

RESOLUTION OF THE JOINT LAND USE BOARD OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING A LIMITED ADMINISTRATIVE DESIGN CHANGE TO A PREVIOUSLY GRANTED APPROVAL OF A MAJOR SUBDIVISION, TO AURA HOMEBUILDERS, LLC, REGARDING PROPERTIES LOCATED AT 101 & 107 CORTLAND BLVD., AND BEING FURTHER SHOWN AS BLOCK 29.04, LOTS 11 & 14 ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: AD-18-09

WHEREAS, Letter Application # AD-18-09 (the "Application") for an Administrative Design Change, dated September 20, 2018, was received from Aura Homebuilders, LLC, 1010 Kings Highway South, Bldg. 1, Floor 1, Cherry Hill, N.J. 08034 (the "Applicant"), by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey (the "Board"), regarding property located at 101 & 107 Cortland Blvd. (the "Subject Properties"), and being further shown as Block 29.04, Lots 11 & 14 on the tax maps of the Township of Elk (the "Township"), requesting an Administrative Design Change to permit three driveways with corresponding curb cuts to accommodate three single-car garages; and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on October 17, 2018, at 7:00 PM, time prevailing, at which time were the following present on behalf of the Applicant: Vincent D'Elia, Esquire, The D'Elia Law Firm, LLC, 601 Route 73 North, Suite 300, Marlton, N.J. 08053 (the Applicant's attorney); and Michael Canuso, Aura Homebuilders, LLC (representing the Applicant); and

WHEREAS, Mr. Canuso was sworn and provided testimony on the Application;

NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board 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 and properly before the Board. Therefore, the Board had jurisdiction to act on the Application.

2. The Board's professional engineer, Stan Bitgood, P.E., C.M.E., Federici and Akin Engineers, and the Board's professional planner, Steven M. Bach, PE, RA, PP, CME, of Bach Associates, had been sworn as to any testimony that they would give on behalf of the Board with respect to the Application.

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

A. Letter dated September 20, 2018 signed by Michael Canuso, on behalf of the Applicant, outlining the Applicant's request for relief, attached to which were individual lot grading plans for the two lots (Lots 11 & 14) that made up the Subject Properties;

B. Escrow Agreement with escrow deposit in the amount of \$500.00;

C. Certifications of Taxes Paid indicating that \$ 435.79 was due for Lot 11 and added bills were not available as of the date of request with regard to lot 14;

4. Mr. D'Elia, on behalf of the Applicant, provided background information regarding the Applicant's request for relief. Mr. D'Elia stated that two prospective homeowners requested larger homes to be built with three attached garages instead of the normal two attached garages. Therefore, it became necessary to expand the driveways and curb cuts on the Subject Properties to accommodate this request.

5. Mr. Canuso testified that the two Subject Properties constituted larger lot sizes than the average lot size in the development. As such, the Applicant was able to accommodate the needs of homebuyers who wanted larger homes with three single-car garages instead of two single-car garages. The Applicant wanted to accommodate the needs of such buyers, and that the mix of larger homes with smaller homes provided for a more diversified community. Mr. Canuso testified that his company did offer three single-car garages for many of its home models, or a den option. Mr. Canuso testified that finished basements were also offered as an option, which had the effect of expanding the available living space in the home. Mr. Canuso requested that the three single-car garage option be applicable to any of the lots in the subdivision but, if the Board felt that this request was deemed to be too broad in nature, that the Applicant would limit its request to the two lots in question (Lots 11 & 14) at this time. Mr. Canuso also agreed, as a condition of approval, to pay for any additional inspection fees necessary to accommodate inspections for the expanded driveways/curb cuts associated with the homes being built on Lots 11 & 14.

6. Considerable discussion took place by and between the Board, the Board's professionals, and the Applicant. Mr. Bach indicated that he didn't feel that the request was unreasonable, and that original architectural elevations submitted at the time that the subdivision was reviewed and approved did, in fact, feature home models with three single-car garages.

7. Mr. Bitgood expressed a concern that the wider curb cuts to accommodate three driveways / three garages, limited the amount of on-street parking available in front of the houses having the same. Mr. Bitgood also expressed a concern that the addition of substantially larger homes with three

single-car garages could have an adverse impact on stormwater management because of additional impervious coverage.

8. The Board, after considerable discussion with its professionals and the Applicant, agreed to limit the request for three single-car garages to the two properties referenced (Lots 11 & 14) in the present Application, and asked the Applicant to come back to the Board for any future requests for three single-car garages so that the Board could monitor the impact of additional homes of this type as to on-street parking and impervious coverage, on a case-by-case basis, prior to a contract being signed to build such homes for prospective buyers. Also, as to the two properties set forth herein, the Applicant is to make direct payment to the Township for such additional inspection fees necessary regarding the additional driveway and expanded curb cuts. The Applicant agreed to comply.

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

CONCLUSIONS

The Board concluded that the limited administrative change set forth in the Application was appropriate to allow the developer to complete construction of the two homes (Lots 11 & 14) with three single-car garages, insofar as architectural elevations submitted as to home types at the time of the original major subdivision application approval, did offer a three single-car garage option. However, so that the impact that future three single-car garage homes would have on-street parking and impervious coverage can be monitored, the Board requires that the Applicant, as to any future three single-car garage homes that are requested to be built, should first file an Administrative Design Change request with the Board.

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 (if applicable) 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, including providing direct payment to the Township to pay for the inspections

associated with the additional driveways and expanded curb cuts necessary to accommodate three single-car garages on the Subject Properties.

WHEREUPON, a motion was made by Board Member White, which was seconded by Board Member Clark, to grant the Applicant's request for an administrative change as is set forth above, with the following Board members voting in favor of the motion to approve: Poisker, Clark, Nicholson, Hughes, White, and Schmidt. There were no votes in the negative, and no abstentions or recusals. Board Members Shoultz, McKeever, Afflerbach, Goss (Alternate Member #1) and Swanson (Alternate Member #2), were absent.

THIS RESOLUTION WAS ADOPTED by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, on November 28, 2018 as a memorialization of the approval granted herein as set forth above at the Board's regularly meeting held on October 17, 2018.

**JOINT LAND USE BOARD 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 Joint Land Use Board, County of Gloucester, State of New Jersey held on the 28th day of November 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 October 17, 2018 on the above cited Application.


ANNA FOLEY, Secretary