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Elk Township Combined Planning and Zoning Board

Regular Business Meeting December 19, 2018

Minutes

Call to Order: meeting called to order at 7:30pm.

Roll Call:

Present: Matt Afflerbach, Jay Hughes, Ed McKeever, Donna Nicholson, Jeanne White, Wayne Swanson (alt. 2)

Absent: Ed McKeever, Ed Poisker, Frank Goss, Richard Schmidt, Eugene Shoultz

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Approval of Minutes:

- **November 28, 2018**

Mr. Afflerbach moved to approve the minutes of November 28, 2018, Seconded by Mr. Swanson.
With all other members in favor, *the motion was carried.*

Resolution(s):

2018-17- Christopher & Kristen Vogel, bulk variances for in-ground pool located at 306 Winesap Way, block 29.01, lot 2, Application #ZB-18-07

Mr. Afflerbach moved to adopt resolution 2018-17. Seconded by Mr. Clark.

Roll Call:

Voting in favor: Afflerbach, Hughes, Nicholson, Swanson, White,
Against: None Abstain: None 5-0-0

2018-18-Authorizing Johan a. Moustakas, Esquire, to provide professional services as an interim solicitor for the December 19, 2018 meeting.

Mr. Hughes moved to adopt resolution 2018-18. Seconded by Mrs. White.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, Nicholson, Swanson, White,
Against: None Abstain: None 6-0-0

➤ **Old Business:** None

➤ **New Business:**

- 1) Application of Joseph Baals- Bulk variances (lot size, width at building line), 338 Moods Rd, block 20, lot 3, Application number ZB-18-11, was postponed to February 20, 2019.

By correspondence dated December 11, 2018, the applicant requested the hearing date be postponed as the newspaper was unable to advertise his notice in the required time. Notice to neighbors within 200 feet was completed per the Municipal Land Use Law requirement.

Board Attorney publically announced the application of Joseph Baals will be carried to the February 20, 2019 meeting. Neighbors within 200 feet will not receive another notice, but the applicant is required to advertise in the newspaper.

2)A. Coal Builders, LLC, Application #ZB-18-08- Completeness hearing.

Bulk variance (lot size) located at 539 Fifth Avenue, block 147, lot 3

The applicant was represented by attorney Gary Thompson of the firm, Ware, Streiz & Thompson. Mr. Thompson gave the following overview: the applicant is requesting a variance for lot area. The vacant property is 21,026 sf where 25,000 sf is required by ordinance in the MD (Moderate Density) Zone. The parcel is a pre-existing non-conforming lot. Prior to a zoning ordinance change in August of 2006, where the lot size increased from 12,500 sf to 25,000 sf, the lot conformed to all bulk requirements.

John Melleady, Managing Member of Coal Builders, LLC, 101 Idle Lake Road, Franklinville, NJ
Was sworn in.

Board Planner, Steve Bach, referred to his letter of October 29, 2018 for completeness items:

Items #1(b), completed submission checklist
Complies. Has been provided.

Item #8, certification of approvals from all outside agencies with jurisdiction.
Not required as no construction is proposed at this time.

Item #38 requires the submission of site photos
A waiver is recommended, as the lot is wooded and no construction is proposed at this time.

Item 40, requires locations & dimensions of existing and proposed structures.
Not required as no construction is proposed at this time.

Item #41 location of existing wells and septic systems on adjacent lots has been provided.
Complies. Has been provided.

Item #53 location of historic structures on or within 200 feet of property.
Wooded lot & applicant testified he is not aware of any historic structures.
Waiver is recommend per applicant's testimony.

Item #55 requires contours and compliance with section 96-66M (grading) prior to the issuance of building permits.
Waiver is recommended for completeness only, as the applicant is not proposing any improvements to the property at this time.

Board Engineer, Stan Bitgood prepared a letter dated October 8, 2018 and had no additional items to be addressed for completeness.

Mr. Hughes moved to grant the waivers for items 38, 53 & 55 and to deem the application complete. Seconded by Mr. Clark.

Roll Call:

Voting in favor: *Afflerbach, Clark, Hughes, Nicholson, White, Swanson*

Against: *None* **Abstain:** *None* **6-0-0**

2)B Coal Builders, LLC, Public Hearing

An affidavit of Service & Publication was received by the Board Secretary and the board has jurisdiction to proceed with the Public Hearing.

Mr. Thompson provided the following documents that were labeled as exhibits for the file to be considered by the Board:

1. A Deed dated February 10, 2006 from the Township of Elk to Marcelo Catugas and Elvira Catugas, evidencing that the property conformed to all applicable zoning ordinances of the Township of Elk as of that date. Predates ordinance lot size change in the same year. (Labeled as Exhibit A-1)
2. A plan of survey and sketch of the applicant's lot in question locating the proposed septic tank; the locations of adjacent septic systems; and the Location of Percolation and Soil Bore Tests. (Labeled as Exhibit A-2)
3. A November 21, 2018 letter from Glenn Schifferdecker, P.G., C.F.M., of Environmental Resource Systems, detailing an on-site inspection of the property and determining that the evidence gathered supported the May 25, 2012 Letter of Interpretation (attached) prepared by the State of New Jersey Department of Environmental Protection finding that regulated wetlands and transition areas are absent on the subject lot. (Labeled as Exhibit A-3)
4. Applicant's Offer to Abutting Property Owners addressed to Jerome A. and Tanya R. Mitchell at 114 Dunbar Boulevard seeking to sell Block 147, Lot 3 or, in the alternative to purchase the Mitchells' lot or a portion of their lot to bring the property in question into conformity and attached certified mail receipt. (Labeled as Exhibit A-4)
5. Applicant's Offer to Abutting Property Owners addressed to Ms. Cindy Menszak seeking to sell Block 147, Lot 3 or, in the alternative to purchase Ms. Menszak's lot or a portion of her lot to bring the property in question into conformity and attached certified mail receipt. (Labeled as Exhibit A-5)
6. Gloucester County Department of Health Soil Logs for Block 147, Lot3, prepared on August 15, 2014. (Labeled as Exhibit A-6)

Mr. Thompson added based on these submissions, they have met all the requirements of granting a lot size variance otherwise this lot would be zoned into inutility.

Board member Swanson confirmed that Mr. Melleady owned the whole block at one time. Discussion followed. The other lots were all owned under different entities.

Mr. Bach and Mr. Bitgood had no other comments.

Mr. Hughes moved to open to the public, seconded by Mrs. Nicholson. With all members in favor, the motion was carried.

1. Donald Moore, 145 Douglass Street, Block 148, Lot 2
Testified he was not in favor of granting the variance, that there was not enough land and that the Board should follow the ordinance requirement.
Mr. Moore further discussed the issue of unity of title and that the applicant had previously owned the contiguous properties therefore this was a self-created hardship.
2. Mamie Perry, 544 Fifth Avenue, Block 156, Lot 3
Testified she was not in favor of granting the variance. The area is already too congested and that building another home would take away from the rural nature of the immediate community. Mrs. Perry also testified as to safety concerns and concerns that new construction would hinder her property value.
3. Kathleen Moore, 145 Douglass Street, Block 148, Lot 2
Testified she was concerned about flooding and drainage. That there was already an issue regarding drainage in the immediate area and that new construction would only aggravate the problem and was not in favor of the variance.

Mr. Swanson moved to close to the public, seconded by Mr. Hughes. With all members in favor, *the motion was carried*

Board Planner added the applicant is applying for a “C” variance, bulk variance, for lot size where 25,000 sq ft is required and 21,026 sq ft is existing.

For a C1 variance, the applicant must demonstrate the strict application of the zoning regulations to the property create a hardship or result in an exceptional practical difficulties by reason of exceptional shape of property, or exceptional topographical conditions uniquely affecting this property.

For a C2 variance, the applicant must show that granting the variance advances the purposes of municipal land use law and the township ordinances and that the benefits of the deviation would substantially outweigh any detriments. Is there a detriment that would outweigh any benefit?

Mr. Thompson added, again, that should the variance not be granted, the lot would be zoned into inutility meaning it could not be used for anything, whatsoever. Additionally, for the record, Mr. Thompson stated notice to the neighbors was made 20 days prior to the hearing date where 10 days is required.

Discussion followed regarding the chain of ownership for lots 1 & 3.

Further discussion on this issue revealed that the properties were not owned by a singular person or entity, but rather individually and in the name of a corporate entity

Mr. Thompson added that the board secretary would provide resolution 2013-15 which clearly indicated that John Melleady is the owner and applicant for the prior minor subdivision. Deeds for lots 1, 1.01 & 1.02 would also be in that subdivision file.

Mr. Clark moved to grant the lot size variance condition upon providing documentation regarding no unity of title, and further conditioned upon items outlined in the Board’s Professionals’ review letters and any required outside agency approvals. Seconded by Mr. Hughes.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, Nicholson, White, Swanson

Against: None Abstain: None 6-0-0

➤ **General Public Portion**

Mr. Hughes moved to open the general public portion, seconded by Mrs. Nicholson.
With all members in favor, *the motion was carried.*

With no comment from the public, *Mr. Hughes moved to close the general public portion, seconded by Mr. Clark.* With all members in favor, *the motion was carried.*

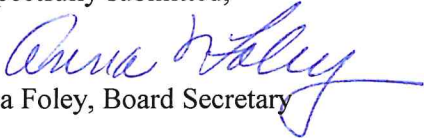
➤ **Correspondence:**

➤ **Adjournment:**

Mr. Afflerbach moved to adjourn, Seconded by Mr. Swanson. With all members in favor, *the motion was carried.*

Adjournment time: 8:42 pm

Respectfully submitted,



Anna Foley, Board Secretary