The Applicant should submit copies of applications/approvals to/from Upper Pittsgrove Township, Salem County and any other required applications/approvals must be submitted to the Township. A waiver is recommended for completeness only. **The Applicant agreed to comply.**

**#11** requires source and date of current or recertified property survey prepared and sealed by NJ Land Surveyor within the last 1 year.

**#13** The Applicant should submit legal descriptions of existing and proposed properties. A waiver is not recommended. **The Applicant agreed to comply as a condition of approval.**

**#21** The Applicant is required to submit a list of waivers requested. The Board's Planner has provided this list. At the hearing the Applicant must testify as to the reason why they are not providing the completeness and other necessary items. A waiver is recommended.

**#22** The Applicant is required to submit a list of waivers and variances from the Elk Township Unified Development Ordinance. The Board's Planner has provided these items within their review letter however, the Applicant must be prepared to testify as to the reasons for these waivers/variances. A waiver is recommended.

**#33** requires a statement demonstrating compliance with affordable housing requirements as applicable including section 70-4. The Applicant does not propose any new dwellings. A waiver is recommended.

**#36** requires the Applicant to submit copies of protective covenants, easements and restrictions of record, including a current title policy. **The Applicant agreed to comply.**

**#38** requires that the Applicant provide photographs of the site. A waiver is recommended due to the nature of this Application.

**#41** requires the Applicant to locate existing wells and septic systems and the distances between them and on adjacent properties where required by the Board. Because of the nature of this Application, the Board's Planner supports a waiver from this condition. The Board's Engineer concurred.

**#48** requires the distance along right-of-way lines of existing streets to the nearest intersection with other streets. This has not been provided. A 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, as no tree removal is proposed. The waiver is recommended by the Board's Planner.

**#50** requires the Applicant to provide a tree protection plan. The Applicant has requested a waiver, as no tree removal is proposed. The waiver is recommended by the Board's Planner.

**#53** requires the Applicant to provide information on any structure of historic significance on or within two hundred feet of the tract. The Board's Planner recommended a waiver.

**#57** requires the Applicant to submit a grading plan. No structures are proposed, a waiver is recommended.

**#58** requires the Applicant to submit a soil erosion and sediment control plan. A waiver was recommended by the Board's Planner due to the nature of the Application.

**#59** requires soil borings. A waiver was recommended by the Board's Planner due to the nature of the Application.

**#66** requires a letter of sufficient capacity from the MUA. A waiver was recommended by the Board's Planner due to the nature of the Application.

**#67** requires Soil boring and percolation data for on-site sewerage disposal. A waiver was recommended by the Board's Planner due to the nature of the Application.

**#73** requires the Applicant to submit a LOI or PE certification of no wetlands. A waiver is recommended by the Board's Planner due to the nature of the Application.

**#75** requires the Applicant to submit a Utility plan. A waiver was recommended by the Board's Planner due to the nature of the Application.

**#83** requires the locations of existing and proposed curb openings. Since there were no proposed or existing curb openings, a waiver was recommended by the Board's engineer.

**WHEREUPON**, a motion was made by Board Member Hughes, which was seconded by Board Member Clark, to grant the above referenced submission waivers, based on the conditions also set forth above, with the following Board members voting in favor of the motion to grant the waivers: Poisker, Clark, Nicholson, Hughes, Shoultz, White, and Goss (Alternate Member #1). There were no votes in the negative and no abstentions or recusals. Board Members Afflerbach, McKeever, Nicholson and Swanson (Alternate # 2) were absent. The Board, having granted the requested submission waivers, subject to the representations and agreements made by the Applicant, the Application was deemed to be complete and the hearing on the Application continued.

7. The Board's Professional Planner, Stephen M. Bach, PE, RA, PP, CME, reviewed with the Board his letter of May 29, 2018.

8. The Board's Professional Engineer, Stan M. Bitgood, P.E., C.M.E., Federici & Akin, P.A., reviewed with the Applicant and the Board, his letter of May 29, 2018, as follows:

#### **Technical Review**

(A) Bulk Requirements: The site is in the Rural Environmental Residential District. The table of zoning requirements correctly indicates the bulk requirements and that five (5) variances are proposed.

(i) The proposed lot widths at the building line should be corrected to approximately 254' for Lot 11 and approximately 168' for lot 11.01. **This has now been done.**

(ii) An agricultural buffer of 100 is required from the rear setback line as Block 43, Lot 5 is qualified farmland (see Code Section 96-47.1). **This has now been done.**

(iii) Setback lines are shown on the site plan.

(B) Plat/Plan Requirements:

(i) The surveyor states on the plan that the subdivision will be filed by deed. The Applicant shall submit a copy of the existing property deed and legal descriptions for proposed lots as conditions of approval. **The Applicant agreed to comply.**

(C) Minor subdivision plans have been submitted for review.

(i) The address of the Subject Property should be included within the drawing title block. **This has been done.**

(ii) In order to avoid bonding, all iron pins called out on the plans as “To Be Set” shall be set prior to approval and shall be shown on the revised plan and called out in the legal descriptions. **This has now been done.**

(iii) Prior to approval, an iron pin shall be set at the shared corner of proposed lots 70 and 70.02 adjacent to Monroeville Road. **This has now been done.**

(iv) The plans should show any existing or proposed utility lines entering or within lots 11 and 11.01. **This has now been done.**

(v) Testimony is needed to clarify the existing and proposed uses of each lot. Any changes in use will require separate planning board approval. **The Applicant provided testimony that the uses on the properties will remain as currently exist.**

(vi) The values for lot width at the building line are incorrect and need to be addressed and corrected as needed. **The Applicant agreed to comply.**

(vii) If approved, the legal descriptions or deeds of conveyance shall contain language documenting that proposed lots 11 and 11.01 are restricted from development, in perpetuity. The deed must state through a deed restriction that the proposed lot to the adjacent lot in Upper Pittsgrove Township cannot be sold separately, but only together as a tract containing the two lots. **The Applicant agreed to comply.**

(viii) Item 18 regarding prior approvals on the Minor Subdivision Application form must be addressed. **This has now been addressed.**

(ix) Block 9, Lot 1 of Upper Pittsgrove Township may need to be notified of the subdivision.

(x) Item 36, copies of deed restrictions and covenants, can be waived, upon satisfactory testimony that no protective covenants, easements, or deed restrictions exist on-site. **The Applicant confirmed the same.**

(xi) The septic location for Block 18, Lot 70 and the well and septic locations for Block 18, Lot 70.02 shall be shown on the plans. **This has now been addressed.**

(xii) This requirement may only be waived if the site is clearly uplands and the applicant submits a signed statement by a New Jersey licensed engineer or land surveyor that a) he has personally visited the subject property and conducted a site investigation as necessary to determine that there are no freshwater wetlands or transition areas on the subject property b) he has examined the subject property on a national wetlands inventory map c) he has reviewed the soils on the subject property as set forth in the Gloucester County Soil Survey Map as issued by the United States Department of Agriculture d) he has certified that there are no freshwater wetlands or freshwater wetland transition areas on the Subject Property. **This has now been addressed.**

(xiii) Item 75: This requirement shall only be waived once it has been confirmed by the Applicant that no new utilities are proposed. **The Applicant confirmed the same.**

D. Addresses and Lot numbers: This application will not change the existing address for Block 43, Lot 11.

(i) If approved, the Applicant must obtain new lot number for the proposed lot (referred to as lot 11.01 on the plans) from the tax assessor and provide a copy to the Board Secretary and engineer. **The Applicant agreed to comply.**

(ii) If approved, the Applicant must obtain new address for the proposed lot (referred to as lot 11.01 on the plans) to match the address of Block 18, Lot 70. This shall be obtained from Gloucester County 911 Coordinator and a copy shall be provided to the Board Secretary and engineer.

(iii) Parking: This Application will not change existing parking capacity or locations.

(iv) Curbs & Sidewalks: This Application does not include, nor require, curbs or sidewalks.

(v) Lot grading: As no physical improvements are proposed, the Board's engineer had no objection to waiving this. Deed restrictions on future development within each lot should be required. **The Applicant agreed to comply.**

E. Stormwater Management: No disturbances are proposed, therefore the disturbance and impervious thresholds for stormwater management will not be exceeded.

F. Fences: No new fences or modifications are proposed or required.

G. Street Paving: The street in Upper Pittsgrove is paved and in fair condition with a 22 ft cartway and 41.5 ft Right of Way. Street improvements or easement dedications are not recommended.

H. Accessory Uses & Structures: The Application does not propose any new structures. However, the trailer located within proposed lot 11 shall be removed unless proof of permission from the Township Clerk is provided. **The Applicant agreed to comply.**

I. A copy of the AutoCAD file of the updated Minor Subdivision Plan shall be submitted to the Planning Board Engineer. **The Applicant agreed to comply.**

J. All taxes, escrow fees and other fees must be paid to the Township prior to signatures by the Chairman and Secretary.



K. The subdivision must be recorded at the County Clerk's office within 190 days of approval. Deeds for the proposed lots, and their associated legal descriptions, and any covenants, easements, and restrictions of record shall first be provided by the Applicant to the Board engineer and Attorney for their review and approval.

L. The Board's approval should be conditioned upon approval of the adjacent subdivision by Upper Pittsgrove Township..

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

### **CONCLUSIONS**

The Board concludes that Minor Subdivision approval should be granted insofar as the requested minor subdivision is pursuant to testamentary provisions and does not create any hardships or impediments to the zone code, Master Plan or development code of the Township of Elk. Furthermore, the variances requested should also be granted insofar as they involve pre-existing conditions with the Subject Property.

### **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 Applicant agrees to amend the plan of subdivision consistent with the Board Professional's Review Letters, as set forth under Findings of Fact above.

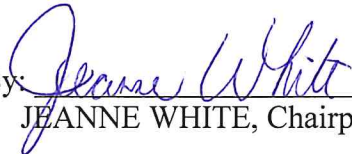
9. The Applicant agrees to file the subdivision through deeds and will submit copies of the deeds to the Board's Planner and Engineer for their approval, prior to recording the deeds.

**WHEREAS**, a motion was made by Board member White to grant the Minor Subdivision and Variances to the Applicant, based on the representations made by the Applicant and the agreements entered into by and between the Applicant and the Board, as are more fully set forth above under Findings of Fact, at a meeting following a hearing on the Application on June 20, 2018 at 7:30 PM, time prevailing, with the following

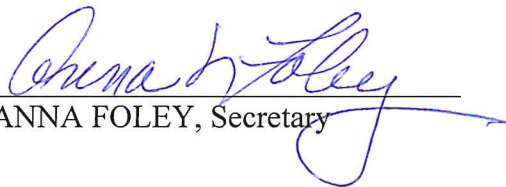
Board members voting in favor of the motion to grant the approvals: Poisker, Clark, Hughes, Shoultz, White, Schmidt, and Goss (Alternate # 1). There were no votes in the negative and no abstentions or recusals. The following Board Members were absent: McKeever, Afflerbach, Nicholson, and Swanson (Alternate Member # 2).

**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 July 18, 2018 as a memorialization of the approval granted in the above referenced matter by the Board at its regular meeting held on June 20, 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 18<sup>th</sup> day of July 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 June 20, 2018 on the above cited Application.

  
ANNA FOLEY, Secretary